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OF THE

SIXTY-SECOND CONGRESS, SECOND SESSION.

VOLUME XLVIII.

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VOLUME XLVIII, PART IX.

CONGRESSIONAL RECORD.

SIXTY-SECOND CONGRESS, SECOND SESSION.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June 21, 1912.*

The House met at 10 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, let Thy Kingdom come in our hearts that we may be filled with wisdom and purity, justice and mercy, patience, courage, fortitude; that we may hallow Thy name and fulfill the law of Christ, "All things whatsoever ye would that men should do to you do ye even so to them." This we ask in the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

CONFERENCE REPORTS, PENSION BILLS.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the conference reports that have been printed under the rules. The first one I desire to call up is the bill H. R. 18712.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 18712. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 904).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18712) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3 and 4.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 2, and agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, Frank A. Schaller (H. R. 11007): The House passed this at $24. The Senate reduced the amount to $12 on the ground that the soldier's disability does not warrant a higher rating; and the House concurs and recedes from its disagreement to the amendment.

Amendment No. 2, Noah H. Stout (H. R. 11710): The House passed this at $24 per month. The Senate reduced the amount to $12 per month on the grounds that the soldier's physical condition does not warrant a higher rating; and the House recedes from its disagreement.

Amendment No. 3, Louis T. Moseley (H. R. 12721): The House passed this at $20. The Senate reduced the amount to $12 per month on the grounds that soldier's disability from pensionable causes does not warrant a higher rating. The soldier was rated $24 by the examining board for nephritis; and the Senate recedes.

Amendment No. 4, John H. Dardis (H. R. 15732): The House passed this at $15 per month. The Senate struck the item from the bill on the grounds that the soldier's condition is not due to his service. He is badly crippled; and the Senate recedes.

WILLIAM RICHARDSON.
IRA W. WOOD.

The question was taken, and the conference report was agreed to.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the bill H. R. 20628.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 20628. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 905).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20628) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 2, and agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, Oliver P. Allen (H. R. 16228): This is the case of a Mexican War veteran. The House passed the bill at $30 per month. The Senate struck the item from the bill on the grounds that the soldier can get the same rate by applying at the bureau, and the House recedes.

Amendment No. 2, Anne Flannigan (H. R. 17723): This is merely the customary proviso, that in case of death of helpless child the additional pension shall cease. The House recedes from its disagreement.

WILLIAM RICHARDSON.
IRA W. WOOD.

The question was taken, and the conference report was agreed to.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the bill H. R. 22867.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 22867. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 902).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 22867) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 3, and agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, the case of Hugh L. Freeman (H. R. 15658): The House passed this at $30 per month. Since it passed the House a law has been enacted which gives soldiers of the Mexican War $30 per month, and hence the item was stricken from the bill. The House recedes from its disagreement.

Amendment No. 2, Nathaniel L. Lawrence (H. R. 4324): The House passed this at $12 per month. The Senate struck the item from the bill on the grounds that disability was not incurred in the service. The Senate recedes from the amendment.

Amendment No. 3, Louis O. Edgar (H. R. 18750): The House passed this at $30 per month. The Senate cut the amount to $20 on the grounds that the examining board recommended a

total rating of only $18 per month, and the soldier's condition does not warrant a higher rating. The House recedes.

WILLIAM RICHARDSON.
IRA W. WOOD.

The question was taken, and the conference report was agreed to.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the conference report on the bill H. R. 23515.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 901).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 23515) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 9.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, and 10, and agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

P. J. MCCUMBER,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, Hugh J. McKane (H. R. 538): The House passed this at $18 per month. The Senate reduced the amount to $12 on the grounds that there was some question as to a higher rating being warranted. The Senate recedes.

Amendments Nos. 2, 3, 4, 5, 7, and 8 are merely corrections of errors and in no way affect the amounts carried by the items. The House recedes from its disagreement to these amendments.

Amendment No. 6, Thomas H. Davis (H. R. 7668): The House passed this at $20 per month. The Senate reduced the amount to $12 per month on the grounds that disability did not warrant a higher rating. The House recedes from its disagreement.

Amendment No. 9, Evelyn Barnette (H. R. 15765): The House passed this at $50 per month. The Senate struck the item from the bill on the grounds that the report showed a financial condition which did not warrant granting an increase of pension. Since that time evidence has been filed with the conferees showing that the property held by the widow did not belong to her. The Senate recedes from its amendment.

Amendment No. 10, Noah Y. Ream (H. R. 17529): The House allowed $30 per month to a soldier of the Mexican War. The Senate struck the item from the bill on the grounds that the soldier can now receive the same amount by applying at the bureau. The House recedes from its disagreement.

WILLIAM RICHARDSON.
IRA W. WOOD.

The question was taken, and the conference report was agreed to.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the conference report on the bill H. R. 22194.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 22194. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 903).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 22194), granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 2.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, Alice Downing (H. R. 15514): The House passed this at $12 per month and $2 for each minor child. The Senate struck the item from the bill on the grounds that the soldier's death was not due to service, but the Senate recedes from its amendment.

Amendment No. 2, Thomas Joyce (H. R. 16637): The House passed this at $50 per month. The Senate struck the item from the bill on the grounds that it is a second special act for a soldier of the Indian wars. The Senate recedes from its amendment.

Amendment No. 3 is merely a correction of a typographical error, and the House recedes.

WILLIAM RICHARDSON.
IRA W. WOOD.

The question was taken, and the conference report was agreed to.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the conference report on the bill H. R. 23765.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 23765. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 900).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 23765) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 3, and agree to the same.

WILLIAM RICHARDSON,
IRA W. WOOD,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1, Alfred B. Light (H. R. 9804): This item passed the House at $30. Since it passed the House a general pension law has been enacted which will give the soldier the same amount by making application at the bureau, and the Senate therefore cut it from the bill. The House recedes from its disagreement to this amendment.

Amendments Nos. 2 and 3, Jane R. Bonnin (H. R. 14349) and Jane R. Adams (H. R. 16409): These are cases in which the House proposes to increase the pension of widows of soldiers of the Mexican War to $24 per month. The Senate cut both items to $20 per month in accordance with the usual custom of that body in allowing increases to widows of soldiers of both the Mexican and Civil Wars. The House recedes from its disagreement to these amendments.

WILLIAM RICHARDSON.
IRA W. WOOD.

The question was taken, and the conference report was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 25069, the sundry civil appropriation bill.

The motion was agreed to; accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 25069, the sundry civil appropriation bill, with Mr. JOHNSON of Kentucky in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill. The first business before the House is the amendment offered by the gentleman from Mississippi [Mr. SISSON].

Mr. SISSON. Mr. Chairman, I believe a point of order was pending against the amendment which I offered. I do not desire to argue it.

I ask unanimous consent to correct the amendment I offered in the committee on yesterday, as indicated.

Mr. MANN. That has already been done in the House.

Mr. SISSON. I want to correct the RECORD and get it properly before the Chairman of the committee, and so that it will read as the amendment which is now in the hands of the Clerk.

The CHAIRMAN. Without objection——

Mr. SISSON. I just ask that the balance of the amendment, or the portion that was left out, be read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

That so much of an act approved June 25, 1910, being "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1911, and for other purposes," and the act approved March 4, 1911, amending said act, as refers to enlarging the Capitol Grounds, be, and the same is hereby, repealed, said portion of said act being as follows, to wit.

Mr. SISSON. Now, Mr. Chairman, the point of order against the amendment strikes me as not being a point of order that is well taken, because on the face of the amendment an appropriation of $500,000 is carried in it. This amendment which I offer reduces the expenses $500,000. Under the Holman rule this amendment which I offer is in order. Now, the Chair will take into consideration that this act went into the sundry civil bill in 1911 as an amendment to that act. Now, since it was legislation which was put upon the sundry civil bill, this being a bill of like character and like kind, it is simply an amendment to repeal so much of the sundry civil act as refers to enlarging the Capitol Grounds. And it unquestionably reduces expenses $500,000 a year up until the final purchase would be consummated under the present law, which would be perhaps 10 or 12 years, and the saving on the face of the amendment would be $500,000, and on the whole legislation at least five or six millions of dollars.

Now, under the Holman rule, if the Holman rule means anything, this amendment ought to be considered in order under that rule.

Mr. MANN. Mr. Chairman, if the Chair will permit——

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. MANN. This is not an amendment to any item in the bill, hence it could not reduce any amount carried by the bill. The provision in the bill has gone out on a point of order and is no part of it.

The original provision in the bill for enlarging the Capitol Grounds was ruled out by the Chair on a point of order, and that ruling is to the effect that it never was a part of the bill. The gentleman understands that when the Chair rules a portion of a bill out on a point of order it is as though it never had been in the bill.

Now, there is no amount carried by the bill for this item for this purpose. Hence no amendment can reduce the amount carried by the bill, because the bill does not carry anything. The gentleman probably had not thought of that point, having the idea——

Mr. SIMS. There was an amendment offered.

Mr. MANN. An amendment offered from the floor is quite a different thing. There is no provision in the rules against offering an amendment from the floor. The gentleman evidently had in mind that the item in the bill remained in the bill, carrying an appropriation of $500,000, and this would reduce that. But this proposition comes now as though that item had never been in the bill, because it was in there contrary to the rule. That has been stricken out, not by the committee, not by the House, but by the Chairman, on the point of order. The amendment offered by the gentleman also, even if the original item were in the bill, is not germane. It has been contended in some cases, and I think fairly well contended, that where you have a bill to amend a section of a law, that that may authorize the repeal of the law. But that is not always allowed, even though you are attempting to amend a law. It is not always allowable to amend other parts of the law or to repeal a law, but there is no proposition here to amend a law. Here was an original item in the bill to make an appropriation for the purpose of carrying out a law. Does that authorize an amendment to repeal the law? I think no one can find any precedent going to that extent, and there are many precedents to the contrary. And it is not germane to propose to repeal a law based upon a proposition to make an appropriation under the law.

Mr. FITZGERALD. The part of the so-called Holman rule, Mr. Chairman, to which I wish to call attention provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

The gentleman from Illinois [Mr. MANN] has pointed out that there is no provision in the bill providing for the continuation of this work, and the amendment proposed by the gentleman from Mississippi [Mr. SISSON] is not an amendment to any provision in the bill. I do not find anything in the rule which makes in order a provision or amendment to the pending amendment.

The Chair can readily see to what that would lead. He can see that amendments which, under no reasoning whatever would be in order on the bill, could easily be offered and held to be in order by an arrangement whereby an amendment that would be germane and in order would first be offered, and then some matter that could not possibly be offered by itself under the rules would be offered as an amendment to it. It seems to me that such a construction of the rules would be far beyond what was ever contemplated.

Mr. SISSON. Mr. Chairman, I think the first objection urged by the gentleman from Illinois [Mr. MANN] is a very highly technical one, because the rule is broader than that. These gentlemen now offer an amendment to this bill which carries in that amendment an appropriation of $500,000.

Now, in order that we may save $500,000, not only carried in the amendment offered by the gentleman from New York [Mr. FITZGERALD], but in order that we may save $500,000 in the future——

Mr. SIMS. Five million dollars——

Mr. GARNER. Yes; $5,000,000 in the future——

Mr. SISSON (continuing). This amendment which I offer unquestionably reduces the item which is now called or known as an amendment. Now, it is entirely too technical to say that because the present law provides for $500,000 a year, when in accordance with that statute now in existence you offer to appropriate the $500,000 required to be appropriated by law, it is not in order to repeal the statute requiring the $500,000 which is then offered. To say that it is not in the bill is a purely technical objection, one that finds nothing in substance. This is germane to the amendment that is offered here, because it is the very crux of that amendment. If you repeal the law, there is no authority for the $500,000, and if you may, in sundry civil appropriation bills, fasten charges upon the Government, then it is a peculiar rule of the House, and the Holman rule must be peculiarly construed if in the same bill, in order to retrench expenditures, you can not repeal the provision which was carried in the sundry civil bill.

Mr. MANN. Mr. Chairman, a word more. Supposing on any appropriation bill which comes before the House there is no item in the bill then relating to a matter, and suppose some gentleman on the floor offers an amendment to make an appropriation. Does anyone contend that the mere offering of that amendment from the floor permits the House, under the rules, to repeal any law relating to the subject matter of that amendment? That would permit any legislation upon an appropriation bill at any time. It would permit the offering and the voting on any legislation at the whim of any two gentlemen in the House, because there is no way of preventing a man from offering an amendment for an appropriation, and then anyone can offer an amendment to repeal an act of legislation on the subject that brings the legislation before the House without consideration by a committee or anybody else.

Now, the purpose of these rules is to prevent the bringing up of matters which have received no consideration, to prevent the throwing into the House of propositions on which gentlemen are not prepared to vote or to intelligently understand without proper consideration. But if the Chair makes the precedent that any Member on the floor, by offering an amendment for an appropriation, thereby throws open the door to legislation by cutting out that amendment as a substitute, there is no limit to what can be done and no protection under the rules.

Mr. SIMS. Mr. Chairman, I would like to ask the gentleman a question in that connection.

Mr. MANN. Certainly.

Mr. SIMS. Suppose that in this particular case the committee had recommended no appropriation in the bill, and then had offered an amendment on the floor of the House, and because it is offered here we then can not propose to repeal the law upon which that appropriation is based by the committee taking such a course. Then you would prevent any opportunity to reduce expenditures by repealing the law?

Mr. MANN. The House is not required to vote in the item because it is offered on the floor. The Committee on Appropriations does not have jurisdiction over the legislation. Under the claim of the gentleman from Mississippi, if it be allowed, there would be no use for any other committees than the Committee on Appropriations; there would be no use to consider any bills except appropriation bills, because any Member by offering an amendment to make an appropriation could throw the whole subject matter involved in the amendment or in the law authorizing the appropriation open to consideration upon the floor.

Mr. SIMS. If this amendment is voted in appropriating $500,000, which is authorized and has authority of law, then no amendment could be offered to repeal that act based on reducing the appropriation.

Mr. SISSON. This bill was referred by the Speaker to the Committee on Appropriations.

Mr. MANN. But they have not reported it, and it was an improper reference.

Mr. SISSON. As to this particular item, neither the chairman nor will the committee say that the full committee agreed upon it. An amendment was to be prepared, and I have prepared an amendment now—the amendment which the gentleman from North Carolina would have offered to this bill——

Mr. FITZGERALD. O Mr. Chairman, the gentleman's statement is not quite accurate. There was some difference of opinion among the members of the committee about the acquisition of some of this property, and it was believed, and my understanding was, that the gentleman from Mississippi desired to have an amendment prepared which would have eliminated certain parcels from the property to be acquired, and then he would have been content; but when such an amendment was prepared and suggested to him, my information is that he said he would support that amendment, and then try to have the entire provision repealed. Of course, it was not to be expected that men would make a compromise to surrender all they were willing to and then leave the gentleman from Mississippi free to fight to have the entire provision repealed.

Mr. SISSON. That was not the point I was calling the attention of the House to. That was the original item in the bill, which was passed by the committee, and it has never been called together since to consider it.

Mr. FITZGERALD. The gentleman from Mississippi has been conferred with.

Mr. SISSON. It is true the gentleman came to me, and I told him I would be glad to support the amendment cutting out three or four squares.

Mr. FITZGERALD. The gentleman should not say that I came to him; the gentleman was present at a hearing in which the gentleman in charge of the condemnation proceedings testified, and the matter was thoroughly discussed. I was necessarily absent later, and requested the gentleman from North Carolina to prepare the amendment. I believe the gentleman from Mississippi understood what occurred. The gentleman from North Carolina [Mr. PAGE] informed me that when he submitted it to the gentleman from Mississippi the gentleman said he was perfectly willing to support that amendment, but when it was adopted he would then endeavor to have the law repealed. The gentleman from North Carolina said he then dropped the entire matter.

Mr. SISSON. Mr. Chairman, the amendment was not prepared by the gentleman from North Carolina, but he asked if it would be satisfactory to me, and I told him that it would not; that I was opposed to the whole proposition, but if the amendment was offered I would support it. But to go back, Mr. Chairman, you will find that the bill I introduced was referred to the Committee on Appropriations, and if the Committee on Appropriations had no jurisdiction, then there should have been a motion on the part of those gentlemen who wanted a new reference to have the bill referred to the proper committee. If they took jurisdiction of the proposition and reported it back to the House after the reference, then they have jurisdiction over the whole matter.

Mr. MANN. If the bill was referred, as the gentleman states, to the Committee on Appropriations, and they had reported back the bill, no point of order could have been made after the report to the House.

Mr. CANNON. And if the gentleman will pardon me, that bill would have gone to the calendar, and would not have been privileged as general appropriation bills and revenue bills are privileged.

Mr. MANN. That brings up the precise question. There is another provision of the Holman rule:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law, or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

If the reference of this bill to the Committee on Appropriations gave jurisdiction to that committee over the subject matter this matter could be brought before the House upon the report from the Committee on Appropriations recommending the enactment of the legislation.

Take, for instance, the ordinary case. The Committee on Appropriations has jurisdiction over the appropriations for the District of Columbia. The Committee on the District of Columbia has jurisdiction over legislation. Now, will the gentleman from Mississippi contend that because the Appropriations Committee has jurisdiction over appropriations for the District and reports the District appropriation bill I can offer an amendment on the floor of the House to make an appropriation, and thereupon he can move to substitute for that legislation relating to the District of Columbia? For instance, here is a pat case that may come up. We appropriate in the District bill for the execution of the excise laws. Suppose I offer an amendment in reference to the excise laws. Does the gentleman think that upon that amendment, without the report of a committee, without the consideration of a committee, he can offer an amendment fixing the rate of excise, the rate of license under the excise laws, so as to reduce expenditures?

Mr. SISSON. I do not think that would be a case in point—to fix the excise law, which is a law to collect taxes, paying money into the Treasury.

Mr. MANN. Suppose he should propose to repeal the laws providing for a license and thereby prohibit certain collections?

Mr. SISSON. That could not be in order under the Holman rule.

Mr. MANN. Why not?

Mr. SISSON. Because it does not reduce expenses.

Mr. MANN. Oh, certainly it would reduce expenses.

Mr. SISSON. It would take taxation away from the Treasury.

Mr. MANN. But it would reduce expenses. It would cut out the collection of the excise.

Mr. SISSON. If the collection should be greater than the excise, that might be true.

Mr. MANN. It may reduce the revenues, but it would reduce the expenses.

Mr. SISSON. If you reduce the revenues more than you reduce the expenses, then it is a question whether you reduce the expenses.

Mr. MANN. That is a matter of argument always.

Mr. SISSON. It would not be a reduction of expenses on the face of the bill.

Mr. MANN. It would be a reduction of the expenses, because you reduce the amount of expenses. There is no limit. If the gentleman's contention should prevail, any Member on the floor, by the offering of an amendment on the District appropriation bill, could throw into the House the consideration of any legislation relating to the District of Columbia without any reference to the Committee on the District of Columbia at all.

Mr. SISSON. Mr. Chairman, if the legislation which was offered was legislation which the Committee on Appropriations had originally put upon the statute was legislation belonging to the District bill, and if to repeal the legislation so placed upon the statute by the Committee on Appropriations it afterwards offered to appropriate money under a law which was passed on an appropriation bill, and when the same bill was under consideration a motion was made to amend the original law carrying the appropriation, if it reduces expenses, then certainly it ought to be in order. Is it possible that under the Holman rule a committee can obtain jurisdiction for the purpose of putting an expense upon the people, passing a law for the purpose of putting a burden upon the Treasury, and that the same committee which places the burden upon the people can not find in itself the right to withdraw the burden? If originally the District bill had not carried the item, but the legislation had occurred originally on the appropriation bill and had been carried as an amendment to the appropriation bill, a law authorizing an expenditure, then that committee that had the jurisdiction certainly would have the right then,

or ought to have the right under the Holman rule, to repeal the law for which they themselves are responsible. And, with that idea, I presume, this bill was referred to the Committee on Appropriations. I presume that that was the cause of the reference of the bill to that committee. If that reference was a correct reference, if the Speaker referred it correctly under the rule, then certainly this amendment would be in order under the rule.

Mr. BARTLETT. Mr. Chairman, whatever may have been my position originally upon the merits of this proposition, I am now more interested in the correct ruling upon the point of order than in the disposition hereafter of the amendment should it be held to be in order. It is important, Mr. Chairman, if we are to amend existing laws upon an appropriation bill, that we follow the rule that we have inaugurated for the purpose of allowing such amendments. For myself I do not stand in so much awe of the sacredness of appropriation bills from being amended by the House as do others when those amendments are necessary and can not be procured in any other way. That is a question that I may discuss hereafter on another bill. I shall not do so now. Suffice it to say that in the history of the English-speaking people and in the history of this country some of the most wholesome legislation in the country of our forefathers across the water and in this House and in the Senate has been enacted on appropriation bills. But, Mr. Chairman, it does seem to me that this proposition does not meet the requirements of the rules that we have adopted. I shall not stop to discuss the proposition that has been discussed with reference to the reduction of expenditures, but I simply desire to call the attention of the Chair to the latter part of the Holman rule. We had an instance of that at this session of Congress when the pension appropriation bill was under consideration. The matter was given some attention by the Committee on Appropriations and the subcommittee having that bill under consideration. We first reported to this House a bill which had been drafted, had been referred to the Committee on Appropriations and considered by that committee, reported to the House, and placed on the calendar. That bill involved a change in the method of paying pensions, so that instead of paying them by vouchers and receipts they were to be paid by checks. When the pension appropriation bill was under consideration the bill to which I have just referred, which had been considered by the Committee on Appropriations and had been favorably reported by it and placed on the calendar, was offered as an amendment. A point of order was suggested or reserved, as I recall, by the gentleman from Illinois [Mr. MANN]. The Chair ruled it in order because the Committee on Appropriations, taking jurisdiction of the bill, had reported it favorably. It had been referred to it I think properly, although the question of jurisdiction, if it had been raised, could not be raised at that late hour after the committee had taken jurisdiction and reported the bill. As I say, the Committee on Appropriations, in compliance with the second provision of the Holman rule, had considered the bill and acted favorably upon it and reported it to this House. The amendment was held to be in order by the then Chairman, the gentleman from Missouri, Mr. BOOHER. That was a correct ruling, admitted so by the gentleman who reserved or made the point of order.

So that it does not mean, Mr. Chairman, that any member of a committee or anyone else, simply because a bill may have been introduced and referred to a committee for consideration, can offer that bill as an amendment to a pending appropriation bill unless all of the provisions of the rule have been complied with.

The chief requirement of the provisions of the Holman rule is that it shall be upon the report of a committee or a joint commission, and that means something. The proper construction of this rule, so far as that is concerned, must mean that no amendment is in order under that provision unless it complies strictly with the rules. This rule is one of long standing. It makes exceptions to the acknowledged and accepted rules of the House in vogue for 100 years or more. The common, accepted construction of all statutes and all parliamentary rules and laws is that where you make an exception to the general rule you must strictly comply with it. It is not necessary to construe strictly this rule, however. The ordinary, plain, reasonable construction of the provision is that it is not in order to offer an amendment in the nature of a bill unless the requirements contained in the exception are complied with. For the orderly government of the House, to prevent confusion and delay, and, I might say, chaos in the consideration and passage of these great appropriations through the House, it seems to me that is the only reasonable construction to put upon it. Otherwise you open the door wide for any man who desires to amend an appropriation bill by enacting legislation originally or repealing legislation which he desires to repeal, to introduce a bill either to enact or repeal legislation, having it referred to a committee for consideration, having no report of that committee, but simply offering the amendment because he has introduced and has pending before some committee some such bill. It does not matter that it may have been referred to the Appropriations Committee, whether they have jurisdiction of it or whether they assume jurisdiction of it, and that assumption has been acquiesced in by the House. So that I repeat, Mr. Chairman, the importance of the ruling is that the exception which is here made for the purpose of reducing expenditures and enacting legislation along that line can not be carried out unless the rule is construed as it was intended, and reasonably intended, and strictly construed; otherwise, I say we are liable to be led into confusion worse confounded.

Mr. SISSON. Mr. Chairman, the proviso referred to by the gentleman from Georgia [Mr. BARTLETT] is simply an enlargement, an extension of the Holman rule, which does not narrow the rule at all, because the last clause before the proviso gives the right to a Member on the floor, to an individual Member, to offer an amendment where the compensation of any person is reduced, or where it reduces the number of employees or the amount of money covered by the bill.

That right is given to every Member of the House, if that condition existed at the time of the offering of the amendment.

The proviso, however, goes further and says:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment.

That is simply an enlargement of the first provision giving the right to members of the committee that would not be given to an individual who had made no investigation. Therefore it is an enlargement and not a narrowing of the Holman rule.

Mr. BARTLETT. Will the gentleman permit a question?

Mr. SISSON. Certainly.

Mr. BARTLETT. The provision which you propose to strike out is $500,000?

Mr. SISSON. The $500,000 has been stricken out, but there is an amendment now offered, and there is an amendment to the amendment.

Mr. BARTLETT. That amendment has not been adopted. In what way do you reduce the amount carried in the bill?

Mr. SISSON. Suppose we save $500,000. Suppose we were to adopt my amendment as an amendment to this amendment, then could not you vote my amendment down and would you not then get it?

Mr. BARTLETT. We would just simply meet the conditions as presented. The rules require you to reduce the amount carried in the bill.

Mr. SISSON. That is purely technical.

Mr. BARTLETT. It may be.

Mr. SIMS. Mr. Chairman, I would like to be heard. It does not seem to me that this amendment should be regarded in the light of not having been in the bill or not in it for this reason. It was in the bill as first offered coupled with the proviso. The point of order was made to the proviso and sustained as to the proviso, but as a matter of course the point of order was made to the whole paragraph and this language went out with it, and it is simply reoffered by the gentleman from New York——

Mr. FITZGERALD. I beg the gentleman's pardon, the gentleman is mistaken. The point of order was reserved on the proviso by the gentleman from Tennessee, and to the whole paragraph by the gentleman from Mississippi. The gentleman from Mississippi insisted that the entire paragraph go out because part was subject to the point of order and that took it out.

Mr. SIMS. I do not controvert that fact, but the portion now offered by way of amendment was in the bill, and no point of order would lie to it if only so much as now offered had been in the bill and nothing in the way of legislation connected with it.

Mr. FITZGERALD. All of these rules are technical.

Mr. SIMS. I know they are, and decidedly too much so.

Mr. FITZGERALD. And to say it is a mere technical objection does not amount to anything, because every objection offered under the rules of the House is a technical objection and these rules were designed for the purpose of enabling the House in a proper and orderly manner to conduct its business.

Mr. SIMS. But the amendment by way of fiction is not in the bill——

Mr. FITZGERALD. It is not a matter of fiction.

Mr. SIMS. Well, by reason of the question of the point of order on the whole paragraph that only applied to the proviso in the paragraph.

Mr. FITZGERALD. It is a matter of fact and not a matter of fiction.

Mr. SIMS. Now, let me say this to the gentleman from New York: That the letter killeth while the spirit maketh alive. Now, what is the object of the Holman rule or what is the object of proposing to permit legislation on an appropriation bill or the necessity for it? It is to save money to the Government. If the amendment did not save money for the Treasury, if it did not reduce expenditures in the form in which it is offered, it ought to cut no figure whatever, and a liberal construction of this rule certainly would, so far as that is concerned, apply to this proposition.

Mr. SHERLEY. If the gentleman will permit, if that reasoning is accurate all you have to do under the guise of the Holman rule is to offer an amendment repealing every office that exists under the Government and say you are coupling something equitable, just, and so forth, with it.

Mr. SIMS. I am not contending for any such latitude.

Mr. SHERLEY. But the very force and very purpose of parliamentary law is to require that you do a thing according to the law and not according to the spirit.

Mr. SIMS. Now, suppose this amendment the gentleman from New York has offered had been in the bill uncoupled with the proviso. Would not the amendment, by way of substitute, be in order? I think it would. Now, the effect of the amendment now offered by the gentleman from New York is exactly the same as to this bill as though it appeared in the bill as reported, and I think it is equally as important that the Holman rule apply to the amendment of the gentleman as though it was a part of the bill as reported.

Now, the question of whether it is germane or not or whether the amendment could be offered and sustained if no other proviso had been in there is a different question, which I am not undertaking to discuss, as I am not as well prepared to discuss these things as the distinguished gentlemen who have discussed them. But in construing the Holman rule I do think the spirit and purpose should dominate in any construction given the Holman rule, because the object, no doubt, is to permit the Appropriations Committee to make any reduction in expenses by such necessary legislation as enables them to make that reduction. And I know nothing better and more germane than to repeal a paragraph of a law heretofore passed by and through the Appropriations Committee that enabled them not to further make that appropriation. Now, suppose the Appropriations Committee itself had brought in this amendment; it seems to me that in order to enable the committee to make that reduction so much of a law upon which it was based should be repealed that the committee should be permitted—or a Member of the House, if the committee does not do it—to present such legislation, confined, as it is in this case, to negative action, not to affirmative legislation, and simply repealing that which authorizes the committee to take the action it has taken.

Mr. MANN. Will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. MANN. Suppose we had under consideration the general deficiency bill, which authorizes an amendment to any service in the Government as a deficiency, and some Member offers an amendment to the deficiency bill. Does the gentleman contend, then, that the offering of that amendment would authorize some one else to offer as a substitute a proposition to repeal the law creating the Army——

Mr. SIMS. I am confining my remarks to the particular matter before the committee in construing the rules to enable the committee to do by the Holman rule what was intended.

Mr. MANN. Can the gentleman make any distinction between the two? If so, I would like to hear it.

Mr. SIMS. I do not think it is necessary.

Mr. SISSON. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. SISSON. The gentleman from Illinois [Mr. MANN] asked you if under the general deficiency bill an item was carried in the bill——

Mr. MANN. Not for an item that was carried in the bill at all.

Mr. SISSON. If an amendment was offered from the floor to carry an item in the sundry civil bill, do you believe, then, it would be in order to repeal the law authorizing the item? It would simply mean, if the House wanted to reduce any expenses, if you had any confidence in the membership of the House, if it was an improper expenditure of money, they would vote for your amendment. If it was a proper expenditure of money, they would promptly vote for it. It would simply enable the House to vote on the proposition.

Mr. MANN. The rules are designed to prevent forcing the House to vote on a proposition which is under consideration.

Mr. SIMS. Does the gentleman assume the House would put on a proposition without knowing anything about it?

Mr. MANN. I not only assume they will, but I have seen them do it.

Mr. SIMS. If we should repeal a portion of a law or the whole of a law simply to save expenditure, it does not follow that we have to follow it with affirmative legislation to take the place of the law; but when we repeal a certain part of the law that requires further affirmative legislation it would only be properly so much of the law as the present appropriation is based on, and comes within at least the spirit, and ought to come within the letter of any such rule.

Mr. SISSON. As in this case, the Appropriations Committee took away from the Committee on Public Buildings and Grounds the law authorizing the purchase of this property.

Mr. SIMS. As I say, I am discussing this alone with reference to the construction of a rule enabling legislation on appropriation bills and not all possible complications that might follow by reason of applying the rule prohibiting legislation on an appropriation bill and only so much of it as is authority for making the appropriation.

The CHAIRMAN. The bill as presented to the House contains this paragraph:

> Enlarging the Capitol Grounds: To continue the acquisition of the land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000: *Provided*, That in addition to the persons named in the said sundry civil act the Speaker of the House of Representatives shall be a member of the commission constituted to acquire said land, and hereafter any three members thereof shall constitute a quorum and be competent to transact the duties devolving on them.

As to that paragraph the gentleman from Tennessee [Mr. SIMS] reserved a point of order as to all that which comes after the word "*Provided.*" The gentleman from Mississippi [Mr. SISSON] reserved and made a point of order to the entire paragraph. The Chair, in ruling, overruled the point of order to everything in the paragraph before the word "*Provided*" and sustained the point of order for everything that followed the word "*Provided.*" When that ruling was made, that entire paragraph was then out of the bill for every purpose.

The gentleman from New York [Mr. FITZGERALD] then offered the following as an amendment to the bill:

> Enlarging the Capitol Grounds: To continue the acquisition of land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000.

Thereupon the gentleman from Mississippi [Mr. SISSON] offered a substitute to that amendment repealing the act referred to in the amendment which authorized the appropriation of $500,000.

The question is now raised upon a point of order as to whether the substitute offered by the gentleman from Mississippi is permissible under what is commonly known as the Holman rule, which is section 2 of Rule XXI, and which reads as follows:

> No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment, being germane to the subject of the bill, shall retrench expenditures.

The Chair thinks that nothing which comes in the above rule after the word "*Provided*" need be considered in determining the point of order. The question hinges solely upon that part of the Holman rule which is quoted, which comes before the word "*Provided.*" The pertinent part of that section of the Holman rule reads as follows:

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

The first question which arises is: Can there be legislation in an appropriation bill under that part of the rule which I have just read? It seems quite evident to the Chair that under the rule there can be legislation, because the rule says—

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except—

and so forth. That clearly implies that existing law may be changed because of the use of the words therein, "changing existing law."

If existing law can be changed, under the rule it must be germane, and so the next question arises as to whether or not

the substitute offered by the gentleman from Mississippi [Mr. SISSON] is germane to the amendment offered by the gentleman from New York [Mr. FITZGERALD].

We are all familiar with the meaning of the word "germane," in its legislative sense at least, but inasmuch as a dictionary lies on the table before the Chair, the Chair has taken occasion to get the definition from that, and the definition that it gives is—

Any close relationship to.

The amendment offered by the gentleman——

Mr. FITZGERALD. Mr. Chairman, I can refer the Chair to a decision made on the 1st of April, 1910, that an amendment proposing to repeal a law is not in order as an amendment or substitute to an amendment modifying one section of the law. It was decided on April 1, 1910.

The CHAIRMAN. The Chair would have preferred not to have had his chain of thought broken, but to have had the precedent presented to him later. Before finally ruling the Chair will look at the reference mentioned by the gentleman from New York. When interrupted by the gentleman from New York the Chair was dealing with the word "germane" and was about to read, and will now read, from the amendment offered by the gentleman from New York, which treats of the act approved June 25, 1910, which authorizes this appropriation. The substitute offered by the gentleman from Mississippi proposes to repeal the act which is mentioned in the amendment offered by the gentleman from New York.

The Chair is of opinion that there is such a close relationship between the two that the substitute offered by the gentleman from Mississippi in treating of the act of June 25, 1910, is germane to the amendment offered by the gentleman from New York in treating of the same act—that of June 25, 1910.

The Chair is, up to this time, of the opinion that under the Holman rule there is a right to *change existing law provided it is germane;* and provided, further, it meets any one of the other conditions set out in the rule. The Chair first rules that the substitute offered to the amendment is germane. Before the substitute can be held to be subject to a point of order, or that it is not subject to a point of order, other parts of the Holman rule must be applied to the item as tests. If *existing law can be changed* in an appropriation bill provided it is germane, it must have one or the other of the additional qualifications. It must, in one instance, in addition to being germane, retrench expenditures by the reduction of the number and salary of the officers of the United States. The substitute offered by the gentleman from Mississippi to the amendment does not meet that requirement of the rule. Next, in order that it may be in order the substitute offered by the gentleman from Mississippi must be a reduction of the compensation of any person paid out of the Treasury of the United States. It does not come under that requirement of the rule. The Chair is of the opinion, however, that it does come under the next requirement, which reads as follows:

Or by the reduction of the amounts of money covered by the bill.

The Chair first holds that existing law under the Holman rule can be changed, provided it is germane, and the Chair holds that it is germane. Further, that it is good provided it reduces the amount of money covered by the bill. The Chair holds that it does reduce the amount of money covered by the bill to the extent of $500,000.

Now, as to the suggestion made by the gentleman from Kentucky [Mr. SHEERLEY] that if the contention of the gentleman from Mississippi were correct all offices could be abolished. The Chair is not called upon to decide that point and will not do so; but, in passing, it may be remarked that there is a provision in the Holman rule for the reduction of the number and salary of officers of the United States. If the Chair were called upon to decide that point he would, as on the present occasion, decide it just as he has the point which is now raised. The Chair has quite clearly outlined his individual views about it, but will be glad to see the precedent to which the gentleman from New York has just referred before making the final ruling.

Mr. FITZGERALD. I have sent for the precedent. I do not think that this amendment is germane to the amendment I have offered. My recollection is that the Senate put an amendment on the legislative bill changing one portion of the law relative to the corporation tax, and I offered a motion to recommit the Senate amendment to the Committee on Appropriations with instructions to report the Senate amendment amended so as to repeal the corporation-tax provision in the Payne-Aldrich tariff law. After a lengthy discussion it was held that to a provision proposing to amend one section of the law an amendment to repeal the law was not in order.

The CHAIRMAN. As to whether it is germane or not, the amendment offered by the gentleman from New York sets out specifically the date and approval and subject matter of which the law treats. The substitute offered by the gentleman from Mississippi treats of the same act referred to by the gentleman from New York in his amendment.

Mr. MANN. Mr. Chairman, might I ask the Chair whether the Chair holds that the part of the bill the Chair ruled out on a point of order still remains a part of the bill for the purpose of considering this proposition?

The CHAIRMAN. The Chair has not ruled, but has indicated, unless shown an authority to the contrary, that he is inclined to rule that the amendment offered by the gentleman from New York is not any part of the bill, but that the substitute offered by the gentleman from Mississippi is germane and a proper amendment to the amendment which the gentleman from New York has offered.

Mr. MANN. I am asking for information, because these rulings are of value hereafter. Then I take it that the present opinion of the Chair is that if the substitute is a reduction of the amount carried by an amendment offered from the floor, that brings it within the Holman rule, regardless of the amount in the original bill.

The CHAIRMAN. Yes. The Chair is inclined to rule only on the question as to whether or not this substitute is germane to the amendment, but thinks it applies also to any part of the bill before it is accepted.

Mr. FITZGERALD. Mr. Chairman, I have the decision here to which I referred. On the 1st of April, 1910, I moved to recommit a Senate amendment—I think it was to the legislative, executive, and judicial appropriation bill—with instructions to report forthwith Senate amendment 78, amended so as to read as follows:

Provided, That the act of August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," is hereby repealed.

Mr. GILLETT made the point of order. There was considerable discussion, and the Speaker ruled as follows:

The SPEAKER. The Chair will cause to be read the amendment which has been agreed to.

The Clerk read as follows:

"Concur with the following amendment:

"'Strike out all of amendment No. 78 and insert instead thereof the following:

"'For classifying, indexing, exhibiting, and properly caring for the returns of all corporations required by section 38 of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, including the employment in the District of Columbia of such clerical and other personal services, and for rent of such quarters as may be necessary, $25,000: *Provided,* That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President.'"

The SPEAKER. The House will notice that this is a proposition or an amendment covering one specific subject in the tariff act—as to the returns made by corporations. It does not relate to the amount of the tax, the kind of corporations to be levied upon, the time of levying, or touching any other matter, but only and simply the returns of corporations.

Upon the motion to concur with an amendment, which amendment provides for striking out the Senate amendment and inserting what has just been read, the previous question was ordered, and the House has, on a yea-and-nay vote, agreed to the amendment, so that is a closed incident.

Now, the argument of the gentleman from New York brings up a very ingenious theory. But the Chair does not feel called upon to decide upon his theory, because it has been held—and, so far as the Chair has been able to ascertain, uniformly held—that where there is a proposition to amend a law in one particular—a specific particular—a proposition to amend generally or to repeal the law would not be germane. The Chair, after a hasty examination, finds as follows:

"Hinds' Precedents, volume 5, page 411:

"'5806. To a bill amendatory of an existing law as to one specific particular an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.'"

Under that decision, if the amendment of the gentleman had been offered before the previous question operated it would not have been in order, as the precedents are uniform that you can not by a motion to recommit make that in order which would not have been in order if offered as an amendment. Therefore the Chair sustains the point of order.

There was a provision, Mr. Chairman, in which an appropriation was made to carry out the provisions of the Payne-Aldrich law, imposing a tax on corporations and providing for the classifying and arrangement of the returns. The House had agreed to an amendment which modified the law in that it provided that these returns should not be made public except upon order of the President or under rules and regulations to be approved by him. I then offered what was in effect an amendment, being a motion to recommit the bill with instructions to report forthwith repealing the law, and it was held to be not germane.

In this instance, and this decision applies to this case particularly, in the bill as reported from the committee there was an appropriation to carry out the law and a provision amending the law in one particular. That would have placed the provision in the bill in exactly the same category as the amendment to section 38 of the Payne-Aldrich law, and a proposal

to have repealed the law under this decision would not have been germane. In this instance, in the shape in which it comes before the House, there is no proposition to amend a law at all, but a proposition to appropriate to carry out the law without any suggested change. A proposition to repeal can not possibly be held to be germane, in my opinion, under the authorities. I recall this case very distinctly, because it was a matter of very great importance. It was carefully and elaborately discussed. The decision was based upon the precedents which had been made prior to that time. There was some doubt as to whether in a provision amending the law in one particular line a provision to repeal the law was in order. Decisions had been found to the effect that where a provision proposing to amend the law in more than one respect, in two or three respects, an amendment to repeal the law was germane. It was so held by Speaker Reed, but where the proposition was to amend the law in but one particular the decision was, and this followed what seemed to be the logic of the decision, that it was not in order.

In this case, if the gentleman had offered his amendment as a substitute for the provisions in the bill as reported from the committee, it would have come clearly within that decision. He is now offering his amendment as a substitute for an amendment which does not propose to change the law in any respect at all, but which merely provides for an appropriation. I do not see how under these decisions such an amendment can be held germane, and I call the attention of the Chair further to the fact that the definition of the word "germane," as given in the dictionary, is not the meaning ascribed to the word in the parliamentary practice of the House, because things may be intimately related to each other which under the parliamentary law would not be germane. For instance, in a bill providing for the admission of a Territory as a State, an amendment proposing to admit some other Territory as a State is not germane. They are somewhat intimately related, and yet if the bill proposed to admit two Territories as States into the Union, then the decisions are that a proposition to admit a third or a fourth Territory as a State would be germane. So that in determining the meaning of the word "germane" as used in the rules and procedure of the House of Representatives, the meaning ascribed to it in any standard dictionary as to the common acceptation of the word is not applicable.

It seems to me that under this decision, and under the decisions referred to, upon which the Speaker relied at that time, to a provision appropriating money to carry out existing law a proposition to repeal the law can not possibly be held to be germane. I call the attention of the Chair to the fact that not only has this law been partly executed, but a judgment of the court has been entered under which certain property has been acquired, and that creates an entirely different relation.

Mr. SIMS. That would not vacate the proceedings that have already been had under the law.

Mr. FITZGERALD. It would vacate proceedings unless the awards had been finally confirmed by a decree of the court, because until a decree is entered confirming the awards Congress could abandon the proceedings at any time. After the decree is entered, it could not. But I do not believe that has any bearing particularly upon the matter. I merely wanted to call it to the attention of the Chair. Under the practice of the House, as far as I am familiar with it, and the decisions—and this decision has never been challenged since that time, over two years ago—to a proposition proposing to amend in one respect an amendment to repeal is not germane, and as this proposition does not propose to amend the law at all, I do not see how, to a mere appropriation, it could be held that a proposition to repeal is germane.

Mr. SIMS. Was the gentleman's motion to repeal the whole Payne-Aldrich law or the mere paragraph upon which the particular appropriation rested?

Mr. FITZGERALD. It would repeal the whole law, but it made no difference at all, because the gentleman from Mississippi is not proposing to repeal part of one law, but is proposing to repeal part of two laws.

Mr. SIMS. He is not proposing to repeal the whole sundry civil bill.

Mr. FITZGERALD. No; he is proposing to repeal a part of two appropriation acts.

Mr. SIMS. But not acts like the gentleman from New York refers to——

Mr. FITZGERALD. Oh, that is immaterial; the same reason applies—that an attempt was made to repeal part or an entire act.

The CHAIRMAN. The amendment offered by the gentleman from New York treats of the act approved June 25, 1910, which authorizes the expenditure of $500,000 a year for the enlargement of the Capitol Grounds. The gentleman from Mississippi has offered a substitute for the repeal of that act. Now, the gentleman from Mississippi, in offering his substitute, did not refer to the act by its title and date of its approval, but he did more than that, he referred to it by its title, the date of its approval, and then quoted every word of the act, so it occurs to the Chair there is no escape under the conditions from the conclusion that the substitute is germane to the act. The Chair overrules the point of order, and in doing so agrees with the position taken by the gentleman from New York [Mr. FITZGERALD] in his contention upon a former occasion with the then presiding officer of the House.

Mr. FITZGERALD. Mr. Chairman, I move that all debate on the paragraph and pending amendments close in 10 minutes.

Mr. SIMS. Oh, no.

Mr. FITZGERALD. We have given more than two hours and a half. Everybody has been heard——

Mr. KAHN. The committee has.

Mr. SISSON. It has been on the point of order.

Mr. FITZGERALD. The gentleman from Mississippi himself stated that he would not occupy any more time.

Mr. BYRNS of Tennessee. I should like a little time.

Mr. FITZGERALD. How much time?

Mr. BYRNS of Tennessee. Five minutes. And there are several others who desire to be heard.

Mr. FITZGERALD. I desire to state that I am going to try to fix a time at this time and see if we can finish this bill to-day.

Mr. KAHN. I want five minutes.

Mr. FITZGERALD. We took over an hour yesterday, and we have taken an hour and a half this morning.

Mr. KAHN. The chairman of the committee will admit that most of the time has been occupied by members of the Committee on Appropriations.

Mr. FITZGERALD. How much time does the gentleman want?

Mr. KAHN. I shall want five minutes.

Mr. FITZGERALD. I have no objection to the gentleman having that much time.

Mr. SIMS. I want to have five minutes.

Mr. FITZGERALD. Mr. Chairman, I move that all debate upon the pending amendment close in 30 minutes.

Mr. SISSON. Make it 35.

The CHAIRMAN. Is there objection?

Mr. BYRNS of Tennessee. Mr. Chairman, I am opposed to the purchase of the land between the Capitol——

The CHAIRMAN. If the gentleman will suspend. When the Chair was about to put the question whether debate should close in 30 minutes the gentleman from Tennessee addressed the Chair.

Mr. BYRNS of Tennessee. I beg the Chair's pardon; I thought the Chair had put the question.

The CHAIRMAN. The Chair thought the gentleman rose to object. No objection being heard, debate upon the pending matter will close in 30 minutes.

Mr. BYRNS of Tennessee. Mr. Chairman, I am opposed to the purchase of land between the Capitol and the Union Station as provided under the bill passed two years ago, and I therefore shall vote for the amendment offered by the gentleman from Mississippi as a substitute for the amendment offered by the gentleman from New York. I am not opposed, Mr. Chairman, to the law or, rather, I do not favor its repeal because of any objection to the personnel of the commission. It is composed of men who have rendered long, patriotic, and distinguished service to the country, and everyone knows that those gentlemen will administer the law and perform their duties under the law as best they can for the protection of the Federal Treasury and the people. But I do not believe it is right to take the money of the people, Mr. Chairman, for the purpose of buying a great area of land between the Capitol and the Union Station purely for park purposes when, as a matter of fact, the land after it is bought can do the people and the Government of the United States absolutely no good. It has been stated upon this floor by the gentleman from Mississippi that much of this land is occupied; that a big hotel and apartment houses and splendid residences occupy a great portion of this land.

I have walked through that property, and I find a great many pieces of property there which are for rent to-day, and I have had the suspicion that possibly the movement which first brought about the passage of this law, the influences which were brought by the newspapers of Washington and by certain citizens of Washington to cause Congress to pass this law, were induced largely by the fact that this property is now in a particular section of the city which is not growing, but is depreciating in value, because the city is growing in another direc-

tion, and that the people who own this property are desirous that the Government should purchase it simply to relieve themselves of the burden of ownership. Now, Mr. Chairman, I favor beautifying the city of Washington. I think we ought to make it a beautiful city, and it is a beautiful city. Why, it was stated on the floor yesterday that the United States Government now controls or owns 54 per cent of the area of this city—in parks, streets, etc., whereas in other cities this class of property ranges from only 20 to 25 per cent. I think, however, that Congress possibly goes too far in this idea of beautifying the city and buying lands and opening them for park purposes. I noticed a few days ago that over in another body of this Capitol a bill was passed providing for the appropriation of a million seven hundred and fifty thousand dollars to build an armory for the District Militia, and it was provided that the people of the whole country should pay half the expense of that building in spite of the fact that the United States Government will furnish the land upon which it is built. The United States Government does not build armories for militia in other places. The only argument which I noticed in favor of the United States contributing half of the expenses of the building as well as the land, was the fact that it might be used for an inaugural ball once every four years.

Mr. Chairman, this Government owns and has purchased some of the most expensive portions of the property south of Pennsylvania Avenue, and it is hoped that some day the Treasury may be in condition whereby public buildings may be placed there for the occupany of the Department of State and possibly other departments, and thus save to this Government $600,000 a year in rent. We are told when the proposition is made to erect public buildings over the country that the Treasury will not admit it. I have heard gentlemen on the floor of this House state that it is not wise to authorize more public buildings on account of the condition of the Treasury, and yet those same gentlemen are advocating the purchase of this land at the cost, as has been stated on this floor, of $5,000,000, and it has also been stated that after it has been purchased it will take $2,000,000 to place it in a condition for parks, making a total of $7,000,000. This amount would build 140 buildings over this country at $50,000 apiece.

We have claims to-day which have been adjudicated by the Court of Claims as proper charges against this Government, and yet Members of this House and in another body oppose the payment of those claims, Mr. Chairman. And I venture the assertion if Members here will go back to their people and will tell them frankly that they voted for an appropriation or to maintain upon the statute books a law which provides for $7,000,000 expenditure in the city of Washington for purely park purposes, and then will tell them as frankly that the Government is paying $600,000 a year in rents to-day to owners of property in the city of Washington because we have not money in the Treasury to put up the necessary public buildings; if they will at the same time tell them also frankly that Congress has refused and denied to claimants over this country the right to an appropriation to pay their claims, notwithstanding the fact that those claims have been passed upon and declared proper and right against the Government, I do not believe the people will approve any such vote. [Applause.]

Mr. KAHN. Mr. Chairman, I do not know who owns any of the property that is involved in this controversy. That is an entirely immaterial matter. The land ought to be purchased, for it can be purchased cheaper now than in the future. All the great capitals of the world are constantly buying property and are expending millions of dollars in beautifying those capitals.

In 1868 the city of Paris expended $135,000,000 in buying property for the purpose of widening and extending its boulevards and avenues, in making the city attractive. There was a good deal of criticism of the expenditure at the time, but the intervening years have amply justified it. It was a good investment. Paris to-day is looked upon as one of the most beautiful capitals in the world. It is the Mecca of hundreds of thousands of travelers from all over the world. They enjoy its parks, its boulevards, and its avenues. We admire the patriotism of the Frenchmen in having spent that amount of money to make Paris an attractive city. And as for going home and telling our constituents that we have voted money to beautify the National Capital, as suggested by the gentleman from Tennessee [Mr. BYRNS], there is not a constituent of any Member of this House who does not feel proud whenever he comes here to find this city a beautiful one. [Applause.] Our constituents will certainly justify the expenditures in beautifying it.

The city of London in 1905 expended hundreds of millions of dollars in opening up new streets. The King's Way and Aldwych were constructed in the very heart of the English capital. If that work had been done a hundred years ago it could have been done for a fraction of the amount that it cost England in 1905. The city of Berlin is expending millions of dollars in the beautification of the German capital. The city of Rome has been improved in recent years at an enormous outlay. The city of Vienna has expended millions of dollars in widening and beautifying its streets.

That property which is covered by the pending amendment can be purchased cheaper to-day than it can be purchased at any time in the future. Property always enhances in value in a city like Washington. It is the Capital of a great Nation. Its future growth and importance should always be considered by the legislators gathered in this Capitol. The south side of Pennsylvania Avenue has been referred to. I agree that it is a conglomeration of ramshackle buildings that are a disgrace to the Capital. Why has it not been improved? Because it is believed that Congress some day will purchase all of that property and make it a part of the park system of the city. And this property that we are now discussing will be an eyesore to the capital so long as there are no general plans in regard to it. Several years ago Congress decided it should be purchased. There is always in the mind of the owner an idea that Congress will live up to the purchase plan. It is covered largely by a lot of old rubbish to-day.

The gentleman from Tennessee [Mr. BYRNS] speaks of the houses being idle. They will continue idle if this law be repealed. I venture the assertion that there will not be an improvement on that property for years, and it will continue an eyesore. The property owners will not attempt to improve it, for they will feel uncertain as to the course Congress will pursue toward the land in question.

Take the city of Frankfort, in Germany. Within recent years it has been spending millions of dollars in widening its streets. It has put up a magnificent union railway station, not unlike ours, and it has a most superb plaza in front of it. The people there have gladly expended millions of dollars in beautifying their city. And so I could cite innumerable instances of what is being done all over the world in the way of beautifying cities. These cities are correcting the mistakes, the shortsightedness, if you please, of earlier periods. We are a young Nation. We want to make Washington the most beautiful capital in the world. We are the richest Nation in the world. It is a small, narrow policy, in my mind, to repeal a law of this kind. If the law be continued it will enable the people of this country, the American people, to have a capital commensurate with their dignity, their wealth, and their power.

I hope the amendment of the gentleman from Mississippi [Mr. SISSON] will be voted down. [Applause.]

Mr. SIMS. Mr. Chairman, I could take the gentleman from California [Mr. KAHN], who has just addressed the committee, and show him streets to-day in Washington which the people have to use which would be a disgrace to a city of 100,000 inhabitants. Exercise your public spirit where it will be a benefit to the people who want to use those streets. I will go with him and pay his car fare and show these streets to him this afternoon.

Now, this idea that our republican Government must manifest its magnificence and beauty in physical features only, by way of building great avenues and parks in order that those who happen to come to Washington who are going to stay here only a few days may see them and go home and have them approve of the expenditure of the money, is erroneous. Those people do not see these neglected streets I have mentioned. If we put this $500,000 on improvements in certain portions of th city of Washington that absolutely need them instead of buying property down here which will immediately make a demand for property in out-of-town divisions that are being boomed now by real estate men, it would be vastly better. Turn out these thousands who live in these houses now and cause them at once to have to seek other homes, and you accelerate the advance in price and enhance the value of lots now being held in the suburbs at fictitious, unreasonable, and speculative values.

Now, this committee had no such thought. This legislation was put on an appropriation bill at the other end of this Capitol. There was no time in which to consider it here; and, in justice to well-considered legislation, it ought to be repealed. Then bring in a bill, and have it well considered, and let us know what we are going to purchase.

Why, the gentleman from Mississippi [Mr. SISSON] yesterday showed a map here delineating the land contemplated to be bought and showing that that land is absolutely unnecessary, relatively, to this Capitol square. If it is bought, and the buildings are removed, and the land is parked, it will make it look ridiculous. It will make it look like a one-winged eagle statue. It will make it look as though you had put up

an eagle and taken a wing off of it. Put a wing on that square there and then you will have to have a wing here and another wing yonder. We have a Capitol square now that is symmetrical in its proportions. Millions of dollars have been put into this House Office Building here, and millions of dollars have been put into that Senate Office Building, and other millions of dollars have been put into other public buildings all over this District, and into parks galore. Indeed, there is danger now of getting lost in the city of Washington in the wilderness of unused and unoccupied parks.

That is the only excuse that can be given for the purchase of this land—the beautification of the city and the enlargement of the parks.

Mr. KAHN. Mr. Chairman, will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. KAHN. I would like to ask the gentleman where is there a single park in the city of Washington that is not enjoyed and used by all the people, including the poor people?

Mr. SIMS. Those who go to the out-of-town parks are not the poor people. Tell me how many poor people ever put their feet inside of Rock Creek Park.

Mr. KAHN. I saw them there by the dozens and hundreds.

Mr. SIMS. How do they get there? There are no street cars running to it, and the street car companies are opposed to the putting of street cars there. The fact is that nobody but automobile owners ever get there. [Applause and cries of "Vote!" "Vote!"]

Mr. CULLOP. Mr. Chairman, I would like to have the amendment reported.

Mr. FITZGERALD. If anybody wishes to get time, let him use it now.

Mr. CANNON rose.

Mr. CULLOP. Mr. Chairman, in view of the fact that the debate is to be closed, I ask that the amendment be reported.

The CHAIRMAN. The Chair has already recognized the gentleman from Indiana.

Mr. CANNON. On which side is the gentleman?

Mr. CULLOP. I do not care to occupy time.

The CHAIRMAN. The Chair then recognizes the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Chairman, two years ago, or three—I believe it was three—this legislation was enacted. It has been executed as speedily as possible under the provisions of the law. It was bad in its conception, in my judgment, because it did gradually, year by year, what it ought to have done at once. In other words, condemning this property piecemeal enhances the property remaining after each condemnation.

There has been acquired, however, the two principal squares and the two most expensive squares just north of the Capitol, costing about $1,100,000. The decree has been confirmed, and whatever action might be taken by Congress in repealing this law, that property has been acquired.

Mr. HARDY. Mr. Chairman, will the gentleman permit an interruption?

Mr. CANNON. Yes.

Mr. HARDY. What are the two blocks that have been already acquired?

Mr. CANNON. The two blocks just north of the Capitol, between the Senate Office Building and New Jersey Avenue, down to the railroad property, which was formerly occupied by the old Baltimore & Ohio depot.

Mr. HARDY. Does the gentleman recall who was the owner of the property?

Mr. CANNON. I do not know any man that was the owner of a portion of it, save one. I have the impression that one or two houses belonged to the estate of former Representative Babcock, who died a number of years ago. But I do not care who it belongs to. If it ought to be acquired, what difference does it make who owns it? With all due respect to my friend from Texas, I do not see that there is any great point in his query.

Now, I am satisfied that if this Congress does not acquire it, some Congress in the future, better advised, will take every foot of this property. You may repeal this act, but there is the property. There is the great terminal, to which nearly a hundred million people who visit the city in a year will land. Here is the great Capitol, the greatest on earth, having no equal on earth. Here are the great office buildings belonging to the people, and I am satisfied that if this act should be repealed, in the end this property will cost vastly more to condemn in the future than it will cost to take it now.

It is easy to say that this property is going to cost $5,000,000 or $7,000,000, and $2,000,000 to improve it. Who gave the gentleman from Mississippi the right to make such statements? I state, and I am informed by men who ought to know, that the two blocks that have already been condemned are by far the most expensive property, and that the buildings on these two blocks, the improvements, cost as much as the ground cost. Much of this property is now vacant farther on toward the Plaza. I trust that the amendment offered by the gentleman from Mississippi to repeal the law will be voted down.

Mr. CULLOP. Will the gentleman yield?

Mr. CANNON. Certainly.

Mr. CULLOP. I want to ask a question for information. Is any part of the vacant property between here and the Union Depot included in this matter, or has that been purchased?

Mr. CANNON. It is substantially all included in this matter. The only part that has been condemned are the two blocks between New Jersey Avenue and the Senate Office Building down to the street just in front of where the old Baltimore & Ohio Depot stood.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HARDY. I ask that the gentleman be given five minutes more in order to answer a question.

Mr. CANNON. I do not care for any further time.

The CHAIRMAN. The time for debate has been limited.

Mr. CANNON. I would be glad to answer the gentleman's question if I had the time.

Mr. HARDY. Mr. Chairman, I am opposed to buying this property between the Capitol and the Union Station. I did not ask the gentleman from Illinois who owned the land already acquired by the Government in order to make any deduction of impropriety, but merely as a matter of curiosity, and, broadly, I would like to know all the owners of the property which this law forces the Government to buy. I oppose the policy of forcing the Government to buy more and more land whenever some one may have property to sell and thinks it a good opportunity to unload it on the Government. I believe that the National Government has to-day all the property in Washington City that it needs for public uses. This matter of beautifying the National Capital is nice to talk about, but it has its reverse side also. I am reminded a little of an old gentleman I know who bought, first, 100 acres of land and then wanted every 100 acres adjoining that and then wanted all the land adjoining that, and there was no end to it. We seem to be in the condition of wanting to buy every piece of land within the city limits that is offered for sale on some plausible pretext that it might be of some use or benefit to the Government now or hereafter, or at least would beautify the city.

In the history of great nations there has always been an era of public improvement just preceding the era of public decay. Pericles beautified Athens, and at the end of his reign decay set in upon the Athænean Republic.

Herod was building temples and beautifying the city of Jerusalem, and provincial governors from Rome were beautifying other cities, in the days of Christ, while the people were suffering under enormous burdens of taxation. The old story of building monuments to the glory of kings and governments is as old as the history of the pyramids of Egypt. The swinging gardens of Babylon were an example of beautifying, and, doubtless, the people of Babylon were proud of the glories of Belshazzar. Every dead civilization found itself tottering to decay amid efforts at beautification and adornment and public expenditure for the glorification of the national capital.

I believe that governments should confine themselves to the useful purposes of government. Of course, more or less adornment and beautification is possible and consistent; but if we are to spend millions upon millions, and then millions more, in order to beautify this part of the city and that part of the city, in rivalry with the glories of other lands and other ages, some will repent our extravagance when our accumulated burdens have become unbearable; and if every time anybody who has a piece of property that he can not profitably use or dispose of he is encouraged to raid the Public Treasury by selling at a fancy price to the Government, there will be no end to this kind of exploitation. Interested parties will always find some plausible excuse to make the Government buy property. That is the way it has been ever since I have been here. I am told that many years ago the Government bought a block by the Belasco Theater under the plea that it was immediately needed for a public building. It is vacant still.

We are now confronted with a proposition to open up West Capitol Street and to pay millions of dollars for property on the south side of Pennsylvania Avenue. That would be the next thing. When the Union Depot was planned we started out with the proposition to buy a little stretch of property in front of the Union Depot, and now we want to widen that Plaza and then buy out all the land between this widened Plaza and the Capitol. Next it will be necessary to widen the roads out to Anacostia or between here and the navy yard, for

what visitor to this city would like to go down along Pennsylvania Avenue and have to look on the shacks that are around the navy yard? We ought certainly to remove all those eyesores and beautify it and make it full of palaces, because all visitors to Washington want to see our navy yard.

Mr. Chairman, I have reached the conclusion that if the Government will attend to the economic administration of public affairs, the growth and beauty of this Capital will be spontaneous and will be made naturally by the people who settle here and find their profit in the growth of the city and the building of useful and needed structures. If the Government is beginning to spend vast sums or to erect buildings just for the purpose of beautification, such expenditure makes burdens, such burdens make poverty. This way lies the beginning of the ultimate decay, in my opinion. [Applause.]

Mr. FITZGERALD. Mr. Chairman, I am opposed to repealing the law providing for the acquisition of this property, and I am in favor of the amendment I offered to appropriate $500,000 to carry out the original intention of the law. I regret very much that the gentleman from Mississippi [Mr. SISSON] has not recently read the history of the Capitol Buildings and Grounds, and the debate which took place when a very distinguished Representative from the State of Mississippi advocated and urged legislation providing for the two wings of this Capitol and the acquisition of the grounds surrounding it. The people of the United States are indebted more than they will ever be able to repay to Jefferson Davis for the two wings of this Capitol and for the beautiful Capitol Grounds. [Applause.] I regret that it is another gentleman from Mississippi who is not inspired with the same broad views as Jefferson Davis, who is attempting at this time to prevent the completion of the great work for which he is entitled to so much credit.

It is unjust and unfair to assert that this is a scheme to help somebody unload property upon the Government. If I were the owner of property in the tract to be taken I should resist and exert every influence I had to prevent the property being acquired by the Federal Government at this time. No man who is familiar with the development of great capitals, who is familiar with the prosperity and the wealth of this country, and the situation of this Capitol in relation to the Union Depot can doubt for an instant that some day the Federal Government will acquire the property between the Capitol and the Union Depot as a part of the parking system of this city. It should be done now. We should not wait until those who own the property, by letting it remain idle or permitting it to be used for purposes that should not be within the shadow of the Capitol, may be, with the growth of time and the development and improvement of the city, able to obtain in condemnation proceedings a much larger compensation than can possibly be obtained at this time. The improvement of municipalities is something which benefits all of the people of the community. It does not benefit so much the wealthy, those who are in a position to spend their leisure moments in congenial surroundings and under circumstances that appeal to the imagination, but to those who can never leave the community, who are compelled to spend their entire lifetime in it, these movements to beautify cities result most beneficially. People come to this Capital from all over the United States and from all over the civilized world. Who is there in the House or in the Congress who would advocate to-day the selling of a single foot of the property surrounding this Capitol? Who would not rejoice if the property facing the Office Building for the House and the Office Building for the Senate on both sides happened to be owned by the Government of the United States? Why speak of having a building essential for the prosecution of Government business and for the comfort and convenience of the people's representatives and for the gratification of the people when they come here located amidst surroundings that are disgraceful to the community? What are five or six millions of dollars to 90,000,000 people when the making of this Capital such that it will be a credit and a pride to every citizen of the United States, no matter how humble, is involved? [Applause.]

We can not approach these questions in a small or niggardly spirit. We must look upon them with a broad mind, keeping in view the future and the fact that we are destined to be not as we are to-day—the greatest Government and the greatest Republic the world has ever known—but destined to be a Republic and to represent a civilization that we hope will keep in the forefront through all the ages. [Applause.] Our Capitol should represent and typify that civilization.

The CHAIRMAN. The time of the gentleman from New York has expired. The question is on the adoption of the substitute offered by the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. SISSON) there were—ayes 24, noes 32.

Mr. SISSON. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed Mr. SISSON and Mr. FITZGERALD to act as tellers.

The committee again divided; and the tellers reported—ayes 29, noes 38.

So the amendment was rejected.

Mr. SISSON. Mr. Chairman, I offer the following amendment as a substitute for the amendment offered by the gentleman from New York, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend so much of an act approved June 25, 1910, being "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1911, and for other purposes," as refers to enlarging the Capitol Grounds, so as to read as follows:

"Enlarging the Capitol Grounds: It is hereby declared to be the purpose of Congress to ultimately acquire all of squares No. 632, all that part of square No. 633 that lies west of the street or alley known as Arthur Place, 634, 680, 681, 682, 683, 684, 685, in the city of Washington, D. C., for the enlargement of the Capitol Grounds, and for the construction of a direct avenue of about 150 feet in width from the junction of Pennsylvania Avenue and First Street NW. to the Union Station Plaza, the center line of said avenue to be located on the axis of the Peace Monument and the site of the westerly foundation in said plaza. The Vice President of the United States, the Speaker of the House of Representatives of the United States, and the Superintendent of the Capitol Building and Grounds are hereby authorized and directed to acquire said premises by purchase, condemnation, or otherwise, and to expend for that purpose not more than $500,000 in any one fiscal year, commencing with the year 1911, and the persons authorized to acquire such property shall annually, within said limit, purchase whatever of said property is in their judgment offered at the lowest prices relative to its actual value, provided they shall not purchase any property at above its fair actual value. If in any year there should not be offered property substantially up to said sum of $500,000 at its fair value or less, the Vice President of the United States, the Speaker of the House of Representatives of the United States, and the Superintendent of the Capitol Building and Grounds are authorized to institute condemnation proceedings in order to secure any or all of the land herein authorized to be acquired, but for not to exceed what they estimate to be $500,000 worth in any one fiscal year. If such condemnation proceedings are deemed necessary, they shall be in accordance with the provisions of the act of Congress approved August 30, 1890, providing a site for the enlargement of the Government Printing Office (Stat. L., vol. 26, chap. 837). For the execution of the foregoing, $500,000."

Mr. MANN. Mr. Chairman, I make the point of order against the amendment.

Mr. SISSON. Mr. Chairman, will the gentleman reserve it for a minute?

Mr. MANN. I understand that it is not debatable.

Mr. SISSON. Oh, yes, it is.

Mr. MANN. I understood that all debate on this proposition had been closed.

Mr. SISSON. I wanted to explain the amendment to the House. I ask unanimous consent to explain the amendment to the House. It will not take but a minute.

Mr. MANN. Mr. Chairman, I am not disposed to cut off debate, but I think we have spent sufficient time upon this.

Mr. FITZGERALD. Does the gentleman from Illinois propose to discuss the point of order? If the gentleman is going to insist upon the point of order we might as well have it settled first. There is no use of occupying considerable time on this matter uselessly when we can not accomplish anything.

Mr. SISSON. Oh, I do not think it is useless.

Mr. MANN. Mr. Chairman, there is no pretense that this is to repeal existing law. This is a modification of existing law. Neither the Chair nor anyone else can tell whether it is a retrenchment of expenditures. It is not the same proposition that was presented before. I do not propose to take the time of the House in discussing the point of order. I thought the other amendment was clearly subject to a point of order on grounds which I then stated. The Chair overruled that point of order. I think this amendment is subject to a point of order upon other grounds; that it is not a retrenchment of expenditures, but simply a modification of existing law, carrying the same amount of appropriation.

Mr. SISSON. Mr. Chairman, in reference to the point of order I will state that the amendment which I offered eliminates certain squares of property, which reduces the amount that would finally be acquired in the purchase of the property embraced in the original act.

The property eliminated is the property that can be seen here and one square here [illustrating on map]. I will say that this was an amendment which the gentleman from New York and I were discussing and which Mr. PAGE was to prepare and to offer as a compromise on this matter eliminating certain sections of property——

Mr. FITZGERALD. I understand that the gentleman rejected that compromise.

Mr. SISSON. Now, Mr. Chairman, in offering this amendment I am sure that it does not present the same question which was in the other amendment which I offered; that on its face it does not reduce the expenditures carried in the

amendment offered by the gentleman from New York. I was in hopes that we might get a vote upon this matter by unanimous consent and exclude from the future purchase of this act the property which I do not think anybody insists we need in opening up a park between here and the Union Station, nor is it needed for the purpose of building a boulevard. It eliminates the property on either side of the Senate Office Building and the property that is not within the view and approach from the Capitol to the Union Station, and I think it would be useless to purchase this property for the purposes which the bill intended originally to cover. I think that it includes entirely more property than is necessary, and for that reason I offer the amendment.

The CHAIRMAN. The Chair is of the opinion that if the amendment reduces the amount of money covered by the bill that it would not be subject to the point of order. The ultimate purpose of the amendment offered by the gentleman from Mississippi is to reduce the cost finally, but the Chair does not believe that it means a reduction of the cost in this bill; or, in other words, the Chair knows officially that within the scope of the original act there is sufficient property to amount to more than $500,000 in addition to the $500,000 heretofore expended; and, as it does not reduce the amount of money contemplated to be expended in this bill, or any amendment thereto, the Chair sustains the point of order.

Mr. SISSON. Mr. Chairman, I move to amend the substitute which I have offered here by substituting $400,000 for $500,000.

Mr. FITZGERALD. Mr. Chairman, I will object to that. The law authorized $500,000 worth of property to be condemned, and we ought to appropriate the money in accordance with the law. I ask for a vote on the pending amendment.

Mr. SISSON. If the gentleman is willing to have a vote on this amendment——

Mr. FITZGERALD. I am not willing to have a vote on the gentleman's amendment.

Mr. SISSON. I want to offer another amendment, and the language of the amendment which I have just offered as a substitute is the same as the other, except that I strike out the $500,000 in the amendment which I have offered and make it $400,000. I want to substitute for the amendment which I offered an amendment which is identical in language with the other amendment, except that $400,000 shall be in the amendment instead of $500,000.

Mr. FITZGERALD. Mr. Chairman, I make the point of order against the amendment. I do not see that helps the gentleman at all.

Mr. SISSON. I trust the Chair understands what I want to do. I want to offer the amendment which I have just offered and which was ruled out on the point of order because it did not reduce expenses, substituting $400,000 instead of $500,000 in the amendment which I offered a moment ago.

Mr. MANN. Let the amendment be reported.

Mr. SISSON. I will ask that the amendment be reported.

The CHAIRMAN. Without objection, the amendment will be again reported.

Mr. MANN. An objection would stop it, but has the gentleman a right to offer the amendment? There is nothing before the House. The gentleman has offered an amendment, and let us find out what it is.

The CHAIRMAN. The Clerk will read again the amendment for information.

Mr. SISSON. I offer the amendment.

The CHAIRMAN. The gentleman from Illinois has asked that the amendment be reported.

Mr. BYRNS of Tennessee. I submit this is a new amendment offered by the gentleman from Mississippi that has not yet been reported to the committee.

The CHAIRMAN. If the gentleman will only give the Clerk a chance he will report the amendment.

Mr. MANN. It is not a matter of reporting; it is not done by unanimous consent. I am willing to consent to waive the reading of it, as it has been read three times.

Mr. SISSON. That is what I was endeavoring to explain to the committee. The amendment I now offer is identical to the former amendment, except that $400,000 is inserted in the present amendment where $500,000 was in the amendment ruled out on the point of order.

Mr. MANN. Mr. Chairman, I make the point of order against the amendment, and I ask unanimous consent to dispense with the reading.

The CHAIRMAN. Without objection, the reading of the amendment will be dispensed with. [After a pause.] The Chair hears no objection.

Mr. SISSON. The gentleman has not stated his point of order.

Mr. MANN. I make the point of order it is not a reduction of anything connected with the bill; practically the same point of order that was made before applies to it.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the committee to what a remarkable situation the House will be in if this amendment were held to be in order.

If one gentleman could offer an amendment appropriating a certain sum of money to carry out some law, under the guise of reducing the amount carried by the bill, the gentleman could offer an amendment appropriating $1 less in that amendment and propose to change the law.

Mr. SISSON. This does not change the law.

Mr. FITZGERALD. Certainly it changes the law. It eliminates from the law certain features of it. But on the pretense that it reduces the amounts carried by the bill, it would be the easiest thing if such a ruling was made to have in order any conceivable proposition gentlemen would desire to offer to an appropriation bill. The rule is plain. It must affect the amounts carried by the bill, and pending amendments are not amounts carried by the bill under any construction that can be given.

Mr. MANN. Mr. Chairman, there is a law usually called the pure-food law, and an appropriation to provide for its administrative effect. Suppose, when the deficiency bill comes before the House some gentleman offers an amendment proposing an appropriation of $150,000 for the execution of the pure-food law, and some gentleman proposes an amendment reducing the amount to $40, and an entire revision of the pure-food law, neither proposition having been considered by the committee of the House. Now, is the Chair prepared to adopt the rule that under those circumstances there can be precipitated upon the House for a vote an entire revision of the pure-food law when it has received no consideration from any committee and when there is no line in the bill reported either relating to the law or its enforcement?

The CHAIRMAN. The bill itself is yet an unaccepted proposition submitted to the House by the committee and is subject to amendment. The amendment also is an unaccepted proposition made to the House by a Member of the House; and, in this instance, by the chairman of the committee. The Chair holds this subject to amendment. The gentleman from New York [Mr. FITZGERALD] seems, from his remarks, to be laboring under the impression that an authorization of exactly $500,000 a year is provided for under the original act. That is a mistake. The original act authorizes the expenditure of not more than $500,000 a year. If the act authorizes an expenditure of not more than $500,000 a year, an expenditure of less than $500,000 a year would be authorized by the bill.

Mr. FITZGERALD. Mr. Chairman, the rule does not say an amendment which changes the bill shall be in order, which proposes to reduce the amount in a proposed amendment. It must reduce the amount carried in the bill.

The CHAIRMAN. The Chair sees the hair-splitting difference there which the gentleman suggests. When there is no section in the bill on this subject, the offering of a new section by the committee is an unaccepted proposition, just the same as if it had been submitted to the House originally by the committee.

Mr. FITZGERALD. The committee has not offered any new section. The committee has offered no new provision. I offered that as a Member of the House.

The CHAIRMAN. The Chair put it in the shape of having been offered by an individual, but it was by the chairman of the committee, and the Chair is willing to strike that part of it out.

Mr. FITZGERALD. I call the attention of the Chair to the fact that the only legislation under the rule that is in order is an amendment which was reported by an individual Member of the House.

The CHAIRMAN. The Chair is of the opinion that the amendment offered by the gentleman from New York is subject to amendment.

Mr. FITZGERALD. I know it is subject to amendment under the rules of the House. It is not subject to any amendment gentlemen may desire to make. The amendment must be in order under the rule, and the rule is what controls and not the peculiar desires of the Members of the House. The gentleman, in order to make his amendment in order, must be able to point to some rule in the House under which the amendment is in order, and not under pretense which no sane construction of the rule can hold it is in order under the rule and precipitate this House into a condition of chaos in the consideration of these bills. That is what such a ruling will do by holding such an amendment in order.

The CHAIRMAN. The Chair is of the opinion that the amendment is in order.

Mr. FITZGERALD. I ask for a vote on the amendment.

Mr. SISSON. I ask that debate close on this amendment. I thought it was closed on the amendment which I offered.

Mr. FITZGERALD. It is closed on all the amendments.

The CHAIRMAN. The question is on the adoption of the substitute offered by the gentleman from Mississippi [Mr. SISSON] to the amendment offered by the gentleman from New York [Mr. FITZGERALD].

The question was taken, and the substitute was rejected.

The CHAIRMAN. The question now comes on the adoption of the amendment offered by the gentleman from New York [Mr. FITZGERALD].

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. SISSON. A division, Mr. Chairman.

The committee divided; and there were—ayes 46, noes 17.

So the amendment was agreed to.

Mr. FITZGERALD. Mr. Chairman, I ask that the Clerk return to page 103.

The CHAIRMAN. Without objection, the Clerk will turn to page 103.

There was no objection.

The Clerk read as follows:

Amend, page 103, line 12, after the word "States," by inserting the following: "Including personal services"——

Mr. FITZGERALD. I ask, Mr. Chairman, that that be passed over temporarily and that the Clerk return to page 108. The gentleman from Illinois [Mr. FOSTER], who is interested in the matter on page 103, is not present at this moment. I ask that the Clerk turn to page 108.

The CHAIRMAN. The Clerk will read the item.

The Clerk read as follows:

Page 108, line 4:

"GOVERNMENT HOSPITAL FOR THE INSANE.

"For support, clothing, and treatment in the Government Hospital for the Insane of the insane from the Army and Navy, Marine Corps, Revenue-Cutter Service, inmates of the National Home for Disabled Volunteer Soldiers, persons charged with or convicted of crimes against the United States who are insane, all persons who have become insane since their entry into the military and naval service of the United States who have been admitted to the hospital and who are indigent, including purchase, maintenance, and driving of necessary horses and vehicles and of horses and vehicles for official use of the superintendent, $314,400; and not exceeding $1,500 of this sum may be expended in defraying the expense of the removal of patients to their friends; not exceeding $1,000 may be expended in the purchase of such books, periodicals, and papers as may be required for the purposes of the hospital and for the medical library, and not exceeding $1,500 for actual and necessary expenses incurred in the apprehension and return to the hospital of escaped patients."

Mr. CANNON. Mr. Chairman, I offer the following amendment: On line 15, page 108, strike out "$314,400" and insert "$334,400."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. CANNON].

The Clerk read as follows:

Amend, page 108, line 15, by striking out "$314,400" and inserting "$334,400."

Mr. CANNON. Mr. Chairman, a single word touching this amendment. In round numbers there are 3,000 people in the insane asylum, one-half substantially from the District of Columbia and one-half from the Army and Navy. The maintenance cost per capita in round numbers is $220 a year. It will require the amount named in the amendment to meet the requirements of the service. The amendment meets the estimate, and it meets the appropriation for the current year. I believe the appropriation should be increased as proposed by the amendment.

Mr. FITZGERALD. Mr. Chairman, I simply wish to call to the attention of the committee the fact that this is not a reduction of the amount for the maintenance of this institution. This item of $314,400 is not, as the gentleman assumes, a reduction in this appropriation. Twenty thousand dollars was deducted from this item, and $15,000 was added to the item for general repairs and improvements—an item which occurs a little later—and in addition a provision was inserted in the bill requiring the inclusion of the cost of repairs and certain maintenance charges in estimating the cost of maintenance of patients in the insane asylum from the District of Columbia. As a result of it the District of Columbia will pay the full cost of maintaining the patients from the District, and that burden will be taken off the United States. We have simply, by a readjustment of these items, given the estimate practically.

Mr. CANNON. Let me understand the gentleman. The gentleman states that elsewhere in the bill, if it is agreed to, by succeeding items the amounts recommended in the bill will be sufficient, substantially, to care for 3,000 patients.

Mr. FITZGERALD. Yes. I understand the gentleman's amendment increases this amount by $20,000?

Mr. CANNON. Yes.

Mr. FITZGERALD. The committee deducted $20,000 from this item, and it added $15,000 to the item for general repairs and improvements, on page 109, because about that sum was paid out of the other item. Then, the committee inserted a provision to compel the payment by the District of Columbia of that portion of the general repairs and improvements which properly would be prorated to the District patients.

Mr. CANNON. As I understand the gentleman, his explanation is a satisfactory one, namely, that, taking the provisions all together, if agreed to by the House, the provision here, with the other items and provisions touching the insane asylum, will substantially care for 3,000 patients, which is the estimate of the number that there will be, at $220 a year each.

Mr. FITZGERALD. Not 3,000.

Mr. CANNON. Well, substantially that. In other words, there is no cut in the bill for maintenance?

Mr. FITZGERALD. There is a reduction of only $5,000 in these items from the current law.

Mr. CANNON. And that reduction is cared for elsewhere.

Mr. FITZGERALD. We believe that that will be cared for by this provision which requires the payment by the District of its proportionate share.

Mr. CANNON. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To reimburse the United States the amount due on account of one-half of the per capita cost of maintenance of indigent patients in the Government Hospital for the Insane from the District of Columbia in excess of the number charged to and paid for by said District during the fiscal years 1881 to 1911, inclusive, there shall be transferred from the revenues of the District of Columbia to the United States, beginning with the fiscal year 1913, the sum of $769,536.09 in seven equal annual installments, which amounts so transferred shall be covered into the Treasury as miscellaneous receipts.

Mr. MANN. Mr. Chairman, I make a point of order against the paragraph.

Mr. FITZGERALD. I think in its present shape it is subject to a point of order. There is only one phase of it, however, that I think is subject to a point of order, and that is the requirement that the money be paid in seven annual installments. If that should be sustained I propose to offer an amendment so that it will be paid in one installment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FITZGERALD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Insert, after line 2, page 109, the following:

"To reimburse the United States the amount due on account of one-half of the per capita cost of maintenance of indigent patients in the Government Hospital for the Insane from the District of Columbia in excess of the number charged to and paid for by said District during the fiscal years 1881 to 1911, inclusive, there shall be transferred from the revenues of the District of Columbia to the United States, beginning with the fiscal year 1913, the sum of $769,536.09, which amounts so transferred shall be covered into the Treasury as miscellaneous receipts."

Mr. MANN. Mr. Chairman, I make a point of order against the amendment.

Mr. FITZGERALD. What is the point of order of the gentleman from Illinois?

Mr. MANN. It is not in order in this bill to make such a provision even if authorized by law. This is not the bill providing for appropriations for the District of Columbia. This item, if in order at all, would be in order on the District of Columbia appropriation bill.

In the second place, there is no authorization in law for the transfer or making this appropriation. Of course, the transfer could only be considered in order in any event as an appropriation, and there is no authorization in law for this appropriation.

As to whether there has been an excess charge or a lack of charge is a matter which requires legislation, and the committee having jurisdiction of the legislation for the District of Columbia is the Committee on the District of Columbia.

This proposes to acquire in this bill an appropriation of over $700,000 from the District revenues to be paid to the United States Treasury on a claim which the United States Treasury may have against the District. No one is prepared to know what the law is on the subject, or whether there is any law, and the gentleman can not base an appropriation upon the claim merely that the District of Columbia has not paid its proportional share. It requires legislation to accomplish the purpose, and that legislation should come from the proper committee.

Here is the situation: This House has already authorized the District Committee to make an investigation of the books of the District. That committee is engaged in making such investigation. We originally appropriated a certain amount of money out of the contingent fund for that purpose, and we have

recently added to the amount which may be expended for that purpose. When the District Committee reports it has a right to report recommending that certain action be taken. But until that is had it is not within the province of the Committee on Appropriations in the sundry civil bill to go back for all time and undertake to determine for themselves whether the Government owes the District or whether the District owes the Government for matters which have taken place in the past. This is not an appropriation for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, or anything in relation to it. I do not desire to consume very much time in arguing points of order or otherwise, because I hope that we can get along with this bill and get through with it. To me it is perfectly clear that it is subject to a point of order.

Mr. FITZGERALD. Mr. Chairman, I can not agree with the gentleman. In the first place there is nothing in the rule which requires the Committee on Appropriations to report in any particular bill appropriations over which it has jurisdiction. In the second place it is well established that the committee can report in any bill over which it has jurisdiction for deficiencies in any service over which it has jurisdiction. Under the law the District of Columbia is authorized to send certain classes of insane to the Government Hospital for the Insane. Appropriations have been made from time to time to cover the cost of maintaining these District insane and investigation has disclosed that in a number of instances the District has not paid the full amount it should have paid for maintaining the insane properly chargeable to it. I have seen some statements of the auditor showing the balances due from the District to the United States for certain years. The books in the Government Hospital for the Insane disclosed that the District is indebted to the United States for the amount named in this amendment for care of the insane.

This provision merely proposes to appropriate from the revenues of the District a sufficient sum to meet a deficiency which now exists in the appropriations heretofore made for the care of the insane of the District in the Government Hospital for the Insane. This item supplies deficiencies in the appropriations heretofore made for that purpose during the period indicated in the amendment.

The CHAIRMAN. In 1857 the first provision was made that District lunatics might be put into this asylum. That arrangement went along until 1876, when by another act of Congress, which is to be found in volume 19 of the United States Statutes at Large, page 108, a law was enacted to the effect that the District of Columbia should pay one-half of the expenses of the indigent persons who might be thereafter admitted from the District of Columbia into the Hospital for the Insane.

The next act bearing upon the subject is that which is commonly called in the District of of Columbia the "organic act," the act of June 11, 1878, in which the half-and-half plan is contained. If there was any obligation imposed upon the Federal Government by the act of June 11, 1878, it was repealed by the act which is to be found in volume 20 of the United States Statutes at Large, at page 230, of date June 20, 1878, which reads as follows:

That one-half of the expense of the indigent persons who may be admitted from the District of Columbia shall be reported to the Treasury Department, and charged against the appropriations to be paid toward the expenses of the District by the General Government.

That is a direct piece of legislation, that one-half of the expenses on account of the indigent insane from the District of Columbia shall be paid by the District of Columbia and charged against the appropriations toward the expenses of the District of Columbia by the General Government. The question now arises, first, as to whether or not that has been done, and, next, if it has not been done, can it be done now in this bill and in this way? The gentleman from Illinois [Mr. MANN] has just stated that this paragraph is not in the proper bill. There are numerous precedents where everybody who has been called upon to rule upon this question has held that appropriations concerning the District of Columbia may be contained in any of the general appropriation bills, and it is all the time practiced.

The next question that arises is this: Has this fund been converted into the Treasury as directed by the statute of May 20, 1878, a section of which the Chair just read? The Comptroller of the Treasury has decided upon numerous instances that that has not been done. The Chair now has in hand a communication which reads as follows:

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., November 16, 1882.

GENTLEMEN: An account between the United States and the District of Columbia for expenses of indigent insane District patients in the Government Hospital for the Insane during the fiscal year which ended June 30, 1879, has been settled per first auditor's report, No. 229391, as certified by this office, and there has been found to be due the United States the sum of $4,300.10, as is shown by the inclosed statement.

Very respectfully,

W. LAWRENCE, *First Comptroller.*

This was addressed to the Hon. Joseph R. West, T. P. Morgan, and Maj. Garrett J. Lydecker, Commissioners of the District of Columbia.

Another ruling and also certification made by the Comptroller of the Treasury is as follows:

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., March 23, 1883.

GENTLEMEN: An account between the United States and the District of Columbia for expenses of indigent insane District patients in the Government Hospital for the Insane during the fiscal year which ended June 30, 1880, has been settled per first auditor's report, No. 229411, as certified by this office, and there has been found to be due the United States the sum of $27,490.98, as is shown by the inclosed statement.

Very respectfully,

W. LAWRENCE, *First Comptroller,*
By JOS. AD THOMSON,
Acting Deputy First Comptroller.

This was addressed to Hon. Joseph R. West, James B. Edmonds, and Maj. G. J. Lydecker, Commissioners of the District of Columbia.

Another ruling made by the Comptroller of the Treasury, and so certified by him, is as follows:

TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 18, 1884.

GENTLEMEN: An account between the United States and the District of Columbia for expenses of indigent insane District patients in the Government Hospital for the Insane during the fiscal year which ended June 30, 1881, has been settled, per First Auditor's report No. 229498, as certified by this office, and there has been found to be due the United States the sum of $24,678.25, as is shown by the inclosed statement.

Very respectfully,

WILLIAM LAWRENCE,
First Comptroller,
By J. TARBELL,
Deputy First Comptroller.

That was also addressed to Hon. Thomas B. Edmonds, Joseph R. West, and Maj. Garrett J. Lydecker, Commissioners of the District of Columbia.

A further photographic reproduction of a statement from the accounts, as kept by the Treasury of the United States, which the Chair has before him, shows that those certifications continued until 1888, during all of which time, except during the first two years, they were absolutely ignored by the Commissioners of the District of Columbia, and not one cent was paid to the Federal Government by the District of Columbia, as was certified by the Comptroller of the Treasury to those commissioners.

The law not having been complied with, as set out in the act of June 20, 1878, which reads as follows:

* * * and charged against the appropriations to be paid toward the expenses of the District by the General Government—

the Chair, upon mature consideration of the matter, is of the opinion that the amendment offered by the gentleman from New York is not such legislation as is forbidden by the rule. It is what might be termed "congressional dictum"; or, as the District Commissioners in a communication to the President have denominated, "legislative direction," to the executive officers of the United States to do that which they should have done without this direction.

The law already directs that these transfers shall be made upon the accounts between the District of Columbia and the Federal Government. This paragraph is not, therefore, new. That law has been ignored, notwithstanding the fact that the Comptroller of the Treasury has repeatedly called the attention of the Commissioners of the District of Columbia to it, and they have failed and refused thus far to comply either with the law or with the direction of the Comptroller of the Treasury as he has construed the law.

The Chair is, as said, of the opinion that this is not new legislation, because no change in the law is made hereby. It is simply a congressional direction to the executive officers to do that which they should have done without it. The Chair, therefore, overrules the point of order.

Mr. MANN. Mr. Chairman, I have not yet learned the distinction between legislation and a legislative direction to the administrative officers of the Government. The Chair has ruled the item in order. I would like to ask the chairman of the Committee on Appropriations whether that committee or the subcommittee preparing the sundry civil appropriation bill, or the subcommittee that has jurisdiction over appropriations for the District of Columbia, heard anybody representing the District with reference to this item?

Mr. FITZGERALD. It did not; but I call——

Mr. MANN. That is a sufficient answer.

Mr. FITZGERALD. That hardly answers the question.

Mr. MANN. That answers my question, but I am quite willing that the gentleman should extend his answer.

Mr. FITZGERALD. It does not give the gentleman all of the information to which he is entitled. Later, when the committee was at work upon the general deficiency appropriation bill, the auditor for the District of Columbia called attention to this provision, and I gave the auditor a copy of the testimony before the committee and suggested that he examine it and furnish any statement he thought proper to the committee.

Mr. MANN. Mr. Chairman, here is a proposition which the Chair has ruled in order as a legislative direction to the administrative officers to go back and take money out of the District since 1881 on old claims. I do not know the merits of the proposition, but no committee of the House that has jurisdiction of the subject has had any hearings upon the subject at all.

Mr. FITZGERALD. The Committee on Appropriations has jurisdiction.

Mr. MANN. The subcommittee of the Committee on Appropriations having jurisdiction over the District of Columbia appropriations has had no hearings, the gentleman states. The subcommittee representing the sundry civil appropriation bill, which has no jurisdiction over District of Columbia matters, has had hearings. The Committee on the District of Columbia has had no hearings. I would not hang a dog upon such evidence, much less endeavor to take nearly $800,000 out of the treasury of the people of the District of Columbia without a hearing, without giving the District Commissioners a chance to be heard. I have not discussed the matter with anyone. I noticed in the newspapers some things in regard to it, and the gentleman says they have had no one representing the District before his committee upon this proposition. Yet it is proposed, without a hearing on a matter that is in controversy at the best, that Congress shall do what the Chairman describes as a sort of dictum, namely, determine the matter regardless of law, regardless of the decision of the accounting officers, and require that there be taken out of the revenues paid by the District people this sum of money, to be paid into the Treasury of the United States.

There ought to be a settlement if there is a controversy, and it ought to be settled by the proper officers. If the District owes the United States, the amount ought to be paid; if perchance the Government owes the District, the amount ought to be paid, but it should not be paid when there is a controverted question of accounting.

Mr. FITZGERALD. Mr. Chairman, there is no controverted question of accounting.

Mr. MANN. I say there is. I have often heard lawyers say there is no controversy in a case, but that is the opinion of the gentleman as to whether there is a controversy, and I do not agree with the gentleman.

Mr. FITZGERALD. I did not say what the gentleman said; I am making my own statement.

Mr. MANN. That is the opinion of the gentleman, that there is no controversy.

Mr. FITZGERALD. I say there is no conflict in the question of accounting. Under the law the District is entitled to send certain insane patients to the Government Hospital for the Insane. The books of the Government Hospital for the Insane show that for 25 years the District has failed to pay for the patients sent there under the law. There is no question of accounting; it is a matter of fact; and the facts appear of record, and all the testimony that the District Commissioners would give from now to the end of the year can not change the facts, because the records are not in their possession. The Superintendent for the Government Hospital for the Insane has been endeavoring to compel the District to pay what is due. This year he finally compelled them to pay, and also last year, because of the ruling of the Comptroller of the Treasury that the District could no longer shirk its duty in this respect. The Committee on Appropriations, whenever it finds a situation so simple, when an application to the records shows clearly that the District is indebted to the General Government, that it has been enjoying the benefits of the Federal Treasury improperly, does not need to search out gentlemen who may desire to make statements not based upon the facts or statements based upon other things than the facts in order to reach a conclusion. From the books of the insane asylum, which show the amount that the District failed to pay for the maintenance of patients properly chargeable to the District, the committee acted.

The Committee on Appropriations has jurisdiction of this matter, and the inquiry having been made regarding the appropriations made out of the Federal Treasury for the support of the insane properly chargeable to the Federal Treasury found that part of that money was being taken for the support of the patients that should have been supported out of the District treasury. It did the only thing that could be done; that is, to recommend a provision that would appropriate from the revenues of the District the amount it had failed to pay for the care of patients properly chargeable to it in the past. I think the District should pay it, and I hope the amendment will be adopted.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the Chairman announced the noes seemed to have it.

On a division (demanded by Mr. FITZGERALD) there were—ayes 33, noes 11.

So the amendment was agreed to.

The Clerk read as follows:

For roadways, grading, and walks, $5,000.

Mr. CANNON. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 109, after line 18, insert "for cement wall about Howard Hall and shop and storehouse building, $55,209."

Mr. CANNON. Mr. Chairman, the superintendent of the insane asylum was heard touching this item. This is one of the estimates made and formally transmitted. We have just enacted a provision that gives credit to the Federal Treasury for three-quarters of a million dollars, in round numbers, that the District, under the law, owes to the United States. The money is in the Treasury to comply with that direction from the District revenues, as I understand it. Now, they are pretty badly off over there at the insane asylum for many improvements, and as the District contributes its half, there is a much less sum that comes into the Federal Treasury, or something less, required to put that institution into good shape and proper shape so that humane and safe treatment may be given not only to those who are entitled to admission from the Army and Navy and for insane indigent soldiers of the Civil War, but also to give proper care to the insane of the District of Columbia. This is one of several amendments I propose to offer. I read the note on which this estimate is transmitted:

For cement wall about Howard Hall and shop and storehouse building, $55,209.

And I crave the attention of members of the committee to this fact.

NOTE.—This item is in lieu of a previously requested appropriation of $160,000 for a new building for the criminal insane, and is based upon the recommendation of a special committee which has spent considerable time in studying the accommodations for the criminal insane and the problem of their future care at the hospital. The present building has never been altogether safe for such a dangerous class of patients, and although its safety has recently been increased by remodeling the window guards, still it is considered that further safeguard should be taken. It seems most feasible to construct a cement wall 24 feet in height about the building at a considerable distance. This will not only render escape from the building practically impossible, but will give a much-needed outside courtyard for exercise. The construction of a shop and storehouse building is made necessary in connection with this proposed wall for the reason that the basement of Howard Hall is at present used as a shop and storehouse, and if a wall were constructed about the building the use of the basement for these purposes would have to be abandoned, and, as there is no other available place to which to move, the construction of a separate building is rendered necessary.

This estimate has been presented in accordance with the special report made by the special committee appointed by the Secretary of the Interior for the purpose of making an inquiry into the needs of the Government Hospital for the Insane, and for outlining the future policy of its growth. It is believed to be essential as a matter of public safety so long as the criminal insane are maintained at the institution.

I will not take the time to read from the hearings the statement of Dr. White touching this matter. It is fuller than the note which has been read. The criminal insane are dangerous to themselves, are dangerous to each other, are dangerous to the people that are not in the insane asylum. I hope the amendment will be agreed to.

Mr. FITZGERALD. Mr. Chairman, the estimates recommending a number of the improvements were withdrawn when Dr. White was before the committee. This particular item was for $55,209, for the purpose of building a cement wall around one building and erecting a workshop outside of the wall. The committee, in view of all the facts before it, did not feel justified in recommending the appropriation. A number of these recommendations were of such a character that the committee did not feel that it could properly recommend the appropriations of the amounts requested for the purpose asked. For instance, there was a request for $65,000 to build a barn to accommodate 200 cows and some hogs. Even those members of the committee who are not engaged in agricultural pursuits were rather astonished at the request, and it was modified by having the $65,000 item withdrawn and an appropriation of $50,000 substituted instead. Even that sum

appeared to members of the committee, who were quite familiar with the management of farm animals and accommodations for them, as being excessive to accommodate 200 cows and the number of hogs that were there. These estimates were undoubtedly made in the same way. The gentleman from Kentucky [Mr. SHERLEY] called attention to the fact that in the annual report of the superintendent the recommendation was made for a residence to cost $40,000 for the superintendent of the asylum. These various recommendations seemed to the committee to be on such a scale that they could not be justified, and they did not recommend any of the estimates that were placed upon such a plane. There are ample accommodations for the insane of the District and the Government at the present institution.

A suggestion was made that some additional land should be purchased, but it is very doubtful whether it is advisable to acquire additional land for the present institution, or if it be necessary to accommodate a much larger number of insane, to remove them some place else where land will be much more reasonable and where accommodations can be more economically provided. This institution at present has about 3,000 insane. That seems to be about as large a number as could be accommodated in one institution. The committee did not believe it desirable to enlarge it. Some of the recommendations which the gentleman intimates he will offer to the committee in the form of an amendment were not considered and recommended because of the conviction that they could not be justified on the information in the possession of the committee.

I hope the amendment will not be agreed to.

Mr. CANNON. Mr. Chairman, I move to strike out the last word in order to call attention to the reply that the chairman of the Committee on Appropriations has made in opposing this amendment. I did not take time to read the statement of Dr. White, which is much fuller than the note that was submitted with the estimate, and is to be found in the hearings. There was a board appointed by the Secretary of the Interior to consider the condition of St. Elizabeth Insane Hospital. It consisted of George H. Torney, Surgeon General of the Army of the United States; A. W. Dunbar, surgeon of the United States Navy, representing the Secretary of the Navy; Robert V. La Dow, superintendent of prisons, representing the Attorney General; William V. Judson, engineer, United States Army, representing the Commissioners of the District of Columbia; and Dr. William A. White, superintendent of the Government Hospital, representing the Secretary of the Interior. This report made to the Secretary of the Interior and transmitted by message from the President covers some 37 pages. It is a very interesting report and shows the absolute necessity not only for this appropriation but for many other appropriations.

Mr. BOWMAN. Will the gentleman yield for a question?

Mr. CANNON. Yes.

Mr. BOWMAN. Do I understand that there is no proper protection so that the inmates of this home now can have outdoor exercise?

Mr. CANNON. There is no proper protection for the criminal insane to prevent their escape, and it is proposed to build a wall about the building in which they are confined and give a little place for outdoor exercise; and not only for exercise, but principally for the protection of the public and for the protection of the 2,500 other patients that are at St. Elizabeth. My friend from New York [Mr. FITZGERALD] is one of the most astute Members of the House in defense of his bill. He says there was an estimate of an appropriation for additional land. I will offer that amendment presently. He also says there was an estimate of an appropriation for a house for the superintendent to live in, and that there was an estimate for an appropriation submitted for the building of a barn, and so on, and so on; and that the committee anticipated that at some time or other there may be an additional insane asylum constructed. I have heard that for 25 years. There has not been and will not be, in my judgment, an additional asylum. So that, not talking gravely about the necessity of this appropriation, the gentleman says, "Oh, well, we considered these propositions and did not give any of them."

Mr. Chairman, I am ready for a vote.

Mr. SHERLEY. Mr. Chairman, little things are very indicative at times of the temper and capacity of men making recommendations, and when a committee appointed to investigate this hospital for the insane make a recommendation as a serious proposition to spend $40,000 for a superintendent's house they have to do a good deal to convince me that they are safe people to follow.

I think a recommendation of that kind is so wantonly extravagant and inexcusable as to show on the part of the men making it a total lack of appreciation of the needs of an institution and of the policy that the Government should follow in connection with one; and they did make that recommendation, as will be found upon an examination of page 27 of the report of the Government Hospital for the Insane.

Now, that is simply in keeping with a great many other recommendations that have been made in connection with this institution. I do not agree at all with the gentleman from Illinois [Mr. CANNON] that it is nonsense to talk about an additional insane asylum. I believe that we have reached, if we have not already passed, the proper point of size for a Government insane asylum, and if we are to go on enlarging this institution, which is now right at the edge of the town, and buy property practically at city prices, in order there to confine in one institution all the insane of the country, it does not strike me as either in the line of good administration or economy or common sense.

Nor is it true in any correct sense of the word that this improvement is necessary in order to make safe the confinement of the criminal insane, and the hearings do not bear out that statement. It is stated and alleged that it will make their confinement safer. But there were none of us who were familiar with the conditions who felt that it was necessary to spend this money in order to insure the safety of those patients. And I repeat that the recommendations that have come from time to time touching the Government Hospital for the Insane have led me to believe that there is a total lack of appreciation on the part of those who are managing the concern of the limitations that should be put upon such an institution.

Mr. BOWMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. SHERLEY. Yes.

Mr. BOWMAN. Do I understand the gentleman to say that there is an opportunity now for the criminal insane to have adequate out-door exercise?

Mr. SHERLEY. I did not say that; but I do believe there are facilities now. I did say that this was not necessary to prevent the escape of the criminal insane, and I will now read the statement of Dr. White, who put, to say the least, the most favorable construction possible upon conditions in order to back up these estimates of his. He says:

> Dr. WHITE. Howard Hall is the building in which the insane criminals are confined. The object of this cement wall is to increase the safety of caring for that class of people. We have had in the past year in that building some of the most dangerous men in the United States, and we have spent several thousand dollars in making that building as secure as we can, but it is still an insecure building. It was built a good many years ago, and one of the very material elements of insecurity is the presence of something like 300 windows right outside, without any protection from anybody getting things into the building through the windows, except by having watchmen to patrol the grounds. The object of the wall, therefore, is to prevent access to the building by evil-minded people who may pass in weapons, for example.

Now, it ought to be stated in that connection that there has been a remodeling of the windows, whereby they are protected by iron gratings. If, on that statement, it could be said that there is any great danger of the criminal insane escaping, then I fail to properly weigh language.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the amendment was rejected.

Mr. CANNON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

> On page 109, after line 18, insert:
> "To enable the Secretary of the Interior to purchase additional land for the Government Hospital for the Insane, $100,000, or so much thereof as may be necessary.
> "In the event of his inability to make such purchase, the Secretary of the Interior shall proceed in the manner prescribed for providing a site for the Government Printing Office, in so much of the act of July 1, 1898, as is set forth on pages 648 and 649 of volume 30 of the Statutes at Large, to acquire the land desired; and for the purpose of such acquisition the Secretary of the Interior shall have and exercise all the power conferred upon the Public Printer in such act; the appropriation to be disbursed by the Secretary of the Interior."

Mr. CANNON. Mr. Chairman, I shall not take much time in calling the attention of the committee to this or other amendments that I may offer. It is perfectly patent that however meritorious the amendment may be, in my judgment, from my standpoint, the majority of the committee, under the leadership of the chairman of the Committee on Appropriations, constituted as it is, will vote down each one of them. I voted for the amendment offered by the gentleman from New York reimbursing the United States for three-quarters of a million dollars that the District owed it for the care of the District insane; and in the future I apprehend that they will have to pay the amount that the law requires them to pay.

I think that that legislation was apt; but what right have we, in caring for our own people, caring for the insane of the

Army and the Navy and the indigent insane, the soldiers of the Civil War—what right have we to fail to provide for them while we collect from the District of Columbia for the care of their insane the full price and to make them reimburse the Government by three-quarters of a million dollars, two-thirds of which, if appropriated, and all of which, if appropriated, would buy this land and make the insane asylum what humanity requires it to be?

Now a word as to the merits of this amendment. The note in the estimate says:

NOTE.—The need of additional land by the hospital has been appreciated for some time, and each superintendent for many years past has requested appropriations for its purchase. The need of land has become more acute of late because all of the new construction has been placed upon land previously used for farming purposes, thus restricting the output of the farm to such an extent that it is now impossible to raise enough fodder for the dairy herd. The hospital is increasing in size at the rate of upward of 100 patients per annum and more buildings must be added in the near future, which will still further infringe upon the land used for farming.

NOTE.—The need of additional land is recognized by the special committee appointed to inquire into the needs and future policy of the hospital, and its purchase has been recommended in the committee's report.

Some years ago it was necessary to make some provision for a considerable enlargement of this insane hospital. There was a proposition to buy some land adjoining it on the South. That proposition failed. Buildings were provided, and they crossed the road for the erection of the educational buildings. Now, I have no doubt in my own mind, from what knowledge I have been able to obtain, that this amendment ought to be agreed to and the additional land obtained. For one I am not willing to postpone action upon the statement that as the city extends the land becomes more valuable. That is true, and now is the best time to obtain that land. Nobody believes, in my judgment, that this large expenditure at this great plant at the insane asylum ever will be abandoned, and it can be more economically administered by the purchase of the additional land now.

Mr. FITZGERALD. Mr. Chairman, many years ago, when the gentleman from Illinois was the chairman of the Committee on Appropriations, a proposition was made to buy additional land and erect additional buildings for this institution. Congress authorized the erection of the buildings at a cost to the United States of a million dollars or more, but declined to buy the land. Ever since that time it is my recollection that there has been an attempt made to obtain additional land. The Governmental Hospital for the Insane has about 800 acres of land at present, over 357 of them are devoted to agricultural purposes. The land that it is proposed to purchase at present is of very little value for agricultural purposes. The superintendent does not know how much it will cost, and he does not believe that it can be obtained for less than $500 an acre, and in his opinion it would not be worth $500 an acre for agricultural purposes.

So the only reason for buying this land would be to hold it and to hope that at some future time it might be utilized for the construction of buildings thereon. The tract in contemplation is a tract of about 150 acres, for which it is desired to appropriate $100,000. It would be much better, if additional land is needed, to buy a farm some place out in the country for the benefit of this institution, to remove the herd and the raising of the crops for the benefit of the institution from the vicinity of the institution to farm land that could be purchased within a reasonable distance of the institution at farm-land prices. The committee could not justify the expenditure of $100,000 to purchase 150 acres of land that is of very little value for agricultural purposes and as to which there is no prospect of buildings being erected thereon. Under the circumstances, I hope the amendment will not be agreed to.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. Certainly.

Mr. FOSTER. Does the Government own some land over there that is operated in connection with the asylum which is detached from this land?

Mr. FITZGERALD. It does. They have a place some miles from the asylum.

Mr. FOSTER. If we are going to buy land over there for the purpose of farming, is it not the gentleman's idea that we better buy it out there?

Mr. FITZGERALD. Yes; out where farms are and not in the city. There are over 300 acres that can be utilized for buildings.

Mr. CANNON. Will the gentleman offer an amendment to buy the farm land that is detached.

Mr. FOSTER. Oh, I do not know anything about the matter.

Mr. CANNON. Will the gentleman from New York offer such an amendment?

Mr. FITZGERALD. For what?

Mr. FOSTER. To buy the farm land over there.

Mr. FITZGERALD. I shall not. Mr. Chairman, there is one thing else I wish to say. The gentleman from Illinois [Mr. CANNON] seems to be petulant if this side of the House will not vote for amendments which he offers. He should not complain. We remember the gentleman from Illinois as chairman of the Committee on Appropriations. It was a very sad day for anybody on this side of the House to presume to offer an amendment to any bill of which he had charge. These matters have been thrashed out in the committee. Members of the committee have reached their conclusions upon them. The gentleman does not bring in any additional information. It is not to be expected that we should be of such shifting minds that one day we would be of one mind and another day another. The gentleman should be content to let this side of the House assume and bear the responsibility for the legislation which it is enacting.

Mr. CANNON. Mr. Chairman, I move to strike out the last word for the purpose of making a single observation. I am quite aware that the majority of the House and the committee at this time will settle these appropriations. The gentleman says that I am petulant. Nay, nay; I am only earnest. I am going to stop right now after this amendment is disposed of. I apprehend, without being a prophet or the son of a prophet, that the majority will withhold the appropriation covered by the amendment which I have offered.

There are many other amendments that ought to be offered, but what good would it do? It is my judgment, and as a member of the minority and from the standpoint of humanity I feel that I ought to call the attention of the committee to the necessity for improvements at St. Elizabeths Insane Asylum, and in most perfect good humor after you have voted down my amendment I am going to subside as quietly as possible, and hope that some time in the future, if you should be continued in power, you will take better care of those unfortunates than you are now doing; and if we should be so fortunate as to be returned to power I shall appeal with the same earnestness to the majority side of the House for this and similar appropriations.

Mr. FITZGERALD. Mr. Chairman, I wish to remind the gentleman from Illinois that in the Sixtieth Congress he appointed a very excellent committee of this House to investigate the insane asylum. That committee made a report and did not recommend, among other things, the purchase of this land. In all the years that I have been in the House this same recommendation has been made to Republican Congresses, and they have steadily refused to purchase this land.

I have never heard any criticism that the insane were to suffer because of the failure to acquire the land. I do not believe there is any danger of suffering if we do not at this time buy it. The acquisition of this land determines a policy. It would mean that it was the intention of Congress to very greatly increase the present institution. I am one of those who believe that as additional facilities are needed it would be better to provide them in a separate institution. An institution with 3,000 inmates is about as large an institution as it is wise to have under the control of one man in order to have proper and efficient management. That is one of the reasons I do not believe it desirable to buy this land.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 14, noes 35.

So the amendment was rejected.

Mr. CANNON. Mr. Chairman, I shall withhold the offering of sundry other amendments touching the insane asylum simply because I do not care to consume the time of the committee in offering what seem to be necessary amendments and in having them voted down.

The Clerk read as follows:

For fuel and light, in part payment for fuel and light, Freedmen's Hospital and Howard University, including necessary labor to care for and operate the same, $3,500.

Mr. CANNON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 110, after line 23, insert:
"For dormitory for men, $150,000."

Mr. FITZGERALD. Mr. Chairman, on that I make the point of order. It is not authorized by law.

The CHAIRMAN. The Chair is of opinion that it is subject to the point of order.

Mr. CANNON. How is it subject to the point of order?

Mr. FITZGERALD. For the same reason that the item included in this bill for a science hall for Howard University was subject to a point of order three or four years ago. It was held that it was not authorized by law. This is not authorized by law. It is not Government property, as I recall, and there is no authority for this building.

Mr. CANNON. I do not recollect the item to which the gentleman refers.

Mr. FITZGERALD. I recollect, because I helped to get the building authorized in a different way. There was a provision in the bill for a hall of science to cost $90,000, and it was taken out on a point of order.

Mr. CANNON. Will the gentleman be kind enough to indicate to me the way?

Mr. FITZGERALD. Nay, nay. [Laughter.]

Mr. KAHN. I suspect he went over to the Senate and got the amendment offered there. Am I correct in my surmise?

Mr. FITZGERALD. We got it in the House.

Mr. CANNON. Notwithstanding a point of order was made to it and sustained?

Mr. FITZGERALD. Yes. It was through a little ingenuity.

Mr. CANNON. Did the gentleman appeal from the decision of the Chair?

Mr. FITZGERALD. Oh, no; we put it in in a different way, with the assistance of gentlemen upon the other side.

Mr. CANNON. Then, by the gentleman's solitary cuteness, he avoided the rules of the House and got a desirable appropriation that was not in order?

Mr. FITZGERALD. The gentleman knows that sometimes things can be done by a little skill and preparation.

Mr. CANNON. Possibly so; but I know of no way, if this amendment is not in order, which will enable me to avoid the rules of the House and still get the appropriation.

Mr. FITZGERALD. Neither do I. I do not think there is any way by which the gentleman can get this put in the bill.

Mr. CANNON. Mr. Chairman, upon the point of order: Freedmen's Hospital has been cared for for almost a generation. It has grown. It is a public work.

Mr. FITZGERALD. It is not Government property. This is not to erect a building on Government property. It is not authorized by law. So, therefore, the amendment is not in order.

Mr. CANNON. Mr. Chairman, I will ask the gentleman by what authority the appropriation for maintenance is made, for tools and materials, for the medical department, and so forth? Is all that unauthorized by law and is all that going on by unanimous consent? Are the expenditures placed under the Interior Department and audited without law?

Mr. FITZGERALD. I have never been able to find any statute for it. Has the gentleman from Illinois? He knows these appropriations are gratuities. The Federal Government has been appropriating these sums for the aid of Howard University year by year without objection on the part of anybody, but there is no authority to be found in any statute for it.

Mr. CANNON. And yet are they not under the control of the Government?

Mr. FITZGERALD. I think the Secretary of the Interior is on the board of trustees, and I think he has some control over expenditures, but I do not recall the statute.

Mr. CANNON. The gentleman has sitting at his side the very efficient clerk of the committee. Will the gentleman inquire of the clerk of the committee whatever of legislation, if there is any, touching this matter and inform me?

Mr. SHERLEY. This is one of the occasions when Jupiter nods. The clerk does not know, and it is the only time I have ever struck him when he did not, but it is a fact.

Mr. FITZGERALD. This is a corporation incorporated under an act of Congress. My recollection is the Secretary of the Interior is on the board of trustees and exercises a certain control over these expenditures.

Mr. CANNON. Precisely, and the expenditures are made by the Government, under the supervision of the Government, supported by the Government in large part, and have been from the commencement. There is an endowment fund, and every dollar that is expended is——

Mr. FITZGERALD. It has a very slight endowment fund. There is some money obtained from students.

Mr. CANNON. Oh, well, the endowment fund is larger than the gentleman seems to intimate. He says it is very slight. My recollection is—I have the report here somewhere—that the income is from charges to students and endowment, probably one-third of the cost. I am ready for a ruling of the Chair.

The CHAIRMAN. The Chair is waiting upon the gentleman from Illinois, and thought he intended continuing his remarks. The Chair is ready to rule.

Mr. CANNON. Very well.

The CHAIRMAN. The precedents are unbroken that even upon Government property new buildings have to be authorized. There is no authorization for this building; it is not on Government property, and therefore the Chair sustains the point of order.

Mr. CANNON. If the Chair will allow me, I do not think the precedents are such as the Chair says. I think, too, at any of the institutions controlled by the Government you do not have to have an authorization for every building that is constructed. However, let it go.

Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 110, after line 23, insert "for assembly hall for university uses, $75,000."

Mr. FITZGERALD. Mr. Chairman, I make the point of order that it is not authorized by law.

The CHAIRMAN. The point of order is sustained.

Mr. CANNON. Mr. Chairman, how far has the Clerk read?

The CHAIRMAN. Down to and including line 23 at the bottom of page 110.

Mr. CANNON. Mr. Chairman, I move to strike out the last word. Mr. Chairman, the Howard University has had a very remarkable growth in the last decade under very efficient superintendence. I do not know of an institution that has had a better growth. In round numbers there are 1,500 or 1,600 students. It is the only institution, so far as I know, substantially set apart and devoted to the consideration of those of the colored race who desire knowledge in medicine and surgery, in agriculture, in law, chemistry, physics, manual training, and especially in training of students as teachers, so necessary for the oncoming generations even of white people. More and more substantially the colored citizens of the United States are excluded, if not by law by practice, from universities and colleges of the country. I believe that the maintenance of Howard University should keep step in efficiency with the increase of students, and with accommodations for the rapidly increasing number of students.

Mr. BOWMAN. Will the gentleman yield?

Mr. CANNON. Yes.

Mr. BOWMAN. On page 1412, part 2 of the hearings, Dr. Thirkield states, in answer to a question of the chairman:

The CHAIRMAN. Just state the necessity for the dormitory.

Dr. THIRKIELD. There has been no increase in dormitory accommodations since the original buildings were erected, over 40 years ago. Of the nearly 1,500 students in attendance, four-fifths of whom are men, only one in five can be accommodated in present dormitories. It is unfortunate that the young men who are in training as the intellectual, moral, religious, and industrial leaders of their race are thus forced out into the miscellaneous lodging places of the city, and are not kept under the direct supervision, control, and uplifting influence of the dormitory life of the institution. The men's dormitory that was built for 125 men has in it more than 200 men.

Mr. CANNON. Oh, yes; and much more of the same kind.

Mr. SHERLEY. Will the gentleman permit? There is hardly a college in America, certainly none I know of, where students are confined within the college boundaries. I attended the University of Virginia, one of the great universities of America, and it is not true there and it is not true of the great colleges of which I know, and how you can say that negro students attending Howard University are going to be injured by living in the city of Washington rather than living in the university grounds passes my understanding.

Mr. CANNON. There is greater demand for accommodations in the dormitories and those accommodations are paid for by the students. The bare statement of the location of this institution and the statement of the late superintendent, Dr. Thirkield—who, I very much regret, leaves this work for other work—show the propriety, aye more, the necessity, for appropriating as recommended in the estimates.

Even in such an institution for white people the dormitories are desirable. If they are builded, they are self-supporting and paid for by the students. It seems to me, for reasons assigned, that the dormitories are desirable. Now, then, this whole matter is larger than the expenditure of a few thousand dollars or many thousand dollars. I do not seek to criticize anybody anywhere for the condition touching our colored American citizens. I think, everything considered, they have made marvelous progress. That great institution in Alabama is doing good work, as I am informed and believe, under the leadership of Booker T. Washington, but this institution for the training of teachers and instruction in agriculture, and otherwise, is a practical training which they receive, and surely, surely, it ought to be liberally supported.

Mr. BOWMAN. Will the gentleman yield once more?

Mr. CANNON. Yes.

Mr. BOWMAN. I see on page 1404 of these hearings that the amount of income received from students, for fees and rent of dormitories, and so on, was $47,781.

Mr. FITZGERALD. I suggest to the gentleman that for 16 years they have had these dormitories, and during all that time the gentleman from Illinois has never agitated himself about it. I have stood here and fought for this institution and am just as friendly to it as anybody in the House. Nobody was convinced that there was any pressing necessity at this time for these two buildings. We have been liberal in the appropriations for the support of the institution. That is all we should be. There is no necessity for attempting to place anybody improperly before the country in connection with these items.

Mr. CANNON. I am not seeking to place anybody improperly before the country, but with the doubling up of the membership of this institution I say there has been no adequate appropriation made for their accommodation.

Mr. FITZGERALD. The necessity has not arisen this year, and the gentleman has not advocated the increased accommodations during the past 16 years during which his own party has been in power.

Mr. CANNON. The manner in which these students strive to make themselves competent to be of assistance to their race should be encouraged by liberal appropriations to maintain this institution.

The Clerk read as follows:

For furniture and furnishings, including awnings and screens, and other necessary articles for the proper equipment of the nurses' home authorized by sundry civil act approved March 4, 1911, $6,000.

Mr. CANNON. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 111, after line 15, insert the following:
"For repairs and painting hospital buildings, $5,000."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. CANNON. Mr. Chairman, the hearings show the necessity for the repairs and for the amount of money indicated. I am ready for a vote.

The CHAIRMAN. The question is on the adoption of the amendment.

Mr. FITZGERALD. Mr. Chairman, I simply wish to call the attention of the gentleman from Illinois [Mr. CANNON] to the fact that this bill carries $5,000 of an item out of which repairs can be made.

Mr. CANNON. That does not care for these special repairs.

Mr. FITZGERALD. It cares for the repairs. The reason they asked for this $5,000 was that they had no specific appropriation, and the committee increased the item under which repairs may be made from $21,000 to $26,000.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the amendment was rejected.

Mr. CANNON. I also offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. CANNON].

The Clerk read as follows:

Amend, page 111, after line 15, by inserting:
"For furniture and furnishings, including awnings and screens, and other necessary articles for the proper equipment of the nurses' home authorized by the sundry civil act approved March 4, 1911, $6,000."

Mr. FITZGERALD. Mr. Chairman, I call the gentleman's attention to the fact that that provision is in the bill, and that he is offering it again as an amendment to the provision.

Mr. CANNON. I compliment the gentleman on the fact that the provision is in the bill. The gentleman has my cordial approval for having inserted it in the bill. I withdraw the amendment, and offer another amendment. I am glad to have an opportunity to commend my friend from New York touching this item.

The CHAIRMAN. The amendment is withdrawn, and the Clerk will report the new amendment offered by the gentleman from Illinois [Mr. CANNON].

The Clerk read as follows:

Amend, page 111, after line 15, by inserting:
"For the purchase of an electric ambulance, $3,500."

Mr. FITZGERALD. Mr. Chairman, I make the point of order against that.

The CHAIRMAN. The point of order is sustained.

Mr. CANNON. Upon what ground?

Mr. FITZGERALD. It is not authorized. There is no authority to purchase it.

Mr. CANNON. The Government owns this hospital, does it not? The Government owning the hospital, does the gentleman say that this provision for an ambulance that is necessary is subject to a point of order? I ask the gentleman that question.

Mr. HAY. I submit, Mr. Chairman, that the Chair has already ruled.

The CHAIRMAN. The Chair has ruled, but we will hear the gentleman from Illinois.

Mr. CANNON. Precisely. Does not the Chair understand that this ambulance is necessary for the moving of patients and necessary to carry on this hospital? Does the Chair hold that it requires a special act of Congress providing "*Be it enacted, etc.*, That there shall be appropriated, out of any money in the Treasury not otherwise appropriated, so much for the purchase of an ambulance"?

Mr. FITZGERALD. I withdraw the point of order, Mr. Chairman, and am willing to have a vote on the item.

Mr. CANNON. The point of order is not well taken.

Mr. FITZGERALD. But the Chair held that it was. The gentleman is not the czar now that he used to be.

Mr. CANNON. No; I am not the czar, but I am a Member of the House, and I challenge the decision.

Mr. FITZGERALD. The gentleman need not criticize the decision of the Chair. The gentleman can move an appeal.

Mr. CANNON. I would move an appeal from the decision of the Chair, but I notice the gentleman withdraws the point of order.

Mr. FITZGERALD. I withdraw the point of order. We do not want to have a controversy in the matter.

Mr. CANNON. I do not think you want to establish a precedent of that kind.

Mr. FITZGERALD. We will, if it is necessary.

The CHAIRMAN. The Chair will state that the point of order has been made against automobiles and automobile ambulances, and things like that, a great many times in the House, and every time that the question has been raised the point has always been sustained. The point of order has again been sustained. By unanimous consent, and by unanimous consent only, will the status be changed.

Mr. MANN. If the Chair will permit, I wish to say a word. The Chair has made that statement. The point of purchasing an ambulance was directly ruled upon in the Army appropriation bill a few years ago, when it was held that it was in order to provide for the purchase of an ambulance or an automobile, there being authority for a conveyance.

Mr. FITZGERALD. I am not certain that there is authority for a conveyance.

The CHAIRMAN. Is objection heard to the request of the gentleman from New York that the point of order be withdrawn? No objection is heard, and the point of order is withdrawn. The question is on agreeing to the amendment.

Mr. CANNON. The necessity for this amendment, Mr. Chairman, is fully explained in the hearings. I shall not take time to read them. It is absolutely useless to do it, but I will take five minutes of time to speak of the work of this hospital.

Patients admitted to the hospital are classed under two heads—United States and District of Columbia. Those from the District of Columbia are received under a contract with the Board of Charities at the following rates: Adults, $1.10; children, 65 cents; and babies, 40 cents per day.

At the close of the preceding year there remained 154 patients—87 from the District of Columbia and 67 from the States. Two thousand four hundred and ninety-eight were received during the year, and 248 births occurred in the hospital, making a total of 2,900 indoor patients treated, as against 2,869 the previous year. Of those under care, 1,882 were residents of the District of Columbia and 1,018 were from the States. Two thousand seven hundred and twenty-four were discharged during the year, their conditions being as follows: Recovered, 1,416; improved, 919; unimproved, 138; not treated, 17; died, 234; leaving 176 in the hospital July 1, 1911, of which number 100 were from the District and 76 from the States.

The mortality for the year from all causes was 8+ per cent. Deducting the 13 premature births and the 57 moribund cases, the percentage of deaths is found to be 5.6+, a very low death rate for a hospital of this character.

In the surgical division 1,767 operations were performed, or 285 more than during the previous year.

OUTDOOR DEPARTMENT.

In this department 4,839 were treated—an increase of 292 over last year—as follows:

Medical, 1,258; surgical, 351; nervous, 192; eye, 554; ear, nose, and throat, 437; pediatrics, 344; gynecology, 482; dermatology, 314; genito-urinary, 778; tubercular, 91; orthopedic, 38. The number of visits to this department was 5,637. Twelve thousand seven hundred and twelve prescriptions were compounded and 983 emergency cases were received.

And then follows a list of the cases which have been treated.

Now, I want to say that I have some familiarity with the working of the hospitals here in the District of Columbia, and with one-third of the population, substantially, colored, and this being the only hospital that is practically open to them whereas

we have for other people the Providence Hospital, the Garfield Hospital, the Columbia Hospital, the Homeopathic Hospital, the Eye and Ear Hospital, and others not mentioned, and yet here is one-third of the population that is dependent on this one hospital, and from the very best investigation I have been able to make this is the greatest hospital of the District in the treatment of numbers and care for those perhaps who most need care. I believe that this ambulance ought to be given.

Mr. FITZGERALD. Mr. Chairman, if an ambulance was needed at the Freedmen's Hospital, I should favor an electric ambulance. The hospital has an ambulance which the Government purchased five years ago. It is in perfect condition. Dr. Warfield said that perhaps an electric ambulance could be maintained more cheaply. Every hospital in this city, so far as I am aware, has accommodations for colored people. I know that Providence Hospital, the Garfield Hospital, and the Columbia Hospital take colored people, and the Emergency Hospital also takes colored people. There is no necessity for the ambulance. It is true that Dr. Warfield says that he believes that it would be cheaper to have an electric ambulance than the one purchased five years ago; that it would cost less to maintain it. When the time comes, if there is a necessity for a new ambulance I should favor an electric ambulance. There is but one electric ambulance in the city, and that was donated by some people who were very much interested in it. All the other ambulances are drawn by horses. I see no necessity why an electric ambulance should be purchased for this hospital at this time to replace one that is perfectly satisfactory merely because it might be a little more economical to maintain at this time.

Mr. BOWMAN. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. BOWMAN. I see by the hearings, in part 2, page 422, that the doctor considers that it is necessary that the hospital should have an electric ambulance.

Mr. FITZGERALD. I do not read the testimony that way. The statement was made that they had calls from all parts of the District, but that is ignoring the fact that, for instance, within a short distance from the Capitol is the Providence Hospital, and there is no necessity for sending an ambulance out to the Freedmen's Hospital for somebody who needs an ambulance in the vicinity of the Providence Hospital. I know more about that institution than I do about some of the others, because I have been there more times. That is true of all the hospitals in the city. But when an ambulance is sent for, the question is not asked whether it is for white or colored; the ambulance goes and takes care of the person in need of treatment.

Mr. FOSTER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. FOSTER. Can the gentleman state how old the present ambulance is?

Mr. FITZGERALD. It was purchased five years ago, according to Dr. Warfield.

Mr. FOSTER. I thought possibly it might be worn out.

Mr. FITZGERALD. The only reason given is that they thought perhaps it would be more economical to maintain an electric ambulance in the District.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the amendment was rejected.

Mr. CANNON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 111, after line 15, by inserting:
"For the installation of an ice plant, $4,000."

Mr. FITZGERALD. Mr. Chairman, the reason that the committee did not recommend the installation of an ice plant is that the Government has installed an ice plant for the Department of the Interior, and the Department of the Interior sells ice to this institution, and economies in that way result to the Government. There is no necessity for multiplying ice plants in every institution.

Mr. CANNON. Mr. Chairman, in my judgment the hearings show that this appropriation ought to be made.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

Mr. CANNON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 111, after line 15, by inserting:
"For the installation of an ash conveyor at the Freedmen's Hospital and Howard University power, heating, and lighting plant, $3,000."

Mr. CANNON. Mr. Chairman, the hearings show that that item ought to be agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

Mr. CANNON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 111, after line 15, by inserting:
"For labor and material for construction of a suitable fence inclosing hospital grounds, $12,000."

Mr. CANNON. Mr. Chairman, the hearings show that the fence is needed and ought to be constructed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

Mr. CANNON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 111, after line 15, by inserting:
"For the construction of a pathological building, $25,000."

Mr. CANNON. Mr. Chairman, the hearings show the necessity and the propriety for this appropriation.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

In all, $64,040.

Mr. FITZGERALD. Mr. Chairman, I ask now to return to page 103 for the purpose of offering an amendment after line 12 on that page.

The CHAIRMAN. The Clerk will report the paragraph which has not been agreed to.

The Clerk read as follows:

For the analyzing and testing of the coals, lignites, ores, and other mineral fuel substances belonging to or for the use of the United States, $135,000.

Mr. FOSTER. Mr. Chairman, there is an amendment pending to that paragraph which I ask unanimous consent to withdraw.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Illinois will be withdrawn.

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 103, in line 12, after the word "States," insert "including personal services in the Bureau of Mines, at Washington, D. C., not in excess of the number and total compensation of those so employed during the fiscal year 1912."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was agreed to.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House with a recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. JOHNSON of Kentucky, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 25069, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. FITZGERALD. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

Mr. MANN. Before that is done I desire to state that I would like some time on one of the amendments.

Mr. FITZGERALD. How much time does the gentleman want?

Mr. MANN. Fifteen or 20 minutes.

Mr. FITZGERALD. Mr. Speaker, I yield 15 minutes to the gentleman from Illinois [Mr. MANN].

Mr. SISSON. Mr. Speaker, I desire to demand a separate vote on one of the amendments.

The SPEAKER. The Chair will suggest that the gentleman wait until the other matter is disposed of.

Mr. MANN. Mr. Speaker, as I understand it the gentleman from New York withholds his motion for the previous question for the present.

Mr. FITZGERALD. Certainly.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. Is now the proper time to demand a separate vote upon any amendment?

The SPEAKER. Any time before the vote is taken.

Mr. MANN. Let us dispose of the other amendments, then. I desire to have a separate vote on the Beall amendment and the gentleman from Mississippi desires a vote on the amendment of the gentleman from New York.

Mr. FITZGERALD. Then, Mr. Speaker, I ask unanimous consent that the vote be taken on all amendments except the amendment to appropriate for the enlargement of the Capitol Grounds, the so-called Beall amendment, which limits the expenditure of certain appropriations in the Department of Justice, and the amendment on page 122, which substituted the word "including" for the word "for," in line 2.

The SPEAKER. With the exception of the three amendments named by the gentleman from New York, unless some other gentleman demands a separate vote on some other amendment, the Chair will put the question on the other amendments in gross.

The question is on agreeing to the amendments except the three named by the gentleman from New York.

The question was taken, and the amendments were agreed to.

The SPEAKER. The gentleman from New York is recognized for one hour.

Mr. FITZGERALD. Mr. Speaker, I yield 15 minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, the so-called Beall amendment provides, among other things, that no part of the appropriations carried in the bill shall be used for the payment of any salary, fee, compensation, or allowance in any form whatever to any person who within two years next preceding the date of his appointment, designation, or employment has held any other office, place, position, or appointment under the United States or any department thereof.

A Member of the House handed me a letter the other day relating to this amendment, written by a gentleman now connected with the Department of Justice. In it he says:

JUNE 18, 1912.

The amendment to the sundry civil bill relative to payment from antitrust appropriation to special assistants to the Attorney General who had held a Government place within two years of employment as special hits me by accident. I held a statutory place and received my present appointment by way of promotion—on the same work and of a permanent nature. I am in the middle of four cases, all of which I hoped to try this year. It would take a new man a year to know them at all, since there are some thousands (six) pages of testimony ready to present to United States district courts in four different districts.

Sincerely, ——— ———.

I have here a letter from the Attorney General upon the subject, which I will read:

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., June 18, 1912.

Hon. JAMES R. MANN,
House of Representatives.

DEAR MR. MANN: I have looked further into the question of the effect of the Beall amendment to the sundry civil bill (CONGRESSIONAL RECORD, p. 8782), adopted on Saturday last while the House was in Committee of the Whole. The more closely I study it the more disastrous its effect appears to be. It prohibits the expenditure of any of the appropriations described in the amendment for the payment of any salary, fee, compensation, or allowance in any form whatever, first, to any person who holds any other office, place, position, or appointment under the United States Government or any department thereof; and, second, to any person who within two years next preceding the date of his appointment, designation, or employment has held any other office, place, position, or appointment under the United States Government or any department thereof.

Taking the latter prohibition first, the provision would disqualify 50 special agents, 3 special examiners, and 10 special bank accountants now employed in the Bureau of Investigation, whose compensation is paid from the appropriation for the "detection and prosecution of crimes," all of whom were transferred to their present positions from some other service in the Government. It would also oust the special commissioner in charge of, and three of his principal assistants in, the prosecutions of violations of the white-slave act, which we have been organizing to carry on more effectually during the ensuing year, and to aid in which the House has added $50,000 to this appropriation.

The Assistant Attorney General in charge of customs cases and seven attorneys, the chief clerk and four other clerks, who are paid from the appropriation for the "conduct of customs cases," would have to be dropped.

Seventeen lawyers, five clerks, and one messenger, paid from the appropriation for the enforcement of antitrust laws would also have to go.

The attorney in charge of the prosecutions of customs frauds in the importation of sugar into Philadelphia would be ousted.

Two lawyers, employed and paid from the appropriation for "suits to set aside conveyances of allotted land, Five Civilized Tribes," would be displaced.

Thirty-two lawyers, paid from the appropriation for the payment of special assistants to the Attorney General or to the United States attorneys, to aid in special cases, would also be cut off.

Among the lawyers who would have to be summarily discharged on July 1, under the provision under discussion, would be all the attorneys in charge of the suit against the United States Steel Corporation and either all or substantially all of the attorneys in charge of the prosecutions of—

The National Cash Register Co. (civil and criminal);
The United Shoe Machinery Co. (civil and criminal);
The so-called Bath Tub Trust (civil and criminal);
The American Sugar Refining Co.;
The International Harvester Co.;
The coal-carrying roads in Ohio and West Virginia;
The various lumber combinations (civil and criminal); and
The various steamship pools; all under the antitrust law.
The various land-fraud suits against the Pacific railroads, including the Oregon and California land-grant suit and the Union Pacific oil-land cases.
The Alaska coal-land-fraud cases.
The White Earth Indian frauds.
The Alaska Bank cases.

So far as it affects the payments out of the appropriation "Miscellaneous expenses, United States courts," under the language used the department would apparently be unable to employ an expert witness, an interpreter, or a stenographer in any case if he had within two years previously served the Government under any other appointment or held any office, place, or position thereunder. It would exclude the use of any bank examiner from the Treasury Department as an expert in connection with pending cases for violation of the national banking laws.

It would seem that we would be unable to obtain the services of any employees in other departments of the Government and pay them as experts, and that they could only be subpœnaed as ordinary witnesses and paid from the appropriation "Fees of witnesses, United States courts," and, of course, under those circumstances they could not be expected to prepare themselves as experts to testify on the Government's behalf.

The more carefully this amendment is studied the more deadly and far-reaching appears to be its effect in utterly destroying the efficient conduct of the Government's law business. I am quite sure that the proponent of the amendment could not have understood what he was doing when he offered it on the floor, and that certainly a majority of those who voted for it could not have had the faintest idea of the far-reaching effect which would be produced by it. I am,

Faithfully, yours,

GEO. W. WICKERSHAM,
Attorney General.

I do not know whether it is the purpose—I apprehend it was not the purpose—of the amendment to absolutely destroy the activities of the Government in prosecutions under the antitrust law in the customs-frauds cases and all other cases being carried on by the Government, but under the provisions of the amendment no fee, compensation, or allowance whatever can be paid to anyone who has served the Government in any capacity within two year's time.

It was stated here the other day by the gentleman from Ohio [Mr. COX] that a misstatement was made on the floor of this House at one time by the gentleman from Ohio [Mr. LONGWORTH] in reference to the employment of Wade Ellis. I have secured a statement in regard to that from the Attorney General, which I will ask the Clerk to read in my time.

The Clerk read as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., June 19, 1912.

Hon. JAMES R. MANN,
House of Representatives.

DEAR MR. MANN: I notice in the CONGRESSIONAL RECORD of Tuesday, June 18, some statements made by Mr. COX of Ohio concerning the employment of the Hon. Wade H. Ellis as special assistant under this department and some reflections upon statements made by Mr. LONGWORTH in a discussion which took place in the House at about the time of Mr. Ellis's resignation from the position of assistant to the Attorney General in March, 1910. In the course of that discussion, which is reported in the RECORD (pp. 3205 et seq.), Mr. LONGWORTH stated that Mr. Ellis had sent in his resignation to the Department of Justice on March 1, that his successor was appointed March 14, and that Mr. Ellis had not drawn a cent of salary since the day his resignation was sent in, and he said:

"The fact is, I presume, Mr. Ellis has had experience in the trial of these beef-trust cases and he for some time will give the benefit of his information to his successor, possibly; and I say my only statement is that he is not and will not be paid out of the funds of the department or any other department"——

Mr. LONGWORTH'S statements were entirely accurate. Mr. Ellis handed me his resignation as assistant to the Attorney General on March 1, 1910, to be accepted at my pleasure, with the understanding that it should be accepted as soon as I could determine upon his successor. That successor, Mr. (now Senator) KENYON, was nominated by the President to the Senate on March 14, 1910, and confirmed March 23. About the middle of March Mr. Ellis advised me that in view of some criticism which had been made concerning the propriety of his acting in a political capacity in Ohio and at the same time being a salaried official of the Department of Justice, he had determined not to accept any salary after March 1, the day when he handed me his resignation. At the time of that resignation Mr. Ellis had been engaged in the preparation for argument in the Supreme Court of a very important case, known as the Missouri River rate case, and as I found it impossible to get anyone competent to prepare and argue that case within the short time then remaining before it came on for argument in the Supreme Court, at my earnest solicitation Mr. Ellis accepted a special appointment to argue that case, and appeared in the Supreme Court on April 5 and 6, 1910, and conducted the argument, having previously prepared the brief. The decision of the court was rendered in favor of the Government May 31, 1910 (218 U. S., 88, 113).

About the 1st of September, 1910, Solicitor General Bowers died very suddenly, and it became necessary to retain counsel to argue a number of cases in which the Government was interested which were on the docket of the Supreme Court at the term to begin a month later. I therefore retained Mr. Ellis as counsel to prepare and argue, and he did argue, in the Supreme Court the cases of Muskrat *v.* United States (219 U. S., 346) and Brown & Gritts *v.* United States (219 U. S., 346), important cases involving the constitutionality of legislation concerning Cherokee Indian lands; the so-called Southern Pacific Terminal case (219 U. S., 498), involving the validity of important orders of the Interstate Commerce Commission regarding charges of the terminal company at Galveston, Tex.; the Southern Pacific lumber case (219 U. S., 433), involving the validity of an important order of the Interstate Commerce Commission concerning rates of transportation of lum-

ber; and the case of Marchie Tiger *v.* Western Investment Co. (221 U. S., 286), which was twice argued in the Supreme Court, and which involved difficult questions regarding the rights of Indians of the Five Civilized Tribes in the Indian Territory; in all of which cases, except the Southern Pacific lumber case, the decision of the court was in favor of the Government.

During the same period of vacancy in the Office of Solicitor General I retained Mr. Ellis as special counsel in the Commodities Clause cases (United States *v.* Lehigh Valley Railroad Co., 220 U. S., 257), in which the original Commodities Clause decision, reported in 213 United States, 366, was very materially modified in favor of the Government. I also, during the same period, employed Mr. Ellis in one other case, namely, the prosecution particularly by the Government against the so-called Electrical Trust, which resulted in the entry of a decree of injunction with the acquiescence of the defendants in October, 1911, granting comprehensive relief against a combination which controlled the manufacture and sale of incandescent electric lamps.

Mr. Ellis has had no retainer under this department since August last, and he is not at present employed in any capacity. For his services in the cases mentioned, which resulted in very great advantage to the Government, he was paid compensation at an exceedingly moderate rate, considerably less, I think it is safe to say, than would have been charged by any counsel of equal capacity who had not been recently connected with the law department of the Government.

However, the point of this letter is simply that all of these appointments arose after Mr. LONGWORTH'S statement in the House referred to above, and that they were not in contemplation at the time Mr. Ellis resigned his position with the department.

Faithfully, yours,

GEO. W. WICKERSHAM,
Attorney General.

Mr. MANN. Mr. Speaker, I hope that the majority side of the House, this amendment having been inserted from the floor and not having been part of the bill as reported from the committee, may see its way to reject the amendment, which certainly, in the form in which it is, should not be passed——

Mr. FITZGERALD. Mr. Speaker, there is no desire to interfere with gentlemen who are now employed on any Government case. I think everybody agrees there has been some abuse in this matter, and I suggest to the gentleman that by inserting after the word "or," in the fourth line from the bottom of the amendment——

Mr. MANN. Between what two words?

Mr. FITZGERALD. "Or any department thereof or," insert these words: "to anyone appointed, designated, or employed hereafter who shall."

Mr. MANN. So it would read——

Mr. FITZGERALD. So it would read, "or any department thereof or to anyone appointed, designated, or employed hereafter who within two years," and so forth. The first part of the amendment prohibits the payment out of different appropriations for compensation to persons now in the Government employ—that is, they can not pay some person now employed on a case some special compensation—but this provision would provide by making it hereafter.

Mr. MANN. Well, it would imply that, but it would not say that.

Mr. FITZGERALD. I think it does.

Mr. BURLESON. It can be so framed.

Mr. MANN. It seems to me a matter of this kind ought to be permanently cared for.

Mr. FITZGERALD. There has been an abuse, and I think it is indicated from the letter of the Attorney General himself, and I believe the House should take some kind of step to put a stop to it.

Mr. MANN. I do not see anything embraced in the letter of the gentleman indicating that.

Mr. FITZGERALD. I know of an instance which occurred just a few days ago. The Attorney General made two attempts to increase the compensation of a head of one of the divisions in his office. The compensation was at the rate of $3,500 a year and Congress refused to do it. That gentleman occupying that place appeared before the Committee on Appropriations and made an appeal for an additional appropriation for the work of his division and the day after he appeared and the inquiry had been concluded the Attorney General transferred him from the statutory roll at $3,500 a year to this lump-sum appropriation at $6,000.

Mr. MANN. Well, perhaps the Attorney General wanted to keep him.

Mr. FITZGERALD. That is a gross abuse and should not be tolerated.

Mr. MANN. That depends.

Mr. FITZGERALD. It appears in the opinion of the Attorney General the compensation of this man should be increased, although Congress had on several occasions declined to accede to his request.

Mr. MANN. Congress declined to increase the salary of that position, but that does not necessarily affect the compensation that may be paid an individual in some other position.

Mr. FITZGERALD. But he is put in charge of the same work that he was doing at the other compensation at not only $6,000 a year, but in addition he is granted $6 a day when absent either from Baltimore or Washington, and as he could not be in both places at the same time he will get $6 a day additional for every day in the year.

Mr. MANN. They have legislative committees in this House. The committee presided over by the gentleman from Texas [Mr. BEALL], who introduced this amendment, or the committee presided over by the gentleman from Alabama [Mr. CLAYTON] would have jurisdiction of the matter.

Mr. FITZGERALD. The gentleman who offered the amendment is chairman of the Committee on Expenditures in the Department of Justice.

Mr. MANN. I say he would have jurisdiction.

Mr. FITZGERALD. It was the result of an investigation which he made.

Mr. MANN. When you transferred the Bureau of Investigation over here they took over a number of people who had been formerly employed under Wilkie in the Secret Service—a desirable and proper thing to do. It could not be done under this, and it would affect those very people.

Mr. FITZGERALD. Under this amendment it provides who shall hereafter be designated or employed. That removes the objection that is made by inserting those words.

Mr. MANN. If the gentleman's amendment does what he thinks it will do. In the way he had it it does not seem to do so.

Mr. FITZGERALD. I have changed it. I have transferred the word "hereafter." Let me read it to the gentleman:

The department thereof or to anyone hereafter appointed, designated, or employed who, in the two years next preceding.

Mr. MANN. Or to anyone hereafter. Put it down to that time, at least, to anybody already appointed.

Mr. FITZGERALD. Now, it prevents any payment being made to any person employed in the service.

Mr. MANN. Employed now. The pending amendment applies to anybody now in the service who, within two years of his appointment——

Mr. FITZGERALD. The amendment is that no part of any one or a number of appropriations shall be used for the payment of any salary, fee, compensation, or allowance in any form whatever to any person who holds any other office, place, position, or appointment under the United States Government or any department thereof, or to anyone hereafter appointed or employed, who, within two years next preceding the date——

Mr. MANN. Of course, if the gentleman inserts the word "hereafter" there, it would not affect anyone now in the service. But on the other merits of the proposition it is perfectly patent that it is desirable to transfer people at times from other bureaus or departments of the Government to the Bureau of Investigation. It is desirable at times to take people who have been educated in that service and who go outside to get them special employment.

Mr. FITZGERALD. I do not think so. I think there are abuses. I will cite another one.

Mr. MANN. I have no doubt the gentleman can cite many cases.

Mr. FITZGERALD. The Secretary of the Treasury urged very strongly that the compensation of special agents in the Treasury Department be increased, and also wanted the special agents of the Treasury Department consolidated with the Secret Service. Congress declined to consolidate them, but did increase the compensation of the special agents; and he fixed the compensation of the chief special agent at $4,500 a year. And the Chief of the Secret Service was immediately designated as chief special agent in the Treasury Department and designated as Acting Chief of the Secret Service, and the only thing accomplished was to give him the benefit of the increased compensation. There are many abuses that this would prevent, I am quite confident.

Mr. MANN. I will say to the gentleman that if this be an abuse, to increase the salary of an officer by paying him an extra amount out of the lump-sum appropriation to which the gentleman has referred, there is on the legislative bill an amendment, inserted by the Senate, prohibiting that, which I have no doubt will be agreed to in conference. That shows the necessity of that.

Mr. FITZGERALD. I have not seen that. This amendment applies to certain specific appropriations in the Department of Justice alone. I believe it ought to be adopted.

Mr. MANN. It will destroy the good effect of prosecuting under these laws. That is all.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman from New York [Mr. FITZGERALD] give me five minutes?

Mr. FITZGERALD. Mr. Speaker, I wish to offer an amendment to the amendment which appears on page 8249 of the CONGRESSIONAL RECORD.

The SPEAKER. That is the one the gentleman spoke of?

Mr. FITZGERALD. Yes.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from New York [Mr. FITZGERALD] to the amendment offered by the gentleman from Texas [Mr. BEALL].

The Clerk read as follows.

Amend by inserting, after the word "or," in line 13 of the amendment as it appears on page 8249 of the RECORD, the following: "To anyone hereafter appointed, designated, or employed"——

Mr. FITZGERALD. Mr. Speaker, in order that there may be no misunderstanding as to where that amendment comes in, I will ask the Clerk to report that part of the amendment beginning "or any department thereof" and continuing with "or to anyone hereafter appointed, designated, and employed," the "or" being the second "or" on the fourth line from the bottom.

Mr. GREEN of Iowa. Mr. Speaker——

The SPEAKER. Does the gentleman [Mr. FITZGERALD] yield to the gentleman from Iowa?

Mr. GREEN of Iowa. Has the amendment been reported, Mr. Speaker? Will the gentleman give me some time?

Mr. FITZGERALD. There are several gentlemen who wished to participate in the debate, but we wish to get the bill finished. This is a very unusual proceeding to be discussed at this time, and I do not think more time should be asked for, in view of the liberality of treatment that has been shown.

Mr. GREEN of Iowa. I have not spoken one minute on this bill.

Mr. FITZGERALD. I regret I can not yield. I can not yield to the gentleman without also yielding to others.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] declines to yield. The Clerk will report that part of the amendment which will contain the amendment offered by the gentleman from New York, if it is agreed to, so that the House can get the sense of it.

The Clerk read as follows:

Amend by inserting, after the word "or," in line 13 of the amendment as it appears on page 8249 of the RECORD, the following: "To anyone hereafter appointed, designated, or employed," so that it will read, "position, or appointment under the United States Government, or any department thereof, or to anyone hereafter appointed, designated, or employed, or who within two years next preceding"——

Mr. FITZGERALD. Strike out the "or" before "who." It should be "appointed, designated, or employed who," and so forth.

The SPEAKER. The Clerk will read the whole thing over, so that there will not be any mistake about it. The Clerk will read the lines that will include the words offered by the gentleman from New York [Mr. FITZGERALD], if they are ever put in, so that we can see how it reads.

The Clerk read as follows:

To any person who holds any other office, place, position, or appointment under the United States Government, or any department thereof, or to anyone hereafter appointed, designated, or employed who within two years next preceding the date of his appointment, designation, or employment has held any other office, place, position, or appointment under the United States Government or any department thereof.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from New York [Mr. FITZGERALD] to the amendment offered by the gentleman from Texas [Mr. BEALL].

The question was taken, and the amendment to the amendment was agreed to.

The SPEAKER. The question now is on agreeing to the amendment offered by the gentleman from Texas [Mr. BEALL] as amended by the amendment offered by the gentleman from New York [Mr. FITZGERALD].

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. MANN. I ask for a division, Mr. Speaker.

The House divided; and there were—ayes 31, noes 23.

So the amendment of Mr. BEALL of Texas as amended was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, on page 122, line 2, by striking out the word "for" and inserting the word "including" in place thereof.

The SPEAKER. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. FITZGERALD. Mr. Speaker, I move the previous question on the bill and the remaining amendment to its final passage.

The question was taken, and the previous question was ordered.

The SPEAKER. The Clerk will report the remaining amendment.

The Clerk read as follows:

Page 92, after line 20, insert:

"Enlarging the Capitol Grounds: To continue the acquisition of the land described in the sundry civil appropriation act, approved June 25, 1910, and as authorized and prescribed in said act, for enlarging the Capitol Grounds, $500,000."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 43, noes 21.

Mr. SISSON. Mr. Speaker, I want a yea-and-nay vote on this proposition. I do not want to be compelled to make a point of no quorum, but I am willing that this matter shall go over until we can get a quorum without difficulty.

Mr. FITZGERALD. Mr. Speaker, it is a well-known fact that there will be no quorum in this House until after the 1st of July. It is important that the members of the committee controlling this bill at the other end of the Capitol shall get it immediately in order to get to work on it. The gentleman from Mississippi knows the situation as well as anybody.

Mr. MANN. If the gentleman will allow me the suggestion, I desired to offer a motion to recommit and have a roll call. We also desired to have a roll call on several amendments agreed to in this bill. We have not done that because of the situation in the House, and it seems to me that the gentleman from Mississippi ought not to precipitate a situation which would prevent the speedy passage of the bill.

Mr. SISSON. Mr. Speaker, I am very much opposed, as was evidenced by the fight in the Committee of the Whole——

Mr. MANN. We are quite willing to admit that the gentleman made a good fight.

Mr. SISSON. I do not think that appropriation bills ought ever to be passed without a quorum being present. But the situation is a very peculiar one, due to the fact that there are two great conventions, one now in session, and the other to be in session next week. In view of that situation I shall not ask for a roll call, although I really believe that I ought to do it.

The SPEAKER. The ayes are 43 and the noes are 21, and the amendment is agreed to. The question is on the engrossment and third reading of the amended bill.

The amended bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

Mr. MCMORRAN, by unanimous consent, was given leave of absence for two weeks on account of illness in his family.

BILLS ON THE PRIVATE CALENDAR.

Mr. SIMS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House.

Mr. HAY. Mr. Speaker, I call for the regular order, which is the call of bills on the Private Calendar in their order.

Mr. GARNER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GARNER. When these bills are called will any objection under the request for unanimous consent carry the bill over; that is, it will not be considered?

The SPEAKER. That is as the Chair understands it.

Mr. GARNER. Now, as these bills are called on the regular calendar it would facilitate matters if those in charge of the bills would ask unanimous consent to consider them in the House as in Committee of the Whole.

Mr. MANN. I will ask unanimous consent that in the call of the Private Calendar bills not objected to shall be considered in the House as in Committee of the Whole House.

Mr. SIMS. Before that is put, Mr. Speaker, I am not asking for consideration under the special order.

The SPEAKER. But there was an agreement on June 14 which the Chair will state. The RECORD says:

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. Now, the Chair will state it so there can not be any mistake on the part of Members. The request is, next week after this sundry civil bill gets through the House, except Monday and Wednesday, and allowing the gentleman from Missouri [Mr. RUSSELL] a day for pensions, then any bill on the Private Calendar not objected to shall be considered.

Mr. SIMS. I misunderstood the order, if it was intended to deprive committees of their regular days. I thought it was to make private claims in order on days upon which they would otherwise not be in order.

The SPEAKER. That is what it does.

Mr. SIMS. Then to-day war claims are in order.

The SPEAKER. That is true; but it seems to the Chair this order agreed to by the House supersedes and takes precedence over that. It swept everything out, except Mondays

and Wednesdays, and the gentleman from Missouri [Mr. RUSSELL] for the consideration of pensions.

Mr. SIMS. I certainly never would have agreed to it if I knew that.

The SPEAKER. Of course, that is neither here nor there.

Mr. MANN. Mr. Speaker, the gentleman from Tennessee was here when the request was agreed to. The request made by the gentleman from Missouri [Mr. RUSSELL] would have struck Friday out if I had not asked that an exception of Friday be made.

The SPEAKER. The gentleman from Tennessee will gain by this order. He may lose this piece of the evening which is before us, but private bills are in order now every day except Monday and Wednesday and the day that the gentleman from Missouri will have.

Mr. SIMS. I know, but they will only be taken up in their order, and it will be impossible to reach bills from the War Claims Committee.

Mr. GARNER. Mr. Speaker, I ask unanimous consent that when bills are called upon the Private Calendar in their regular order, those to which no objection is made shall be considered in the House as in Committee of the Whole House.

The SPEAKER. The gentleman from Texas asks unanimous consent that when bills on the Private Calendar are called in their order those to which no objection is made shall be considered in the House as in Committee of the Whole House. Is there objection? [After a pause.] The Chair hears none and it is so ordered.

EXTENSION OF REMARKS.

Mr. SISSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the sundry civil appropriation bill.

The SPEAKER. Is there objection?

There was no objection.

WAR CLAIMS.

Mr. SIMS. Mr. Speaker, I ask unanimous consent that some other Friday be given to the consideration of war claims. I am quite serious in my statement that I did not know that this order was to displace the preference that we would have on this day.

The SPEAKER. What is the request of the gentleman?

Mr. SIMS. That a day be set aside for the consideration of private bills coming from the Committee on War Claims.

The SPEAKER. Does the gentleman designate any day?

Mr. MANN. Mr. Speaker, so that we may progress with the matter before the House, I shall object.

Mr. SIMS. I shall ask that to-morrow, Saturday, be set aside for that purpose.

Mr. MANN. That is already set aside for the consideration of pensions.

BILLS ON THE PRIVATE CALENDAR.

The SPEAKER. The Clerk will proceed with the call of bills on the Private Calendar.

SHEPLER W. FITZGERALD AND ALDEN G. STRONG.

The first business on the Private Calendar was the bill (S. 5046) to authorize the appointment of Shepler Ward FitzGerald and Alden George Strong to the grade of second lieutenant in the Army.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint Shepler Ward FitzGerald and Alden George Strong to the grade of second lieutenant in the Coast Artillery Corps, United States Army, with lineal rank in accordance with their respective ratings at the competitive examination held under the law by the War Department in September, 1911.

The SPEAKER pro tempore (Mr. JAMES). Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. Mr. Speaker, this is a bill reported for the relief of these two young men, who received appointments as second lieutenants in the Army, stood the examination, but before they could be confirmed by the Senate they had reached the age beyond which second lieutenants of the Army can not be given their appointments. This bill simply permits the President to again send their names to the Senate to be confirmed. I do not think there can be any objection to the bill.

Mr. BARTLETT. This simply authorizes him to do that. It does not require him to do it?

Mr. HAY. The bill authorizes him to do it.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

HENRY HARRISON HALL.

The next business on the Private Calendar was the bill (H. R. 20721) to authorize the President to reappoint Henry Harrison Hall as second lieutenant in the Army.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Illinois objects.

HEIRS OF MYRA CLARK GAINES.

The next business on the Private Calendar was the bill (H. R. 17501) for the relief of the heirs of Myra Clark Gaines, deceased.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

DANIEL W. ABBOTT.

The next business on the Private Calendar was the bill (H. R. 12375) authorizing Daniel W. Abbott to make homestead entry.

The Clerk read the bill, as follows:

Be it enacted, etc., That Daniel W. Abbott be, and he is hereby, empowered to make entry of and acquire title to the south half of the southeast quarter and the south half of the southwest quarter of section 6 in township 10 south, range 28 east, Boise meridian, under the general provisions of the homestead laws of the United States, notwithstanding he may have heretofore exhausted his right to make entry under said laws, and he shall be given credit, under any entry made by him under this act, for the full period of such actual residence as he may have maintained on said land or on land embraced in the legal subdivision of land adjoining said land prior to the time he makes entry under this act.

The SPEAKER pro tempore. Is there objection?

Mr. SIMS. Mr. Speaker, reserving the right to object, I desire to ask if this is a Senate bill?

The SPEAKER pro tempore. This is a House bill.

Mr. SIMS. I see that the gentleman from Idaho [Mr. FRENCH] reported the bill. Is the gentleman present?

Mr. MANN. The gentleman from Idaho is not present. This bill validates a homestead entry which a man would have in any event, except that he located his house a few rods over onto land that he did not take up.

Mr. SIMS. Will there be any contest upon the matter?

Mr. MANN. No; I think not. I think the bill would have been passed before this time if the gentleman had not reserved the right to object.

Mr. SIMS. I wanted to find out whether there was to be any controversy.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears no objection. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. SIMS. Is the gentleman from North Carolina [Mr. POU] present?

The SPEAKER pro tempore. For what purpose does the gentleman from Tennessee rise?

Mr. SIMS. Mr. Speaker, the next bill is from the Committee on Claims, and by an agreement heretofore made with the chairman of the Committee on Claims, the war claims bills have had two days and he has had two for bills from his committee, and by agreement the Committee on War Claims was to have the next day, and I want to ask if he will not agree that the bills reported here from the Committee on Claims may be passed over until after the bills reported from the Committee on War Claims are first considered?

Mr. MANN. The gentleman would not have any jurisdiction to consent to that.

Mr. HAY. These are individual bills.

Mr. SIMS. I did not want to object, but it will take a lot of time, and they will have had three days to our one.

Mr. POU. I will be very glad to make any arrangement to suit my friend from Tennessee; but under this order everything has been swept aside and I do not believe I would have any right to make any such agreement.

Mr. SIMS. The House, by unanimous consent, can, but I will not submit the request unless the gentleman is ready to yield.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. MANN. What is the request?

Mr. SIMS. My request is that on the call of this calendar that bills reported from the Committee on Claims be not called until bills reported from the Committee on War Claims are called.

Mr. MANN. Well, we will never get to the Committee on War Claims that way. They will have to wait the call of all

bills reported from other committees first, and therefore I object.

The SPEAKER pro tempore. The Clerk will report the next bill on the Private Calendar.

SNARE & TRIEST CO.

The next business on the Private Calendar was the bill S. 2512, an act for the relief of the Snare & Triest Co.

The bill was read.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.

CHARLEY CLARK.

The next business on the Private Calendar was the bill (H. R. 10784) for the relief of Charley Clark, a homestead settler on certain lands therein described.

The bill was read.

Mr. MANN. Mr. Speaker, I do not know who has charge of this.

Mr. MILLER. Mr. STEENERSON asked me to look after it.

Mr. MANN. There is a Senate bill (No. 6153), and I understand the gentleman desires to have the Senate bill substituted for the House bill. I do not know whether the Senate engrossed bill is over here or not.

Mr. MILLER. I presume it is in the hands of the committee.

Mr. MANN. The House could not do that unless it had the engrossed copy here, and there is no use in passing this bill. I ask to pass it over temporarily without prejudice.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to pass the bill without prejudice. Is there objection? [After a pause.] The Chair hears none.

CAPT. HAROLD L. JACKSON.

The next business on the Private Calendar was the bill (H. R. 19788) to restore Capt. Harold L. Jackson, retired, to the active list of the Army.

The bill was read.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. I object.

LLOYD L. R. KREBS.

The next business on the Private Calendar was the bill (H. R. 7142) authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act.

The Clerk read as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, to be a major of the Medical Corps on the retired list of the Army. And the retired list is hereby increased by one for the purposes of this act.

The SPEAKER. Is there objection?

Mr. MANN. I object.

Mr. HAY. Will the gentleman reserve his objection?

Mr. MANN. I will reserve the right to object.

Mr. HAY. Mr. Speaker, I hope the gentleman from Illinois will not object to this bill. It is one of the most pitiful cases that I have ever known. This is a case of a surgeon in the Army who was ordered here under the rules and regulations for an examination for his promotion. When he went before this examining board he was suffering with tuberculosis, and the board recommended him to be retired from the Army. The recommendation was overruled by the War Department and he was ordered again before the board for examination, notwithstanding the fact that he was suffering with tuberculosis. As a consequence of his physical condition he failed on examination and, under the law, was put out of the Army and was refused the privilege of being put on the retired list. This man is in a dying condition from tuberculosis. Personally, I have no interest whatever in the case; these people live in California. But I happen to be familiar with all the facts in the case and I believe that a gross injustice was done this man. This bill is recommended by the War Department and is particularly recommended by the Surgeon General, and I hope the gentleman from Illinois will not interpose an objection to the bill.

Mr. MANN. Mr. Speaker, it is a tribute to the large heart of the gentleman. I have examined the papers in this case very carefully and am liable to make an error of judgment. I do not believe the bill ought to pass, but I would like to discuss it some time when it comes up. It is not practicable to do that to-day. This bill is early on the calendar and will undoubtedly be on the calendar on a Friday before long. Therefore I feel compelled to object now.

Mr. KAHN. Mr. Chairman, I ask unanimous consent that the Committee on Military Affairs be discharged from further consideration of the Senate bill (No. 1337) to the same purpose, and that it be placed upon the House Calendar in lieu of the House bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. It can not be done in that way.

Mr. HAY. Why not?

Mr. MANN. The bill is not up for consideration. The committee can report——

The SPEAKER pro tempore. Does the gentleman object to the consideration of the bill?

Mr. MANN. I would not have objected if they were going to consider it and substitute the Senate bill.

The SPEAKER pro tempore. The Clerk will report the next bill.

JAMES S. BAER.

The next business on the Private Calendar was the bill (H. R. 21952) for the relief of James S. Baer.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws James S. Baer, late captain Company G, First Regiment Maryland Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 28th day of September, 1864: *Provided*, That no pension shall accrue prior to the passage of this act.

The SPEAKER pro tempore. Is there objection to the consideration of the bill just read?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

CHARLEY CLARK.

Mr. MANN. A moment ago there was passed temporarily, without prejudice, the bill H. R. 10784.

The SPEAKER pro tempore. The Clerk will report the title.

The Clerk read the title, as follows:

An act (H. R. 10784) for the relief of Charley Clark, a homestead settler on certain lands therein described.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the Clerk may read a similar Senate bill, in order to see whether objection shall be made to substituting that for the House bill.

The SPEAKER pro tempore. The Clerk will report the Senate bill.

The Clerk read as follows:

An act (S. 6153) for the relief of Charley Clark, a homestead settler on certain lands therein described.

Be it enacted, etc., That the homestead entry of Charley Clark for the west half of the northeast quarter of section 31, in township 153 north, range 40, in the Crookston land district, Minnesota, under the act approved February 20, 1904, entitled "An act to authorize the sale of a part of what is known as the Red Lake Indian Reservation in the State of Minnesota," upon which final proof and payment was made, but which was held for cancellation by the Secretary of the Interior for want of qualification to make the same, be, and the same is hereby, allowed and permitted to remain of record as of the date of said entry, and that patent shall issue in the name of said Charley Clark for said land.

The SPEAKER pro tempore. Is there objection to the consideration of the Senate bill as a substitute for the House bill? [After a pause.] The Chair hears none.

The bill was read a third time and passed.

HEIRS OF JAMES S. ROLLINS.

The next bill on the Private Calendar was the bill (H. R. 18904) to perfect the title of the heirs of James S. Rollins, deceased, to bounty-land warrant No. 58479, issued to George Hickum, teamster, United States Quartermaster's Department, War with Mexico.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be authorized and directed to recognize the heirs of James S. Rollins, deceased, of Columbia, Mo., as the lawful owners of land warrant No. 58479, issued on March 11, 1857, to George Hickum, teamster, United States Quartermaster Department, War with Mexico; and that he instruct the Commissioner of the General Land Office to permit said heirs to use said land warrant in such manner as they see fit, in accordance with law and the rules and regulations of the General Land Office.

Also the following House amendments were read:

Page 1, lines 3 and 4, insert after the word "Interior" the following: "and the Commissioner of the General Land Office."

The amendment was agreed to.

The Clerk read the next amendment, as follows:

Amend, page 2, by striking out lines 2, 3, 4, 5, and 6, after the word "Mexico."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

OTTO NEUMANN SVERDRUP.

The next business on the Private Calendar was the Senate joint resolution 69, authorizing the licensing and employment of Otto Neumann Sverdrup as master of vessels of the United States.

The Clerk read the joint resolution, as follows:

Whereas Otto Neumann Sverdrup, a subject of the King of Norway, who has rendered great service to science as a navigator and explorer, has lately become a resident and declared his intention to become a citizen of the United States, and desires to obtain the privilege of serving as master of vessels of the United States before his naturalization as a citizen can be procured under existing law: Now therefore be it

Resolved, etc., That the right and privilege to be licensed and to serve as master of vessels of the United States, conferred by law upon citizens of the United States, be, and the same are hereby, given and granted to said Otto Neumann Sverdrup.

The SPEAKER pro tempore. Is there objection to the consideration of the joint resolution?

There was no objection.

The joint resolution was passed.

BARKLEY S. DENISON.

The next business on the Private Calendar was the bill (H. R. 11627) to correct the military record of Barkley S. Denison.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. The gentleman from Illinois objects.

MATHEW T. FULLER.

The next business on the Private Calendar was the bill (H. R. 16993) for the relief of Matthew T. Fuller.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of pension laws, Mathew T. Fuller shall hereafter be held and considered to have been absent with proper authority and in the line of duty as a soldier at the time of his capture by the enemy while serving as a member of Company D, Sixty-fifth Regiment Indiana Volunteer Infantry.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

HEIRS OF BENJAMIN S. ROBERTS.

The next business on the Private Calendar was the bill (H. R. 4125) for the relief of the heirs of Benjamin S. Roberts.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. The gentleman from Illinois objects.

HEIRS OF ROBERT S. GILL.

The next business on the Private Calendar was the bill (S. 2127) for the relief of the heirs of Robert S. Gill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the heirs of Robert S. Gill, of Memphis, Tenn., out of any funds in the Treasury of the United States not otherwise appropriated, the sum of $2,520, to compensate them for injuries received by Robert S. Gill while in the employ of the Government on the Panama Canal.

The SPEAKER pro tempore. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

AMERICAN SURETY CO. OF NEW YORK.

The next business on the Private Calendar was the bill (S. 3469) for the relief of the American Surety Co. of New York.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the American Surety Co. of New York the sum of $115.51, as reimbursement in full of a payment made by the American Surety Co. of New York, as surety on the bond of John W. Coltrane, a railway postal clerk, to cover the sum embezzled by him, said payment having been made to the Postmaster General and covered into the Treasury of the United States without knowledge of the fact that a like sum to cover the same embezzlement had already been paid by said John W. Coltrane to the clerk of the United States District Court for the Eastern Division of North Carolina and turned into the Treasury of the United States.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

DOUGLAS B. THOMPSON.

The next business on the Private Calendar was the bill (S. 2601) for the relief of Douglas B. Thompson.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $1,500 to Douglas B. Thompson, late an employee in the service of the Isthmian Canal Commission, for the loss of a leg and consequent physical disability incident to said service.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

REIMBURSEMENT TO CERTAIN FIRE INSURANCE COMPANIES.

The next business on the Private Calendar was the bill (S. 2819) to reimburse certain fire insurance companies the amounts paid by them for property destroyed by fire in suppressing the bubonic plague in the Territory of Hawaii in the years 1899 and 1900.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

The SPEAKER pro tempore. The gentleman from Illinois objects.

CONVEYANCE OF REAL ESTATE IN JONESVILLE, MICH.

The next business on the Private Calendar was the bill (H. R. 16191) to convey certain real estate in the village of Jonesville, Hillsdale County, Mich.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Solicitor of the Treasury is authorized and empowered, upon the payment of the sum of $10, to convey the apparent interest of the United States in lot 21 of Olds plat of the village of Jonesville, in township 6 south, range 3 west, in Hillsdale County, Mich., to Milo D. Bacon for the purpose of completing the title of said Bacon to said property, and that the United States incur no expense or liability whatever in consequence of such conveyance, it being understood that the solicitor is to convey said land in the nature of a quitclaim deed to said Milo D. Bacon, without guaranty or warranty of any nature or kind whatsoever.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the committee amendment.

The Clerk read the committee amendment, as follows:

Amend, page 1, line 4, by inserting after the word "empowered" the words "upon the payment of the sum of $10."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

JAMES W. CHRISMAN.

The next business on the Private Calendar was the bill (S. 5198) to authorize the issuance of patent to James W. Chrisman for the southeast quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section 13, and the north half of the northeast quarter of section 24, township 29 north, range 113 west of the sixth principal meridian.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to cause to be issued to James W. Chrisman a patent for the southeast quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section 13, and the north half of the northeast quarter of section 24, all in township 29 north, range 113 west of the sixth principal meridian.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was ordered to be read a third time, was read the third time, and passed.

GEORGE A. ARMES.

The next bill on the Private Calendar was the bill (H. R. 11397) authorizing the appointment of Maj. George A. Armes, United States Army, retired, to the rank and grade of major general on the retired list of the Army.

The Clerk read the bill at length.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

FIFTH-THIRD NATIONAL BANK OF CINCINNATI, OHIO.

The next business on the Private Calendar was the bill (H. R. 16518) for the relief of the Fifth-Third National Bank of Cincinnati, Ohio.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to issue a duplicate registered bond of the 3 per cent loan of 1908 to 1918, in favor of the Fifth-Third National Bank of Cincinnati, Ohio, in lieu of United States 3 per cent registered bond, loan of 1908 to 1918, No. 37195, for $1,000 inscribed in the name of Jacob B. Elberfeld, alleged to have been lost or mislaid after having been assigned in blank, sold, and delivered to the Fifth-Third National Bank of Cincinnati: *Provided*, That the said bank shall first file in the Treasury Department a bond in the penal sum of double the amount of the missing bond, in such form and with such sureties as may be acceptable to the Secretary of the Treasury, to indemnify the United States against loss on account of said original bond.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

GUSTAV A. HESSELBERGER.

The next business on the Private Calendar was the bill (H. R. 15286) for the relief of Gustav A. Hesselberger.

The Clerk read the bill at length.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

JOHN TREFFEISEN.

The next business on the Private Calendar was the bill (H. R. 606) for the relief of John Treffeisen.

The Clerk read the bill at length.

The SPEAKER pro tempore. Is there objection?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I think we ought to have some information about this bill; there is nothing in the report.

Mr. MANN. There is not a word of information in the report.

Mr. FOSTER. I do not think we ought to pass the bill without some information. If there is no one here to explain it, I shall object. Mr. Speaker, I do object.

JOHN K. WREN.

The next business on the Private Calendar was the bill (H. R. 22939) for the relief of John K. Wren.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws John K. Wren, who served in Company D, Sixty-sixth Regiment Ohio Volunteer Infantry, shall be held and considered to have been honorably discharged from said company and regiment on the 16th day of December, 1863.

With the following committee amendment:

Page 1, line 8, amend by inserting after the word "sixty-three" the following proviso:

"*Provided*, That no rights or benefits under any law shall accrue to the said John K. Wren prior to the passage of this act."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

G. A. EMBRY.

The next business on the Private Calendar was the bill (S. 183) for the relief of G. A. Embry.

The Clerk read the bill at length.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

CATHERINE RATCHFORD.

The next business on the Private Calendar was the bill (S. 4050) for the relief of Catherine Ratchford.

The Clerk read the bill at length.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask whether this bill was referred to the War Department or any report received from the department in relation to this injury.

Mr. JACKSON. I had the report this morning, but I do not remember. It is the bill of the gentleman from Kansas [Mr. ANTHONY].

Mr. MANN. There is nothing in the report of the committee and nothing in the Senate report further than is disclosed in the bill. It seems to me that where we are paying for personal injuries caused by some one in the Government service, it is only fair that we should have a statement from them as to their side of the case and as to the extent of the injuries.

Mr. JACKSON. This is a bill of the gentleman from Kansas [Mr. ANTHONY], and he is absent just at this minute. I ask to have it passed over without prejudice.

Mr. MANN. I will object, Mr. Speaker. That does not affect the status of the bill any.

LIGHTHOUSE TENDER "MANZANITA."

The next business on the Private Calendar was the bill (S. 837) to reimburse the officers and crew of the lighthouse tender *Manzanita* for personal-property losses sustained by them on the foundering of that tender October 6, 1905.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, the sum of $1,642.55 to the officers and crew of the lighthouse tender Manzanita for personal-property losses sustained by them on the foundering of that tender on October 6, 1905, as set forth in the letter of April 25, 1906, from the Department of Commerce and Labor to the Treasury Department.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

J. H. SCHMIDT.

The next business on the Private Calendar was the bill (H. R. 16720) authorizing the Secretary of the Interior to pay J. H. Schmidt $75 damages for trespass of certain Indian school cattle at Rainey Mountain Indian School in Oklahoma.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to pay to J. H. Schmidt, out of any balances of appropriations for the support and civilization of the Apache, Kiowa, and Comanche Indians, for the fiscal year 1911 or 1912, the sum of $75 in full compensation for damage sustained by him through trespass of cattle belonging to the Rainey Mountain Indian School.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

HARNEY NATIONAL FOREST.

The next business on the Private Calendar was the bill (H. R. 21259) to allow an exchange of certain lands in the Harney National Forest.

The Clerk read the bill, as follows:

Be it enacted, etc., That upon the transfer by John L. Baird to the United States of title to the east half of the southeast quarter, and lot No. 1 in section 4, and lot No. 4 in section 3, all in township 1 south, range 1 east, of Black Hills meridian, containing 155.96 acres, situated in the Black Hills National Forest, the Secretary of the Interior is authorized, upon the approval of the Secretary of Agriculture, to issue a patent to said John L. Baird for the lands covered by the Keen Stone Placer mineral survey No. 1947, in Lawrence County, S. Dak., containing 90.978 acres; and the lands thus transferred to the United States shall thereupon become a part of the Harney National Forest.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Chair is informed that the next bill on the Private Calendar is a pension bill, which under the order of to-day will be laid aside, as will other pension bills that are upon this calendar.

DELAWARE TRANSPORTATION CO.

The next business on the Private Calendar was the bill (H. R. 22111) for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy*.

The Clerk read the bill, as follws:

Be it enacted, etc., That the claim of the Delaware Transportation Co., owner of the American steamer Dorothy, injured in collision with the U. S. steam collier Sterling in Chesapeake Bay on December 3, 1911, for and on account of the damage to said steamship Dorothy by reason of said collision, may be submitted to the United States Court for the Eastern District of Virginia, the district in which said collision occurred, under and in compliance with the rules of said court sitting as a court of admiralty; and the said court shall have jurisdiction to hear and determine any suits brought and to enter a judgment or decree for the amount of the damages sustained by reason of said collision, if any shall be found to be due, against the United States, upon the same principles and measure of liability, with costs as in like cases in admiralty between private parties, and with the same rights of appeal.

SEC. 2. That notice of the suits shall be given to the Attorney General of the United States and to the Secretary of the Navy, as may be provided by the order of said court, and it shall be the duty of the Attorney General to cause the United States attorney to appear for and defend the United States.

SEC. 3. That should damages be found to be due the said Delaware Transportation Co., as owner of said steamship Dorothy, the amount of the final decree therefor shall be paid out of any money in the United States Treasury not otherwise appropriated: *Provided*, That said suit shall be brought and commenced within four months from the date of the passage of this act.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

SARAH A. WAITE.

The next business on the Private Calendar was the bill (S. 547) for the relief of Sarah A. Waite.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Sarah A. Waite, widow of George B. Waite, who at the time of his death was a first sergeant on the retired list of the United States Army and a civilian employee in the Quartermaster's Department of the United States Army, the sum of $1,050, as full compensation for the death of said George B. Waite, resulting from injuries received while in the discharge of his duty as a teamster in the employ of the post quartermaster at Vancouver Barracks, State of Washington, on the 3d day of December, 1907.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

JOHANNA S. STOECKLE.

The next business on the Private Calendar was the bill (S. 4189) for the relief of Johanna S. Stoeckle.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. POU. Mr. Speaker, I ask unanimous consent that the consideration of this bill be passed without prejudice. The reason is that a bill has passed this House which covers that and all similar cases, and there will probably be no necessity for passing this bill.

The SPEAKER pro tempore. Is there objection?

There was no objection, and it was so ordered.

ALBERT S. HENDERER.

The next business on the Private Calendar was the bill (S. 4751) for the relief of Albert S. Henderer.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Albert S. Henderer, out of any money in the Treasury not otherwise appropriated, the sum of $1,572.04 for damages arising out of an injury sustained by him while employed in the east gun shop, United States navy yard, Washington, D. C., on the 11th day of August, 1903.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

ROBERT H. PECK.

The next business on the Private Calendar was the bill (H. R. 4509) to authorize the President of the United States to appoint Robert H. Peck a captain in the Army.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. KAHN. Mr. Speaker, the Senate passed a similar bill (S. 6636), which was referred to the Committee on Military Affairs, and I ask unanimous consent that the Committee on Military Affairs be discharged from the further consideration of the bill and that the Senate bill be considered.

Mr. MANN. Is the Senate bill here?

Mr. KAHN. There is a Senate bill exactly like it.

Mr. SULZER. As I understand it the bills are identical.

Mr. KAHN. Yes; they are identical.

Mr. MANN. You can not pass the Senate bill unless you have the engrossed copy of the bill here. Is the engrossed copy of the Senate bill on the Speaker's table?

The SPEAKER pro tempore. It is not here.

Mr. HAY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

ELIZA B. HAUSE.

The next business on the Private Calendar was the bill (S. 1508) for the relief of the estate of Eliza B. Hause.

The Clerk read the bill.

Mr. MANN. Mr. Speaker, this is one of the same class of bills that we have just passed over.

Mr. AINEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. MANN. Oh, I think we better object to it.

Mr. AINEY. It is included in the omnibus bill which has passed the House.

Mr. MANN. I object.

PATRICK HOWE.

The next business on the Private Calendar was the bill (H. R. 7434) for the relief of Patrick Howe.

The Clerk read as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Patrick Howe shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private in Company B, Fifty-ninth Regiment New York Volunteer Infantry, on the 1st day of February, 1865: *Provided*, That no pension shall accrue prior to the passage of this act.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

HERMAN HAUPT.

The next business on the Private Calendar was the bill (H. R. 20613) for the proper recognition of services rendered by Herman Haupt during the Civil War.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Let the bill go over.

The SPEAKER pro tempore. The gentleman from Illinois objects.

SETTLEMENT OF CLAIMS OF THE ATTORNEY OF RECORD INVOLVING CERTAIN INDIAN ALLOTMENTS.

The next business on the Private Calendar was the bill (S. 5776) authorizing the Secretary of the Interior to adjust and settle the claims of the attorney of record involving certain Indian allotments, and for other purposes.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to consider the claim of the attorney of record in the matter of the enrollment and allotment of lands to Virgil H., Willie A., and Oscar R. Esterbrook, minor children of Frank Esterbrook, and Pearl May, A. Ray, J. Otis, and Dora Edith Williams, minor children of C. O. Williams, enrolled members of the Cascade Band of Indians and allotted on the Yakima Reservation in the State of Washington, and to allow said attorney such fee as he may consider reasonable and just, and to pay the same out of any money standing to the credit of said minor children or which may hereafter become due them.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be read a third time, was read the third time, and passed.

HAROLD HANCOCK TAINTOR.

The next business on the Private Calendar was the bill (H. R. 23934) to authorize the appointment of Harold Hancock Taintor to the grade of second lieutenant in the Army.

The Clerk read as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint Harold Hancock Taintor to the grade of second lieutenant in the United States Army, with lineal rank in accordance with his rating at the competitive examination held under the law by the War Department in January, 1912.

The SPEAKER pro tempore. Is there objection?

Mr. HAY. Mr. Speaker——

Mr. PEPPER. Mr. Speaker, I ask unanimous consent, in view of the fact that the Senate has passed a similar bill (S. 7018), which has been referred to the Committee on Military Affairs, that that committee be discharged from the further consideration of the bill and that the Senate bill be substituted for the House bill. I have an engrossed copy of the Senate bill in my hand.

The SPEAKER pro tempore. The gentleman from Iowa requests that an engrossed copy of the Senate bill be substituted for a similar House bill. Is there objection?

Mr. FOSTER. Let us have the bill read.

The Senate bill was read.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a similar House bill was laid on the table.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

LIEUT. COL. CONSTANTINE MARRAST PERKINS.

The next business on the Private Calendar was the bill (H. R. 9290) for the reinstatement of Lieut. Col. Constantine Marrast Perkins to the active list of the Marine Corps.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

REFUNDING CERTAIN TONNAGE TAXES AND LIGHT DUES.

The next business on the Private Calendar was the bill (H. R. 2359) to refund certain tonnage taxes and light dues.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized to refund, out of any money in the Treasury not otherwise appropriated, the following amounts to the respective named companies, assessed and collected under section 4225, Revised Statutes, which amounts are hereby appropriated: Ninety-three dollars in the case of the American dredge Erie, without enrollment, upon the application of the Duluth-Superior Dredging Co.; and $270 in the case of American scows Nos. 1 and 2, American dredge Lincoln, and American derrick scow No. 1, without enrollment, upon the application of the Duluth Marine Contracting Co.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

ERROR IN TREATY, CHOCTAW INDIANS.

The next business on the Private Calendar was the bill (S. 5141) to correct an error in the record of the supplemental treaty of September 28, 1830, made with the Choctaw Indians, and for other purposes.

The Clerk read as follows:

Be it enacted, etc., That the reservation of section 8 and the west half of section 9, in township 19 north, range 16 east, Choctaw meridian, Mississippi, to Thomas Wall, and the sale thereof by him to Anthony Winston, made on December 11, 1833, be, and the same are hereby, approved, and the title thereto confirmed in the said Thomas Wall and his vendee, the said Anthony Winston; and the Commissioner of the General Land Office is hereby authorized and directed to cause the proper entries to be made upon the land records of the land office at Jackson, Miss., and of the General Land Office, showing that said land was reserved to the said Thomas Wall.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be read a third time, was read the third time, and passed.

A. W. TORESON.

The next business on the Private Calendar was the bill (H. R. 22437) for the relief of A. W. Toreson, son and heir of Anna M. Toreson, deceased.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to restore to public entry the following parcel of land situate in Modoc County, Susanville land district, in the State of California, to wit:

The south half of the southwest quarter, the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter, section 9, township 41 north, range 10 east, Mount Diablo base and meridian, in California, containing 160 acres.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized, upon compliance with the foregoing section and proof of said compliance by the entryman under the timber-and-stone act of June 3, 1878, and acts amendatory thereof, to issue to A. W. Toreson, son and heir of Anna M. Toreson, deceased, a patent for the south half of the southwest quarter, the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter, section 9, township 41 north, range 10 east, Mount Diablo base and meridian, being the same land described in section 1 of this act.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, Mr. Speaker, if anybody can give me any information about this bill I wish they would. Anna M. Toreson took up a homestead claim, I believe, she being a very old lady, and died, leaving several children. This bill proposes to turn that right over to A. W. Toreson as the son and heir of Anna M. Toreson. What becomes of the other heirs? How do they eliminate the claim of the other heirs?

Mr. KAHN. Mr. Speaker, this is a bill introduced by my colleague Mr. RAKER, who is away. I ask that the bill be passed over without prejudice.

The SPEAKER pro tempore. The gentleman from California [Mr. KAHN] requests that the consideration of this bill be passed without prejudice. Without objection, it will be so ordered.

There was no objection.

JOHN M. OAK.

The next business on the Private Calendar was the bill (H. R. 17709) for the relief of John M. Oak.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John M. Oak, postmaster at Bangor, Me., out of any money in the Treasury not otherwise appropriated, the sum of $110,184.85, for postal funds, key-deposit funds, postage stamps and other stamped paper, and such further sum as shall be ascertained to have been lost from money-order funds, on account of losses resulting from fire April 30, 1911.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The Clerk will read the committee amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the Postmaster General be, and he is hereby, authorized and directed to credit the accounts of John M. Oak, postmaster at Bangor, Me., in the sum of $132,311.12, due to the United States on account of postal funds, key-deposit funds, money-order funds, postage stamps, and other stamped paper on account of losses resulting from fire April 30, 1911."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

ANTONIA SOUSA, DECEASED.

The next business on the Private Calendar was the bill (H. R. 2070) for the relief of the estate of Antonia Sousa, deceased.

The bill was read, with a committee amendment.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Let the bill go over, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

REFUND TO THE SPARROW GRAVELY TOBACCO CO.

The next business on the Private Calendar was the bill (H. R. 18213) to refund to the Sparrow Gravely Tobacco Co. the sum of $173.52, with penalty and interest, the same having been erroneously paid by them to the Government of the United States.

The Clerk read the bill, as follows:

Whereas heretofore, to wit, in the month of June, 1908, a tax of $173.52 was assessed against the Sparrow Gravely Tobacco Co. by the Commissioner of Internal Revenue in the western district of Virginia, the same being for a deficiency in the account of the said company for the year 1907; and

Whereas this assessment was by reason of the fact that the said company had erroneously omitted to include in their inventory for January 1, 1908, 1 hogshead of scrap tobacco; and

Whereas this omission was an honest error on the part of the said company, which the Internal Revenue Department did not allow them to correct by means of an amended inventory; and

Whereas as the result of this error on the part of the said company, and the refusal of the department to allow the same to be corrected, the said company has been compelled to pay to the Government the above assessment, with penalty and interest, which said amount was in excess of what was actually due from the said company to the Government: Now therefore,

Be it enacted, etc., That the said sum of $173.52, with interest and penalty, is hereby directed to be refunded to the said Sparrow Gravely Tobacco Co. from the Treasury of the United States.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object—I shall not object, for I think it is a very meritorious proposition—it will not do any particular good to pass the bill. It does not purport to appropriate any money for the payment of the claim.

Mr. BARTLETT. Mr. Speaker, I know nothing about this bill; but I want to call attention to a state of facts with reference to men and small corporations that are not subject to the corporation tax that have failed by a day or two, and sometimes by a week, to make a return, and have been assessed under a penalty ranging from $25 up. There is no means by which those people have been able to secure relief from that penalty. This appears to have been a fault or mistake by the owners of this tobacco, or whatever it was, in making the returns.

A bill has been pending before the Committee on Ways and Means for a year, in which an effort has been made to authorize the Secretary of the Treasury to settle or compromise these penalties against these corporations all over the country which are not subject to the corporation tax and who have failed to make the returns in time showing that they are not subject. There are now 30,000 cases of this kind in the office of the Commissioner of Internal Revenue awaiting treatment.

Mr. MANN. I will say to the gentleman that, of course, irrespective of that, in this particular case there was a mere error of a clerk in adding up the figures on the inventory. There was no negligence on the part of anybody whatever.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Page 1, in lines 14 and 15, strike out the words "one hogshead of scrap tobacco," and insert in lieu thereof the words "one bin of plug tobacco in process."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 2, lines 3 and 4, strike out the words "$73.52, with interest and penalty," and insert in lieu thereof "$76.90."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. HAY, Mr. POU, and Mr. STEPHENS of Mississippi rose.

Mr. POU. Mr. Speaker, I want to offer an amendment to this bill before it is finally disposed of.

The SPEAKER pro tempore. The gentleman will send the amendment to the Clerk's desk.

Mr. POU. If the gentleman from Virginia [Mr. HAY] will by unanimous consent go ahead, I will ask unanimous consent to recur to this bill after the gentleman from Virginia finishes.

ROBERT H. PECK.

Mr. HAY. Mr. Speaker, a moment ago a bill for the relief of Capt. Robert H. Peck was laid aside until I could secure the bill which has passed the Senate. I have the bill now, and I ask that it be considered.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 6636) to authorize the President of the United States to appoint Robert H. Peck a captain in the Army.

Be it enacted, etc., That the President of the United States, in his discretion, be, and he is hereby, authorized to appoint Robert H. Peck to the grade of captain of Infantry, United States Army, to take rank at the foot of the list of captains of Infantry; and that no back pay or allowances shall accrue as a result of the passage of this act; and that there shall be no increase in the total number of officers now authorized by law by reason of the passage of this act.

Mr. HAY. Mr. Speaker, I ask that the House bill (No. 4509) of similar character be laid on the table.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. Is there objection to the consideration of the bill.

There was no objection.

The bill was ordered to a third reading, was read the third time, and passed.

LLOYD L. R. KREBS.

Mr. HAY. Mr. Speaker, while the gentleman from North Carolina is arranging his amendment——

Mr. POU. I will say to the gentleman from Virginia [Mr. HAY] it was a little difficult to get this amendment in proper shape, and I will ask that the call of the calendar proceed until I have it completed.

The SPEAKER pro tempore. Without objection, the bill under consideration will be temporarily laid aside.

Mr. MANN. What bill is it?

Mr. BARTLETT. A tobacco bill.

Mr. HAY. It is a bill which was just passed over.

Mr. Speaker, the gentleman from Illinois [Mr. MANN] a moment ago objected to the House bill 7142, for the relief of Lloyd L. R. Krebs. The gentleman now states that he will withdraw his objection if I will state that, in my judgment, this is a bill that ought to be passed and is of very great merit. I want to say that I so regard it, and I have no personal interest in it or connection whatever with the parties interested. And, as the gentleman does not object, I hope the bill will be passed. It has already been read.

The SPEAKER pro tempore. The Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 7142) authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

I. S. ROGERS AND J. L. WORTHLEY.

The next business on the Private Calendar was the bill (H. R. 7650) for the relief of I. S. Rogers and J. L. Worthley.

The Clerk read the bill, as follows:

Be it enacted, etc., That the sum of $1,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to reimburse I. S. Rogers and J. L. Worthley for money paid to the proper officers of the court as bondsmen for U. G. Copeland, indicted for violating section 5438 of the Revised Statutes, who was afterwards, to wit, on the 16th day of April, 1910, duly tried and convicted in the District Court of the United States for the Western Division of the Eastern District of Arkansas for his offense and sentenced to imprisonment at hard labor in the United States penitentiary at Atlanta, Ga., for a period of five years, the said I. S. Rogers and J. L. Worthley rendering material aid to the Government in the apprehension and prosecution of the said U. G. Copeland.

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from Arkansas [Mr. MACON], who introduced the bill, for a short statement in reference to it.

The SPEAKER pro tempore. The gentleman from Arkansas [Mr. MACON] is not present.

Mr. CANDLER. The gentleman is temporarily absent from the city; otherwise, I think he would be here.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 3, strike out the words "one thousand" and insert in lieu thereof "seven hundred and fifty."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

COWDEN & COWDEN.

The next business on the Private Calendar was the bill (H. R. 17850) to pay Cowden & Cowden, of Amory, Monroe County, Miss., for the loss of a horse while being used by the Department of Agriculture.

The Clerk read the bill, as follows:

A bill (H. R. 17850) to pay Cowden & Cowden, of Amory, Monroe County, Miss., for the loss of a horse while being used by the Department of Agriculture.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Cowden & Cowden, of Amory, Monroe County, Miss., the sum of $200 for a horse that died while in use by employees of the Department of Agriculture.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman what good it would do to pass the bill, there being no appropriation in it? Second, why the Government should have to pay for the loss of a horse. It says that it was the result of the improper use and the neglect of one of the employees of the Agricultural Department. Why do you not require the employee to pay for the horse he killed through improper use and neglect?

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I reserve the right to object. I would like to hear from the gentleman from Tombigbee. [Laughter.]

Mr. CANDLER. The facts in relation to this bill were fully submitted to the Agricultural Department and thoroughly considered by the Secretary of that department. He recommended, as is contained in the report, that a reasonable sum be appropriated to pay for the horse.

Mr. MANN. Does not the gentleman think that the committee ought to comply with that recommendation and put an appropriation in the bill? If you pass this bill 40 times it would not give the man any money.

Mr. CANDLER. That can be avoided very easily.

Mr. MANN. It can not be avoided unless an amendment is offered.

The Clerk read the following amendment:

On page 1, line 5, strike out the words "two hundred" and insert the words "one hundred and thirty-five."

The amendment was agreed to.

Mr. CANDLER. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 1, line 4, after the word "pay," insert the words "out of any money not otherwise appropriated."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

LLOYD L. R. KREBS.

Mr. HAY. Mr. Speaker, since the bill H. R. 7142, in relation to appointing Lloyd L. R. Krebs a captain in the Medical Corps, was passed, I have in my hand now a similar bill passed by the Senate. I ask unanimous consent that the proceedings with reference to that bill may be vacated and that the Committee on Military Affairs may be discharged from the consideration of the Senate bill, and that the Senate bill be substituted for the House bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the Senate bill.

The Clerk read the Senate bill, as follows:

An act (S. 1337) authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act.

Be it enacted, etc., That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, to be a major of the Medical Corps on the retired list of the Army. And the retired list is hereby increased by one for the purposes of this act.

The bill was ordered to be read a third time, was read the third time, and passed.

The bill H. R. 7142 was ordered to lie on the table.

J. M. H. MELLON AND OTHERS.

The next business on the Private Calendar was the bill (H. R. 20873) for the relief of J. M. H. Mellon, administrator, James A. Mellon, Thomas D. Mellon, Mrs. E. L. Sevird, J. M. H. Mellon,

Bessie Blue, Mrs Simpson, Annie Turley, C. B. Eyler, Luella C. Pearce, John McCracken, A. J. Mellon, J. J. Marlin, Eugene Richmond, Springdale Methodist Episcopal Church, Heidekamp Mirror Co., James P. Confer, jr., W. P. Bigley, W. J. Bole, and S. A. Moyer, all of Allegheny County, Pa.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, with interest thereon from July 1, 1907, to J. M. H. Mellon, administrator, the sum of $3,001.52, to James A. Mellon the sum of $2,002.70, to Thomas D. Mellon the sum of $1,258.03, to Mrs. E. L. Sevird the sum of $366.75, to J. M. H. Mellon the sum of $151, to Bessie Blue the sum of $75, to Mrs. Simpson the sum of $13.80, to Annie Turley the sum of $47.15, to C. B. Eyler the sum of $437, to Luella C. Pearce the sum of $918.70, to John McCracken the sum of $63.25, to A. J. Mellon the sum of $821.84, to J. J. Marlin the sum of $51.75, to Eugene Richmond the sum of $36.80, to the Springdale Methodist Episcopal Church the sum of $270, to Heidekamp Mirror Co. the sum of $7,057.21, to James P. Confer, jr., the sum of $28.75, to W. P. Bigley the sum of $552, to W. J. Bole the sum of $330.75, and to S. A. Moyer the sum of $34.50, as compensation for the injuries sustained by them by reason of a flood in the Allegheny River in January, 1907, said principal sums being the amounts recommended to be paid the parties herein named by the Chief of Engineers, United States Army.

The following committee amendments were read:

Page 2, line 3, strike out the name "Sevird" and insert in lieu thereof the name "Siverd."

Page 2, line 14, strike out the name "Marlin" and insert in lieu thereof the name "Martin."

Page 2, line 23, strike out the word "and."

Page 2, after the word "cents," in line 24, insert the following: "and Albert Weiss the sum of $59.38."

Page 1, line 6, strike out "with interest from July 1, 1907."

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended.

SPARROW-GRAVELY TOBACCO CO.

Mr. POU. Mr. Speaker, I ask unanimous consent to recur to Calendar No. 102, the bill (H. R. 18213) to refund to the Sparrow-Gravely Tobacco Co. moneys erroneously paid for the purpose of altering an amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. POU. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 2, lines 5 and 6, strike out the words "directed to be refunded to be" and insert in lieu thereof the words "appropriated out of any money in the Treasury not otherwise appropriated and reimburse."

And, in lines 6 and 7, strike out the words "from the Treasury of the United States" and insert the words "the sum aforesaid having been erroneously paid by said company to the United States Government."

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

JOHN C. SULLIVAN.

The next business on the Private Calendar was the bill (H. R. 18294) for the relief of John C. Sullivan.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I object.

HENRY W. CARPENTER.

The next business on the Private Calendar was the bill (H. R. 12476) for the relief of Henry W. Carpenter.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Let it go over.

The SPEAKER pro tempore. The gentleman from Illinois objects.

HARRY S. WADE.

The next business on the Private Calendar was the bill (H. R. 15181) for the relief of Harry S. Wade.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask a question. Is the man not entitled to receive or has he received compensation under the general compensation act?

Mr. LAFFERTY. He is entitled to receive compensation for one year at the rate of $53 a month, which will amount to $636.

Mr. MANN. He is entitled to receive compensation under the general act.

Mr. LAFFERTY. Not compensation in full, but $636.

Mr. MANN. Whatever it is.

Mr. LAFFERTY. The fact is that this young man——

Mr. MANN. I do not propose the facts at this time. The fact is that this is the first bill that has been reported in which it is proposed to pay a man for personal injuries where he already had received compensation under the original act. If this bill passes, every man who receives an injury under the Government, having received some compensation, will thereupon ask a Member of Congress to introduce a bill for him. It will require discussion at some other time.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Let it go over.

The SPEAKER pro tempore. The gentleman from Illinois objects.

THEODORE SALUS.

The next business on the Private Calendar was the bill (H. R. 13938) for the relief of Theodore Salus.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Theodore Salus, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 for the loss of his eyes and other physical injuries received by him in an explosion at Agana, island of Guam, on February 12, 1906, while he was in the employ of the Government of the United States and in the discharge of his duties as a foreman of labor at the town of Agana, island of Guam, as aforesaid.

With the following committee amendment:

Line 6, strike out the word "five" and insert in lieu thereof the word "three."

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. The question now is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

MARY E. QUINN.

The next business on the Private Calendar was the bill (H. R. 644) for the relief of Mary E. Quinn.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mary E. Quinn, whose husband, James H. Quinn, was fatally injured by an accident at the Watertown Arsenal, Watertown, Mass., on July 10, 1905, out of the Treasury of the United States, from any money not otherwise appropriated, the sum of $5,000.

With the following committee amendments:

Line 7, strike out the word "five" and insert the word "three."

Line 9, strike out the words "five thousand" and insert the words "one thousand five hundred."

The SPEAKER pro tempore. Is there objection.

Mr. MANN. Mr. Speaker, reserving the right to object, the committee, I see, reports an amendment to strike out $5,000 and insert in lieu thereof $1,500. I shall take my chances on that amendment being agreed to in the absence of my genial friend from Tennessee [Mr. AUSTIN].

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The question was taken, and the committee amendments were agreed to.

The SPEAKER pro tempore. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

JOHN JOHNSON.

The next business on the Private Calendar was the bill (H. R. 14333) for the relief of John Johnson.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John Johnson, out of any money in the Treasury not otherwise appropriated, the sum of $5,000, which sum is hereby appropriated, for permanent injuries sustained by said John Johnson at White Shoals Government Light Station, Lake Michigan, first district, on June 29, 1909.

With the following committee amendment:

Line 6, strike out the word "five" and insert in lieu thereof the word "one."

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I offer the following amendments, which I send to the desk and ask to have read.

The Clerk read as follows:

Line 9, strike out the words "first district," and in line 8 strike out the word "Government."

The SPEAKER pro tempore. The question is on agreeing to the amendments offered by the gentleman from Illinois.

The question was taken, and the amendments were agreed to.

The SPEAKER pro tempore. The question now is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

FRANK WENZEL.

The next business on the Private Calendar was the bill (H. R. 16621) for the indemnification of Frank Wenzel.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to Frank Wenzel, former employee of the Treasury Department, the sum of $5,000, to indemnify him for permanent personal injuries received by him December 6, 1895, by reason of the defective condition and management of the passenger elevator in the Government building in the city of Toledo, county of Lucas, and State of Ohio.

With the following committee amendment:

Lines 6 and 7, strike out the words "five thousand" and insert in lieu thereof the words "seven hundred and fifty."

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I ask to have the spelling of the word "Toledo," in line 11, corrected.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 11, correct the spelling of the word "Toledo."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

H. C. OWENS.

The next business on the Private Calendar was the bill (H. R. 22863) for the relief of H. C. Owens.

The Clerk read the bill, as follows:

Be it enacted, etc., That the sum of $10,000, for the benefit of H. C. Owens, who lost his eye as the result of injuries received on the 30th day of April, 1908, by being struck by the arm of a steam shovel on a train of the Isthmian Canal Commission, at San Pablo Cabin, belonging to the United States and being operated on the Panama Railroad at San Pablo Cabin, in the Canal Zone, be hereby appropriated out of any money in the Treasury not otherwise appropriated, the same to be paid to H. C. Owens by the Secretary of the Treasury immediately upon the approval of this act.

With the following committee amendment:

Line 3, strike out the words "ten thousand" and insert in lieu thereof the words "two thousand five hundred."

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask a question. The general law on this subject became a law on May 30, 1908. This man was injured on April 30, 1908, which is 30 days before the general law took effect. If he had been injured 31 days after he was he would have received compensation under the general law. Is the gentleman prepared to say how much that would be?

Mr. WILLIS. Mr. Speaker, I am not prepared to say exactly how much it would be. I presume it would be a year's pay, whatever that would be. I do not know what the pay per month was.

Mr. MANN. I will ask the gentleman whether, irrespective of this case, he believes it ought to be the policy of the Government, when it passes a law beneficent in its purpose and a man could secure compensation under that, to pay him twice as much because the accident happened just before the law took effect?

Mr. WILLIS. Mr. Speaker, in response to that I want to say that it is doubtful in my mind whether this man would have been entitled to compensation even though he had been injured, as the gentleman from Illinois suggests, 31 days later, because the circumstances of this case are peculiar. This man was in the employ of the Panama Railroad. He was injured not through any fault of any employee of the Panama Railroad, so he has no relief as against the railroad company. He was injured through the negligence of certain people in the employ of the Isthmian Canal Commission.

Mr. MANN. The railroad can pay him. The claim is, however, that he was injured by the Government.

Mr. WILLIS. He was injured by the employees of the Isthmian Canal Commission. This man has entirely lost his sight. He was a conductor, a railroad man, before he went on the Isthmus, and since coming back has been unable, of course, to secure employment in that work. He is totally and permanently disabled for that kind of work. It seems to me, in view of that, that the allowance made by the committee of $2,500 for the total loss of sight is not unreasonable.

Mr. MANN. The gentleman can go out here to various institutions and find many people who are totally disabled. He can find plenty of people in the District of Columbia who are totally disabled as far as eyesight is concerned, and yet I have not heard that that was a reason why the Government should make appropriations in order to pay them. There is no pretense in this case, I can see, that anybody was negligent in the matter.

Mr. WILLIS. Oh, yes; I think I can show the gentleman——

Mr. MANN. I have been over the record thoroughly.

The SPEAKER pro tempore. Is there objection?

Mr. WILLIS. I hope the gentleman will not object.

The SPEAKER pro tempore. The Chair hears none.

The Clerk reported the committee amendment, as follows:

Page 1, line 3, strike out the words "ten thousand" and insert in lieu thereof the words "two thousand five hundred."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

TRANQUILINO LUNA.

The next business on the Private Calendar was the bill (H. R. 19819) to authorize the payment of $2,000 to the widow of the late Tranquilino Luna, in full for his contest expenses in the contested-election case of Manzanares against Luna.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Let the bill go over.

WILLIAM F. NORRIS.

The next business on the Private Calendar was the bill (H. R. 3668) for the relief of William F. Norris.

The bill was read.

Mr. MANN. Let the bill go over.

The SPEAKER pro tempore. The gentleman from Illinois objects.

SLAVO RAMADANOVITCH.

The next business on the Private Calendar was the bill (S. 462) for the relief of Slavo Ramadanovitch, of Cettigne, a Montenegrin subject, heir and administrator of Marcus Ramadanovitch, alias Radich, deceased.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Slavo Ramadanovitch, of Cettigne, a Montenegrin subject, heir and administrator of Marcus Ramadanovitch, alias Radich, deceased, formerly a Montenegrin subject, the sum of $6,396, recommended by the President in his message to Congress dated July 5, 1909.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, I do not think there is very much merit in this bill. It has been recommended by several Secretaries of State; however, I am not going to object.

Mr. POU. I will state to the gentleman that the committee gave this bill very careful consideration, and I do not hesitate to say it is an entirely meritorious bill, so much so that the President of the United States felt constrained to recommend the appropriation of this money in a message, and the committee thinks it will promote the relations between the two countries if the recommendation of the President be followed.

Mr. MANN. I believe this bill is the result of the pernicious, if not the persistent, activities of some of the gentlemen who represent foreign countries here and have little else to do. They got a report from the Secretary of State and got a message from the President. I do not think there is any merit in the bill, but if it tends to promote foreign relations, which I do not think it does, I shall not object.

The SPEAKER pro tempore. Is there objection?

Mr. FOSTER. Mr. Speaker, just a moment. When was this message from the President sent to Congress?

Mr. POU. In 1909. I will state to the gentleman from Illinois it is perfectly clear——

Mr. MANN. If the gentleman wants to argue the facts, I am perfectly willing to do so, but I have not objected.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be read a third time, was read the third time, and passed.

RALPH E. HESS.

The next business on the Private Calendar was the bill (H. R. 12131) for the reimbursement of Ralph E. Hess for two horses lost while hired by the United States Geological Survey.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Ralph E. Hess, of Visalia, Cal., the sum of $150 in compensation for two horses lost while hired by the United States Geological Survey.

The SPEAKER pro tempore. Is there objection?

Mr. FOSTER. Mr. Speaker, this bill is for the pay of those horses that got away and were never heard of since. They must have been very valuable horses, because I see they got $15 for 30 days' use of them. Does the committee know whether that is the full amount for the two horses?

Mr. MANN. The evidence showed this man hired these from some sort of a relative, and that if he had hired them from somebody else it would have cost a great deal more money. I was wondering why these two horses were figured at $150 in California, when we have just provided $135 for one in Mississippi.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

MARY J. MANNING.

The next business on the Private Calendar was the bill (H. R. 7672) for the relief of Mary J. Manning.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mary J. Manning the sum of $334.49, being the amount of money paid by J. H. Mitchell as surety on the bail bond of one Thad Manning, which money was paid under a mistake of fact, the said Thad Manning being dead at the date for which judgment was rendered against his said surety, the said money having been collected by said J. H. Mitchell from said Mary J. Manning, the widow of said Thad Manning, by the sale of certain of her property, which had been conveyed by mortgage for the purpose of indemnifying the said surety, J. H. Mitchell.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

WILLIAM B. TAYLOR.

The next business on the Private Calendar was the bill (H. R. 21760) for the relief of the estate of William B. Taylor.

The bill was read.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I ask to have that bill go over.

The SPEAKER pro tempore. The gentleman from Illinois objects. The Clerk will report the next bill.

SAMUEL BUTTER & CO.

The next business on the Private Calendar was the bill (H. R. 20511) for the relief of Samuel Butter & Co.

The bill was read.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Let it go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects. The Clerk will report the next bill.

ROBERT F. SCOTT.

The next business on the Private Calendar was the bill (H. R. 17355) for the relief of Robert F. Scott.

The bill was read.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Let the bill go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects. The Clerk will report the next bill.

HEIRS OF VICTIMS OF FORT LAFAYETTE EXPLOSION.

The next business on the Private Calendar was the bill (H. R. 15594) for the relief of the heirs of those killed in the explosion at Fort Lafayette, February 19, 1903.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the heirs and legal representatives of those who were killed in the employ of the United States in the discharge of their duties on the 19th day of February, 1903, at Fort Lafayette, in the harbor of New York, by the explosion of an 8-inch shell, the respective sums hereinafter stated, being a sum equal to one year's pay, or a part thereof, at the rate of compensation paid the injured employee at the time of his injury, the same being in full, and the receipt of the same being taken and accepted in each case as full and final release and discharge of the respective claims, namely:

To pay $895.20 to the heirs or legal representatives of William Van Gurp.

To pay $895.20 to the heirs or legal representatives of Gustav Doser.

To pay $895 to the heirs or legal representatives of John Mason.

To pay $895.20 to the heirs or legal representatives of Frederick Munder.

To pay $730 to the heirs or legal representatives of James Clancey.

To pay $1,209.60 to the heirs or legal representatives of John Rother: *Provided*, That where the deceased left a widow and children the widow shall receive one-half, and the children shall share alike.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, I would like to ask some gentleman in reference to this bill. It just provides for the payment of money to the heirs and legal representatives of those who were killed. That is general language. If the legal representatives are heirs, that possibly could be done, but I do not see how it could be. Then, when it gets over in the bill farther it names the amounts and provides that the money shall be paid to the heirs of the legal representatives. A legal representative should be the administrator. If this is paid to the legal representatives, it may be applied in the payment of a debt——

Mr. CANNON. Ought not "legal representatives" be stricken out all through?

Mr. MANN. I am calling this to the attention of the House in the hope that whoever is interested in the bill before it gets through and is made a law will have it fixed so that somebody can have the money. I do not think the department will be entitled to determine.

Mr. CANNON. Will the gentleman yield? Have we ever appropriated in these injury cases to pay the debts of the party?

Mr. MANN. We never have attempted to do that. I guess it would be as well to strike out "legal representatives" and do it the other way.

Mr. GREEN of Iowa. There would be no objection to that as far as that is concerned.

Mr. MANN. I move to strike out, on page 1, line 5, the words "and legal representatives."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 1, lines 5 and 6, by striking out the words "and legal representatives."

The amendment was agreed to.

Mr. MANN. Then I move to strike out, on page 2, wherever they occur, the words "or legal representatives."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

On page 2 strike out wherever they occur the words "or legal representatives."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

CLAIMS OF SETTLERS, SHERMAN COUNTY, OREG.

The next business on the Private Calendar was the bill (S. 295) to adjust the claims of certain settlers in Sherman County, Oreg.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I ask to have that go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

HEIRS OF WILLIAM HANNUM.

The next business on the Private Calendar was the bill (H. R. 14748) to refund certain taxes paid by the heirs of William Hannum, deceased.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. FOSTER. This is one of the bills of the kind that we had up a while ago. There is no use in reading it.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. FOSTER] objects.

BOLOGNESI, HARTFIELD & CO.

The next business on the Private Calendar was the bill (H. R. 21403) for the relief of Bolognesi, Hartfield & Co.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I think that should go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

J. KENNARD & SONS CARPET CO.

The next business on the Private Calendar was the bill (S. 4007) for the relief of the J. Kennard & Sons Carpet Co.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. POU. Mr. Speaker, I ask that that be passed over.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. POU] objects.

JOHN T. HAINES.

The next business on the Private Calendar was the bill (S. 4778) to correct the military record of John T. Haines.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Let that go over, too.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

LEGAL HEIRS OF A. G. STRAIN.

The next business on the Private Calendar was the bill (S. 2427) for the relief of the legal heirs of A. G. Strain.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Commissioner of the General Land Office be, and he is hereby, authorized to relinquish to the legal heirs of A. G. Strain, by proper deed of conveyance, all title which the said A. G. Strain had vested in the United States Government to the following-described lands: North half northeast quarter and north half northwest quarter, section 22, township 4 north, range 15 west, San Bernardino meridian, in the county of Los Angeles, State of California: *Provided*, That the said heirs of A. G. Strain make satisfactory proof of such conveyance to the United States of said land by the submission of an abstract of title, together with the deed of conveyance to the United States of the same, which said deed and abstract or abstracts shall be retained in the files of the General Land Office.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

H. C. HODGES, H. A. POWELL, JOHN SMITH, AND JOSEPH RIDLEY.

The next business on the Private Calendar was the bill (H. R. 20692) for the relief of H. C. Hodges, H. A. Powell, John Smith, and Joseph Ridley.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I ask to have that bill go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

H. J. RANDOLPH HEMMING.

The next business on the Private Calendar was the bill (H. R. 21526) for the relief of H. J. Randolph Hemming.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I ask to have that go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

ELLEN M. STONE.

The next business on the Private Calendar was the bill (H. R. 2461) to provide for the repayment of the ransom of Ellen M. Stone.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I ask to have that passed over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

Mr. SHARP. Mr. Speaker, may I ask the gentleman to withhold his objection for a moment?

Mr. MANN. For the purpose of making a speech on the bill?

Mr. SHARP. Just a moment, in which to make an explanation.

Mr. MANN. Well, that might require me to make a speech of 15 or 20 minutes.

Mr. GREEN of Iowa. Mr. Speaker, I would like to state that the bill has been drawn on the wrong supposition as to the parties. It will have to be remodeled anyway.

The SPEAKER pro tempore. Does the gentleman from Illinois [Mr. MANN] withhold his objection?

Mr. MANN. I do not.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

GEORGE P. HEARD.

The next business on the Private Calendar was the bill (H. R. 23080) for the relief of George P. Heard.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I ask, Mr. Speaker, that that go over.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

JOHN J. TROXELL.

The next business on the Private Calendar was the bill (H. R. 5135) to correct the military record of John J. Troxell.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, usually these bills recently have given a man a pensionable status. This proposes to revoke an order which dismissed him. The fact is, the man got into a row with Gen. McCook.

Mr. GARNER. Some one has suggested that the President has vetoed a number of bills of this character.

Mr. FOSTER. He has vetoed bills where it changed the record. I have never known the President to sign a bill where it changes the record in the War Department. This provides for giving this man an honorable discharge, which he has not now.

Mr. PEPPER. It is not a case of desertion, and it is the desertion cases that have been vetoed.

Mr. FOSTER. I remember distinctly that I had a bill that passed the House twice without opposition, went through the Senate, and went to both Presidents that we have had within the last few years, and they both vetoed the bill.

Mr. WILLIS. Will the gentleman yield?

Mr. MANN. I will yield to the gentleman.

Mr. WILLIS. The bill is in the form which I understand would meet the objections raised to the other bill. What the gentleman refers to is the objection which the Chief Executive had to attempting to falsify the record of the War Department. There is no attempt to change the record here.

Mr. MANN. Why not? It says that the order is revoked and set aside.

Mr. WILLIS. The record still stands there.

Mr. MANN. This purports to set aside the record.

Mr. GARNER. Let me ask the gentleman. The object, I suppose, is to get this man a pensionable status?

Mr. WILLIS. Certainly.

Mr. GARNER. Then why not put it in the form used recently to remove the impediment for securing a pension?

Mr. MANN. I think this bill had better go over, and I object.

GASTON LEE HOLMES.

The next business on the Private Calendar was the bill (H. R. 14607) authorizing the President to reinstate Gaston Lee Holmes as a midshipman in the United States Naval Academy.

Mr. MANN. Let that bill go over.

JOHN W. WEST.

The next business on the Private Calendar was the bill (H. R. 6544) for the relief of the heirs of John W. West, deceased.

Mr. BURKE of South Dakota. Let that bill go over.

LUTHER BURBANK.

The next business on the Private Calendar was the bill (H. R. 23043) to patent certain semiarid lands to Luther Burbank, under certain conditions.

The Clerk read the bill, as follows:

Be it enacted, etc., That there be set aside for a period of five years such portions of the unappropriated, nonmineral, and nonirrigable unreserved lands situated in California, New Mexico, Arizona, and Nevada as Luther Burbank, of Santa Rosa, Cal., may select, not to exceed 12 sections in all, and the right to enter the same and propagate the spineless cacti thereon, erecting all necessary improvements, and clearing and tilling the soil thereof, be granted the said Luther Burbank, his heirs, and successors in interest.

SEC. 2. That the Secretary of the Interior be directed to issue patent from the United States to the said Luther Burbank, his heirs, or successors in interest, for all or any legal subdivision of the said lands so set aside upon the payment of $1.25 per acre, or $2.50 per acre if the same be reserved sections within any railroad grant, as purchase price, provided said payment is made within the said five years: *Provided*, That no patent shall issue until the said Luther Burbank or his heirs or successors in interest shall have had at least 100,000 growing plants of spineless cacti of a character suitable for animal food upon said lands or some part thereof for the period of two years: *Provided further*, That the land selected shall be approved by the Secretary of the Interior, and that the Commissioner of the General Land Office shall certify as to the semiarid, nonmineral, nonirrigable, and unsuitable character of the said lands for agricultural purposes under present methods of agriculture before the same shall be set aside as herein provided, and that said certificate shall be conclusive as to the character of said lands.

The Clerk read the following committee amendments:

On page 1, line 4, after the word "unappropriated," add a comma.

On the same line, after the word "nonmineral," strike out the word "and" and insert "nontimber." On the same line, after the word "nonirrigable," insert the word "and."

On page 1, line 5, before the word "land," insert the word "public."

On page 1, line 13, strike out the words "from the United States."

On page 2, at the end of line 10, after the word "years" and before the colon, insert the following: "and until it has been shown to the satisfaction of the Secretary of the Interior that the lands to be patented are suitable for the growth of spineless cacti valuable for domestic animal food."

On page 2, in line 12, strike out the words "and that" after the word "Interior" and insert the word "when."

On page 2, in line 13, strike out the words "as to the" before the word "semiarid" and insert the following words: "to the Secretary of the Interior is."

On page 2, line 14, after the word "nonirrigable," insert the words "nontimbered, unreserved," and strike out the words "the character of said land" in lines 14 and 15.

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

E. ROSENWALD & BRO.

The next business on the Private Calendar was the bill (H. R. 20124) for the relief of E. Rosenwald & Bro.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to E. Rosenwald & Bro. the sum of $4,922.85, which sum is hereby appropriated, being the amount of money unlawfully collected from said E. Rosenwald & Bro. upon an entry covering 186 bales of unstemmed wrapper tobacco, made upon June 1, 1909, and liquidated upon October 4, 1909.

Such liquidation was unlawfully made and said duty unlawfully levied, assessed, and collected upon 2,660.51 pounds of tobacco more than the actual amount of said entry upon proper allowance for tare.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

MEETING OF THE HOUSE NEXT WEEK.

Mr. UNDERWOOD. Mr. Speaker, I desire to ask unanimous consent that when the House adjourns on Monday next it adjourn to meet on Thursday, June 27, and that when it adjourns on Thursday, June 27, it adjourn to meet on Monday, July 1.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent that when the House adjourns on Monday next it be to meet on Thursday, June 27, and that when it adjourns on Thursday, June 27, it be to meet on Monday, July 1. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, can we have an understanding among those who are here that the House after Monday next until the following Monday will transact no business whatever except the reading of the Journal?

Mr. UNDERWOOD. And the motion to adjourn. That is the purpose. My purpose is if this is agreed to, to do that, except that on Monday next we will transact such business that may come up.

Mr. MANN. Monday is District day, and if they have any business we can transact that. Otherwise I guess we will have no business.

Mr. CANNON. Mr. Speaker, I want to suggest to the gentleman from Alabama that under this order we will adjourn from Thursday next until the day the new fiscal year begins. Public service will stop unless some provision is made for it. It seems to me, as there is to be a practical adjournment during that time there ought to be a resolution extending the appropriations, as is usual in such case, for 15 or 30 days, as the case may be, or until further order.

Mr. UNDERWOOD. Mr. Speaker, I will say to the gentleman from Illinois that as far as the House is concerned the appropriation bills are in the Senate, and the House, I think, could have disposed of the appropriation bills before the 1st day of July if the Senate had acted upon them, but the Senate has already agreed not to transact any business whatever until the 1st day of July. Therefore, if we send a resolution of the kind referred to to extend appropriations for the next fiscal year it would accomplish no result.

Mr. CANNON. Had we not better throw the responsibility on the Senate?

Mr. MANN. I would suggest to my colleague that if they desire to do that, of course, it could be done to-morrow or upon Monday.

Mr. UNDERWOOD. Yes; there is an opportunity to do so, but I do not see that anything will be accomplished by it as the Senate has already agreed to transact no business.

Mr. CANNON. It is perfectly patent that without violating the law all along the line, with the exception of here and there a permanent appropriation and with certain exceptions touching the Army and Navy, that the public service will stop unless, as I say, everybody is guilty of serious infraction of the law.

Mr. GARNER. But the point the gentleman suggests is that the Senate has agreed by unanimous consent to transact no business until the 1st day of July. A resolution of the character suggested by the gentleman from Illinois could not meet with any action on the part of the Senate under that unanimous-consent agreement. Therefore, it would be useless for us to pass that kind of a resolution at this time.

Mr. CANNON. It seems to me that the resolution ought to pass. In other words, all public business stops on the 1st day of July unless an appropriation is made to continue it.

Mr. GARNER. But the Senate will meet on the 1st day of July and the House will meet on the 1st day of July. A resolution of that kind could be passed through each of them on that day, if it was deemed advisable.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. MANN. Mr. Speaker, I suppose the gentleman intends to move to adjourn after that request is agreed to?

Mr. UNDERWOOD. There is a unanimous-consent request over on this side, and I wish to also ask unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow at 10 o'clock, so as to accommodate certain gentlemen who have some very important business to be transacted later in the afternoon.

Mr. MANN. The business in order to-morrow ought not to take very long, and I do not see any necessity for meeting before 12 o'clock.

Mr. CANNON. Oh, we will be away from here by 4 o'clock.

Mr. UNDERWOOD. I will ask the Chair to submit my request.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent that when the House adjourns on Monday next it adjourn to meet on the following Thursday, and that when it adjourns on that day, the 27th, it adjourn to meet the following Monday, July 1. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. UNDERWOOD. I would now like to see if I can agree with the gentleman from Illinois about meeting to-morrow morning. There is yet about a page and a half of this Private Calendar.

Mr. MANN. But that is not in order to-morrow.

Mr. UNDERWOOD. Oh, yes; it is in order under the rule.

Mr. MANN. No; pension business is in order to-morrow.

Mr. UNDERWOOD. If the pension bills are disposed of, then this would be in order.

Mr. MANN. I do not think so.

Mr. UNDERWOOD. I remember very clearly the request I made that this matter should be in order, not to interfere with pension bills, on any day this week.

Mr. MANN. It is not material. I do not expect we shall spend very much time on the Private Calendar to-morrow outside of pension bills. We will have plenty of time to go through the Private Calendar before we adjourn and dispose of these matters.

Mr. SIMS. Mr. Speaker, I have a resolution, which I am very anxious to have passed, to send certain matters to the Court of Claims.

Mr. MANN. There is no hurry about that. That does not have to pass the Senate.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that when we adjourn to-day we adjourn to meet to-morrow at 11 o'clock.

Mr. MANN. Mr. Speaker, we met this morning at 10 o'clock. I object.

OLMSTEAD LANDS, NORTH CAROLINA.

The SPEAKER pro tempore laid before the House the bill (H. R. 20738) for the transfer of the so-called Olmstead lands in the State of North Carolina from the Solicitor of the Treasury to the Secretary of Agriculture, with a Senate amendment thereto.

The Clerk read the Senate amendment.

Mr. HAWLEY. Mr. Speaker, I ask unanimous consent that the Senate amendment be agreed to.

The SPEAKER pro tempore. Is there objection? [After a pause]. The Chair hears none, and it is so ordered.

ALEXANDER HAMILTON STEPHENS.

Mr. EDWARDS. Mr. Speaker, I ask unanimous consent to have printed in the RECORD an address delivered by Hon. WILLIAM G. BRANTLEY, of Georgia, on the occasion of the unveiling of a tablet to the memory of Alexander Hamilton Stephens, of Georgia, by the Confederate Memorial Literary Society in Richmond, Va., May 22, 1912.

The SPEAKER pro tempore. Is there objection to the request? [After a pause]. The Chair hears none, and it is so ordered.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 17681. An act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes;

H. R. 18712. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 23765. An act granting pensions and increases of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 22867. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy

and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 22194. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 20628. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors;

The SPEAKER announced his signature to enrolled joint resolution and bills of the following titles:

S. J. Res. 101. Joint resolution to appoint Andrew D. White a member of the Board of Regents of the Smithsonian Institution;

S. 3203. An act to authorize the sale of certain lands within the Umatilla Indian Reservation to the city of Pendleton, Oreg.; and

S. 6479. An act to authorize the St. Louis Southwestern Railway Co. to repair, alter, or rebuild certain bridges in the State of Arkansas.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p. m.) the House adjourned to meet to-morrow, Saturday, June 22, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FERRIS, from the Committee on Indian Affairs, to which was referred the bill (S. 6776) for the relief of the Apache Indians held as prisoners of war on the Fort Sill Military Reservation, in Oklahoma, and for other purposes, reported the same with amendment, accompanied by a report (No. 917), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOUSTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners, reported the same with amendment, accompanied by a report (No. 919), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAMLIN, from the Committee on Interstate and Foreign Commerce, to which was referred the resolution (H. Res. 577) to investigate certain coal companies doing business in Two Harbors, Minn., reported the same without amendment, accompanied by a report (No. 918), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PRAY: A bill (H. R. 25470) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER: A bill (H. R. 25471) to provide for the construction of a public building at Anoka, Minn.; to the Committee on Public Buildings and Grounds.

By Mr. WATKINS: A bill (H. R. 25472) to amend section 801 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

By Mr. KINKAID of Nebraska (by request): A bill (H. R. 25473) to provide small farm homes for worthy citizens of the United States; to the Committee on Rules.

By Mr. CARTER: A bill (H. R. 25474) to provide for the holding of two regular terms of the United States District Court for the Eastern District of the State of Oklahoma at Hugo, Okla.; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 25475) granting a pension to Ariadne Leak Andrews; to the Committee on Pensions.

By Mr. ANDERSON of Ohio: A bill (H. R. 25476) granting a pension to George L. Mickle; to the Committee on Pensions.

Also, a bill (H. R. 25477) to remove the charge of desertion and grant an honorable discharge to James Kane; to the Committee on Military Affairs.

By Mr. AUSTIN: A bill (H. R. 25478) granting a pension to Jane Taylor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25479) granting a pension to Hannah Norwood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25480) to correct the military record of James H. Thompson; to the Committee on Military Affairs.

By Mr. BATHRICK: A bill (H. R. 25481) granting an increase of pension to Francis J. Truesdell; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 25482) granting a pension to George A. Loughery; to the Committee on Pensions.

Also, a bill (H. R. 25483) for the relief of the heirs of Alexander Stalnaker; to the Committee on War Claims.

Also, a bill (H. R. 25484) for the relief of the heirs of Bryson Hamilton; to the Committee on War Claims.

By Mr. HAMILTON of Michigan: A bill (H. R. 25485) granting an increase of pension to J. W. Linsley; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 25486) granting an increase of pension to Francis M. King; to the Committee on Invalid Pensions.

By Mr. HAMLIN: A bill (H. R. 25487) granting a pension to James W. Scott; to the Committee on Invalid Pensions.

By Mr. HOWARD: A bill (H. R. 25488) for the relief of heirs or estate of Wilson W. Whitaker, deceased; to the Committee on War Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 25489) for the relief of Daniel O'Riley; to the Committee on War Claims.

By Mr. KINKAID of Nebraska: A bill (H. R. 25490) granting a pension to George Uhl; to the Committee on Pensions.

By Mr. MARTIN of Colorado: A bill (H. R. 25491) granting an increase of pension to Harriet G. Sangster; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25492) granting an increase of pension to Samuel S. Jones; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 25493) granting an increase of pension to Nancy E. Hutcheson; to the Committee on Pensions.

By Mr. POST: A bill (H. R. 25494) granting an increase of pension to William R. Clark; to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 25495) granting an increase of pension to Joseph Phillips; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 25496) granting a pension to Mary White; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 25497) granting an increase of pension to James Wilkins; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of Polish societies of the States of Indiana, Illinois, Ohio, New Jersey, Michigan, and Arkansas, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Polish Society No. 532, of Oswego, N. Y., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of societies of the Polish Roman Catholic Union of America of the States of Michigan, Indiana, Illinois, Kansas, and New York, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ALLEN: Memorial of Episcopal Church Club, of Cincinnati, Ohio, favoring passage of bill for relief of Alaskan natives; to the Committee on the Territories.

Also, memorial of Order of Independent Americans, of the State of Pennsylvania, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. AYRES: Memorial of Pennsylvania Civil Service Reform Association, against passage of provision of section 5

in House bill 24023, relative to five-year tenure of office for Government employees; to the Committee on Appropriations.

By Mr. BARNHART: Memorial of St. Urban Society, No. 399, of Otis, Ind., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. BROWN: Papers to accompany a bill for the relief of the heirs of Bryson Hamilton; to the Committee on War Claims.

Also, papers to accompany bill for the relief of the heirs of Alexander Stolmaker; to the Committee on War Claims.

By Mr. CANNON: Memorial of Polish-American citizens of Chicago, Ill., and Polish National Alliance of the United States of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petitions of Carl Brewer and 6 others, of Onarga; A. Sutton and 5 others, of St. Anne; W. Smith & Son and 10 others, of Milford; Wilson & West and 2 others, of Martinton; George Camps and 6 others, of Minooka; Arnold Harken Co. and 5 others, of Peotone; F. M. Wright Co. and 8 others, of Manteno; Hennessy & Spies and 8 others, of Chebanse; M. R. Meents & Sons and 14 others, of Clifton; O. L. Calkins and 9 others, of Momence; Trobaugh, Kraft & Wright and 1 other, of Gilman; Sterrenberg & Voigt and 2 others, of Crescent City; and Volberding Shoe Co. and 11 others, of Watseka, all in the State of Illinois, protesting against the enactment of proposed parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. DRAPER: Memorial of Pennsylvania Civil Service Reform Association, against passage of section 5 of House bill 24023, relative to five-year tenure of office for Government employees; to the Committee on Appropriations.

By Mr. DANIEL A. DRISCOLL: Petition of United Spanish War Veterans of New York City, favoring passage of House bill 17470, providing pensions for widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, memorial of Queen Hedwig Society, No. 393, of Buffalo, N. Y., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of Chamber of Commerce of Trenton, N. J., against passage of Senate bill 5458, relating to building bridge over the Delaware River near Trenton; to the Committee on Interstate and Foreign Commerce.

Also, petition of Order of Railway Conductors of America, Division No. 175, of Memphis, Tenn., against passage of the proposed employers' liability and workmen's compensation act; to the Committee on the Judiciary.

Also, petition of C. A. Burrows, of Lancaster, Pa., favoring passage of House bill 13114, old-age pension bill; to the Committee on Pensions.

By Mr. GOEKE: Petition of 35 textile workers of Brunswick, Me., favoring passage of the Goeke postal-express bill; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILL: Memorial of Trenton Chamber of Commerce, of Trenton, N. J., against passage of Senate bill 5458, relative to building a bridge across the Delaware River at Trenton; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the United Business Men's Association of Philadelphia, Pa., favoring passage of House bill 9242, relative to pensions for civil-service employees; to the Committee on Reform in Civil Service.

By Mr. HARDWICK: Papers in support of bill (H. R. 24940) granting an increase of pension to Mrs. C. A. Stovall; to the Committee on Pensions.

By Mr. LAFFERTY: Memorial of Pendleton Commercial Association, of Pendleton, Oreg., favoring the opening of the Columbia and Snake Rivers to navigation and the utilization of the machinery used in constructing the Panama Canal for the purpose; to the Committee on Interstate and Foreign Commerce.

By Mr. MAHER: Memorial of citizens of Danbury, Conn., and Bay Ridge, Brooklyn, N. Y., against passage of Senate bill No. 5458, relative to celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. MOORE of Pennsylvania: Memorial of Philadelphia Board of Trade, favoring appointment of a commission for the consideration of the questions involved in the further amendment of the patent law; to the Committee on Patents.

Also, memorial of Trenton Chamber of Commerce, of Trenton, N. J., against passage of Senate bill No. 5458, relative to locating bridge by Pennsylvania Railroad Co. near Trenton; to the Committee on Interstate and Foreign Commerce.

By Mr. REDFIELD: Memorial of Our Lady of Azenstochova Society, No. 259, of Brooklyn, N. Y., and Labor Council of Greater New York, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of United Garment Workers of America, favoring passage of the seamen's bill No. 22673, relative to safety for crew and passengers on vessels; to the Committee on the Merchant Marine and Fisheries.

By Mr. REILLY: Memorial of Trenton Chamber of Commerce, of Trenton, N. J., against passage of Senate bill 5458, relative to placing of bridge by Pennsylvania Railroad Co. over the Delaware River near Trenton; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Bridgeport, Conn., against passage of the Burton-Littleton bill relative to celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

Also, petition of Wilson & West and 2 others, of Martinton; Arnold Harken Co. and 5 others, of Peotone; George Camps and 6 others of Minooka; F. M. Wright Co. and 8 others, of Manteno; Hennessy & Spies and 8 others, of Chebanse; M. R. Meents & Son and 10 others, of Clifton; L. W. Calkins and 9 others, of Momence; Trobaugh, Kraft & Wright and 1 other, of Gilman; Sterrenberg & Voigt and 2 others, of Crescent City; and Volberding Shoe Co. and 11 others, of Watseka, all in the State of Illinois, praying for the enactment of legislation giving the Interstate Commerce Commission control over express rates and classifications; to the Committee on Interstate and Foreign Commerce.

Also, petition on behalf of 401,658 soldiers and sailors of the Spanish-American War, favoring passage of House bill 17470, for granting pensions to widows and orphans of same; to the Committee on Pensions.

By Mr. SABATH: Memorial of Polish Societies of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. SAMUEL W. SMITH: Memorial of Jewish Community of Detroit, Mich., against passage of the Dillingham bill, providing literacy test for immigrants; to the Committee on Immigration and Naturalization.

By Mr. SULZER: Petition of United Spanish War Veterans of New York City, favoring passage of House bill 17470, relative to pensions for widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, memorial of Philadelphia Chamber of Commerce, of Philadelphia, Pa., favoring the extension of the merit system to the Consular and Diplomatic Service; to the Committee on Foreign Affairs.

By Mr. WEBB: Petition of Council No. 69, Junior Order United American Mechanics, of North Carolina, and Daughters of Liberty of North Carolina, both favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WILSON of New York: Petition of Order of Railway Conductors of America, Division No. 175, of Memphis, Tenn., against passage of employers' liability and workmen's compensation act; to the Committee on the Judiciary.

Also, memorial of Brooklyn Chapter of American Institute of Architects, against the repeal of the Tarnsey Act by the sundry civil bill; to the Committee on Appropriations.

Also, petition of Daughters of Liberty of New York City, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

HOUSE OF REPRESENTATIVES.

SATURDAY, *June 22, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, we thank Thee for that never-failing providence which has shaped and guided the destiny of Thy children from savagery through barbarism to civilization; which in spite of the untoward circumstances of life, in spite of the efforts of men, unwittingly it may have been, to turn back the tide of civilization, it has steadily moved forward, and we most fervently pray that Thou wilt continue to protect, bless, and guide us that Thy kingdom may come and Thy will be done in earth as it is in heaven. In the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that all private pension bills to be considered to-day on the calendar be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Missouri asks unanimous consent that all private pension bills that may be considered to-day shall be considered in the House as in the Committee of the Whole. Is there objection?

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to take up the bill S. 6340.

The SPEAKER. The Clerk will report the bill.

The Clerk read the title, as follows:

S. 6340. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. Somebody has suggested that the Chair has neglected to put the request of the gentleman from Missouri [Mr. RUSSELL] to consider the bills in the House as in the Committee of the Whole, and therefore the Chair will put the request of the gentleman from Missouri over again.

Mr. RUSSELL. The Speaker was interrupted by the gentleman from Iowa [Mr. GREEN] and has not submitted the proposition.

The SPEAKER. Is there objection to the request of the gentleman from Missouri [Mr. RUSSELL]?

Mr. TRIBBLE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Missouri [Mr. RUSSELL] two or three questions. I want to know if the committee has arrived at any policy which they propose to pursue in the future in view of the fact that the President has recently signed a bill making general legislation in regard to pensions? Since that time has the gentleman arrived at any idea as to what course will be pursued in the future in regard to private pension bills?

Mr. RUSSELL. I will state that the committee has taken no official action upon that question. I can state to the gentleman, however, my own feelings about the matter if he would like to have me do so.

Mr. TRIBBLE. I think an expression of yours would be representative as coming from the committee.

Mr. RUSSELL. I will state to the gentleman that since we have passed the general pension bill there will be less demand and less necessity for private pension bills, and personally I do not favor hereafter reporting private bills for those who are beneficiaries under the general law, except in cases where they are helpless from age or disease, so as to need an attendant. That is my personal position. I believe where a man is blind, where he is crippled, or where he is bedfast and needs an attendant, he ought to have more than the amount provided by the general bill, and I shall favor bills of that sort.

And as to widows who are not affected at all by the general bill, if they have meritorious cases according to precedents heretofore adopted by Congress, I do not think that they ought to be prevented from having the same rights that they have had heretofore. That is my own feelings in the matter. [Applause.]

Mr. TRIBBLE. Does the gentleman think that this view, while it has not come formally from the committee, expresses the sentiment of the committee?

Mr. RUSSELL. I have talked with a number of the members of the committee about it, and, without binding anybody, I will say that I believe that will be the policy of the committee in the next Congress.

I want to say, however, that here is a bill that we reported to the House about a month ago, nearly all the items of which were considered by the committee before the general bill was passed, and in a great many cases the beneficiaries at home have been notified that the committee has indorsed and favorably reported their bills. Therefore I think this bill now pending in the House ought, for these reasons, to be passed, regardless of the general bill.

Mr. TRIBBLE. That is all.

Mr. SIMS. Mr. Speaker, for the information of the gentleman from Georgia [Mr. TRIBBLE] I will state that a few days ago I had official notice—that is, I mean by that it was sent by the chairman of the Committee on Invalid Pensions—declining to report a bill which I had before the committee with the proper evidence until an application had first been made under the general law recently passed, and naturally I inferred that that would be the policy pursued by the committee in other cases, inasmuch as that was done in my case.

Mr. TRIBBLE. The gentleman thinks that will be the policy of the committee?

Mr. RUSSELL. Yes, as now constituted.

Mr. SIMS. I know that is the case, so far as my bill is concerned.

The SPEAKER. Is there objection to the request of the gentleman from Missouri [Mr. RUSSELL]?

Mr. HOWARD. Mr. Speaker, at this particular time I would like to ask the Chair if it would be in order for me to make a correction in the RECORD?

The SPEAKER. Yes. The Chair will entertain the request. But I would suggest to the gentleman to wait until the Chair puts the other request. That is the way it got knocked out before. Is there objection to the request of the gentleman from Missouri [Mr. RUSSELL] that pension bills that are called up to-day shall be considered in the House as in Committee of the Whole? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will proceed with the reading of the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Michael Grace, late of Company A, Thirty-fourth Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The name of Andrew J. Laws, late of Company C, Second Regiment Washington Mounted Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of John T. Peel, late of Company A, Thirty-sixth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Robert S. Kariho, late of Company E, Thirty-eighth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Perry L. Sargent, late of Company G, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rachel T. Beck, widow of William H. Beck, late lieutenant colonel Third Regiment United States Cavalry, and brigadier general, United States Army, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The name of Arthur W. S. Maw, late of Company E, Fourteenth Regiment United States Cavalry, and Company I, Fourth Regiment United States Infantry, and pay him a pension at the rate of $20 per month.

The name of William H. Sterling, late of Company K, First Regiment Colorado Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Lehr, late of Company D, Third Regiment New Jersey Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Willson G. Nowers, late of Capt. Hancock's company of Cavalry, Nauvoo Legion, Utah Volunteers, Utah Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Winfield S. Gibbs, late of Capt. John Guess's company, Minute Men, Second Regiment Oregon Mounted Volunteers, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Marcellus Moore, late of Capt. Bagby's company, Texas Mounted Volunteers, Texas and New Mexico Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The above bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 782. Michael Grace.
S. 2483. Andrew J. Laws.
S. 2833. John T. Peel.
S. 3687. Robert S. Kariho.
S. 3825. Perry L. Sargent.
S. 4678. Rachel T. Beck.
S. 5341. Arthur W. S. Maw.
S. 5388. William H. Sterling.
S. 5457. John Lehr.
S. 5476. Willson G. Nowers.
S. 5640. Winfield S. Gibbs.
S. 5656. Marcellus Moore.

The SPEAKER. The Clerk will report the committee amendments.

The Clerk read the first committee amendment, as follows:

Amend, page 1, by striking out all of lines 6, 7, and 8.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read the next committee amendment, as follows:

Amend, page 2, by striking out all of lines 12 to 15, inclusive.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Amend by striking out all of lines 21 to 24, inclusive.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Amend, page 3, line 3, by striking out the word "thirty" and inserting in lieu thereof the word "sixteen."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. RICHARDSON. Mr. Speaker, I now call up the bill (S. 6384) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and to certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Martin Markeson, late of Company F, Thirty-fifth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Rebecca Strouther, dependent mother of Charles Strouther, late of Company G, Forty-ninth Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Frederick S. Barrows, jr., late of Company K, Third Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Maggie Boutiette, widow of Cyril Boutiette, late scout and guide United States Army, and pay her a pension at the rate of $12 per month.

The name of William H. Hinkel, late of Troop H, Fifth Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William C. Emison, late of Company L, One hundred and fifty-ninth Regiment Indiana Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of William A. Hickok, late of Company D, Third Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of William Quinlivan, late of Troop A, First Regiment United States Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Mary Meade Sands, widow of James H. Sands, late captain and rear admiral, United States Navy, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The name of Francis M. Tibbetts, late of Capt. W. W. Chapman's Company I, Second Regiment Oregon Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of William E. Bailey, late of Company A, Tenth Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The above bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 559. Martin Markeson.
S. 799. Rebecca Strouther.
S. 2525. Frederick S. Barrows, jr.
S. 2850. Maggie Boutiette.
S. 3301. William H. Hinkel.
S. 3585. William C. Emison.
S. 3601. William A. Hickok.
S. 5216. William Quinlivan.
S. 5655. Mary Meade Sands.
S. 6023. Francis M. Tibbetts.
S. 6326. William E. Bailey.

The Clerk read the following committee amendments:

On page 2 strike out lines 1, 2, 3, and 4.

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Amend page 2 by striking out lines 5, 6, 7, and 8.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to withdraw that committee amendment.

The SPEAKER. The gentleman from Alabama asks unanimous consent to withdraw the committee amendment and let the original text stand. Is there objection?

There was no objection.

The Clerk read the next committee amendment, as follows:

Amend page 2 by striking out lines 10 and 11.

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Amend page 3 by striking out lines 5, 6, 7, and 8.

The amendment was agreed to.

The amended bill was ordered to be read a third time, was read the third time, and passed.

Mr. RICHARDSON. Mr. Speaker, I now call up the bill (H. R. 17470) to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection.

Mr. MANN. Mr. Speaker, that is not a Private Calendar bill.

Mr. RICHARDSON. I ask unanimous consent that that bill be passed over without prejudice.

The SPEAKER. It can not come up. Only bills that are on the Private Calendar can be considered to-day, and not general pension laws.

Mr. RICHARDSON. Mr. Speaker, I now call up the bill (S. 5623) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Alfred Faucher, late of Company F, Forty-third Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of George W. Simmons, late of Capt. Swindal's company, Second Regiment Washington Mounted Volunteer Infantry, Oregon and Washington Territory Indian War, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of John W. Barnes, late of Company H, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Thomas Gorman, late of Company B, First Regiment New Hampshire Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Alan P. Wilson, late of Company I, Second Regiment Virginia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of John H. Mumaw, late of Company I, Eighth Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Richard Burnside, late of Company C, Thirty-eighth Regiment United States Infantry, and pay him a pension at the rate of $10 per month.

The name of James Petree, late of Capt. W. H. Latshaw's company, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian War, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Bertha B. Byrne, widow of Bernard A. Byrne, late lieutenant colonel Fortieth Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving, and $2 per month additional on account of each of the minor children of said Bernard A. Byrne until they reach the age of 16 years.

The name of George Berry, late of Company H, First Regiment Montana Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Roberson Ford, late of Capts. Kelly and Stafford's company, Oregon Volunteers, Oregon and Washington Territory Indian War, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Allen Tyler, late of Sixteenth Battery United States Field Artillery, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Willoughby Churchill, late of Company D (Capt. M. M. Williams), Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian War, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of John McCombs, late of Capt. John F. Miller's company, Oregon Mounted Volunteers, Oregon and Washington Territory Indian War, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Anne Jones Banks, widow of William Banks, late of Capt. William M. Allred's company, Nauvoo Legion, Utah Volunteers, Utah Indian War, and pay her a pension at the rate of $8 per month.

The name of Emily Whitman, widow of Luther Whitman, late of Capt. Ortons's company, New York Militia, War of 1812, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Frank H. Lasher, late of Company D, Twenty-seventh Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month.

The name of George A. Wageck, late of Company L, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The above bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 345. Alfred Faucher.
S. 892. George W. Simmons.
S. 1368. John W. Barnes.
S. 2157. Thomas Gorman.
S. 2711. Alan P. Wilson.
S. 3137. John H. Mumaw.
S. 3270. Richard Burnside.
S. 3683. James Petree.
S. 3755. Bertha B. Byrne.
S. 4018. George Berry.
S. 4132. Roberson Ford.
S. 4503. Allen Tyler.
S. 4538. Willoughby Churchill.
S. 4612. John McCombs.
S. 4765. Anne Jones Banks.
S. 4814. Emily Whitman.
S. 4875. Frank H. Lasher.
S. 4914. George A. Wageck.

The SPEAKER pro tempore (Mr. JAMES). The Clerk will report the first committee amendment.

The Clerk read as follows:

Amend, page 4, by striking out lines 10, 11, and 12.

The amendment was agreed to.

Mr. MANN. Mr. Speaker, I would like to ask the gentleman from Alabama what order he is observing in calling up these bills. Naturally, under the rule they would be called up in the order they stand on the calendar.

Mr. RICHARDSON. I intended to call them up in the order that they appear on the calendar, but in regard to this one I made a mistake.

Mr. MANN. Then the gentleman intends to have them called up in the order that they stand on the calendar?

Mr. RICHARDSON. Yes; but in this case I made a mistake. I am not going to omit a single one.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER pro tempore. The Chair would suggest to the gentleman from Alabama that he allow the bills to be called in their order on the calendar. The Chair is of the impression that that is the agreement, and that under the rule they should be called in that way.

Mr. RICHARDSON. Very well.

The next business on the Private Calendar was the bill (H. R. 24322) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Anna J. Meilstrup, dependent mother of Elmer M. Meilstrup, late ordinary seaman, United States Navy, and pay her a pension at the rate of $12 per month.

The name of Margaret E. Fugatt, widow of Royal S. Fugatt, late of Company G, First Missouri Mounted Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John H. Brown, late of the United States ship Worden, United States Navy, and pay him a pension at the rate of $15 per month.

The name of Sherman A. Cole, late of Company D, Twentieth Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The name of John A. Shannon, late of Company I, Second Regiment Alabama Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Charles B. Swinney, late of Company B, Sixth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Theodore W. Swan, late of Company G, Sixth Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of George C. Rimes, late of Company E, Thirty-fifth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of William Ramsey, late of Troop B, United States Mounted Riflemen, War with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Mercer, as dependent father of Grover C. Mercer, late of United States Navy, and pay him a pension at the rate of $12 per month.

The name of John S. Scheerer, late of the United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Wesley J. Banks, late of Company A, First Regiment Indiana Volunteer Infantry, War with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ronald B. Veach, late of Company A, Eleventh Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $18 per month in lieu of that he is now receiving.

The name of Clinton L. Coleman, late of Company L, Tenth Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month.

The name of William M. Hanks, late of Company C, Ninth Regiment Illinois Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of John G. Morgan, late of Sargent's company, First Regiment Georgia Volunteers, War with Mexico, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lawrence Z. Hoffman, late of Company F, Tenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Rupert Haas, late of Company E, Sixth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $6 per month.

The name of Charles Myer, late of Company E, First Regiment Georgia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jacob Mandelbaum, late of Troop H, Seventh Regiment United States Cavalry, War with Spain, and pay him a pension at the rate of $24 per month.

The name of Elizabeth S. Tinsley, widow of Alfred M. Tinsley, late of Capt. Bennett's company, First Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The above bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 3674. Anna Meilstrup.
H. R. 4301. Margaret E. Fugatt.
H. R. 4583. John H. Brown.
H. R. 7072. Sherman A. Cole.
H. R. 8698. John A. Shannon.
H. R. 9721. Charles B. Swinney.
H. R. 11280. Theodore W. Swan.
H. R. 11342. George C. Rimes.
H. R. 12436. William Ramsey.
H. R. 13813. William H. Mercer.
H. R. 13852. John S. Scheerer.
H. R. 14649. Wesley J. Banks.
H. R. 16323. Ronald B. Veach.
H. R. 16799. Clinton L. Coleman.
H. R. 18519. William M. Hanks.
H. R. 18814. John G. Morgan.
H. R. 19713. Lawrence Z. Hoffman.
H. R. 20634. Rupert Haas.
H. R. 20999. Charles Myer.
H. R. 22228. Jacob Mandelbaum.
H. R. 23692. Elizabeth S. Tinsley.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (H. R. 24602) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Frank Newman, late of Company G, Sixth Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Mathew M. Ledwien, late of Company K, Fifteenth Regiment Minnesota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $8 per month.

The name of Frank E. Lyman, jr., late first lieutenant, Signal Corps, United States Army, and pay him a pension at the rate of $24 per month.

The name of Walter A. Menges, late of the band, Nineteenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $15 per month.

The name of Eliza T. Henderson, mother of Jesse H. Henderson, late of Company C, Forty-first Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Frank W. Petmecky, late of Capt. G. H. Nelson's company, Texas Volunteers, against Mexican marauders and Indian depredations, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of William Fetterer, late of Company K, Fourth Regiment United States Infantry, and pay him a pension at the rate of $17 per month in lieu of that he is now receiving.

The name of Ira N. Haney, late of Company C, First Regiment New York Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Ralph A. Anderson, late of Company L, Fourth Regiment Pennsylvania Volunteer Infantry, War with Spain, and pay him a pension at the rate of $15 per month.

The name of Lora Sims, widow of William W. Sims, late of Company H, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of three minor children of the soldier until they, respectively, reach the age of 16 years.

The name of William F. Bauchle, late of the Hospital Corps, United States Army, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Sinclair R. Boone, late of Company I, Second Regiment South Carolina Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Bennie C. Longan, late of Company K, Second Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Mark E. Cooper, late of Battery E, Second Regiment United States Artillery, War with Spain, and pay him a pension at the rate of $12 per month.

The above bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 112. Frank Newman.
H. R. 2651. Mathew M. Ledwien.
H. R. 7169. Frank E. Lyman, jr.
H. R. 9809. Walter A. Menges.
H. R. 12430. Eliza T. Henderson.
H. R. 13128. Frank W. Petmecky.
H. R. 13247. William Fetterer.
H. R. 14220. Ira N. Haney.
H. R. 14276. Ralph A. Anderson.
H. R. 15656. Lora Sims.
H. R. 16117. William F. Bauchle.
H. R. 18275. Sinclair R. Boone.
H. R. 21435. Bennie C. Longan.
H. R. 23297. Mark E. Cooper.
H. R. 23300. Isaac Smith.
H. R. 23301. James M. Roberts.
H. R. 23302. Henry Schwethelm.

Mr. TAGGART. Mr. Speaker, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 4, by adding, after line 14, as a new paragraph the following:

"The name of Sarah Jane Scurlock, formerly the widow of Benjamin Franklin Gordon, late of Capt. Walton's company, First Regiment Missouri Volunteers, under Col. Doniphan, War with Mexico, and pay her a pension at the rate of $30 per month.

Mr. TAGGART. Mr. Speaker, in behalf of this amendment I have no criticism whatsoever to offer of the action of the committee. I simply wish to say that the claim has been unfavorably considered by the committee, for the reason that this widow does not have in law a pensionable status at this time. The records show that the soldier served faithfully in the Mexican War and was honorably discharged, and that the person for whom this pension is asked married that soldier in 1851. The soldier served in the Confederate Army. He entered the Confederate service as a colonel of the First Missouri Confederate Infantry and continued in the service throughout the war, rising to the rank of brigadier general. In 1866, a year after the close of the war, he died. The testimony before the committee is that he died from a disease contracted in the Mexican War. His widow did not have a pensionable status on account of his service in the Confederate Army. There was no relief as against section 4716 of the Revised Statutes, which precluded a Confederate soldier or his widow from receiving a pension, until 1887, when soldiers who served in the Mexican War were relieved from the restrictions that were laid upon them for having served afterwards in the Confederate Army.

During the period from 1866 until 1873 this widow would have been entitled to a pension at the rate of $8 per month, on account of the death of her husband, because of his service in the Mexican War, if he had not served in the Confederate Army. It has been the policy of Congress to remove these restrictions upon Confederate soldiers and their widows. In 1877 this restriction was modified and again modified later, and just the other day all restrictions were removed from soldiers or their widows on account of the prior service of the soldier in the Confederate Army.

This is a singularly meritorious case. Ample proof is before the committee that this woman was born in 1829; that she has now attained the age of 83 years; that her husband served faithfully in the Mexican War. She remarried in 1873, and in 1889 on account of family difficulties, on account of her children and on account of her husband being utterly unworthy, as the record shows, she secured a legal separation from him. I therefore ask that this amendment be agreed to, not, as I say, in any spirit of criticism of the committee, because I believe the committee has worked faithfully and has observed its rules, but because the rules of the committee are too strict.

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. TAGGART. Mr. Speaker, I ask unanimous consent to proceed for one minute longer.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. TAGGART. Mr. Speaker, I simply wish to say that this is one of the cases that is meritorious, and I ask that the committee accept this amendment and that the House agree to it.

Mr. RICHARDSON. Mr. Speaker, I will say to the gentleman from Kansas that I took the liberty of inclosing to him the rules governing our committee, and I have no doubt that he received and read them. Rule VIII requires that consideration be not given to any bill proposing to restore to the roll the name of a widow whose pension was forfeited by remarriage unless she was the wife of the soldier or sailor during his service. While it is true that this rule is not applicable to this case, it is governed by the same principle, for she was not his wife until after his service. The fact is that at the time the widow made the application for a pension, or afterwards, she was the widow of another and different man. She had remarried and did not at all have a pensionable status and, according to the rule as properly construed, we could not allow her pension.

Mr. TAGGART. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. The gentleman from Kansas does not deny that she remarried and had separated from her last husband, and at the time she made the application for a pension her former husband, whom the gentleman says had been in the Confederate Army, had been dead for many years. She had no pensionable status at all. The committee unanimously, under these circumstances, refused to allow the pension.

Mr. TAGGART. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. Certainly.

Mr. TAGGART. Does the gentleman insist on applying that part of the rules about a widow of a Mexican soldier which provides that she could not be placed on the pension roll unless she was married to the soldier at the time of the Mexican War?

Mr. RICHARDSON. That is the rule and that is the law.

Mr. TAGGART. Does not that rule become absurd because of lapse of time, inasmuch as it is nearly 70 years since that war began? The widow would necessarily be in the neighborhood of 100 years of age in order to have that rule apply.

Mr. RICHARDSON. But this widow did exactly what the rules provide should not be done in order to secure a pension——

Mr. TAGGART. Did she not save the Government of the United States the amount of a pension of $8 a month during the whole interim?

Mr. RICHARDSON. And we very reluctantly declined to grant the pension.

Mr. TAGGART. It surely is not the desire of the gentleman's committee to punish her for having practiced economy in behalf of the Government.

Mr. RICHARDSON. Mr. Speaker, I must object to the amendment.

Mr. MANN. Mr. Speaker, we pass in the course of a session of Congress several thousand pension bills, considering each item as a different bill, although the custom is now to pass them in the form of omnibus bills. It never has been the custom in the House to pass pension bills without their having been considered by a committee. The gentleman's amendment is practically to pass a pension bill without a report from the committee. I am unwilling that a precedent of that sort should be set in the House without at least a considerable membership of the House being present at the time.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Kansas.

The question was taken; and on a division (demanded by Mr. TAGGART) there were—ayes 6, noes 18.

So the amendment was rejected.

The SPEAKER pro tempore. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (H. R. 24796) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Joseph W. Wightman, late fireman, second class, of the United States Navy, War with Spain, and pay him a pension at the rate of $15 per month.

The name of Jesse B. Haptonstall, late of Capt. Williams's company, Second Regiment Washington Territory Volunteers, Oregon and Washington Territory Indian War, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of George E. Matthews, late of Company L, Seventh Regiment Illinois Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Lemuel E. Whitsitt, late of Company E, One hundred and sixty-first Regiment Indiana Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Delia Johnson, widow of Willis Johnson, late of Battery B, Second Regiment United States Artillery, and pay her a pension at the rate of $12 per month.

The name of Louis G. Murray, late of Battery D, Fourth Regiment United States Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Robert Cornell, alias Robert Conners, late of Company B, Twenty-second Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The above bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 6019. Joseph W. Wightman.
H. R. 7230. Jesse B. Haptonstall.
H. R. 13520. George E. Matthews.
H. R. 18350. Lemuel E. Whitsitt.
H. R. 18532. Delia Johnson.
H. R. 22387. Louis G. Murray.
H. R. 23484. Robert Cornell, alias Robert Conners.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (H. R. 24996) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Pryor G. Guseman, late of Company H, First Regiment West Virginia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Elizabeth L. Bayless, widow of James M. Bayless, late of Troop E, Eighth Regiment United States Cavalry, and pay her a pension at the rate of $12 per month, with an additional allowance of $2 per month on account of each of four minor children of the soldier until they, respectively, reach the age of 16 years.

The name of Ann Livingston, dependent mother of Robert E. Livingston, late of Company K, Thirty-second Regiment Michigan Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month.

The name of James W. Fisher, late of Company H, Eighth Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The name of John H. Brogan, late of the United States Navy, and pay him a pension at the rate of $12 per month.

The name of Virginia L. Duplan, widow of Melchior Long Duplan, late of Battery C, Third Regiment United States Artillery, and pay her a pension at the rate of $12 per month.

The above bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 193. Pryor G. Guseman.
H. R. 6978. Elizabeth L. Bayless.
H. R. 13745. Ann Livingston.
H. R. 14436. James W. Fisher.
H. R. 17089. John H. Brogan.
H. R. 19011. Virginia L. Duplan.

Mr. MANN. What has become of the invalid pension bills?

The SPEAKER pro tempore. The Chair is informed by the Clerk that they have been waiting for the gentleman from Alabama to conclude, and then the gentleman from Missouri [Mr. RUSSELL] is going to call those bills up.

Mr. MANN. I am perfectly willing that should be done by consent of the House, but not by private consent. If the gentleman wants to ask unanimous consent to pass over these bills——

Mr. RUSSELL. It was done to accommodate the gentleman from Alabama [Mr. RICHARDSON].

Mr. MANN. Let the gentleman make the request.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent——

Mr. RICHARDSON. I asked that in the beginning. Does the gentleman wish me to ask that for every one?

Mr. RUSSELL. Mr. Speaker, I agreed with the gentleman from Alabama to let him finish his bills, as he is very anxious to get away, having some friends in town, and I ask unanimous consent that bills from the Pensions Committee be first considered, before the bills from the Committee on Invalid Pensions.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent that bills reported from the Pensions Committee be first considered. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (S. 6851) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Joseph Morris, late of Company E, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of William P. Mandeville, late of the U. S. S. Constellation, Rhode Island, and Wabash, United States Navy, and pay him a pension at the rate of $30 per month.

The name of John A. Connolly, late of Company B, First Regiment New Hampshire Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Frederick L. Jones, late of Company B, First Regiment United States Volunteer Engineers, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ann O. Burt, dependent mother of Andrew J. Burt, late captain Company D, Thirty-ninth Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $20 per month.

The name of James A. Bean, late of Capt. Wall's company, Nauvoo Legion, Utah Volunteers, Utah Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Ulysses J. Wannemaker, late of Company E, Third Regiment Illinois Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Cora E. Ruttinger, late nurse, Medical Department, United States Volunteers, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Robert H. Parker, late of Capt. E. J. Harding's Company A, First Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Benjamin A. Yates, late regimental quartermaster sergeant Seventeenth Regiment United States Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Leslie Harding, late of Company E, First Regiment West Virginia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Philip C. Elbert, late of Company E, Third Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Le Claire H. Evans, late of the U. S. S. Nipsic, United States Navy, and pay him a pension at the rate of $10 per month.

The name of Libbins W. Davis, late of Company H, Thirty-first Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Joseph L. Cooper, late of Company E, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of James Tompach, late of Company B, Thirty-ninth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Anderson Wright, late of Company B, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Thomas Roy, late of Company A, First Regiment New Hampshire Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Jennings J. Pierce, late second lieutenant Company I, Fifth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $15 per month.

The name of Joseph P. Sullivan, late of Company D, Second Regiment Oregon Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary Lillie Bauskett, late nurse, Medical Department, United States Volunteers, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Albert W. Kelley, late of Company M, Fourteenth Regiment Minnesota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $17 per month.

The name of Andrew L. Weatherford, late of Company L, Eighteenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Gomecindo Sallas, late of Captain Mickler's independent company, Florida Mounted Volunteers Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Roscoe C. Tartar, late of Sixty-seventh Company United States Coast Artillery, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Paul Lemm, late of Company L, Second Regiment Tennessee Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Andrew Knight, late of Battery F, Fourth Regiment United States Artillery, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Otto Paulson, late of Company I, First Regiment North Dakota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Sarah F. Maynard, widow of Edward T. Maynard, late of Company E, Sixteenth Regiment United States Infantry, and pay her a pension at the rate of $12 per month.

The name of Tivis C. Simmons, late of Company E, Nineteenth Regiment United States Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Florence H. Ridgway, widow of Everett S. Ridgway, late of Hospital Corps, United States Army, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Catharine Huber, widow of William Huber, late of Troop B, Sixth Regiment United States Cavalry, and pay her a pension at the rate of $12 per month.

The name of John K. Jamieson, late of Hospital Corps, United States Army, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Emily J. Chambers, widow of Thomas J. Chambers, late of Company E, First Regiment Washington Territory Mounted Volunteers, Oregon and Washington Territory Indian war, and pay her a pension at the rate of $12 per month.

The name of Chauncey S. Pratt, late of Company G, Twentieth Regiment Kansas Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month.

The name of John Mooney, late of Company H, Twelfth Regiment Minnesota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Benjamin F. Downen, late of Capt. William Martin's Company A, Second Brigade California Mounted Militia, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Martin J. Tunney, late of Troop M, Eighth Regiment United States Cavalry, War with Spain, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Lydia Blanke, widow of Casper Blanke, late of Company C, Fourteenth Regiment United States Infantry, and pay her a pension at the rate of $12 per month.

The name of Susie C. Heilner, widow of Lewis C. Heilner, late rear admiral, United States Navy, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The name of Samuel H. Craig, late of Troop D, Fourth Regiment United States Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The above bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 56. Joseph Morris.
S. 190. William P. Mandeville.
S. 347. John A. Connolly.
S. 394. Frederick L. Jones.
S. 427. Ann O. Burt.
S. 432. James A. Bean.
S. 440. Ulysses J. Wannemaker.
S. 516. Cora E. Ruttinger.
S. 565. Robert H. Parker.
S. 757. Benjamin A. Yates.
S. 794. Leslie Harding.
S. 840. Philip C. Elbert.
S. 842. Le Claire H. Evans.
S. 1136. Libbins W. Davis.
S. 1480. Joseph L. Cooper.
S. 1481. James Tompach.
S. 1634. Anderson Wright.
S. 2074. Thomas Roy.
S. 2416. Jennings J. Pierce.
S. 2476. Joseph P. Sullivan.
S. 2533. Mary Lillie Bauskett.
S. 2557. Albert W. Kelley.
S. 2616. Andrew L. Weatherford.
S. 3029. Gomecindo Sallas.
S. 3188. Roscoe C. Tartar.
S. 3210. Paul Lemm.
S. 3581. Andrew Knight.
S. 3589. Otto Paulson.
S. 3659. Sarah F. Maynard.
S. 3715. Tivis C. Simmons.
S. 4583. Florence H. Ridgway.
S. 5815. Catharine Huber.
S. 6048. John K. Jamieson.
S. 6117. Emily J. Chambers.
S. 6138. Chauncey S. Pratt.
S. 6409. John Mooney.
S. 6437. Benjamin F. Downen.
S. 6607. Martin J. Tunney.
S. 6608. Lydia Blanke.
S. 6667. Susie C. Heilner.
S. 6668. Samuel H. Craig.

The committee amendments were read, as follows:

Amend, page 2, by striking out all of lines 5 to 8, inclusive.
Amend, page 3, by striking out all of lines 9 to 12, inclusive.
Amend, page 4, by striking out all of lines 7 to 10, inclusive.
Amend, page 5, by striking out all of lines 6 to 9, inclusive; 10 to 13, inclusive; and 18 to 21, inclusive.
Amend, page 6, by striking out all of lines 4 to 7, inclusive, and all of lines 12 to 15, inclusive.
Amend, page 7, by striking out all of lines 1 to 5, inclusive, and all of lines 10 to 13, inclusive.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (H. R. 25166) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Mary M. Shambaugh, widow of George W. Shambaugh, late of Company C, Forty-seventh Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of the minor children of the soldier until they reach the age of 16 years.

The name of Charles Larkin, late of Troop A, Eighth Regiment United States Cavalry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samantha Morrison Flint, daughter of William Morrison, late private in Col. Stephen J. Schuyler's regiment of New York Volunteers in the War of the American Revolution, and pay her a pension at the rate of $25 per month.

The name of Ellen Bernard Lee, widow of Fitzhugh Lee, late brigadier general, United States Army, War with Spain, and pay her a pension at the rate of $50 per month.

The name of Myra Joy, widow of Alfred R. Joy, late of Company D, Twenty-first Regiment Kansas Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of the minor children of the soldier until they reach the age of 16 years.

The name of Elroy R. Cary, late of Company E, Sixth Regiment Illinois Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The above bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 7862. Mary M. Shambaugh.
H. R. 8065. Charles Larkin.
H. R. 18135. Samantha Morrison Flint.
H. R. 20532. Ellen Bernard Lee.
H. R. 21806. Myra Joy.
H. R. 23450. Elroy R. Cary.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

ANNIE R. SCHLEY.

The next business on the Private Calendar was the bill (S. 4568) granting an increase of pension to Annie R. Schley.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Annie R. Schley, widow of Winfield S. Schley, late rear admiral, United States Navy, and pay her a pension at the rate of $150 per month in lieu of that she is now receiving.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Amend, page 2, line 1, by striking out the words "one hundred and."

Mr. MANN. Mr. Speaker, I move a substitute for the committee amendment by striking out "one hundred and fifty" and inserting "seventy-five."

The SPEAKER pro tempore. The Clerk will report the substitute.

The Clerk read as follows:

Amend the committee amendment on page 2 by striking out the words "one hundred and fifty" and inserting the word "seventy-five."

Mr. MANN. Mr. Speaker, the Senate passed this bill at $150 a month. I understand the rule is $50 a month. I think the committee acted properly in recommending only $50 a month. Without argument, as I do not intend to take the time for a discussion, I think that the circumstances justify at least some increase over the ordinary amount, and therefore I have offered the substitute to make it $75 a month.

Mr. RICHARDSON. Mr. Speaker, I am obliged to object to the substitute offered by the gentleman from Illinois [Mr. MANN], because it violates the principle upon which the Pension Committee acted, and I can only say that in view of the fact that the Senate had allowed Mrs. Schley $100 over and above what the Pension Committee of the Senate allowed, which was only $50, and gave its reasons for it, the Pension Committee of the House followed the policy of the Pension Committee of the Senate and placed the amount to Mrs. Schley at $50.

I can say to the House now that within 24 hours after the Senate passed that amendment on the floor of the Senate giving Mrs. Schley $150 there were two very worthy and deserving ladies, the widows of distinguished soldiers, who came to me in person and said, "Well, if that has been done, why can not you and the committee do likewise to us and increase our pension?" And that is the custom. That is what the Senate committee provided for Mrs. Schley, namely, $50, and gave strong and convincing reasons for it. And I hold in my hand a large number of names of widows of distinguished officers of the Civil War and of the Spanish-American War where that proceeding was taken. The amount given is more in the nature of a bonus than strictly a pension, and why it should be departed from on account of one deserving widow rather than another I can not understand. I do not think it is right or proper to make that discrimination or that distinction between those widows of distinguished officers. Therefore our committee unanimously concurred with the Senate committee on that subject and differed with the vote taken on the floor of the Senate giving Mrs. Schley $150 instead of $50. And therefore I think the substitute giving her $75 instead of $150 is a total departure from our rule; and if you can depart from it and give $75 to one, there is just a good excuse and the gate is open to give any amount the House or the committee may please.

Mr. BATHRICK. Will the gentleman yield?

Mr. RICHARDSON. Yes; with pleasure.

Mr. BATHRICK. I desire to know as to this rule which you say has prevailed in the Pension Committee regarding the amount intended to be given to widows under these circumstances——

Mr. RICHARDSON. Also having regard to their financial condition, of course.

Mr. BATHRICK (continuing). Have you taken into consideration the fact that Admiral Schley gave to this country extraordinary service, and the service given to the country by husbands of these other widows have not been so extraordinary?

Mr. RICHARDSON. I will say that I was just as much an admirer as anybody in this country of the grand services rendered by Admiral Schley, of the great victories he won for our country, but that is not the question at all that governs in making our decision in a case like this. There are rules which govern our committee and the Senate committee, and it is our imperative duty to abide by and maintain these rules. Any other course opens wide the field of personal partialities. You can understand very well how the Senate, on the floor, under impulse and excitement and feeling and impassioned oratory, departed from the honored custom. I ask for a vote.

The SPEAKER pro tempore. The question is on the substitute of the gentleman from Illinois, to strike out "fifty" and insert "seventy-five," in line 1, page 2.

The question was taken, and the substitute was agreed to.

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The question was taken, and the committee amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (S. 6978) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Grant Noble, late of Company D, Sixteenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Edward F. Shaughnessy, late of Company B, First Regiment New Hampshire Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Gust Carlson, late of Battery B, Utah Volunteer Light Artillery, War with Spain, and pay him a pension at the rate of $10 per month.

The name of Ira Howell, late of Company A, First Regiment Colorado Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Jethro J. T. Garde, late of Company G, Twenty-first Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The name of William Buck, late of Company H, Twenty-third Regiment Kansas Volunteer Infantry, War with Spain, and pay him a pension at the rate of $14 per month.

The name of Anna E. R. Webb, widow of Alexander S. Webb, late brigadier general, United States Volunteers, and brevet brigadier general and major general, United States Army, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Marion Franklin, widow of Samuel R. Franklin, late rear admiral, United States Navy, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The above bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 152. Grant Noble.
S. 350. Edward F. Shaughnessy.
S. 428. Gust Carlson.
S. 451. Ira Howell.
S. 4763. Jethro J. T. Garde.
S. 5324. William Buck.
S. 5393. Anna E. R. Webb.
S. 6676. Marion Franklin.

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read the first committee amendment, as follows:

Amend, page 2, by striking out all of lines 5 to 7, inclusive.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. The Clerk will read the next committee amendment.

The Clerk read as follows:

Amend, page 2, by striking out all of lines 8 to 11, inclusive.

Mr. RAINEY. Mr. Speaker, I want to be heard with reference to this amendment, which strikes out the name of Ira Howell. I do not question the other two amendments—the one which has been adopted, and the one which remains to be acted upon—but I desire to oppose this amendment.

This young man, Ira Howell, was a Spanish-American soldier and he served a year and a half in the Army, and during nearly all that period of time he was in the Philippine Islands. He was a perfectly sound man when he enlisted and he is pensioned now at the rate of $6 a month for lumbago. He filed his claim in the bureau for a pension on account of rheumatism and malarial poisoning, but the Pension Bureau declined to grant his application on this account upon the theory that he could not trace these disabilities to the service.

The medical records on file in the War Department show that during the time he was a soldier he was treated for various injuries and disabilities contracted in the service—contusion of the right knee and bronchitis and acute diarrhea and acute lumbago; and the last time he was examined they rated him at $6 per month. He is getting $6 per month now. The medical board rated him at $6 for disease of the rectum, which the bureau did not allow.

There is an abundance of evidence on file as to the incurrence of his disabilities while in the service, and I think, from an examination of this Senate report and from the evidence, that this is about as worthy a claim as is embraced in this entire Senate bill. The Senate committee awarded him $12 a month and the House committee has stricken it out, upon what theory I do not know, except that perhaps he could go back to the Pension Bureau and pass another examination and possibly get more.

He has tried that repeatedly, and $6 is all they have awarded him. He can trace to the satisfaction of the bureau but one of these injuries back to the service, but the evidence at least tends to show that he contracted them all in the service. He

is a farmer, but he can not work at his calling. He is compelled to do light work to make a living.

I think this committee ought not to recommend this amendment, and I insist that the House should retain the item at the amount fixed by the Senate, namely, $12 a month.

Mr. RICHARDSON. The gentleman from Illinois states that the war records show there was no pensionable disability connected with the soldier's service.

Mr. RAINEY. No; I did not say that. The medical records show that his disabilities were connected with service. He is receiving only $6.

Mr. RICHARDSON. I remember the case, and the committee examined into the case with great care, but we thought that the disability for which he claimed additional pension was not connected with the service. That is the theory of the Pension Committee. The committee demands and requires the disability to be shown to have its origin in the service; otherwise, there is no pensionable status.

Mr. RAINEY. But the Senate Pension Committee, after an equally careful examination, found otherwise, and gave him $12 a month. It is a small matter to give to a Spanish-American War veteran who is suffering from pensionable diseases and disabilities traceable to his service a pension of $12 a month when it is shown that he is incapacitated for pursuing the occupation in which he formerly made his living. It is not much to ask that he should receive $12 a month. I think the gentleman and his committee ought not to insist on the amendment.

Mr. RICHARDSON. The gentleman from Illinois admits that the applicant has been before the Bureau of Pensions and each time his disabilities have been rated at $6. He has been before the bureau several times, and his claims for an increase have been rejected.

Mr. RAINEY. There is no reason at all for the existence of this Pension Committee in this House if they turn down an application for pension simply because it has been rejected by the Pension Bureau.

Mr. RICHARDSON. Oh, I did not say that, and I did not pretend to say it. There is not a pension claim in this bill that has not been rejected by the Pension Bureau on the amount they are claiming.

The SPEAKER pro tempore. The question is on the committee amendment.

The question was taken, and the amendment was rejected.

The Clerk read the next committee amendment, as follows:

Amend, page 2, by striking out lines 12 and 13.

Mr. FRENCH. Mr. Speaker, I would like to be heard respecting that amendment. The Senate inserted in the bill a provision to pension Jethro J. T. Garde, who enlisted in 1876 and served to September, 1877. He contracted a disease of the eyes, and later, after spending some time in the hospital, was discharged, and the surgeon of the regiment, George M. Sternberg, made the following observation on his condition:

Glaucoma: His vision is very imperfect and is becoming worse every day. Disease contracted since enlistment. Disability one-half. Operation of iridectomy proposed to patient and declined by him.

Following that he was discharged, and he applied for a pension, as the records show, and was rejected by the department because "a ratable degree of disability had not been shown since the date of filing on account of disease of the eye."

There is evidence shown, supported by affidavits by doctors, that he has suffered from an ailment of the optic nerve of the right eye, and that it is of such a character as to prevent him from performing any continuous labor. He is otherwise in poor health and has the responsibilities of a family resting upon him that makes his condition an exceptional one, and one that ought to appeal to this House.

Among other conditions he has a child in his home who is afflicted with tuberculosis, and that is an additional burden thereby imposed upon him, and it would seem that that should be an argument in favor of granting the small pension that has been recognized by the Senate to this old soldier. He is a man 64 years of age, is deserving in every way, and I submit that the amendment that has been proposed by the committee to the bill of the Senate ought not to prevail.

Mr. RICHARDSON. Mr. Speaker, the Pension Committee could not go outside and consider children under certain circumstances mentioned by the gentleman unless they are properly brought within the jurisdiction of the Pension Committee. My recollection—and it is very hard to recollect all these cases, there are so many brought before the committee—but my recollection is that the last statement made about it, the certificate of the doctors that examined him afterwards and examined him last, found that his vision had improved wonderfully and that he was not suffering at all, and the Pension Committee considered the disability was not connected sufficiently with the service.

Mr. FRENCH. It was shown that he was discharged on account of this disability connected with his eyes.

Mr. RICHARDSON. Yes; but his eyes were well, and his sight was practically restored.

Mr. FRENCH. He was regarded when discharged as one-half disabled, and now he has an ailment of the optic nerve, and he is not able to perform any continuous work. It is a reasonable presumption, a presumption concurred in by the Senate committee, that the condition of the eyes at this time is the result of the condition at the time of the discharge, and is thereby connected with the service.

Mr. RICHARDSON. My recollection about it is that the Pension Committee looked into this, carefully read all the evidence, as it does always in these cases, and they made a report that the disability was not connected with the service; and hence we turned it down, although the Senate had passed it. We have to do that when we consider that the disability is not connected with the service. I have not heard any satisfactory statement made by the gentleman that it is connected with the service.

Mr. MANN. Mr. Speaker, the discussion has been carried on in such a low tone that we on this side do not know what this amendment is or what it is about.

The SPEAKER pro tempore. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 2, by striking out lines 12, 13, and 14.

Mr. MANN. Is it a committee amendment?

The SPEAKER pro tempore. It is. The question is on the committee amendment.

The question was taken, and the amendment was rejected.

The amended Senate bill was ordered to be read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (H. R. 25304) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of William H. Eoute, late of Companies H and L, Tenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of Paul Heineman, late cook, third class, of the U. S. S. Charleston, United States Navy, and pay him a pension at the rate of $12 per month.

The name of Jay W. Ducatt, late of Company I, First Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Oliver J. Johnson, late of Company D, Third Regiment Virginia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Clara G. Stoney, widow of James M. Stoney, late of Company G, Thirty-second Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of one minor child of the soldier until such child shall reach the age of 16 years.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (S. 5176) granting a pension to Elizabeth B. Preston.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth B. Preston, widow of William B. Preston, late captain Company I, Forty-third Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $20 per month.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

INDIAN WAR SURVIVORS.

Mr. RICHARDSON. Mr. Speaker, I call up now the bill (H. R. 14053) to increase the pensions of Indian war survivors in certain cases.

The SPEAKER pro tempore. The Chair will suggest to the gentleman that that is a bill which is on the Union Calendar.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to suspend the rules and take up this bill and consider it at this time.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent to suspend the rules to take up the bill referred to. Is there objection?

Mr. RUSSELL. Mr. Speaker, I regret that I shall have to object.

Mr. MANN. Is not that bill on the Calendar for Unanimous Consent?

The SPEAKER pro tempore. It is on the Union Calendar.

Mr. MANN. We have a very distinct understanding in the House and the gentleman ought not to press that.

Mr. RICHARDSON. Will not the gentleman permit me to explain the bill?

Mr. MANN. I know what the bill is. I am in favor of the bill, but I object to taking it up in this irregular way. The gentleman must understand he has no right to take it up at this time under the order under which we are operating to-day.

The SPEAKER pro tempore. The gentleman from Illinois objects.

INVALID PENSIONS.

Mr. RUSSELL. Mr. Speaker, I now call up the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Edward S. Allen, late of Company G, Second Regiment Nebraska Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Peter S. Brady, late of Company K, Third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Susan R. Lovell, late nurse, Medical Department, United States Volunteers, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George Relber, late of Company B, Second Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sylvester J. Hervey, late of Company B, Sixth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Murphy, late of Troop C, Fifth Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Luzerne Jones, late of Company A, One hundred and thirtieth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frederick Gunther, late of Company L, Third Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christopher C. Yancey, alias Christopher Columbus, late landsman, U. S. S. Great Western and Naumkeag, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel H. Atwood, late of Companies I and K, Fifth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ephraim Edmonson, late of Company D, Second Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph H. Graham, late captain Company H, Thirteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Fisher, late of Company F, Second Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert McKinnis, late of Company G, Ninth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Fletcher, late of Company H, Thirty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Peter Lory, late of Company I, Twenty-first Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nelson Miller, late of Company E, Tenth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Harvey Ellison, late of Company A, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Andrew Plank, late of Company C, Tenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel S. Jones, late of Company M, First Regiment Indiana Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Boland, late of Company I, Fifty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Chauncey M. Carpenter, late of Company C, Second Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Leavell, late major, Eighth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry J. Hallowell, late of Company B, Fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Hall, jr., late of Company A, Fifteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James E. Houghland, late of Company E, Nineteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph Hill, late of Company C, Fourth Regiment, and Company D, Seventh Regiment, Rhode Island Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin F. Mount, late of Company G, Fifteenth Regiment, and Company G, Tenth Regiment, West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James M. Ard, late of Company I, Thirteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Josiah W. Poorman, late of Company D, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Spore, late of Company E, Eightieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James B. Wilson, late of Company C, Sixty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Seymour B. Young, late of Capt. Smith's company, Utah Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David L. McNutt, late of Company G, One hundredth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jerry Butts, late of Company G, One hundred and fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William C. Torrence, late of Company I, Twenty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John A. Montgomery, late of Company K, Eleventh Regiment Pennsylvania Reserves Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rufus F. Thorne, late of Company H, Second Regiment Kansas Volunteer Cavalry, and second lieutenant Company F, Fifth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas E. McMillan, late of Company B, Forty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George H. Wilcox, late of Company G, Seventh Regiment Pennsylvania Volunteer Cavalry, and unassigned, Veteran Reserve Corps, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Riley, late of Company H, Sixty-first Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Eli K. Simonds, late of Company D, Fifth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George F. Wonder, late of Signal Corps, United States Army, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel Heath, late of Company A, Seventy-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Silas Ebersole, late of Company K, Fiftieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Anna M. McCartney, widow of Joseph S. McCartney, late captain Company H and major Tenth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George C. Bucknam, late of Company C, Third Battery Massachusetts Volunteer Light Artillery, and pay him a pension at the rate provided by law for loss of both hands from disability incurred in the military service from the date of the passage of this act.

The name of James T. Taylor, late of Company A, Second Battalion District of Columbia Militia Infantry, and Company D, Third Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Marshall Dillon, late of Company F, First Regiment Ohio Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George W. Forsythe, late of Company G, Thirty-first Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Wesley C. Harvey, late carpenter and second master United States steam ram T. D. Horner, Mississippi Ram Fleet, and pay him a pension at the rate of $15 per month in lieu of that he is now receiving.

The name of Annie B. Godwin, widow of William T. Godwin, late first lieutenant Company A, One hundred and eighteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of William Yeakey, late of Company C, Fifty-eighth Regiment Illinois Volunteer Infantry, and Company H, First Regiment Missouri Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josephine Owens, helpless and dependent daughter of Micajah Owens, late of Company F, Forty-eighth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John W. Page, late of Company I, Sixth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James Lewis, late of Company G, Third Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel Randolph, late of Company A, Tenth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Amelia Pearce, widow of William S. Pearce, late of Company H, Thirty-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Marvin Chapman, late of Company D, Forty-second Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Maberry, late of Company F, First Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Sperry, late of Company K, Seventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert M. Carlton, late of Company F, Forty-fifth Regiment Ohio Volunteer Infantry, and Sixty-first Company, Second

Battalion Veteran Reserve Corps, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Nancy Wilson, former widow of William Wilson, late of Company C, Sixty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elisha G. Norton, late of Company D, Second Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Horace W. White, late of Company A, Fifty-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Savage, late of Company A, Fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Justin E. Brown, late of Company B, Thirteenth Regiment Maine Volunteer Infantry, and first lieutenant Company A, Tenth Regiment United States Colored Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George Potter, late of Company G, Tenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Eva J. Clarke, helpless and dependent child of William S. Clarke, late of Battery G, Fifth Regiment United States Artillery, and pay her a pension at the rate of $12 per month.

The name of Daniel Fordham, late of Company H, One hundred and eighteenth Regiment, and Company A, Ninety-sixth Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob W. Kinsey, late of Company H, First Regiment Nebraska Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank Biermann, late of Company B, First Regiment Missouri State Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward Raubyauer, late of the U. S. S. Yankee, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Ford, late of Company A, Fiftieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David P. Wilcox, late first lieutenant Company H, Second Regiment East Tennessee Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary J. Chick, dependent mother of Adelbert P. Chick, late of Company K, Eleventh Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Samuel M. Terry, late of Troops D and K, Second Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Albert F. Whiting, late of Company K, Seventh Regiment Massachusetts Volunteer Infantry, and Company E, Fourteenth Regiment Veteran Reserve Corps, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Isaac W. Hodsdon, late of Company K, Tenth Regiment, and Companies A and K, Twenty-ninth Regiment, Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary J. Foster, widow of John D. Foster, late of Company H, One hundred and fortieth Regiment New York Volunteer Infantry, and Company C, Nineteenth Regiment Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James M. Lowell, late of Company G, Twenty-third Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles Bennett, late of Company B, Thirty-third Regiment, and Company B, Second Regiment, Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George A. Evans, late of Company G, Coast Guards, Maine Volunteer Infantry, and pay him a pension at the rate of $24 dollars per month in lieu of that he is now receiving.

The name of Adelaide E. Harding, widow of Cyrus B. Harding, late of Company C, Hatch's battalion, Minnesota Volunteer Cavalry, and former widow of Carlton W. Race, late of U. S. S. Savannah and Iroquois, United States Navy, and pay her a pension at the rate of $12 per month.

The name of Jeremiah Miles, late of Company G, Twenty-sixth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Nelson L. Porter, late of Company A, Twenty-first Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rudolph Alff, late of Company L, Fourth Regiment, and Company L, Ninth Regiment, New York Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel Pincus, alias Jacob Harris, late of Company G, One hundred and seventy-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry H. Helphenstine, late of Company A, Eighteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

With the following committee amendment:

Page 14, strike out lines 17 to 20 inclusive, the beneficiary being Mary J. Chick.

The SPEAKER. The question is on agreeing to the committee amendment.

The question was taken, and the committee amendment was agreed to.

Mr. RUSSELL. Mr. Speaker, I move to amend by striking out on page 8, lines 19, 20, 21, and 22, as the beneficiary, Eli K. Simonds, is dead.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. RUSSELL. Mr. Speaker, I call up the bill (S. 6369) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

An act (S. 6369) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Julius A. Pherson, late of Troop L, First Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William R. Arnold, late of Company G, Thirteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Comstock, late of Company C, Seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John B. Wilson, late of Company K, Fifth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward Clark, late of Company F, Seventy-ninth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James D. Smith, late of Company D, Fifteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jonas Schrock, late second lieutenant Company H, One hundred and seventy-first Regiment Pennsylvania Drafted Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Tovey, late of Company B, Fifteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Amos Hoy, late of Company H, Third Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andy Phillips, late of Company I, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hiram S. Shahan, late of Company G, Sixth Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles W. Read, late of Company H, Fourteenth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary C. Greene, widow of Charles A. Greene, late of Company A, Thirteenth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elias Shaffer, late of Company C, Thirty-eighth Regiment, and Company I, Eighteenth Regiment, Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel G. Bowles, late of Company C, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Dudley C. Rutledge, late of Company I, Thirteenth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Orson P. Matthews, late of Company A, First Regiment Oregon Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph W. Frank, late of Company D, Fourth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Thomas D. Dick, late of Company C, Third Regiment Kentucky Volunteer Infantry, and Battery A, Kentucky Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Junius T. Turner, late of Company E, Second Regiment Massachusetts Volunteer Cavalry, and captain Company F, Third Regiment Maryland Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Sagarlin C. Knighton, late of Company E, First Regiment Oregon Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Dixon, late of Company E, Thirty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Martin Ouderkirk, late of Company F, Eighty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ellwood A. Collins, late of Company A, Seventeenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of James P. Cassedy, late of Company C, One hundred and seventy-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hannah S. Caward, widow of David C. Caward, late second lieutenant Company F, Fiftieth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin Ricards, late of Company B, Ninety-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Fogleman, late of Company I, Sixty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert B. Baldwin, late of Company C, Fifty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel T. Bennett, late of Company F, Sixteenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew J. Mowery, late second lieutenant Company C, Fourteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Wible, late of Company E, Eighty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas V. McConn, late of Company K, One hundred and seventy-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Bradford L. Hollenbeck, late of Company E, One hundred and twenty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Smith, late of Company L, Fourteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Bauer, late of Company C, Thirteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George S. Arnold, late of Company D, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander J. Matthews, late of Company F, Twenty-first Regiment, and Company F, Third Regiment, Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ira McCall, late of Company G, Second Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles E. Tenant, late of Company D, Thirty-second Regiment, and Company D, Sixteenth Regiment, Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William G. Baldwin, late of Company G, Fifty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander H. Farmer, late second lieutenant Company H, Thirty-second Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Richard Fossett, late of Company F, Fifty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Henrietta S. Kimball, widow of Abner D. Kimball, late of Company I, Ninety-ninth Regiment, and assistant surgeon, Forty-eighth Regiment, Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Samuel Welch, late of Company H, Fifteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel Mooney, late of Company E, Thirty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph H. Lanam, late of Company H, Nineteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John L. Mellender, late of Company H, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of William M. C. Hix, late of Company H, One hundred and thirty-seventh Regiment, and Company B, Fourteenth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret Shamp, widow of Carlton T. Shamp, late of Company K, Twenty-first Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Martin Dolsby, late of Company G, Thirty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James A. Wood, late of Company H, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James M. Hopper, late of Company G, Third Regiment, and Company K, Seventh Regiment, Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Barker, late of Company G, Fifteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hiram F. Reel, late of Company A, Fourth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Blair, late of Company D, Thirteenth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James S. Sutherland, late of Company C, Eleventh Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William A. Smith, late of Company C, Nineteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel Keene, late of Company B, Sixty-seventh Regiment, and Company F, Sixty-fifth Regiment, United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward Mills, late of Company G, One hundred and fifty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Reuben H. Neff, late of Company F, Third Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ebenezer Miller, late of Company E, Eighty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jesse Jones, late of Company D, Eighty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harrison Presson, late first lieutenant Company F, Fifty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James O. McCabe, late of Company K, One hundred and first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jeremiah W. Hancock, late of Company D, Sixty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph Vannest, late of Company I, One hundred and first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Samuel S. Weaver, late of Company E, Twenty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Henry Blaise, late of Company D, Eighth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel J. Ellis, late of Company C, Forty-first Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Ephraim Leasure, late of Company E, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Braden Zeigler, late of Company B, Seventy-fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McQuown, late of Company F, Seventy-fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Lay, late of Company K, Twelfth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Thompson, late of Company L, Second Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James H. Barrelle, late of Company D, Eleventh Regiment, and Company G, Eighth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward Kendall, late of Company A, Eleventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin F. Hudson, late first lieutenant and adjutant Forty-sixth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles J. Strain, late unassigned, Sixty-second Regiment Illinois Volunteer Infantry, and Eightieth Company, Second Battalion Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Bennett, late of Company B, One hundred and twenty-seventh Regiment, and Company A, Fifty-fifth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Dougherty, late of Companies H and D, Seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Manely, late of Company K, Twelfth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles Sponsler, late of Company B, Nineteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elihu Eversole, late of Company B, Eighth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Toller Peterson, late of Company G, Thirteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Jones, late of Company A, Twelfth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret Williamson, widow of John Williamson, late of Company B, Second Regiment Pennsylvania Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Abraham Smock, late of Company D, Fifth Independent Battalion Ohio Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Izora E. Dwire, widow of Hiram Dwire, late of Company G, One hundred and sixty-fourth Regiment Ohio National Guard Infantry, and former widow of John Davis, late of Company A, One hundred and twenty-third Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George W. Rowley, late of Company H, Tenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James M. Martz, late of Company C, Seventy-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Miles, late of the Fourteenth Battery Indiana Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James E. Fuller, late first lieutenant Company E, Eleventh Regiment Connecticut Volunteer Infantry, and captain and assistant quartermaster, United States Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Andrew G. McAusland, late of Company D, Second Regiment Nebraska Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin F. Charles, late of Company A, Nineteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John M. Swaim, late of Company E, One hundred and thirty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Maull, late of Company C, Forty-fifth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Philip R. Grund, late lieutenant colonel Forty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mattie B. Wintrode, widow of Jehiel T. Wintrode, late first lieutenant Company G, Seventy-sixth Regiment Ohio Volunteer

Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Emmett A. Brockway, late of Company B, Thirty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Frederick Beckhorn, late of Company B, One hundred and seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of William H. Miller, late of Company F, One hundred and fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Carrie Diefenbach, widow of Henry Diefenbach, late first lieutenant Company I, One hundred and eleventh Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary J. Mulholland, widow of St. Clair A. Mulholland, late colonel One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Emma P. Justison, widow of George C. Justison, late of Company A, Fifth Regiment, and Company E, Seventh Regiment, Delaware Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Gardner P. Waterhouse, late of Company K, Thirteenth and Thirtieth Regiments Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Marquet, late of Company M, Seventeenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Kittil Torgerson, late of Second Battery Minnesota Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Michael Hilti, late of Company E, Forty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles R. Spicer, late of Company B, Sixth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George F. Green, late of Company E, First Regiment New Hampshire Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Ira Grant, late of Company H, Forty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel C. Stevens, late of Battery G, First Regiment Rhode Island Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Reuben H. Rich, late first lieutenant Battery G, First Regiment Rhode Island Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John S. Lewis, late of Company L, Eighth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Annie E. Loudon, widow of Samuel Loudon, late of Second Independent Battery Minnesota Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Alma J. Van Winkle, widow of Edwin Van Winkle, late of Company C, One hundred and forty-eighth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary E. Franklin, widow of Asa Franklin, late first lieutenant Company A, Twenty-sixth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John W. Shear, late of Company A, First Regiment District of Columbia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph F. Kendall, late first lieutenant Company H, Twelfth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward M. Hitchcock, late of Companies C and M, First Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Eben Kneeland, late of Company F, Thirty-second Regiment Massachusetts Volunteer Infantry, and Twenty-first Company, Second Battalion Veteran Reserve Corps, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Clement Lovely, late of Company G, Fourth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Polley, widow of Pleasant J. Polley, late of Company G, Fourth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth E. Donaldson, widow of Wayne Donaldson, late of Company I, Fourth Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James A. Morgan, late of Company H, Eighth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jesse H. Conrad, late of Company M, Twenty-fourth Regiment New York Volunteer Cavalry, and Company M, First Regiment New York Provisional Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Noah A. Decker, late of Company G, Fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frederick W. Zwickey, late of Company E, Eleventh Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas C. Kinsey, late of Company G, Seventh Regiment Pennsylvania Volunteer Cavalry, and Company H, First Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Laura B. Stiles, widow of Wilbur A. Stiles, late of Company D, Sixth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Moses D. Marshall, late of Company A, One hundred and eighty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Martin B. Monroe, late second lieutenant Company K, Second Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Eugene Besancon, late of Company B, Second Regiment New York Volunteer Mounted Rifles, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rufus G. Barber, late of Company B, First Regiment Vermont Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Horace A. Foster, late of Company K, Fourteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel B. Baker, late of Company I, Thirteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Jordan, late of Company D, Thirty-fifth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James H. Crosser, late of Company D, One hundred and seventy-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Clark, late of Company I, Twenty-first Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Leonard C. Norton, late of Company H, Third Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is pow receiving.

The name of Gott Latlip, late of Company H, Twenty-ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Lurvey, late of Company A, Fortieth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Fanny M. Jones widow of Charles C. Jones, late acting master's mate, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William E. Henry, late of Company A, Ninth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rachel Hagan, widow of Lawrence Hagan, late of Company G, Twentieth Regiment Kentucky Volunteer Infantry, and Company D, Sixth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary C. Riley, widow of Charles Riley, late captain Company F, Thirty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Nathaniel M. Milliken, late of Company F, Twenty-seventh Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William J. Gardner, late of Company D, Twenty-second Regiment, and Company D, Twenty-ninth Regiment, Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Bowman, late of U. S. S. Ohio, Vermont, and Savannah, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Willard M. White, late of Company I, Twenty-second Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The SPEAKER pro tempore (Mr. HAY). The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The next business on the Private Calendar was the bill (H. R. 24626) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Leon Schuhmacher, late of Company G, Thirty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harmon A. Fleming, late of Company M, Eighth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Willis Dennis, late of Company A, Fifty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel Boroff, late of Company A, Forty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth R. Nelson, widow of Thomas Nelson, late of Company H, Sixty-second Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Marcellus Albright, late of Company A, Seventh Regiment West Virginia Volunteer Infantry, and Companies E and L, Sixth Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Boner, late of Company C, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Hostler, late of Company K, One hundred and ninety-second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jacob D. Welsh, late of Company B, One hundred and sixty-sixth Regiment Pennsylvania Drafted Militia Infantry, and landsman, U. S. S. Princeton, Wabash, and Wissahickon, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Cooley, late of Company E, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Benjamin F. Ralls, late first-class boy, U. S. S. Grampus, Great Western, and General Bragg, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joshua Hubbard, late of Company G, Thirty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Dover, late of Company L, Second Regiment Pennsylvania Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Mertes, late of Company I, Twenty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William M. Freels, late of Company H, Seventh Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jacob C. Bloodworth, late of Company G, Twenty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel Remington, late of Company F, Thirty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John C. Carter, late of Company D, Fourth Battalion Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James L. McWilliams, late of Company I, Forty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Monroe Abbott, late of Company K, Sixty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hugh J. Hales, late of Company F, Twelfth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah Wallace, widow of Charles Wallace, late of Company E, Fourteenth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Henry Zellner, late of Company G, Eighty-first Regiment, and Company C, Fifty-second Regiment, Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Crain, late of Company A, Thirty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Benjamin Rail, late of Company E, One hundred and seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel Johnson, late of Company C, Ninth Regiment United States Colored Volunteer Heavy Artillery, and Company D, Eighty-eighth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Mishler, late of Company G, Sixty-seventh Regiment, and Company C, One hundred and thirty-seventh Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel Shropshire, late of Company C, Sixth Regiment United States Colored Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month, in lieu of that he is now receiving.

The name of Sylvanus G. Peffle, late of Company I, One hundred and seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George G. Hughes, late of Capt. Bard's independent company, Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph R. Peck, late of Company I, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William D. Parks, late of Company F, Fourth Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Staffen, widow of Christopher Staffen, late of Company F, Ninetieth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Alvis Sharp, late of Company F, One hundred and twenty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward Kiniry, late of Company D, First Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Inman, late of Company H, Fifty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Henry Cutberth, late of Company E, Sixth Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joel Parsons, late of Company B, Fourth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nannie Slayton, widow of Austin C. Slayton, late of Company K, Third Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Hugh H. Wilson, late of Company F, One hundred and fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Peter W. Gadbow, late of Troop C, Sixth Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis M. Perkins, late of Company E, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Byron Lilly, late of Company E, Thirty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William T. Tway, late of Company G, Thirty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Samuel D. Preston, late of Company G, First Regiment Vermont Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Conrad Hamman, late of Company I, One hundred and second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John W. Fry, late of Company H, Forty-second Regiment, and Company E, Ninety-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Allen, late of Company D, Fifth and Third Regiments West Virginia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel J. Miller, late of Company E, Twentieth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William W. Keene, late of Company H, Twenty-ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry Flesher, late of Company F, One hundred and thirteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George H. Bolsey, late of Company A, First Regiment Missouri Volunteer Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Galen H. Lotz, late of Company E, Fifty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Francis, helpless and dependent son of Abraham Francis, late of Companies F and G, Sixteenth Regiments Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $12 per month.

The name of David M. Kinsey, late of Company E, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McPhern, late of Company E, Seventeenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Michael R. Godfrey, late of Company B, Twenty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph C. Johnson, late of Company C, One hundred and twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James W. Longbon, late adjutant Ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James M. Francis, late of Company D, Sixty-fourth Regiment, and Company I, One hundred and seventy-fourth Regiment, Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Patrick J. Carroll, late of Company I, One hundred and seventy-fourth Regiment, and Company L, Sixty-second Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Breneman, late of Company F, Twenty-eighth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Dennis Willard, late of Company C, Forty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Levi B. Wightman, late of Company L, Second Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Miller, late of Company F, Second Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Zedeker, late of Company E, Thirty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel B. Boynton, late of Company B, One hundred and first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lyman H. Evans, late of Company B, First Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Henry, late of Company A, Eleventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Gough, late of Company H, Seventy-third Regiment Ohio Volunteer Infantry, and Company F, Seventeenth Veteran Reserve Corps, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John L. Smith, late of Company E, Third Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Anton Ohnesorg, late of Company A, Third Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James C. Rule, late of Company E, Fifth Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alfred Williamson, late of Company C, Sixty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Edmond Dunahoo, late of Company K, Sixth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Shepherd M. Knapp, late of Company E, One hundred and fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Ezeriah Evans, late of Company C, One hundred and fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles D. Beman, late of Company I, Seventh Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jeremiah Taylor, late of Company G, Fifteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elias D. Keoppel, late of Company G, Fifth Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Wheeler, late of Company A, Twenty-first Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis M. Harris, late of Company H, Tenth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Albert B. Kidder, late of Company B, One hundred and fifty-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph B. Randall, late of Company E, One hundred and thirty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Price, late first lieutenant and quartermaster, One hundred and second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Granville Koger, late of Company C, First Regiment Alabama Volunteer Vidette Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Harris, late of Company M, First Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel A. Houser, late of Company M, One hundred and ninety-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James E. Bowers, late of Company K, Sixth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of True Hart, late of Company A, Ninth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Hanlon, late of Company A, Second Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucy B. Miller, widow of John J. Miller, late of Company E, One hundred and fifty-fourth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John Bohland, late of Company A, Second Battalion, Nineteenth Regiment United States Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John R. Collins, late of Company E, Sixty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis M. Kittrell, late of Company A, Fifth Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George H. Devol, late adjutant Thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David B. Johnson, late of Company L, Fourth Regiment West Virginia Volunteer Cavalry, and Company A, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert L. Higgins, late of Company K, Fourth Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David Turpin, late of Company G, One hundred and forty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Peter M. McNelly, late of Company B, Third Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Bricker, late of Company K, One hundred and fifty-third Regiment Ohio National Guard Infantry, and Company A, Battalion, Forty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David A. Pew, late of Company E, Seventh Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hiram C. Smith, late of Company G, Eighteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Thomas B. Reed, late of Company G, Eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James A. Thompson, late of Company C, Thirteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Leonard A. Wilson, late of Company G, Sixtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Godfrey Winkler, late of Company L, Tenth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry Willman, late of Company I, Thirty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Richard Burns, late of Company C, Ninth Regiment United States Colored Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George L. Mull, late of Company C, One hundred and tenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Napoleon B. Agy, late of Company K, Seventy-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John Dunn, late of Company G, One hundred and fifty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. McAllister, late of Company A, One hundred and sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Heltzel, late of Company H, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harrison Bradley, late of Company C, Fifteenth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Leeper, late of Company E, Twelfth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Reuben Melton, late of Company L, Sixth Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Bond, late of Company A, Fifty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Abraham Shipman, late of Company C, Twenty-fourth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Theodore Garner, late of Company K, Sixty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Emma J. Turner, widow of William H. H. Turner, late of Company G, First Regiment Indiana Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Martin V. B. Smith, late of Company H, Sixth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Brown, late of Company A, Seventeenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nancy E. Smith, widow of John T. Smith, late of Company B, Sixty-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Samuel Pierce, late of Company H, First Regiment Illinois Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Parley Day, late of Company I, Fifty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harmon Dixon, late of Company B, Seventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George W. Johnson, late of Company K, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hester A. Snodgrass, widow of Thomas J. Snodgrass, late of Company A, Eighty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin F. Lemon, late of Company E, Fiftieth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Bonecutter, late of Company E, Eighty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frances A. Francis, widow of Charles S. Francis, late of Company I, Seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jane A. Kirby, widow of Stephen M. Kirby, late of Company G, One hundred and thirty-ninth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph H. Shipman, late of Company H, Sixth Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James H. Lansbery, late of Company E, Third Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas C. Snider, late of Company G, Fifth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Calvin Underwood, late of Company F, Seventh Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert Marshall, late of Company G, Ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Thomas R. Anderson, late of Company G, Fifty-third Regiment, and Company I, One hundred and forty-third Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles W. Price, late of Company D, Seventh Regiment Maine Volunteer Infantry, and ordinary seaman, U. S. S. Colorado, United States Navy, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Samuel H. Hulse, late of Company E, Tenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William M. King, late of Company D, One hundred and sixty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry D. Jordan, late of Company A, Seventeenth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Rebecca J. Shy, widow of Andrew Shy, late of Company K, Sixty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William L. Switzer, late of Company E, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of William H. Paine, late of Company F, Christian and Green Counties Missouri Home Guards, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Susan H. Butler, widow of Henry H. Butler, late of Company A, Seventh Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of James Teller, late of Company I, Fifty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Reuben H. Crosby, late of Company G, Seventeenth Regiment, and Company C, Third Rigiment, Maine Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Reason Carrico, late of Company K, Eightieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Moses Hensley, late of Company I, Sixty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Claudius N. Martin, late of Company F, One hundred and first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph Funk, late of Company F, One hundred and thirty-second Regiment Ohio National Guard Infantry, and Company F, First Ohio Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James M. Childers, late of Company C, Ninth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henderson W. Poundstone, late of Company E, Fourteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Theodore Brown, late of Twelfth Independent Battery Ohio Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward J. Hummel, helpless and dependent child of Frederick Hummel, late of Company H, Thirty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Wesley Z. Lewis, late of Company M, Fifteenth Regiment New York Volunteer Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Youart, late of Company C, One hundred and fifty-second Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Harry Karslake, late of Company F, Third Regiment New Jersey Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Weaver, late of Company K, Thirty-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Horatio F. Bronson, late of Company I, Eighty-ninth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank A. Higgins, late of Company K, First Regiment New York Mounted Volunteer Rifles, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Maud Johnson, helpless and dependent child of Samuel Johnson, late of Company G, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of James R. Anthony, late of Company D, Eighty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Anna Glendening, widow of George W. Glendening, late of Company E, Sixth Regiment Pennsylvania Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Abram A. Gossett, late of Company G, Twenty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Adelbert B. Crampton, late of Companies F and A, Forty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Aaron Teegarden, late of Company L, Second Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Engle, late of Company K, One hundred and forty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel R. Smith, late of Company M, Fifteenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margret Babcock, widow of Abraham Babcock, late of Company F, Seventieth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James H. Utter, late of Battery B, First Regiment New Jersey Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George O. Booth, late of Company C, Twenty-fifth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Timothy Donovan, late of Company H, Twenty-ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James N. Dennis, late of Company H, Second Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Livingston, late of Company C, Twentieth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Commodore O. Perry, late of Company B, Twenty-eighth Regiment New York Volunteer Infantry, and Company E, Fifteenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank F. Pullen, late of Company F, Third Regiment Massachusetts Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis M. Sutton, late of Company G, Fifty-first Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles R. Brown, late of Company L, First Regiment Maine Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles G. Mason, late of Company E, Second Regiment Connecticut Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Nannie K. Thomas, widow of William B. Thomas, late of Company B, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of William McCutcheon, late of Company F, Ninth Regiment Pennsylvania Reserves Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George A. Tainter, late of Company A, Thirteenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph Hornung, late of Company L, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Esther E. Bailey, widow of George N. Bailey, late of Company C, Fifteenth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel Wright, late of Company A, Ninety-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Ballmer, late of Company G, One hundred and sixty-third Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas H. Scott, late of Company E, Fifteenth Regiment New York Volunteer Cavalry, and Company E, Second Regiment New York Provisional Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christian H. Snyder, late of Company E, One hundred and ninety-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John Ferrier, late of Company E, Eighty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frietz Heinrich, late of Company E, Fifty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Shug, late of Battery L, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Mack, late of Company B, Nineteenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank Drew, alias Frank Drube, late seaman, U. S. S. North Carolina and Susquehanna, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Sergeant, late of Company A, Seventy-sixth Regiment, and Company I, Ninety-first Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William M. Mitchell, late of Company F, Seventeenth Regiment, and Company E, Eighth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Salmon A. Buell, late acting midmanship, United States Navy, and major, First Regiment Minnesota Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James H. Biteman, late of Company D, Ninety-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rebecca Behrmann, widow of John H. H. Behrmann, late of Company C, Hatch's Independent Battalion Minnesota Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Makajah T. Hill, late of Company A, One hundred and forty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Hiram Budinger, late of Company I, One hundred and thirty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Tipton, late of Company C, Fifty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Jacob M. Neely, late of Company C, Twenty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frederick Bonnet, late of Company E, Twentieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Milton S. Lawhead, late of Company E, One hundred and forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Milo Paden, late of Company B, Thirty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel N. Mathews, late of Company I, Eighteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Oscar F. Towne, late landsman U. S. S. Vermont and Daffodil, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel W. Hickman, late of Company B, Thirty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George W. Foster, late of Company B, One hundred and seventeenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James A. Palmer, late of Company H, Fourteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel T. Chambers, late of Company B, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John R. English, late of Company H, Twenty-third Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Thomas L. Curas, late of Company D, Forty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John H. Austin, late of Company F, Fifty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Calvin B. Castelo, late of Company D, Fifth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William J. Sneed, late of Company C, Sixth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Stephen J. Still, late of Company I, Second Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel L. Riley, late of Company H, Ninety-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William Palmer, late of Company B, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Norman D. McKown, late of Company B, Ninth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James R. Reeder, late of Company C, First Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hector M. Stocum, late of Company D, One hundred and seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael Fitts, late landsman, U. S. S. Ohio, Brooklyn, and Princeton, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel K. Harris, late of Company H, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel M. Fenton, late of Company G, One hundredth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Robert M. Stewart, late of Capt. Fichthorn's company, One hundred and first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Alva M. Courtright, late of Company G, Twenty-first Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph H. Denton, late of Company I, Forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry M. Montgomery, late of Company H, One hundred and forty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Robert L. Fuller, late of Company C, Sixtieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Uzal K. Still, late of Company A, One hundred and sixty-eighth Regiment, and Company D, Fortieth Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Helena T. Wood, widow of Hiram Wood, late of Company F, Second Regiment Missouri Provisional Enrolled Militia, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Lay, late of Company M, Second Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Willetts Haas, late of Company A, One hundred and fifty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of James B. H. McDaniel, late of Company G, One hundred and forty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Stephen R. Estes, late of Company H, Twenty-ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Emerick, late of Company F, First Regiment Pennsylvania Provisional Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary E. Smith Barkley, former widow of Madison B. Smith, late of Company A, First Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Orrin L. Drake, late of Company K, Second Regiment Vermont Volunteer Infantry, and Company E, Fifth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bridget Burns, widow of Edward Burns, late of U. S. S. Potomac, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benton W. T. Derryberry, late of Company G, Second Regiment United States Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Martha Coslett, widow of James Coslett, late of Company G, Seventy-ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Stephen H. Clayton, late of Company F, Sixth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William A. Smith, late of Company K, Sixteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James H. Kinkead, late of Company A, Seventy-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Genio S. Lawrence, late of Company D, Tenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Mary Rothenburger, helpless and dependent daughter of Jacob Rothenburger, late of Company E, Thirty-fourth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The name of Orlando P. Brennesholtz, late of Companies A and I, One hundred and twenty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Stewart Wells, late of Company D, Sixth Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of William H. Cox, late of Company C, Third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma A. Jahne, widow of Wilmer T. Jahne, late of Company K, Thirteenth Regiment, and unassigned, Thirty-third Regiment, New Jersey Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Marshall D. Watson, late of Company F, Fifty-seventh Regiment Pennsylvania Volunteer Infantry, and Battery E, First Rhode Island Volunteer Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John C. Doss, late of Companies M and C, Seventh Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Celia O'Neal Boothby, widow of Charles W. Boothby, late of Company C, Twelfth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry K. Reese, late of Company H, Two hundred and third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Eliza Williams, widow of Conrad Williams, late of Company K, Fifth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Fannie E. Brown, widow of Worthington Brown, late of Company A, Eighty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John H. Price, late of Company E, Thirty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Israel Loatman, late of Company C, Forty-third Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis C. Field, alias Silas Mansfield, late of Company F, Second Regiment New York Veteran Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Herman Boedicker, late of Company A, One hundred and third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William L. Whetstone, late of Company K, Sixty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Annie White, widow of William A. White, late of Company C, Seventh Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Jacob L. Kennamer, late of Capt. John B. Kennamer's company Alabama Scouts and Guides, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of C. M. Hildebrand, late of Company M, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of James Sandusky, late of Company B, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Florence King, helpless and dependent child of Granville C. King, late of Company H, One hundred and twenty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month in lieu of that she is now receiving.

The name of George B. Kiehl, late of Company K, One hundred and seventy-second Regiment Pennsylvania Drafted Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Florence L. Latrace, widow of Isaac Latrace, late of unassigned Fourteenth Regiment, and Companies M and C, Sixth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of Sanford D. Ramey, late of Independent Battery C, Pennsylvania Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Slonaker, late of Company G, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ellen Smith, widow of Alexander F. Smith, late of Company A, Third Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Milton Trout, late of Company I, Forty-seventh Regiment Pennsylvania Emergency Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Benjamin Coe, late unassigned, Eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of W. Walter Branyan, helpless and dependent child of Robert H. Branyan, late of Company B, Thirteenth Regiment Pennsylvania Reserve Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Ellen E. Beck, widow of Charles W. Beck, late of Company C, Fifth Regiment Kansas Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John Henderson, helpless and dependent child of Justus Henderson, late of Company D, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of John H. Adelmeyer, late of Company E, Third Regiment Wisconsin Volunteer Infantry, and Troop C, Sixth Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Yates, late of Company E, Twenty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Armstrong Staley, late of Company A, One hundred and thirty-fourth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Silas McGregor, late of Company K, Third Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William W. Hughes, late of Company E, Tenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of August H. Merchant, late of U. S. S. Paul Jones, John Adams, and Princeton, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Allison Clark, late of Company H, Seventeenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Kate G. Andrews, widow of Hugh Andrews, late of Company D, One hundred and ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The name of Sallie F. Wilson, helpless and dependent child of Miles Wilson, late of Company B, One hundred and thirty-fourth Regiment

Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of Thaddeus W. Wolfe, late of Company C, First Battalion, Fourteenth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel S. Tuthill, late of Company L, Nineteenth Regiment New York State Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. McElhinny, late commissary sergeant One hundred and fortieth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Anna D. Strock, helpless and dependent child of David Strock, late of Company A, Eighth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Michael Fitzgerald, late of Company E, Second Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles H. Koontz, late of Company F, Second Regiment Ohio Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Salter, late of Company D, Third Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Scott Wright, late of Company I, Seventy-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lewis Gross, late of Company E, Sixteenth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Marshall Preston, late of Second Independent Battery, Ohio Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George F. Russell, late of Company G, First Regiment Rhode Island Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Cornelius W. Roberts, late of Company B, Pike County Missouri Home Guards, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Erminia Thayer Carpenter, former widow of Morgan J. Thayer, late of Company A, Fourth Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Perley Evans, late of Company H, Tenth Regiment, and Company G, Sixth Regiment, New York Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Cornelius McCafferty, late of Company D, Second Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Mary A. Sanborn, former widow of Albin N. Nash, late of Company F, Fifty-second Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John R. Parmley, late of Company K, Fifteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James A. Miller, late of Company F, Fourth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah Brandon (now Sweeney), dependent mother of John Brandon, late of Company F, Fifteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The name of Cora A. Crist, widow of James A. Crist, late of Company G, Twenty-seventh Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Philip McGregor, late of Company F, Fourteenth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josiah Main, late of band, Third Brigade, First Division, Twelfth Army Corps, and Second Brigade, First Division, Twentieth Army Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael Dalton, late of Company A, Sixteenth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Herman K. Miller, late of Company H, One hundred and forty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Manford G. W. Tucker, late of Company C, Seventh Regiment Indiana Volunteer Infantry, and Company H, Fifth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel T. Wolf, late of Company K, Fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Amos E. Burbank, late of Company C, One hundred and ninth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John A. Pierson, late of Company G, Fourteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alvin M. Miller, late of Company M, Fourth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Emeline N. Griffiths, widow of Esek A. Griffiths, late of Company C, First Regiment Rhode Island Volunteer Light Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Josiah Garrison, late of Company F, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christine March, widow of Frederick March, alias Frederick Marks, late of Company H, Thirty-first Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Reuben V. Lott, late of Company E, One hundred and sixty-fourth Regiment Ohio National Guard Infantry, and Company A, One hundred and ninety-eighth Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Tandy R. Shoemaker, late of Company A, Thirtieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Abram Eutsler, late of Company A, One hundred and twenty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Conrad Push, late of Battery I, Third Regiment United States Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John O'Mara, late second-class fireman U. S. S. Michigan, North Carolina, and Galatea, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry A. Munzert, late of Company L, Thirteenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander Mattison, late of Company H, Twenty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles J. Hodgkinson, late of Company F, Fortieth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McAdoo, late of Signal Corps, United States Army, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Fuller, late of Company K, Thirty-first Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Willard B. Hill, late of Company G, Tenth and Twenty-ninth Regiments Maine Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Henry Gaines, late of Company A, Twelfth Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nicholas Burlbaw, late of Company I, Thirty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John W. Wray, late of Companies F and I, Fiftieth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Stephen P. Libby, late of Company F, Twenty-fifth Regiment, and unassigned, Thirtieth Regiment, Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas J. Cartwright, late of Company F, Seventy-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George C. Hall, helpless and dependent child of Thomas B. Hall, late of Company I, Eighteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Overstreet, late of Company G, Fourth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Fountain D. Plummer, late of Company K, One hundred and fifty-second Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Annie Swayze, widow of Amos B. Swayze, late of Company B, Thirteenth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Laura V. Alexander, widow of Robert McClellan Alexander, late of Company G, Fifth Regiment Pennsylvania Reserve Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Erastus Morgan, late of Company K, First Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John B. Thompson, late of Company G, Twenty-ninth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph H. Duncan, late of Company A, Fifty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas B. Chapman, late of Company H, Second Regiment United States Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Verona Withaus, widow of Simon Withaus, late of Company K, Forty-ninth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James A. Buck, late of Company D, Twenty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Paul Hirschfield, alias Harris Cohn, late of Company C, Tenth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John A. Kerr, late of Company B, First Battalion Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Harrison Bernard Taylor, helpless and dependent child of James F. Taylor, late of Companies A and G, Ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Isaac Prosser, late of Company C, Seventy-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry B. Furbee, late of Company H, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Reubin Bradish, late of Company C, Sixteenth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Grove, helpless and dependent child of Simon Grove, late of Company G, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $12 per month.

The name of Henry S. Davis, late of Company C, Third Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James A. Dowell, late of Company M, Sixteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Susan C. Virgin, widow of James M. Virgin, late of Company K, Twenty-fifth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Francesca L. Perrine, widow of Hermanus L. Perrine, late acting third assistant engineer, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Julia J. Kendall, widow of George H. Kendall, late commissary sergeant Thirty-seventh Regiment New York State Militia, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jacob Eley, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Addison Miller, late of Company G, Eighty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of August Arnoldi, late of Company C, Twenty-seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ephraim Martin, late of Company B, First Regiment Louisiana Volunteer Cavalry Scouts, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Louis Gessner, late assistant surgeon Thirty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Job M. Kerns, late of Company C, Thirtieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward D. Ingersoll, late of Company D, Seventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Annie Elizabeth Boyle, widow of Patrick H. Boyle, late of Company B, First Regiment Louisiana Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Basil Peterson, helpless and dependent child of Thomas Peterson, late of Company F, One hundred and sixteenth and Sixty-fourth Regiments Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Thomas Casey, late of Company C, Tenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Arbogast, late of Independent Battery F, Pennsylvania Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph C. Carmean, late of Company H, One hundred and forty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Wilson, late of Company H, Sixty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emily L. Brown, widow of Charles L. Brown, late of Company G, One hundred and fourteenth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas N. Maple, late of Company F, Second Regiment, and Company A, Forty-third Regiment, Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John M. Buckley, late of Company E, First Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Robert F. Evans, late of Company E, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Waldo W. Williams, late of Company C, Forty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Duncan Cox, late of Company H, Twenty-ninth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Solonas Williams, late of Company A, Sixty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Abram S. Esmay, late quartermaster sergeant, One hundred and forty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Malissa Lindsey, widow of John A. Lindsey, late of Company A, Third Regiment United States Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William H. Miller, late of Company A, Eighty-ninth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Arthur A. Jones, late of Company C, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of William Nye, late of Knapp's Independent Battery E, Pennsylvania Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Albert List, late of Company D, Fifty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Abraham Myers, late of Company K, Seventh Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William W. McCumber, late of Company D, One hundred and sixteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Hawkins, late of Company C, Eighth Regiment New York Volunteer Heavy Artillery, and Company I, Tenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James S. Doolittle, late of Company H, One hundred and fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary C. Edwards, widow of Robert W. Edwards, late of Company C, One hundred and ninety-third Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jesse Dorsett, late of Company D, Third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John M. Burson, late of Company F, Fifty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Kenton Core, late of Company A, Sixtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Tipton, late of Company I, One hundred and sixteenth Regiment, and Company C, Seventeenth Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin Butler, alias Benjamin Bulison, late of Company B, Second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac Baschore, late of Company M, One hundred and second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Noah Switzer, late of Company E, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel Yetts, late of Company I, Two hundred and tenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary C. Martin, widow of Nelson Martin, late of Company E, Fourteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Rufus McCutcheon, late of Company D, Thirty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles G. Scott, late of Company B, Fourth Regiment United States Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma C. Smith, widow of Onesimus M. Smith, late of Companies B and E, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John R. Perkins, late of Company B, Seventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Loviah S. Osborn, widow of George F. Osborn, late of Company K, Sixth Regiment Michigan Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Rachel A. Houck, widow of Jacob W. Houck, late of Company A, Purnell Legion Maryland Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William W. Thornton, late of Company A, Eighteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Perry Black, late of Company F, Twelfth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lawrence Hoffman, late of Company K, One hundred and eighty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lorenzo D. Barnhart, late of Company B, One hundred and tenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Otto Marolotzi, late of Companies M and E, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Robert C. Cole, late of Battery H, Third Regiment New York Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward Lenihan, late of Company I, One hundred and forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Burwell C. Crosthwait, late of Company D, Fifty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary E. Carr, widow of Morgan Carr, late of Company F, One hundred and ninety-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of David B. Ziegler, late of Company C, One hundred and seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Cornelius W. Robinson, late of Company G, Eighth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Noah Brown, late of Company H, Thirty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joshua Pack, late of Company D, Tenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Holmes C. Grant, late of Company F, Thirty-fifth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Warren Brown, alias James Warren, late of Companies D and K, Third Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William J. Miller, late of Company B, Twenty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander Parks, late of Company D, One hundred and eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Caleb W. Story, late of Company G, Tenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Hope M. Craig, widow of William A. Craig, late of Company L, Eighty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Stephen L. Freel, late of Company C, One hundred and fifty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry J. Van Iderstine, late of Company E, Twenty-second Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Michael Rudisell, late of Company D, Fifth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Osmer A. Talmage, late of Company K, Tenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert L. Kirkwood, late of Company I, One hundred and forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Adoniram J. R. Lohr, late of Company B, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah M. Spence, former widow of John M. Ray, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emma Chapman, widow of Hugh Chapman, late of Company H, Thirteenth Regiment United States Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John P. Ballard, late of Company K, Fourth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Anna Leonard, widow of John Leonard, late of U. S. S. New Hampshire and Princeton, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John A. Mow, late of Company I, Seventeenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Penelope Morton, widow of James Morton, late of Company F, Twenty-second Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James F. Walker, late of Company I, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Edward L. Richmond, late of Company A, First Battalion United States Infantry, and drum major Twenty-sixth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John L. Comstock, late of Company D, Ninth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry M. C. White, late of Company G, Eighteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Sidney F. Haines, widow of Ellis A. Haines, late scout and guide, Quartermaster's Department, United States Army, and pay her a pension at the rate of $12 per month.

The name of James W. Thacker, late of Company A, Seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Henry E. Rockafellow, late of Company I, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ellen Coen, widow of Ezekiel Coen, late of Company G, Twelfth Regiment Kansas Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Lindquist, late of Company L, First Regiment Minnesota Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah E. Merritt, widow of Fanning T. Merritt, late of Company C, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Powers, late of Company E, Thirty-ninth Regiment, and unassigned, Thirty-third Regiment, New Jersey Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Thomas F. Edgar, late of Company F, Sixth Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Schwindling, helpless and dependent child of Peter Schwindling, late of Company K, Thirty-seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Marion Chambers, late of Company D, Seventy-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George R. Latham, late colonel Second and Sixth Regiments West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Herschel W. Howland, late of Company I, Fourth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Harrison Craig, late of Company A, Forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Edward Spaulding, late of Company K, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Tamson E. Boylston, widow of Frank S. Boylston, late of Company A, Fourth Regiment Massachusetts Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary E. Kelly, widow of James Kelly, late of Company F, Thirteenth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of James A. Mullen, late of Company E, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Roswell Corbett, late of Company E, One hundred and ninety-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph Williams, late of Company A, Thirty-ninth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Harrison Ratliff, late of Company D, Thirty-ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George L. Davis, late of Company L, Eighth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Daniel R. Snyder, late of Company B, Two hundred and tenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Emsey O. Young, widow of William Young, late of Company D, Second Regiment Iowa Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of William M. Young, helpless and dependent son of said Emsey O. Young, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Emsey O. Young, the name of said William M. Young shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Emsey O. Young.

The name of John B. Cason, late of Company A, First Regiment Arkansas Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Horace Buchanan, late adjutant Twenty-fourth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Daniel H. Woolery, late of Company B, Twenty-second Regiment, and Company F, Fifty-fourth Regiment, Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucretia M. Smith, former widow of William Schenck, late of Company B, First Regiment New Jersey Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of John C. Kliver, late of Company I, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Stanford W. Ellis, late of Company G, Forty-sixth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Bacome, late of Company C, Forty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Thomas R. Scott, late of Companies E and K, Seventy-first Regiment New York State Militia Infantry, and captain Company D, Twenty-fifth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles W. Bricker, late of Company A, One hundred and Ninety-fourth Regiment Pennsylvania Volunteer Infantry, and Company E, Seventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James E. Cady, late of Company G, Eighth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Reash, late of Company B, First Regiment Minnesota Volunteer Heavy Artillery, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John Leroy McMichael, late of Company K, Thirty-eighth Regiment Ohio Volunteer Infantry, and Company F, Eighth Regiment Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George N. Van Wagener, late of Company A, Twenty-second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John O. Shufeldt, late of Company A, Fifth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Thomas F. Lankford, late of Company B, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martin J. Flegel, late of Company C, First Regiment Potomac Home Brigade Maryland Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth H. Nichols, widow of Frederick R. Nichols, late of Company K, Twenty-third Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William J. Ferguson, late of Company G, One hundred and eleventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas D. McElwain, late of Company A, First Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Charles H. Spencer, late of Companies A and D, Tenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret E. Carrick, former wife of Daniel Fisher, jr., late of Company I, One hundred and forty-fifth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of Nathaniel McDonald, late of Company A, Fifteenth Regiment, and Company K, Tenth Regiment, West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary M. Rowe, widow of Charles A. Rowe, late of Company E, Forty-sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Cyrus A. Moneysmith, late of Company A, One hundred and sixty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph Goddard, late of Company H, Second Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Frank E. Barnes, helpless and dependent child of Frank E. Barnes, late of Company I, Twenty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Mary E. Sprayberry, widow of Jerry D. Sprayberry, late of Company B, Tenth Regiment, and Company G, Second Regiment, Missouri Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Joel Ratliff, late of Company D, Thirty-ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Coster, late first-class boy, U. S. S. Santiago de Cuba and Princeton, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Reynolds, widow of Henry E. Reynolds, late of Company A, Fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah E. Bapp, widow of Henry Bapp, alias William Henry Bapp, late of Company D, One hundred and thirty-third Regi-

ment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of David Thompson, late of Company M, Second Regiment Pennsylvania Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Phillips, alias Joseph Stanton, late of Company G, First Battalion, Eleventh Regiment United States Infantry, and Company F, Eighty-eighth Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Schreiner, widow of Peter Schreiner, late of Company E, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Barbara Schreiner, helpless and dependent daughter of said Peter Schreiner, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Elizabeth Schreiner, the name of said Barbara Schreiner shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth Schreiner.

The name of Angeline Wilson, widow of Joseph S. Wilson, late commissary sergeant Thirteenth Regiment United States Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Elmer E. Wilson, helpless and dependent son of said Joseph S. Wilson, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Angeline Wilson, the name of said Elmer E. Wilson shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Angeline Wilson.

The name of James Baxter, late of Company A, Twenty-second Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry C. Mears, late of Company B, Twenty-third Regiment Massachusetts Volunteer Infantry, and Company B, Second Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James T. Kennedy, late of Company A, One hundred and seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Crider, late of Company F, One hundred and ninety-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of John Breeding, late of Company M, Fourteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward W. Clough, late of Company E, Thirteenth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of King A. Bowman, late of Company I, Ninth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph H. Hays, late of Company A, First Regiment Mississippi Marine Brigade, and Company K, Eleventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James G. Begley, late of Companies I and B, Eighth Regiment, and Company A, Fourth Regiment, Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel M. Hager, late of Company D, Forty-fifth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Cook, late of Company E, Thirteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary H. Atkinson, widow of John M. Atkinson, late of Company B, Fourteenth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The above bill is a substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 73. Leon Schuhmacher.
H. R. 74. Harmon A. Fleming.
H. R. 92. Willis Dennis.
H. R. 107. Daniel Boroff.
H. R. 184. Elizabeth R. Nelson.
H. R. 191. Marcellus Albright.
H. R. 445. James Boner.
H. R. 447. George Hostler.
H. R. 448. Jacob D. Welsh.
H. R. 464. John Cooley.
H. R. 499. Benjamin F. Ralls.
H. R. 507. Joshua Hubbard.
H. R. 654. John Dover.
H. R. 662. John Mertes.
H. R. 1127. William M. Freels.
H. R. 1539. Jacob C. Bloodworth.
H. R. 1585. Daniel Remington.
H. R. 1586. John C. Carter.
H. R. 1591. James L. McWilliams.
H. R. 1926. Monroe Abbott.
H. R. 2022. Hugh J. Hales.
H. R. 2232. Sarah Wallace.
H. R. 2371. Henry Zellner.
H. R. 2466. James Crain.
H. R. 2471. Benjamin Rail.
H. R. 2473. Samuel Johnson.
H. R. 2524. Samuel Mishler.
H. R. 2528. Samuel Shropshire.
H. R. 2543. Sylvanus G. Pepple.
H. R. 2808. George G. Hughes.
H. R. 3027. Joseph R. Peck.
H. R. 3029. William D. Parks.
H. R. 3299. Elizabeth Staffen.
H. R. 3316. Alvis Sharp.
H. R. 3713. Edward Kiniry.
H. R. 3724. Thomas Inman.
H. R. 3841. Henry Cutberth.
H. R. 3915. Joel Parsons.
H. R. 4054. Nannie Slayton.
H. R. 4075. Hugh H. Wilson.
H. R. 4351. Peter W. Gadbow.
H. R. 4616. Francis M. Perkins.
H. R. 4617. Byron Lilly.
H. R. 4639. William T. Tway.
H. R. 4890. Samuel D. Preston.
H. R. 5104. Conrad Hamman.
H. R. 5106. John W. Fry.
H. R. 5107. Charles Allen.
H. R. 5254. Samuel J. Miller.
H. R. 5257. William W. Keene.
H. R. 5341. Henry Flesher.
H. R. 5343. George H. Bolsey.
H. R. 5392. Galen H. Lotz.
H. R. 5429. William Francis.
H. R. 5543. David M. Kinsey.
H. R. 5565. John McPhern.
H. R. 5566. Michael R. Godfrey.
H. R. 5567. Joseph C. Johnson.
H. R. 5646. James W. Longbon.
H. R. 5664. James M. Francis.
H. R. 5783. Patrick J. Carroll.
H. R. 5789. John Breneman.
H. R. 5810. Dennis Willard.
H. R. 5814. Levi B. Wightman.
H. R. 6069. John Miller.
H. R. 6126. John Zedeker.
H. R. 6249. Daniel B. Boynton.
H. R. 6262. Lyman H. Evans.
H. R. 6353. Jacob Henry.
H. R. 6437. David Gough.
H. R. 6814. John L. Smith.
H. R. 6832. Anton Ohnesorg.
H. R. 6838. James C. Rule.
H. R. 7048. Alfred Williamson.
H. R. 7137. Edmond Dunahoo.
H. R. 7231. Shepherd M. Knapp.
H. R. 7237. Ezeriah Evans.
H. R. 7295. Charles D. Beman.
H. R. 7383. Jeremiah Taylor.
H. R. 7403. Elias D. Koeppel.
H. R. 7639. Henry Wheeler.
H. R. 7665. Francis M. Harris.
H. R. 8506. Albert B. Kidder.
H. R. 8526. Joseph B. Randall.
H. R. 8713. Thomas Price.
H. R. 8750. Granville Koger.
H. R. 8756. John W. Harris.
H. R. 8870. Samuel A. Houser.
H. R. 9051. James E. Bowers.
H. R. 9292. True Hart.
H. R. 9348. John Hanlon.
H. R. 9404. Lucy B. Miller.
H. R. 9559. John Rohland.
H. R. 9674. John R. Collins.
H. R. 9704. Francis M. Kittrell.
H. R. 9782. George H. Devol.
H. R. 9791. David B. Johnson.
H. R. 9925. Robert L. Higgins.
H. R. 9926. David Turpin.
H. R. 9935. Peter M. McNelly.
H. R. 9941. John W. Bricker.
H. R. 9942. David A. Pew.
H. R. 9994. Hiram C. Smith.
H. R. 10026. Thomas B. Reed.
H. R. 10266. James A. Thompson.
H. R. 10395. Leonard A. Wilson.
H. R. 10457. Godfrey Winkler.
H. R. 10468. Henry Willman.
H. R. 10561. Richard Burns.
H. R. 10573. George L. Mull.
H. R. 10631. Napoleon B. Agy.
H. R. 10633. John Dunn.
H. R. 10748. William H. McAllister.
H. R. 10791. John Heltzel.
H. R. 10872. Harrison Bradley.
H. R. 10973. William Leeper.
H. R. 11013. Reuben Melton.
H. R. 11015. John W. Bond.
H. R. 11117. Abraham Shipman.
H. R. 11293. Theodore Garner.
H. R. 11392. Emma J. Turner.
H. R. 11393. Martin V. B. Smith.
H. R. 11408. William Brown.
H. R. 11452. Nancy E. Smith.
H. R. 11453. Samuel Pierce.
H. R. 11505. Parley Day.
H. R. 11507. Harmon Dixon.
H. R. 11511. George W. Johnson.
H. R. 11512. Hester A. Snodgrass.
H. R. 11524. Benjamin F. Lemon.
H. R. 11540. John Bonecutter.
H. R. 11610. Frances A. Francis.
H. R. 11653. Jane A. Kirby.
H. R. 11707. Joseph H. Shipman.
H. R. 11737. James H. Lansbery.
H. R. 12019. Thomas C. Snider.
H. R. 12073. Calvin Underwood.
H. R. 12095. Robert Marshall.
H. R. 12352. Thomas R. Anderson.
H. R. 12388. Charles W. Price.
H. R. 12438. Samuel H. Hulse.
H. R. 12452. William M. King.
H. R. 12509. Henry D. Jordan.
H. R. 12567. Rebecca J. Shy.
H. R. 12573. William L. Switzer.
H. R. 12575. William H. Paine.
H. R. 12594. Susan H. Butler.
H. R. 12632. James Teller.
H. R. 12676. Reuben H. Crosby.
H. R. 13024. Reason Carrico.
H. R. 13059. Moses Hensley.
H. R. 13086. Claudius N. Martin.
H. R. 13197. Joseph Funk.
H. R. 13306. James M. Childers.
H. R. 13307. Henderson W. Poundstone.
H. R. 13312. Theodore Brown.
H. R. 13322. Edward J. Hummel.
H. R. 13323. Wesley Z. Lewis.
H. R. 13324. William H. Youart.
H. R. 13340. Harry Karslake.
H. R. 13372. John H. Weaver.
H. R. 13424. Horatio F. Bronson.
H. R. 13440. Frank A. Higgins.
H. R. 13490. Maud Johnson.
H. R. 13546. James R. Anthony.
H. R. 13552. Anna Glendening.
H. R. 13639. Abram A. Gossett.
H. R. 13764. Adelbert B. Crampton.
H. R. 13896. Aaron Teegarden.
H. R. 13992. Samuel Engle.
H. R. 14174. Daniel R. Smith.
H. R. 14176. Margret Babcock.
H. R. 14177. James H. Utter.
H. R. 14179. George O. Booth.
H. R. 14374. James N. Dennis.
H. R. 14378. Timothy Donovan.
H. R. 14435. George Livingston.
H. R. 14446. Commodore O. Perry.
H. R. 14470. Frank F. Pullen.
H. R. 14521. Francis M. Sutton.
H. R. 14544. Charles R. Brown.
H. R. 14644. Charles G. Mason.
H. R. 14751. Nannie K. Thomas.
H. R. 14782. William McCutcheon.
H. R. 14841. George A. Tainter.
H. R. 14900. Joseph Hornung.
H. R. 14903. Esther E. Bailey.
H. R. 14914. Daniel Wright.
H. R. 14963. John H. Ballmer.
H. R. 15047. Thomas H. Scott.
H. R. 15052. Christian H. Snyder.
H. R. 15063. John Ferrier.
H. R. 15066. Frietz Heinrich.
H. R. 15078. William Shug.
H. R. 15079. William Mack.
H. R. 15081. Frank Drew, alias Frank Drube.
H. R. 15164. Charles Sergeant.
H. R. 15204. William M. Mitchell.
H. R. 15210. Salmon A. Buell.
H. R. 15226. James H. Biteman.
H. R. 15236. Rebecca Behrmann.
H. R. 15238. Makajah T. Hill.
H. R. 15253. Hiram Budinger.
H. R. 15333. John Tipton.
H. R. 15379. Jacob M. Neely.
H. R. 15387. Frederick Bonnet.
H. R. 15420. Milton S. Lawhead.
H. R. 15442. Milo Paden.
H. R. 15444. Samuel N. Mathews.
H. R. 15557. Oscar F. Towne.
H. R. 15659. Daniel W. Hickman.
H. R. 15846. George W. Foster.
H. R. 15965. James R. Palmer.
H. R. 15988. Samuel T. Chambers.
H. R. 15995. John R. English.
H. R. 16048. Thomas L. Curas.
H. R. 16055. John H. Austin.
H. R. 16116. Calvin B. Castelo.
H. R. 16202. William J. Sneed.
H. R. 16234. Stephen J. Still.
H. R. 16236. Samuel L. Riley.
H. R. 16241. William Palmer.
H. R. 16243. Norman D. McKown.
H. R. 16246. James R. Reeder.
H. R. 16272. Michael Fitts.
H. R. 16275. Hector M. Stocum.
H. R. 16380. Samuel K. Harris.
H. R. 16485. Daniel M. Fenton.
H. R. 16511. Robert M. Stewart.
H. R. 16521. Alva M. Courtright.
H. R. 16595. Joseph H. Denton.
H. R. 16616. Henry M. Montgomery.
H. R. 16634. Robert L. Fuller.
H. R. 16696. Uzal K. Still.
H. R. 16718. Helen T. Wood.
H. R. 16728. William Lay.
H. R. 16865. Willetts Haas.
H. R. 16897. James B. H. McDaniel.
H. R. 16925. Stephen R. Estes.
H. R. 16959. George Emerick.
H. R. 16962. Mary E. Smith Barkley.
H. R. 16981. Orrin L. Drake.
H. R. 16989. Bridget Burns.
H. R. 16995. Benton W. T. Derryberry.
H. R. 17075. Martha Coslett.
H. R. 17139. Stephen H. Clayton.
H. R. 17185. William A. Smith.
H. R. 17261. James H. Kinkead.
H. R. 17270. Genio S. Lawrence.
H. R. 17277. Mary Rothenburger.
H. R. 17290. Orlando P. Brenneholtz.
H. R. 17291. Stewart Wells.
H. R. 17345. William H. Cox.
H. R. 17346. Emma A. Jahne.
H. R. 17404. Marshall D. Watson.
H. R. 17433. John C. Doss.
H. R. 17509. Celia O'Neal Boothby.
H. R. 17515. Henry K. Reese.
H. R. 17526. Eliza Williams.
H. R. 17557. Fannie E. Brown.
H. R. 17564. John H. Price.
H. R. 17698. Israel Loatman.
H. R. 17703. Francis C. Field, alias Silas Mansfield.
H. R. 17715. Herman Boedicker.
H. R. 17765. William L. Whetstone.
H. R. 17852. Annie White.
H. R. 17943. Jacob L. Kennamer.
H. R. 17981. C. M. Hildabrand.
H. R. 17993. James Sandusky.
H. R. 18071. Mary Florence King.
H. R. 18111. George B. Kiehl.
H. R. 18114. Florence L. Latrace.
H. R. 18154. Sanford D. Ramey.
H. R. 18265. David Slodaker.
H. R. 18403. Ellen Smith.
H. R. 18440. Milton Trout.
H. R. 18445. Benjamin Coe.
H. R. 18708. Ellen E. Beck.
H. R. 18746. John Henderson.
H. R. 18804. John H. Adelmeyer.
H. R. 18812. William Yates.
H. R. 18883. Armstrong Staley.
H. R. 18885. Silas McGregor.
H. R. 19000. William W. Hughes.
H. R. 19013. August H. Merchant.
H. R. 19047. Allison Clark.
H. R. 19048. Kate G. Andrews.
H. R. 19058. Sallie F. Wilson.
H. R. 19079. Thaddeus W. Wolfe.
H. R. 19136. Daniel S. Tuthill.
H. R. 19163. John B. McElhinny.
H. R. 19194. Anna D. Strock.
H. R. 19197. Michael Fitzgerald.
H. R. 19262. Charles H. Koontz.
H. R. 19265. George W. Salter.
H. R. 19311. Scott Wright.
H. R. 19358. Lewis Gross.
H. R. 19360. Marshall Preston.
H. R. 19392. George F. Russell.
H. R. 19490. Cornelius W. Roberts.
H. R. 19513. Erminia Thayer Carpenter.
H. R. 19571. W. Walter Branyan.
H. R. 19600. Perley Evans.

H. R. 19631. Cornelius McCafferty.
H. R. 19648. Mary A. Sanborn.
H. R. 19649. John R. Parmley.
H. R. 19650. James A. Miller.
H. R. 19658. Sarah Brandon (now Sweeney).
H. R. 19665. Cora A. Crist.
H. R. 19735. Philip McGregor.
H. R. 19778. Josiah Main.
H. R. 19779. Michael Dalton.
H. R. 19846. Herman K. Miller.
H. R. 19970. Manford G. W. Tucker.
H. R. 20033. Samuel T. Wolf.
H. R. 20200. Amos E. Burbank.
H. R. 20254. John A. Pierson.
H. R. 20262. Alvin M. Miller.
H. R. 20342. Emeline N. Griffiths.
H. R. 20361. Josiah Garrison.
H. R. 20364. Christine March.
H. R. 20414. Reuben V. Lott.
H. R. 20449. Tandy R. Shoemaker.
H. R. 20462. Abram Eutsler.
H. R. 20468. Conrad Push.
H. R. 20516. Henry A. Munzert.
H. R. 20530. Alexander Mattison.
H. R. 20534. Charles J. Hodgkinson.
H. R. 20535. John McAdoo.
H. R. 20556. William Fuller.
H. R. 20621. Willard B. Hill.
H. R. 20656. Henry Gaines.
H. R. 20657. Nicholas Burlbaw.
H. R. 20658. John W. Wray.
H. R. 20774. Stephen P. Libby.
H. R. 20844. Thomas J. Cartwright.
H. R. 20920. George C. Hall.
H. R. 21088. Thomas Overstreet.
H. R. 21102. Fountain D. Plummer.
H. R. 21112. Annie Swayze.
H. R. 21247. Laura V. Alexander.
H. R. 21266. Erastus Morgan.
H. R. 21297. John B. Thompson.
H. R. 21316. Joseph H. Duncan.
H. R. 21377. Thomas B. Chapman.
H. R. 21380. Verona Withaus.
H. R. 21385. James A. Buck.
H. R. 21386. Paul Hirschfield, alias Harris Cohn.
H. R. 21402. John A. Kerr.
H. R. 21408. Harrison Bernard Taylor.
H. R. 21414. Isaac Prosser.
H. R. 21437. Henry B. Furbee.
H. R. 21469. Reubin Bradish.
H. R. 21509. George Grove.
H. R. 21512. Henry S. Davis.
H. R. 21562. James A. Dowell.
H. R. 21569. Susan C. Virgin.
H. R. 21580. Francesca L. Perrine.
H. R. 21583. Julia J. Kendall.
H. R. 21598. Jacob Eley.
H. R. 21608. Addison Miller.
H. R. 21635. August Arnoldi.
H. R. 21689. Ephraim Martin.
H. R. 21777. Louis Gessner.
H. R. 21809. Job M. Kerns.
H. R. 21822. Edward D. Ingersoll.
H. R. 21842. Annie Elizabeth Boyle.
H. R. 21850. Basil Peterson.
H. R. 21866. Thomas Casey.
H. R. 21873. William Arbogast.
H. R. 21874. Joseph C. Carmean.
H. R. 21956. William H. Wilson.
H. R. 21993. Emily L. Brown.
H. R. 22001. Thomas N. Maple.
H. R. 22025. John M. Buckley.
H. R. 22026. Robert F. Evans.
H. R. 22070. Waldo W. Williams.
H. R. 22076. Duncan Cox.
H. R. 22128. Solonas Williams.
H. R. 22137. Abram S. Esmay.
H. R. 22153. Malissa Lindsey.
H. R. 22172. William H. Miller.
H. R. 22373. Arthur A. Jones.
H. R. 22383. William Nye.
H. R. 22388. Albert List.
H. R. 22414. Abraham Myers.
H. R. 22444. William W. McCumber.
H. R. 22445. James Hawkins.
H. R. 22457. James S. Doolittle.
H. R. 22530. Mary C. Edwards.
H. R. 22540. Jesse Dorsett.
H. R. 22559. John M. Burson.
H. R. 22602. Kenton Core.
H. R. 22622. William Tipton.
H. R. 22624. Benjamin Butler, alias Benjamin Bulison.
H. R. 22630. Isaac Baschore.
H. R. 22662. Noah Switzer.
H. R. 22673. Daniel Yetts.
H. R. 22722. Mary C. Martin.
H. R. 22746. Rufus McCutcheon.
H. R. 22756. Charles G. Scott.
H. R. 22761. Emma C. Smith.
H. R. 22780. John R. Perkins.
H. R. 22789. Loviah S. Osborn.
H. R. 22804. Rachel A. Houck.
H. R. 22811. William W. Thornton.
H. R. 22841. Perry Black.
H. R. 22854. Lawrence Hoffman.
H. R. 22887. Lorenzo D. Barnhart.
H. R. 22915. Otto Marolotzi.
H. R. 22929. Robert C. Cole.
H. R. 22931. Edward Lenihan.
H. R. 22970. Burwell C. Crosthwait.
H. R. 22991. Mary E. Carr.
H. R. 23016. David B. Ziegler.
H. R. 23017. Cornelius W. Robinson.
H. R. 23019. Noah Brown.
H. R. 23048. Joshua Pack.
H. R. 23055. Holmes C. Grant.
H. R. 23057. James Warren Brown, alias James Warren.
H. R. 23058. William L. Miller.
H. R. 23059. Alexander Parks.
H. R. 23061. Caleb W. Story.
H. R. 23131. Hope M. Craig.
H. R. 23168. Stephen L. Freel.
H. R. 23173. Henry J. Van Iderstine.
H. R. 23196. Michael Rudisell.
H. R. 23230. Osmer A. Talmage.
H. R. 23249. Robert L. Kirkwood.
H. R. 23275. Adoniram J. R. Lohr.
H. R. 23285. Sarah M. Spence.
H. R. 23287. Emma Chapman.
H. R. 23305. John P. Ballard.
H. R. 23314. Anna Leonard.
H. R. 23356. John A. Mow.
H. R. 23432. Penelope Morton.
H. R. 23443. James F. Walker.
H. R. 23474. Edward L. Richmond.
H. R. 23476. John L. Comstock.
H. R. 23486. Henry M. C. White.
H. R. 23489. Sidney F. Haines.
H. R. 23495. James W. Thacker.
H. R. 23497. Henry E. Rockafellow.
H. R. 23512. Ellen Coen.
H. R. 23531. John Lindquist.
H. R. 23540. Sarah E. Merritt.
H. R. 23552. James Powers.
H. R. 23562. Thomas F. Edgar.
H. R. 23590. Mary Schwindling.
H. R. 23597. Marion Chambers.
H. R. 23608. George R. Latham.
H. R. 23656. Herschel W. Howland
H. R. 23678. Harrison Craig.
H. R. 23688. Edward Spaulding.
H. R. 23693. Tamson E. Boylston.
H. R. 23725. Mary E. Kelly.
H. R. 23731. James A. Mullen.
H. R. 23742. Roswell Corbett.
H. R. 23746. Joseph Williams.
H. R. 23747. Harrison Ratliff.
H. R. 23748. George L. Davis.
H. R. 23783. Daniel R. Snyder.
H. R. 23790. Emsey O. Young.
H. R. 23792. John B. Cason.
H. R. 23814. Horace Buchanan.
H. R. 23815. Daniel H. Woolery.
H. R. 23825. Lucretia M. Smith.
H. R. 23860. John C. Kliver.
H. R. 23871. Stanford W. Ellis.
H. R. 23872. William Bacome.
H. R. 23873. Thomas R. Scott.
H. R. 23875. Charles W. Bricker.
H. R. 23886. James E. Cady.
H. R. 23887. John Reash.
H. R. 23888. John Leroy McMichael
H. R. 23890. George N. Van Wagener.
H. R. 10500. King A. Bowman.
H. R. 13559. Joseph H. Hays.
H. R. 19681. James G. Begley.
H. R. 23896. John O. Shufeldt.
H. R. 23911. Thomas F. Lankford.
H. R. 23915. Martin J. Flegel.
H. R. 23929. Elizabeth H. Nichols.
H. R. 23933. William J. Ferguson.
H. R. 23936. Thomas D. McElwain.
H. R. 23937. Charles H. Spencer.
H. R. 23979. Margaret E. Carrick.
H. R. 23981. Nathaniel McDonald.
H. R. 24006. Mary M. Rowe.
H. R. 24031. Cyrus A. Moneysmith.
H. R. 24080. Joseph Goddard.
H. R. 24105. Frank E. Barnes.
H. R. 24127. Mary E. Sprayberry.
H. R. 24138. Joel Ratliff.
H. R. 24140. Henry Coster.
H. R. 24141. Elizabeth Reynolds.
H. R. 24143. Sarah E. Bapp.
H. R. 24170. David Thompson.
H. R. 24171. James Phillips, alias Joseph Stanton.
H. R. 24198. Elizabeth Schreiner.
H. R. 24294. Angeline Wilson.
H. R. 24300. James Baxter.
H. R. 24314. Henry C. Mears.
H. R. 24332. James T. Kennedy.
H. R. 24468. George W. Crider.
H. R. 24552. John Breeding.
H. R. 24555. Edward W Clough.
H. R. 20612. Daniel M. Hager.
H. R. 23867. John W. Cook.
H. R. 24584. Mary H. Atkinson.

During the reading of the bill,

Mr. STERLING. Mr. Speaker, on page 6, line 20, appears the name of Sylvanus G. Peffle. It should be P-e-p-p-l-e instead of P-e-f-f-l-e.

Mr. RUSSELL. I have no objection.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 20, change the name of "Peffle" to "Pepple."

The question was taken, and the amendment was agreed to.

Mr. RUSSELL. Mr. Speaker, I desire to offer a committee amendment. On page 18, line 10, strike out the word "twenty-four" and insert in lieu thereof the word "thirty-six."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 18, line 10, strike out the word "twenty-four' 'and insert the word "thirty-six."

The question was taken, and the amendment was agreed to.

Mr. RUSSELL. Mr. Speaker, I desire to offer a committee amendment on page 19, line 23, by striking out the word "twenty-four" and inserting "thirty." [Godfrey Winkler.]

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 19, line 23, strike out the word "twenty-four" and insert the word "thirty."

The question was taken, and the amendment was agreed to.

Mr. RUSSELL. Mr. Speaker, I desire to offer an amendment. On page 21, line 13, strike out lines 13, 14, 15, and 16, inclusive. The party is dead. [Reuben Melton.]

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 21, strike out all of lines 13 to 16, inclusive.

The question was taken, and the amendment was agreed to.

Mr. RUSSELL. Mr. Speaker, I desire to offer a committee amendment, on page 32, line 7, by striking out the word "twenty-four" and inserting the word "thirty." [Francis M. Sutton.]

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 32, line 7, strike out the word "twenty-four" and insert "thirty."

The question was taken, and the amendment was agreed to.

Mr. RUSSELL. Mr. Speaker, I desire to offer a committee amendment on page 73, line 10, by striking out the letter "J" and inserting the letter "L." [William J. Miller.]

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 73, line 10, strike out the letter "J" and insert the letter "L" in lieu thereof.

The question was taken, and the amendment was agreed to.

At the conclusion of the reading of the bill,

Mr. RUSSELL. Mr. Speaker, I desire to offer the following amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the bill as a new paragraph the following:
"The name of John Howell, late of Company H, Second Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving."

Mr. RUSSELL. Mr. Speaker, this is the first time this committee has ever permitted a new item to be added to a bill in the House, or attempted to do so. We have consented to do this for the reason that by an error, though authorized, it was not placed in this bill, and for the further reason that this party is now 80 years of age, has had long and honorable service, and is totally blind, and the committee has authorized me to offer this amendment.

Mr. MANN. Is this amendment offered at the suggestion of the Senate committee?

Mr. RUSSELL. No; this is a House bill, and it is offered at the suggestion of the House committee.

Mr. ADAIR. As I understand, this was favorably acted upon by the committee, but through an inadvertence was omitted from the bill.

Mr. RUSSELL. This bill had a favorable report from the examiner, favorably acted upon by the committee, but by some error it was not included in the list of items. This man is totally blind, and it ought to be allowed to him, anyway.

The question was taken, and the amendment was agreed to.

Mr. TRIBBLE. Mr. Speaker, I offer the following amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amend, at the end of the bill, by inserting the following:
"*Provided*, That the name of no person contained in this act shall be placed on the pension roll who has filed application for increase of pension under act of Congress relating to the granting of pensions, passed on the 11th day of May, 1912, or who is entitled under said act to a pension or an increase of pension thereunder: *Provided further*, That for the purpose of carrying into effect the foregoing provision the Commissioner of Pensions shall certify to the Secretary of the Interior such names as are qualified to be placed on the pension roll under this act, and for such purposes the decision and certificate of the Commissioner of Pensions shall be conclusive and final."

Mr. TRIBBLE. Mr. Speaker, I offer that amendment in perfect good faith. I do not care to make any extended remarks on it. It seems to me this bill ought to be revised by the committee. It was stated on the floor of the House by the chairman this morning that the bill was passed upon by the committee before the recent act, which was signed by the President, creating the most general and most liberal pension act ever passed in the history of the world by any country. Now, I can not conceive that any injury would be done to anyone by revising this bill, and it should be revised to conform to general provisions of the recent pension act.

Mr. MANN. Will the gentleman yield for a question?

Mr. TRIBBLE. Yes, sir.

Mr. MANN. The gentleman proposes, first, to bar anyone who has filed a claim for increase under the recent act, and, second, to bar anyone who is entitled to an increase under the recent act. As it could not be ascertained whether anyone is entitled to an increased pension under the recent act until they had filed an application, would not the gentleman's amendment bar everybody under this act?

Mr. TRIBBLE. Not those who are entitled to receive under the recent pension act. They would not be barred.

Mr. MANN. The gentleman's amendment bars anyone in this act who has filed an application for an increase of pension under the recent act.

Mr. TRIBBLE. That means those who have filed. There are thousands of them who have already filed in the Pension Office and also are provided for in this bill. It is the purpose to reach the ones who are in this bill and who are filing and asking for $30 or less in the new legislation.

Mr. MANN. But under the other provisions of the bill it would be necessary to file an application in order to ascertain. The commissioner could not tell offhand whether a person is entitled to an increase under the recent law. That may depend upon facts.

Mr. TRIBBLE. It is true there may be some carried in this bill that the pension bill would cut out. I admit that.

Mr. MANN. But the Pension Bureau can not determine whether an existing pensioner or somebody carried in this act is entitled to a pension under the recent act without having an application before it or a pension before it. The Pension Commissioner can not tell offhand whether somebody is entitled to a pension or not, or increase of pension.

Mr. TRIBBLE. The amendment contemplates there shall be an investigation by the Pension Bureau.

Mr. MANN. Supposing it is a matter depending upon age and all those things. Without an application filed by the applicant the Pension Commissioner has no authority to make an investigation. Now, if the gentleman's amendment prevails, nobody can be paid a pension who might have an increase; therefore everybody who wanted a pension would have to make an application, and then the gentleman bars everybody who makes application.

Mr. TRIBBLE. It only refers to the names in this omnibus bill which is before the House now.

Mr. MANN. Anyone in this bill?

Mr. TRIBBLE. Yes.

Mr. MANN. So that in either horn of the dilemma which anyone took, he would be barred from getting the increase of pension.

Mr. TRIBBLE. I do not so understand it. The only purpose is to exclude anyone who is not provided for in the general law.

The SPEAKER pro tempore. The question is on agreeing to the amendment of the gentleman from Georgia [Mr. TRIBBLE].

The question was taken, and the amendment was rejected.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the amended bill.

Mr. TRIBBLE. I thought we had reached that point.

Mr. KINKEAD of New Jersey. Mr. Speaker, I move to strike out the last word.

The SPEAKER pro tempore. The gentleman can not move to strike out the last word now. The question is on the engrossment and third reading of the amended bill.

The bill was engrossed and read a third time.

Mr. TRIBBLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. TRIBBLE] offers a motion to recommit, which the Clerk will report.

The Clerk read as follows:

Moved, That the bill be recommitted to the Committee on Invalid Pensions with instructions to report the same back to the House amended as follows:

Strike out all pensions allowed at the rate of more than $30 per month, reporting back each such item so stricken at $30 per month.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Georgia to recommit the bill.

The question was taken, and the motion was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

Mr. RUSSELL. Mr. Speaker, I desire to call up the bill (S. 6646) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of William S. Brown, late of Company A, Third Regiment United States Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Albert D. Scovell, late of Company I, Third Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George W. Graham, late of Company A, Seventh Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Peter C. Johnson, late of Company M, Seventeenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Susannah Sprague, widow of John Sprague, late of Company A, Tenth Regiment Kansas Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William F. Hoffman, late of Company K, One hundred and eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Richard Johnson, alias Curry, late of Company C, Thirteenth Regiment United States Colored Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel N. Black, late of Company D, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John B. Farris, late first lieutenant Company F, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nelson Coffen, late of Company G, Sixteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Himanus De Witt, late of Company B, Twenty-third Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sumner R. Tarbox, late of Company A, Thirty-third Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Tillman Settles, late of Company B, Thirteenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Hobbs, late of Company D, Sixth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry A. Dennis, late of Company G, One hundredth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Duebenhorst, late of Thirteenth Battery Wisconsin Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Simpson, late of Company B, Second Regiment Colorado Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elise G. Irving, widow of William Irving, late lieutenant colonel Thirty-eighth Regiment Ohio Veteran Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The name of Francis M. Dean, late of Company D, Thirty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas M. Boylan, late of Company N, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Riley Small, late of Company A, One hundred and sixteenth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Adkins, late of Company K, Fourteenth Regiment, and Company C, Battalion, Fourteenth Regiment, Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas B. Davis, late of Company A, Tenth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John C. Porter, late of Company K, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Poffenbarger, late of Company K, Thirty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph T. Reno, late of Company A, Eighty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Joseph D. Miller, late of Company M, Second Regiment Missouri State Militia Cavalry, and Company L, Thirteenth Regiment

Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Job Snyder, late of Company K, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Alva M. Cunningham, late of Company I, One hundred and thirty-fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John F. Sowards, late of Company D, Fifth Regiment West Virginia Volunteer Infantry, and Company E, First Regiment West Virginia Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Levi Page, late of Company C, Fifteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Wood, late of Company E, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Gustus F. Johnson, late of Company I, Eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Silas Wilder, late of Company D, Seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John A. Doan, late of Company E, Fiftieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary E. Lincoln Bradburn, widow of Otho N. Bradburn, late of Company A, Ninth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joseph Harbaugh, late of Company H, Sixth Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bluford S. Jones, late of Company G, Seventh Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ursilla G. Underwood, widow of John Underwood, late of Troop B, First United States Lancers, Michigan Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Taylor Vance, late of Company I, Ninth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary A. Heflin, widow of James Heflin, late of Company H, Eleventh Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elijah Cox, late of Company D, Forty-ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac R. Storm, late of Company H, Twenty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Miles J. Burns, late of Company G, Third Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of William Hill, late of Company D, Sixth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Laurentine V. Tarvin, widow of Alonzo W. Tarvin, late second lieutenant Company I, Twenty-third Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William R. Evans, late of Company B, One hundred and second Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Barlow A. McCoy, late of Company D, Eighty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Falty Livers, late of Company H, One hundred and twenty-third Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sara A. Haskell, widow of Frank W. Haskell, late first lieutenant and adjutant Nineteenth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of David Curfman, late of Company H, One hundred and ninety-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David Cleaver, late of Company K, Twelfth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Olive A. Cordon, widow of Shedrach M. Cordon, late of Company F, Sixty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Henry K. Brawner, late of Company F, Twenty-second Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William L. Hines, late of Company G, Fourteenth Regiment Maine Volunteer Infantry, and Company K, Fourteenth Regiment Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Herrington, widow of James M. Herrington, late first-class pilot, United States Navy, and pay her a pension at the rate of $12 per month.

The name of Henry Grady, late of Company K, One hundred and ninety-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Balaam Fox, late of Company B, Seventh Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Ellis Miller, late of Company B, Seventeenth Regiment, and Company D, Second Regiment, Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Spear S. Zenor, late of Company D, Sixteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Douglas, late of Company I, Fourteenth Regiment Connecticut Volunteer Infantry, and Forty-first Company, Second Battalion Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas S. Cogley, late of Company C, Twenty-ninth Regiment Indiana Volunteer Infantry, and second lieutenant Company F, Seventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of August Runge, late of U. S. S. Savannah, Sabine, and Colorado, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Louisa Balgenoth, former widow of Benjamin F. Prior, late of Company C, One hundred and forty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jefferson Wykoff, late of Company D, First Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Robert F. C. Evans, late of Company D, One hundred and twenty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James D. Calahan, late of Company B, Fifty-ninth Regiment, and Company I, Eighty-eighth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel J. Dyer, late of Company A, Third Regiment Rhode Island Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph D. Taylor, late of Company D, Fourth Regiment Rhode Island Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Collins Blake, late of Company B, Eighth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Minnie D. Dobbins, widow of Ruel Dobbins, late hospital steward United States Army, and former widow of James C. Burkholder, late of Company G, One hundred and first Regiment Ohio Volunteer Infantry, and Company H, Seventh Regiment Veteran Reserve Corps, and pay her a pension at the rate of $12 per month.

The name of James D. Boyles, late of Company F, First Battalion Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John G. Thompson, late of Company F, One hundred and fortieth Regiment Pennsylvania Volunteer Infantry, and second lieutenant Company E, Tenth Regiment Pennsylvania Volunteer Infantry, War with Spain, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Reuben E. Chapman, late of Company E, One hundred and thirtieth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James J. Gallaway, late of Company B, Thirtieth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James W. Jones, late unassigned, Eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. White, late of Company H, Third Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Sarah I. Dunahey, widow of John W. Dunahey, late of Company E, Second Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles Heller, late of Company H, Forty-fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jerusha Morgan, widow of James Morgan, late of Company A, Tenth Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Clarence Morgan, helpless and dependent son of said James Morgan, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Jerusha Morgan the name of the said Clarence Morgan shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Jerusha Morgan.

The name of James B. Bryant, late of Company B, Fifth Battalion District of Columbia Militia Infantry, and pay him a pension at the rate of $15 per month.

The name of Francis M. Hockinbery, late of Company G, Fifteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Francis E. Stratton, late of Thirty-seventh Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jane Smith, widow of Seager F. Smith, late of Company E, Fifth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Francis McCabe, late of U. S. S. North Carolina and Delaware, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jacob M. Roberts, late of Company L, Fourteenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel E. Prather, late of Company G, Thirty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ada P. Armstrong, widow of George A. Armstrong, late captain and assistant quartermaster, United States Volunteers, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joseph Nye, late of Company K, Sixty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Darwin A. Webb, late of Company K, Eighth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William W. Follansby, late of Company G, Eleventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Horatio N. Merritt, late of Company B, Ninth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Isaac N. Gerhart, late of Company F, Eleventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John S. Varney, late of Company H, Fourteenth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Patrick Conley, late of Company I, Tenth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Alfred C. Taft, late of Company G, Fifty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elvira Mizee, widow of Louis J. Mizee, late of Company I, Fifteenth Regiment Kansas Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John A. Andrews, late of Company A, Eighteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andsell H. Beam, late of Company I, Twenty-sixth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George F. Brown, late of Company B, One hundred and sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Miranda A. Hishley, widow of Coonrod Hishley, late of Company A, Second Battalion District of Columbia Militia Infantry, and pay her a pension at the rate of $12 per month.

The name of John F. Miller, late of Company A, Second Battalion District of Columbia Militia Infantry, and pay him a pension at the rate of $12 per month.

The name of John L. Taylor, late of Company L, Second Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ellis Gully, late of Company F, One hundred and tenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Ellis T. Padget, helpless and dependent son of Addison Padget, late of Company K, Twenty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Pleasant W. Lowe, late of Company F, First Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles K. Conard, late of Company G, Fourth Regiment Pennsylvania Reserves Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph Walters, late of Company C, Nineteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William J. Percy, late of Company F, Fourth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Coats, late of U. S. S. Ohio, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Byron F. Nutten, late of Company H, Fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John H. Kingsley, late of Company D, Twenty-fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Frealing Walker, late of Company G, Forty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Alvord Peck, late of Company C, Fifth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William W. Gaines, late of Company D, Eleventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Solomon Butler, late of Company D, Second Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James W. Lowrie, late of Company G, One hundred and seventy-eighth Regiment Pennsylvania Drafted Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edwin J. Trobridge, late of Company A, One hundred and fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James P. Jones, late of U. S. S. Ohio, Sagamore, and Hendrick Hudson, United States Navy, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George P. Love, late of Company D, Twenty-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Ryan, late of Company C, Sixth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel E. Stainbrook, late of Company F, Forty-eighth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry C. Miller, late of Company C, Ninth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Homer McC. Summerville, helpless and dependent child of James J. Summerville, late of Company H, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Winfield S. Flint, late of Company L, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin F. Philbrick, late of Company A, Fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry M. Bennett, late of Company A, Ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James W. Pendleton, late of Company H, Eighth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ralph A. Thompson, late of Company I, Sixth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. H. Brown, late of Company F, Thirty-first Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John J. Mercer, late captain Company E, Seventy-eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

Mr. KINKEAD of New Jersey. Mr. Speaker, I move to strike out the last word.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. KINKEAD] moves to strike out the last word.

Mr. KINKEAD of New Jersey. I do so for the purpose, Mr. Speaker, of congratulating the gentleman from Missouri [Mr. RUSSELL] on his brief statement made this morning as to what, in his judgment, would be the attitude of the Committee on Invalid Pensions, now that the general pension bill which has been passed by this Congress is on the statute books, regarding widows of soldiers and others not affected by the act.

As a member of the Committee on Invalid Pensions last year I realize the difficulties that confront the members of that committee in making recommendations to the House with regard to what shall be done in individual cases; and if Judge RUSSELL's views are carried out, if his judgment is the judgment of the committee, I feel safe in saying that all Members of the House, whether they believe, as I do, in a liberal pension policy toward the veterans of our wars, or otherwise, all of them will give their hearty approval to the rulings that come from that committee.

We can gather an idea of how rapidly the rolls of the Civil War veterans are being depleted from the fact that during the past week two generals who had gained fame on southern battle fields passed off almost within an hour of each other. One of them had made his name famous throughout the land in seconding in 1884 the nomination of the last Democratic President of the United States. "We love him for the enemies he has made," was the timely and effective sentiment uttered by him regarding Grover Cleveland. His words on that occasion will be remembered as long as Democracy lives, but by far his greatest service to the Nation was rendered from 1861 to 1865. Entering the Army as captain, after giving a brave, unselfish, patriotic service for four years, he was mustered out as brigadier general at the close of the great struggle. And now the entire country weeps with Wisconsin in the loss of her loyal, fearless son, Edward Stuyvesant Bragg.

Within the hour death called another famous general of that war, a man who had been in ill health for the past six or seven months, but whose illness was not expected to prove fatal. He had been in charge of the pension agency in New York for seven years. His work in that assignment had been eminently satisfactory, alike to the Government which he represented and to his comrades whose pension affairs were committed to his care. Gen. Kerwin had given a valiant service to the Union Army during the days that tried men's souls. Energetic, loyal, faithful to the end, a worthy son of that race which has been ever ready to respond to freedom's call, always devoted to his adopted land and to its flag. As we consider the untimely death of Bragg and Kerwin, we can readily see that the day is not far distant when everyone of that mighty army that fought with Grant, bled with Sherman, rallied under Sheridan, will have gone to his reward.

I remember well that some of us were criticized for voting for the increases of pensions granted in the bill of May 15. But I would rather suffer that criticism now—I would rather have it said of me that I voted for those increases of pensions now than to feel in after life when the men who wore the blue are no longer with us that when I had an opportunity to care for them in their old age, that when I had an opportunity to help care for their families and for their widows, I did what I consider my duty and voted to grant them a slight increase in their pensions.

Mr. Speaker, I am one of those who believe that it is better far to honor men in life than in death. I am one of those who believe that a rose given while the heart still throbs does more good than many garlands heaped upon the grave. A kind word, a single sympathetic sentiment uttered now while life still lingers in their time-worn, battle-scarred frames, means more to these men than tomes of praise—tributes of the great—after they have passed on. Let us do what we can for these brave men and the saddened widows of their comrades now. Let us as far as lies in our power make their declining years comfortable and happy. This, in my judgment, is a duty much more practical than the erecting of costly monuments when the hand of death claims them for her own. Let our Nation care well for her preservers while they are still with us. God will care well for them when He calls them from us. [Applause.]

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. RUSSELL. Mr. Speaker, I call up Senate bill 6847, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of John Brannan, late of Company A, Fortieth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hiram R. Smith, late of Company D, Fourth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Currier, late of Company B, Fourth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Norman B. Van House, late of Company B, Second Regiment Minnesota Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander Roe, late of Company A, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Harrison Statler, late of Company F, Eighty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Oscar Graves, late of the U. S. S. Sabine, Ohio, and Supply, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hattie A. Sears, widow of William H. Sears, late of Company A, Second Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph Cooper, late of Company I, Ninety-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Livonia C. Becker, widow of Peter J. Becker, late of Company F, Second Regiment Nebraska Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John W. Groesbeck, late assistant surgeon, Eighty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Stephen Jarvis, late of Company D, Eighth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emily Donaldson, widow of Hugh W. Donaldson, late sergeant major Third Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Weaver, late of Company E, Fourteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William C. Hart, late of Company I, Third Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Dow, late of Company K, Seventh Regiment, and Company A, Sixth Regiment, Maine Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Henry T. Stuart, late of Company G, Seventh Regiment Kentucky Volunteer Cavalry, and pay him a penion at the rate of $30 per month in lieu of that he is now receiving.

The name of James Grose, late of Company A, Twenty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Anna G. Lord, widow of John S. Lord, late first lieutenant and adjutant One hundred and thirteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Nickell, late of Company G, Forty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Phinney, late of Company H, Twenty-third Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Etta M. Hankinson, widow of Richard H. Hankinson, late of Company D, Eighth Regiment Michigan Volunteer Infantry, and Thirteenth Independent Battery Michigan Volunteer Light Artillery, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Morgan M. Mills, late of Company F, One hundred and thirty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary I. Stauber, widow of Silas I. Stauber, late first lieutenant Company G, Fourth Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $17 per month in lieu of that she is now receiving.

The name of Carrie R. Sparklin, widow of Silas M. Sparklin, late of Company E, Second Regiment Maryland Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The name of James R. Helton, late of Company F, Twelfth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Thomas F. Chafee, late of Company E, Seventy-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bradley Gilbert, late of Thirteenth Battery, Wisconsin Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Luke Flynn, late of Company K, Fifth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Peter Walker, late of Company C, One hundred and fourteenth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Alexander F. Hays, late of Company G, Eighth Regiment Kentucky Volunteer Infantry, and Company D, Fourth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edward Stapleton, late of Company D, Seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Silas M. Finch, late first lieutenant Companies F and K, Tenth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Day, late of Company F, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Thompson, late of Company C, Eighty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Olive J. Allen, widow of Charles R. Allen, late of Company A, Second Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John T. Lance, late of Company D, Ninety-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jane Allen, widow of Nathan Allen, late of Company I, Third Regiment North Carolina Mounted Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Albert M. Belcher, late of Company H, Fifteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary L. Wilson, widow of John C. Wilson, late of Company G, Ninth Regiment Delaware Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaac M. Brandon, late of Company K, Thirtieth Regiment Pennsylvania Volunteer Infantry, and Company H, Second Battalion, Twelfth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Calvin A. Cary, late of Company G, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Johnson, late of Company H, Thirty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ella G. Timoney, widow of Edward McB. Timoney, late captain Company C, Third Battalion, Fifteenth Regiment United States Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John D. Wood, jr., late of Company E, Eleventh Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martin Kennedy, late of Company F, Second Battalion, Fourteenth Regiment United States Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Eliza Ash, widow of William T. Ash, late of Company H, Twenty-third Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Marion G. Blodgett, widow of Edward T. Blodgett, late of Company F, First Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary M. Culver, widow of Nelson S. Culver, late of Company G, First Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Annette Farmer, widow of Amasa A. Farmer, late of Company F, Seventh Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Anna R. Wellman, widow of David L. Wellman, late first lieutenant Company H, and captain Company I, Fourth Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Abram Burnett, late of Company C, Seventeenth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles W. Smith, late of Company C, First Regiment New York Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry C. Tiffany, late of Company K, Fifth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Stephen L. Sleeper, late of Company G, Thirty-first Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Emma A. Prior, widow of William A. Prior, late of Chicago Mercantile Battery, Illinois Volunteer Light Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry H. Brinkley, late of Company E, Fourteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Palmer, late of Company I, Thirty-second Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Priest, late of Company G, First Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edgar Bullard, late of Company D, Fifth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Suel T. Gibson, late of Company E, Sixteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hiram Campbell, late of Company B, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Charles Mays, late of Battery K, First Regiment United States Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William A. Reeves, late of Company A, Ninth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph R. Shannon, late of Company I, Eighty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Clara L. A. Read, widow of Edwin W. H. Read, late captain, Eighth Regiment United States Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Curtis Stimpson, late of Company B, Second Regiment, and Company H, Eighteenth Regiment, New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James G. A. Middleton, late of Company H, Fifty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James O. Taylor, late of Company D, One hundred and fourteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Catherine J. Orr, widow of John W. Orr, late captain Company B, Thirty-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Sophfronia F. Cady, widow of Charles T. Cady, late of Company A, Twelfth Regiment Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James A. Wise, late of Company I, Twenty-sixth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William H. Hooker, late of Company G, Third Regiment Potomac Home Brigade, Maryland Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Randolph, late of Company G, Forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Allen V. Webster, late of Company F, Sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Manerva Eveann Dealey, widow of John Dealey, late of U. S. S. Richmond, United States Navy, and pay her a pension at the rate of $20 per month.

Mr. RUSSELL. Mr. Speaker, I move to amend page 2, line 15, by striking out the letter "o" in the name of "Stotler," and in lieu thereof insert the letter "a."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 15, strike out the letter "o" in the name of "Stotler" and insert the letter "a."

The amendment was agreed to.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. RUSSELL. Mr. Speaker, I call up the bill S. 6977, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of William H. Wyatt, late of Company A, Twelfth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Eliza J. Anderson, widow of John T. Anderson, late of Company K, Forty-second Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $16 per month in lieu of that she is now receiving.

The name of Charles E. Young, late of First Independent Battery New Hampshire Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William H. Power, late of Company B, Ninety-ninth Regiment, and Company B, Forty-eighth Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Nancy J. Tolfree, dependent mother of Burgon F. Tyler, late second lieutenant Company H, Thirty-first Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of William R. Amen, late of Company D, Eighty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Abner K. Gray, late of Company D, First Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William P. Gilbert, late of Company L, Eighth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel Davenport, late of Company A, One hundred and forty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Wesley Hunt, late of Company G, One hundred and second Regiment Illinois Volunteer Infantry, and Battery B, First Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sue B. Merrill, widow of Sherman M. Merrill, late chaplain One hundred and seventy-seventh Regiment New York Volunteer Infantry, and post chaplain, United States Army, and pay her a pension at the rate $20 per month in lieu of that she is now receiving.

The name of Godfrey Hammarberg, late of Company H, Ninth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph S. Ewing, late of Company F, Tenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Ann Babcock, widow of George W. Babcock, late of Company F, First Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry M. Dunlap, late of Company D, Second Regiment Pennsylvania Provisional Volunteer Heavy Artillery, and Company B, Second Regiment Pennsylvania Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Clyde W. Duvall, helpless and dependent son of Jacob B. Duvall, late of Company I, One hundred and eighteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Henry C. Carbee, late of Second Battery Vermont Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James S. Evans, late of Company D, One hundred and sixty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Levi Wilt, late unassigned, One hundred and forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hamilton E. Turner, late of Company D, Thirty-first Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Francis M. Berry, late of Company G, One hundred and tenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Marcus Connelly, late of Company E, One hundred and thirtieth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Allen M. Ripley, late of Company K, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Orlando C. Beck, late of Company A, Forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas E. Ellis, late of Company B, Eighty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Calvin E. Barney, late of Company K, One hundred and eighth Regiment Illinois Volunteer Infantry, and Eightieth Company, Second Battalion, Veteran Reserve Corps, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Etta B. Stewart, helpless and dependent daughter of Orren P. Stewart, late of Company D, Second Battalion, Sixteenth Regiment United States Infantry, and pay her a pension at the rate of $12 per month.

The name of Theodore H. Wilson, late of Company E, One hundred and thirty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary Agnes Drumgoold, helpless and dependent daughter of Michael Drumgoold, alias Michael Gould, late of Company A, Seventy-first Regiment New York Volunteer Infantry, and landsman, U. S. S. Colorado, United States Navy, and pay her a pension at the rate of $12 per month.

The name of John T. Allen, late of Company F, Third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert Ashurst, late of Company G, Nineteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Marion H. Bolerjack, late of Companies D and H, Thirteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James McDaniel, late of Company G, Sixth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Webb, late of Company B, Seventh Regiment Tennessee Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward Murphy, late of Company A, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Robert H. Overley, late of Company C, Tenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel P. Murrell, late of Company M, Fourteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Reason Walker, late of Company C, Seventieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Martha L. Perry, dependent mother of Thomas J. Matlock, late of Company E, Nineteenth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Rachel Ann Bovee, former widow of Silas Gillman, late of Company I, Thirty-sixth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Eliza T. Eastin, widow of James C. Eastin, late of Company K, Ninth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Howard Mobley, now known as Howard Miller, late of Company M, Fifth Regiment United States Colored Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John A. Camp, late of Company I, Tenth Regiment, and Company K, Forty-fourth Regiment, Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Palmer Atkinson, late of Company E, Sixty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Robert Wood, late of Company F, Twelfth Regiment United States Colored Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jonathan D. Harrington, late of Company G, Third Regiment Delaware Volunteer Infantry, and Company C, Twenty-first Regiment Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alexander Harris, late of Company K, Twelfth Regiment United States Colored Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Edward H. Baker, late of Company G, Forty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frederick O. Nims, late of Company B, Fifty-sixth Regiment Illinois Volunteer Infantry (Mechanic Fusileers), and pay him a pension at the rate of $24 per month.

The name of Margaret J. Grable, widow of Joseph R. Grable, late of Company B, Third Regiment Indiana Volunteer Cavalry, and Company D, Ninth Regiment Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Dawson, late of Company C, Sixteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Thomas Maupin, late of Company G, Thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edwin W. Johnson, late of Company F, Forty-fifth Regiment Massachusetts Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Sweet, late of Company G, Nineteenth Regiment Wisconsin Volunteer Infantry, and landsman U. S. S. Eastport, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas McCarty, late of Company L, Seventeenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George B. Turney, late of Company K, Fifty-first Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of George Elliott, late of Company K, First Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Robert W. Shaffer, late of Company I, Sixty-second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas B. Rand, late of Company B, Second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas A. Christy, late of Company F, Thirty-second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael McNulty, late of Company C, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. St. Clair, late of Company F, Seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry H. Bowman, late of Companies F and A, First Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Johnson, late of Company K, Ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Jeremiah Williams, late first lieutenant Company H, Eighty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Kenoyer, late of Company H, Sixth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Addie E. Ferrell, widow of George F. Ferrell, late of Company C, Twelfth Regiment Connecticut Volunteer Infantry, and former widow of Davis L. Wetmore, late of Company F, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah D. Shaw, widow of Martin V. B. Shaw, late of Company D, Fourth Regiment Massachusetts Militia Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Melissa J. Sheffield, widow of John A. Sheffield, late of Company B, Fifty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Smith Whitman, late of Company L, Eleventh Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles F. Wellman, late of Company G, Fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Cyrus E. Prindle, late captain Company D, Thirteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frederick Richards, late of Company E, Tenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Elroy S. Jennings, late of Company H, Second Regiment Connecticut Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lyman C. Putman, late of Company F, Fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James A. Dunton, late of Company H, Second Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elias H. Davis, late of Company A, Fourth Regiment Maine Volunteer Infantry, and Company I, Ninth Regiment United States Veteran Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Charles H. Robinson, late of Company D, One hundred and twelfth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martin O'Dowd, late of Company B, Thirty-fourth Regiment Wisconsin Drafted Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lydia M. Cole, widow of Emory Cole, late of Company C, First Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Oliver C. Swarthout, late of Company B, Forty-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frederick Braun, late of Company A, Thirty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jennie Bassett, widow of Samuel Bassett, late first lieutenant Company F, One hundred and thirty-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emma L. Tappan, widow of George Arthur Tappan, late second lieutenant Company H, and first lieutenant Company G, Eighty-second Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. RUSSELL, a motion to reconsider all of the votes whereby the pension bills were passed to-day was laid on the table.

PRIVATE BILLS.

The SPEAKER pro tempore (Mr. HAY). Under the unanimous-consent order the Clerk will call the Private Calendar.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the same order be followed to-day that was followed yesterday—that bills unobjected to may be considered in the House as in Committee of the Whole.

Mr. UNDERWOOD. I understand that is the order.

Mr. MANN. It was the order yesterday.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that bills unobjected to on the Private Calendar may be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will call the bills on the calendar, beginning where we left off yesterday.

CHARLES LOUIS CLIFFORD.

The first business on the Private Calendar was the bill (H. R. 14593) authorizing the President to reinstate Charles Louis Clifford as a midshipman in the United States Naval Academy.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

L. D. HILDEBRAND.

The next business on the Private Calendar was the House resolution 567, a resolution in lieu of H. R. 15207, for the relief of L. D. Hildebrand, administrator of the estate of John W. Hildebrand, deceased, and referring the same to the Court of Claims.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I object.

FRED FOX, JR.

The next business on the Private Calendar was House resolution 568, a resolution in lieu of H. R. 17123, for the relief of Fred Fox, jr., and referring the same to the Court of Claims.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. MANN. I object.

MRS. L. R. GOODLETT.

The next business on the Private Calendar was the bill (H. R. 19149) for the relief of the legal representatives of Mrs. L. R. Goodlett, deceased.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the legal representatives of Mrs. L. R. Goodlett, deceased, late a resident of Davidson County, Tenn., out of any money in the Treasury not otherwise appropriated, the sum of $81, being for corn sold to the Army of the United States for their use during the Civil War.

The Clerk read the following committee amendment:

Amend, page 1, line 7, by striking out the word "eighty-one" and inserting the word "thirty-nine."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

REFERENCE OF CERTAIN CLAIMS TO THE COURT OF CLAIMS.

The next business on the Private Calendar was the resolution (H. Res. 528) referring certain claims to the Court of Claims for finding of facts and conclusions of law under section 151 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary."

Mr. MANN. Mr. Speaker, I ask unanimous consent that this resolution be read now for amendment, so as to dispose of the amendments without going back to them.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the resolution be read for amendment. Is there objection?

There was no objection.

The Clerk read as follows:

H. R. 22214. Christian, J. H., deceased, heirs or estate of.

The following committee amendment was read:

Amend, page 2, by inserting, after line 15, the following: "H. R. 23754. Coffey, David P., deceased, heirs of."

The amendment was agreed to.

The Clerk read as follows:

H. R. 11233. Belt, Elizabeth T. Amend, page 4, by inserting, after line 13, the following: "H. R. 21564. Boatner, Lewis, deceased, heirs of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 23024. Brannen, John, deceased, heirs of. Amend, page 4, by inserting, after line 19, the following: "H. R. 24289. Brannen, Hope, heirs of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 22169. Clay, Eliza A., deceased, heirs of. Amend, page 5, by inserting, after line 1, the following: "H. R. 13598. Cochran, William J."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 23022. De Loach, Z. T. Amend, page 5, by inserting, after line 16, the following: "H. R. 1518. Dickson, William N., deceased, heirs of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 22058. Gaulden, Col. William B., heirs of. Amend, page 6, by inserting, after line 12, the following: "H. R. 21554. Graham, William F., estate of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 23145. House, Elizabeth, deceased. Amend, page 6, by inserting after line 21: "H. R. 24290. Jarrell, Bennett, heirs of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 4832. McLeod, Francis H., heirs of. Amend, page 7, by inserting after line 15 the following: "H. R. 24607. McVicker, James, deceased, legal representatives of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 23262. Black, Martha. Amend, page 11, by inserting after line 3: "H. R. 25024. Butler, William P., estate of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 21248. Hart, Colomon, heirs of. Amend, page 11, line 6, by striking out the word "Colomon" and inserting in lieu thereof the word "Solomon."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 23616. Green, Frank T. Amend, page 11, by inserting after line 14 the following: "H. R. 11194. Mosby, Abel J."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 21062. Combs, Alfred. Amend, page 13, by inserting after line 8 the following: "H. R. 24599. Conn, David O., deceased, estate of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 24174. Hill, T. J., sr., administrator of the estate of Harvey McAlister, deceased. Page 15, amend by inserting before line 2 the following: "H. R. 24207. James, Isaac."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken and the amendment was agreed to.

The Clerk read as follows:

H. R. 21667. O'Hara, W. M., deceased, estate of. Amend, page 16, by inserting after line 16 the following: "H. R. 25050. Pearson, Henry C. H. R. 24447. Oldham, Emily, deceased, estate of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 20090. Ragsdale, David F. Amend, page 17, by striking out all of line 3.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 21664. Rice, N. N., deceased, estate of. Amend, page 17, by inserting after line 11: "H. R. 12255. Robbins, John."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 20893. Savoie, Joseph Jean, deceased, heirs of. Amend, page 22, by inserting after line 6: "H. R. 24261. Prudhomme, John E."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 21613. Smith, Katherine. Amend, page 22, by inserting after line 16: "H. R. 25058. Snowden, Laulette (formerly Stafford)."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 24060. Suit, Kelita, deceased, estate of. Amend, page 23, by inserting after line 11 the folowing: "H. R. 25064. Vestry of St. Peter's parish, in Montgomery County. H. R. 19095. Whiteley, Robert H. K., deceased, estate of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 23728. Calef, John H., estate of. Amend, page 26, by inserting after line 15: "H. R. 24648. Ogg, St. Clair, estate of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows.

H. R. 1518. Dickson, William N., deceased, heirs of. Amend, page 26, by striking out all of line 21.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows.

H. R. 20218. Joyce, Oliver C., legal representatives of. Amend, page 27, by inserting after line 2: "H. R. 17625. Kress, John A."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows.

H. R. 23491. McMinn, Washington A., deceased, heirs of. Amend, page 27, by inserting after line 9: "H. R. 24814. Carter, Zimri A., heirs of; H. R. 17558. McGuire, James."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows.

H. R. 13701. Pumphrey, Elizabeth. Amend, page 27, by inserting after line 16: "H. R. 20090. Ragsdale, David F."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows.

New Jersey. Amend, page 28, by inserting after line 20: "H. R. 19121. Merrill, Abner H."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 21723. Argersinger, Hiram. Amend, page 29, by inserting after line 1: "H. R. 25051. Burbank, James B."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 21200. Post, James Charles, estate of. Amend, page 29, line 6, by striking out the word "Charles" and inserting in lieu thereof the word "Clarence."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 20669. Silvey, Isabella H. Amend, page 29, by inserting after line 7: "H. R. 19743. Smith, Charles S."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

North Carolina. Amend, page 29, by inserting after line 12: "H. R. 24484. Allen, James M., administrator of the estate of William H. Allen, deceased."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 19267. Pettipher, William H., heirs of. Amend, page 30, by inserting at the top of the page: "H. R. 18905. Sears, Mordecai, heirs of."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

H. R. 20378. Ritchey, Stephen Arnold. Amend, by inserting after line 25, page 30: "H. R. 4574. Sullivan, Elizabeth B., estate of."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 10402. Berks County Agricultural and Horticultural Association. Amend, by inserting after line 14, page 31: "H. R. 22803. Horton, Frank M."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 18066. Ihly, S. R. Amend, by inserting after line 12, page 32: "H. R. 24535. Kirk, Dr. John W., deceased, heirs of."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 11803. Caldwell, B. H., estate of. Amend, by inserting after line 23, page 35: "H. R. 24842. Calhoun, J. C., deceased, legal representatives of."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 14890. Crider, R. H., deceased. Amend by striking out line 18, page 36.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 1443. Goforth, William M., estate of. Amend by inserting, after line 1, page 38, "H. R. 25161. Goodwin, A. B."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 11795. Grant, Edwin, estate of. Amend, page 38, by inserting, after line 4, "H. R. 24904. Harlin, Alexander, deceased, legal representatives of."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 23008. Moore, James, deceased, heirs of. Amend by inserting, after line 21, page 40, "H. R. 22753. Moore, L. B., estate of."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 11751. Montgomery, William. Amend by inserting, after line 2, page 41, "H. R. 24839. McHenry, E. B., receiver of the Bank of West Tennessee; H. R. 24838. Mosby, Samuel, deceased, estate of."

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

H. R. 22243. Rabb, John, deceased, heirs of. Amend, page 42, after line 10, by inserting "H. R. 13723. Rick, John."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 15090. Timberlake, Ann E., heirs of. Amend by inserting, after line 14, page 44, "H. R. 24508. Timmins, J. M."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 7508. True, Ruth Ann. Amend by inserting, after line 17, page 44, "H. R. 24507. Tuck, W. H."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 21252. Reid, Marion C., heirs of. Amend, page 48, by striking out all of line 14.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 20557. Sutton, Thomas F., heir of Jonas Sutton, deceased. Amend by inserting, after line 2, page 49, "H. R. 21556. Randolph, Theresa S., heir of Meredith P. Tanner, deceased."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 20523. Garber, A. D., deceased, estate of. Amend by inserting, after line 13, page 49, "H. R. 20524. Garber, Rev. A. D., deceased, estate of."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

H. R. 15307. Rice, Francis E., deceased, heirs of. Amend by inserting, after line 6, page 50, "H. R. 21855. Rinker, Casper, deceased, heirs of."

The Clerk resumed and concluded the reading of the bill.

Mr. SIMS. Mr. Speaker, on page 53, in line 23, I move to amend by adding the letter "s" to the word "finding," so it will read "findings," and to strike out the words "of facts," in line 23, and strike out, in line 24, the words "of law," same page.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 53, line 23, add the letter "s" to the word "finding"; strike out the letter "a" and the words "of facts" in the same line; and in line 24 strike out the words "of law."

The question was taken, and the amendment was agreed to.

Mr. SIMS. On page 54, line 2, I move to strike out that part of the resolution in parentheses.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 54, by striking out all of line 2 after the word "judiciary," and lines 3 and 4 included in parentheses.

The question was taken, and the amendment was agreed to.

The question was taken, and the resolution as amended was agreed to.

JESUS SILVA, JR.

The next business on the Private Calendar was the bill (H. R. 24598) for the relief of Jesus Silva, jr.

The bill was read as follows:

Be it enacted, etc., That the Commissioner of the General Land Office be, and he is hereby, directed to cause to be issued to Jesus Silva, jr., a patent to the following-described lands: Lots 3, 4, and 5 of section 25, township 21 south, range 1 west, New Mexico principal meridian, Las Cruces, N. Mex., land district, being the tract embraced in his homestead entry made October 5, 1905, upon which cash certificate issued February 3, 1909: *Provided*, That in said patent there shall be expressly reserved to the United States, or its successors, the right to take or use, without compensation to patentee or his grantees, any or all of the said lands needed for or in connection with the construction, maintenance, and operation of the Rio Grande reclamation project.

The SPEAKER pro tempore. Is there objection to the consideration of this bill?

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed.

EUGENE PRINCE.

The next business on the Private Calendar was the joint resolution (H. J. Res. 220) to grant American citizenship to Eugene Prince.

The joint resolution was read, as follows:

Whereas Eugene Prince, son of John Henry Prince, an American citizen residing in St. Petersburg, Russia, is not entitled to American citizenship by descent, under section 1993, Revised Statutes of the United States; and

Whereas the said Eugene Prince is not recognized as a citizen by the Government of Russia or by any other foreign Government; and

Whereas the said Eugene Prince is without the character and privileges of a citizen in any country of the world; and

Whereas the said Eugene Prince is now sojourning in the United States and intends to reside therein: Therefore be it

Resolved, etc., That Eugene Prince, son of John Henry Prince, an American citizen residing in St. Petersburg, Russia, be, and he is hereby, unconditionally admitted to the character and privileges of a citizen of the United States.

The SPEAKER pro tempore. Is there objection to the consideration of the House joint resolution?

There was no objection.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

THEODORE DEHON.

The next business on the Private Calendar was the bill (H. R. 9136) for the relief of the heirs of Theodore Dehon.

The bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Let it go over.

The SPEAKER pro tempore. The gentleman from Illinois objects.

LEGAL REPRESENTATIVE OF GEORGE E. PAYNE, DECEASED.

The next business on the Private Calendar was the bill (H. R. 22311) for the relief of the legal representative of George E. Payne, deceased.

The bill was read.

Also a committee amendment was read.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Let the bill go over, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Illinois objects.

CHARLES A. COOLIDGE.

The next business on the Private Calendar was the House resolution 580, referring the bill (H. R. 24844) for the relief of Charles A. Coolidge to the Court of Claims.

The resolution was agreed to, as follows:

Resolved, That the bill (H. R. 24844) for the relief of Charles A. Coolidge, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts and conclusions of law under section 151 of the act of March 3, 1911, "An act to codify, revise, and amend the laws relating to the judiciary" (Public Act No. 475, 61st Cong., 2d sess., p. 1138).

The SPEAKER pro tempore. Is there objection to the consideration of the resolution?

Mr. MANN. Reserving the right to object, I would like to make an inquiry. I judge that this is one of the cases that involves longevity pay. I ask whether that is a fact.

Mr. J. M. C. SMITH. I would say that the bill was looked after by my colleague [Mr. SAMUEL W. SMITH], and, being a member of the Committee on Claims, it was handed to me as reported. I understand there is a decision of the Supreme Court confirming the claim, and the only question is to refer it to the Court of Claims to find the amount due.

Mr. MANN. I will say to my friend from Michigan that there is a decision of the Supreme Court on the subject of longevity pay, and if that decision were followed all the cases that are barred by the statute of limitation would cost the Government a very large sum of money and involve a thousand or more cases. There is no need for any reference to the Court of Claims in any of those cases. The matter can be computed by the War Department, and would be computed by the War Department in any case, as the Court of Claims can not compute it. And I can see no reason for the reference in this bill to the Court of Claims if it is one of the longevity cases. Of course, all of these people have been trying in various ways to get Congress to pass either an omnibus bill or a special bill in order to set a precedent for the paying of all of these cases. Prior to this decision of the Supreme Court, no one supposed that the longevity pay began at the time the Supreme Court held that it did. All of those cases that were within the statute of limitations were paid through findings and claims filed in the Court of Claims. I can see no reason for Congress commencing now to go back and pay all of the claims that would date many years back, from the beginning of the time that longevity pay was allowed down to the time the statute of limitations interposed when the Supreme Court decision was filed.

They come in here by the basketful at different times. Of course, I can not tell from the resolution just what it is. There is nothing in the resolution or report to show, except an indication, and the indication is that it is a longevity claim. I shall be compelled to ask that it go over.

Mr. J. M. C. SMITH. Can the gentleman tell how long ago that decision of the Supreme Court was rendered?

Mr. MANN. I can not.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] objects.

MAG BROWN.

The next business on the Private Calendar was House resolution 581, referring the bill (H. R. 8507) for the relief of Mag Brown to the Court of Claims.

The Clerk read the resolution, as follows:

House resolution 581.

Resolved, That the bill (H. R. 8507) for the relief of Mag Brown, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts and conclusions of law under section 151 of the act of March 3, 1911, "An act to codify, revise, and amend the laws relating to the judiciary" (Public Act No. 475, 61st Cong., 2d sess., p. 1138).

DEATH OF U. S. JACKSON, SERGEANT AT ARMS HOUSE OF REPRESENTATIVES.

Mr. DIXON of Indiana. Mr. Speaker, I regret very much to announce to the House the death, a few moments ago, of the Sergeant at Arms of the House, Mr. Jackson. I ask immediate consideration of the following resolution (H. Res. 588), which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. U. S. Jackson, Sergeant at Arms of the House.

Resolved, That as a mark of respect to his memory the House do now adjourn.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to; accordingly (at 3 o'clock and 2 minutes p. m.) the House adjourned until Monday, June 24, 1912, at 12 o'clock noon

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of Commerce and Labor, transmitting, pursuant to House resolution 547, information relative to miners' strike in bituminous coal field in Westmoreland County, Pa. (H. Doc. 847); to the Committee on Labor and ordered to be printed.

2. A letter from the chief clerk of the Court of Claims transmitting a copy of the findings filed by the court in the case of the heirs of William McE. Dye *v.* The United States (H. Doc. No. 848); to the Committee on War Claims and ordered to be printed.

3. A letter from the chief clerk of the Court of Claims transmitting a copy of the findings filed by the court in the case of the estate of William Hemphill Bell *v.* The United States (H. Doc. No. 849); to the Committee on War Claims and ordered to be printed.

4. A letter from the chief clerk of the Court of Claims transmitting copy of the findings filed by the court in the case of Thomas J. Rodman, deceased, *v.* The United States (H. Doc. No. 850); to the Committee on War Claims and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 4512) for the relief of Mary Beal, reported the same with an amendment, accompanied by a report (No. 920), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 25370) granting a pension to Frank O. Scott; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12564) granting a pension to Joseph Clyde Shadden; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6972) granting a pension to Bascom M. Meyers; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25429) granting a pension to Samantha Crews; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8536) granting an increase of pension to William A. Robson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 6956) granting an increase of pension to James White; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 7082) granting an increase of pension to George A. Whalen; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HOWLAND: A bill (H. R. 25498) to establish a uniform preferential primary for all candidates for the Presidency, and for other purposes; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. HUMPHREYS of Mississippi (by request): A bill (H. R. 25499) to provide for the incorporation of live stock record associations; to the Committee on the District of Columbia.

By Mr. CARTER: A bill (H. R. 25506) providing for the sale of timber and other lands belonging to the Choctaw and Chickasaw Indians, and for other purposes; to the Committee on Indian Affairs.

Also, a bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma; to the Committee on Indian Affairs.

By Mr. CLAYTON: Resolution (H. Res. 589) for the consideration of House joint resolution 325; to the Committee on Rules.

Also, resolution (H. Res. 590) for the consideration of House bill 22591; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CANTRILL: A bill (H. R. 25500) for the relief of the estate of James Sayre, deceased; to the Committee on War Claims.

By Mr. GRAY: A bill (H. R. 25501) granting a pension to Sarah F. Vales; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25502) granting a pension to William A. Robson; to the Committee on Pensions.

By Mr. LINTHICUM: A bill (H. R. 25503) for the relief of John T. Emmert, alias John T. Reed; to the Committee on Military Affairs.

By Mr. LOBECK: A bill (H. R. 25504) granting an increase of pension to Margaret Scanlon; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 25505) for the relief of Eli A. Spain; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the Polish societies of the States of Illinois and Massachusetts, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. AYRES: Petition of Active Workers' Association of Pennsylvania, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. BATES: Petition of citizens of Meadville and Erie, Pa., favoring reservation for the Indians of Alaska and aid to relieve medical and sanitary conditions; to the Committee on the Territories.

Also, petitions of Polish Roman Catholic Union of America, of the State of Pennsylvania, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Chamber of Commerce of Erie, Pa., favoring passage of House bill 357, regulating foreign and domestic fire insurance; to the Committee on Interstate and Foreign Commerce.

By Mr. BARNHART: Petition of citizens of Michigan City, Ind., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of Association of Fully Disabled Union Veterans of the Civil War, favoring the passage of House bill 1339, to grant increase of pensions to certain veterans of the Civil War who lost an arm or a leg; to the Committee on Invalid Pensions.

Also, petition of Illinois Chapter of the American Institute of Architects, relative to engaging architects for building Government buildings, etc.; to the Committee on Appropriations.

By Mr. HARDWICK: Paper in support of bill (H. R. 24940) granting an increase of pension to Mrs. Courtney A. Stovall; to the Committee on Pensions.

By Mr. HENRY of Connecticut: Memorial of St. Stanislaus Kostka Society, No. 579, New Britain, Conn., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. KINDRED: Petition of Workmen's Sick and Death Benefit Fund of the United States of America, protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Order of Independent Americans, Philadelphia, Pa., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LAFEAN: Petition of Order of Independent Americans of Pennsylvania and Daughters of Liberty of Pennsylvania, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of New York State Grange, Watertown, N. Y., protesting against passage of House bill 24927, for preventing the shipment of immature calves; to the Committee on Interstate and Foreign Commerce.

Also, petition of Association of Fully Disabled Union Veterans of the Civil War, Brooklyn, N. Y., favoring passage of House bill for increasing pension to veterans of the Civil War who have lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of National Headquarters of the United Spanish War Veterans, New York, N. Y., favoring passage of House bill 17470, for granting pensions to widows and orphans of the Spanish-American War; to the Committee on Pensions.

By Mr. MANN: Petition of Trenton (N. J.) Chamber of Commerce, protesting against the construction of bridge south of Trenton, as proposed by the Pennsylvania Railroad Co.; to the Committee on Interstate and Foreign Commerce.

Also, petition of Pennsylvania Civil Service Reform Association, protesting against the proposed 5-year tenure of office; to the Committee on Appropriations.

By Mr. MACON: Petition of citizens of St. Francis County, Ark., favoring passage of the Berger old-age pension bill; to the Committee on Pensions.

SENATE.

MONDAY, *June 24, 1912.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON resumed the chair as President pro tempore.

The Secretary proceeded to read the Journal of the proceedings of Thursday last, when, on request of Mr. NELSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 1739. An act to amend section 4875 of the Revised Statutes to provide a compensation for superintendents of national cemeteries; and

H. R. 11933. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 18841. An act incorporating the National Institute of Arts and Letters; and

H. R. 25002. An act to amend section 73 and section 76 of the act of August 27, 1894.

H. R. 1718. An act providing for the sale of the old Federal building and site at Owensboro, Ky., was read twice by its title and referred to the Committee on Public Buildings and Grounds.

H. R. 18434. An act to repeal section 4716 of the Revised Statutes of the United States was read twice by its title and referred to the Committee on Pensions.

H. R. 18504. An act to provide for the sale of fractional block No. 6, in the town of Forest Grove, Oreg., no longer needed for school purposes, was read twice by its title and referred to the Committee on Indian Affairs.

H. R. 21480. An act to establish a standard barrel and standard grades for apples when packed in barrels, and for other purposes, was read twice by its title and referred to the Committee on Standards, Weights, and Measures.

H. R. 21708. An act to authorize the lighting of Piney Branch Road from Georgia Avenue to Butternut Street was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 21963. An act to make Fort Covington, N. Y., a subport of entry was read twice by its title and referred to the Committee on Commerce.

H. R. 21826. An act validating certain homestead entries was read twice by its title and referred to the Committee on Public Lands.

H. R. 24224. An act to amend sections 5, 11, and 25 of an act entitled "An act to amend and consolidate the acts respecting copyrights," approved March 4, 1909, was read twice by its title and referred to the Committee on Patents.

H. R. 24703. An act to extend the authority to receive certified checks drawn on national and State banks and trust com-

panies in payment for duties on imports and internal taxes and all public dues was read twice by its title and referred to the Committee on Finance.

H. R. 24699. An act extending the time for the repayment of certain war-revenue taxes erroneously collected was read twice by its title.

Mr. CRAWFORD. Mr. President, in regard to that bill I wish to make a statement.

The Committee on Claims reported favorably some twenty-odd bills relating to claims for the refunding of inheritance taxes which were erroneously collected, as shown by the decision of the Supreme Court of the United States in the Knowlton case. When those bills went to the House, instead of acting on the individual bills the House committee reported this general provision, so that all cases similarly situated might be acted upon without having so many separate bills.

This is a substitute for all the Senate bills reported favorably by the Senate Committee on Claims and passed by the Senate. On that account I suggest that the bill be referred to the Committee on Claims.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Claims, without objection.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The PRESIDENT pro tempore announced his signature to the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

H. R. 18849. An act for the relief of the Winnebago Indians of Nebraska and Wisconsin;

H. R. 20480. An act excepting certain lands in Lawrence and Pennington Counties, S. Dak., from the operations of the provisions of section 4 of an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves";

H. R. 20593. An act to authorize the Norfolk & Western Railway Co. to construct sundry bridges across the Tug Fork of the Big Sandy River;

H. R. 23460. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across the Russell Fork of the Big Sandy River at Marrowbone, Ky.;

H. R. 23461. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River at or near Millard, Ky.; and

H. J. Res. 299. Joint resolution proposing an international maritime conference.

HOUSE AMENDMENTS TO SENATE BILLS.

The PRESIDENT pro tempore. The Chair will state that there are certain messages from the House transmitting Senate bills with House amendments. The Chair feels that under the consent agreement it would be improper now to lay them before the Senate for action as they are matters about which contention might possibly arise. For that reason the Chair will withhold laying those messages before the Senate until after the consent agreement has been exhausted.

THE FLAG OF THE UNITED STATES (S. DOC NO. 856).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War transmitting, in response to a resolution of the 15th instant, information relative to the placing of any flag, emblem, or banner above the Stars and Stripes over any fort, encampment, building, or ground under the jurisdiction of the War Department, which was referred to the Committee on Military Affairs and ordered to be printed.

HEIRS OF THEODORE T. S. LAIDLEY, DECEASED (S. DOC. NO. 857).

The PRESIDENT pro tempore laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion of law filed by the court in the cause of Jane A. Oberly, daughter, and Jane W. Laidley, widow, sole heirs of Theodore T. S. Laidley, deceased, *v.* United States, which case was referred to the Court of Claims by the resolution of the United States under the act of March 3, 1911, known as the judiciary act, which was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the following bills and joint resolution:

S. 462. An act for the relief of Slavo Ramadanovitch, of Cettigne, a Montenegrin subject, heir and administrator of Marcus Ramadanovitch, alias Radich, deceased;

S. 547. An act for the relief of Sarah A. Waite;

S. 837. An act to reimburse the officers and crew of the lighthouse tender *Manzanita* for personal-property losses sustained by them on the foundering of that tender October 6, 1905;

S. 1337. An act authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act;

S. 2127. An act for the relief of the heirs of Robert S. Gill;

S. 2427. An act for the relief of the legal heirs of A. G. Strain;

S. 2601. An act for the relief of Douglas B. Thompson;

S. 3469. An act for the relief of the American Surety Co., of New York;

S. 4751. An act for the relief of Albert S. Henderer;

S. 5046. An act to authorize the appointment of Shepler Ward FitzGerald and Alden George Strong to the grade of second lieutenant in the Army;

S. 5141. An act to correct an error in the record of the supplementary treaty of September 28, 1830, made with the Choctaw Indians, and for other purposes;

S. 5176. An act granting a pension to Elizabeth B. Preston;

S. 5198. An act to authorize the issuance of patent to James W. Christman for the southeast quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section 13, and the north half of the northwest quarter of section 24, township 29 north, range 113 west of the sixth principal meridian;

S. 5776. An act authorizing the Secretary of the Interior to adjust and settle the claims of the attorney of record involving certain Indian allotments, and for other purposes;

S. 6153. An act for the relief of Charley Clark, a homestead settler on certain lands therein described;

S. 6369. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6636. An act to authorize the President of the United States to appoint Robert H. Peck a captain in the Army;

S. 6646. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6977. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 7018. An act to authorize the appointment of Harold Hancock Taintor to the grade of second lieutenant in the Army; and

S. J. Res. 69. Joint resolution authorizing the licensing and employment of Otto Neumann Sverdrup as master of vessels of the United States.

The message also announced that the House had passed the following bills, each with an amendment, in which it requested the concurrence of the Senate:

S. 4568. An act granting an increase of pension to Annie R. Schley;

S. 5623. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 6252. An act to relinquish the title of the United States to certain property in the city and county of San Francisco, Cal.; and

S. 6847. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had passed the following bills, each with amendments, in which it requested the concurrence of the Senate:

S. 6084. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6340. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors;

S. 6978. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors;

S. 6384. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and

certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors; and

S. 6851. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON of South Carolina, Mr. BURLESON, and Mr. GILLETT managers at the conference on the part of the House.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17681) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18712) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and to certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20628) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 22194) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 22867) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 23515) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 23765) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 644. An act for the relief of Mary E. Quinn;

H. R. 1248. An act to authorize the Secretary of the Interior to convey a certain frame building;

H. R. 2359. An act to refund certain tonnage taxes and light dues;

H. R. 7434. An act for the relief of Patrick Howe;

H. R. 7650. An act for the relief of I. S. Rogers and J. L. Worthley;

H. R. 7672. An act for the relief of Mary J. Manning;

H. R. 12131. An act for the reimbursement of Ralph E. Hess for two horses lost while hired by the United States Geological Survey;

H. R. 12375. An act authorizing Daniel W. Abbott to make homestead entry;

H. R. 13938. An act for the relief of Theodore Salus;

H. R. 14333. An act for the relief of John Johnson;

H. R. 15594. An act for the relief of the heirs of those killed by the explosion at Fort Lafayette, February 19, 1903;

H. R. 16191. An act to convey certain real estate in the village of Jonesville, Hillsdale County, Mich.;

H. R. 16518. An act for the relief of the Fifth-Third National Bank of Cincinnati, Ohio;

H. R. 16621. An act for the indemnification of Frank Wenzel;

H. R. 16993. An act for the relief of Mathew T. Fuller;

H. R. 16720. An act authorizing the Secretary of the Interior to pay J. H. Schmidt $75 damages for trespass of certain Indian school cattle at Rainey Mountain School in Oklahoma;

H. R. 17709. An act for the relief of John M. Oak;

H. R. 17850. An act to pay Cowden & Cowden, of Amory, Monroe County, Miss., for the loss of a horse while being used by the Department of Agriculture;

H. R. 18213. An act to refund to the Sparrow-Gravely Tobacco Co. the sum of $173.52, with penalty and interest, the same having been erroneously paid by them to the Government of the United States;

H. R. 18904. An act to perfect the title of the heirs of James S. Rollins, deceased, to bounty land warrant No. 58479, issued to George Hickum, teamster, United States Quartermaster's Department, War with Mexico;

H. R. 19149. An act for the relief of the legal representatives of Mrs. L. R. Goodlett, deceased;

H. R. 20124. An act for the relief of E. Rosenwald & Bro.;

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for the United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof;

H. R. 20873. An act for the relief of J. M. H. Mellon, administrator, James A. Mellon, Thomas D. Mellon, Mrs. E. L. Siverd, J. M. H. Mellon, Bessie Blue, Mrs. Simpson, Annie Turley, C. B. Eyler, Luella C. Pearce, John McCracken, A. J. Mellon, J. J. Martin, Eugene Richmond, Springdale Methodist Episcopal Church, Heidencamp Mirror Co., James F. Confer, jr., W. P. Bigley, W. J. Bole, and S. A. Moyer, all of Allegheny County, Pa.;

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest;

H. R. 21952. An act for the relief of James S. Baer;

H. R. 22111. An act for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy;*

H. R. 22863. An act for the relief of H. C. Owens;

H. R. 23043. An act to patent certain semiarid lands to Luther Burbank under certain conditions;

H. R. 22939. An act for the relief of John K. Wren;

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of the public-building acts, and for other purposes," approved March 4, 1909;

H. R. 24322. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 24598. An act for the relief of Jesus Silva, jr.;

H. R. 24602. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 24626. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 24796. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 24996. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 25069. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes;

H. R. 25166. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 25304. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 220. Joint resolution to grant American citizenship to Eugene Prince.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

S. 3203. An act to authorize the sale of certain lands within the Umatilla Indian Reservation to the city of Pendleton, Oreg.;

S. 6479. An act to authorize the St. Louis Southwestern Railway Co. to repair, alter, or rebuild certain bridges in the State of Arkansas;

H. R. 16493. An act to correct the military record of William Z. Norman;

H. R. 17681. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes;

H. R. 18712. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 22006. An act authorizing the Choctawhatchie River Light & Power Co. to erect a dam across the Choctawhatchie River in Dale County, Ala.;

H. R. 22194. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 22204. An act granting a right of way to the Panama-Pacific International Exposition Co., or such successors or assigns as may be approved by the Secretary of War, across the Fort Mason Military Reservation, Cal.;

H. R. 22867. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 23765. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

S. J. Res. 101. Joint resolution to appoint Andrew D. White a member of the Board of Regents of the Smithsonian Institution.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Claims:

H. R. 644. An act for the relief of Mary E. Quinn;

H. R. 7650. An act for the relief of I. S. Rogers and J. L. Worthley;

H. R. 7672. An act for the relief of Mary J. Manning;

H. R. 12131. An act for the reimbursement of Ralph E. Hess for two horses lost while hired by the United States Geological Survey;

H. R. 13938. An act for the relief of Theodore Salus;

H. R. 14333. An act for the relief of John Johnson;

H. R. 15594. An act for the relief of the heirs of those killed by the explosion at Fort Lafayette February 19, 1903;

H. R. 16621. An act for the indemnification of Frank Wenzel;

H. R. 16993. An act for the relief of Mathew T. Fuller;

H. R. 17709. An act for the relief of John M. Oak;

H. R. 17850. An act to pay Cowden & Cowden, of Amory, Monroe County, Miss., for the loss of a horse while being used by the Department of Agriculture;

H. R. 19149. An act for the relief of the legal representatives of Mrs. L. R. Goodlett, deceased;

H. R. 20124. An act for the relief of E. Rosenwald & Bro.;

H. R. 20873. An act for the relief of J. M. H. Mellon, administrator, James A. Mellon, Thomas D. Mellon, Mrs. E. L. Siverd, J. M. H. Mellon, Bessie Blue, Mrs. Simpson, Annie Turley, C. B. Eyler, Luella C. Pearce, John McCracken, A. J. Mellon, J. J. Martin, Eugene Richmond, Springdale Methodist Episcopal Church, Heidencamp Mirror Co., James F. Confer, jr., W. P. Bigley, W. J. Bole, and S. A. Moyer, all of Allegheny County, Pa.;

H. R. 22111. An act for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy;* and

H. R. 22863. An act for the relief of H. C. Owens.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 1248. An act to authorize the Secretary of the Interior to convey a certain frame building;

H. R. 12375. An act authorizing Daniel W. Abbott to make homestead entry;

H. R. 16191. An act to convey certain real estate in the village of Jonesville, Hillsdale County, Mich.;

H. R. 18904. An act to perfect the title of the heirs of James S. Rollins, deceased, to bounty-land warrant No. 58479, issued to George Hickum, teamster, United States Quartermaster's Department, War with Mexico;

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest;

H. R. 23043. An act to patent certain semiarid lands to Luther Burbank under certain conditions; and

H. R. 24598. An act for the relief of Jesus Silva, jr.

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 7434. An act for the relief of Patrick Howe;

H. R. 21952. An act for the relief of James S. Baer; and

H. R. 22939. An act for the relief of John K. Wren.

The following bills were severally read twice by their titles and referred to the Committee on Finance:

H. R. 2359. An act to refund certain tonnage taxes and light dues;

H. R. 16518. An act for the relief of the Fifth-Third National Bank, of Cincinnati, Ohio; and

H. R. 18213. An act to refund to the Sparrow-Gravely Tobacco Co. the sum of $173.52 with penalty and interest, the same having been erroneously paid by them to the Government of the United States.

The following bills were severally read twice by their titles and referred to the Committee on Pensions:

H. R. 24322. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 24602. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 24626. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 24796. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 24996. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 25166. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

H. R. 25304. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The following bill and joint resolution were severally read twice by their titles and referred to the Committee on Immigration:

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for the United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof; and

H. J. Res. 220. Joint resolution to grant American citizenship to Eugene Prince.

H. R. 16720. An act authorizing the Secretary of the Interior to pay J. H. Schmidt $75 damages for trespass of certain Indian school cattle at Rainey Mountain School in Oklahoma was read twice by its title and referred to the Committee on Indian Affairs.

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of the public-building acts, and for other purposes," approved March 4, 1909, was read twice by its title and referred to the Committee on Public Buildings and Grounds.

H. R. 25069. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of the International Association of Factory Inspectors, praying for the creation of a bureau of agriculture and labor in the island of Porto Rico, which was referred to the Committee on Pacific Islands and Porto Rico.

He also presented resolutions adopted by members of the Lutheran Ministerial Association, of Washington, D. C., remonstrating against the reappointment of William A. De Lacey as judge of the juvenile court of the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. CULLOM. I present a joint resolution adopted by the Legislature of Illinois, which I ask may be printed in the RECORD and referred to the Committee on Commerce.

There being no objection, the joint resolution was referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

THIRD SPECIAL SESSION, FORTY-SEVENTH GENERAL ASSEMBLY OF ILLINOIS, 1912.

Senate joint resolution 5.

Whereas the people of the lower Mississippi Valley have again this year been great sufferers from the overflow of the Mississippi River, entailing immense losses in life and property and in many instances the destruction of the crop prospects of the year; and

Whereas the Government of the United States and of the individual States along the lower Mississippi and numerous levee districts contiguous to its banks have, in the aggregate, expended millions upon millions of dollars within the past 40 years in the hope of preventing overflows and reclaiming the rich lands of that important region; and

Whereas this year, and frequently in the past, new high-water marks have been successively made and new areas inundated, thus continuing the losses and disappointing the hopes of the people; and

Whereas the lower Mississippi is the natural outlet to the sea for the waters of nearly half the area of the entire country, the vast plain lying between the Allegheny Mountains on the east and the Rocky Mountains on the west, all the northern portion of which, through tile and farm drains and the reclamation of swamps, is steadily pouring an increased volume of water into the great central stream; and

Whereas justice requires that the lower Mississippi Valley States should not be burdened with the task of providing outlet for all the water of the more northern portion; and

Whereas the time is at hand when the millions of people in this country will greatly need the vast increase of products of which the overflow and swamp lands of the lower valley is capable when once reclaimed and made secure against floods: Therefore be it

Resolved by the senate (the house of representatives concurring herein), That it is the sense of the Legislature of the State of Illinois that the control of the waterways of the lower Mississippi Valley is a national problem and should be dealt with by the General Government on plans broad and comprehensive enough to prevent overflows, reclaim the waste areas, and make them available for the production of food for the millions of people they are capable of supporting.

Resolved, That the secretary of state is directed to send copies of this resolution to the Senators and Representatives from Illinois in the Congress of the United States, and they are hereby urged to use their best efforts to secure action by Congress in accord with the spirit, intent, and purpose herein expressed.

Adopted by the senate June 4, 1912.

Concurred in by the house June 5, 1912.

OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA, *State of Illinois, ss:*

I, C. J. Doyle, secretary of State of the State of Illinois, do hereby certify that the foregoing joint resolution of the Forty-seventh General Assembly of the State of Illinois, passed and adopted at the third special session thereof, is a true and correct copy of the original joint resolution now on file in the office of the secretary of state.

In witness whereof I hereunto set my hand and affix the great seal of state, at the city of Springfield, this 6th day of June, A. D. 1912.

[SEAL.] C. J. DOYLE,
Secretary of State.

Mr. CULLOM presented a petition of the International Molders' Conference Board, of Chicago, Ill., praying for the enactment of legislation providing for the better protection of American seamen, which was referred to the Committee on Commerce.

He also presented a petition of sundry citizens of Proviso, Ill., praying for the enactment of legislation to prohibit the use of insignia or garb of any religious denomination in the Indian public schools, which was referred to the Committee on Indian Affairs.

He also presented a petition of sundry citizens of Kell and Texico, in the State of Illinois, praying for the establishment of a parcel-post system, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of sundry citizens of Chicago, Dixon, Clifford, Quincy, Coal City, and Herrin, all in the State of Illinois, praying for the passage of the so-called injunction-limitation bill, which were referred to the Committee on the Judiciary.

Mr. FLETCHER. I present a telegram in the nature of a petition from wholesale grocers in Florida and Georgia, requesting the passage of the Gould bill, known as the weight or measure branding bill. I ask that the telegram be printed in the RECORD and referred to the Committee on Interstate Commerce.

There being no objection, the telegram was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

TAMPA, FLA., *June 21, 1912.*

Hon. DUNCAN U. FLETCHER,
Washington, D. C.:

We, the undersigned wholesale grocers doing business in Florida and Georgia, do most earnestly request and urge the passage of the Gould bill, known as weight or measure branding bill (H. R. 22526). We urge the passage of this bill for the reason that it is unquestionably the best bill that has been presented to your honorable body and, further, it is necessary for the honest manufacturers, wholesale, retailers, and consumers on account of its honesty of purpose.

PITTMAN GROCERY CO.	J. Q. BRANTLEY.
MILLER JACKSON GRAIN CO.	PENINSULAR NAVAL STORES CO.
CONSOLIDATED GROCERY CO.	SNOW & BRYAN.
C. B. WITT.	MACDONNELL GROCERY CO.

Mr. FLETCHER. I present a communication from the secretary of the Bankers' Association of Florida, transmitting a resolution adopted at the nineteenth annual session of that association held in Key West, Fla., April 4 and 5. I ask that the communication and resolution be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the communication and resolution were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

FLORIDA BANKERS' ASSOCIATION,
Jacksonville, Fla., June 18, 1912.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

DEAR SIR: I beg to quote you below a resolution passed by the Florida Bankers' Association at their nineteenth annual session held in Key West, Fla., April 4 and 5:

"*Be it resolved by the Bankers' Association of the State of Florida*, That it is the sense of this association that the purpose of the bill of the Monetary Commission is against the best interests of the progress and development and the management of the banks of Florida, and that our Senators and Representatives in Congress be requested to use their best efforts to prevent the passage of the bill."

Respectfully, yours,

G. R. DESAUSSURE, *Secretary.*

Mr. McCUMBER presented resolutions adopted by members of the North Dakota Medical Association, favoring the establishment of a department of public health, which were ordered to lie on the table.

He also presented a petition of the Association of Credit Men of Fargo, N. Dak., praying for the adoption of a 1-cent letter postage, which was referred to the Committee on Post Offices and Post Roads.

Mr. CATRON presented petitions of sundry citizens of Dona Ana and Curry Counties, in the State of New Mexico, praying for the enactment of legislation providing for two judicial districts in New Mexico, which were referred to the Committee on the Judiciary.

Mr. PERKINS presented a petition of the Chamber of Commerce, of Los Angeles, Cal., praying for the enactment of legislation to exempt from tolls all American ships passing through the Panama Canal engaged in coastwise traffic, which was referred to the Committee on Interoceanic Canals.

He also presented a memorial of the Chamber of Commerce of Los Angeles, Cal., remonstrating against the enactment of legislation providing for a five-year tenure of office for civil-service employees, which was ordered to lie on the table.

He also presented memorials of sundry citizens of Knights Land and Patterson, in the State of California, remonstrating against the establishment of a parcel-post system, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of sundry citizens of Eureka, Cal., remonstrating against the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation to create a board of river regulation and to provide a fund for the regulation and control of the flow of navigable rivers, etc., which was referred to the Committee on Commerce.

He also presented a petition of the Ministerial Union of Santa Cruz, Cal., praying for the enactment of legislation to prohibit

the interstate transportation of prize-fight pictures, which was ordered to lie on the table.

He also presented resolutions adopted by the Shipowners' Association of the Pacific Coast, remonstrating against the enactment of legislation relating to the restriction of the salutary powers of courts in the matter of injunctions and restraining orders, which were referred to the Committee on the Judiciary.

He also presented resolutions adopted by the City Council of Santa Cruz, Cal., favoring the enactment of legislation providing for the protection of passengers on ocean vessels, which were referred to the Committee on Commerce.

He also presented resolutions adopted by the Labor Council of San Francisco, Cal., favoring the dismissal of United States District Judge C. J. Hanford, which were referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 7193) to provide for the construction of four revenue cutters; to the Committee on Commerce.

By Mr. WILLIAMS:

A bill (S. 7194) to establish a drainage fund and to provide for the reclamation of swamp and overflowed lands in certain States; to the Committee on Public Lands.

By Mr. McCUMBER:

A bill (S. 7195) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River; to the Committee on Commerce.

By Mr. CRAWFORD:

A bill (S. 7196) granting an honorable discharge to William Cawley (with accompanying papers); to the Committee on Military Affairs.

CHARLES F. RIDDELL, CASHIER.

Mr. SHIVELY. Mr. President, by reason of the death of Hon. U. Stokes Jackson, Sergeant at Arms of the House of Representatives, it is necessary to authorize some one to perform the functions of that office in relation to drawing money from the Treasury for the pay of Members of the House. I introduce a joint resolution in the proper and usual form, and I ask for its immediate consideration.

The PRESIDENT pro tempore. The Chair will understand that the Senate consents to that action, unless there be objection. It is a matter of emergency and a matter of course also, and the Chair presumes that it will not be governed by the consent agreement. The joint resolution will be read.

The joint resolution (S. J. Res. 120) authorizing Charles F. Riddell, cashier in the office of Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain money appropriated for the salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until the election of the Sergeant at Arms of the House of Representatives, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That Charles F. Riddell,, cashier in the office of Sergeant at Arms of the House of Representatives, be, and he is hereby, authorized and directed to draw checks, requisitions, and execute all papers necessary to obtain from the United States Treasury the money appropriated for salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until a Sergeant at Arms of the House of Representatives has been duly elected and qualified; and the Treasurer of the United States is hereby authorized to pay the said money to the said Riddell, cashier, in conformity with the provisions of this resolution; and that the bond executed by said Riddell, as cashier in the office of Sergeant at Arms in the House of Representatives, in the penal sum of $50,000, payable to the United States of America, by authority of public resolution No. 34, approved June the 4th, 1912, be, and the same is hereby, with the consent of the sureties on said bond, extended in force and effect to cover the faithful discharge of the aforesaid cashier's duties, as herein authorized and directed, until a Sergeant at Arms of the House of Representatives has been elected and qualified.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JOHNSTON of Alabama (for Mr. BANKHEAD) submitted an amendment relative to the retirement of any officer of the United States Navy now on the retired list who prior to June 30, 1911, failed in his physical examination for promotion, etc., intended to be proposed to the naval appropriation bill (H. R. 24565), which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. MYERS submitted an amendment proposing $3,000 for paving the public street of the city of Butte, Mont., in front of the Federal Government building in that city, etc., intended to be proposed by him to the sundry civil appropriation bill (H. R. 25069), which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CURTIS (by request) submitted an amendment proposing to appropriate $1,200 to pay Joseph E. Johnson for services as stenographer in the office of the Sergeant at Arms, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—GERTRUDE BROWN.

On motion of Mr. McCUMBER, it was

Ordered, That the papers accompanying the bill (S. 4672) granting a pension to Gertrude Brown, Sixty-second Congress, second session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

SENATOR FROM ILLINOIS.

Mr. MYERS. Mr. President, I give notice that on Friday, the 5th day of July, at the close of the morning business for that day, or as soon thereafter as I may be heard, by permission of the Senate I will submit some remarks on the right of Mr. WILLIAM LORIMER, a Senator from the State of Illinois, to a seat in this body.

HOUR OF MEETING ON THURSDAY.

Mr. McCUMBER. I move that when the Senate adjourns to-day it adjourn to meet on Thursday at 10 o'clock a. m.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the joint resolution (S. J. Res. 120) authorizing Charles F. Riddell, cashier in the office of Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain money appropriated for the salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until the election of the Sergeant at Arms of the House of Representatives.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. J. Res. 120) authorizing Charles F. Riddell, cashier in the office of Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain money appropriated for the salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until the election of the Sergeant at Arms of the House of Representatives, and it was thereupon signed by the President pro tempore.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to; and (at 10 o'clock and 33 minutes a. m.) the Senate adjourned until Thursday, June 27, 1912, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *June 24, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven we thank Thee for the gift of life, the joy of living, the hopes and promises of its prolongation beyond the confines of the earthly existence. And we most fervently pray that each day, each year, may be the preparation for the larger life of to-morrow. A purer, nobler life for the year that is coming. Comfort, we beseech Thee, the friends, the bereaved wife, and family of the officer of this House who has been summoned to another one of the Father's many mansions, and help them to look forward with faith and confidence to a reunion which shall never end, and "songs of praises we will ever give to Thee." In Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, June 22, was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Gilfry, one of its clerks, announced that the Senate had passed the following joint resolution, in which the concurrence of the House of Representatives was requested:

Joint resolution (S. J. Res. 120) authorizing Charles F. Riddell, cashier in the office of the Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain money appropriated for the salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until the election of the Sergeant at Arms of the House of Representatives.

Resolved, etc., That Charles F. Riddell, cashier in the office of the Sergeant at Arms of the House of Representatives, be, and he is hereby,

authorized and directed to draw checks, requisitions, and execute all papers necessary to obtain from the United States Treasury the money appropriated for salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until a Sergeant at Arms of the House of Representatives has been duly elected and qualified; and the Treasurer of the United States is hereby authorized to pay the said money to the said Riddell, cashier, in conformity with the provisions of this resolution; and that the bond executed by said Riddell, as cashier in the office of the Sergeant at Arms in the House of Representatives, in the penal sum of $50,000, payable to the United States of America by authority of public resolution No. 34, approved June 4, 1912, be, and the same is hereby, with the consent of the sureties on said bond, extended in force and effect to cover the faithful discharge of the aforesaid cashier's duties as herein authorized and directed, until a Sergeant at Arms of the House of Representatives has been elected and qualified.

OFFICE OF THE SERGEANT AT ARMS.

Mr. DIXON of Indiana. Mr. Speaker, I ask that the resolution in reference to the office of the Sergeant at Arms, which has just come over from the Senate, be taken from the Speaker's table and laid before the House for immediate consideration.

The SPEAKER. The gentleman from Indiana asks to take the resolution referred to from the Speaker's table and consider it now.

Mr. JOHNSON of Kentucky. Mr. Speaker, this is District day, and I wish to take up District business.

The SPEAKER. The Chair will recognize the gentleman from Kentucky as soon as the resolution is disposed of. The situation is that unless this resolution passes every Member of the House that has a check outstanding will have it protested. The Clerk will read the resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 120) authorizing Charles F. Riddell, cashier in the Office of the Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain money appropriated for the salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until the election of the Sergeant at Arms of the House of Representatives.

Resolved, etc., That Charles F. Riddell, cashier in the Office of the Sergeant at Arms of the House of Representatives, be, and he is hereby, authorized and directed to draw checks, requisitions, and execute all papers necessary to obtain from the United States Treasury the money appropriated for salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until a Sergeant at Arms of the House of Representatives has been duly elected and qualified; and the Treasurer of the United States is hereby authorized to pay the said money to the said Riddell, cashier, in conformity with the provisions of this resolution; and that the bond executed by said Riddell as cashier in the Office of the Sergeant at Arms in the House of Representatives, in the penal sum of $50,000, payable to the United States of America, by authority of public resolution No. 34, approved June 4, 1912, be, and the same is hereby, with the consent of the sureties on said bond, extended in force and effect to cover the faithful discharge of the aforesaid cashier's duties as herein authorized and directed until a Sergeant at Arms of the House of Representatives has been elected and qualified.

Passed the Senate June 24, 1912.

Mr. MANN. Mr. Speaker, I understand this resolution originates in the Senate at the request of the Members of the House, because the Senate met at 10 o'clock this morning, and would not be in session when the House met.

Mr. DIXON of Indiana. That is the reason that it was not passed by the House in the first place, because the Senate was to meet at 10 o'clock this morning and would adjourn before the House could meet and pass the resolution.

The SPEAKER. Is there objection to the present consideration of this resolution?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

Mr. UNDERWOOD. Mr. Speaker, I understand the gentleman from Kansas has a request to make.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that I may have 15 minutes, in which time I desire to have a letter read.

The SPEAKER. The gentleman from Kansas asks unanimous consent to address the House for 15 minutes. Is there objection?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, I send to the Clerk's desk a letter which I shall ask to have read. The letter was written by a man who has a rare ability to write of what he knows, and to write it in forceful phraseology. I ask that the letter be read.

The Clerk read as follows:

SAGAMORE HILL,
Oyster Bay, N. Y., September 9, 1908.

Mr. CONRAD KOHRS,
Helena, Mont.

MY DEAR MR. KOHRS: I have received your letter about the candidacy of Mr. Taft, the man who I feel is in an especial sense the representative of all that in which I most believe in political life.

Every good citizen should desire to see both prosperity and justice, prosperity and fair and righteous dealing as between man and man, obtain permanently in this great Republic. As a people we are justly proud of our business industry, of our energy and intelligence in our work; and it is entirely right that we should ask ourselves as to any given course of conduct. "Will it be profitable?" But it is also no less emphatically true that the bulk of our people, the plain people, who found in Abraham Lincoln their especial champion and spokesman, regard the question, "Is this morally right?" as even more important than the question, "Is this profitable?" when applied to any given course of conduct. Indeed, in the long run our people are sure to find that in all dealings, alike in the business and the political world, what is really profitable is that which is morally right. The last few years have seen a great awakening of the public conscience and the growth of a stern determination to do away with corruption and unfair dealing, political, economic, social. It is urgently necessary that this great reform movement should go on. But no reform movement is healthy if it goes on by spasms; if it is marked by periods of frenzied advance, followed, as such periods of frenzied advance must always be followed, by equally violent periods of reaction.

The revolutionary and the reactionary really play into one another's hands, to the extent that each by his excesses necessarily tends to arouse such disgust, such a feeling of revolt, in the minds of quiet people, as temporarily to restore the other to power. To permit the direction of our public affairs to fall alternately into the hands of revolutionaries and reactionaries, of the extreme radicals of unrest and of the bigoted conservatives who recognize no wrongs to remedy, would merely mean that the Nation had embarked on a feverish course of violent oscillation which would be fraught with great temporary trouble, and would produce no adequate good in the end. The true friend of reform, the true foe of abuses, is the man who steadily perseveres in righting wrongs, in warring against abuses, but whose character and training are such that he never promises what he can not perform, that he always a little more than makes good what he does promise, and that, while steadily advancing, he never permits himself to be led into foolish excesses which would damage the very cause he champions. In Mr. Taft we have a man who combines all of these qualities to a degree which no other man in our public life since the Civil War has surpassed. To a flaming hatred of injustice, to a scorn of all that is base and mean, to a hearty sympathy with the oppressed, he unites entire disinterestedness, courage both moral and physical of the very highest type, and a kindly generosity of nature which makes him feel that all of his fellow countrymen are in very truth his friends and brothers, that their interests are his, and that all his great qualities are to be spent with lavish freedom in their service. The honest man of means, the honest and law-abiding business man, can feel safe in his hands because of the very fact that the dishonest man of great wealth, the man who swindles or robs his fellows, would not so much as dare to defend his evil doing in Mr. Taft's presence. The honest wageworker, the honest laboring man, the honest farmer, the honest mechanic or small trader, or man of small means, can feel that in a peculiar sense Mr. Taft will be his representative because of the very fact that he has the same scorn for the demagogue that he has for the corruptionist, and that he would front threats of personal violence from a mob with the unquailing and lofty indifference with which he would front the bitter anger of the wealthiest and most powerful corporations. Broad though his sympathies are, there is in him not the slightest tinge of weakness. No consideration of personal interest, any more than of fear for his personal safety, could make him swerve a hair's breadth from the course which he regards as right in the interest of the whole people.

I have naturally a peculiar interest in the success of Mr. Taft, and in seeing him backed by a majority in both Houses of Congress which would heartily support his policies. For the last 10 years, while I have been governor of New York and President, I have been thrown into the closest intimacy with him, and he and I have on every essential point stood in heartiest agreement, shoulder to shoulder. We have the same views as to what is demanded by the national interest and honor, both within our own borders and as regards the relations of this Nation with other nations. There is no fight for decency and fair dealing which I have waged in which I have not had his heartiest and most effective sympathy and support, and the policies for which I stand are his policies as much as mine.

It is not possible in the space of this letter to discuss all the many and infinitely varied questions of moment with which Mr. Taft as President would have to deal; let him be judged by what he has himself done and by what the administration, in which he has played so conspicuous a part, has done. But

to illustrate just what his attitude is, let me touch on two matters now prominent in the public mind:

Mr. Taft can be trusted to exact justice from the railroads for the very reason that he can be trusted to do justice to the railroads. The railroads are the chief instruments of interstate commerce in the country, and they can neither be held to a proper accountability on the one hand nor given proper protection on the other save by the affirmative action of the Federal Government. The law as laid down by the Federal courts clearly shows that the States have not and can not devise laws adequate to meet the problems caused by the great growth of the railroads doing an interstate-commerce business, for more than four-fifths of the business of the railroads is interstate, and under the Constitution of the United States only the Federal Government can exercise control thereover. It is absolutely necessary that this control should be affirmative and thoroughgoing. All interstate business carried on by the great corporations should, in the interest of the whole people, be far more closely supervised than at present by the National Government; but this is especially true of the railroads, which can not exist at all save by the exercise of powers granted them on behalf of the people, and which, therefore, should be held to a peculiar accountability to the people. It is in the interest of the people that they should not be permitted to do injustice; and it is no less to the interest of the people that they should not suffer injustice. Their prime purpose is to carry the commodities of the farmers and the business men; they could not be built save for the money contributed to them by their shareholders; they could not be run at all save for the money paid out in wages to the railroad employees; and, finally, they could not be run judiciously, or profitably to any one, were it not for the employment by them of some masterful guiding intelligence, whether of one man or of a group of men. There are therefore several sets of interests to be considered. Each must receive proper consideration, and when any one of them selfishly demands exclusive consideration the demand must be refused. Along certain lines all of these groups have the same interests.

It is to the interest of shipper, farmer, wageworker, business man, honest shareholder, and honest manager alike that there should be economy, honesty, intelligence, and fair treatment of all. To put an effective stop to stock watering would be a benefit to everybody except the swindlers who profit by stock watering; it would benefit the honest shareholder because honest investments would not be brought into competition with mere paper; it would benefit the wageworker, because when the money earned does not have to go to paying interest on watered capital more of it is left, out of which to pay wages; it would benefit the shipper, because when only honest stockholders have to be paid interest, rates need not be improperly raised; it would benefit the public, because there would be ample money with which to give efficient service. Similarly the prevention of favoritism, as among shippers, does no damage to anyone who is honest, and confers great good upon the smaller business man and the farmer, whom it relieves of oppression. Again, such supervision of accounts and management as will prevent crookedness and oppression works good, directly or indirectly, to all honest people. Therefore everything that can be done along all these lines should be done; and no man's legitimate interest would thereby be hurt. But after this point has been reached great care must be exercised not to work injustice to one class in the effort to show favor to another class, and each class naturally tends to remember only its own needs. The stockholders must receive an ample return on their investments or the railroads cannot be built and successfully maintained; and the rates to shippers and the wages to employees, from the highest to the lowest, must all be conditioned upon this fact. On the other hand, in a public-service corporation we have no right to allow such excessive profits as will necessitate rates being unduly high and wages unduly low. Again, while in his proper ways rates must be kept low, we must always remember that we have no right and no justification to reduce them when the result is the reduction of the wages of the great army of railroad men. A fair working arrangement must be devised according to the needs of the several cases, so that profits, wages, and rates shall each be reasonable with reference to the other two—and in wages I include the properly large amounts which should always be paid to those whose masterful ability is required for the successful direction of great enterprises. Combinations which favor such an equitable arrangement should themselves be favored and not forbidden by law, although they should be strictly supervised by the Government through the Interstate Commerce Commission, which should have the power of passing summarily upon not only the question of the reduction but the raising of rates.

This railroad problem is itself one of the phases of one of the greatest and most intricate problems of our civilization; for its proper solution we need not merely honesty and courage, but judgment, good sense, and entire fair-mindedness. Demagogy in such a matter is as certain to work evil as corruption itself. The man who promises to raise the wages of the railroad employees to the highest point and at the same time to reduce rates to the lowest point is promising what neither he nor anyone else can perform; and if the effort to perform it were attempted disaster would result to both shipper and wageworker and ruin to the business interests of the country. The man to trust in such a matter as this is the man who, like Judge Taft, does not promise too much, but who could not be swayed from the path of duty by any argument, by any consideration; who will wage relentless war on the successful wrongdoer among railroad men as among all other men; who will do all that can be done to secure legitimately low rates to shippers and absolute evenness among the rates thus secured; but who will neither promise nor attempt to secure rates so low that the wage earner would lose his earnings and the shareholder, whose money built the road, his profits. He will not favor a ruinous experiment like Government ownership of railways; he will stand against any kind of confiscation of honestly acquired property; but he will work effectively for the most efficient type of Government supervision and control of railways, so as to secure just and fair treatment of the people as a whole.

What is here said as to his attitude on the railway question applies to the whole question of the trusts. He will promise nothing on this subject unless he firmly believes he can make his promise good. He will go into no chimerical movement to destroy all great business combinations, for this can only be done by destroying all modern business; but he will in practical fashion do everything possible to secure such efficient control, on behalf of the people as a whole, over these great combinations as will deprive them of the power to work evil. Mr. Taft's decision in the Addystone Pipe Line case while on the bench is proof, by deeds not by words, of the far-sighted wisdom with which he serves the interests of the whole people even when those of the most powerful corporations are hostile thereto.

If there is one body of men more than another whose support I feel I have a right to challenge on behalf of Secretary Taft, it is the body of wageworkers of the country. A stancher friend, a fairer and truer representative, they can not find within the borders of the United States. He will do everything in his power for them except to do that which is wrong; he will do wrong for no man, and therefore can be trusted by all men. During the 10 years of my intimate acquaintance with him, since I have myself, as governor and President, been obliged to deal practically with labor problems, he has been one of the men upon whose judgment and aid I could always rely in doing everything possible for the cause of the wageworker, of the man who works with his hands, or with both hands and head.

Mr. Taft has been attacked because of the injunctions he delivered while on the bench. I am content to rest his case on these very injunctions; I maintain that they show why all our people should be grateful to him and should feel it safe to intrust their dearest interests to him. Most assuredly he never has yielded and never will yield to threat or pressure of any sort, as little if it comes from labor as if it comes from capital; he will no more tolerate the violence of a mob than the corruption and oppression and arrogance of a corporation or of a wealthy man. He will not consent to limit the power of the courts to put a stop to wrongdoing wherever found. This very fact should make the labor people feel a peculiar confidence in him. He has incurred the bitter hostility of foolish and bigoted reactionaries by his frank criticism of the abuse of the power of injunction in labor disputes, and he is pledged to do all he can to put a stop to the abuses in the exercise of the power of injunction. He will never promise anything that he will not do all in his power to perform. He can always be trusted to do a little better than his word, and the fact that before election he will not promise the impossible is in itself a guaranty that after election all that is possible will be done.

His record as a judge makes the whole country his debtor. His actions and decisions are part of the great traditions of the bench. They guaranteed and set forth in striking fashion the rights of the general public as against the selfish interests of any class, whether of capitalists or of laborers. They set forth and stand by the rights of the wageworkers to organize and to strike, as unequivocally as they set forth and stand by the doctrine that no conduct will be tolerated that would spell destruction to the Nation as a whole. As for the attack upon

his injunctions in labor disputes, made while he was on the bench, I ask that the injunctions be carefully examined. I ask that every responsible and fair-minded labor leader, every responsible and fair-minded member of a labor organization, read these injunctions for himself. If he will do so, instead of condemning them he will heartily approve of them and will recognize this further astonishing fact that the principles laid down by Judge Taft in these very injunctions, which laboring people are asked to condemn, are themselves the very principles which are now embodied in the laws or practices of every responsible labor organization. No responsible organization would now hesitate to condemn the abuses against which Judge Taft's injunctions were aimed. The principles which he therein so wisely and fearlessly laid down serve as a charter of liberty for all of us, for wageworkers, for employers, for the general public; for they rest on the principles of fair dealing for all, of even-handed justice for all. They mark the judge who rendered them as standing for the rights of the whole people; as far as daylight is from darkness, so far is such a judge from the timeserver, the truckler to the mob, or the cringing tool of great, corrupt, and corrupting corporations. Judge Taft on the bench—as since, in the Philippines, in Panama, in Cuba, in the War Department—showed himself to be a wise, a fearless, and an upright servant of the whole people, whose services to the whole people were beyond all price. Moreover, let all good citizens remember that he rendered these services, not when it was easy to do so, but when lawless violence was threatened, when malice, domestic and civic disturbance threatened the whole fabric of our Government and of civilization; his actions showed not only the highest kind of moral courage but of physical courage as well, for his life was freely and violently threatened.

Let all fair-minded men, wageworkers and capitalists alike, consider yet another fact. In one of his decisions upon the bench Judge Taft upheld in the strongest fashion and for the first time gave full validity to the principle of the employers' liability for injuries done workmen. This was before any national law on the subject was enacted. Judge Taft's sense of right, his indignation against oppression in any form, against any attitude that is not fair and just, drove him to take a position which was violently condemned by short-sighted capitalists and employers of labor, which was so far in advance of the time that it was not generally upheld by the State courts, but which we are now embodying in the law of the land. Judge Taft was a leader, a pioneer, while on the bench, in the effort to get justice for the wageworker, in jealous championship of his rights; and all upright and farsighted laboring men should hold it to his credit that at the same time he fearlessly stood against the abuses of labor, just as he fearlessly stood against the abuses of capital. If elected, he has shown by his deeds that he will be President of no class, but of the people as a whole; he can be trusted to stand stoutly against the two real enemies of our democracy—against the man who to please one class would undermine the whole foundation of orderly liberty and against the man who, in the interest of another class, would secure business prosperity by sacrificing every right of the working people.

I have striven as President to champion in every proper way the interests of the wageworker, for I regard the wageworker, excepting only the farmer, the tiller of the soil, as the man whose well-being is most essential to the healthy growth of this great Nation. I would for no consideration advise the wageworker to do what I thought was against his interest. I ask his support for Mr. Taft exactly as I ask such support from every farsighted and right-thinking American citizen, because I believe with all my heart that nowhere within the borders of our great country can there be found another man who will as vigilantly and efficiently as Mr. Taft support the rights of the workingman as he will the rights of every man who in good faith strives to do his duty as an American citizen. He will protect the just rights of both rich and poor, and he will war relentlessly against lawlessness and injustice, whether exercised on behalf of property or of labor.

On the bench Judge Taft showed the two qualities which make a great judge—wisdom and moral courage. They are also the two qualities which make a great President.

Sincerely, yours,

THEODORE ROOSEVELT.

[Applause.]

During the reading of the letter, the time of Mr. CAMPBELL having expired, by unanimous consent, on the request of Mr. MANN, his time was extended five minutes.

Mr. HEFLIN. Mr. Speaker, I ask unanimous consent for 10 minutes in which to address the House.

The SPEAKER pro tempore (Mr. HULL). The gentleman from Alabama asks unanimous consent to address the House for 10 minutes. Is there objection?

There was no objection.

Mr. HEFLIN. Mr. Speaker, here is a document recently issued by the ex-President of the United States, Col. Theodore Roosevelt, which is very interesting reading, and I desire to have it read to the House in my time. What Mr. Taft has said about Mr. Roosevelt recently would also make interesting reading just now.

The Clerk read as follows:

ROOSEVELT READY TO TAKE LEAD OF A NEW MOVEMENT—SAYS IF PEOPLE DEMAND IT HE WOULD ACCEPT NOMINATION OF PROGRESSIVE PARTY—DELEGATES NOT TO BOLT.

CHICAGO, ILL., *June 21, 1912.*

Col. Theodore Roosevelt yesterday issued this statement:

"The time has come when I feel that I must make certain statements not merely to honestly elected members of the Republican national convention, but to the rank and file of the Republican Party and to the honest people of the entire Nation. I went into this fight for certain great principles. At the moment I can only serve these principles by continuing to bear the personal responsibility which their advocacy has brought to me.

"On behalf of these principles I made my appeal straight to the people themselves. I went before them, I made my argument in full, and every move I made was in the open, without concealment of any kind.

"The opposition to me was extraordinarily bitter, for I was opposed by the practically solid phalanx of the big, conscienceless political bosses, with back of them the practically solid phalanx of the big, conscienceless beneficiaries of special privilege in every form, and of course the many big newspapers which are controlled by or in the interest of the bosses and special privilege.

"Nevertheless, in the appeal to the people I won. In many of the Republican States and of the Democratic States where there is a large and real Republican Party primaries of different kinds were held and a substantial expression of the will of the people was obtained.

"In these primary States some 3,000,000 voters, the rank and file of the Republican Party, cast their votes. I beat Mr. Taft considerably over two to one. In these States I obtained about six delegates to Mr. Taft's one. Nearly three-fourths of my delegates came from these primary States where the people had a chance to express themselves.

TAFT'S SUPPORT USELESS AT POLLS.

"Mr. Taft's strength, as indicated by the two roll calls already taken, consisted chiefly (aside from his 90 stolen delegates) of the nearly solid delegations from the Territories and from the Southern States, in which there is no real Republican Party—South Carolina, Georgia, Florida, Alabama, Arkansas, Mississippi, Louisiana—and of Northern States like New York, where the people had no chance to express themselves at primaries and where the delegates were picked by the bosses.

"In spite of these odds against me, I obtained a clear majority of all the delegates elected to the convention. In my campaign I again and again stated that if the people decided against me, I would have nothing to say, but that if they decided for me and the politicians then robbed me of the victory I would not silently and tamely acquiesce.

OPPONENTS USE FOUL MEANS.

"It was already evident that my opponents, with Mr. Taft's encouragement, intended to beat me by foul means if they could not do so by fair means.

"The crucial but not the only step in the concerted and hitherto successful effort to cheat the people out of the victory they had fairly won was taken up by the now defunct national committee, which, without one show of justification and with cynical contempt of the most ordinary rules of decency, in making up the temporary roll call unseated 90 fairly elected Roosevelt delegates and substituted for them 90 Taft delegates who in the convention represent nothing whatever but successful fraud.

"I was clearly entitled to all these 90 delegates; all the 90 possessed, for instance, clearer titles than the uncontested Taft delegates from New York City; and as to 70 of them, their titles were as flawless as those of any other delegates in the convention.

FRAUDULENT VOTES ELECT ROOT.

"Mr. Root was elected, and Gov. Deneen's motion for partially cleansing the roll of fraud was defeated by the vote of these 90 fraudulent delegates—the last being a vote on a straight moral issue, the result of which, in my judgment, ought to render it impossible for any man longer to take part in the pro-

ceedings of the convention as now constituted. The majority in each case was slightly over 50.

"In each case, therefore, if it had not been for the hitherto successful rascality which placed these fraudulent delegates on the roll and permitted them to vote the cause of decency would have won; Mr. McGovern would have been elected in place of Mr. ROOT, Gov. Deneen's motion would have prevailed, and the Republican national convention would now have been exercising in good faith the high, honorable, and vitally important function of honestly representing the wishes, the judgment, and the interests of the plain people who make up the mass of the Republican Party.

CONVENTION REPRESENTS FRAUD.

"Instead, it now presents nothing but successful political fraud perpetrated in the interest of political and financial privilege.

"I understand that Mr. ROOT has announced that no one of the stolen delegates will be allowed to vote on his own case, but that all will be allowed to vote on one another's cases. Such a ruling is a sheer denial of justice and fair play.

"All these 90 fraudulent delegates were seated at the same time by the votes of the same national committeemen to serve the same purpose. The credentials committee appointed to try their cases included three of their own number—from the States of Washington, Arizona, and Texas—where the delegations were stolen en masse. This committee selected as its chairman the Guggenheim delegate from Colorado, who had already, as national committeeman, assisted in initiating the frauds upon which he is now to sit in judgment.

"Nothing that this committee may do is entitled to consideration, and in considering what they do it will be well to keep in mind the remark made in private by one of the national committeemen, who, when asked why they had stolen so many more delegates than were needed for their purpose, answered that it would enable the credentials committee to make a show of generosity by unseating some, while retaining a number amply sufficient to accomplish all the ends they have in view.

MEANS A TAINTED NOMINATION.

"Moreover, it is well to remember that the fraud is equally great and equally reprehensible, whether the fraudulent delegates actually vote on the nomination for President or whether they are merely used to create a situation which renders it unnecessary for them to vote on the nomination for President. If the roll is not purged en masse of these fraudulently elected delegates the whole election of the convention is tainted.

"The committee on rules, against the protest of the progressive members, has just provided for the perpetuation of the national committee in the form responsible for the scandalous outrages which have at this moment brought the Republican Party to the breaking point; and they have explicitly refused to recognize the principle of popular presidential primaries and have made the national committee supreme over the people in the matter of primaries.

RESPECTABLE MEN AID UNSCRUPULOUS.

"Unfortunately in our political life the unscrupulous man who commits wrongs such as these can usually count on having some respectable men support him and other respectable men oppose him, but cease their opposition at the point when it would become really effective.

"In this connection the unscrupulous men who are the leaders have already received support from the former class of respectable men; and they count upon seeing representatives of the latter class, who have hitherto voted against them, fear to take the decisive step of sundering connection with the fraudulent convention itself.

"Such are the facts about the national convention as now constituted. I decline any longer to be bound by any action it may take. I decline to regard as binding any nomination it may make. I do not regard successful fraud and deliberate political theft as constituting a title to party regularity, or a claim to the support of any honest man of any party.

"I hope that the honestly elected majority will at once insist upon the immediate purging of the roll in its entirety and not piecemeal by the convention.

"If this purging is not accomplished, I hope the honestly elected delegates will decline all further connection with a convention whose action is now determined, and has hitherto been determined, by a majority which is made a majority only by the action of the fraudulent delegates whom the convention has refused to strike from the rolls.

"If the leaders of the honestly elected majority disagree with me in this matter and desire me to lead the fight, I will do so.

"There can be no cause for which it is better worth while to fight, none in which it is of less consequence what happens to the individual himself, provided only that he valiantly does his duty in the forward movement. I shall make my appeal to all honest men, East and West, North and South, and gladly abide the result, whatever that result may be.

"THEODORE ROOSEVELT."

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolutions of the following titles:

On June 18, 1912:

H. R. 16612. An act authorizing and directing the Secretary of the Interior to convey a certain lot in the city of Alva, Okla.;

H. R. 13041. An act to provide for the support and maintenance of bastards in the District of Columbia; and

H. R. 23799. An act to amend "An act to authorize the Dauphin Island Railway & Harbor Co., its successors or assigns, to construct and maintain a bridge or bridges, or viaducts, across the water between the mainland, at or near Cedar Point, and Dauphin Island, both Little and Big; also to dredge a channel from the deep waters of Mobile Bay into Dauphin Bay; also to construct and maintain docks and wharves along both Little and Big Dauphin Islands."

On June 19, 1912:

H. R. 9061. An act limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory, or for the District of Columbia, and for other purposes;

H. R. 20585. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 21230. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 21597. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 22261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 23063. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent children of soldiers and sailors of said war; and

H. R. 23557. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

MILITARY ENCAMPMENT AND MANEUVERS (H. DOC. NO. 852).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

Very complete arrangements have been tentatively prepared for the participation in camps and maneuvers of a large portion of the Organized Militia of the United States. Preparation has been made for this most important military instruction both by the United States and by the various States whose Organized Militia will participate. The magnitude of the maneuver plans can be seen when it is estimated that 70,000 officers and enlisted men of the Organized Militia will take part in them during the coming year. Should it be impossible to carry out the contemplated maneuvers it will be at a very great loss of efficiency to the troops concerned and will entail a great disappointment to the thousands of men who, with the maneuvers in view, have been preparing themselves therefor.

In contemplation of the maneuvers it has been necessary already to expend the sum of $80,000 from the unexpended balance of last year's appropriation for maneuver purposes for the Organized Militia, which sum will be lost should the project of maneuvers not be consummated. In addition to this, the various States have made arrangements to expend large amounts from their apportionment from the funds appropriated by Congress under section 1661, Revised Statutes, or from funds appropriated by the State. Without an appropriation by Congress the maneuvers may not be held. I have the honor, therefore, strongly to recommend and urge that the following item, taken from House bill No. 18956 (Army appropriation bill), be enacted separately and specially:

One million three hundred and fifty thousand dollars "Encampment and maneuvers, Organized Militia, 1912–1914."

In addition to the appropriation for the Organized Militia for maneuver purposes it would be necessary that certain amounts be appropriated and made immediately available for the Regular Army to participate with the Organized Militia and aid the latter in the purpose of the maneuvers. This appropriation would total $367,500, and is made up of the following items:

Regular supplies	$160,000
Incidental expenses	4,500
Barracks and quarters	33,000
Army transportation	75,000
Roads and walks, etc	4,000
Water and sewers	57,000
Clothing and equipage	34,000
Total	367,500

The immense importance of the training of the militia leads me again to urge most strongly that the two appropriations mentioned be made available on or before the 2d day of July, 1912, since, unless the maneuvers can be definitely determined upon by that date, the plans for the encampments and maneuvers of a great portion of the Organized Militia of the United States will have to be abandoned.

WM. H. TAFT.

THE WHITE HOUSE, *June 24, 1912.*

Mr. HAY. Mr. Speaker, the situation referred to in the President's message was created by his veto of the Army appropriation bill (H. R. 18956), which carried in it $1,350,000 for these maneuvers. The recommendation of the President will be acted upon as speedily as we can do so under existing circumstances, but it is well known to all that both the House and Senate have practically adjourned until the 1st of July. I move to refer the present message to the Committee on Military Affairs.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. HAY. Certainly.

Mr. MANN. As I understand, the plan is to have the maneuvers very early in July.

Mr. HAY. July 5, I believe.

Mr. MANN. Of course, so far as the actual appropriation is concerned, I suppose that if it be made by the 2d of July it would be in sufficient time.

Mr. HAY. I so understand from what the President says in his message.

Mr. MANN. Is it practical for the Army and the national reserve to proceed with their plans meanwhile with any sort of assurance that the appropriation will be made? As I understand, the gentleman from Virginia himself, and probably his committee, is perfectly willing that this emergency appropriation should be made as speedily as possible.

Mr. HAY. As speedily as possible; yes.

Mr. MANN. I think the same is true absolutely of this side of the House.

Mr. HAY. I will say that as far as I am personally concerned that is true. The gentleman will understand that a bill of that character would have to go to the calendar and could only be taken up and passed by unanimous consent.

Mr. MANN. The day upon which we meet next week, Monday, is suspension day, and I take it there will be no trouble in passing it at that time.

Mr. HAY. It could be passed at that time.

Mr. MANN. And probably there will be no objection to it, but I think it would be well if the Army officials and the National Guard officials have the understanding that it is the expectation, at least, of gentlemen in Congress to make the emergency appropriation.

Mr. HAY. I have already stated that as speedily as it possibly can be done the appropriation will be provided for. I do not think I can go any further than that.

Mr. MANN. I agree with the gentleman. I wanted to have it clearly understood in the House that no one would like to make objection to it.

Mr. CANNON. Mr. Speaker, will the gentleman yield?

Mr. HAY. Certainly.

Mr. CANNON. I should say that by the 2d of July provision for almost the whole public service would have to be made, or the public service stops—oh, for 15 or 30 days, whatever in the wisdom of the majority of the House and the Senate would seem apt to them as a matter of policy. That would be true not only as to the militia, but also as to the whole public service.

Mr. HAY. I will state to the gentleman that this appropriation does not stand on all fours with the appropriations which may be continued. The appropriation for this purpose in the Army appropriation bill last year carried only $350,000, and a continuation of it for 30 days would not meet the present requirements. The appropriation in the present Army bill is $1,350,000, so that in order that these maneuvers shall go on it is necessary to appropriate the whole amount.

Mr. CANNON. It might be done, however, in a resolution that appropriated otherwise for the extension of the public service.

Mr. SHERLEY. Mr. Speaker, if the gentleman will yield, it will probably be necessary, in the event that any joint resolution is passed, coming from the gentleman's and my own committee, the Committee on Appropriations, to make special provision as to certain matters. That was so particularly true as to this matter of the Army maneuvers that the majority members of the Committee on Appropriations felt it was perfectly proper that the matter, belonging primarily to the Committee on Military Affairs, should go to that committee and should be taken care of independently, and they have no objection to the motion as made by the gentleman from Virginia.

Mr. CANNON. I think it ought to go to that committee, but it might well be included in a resolution of the kind to which I refer.

Mr. SHERLEY. The question of what will be done about providing other funds, because of the failure of the supply bills, will be met when that situation arises. I agree with the gentleman from Virginia that this is the course to pursue at this time.

Mr. HAY. Mr. Speaker, I renew my motion to refer the communication to the Committee on Military Affairs.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Virginia.

The question was taken, and the motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. PLUMLEY for 12 days on account of important business.

BILLS ON THE PRIVATE CALENDAR.

Mr. UNDERWOOD. Mr. Speaker, I understand that it will require the House to wait a short time in order that the joint resolution may be engrossed and signed authorizing the Deputy Sergeant at Arms to sign the Members' checks, and whilst we are waiting for that purpose I ask unanimous consent that the order which was in force last Saturday in reference to the Private Calendar may be renewed to-day so that the remaining bills on the Private Calendar may be called up by unanimous consent and be acted on in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the order applying last week shall be continued to-day as to bills on the Private Calendar; that they shall be called, and those not objected to shall be considered in the House as in the Committee of the Whole House on the state of the Union.

Mr. MANN. That means, to proceed where we left off the other day.

The SPEAKER. Yes; proceed where we left off. Is there objection to the request of the gentleman from Alabama? [After a pause.] The Chair hears none.

THEODORE DEHON.

The first business on the Private Calendar was the bill (H. R. 9136) for the relief of the heirs of Theodore Dehon.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, that bill and several after it were disposed of the other day. I ask that the bill go over.

The SPEAKER. The gentleman from Illinois objects, and the Clerk will report the next bill.

GEORGE E. PAYNE.

The next business on the Private Calendar was the bill (H. R. 22311) for the relief of the legal representatives of George E. Payne, deceased.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I desire to ask to have this bill go over. This bill and Calendar No. 153 were read before the House last Saturday and objected to and the Clerk read the calendar down to No. 154, House resolution 581, when the motion to adjourn was made.

The SPEAKER. The gentleman from Illinois objects.

MAG BROWN.

The next business on the Private Calendar was House resolution 581, in lieu of House bill 8507, for the relief of Mag Brown, and referring the same to the Court of Claims?

The Clerk read as follows:

Resolved, That the bill (H. R. 8507) for the relief of Mag Brown, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts and conclusions of law

under section 151 of the act of March 3, 1911, "An act to codify, revise, and amend the laws relating to the judiciary" (Public act No. 475, 61st Cong., 2d sess., p. 1138).

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken, and the resolution was agreed to.

MRS. THOMAS S. FERRAL.

The next business on the Private Calendar was House resolution 582, a resolution in lieu of House bill 15752, for the relief of Mrs. Thomas S. Ferral, and referring the same to the Court of Claims.

The Clerk read as follows:

Resolved, That the bill (H. R. 15752) for the relief of Mrs. Thomas S. Ferral, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts and conclusions of law under section 151 of the act of March 3, 1911, "An act to codify, revise, and amend the laws relating to the judiciary" (Public act No. 475, 61st Cong., 2d sess., p. 1138).

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, is there anyone here from the Committee on Claims who knows; if so, I would like to inquire, why these individual resolutions were not included in the omnibus resolution. Very well—I do not object.

The SPEAKER. The Chair hears no objection.

The question was taken and the resolution was agreed to.

JAMES EASSON.

The next business on the Private Calendar was the bill (H. R. 265) for the relief of James Easson.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Let the bill go over.

The SPEAKER. The gentleman from Illinois objects.

GEORGE IVERS.

The next business on the Private Calendar was the bill (S. 100) to carry into effect the findings of the military board of officers in the case of George Ivers, administrator.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Let the bill go over.

The SPEAKER. The gentleman from Illinois objects.

JOE COOK.

The next business on the Private Calendar was the bill (H. R. 25060) for the relief of Joe Cook.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $422.25 to Joe Cook, of Manhattan, Nev., found and held to be due him by the Secretary of Agriculture under contract of February 8, 1911, for the construction of a rangers' headquarters on the Toiyabe National Forest Reserve, Kinston Canyon, Nev.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

ROBERT E. BURKE.

The next business on the Private Calendar was the bill (H. R. 4113) for the relief of Robert E. Burke.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Robert E. Burke, of Brooklyn, N. Y., the sum of $4,340.70, as reimbursement for expenses actually incurred by him in connection with his duties as United States customs inspector at the port of New York.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, this bill as introduced carries the sum of $4,340. The committee recommends to increase it to $5,590. I have no objection to the consideration of the original bill if the sum is not to be increased. There is no justice in the increase.

Mr. FARR. That was due to a recommendation of the department.

Mr. MANN. The department did recommend that this man be given compensation in the way of an award. But the proposition in the bill is to pay him his salary and expenses while he was out of the service. If he is to be paid his salary as an official of the Government, then he is not entitled to any reward such as would be paid to a person outside of the service for obtaining information about customs frauds.

Mr. FARR. Mr. Chairman, I will say that the committee added that because the department recommended the additional $1,250 as a moiety for the work he had done.

Mr. MANN. But I think they did not recommend that he be paid his salary during this time.

Mr. FARR. They certainly did, Mr. Speaker.

Mr. MANN. No; that is where the committee made a mistake. The committee recommended that the man be paid his $1,250 moiety and his expenses and attorney's fees. That is what the department recommended. The bill provided for the payment of the expenses, attorney's fees, and salary, and thereupon the committee added the reward in addition. Now, if a man has been in the service and discharged for reasons which we think were not good and then we pay him his salary, he is not entitled to an extra reward for performing the functions of his office.

I will read the letter, if the gentleman wants it, from the department on the subject. It is from Acting Secretary Curtis, and is dated June 11, 1912:

As it appears that Inspector Burke's efforts resulted directly in the collection of a fine of $5,000 and the conviction of two other persons of frauds upon the revenue, the department also recommends that an additional amount in the nature of compensation in lieu of moieties, amounting to $1,250, be granted, and such an amount for his expenses and attorney's fees in making the investigations during the time he was out of the service as your committee may deem reasonable and just. The amount claimed by Inspector Burke for such expenses is $962.80, and for attorney's fees, $1,500. The department, however, has no means of ascertaining the correctness of these figures, nor whether they are reasonable or not.

I am not willing, so far as I am concerned, by unanimous consent, to pay a man his salary and at the same time pay him extra money for the work that he performs.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects.

Mr. MANN. No; I do not object.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendment.

The Clerk read as follows:

Lines 6 and 7, strike out the words "four thousand three hundred and forty" and insert the words "five thousand five hundred and ninety."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

ERSKINE R. K. HAYES.

The next business on the Private Calendar was the bill (S. 3459) for the relief of Erskine R. K. Hayes.

Mr. MANN. Mr. Speaker, I ask to have that bill go over.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects.

TURNER HARDWARE CO.

The next business on the Private Calendar was the bill (S. 458) for the relief of the Turner Hardware Co.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, authorized and directed to pay, out of any available funds in the Treasury of the United States belonging to the Creek Nation of Indians, to the Turner Hardware Co., of Muskogee, Okla., the sum of $86.81, in full payment of an account for supplies purchased by the superintendent of the Colored Orphans' Home in the year 1902.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

The bill was ordered to a third reading, was read the third time, and passed.

WILLIAM F. M'KIM.

The next business on the Private Calendar was the bill (S. 1754) to correct the military record of William F. McKim.

The bill was read, as follows:

Be it enacted, etc., That the fact that William F. McKim, who was a private of Company I, Second Regiment Kentucky Infantry, was absent without leave from the 10th day of April, 1863, to the 27th day of May, 1863, shall be no bar to any right, privilege, or benefit as an honorably discharged soldier to which he would have been entitled had he not been so absent without leave during the period specified.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

The bill was ordered to a third reading, was read the third time, and passed.

The title was amended to read as follows: "An act for the relief of William F. McKim."

ALFRED L. DUTTON.

The next business on the Private Calendar was the bill (S. 897) for the relief of Alfred L. Dutton.

The Clerk read the bill, as follows:

Be it enacted, etc., That, in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Alfred L. Dutton shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Battery E, Third United States Artillery, on the 18th day of June, 1865: *Provided*, That no pension shall accrue prior to the passage of this act.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

FRED R. PAYNE.

The next business on the Private Calendar was the bill (H. R. 15241) for the relief of Fred R. Payne.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, there seems to be no report from the Navy Department on this case. I do not think we ought to promote men on the retired list without at least knowing the situation and the views of the Navy concerning the cases. I therefore object.

The SPEAKER. The gentleman objects.

JOHN P. RISLEY.

The next business on the Private Calendar was the bill (H. R. 19190) for the relief of John P. Risley.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws John P. Risley, late of Battery D, First Regiment United States Artillery, shall hereafter be held and considered to have been discharged from the military service of the United States on September 11, 1865.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the committee amendment.

The Clerk read as follows:

In line 6, after the word "been," insert the word "honorably," so that it will read, "considered to have been honorably discharged from the military service," etc.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

SIMON NAGER.

The next business on the Private Calendar was the bill (H. R. 18425) to remove the charge of desertion from the military record of Simon Nager.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to remove the charge of desertion from the military record of Simon Nager, formerly of Company D, First Regiment United States Infantry, from which he was honorably discharged, subsequently reenlisting in Company A, First Regiment United States Infantry, from which he deserted, and to issue to said Simon Nager an honorable discharge.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will read the committee amendment.

The Clerk read as follows:

Amend by striking out all after the enacting clause and inserting the following:

"That in the administration of the pension laws and the laws governing the Soldiers' Home for Disabled Volunteer Soldiers, or any branch thereof, Simon Nager shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a musician of Company D, First Regiment United States Infantry, on the 30th day of March, 1864, and of Company A, First Regiment United States Infantry, on the 1st day of May, 1864, and of Company K, Seventh Regiment United States Infantry, on the 15th day of March, 1868: *Provided*, That no pension shall accrue prior to the passage of this act."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the House bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

HEIRS AND ASSIGNS OF MARCUS P. NORTON.

The next business on the Private Calendar was the bill (H. R. 25201) for the adjudication and determination of the claims arising under joint resolution of July 14, 1870, authorizing the Postmaster General to continue in use in the postal service Marcus P. Norton's combined postmarking and stamp-canceling hand-stamp patents.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Let the bill go over, Mr. Speaker.

The SPEAKER. The gentleman from Illinois objects.

Mr. UNDERWOOD. Mr. Speaker, I will ask the gentleman from Illinois [Mr. MANN] to withdraw his objection, if he will, and let the bill that he just objected to be passed over without prejudice.

The SPEAKER. They are all passed over without prejudice.

Mr. UNDERWOOD. As I understand, Mr. Speaker, there are only three more bills on the Private Calendar.

The SPEAKER. The gentleman is correct.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20738. An act for the transfer of the so-called Olmstead lands in the State of North Carolina from the Solicitor of the Treasury to the Secretary of Agriculture.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. J. Res. 120. Joint resolution authorizing Charles F. Riddell, cashier in the office of the Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain money appropriated for the salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives until the election of the Sergeant at Arms of the House of Representatives.

HERBERT THOMPSON.

The next business on the Private Calendar was the bill (S. 1293) for the relief of Herbert Thompson.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Virginia Trust Co., of Richmond, Va., guardian of Herbert Thompson, minor and only child of Charles J. Thompson, deceased, the sum of $701.12, in full compensation for the loss of his father, late a master rigger at the Norfolk Navy Yard, and who was killed by an accident while in line of duty on September 14, 1899, while engaged in removing the battery of the U. S. S. Newport, at the navy yard in Norfolk, Va.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

KATE FERRELL.

The next business on the Private Calendar was the bill (S. 5287) for the relief of Kate Ferrell.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Kate Ferrell, widow of John Ferrell, the sum of $1,080, this being the amount of the annual salary of the said John Ferrell, who at the time of his death was an employee of the Bureau of Mines, and came to his death on January 19, 1912, in a mine at Cherry Valley, Washington County, Pa., while engaged under the direction of the Bureau of Mines, in the hazardous employment and work of exploring said mine filled with poisonous gases.

The SPEAKER pro tempore [Mr. FLOYD of Arkansas]. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

ALESSANDRO COMBA.

The next business on the Private Calendar was the bill (S. 4180) for the relief of Alessandro Comba.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Alessandro Comba the sum of $500, on account of injuries received while in the employ of the United States under the supervision and direction of the Isthmian Canal Commission, on the Isthmus of Panama, on the 21st day of September, 1907.

SEC. 2. That there be, and there is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $500 for the purposes of this act.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, this is a case where the committee has increased the compensation. The man lost both legs, and, of course, was incapacitated for permanent employment, and was in the hospital for a long time. Col. Goethals recommended that he be paid $500, he having been injured on canal work. The Secretary of War recommended that he be paid $500. The Italian ambassador asked that he be paid $500. The Senate passed the bill at $500. I am quite willing it should pass the House at $500, but the committee with a largeness of heart proposes to make it $1,500. If they are willing to have it passed at $500 I will not object.

Mr. MAGUIRE of Nebraska. This is a unanimous report of the committee. The committee examined the case carefully and believed that $500 was in no sense adequate for a man crippled for life. He lost both legs while employed on the Canal Zone and in line of duty. It is true he would receive only $500 if he fell within the provisions of the general law which was passed since the accident. I am in favor of giving these work-

men in hazardous employment of the Government fair treatment when they meet with accidents.

Mr. MANN. No one is personally interested in the bill.

Mr. MAGUIRE of Nebraska. The man had both legs cut off and was in the hospital about two years and a half. He lay in a hospital on the zone for a long time, and was then taken to Ellis Island for treatment and was there for a long time, and was finally deported to his native country—Italy. Because he was an Italian citizen and was working on the canal and seriously injured is no reason why we should not treat him justly and honestly. I am in favor of giving the man fair treatment.

Mr. MANN. I examined the facts in the case and have no criticism to make of the committee.

Mr. MAGUIRE of Nebraska. The Italian ambassador presented the case to the committee afterwards and said that $500 was a very small amount, as his condition was constantly growing worse. The diplomatic correspondence is in the report. He said that the man had been at great expense, that he had a family with several children, and he felt that $1,500 was none too large. The facts are clearly set forth and not in dispute. The man is in a pitiable condition and ought to be equitably and fairly dealt with by this great Government. The condition of the man has grown much worse since the correspondence in the report was had.

Mr. MANN. If this man had been injured while in the employ of the Italian Government he would not have received anything, not a dollar, under the same circumstances. The man's legs can not be replaced, and no compensation can be made which will equal the loss of his legs. He was in the hospital and was cared for by the Government.

Mr. MAGUIRE of Nebraska. I ask that the bill go over without prejudice. This poor, unfortunate workman ought to have the amount allowed by the committee, and I trust that it will finally pass for that amount.

Mr. MANN. Of course it will go over without prejudice, if it goes over.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the first committee amendment, as follows:

Page 1, line 5, strike out the word "five" and insert "fifteen."

The question was taken, and the amendment was lost.

The Clerk read the following committee amendment:

On page 2, line 1, strike out the word "five" and insert the word "fifteen."

The question was taken, and the amendment was lost.

The bill was ordered to be read a third time, was read the third time, and passed.

H. A. V. POST.

The next business on the Private Calendar was the bill (H. R. 17323) for the relief of Henry A. V. Post.

The Clerk read the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. I ask to have that bill go over.

MARY BEAL.

The next business on the Private Calendar was the bill (H. R. 4512) for the relief of Mary Beal.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mary Beal, of Portsmouth, Va., out of any money in the Treasury not otherwise appropriated, the sum of $3,000, for injuries sustained by her while in charge of laundry work in the United States Navy Hospital at Portsmouth, Va., on or about the 26th day of May, 1903.

The SPEAKER. Is there objection?

There was no objection.

The following committee amendment was read:

Page 1, line 6, strike out the word "three" and insert in lieu thereof the word "one."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion by Mr. UNDERWOOD, to reconsider all the votes by which the several bills were passed was laid on the table.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills and joint resolution:

H. J. Res. 299. Joint resolution proposing an international maritime conference;

H. R. 20480. An act excepting certain lands in Pennington and Lawrence Counties, S. Dak., from the operation of the provisions of section 4 of an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves";

H. R. 23461. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River at or near Millard, Ky.;

H. R. 20593. An act to authorize the Norfolk & Western Railway Co. to construct sundry bridges across the Tug Fork of the Big Sandy River;

H. R. 23460. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of the Big Sandy River at Marrowbone, Ky.;

H. R. 18849. An act for the relief of the Winnebago Indians of Nebraska and Wisconsin;

H. R. 17681. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes;

H. R. 22194. An act granting pensions and increase of pensions to certin soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 23765. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 22867. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 18712. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 22006. An act authorizing the Choctawhatchie River Light & Power Co. to erect a dam across the Choctawhatchie River in Dale County, Ala.;

H. R. 16493. An act to correct the military record of William Z. Norman; and

H. R. 22204. An act granting a right of way to the Panama-Pacific International Exposition Co., or such successors or assigns as may be approved by the Secretary of War, across the Fort Mason Military Reservation, Cal.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 30 minutes p. m.) the House, in accordance with its previous order, adjourned until Thursday, June 27, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the chief clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of William E. Carlin, son and administrator of the estate of William Passmore Carlin, against The United States (H. Doc. No. 851), was taken from the Speaker's table, referred to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. FRENCH, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 21888) providing for the sale of the United States unused post-office site at Perth Amboy, N. J., reported the same without amendment, accompanied by a report (No. 921), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HEALD, from the Committee on Claims, to which was referred the bill (S. 4520) for the relief of Catherine Grimm, reported the same without amendment, accompanied by a report (No. 924), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 21195) for the relief of Sam

Mana, owner of the schooner *Moi Wahine*, sunk in collision with a Government vessel, reported the same with amendment, accompanied by a report (No. 922), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 21043) for the relief of the owners of the cargo laden aboard the schooner *Moi Wahine*, reported the same with amendment, accompanied by a report (No. 923), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. STERLING: A bill (H. R. 25508) to amend section 3186 of the Revised Statutes of the United States; to the Committee on the Judiciary.

By Mr. HUMPHREY of Washington: A bill (H. R. 25509) to prevent and punish the desecration, mutilation, or defamation of the flag of the United States; to the Committee on the Judiciary.

By Mr. McDERMOTT: Memorial of the Legislature of Illinois, favoring Federal control of waterways of the lower Mississippi Valley, etc.; to the Committee on Rivers and Harbors.

By Mr. FULLER: Memorial of Legislature of the State of Illinois, favoring Federal control of the waterways of the lower Mississippi Valley, etc.; to the Committee on Rivers and Harbors.

By Mr FORNES: Memorial of the Legislature of New Mexico, calling for the return of the Spanish and American archives relating to New Mexico now in hands of Librarian of Congress; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CURRY: A bill (H. R. 25510) for the relief of Nicolas Apodaca; to the Committee on Claims.

Also, a bill (H. R. 25511) for the relief of Theophilous L. Keen; to the Committee on Claims.

By Mr. HAMLIN: A bill (H. R. 25512) granting a pension to Andrew J. Hunter; to the Committee on Invalid Pensions.

By Mr. MAHER: A bill (H. R. 25513) granting an increase of pension to Frances Strauss; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 25514) granting a pension to John W. Graden; to the Committee on Pensions.

By Mr. RAKER: A bill (H. R. 25515) for the relief of Joshua H. Hutchinson; to the Committee on the Public Lands.

By Mr. STEPHENS of California: A bill (H. R. 25516) granting a pension to Josephine R. Goolman; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 25517) for the relief of Martha Hazelwood, widow and survivor in community of Calvin T. Hazelwood, deceased; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By The SPEAKER: Petition of Polish Roman Catholic Unions of Illinois, Pennsylvania, Connecticut, Texas, New York, and California, all protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. AYRES: Petition of Trenton Chamber of Commerce, Trenton, N. J., protesting against building of proposed bridge south of Trenton by the Pennsylvania Railroad Co.; to the Committee on Interstate and Foregin Commerce.

Also, memorial of New York Esthonian Socialist League, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of citizens of the Bronx, opposing the passage of the Root amendment to the immigration bill making any alien liable to deportation who conspires to a violent overthrow of a foreign Government; to the Committee on Immigration and Naturalization.

Also, petition of Order of Railway Conductors No. 175, Memphis, Tenn., protesting against the passage of the employers' liability and workmen's compensation act; to the Committee on the Judiciary.

By Mr. BOWMAN: Petition of Order of Railway Conductors of America, Division No. 175, Memphis, Tenn., protesting against passage of the employers' liability and workmen's compensation act; to the Committee on the Judiciary.

Also, petition of Polish Roman Catholic Union No. 321, of Pennsylvania, protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Southern Shoe Retailers' Association, protesting against passage of bill requiring manufacturer's brand on all goods; to the Committee on Interstate and Foreign Commerce.

Also, petition of Kops Bros., New York, N. Y., protesting against any change in the patent laws that would affect price maintenance; to the Committee on Patents.

Also, petition of diocese of Bethlehem, relative to improving the conditions of the natives of Alaska; to the Committee on the Territories.

Also, petition of William H. Bachman, Hazleton, Pa.; Edgar H. Kresge, Freeland, Pa.; Howard L. Swivell, Jeddo, Pa.; Thomas J. Richards, Dufton, Pa.; Order of Independent Americans of Pennsylvania and Daughters of Liberty of Pennsylvania, all favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of American Poultry Association, Pennsylvania branch, favoring the passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. DANIEL A. DRISCOLL: Petition of Sacred Heart of Jesus Society, No. 241, Buffalo, N. Y., protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FORNES: Petition of Military Order of the Loyal Legion of the United States of America, protesting against proposed memorial to be constructed in the Vicksburg National Military Park; to the Committee on Military Affairs.

Also, petition of New York State Retail Jewelers' Association Convention, Utica, N. Y., and the Arcade Stationery & Printing Co., New York, N. Y., protesting against any change in present patent laws that might affect price maintenance; to the Committee on Patents.

Also, petition of Daughters of Liberty of New York, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of United Spanish War Veterans, favoring the passage of the Crago bill (H. R. 17470), to grant pensions to widows and orphans of Spanish War veterans; to the Committee on Pensions.

By Mr. RAKER: Petition of citizens of California, asking that the Interstate Commerce Commission be granted further power looking toward the regulation of express rates and express classifications; to the Committee on Interstate and Foreign Commerce.

Also, petition of San Francisco Labor Council, against the action of Judge Hanford in canceling the citizenship papers of Leonard Aleson, of Tacoma, Wash.; to the Committee on the Judiciary.

Also, petition of Order of Railway Conductors, of Memphis, Tenn., against the employers' liability and workmen's compensation act passed by the Senate and now before the House; to the Committee on the Judiciary.

Also, petition of local Eureka Socialist Party, Eureka, Cal., protesting against the antirefugee legislation; to the Committee on Immigration and Naturalization.

Also, petition of Humboldt Chamber of Commerce, favoring passage of House joint resolution 284 relative to the Redwood National Park; to the Committee on Agriculture.

Also, petition of California Wholesale Grocers' Association, favoring passage of House bill 22526 for uniform legislation in weight and measure branding laws; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of California: Petition of Ladies of the Maccabees of the World, Long Beach, Cal., favoring the giving to the fraternal, trades-union, etc., publications the same postal or mailing rates as the commercial press; to the Committee on the Post Office and Post Roads.

Also, petition of Los Angeles Chamber of Commerce, Los Angeles, Cal., favoring passage of bill creating a board of river regulation for regulating navigable streams; to the Committee on Rivers and Harbors.

Also, petition of the San Francisco Labor Council, San Francisco, Cal., favoring passage of House bill 25103; to the Committee on Interstate and Foreign Commerce.

By Mr. WEBB: Petition of business men of Charlotte, N. C., favoring bill giving the Interstate Commerce Commission further power toward controlling the express rates and classifications; to the Committee on Interstate and Foreign Commerce.

SENATE.

THURSDAY, *June 27, 1912.*

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

NAMING A PRESIDING OFFICER.

The Secretary read the following communication:

UNITED STATES SENATE,
Washington, D. C., June 27, 1912.

To the Senate:

In the absence of the Vice President and of the President pro tempore of the Senate, by authority of Rule I, I hereby name DUNCAN U. FLETCHER, a Senator from the State of Florida, to perform the duties of the Chair to-day.

AUGUSTUS O. BACON,
President of the Senate pro tempore.

Mr. FLETCHER thereupon took the chair as Presiding Officer, and directed that the Journal of the last legislative day's proceedings be read.

Mr. SMOOT. I ask that the reading of the Journal be dispensed with.

Mr. HEYBURN. I should like to have the Journal read this morning. A number of us have been absent.

Mr. SMOOT. I have no objection.

The Secretary proceeded to read the Journal of the proceedings of Monday last.

Mr. NELSON. I ask unanimous consent that the further reading of the Journal be dispensed with.

Mr. HEYBURN. I have asked that the Journal be read this morning. Some of us who were not here desire to know what the Journal contains. We can spend that much time in hearing it read.

Mr. NELSON. Very well; I withdraw the request.

The Secretary resumed and concluded the reading of the Journal, and it was approved.

THE FLAG OF THE UNITED STATES.

Mr. HEYBURN. I notice in the Journal of the last legislative day that a communication from the Secretary of War, Senate Document No. 856, was referred to the Committee on Military Affairs. That was in response to a resolution which I offered, and I desire that it shall lie on the table so that I may call it up in the morning hour. I was not able to be here at the time it was referred, but I do not desire that it be referred to a committee, because I wish to address the Senate upon it at an early day. For that reason I ask that the communication be withdrawn from the committee and that it may lie on the table.

The PRESIDING OFFICER. The Senator from Idaho asks that the Committee on Military Affairs be discharged from the further consideration of the communication and that it may lie on the table. Without objection, it is so ordered.

INTERNATIONAL EXPOSITION AT GHENT, BELGIUM (S. DOC. NO. 863).

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of State, submitting an estimate of appropriation in the sum of $25,000 to enable the Government to participate in a universal and international exposition to be held at Ghent, Belgium, from April, 1913, to the end of October, 1913, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDING OFFICER laid before the Senate communications from the chief clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions of law filed by the court in the following causes:

Edgar L. Swaine, administrator of the estate of Peter T. Swaine, deceased, *v.* United States (S. Doc. No. 859);

Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, *v.* United States (S. Doc. No. 861);

Diantha G. Littlejohn, administratrix of the estate of John Egan, deceased, *v.* United States (S. Doc. No. 860); and

Washington Loan & Trust Co., administrator of the estate of James W. Cuyler, deceased, *v.* United States (S. Doc. No. 864).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDING OFFICER presented resolutions adopted by the Swedish Evangelical Mission Covenant, in annual convention at Chicago, Ill., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were referred to the Committee on the Judiciary.

He also presented a resolution adopted by District Council, Amalgamated Meat Cutters and Butcher Workmen Society of North America, American Federation of Labor, of New York, remonstrating against the adoption of the so-called literacy-test amendment to the immigration law, which was ordered to lie on the table.

Mr. GALLINGER presented a petition of the Woman's Auxiliary to the Board of Missions of the Diocese of New Hampshire, praying for the enactment of legislation to provide medical and sanitary relief for the natives of Alaska, which was referred to the Committee on Territories.

He also presented a petition of the Connecticut Avenue Citizens' Association, of the District of Columbia, and a petition of sundry citizens of the District of Columbia, praying for the enactment of legislation to maintain the present water rates in the District, which were referred to the Committee on the District of Columbia.

Mr. WORKS presented a memorial of members of the National League for Medical Freedom, of Los Gatos, Cal., remonstrating against the establishment of a department of public health, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Pacific Beach, Cal., praying for the establishment of a governmental system of postal express, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation to create a board of river regulation and to provide a fund for the regulation and control of the flow of navigable rivers, which was referred to the Committee on Commerce.

He also presented a petition of the congregation of the People's Church, of Washington, D. C., praying for the enactment of legislation granting the right of suffrage to the citizens of the Philippine Islands and the District of Columbia, which was referred to the Committee on the Philippines.

He also presented a memorial of sundry citizens of Eureka, Cal., remonstrating against the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. JONES presented a petition of sundry citizens of La Crosse, Wash., praying for the establishment of a governmental system of postal express, which was referred to the Committee on Post Offices and Post Roads.

Mr. ASHURST. I present a petition signed by a large number of stockmen of Mohave and Yavapai Counties, Ariz., with reference to the so-called leasing and grazing bill. I ask that the petition be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the petition was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

SELIGMAN, ARIZ., *June 22, 1912.*

Hon. HENRY ASHURST,
United States Senator, Washington, D. C.:

We, the undersigned stockmen of Yavapai and Mohave Counties, Ariz., do respectfully ask you to do everything in your power and influence to assist in having the present leasing grazing bill passed.

This bill, known as the La Follette bill, proposes to lease the Government grazing lands of the western part of the United States or the public domain. The bill is now pending before the Senate of the United States Congress, and we earnestly request you to present this petition to the committee in charge of the bill and use your utmost efforts to have this bill passed before the present session of Congress adjourns.

Sincerely, your petitioners,

J. W. Sullivan, E. L. Paterson, D. L. Williams, Thos. King, Chas. King, Arthur King, M. A. Perkins, N. Perkins, S. Perkins, N. Penteny, Chas. Penteny, Joe Mathie, Albert Mathie, M. L. Boner, J. W. Knootz, John Duke, J. W. Stewart, Clarence Stewart, Rall Stewart, Geo. Carter, J. H. Stevens, Ed. Stevens, Chas. Ridgen, John Hurley, Joseph Campbell, Abe Caufman, Al Sanford, A. L. Nelson, Ed Carrow, John Lawler, Joe Tribble, Robt. Tribble, Lee Cockrell, Ed Haskins, Walter Brown, Le Van Evens, John Markham, Jas. Johnson, Carl Davis, Ray Carr, Dee Nelson, John Neil, W. B. Stevens, M. L. Boner, Henry Bacon, Jones Bishop, Sam Sloan, Geo. Miller, Wm. Epperson, William Ellison, John Simpaon, Geo. Daniels, Dave Kaiser.

Mr. CURTIS presented petitions of sundry citizens of Kansas City, Kans., praying for the establishment of a department of public health, which were ordered to lie on the table.

Mr. FLETCHER presented a memorial signed by 459 members of the Florida Branch of the League for Medical Freedom, remonstrating against the establishment of a department of public health, which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 7197) for the relief of the heirs of L. A. Davis; to the Committee on Claims.

By Mr. WORKS:

A bill (S. 7198) granting a pension to Ida A. Mitchell (with accompanying papers);

A bill (S. 7199) granting a pension to Rebecca J. Murphy (with accompanying papers); and

A bill (S. 7200) granting an increase of pension to Rosa L. Couch (with accompanying papers); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7201) granting a pension to Fannie M. Carey; to the Committee on Pensions.

A bill (S. 7202) fixing the date of reenlistment of Gustav Hertfelder, first-class fireman, United States Navy (with accompanying papers); to the Committee on Naval Affairs.

By Mr. ASHURST:

A bill (S. 7203) to provide for homestead entries in national forests; to the Committee on Public Lands.

DRY-FARMING PROCESS.

Mr. ASHURST. Mr. President, I desire to introduce a bill to exempt from cancellation and provide for patenting by dry-farming process desert-land entries. It is a very short bill, and I ask that it be printed in the RECORD. With the permission of the Senate, if it be in order, I should like to give notice that immediately after the morning business on Tuesday, the 9th of July, if such be the pleasure of the Senate, I shall submit a few remarks with reference to the bill.

Mr. HEYBURN. I did not catch the suggestion of the Senator, and I ask what the request was?

The PRESIDING OFFICER. The request, as the Chair understands, is to introduce a bill and to have the bill printed in the RECORD and lie on the table.

Mr. HEYBURN. I thought I heard something about the bill being printed in the RECORD.

Mr. ASHURST. I should like to have the bill printed in the RECORD.

Mr. HEYBURN. I think there is no rule permitting that.

Mr. GALLINGER. I think the Senator from Arizona is entitled to have the bill read, and in that way it will go into the RECORD. Let the Senator request that the bill be read.

Mr. HEYBURN. It is not in order to print the bill in the RECORD without having it read.

Mr. ASHURST. Then I most respectfully ask to have the bill read. It is very short.

The bill (S. 7204) to exempt from cancellation and provide for patenting of desert-land entries reclaimed by dry-farming process was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That no desert-land entry heretofore made under the public-land laws for lands shall be canceled or in any wise impaired because of any failure on the part of the entryman to make any annual or final proof falling due upon any such entry prior to December 31, 1913: *Provided, however*, That patent shall be permitted to issue to any desert-land entry when the proofs disclose that the land embraced within such entry has fairly and in good faith been reclaimed to agricultural or horticultural crops by the dry-farming process.

The PRESIDING OFFICER. The Senator from Arizona gives notice that he will address the Senate on this bill on the 9th of July, and it will lie on the table.

Mr. ASHURST. With the kind permission of the Senate, I will change the notice to Tuesday, the 16th day of July. I feel it is due to the Senate that I should state that my remarks will be very brief, and it is simply because of what I deem to be the great public importance of the bill that I will take the time of the Senate to discuss it. My remarks, as I have said, will be brief, but I do feel that I should say something in support of the bill.

The PRESIDING OFFICER. The bill will lie on the table.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. JONES submitted an amendment proposing to appropriate $100,000 to investigate the treatment of ores and other mineral substances with special reference to the prevention of waste in the mining and the utilization of important mineral resources, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. WORKS submitted an amendment proposing to appropriate $1,250,000 for necessary improvements in the Colorado River to protect the land and property of Imperial Valley, Cal., from overflow, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMOOT submitted an amendment providing that hereafter the proviso to the act of July 1, 1898, directing that all bonds, notes, and checks be printed on hand-roller presses, shall not apply to checks, the backs and tints of all United States bonds, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $30,000 to pay the city of Salt Lake, Utah, to assist in defraying the expenses of the International Irrigation Congress to be held in that city September 30, 1912, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. PERKINS submitted an amendment proposing to appropriate $28,000 to enable the Commissioner of the General Land Office to make field examinations of selected lieu lands in California, and to adjudicate the same in the General Land Office, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to appropriate $41,615 for the protection and improvement of the Mesa Verde National Park, Colo., etc., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Appropriations.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following act and joint resolutions:

On June 25, 1912:

S. J. Res. 120. Joint resolution authorizing and directing Charles F. Riddell, cashier in the office of the Sergeant at Arms of the House of Representatives, to draw checks, requisitions, and execute all papers necessary to obtain from the United States Treasury the money appropriated for salaries and mileage of Members, Delegates, and Resident Commissioners of the House of Representatives, and for other purposes.

On June 26, 1912:

S. J. Res. 101. Joint resolution authorizing the appointment of Andrew D. White a member of the Board of Regents of the Smithsonian Institution; and

S. 6479. An act authorizing the St. Louis Southwestern Railway Co. to repair, alter, or rebuild certain bridges in the State of Arkansas.

THE ORGANIZED MILITIA (H. DOC. NO. 852).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

Very complete arrangements have been tentatively prepared for the participation in camps and maneuvers of a large portion of the Organized Militia of the United States. Preparation has been made for this most important military instruction both by the United States and by the various States whose Organized Militia will participate. The magnitude of the maneuver plans can be seen when it is estimated that 70,000 officers and enlisted men of the Organized Militia will take part in them during the coming year. Should it be impossible to carry out the contemplated maneuvers it will be at a very great loss of efficiency to the troops concerned and will entail a great disappointment to the thousands of men who, with the maneuvers in view, have been preparing themselves therefor.

In contemplation of the maneuvers it has been necessary already to expend the sum of $80,000 from the unexpended balance of last year's appropriation for maneuver purposes for the Organized Militia, which sum will be lost should the project of maneuvers not be consummated. In addition to this, the various States have made arrangements to expend large amounts from their apportionment from the funds appropriated by Congress under section 1661, Revised Statutes, or from funds appropriated by the State. Without an appropriation by Congress the maneuvers may not be held. I have the honor, therefore, strongly to recommend and urge that the following item, taken from House bill No. 18956 (Army appropriation bill), be enacted separately and specially:

One million three hundred and fifty thousand dollars "Encampment and maneuvers, Organized Militia, 1912–1914."

In addition to the appropriation for the Organized Militia for maneuver purposes it would be necessary that certain amounts be appropriated and made immediately available for the Regular Army to participate with the Organized Militia and aid the latter in the purpose of the maneuvers. This appropriation would total $367,500, and is made up of the following items:

Regular supplies	$160,000
Incidental expenses	4,500
Barracks and quarters	33,000
Army transportation	75,000
Roads and walks, etc	4,000
Water and sewers	57,000
Clothing and equipage	34,000
Total	367,500

The immense importance of the training of the militia leads me again to urge most strongly that the two appropriations mentioned be made available on or before the 2d day of July, 1912, since, unless the maneuvers can be definitely determined upon by that date, the plans for the encampments and maneuvers of a great portion of the Organized Militia of the United States will have to be abandoned.

WM. H. TAFT.

THE WHITE HOUSE, *June 24, 1912.*

LIEUT. COL. J. F. REYNOLDS LANDIS (S. DOC. NO. 862).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State, with accompanying papers, concerning a silver medal and a diploma awarded by the Italian Government to Lieut. Col. J. F. Reynolds Landis, United States Army, in recognition of services rendered by him at the time of the Messina earthquake.

In accordance with the recommendation of the Secretary of State, these papers are submitted to Congress with a view to its decision whether the Secretary of State may be authorized to deliver the medal and diploma to Lieut. Col. Landis.

WM. H. TAFT.

THE WHITE HOUSE, *June 27, 1912.*

CAPT. FRANK PARKER (S. DOC. NO. 858).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Cuban Relations and ordered to be printed:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State, with accompanying papers, concerning a decoration of the Order of Military Merit of the Third Class which has been conferred upon Capt. Frank Parker, United States Army, by the President of Cuba in recognition of services rendered by Capt. Parker as military instructor of the rural guard of Cuba.

In accordance with the recommendation of the Secretary of State, these papers are submitted to Congress with a view to its decision whether the Secretary of State may be authorized to deliver the decoration to Capt. Parker.

WM. H. TAFT.

THE WHITE HOUSE, *June 27, 1912.*

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendments and that the request of the House for a conference be granted, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. WARREN, Mr. WETMORE, and Mr. FOSTER conferees on the part of the Senate.

ANNIE R. SCHLEY.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 4568) granting an increase of pension to Annie R. Schley, which was, on page 1, line 8, before the word "dollars," to strike out "one hundred and fifty" and insert "seventy-five."

Mr. McCUMBER. In the absence of the Senator from Maryland [Mr. RAYNER], I ask that the bill and amendment of the House of Representatives lie on the table until his return.

The PRESIDING OFFICER. Without objection, that order will be made.

PENSIONS AND INCREASE OF PENSIONS.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 5623) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, which was, on page 4, to strike out lines 9 to 12, inclusive.

Mr. McCUMBER. I inquire what are the lines stricken out?

The PRESIDING OFFICER. The Secretary will read the paragraph of the bill stricken out by the House.

The Secretary read as follows:

The name of Anne Jones Banks, widow of William Banks, late of Capt. William M. Allred's company, Nauvoo Legion, Utah Volunteers, Utah Indian War, and pay her a pension at the rate of $8 per month.

Mr. McCUMBER. I move that——

Mr. NELSON. Mr. President, I desire to make the point of order that under the unanimous-consent agreement a motion to concur can not be made. That would be to pass the bill, and would be legislative business.

Mr. McCUMBER. I think the Senator is correct in regard to that; but I was not going to move to concur.

The PRESIDING OFFICER. The Chair thinks the point of order well taken.

Mr. McCUMBER. I was not going to move to concur, but simply that conferees be appointed. Probably, however, even that motion would not be in order, although I observe that in the case of the legislative, executive, and judicial appropriation bill conferees were appointed. I think, Mr. President, that all the pension bills amended by the House had better lie on the table until next Monday.

The PRESIDING OFFICER. The bills will lie on the table.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. HEYBURN. Mr. President, I should like to make a suggestion. I was in some doubt when the conferees were appointed on the legislative, executive, and judicial appropriation bill (H. R. 24023) as to whether that was not in violation of the unanimous-consent agreement. That period of the consideration of a bill often provokes considerable discussion. I do not raise any point against it, but it is no part of the morning business and I merely make that suggestion.

Mr. WARREN. Mr. President, I desire to say a word with regard to the appointment of the conferees in the case of the legislative, executive, and judicial appropriation bill. It was not the intention in moving that conferees be appointed to perfect or present any conference report until next week. Debate and action usually take place in connection with the presentation of the conference report, but I should presume, unless I am reminded otherwise by something not now evident, that morning business would carry with it the receipt of messages from the House and the reference of a bill to a conference committee, the same as if a bill were introduced and referred to one of the regular committees of the Senate. Of course the appointment of the conferees is not a matter of voting, but the custom is to take the senior Senators who have served on the subcommittee and appoint them conferees. I only wanted, of course, to carry out what I thought was the morning business of the Senate.

Mr. HEYBURN. I did not intend to raise any objection that would embarrass the Senate at all; but I was of the opinion at the time the unanimous-consent agreement was entered into that it should have been better protected. Of course the conferees should be appointed, but clearly their appointment was not in accord with the unanimous-consent agreement.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. Mr. President, I desire to give notice that on Monday next, at the close of the routine morning business, I will ask the Senate to consider the Indian appropriation bill, being House bill 20728. I observe that notice has been given for the same time for the consideration of the naval appropriation bill, and I desire to say that the giving of the notice of the intention to ask for the consideration of the two bills on that day is not to be taken as suggesting any differences whatever between those who have them in charge.

Mr. HEYBURN. The original notice, as appears from the calendar, for the consideration of that bill was June 27. I understand the Senator has already given notice to that effect. Is this intended to be an original notice in lieu of any notice heretofore given?

Mr. CLAPP. Oh, I do not know whether it is or not. There are several objections going to be made to the consideration of the Indian appropriation bill, and, in order that Senators may know when the bill will come up, I give this notice.

THE CHEMICAL SCHEDULE.

Mr. HEYBURN. Now, I too desire to give a notice. It is that on next Monday, when the Senate resumes business, I shall endeavor to have the Senate proceed immediately to the consideration of the chemical-schedule bill (H. R. 20182). In the absence of Senators a unanimous-consent agreement, or what appears to be one, was obtained which undertook to confine the consideration of the chemical tariff bill to one calendar day. I think there will be some difficulty in enforcing that agreement, because it is my intention to discuss that measure when the order of the unfinished business is reached on that day; and, if the unfinished business is laid aside, it will be by

a vote and not by unanimous consent. I merely give that notice.

Mr. CLAPP. Some time ago—in fact, very soon after the Indian appropriation bill was reported—I gave notice that I would ask for its consideration, and continued the notice from day to day. It is an appropriation bill, and I think Senators are desirous of getting the appropriation bills through the Senate and into conference. So I give this notice this morning.

The PRESIDING OFFICER. The morning business is closed.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

Mr. McCUMBER. It seems to me that that is not morning business. I understood that nothing but morning business would be considered.

Mr. GALLINGER. I withdraw the motion, although I think it is in order.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. GALLINGER. I move that the Senate adjourn, to meet at 11 o'clock on Monday.

Mr. HEYBURN. Why make it 11? I should like to inquire why the Senate——

Mr. GALLINGER. I have made my motion.

Mr. HEYBURN. I move to amend by making the hour of meeting 12 o'clock.

The PRESIDING OFFICER. The Senator from New Hampshire has moved that the Senate adjourn to meet on Monday next at 11 o'clock. The Senator from Idaho moves to amend by making the hour 12 o'clock. The question is on the motion of the Senator from Idaho.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the original motion made by the Senator from New Hampshire.

The motion was agreed to; and (at 10 o'clock and 42 minutes a. m.) the Senate adjourned until Monday, July 1, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *June 27, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who art supremely wise and strong and good, Father of our souls, dispenser of all its needs, fill our hearts with the Christ spirit that Thy will may dominate our thoughts and acts, that whatsoever may confront us we may be able to say, "Nevertheless not my will but Thine be done." That Thy plans and purposes may be fulfilled in us to the glory and honor of Thy holy name. Amen.

The Journal of the proceedings of Monday, June 24, 1912, was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McClintock, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WARREN, Mr. WETMORE, and Mr. FOSTER as the conferees on the part of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled bills and joint resolution of the following titles:

S. 2601. An act for the relief of Douglas B. Thompson;

S. 5176. An act granting a pension to Elizabeth B. Preston;

S. 2427. An act for the relief of the legal heirs of A. G. Strain;

S. 5198. An act to authorize the issuance of patent to James W. Chrisman for the southeast quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section 13, and the north half of the northeast quarter of section 24, township 29 north, range 113 west of the sixth principal meridian;

S. 2127. An act for the relief of the heirs of Robert S. Gill;

S. 1337. An act authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act;

S. 837. An act to reimburse the officers and crew of the lighthouse tender *Manzanita* for personal-property losses sustained by them on the foundering of that tender October 6, 1905;

S. 6009. An act to increase the limit of cost of the United States post-office building at Huron, S. Dak.;

S. J. Res. 69. Joint resolution authorizing the licensing and employment of Otto Neumann Sverdrup as master of vessels of the United States;

S. 462. An act for the relief of Slavo Ramadanovitch, of Cettigne, a Montenegrin subject, heir and administrator of Marcus Ramadanovitch, alias Radich, deceased;

S. 547. An act for the relief of Sarah A. Waite;

S. 7018. An act to authorize the appointment of Harold Hancock Taintor to the grade of second lieutenant in the Army;

S. 6977. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6636. An act to authorize the President of the United States to appoint Robert H. Peck a captain in the Army;

S. 6153. An act for the relief of Charley Clark, a homestead settler on certain lands therein described;

S. 5776. An act authorizing the Secretary of the Interior to adjust and settle the claims of the attorney of record involving certain Indian allotments, and for other purposes;

S. 4751. An act for the relief of Albert S. Henderer;

S. 5141. An act to correct an error in the record of the supplemental treaty of September 28, 1830, made with the Choctaw Indians, and for other purposes;

S. 6646. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5046. An act to authorize the appointment of Shepler Ward FitzGerald and of Alden George Strong to the grade of second lieutenant in the Army; and

S. 3469. An act for the relief of the American Surety Co. of New York.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On June 24, 1912:

H. R. 16689. An act legalizing certain conveyances heretofore made by the Union Pacific Railroad Co.

On June 26, 1912:

H. R. 17681. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes;

H. R. 16493. An act to correct the military record of William Z. Norman;

H. R. 20593. An act to authorize the Norfolk & Western Railway Co. to construct sundry bridges across the Tug Fork of the Big Sandy River;

H. R. 23460. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of the Big Sandy River at Marrowbone, Ky.; and

H. R. 23461. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River at or near Millard, Ky.

LIEUT. COL. J. F. REYNOLDS LANDIS, UNITED STATES ARMY (S. DOC. NO. 862).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, ordered printed and referred to the Committee on Foreign Affairs:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State, with accompanying papers, concerning a silver medal and a diploma awarded by the Italian Government to Lieut. Col. J. F. Reynolds Landis, United States Army, in recognition of services rendered by him at the time of the Messina earthquake.

In accordance with the recommendation of the Secretary of State, these papers are submitted to Congress with a view to its decision whether the Secretary of State may be authorized to deliver the medal and diploma to Lieut. Col. Landis.

WM. H. TAFT.

THE WHITE HOUSE, *June 27, 1912.*

CAPT. FRANK PARKER, UNITED STATES ARMY (S. DOC. NO. 858).

The SPEAKER also laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, ordered printed and referred to the Committee on Foreign Affairs:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State, with accompanying papers, concerning a decoration of the Order of

Military Merit of the Third Class which has been conferred upon Capt. Frank Parker, United States Army, by the President of Cuba in recognition of services rendered by Capt. Parker as military instructor of the rural guard of Cuba.

In accordance with the recommendation of the Secretary of State, these papers are submitted to Congress with a view to its decision whether the Secretary of State may be authorized to deliver the decoration to Capt. Parker.

WM. H. TAFT.

THE WHITE HOUSE, *June 27, 1912.*

NATIONAL BUDGET (H. DOC. NO. 854).

The SPEAKER also laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, ordered printed and referred to the Committee on Appropriations.

To the Senate and House of Representatives:

I send herewith the report of the Commission on Economy and Efficiency on "The need for a national budget." The recommendations contained therein are approved by me. I recommend to the Congress the enactment of the legislation necessary to put them into effect.

The subject is one of fundamental importance to the Executive as well as to the Congress. Notwithstanding the magnitude and complexity of the business which is each year conducted by the executive branch and financed by the Congress, and the vital relation which each governmental activity bears to the welfare of the people, there is at present no provision for reporting revenues, expenditures, and estimates for appropriations in such manner that the Executive, before submitting estimates, and each Member of Congress, and the people, after estimates have been submitted, may know what has been done by the Government or what the Government proposes to do.

Briefly stated, the situation is this: Under the Constitution (and subject to its limitations) Congress is made responsible for determining the following questions of policy: What business or work the Government shall undertake; what shall be the organization under the Executive which is charged with executing its policies; what amount of funds and by what means funds shall be provided for each activity or class of work; what shall be the character of expenditures authorized for carrying on each class of work—i. e., how much for expenses, how much for capital outlays, etc.

As a means of definitely locating this responsibility, Congress was given the sole power to levy taxes; to borrow money on the credit of the United States; to authorize money to be drawn from the Treasury. To the President also has been given very definite responsibility. To the end that Congress may effectively discharge its duties the article of the Constitution dealing with legislative power provided that "a regular statement and account of receipts and expenditures of all public moneys shall be published"; and the article dealing with the Executive power requires the President "from time to time to give to the Congress information on the state of the Union and to recommend to their consideration such measures as he shall deem necessary and expedient."

Notwithstanding these specific constitutional requirements, there has been relatively little attention given to the working out of an adequate and systematic plan for considering expenditures and estimates for appropriations, for regularly stating these in such form that they may be considered in relation to questions of public policy, and for presenting to Congress for their consideration each year, when requests are made for funds, any definite plan or proposal for which the administration may be held responsible.

Regular committees on expenditure have been established by the Congress for the purpose of obtaining knowledge of conditions through special investigations. During the last century over 100 special congressional investigations have been authorized to obtain information which should have been regularly submitted, and much money as well as much time has been spent by the Congress in its effort to obtain information about matters that should be laid before them as an open book; many statutes have been passed governing the manner in which reports of expenditures shall be made; specific rules have been laid down giving the manner in which estimates shall be submitted to Congress and considered by it. From time to time special investigations have been made by heads of executive departments. During the last century many such investigations have been carried on and much money has been spent in the conduct of these, as well as by Congress, for the purpose of obtaining facts as a basis for intelligent consideration of methods and procedure of doing business with a view to increasing economy and efficiency. From time to time Executive orders have been issued and reorganizations have taken place.

Generally speaking, however, the only conclusions which may be reached from all of this are that—

No regular or systematic means has been provided for the consideration of the detail and concrete problems of the Government.

A well-defined business or work program for the Government has not been evolved.

The reports of expenditures required by law are unsystematic, lack uniformity of classification, and are incapable of being summarized so as to give to Congress, to the President, or to the people a picture of what has been done and of cost in terms either of economy of purchase or efficiency of organization in obtaining results.

The summaries of expenditures required by law to be submitted by the Secretary of the Treasury, with estimates, not only do not provide the data necessary to the consideration of questions of policy, but they are not summarized and classified on the same basis as the estimates.

The report on revenues is not in any direct way related to the expenditures, except as the Secretary of the Treasury estimates a surplus or deficiency, and this estimate is based on accounts which do not accurately show expenditures or outstanding liabilities to be met.

Instead of the President being made responsible for estimates of expenditures, the heads of departments and establishments are made the ministerial agents of Congress, the President being called on only to advise Congress how, in his opinion, expenditures may be reduced or revenues may be increased in case estimated expenditures exceed estimated revenues.

The estimates do not raise for consideration questions which should be decided before appropriations are granted, nor does the form in which estimates are required to be presented by the Congress lay the foundation for the consideration of subjects of work to be done, the character of organization best adapted to performing work, the character of expenditures to be made, the best method of financing expenditures.

The present law governing the preparation and submission of estimates, requiring them to be submitted each year in the same form as the year before, was passed without due consideration as to what information should be had before Congress as a basis for action, the result being that the unsystematic and confused method before in use was made continuous.

The rules of the Congress do not provide for the consideration of estimates in such manner that any Member of Congress, any committee, or either House of Congress as a whole may have before it at any one time the information needed for the effective consideration of a program of work done or to be done.

The committee organization is largely the result of historical development rather than of the consideration of present needs.

Inadequate provision is made for getting before each committee to which appropriations are referred all of the data necessary for the consideration of work to be done, organization provided for doing work, character of expenditures, or method of financing.

Following the method at present prescribed, the estimates submitted by each organization unit may have to be split up for consideration by appropriation committees of the Congress and be made the subject of several different bills; in few places are all of the estimates or appropriations asked for by a single organization unit brought together.

The estimates for appropriations requested for a single class of work are similarly divided, no provision being made for considering the amount asked for, the amount appropriated, or the amount spent for a single general class of governmental activity.

Generally speaking, the estimates for expenses (or cost of each definite class of services to be rendered) are not separately shown from estimates for capital outlays (or cost of land, buildings, equipment, and other properties acquired).

While the classification and summaries of estimates do indicate a proposed method of financing, these summaries do not show classes of work or the character of expenditures provided for, and therefore can not lay the foundation for the consideration of methods of financing as a matter of governmental policy as is contemplated under the Constitution.

The appropriations are just as unsystematic and incapable of classification and summary as the estimates; in fact, follow the same general form, making it difficult and in many cases impossible to determine what class of work has been authorized, how much may be spent for each class, or the character of expenditures to be made; nor does any one bill cover the total authorizations for any particular general class of work.

Bills for appropriations (the authorizations to incur liabilities and to spend) are not considered by the committee to which measures for raising revenues and borrowing money are

referred, nor are revenues and borrowings considered by committees on appropriations in relation to the funds which will be available.

So long as the method at present prescribed obtains, neither the Congress nor the country can have laid before it a definite understandable program of business or of governmental work to be financed; nor can it have a well-defined, clearly expressed financial program to be followed; nor can either the Congress or the Executive get before the country the proposals of each in such manner as to locate responsibility for plans submitted or for results.

Although the President has the power to install new and improved systems of accounts and to require that information be presented to him each year in such form that he and his Cabinet may intelligently consider proposals or estimates, although the President, under the Constitution, may submit to the Congress each year a definite well-considered budget, with a message calling attention to subjects of immediate importance, to do this without the cooperation of the Congress in the repeal of laws which would be conflicting, and in the enactment of other laws which would place upon the heads of departments duties to be performed that would be in harmony with such procedure would entail a large expenditure of public money in duplication of work.

The purpose of the report which is submitted is to suggest a method whereby the President, as the constitutional head of the administration, may lay before the Congress and the Congress may consider and act on a definite business and financial program; to have the expenditures, appropriations, and estimates so classified and summarized that their broad significance may be readily understood; to provide each Member of Congress, as well as each citizen who is interested, with such data pertaining to each subject of interest that it may be considered in relation to each question of policy which should be gone into before an appropriation for expenditures is made; to have these general summaries supported by such detail information as is necessary to consider the economy and efficiency with which business has been transacted; in short, to suggest a plan whereby the President and Congress may cooperate—the one in laying before the Congress and the country a clearly expressed administrative program to be acted on, the other in laying before the President a definite enactment to be acted on by him. Included in this report are summaries of expenditures for the year 1911, summaries of appropriations for the fiscal year 1912, and summaries of estimates of appropriations for the fiscal year 1913. To these summaries your special attention is invited. Attached is also an appendix containing a digest of laws pertaining to appropriations and allotments, to the preparation of estimates, and to forms of reporting expenditures; also the suggested pro forma draft of budget, which has been prepared by the commission and is submitted for your consideration as a matter bearing very directly on the economy and efficiency with which Government business is carried on.

WM. H. TAFT.

THE WHITE HOUSE, *June 27, 1912.*

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

Mr. McCALL. Mr. Speaker, for how long a time is that?

Mr. UNDERWOOD. Mr. Speaker, the adjournment will be until Monday next, July 1.

Mr. McCALL. Has the order for that been adopted?

Mr. UNDERWOOD. Yes.

The SPEAKER pro tempore (Mr. HAY). The question is on the motion of the gentleman from Alabama that the House do now adjourn.

Mr. McCALL rose.

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. McCALL. Mr. Speaker, I desire to demand a division upon that motion. I want to ask the gentleman from Alabama a question.

Mr. UNDERWOOD. Mr. Speaker, I will state to the gentleman from Massachusetts that the order was agreed upon in the House between the minority leader and myself on the floor of the House, together with the Members present at that time, that no business should be transacted to-day. I therefore insist upon my motion.

Mr. McCALL. Mr. Speaker, I was going to ask the gentleman from Alabama whether any provision had been made for running the Government in those departments where the appropriations have not been passed for the next fiscal year.

The SPEAKER pro tempore. Debate is not in order upon this motion.

Mr. UNDERWOOD. The House has made provision, but unfortunately the Senate has not. Mr. Speaker, I insist upon my motion.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Alabama that the House do now adjourn.

The motion was agreed to; and accordingly (at 12 o'clock and 27 minutes p. m.) the House adjourned until Monday, July 1, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, to which was referred the bill (H. R. 46) to amend section 2 of an act approved March 2, 1907, entitled "An act providing for the allotment and distribution of Indian tribal funds" (34 Stat. L., 1221, 1222), reported the same without amendment, accompanied by a report (No. 925), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 25518) appropriating money for the purpose of constructing an efficient and practical fish ladder over the Derby Dam, Truckee River, in Washoe County, Nev.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 25519) to create a board of river regulation, and to provide a fund for the regulation and control of the flow of navigable rivers in aid of interstate commerce, and as a means to that end to provide for flood prevention and protection and for the beneficial use of flood waters and for water storage and for the protection of watersheds from denudation and erosion and from forest fires, and for the cooperation of Government services and bureaus with each other and with States, municipalities, and other local agencies; to the Committee on Rivers and Harbors.

By Mr. AUSTIN: A bill (H. R. 25520) to amend section 107 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 25521) granting an increase of pension to John W. Williams; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 25522) for the relief of the heirs of Harvey Clark; to the Committee on War Claims.

Also, a bill (H. R. 25523) for the relief of Martha Martin; to the Committee on War Claims.

By Mr. KAHN: A bill (H. R. 25524) for the relief of Ellen B. Monahan; to the Committee on Claims.

By Mr. MORGAN: A bill (H. R. 25525) for the relief of William A. Lowe; to the Committee on Military Affairs.

Also, a bill (H. R. 25526) granting an increase of pension to Isabella Reed; to the Committee on Invalid Pensions.

By Mr. RAKER: A bill (H. R. 25527) for the relief of George W. Cary; to the Committee on the Public Lands.

By Mr. J. M. C. SMITH: A bill (H. R. 25528) granting an increase of pension to David Young; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 25529) for the relief of H. G. Britting; to the Committee on Claims.

Also, a bill (H. R. 25530) granting an increase of pension to Augustus Schoenwald; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Swedish Evangelical Mission, Chicago, Ill., favoring passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. AYRES: Petition of citizens of the Bronx, New York City, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. BOWMAN: Petition of the Workmen's Sick and Death Benefit Fund of the United States of America and the Qw.

Tadwigi Society, No. 197, of Pennsylvania, protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Women's Auxiliary, Seattle, Wash., favoring relief of natives of Alaska; to the Committee on the Territories.

Also, petition of Barker & Co., Philadelphia, Pa., favoring bill for standard size and grading in shipping of fruits, etc.; to the Committee on Coinage, Weights, and Measures.

Also, petition of the Daughters of Liberty, of Pennsylvania; William T. Howells, of Jeddo, Pa.; and Order of Independent Americans, of Philadelphia, Pa., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, papers to accompany bill granting increase of pension to David Young; to the Committee on Invalid Pensions.

Also, petition of Campbell's Lodge, Division No. 65, Order of Railway Conductors, favoring passage of the employers' liability act; to the Committee on the Judiciary.

By Mr. FORNES: Petition of the Architectural League of New York, relative to the hiring of architects for construction of Government buildings; to the Committee on Appropriations.

Also, petition of United Spanish War Veterans, favoring passage of House bill 17470, granting pensions to widows and orphans of the Spanish-American War; to the Committee on Pensions.

Also, petition of the Master New York State Grange, protesting against the passage of House bill 24927, for preventing the shipment of immature calves; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of Hon. F. S. Dickson, adjutant general of the State of Illinois, in favor of an emergency appropriation for joint Army and State militia maneuvers, etc.; to the Committee on Appropriations.

Also, petition of St. Adalbert's Society, No. 350, of Portland, Ill., against the passage of the Dillingham-Burnett immigration bill; to the Committee on Immigration and Naturalization.

By Mr. KAHN: Petition of the San Francisco Labor Council, San Francisco, Cal., favoring dismissal of United States District Judge Cornelius J. Hanford for canceling citizenship papers of Leonard Oleson for being a Socialist; to the Committee on the Judiciary.

Also, petition of A. H. Tarkins, San Francisco, Cal., and Daughters of Liberty of San Francisco, Cal., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Board of Trade of San Francisco, Cal., favoring passage of the 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of George W. Kahn, San Francisco, Cal., protesting against any change in the patent laws that might affect price maintenance; to the Committee on Patents.

Also, petition of the California Wholesale Grocers' Association, San Francisco, Cal., favoring passage of House bill for uniform weight and measure branding laws; to the Committee on Coinage, Weights, and Measures.

Also, petition of Charles F. Schmidt & Peters and of H. S. Neustadter, San Francisco, Cal., protesting against passage of the Works liquor bill for regulation of the liquor business of the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Master Sheet Metal Workers' Association, protesting against bill exempting labor unions from the Sherman antitrust law; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of San Francisco, Cal., favoring passage of bill for improving the Diplomatic and Consular Service; to the Committee on Foreign Affairs.

Also, petition of the Chamber of Commerce of San Francisco, Cal., favoring passage of House bill 18327, for printing a national directory of commercial organizations of the United States; to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Brotherhood of Cement Workers, of San Francisco, Cal., favoring passage of House bill 23673; to the Committee on the Merchant Marine and Fisheries.

Also, petition of William T. Goldsborough, San Francisco, Cal., favoring establishment of Mount Olympus National Park in the State of Washington; to the Committee on the Public Lands.

Also, petition of the Labor Council of San Francisco, Cal., favoring passage of House bill 25103, giving crews of dredges the same use of marine hospitals as other employees of a marine character; to the Committee on Interstate and Foreign Commerce.

By Mr. LAFFERTY: Petition of the Stanfield Commercial Club, Stanfield, Oreg., relative to further opening to navigation of the Columbia and Snake Rivers; to the Committee on Rivers and Harbors.

By Mr. LOUD: Petition of Jackson & Tindle, Pelliston, Mich., protesting against passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. SPEER: Papers to accompany bill (H. R. 24359) granting increase of pension to David Chapman; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 23508) granting an increase of pension to Aldelbert M. Beatty; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: Petition of the Eclectic Medical Society of California, protesting against the establishment of a national health bureau; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Los Angeles Chamber of Commerce, favoring investigation of all foreign and domestic fire insurance companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of Uncle Sam Post, No. 177, Department of California and Nevada, Grand Army of the Republic, protesting against the incorporation of the Grand Army of the Republic; to the Committee on Military Affairs.

SENATE.

MONDAY, *July 1, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the order of the Senate of June 12, 1912.

The Journal of the proceedings of Thursday last was read and approved.

THE LAWRENCE (MASS.) STRIKE.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, in response to a resolution of May 7, 1912, a report of the investigation of the recent strike at Lawrence, Mass., which, with the accompanying paper, was referred to the Committee on Printing.

CHARLES H. QUACKENBUSH (S. DOC. NO. 866).

The PRESIDENT pro tempore laid before the Senate a communication from the Postmaster General, transmitting, in response to a resolution of May 13, 1912, the correspondence in the possession of the Post Office Department relating to the discharge of Charles H. Quackenbush from the Railway Mail Service and his reinstatement, which, with the accompanying paper, was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

YELLOWSTONE NATIONAL PARK (S. DOC. NO. 871).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of April 2, 1912, an estimate prepared by Capt. C. H. Knight, Corps of Engineers, relative to the cost of new roads in Yellowstone National Park.

Mr. HEYBURN. I should like to have the communication printed with the illustrations.

The PRESIDENT pro tempore. Without objection, it will be printed with the illustrations. To what committee is it desired that it should be referred?

Mr. HEYBURN. It should not go to any committee. It is in response to a resolution which I offered calling for information.

The PRESIDENT pro tempore. Such communications are usually referred to some committee.

Mr. HEYBURN. Let it lie on the table.

The PRESIDENT pro tempore. The communication will lie on the table, without objection.

PENSIONS AND INCREASE OF PENSIONS.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6847) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, which was, on page 2, line 15, to strike out "Stotler" and insert "Statler."

Mr. McCUMBER. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 5623) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendment of the House and ask a conference on the disagreeing votes of the two Houses, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the House amendments, ask a conference on the disagreeing votes of the two Houses, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6340) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the House amendments and ask a conference on the disagreeing votes of the two Houses, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6384) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and to certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers or sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendments of the House and ask a conference on the disagreeing votes of the two Houses, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6851) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendments of the House and that a conference be requested on the disagreeing votes of the two Houses, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

ANNIE R. SCHLEY.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 4568) granting an increase of pension to Annie R. Schley, which was, on page 1, line 8, to strike out "one hundred and fifty" and insert "seventy-five."

Mr. McCUMBER. The Senator from Maryland [Mr. RAYNER] evidenced some interest in this bill. I will ask that the bill and amendment of the House may lie on the table until his return.

The PRESIDENT pro tempore. It will be so ordered, without objection.

MISSISSIPPI RIVER BRIDGE.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6925) to authorize the Chicago, Burlington & Quincy Railroad Co. to construct a bridge across the Mississippi River near the city of St. Louis, in the State of Missouri, which were, on page 1, line 6, after "a," to strike out "railroad," and on page 1, line 7, after "point," to insert "on the west side of said river."

Mr. NELSON. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

PROPERTY IN SAN FRANCISCO, CAL.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6252) to relinquish the title of the United States to certain property in the city and county of San Francisco, Cal., which was, on page 2, to strike out lines 4 to 17, inclusive, and insert: "to be used by the city and county of San Francisco for such charitable purposes as may be approved by the Secretary of the Treasury: *Provided*, That if the same shall at any time be used for any other than such charitable purposes, all right and title thereby relinquished shall revert back to and again vest in the United States," so that the act will read as follows:

That all the right and title of the United States to the following-described property is hereby relinquished to the city and county of San Francisco, the same being the two 50 vara lots on which the old marine-hospital building now stands, fronting 275 feet on the north side of Harrison Street between Spear and Main Streets, with a uniform depth of 137 feet and 6 inches, as laid down on the official map of the said city, to be used by the city and county of San Francisco for such charitable purposes as may be approved by the Secretary of the Treasury: *Provided*, That if the same shall at any time be used for any other than such charitable purposes all right and title hereby relinquished shall revert back to and again vest in the United States.

SEC. 2. That Congress reserves the right at any time to amend, alter, or repeal this act.

Mr. PERKINS. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the following bills:

S. 458. An act for the relief of the Turner Hardware Co.;

S. 897. An act for the relief of Alfred L. Dutton;

S. 1293. An act for the relief of Herbert Thompson;

S. 4180. An act for the relief of Alessandro Comba; and

S. 5287. An act for the relief of Kate Ferrell.

The message also announced that the House had passed the bill (S. 1754) to correct the military record of William F. McKim, with an amendment to the title, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 6978) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4113. An act for the relief of Robert E. Burke;

H. R. 4512. An act for the relief of Mary Beal;

H. R. 18425. An act to remove the charge of desertion from the military record of Simon Nager;

H. R. 19190. An act for the relief of John P. Risley; and

H. R. 25060. An act for the relief of Joe Cook.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 462. An act for the relief of Salvo Ramadanovitch, of Cettigne, a Montenegrin subject, heir and administrator of Marcus Ramadanovitch, alias Radich, deceased;

S. 547. An act for the relief of Sarah A. White;

S. 837. An act to reimburse the officers and crew of the lighthouse tender *Manzanita* for personal-property losses sustained by them on the foundering of that tender October 6, 1905;

S. 1337. An act authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act;

S. 2127. An act for the relief of the heirs of Robert S. Gill;

S. 2427. An act for the relief of the legal heirs of A. G. Strain;

S. 2601. An act for the relief of Douglas B. Thompson;

S. 3469. An act for the relief of the American Surety Co. of New York;

S. 4751. An act for the relief of Albert S. Henderer;

S. 5046. An act to authorize the appointment of Shepler Ward FitzGerald and of Alden George Strong to the grade of second lieutenant in the Army;

S. 5141. An act to correct an error in the record of the supplemental treaty of September 28, 1830, made with the Choctaw Indians, and for other purposes;

S. 5176. An act granting a pension to Elizabeth B. Preston;

S. 5198. An act to authorize the issuance of patent to James W. Chrisman for the southeast quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section 13, and the north half of the northeast quarter of section 24, township 29 north, range 113 west of the sixth principal meridian;

S. 5776. An act authorizing the Secretary of the Interior to adjust and settle the claims of the attorney of record involving certain Indian allotments, and for other purposes;

S. 6009. An act to increase the limit of cost of the United States post-office building at Huron, S. Dak.;

S. 6153. An act for the relief of Charley Clark, a homestead settler on certain lands therein described;

S. 6636. An act to authorize the President of the United States to appoint Robert H. Peck a captain in the Army;

S. 6646. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6977. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 7018. An act to authorize the appointment of Harold Hancock Taintor to the grade of second lieutenant in the Army;

H. R. 20738. An act for the transfer of the so-called Olmstead lands in the State of North Carolina from the Solicitor of the Treasury to the Secretary of Agriculture;

H. R. 20628. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

S. J. Res. 69. Joint resolution authorizing the licensing and employment of Otto Neumann Sverdrup as master of vessels of the United States.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the American Seed Trade Association, in convention at Chicago, Ill., favoring the enactment of legislation to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds, etc., which was ordered to lie on the table.

He also presented a resolution adopted by the general mission board of the Church of the Brethren of Elgin, Ill., favoring the enactment of legislation to authorize the reading of the Bible in the public schools, which was referred to the Committee on Education and Labor.

Mr. NELSON presented a petition of sundry citizens of Minneapolis, Minn., praying for the enactment of legislation to prohibit the use of trading coupons, which was referred to the Committee on Finance.

Mr. GALLINGER presented petitions of sundry citizens of the District of Columbia, praying for the enactment of legislation to maintain the present water rates in the District, which were referred to the Committee on the District of Columbia.

Mr. CULLOM presented resolutions adopted by the Illinois Chapter of the American Institute of Architects, in convention at Chicago, Ill., and a memorial of the Merchants' Association of New York City, remonstrating against the repeal of legislation providing for competition among architects for all Federal buildings, which were referred to the Committee on Appropriations.

He also presented petitions of Local Union No. 6, Metal Polishers, Buffers, and Platers' Union; of Local Union No. 130, Journeymen Plumbers' Protective and Benevolent Association; and of Local Union No. 62, United Brotherhood of Carpenters and Joiners of America, all of Chicago; and of Local Union No. 2, International Brick, Tile, and Terra Cotta Workers' Alliance, of Bernice, all in the State of Illinois, praying for the enactment of legislation providing for the better protection of American seamen, which were referred to the Committee on Commerce.

He also presented a petition of sundry citizens of Wenona, Ill., praying for the enactment of legislation to prohibit the use of insignia or garb of any denomination in the Indian public schools, which was referred to the Committee on Indian Affairs.

He also presented a petition of Cigar Makers' Local Union No. 250, of Belleville, Ill., and a petition of Cigar Makers' Local Union No. 305, of Monmouth, Ill., praying for the enactment of legislation requiring manufacturers to place their own names upon manufactured articles, which were referred to the Committee on Manufactures.

He also presented a petition of Cigar Makers' Local Union No. 250, of Belleville, Ill., praying for the enactment of legislation to prohibit the use of trading coupons, which was referred to the Committee on Finance.

He also presented petitions of Local Union No. 765, United Mine Workers of America, of Breese; of Local Union No. 194, Brotherhood of Painters, Decorators, and Paperhangers of America, of Chicago; of the Trades and Labor Assembly of Breese; of Typographical Union No. 213, of Rockford; of Local Union No. 15, Coopers' International Union, of Chicago; of Cigar Makers' Local Union No. 20, of Decatur; of Local Union No. 41, Coopers' International Union, of Alton; and of the Trades and Labor Assembly of Decatur, all in the State of Illinois, praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

He also presented a petition of Local Branch, United Order of the Golden Cross, of Providence, R. I., praying for the adoption of an amendment to the Post Office appropriation bill relative to the transportation through the mails of publications issued by benevolent or fraternal societies, which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of J. F. Taake, executive committeeman of the Associated Fraternities of America, of Des Moines, Iowa, praying for the enactment of legislation granting to the publications of fraternal associations the privileges of second-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. WETMORE presented a petition of Bartenders' Local Union No. 285, of Providence, R. I., praying for the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

Mr. OLIVER presented a memorial of the Lutheran Ministerial Association, of Pittsburgh, Pa., remonstrating against the use of insignia or garb of any denomination in the Indian public schools, which was referred to the Committee on Indian Affairs.

He also presented a petition of members of the Pastors' Association of Easton, Pa., and a petition of sundry citizens of Kittanning, Pa., praying for the establishment of a department of public health, which were ordered to lie on the table.

He also presented a petition of Local Division No. 528, Amalgamated Association of Street and Electric Railway Employees of America, of Tarentum, Pa., praying for the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

He also presented resolutions adopted by the Chamber of Commerce of Philadelphia, Pa., remonstrating against the enactment of legislation prohibiting the use of the Panama Canal by any steamship company in which any railroad has an interest, which were referred to the Committee on Interoceanic Canals.

He also presented resolutions adopted by the Ministers' Association of Oil City, Pa., favoring the enactment of legislation to prohibit the interstate transportation of moving pictures of prize fights, which were ordered to lie on the table.

He also presented a petition of the Woman's Auxiliary of the Church of the Messiah, of Gwynedd, Pa., praying for the enactment of legislation to provide medical and sanitary relief for the natives of Alaska, which was referred to the Committee on Territories.

He also presented memorials of sundry citizens of Philadelphia, McKeesport, and Luzerne County, all in the State of Pennsylvania, remonstrating against an appropriation being made to be used for the purpose of celebrating the one hundredth anniversary of peace with England, which were referred to the Committee on Foreign Relations.

He also presented a memorial of the Pittsburgh Chapter, American Institute of Architects, of Pennsylvania, and a memorial of the Pennsylvania State Association of the American Institute of Architects, remonstrating against the repeal of the act providing for competition among architects for all Federal buildings, which were referred to the Committee on Appropriations.

Mr. BRANDEGEE presented resolutions adopted by the Merchants' Association and the Chamber of Commerce of Honolulu, Hawaii, remonstrating against the enactment of legislation prohibiting the use of the Panama Canal by any steamship company in which any railroad has an interest, which were referred to the Committee on Interoceanic Canals.

He also presented a memorial of sundry citizens of Bridgeport, Conn., remonstrating against an appropriation being made to be used for the purpose of celebrating the one hundredth an-

niversary of peace with England, which was referred to the Committee on Foreign Relations.

He also presented a petition of Molders' Local Union, No. 71, of Ansonia, Conn., praying for the passage of the so-called Clayton injunction-limitation bill, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Gales Ferry, Conn., remonstrating against the repeal of the anticanteen law, which was referred to the Committee on Military Affairs.

Mr. WARREN presented a petition of the congregation of the First Christian Church of Sheridan, Wyo., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. BROWN presented a petition of members of the Central Labor Union, of Lincoln, Nebr., praying for the passage of the so-called Clayton injunction-limitation bill, which was referred to the Committee on the Judiciary.

He also presented a petition of members of the Commercial Club, of Kansas City, Mo., praying for the enactment of legislation to regulate the sale of convict-made goods, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Chicago, Ill., praying for the enactment of legislation providing for the retirement of officers of the Civil War Volunteer force upon a fair and equitable basis, which was referred to the Committee on Military Affairs.

Mr. PERKINS presented a telegram in the nature of a memorial from the San Francisco Chapter, American Institute of Architects, of California, remonstrating against the repeal of the act providing for competition among architects for all Federal buildings, which was referred to the Committee on Appropriations.

He also presented telegrams in the nature of memorials from Frank B. Anderson and members of the Chamber of Commerce of San Francisco, Cal., and of members of the Northern California Hotel Association, remonstrating against the enactment of legislation prohibiting the use of the Panama Canal by any steamship company in which any railroad has an interest, which were referred to the Committee on Interoceanic Canals.

Mr. BRADLEY presented a petition of sundry citizens of Fayette County, Ky., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. ROOT presented a memorial of sundry citizens of Kingston, N. Y., remonstrating against the establishment of a department of public health, which was ordered to lie on the table.

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER, from the Committee on Pensions, to which was referred the bill (H. R. 24016) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments and submitted a report (No. 898) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SUTHERLAND:

A bill (S. 7205) granting jurisdiction to the Supreme Court of the District of Columbia to quiet the title to lands in certain cases; and

A bill (S. 7206) restricting the method of disposition of public land in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WORKS:

A bill (S. 7207) granting an increase of pension to Cyrus N. Lyons (with accompanying paper); to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7208) to amend an act entitled "An act relating to navigation of vessels, bills of lading, and to certain obligations, duties, and rights in connection with the carriage of property," approved February 13, 1893; and

A bill (S. 7209) to authorize the construction of a bridge across the Mississippi River at the town site of Sartell, Minn.; to the Committee on Commerce.

By Mr. SMOOT:

A bill (S. 7210) to apply a portion of the proceeds of the sales of public lands to the endowment of schools or departments of mines and mining and to regulate the expenditure thereof; to the Committee on Mines and Mining.

By Mr. McCUMBER:

A bill (S. 7211) to correct the military record of Samuel Barry (with accompanying papers); to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 7212) granting an increase of pension to Lucius E. Fletcher; and

A bill (S. 7213) granting an increase of pension to Myra Von Winkle; to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7214) granting an increase of pension to John Cook, alias Joseph Moore;

A bill (S. 7215) granting a pension to Amanda Barrett; and

A bill (S. 7216) granting an increase of pension to Alvah S. Howes; to the Committee on Pensions.

By Mr. BROWN:

A bill (S. 7217) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909; to the Committee on Finance.

By Mr. BORAH:

A bill (S. 7218) providing for the disposition of town sites in connection with reclamation projects, and for other purposes; to the Committee on Irrigation and Reclamation of Arid Lands.

By Mr. CRANE:

A bill (S. 7219) granting an increase of pension to George C. Rider; to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 7220) to provide for the sale of 39.69 acres of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations to the Pittsburg County Fair (with accompanying paper); to the Committee on Indian Affairs.

A bill (S. 7221) granting a pension to William H. H. Chestnut; to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 7222) granting an increase of pension to Hiram Lay (with accompanying paper); to the Committee on Pensions.

By Mr. WARREN:

A joint resolution (S. J. Res. 121) authorizing the use of certain unexpended balances to defray expenses incident to parting and refining bullion; to the Committee on Appropriations.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. CRAWFORD submitted an amendment proposing to appropriate $75 to reimburse the Government of the Philippine Islands for expenses relative to the disinterment, shipment, and transportation of the remains of the late Ormon K. Osbon, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. NELSON submitted an amendment providing that no allowance or disallowance heretofore made shall preclude an officer or enlisted man of the United States or Volunteer Army or his next of kin or personal representative from applying for and receiving any pay and allowance which may be due him under the decision of the Supreme Court of the United States, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to increase the number of topographic and hydrographic draftsmen in the Coast and Geodetic Survey, etc., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. OLIVER submitted an amendment relative to the donation of any land or building or the use of any land or building in or near the city of Pittsburgh, Pa., suitable for experimental work of the Bureau of Mines, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMOOT submitted an amendment proposing to appropriate $100,000 for inquiries and investigations into the methods of mining and treatment of ores and other mineral substances, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. OWEN submitted an amendment proposing to appropriate $100,000 for inquiries and investigations into the mining and treatment of ores and other mineral substances, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BRADLEY submitted an amendment proposing to appropriate $250,000 for expenses of the semicentennial exposition for the celebration of the semicentennial anniversary of the act of emancipation, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,656.80 for the purchase of additional land in Cave Hill Cemetery, at Louisville, Ky., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 to enable the Census Department to collect statistics concerning the quantity of leaf tobacco in all forms in the United States, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for the punishment for violations of internal-revenue laws, etc., from $140,000 to $150,000, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

OMNIBUS CLAIMS BILL.

Mr. CULLOM submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Claims.

UNITED STATES DISTRICT COURTS.

Mr. WETMORE submitted an amendment intended to be proposed by him to the bill (H. R. 21226) relating to the compensation of clerks of the United States district courts, etc., which was referred to the Committee on the Judiciary and ordered to be printed.

IMPERIAL VALLEY, CAL. (S. DOC. NO. 867).

Mr. WORKS. Mr. President, a few days ago I offered an amendment to the sundry civil appropriation bill for the improvement of the Colorado River to prevent the overflow of land in the Imperial Valley. This is a matter of urgency. The appropriation has been urged by the Secretary of the Interior and has been recommended by a special message of the President.

I have here a statement showing the necessity for the improvement that is sought to be made. I move that the statement be printed and referred to the Committee on Appropriations, to accompany the amendment.

The motion was agreed to.

EXPENSES IN PRESIDENTIAL CAMPAIGNS.

Mr. WORKS. I offer the resolution which I send to the desk, and ask that it be read.

The Secretary read the resolution (S. Res. 350), as follows:

Whereas it is asserted and has been charged on the floor of the Senate and elsewhere that large sums of money have been furnished to and used by candidates for the office of President of the United States by the various candidates for that office to control the presidential primary elections in the different States, and otherwise, to secure the election of delegates to the national conventions of the Republican and Democratic Parties; and

Whereas it is well known that many persons drawing salaries or other compensation from the Government for services as public officials or employees, from the President, Cabinet officers, and United States Senators down, have been using the time for which they have been paid by the Government in campaigning for themselves and others and aiding as campaign managers and otherwise during this session of Congress, and in the endeavor to influence and control the primary elections in the various States for the election of delegates and the nomination of candidates for President of the United States: Now therefore be it

Resolved, That a committee of seven Senators, four Republicans and three Democrats, be appointed by the Vice President a special committee to investigate, inquire into, and report to the Senate the following facts:

1. What amount of money has been subscribed, paid, or furnished to or for the use of each and every candidate for the nomination as a candidate for President of the United States, both Republican and Democratic, or to their and each of their managers, treasurers, auditors, committees, agents, or friends, or paid out or subscribed in aid or support of his candidacy, directly or indirectly, and the amount paid out by such candidate himself for such purpose, giving the name of each such candidate, the amount subscribed, paid, and used for or in aid of his candidacy, by whom paid, subscribed, or furnished, directly or indirectly, the name of each person or corporation by whom subscribed, furnished, or paid, and in behalf of which candidate; the amount paid by each person; the total amount subscribed, paid, and furnished to or in aid of the candidacy of each of such candidates; the amount of money paid out by or in aid of the candidacy of each such candidates and for what purpose, in detail, and the total amount subscribed, paid, or furnished to or for and paid out by all such candidates.

2. What persons engaged in the campaign by and for each of such candidates or in aid thereof, in whatever mode or form, were under salary or other pay of the Government, in what capacity, the amount of compensation paid each of them, the amount of time devoted by each of them, including the candidates themselves, and the total amount of money paid by the Government to such persons and the aggregate amount paid to all of them for the time consumed by them all in conducting, carrying on, or in any way aiding in the conduct of such political campaign, giving the amount so paid for workers of all kinds for all of said candidates, giving them separately.

3. The proportion or percentage of the registered and qualified voters voting at the presidential primary elections in each of the States, giving the Republican and Democratic percentage of votes cast separately, and the total vote cast at such election in each of the States, giving the Republican and Democratic votes separately.

4. The amount of money paid to newspapers and other publications and periodicals and newspaper and other writers for services of any and every kind rendered by said newspapers and other publications and periodicals and writers in aid or support of each and every candidate for such office; the names of such newspapers and other publications and writers and the amount paid to each, directly or indirectly, whether for additional subscriptions or otherwise; the amount paid by, for, or on account of any such candidate in the aggregate, and the whole amount so paid by all of such candidates to all of such newspapers, publications, or periodicals.

5. The cost to the candidates and each of them, and of the delegates attending the same, of the national convention for the nomination of candidates for President of the United States, and each of them, and for what purpose moneys were paid and used at each such convention, and particularly whether the expenses of any delegate to such convention, or either of them, were paid, either in whole or in part, by anyone other than themselves, and if so, by whom and in what amounts and on what terms and conditions, if any.

6. In what States corrupt-practice acts have been enacted applicable to primary elections and, in general terms, the provisions of each of said acts and the penalties imposed for the violation thereof.

That said committee be authorized to sit during the sessions of the Senate and during any recess of the Senate or of Congress; to hold sessions at such place or places as it shall deem most convenient for the purposes of the investigation; to employ stenographers; to send for persons and papers; to administer oaths; and to report the results of its investigations, including all testimony taken by it, and that the expenses of the inquiry shall be paid from the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

Mr. WORKS. Mr. President, I have been an earnest advocate of the direct and presidential primaries. I believe they are necessary to the preservation of the rights of the people and the prevention of fraud and corruption in elections. I believe they will have that effect if rightly and honestly conducted. They have been on trial for the past few months. I think it is time to take account of stock and see what they have profited us.

We have just passed through a campaign in both of the great parties for the nomination of candidates for President of the United States. No American citizen can look back upon it without the blush of shame. Candidates for that great office have gone on the stump and canvassed for their own election. That was shame enough. But one of them was President of the United States and another an ex-President, pitted against each other. Their campaign was undignified, malicious, and disgraceful. It was not a discussion of principles or an effort to inform or instruct the people, but consisted of personal attacks and counterattacks, criminations and recriminations. If half the things they said of each other were true, neither of them was fit to be nominated. The whole country was shocked at this unexampled spectacle. The people were humiliated and indignant. It was openly charged on the stump and on the floor of the Senate that enormous sums of money were being used to carry the election. The people have a right to know whether this charge is true or not. They have a right to know whether the direct primaries can be controlled by the use of money, as we all know the caucus and convention can be controlled and corrupted. If they can, if the masses of the people can not be trusted and their votes can be had for money, the last hope of maintaining the institutions of the country free and uncorrupted has vanished. The hope of the country rests upon the integrity and patriotism of the people.

We all know that public officials, paid by the Government, from the President down, have given their time, that the people are paying for, in carrying on the campaigns of the various candidates. The people have a right to know how much of the time paid for by them has been used in conducting, managing, and manipulating politics in the interest of candidates. They have a right to know, too, how much it cost to hold the nominating conventions and who put up the money for these expenses. The enormous sums of money expended in political contests has become one of the crying evils of the time. This country has every right to be informed on these subjects. In other words, the people have a right to know how much it costs them, in money and time, to nominate a candidate for President, and how much the candidates and their supporters have paid in the attempt to secure the nominations. It is information that touches the very vitals of our systems, new and old, of nominating candidates for President.

We have tried both the direct primaries and conventions in this campaign. The national convention at Chicago was a fitting sequel to the campaign that preceded it. It was full of malice and hatred. Charges of fraud and corruption were

openly and loudly made. The nomination made is tainted with the belief of thousands of people that it was procured by unjust, fraudulent, and illegal means. And now we have a torn and dismembered party and the prospect of a new one. The movement for a new party is founded upon hatred, revenge, and ambition. The Democratic Party is torn with the same dissentions, the result of like causes.

What is the duty before us in this condition of discord and unrest? The people are going to rule this country. Of that we may be assured. If they can not do it through the instrumentalities of the old parties, they will have a new one. They will no longer be ruled by political bosses and privilege-seeking corporations. But we do not need a new party in California. The Republican Party in my State is decent and respectable. Five years ago California was one of worst boss-ridden States in the Union. It was owned and controlled by the Southern Pacific Railroad Co. and its hired bosses and corruptionists.

The question confronted us there, as it is confronting Republicans of the whole Nation to-day, Shall we form a new party to meet this consuming evil, or shall we undertake to free and redeem the old one? We chose the latter course. We succeeded beyond our fondest hopes. The good people of the State, Democrats and Republicans alike, came to the rescue. It was not a question of party, but of political freedom and civic righteousness. As a result the people and not the bosses have control of the party and the State government. They have complete control of the party organization. The Southern Pacific machine has retired from business. The State has the best and purest government in its history. We are not ready yet to surrender this redeemed and purified party to the old machine and embark in the perilous venture of a new party. When we do we want it to be a party founded on principle and the best interests of the public welfare. We want no political bosses or privilege seekers, who are looking for the loaves and fishes, to govern or control it, but men of courage and patriotism who are willing to sacrifice their standing and interest in the old party to the public good. But are we ready now for such a party? Is it necessary? Are we willing to surrender and give over the old party, with all its achievements and traditions, to the men who have brought it to the brink of ruin? Are we ready to give up the fight the Progressives have been making for a free and untramnfeled party? Not yet. The fight has just begun, and the people have been winning battle after battle against the interests. Many of the States have already shaken off the shackles of boss rule and become free. So may all the others, and so they will if their leaders are faithful and vigilant.

I can remember when a mere boy shouting for Abraham Lincoln in his first campaign. Later, when still a boy, I took my place with thousands of others in the ranks of the Army formed to maintain the principles of freedom upon which the Republican Party was founded. I cast my first vote for Ulysses S. Grant, who led that Army to ultimate victory. I have cast my vote with that party in national affairs until now. Now I am called upon to make my choice between the old party and a new one to be formed. The temptation is great. The provocation is almost overwhelming. This is a time when men should search their own consciences and their motives unmoved by anger or passion and do what seems to each of them to be his patriotic duty to the whole people. I shall not shirk my own individual responsibility or question the motives of others who may take a different course. As conditions now present themselves to my mind, I can not join a new party movement. But, Mr. President, I do not want to be misunderstood by the Senate or by the country. It does not follow, from what I have said, that I shall support the alleged nominee of the Republican convention. I believe he secured his nomination by unjust and illegal means. I do not believe that he is the nominee of the party in any just or proper sense. I hope he does not realize, in accepting such a nomination, what thousands and thousands of his party believe to be the fact—that it was procured for him by compromising with fraud and corruption and the violation of an express statute of a State. But its alleged nominee is not the Republican Party. He does not represent its principles or its sentiments. His title to the nomination is tainted and questioned by the great mass of the party. Neither I nor any other Republican who views the situation and believes as I do owe him, personally, any political allegiance or support. If any good Republican representing the real sentiments of the party were to become an independent candidate, running on a progressive platform that he could conscientiously stand upon, the voters of the party would sustain him; but in my judgment the man who attempts to form a new party, as conditions now are, will not be serving the interests of the people. Better far to see the great Republican Party go down to temporary defeat now for the sins its leaders have committed, and redeem it four years hence, than attempt the uncertain and dangerous remedy of forming a new party. Better, for the time being, to "bear the ills we have than fly to others that we know not of." The party had already been purged in many of the States of its worst and most dangerous elements. Many of the members of the national committee who made possible the nomination that was brought about had been repudiated in advance by the voters of their States. This victory was thrown away by the delegates chosen to represent the progressive element of the party in the convention, a victory that would in all probability have taken the control of that committee out of the hands of the powers that manipulated it at the convention. Four years from now, if we stand to our guns and do not follow after false gods, the people will have complete control over the Republican Party in the Nation, as it now has in many of the States.

Mr. President, this struggle for political freedom and civic righteousness is not confined to the Republican Party. Its great rival, the Democratic Party, has the same fight with the powers of evil; and one man, with a courage and patriotism that challenges my admiration and respect and should incite the gratitude of the American people, is bravely fighting for the integrity and righteousness of his party and fighting practically single handed and alone. He is making the fight that every good and loyal citizen should be making, not outside but inside of his party. If that effort, rightly made, fails, it will be time enough to form a new party. If it does fail, no one will be more ready than I to form that new party, founded on principles of justice, liberty, purity, and honesty in politics.

Mr. President, I have offered these resolutions so that the people may, so far as it can be ascertained by such an inquiry as they call for, be informed as to what has brought us to this present pass, so far as the campaign just closed is concerned.

I understand the Vice President is not likely to be present for some time to come. I desire, therefore, to amend my resolution, where it authorizes the appointment by the Vice President, so as to read "by the President pro tempore of the Senate."

I desire further to say that in view of the limited attendance this morning I shall not insist upon pressing the resolution at the present time.

The PRESIDENT pro tempore. The resolution will be modified as suggested by the Senator from California.

Mr. GALLINGER. I suggest that under the law the resolution will necessarily go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. WORKS. I was about to suggest that it take its regular course and go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. GALLINGER. It is necessary that that be done.

The PRESIDENT pro tempore. The resolution necessarily will be so referred.

Mr. HEYBURN. Mr. President, before the close of morning business, if I may be indulged, in order briefly and imperfectly to do what should be done with care and elaboration, I will interpose a demurrer to the statement read by the Senator from California. I do not desire that it should be taken as accepted by Republicans.

I shall not occupy any considerable time. Not having the resolution of the Senator from California in print, and not having known that such a motion would be made, it will, of course, be somewhat difficult to cover the subject. I shall not undertake to do that.

An attack has been made in this resolution upon the integrity of the President of the United States as an incumbent and as a candidate for reelection. Concurrently an attack has been made upon those who are responsible for his nomination. Still further an attack has been made upon the integrity of the Republicans of this Nation.

Mr. GALLINGER. And upon Members of this body who are upon the national committee.

Mr. HEYBURN. Yes; and as suggested by the Senator from New Hampshire, who sits on my left, upon Members of this body who chance to be members of the national committee. More than that, with an ever-widening circle of slander, an attack has been made upon the citizenship of the country at large.

It is charged, in effect, that the standard of the citizenship of this country is so low and so venal that it may be bought and sold like chattels in the markets; that it may be controlled by corrupt men. This resolution undertakes to stamp a character of degradation, inefficiency, and corruption upon the citizenship of this country to the extent that it controls the Government. The man who can be corrupted is as bad a citizen as the man who corrupts him or attempts to do so. There is no difference under any rule of morals or of law.

So this resolution charges that these people constituting the citizenship have been subject, for a period not named, to the dominion and control and manipulation of corruption and corrupt men. I deny it. I challenge any man, responsible for this resolution or otherwise, to hand in to the Secretary of the Senate and have read from the desk the names of five men that within his knowledge come within the class of debauched citizenship.

No man should be allowed to slander another, even in political excitement or campaigns, without being held responsible. The offense of slandering the American citizenship, singly or in the aggregate, is as heinous a crime as that of attempting to bribe them. It is usually indulged in for the purpose of compelling some one to do or not to do something—heaping opprobrium and epithets upon your fellow citizen in order to deter him or to influence him one way or the other.

The statement in the resolution that an unhappy condition of affairs has existed in the country is true in a very large measure. It did not emanate from the rank and file or the leadership of either party, singly and alone. Whatever of the unhappy conditions pictured in this resolution have existed are the result of an attempt—an irresponsible and unwise attempt—to change overnight the form of this Government and the manner of the performance of the political duties of citizenship. Where there is no meeting or coming together of men there can be no riot. Where the opportunity is not given or accorded them to violate long-established principles the principles are safe.

It is not necessary to take up the resolution in detail and analyze it, because it is all based upon one wrong, vicious proposition. To stand in the Senate of the United States and charge that Members of this body, in the performance of their individual citizenship, have participated in disreputable and dishonest procedure in a national convention is intolerable, and if such a charge is made it should be accompanied by the names of those charged.

We have a rule in this body which precludes any Member from speaking disrespectfully of another. We have a rule in this body which precludes any Member from charging another with improper motives. It may be said that that applies only to his actions in the body. I hold that it applies to the action of the Senator, because he is a Senator of the United States wherever he is during the tenure of his office.

What a document that would be to read in the public schools of the United States! As well take in the infected flag of smallpox or cholera. It is a more serious offense to poison the minds of the children and the students of the country than it is to infect them with a disease. The mind, once tainted, never is restored to perfect health. A suggestion of dishonor made against the representative bodies of the people of the country is never eradicated from the mind of the child.

If it is said that the charges are true, why investigate them? No man should say that these charges are true unless he can stand in his place and show that they are true by giving the day, date, data, and names. The things charged in that document are crimes. They are crimes against the law of citizenship; they are crimes against the law of the land. There should be no necessity for an investigation of such a charge by a committee.

What would be the result? Send out a committee of this body to travel up and down the land for months and months, sitting in various places, with its daily proceedings made the subject matter of newspaper quibble and comment, charge and vituperation, and you had as well send the trailing bag of infectious disease from one end of the country to the other to poison the air. There is nothing more important than that the minds of the people of the country, especially of the youth and those whose minds are in process of formation, should remain untainted by a charge coming from a responsible body.

It is bad enough to be confronted with irresponsible slander, but it is infinitely worse to be confronted by a charge coming with the sanction of the Senate of the United States for investigation in the local communities of the United States. The committee would succeed in procuring conjecture, uncertainty, but would any man come before the committee and make a definite charge? If he would, he is accessible now without this public exhibition of irresponsible charges.

The thing to be desired is that whatever has occurred during these political contests shall be buried in oblivion as soon as possible, that most of the men shall be forgotten at the earliest possible moment. The names of men who engage in disgraceful conduct in the performance of public duty ought not to be remembered overnight. No man is entitled to fame because of his misbehavior.

This, if it is calculated for anything more than another, is calculated to perpetuate the consideration of the evil deeds of evil men. We do not want that kind of history written. We want to write only the history of the good deeds of good men, and how much of it would be found in the report of this committee? It does not ask that the committee shall investigate lawful deeds of men engaged in lawful proceedings. It is a little on the order of the journalism of the day. I have not seen in any paper any statement as to the good deeds of a man in display type at the head of a column. I have not noticed any reference to the class of men who do good deeds except, perhaps, in obituary. Would this committee sit under the resolution to hear the facts in regard to really great and pure statesmen actuated by high motives of statesmanship? It does not ask that they shall do it, and they have no jurisdiction. It is simply a dragnet in search of crime, in search of the disreputable, in search of that which should be forever hid.

Now, Mr. President, it is not a subject to elaborate on very much, in my judgment. It contains suggestions and innuendoes enough to wipe out every good and patriotic impulse in the mind and breast of every child in the land. A suggestion that those things are true to those who are studying the institutions and learning the lesson of citizenship is a blot upon their life, I care not what are the politics of the officials who are charged irresponsibly, against whom a suggestion is made that if you will enter into this investigation you will probably find that they are disreputable. I would like the man to stand up before us and make the charge. I like the habit when a man commences to tell you in confidence something to the detriment of another to say, "Wait; I will call him up on the phone that I may have him here and listen to the conversation." I have stopped a good many conferences of that kind in that way.

Let any man making those charges give the names, and in the presence of those whose names he gives take the chances. If he will not, the charge ought not to be made. Let us elevate the standard of citizenship so that there will be no possibility of such a condition as is presented here this morning.

I am not going to consider the question whether or not there will be two parties or three parties or many parties in the coming campaign. The man whose mind is bent on considering that question as paramount loses sight of the principles for which parties stand. The Republican Party at Chicago has redeemed itself in its tariff declaration. We do not find within that platform the old saw about the difference between the cost of production abroad and at home. That absurdity is eliminated. It is a perfect tariff plank, except for one little joke in it, which suggests that some duties are too high. I think so. I think myself the duty of beeswax and curled feathers might be reduced. I am not afraid to meet a platform anywhere in considering the question of adjusting business relations between the American people and the people of other countries. I do not know what kind of a plank will come over from Baltimore. I do not know that I am very much interested in it, because a man can not ride in two cars at the same time, and he can not vote two tickets at the same election—that is, I do not think he can.

This resolution leaves the people up in the air, with nothing beneath their feet. It does not advise supporting either party. It rather intimates that there may come a deliverer out of Israel.

Now, Mr. President, I have said more than I intended to say, but I feel that a resolution like that should not go through in a perfunctory manner, be referred to a committee as though it were something serious, reported by a committee as though it were worthy of consideration, and considered in the Senate as though we were here to spend our time in the consideration of such a matter. I hope that the committee will be supplied with a proper undertaker for burial services.

Mr. WORKS. Mr. President, this resolution has been regularly referred, and I am not going to take up the time of the Senate now in discussing the merits of it.

The Senator from Idaho [Mr. HEYBURN] has made a resolution of his own and discussed it quite elaborately, not the resolution offered by me. Evidently he did not pay attention to the reading and has not read the resolution itself. The resolution does not charge anybody with anything. It is purely and simply a resolution calling for inquiry as to the truth of the charges that have been made by somebody else, and made on the floor of the Senate, not by me, not by the resolution. It calls for an inquiry into the truth of the facts that have been spread all over the country, not only as emanating from the floor of the Senate of the United States, but charges that were made in the political campaign over and over again affecting the integrity of the Republican Party and those who are connected with it.

Now, who should object to the truth being known about it? The best way to overcome the evil is to disclose it and then

handle it. That is just what we have to do with the affairs of the Government and in politics to-day if we are going to accomplish anything.

It was charged, Mr. President, on the floor of the Senate within a very short time, that millions of dollars had been expended to control this campaign. It was said upon the floor of the Senate that a Member of this body had made that same charge on the stump throughout the country. All sorts of charges were made during the continuance of the Republican convention. How much of them were true, how much of them were false, none of us know. But I say, Mr. President—and I say it in all sincerity—that the people of this country have a right to know whether these charges are true or false and the Senate of the United States, standing as a representative of the people, have a right to ask that this kind of an investigation may be had in order to determine whether the charges are true or not.

These resolutions do not charge corruption upon the part of the citizens of this country, as the Senator from Idaho assumes. I sincerely hope that the investigation made under the resolution will disclose the fact that they are not subject to corruption, because it would be a sorry day for this country if it should ever come when the masses of the people of the country could be influenced and corrupted with money.

There are some things recited in the resolution that every Senator on this floor knows to be true. As the Senator from Idaho says, that does not need any investigation. Members of this body and other public officials have been giving their time day after day to carry on the political campaigns of the different candidates. We know it. A good many of the people of the country do not know it, and they have a perfect right to know if it be true that men sent here as their representatives, men employed in the departments of Government, and paid by them, are using the time for which they are paid by the Government to carry on the campaign of any candidate for President or any other office within the gift of the people.

Mr. NELSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Minnesota?

Mr. WORKS. I do.

Mr. NELSON. I want to ask the Senator, in all candor, if those remarks would not apply to some of the Members of this body?

Mr. WORKS. I think they are applied to Members of this body, as the Senator would have known if he had listened to the resolution. I think, if an investigation of this kind is made, that it will be found to be true with respect to Members of this body the same as other public officials.

As I said in the beginning, I am not disposed to discuss the merits of this resolution. I am perfectly willing to take such responsibility as may flow from its introduction. It is for the proper committee and the Senate to determine whether this investigation shall be made or not. I have submitted the resolution in good faith. I think it calls for an investigation, which should be made and made thoroughly, but that, as I have said, is a matter for the Senate to determine.

Mr. McCUMBER. Mr. President, personally I have no objection whatever to the resolution introduced by the Senator from California. I, however, do have objection and I wish to protest as a Republican against the argument that was used to bolster up the resolution. We have heard the cry of fraud throughout the country in reference to the presidential primaries from the very beginning, and there is not a man in the Senate of the United States who did not thoroughly understand why that cry of fraud went out months before an election was had in a single State. It is the practice of the incendiary who purposes to destroy by fire to cry fire in some other quarter of the city and thereby divert attention from his own work. We have heard the cry of fraud and what was going to happen and the contests that were going to be initiated from one end of the country to the other. We knew when that cry went forth that there was a purpose, a clear purpose, to create fake contests all over the country, and as those fake contests would necessarily be dismissed there would be seemingly some ground for suspicion and enable the cries of fraud to gain some attention when they were dismissed.

I think it most unjust at this time, in support of a resolution of this character, to declare that the President of the United States received his nomination through fraud and corrupt practices. I do not believe it, Mr. President, myself, and I do not believe that there will be any evidence forthcoming to sustain a charge of that kind.

I am perfectly willing to investigate the question of the amount of money that is necessary in these primary contests. I am willing to investigate and ascertain how many dollars it takes to bring out one-quarter, one-fifth, or one-tenth of the party vote in any one of the States.

There are some justifiable provisions included in the resolution of the Senator from California. I agree with him that a contest has been carried on that has been a disgrace to the American people, and the very system that the Senator supports so strongly and so earnestly has been the system that has invited the kind of personalities against which he complains.

Mr. WORKS. Mr. President——

Mr. McCUMBER. In just a moment.

Personalities and personal abuse that never would be made before a convention of intelligent men, that never would be made before a legislature in any State in the Union, have been indulged in as fit arguments by those who think they can mislead the people by making charges of a criminal character, charges that would not be made before any convention or any gathering of men organized to make nominations. I agree with the Senator on many of those things contained in his resolution, but I do not agree with him that there has been any fraud or injustice whatever in the matter of dismissing any of those fake contests. There may have been some few contests in which there were close questions, but I believe as a whole the members of the national committee acted honestly and conscientiously in their decisions, and to charge that they have acted dishonestly and corruptly is not only uncalled for but is untrue.

Why, Mr. President, the greatest——

Mr. WORKS. Mr. President——

Mr. McCUMBER. One moment. The greatest amount of money that was ever raised in any political campaign was raised in 1896 during the McKinley campaign, and not a dollar of the millions of dollars that were raised was used to buy votes; it was used for literature; it was used to pay the expenses of the speakers; it was used to cover the thousands of expenses that are necessary to carry on a great campaign of education. I do not condemn the using of a great amount of money, whether it comes from the Standard Oil Co., whether it comes from Mr. Perkins in support of his candidate, or whether it comes in support of the present President of the United States, if it is used honestly and fairly for the purpose of getting out literature, for the purpose of presenting facts to the people and not sensational falsehoods. I think the greater force we can have to disseminate true political knowledge over the country the better it will be for the country.

I now yield to the Senator from California.

Mr. WORKS. Mr. President, the Senator from North Dakota may be perfectly right that the presidential primary has resulted in such a campaign as we have just witnessed. If that be the case it has a great deal to answer for, and if it is going to have such an effect in this country I want to know it. I am not so wedded to any kind of machinery for conducting the elections of this country as to insist upon that or any other machinery that is going to result in such consequences.

With respect to the question of the expenditure of money, certainly there may be legitimate expenditures of money in a political campaign whether for President of the United States or anybody else. The object and purpose of the resolution is to ascertain whether the large sums of money alleged to have been used have been used properly or not. To that I should think the Senator from North Dakota would not object.

Mr. McCUMBER. I do not object to that, Mr. President.

The closing remarks of the Senator from California in his first address on this subject were not surprising to me. It is a part of what has seemed to me for the last 8 or 10 years to be a consistent policy—a policy of rule or ruin. "If we can not rule the party, if we can not secure the success of our nominee this year, we will turn against the candidate who is nominated." Then they use that as a reason why some other person, representing a different view, should be selected next time. I have heard in a number of the States in the past few years, where we have conducted such elections, the claim made: "We have put up our candidate"—I will say "our progressive candidate"—"for a number of years in the primary; he has not been chosen; so we will elect a Democrat to that position. That will furnish evidence to you, the people of the country, that you had better nominate our candidate." It is simply a hold-up system. "Support our views; support our candidate; or we will destroy the party." That is the proposition in a nutshell that is presented to the Senate of the United States in the argument that has just been made. "If we can not secure the defeat of your candidate in the primary, then, the next step is to defeat him in the election. We will try once more; we will defeat him, if it is possible; if we should not succeed in defeating him, it will be time enough then to consider whether it is necessary to create a third party in order to win."

Mr. President, I believe in fighting out our difficulties within the party itself. I do not believe that the public is so corrupt, I do not believe that the average people who go as delegates to conventions are so corrupt, as the Senator would have us believe. I do not believe that those who support one party are criminals and those who support the other party are saints. I believe that we should and can fight out these questions in our conventions, or fight them out in our primaries if we have the primary system, and then let us as good partisans stand by the party of our choice. If there is a plank in our platform that is not just according to our idea let us try to better fit it to the necessities of the country. If we think our tendency is in the wrong direction, let us work together to guide the party in the right direction. We gain nothing by uniting a number of people who have been defeated in their purposes and attempting to destroy the old organization by creating a new one.

Mr. President, I only rose primarily to dissent most earnestly from this continuous cry of fraud by those who were defeated, and while I might have, with the majority, differed as to some of the contests that were decided I certainly believe that the men who decided them were honest in their convictions in every decision. The majority of the elected delegates favored the renomination of President Taft. As a Republican he is my nominee. Had either of his opponents been nominated I should have supported that nominee.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a joint resolution (H. J. Res. 331) extending appropriations for the necessary operations of the Government under certain contingencies, in which it requested the concurrence of the Senate.

EXTENSION OF APPROPRIATIONS.

Mr. WARREN. Mr. President, I ask that House joint resolution No. 331 be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate a joint resolution from the House of Representatives.

Mr. WARREN. I think the joint resolution should be read for information, and then referred to the Committee on Appropriations. I will say that the committee have already had the subject under consideration and will probably be prepared to report at once; but I wish that the joint resolution may be read so as to go into the RECORD.

The PRESIDENT pro tempore. The Secretary will read the joint resolution.

The joint resolution (H. J. Res. 331) extending appropriations for the necessary operations of the Government under certain contingencies was read the first time by its title, the second time at length, and referred to the Committee on Appropriations, as follows:

Resolved, etc., That all appropriations for the necessary operations of the Government, and for the payment of pensions under existing laws, which shall remain unprovided for on the 30th day of June, 1912, be, and they are hereby, continued and made available for and during the month of July, 1912, unless the regular appropriations provided therefor in bills now pending in Congress shall have been previously made for the service of the fiscal year ending June 30, 1913; and a sufficient amount is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry on the same: *Provided*, That no greater amount shall be expended for such operations than as the sum of one-twelfth of the appropriations made for the fiscal year 1912 bears to the whole of the appropriations of said fiscal year: *Provided further*, That the total expenditures for the whole of the fiscal year 1913 under the several appropriations hereby continued, and under the several appropriation bills now pending, shall not exceed in the aggregate the amounts finally appropriated therefor in the several bills now pending, except in cases where a change is made in the annual, monthly, or per diem compensation or in the numbers of officers, clerks, or other persons authorized to be employed by the several appropriations hereby continued, in which cases the amounts authorized to be expended shall equal one-twelfth of the appropriations for the fiscal year 1912, and eleven-twelfths of the appropriations contained in the several bills now pending when the same shall have been finally passed, unless the salary or compensation of any office shall be increased or diminished without changing the grade or the duties thereof, in which case such salary or compensation shall relate to the entire fiscal year and run from the beginning thereof: *And provided further*, That the session employees of the Senate and House of Representatives now authorized by law shall be continued upon the rolls until the end of the present session of Congress and paid at the rate per diem or month at which they are now paid; and a sufficient amount is hereby appropriated out of any money in the Treasury not otherwise appropriated to pay the same.

This joint resolution shall be construed as authorizing the continuance of the salaries and other expenses under the organization of the Bureau of the Census of the Department of Commerce and Labor as the latter existed June 30, 1912, for the period of time and under the conditions provided herein for all other branches of the public service.

Mr. WARREN subsequently said: The Committee on Appropriations, having considered House joint resolution 331, I report it back favorably without amendment and ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADDRESS OF HON. N. C. YOUNG (S. DOC. NO. 865).

Mr. McCUMBER. Mr. President, I have here a very short address delivered by Hon. N. C. Young, late a member of the Supreme Court of the State of North Dakota, on the subject, "Shall we change our plan of Government?" I consider it a very worthy article, and ask that it be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MANEUVERS OF REGULAR ARMY AND MILITIA.

Mr. JOHNSTON of Alabama. Mr. President, I desire to ask the chairman of the Committee on Appropriations if any immediate action is being taken in regard to the appropriation for maneuver camps?

Mr. WARREN. We will await the action of the other House upon that matter. Of course we have been unable to act until to-day, but I assume that the other House will take care of it, and that we shall hear from them soon.

Mr. JOHNSTON of Alabama. Very well.

APPROPRIATIONS FOR GOVERNMENT EXPENSES (H. DOC. NO. 854).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

I send herewith the report of the Commission on Economy and Efficiency on "The need for a national budget." The recommendations contained therein are approved by me. I recommend to the Congress the enactment of the legislation necessary to put them into effect.

The subject is one of fundamental importance to the Executive as well as to the Congress. Notwithstanding the magnitude and complexity of the business which is each year conducted by the executive branch and financed by the Congress, and the vital relation which each governmental activity bears to the welfare of the people, there is at present no provision for reporting revenues, expenditures, and estimates for appropriations in such manner that the Executive, before submitting estimates, and each Member of Congress, and the people, after estimates have been submitted, may know what has been done by the Government or what the Government proposes to do.

Briefly stated, the situation is this: Under the Constitution (and subject to its limitations) Congress is made responsible for determining the following questions of policy: What business or work the Government shall undertake; what shall be the organization under the Executive which is charged with executing its policies; what amount of funds and by what means funds shall be provided for each activity or class of work; what shall be the character of expenditures authorized for carrying on each class of work—i. e., how much for expenses, how much for capital outlays, etc.

As a means of definitely locating this responsibility, Congress was given the sole power to levy taxes; to borrow money on the credit of the United States; to authorize money to be drawn from the Treasury. To the President also has been given very definite responsibility. To the end that Congress may effectively discharge its duties the article of the Constitution dealing with legislative power provided that "a regular statement and account of receipts and expenditures of all public moneys shall be published"; and the article dealing with the Executive power requires the President "from time to time to give to the Congress information on the state of the Union and to recommend to their consideration such measures as he shall deem necessary and expedient."

Notwithstanding these specific constitutional requirements there has been relatively little attention given to the working out of an adequate and systematic plan for considering expenditures and estimates for appropriations, for regularly stating these in such form that they may be considered in relation to questions of public policy, and for presenting to Congress for their consideration each year, when requests are made for funds, any definite plan or proposal for which the administration may be held responsible.

Regular committees on expenditure have been established by the Congress for the purpose of obtaining knowledge of conditions through special investigations. During the last century over 100 special congressional investigations have been authorized to obtain information which should have been regularly submitted, and much money as well as much time has been

spent by the Congress in its effort to obtain information about matters that should be laid before them as an open book; many statutes have been passed governing the manner in which reports of expenditures shall be made; specific rules have been laid down giving the manner in which estimates shall be submitted to Congress and considered by it. From time to time special investigations have been made by heads of executive departments. During the last century many such investigations have been carried on and much money has been spent in the conduct of these, as well as by Congress, for the purpose of obtaining facts as a basis for intelligent consideration of methods and procedure of doing business with a view to increasing economy and efficiency. From time to time Executive orders have been issued and reorganizations have taken place.

Generally speaking, however, the only conclusions which may be reached from all of this are that—

No regular or systematic means has been provided for the consideration of the detail and concrete problems of the Government.

A well-defined business or work program for the Government has not been evolved.

The reports of expenditures required by law are unsystematic, lack uniformity of classification, and are incapable of being summarized so as to give to Congress, to the President, or to the people a picture of what has been done and of cost in terms either of economy of purchase or efficiency of organization in obtaining results.

The summaries of expenditures required by law to be submitted by the Secretary of the Treasury, with estimates, not only do not provide the data necessary to the consideration of questions of policy, but they are not summarized and classified on the same basis as the estimates.

The report on revenues is not in any direct way related to the expenditures, except as the Secretary of the Treasury estimates a surplus or deficiency, and this estimate is based on accounts which do not accurately show expenditures or outstanding liabilities to be met.

Instead of the President being made responsible for estimates of expenditures, the heads of departments and establishments are made the ministerial agents of Congress, the President being called on only to advise Congress how, in his opinion, expenditures may be reduced or revenues may be increased in case estimated expenditures exceed estimated revenues.

The estimates do not raise for consideration questions which should be decided before appropriations are granted, nor does the form in which estimates are required to be presented by the Congress lay the foundation for the consideration of subjects of work to be done, the character of organization best adapted to performing work, the character of expenditures to be made, the best method of financing expenditures.

The present law governing the preparation and submission of estimates, requiring them to be submitted each year in the same form as the year before, was passed without due consideration as to what information should be had before Congress as a basis for action, the result being that the unsystematic and confused method before in use was made continuous.

The rules of the Congress do not provide for the consideration of estimates in such manner that any Member of Congress, any committee, or either House of Congress as a whole may have before it at any one time the information needed for the effective consideration of a program of work done or to be done.

The committee organization is largely the result of historical development rather than of the consideration of present needs.

Inadequate provision is made for getting before each committee to which appropriations are referred all of the data necessary for the consideration of work to be done, organization provided for doing work, character of expenditures, or method of financing.

Following the method at present prescribed, the estimates submitted by each organization unit may have to be split up for consideration by appropriation committees of the Congress and be made the subject of several different bills; in few places are all of the estimates or appropriations asked for by a single organization unit brought together.

The estimates for appropriations requested for a single class of work are similarly divided, no provision being made for considering the amount asked for, the amount appropriated, or the amount spent for a single general class of governmental activity.

Generally speaking, the estimates for expenses (or cost of each definite class of services to be rendered) are not separately shown from estimates for capital outlays (or cost of land, buildings, equipment, and other properties acquired).

While the classification and summaries of estimates do indicate a proposed method of financing, these summaries do not show classes of work or the character of expenditures provided for, and therefore can not lay the foundation for the consideration of methods of financing as a matter of governmental policy as is contemplated under the Constitution.

The appropriations are just as unsystematic and incapable of classification and summary as the estimates; in fact, follow the same general form, making it difficult and in many cases impossible to determine what class of work has been authorized, how much may be spent for each class, or the character of expenditures to be made; nor does any one bill cover the total authorizations for any particular general class of work.

Bills for appropriations (the authorizations to incur liabilities and to spend) are not considered by the committee to which measures for raising revenues and borrowing money are referred, nor are revenues and borrowings considered by committees on appropriations in relation to the funds which will be available.

So long as the method at present prescribed obtains, neither the Congress nor the country can have laid before it a definite understandable program of business or of governmental work to be financed; nor can it have a well-defined, clearly expressed financial program to be followed; nor can either the Congress or the Executive get before the country the proposals of each in such manner as to locate responsibility for plans submitted or for results.

Although the President has the power to install new and improved systems of accounts and to require that information be presented to him each year in such form that he and his Cabinet may intelligently consider proposals or estimates, although the President, under the Constitution, may submit to the Congress each year a definte well-considered budget, with a message calling attention to subjects of immediate importance, to do this without the cooperation of the Congress in the repeal of laws which would be conflicting, and in the enactment of other laws which would place upon the heads of departments duties to be performed that would be in harmony with such procedure would entail a large expenditure of public money in duplication of work.

The purpose of the report which is submitted is to suggest a method whereby the President, as the constitutional head of the administration, may lay before the Congress and the Congress may consider and act on a definite business and financial program; to have the expenditures, appropriations, and estimates so classified and summarized that their broad significance may be readily understood; to provide each Member of Congress, as well as each citizen who is interested, with such data pertaining to each subject of interest that it may be considered in relation to each question of policy which should be gone into before an appropriation for expenditures is made; to have these general summaries supported by such detail information as is necessary to consider the economy and efficiency with which business has been transacted; in short, to suggest a plan whereby the President and Congress may cooperate—the one in laying before the Congress and the country a clearly expressed administrative program to be acted on, the other in laying before the President a definite enactment to be acted on by him. Included in this report are summaries of expenditures for the year 1911, summaries of appropriations for the fiscal year 1912, and summaries of estimates of appropriations for the fiscal year 1913. To these summaries your special attention is invited. Attached is also an appendix containing a digest of laws pertaining to appropriations and allotments, to the preparation of estimates, and to forms of reporting expenditures; also the suggested pro forma draft of budget, which has been prepared by the commission and is submitted for your consideration as a matter bearing very directly on the economy and efficiency with which Government business is carried on.

WM. H. TAFT.

THE WHITE HOUSE, *June 27, 1912.*

[NOTE.—Report accompanied similar message to the House of Representatives.]

WILLIAM F. M'KIM.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1754) to correct the military record of William F. McKim, which was to amend the title so as to read: "An act for the relief of William F. McKim."

Mr. JONES. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PENSIONS AND INCREASE OF PENSIONS.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6978) granting pensions and increase of pensions to certain

soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Mr. McCUMBER. I move that the Senate disagree to the amendment of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. McCUMBER, Mr. BURNHAM, and Mr. GORE conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Claims:

H. R. 4113. An act for the relief of Robert E. Burke;

H. R. 4512. An act for the relief of Mary Beal; and

H. R. 25060. An act for the relief of Joe Cook.

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 18425. An act to remove the charge of desertion from the military record of Simon Nager; and

H. R. 19190. An act for the relief of John F. Risley.

UNEXPENDED BALANCE FOR PARTING AND REFINING BULLION.

Mr. WARREN. From the Committee on Appropriations, I report back favorably without amendment Senate joint resolution No. 121, authorizing the use of certain unexpended balances to defray expenses incident to parting and refining bullion, and I submit a report (No. 899) thereon. I ask unanimous consent for the immediate consideration of the joint resolution.

The PRESIDENT pro tempore. The Secretary will read the joint resolution for the information of the Senate.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the unexpended balance of the permanent indefinite appropriation for parting and refining bullion remaining on the books of the Treasury June 30, 1912, may be drawn upon to defray in full the expenses incidental to refining and parting bullion in the mints at Denver and San Francisco and the assay office at New York, including labor, material, wastage, and loss on sale of sweeps, until the regular appropriations for the mint service for the fiscal year 1913 are available, and that the amount expended under this provision shall be deducted from the annual appropriation for this service.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent for the present consideration of the joint resolution. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WARREN. I ask that the report accompanying the joint resolution may be printed in the RECORD. It is short and carries with it a letter from the Secretary of the Treasury in explanation of the necessity for the passage of the joint resolution.

The PRESIDENT pro tempore. Does the Senator desire that it be printed in the RECORD without being read?

Mr. WARREN. Without being read.

The PRESIDENT pro tempore. It is so ordered, in the absence of objection.

The report submitted this day by Mr. WARREN is as follows:

Mr. WARREN, from the Committee on Appropriations, submitted the following report, to accompany Senate joint resolution 121:

The Committee on Appropriations, to which was referred the joint resolution (S. J. Res. 121) authorizing the use of the unexpended balance of the permanent indefinite appropriation for parting and refining bullion remaining on the books of the Treasury June 30, 1912, for said purpose for the fiscal year 1913 until the annual appropriation therefor is available, reports the same to the Senate with the recommendation that it pass without amendment, and in explanation of the action of the committee respectfully submits the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, June 29, 1912.

Hon. FRANCIS E. WARREN,
Chairman Committee on Appropriations,
United States Senate.

SIR: In connection with the consideration of a joint resolution to provide temporarily for the expenses of the Government after June 30, 1912, pending final action upon the regular appropriation bills for the fiscal year 1913, I beg to invite your particular attention to the situation relative to parting and refining operations in the mints and the assay office at New York.

The provision under which all expenditures incident to parting and refining bullion have been met for years past is to be found in the deficiency act of July 7, 1898 (see ch. 571, 30 Stat. L., 657), and reads as follows:

"Chapter 571. An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for prior years, and for other purposes.

"PAR. 4a. And refining and parting of bullion shall be carried on at the coinage mints of the United States and at the assay office at New York, and it shall be lawful to apply the moneys arising from charges collected from depositors for these operations, and also the proceeds of sale of by-products (spent acids arising from any surplus bullion recovered in parting and refining processes), pursuant to law, so far as may be necessary, to defraying in full the expenses thereof, including labor, material, wastage, and loss on sale of sweeps.

"But no part of the moneys appropriated for the support of the coinage mints and assay office at New York shall be used to defray the expenses of parting and refining bullion."

The policy of using the proceeds of charges imposed upon bullion to meet the cost of operating the refineries was changed by a provision of the deficiency act of March 4, 1911 (see ch. 240, Public, 480), the repealing clause reading as follows:

"All laws and parts of laws, to the extent that they make a permanent indefinite appropriation for the expenses of parting and refining bullion, are repealed to take effect from and after June 30, 1912; and the Secretary of the Treasury shall, for the fiscal year 1913, and annually thereafter, submit to Congress, in the regular Book of Estimates, detailed estimates for the expenses of this service.

"The unexpended balance, after meeting all obligations, of the permanent indefinite appropriation for parting and refining bullion remaining on the books of the Treasury two years after the close of the fiscal year 1912 shall be covered into the Treasury as a miscellaneous receipt."

It is a grave question whether a resolution so worded as to extend the 1912 appropriations will have the effect of reviving a statute which is definitely repealed. Estimates for the cost of maintaining this service in the fiscal year 1913 in the Denver and San Francisco mints and the assay office at New York were submitted to Congress, and provisions for the same appear in the bill making appropriations for the legislative, executive, and judicial expenses. It is highly important that provision be made for continuing these refinery operations at the three institutions without a break. The wages of 90 people are involved. At the New York assay office the larger part of all expenditures have been met from the charges imposed upon bullion and the institution can not be kept open for the transaction of business unless provision is made for meeting these expenses after June 30, 1912.

I therefore suggest that the proposed resolution contain the following specific provision, or one similar that meets your judgment, to cover the situation above pointed out:

"That the unexpended balance of the permanent indefinite appropriation for parting and refining bullion remaining on the books of the Treasury June 30, 1912, may be drawn upon to defray in full the expenses incidental to refining and parting bullion in the mints at Denver and San Francisco and the assay office at New York, including labor, material, wastage, and loss on sale of sweeps, until the regular appropriations for the mint service for the fiscal year 1913 are available, and that the amount expended under this provision shall be deducted from the annual appropriation for this service."

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

INDIAN APPROPRIATION BILL.

The PRESIDENT pro tempore. If there are no further concurrent or other resolutions, the morning business is closed.

Mr. CLAPP. I move that the Senate proceed to the consideration of House bill 20728, being the Indian appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 20728) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1913, which had been reported from the Committee on Indian Affairs with amendments.

Mr. CLAPP. I ask unanimous consent that the formal reading of the bill be dispensed with and that it be read for amendment, the amendments of the committee to be first considered.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and that order is made.

Mr. CLAPP. Mr. President, before the Secretary proceeds to read the bill, I desire to make a very brief statement.

This bill, as reported from the Senate committee, very largely increases the House appropriations. The increases come from three sources: First, many of the appropriations are appropriations of Indian funds and not of Government funds. Second, many of the increases are simply cases where the House failed to grant the amount estimated for, and the Senate committee has increased the appropriation to the estimate. Third, there are items affecting the conduct of irrigation and other projects where the Indian Office felt that it was wiser to have the larger sum appropriated.

The bill contains a great deal of general legislation, which it seems difficult to get in any other form. I am not so sensitive on that subject as heretofore, in view of the uniform custom at this session of putting much general legislation on the appropriation bills.

I call attention to these matters before the Senate proceeds to consider the bill. Of course it is for the Senate to determine what it will do with them.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the bill.

The Secretary proceeded to read the bill, which had been reported from the Committee on Indian Affairs with amendments.

The first amendment of the Committee on Indian Affairs was, on page 2, line 16, before the word "thousand," to strike out "two hundred and fifteen" and insert "three hundred and

thirty-five"; in the same line, after the word "dollars," to insert "$35,000 of which to be immediately available"; and in line 20, after the word "expended," to insert: "*Provided*, That the unexpended balances of all continuing appropriations heretofore made for survey, allotment, classification, or appraisement work, general or specific, are hereby made available for the purposes enumerated herein. Surveys provided for by appropriations for surveying and allotting Indian reservations shall be made in accordance with the provisions for surveys and resurveys of public lands, including traveling expenses and allowance in lieu of subsistence, to surveyors and clerks detailed as surveyors employed thereunder," so as to make the clause read:

For the survey, resurvey, classification, and appraisement of lands to be allotted in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians, including the necessary clerical work incident thereto and to the issuance of all patents in the field and in the Office of Indian Affairs, and to the delivery of trust patents for allotments under said act or any such act or acts; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, $335,000, $35,000 of which to be immediately available, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended: *Provided*, That the unexpended balances of all continuing appropriations heretofore made for survey, allotment, classification, or appraisement work, general or specific, are hereby made available for the purposes enumerated herein. Surveys provided for by appropriations for surveying and allotting Indian reservations shall be made in accordance with the provisions for surveys and resurveys of public lands, including traveling expenses and allowance in lieu of subsistence, to surveyors and clerks detailed as surveyors employed thereunder.

Mr. GALLINGER. Mr. President, I would suggest to the Senator, inasmuch as we have commenced on another fiscal year, that the words "to be immediately available" should be stricken from the bill wherever they occur.

Mr. CLAPP. Mr. President, that occurred to me while the joint resolution we have passed was being read. It strikes me that while the joint resolution answers the purpose for the present, some provision must be made in all these appropriation bills to meet that proposition. In these bills there are certain appropriations with reference to a fixed day. That day has already passed; yet the joint resolution of the two Houses does not cover an appropriation made under those circumstances. I thought that, if necessary, when we get through with all of them, the Committee on Appropriations can meet that difficulty by some general provision.

Mr. GALLINGER. I shall not insist upon my suggestion, Mr. President. It does no harm to leave in the clause; but it seems to me it is unnecessary, for the reason that when the bill becomes a law all these appropriations will be immediately available.

Mr. CLAPP. Will they?

Mr. GALLINGER. Absolutely.

Mr. WARREN. The 1st of July will have passed before the bill becomes a law, but it will do no harm to leave in the language.

Mr. CLAPP. Some of them would be immediately available and some, in the very nature of things, would not be.

Mr. GALLINGER. I shall not insist upon it.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 3, line 10, before the word "thousand," to strike out "three hundred" and insert "three hundred and forty-five," so as to read:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, $345,000, to remain available until expended.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the construction, repair, and maintenance of ditches, reservoirs, and dams, etc.; on page 4, line 14, before the word "thousand," to strike out "ten" and insert "fifty-five," so as to make the clause read:

For traveling expenses of two inspectors of irrigation, at $3 per diem when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses authorized by law, and for incidental expenses of negotiation, inspection, and investigation, including telegraphing and expense of going to and from the seat of government and while remaining there under orders, $4,200; in all, $355,700: *Provided also*, That not to exceed seven superintendents of irrigation, who shall be skilled irrigation engineers, may be employed.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs was, in line 17, after the word "employed," to insert:

Provided also, That there shall be covered into each fund, from whatsoever source derived, for construction or maintenance and operation of any irrigation project or system within the jurisdiction of the Indian Service or preliminary surveys and investigations for determining the feasibility or cost of new projects in the Indian Service, the proceeds of the sales of material utilized for temporary work and structures, as well as of the sales of any other property which had been purchased from such fund, and also any moneys refunded in connection with operations necessary for and incidental to such work; and for lands under any such project the Secretary of the Interior may fix annual maintenance charges, which shall be paid as he may direct, such charges, when collected, not to be covered into the Treasury but to be immediately available for use for the maintenance and operation of the project or system for which collected.

Mr. CURTIS. I make the point of order against that amendment. I think the acting chairman will concede that it is general legislation, in violation of Rule XVI.

The PRESIDENT pro tempore. The Chair will be glad if the acting chairman of the committee will indicate whether or not there is an issue upon that point.

Mr. CLAPP. Mr. President, I do not see how there can be any issue. The Senator makes the point of order. It is a provision that the Indian Office is very anxious to have. That is the only thing I can urge in its behalf.

The PRESIDENT pro tempore. The Chair will sustain the point of order.

Mr. OVERMAN. Mr. President, I suggest that we go on to-day on these matters as in Committee of the Whole, and when we get into the Senate, if any Senator wishes to offer an amendment to strike out anything that has been agreed to—I do not know that such will be the case—he can do so. I do not suppose the Senator desires to have the bill passed to-day.

Mr. CLAPP. Of course I should like to have the bill passed to-day if it can be passed without pressing the matter against the convenience of Senators. It is an appropriation bill, and we want to get the appropriation bills out of the way.

Mr. OVERMAN. I realize that fact, but I think probably the Senator can not get it passed to-day. I simply make the suggestion so that we may reserve any amendments that any Senator desires to reserve. I have no amendments to offer myself, and no fight to make on the bill. But there are only a few Democratic Senators here, and there may be some who will desire to have the course I suggest taken.

Mr. CLAPP. There is no objection to agreeing to that.

Mr. GALLINGER. I will ask the Senator, Mr. President, if he objects to a point of order being made and ruled upon by the Chair?

Mr. OVERMAN. Not at all. I only want, when the bill gets into the Senate, to reserve the right to submit any amendment that any Senator wants to submit. I am doing it only as a matter of caution.

Mr. GALLINGER. Certainly.

Mr. OVERMAN. I have no fight to make on the bill myself, and no amendments to offer.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 5, line 10, after the word "Indians," to insert "including the illegal introduction of intoxicating liquors into the State of Oklahoma," so as to make the clause read:

For the suppression of the traffic in intoxicating liquors among Indians, including the illegal introduction of intoxicating liquors into the State of Oklahoma, $75,000.

Mr. CURTIS. Mr. President, in view of the decision of the Supreme Court that the law does apply to Oklahoma, I think that amendment is unnecessary, and I will ask that the Senate disagree to it.

Mr. CLAPP. I think so, too.

The PRESIDENT pro tempore. What is the suggestion of the Senator from Kansas?

Mr. CURTIS. That we disagree to the amendment.

The PRESIDENT pro tempore. The motion is properly put in the affirmative, and those who wish to disagree will vote against the amendment.

The amendment was rejected.

Mr. CLAPP. Mr. President, I have talked with some members of the committee and I wish to offer an amendment at this point. In the conduct of this matter of suppressing the traffic in intoxicating liquors among Indians it has been found that a strict interpretation of the law would prohibit the introduction of wines into Indian country to be used for sacramental purposes. The undesirability of such a restriction is so manifest that I am going, at this time and in connection with this item, to offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The Secretary will report the amendment proposed by the Senator from Minnesota.

The SECRETARY. On page 5, line 12, after the word "dollars," it is proposed to insert a colon and the following proviso:

Provided, That hereafter it shall not be unlawful to introduce and use wines solely for sacramental purposes, under church authority, at any place within the Indian country or any Indian reservation, including the Pueblo Reservations in New Mexico.

Mr. HEYBURN. Mr. President, I should like to ask a question for information. Can it be possible that the Indians may not make wine from the grapes grown in that part of the country? They grow plenty of grapes there.

Mr. CLAPP. There are some sections of the country where grapes could be grown and homemade wine made for sacramental purposes. There are other sections of the country where it is very doubtful whether that could be done. A strict construction of the liquor law, at least the construction placed upon it by the authorities, prohibits the having of wine within the Indian country even for sacramental purposes, and to set the matter at rest and avoid any further question in regard to it I have offered this amendment.

Mr. HEYBURN. I did not rise to object to the amendment, but my attention was attracted by the suggestion that any legislation is necessary.

The PRESIDENT pro tempore. The Senator will suspend for one moment. The hour of 1 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 20182) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

Mr. SMOOT. I should like to ask if the Senator from Idaho desires to speak upon the unfinished business. If not, I shall ask unanimous consent that it be laid aside temporarily.

Mr. HEYBURN. I had intended at this time to make some remarks, but in view of the fact that the Indian appropriation bill is before the Senate I will defer any remarks. Of course it is not to be laid aside for the day, but only to be laid aside temporarily.

Mr. SMOOT. Temporarily. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEYBURN. I do want to get at an intelligent idea of this matter. Can it be possible that one in authority has held that Indians may not make wine out of the grapes at their door? Everyone who knows this country knows that grapes are one of the plentiful fruits, and that it should require legislation in order that they might have wine for church purposes seems to me to imply that they may not make wine out of their own grapes.

Mr. CLAPP. I will ask the Senator if it is his understanding that under the law of this country an Indian within the prohibited classes has the right to manufacture liquor on a reservation?

Mr. HEYBURN. I should dislike to think that we had ever been so unwise in legislation as to make it impossible for Indians to make wine of their own grapes for such a purpose. If we have, then it is another of the curiosities that should be taken into consideration in legislation.

I was impelled to make the suggestion because of the fact that if any person should be permitted to do it they should be permitted to make out of their production whatever a white man might make out of his. Those Indians there are probably quite up to the standard of average American citizenship.

Mr. CLAPP. That is all true, but the fact remains that those in authority maintain that wine for sacramental purposes comes within the general provision of the statute.

Mr. HEYBURN. Then my criticism would be shifted to those in authority.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs was, in line 12, after the words "dollars," to insert the following proviso:

Provided, That the powers conferred by section 788 of the Revised Statutes upon marshals and their deputies are hereby conferred upon the chief special officer for the suppression of the liquor traffic among Indians and duly authorized officers working under his supervision whose appointments are made or affirmed by the Commissioner of Indian Affairs or the Secretary of the Interior.

Mr. GALLINGER. I suggest to the Senator that as he has already inserted a proviso, that this proviso should read "*Provided also*," and I would further suggest that it be made one paragraph instead of two.

Mr. CLAPP. That can be done now or in the final preparation of the bill.

Mr. GALLINGER. The clerks can make it a single paragraph.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. In line 13, after the word "*Provided*," insert "*also*."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CLAPP. Let it appear in the RECORD that the part beginning in line 9 down to the end of line 19 shall be treated as one paragraph.

The PRESIDENT pro tempore. That will be done.

The next amendment was, on page 5, line 24, before the word "thousand," to strike out "sixty" and insert "two hundred and fifty," so as to make the clause read:

To relieve distress among Indians and to provide for their care and for the prevention and treatment of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases, including the purchase of vaccine and expense of vaccination, $250,000.

Mr. HEYBURN. I should like to know something of the necessity for making so radical a change as to strike out $60,000 and insert $250,000 for purchase of vaccine and expense of vaccination.

Mr. CURTIS. It was my purpose to oppose this amendment, and if the Senator will——

Mr. HEYBURN. I will leave it to the Senator, who is much more familiar with the subject; but I was naturally put upon inquiry by the vast raise in the appropriation.

Mr. CURTIS. I dislike very much to oppose an amendment of this kind, but it seems to me that the report of the commissioner justifies me in taking that course. I hope the Senate will disagree to the amendment.

The Commissioner of Indian Affairs estimated for only $75,000. The House gave them only $60,000. Last year there was appropriated for this purpose $60,000, and only $53,000 of it was used. Twenty thousand dollars of that was used in the building of a hospital and only $10,000 was used for medicine; $1,000 was used to buy material for taking photographs, and all the balance was paid in salaries. The year before they had $40,000 and used only $29,000.

It seems to me that there is no justification for so large an increase in view of what has been expended and in view of the further fact that there are now 100 regular physicians, 64 contract physicians, 54 matrons, and 88 field matrons to look after matters of this kind and attend the Indians who need care and attention.

I hope the amendment will be voted down, and then I should like to have the Senate give the commissioner what he asked, $75,000.

Mr. HEYBURN. I should like to inquire if the Senator has information as to how much of this sum is expended for physicians and how much for vaccine matter.

Mr. CURTIS. Less than $10,000 was paid out for medicines of all kinds.

Mr. HEYBURN. That would include vaccine matter?

Mr. CURTIS. I will read the items that were paid out last year:

Relieving distress among destitute Indians	$3,000
Purchase of vaccine and antitoxin and the vaccination of Indians	3,000
Employment of special physicians and purchase of medicines	3,000
Equipment and maintenance of sanatoria in the North and Northwest	20,000
3 physicians at large, at $1,400 per annum each	4,200
Expenses of 3 physicians, at $1,200 each	3,600
1 nurse, field service	1,000
Expenses of nurse, field service	1,200
Traveling expenses and subsistence of physician detailed to Trachoma Hospital at Phoenix	1,200
1 nurse, field service	720
Expenses of nurse, field service	1,200
2 contract physicians, 1 at $480 and 1 at $720	1,200
2 nurses, at $720	1,440
2 assistant nurses, at $300	600
Incidental expenses, such as extra drugs, supplies, etc., in open market	500
1 nurse	720
1 cook	600
Incidental expenses at tuberculosis sanatorium, such as fresh fruit, extra food, and supplies in open market	500
Salary	2,200
Traveling and incidental expenses	2,095
Transportation for box of books and instruments	150
Motion picture accessories, etc	204

Mr. HEYBURN. What is that item?

Mr. CURTIS (reading)—

Motion-picture accessories, chemicals, 2 boxes Ozone, 8 cans lime, and 100 barrels sulphuric ether	$204.00
6 cases photographic plates	100.00
3 cases lantern slides	50.00
6 gross developing paper	50.00
Photographic accessories, chemicals	100.00
5,000 feet positive film	212.50
7,000 feet negative film	262.50

Making a total of $53,104 expended last year.

Mr. HEYBURN. There is nothing in the report showing extraordinary conditions under which there should be an increase?

Mr. CURTIS. Nothing at all.

Mr. HEYBURN. Can the chairman of the committee advise us as to why the increase was made?

Mr. CLAPP. Mr. President, this item was increased from the amount allowed by the House over the estimate of the bureau on the request of the Indian Office. I will read a statement which appears in the report and which is brief:

> The records of the Indian Bureau show that a large per cent of the Indians are afflicted with tuberculosis as well as trachoma. The conditions of health among the Indians as has been revealed by a careful study of conditions, especially as relates to trachoma, is very startling, indeed, as it is shown by carefully prepared statistics that anywhere from 15 to 80 per cent of the Indians in different parts of the country are suffering from trachoma, and if this terrible disease is not checked a large number of Indians will eventually become totally blind.

Then here comes another feature of it:

> It should be remembered that this disease not only endangers the sight of a large per cent of the Indians, but it endangers the health of millions of white people living in the immediate vicinity of the Indian reservations and who come in contact with the Indians.

Mr. HEYBURN. I should like to ask the Senator whether or not these Indians are living in their homes—on their farms. They are not in a reservation?

Mr. CLAPP. Some are on reservations; some are on farms and in their homes. There is an indiscriminate condition of the Indian situation with reference to residence from those who are still practically blanket Indians to those who now own and cultivate farms.

Mr. HEYBURN. Are the blanket Indians remaining within the purview of this bill?

Mr. CLAPP. There are yet a great many Indians who might properly be called blanket Indians.

Mr. HEYBURN. These are in Oklahoma.

Mr. CLAPP. No; this would apply to the whole country.

Mr. HEYBURN. I was just looking at the end to see whether it is so extensive.

Mr. CLAPP. If the Senator is correct, then the committee was laboring under a very serious misapprehension.

Mr. HEYBURN. The clause beginning in line 9 reads:

> For the suppression of the traffic in intoxicating liquors among Indians, including the illegal introduction of intoxicating liquors into the State of Oklahoma, $75,000.

I find no qualifying provision between that language and the language under consideration. I suppose the committee intended this to be of general application to all Indians.

Mr. CURTIS. A general provision, to apply to all Indians throughout the country.

Mr. CLAPP. Certainly. That criticism would apply to the provision for the day Indian schools.

Mr. HEYBURN. I had that in mind. I have it before me. I merely wanted information in regard to it. I have no sympathy with the vaccination proposition whatever, and to see a sum, including that kind of services, raised nearly $200,000 rather provoked inquiry.

Mr. CLAPP. Of course, vaccination is a very small item. It is included with the others. I will say that there was a time when smallpox was a very destructive disease, but to-day tuberculosis and trachoma are the two diseases that menace the Indians.

Mr. GALLINGER. Mr. President, I am going to ask a question that will reveal ignorance on my part, although I think probably I understand it. This bill does not apply to Indians in Alaska, I assume.

Mr. CLAPP. No; it does not, except in one or two schools that are specially mentioned.

Mr. GALLINGER. I have in mind a very eloquent and pathetic appeal of the Bishop of Alaska for Indians in that Territory, or whatever we may call it, and if I get an opportunity I should like very much to vote for a liberal appropriation to relieve the suffering of the people there. But I assume that this is not of general application.

Mr. CLAPP. Only where it is specified.

The PRESIDING OFFICER (Mr. SMITH of Georgia in the chair). The question is on agreeing to the amendment of the committee.

Mr. GALLINGER. Before the vote is taken I will ask the Senator from Kansas if I understood him correctly to say that the estimate of the department was $75,000?

Mr. CURTIS. Seventy-five thousand dollars.

Mr. GALLINGER. The House reduced it to $60,000.

Mr. CURTIS. Because last year only $53,000 was expended, and the year before I think $29,000 was expended.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was rejected.

Mr. GALLINGER. I shall support a motion of the committee to insert $75,000 in lieu of $60,000.

Mr. CLAPP. I shall move now, on behalf of the committee, to insert $75,000 in lieu of $60,000, if there be no objection to that.

Mr. CURTIS. I think that ought to be done.

Mr. CLAPP. The motion now is to amend, on line 24, by striking out "sixty" before "thousand" and inserting "seventy-five" in lieu thereof.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 5, line 24, after the word "vaccination," strike out "sixty" and insert "seventy-five," so as to read "seventy-five thousand dollars."

Mr. McCUMBER. I understand that the amendment proposing to appropriate $250,000 has been stricken out.

The PRESIDING OFFICER. It was disagreed to.

Mr. CLAPP. I propose to insert $75,000 in lieu of $60,000, conforming to the estimates of the Indian Office.

Mr. McCUMBER. I wish to ask the Senator in charge of the bill if, in his opinion, $75,000 is sufficient for the purposes enumerated?

Mr. CLAPP. Personally, I do not feel that it is. I think the increase, especially of trachoma among the Indians during the last two or three years, warrants us in making a larger appropriation, and I not only moved the amendment at the request of the office but I very cheerfully supported it.

Mr. McCUMBER. I think we ought to stop a moment to consider this matter before we hurriedly strike out a provision that has been adopted by the committee after a very full hearing. We are appropriating, Mr. President, some $10,000,000, I think, in the bill for the benefit of the Indians of the country. Large sums are being expended for instruction. I do not know what particular good we will obtain by instructing and educating Indians this year, when what knowledge they may have obtained could not be exercised, as they would be in the grave. I can not see the necessity of spending millions of dollars for the comfort of the Indians in certain lines while we neglect to appropriate a few thousand dollars necessary for the purpose of saving lives. It seems to me that the life of the Indian is about the first thing to take into consideration; that first we ought to look after their health. An Indian diseased with tuberculosis or smallpox is not going to be a very useful Indian, and the money expended will not be very beneficially expended in his behalf if we do not first adopt some means to stop the spread of this fatal disease among the Indians.

The evidence, as I now remember, that was taken before the committee showed that 30, 40, 60, or 70 per cent of the Indians in some sections were affected by tuberculosis. If we want to settle the Indian question in a very short time, we might withdraw all aid in this direction, and in a very few years it would not be necessary for us to pay out expenses for schools, and so forth.

I again appeal to the Senate to appropriate what ought to be appropriated to eradicate the disease. The commissioner says that it is necessary. Those who were present and testified as to the condition of the Indians in the several sections of the country showed, to my mind, most conclusively that $250,000 ought to be expended for their protection and in the attempt to wipe out this dread disease. Therefore, Mr. President, I move to amend the amendment of the Senator from Minnesota by inserting $150,000 in lieu of $75,000.

Mr. CURTIS. Mr. President, I agree with the Senator from North Dakota that sufficient appropriation should be made to take care of the health of the Indians, but the Senator will remember that a gentleman who appeared before the committee stated that in one case where the Indians had been under the care of the Government they had been bothered with trachoma, and after they were left alone and went to themselves trachoma had entirely disappeared. There was no evidence given before the committee that justified such a large appropriation or such a large increase as was made by the committee. There was nothing in the previous expenditures of the department to show that that amount of money was necessary.

I agree with the Senator from North Dakota that every precaution should be taken. So far as I am concerned, I shall vote for his amendment making the amount $150,000. If any facts had been given to the committee, if any cases had been cited, or if the report had shown that the money was expended for medicine or something for the use of the Indians instead of for photographs and things of that kind, and only $10,000 of it for medicine, I would have voted for the appropriation of $250,000.

I believe that before the department get at the hands of Congress large sums they should give an itemized statement to the Senate or to the House showing what they need the appropriation for. I shall support the amendment.

Mr. McCUMBER. I agree with the Senator that probably there may have been some wastefulness in previous appropriations, but this paragraph is clear in reference to the purpose for which the money is to be used. If the department will use the money for the purposes indicated and not for films for kodaks, I have no doubt but that a great deal of benefit can be obtained. I believe that the whole amount should have been appropriated and most of it used, not so much for trachoma and for minor diseases as for the eradication of tuberculosis. I am glad that the Senator agrees at least that we should have $150,000.

Mr. GALLINGER. Mr. President, I rise to ask the Senator from North Dakota if the hearings to which he alludes have been printed?

Mr. McCUMBER. I am not certain.

Mr. CLAPP. They are in print.

Mr. McCUMBER. We had a witness before us, a special examiner, who had been out in Montana and Washington, and his evidence was very strong on the subject.

Mr. GALLINGER. The proposition of the committee, Mr. President, was to increase the appropriation $163,000, which would necessarily have gone to physicians and for medicines. I think it is an extravagant suggestion. Trachoma undoubtedly exists among those people. It will not require a great deal of either medical treatment or medicine to care for that disease if it is properly handled. So far as tuberculosis is concerned, these Indians have to-day at their own command, without physicians and without medicine, all that advanced medical science says can do them any good; they are out in the open. The system now is to establish open-air camps for tuberculosis patients, and the physician who would use medicine to any very considerable extent in the treatment of that disease at the present time would be laughed at by the advanced members of the profession.

So, I see no reason why in this case a very large amount of money should be appropriated for physicians and medicines for these two particular diseases, and yet that is the proposition involved in this amendment. If the Senators who know more about the matter than I do think that the amount ought to be increased to $150,000, I certainly would not oppose it, although it occurs to me that as $62,000 was used last year and some of it was used for moving-picture films and all sorts of things that may have amused those people, $75,000 will be adequate for this year. But at best the matter is going to conference and it will be adjusted there. In that view, while I think it is not a necessary increase, I shall not vote against it.

Mr. WARREN. Mr. President, I hope that the motion to make the amount $150,000 will prevail. The ills of the Indians are not confined entirely to the diseases named here. The employment of physicians is very largely used for other diseases.

Mr. GALLINGER. One suggestion made by the Senator from North Dakota attracted my attention. It is that the testimony showed that in many instances 75 per cent——

Mr. McCUMBER. I would not say 75 per cent. I suggest in some cases I think 70 per cent.

Mr. GALLINGER. That as high as 70 per cent were afflicted with tuberculosis. The Senator has in his own State a good many Indians, and we are making appropriations for the Indians in the State of North Dakota. I will ask the Senator if he has discovered any such percentage among the Indians in North Dakota as that even 50 per cent or 40 per cent of them are suffering from tuberculosis.

Mr. McCUMBER. I do not know the exact per cent. I know that the percentage is very great, even among those in North Dakota. It is demonstrated, I think, that the disease is to some extent, at least, infectious, and while the Senator's remedy may be the proper remedy for the treatment of tuberculosis, and if it could be cured in a single summer by keeping the Indians out of doors, that might be quite a proper remedy, and would require but little expenditure; these Indians, especially in the northern regions, can hardly camp out when the thermometer registers 30 or 40 or 50 below zero. They are compelled to live in houses during at least six or seven months of the year, and possibly eight months in some sections of the country. Their houses are not sanitary. They need more or less instruction in the matter of their own treatment of themselves, and they need constant assistance. The Indian does not follow advice very readily. He is somewhat indigent and somewhat careless as to his personal habits. The buildings in which they live are often very insanitary and conducive to increasing the extent of tuberculosis. So there is something besides medicine that must be considered in the matter of treatment.

Mr. GALLINGER. Mr. President, I will not raise any issue on this point. I do not set myself up as an authority at all, but I have sometimes thought that we were pampering the Indian a little too much; that it is about time, after the centuries have come and gone, for the Indian to be taught some degree, at least, of self-reliance and some degree of self-support. But that probably is not the popular idea, and I have no disposition to deny to these poor people any governmental aid that they can reasonably ask, except I do feel that if this appropriation is to be largely used for physicians and medicines, while it is a good thing for the profession, with which I greatly sympathize, it is rather a profligate expense.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, at the top of page 6, to insert:

To enable the Secretary of the Interior to investigate, audit, and adjust, under such terms, conditions, and regulations as he may prescribe, the claims of licensed traders and other bona fide claimants who have claims against individual Indians under the jurisdiction of the Department of the Interior, $75,000: *Provided*, That $10,000 of this amount may be used for clerk hire in the Indian Bureau.

Mr. CURTIS. Mr. President, I make the point of order against that amendment on two grounds: First, the appropriation was not estimated for; and, second, it is general legislation and in violation of Rule XVI.

Mr. CLAPP. Mr. President, the committee will have to accept as sound the objection made by the Senator from Kansas.

The PRESIDING OFFICER. The point of order is well taken.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 6, line 12, before the word "hundred," to strike out "four" and insert "five," and in the same line, before the word "thousand," to strike out "and fifty," so as to read:

For support of Indian day and industrial schools, not otherwise provided for, and for other educational and industrial purposes in connection therewith, $1,500,000.

The amendment was agreed to.

The next amendment was, on page 7, line 7, before the word "thousand," to strike out "four hundred and twenty-five" and insert "six hundred and fifty," so as to make the clause read:

For construction, lease, purchase, repairs, and improvements of school and agency buildings, and for sewerage, water supply, and lighting plants, and for purchase of school sites, $650,000.

The amendment was agreed to.

The next amendment was, on page 8, after line 22, to insert:

That the Secretary of the Interior is hereby authorized to expend $100,000, or so much thereof as may be necessary, in the prevention and control of forest fires on Indian reservations during the fiscal year ending June 30, 1913, all sums expended hereunder to be reimbursed from the tribal funds of the Indians on the reservations where the sums are expended.

Mr. CURTIS. Mr. President, I make the point of order against that amendment that it is general legislation.

Mr. CLAPP. Mr. President, I hope the Senator from Kansas will not press the point of order. There is a great deal of destruction of timber belonging to these Indians. This is a reimbursable appropriation. I doubt very much whether technically it is subject to a point of order. The Senate held some years ago that even in the case of a claim against an Indian tribe the item was not subject to a point of order. I certainly hope the point will not be pressed.

Mr. CURTIS. Does the Senator from Minnesota say that this provision is wholly for the protection of timber from fire?

Mr. CLAPP. It reads:

That the Secretary of the Interior is hereby authorized to expend $100,000, or so much thereof as may be necessary, in the prevention and control of forest fires on Indian reservations during the fiscal year ending June 30, 1913, all sums expended hereunder to be reimbursed from the tribal funds of the Indians on the reservations where the sums are expended.

Mr. CURTIS. I will withdraw the point of order on that amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 9, after line 4, to insert:

There is hereby appropriated the sum of $250,000, or so much thereof as may be necessary, to be immediately available, for the purpose of encouraging industry among Indians and to aid them to engage in the culture of fruits, grains, and other crops. The said sum may be used for the purchase of animals, machinery, tools, implements, and other equipment necessary to enable Indians to become self-supporting: *Provided*, That the sum hereby appropriated shall be expended subject to the conditions to be prescribed by the Secretary of the Interior for its repayment to the United States on or before June 30, 1925, and all repayments to this fund made on or before June 30, 1924, are hereby appropriated for the same purpose as the original fund, and the entire fund, including such repayments, shall remain available until June 30, 1924; and all repayments to the fund hereby created which shall be

made subsequent to June 30, 1924, shall be covered into the Treasury and shall not be withdrawn or applied except in consequence of a subsequent appropriation made by law: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed report of the use of this fund.

Mr. CURTIS. Mr. President, I make the point of order against that amendment on two grounds: First, the amount named was not estimated for; and, second, the amendment proposes general legislation, in violation of Rule XVI.

Mr. CLAPP. Mr. President, the committee will have to concede the correctness of the point of order, though I regret it.

The PRESIDING OFFICER. The point of order is sustained.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 10, line 20, before the word "thousand," to strike out "four" and insert "five," and in line 21, after the word "rent," to insert: "*Provided*, That hereafter the Board of Indian Commissioners is authorized to employ a secretary, not a member of said board, and pay his salary out of the appropriation herein made or which shall hereafter be made for said board: *Provided further*, That the proper accounting officers of the Treasury are hereby directed to pay the salary of H. C. Phillips for services heretofore rendered said board as secretary out of the appropriation provided for the expenses of said Board of Indian Commissioners in the Indian appropriation act for the fiscal year ending June 30, 1912," so as to make the clause read:

For expenses of the Board of Indian Commissioners, $5,000, including not to exceed $300 for office rent: *Provided*, That hereafter the Board of Indian Commissioners is authorized to employ a secretary, not a member of said board, and pay his salary out of the appropriation herein made or which shall hereafter be made for said board: *Provided further*, That the proper accounting officers of the Treasury are hereby directed to pay the salary of H. C. Phillips for services heretofore rendered said board as secretary out of the appropriation provided for the expenses of said Board of Indian Commissioners in the Indian appropriation act for the fiscal year ending June 30, 1912.

Mr. GALLINGER. I will ask the Senator from Minnesota if it is possible that the money shall be paid out of the appropriation of the last fiscal year?

Mr. CLAPP. I suppose it was upon the theory that there was money left over.

Mr. GALLINGER. At the end of the fiscal year, it strikes me, the money must be turned back into the Treasury, and that this would not be approved. We would have to reappropriate it.

Mr. CLAPP. That is true, but does not this amount to a reappropriation? That was the design.

Mr. GALLINGER. I am afraid not. I think the Senator had better let that amendment be passed over for the present, and look into it.

Mr. WARREN. I think, if that is the idea, it will have to be expressed as a reappropriation.

Mr. GALLINGER. Unquestionably so. Let it go over.

Mr. CLAPP. Let the amendment be passed over. I will change the language.

The PRESIDING OFFICER. The amendment will be passed over.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 11, line 24, before the word "thousand," to strike out "eighty-five" and insert "one hundred and twenty-five," so as to make the clause read:

For pay of special agents at $2,000 per annum; for traveling and incidental expenses of such special agents, including sleeping-car fare, and a per diem of $3 in lieu of subsistence when actually employed on duty in the field or ordered to the seat of government; for transportation and incidental expenses of officers and clerks of the Office of Indian Affairs when traveling on official duty; for pay of employees not otherwise provided for; and for other necessary expenses of the Indian Service for which no other appropriation is available, $125,000.

The amendment was agreed to.

The next amendment was, at the top of page 12, to insert:

Provided, That the Commissioner of Indian Affairs may expend not to exceed $1,000 of this appropriation in purchasing law books for official use in the Indian Bureau.

Mr. CURTIS. I want to ask the acting chairman of the committee why that amount of law books provided for can not be purchased out of the contingent fund of the Interior Department?

Mr. CLAPP. The Indian Commissioner advised the committee that the comptroller declined or objected—I do not know that he put it quite so strong as refused—at least he objected to paying this item out of the contingent fund. That was the reason why the amendment was put in the bill.

Mr. GALLINGER. I would suggest that the proviso should become a part of the text of the bill on the preceding page, and not be made a separate paragraph. The Senator, if he examines it, will see the point of that suggestion.

Mr. CLAPP. I think that ought to be done, Mr. President. Let the proper record be made for that purpose.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 12, after line 4, to insert:

For continuing the work of classifying and indexing the files of the Indian Office and preparing historical data from records therein, including the pay of employees, $5,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 12, after line 8, to insert:

For the purpose of conducting hearings and taking evidence to determine the heirs of deceased Indian allottees, pursuant to the act of June 25, 1910 (36 Stat. L., 855 to 866), and the regulations thereunder prescribed by the Secretary of the Interior, $100,000.

Mr. CURTIS. Mr. President, I wish the chairman of the committee would explain the necessity for that item, if he can.

Mr. CLAPP. Just a moment before I take the matter up. Acting on the suggestion of the Senator from New Hampshire [Mr. GALLINGER] I think the bill will read much better when concluded if the words "to be immediately available" are eliminated in all cases where they occur.

Mr. GALLINGER. That ought to be done.

Mr. CLAPP. I desire it understood that it shall be done.

Mr. WARREN. Why not ask that the Secretary may do that in this place the same as in the others?

Mr. CLAPP. It amounts to the same thing.

Mr. GALLINGER. That should be done in all cases.

Mr. WARREN. In all cases.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. CLAPP. Now, Mr. President, in answer to the inquiry of the Senator from Kansas [Mr. CURTIS], I will say that the Indian Office asks for this upon the ground that—

The regular administrative work of the various Indian agencies taxes the efforts of those officials to the limit. There have been about 200,000 allotments to Indians on 52 reservations, of which number it is believed that about 40,000 allottees have died leaving undetermined heirs. In order to clear up the tangled condition of the estates of deceased Indians so that the inherited lands may be disposed of to white settlers and so that the money may be available to provide the Indian heirs with funds with which to begin the farming of their own allotments and the building of sanitary homes, it is desirable that this item should be retained in the bill.

Mr. CURTIS. I have no objection to the amendment. I merely wanted to get into the RECORD the information which the Senator from Minnesota has furnished.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 12, after line 15, to insert:

That so much of the provision of the Indian appropriation act of June 7, 1897 (30 Stat. L., pp. 62–90), as limits the amount that may be paid for salaries or compensation to employees regularly employed at any one agency to $10,000 and at a consolidated agency to $15,000 is hereby amended by increasing the amounts to $20,000 and $25,000, respectively.

The amendment was agreed to.

The next amendment was, under the head of "Arizona and New Mexico," on page 13, line 15, before the word "thousand," to strike out "eight" and insert "eleven"; and in line 16, before the word "thousand," to strike out "twenty-seven" and insert "thirty," so as to make the clause read:

For support and education of 700 Indian pupils at the Indian school at Phoenix, Ariz., and for pay of superintendent, $119,400; for general repairs and improvements, $11,000; in all, $130,400.

The amendment was agreed to.

The next amendment was, on page 13, line 20, before the word "thousand," to strike out "three" and insert "five"; and in line 21, before the word "thousand," to strike out "twenty-one" and insert "twenty-three," so as to make the clause read:

For support and education of 100 pupils at the Indian school at Truxton Canyon, Ariz., and for pay of superintendent, $18,200; for general repairs and improvements, $5,000; in all, $23,200.

The amendment was agreed to.

The next amendment was, on page 14, line 3, after the word "dollars," to insert:

Provided, That the proportion of the cost of the irrigation project on the Gila River Indian Reservation heretofore and herein authorized to be paid from the public funds shall be repaid into the Treasury of the United States as and when funds may be available therefor: *Provided further*, That in the event any allottee shall receive a patent in fee to an allotment of land irrigated under this project before the United States shall have been wholly reimbursed as herein provided, then the proportionate cost of the project, to be apportioned equitably by the Secretary of the Interior, shall become a first lien on such allotment, and the fact of such lien shall be recited on the face of each patent in fee issued and the amount of the lien set forth therein, which said lien, however, shall not be enforced so long as the original allottee or his heirs shall own the allotment; and the receipt of the Secretary of the Interior, or of the officer, agent, or employee duly authorized

by him for that purpose, for the payment of the amount assessed against any allotment as herein provided shall, when duly recorded by the recorder of deeds in the county wherein the land is located, operate as a satisfaction of such lien.

So as to read:

For maintenance, including purchase of electricity for irrigation wells already completed, and the completion of the lateral irrigating ditches thereunder in connection with the irrigation of the lands of the Pima Indians in the vicinity of Sacaton, in the Gila River Indian Reservation, $15,000: *Provided*, That the proportion of the cost of the irrigation project on the Gila River Indian Reservation heretofore and herein authorized to be paid from the public funds shall be repaid into the Treasury of the United States as and when funds may be available therefor: *Provided further*, That in the event any allottee shall receive a patent in fee to an allotment of land irrigated under this project before the United States shall have been wholly reimbursed as herein provided, then the proportionate cost of the project, to be apportioned equitably by the Secretary of the Interior, shall become a first lien on such allotment, and the fact of such lien shall be recited on the face of each patent in fee issued and the amount of the lien set forth therein, which said lien, however, shall not be enforced so long as the original allottee or his heirs shall own the allotment; and the receipt of the Secretary of the Interior, or of the officer, agent, or employee duly authorized by him for that purpose, for the payment of the amount assessed against any allotment as herein provided shall, when duly recorded by the recorder of deeds in the county wherein the land is located, operate as a satisfaction of such lien.

Mr. HEYBURN. Mr. President, I should like to ask the Senator in charge of the bill whether or not it is proposed in allotting irrigated lands to the Indians to make the cost of construction a lien upon the lands that may be foreclosed.

Mr. CLAPP. Not so long as they retain the land, but in case they dispose of the land, then it is a lien.

Mr. HEYBURN. Then it is a charge against the value of their lands.

Mr. CLAPP. Certainly.

Mr. HEYBURN. And a limitation on the right of sale.

Mr. CLAPP. Undoubtedly; it does amount, in effect, to a certain limitation.

Mr. HEYBURN. That would seem to me to be a very harsh way of dealing with the Indians. You take their lands, irrigate them, and say to them—and they are citizens of the United States—"you will stay right here, and if you sell these lands or do anything to better your condition in life, then we will foreclose to the extent of the cost of putting water on them." The Indian would rather have the land without the water than to have it subject to so harsh a condition as that. No white man would submit to it for a moment.

I do not know where the idea originated, but, of course, I assume that it did not originate with the acting chairman of the committee. It is probable that a departmental clerk somewhere conceived the idea of making the burden of these Indians more onerous than it is. I would rather see the whole amendment go out of the bill than to see so harsh a burden as that placed upon the Indians. Two years ago and four years ago we had that same question here of seizing a man's land and, as Lord Eldon said, "improving him out of his title." That is what it amounts to. The Indian does not depend upon the market; he depends upon his own necessities for the value of the land, while the white man depends upon the market where he can sell the proceeds of the land.

I do not like to raise a point of order against these matters, but I think, if the Senator in charge of the bill will allow the amendment to go over and give it a little more thought, he will find some way of eliminating that harsh feature from it.

Mr. CLAPP. Mr. President, this plan has been adopted quite generally with reference to Indian reservations, but it has not yet been applied to the Pima Reservation.

Mr. HEYBURN. Mr. President, it has not always been successfully adopted. In the case of the California Indians, some six years ago now, the Senate refused to accede to any such plan. Again, two years ago, when the question was before the Senate, the Senate again refused to recognize it. Now it is brought up again. If they are not doing one thing, they are doing another; if they are not cutting the units down so that the Indian can not possibly sustain himself and those dependent upon him, then they are putting a burden upon the Indian in the way of payment, and they say now, "So long as you and your family and your descendants live here we will not foreclose, but it will be a charge against you and a burden on your property, and if you undertake to exercise the right that ought to belong to you, if you are citizens of the United States, then we will foreclose." We have to keep our eyes on the departments; we have to keep our eyes on that department particularly.

Mr. CLAPP. I suggest that the matter go over for the present.

Mr. HEYBURN. A word before it goes over. These are Indians with whom we have treaty relations. We have entirely lost sight of those relations, and we seem to have reached a point where we think we can be forgetful of the relations that ordinarily exist and take their lands and, as I have said, improve them out of their title.

The PRESIDENT pro tempore. The Chair understands that the Senator from Minnesota asks that the amendment be passed over.

Mr. CLAPP. I suggest that it go over for the present.

Mr. ASHURST. Mr. President——

Mr. CLAPP. I understand the Senator from Arizona desires to say a word on the matter before it is passed over.

Mr. ASHURST. Mr. President, just a word. I appreciate what the distinguished Senator from Idaho [Mr. HEYBURN] has just said. I have the honor to be a member of the Committee on Indian Affairs, and I desire at this time publicly to make expression of my appreciation as a Senator of the faithfulness of that committee in the performance of its duty. That committee labored for nearly three months on this bill. This item was carefully considered, and the reason—if I remember aright—why it was inserted in this way was the committee felt that it would be for the benefit of the Indian. If he had land at that particular place allotted to him and he were permitted to alienate it, speculators could come along and buy his land, he would possibly squander the money received for the sale of the land and again soon become a charge upon the Government, whereas if allowed to retain the title and cultivate his land, the Government for all practical purposes has furnished him with an irrigation project without any charge to him——

Mr. HEYBURN. Mr. President, of course Indians differ in different sections. Now, we are not under the necessity of considering——

Mr. ASHURST. Just permit me a moment, and I will close. I wish, of course, this money could be appropriated without the reimbursement feature. I now yield to the Senator from Idaho.

Mr. HEYBURN. We are not under the necessity of considering the Indian as incompetent to take care of his money. A tribe of Indians in the adjoining county to that in which I live is, if not the first, the second wealthiest organization or body of citizens of the United States. They know how to keep their money in bank; they know how to invest it; and they know how to do business with it probably as well as any body of white men.

Mr. ASHURST. That may be true as to some tribes of Indians.

Mr. HEYBURN. That is true generally of our northern Indians.

The PRESIDENT pro tempore. The amendment will be passed over.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, in the item of appropriation for the maintenance of the Gila Indian Reservation, on page 15, line 12, before the word "thousand," to strike out "ten" and insert "twenty-five," so as to make the proviso read:

Provided, That the Secretary of War be, and he hereby is, directed to convene a board of not less than three engineers of the Army of wide reputation and large experience to make the necessary examinations, borings, and surveys for the purpose of determining the reasonability and practicability of constructing a dam and reservoir at or in the vicinity of the Box Canyon, on the San Carlos Indian Reservation, known as the site of the proposed San Carlos reservoir on the Gila River, Ariz., and the necessary irrigation works in connection therewith to provide for the irrigation of Indian, private, and public lands in the Gila River Valley. Said board of engineers to submit to Congress the results of their examinations and surveys, together with an estimate of cost, with their recommendations thereon at the earliest practicable date. The sum of $25,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of conducting said investigations.

The amendment was agreed to.

The next amendment was, on page 15, after line 15, to strike out:

For the development of a water supply for domestic and stock purposes and for irrigation for nomadic Papago Indians in Pima County, Ariz., to be immediately available, $5,000.

The amendment was agreed to.

The next amendment was, on page 15, after line 19, to insert:

To enable the Secretary of the Interior to investigate the possibility of enlarging the irrigation system for the protection and irrigation of the Indian lands on the Papago Indian Reservation, Ariz., and report thereon to Congress at the beginning of its next session, $5,000.

The amendment was agreed to.

The next amendment was, on page 16, after line 8, to insert:

For the purpose of enabling the Secretary of the Interior to carry into effect the provisions of the sixth article of the treaty of June 8, 1868, between the United States and the Navajo Nation or Tribe of Indians, proclaimed August 12, 1868, whereby the United States agrees to provide school facilities for the children of the Navajo Tribe of Indians, the sum of $250,000, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury not otherwise appropriated. In carrying out the authority hereby conferred the said Secre-

tary may expend said funds, in his discretion, in establishing day schools or other industrial schools, tribal habits and climatic conditions being considered, suitable for the education of said Indians.

The amendment was agreed to.

The next amendment was, on page 16, after line 23, to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to make an investigation of the conditions on the White Mountain, or San Carlos, Indian Reservation, in the State of Arizona, with respect to the necessity of constructing suitable steel and concrete wagon bridges, with approaches thereto, across the San Carlos Creek and the Gila River, in the vicinity of San Carlos, on said reservation, and also to cause surveys, plans, and reports to be made, together with an estimated limit of the cost for the construction of said bridges, at such sites as he may select, and submit his report thereon to Congress on the first Monday in December, 1912; and the sum of $2,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes herein authorized.

Mr. CURTIS. Mr. President, I make the point of order that that amendment proposes general legislation and that the amount proposed to be appropriated is not estimated for.

Mr. ASHURST. Mr. President, I realize that the point of order made by the distinguished Senator from Kansas [Mr. CURTIS] may be dangerous to this appropriation of $2,000. Far be it from me to seek, for any purpose whatever, any strained ruling or strained construction of any rule which would give to Arizona or to any other State money to be expended within a State contrary to our rules. My remarks, therefore, will be directed more to the Senator from Kansas than to the Senate, if I may be permitted to so address him, in order to induce him to withdraw the point of order.

Mr. President, the necessity for this bridge at the point described in the amendment offered by the Senate committee is so great that my duty requires I should say a word here in its behalf.

The first main tributary of the Gila River is the San Francisco River, which comes into the Gila at or near Clifton. At the town of Duncan, about 20 miles above Clifton, in Arizona, the river begins to assume considerable proportions. The next important tributary is the San Carlos, which flows into the Gila River on the San Carlos Indian Reservation. These streams—that is, the Gila River and the San Carlos—are torrential rather than perennial. At times the Gila River would float a battleship, and during such periods of high water all traffic is suspended, farming lands are destroyed, and the commerce of that part of the country is wholly and completely suspended by reason of the raging and turbulent waters.

It was my intention, when I came to this distinguished body, to ask for a direct appropriation of $100,000 for the purpose of constructing a bridge there. After serving here for a few weeks, I learned that it would be impossible to secure such appropriation just now. Therefore this amendment has been reported by the committee. It simply authorizes the Secretary of the Interior to investigate the situation, and if, in his opinion, when he makes his report to the next Congress, the bridge should be built there an appropriation may be secured.

I earnestly hope the Senator will withdraw his point of order. I desire at this time to say that this proposed bridge is favored by the department, and I request to have read at the desk the letter in which the department states that this bridge should be built. The department has no objection to it.

With the permission of the Senate, I will ask that that letter be read now.

The PRESIDENT pro tempore. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

[Land contracts, 36118, 1911; 13579, 1912. R. J. H. Proposed bridges.]

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 2, 1912.

MR. ABRAHAM L. LAWSHE,
Superintendent San Carlos School.

SIR: Referring to your letter of February 6, 1912, regarding proposed bridges across the Gila and San Carlos Rivers, there is inclosed for your information a copy of departmental report of March 25, 1912, to the chairman of the Committee on Interstate and Foreign Commerce, House of Representatives, on the subject.

Respectfully,
H. ABBOTT,
Assistant Commissioner.

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[I–21497. Land contracts, 16794, 1911; 13579, 1912. R. J. H. H. R. 1682.]

MARCH 25, 1912.

Hon. W. C. ADAMSON,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

SIR: I have the honor to invite your attention to departmental letter of May 12, 1911, reporting on H. R. 1682, the purpose of which is "to authorize the Secretary of the Interior to construct bridges across the San Carlos and Gila Rivers on the White Mountain or San Carlos Indian Reservation, in the Territory of Arizona, and for other purposes."

Section 2 of the bill authorizes the Secretary of the Interior to select the most available sites for such purpose at points on said rivers "not to exceed 3 miles above the confluence."

In its letter of May 12, the department referred to the fact that there were pending certain applications involving the San Carlos reservoir site, and that if application to construct a dam were granted, the banks of both the Gila and San Carlos Rivers would be submerged to points in excess of 3 miles above the confluence.

In connection with this case there is inclosed a copy of a report dated February 6, 1912, from the superintendent in charge of the San Carlos Reservation, who thinks it would be entirely feasible to construct bridges within 3 miles of the confluence of the two rivers, as the shallowness of the water would make such construction easily possible. The department would be much pleased to see the proposed legislation enacted into law, and an appropriation made available for constructing the bridges which would be an important factor in the development of that section of the country. It seems that the citizens of Arizona are making special efforts to construct good roads and to open up a transcontinental highway of which the proposed bridges would be a part.

While the superintendent's letter of February 6 indicates that in all probability bridges could easily be constructed within the 3 miles of the confluence of the rivers, yet to obviate the contingency of having the proposed improvements defeated by reason of circumstances which would make it impossible to construct at sites within the limit named in the bill, the department respectfully suggests that the bill be amended by striking out in lines 12 and 13 of page 1 the words "not to exceed 3 miles above the confluence of said rivers."

If the bill be so amended, the department respectfully suggests that it be favorably considered and reported.

Respectfully,
SAMUEL ADAMS,
First Assistant Secretary.

Mr. ASHURST. Mr. President, it is true that not all of the letter is pertinent to this particular amendment, but I had it all read in order that it might not go in the RECORD in a fragmentary or broken condition.

That is all I wish to say at this time.

Mr. HEYBURN. Mr. President, I will ask the Senator to designate the lines where this amendment is found.

Mr. ASHURST. The amendment commences on page 16, line 24, and extends down to and includes line 13, on page 17. The amendment offered by the committee simply calls for an appropriation of $2,000 in order that the Secretary of the Interior may make an estimate as to the necessity for a bridge there.

Mr. HEYBURN. This is on an Indian reservation?

Mr. ASHURST. It is, sir.

Mr. HEYBURN. And on a navigable river?

Mr. ASHURST. At times the river assumes the proportions of a navigable river.

Mr. HEYBURN. Not practically navigable?

Mr. ASHURST. No.

Mr. CURTIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from Kansas?

Mr. ASHURST. Most certainly I yield.

Mr. CURTIS. The letter that has been read, of course, is not an estimate, and can not be so construed. There are quite a number of bridge items in the bill. If this one is agreed to, all the others should be agreed to. I judge from the letter that the bridge is needed, and, so far as I am concerned, I have no objection to building bridges where they are needed. I think, however, the Government is going too extensively into the building of bridges on reservations that are likely to be soon opened to settlement; but I withdraw the point of order.

The PRESIDENT pro tempore. The point of order is withdrawn, and, without objection, the amendment is agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, on page 17, after line 13, to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to make an investigation of the conditions on the Yuma Indian Reservation, in the State of California, with respect to the necessity of constructing a suitable thoroughfare bridge of sufficient strength and capacity to safely carry street cars, in addition to foot and wagon traffic, over and across the Colorado River, connecting Fort Yuma, on the Yuma Indian Reservation, Imperial County, State of California, with the town of Yuma, State of Arizona, and also to cause surveys, plans, and reports to be made, together with an estimated limit of the cost for the construction of said bridge, at such a site as he may select, and submit his report thereon to Congress on the first Monday in December, 1912; and the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose herein authorized.

Mr. CURTIS. Mr. President, I make the point of order against that amendment. I should like to ask the Senator, if the Chair will permit the inquiry before ruling upon the point of order, whether that bridge, if constructed, will be wholly within an Indian reservation?

Mr. ASHURST. A frank reply, which of course is always given by a Senator, requires me to say that it will not be wholly within an Indian reservation.

Mr. CURTIS. Then, Mr. President, I insist upon the point of order.

Mr. ASHURST. Before the ruling I should like to say a few words if, under the rule, I may be permitted to do so. Appreciating very much the withdrawal of the other point of order, I insist most strenuously—respectfully, of course—that the point of order against this amendment also be withheld for the following reasons: The great Colorado River is anomalous in

America. It has no parallel on this hemisphere; it has a parallel only in one place, and that is in Africa—the Nile. The Colorado River is very long; it flows some 1,700 miles without being spanned by a wagon bridge. Like the Nile, it flows a thousand miles without a tributary. Like the Nile, it rises in June and spreads out for a number of miles on either side of its banks and irrigates alluvial soil which is so rich that it could be transported to Canada and used for fertilizing purposes if it were not for the prohibitive freight rates. At high water means of communication between the two banks are almost completely shut off.

It has been determined by the unanimous voice of the great Southwest, which includes southern California and the States of Arizona and New Mexico, that at this advanced stage of civilization, in this morning of the twentieth century, at this time when the ingenuity of man is making such progress in means and ways which make for the facility of transportation, it is almost a reproach to civilization that there is no wagon or automobile bridge across that great river.

Not long since, the President of the United States sent a message to Congress asking an appropriation of a million or more dollars in order that the banks on either side of the river might be revetted and riprapping built to protect the farms on both sides of the river from the raging overflow. The Colorado River almost defies, if a river could defy, the very law of nature. At one time of the year it chooses a particular course or channel; and at another time of the year, or possibly another year, it chooses another place whither it shall go. On the Arizona side of the river, which would be the eastern abutment of the proposed bridge, is the prosperous city of Yuma, a marvel of industry and progress. Directly across the river, on the California side, is the Indian reservation. Many Indians—and they are strong swimmers—have been drowned there even when the river was at low water, for the reason that it is very heavily charged and impregnated with silt, and even the strongest swimmer is in danger. But consider that river in a raging, turbulent condition, such as the press dispatches announce it has been in for the last few weeks, and the necessity for a wagon bridge across it becomes apparent.

It may be, and it doubtless is, that this amendment proposed by the committee is obnoxious to the rule of the Senate. If it be obnoxious, I most respectfully insist, with all the earnestness at my command, that such a rule ought to be abrogated, because we ought not to have a rule which will stand in the way of the requirements of advancing civilization. I am very sorry if the rule does prevent the appropriation of a thousand dollars in order that an investigation may be made by the Secretary of the Interior to ascertain the suitability or the necessity of a bridge at that point.

Mr. CURTIS. I insist on the point of order.

The PRESIDENT pro tempore. On what ground does the Senator raise the objection?

Mr. CURTIS. It is general legislation, and the item was not estimated for by the department.

The PRESIDENT pro tempore. The Chair is constrained to sustain the point of order made by the Senator from Kansas.

Mr. ASHURST. Mr. President, of course I accept the ruling of the Chair.

The PRESIDENT pro tempore. The Chair will state to the Senator that he did not understand the Senator to contest the ruling. The Chair was ready to give full weight to any suggestion the Senator might make on the other side of the matter.

Mr. ASHURST. The Chair ruled correctly.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 18, after line 6, to insert:

For salary due Clarence I. Stacy, supervisor of ditches, Pima Indian Reservation, Ariz., from April 8, 1911, to October 25, 1911, at $1,200 per annum, $660.

Mr. CURTIS. Mr. President, I make the point of order against that item, because it was not estimated for. But surely there must be some reason for the committee having put it in, and I will ask the acting chairman of the committee if he will explain why that and the next item were put in this bill?

Mr. CLAPP. Mr. President, these items were inserted for the reason that some time ago there was trouble down there—I do not know the details of it nor would they be material—and these two employees were suspended pending an investigation or examination. The result of the investigation was that they were reinstated, but the comptroller held that he could not allow their pay for this time in view of the fact that they had been formally suspended. Consequently there is no way in which they can get their pay except by a direct appropriation. I trust the Senator will withhold his point of order.

Mr. CURTIS. I withdraw the point of order, Mr. President.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 18, after line 11, to insert:

For salary due N. D. Brayton as physician on the Pima Indian Reservation, Ariz., from April 7, 1911, to November 14, 1911, inclusive, at the rate of $1,200 a year, $726.67.

The amendment was agreed to.

The next amendment was, on page 18, after line 17, to insert:

For constructing dike to protect allotments on the Fort Mojave Indian Reservation, $33,000.

Mr. CURTIS. Mr. President, I desire to make the point of order that that was not estimated for, and to ask the acting chairman of the committee whether that item was inserted at the request of the department?

Mr. ASHURST. It was estimated for.

Mr. CLAPP. Yes, sir; it was estimated for, as the record shows.

Mr. CURTIS. Then I withdraw my point of order.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 18, after line 19, to insert:

For continuing the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Ariz., as provided in the act of April 4, 1910 (36 Stat. L., p. 273), for the purpose of securing an appropriation of water for the irrigation of approximately 150,000 acres of land and for maintaining and operating the pumping plant, $35,000, reimbursable as provided in said act. (Act of Apr. 4, 1910, vol. 36, p. 273, sec. 3.)

The amendment was agreed to.

The next amendment was, under the head of "California," on page 19, line 19, before the word "thousand," to strike out "ten" and insert "twenty-three," and in line 20, before the word "thousand," to strike out "one hundred and four" and insert "one hundred and seventeen," so as to make the clause read:

For support and education of 550 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay of superintendent, $94,350; for general repairs and improvements, $23,000; in all, $117,350.

The amendment was agreed to.

The next amendment was, on page 19, line 25, before the word "thousand," to strike out "eighteen" and insert "one hundred," so as to make the clause read:

For the balance of the first annual reclamation and maintenance charge on Yuma allotments and for the second and third annual charge and maintenance $100,000, or so much thereof as may be required, to be reimbursed from the sale of surplus lands or from other funds that may be available, in accordance with the provisions of the act of March 3, 1911.

The amendment was agreed to.

The next amendment was, under the head of "Idaho," on page 21, after line 4, to insert:

To reimburse Peter Moctelmy, a member of the Coeur d'Alene Tribe of Indians, for damages sustained by him because of the sale by the United States to the State of Idaho of land for a State park on a portion of which the said Peter Moctelmy made his home, $500.

The amendment was agreed to.

The next amendment was, under the head of "Kansas," on page 21, line 21, before the word "thousand," to strike out "one hundred and twenty-seven" and insert "one hundred and twenty-nine"; in line 22, before the word "thousand," to strike out "ten" and insert "eleven," and in line 23, before the word "thousand," to strike out "one hundred and thirty-seven" and insert "one hundred and forty," so as to make the clause read:

For support and education of 750 Indian pupils at the Indian school, Haskell Institute, Lawrence, Kans., and for pay of superintendent, $129,750; for general repairs and improvements, $11,000; in all, $140,750.

The amendment was agreed to.

The next amendment was, on page 22, line 5, before the word "dollars," to strike out "three thousand" and insert "five thousand five hundred," and in line 7, before the word "dollars," to strike out "seventeen thousand eight hundred and sixty" and insert "twenty thousand three hundred and sixty," so as to make the clause read:

For support and education of 80 Indian pupils at the Indian school, Kickapoo Reservation, Kans., and for pay of superintendent, $14,860; for general repairs and improvements, $5,500; in all, $20,360.

The amendment was agreed to.

The next amendment was, under the head of "Michigan," on page 22, after line 22, to insert:

That the sum of $116.37 be, and the same is hereby, reappropriated for the purpose of paying the claim of John E. Meyer, of Shepherd, Mich., for the balance due him on construction of certain wells at the Mount Pleasant Indian School, located at Mount Pleasant, Mich., in the years 1901 and 1902, the appropriation out of which such balance should have been paid having heretofore lapsed.

Mr. CURTIS. Mr. President, I do not like to make a point of order against that item, but it sounds to me like a claim. I wish the acting chairman of the committee would explain why the item was put in here without an estimate.

Mr. CLAPP. In one sense, of course, it is a claim, although not in the ordinary sense of the word. This man entered into a contract to sink a well. He made three attempts, and the third attempt was successful. The department, after reviewing the case, recommends, in view of all the circumstances, that this amount be paid him.

The PRESIDING OFFICER (Mr. CHAMBERLAIN in the chair). The question is on the adoption of the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, under the head of "Minnesota," on page 23, line 12, before the word "thousand," to strike out "four" and insert "five"; in line 16, after the word "sheds," to insert "for the construction of a drain from the head of Pipestone Falls east in the bed of the creek to a point where it turns south, from thence east to the section line, $1,500"; and, in line 20, before the word "hundred," to strike out "forty-three thousand six" and insert "forty-six thousand one," so as to make the clause read:

For support and education of 225 Indian pupils at the Indian school, Pipestone, Minn., and for pay of superintendent, $39,175; for general repairs and improvements, $5,500, $1,500 of which shall be used for the installation of an electric lighting system and $500 of which shall be used for the construction of coal sheds; for the construction of a drain from the head of Pipestone Falls east in the bed of the creek to a point where it turns south, from thence east to the section line, $1,500; in all, $46,175.

The amendment was agreed to.

The next amendment was, on page 24, after line 19, to insert:

That there is hereby appropriated the sum of $700 in addition to the $1,000 heretofore appropriated for the construction of a bridge across Clearwater River on the Red Lake Indian Reservation in the State of Minnesota.

Mr. CURTIS. Mr. President, I make the point of order on that amendment, but I would like to ask if the bridge is wholly within an Indian reservation? If so, I shall withdraw the point.

Mr. CLAPP. It is on the reservation. The appropriation of $1,000 was made a year ago, and it was found that it was not sufficient, so that the committee inserted an item carrying the additional $700.

Mr. CURTIS. I withdraw the point of order.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, at the top of page 25, to insert:

That there is hereby appropriated, out of any funds in the possession of the United States and belonging to the Chippewa Indians in the State of Minnesota not otherwise appropriated, the sum of $100,000, of which $85,000 shall be used to procure a site or sites and thereon to construct, furnish, and equip a building or buildings to be used as a hospital or hospitals as hereinafter directed; and of which $15,000 shall be used for the operation and maintenance of the said hospital during the 12 months next after its completion.

Mr. CURTIS. Mr. President, to save the time of reading, I should like to make a point of order against the amendments commencing at the top of page 25 and ending on page 28, line 9.

Mr. CLAPP. Mr. President, I must concede that the point is well taken. In view of that, I do not see any necessity of taking the time of the Senate with the full reading. Of course, I should like to have the items in the bill, but they are undoubtedly subject to the point of order.

The PRESIDING OFFICER. The point of order is sustained.

The remaining amendments ruled out on the point of order were on page 25, after line 10, to insert:

That the said hospital or hospitals shall be called the Minnesota Chippewa Hospital and shall be open to all Chippewa Indians in the State of Minnesota who can qualify for admission as hereinafter provided. It shall be under the control and government of a board of directors, who shall be called the board of governors of the Minnesota Chippewa Hospital. Said board shall consist of three members, one of whom shall be the Secretary of the State Board of Health of Minnesota, who shall be ex-officio chairman of said board of governors, and two of whom shall serve for a term of five years, one to be appointed by the Secretary of the Interior and one to be chosen by the Chippewa Indians in the State of Minnesota.

The representative of the Indians on said board shall be selected by a council of the Indians to meet at White Earth, Minn., consisting of delegates from the several bands of Chippewa Indians in Minnesota, each band being entitled to 1 delegate for each 100 members or major fraction thereof. The said board of governors shall meet at the hospital as occasion requires and at least once every two months. As compensation the said governors shall receive $3 per day while attending meetings of the board and their actual and necessary traveling expenses within the State of Minnesota.

That immediately upon the approval of this act and the selection of the board of governors, or a majority thereof, the said board shall proceed to acquire a suitable site in the State of Minnesota and thereon construct, furnish, and equip the said hospital. The title of the said site or sites shall be taken in the name of the Board of Governors of the Minnesota Chippewa Hospital as trustees for the Chippewa Indians in the State of Minnesota. One part or building of said hospital shall be adapted for and devoted to the care of patients afflicted with tuberculosis; one part or building shall be adapted for and devoted to the care of patients afflicted with contagious or infectious diseases; one part or building shall be adapted for and devoted to the care of patients suffering from old age, debility, or other bodily infirmities. Said board of governors shall also immediately appoint one physician, without regard to civil-service rules or requirements, who shall be regularly qualified to practice in the State of Minnesota, who shall receive a salary not exceeding $3,500 per annum, and who shall be selected without regard to civil-service rules. The said physician shall give his entire time, from the date of appointment, to the said hospital, first in its construction and later in its operation. He shall be the attending physician and known as the superintendent.

That admission to the said hospital shall be upon the order of a majority of the board of governors, save in emergency cases admission may be on the order of the superintendent, subject to approval by the board at its next meeting. Only the following, who are also Chippewa Indians in the State of Minnesota, shall be entitled to admission for care and treatment.

Indians afflicted with tuberculosis or some contagious, infectious, or fatal diseases.

Indians who by reason of age or bodily infirmities are unable to earn a livelihood and who have not means with which to procure necessaries.

Applications may be made by anyone in person or by others on behalf of such person, which application shall set forth the facts of the case, and be accompanied by a certificate setting forth the merits of the case signed by a physician. Discharge from the hospital shall be by order of the board of governors.

That the said board of governors shall appoint such hospital attendants as may be needed in the operation of said hospital and make such rules and regulations and perform such other acts as may be appropriate or necessary in said operation and not inconsistent with the provisions of this act.

This appropriation shall be immediately available and all moneys drawn hereunder shall be drawn from the Treasury of the United States upon vouchers signed by the chairman of said board of governors.

The next amendment was, under the head of "Montana," on page 28, line 13, before the word "thousand," to strike out "fifteen" and insert "twenty-five," so as to make the clause read:

For support and civilization of the Indians at Fort Belknap Agency, Mont., including pay of employees, $25,000.

The amendment was agreed to.

The next amendment was, on page 29, line 5, before the word "hundred," to strike out "two" and insert "four," so as to read:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $400,000.

Mr. CURTIS. Mr. President, I hope that amendment will not be agreed to. The estimate was only $250,000. It seems to me that without an estimate or a statement from the department, that that amount of money is needed, it is too large an increase to make to go from $200,000 to $400,000. I, for one, would have no objection to the department being given what they estimated—$250,000—but I hope the amendment making the amount $400,000 will be disagreed to.

Mr. McCUMBER. Mr. President, before that is disagreed to I should like to have the report read in reference to that particular section. I am assuming that there is a report on it, and that the reason is given for the additional amount.

Mr. CURTIS. If the Senator from North Dakota desires, I will read the paragraph of the report relating to this item:

The amendment on page 28, line 10, increasing the appropriation for the construction of the irrigation system on the Flathead Indian Reservation from $200,000 to $400,000, $50,000 to be made available, and striking out lines 13 to 16 of said item, was reported on favorably by the department under date of April 4, 1912. The department is of the opinion that it is more economical to expend larger sums during shorter periods so as to complete the project at the earliest date practicable. Overhead charges on large projects remain about the same, whether the amount expended be large or small. The department is also of the opinion that the work should not be limited to any particular unit, as that would cause discontent among Indians on other units within the reservation.

Mr. McCUMBER. I think there was some testimony before the committee on that particular question.

Mr. CLAPP. There was.

Mr. McCUMBER. If I remember rightly, the purport of the testimony was in effect that it would be a considerable saving to the Government to appropriate the necessary amount now and to continue and complete the work as soon as possible; and it was necessary to appropriate the full amount in order that we might have a completion and save the work that had already been done on the project. I confess that I am not entirely clear as to what the testimony was on that line, but I think it justified the committee in asking that the sum be added at the present time as proposed.

Mr. CLAPP. The statement of the Senator from North Dakota is practically the evidence we had before the committee and the same consideration applies to some other items. The Indian Office was of the opinion that it would result in an economy in the end to have the appropriation made now instead of stringing it out at later periods.

Mr. CURTIS. In view of the fact that the Montana Senators are absent, I suggest that we pass over the Montana amendments and take them all up at one time. I understand there are other amendments in the bill to be passed over, and I presume there will be no objection to this course.

Mr. CLAPP. There is no objection to it.

The PRESIDING OFFICER. If there is no objection, the amendments under the heading "Montana" will be passed over for the present.

The next amendment, after those passed over, was, under the head of "Nebraska," on page 34, line 5, before the word "thousand," to strike out "three" and insert "six," and in line 10, before the word "thousand," to strike out "sixty-five" and insert "sixty-eight," so as to make the clause read:

For support and education of 300 Indian pupils at the Indian school at Genoa, Nebr., and for pay of superintendent, $52,100; for general repairs and improvements, $6,000; to complete the construction of two dormitories provided for in the Indian appropriation act of March 3, 1911, $10,000, or so much thereof as may be necessary, to be immediately available; in all, $68,100.

The amendment was agreed to.

The next amendment was, on page 34, after line 10, to insert:

For construction of septic tank on sewer main at the Indian school at Genoa, Nebr., $1,500.

The amendment was agreed to.

The next amendment was, on page 34, after line 13, to insert:

For cottage for superintendent of Indian school at Genoa, Nebr., $4,000.

The amendment was agreed to.

The next amendment was, on page 34, after line 15, to insert:

For additions to hospital and office at the Genoa Indian School, Genoa, Nebr., $3,500.

The amendment was agreed to.

The next amendment was, on page 34, after line 18, to insert:

That jurisdiction be, and hereby is, conferred upon the Court of Claims of the United States to hear, determine, and render final judgment for any balance found due the Medawakanton and Wahpakoota Bands of Sioux Indians, otherwise known as Santee Sioux Indians, with right of appeal as in other cases, for any annuities which may be due to said bands of Indians under and by virtue of the treaties between said bands of Indians and the United States, dated September 29, 1837 (7 Stat. L., 538), and August 5, 1851 (10 Stat. L., 954), as if the act of forfeiture of the annuities of said bands, approved February 16, 1863, had not been passed: *Provided*, That the court, in rendering judgment, shall ascertain and include therein the amount of accrued annuities under the treaty of September 29, 1837, up to the date of the passage of this act and shall determine and include the present value of the same, not including interest, and the capital sum of said annuity, which shall be in lieu of said perpetual annuity granted in said treaty; and to ascertain and set off against any amount found due under said treaties all moneys paid to said Indians or expended for their benefit by the Government of the United States since the treaties were abrogated by the act of 1863, except such amounts as have been paid them under the treaty of 1868 or for an otherwise adequate consideration.

That upon the rendition of such judgment, and in conformity therewith, the Secretary of the Interior is hereby directed to determine which of said Indians now living took part in said outbreak, and to prepare a roll of the persons entitled to share in said judgment by placing on said roll the names of all living members of the said bands residing in the United States at the time of the passage of this act, excluding therefrom the names of those found to have participated in the outbreak; and he is directed to distribute the proceeds of such judgment, except as hereinafter provided, per capita, to the persons borne on the said roll.

Proceedings shall be commenced by petition verified by one of the attorneys who have been heretofore or may be hereafter employed by said bands of Indians to prosecute their claims under this act under a contract which has been approved or which shall hereafter be approved by the Commissioner of Indian Affairs and the Secretary of the Interior as provided by law, upon information and belief as to the existence of the facts stated in said petition, and no other verification shall be necessary. Upon final determination of the cause the Court of Claims shall decree such fees as the court shall find to be reasonable upon a quantum meruit for services performed or to be performed to be paid to the attorney or attorneys so employed by the said bands of Indians and their associates, and the same shall be paid out of the balance found to be due said bands of Indians when an appropriation therefor shall have been made by Congress: *Provided*, That in no case shall the fees decreed by the court amount in the aggregate to more than 10 per cent of the amount of the judgment recovered, and in no event shall the aggregate amount exceed $25,000: *Provided further*, That the court shall by its decree distribute such fees equitably between the attorneys who have been or may hereatfer be employed by said bands of Indians in said cause.

Mr. CURTIS. I make the point of order against the amendment beginning on line 17, page 34, and ending line 5, page 37. It is general legislation and subject to a point of order under Rule XVI.

Mr. McCUMBER. I wish to suggest that this is a provision, as I understand it, to carry out a treaty stipulation, and if it is to carry out a treaty stipulation it removes it from the operation of the rule relating to general legislation.

Mr. CURTIS. This identical question has been raised upon two different occasions on amendments similar to this, and each time the point of order was sustained on the ground that it was general legislation. If the Senator desires, I can get those authorities.

The PRESIDING OFFICER. The Chair is inclined to believe that if it is to carry out a treaty stipulation, as suggested by the Senator from North Dakota, the point of order is not well taken under Rule XVI.

Mr. CURTIS. Mr. President, this is simply a claim against the Government. It repeals a law which was passed, as I recollect it, in 1863, which repealed the treaty and took away from these Indians their rights to annuities and other rights under the treaty. That treaty was done away with in 1863; the right was taken away; and now by this bill it is proposed to give these Indians an opportunity to go into court to have their rights reestablished. It virtually repeals the act of 1863.

Furthermore, on page 36, line 8, it provides for the employment of attorneys which is not provided for in any treaty with any Indians, and it provides for fixing the fees of the attorneys, which are not provided for in any treaty with the Indians. As I said before, this same question was raised on an identical claim upon two former occasions in the Senate, and the point of order was sustained.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from North Dakota?

Mr. CURTIS. Certainly.

Mr. McCUMBER. I think the Senator is a little in error about the amendment repealing any other law. This case grew out of the Indian massacre in Minnesota in 1862. Prior to that time a treaty had been entered into between the United States and the Wahpeton and Sisseton Bands of Sioux Indians. Under that agreement, as I now recall it, certain annuities were to be paid to those Indians. A provision was contained in the treaty requiring the Indians as a nation to keep peace with the United States, and, I think, with a provision in it for the abrogation of the annuity in case the tribe as a nation did not maintain peace with the United States.

In 1862, while the Civil War was in progress, a certain number of the Wahpeton and Sisseton Bands of Indians and of the bands mentioned here committed heinous depredations upon white settlers. The President of the United States then, as I remember, by an order, abrogated the treaty, and it was not done by a legislative act. I stand ready to be corrected in that respect if I am in error.

Mr. CURTIS. The amendment itself says:

With right of appeal as in other cases, for any annuities which may be due to said bands of Indians under and by virtue of the treaties between said bands of Indians and the United States, dated September 29, 1837 (7 Stat. L., 538), and August 5, 1851 (10 Stat. L., 954), as if the act of forfeiture of the annuities of said bands approved February 16, 1863, had not been passed.

In other words, this act repeals the act of 1863.

Mr. McCUMBER. Let us suppose that that is all true and that an act was passed repealing another act. The original act was a treaty. The treaty was a contract between the Government of the United States and the Sioux Nation of Indians. The treaty took certain lands of the Indians and in consideration agreed to pay them certain annuities for a given number of years. There was a contract fully executed upon the part of the Sioux Nation and the United States. The Sioux Nation relinquished its claim to a very large section of the country. The annuities fell due. The annuities were paid for a given number of years. They were paid until this uprising by a number of the bands. Then the question arose, and it was the only question, whether or not the act of the depredators was an act by the nation. Congress, acting rather hurriedly, and influenced undoubtedly by the atrocities of the Indians in that massacre, passed the act referred to, which abrogated the treaty.

Now, Mr. President, after these many years and the blood of the nation is allowed to cool, I think the country generally concedes that we were hasty and unjust in punishing the entire Sioux Nation for the acts of some of their followers who could not be controlled by the old leaders of the nation.

Therefore, the treaty itself in all moral law still exists, and the question before us is whether we shall, notwithstanding this abrogation, fulfill the treaty stipulation. It is based upon a treaty; it is to carry out the terms of a treaty; and the fact that we may have been hasty in passing a law abrogating that treaty would not take it without the rule.

Mr. CURTIS. I desire to call the attention of the Chair to the point that was raised in the Fifty-fourth Congress, second session.

On motion by Mr. Allen to further amend the same bill by inserting, after line 6, page 34—

And if the Chair will read the amendment he will see that the amendments are almost identical—

That the Santee Sioux Indians of Nebraska and the Flandreau Sioux of South Dakota, formerly known as and being a confederacy of the Medawakanton and Wapakoota Sioux Indians, be, and they are hereby,

restored to all rights, privileges, and benefits they and their ancestors had and enjoyed under the treaty entered into September 29, 1837, at the city of Washington, in the District of Columbia, between Joel R. Poinsett, on behalf of the Government of the United States, and the Medawakanton Sioux Indians, by certain of their chief men, proclaimed June 15, 1838, and the treaty entered into between the United States, through Luke Lea and Alexander Ramsey, as commissioners, and the Medawakanton and Wapakoota Sioux Indians, by certain of their chief men and proclaimed by Millard Fillmore as President of the United States, August 5, 1851, and all treaties and acts of Congress supplementary thereto and amending thereto, etc.

Mr. Allison raised a question or order, viz: That the amendment proposed general legislation to a general appropriation bill and was not in order under clause 3, Rule XVI.

The Presiding Officer (Mr. Faulkner in the chair) sustained the point or order.

In another Congress the same amendment was offered and the point of order was again sustained, because it repealed the act of 1863, which took away from the Indians all their right under former treaties. The courts have held that a treaty with the Indians is nothing more than an act of Congress and it may be repealed and it was repealed by the act of 1863.

Mr. CLAPP. Mr. President, it is true that the decisions referred to have been made, but the more one studies these acts the more he is inclined to think, with due deference to the presiding officers at the time, that the decisions were not correct. It is also true that Congress arbitrarily, in 1863, did pass an act purporting to forfeit the rights under a treaty between the Government and the Indians. The courts have gone a long way toward holding that the United States Government can contract with an Indian, the Indian in the Constitution of the United States being recognized as competent to make contracts, because it is one of the functions of Congress to deal with foreign nations and Indian tribes; but the fact remains that without any act on the part of the Indians as a tribe consenting to the act of Congress of 1863 Congress passed that act.

Now, the outbreak of 1862 was perhaps one of the most atrocious in the history of this country, but the evidence was so overwhelming and the sense of gratitude to a part of those Indians who, against the rashness of the younger members of the band, protested and opposed the massacre, and the outbreak of the Indians was so recognized, that almost 20 years ago an illustrious predecessor of mine, Senator Davis, on the floor of the Senate demonstrated the injustice of the act of 1863. That act was born of the passions that were engendered by that outbreak.

This measure is not in the nature of creating a claim. It is simply for the purpose of ascertaining what the value of those annuities thus sought to be forfeited by the act of 1863 amounted to. Those annuities were due and they are due to-day under the terms of that treaty.

The only difference between this amendment and an amendment appropriating the money for the annuities is that instead of Congress seeking without any further instrumentalities than they had an ascertainment of the value of the annuities it is proposed to send the matter to the court that the court may investigate the value of the annuities. The fact that it provides for procedure in court is none the less carrying out the terms of the agreement, because we ourselves have abandoned the other process of carrying out the terms of those treaties, which would be for Congress to directly appropriate the money.

That is all I care to say upon the subject. As I said, it engendered a great deal of passion at the time. The outbreak was one of the most diabolical ever known. Yet the people who had been part and parcel of those who suffered so recognized the debt that they owed some of these Indians who opposed the outbreak that 20 years ago, when the feeling had far less died out than it is to-day—and it took time for it to die out—the then senior Senator from that State not only urged this provision, but demonstrated the justice of settling the matter in some way, and surely no more just way can be found than to let the Court of Claims ascertain the value of the annuities.

The PRESIDING OFFICER. It seems to the Chair that the amendment simply proposes to transfer to the courts the right to determine whether or not there are any annuities due under the treaty. The court can in that same proceeding determine whether the treaty provision has been repealed, as insisted by the Senator from Kansas. If it sustains the repeal there can be no claim and there would be no adjudication or determination.

Mr. CURTIS. But, Mr. President, the provision of the bill provides in so many words that that decision shall be made regardless of the act of Congress repealing the former treaty.

Mr. CLAPP. Yes; that is true, Mr. President. I would not have the occupant of the chair labor under a false impression as to the terms of the amendment. It provides that the court shall entertain the case and act upon it "as if the act of forfeiture of the annuities of said bands, approved February 16, 1863, had not been passed."

The PRESIDING OFFICER. In other words, does the Senator think the amendment reinstates the act that was repealed?

Mr. CLAPP. It would amount to a legislative declaration that that act ought not to stand.

The PRESIDING OFFICER. In view of that situation, the Chair thinks the point of order is well taken. The Chair had not an opportunity to read the amendment, and supposed that it adjudicated the rights of the parties under the treaty if valid, and not to reinstate a treaty that had been repealed. Then it is not an appropriation made in pursuance of any treaty. The point of order is, therefore, sustained.

The next amendment was, under the head of "New Mexico," on page 37, line 20, before the word "thousand," to strike out "five" and insert "six"; in the same line, after the word "dollars," to insert "for addition to girls' dormitory, including heating plant, $10,000"; and in line 22, before the word "thousand," to strike out "fifty-six" and insert "sixty-seven," so as to make the clause read:

For support and education of 300 Indian pupils at the Indian school at Albuquerque, N. Mex., and for pay of superintendent, $51,900; for general repairs and improvements, $6,000; for addition to girls' dormitory, including heating plant, $10,000; in all, $67,900.

The amendment was agreed to.

The next amendment was, on page 38, line 1, before the word "thousand," to strike out "three" and insert "six," and in line 3, before the word "thousand," to strike out "fifty-six" and insert "fifty-nine," so as to make the clause read:

For support and education of 300 Indian pupils at the Indian school at Santa Fe, N. Mex., and for pay of superintendent, $51,900; for general repairs and improvements, $6,000; for water supply, $1,600; in all, $59,500.

The amendment was agreed to.

The next amendment was, on page 38, after line 4, to strike out:

The Secretary of the Interior is hereby authorized and directed to make an investigation of the conditions on the Navajo Indian Reservation at Shiprock, N. Mex., with respect to the necessity of constructing a bridge across the San Juan River at Shiprock on said reservation, and also to cause surveys, plans, and reports to be made, together with an estimated limit cost for the construction of a suitable bridge at that place, and submit his report thereon to Congress on the first Monday in December, 1912, and the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated for the purpose herein authorized.

And insert:

For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,000.

The amendment was agreed to.

The next amendment was, on page 38, after line 20, to insert:

For the pay of one special attorney for the Pueblo Indians of New Mexico and for necessary traveling expenses of said attorney, $4,000, or so much thereof as the Secretary of the Interior may deem necessary.

The amendment was agreed to.

The next amendment was, under the head of "New York," on page 39, after line 9, to strike out:

For pay of one special agent, at $1,050; one physician, at $600; and one financial clerk, at $600 per annum, in addition to employees otherwise provided for at the New York Agency; in all, $2,250.

The amendment was agreed to.

The next amendment was, under the head of "North Carolina," on page 39, line 20, after the word "dollars," to insert "for rebuilding employees' quarters destroyed by fire, $6,000," and in line 22, before the word "thousand," to strike out "twenty-eight" and insert "thirty-four," so as to make the clause read:

For support and education of 180 Indian pupils at the Indian school at Cherokee, N. C., and for pay of superintendent, $26,650; for general repairs and improvements, $2,000; for rebuilding employees' quarters destroyed by fire, $6,000; in all, $34,650.

The amendment was agreed to.

The next amendment was, on page 39, after line 23, to insert:

For the purchase of a site at or near the town of Pembroke, Robeson County, N. C., and the erection thereon of a suitable building for a school for the Indians of Robeson County, N. C., the sum of $25,000.

The amendment was agreed to.

The next amendment was, under the head of "North Dakota," on page 40, after line 11, to insert:

To assist members of Turtle Mountain Tribe of Indians in making settlement upon their nonreservation allotments, $100,000.

The amendment was agreed to.

The next amendment was, on page 40, line 18, after the word "dollars," to insert "for the purchase of water and irrigation for the growing of trees, shrubs, and garden truck, $2,500"; and in line 22, before the word "dollars," to strike out "twenty

thousand two hundred" and insert "twenty-two thousand seven hundred," so as to make the clause read:

For support and education of 100 Indian pupils at the Indian school, Bismarck, N. Dak., and for pay of superintendent, $18,200; for general repairs and improvements, $2,000; for the purchase of water and irrigation for the growing of trees, shrubs, and garden truck, $2,500; in all, $22,700.

The amendment was agreed to.

The next amendment was, on page 41, line 2, before the word "thousand," to strike out "four" and insert "six"; in the same line, after the word "dollars," to insert "$2,000 of which shall be immediately available"; and in line 4, before the word "thousand," to strike out "seventy-two" and insert "seventy-four," so as to make the clause read:

For support and education of 400 Indian pupils at Fort Totten Indian School, Fort Totten, N. Dak., and for pay of superintendent, $68,500; for general repairs and improvements, $6,000; in all, $74,500.

The amendment was agreed to.

The next amendment was, on page 41, line 5, after the word "hundred," to insert "and fifty"; in line 8, before the word "dollars," to strike out "eighteen thousand two hundred" and insert "twenty-eight thousand five hundred"; in line 9, after the word "improvements," to insert "including fencing of building grounds"; in line 10, before the word "thousand," to strike out "two" and insert "three"; in the same line, after the word "dollars," to insert "for erection of silo and purchase of ensilage cutter and other farm machinery, $2,000; for purchase of milch cows and other live stock and poultry, $2,000; for erection of hospital building and equipment of same, $25,000"; and in line 16, before the word "dollars," to strike out "twenty thousand two hundred" and insert "sixty thousand five hundred," so as to make the clause read:

For support and education of 150 Indian pupils at the Indian school, Wahpeton, N. Dak., and pay of superintendent, $28,500; for general repairs and improvements, including fencing of building grounds, $3,000; for erection of silo and purchase of ensilage cutter and other farm machinery, $2,000; for purchase of milch cows and other live stock and poultry, $2,000; for erection of hospital building and equipment of same, $25,000; in all, $60,500.

The amendment was agreed to.

The next amendment was, on page 41, after line 16, to insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the Indians of the Standing Rock Indian Reservation in the States of North Dakota and South Dakota, immediately after the passage and approval of this act, out of moneys derived from the sale of certain of their lands under the act of May 29, 1908, and now in the Treasury of the United States to the credit of said Indians, a $40 per capita cash payment.

The amendment was agreed to.

The next amendment was, under the head of "Oklahoma," on page 42, line 12, after the word "benefit," to strike out: "and he is hereby authorized to withdraw from the Treasury the further sum of $40,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the construction and equipment of an Indian hospital upon the Fort Sill Indian School Reservation in Oklahoma, to be used only for the benefit of Indians belonging to said tribes; in all, $65,000," so as to make the clause read:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $25,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the support of the agency and pay of employees maintained for their benefit.

The amendment was agreed to.

The next amendment was, on page 42, after line 20, to insert:

For the purpose of fitting up the old agency and other buildings of the Kiowa, Comanche, and Apache Agency for hospital purposes and the construction of other hospitals, $20,000.

The amendment was agreed to.

The next amendment was, at the top of page 43, to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the administrator of the estate of John W. West, deceased, out of any money in the Treasury of the United States, standing to the credit of the Cherokee Nation of Indians, the sum of $5,000 and interest thereon at the rate of 5 per cent per annum from September 16, 1884, in full payment of the award made by the commission appointed pursuant to the authority contained in the seventh article of the treaty with the Cherokees promulgated August 17, 1846, and which award was approved by the Secretary September 16, 1884, and his action reaffirmed April 26, 1886.

Mr. CURTIS. The Senator from North Dakota [Mr. McCUMBER] asked a question about that item a few moments ago. I suggest that it be passed over until his return.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Is there objection to that request?

Mr. CLAPP. There is no objection.

The PRESIDING OFFICER. Without objection, the amendment will be passed over.

The next amendment was, on page 44, line 11, before the word "thousand," to strike out "eight" and insert "nine," so as to make the clause read:

For support and civilization of the Ponca Indians in Oklahoma, including pay of employees, $9,000.

The amendment was agreed to.

The next amendment was, on page 44, line 16, before the word "thousand," to strike out "six" and insert "seven," and in line 17, before the word "thousand," to strike out "ninety" and insert "ninety-one," so as to make the clause read:

For support and education of 500 Indian pupils at the Indian school at Chilocco, Okla., and for pay of superintendent, $83,500; for general repairs and improvements, $7,500; in all, $91,000.

The amendment was agreed to.

The next amendment was, on page 45, line 17, after the word "Shawnee," to strike out "Agency" and insert "Superintendency," so as to make the clause read:

For pay of 1 stenographer and typewriter, $900 per annum, in addition to employees otherwise provided for at the Shawnee Superintendency.

The amendment was agreed to.

The next amendment was, on page 46, after line 2, to insert:

That the Secretary of the Interior is hereby authorized and directed to extend for a period of one year the time for the payment of the several annual installments due or hereafter to become due on the purchase price for lands sold under the act of Congress approved June 17, 1910, "to open to settlement and entry under the general provisions of the homestead laws of the United States certain lands in the State of Oklahoma, and for other purposes": *Provided*, That purchasers shall pay interest at the rate of 5 per cent per annum on the deferred payments for the time of the extension herein granted.

The amendment was agreed to.

The next amendment was, under the head of "Five Civilized Tribes," on page 46, after line 13, to strike out:

SEC. 18. For expense of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000: *Provided further*, That during the fiscal year ending June 30, 1913, no money shall be expended from the tribal funds belonging to the Five Civilized Tribes, except for schools, without specific appropriation by Congress.

And insert:

SEC. 18. For expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $174,000.

The amendment was agreed to.

The next amendment was, at the top of page 47, to insert:

For salaries and expenses of district agents for the Five Civilized Tribes of Oklahoma and other employees connected with the work of such agents, $100,000: *Provided*, That during the fiscal year ending June 30, 1913, no moneys shall be expended from the tribal funds belonging to the Five Civilized Tribes except for schools for the ensuing year and for the equalization of allotments, per capita or other payments authorized by law to individual members of the respective tribes, and the salaries and contingent expenses of the governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the Five Civilized Tribes, and attorneys of said tribes employed under contract approved by the President, without specific appropriation by Congress, except as hereinafter provided: *Provided further*, That the Secretary of the Interior is hereby authorized to continue the tribal schools of the Choctaw and Chickasaw Nations, and to use funds arising from royalties on coal and asphalt for their maintenance.

The amendment was agreed to.

The next amendment was, on page 47, after line 10, to insert:

For payment of salaries of employees and other expenses of advertisement and sale in connection with the disposition of the unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be paid from the proceeds of such sales when authorized by the Secretary of the Interior, as provided by the act approved March 3, 1911, not exceeding $25,000, reimbursable from proceeds of sale.

The amendment was agreed to.

The next amendment was, on page 48, after line 2, to insert:

For expenses incident to and in connection with collection of tribal revenues, including rent of unallotted lands, such amount as may be necessary: *Provided, however*, That such expenditures shall not exceed in the aggregate 20 per cent of the amount collected.

The amendment was agreed to.

The next amendment was, on page 48, after line 7, to insert:

For traveling expenses of appraisers of the surface of the Choctaw and Chickasaw coal and asphalt segregated lands, $5,000, or so much thereof as may be necessary: *Provided*, That the houses and other valuable and permanent improvements placed upon the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations, in the State of Oklahoma, by private individuals and not purchased by the Indian nations shall be scheduled to the present owners thereof, and shall be appraised independently of the surface of the land on which they are located; and if the owners of such improvements fail to buy the surface of the lands on which their improvements are located at the highest bid, said improvements shall be sold with the lands at the appraised value with the surface of the land, and the owners of such improvements shall receive out of such purchase money the appraised value of said improvements.

The amendment was agreed to.

The next amendment was, on page 48, after line 23, to insert:

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to accept payment to the full amount of the purchase money due, including interest to date of payment, on any town lots

originally sold as provided in agreements with any of the Five Civilized Tribes and declared forfeited by reason of nonpayment of amount due and not resold.

The amendment was agreed to.

The next amendment was, on page 50, line 16, after the date "1910," to strike out "to March 1, 1912," so as to make the clause read:

The Secretary of the Interior is hereby authorized to pay, out of the funds of the Chickasaw Indians now on deposit in the Treasury of the United States, to Douglas H. Johnston, governor of said nation, the sum of $3,000 per annum from March 1, 1910.

The amendment was agreed to.

The next amendment was, on page 50, after line 17, to insert:

For the construction of a sanitary sewer system in Platt National Park, Okla., to be immediately available and expended under the direction of the Secretary of the Interior, $35,000.

Mr. CLAPP. On page 50, line 19, in the amendment of the committee, I move to strike out the words "immediately available and."

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 50, line 19, after the words "to be," in the amendment of the committee, it is proposed to strike out the words "immediately available and," so as to read:

To be expended under the direction of the Secretary of the Interior.

The amendment to the amendment was agreed to.

Mr. CURTIS. I simply want to call the attention of the acting chairman of the committee to the fact that while that item was estimated for in the sundry civil appropriation bill, I have no objection to it going into this bill; but I think that fact ought to be noted in the RECORD, so that it will be left out of the sundry civil bill.

Mr. CLAPP. Yes; that is true. The item ought not to go into the sundry civil bill.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 50, after line 21, to insert:

The Secretary of the Treasury is hereby authorized and directed to pay to the heirs or legal representatives of John W. Noble and R. V. Belt the sum of $3,569.95, for legal services rendered to and expenses incurred on behalf of members of the Lyman family, Osage allottees, under contract made pursuant to section 2103 and the following of the Revised Statutes of the United States, and duly approved by the Commissioner of Indian Affairs and the Secretary of the Interior, said sum to be paid as provided for in the contract out of individual funds in the Treasury of the United States to the credit of the members of said Lyman family.

The amendment was agreed to.

The next amendment was, on page 51, after line 9, to insert:

That the Secretary of the Interior is hereby authorized and directed to satisfy of record the judgments rendered in the district court of Oklahoma, for the eighth judicial district, on December 15, 1911, in favor of Albert J. Lee and against Jack Postoak, in the sum of $1,448, by the payment thereof out of any funds that may now or hereafter be to the credit of the heirs of Bessie Postoak; against King Isaacs and others, in the sum of $1,449, by the payment thereof out of any funds that may now or hereafter be to the credit of the heirs of Roger Isaacs; against Thompson Peters, in the sum of $1,476, by the payment thereof out of any funds that may now or hereafter be to the credit of the heirs of Sookie Peters; and against Zeno Huff, in the sum of $732, by the payment thereof out of any funds that may now or hereafter be to the credit of said Zeno Huff.

The amendment was agreed to.

The next amendment was, on page 52, after line 2, to insert:

The fund of $390,257.92, placed to the credit of the Choctaw Indians by act of March 1, 1907 (34 Stat. L., 1027), shall draw interest at 5 per cent per annum, and the accrued interest at this rate shall be placed to the credit of the Choctaw Nation.

Mr. CURTIS. I make the point of order against the amendment on the ground that it proposes general legislation; but I should like to ask the acting chairman why the item was inserted? The existing agreements and treaties do not fix the rate of interest to be paid to these Indians.

Mr. CLAPP. In answer to the inquiry of the Senator from Kansas I will say that the Office of Indian Affairs has asked for this appropriation on the following ground:

The amendment on page 50, lines 4 to 10, inclusive, providing that the fund of $390,257.92 placed to the credit of the Choctaw Indians by the act of March 1, 1907 (34 Stat. L., 1037), shall draw interest at 5 per cent per annum and the accrued interest at this rate shall be placed to the credit of the Choctaw Nation, was reported on favorably to the chairman of the Senate committee in letter of April 23, 1912, on H. R. 20728.

Mr. CURTIS. I withdraw the point of order.

The PRESIDING OFFICER. The point of order is withdrawn. Without objection, the amendment is agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 52, after line 9, to insert:

For incidental and necessary expenses of any suit heretofore brought at the request of the Secretary of the Interior and now pending on behalf of any of the Five Civilized Tribes, the sum of $10,000 is hereby appropriated to be expended under the direction of the Secretary of the Interior, reimbursable from funds belonging to the tribe in whose interest such suit was brought, or now pending.

The amendment was agreed to.

The next amendment was, on page 52, after line 16, to insert:

That to carry into effect the agreement between the United States and the Muskogee (Creek) Nation of Indians ratified by act of Congress approved March 1, 1901 (31 Stats., p. 861), and the subsequent agreement of June 30, 1902 (32 Stats., p. 500), and laws providing for a minimum allotment to each Creek citizen whose name has been placed on the rolls by the Government of the United States under the authority of said agreements and laws, of the standard value of $1,040, the Secretary of the Interior be, and is hereby, directed to pay, out of the funds of the said nation now in the Treasury or that may hereafter come into the Treasury to their credit, to each of said Creek citizens placed on the rolls under said agreement and subsequent agreements, a sum sufficient to bring the allotment of land and money to each up to $800 as a part payment on the standard allotment of $1,040; and that jurisdiction be, and is hereby, conferred upon the Court of Claims, with right of appeal as in other cases, to hear, determine, and render final judgment in the matter of the claim of all citizens of said nation who have received allotments of less than the standard value of $1,040, and to render judgment for a sum of money sufficient to equalize the allotments of each citizen who shall be found to be so entitled up to the standard amount of $1,040; and that the action herein authorized shall be brought in the name of the Muskogee (Creek) Nation against the United States by petition to be filed within six months after the passage of this act, which petition shall be verified by the national attorney of said nation or by the attorney or attorneys employed by said nation to conduct said suit, whose employment is approved by the Department of the Interior in accordance with section 2103 of the Revised Statutes, and the Attorney General shall appear and defend said action; and in rendering judgment in said cause the court shall fix the compensation to be paid to the attorneys upon a quantum meruit for all services rendered in behalf of said Indians in the matter of the claim of all of said citizens for the equalization of their allotments, including services rendered before the departments of the Government, the committees of Congress, and the courts, in and for their interest in this matter in any way rendered, said compensation to be based on a per cent of the amount of said judgment, less any money in the Treasury to the credit of the Creek Nation, not to exceed 10 per cent, and the Secretary of the Treasury shall pay said sum out of the amount of said judgment or out of any funds of the said nation in the Treasury, and all the remaining funds of said nation not appropriated by the council and approved by the President of the United States (except the sum of $50,000) shall be utilized and applied in any judgment that may be rendered under this act; and the said cause shall be advanced in hearing by the Court of Claims, and by the Supreme Court of the United States if the same shall be appealed.

Mr. CURTIS. Mr. President, I make the point of order against the amendment that it is clearly legislation, in violation of Rule XVI. A point of order was sustained against the same provision a few years ago when it was offered as an amendment to the then pending Indian appropriation bill.

The PRESIDING OFFICER. Upon what ground is the point of order based?

Mr. CURTIS. On the ground that it is legislation on an appropriation bill.

Mr. CLAPP. Mr. President, it is a fact that the point of order has been heretofore sustained, and in view of the scant attendance this afternoon I shall not take the time of the Senate to discuss it or suggest an appeal.

The PRESIDING OFFICER. In the opinion of the Chair the point of order is well taken, and it is sustained.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 54, after line 21, to insert:

The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma during the fiscal year ending June 30, 1913.

The amendment was agreed to.

The next amendment was, under the head of "Oregon," in section 19, page 55, line 13, after the word "thousand," to insert "six hundred," so as to make the clause read:

For support and civilization of the Wallawalla, Cayuse, and Umatilla Tribes, Oregon, including pay of employees, $3,600.

The amendment was agreed to.

The next amendment was, on page 55, after line 13, to insert:

To enable the Secretary of the Interior to construct a bridge and the necessary approaches thereto across the Deschutes River, abutting on the Warm Springs Indian Reservation, in the State of Oregon, at a point to be agreed upon between him and the county court of Crook County, Oreg., the sum of $15,000.

Mr. CURTIS. Mr. President, I want to make a point of order against that amendment; but I should like to ask the Senator from Minnesota [Mr. CLAPP], the acting chairman of the committee, or the Senator from Oregon [Mr. CHAMBERLAIN], if the bridge is on a river that runs through an Indian reservation, and is it within the reservation?

Mr. CHAMBERLAIN. A part of it runs through the reservation; but where the bridge is it abuts on the reservation. At the place where the bridge is to be built the bluffs are very precipitous, and the Indians, as they now travel from the reservation, have to go down with their teams to the stream and up these precipitous bluffs.

Mr. CURTIS. Is it to accommodate the Indians on the reservation?

Mr. CHAMBERLAIN. Yes, sir; almost altogether. A recommendation was made by the department, and the estimates have also been made.

Mr. CURTIS. Then I withdraw the point of order.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 56, after line 22, to insert:

That there be paid to the Tillamook Tribe of Indians of Oregon the sum of $10,500, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; that there be paid to the Clatsop Tribe of Indians of Oregon the sum of $15,000, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; that there be paid to the Nuc-quee-clah-we-muck Tribe of Indians of Oregon the sum of $1,500, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; that there be paid to the Kathlamet Band of Chinook Indians of Oregon the sum of $7,000, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; that there be paid to the Waukikum Band of Chinook Indians of Washington the sum of $7,000, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; that there be paid to the Wheelappa Band of Chinook Indians of Washington the sum of $5,000, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear; and that there be paid to the Lower Band of Chinook Indians of Washington the sum of $20,000, to be apportioned among those now living and the lineal descendants of those who may be dead, by the Secretary of the Interior, as their respective rights may appear, and for this purpose there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $66,000: *Provided*, That said Indians shall accept said sum, or their respective portions thereof, in full satisfaction of all demands or claims against the United States for the lands described in the agreements or unratified treaties between the United States and said Indians dated, respectively, August 7, 1851; August 5, 1851; August 7, 1851; August 9, 1851; August 8, 1851; August 9, 1851; and August 9, 1851: *Provided further*, That if, after investigation by the Secretary, he shall find that all of the Indians of either of said tribes or bands and their lineal descendants are dead, then none of the money hereby appropriated for such tribe or band shall be paid to any person for any purpose: *Provided further*, That the Secretary of the Interior shall find and investigate what attorney or attorneys, if any, have rendered services for or on behalf of said Indians, and shall fix a reasonable compensation to be paid said attorney or attorneys for their services in prosecuting the claims of said Indians hereunder, which compensation, if any, shall be paid out of the sum hereby appropriated, in full payment of services rendered; and the decision of the Secretary of the Interior with respect to the attorneys and their compensation shall be final and conclusive: *Provided further*, That before any money is paid to any attorney hereunder, he shall first execute and deliver to the Secretary of the Interior a satisfaction and discharge of all claims and demands for services rendered such Indians in the matter of their claims.

Mr. CURTIS. Mr. President, I desire to make a point of order against that amendment, but during the pendency of it I should like to have the Senator from Oregon explain that claim for the purpose of getting the facts regarding it in the RECORD. As I understand, it is a claim to carry out the provisions of certain unratified treaties. Treaties made and sent to Congress were not ratified, but the Government proceeded to take possession of the lands without paying the Indians.

Mr. CHAMBERLAIN. Mr. President, that is practically a statement of the facts with reference to the matter as briefly as it can be made. These cases are like numerous other cases of sharp practice that was indulged in against the Indians in the early days on the frontier. It is rather amusing to look back at some of the treaties that were attempted to be entered into. I was just reading one to my colleague on my left [Mr. JOHNSTON of Alabama], where, instead of paying the Indians money, it was agreed to give them a silk dress or a calico dress or other such things in consideration for valuable tracts of land.

These particular unratified treaties were negotiated pursuant to the acts of 1850 and 1851, which authorized commissioners to treat with the Indians and to make treaties with them for the cession of valuable tracts of land in Oregon. It had been the purpose and desire of the Government for a great many years to try to get these nomadic tribes of Indians together on one reservation, and in pursuance of that policy these treaties were made with them.

Some of the treaties were ratified, but a great many of them were not ratifid by the Senate, because it is supposed, although there is no record to show that fact, that the Indians refused to go on the reservations which had been designated by the Government. They did not care to go long distances from the places where they had been accustomed to live and where they had been accustomed to fish and hunt in times gone by.

To show you how the Government treated these people, Mr. President, I might say here that the claims under those treaties which were ratified by the Senate were paid a long while ago, and these are the only ones not paid. The Indians do not even ask interest on the amount of these claims, which I think are just. For instance, the Clatsop Indians ceded to the United States about 500,000 acres of land for a consideration of $15,000, and reserved to themselves only about 4,000 acres. The Government of the United States took that 500,000 acres of land and treated it exactly as they have treated other parts of the public domain. They have sold it, and have received the money for it; but, notwithstanding that fact, these claims have not been paid, because the Government says the Senate never ratified the treaties. That land is amongst the most valuable land in the State of Oregon; it is along the timber ridges of the Coast Range of mountains, and now, in private hands, is worth all the way from $50 to $500 an acre.

Mr. CURTIS. Mr. President, I withdraw the point of order.

Mr. CHAMBERLAIN. That same statement might be made with reference to all these claims. Mr. President, I am truly glad that the Senator has withdrawn the point of order, because these claims have been hung up here in the Senate for years, and ought to have been paid a long time ago.

The PRESIDING OFFICER. The Senator from Kansas withdraws the point of order, and, without objection, the amendment is agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, under the head of "Pennsylvania," in section 20, on page 59, line 18, before the word "thousand," to strike out "nine" and insert "twenty"; and in line 22, before the word "dollars," to strike out "one hundred and forty-eight thousand five hundred" and insert "one hundred and fifty-nine thousand five hundred," so as to make the clause read:

SEC. 20. For support and education of Indian pupils at the Indian school at Carlisle, Pa., and for pay of superintendent, $132,000; for general repairs and improvements, $20,000; for completing steam heating plant, $7,500, to be immediately available; in all, $159,500.

The amendment was agreed to.

The next amendment was, under the head of "South Dakota," in section 21, on page 60, line 2, after the word "dollars," to insert "for the construction and equipment of a gymnasium building, $8,000"; and in line 5, before the word "thousand," to strike out "sixty-six" and insert "seventy-four," so as to make the clause read:

SEC. 21. For support and education of 365 Indian pupils at the Indian school at Flandreau, S. Dak., and for pay of superintendent, $61,500; for the construction and equipment of a gymnasium building, $8,000; for general repairs and improvements, $5,000; in all, $74,500.

The amendment was agreed to.

The next amendment was, on page 60, line 10, before the word "thousand" where it occurs the first time, to strike out "six" and insert "seven"; and in the same line, before the word "thousand" where it occurs the second time, to strike out "thirty-eight" and insert "thirty-nine," so as to make the clause read:

For support and education of 175 Indian pupils at the Indian school at Pierre, S. Dak., and for pay of superintendent, $32,000; for general repairs and improvements, $7,000; in all, $39,000.

The amendment was agreed to.

The next amendment was, on page 60, line 16, before the word "thousand," to strike out "eight" and insert "nine"; in line 17, after the word "dollars," to insert "for a new school building, $35,000; for remodeling boys' building, $5,000"; and in line 21, before the word "dollars," to strike out "sixty-one thousand five hundred" and insert "one hundred and two thousand five hundred," so as to make the clause read:

For support and education of 250 Indian pupils at the Indian school, Rapid City, S. Dak., and for pay of superintendent, $48,500; for general repairs and improvements, $9,000; for completion and extension of heating plant, $5,000; for a new school building, $35,000; for remodeling boys' building, $5,000; in all, $102,500.

The amendment was agreed to.

The next amendment was, on page 62, line 9, after the word "dollars," to insert "for general repairs and improvements of agency buildings, $10,000; in all, $24,000," so as to make the clause read:

For subsistence and civilization of the Yankton Sioux, South Dakota, $14,000; for general repairs and improvements of agency buildings, $10,000; in all, $24,000.

The amendment was agreed to.

The next amendment was, at the top of page 64, to insert:

To complete the work of straightening the Duchesne River within the limits of the town site of Duchesne, in the State of Utah, $2,000, to be immediately available and to be reimbursed to the United States out of the proceeds of the sale of lands within the ceded Uintah Indian Reservation opened to entry under the act of May 27, 1902, including the sales of lots within the said town site of Duchesne.

Mr. CURTIS. Mr. President, I should like to ask the Senator in charge of the bill if the town of Duchesne, referred to in the amendment, is an Indian town or embraces Indian lands?

Mr. CLAPP. I understand it is within the reservation.

Mr. CURTIS. Is the land being sold for the benefit of the Indians?

Mr. CLAPP. Well, some of the lands are being sold. They were taken by allotment. The item is recommended by the Secretary of the Interior as necessary in order to serve the interests of the Indians on that reservation.

Mr. CURTIS. I will not make a point of order then against the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 64, after line 8, to insert:

VIRGINIA.

SEC. 23. For support and education of 120 Indian pupils at the school at Hampton, Va., $20,040.

The amendment was agreed to.

The next amendment was, under the head of "Washington," on page 64, line 21, before the word "dollars," to strike out "one thousand" and insert "one thousand five hundred," so as to make the clause read:

For support and civilization of the Qui-nai-elts and Quil-leh-utes, including pay of employees, $1,500.

The amendment was agreed to.

The next amendment was, on page 65, line 5, before the word "thousand," to strike out "thirteen" and insert "eighteen," so as to make the clause read:

For support and civilization of Indians at Colville and Puyallup Agencies, Wash., for pay of employees, and for purchase of agricultural implements, and support and civilization of Joseph's Band of Nez Perce Indians in Washington, $18,000.

The amendment was agreed to.

The next amendment was, on page 65, line 13, before the word "thousand," to strike out "fifteen" and insert "seventy-five," so as to make the clause read:

For extension and maintenance of the irrigation system on lands allotted to Yakima Indians in Washington, $75,000, reimbursable in accordance with the provisions of the act of March 1, 1907.

The amendment was agreed to.

The next amendment was, on page 65, after line 15, to insert:

For support and education of 300 Indian pupils at the Cushman Indian School, Tacoma, Wash., including repairs and improvements, and for pay of superintendent, $50,000, said appropriation being made to supplement the Puyallup School funds used for said school.

The amendment was agreed to.

The next amendment was, on page 65, after line 21, to insert:

That for the purpose of constructing storage reservoirs to impound flood waters of the Yakima River to provide 1,500 cubic feet of water per second of time at the reservation gates for the irrigation of 120,000 acres, more or less, on the Yakima Indian Reservation, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $1,600,000, or so much thereof as may be necessary, to be expended in said works by the Reclamation Service.

Mr. JONES. Mr. President, on page 65, line 23, in the committee amendment just stated, I offer an amendment which has been suggested by the department. I will say that the chairman of the committee requested me to look after the matter.

Mr. CLAPP. Mr. President, I have no objection to the amendment. We might as well close the matter up now.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. On page 65, line 23, after the word "provide," it is proposed to strike out "1,500 cubic feet of water per second of time" and insert "for the total diversion of 516,000 acre-feet of stored water and natural flow during each irrigation season"; and on page 66, line 4, before the word "thousand" to strike out "six" and insert "eight" so as to make the clause read:

That for the purpose of constructing storage reservoirs to impound flood waters of the Yakima River to provide for the total diversion of 516,000 acre-feet of stored water and natural flow during each irrigation season at the reservation gates for the irrigation of 120,000 acres, more or less, on the Yakima Indian Reservation, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $1,800,000, or so much thereof as may be necessary, to be expended in said works by the Reclamation Service.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, on page 66, after line 6, to insert:

That the lands within the project on the Yakima Indian Reservation owned by Indians in fee or otherwise to the extent of 32,000 acres, estimated to be necessary for the support of Indians allotted within the project, for which a water supply of 400 cubic feet per second of time is required, shall receive water free of any and all cost or charge on account of said storage works.

The amendment was agreed to.

The next amendment was, on page 66, after line 13, to insert:

That other lands under Indian ownership to the extent of 70,000 acres additional, more or less, shall bear the proportionate acreage cost for providing said storage waters in the river, except that provided for in the preceding paragraph, which cost shall be a charge against said lands to be paid on such terms and under such regulations as the Secretary of the Interior shall prescribe.

The amendment was agreed to.

The next amendment was, on page 66, after line 20, to insert:

That the claims for water of the owners of the remaining area of 18,000 acres, more or less, of irrigable Indian land, the Indian title to which has been extinguished, shall be equitably adjusted by the Secretary of the Interior: *Provided*, That any payments by owners of said lands on account of said storage works shall be deposited in the Treasury to the credit of the United States.

The amendment was agreed to.

The next amendment was, on page 67, after line 2, to insert:

That the owners of irrigable lands within the project shall pay the proportionate cost of the distribution and drainage systems upon such terms as may be fixed by the Secretary of the Interior: *Provided*, That no water shall be furnished as herein provided for until the owners of deeded or sold lands and Indians holding lands in fee benefited thereby shall have agreed to pay such proportionate share, such payments when received to be a part of the tribal funds of the Yakima Indians.

The amendment was agreed to.

The next amendment was, under the head of "Wisconsin," on page 67, line 17, before the word "thousand," to strike out "two" and insert "three"; in the same line, after the word "building," to strike out "an addition" and insert "additions"; in line 18, after the word "to," to strike out "dormitory" and insert "dormitories"; in line 19, before the word "dollars," to strike out "sixteen" and insert "twenty"; and in line 19, before the word "thousand," to strike out "fifty-four" and insert "fifty-nine," so as to make the clause read:

SEC. 25. For the support and education of 210 Indian pupils at the Indian school at Hayward, Wis., and pay of superintendent, $36,670; for general repairs and improvements, $3,000; for building additions to dormitories, $20,000; in all, $59,670.

The amendment was agreed to.

The next amendment was, on page 68, line 1, before the word "thousand," to strike out "three" and insert "seven"; and in line 2, before the word "thousand," to strike out "forty-eight" and insert "fifty-two," so as to make the clause read:

For support and education of 250 Indian pupils at the Indian school, Tomah, Wis., and for pay of superintendent, $43,450; for repairing and rebuilding barn, $2,500; for general repairs and improvements, $7,000; in all, $52,950.

The amendment was agreed to.

The next amendment was, on page 68, after line 4, to insert:

For support, education, and civilization of the Pottawatomie Indians who reside in the State of Wisconsin, $9,000.

The amendment was agreed to.

The next amendment was, on page 68, after line 7, to insert:

The time provided for bringing suits under the fifth paragraph of section 26 of the act approved April 4, 1910, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1911 (36 Stat. L., p. 287), be, and the same is hereby, extended to the 30th day of June, 1913.

The amendment was agreed to.

The next amendment was, on page 68, after line 17, to insert:

That the Secretary of the Treasury is hereby authorized and directed to pay, out of the sum of $1,500,000 set aside and held in the Treasury of the United States for the use and benefit of the Colville Indians under the provisions of an act approved June 21, 1906 (34 Stat. L., p. 337), the sum of $45,000 to Hugh H. Gordon for his individual services in behalf of said Indians, which sum of $45,000 is hereby appropriated for said Gordon's exclusive use and benefit out of any money in the Treasury not otherwise appropriated, and the same shall be charged against the funds set aside for the benefit of said Indians.

Mr. CURTIS. Mr. President, I make the point of order against that amendment, as being in violation of paragraph 3 of Rule XVI. It is general legislation on an Indian appropriation bill.

Mr. CLAPP. Mr. President, I will ask the Presiding Officer to withhold his ruling in deference to the absence of the senior Senator from Georgia [Mr. BACON]. With that understanding let the amendment be passed over for the present.

The PRESIDING OFFICER. Without objection, the point of order made by the Senator from Kansas will be entered and further action on the matter deferred until the Senator from Georgia is present.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs was, under the head of "Wyoming," on page 69, line 12, before the word "dollars," to strike out "thirty-one thousand and twenty-five" and insert "thirty-two thousand five hundred"; in line 13, before the word "thousand," to strike out "three" and insert "four"; and in line 15, before the word "dollars," to strike out "thirty-four thousand and twenty-five" and insert

"thirty-six thousand five hundred," so as to make the clause read:

For support and education of 175 Indian pupils at the Indian school, Shoshone Reservation, Wyo., and for pay of superintendent, $32,500; for general repairs and improvements, $4,000; in all, $36,500.

The amendment was agreed to.

The next amendment was, on page 69, after line 21, to insert:

For continuing the work of road and bridge construction on the Shoshone Reservation, Wyo., $20,000, reimbursable in accordance with the provisions of the act of March 3, 1905.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. ASHURST. Mr. President, I desire, if I may be permitted to do so, to recur to page 17 of the bill where, commencing with line 14, there is an amendment reported by the committee which was discussed a few moments ago, and against which a point of order, made by the Senator from Kansas [Mr. CURTIS], was sustained.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from Kansas?

Mr. ASHURST. Certainly.

Mr. CURTIS. If it can be done, I desire to withdraw the point of order and let the question come upon the amendment.

The PRESIDING OFFICER. The Chair understands the Senator from Arizona to ask unanimous consent to recur to the amendment on page 17, beginning with line 14. Is there objection? The Chair hears none. The Senator from Kansas asks unanimous consent to withdraw the point of order which he made against the amendment and which was sustained. Is there objection? The Chair hears none. The point of order is withdrawn, and, without objection, the amendment is agreed to.

Mr. CLAPP. Mr. President, under the heading "Utah," and after the items now in the bill under that heading, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. To come after all the provisions in regard to Utah?

Mr. CLAPP. Yes, sir. In support of the amendment I desire to make a short statement.

This matter was referred to the Court of Claims. The court entered a judgment. Prior to the matter going to the court the amount due the Indians was drawing interest payable annually and was paid annually, but when it was merged into a judgment the comptroller held that he could not any longer pay interest except by direct authority of the Congress. This amendment is in part to cover that.

In connection with that it appears that a great many of these Indians have allotments upon which irrigation rights attach, subject to forfeiture if the improvements are not carried on. In addition to that it appears that many Indians require help in the matter of making improvements, getting stock, and so forth. So the department recommended an appropriation to cover this whole matter, to be used in the judgment and discretion of the Secretary of the Interior.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from Minnesota.

The SECRETARY. On page 64, after line 8, it is proposed to insert:

That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,305,257.19, being the net amount of a judgment rendered by the Court of Claims in favor of the Confederated Bands of Ute Indians, dated February 13, 1911, exclusive of the amount awarded for attorney's fee, pursuant to the provisions of the jurisdictional act approved March 3, 1909 (35 Stat. L., p. 788), the same to bear interest at the rate of 4 per cent per annum from and after the date of said judgment, the amount thereof and the interest accruing thereon to be available for cash payments to the Indians or for expenditures for their benefit, in the discretion of the Secretary of the Interior (Mar. 3, 1909).

The amendment was agreed to.

Mr. CLAPP. Mr. President, under the heading "Oklahoma," at the end of the provisions already in the bill under that heading, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. Under the head of "Oklahoma," subhead "Five Civilized Tribes," on page 55, after line 3, it is proposed to insert:

For the purpose of reimbursing the trust funds of the Kickapoo Community in Mexico, said fund having been created under the provisions of the act of Congress of April 30, 1908 (35 Stat. L., 89), for legal expenses necessarily incurred in defending said community, its funds, lands, and members from fraud, the Secretary of the Treasury is hereby authorized and directed to pay to Okemah, who is now trustee of said community, the sum of $41,000, the same to be immediately available.

Mr. LODGE. Mr. President, I should like to hear that amendment explained. It is a private claim.

Mr. CLAPP. The explanation of the amendment is this: Some years ago these people had lands in Oklahoma. While it would take some time to go through the details of the litigation, these Indians were subjected to a great deal of expense that was unfair and unjust. They are now in Mexico, and in need not only of this item but the item of their lease money, which has not been paid them and which is due them. In order to clean up both matters, I have offered this amendment to reimburse them; and I desire to offer one directing the Indian Office to pay their lease money over to them.

Mr. LODGE. Does this money go to the Indians?

Mr. CLAPP. It goes to the Indians; yes, sir. I want to say that from all the information I have been able to get, those Indians, after they went down to Mexico, became a contented, satisfied band of Indians and, in the main, are doing well. I have made inquiries from time to time about them—of course, the evidence which I have is all hearsay—and I believe it was a blessing to those Indians that we allowed them to go down there. They have these two items left; and the purpose of this amendment is to clean up the matter, so that we may be through with it.

Mr. LODGE. I made the inquiry because of the statement I saw in one of the hearings—that of the $2,000 heretofore appropriated for the Kickapoos, I think, only $45 reached the Indians. The rest went in salaries.

Mr. CLAPP. That is too true with reference to their agency in Oklahoma. I have no hesitation in saying, from the evidence I have obtained in these matters, that those Indians are infinitely better off in Mexico and come much nearer getting a fair return for what is theirs and due them than they ever did while they were under the jurisdiction of our own Government.

Mr. LODGE. If this money goes to them, Mr. President, I have no objection to the appropriation; but I do think, in view of the appropriation of $2,000 for the benefit of the Kickapoo Indians, of which all but $45 was spent in the expense of distribution, that we ought to be careful to see that this money goes to the Indians.

Mr. CLAPP. So far as the law can safeguard it, this amendment provides that the money shall be paid over to them.

Mr. LODGE. I do not want it all absorbed in the salaries of agents.

Mr. CLAPP. No, sir; I am as anxious to avoid that as is the Senator.

The amendment was agreed to.

Mr. CLAPP. In addition to that, I am going to ask for the adoption of an amendment to pay over their lease money to them. I send the proposed amendment to the Secretary's desk.

The SECRETARY. After the amendment just agreed to it is proposed to insert the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed to immediately cause to be deposited to the credit of the Indian owner in the First National Bank of Douglas, Ariz., all money known as lease money now on deposit with or in any manner under the control of the agents and officers of the Interior Department, and all like money due or becoming due or collectible by them prior to the 1st day of January, 1914, and belonging to any of the Mexican Kickapoo Indians now resident in the Republic of Mexico. The receipt by such bank for any such money shall operate as the receipt of the Indian owner and as a complete release of all liability on the part of the officer paying the said money as herein directed.

The amendment was agreed to.

Mr. CLAPP. Now, Mr. President, I offer the amendment which I send to the desk. I regret I have no statement concerning it. It was handed me by the senior Senator from Idaho [Mr. HEYBURN]. Perhaps it may be well to offer it and let it lie on the table until he returns.

The SECRETARY. On page 21, after line 9, it is proposed to insert the following:

For the construction of buildings for agency headquarters on the Coeur d'Alene Indian Reservation in Idaho, $30,000.

The PRESIDING OFFICER. The Senator from Minnesota asks that the amendment lie upon the table. Without objection, it will lie upon the table.

Mr. CLAPP. I now offer the amendment I send to the desk, and ask for the reading of the letter from the Interior Department in regard to it.

The SECRETARY. Under the head of "South Dakota," on page 62, after line 19, it is proposed to insert the following:

The Secretary of the Treasury is hereby authorized and directed to pay to A. C. Brink, of Pierre, S. Dak., the sum of $128.68 on account of repairs to a gas engine made while said engine was rented by him to the superintendent of the Pierre Indian school, and being used during September and October, 1911, in digging a test well for the purpose of securing a water supply for that school, and to charge said amount to the appropriation for Indian school, Pierre, S. Dak., water supply.

The PRESIDING OFFICER. In that connection, the Secretary will read the letter from the Secretary of the Interior in relation thereto.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, June 24, 1912.

Hon. CHARLES H. BURKE,
House of Representatives.

SIR: Answering your letter of June 17, 1912, relative to claim in favor of A. C. Brink, I have the honor to advise you that the bill originally consisted of a charge of $50 for 10 days' rental of a gas engine, which amount was allowed by the Auditor for the Interior Department, and of $128.68 for repairs on the engine while it was being used by the Government. As the agreement for the rental of the engine did not expressly specify that the repairs should be made at the expense of the Government and as their necessity appears to have been due, in part, to the negligence of the Government employees, the auditor held, following the decision of the comptroller dated March 26, 1912, in case of the Oregon Short Line Railroad Co., that the damages were unliquidated and, therefore, were not of such a nature as the executive departments are authorized to settle. The amount of $128.68 was, therefore, disallowed by him.

Mr. Brink, the claimant, has a legal right to appeal to the Comptroller of the Treasury at any time within one year from the date of settlement, which was April 24, 1912.

However, as the statutory authorization suggested by you would probably be more effective in the settlement of his claim, an item has been prepared as requested and is transmitted herewith so that you may take such action as you consider proper in the matter. The office deems the charge a just one and recommends its payment.

Respectfully,

F. H. ABBOTT,
Acting Commissioner.

The amendment was agreed to.

Mr. CLAPP. On page 43, at the suggestion of the Senator from Kansas [Mr. CURTIS], we passed the item proposing to pay $5,000 to the estate of John W. West, beginning with line 1, going down to and including line 15. I desire to call up that amendment.

The PRESIDING OFFICER. The Senator from Minnesota moves to recur to page 43, lines 1 to 15, inclusive, the amendment which was temporarily passed over during the absence of the Senator from North Dakota. Is there objection? The Chair hears none. The amendment is before the Senate. The question is upon agreeing to the amendment.

Mr. CURTIS. I simply asked that it be passed over because the Senator from North Dakota was not here.

The PRESIDING OFFICER. It has now been recurred to. Does the Senator still ask that it be passed over?

Mr. CLAPP. No; I move the adoption of the amendment.

The amendment was agreed to.

Mr. CLAPP. Mr. President, owing to the absence of some Senators there was an understanding that the bill would not be reported out of the committee to-day. Unless some Senator has an amendment he desires to offer I ask that the bill be laid aside until to-morrow.

The PRESIDING OFFICER. Without objection it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, requested the Senate to return to the House of Representatives the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The message also informed the Senate that the House of Representatives had elected JOSHUA W. ALEXANDER, a Representative from the State of Missouri, Speaker pro tempore during the temporary absence of the Speaker.

ENROLLED JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. J. Res. 331) extending appropriations for the necessary operations of the Government under certain contingencies, and it was thereupon signed by the President pro tempore.

SUNDRY CIVIL APPROPRIATION BILL.

The PRESIDING OFFICER (Mr. BRANDEGEE) laid before the Senate the request of the House of Representatives for the return of the bill (H. R. 25069) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

Mr. LODGE. Mr. President, I understand that is a request for the recall of the sundry civil appropriation bill?

The PRESIDING OFFICER. It is.

Mr. LODGE. That bill has been referred to the Committee on Appropriations, and it is now under consideration by that committee. I should think the chairman of the committee should be consulted before any action is taken.

The PRESIDING OFFICER. The Chair is informed by one of the clerks at the desk that word was sent to the Senator from Wyoming, the chairman of the Committee on Appropriations, and he said he had no objection to the granting of the request of the House.

Mr. LODGE. Then that is sufficient.

The PRESIDING OFFICER. Without objection, the request of the House is complied with.

REGENT OF SMITHSONIAN INSTITUTION.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution (S. J. Res. 94) providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, which was, on page 1, line 6, after "Fairbanks," to insert "a citizen."

Mr. LODGE. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened.

HOUR OF MEETING TO-MORROW.

Mr. HEYBURN. I move that when the Senate adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The motion was agreed to.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock p. m.) the Senate adjourned until to-morrow, Tuesday, July 2, 1912, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 1, 1912.

PROMOTIONS IN THE PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. Anthony J. Lanza to be passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from May 9, 1912.

Asst. Surg. Robert Olesen to be passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from April 9, 1912.

SPECIAL EXAMINER OF DRUGS, MEDICINES, AND CHEMICALS, ETC.

William H. Parker, of Massachusetts, to be special examiner of drugs, medicines, and chemicals, and assistant appraiser of merchandise in the district of Boston and Charlestown, in the State of Massachusetts, under the act of Congress (Public, No. 149) approved May 10, 1912.

Mr. Parker is now serving as special examiner of drugs, medicines, and chemicals.

SOLICITOR GENERAL OF THE UNITED STATES.

William Marshall Bullitt, of Kentucky, to be Solicitor General of the United States, vice Frederick W. Lehmann, resigned.

UNITED STATES ATTORNEY.

Homer N. Boardman, of Oklahoma, to be United States attorney for the western district of Oklahoma, vice John Embry, resigned.

JUDGE OF THE CIRCUIT COURT OF HAWAII.

Lyle A. Dickey, of Hawaii, to be judge of the Circuit Court of the Fifth Circuit of the Territory of Hawaii, vice J. Hardy, resigned.

REGISTER OF THE LAND OFFICE.

George H. Charlton, of Colorado, to be register of the land office at Durango, Colo., his term having expired May 26, 1912. (Reappointment.)

APPOINTMENTS IN THE ARMY.

GENERAL OFFICERS.

Brig. Gen. William Wallace Wotherspoon to be major general with rank from May 12, 1912, vice Maj. Gen. Frederick D. Grant, deceased.

Brig. Gen. Clarence Ransom Edwards, Chief of the Bureau of Insular Affairs, War Department, to be brigadier general, with rank from May 12, 1912, vice Brig. Gen. Daniel H. Brush, retired from active service.

Col. Edward John McClernand, First Cavalry, to be brigadier general, vice Brig. Gen. William Wallace Wotherspoon, to be appointed major general.

Col. George F. Chase, Cavalry, detailed inspector general, to be brigadier general, with rank from May 16, 1912, vice Brig. Gen. Joseph W. Duncan, deceased.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from June 24, 1912.

Ernest Chester McCulloch, of Ohio.
Robert Henry Duenner, of the District of Columbia.

APPOINTMENT, BY TRANSFER, IN THE ARMY.

Second Lieut. Walter F. Winton, Seventh Cavalry, to be second lieutenant of Field Artillery, with rank from April 25, 1912.

PROMOTIONS IN THE ARMY.

MEDICAL CORPS.

To be captains with rank from June 25, 1912, after three years' service.

First Lieut. Henry C. Coburn, jr., Medical Corps.
First Lieut. Arnold D. Tuttle, Medical Corps.
First Lieut. John B. H. Waring, Medical Corps.
First Lieut. William R. Dear, Medical Corps.
First Lieut. Charles E. Doerr, Medical Corps.
First Lieut. Daniel P. Card, Medical Corps.
First Lieut. Ralph H. Goldthwaite, Medical Corps.
First Lieut. Frederick S. Wright, Medical Corps.
First Lieut. Daniel W. Harmon, Medical Corps.
First Lieut. James C. Magee, Medical Corps.
First Lieut. Corydon G. Snow, Medical Corps.
First Lieut. Norman L. McDiarmid, Medical Corps.
First Lieut. Clarence A. Treuholtz, Medical Corps.
First Lieut. Eben C. Hill, Medical Corps.
First Lieut. George H. McLellan, Medical Corps.
First Lieut. Alexander D. Parce, Medical Corps.
First Lieut. James A. Wilson, Medical Corps.
First Lieut. Armin Mueller, Medical Corps.
First Lieut. Morrison C. Stayer, Medical Corps.
First Lieut. Robert W. Kerr, Medical Corps.
First Lieut. Lee R. Dunbar, Medical Corps.
First Lieut. Leon C. Garcia, Medical Corps.
First Lieut. William S. Shields, Medical Corps.
First Lieut. Addison D. Davis, Medical Corps.
First Lieut. William H. Smith, Medical Corps.
First Lieut. Clarence E. Fronk, Medical Corps.
First Lieut. George D. Heath, jr., Medical Corps.

CORPS OF ENGINEERS.

To be second lieutenants with rank from June 12, 1912.

Cadet Howard Sharp Bennion.
Cadet Rudolph Charles Kuldell.
Cadet Roscoe Campbell Crawford.
Cadet Earl Grady Paules.
Cadet Bradford Grethen Chynoweth.
Cadet Milo Pitcher Fox.

CAVALRY ARM.

Cadet William Henry Walmsley Youngs.
Cadet Byron Quinby Jones.
Cadet Robert McGowan Littlejohn.
Cadet Harry Albert Flint.
Cadet Pearl Lee Thomas.
Cadet Sidney Vincent Bingham.
Cadet Otto Emil Schultz.
Cadet Isaac Spalding.
Cadet Henry Lytton Flynn.
Cadet Robert Fee Hyatt.
Cadet Harold Marvin Rayner.
Cadet Stephen Marston Walmsley.
Cadet John Traylor McLane.
Cadet George McClellan Chase.
Cadet James Sylvester Mooney.
Cadet Henry William Harms.
Cadet John Earl Lewis.
Cadet John Duncan Kelly.
Cadet Thorne Deuel, jr.
Cadet William Nalle.
Cadet Gustav Jacob Gonser.

FIELD ARTILLERY ARM.

Cadet Russell Lamonte Maxwell.
Cadet Charles Janvrin Browne.
Cadet John Nathaniel Hauser.
Cadet Karl Chris Greenwald.
Cadet Richard Emmanuel Anderson.
Cadet James Albert Gillespie.
Cadet Wesley Moter Bailey.

COAST ARTILLERY CORPS.

Cadet Lee Otis Wright.
Cadet Lewis Andrews Nickerson.
Cadet Philip Ries Faymonville.
Cadet William Coffin Harrison.
Cadet John Shirley Wood.
Cadet Robert Henry Lee.
Cadet David McLean Crawford.
Cadet Oscar James Gatchell.
Cadet Cris Miles Burlingame.
Cadet Raymond Vincent Cramer.
Cadet Sidney Parker Spalding.
Cadet Leonard Lovering Barrett.
Cadet Stephen Harrison MacGregor.
Cadet James Kirk.
Cadet Robert Nall Bodine.
Cadet James Harve Johnson.
Cadet John Henry Lindt.
Cadet Bird Spencer Du Bois.
Cadet Cyril Augustine Phelan.

INFANTRY ARM.

Cadet Thomas Jay Hayes.
Cadet d'Alary Fechét.
Cadet William Hale Wilbur.
Cadet Edgar Staley Gorrell.
Cadet Basil Duke Edwards.
Cadet Davenport Johnson.
Cadet Wade Hampton Haislip.
Cadet William Dean.
Cadet Walter Melville Robertson.
Cadet Harry James Malony.
Cadet John Hartwell Hinemon, jr.
Cadet Charles Nathaniel Sawyer.
Cadet Gilbert Richard Cook.
Cadet Max Weston Sullivan.
Cadet Franklin Cummings Sibert.
Cadet Archibald Vincent Arnold.
Cadet John Nicholas Smith, jr.
Cadet William Gaulbert Weaver.
Cadet Stephen J. Chamberlin.
Cadet William Horace Hobson.
Cadet Walter Glenn Kilner.
Cadet Raymond Oscar Barton.
Cadet Houston Latimer Whiteside.
Cadet Walton Harris Walker.
Cadet Millard Fillmore Harmon, jr.
Cadet Edward Chamberlin Rose.
Cadet Albert Eger Brown.
Cadet Ralph Cadot Holliday.
Cadet Robert Emmett Patterson.
Cadet Adrian Kenneth Polhemus.
Cadet Carl Peterson Dick.
Cadet Charles Chisholm Drake.
Cadet George LeRoy Brown, jr.
Cadet Earl Barlow Hochwalt.
Cadet William Joseph Morrissey.
Cadet Robert Theodore Snow.
Cadet Henry Charles McLean.
Cadet Joseph Edmund McDonald.
Cadet Frank Victor Schneider.
Cadet Frank Joseph Riley.
Cadet Benjamin Franklin Delamater, jr.
Cadet Theodore Willis Martin.

CHAPLAIN.

Chaplain Herbert S. Smith, Third Infantry, to be chaplain with the rank of captain from June 19, 1912, after seven years' service.

PROMOTIONS IN THE NAVY.

Commander Volney O. Chase to be a captain in the Navy from the 7th day of June, 1912, to fill a vacancy.

Lieut. (Junior Grade) Edward S. Moses to be a lieutenant in the Navy from the 3d day of May, 1912, to fill a vacancy.

Ensign Edward S. Moses to be a lieutenant (junior grade) in the Navy from the 13th day of February, 1911, upon the completion of service as an ensign of three years, plus service during suspension from promotion after failure at examination.

Ensign William C. I. Stiles to be a lieutenant (junior grade) in the Navy from the 13th day of February, 1911, upon the completion of service as an ensign of three years, plus service during suspension from promotion after failure at examination.

Ensign James J. Manning to be a lieutenant (junior grade) in the Navy from the 13th day of September, 1911, upon the completion of service as an ensign of three years, plus service during suspension from promotion after failure at examination, and to correct the date from which he takes rank as previously confirmed.

Ensign William O. Wallace to be a lieutenant (junior grade) in the Navy from the 12th day of February, 1912, upon the completion of three years' service as an ensign.

Ensign Ellis Lando to be a lieutenant (junior grade) in the Navy from the 12th day of February, 1912, upon the completion of three years' service as an ensign.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 7th day of June, 1912, upon the completion of three years' service as ensigns:

Clarence N. Hinkamp,
Leslie E. Bratton,
Ralph R. Stewart,
Ralph C. Parker,
Henry C. Gearing, jr.,
George W. Simpson,
Charles F. Pousland,
Charles C. Windsor,
Edmund D. Almy,
Robert F. Gross,
Seymour E. Holliday,
Emanuel A. Lofquist,
Elmer W. Tod,
Homer H. Norton,
John F. Cox,
George N. Barker,
Newton L. Nichols,
Patrick N. L. Bellinger.

POSTMASTERS.

GEORGIA.

Marcus S. Baker, jr., to be postmaster at Savannah, Ga., in place of Henry Blun, jr., resigned.

ILLINOIS.

H. B. Chaffin to be postmaster at Clay City, Ill., in place of Henry C. Bothwell, deceased.

David Herriott to be postmaster at Morgan Park, Ill., in place of David Herriott. Incumbent's commission expired January 22, 1912.

INDIANA.

Joseph W. Morrow to be postmaster at Charlestown, Ind., in place of Joseph W. Morrow. Incumbent's commission expired December 11, 1911.

IOWA.

Lawrence J. Finn to be postmaster at Bonaparte, Iowa, in place of Albert G. Roberts, removed.

MICHIGAN.

Lee R. Wallace to be postmaster at Port Austin, Mich., in place of William J. Morrow, deceased.

NEBRASKA.

Joseph A. Storch to be postmaster at Fullerton, Nebr., in place of Clarence J. McClelland, resigned.

John A. Wood to be postmaster at Ewing, Nebr., in place of John A. Wood. Incumbent's commission expired March 31, 1912.

NEW HAMPSHIRE.

Waldo C. Varney to be postmaster at Alton, N. H. Office became presidential July 1, 1912.

NEW JERSEY.

William R. Poe to be postmaster at Glen Ridge, N. J., in place of William R. Poe. Incumbent's commission expired February 19, 1912.

NEW YORK.

Mary A. Wilson to be postmaster at Sacket Harbor, N. Y., in place of James A. Wilson, deceased.

OHIO.

Charles A. Ward to be postmaster at Marietta, Ohio, in place of Alva D. Alderman, removed.

OKLAHOMA.

Emma Dale to be postmaster at Roff, Okla., in place of Louis M. Merritt. Incumbent's commission expired April 28, 1912.

PENNSYLVANIA.

James M. Bell to be postmaster at Chicora, Pa., in place of Lott I. Leach, deceased.

William H. D. Godshall to be postmaster at Lansdale, Pa., in place of William H. D. Godshall. Incumbent's commission expired May 15, 1912.

Robert R. Groetzinger to be postmaster at Leetsdale, Pa., in place of John Nelson, removed.

Alfred Edward Lewis to be postmaster at West Middlesex, Pa., in place of David Farrell. Incumbent's commission expired April 24, 1912.

Anne D. Moore to be postmaster at Avondale, Pa., in place of Anne D. Moore. Incumbent's commission expired April 28, 1912.

Freeman C. Wilcox to be postmaster at New Albany, Pa., in place of Charles H. Keeler. Incumbent's commission expired May 20, 1912.

SOUTH DAKOTA.

George W. Bowker to be postmaster at Ashton, S. Dak., in place of Charles F. Graves, resigned.

TENNESSEE.

Samuel F. Carroll to be postmaster at Lenoir City, Tenn., in place of John J. Duff. Incumbent's commission expired January 28, 1912.

VIRGINIA.

Paxton G. Williamson to be postmaster at Mount Jackson, Va., in place of Albert A. Evans, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 1, 1912.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

First Lieut. John W. McKie to be captain.

SUBSISTENCE DEPARTMENT.

Lieut. Col. David L. Brainard to be assistant commissary general with the rank of colonel.

Maj. Charles R. Krauthoff to be deputy commissary general with the rank of lieutenant colonel.

Capt. Morton J. Henry to be commissary with the rank of major.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

CAVALRY ARM.

Second Lieut. Leopold J. H. Herwig to be second lieutenant.

INFANTRY ARM.

Second Lieut. George E. Arnemann to be second lieutenant.

APPOINTMENT IN THE ARMY.

INFANTRY ARM.

Gilbert Penfield Strelinger to be second lieutenant.

MEDICAL RESERVE CORPS.

To be first lieutenants.

Ralph Leonidas Byrnes.
Leon Theodore Le Wald.

HOUSE OF REPRESENTATIVES.

MONDAY, *July 1, 1912.*

The House met at 12 o'clock noon and was called to order by the Clerk of the House, Hon. South Trimble.

Dr. J. Lewenthal, rabbi, Vine Street Temple, Nashville, Tenn., offered the following prayer:

Almighty God, may Thy loving kindness be upon us and establish Thou the works of our hands, yea, the work of our hands, firmly establish Thou it. We pray Thee to look down in Thy infinite kindness upon the Members of this House; be graciously inclined toward them and endow them with a good heart, with wisdom and understanding, and with a just and willing mind so that they may acquit themselves of and discharge their duties as fully as their hearts desire to do so. We thank Thee, O God, for the preservation of this great and glorious Republic, in its national integrity and unity, and humbly do we pray Thee for strength and courage that we may purge wherever it exists our citizen States of the deep causes of corruption which so often make sin profitable and uprightness hard. Do Thou grant unto our public men the faith and daring of the kingdom of God in their hearts so that they may enlist in the sacred warfare for the freedom and the rights of the people.

Into Thy keeping, O Father, do we commend the President of these United States and Members of this House and all the constituted authorities, so that through them order may be preserved and right and liberty be fostered. Do Thou strengthen the bonds of loyalty and friendship between all the inhabitants of our great country. Bless all mankind, Thy children, now and forevermore. Amen.

The Clerk read the following communication:

JULY 1, 1912.

Hon. SOUTH TRIMBLE.
Clerk House of Representatives:

I hereby designate Hon. J. W. ALEXANDER, of Missouri, to preside over the House this day.

CHAMP CLARK, *Speaker.*

Mr. ALEXANDER assumed the chair as Speaker pro tempore amid applause.

The Journal of the proceedings of Thursday, June 27, 1912, was read and approved.

EXTENDING APPROPRIATIONS FOR THE NECESSARY OPERATIONS OF THE GOVERNMENT, ETC.

Mr. FITZGERALD. Mr. Speaker, by direction of the Committee on Appropriations I report back to the House House joint resolution 331, extending appropriations for the necessary operations of the Government under certain contingencies and ask unanimous consent that it may be considered in the House as in the Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution (H. J. Res. 331) extending appropriations for the necessary operations of the Government under certain contingencies.

Resolved, etc., That all appropriations for the necessary operations of the Government, and for the payment of pensions under existing laws, which shall remain unprovided for on the 30th day of June, 1912, be, and they are hereby, continued and made available for and during the month of July, 1912, unless the regular appropriations provided therefor in bills now pending in Congress shall have been previously made for the service of the fiscal year ending June 30, 1913; and a sufficient amount is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry on the same: *Provided*, That no greater amount shall be expended for such operations than as the sum of one-twelfth of the appropriations made for the fiscal year 1912 bears to the whole of the appropriations of said fiscal year: *Provided further*, That the total expenditures for the whole of the fiscal year 1913 under the several appropriations hereby continued, and under the several appropriation bills now pending, shall not exceed in the aggregate the amounts finally appropriated therefor in the several bills now pending, except in cases where a change is made in the annual, monthly, or per diem compensation or in the numbers of officers, clerks, or other persons authorized to be employed by the several appropriations hereby continued, in which cases the amounts authorized to be expended shall equal one-twelfth of the appropriations for the fiscal year 1912, and eleven-twelfths of the appropriations contained in the several bills now pending when the same shall have been finally passed, unless the salary or compensation of any office shall be increased or diminished without changing the grade or the duties thereof, in which case such salary or compensation shall relate to the entire fiscal year and run from the beginning thereof: *And provided further*, That the session employees of the Senate and House of Representatives now authorized by law shall be continued upon the rolls until the end of the present session of Congress and paid at the rate per diem or month at which they are now paid; and a sufficient amount is hereby appropriated out of any money in the Treasury not otherwise appropriated to pay the same.

This joint resolution shall be construed as authorizing the continuance of the salaries and other expenses under the organization of the Bureau of the Census of the Department of Commerce and Labor as the latter existed June 30, 1912, for the period of time and under the conditions provided herein for all other branches of the public service.

Mr. FITZGERALD. Mr. Speaker, the House understands the necessity for this resolution. Nine of the regular appropriation bills have not yet become law. The only appropriation bills which have received the approval of the President are the fortifications bill, the diplomatic and consular bill, and the District of Columbia bill. In order to continue the operations of the Government it is necessary that some such resolution as this be passed. Under the law, except in certain excepted cases, no official of the Government is authorized to incur any liability without express authority, and all officials of the Government are prohibited from accepting any voluntary services except under penalty fixed by the law. This resolution is drawn on lines similar to the last one passed by Congress under similar conditions, the last one being in 1894. Joint resolutions were necessary to continue appropriations in 1876, 1882, 1884, 1886, 1888, 1890, and 1894. This resolution was prepared after a conference between the Comptroller of the Treasury and the Chief of the Division of Bookkeeping and Accounts in the Treasury Department and the clerk of the Committee on Appropriations, whose long services and familiarity with these matters is known to the House and which makes him peculiarly competent to act in these respects. I shall ask that there may be printed as part of my remarks the report prepared to accompany the resolution.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The report is as follows:

[House Report No. 926, Sixty-second Congress, second session.]

EXTENSION OF APPROPRIATIONS.

Mr. FITZGERALD, from the Committee on Appropriations, submitted the following report, to accompany House joint resolution 331:

The Committee on Appropriations report herewith a joint resolution extending the appropriations made for the necessary operations of the Government for the fiscal year 1912 during the month of July of the fiscal year 1913 and recommend its immediate passage.

The enactment of this resolution is made necessary because of the failure of final passage of nine of the annual appropriation bills before the beginning of the fiscal year 1913, namely, Agriculture, Army, Indian, legislative, Military Academy, naval, pension, Post Office, and sundry civil.

The Army bill for 1913 was passed by both Houses, but failed to become a law because of the veto by the President June 17, 1912.

The diplomatic and consular, District of Columbia, and fortification acts for the fiscal year 1913 have become laws.

Under the provisions of this measure sums equal to one-twelfth of the appropriations made for the necessary operations of the Government for 1912 are appropriated for the month of July of the fiscal year 1913, or the proportionate part of such sums for such part of July as shall elapse before the enactment of the respective appropriation acts for 1913; all amounts expended out of such sums to be deducted from the appropriations finally made for each purpose for the entire fiscal year 1913.

Joint resolutions or acts of a similar character, extending appropriations after the close of a fiscal year because of failure to pass the regular bills, were enacted in 1876, 1882, 1884, 1886, 1888, 1890, 1892, and 1894.

The accompanying joint resolution is in the exact terms of the one last passed by Congress, in 1894, providing for a similar condition to that now existing, except that the month of July is provided for instead of 30 days, and express provision is made for continuance of the Census Bureau; the latter is made necessary because existing law provides for the termination of the organization of that bureau on June 30, 1912. The reorganization of the bureau is provided for in the legislative, etc., act for 1913, but until the latter becomes a law it is necessary to thus provide expressly for a continuance of the old organization.

The month of July is specified as the extreme period of time covered by the proposed extension of appropriations instead of 30 days, in order to avoid possible complications that may arise in settling salary or pay accounts under the provisions of the act of June 30, 1906, requiring that in making payments all annual salaries shall be divided into 12 equal parts, and each of such parts into 30 equal portions, or computing 360 days as a year and 30 days as constituting each month.

The accompanying memoranda, compiled from the laws and from the records of Congress, are submitted for the further information of the House:

CONTINUANCE OF APPROPRIATIONS.

Forty-fourth Congress: The first session of this Congress extended until August 15, 1876, or 46 days beyond the fiscal year 1876.

Act of June 30, 1876, made unexpended balances available for 10 days and, to the extent they might be insufficient, made an indefinite appropriation for the necessary service of the Government, all sums expended to be charged to and deducted from the appropriations for 1877 (Stat. L., vol. 19, p. 65).

Further continued for 10 days by act July 10, 1876 (Stat. L., vol. 19, p. 78).

Further continued until July 31, 1876, by act July 21, 1876 (Stat. L., vol. 19, p. 95).

Further continued until August 10, 1876, by act August 1, 1876 (Stat. L., vol. 19, p. 122).

Further continued until August 14, 1876, by act August 12, 1876 (Stat. L., vol. 19, p. 131).

No specific service or object was mentioned or specially provided for except the public printing, which was authorized to be continued in advance of appropriations to be made therefor.

The Forty-fifth and Forty-sixth Congresses did not extend their regular sessions beyond the fiscal years 1878 and 1880, respectively.

Forty-seventh Congress: The first session of this Congress extended until August 8, 1882, or 39 days beyond the fiscal year 1882.

Joint resolution June 30, 1882, continued appropriations of 1882 for 20 days and, when insufficient, indefinite amount appropriated to carry on necessary operations of Government; amounts expended to be deducted from regular appropriations when made. (Stat. L., vol. 22, p. 384.)

Further continued until July 31, 1882, by joint resolution July 20, 1882 (Stat. L., vol. 22, p. 384).

Further continued until August 3, 1882, by joint resolution August 1, 1882 (Stat. L., vol. 22, p. 390).

Further continued until August 5, 1882, by joint resolution August 5, 1882 (Stat. L., vol. 22, p. 390).

No particular service or object was mentioned or specifically provided for except authority was granted for continuing, during the periods stated, public printing and binding and "miscellaneous objects embodied in the sundry civil and naval appropriation acts in advance of appropriations to be hereafter made for said objects."

The sundry civil act was not approved at this session until August 7, 1882, or two days after expiration of continuance of appropriations.

Forty-eighth Congress: The first session of this Congress extended until July 7, 1884, or seven days beyond the fiscal year 1884.

Joint resolution June 30, 1884, continued appropriations for 1884 for five days, and when insufficient, indefinite amount appropriated to carry on necessary operations of Government, amounts expended to be deducted from regular appropriations when made. (Stat. L., vol. 23, p. 276.)

No particular service or object was mentioned or specifically provided for, except authority was granted for continuing, during the periods stated, public printing and binding and "miscellaneous objects embodied in the sundry civil and naval appropriation acts in advance of appropriations to be hereafter made for said objects."

The sundry civil, legislative, and diplomatic and consular acts were not approved at this session until July 7, 1884, or two days after expiration of continuance of appropriations.

The regular naval appropriation act for the fiscal year 1885 failed of enactment, and on July 7, 1884, a joint resolution was approved providing for the naval service for six months on the basis of the appropriations for the fiscal year 1884.

Forty-ninth Congress: The first session of this Congress extended until August 5, 1886, or 36 days beyond the fiscal year 1886.

Joint resolution July 1, 1886, contained appropriations for 1886 for 15 days, and when insufficient, indefinite amounts appropriated to carry on necessary operations of Government, amounts expended to be deducted from regular appropriations when made. (Stat. L., vol. 24, p. 343.)

Further continued until July 31, 1886, by joint resolution July 15, 1886. (Stat. L., vol. 24, p. 345.)

No particular service or object was mentioned or specifically provided for, except authority was given for continuing, during the period stated, public printing and binding and "miscellaneous objects embodied in the sundry civil and naval appropriation acts in advance of appropriations to be hereafter made for said objects."

The sundry civil act was not approved at this session until August 4, 1886, or four days after expiration of continuance of appropriations.

Fiftieth Congress: The first session of this Congress extended until October 20, 1888, or 112 days beyond the fiscal year 1888.

Joint resolution June 30, 1888, continued appropriations for 1888 for 30 days, and when insufficient, indefinite amount appropriated to carry on necessary operations of Government, amounts expended to be deducted from regular appropriations when made. (Stat. L., vol. 25, p. 624.)

Further continued until August 31, 1888, by joint resolution July 31, 1888. (Stat. L., vol. 25, p. 628.)
Further continued until September 15, 1888, by joint resolution September 1, 1888. (Stat. L., vol. 25, p. 630.)
Further continued until September 25, 1888, by joint resolution September 15, 1888. (Stat. L., vol. 25, p. 630.)
Further continued until October 10, 1888, by joint resolution September 26, 1888. (Stat. L., vol. 25, p. 631.)
No particular service or object was mentioned or specifically provided for except authority was granted for continuing, during the period stated, public printing and binding and "miscellaneous objects embodied in the sundry civil, Army, District of Columbia, legislative, executive, and judicial, and naval appropriation acts in advance of appropriations to be hereafter made for said objects."
Fifty-first Congress: The first session of this Congress extended until October 1, 1890, or 93 days beyond the fiscal year 1890.
Joint resolution June 30, 1890, continued appropriations for 1890 for 30 days; terms used identical with those of proposed continuance of 1912 appropriations, except the last paragraph of latter, as to census, etc. (Stat. L., vol. 26, p. 675.)
Further continued until August 14, 1890, by joint resolution July 30, 1890. (Stat. L., vol. 26, p. 677.)
Further continued until August 29, 1890, by joint resolution August 14, 1890. (Stat. L., vol. 26, p. 677.)
No particular service or object was mentioned or specifically provided for, although only the Military Academy, Navy, pension, and Post Office acts were approved prior to July 1, 1890.
Fifty-second Congress: The first session of this Congress extended until August 5, 1892, or 36 days beyond the fiscal year 1892.
Joint resolution June 30, 1892, continued appropriations for 1892 for 15 days. Terms used identical with those of proposed continuance of 1912 appropriations, except the last paragraph of latter as to census, etc. (Stat. L., vol. 27, p. 397.)
Further continued until July 30, 1892, by joint resolution July 15, 1892. (Stat. L., vol. 27, p. 398.)
Further continued until August 4, 1892, by joint resolution August 1, 1892. (Stat. L., vol. 27, p. 401.)
No particular service or object was mentioned or specifically provided for except the District of Columbia "and for the payment of pensions."
Fifty-third Congress: The first regular session of this Congress extended until August 28, 1894, or 59 days beyond the fiscal year 1894.
Joint resolution June 29, 1894, continued appropriations for 1894 for 30 days. Terms used identical with those of proposed continuance of 1912, except the last paragraph of latter as to census, etc. (Stat. L., vol. 28, p. 585.)
Further continued until August 14, 1894, by joint resolution July 31, 1894. (Stat. L., vol. 28, p. 587.)
Further continued until August 20, 1894, by joint resolution August 15, 1894. (Stat. L., vol. 28, p. 590.)
No particular service or object was mentioned or specifically provided for except the District of Columbia "and for the payment of pensions."
In addition to the foregoing general continuance of all appropriations a joint resolution was enacted July 9, 1894, making an indefinite appropriation "to continue until the 31st day of July, 1894, the employment of mechanics and laborers paid from the appropriation 'Increase of the Navy, construction and machinery,'" the amount so expended to be deducted from the amount finally appropriated for that purpose for 1895. (Stat. L., vol. 28, p. 587.)
The naval act for 1895 was approved July 26, 1894.

APPROPRIATION BILLS (WITH DATES OF APPROVAL) NOT FINALLY ENACTED AT FIRST REGULAR SESSIONS OF CONGRESS WHEN APPROPRIATIONS OF A PRIOR YEAR WERE CONTINUED.

Forty-fourth Congress (fiscal year 1877): Army, July 24, 1876; consular and diplomatic, August 15, 1876; Indian, August 15, 1876; legislative, etc., August 15, 1876; Military Academy, August 7, 1876; Post Office, July 12, 1876; sundry civil, July 31, 1876. (Seven in all.)
Forty-seventh Congress (fiscal year 1883): Consular and diplomatic, July 1, 1882; District of Columbia, July 1, 1882; legislative, etc., August 5, 1882; Navy, August 5, 1882; pensions, July 25, 1882; sundry civil, August 7, 1882. (Six in all.)
Forty-eighth Congress (fiscal year 1885): Army, July 5, 1884; consular and diplomatic, July 7, 1884; District of Columbia, July 5, 1884; fortification, July 5, 1884; Indian, July 4, 1884; legislative, etc., July 7, 1884; pension, July 4, 1884; Post Office, July 5, 1884; Navy, July 7, 1884; sundry civil, July 7, 1884. (Ten in all.)
Forty-ninth Congress (fiscal year 1887): District of Columbia, July 9, 1886; fortification (failed of enactment); legislative, etc., July 31, 1886; Navy, July 26, 1886; pension, July 2, 1886; sundry civil, August 4, 1886. (Six in all.)
Fiftieth Congress (fiscal year 1889): Agriculture, July 18, 1888; Army, September 22, 1888; diplomatic and consular, July 11, 1888; District of Columbia, July 18, 1888; fortification, September 22, 1888; legislative, etc., July 11, 1888; Navy, September 7, 1888; Post Office, July 24, 1888; sundry civil, October 2, 1888. (Nine in all.)
Fifty-first Congress (fiscal year 1891): Agriculture, July 14, 1890; diplomatic and consular, July 14, 1890; District of Columbia, August 6, 1890; fortification, August 18, 1890; Indian, August 19, 1890; legislative, etc., July 11, 1890; sundry civil, August 30, 1890. (Seven in all.)
Fifty-second Congress (fiscal year 1893); Agriculture, July 5, 1892; Army, July 16, 1892; diplomatic and consular, July 16, 1892; District of Columbia, July 14, 1892; fortification, July 25, 1892; Indian, July 13, 1892; legislative, etc., July 16, 1892; Military Academy, July 14, 1892; Navy, July 19, 1892; pension, July 13, 1892; sundry civil, August 5, 1892. (Twelve in all.)
Fifty-third Congress (fiscal year 1892): Agriculture, August 8, 1894; Army, August 6, 1894; diplomatic and consular, July 26, 1894; District of Columbia, August 7, 1894; fortification, August 1, 1894; Indian, August 15, 1894; legislative, etc., July 31, 1894; Military Academy, July 26, 1894; Navy, July 26, 1894; pension, July 18, 1894; Post Office, July 16, 1894; sundry civil, August 18, 1894. (Twelve in all.)

APPROPRIATION ACTS APPROVED AFTER CLOSE OF FISCAL YEARS WHEN PROVISION FOR CONTINUANCE OF APPROPRIATIONS WAS NOT MADE.

Fifty-fifth Congress (fiscal year 1899): Indian, July 1, 1898; sundry civil, July 1, 1898.
Fifty-seventh Congress (fiscal year 1903): District of Columbia, July 1, 1902; Navy, July 1, 1902.
Sixty-second Congress (fiscal year 1913). The following bills have not yet become laws: Agriculture, Army, Indian, legislative, etc., Military Academy, naval, pension, Post Office, sundry civil (nine in all).
The following have been approved: Diplomatic and consular, District of Columbia, fortification.
The Army bill, having passed both Houses, was vetoed by the President June 17, 1912.

The SPEAKER pro tempore. Is there objection to the immediate consideration of the joint resolution? [After a pause.] The Chair hears none.
Mr. FINLEY. Will the gentleman yield?
Mr. FITZGERALD. Yes.
Mr. FINLEY. Does the gentleman think it will be necessary to pass another resolution similar to this before the appropriation bills or the money bills generally are passed by Congress and sent to the President in the usual form?
Mr. FITZGERALD. Well, I have not thought about the matter at all. I have no impression——
Mr. FINLEY. The necessity for this resolution is unusual, and has the gentleman any particular views and reasons to give——
Mr. FITZGERALD. The gentleman is as familiar with the situation as I am.
Mr. FINLEY. Well, it is a political situation, is it not?
Mr. FITZGERALD. Well, I know the House passed the appropriation bills, and because of the fact that the two great national conventions were to be held in the month of June after the 15th the Senate made an agreement that no business should be transacted in the Senate between the 17th of June and the 1st of July, which was done to accommodate, apparently, members of both political parties, and had it not been for the two conventions I know of no reason that would have prevented all the appropriation bills having been acted upon prior to the termination of the last fiscal year.
Mr. FINLEY. I call attention to the fact that the Post Office bill has been in the Senate for about two months and has not been reported out of committee yet.
Mr. FITZGERALD. Of course, the gentleman realizes I am not responsible——
Mr. FINLEY. I am sure of that——
Mr. FITZGERALD (continuing). For what happens or what does not happen in the Senate.
Mr. FINLEY. I am sure of that.
Mr. FITZGERALD. But we have the situation to face. This resolution is to do what has been done under similar conditions in the past.
Mr. RODDENBERY. Reserving the right to object——
Mr. FITZGERALD. I understand it is too late for gentlemen to object or reserve the right to object. I understand consent has been given, and we are debating the resolution, but I do not think any gentleman wishes to object. It is an unusual situation.
Mr. RODDENBERY. The resolution as prepared does not provide that the abolition of positions made in the House bill shall not be covered by this provision.
Mr. FITZGERALD. It does not. The gentleman understands that the two Houses apparently are in disagreement over a great many items. If the House should propose to appropriate only in accordance with its action taken on the appropriation bill, the Senate very likely would insist on the appropriations being made in accordance with its desires, and we could do nothing.
Mr. RODDENBERY. We would like to carry out these economies in our bills but for that objection.
Mr. FITZGERALD. We hope before this session is ended to enact the appropriation bills and have as many unnecessary and useless offices abolished as possible, and have as many reductions as possible in the appropriations for the present fiscal year.
The SPEAKER pro tempore. The question is on the engrossment and third reading of the resolution.
The resolution was ordered to be engrossed and read a third time, was read a third time, and agreed to.
On motion of Mr. FITZGERALD, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

RETURN OF SUNDRY CIVIL BILL.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.
The SPEAKER pro tempore. The Clerk will report the resolution.
The Clerk read as follows:

House resolution 591.

Resolved, That the Clerk be directed to request the Senate to return to the House of Representatives the bill (H. R. 25069) entitled "An act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes."

The SPEAKER pro tempore. Is there objection?
There was no objection.
Mr. FITZGERALD. The purpose is, Mr. Speaker, to have corrected an error that was made in the enrollment of the bill.

The SPEAKER pro tempore. The question is on the passage of the resolution.

The question was taken, and the resolution was agreed to.

ENCAMPMENT AND MANEUVERS OF ORGANIZED MILITIA.

Mr. HAY. Mr. Speaker, I am directed by the Committee on Military Affairs to offer the following House joint resolution.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution (H. J. Res. 332) appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

Be it resolved, etc., That the sum of $1,350,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for paying the expenses of the Organized Militia of any State or Territory or the District of Columbia which may be authorized by the Secretary of War to participate in such encampment as may be established or the field instruction of the troops of the Regular Army, as provided by section 1521 of the act of January 21, 1903, entitled "An act to promote the efficiency of the militia, and for other purposes," to be immediately available.

Mr. HAY. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. In the House as in the Committee of the Whole?

Mr. HAY. In the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. HAY. Mr. Speaker, the resolution which I have just reported by direction of the Committee on Military Affairs is made for the reason that the Army appropriation bill, which passed both Houses, was vetoed by the President, and therefore these encampments can not be had unless this appropriation is now made.

I desire to say, however, that I do not propose to treat any other appropriation in the Army bill in this way, nor would I have been in favor of making this appropriation now had it not been for the fact that the States in good faith had prepared themselves for these maneuvers and had spent large sums in order to carry them out.

Mr. MANN. Will the gentleman yield for a question?

Mr. HAY. Certainly.

Mr. MANN. How much does the resolution carry?

Mr. HAY. One million three hundred and fifty thousand dollars.

Mr. MANN. That does not include, I take it, the amount that was suggested by the passage of the bill for the Regular Army?

Mr. HAY. It does not.

Mr. MANN. Is not that necessary?

Mr. HAY. I think not. I think under the continuing resolution just passed the War Department can use for the purpose of these maneuvers, if it desires to do so, that part of the appropriation which provides for transportation and subsistence.

Mr. MANN. The gentleman has given careful attention to the subject. My recollection of the President's message, which was read the other day, is that it indicated that these maneuvers would require a considerable increase of expense in the Regular Army.

Mr. HAY. No. It required only the usual appropriation. The proposition of the President was that we appropriate for this purpose for the Regular Army $367,000. But the appropriation which was carried for the last fiscal year was not increased by reason of the maneuvers. For instance, the appropriation for transportation or for subsistence or for regular supplies in the Quartermaster's Department is not increased by reason of the maneuvers.

Mr. MANN. The reason I asked the question, of course, was this: The joint resolution which we just passed confines the expenditure for this month to one-twelfth of the appropriation of the last fiscal year. I did not know but that the maneuvers might require an additional expenditure in connection with the maneuvers and the other business of the Army greater than the one-twelfth.

Mr. HAY. I think not. I think that one-twelfth of the appropriation of last year, for instance, for transportation will be ample to take care of these maneuvers.

Mr. KAHN. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Virginia yield?

Mr. HAY. I do.

Mr. KAHN. The appropriation for last year, as carried in the bill, was for $350,000 for maneuvers?

Mr. HAY. Yes.

Mr. KAHN. And therefore this amount carried in the resolution is absolutely necessary if the maneuvers are conducted on the large scale that is contemplated?

Mr. HAY. Yes.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the resolution.

The resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote whereby the resolution was passed was laid on the table.

ARMY APPROPRIATION BILL.

Mr. HAY, chairman of the Committee on Military Affairs, by direction of that committee, reported the bill (H. R. 25531) making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes, which was read a first and second time and, together with the accompanying papers, referred to the Committee of the Whole House on the state of the Union and ordered printed. (H. Rept. 927.)

Mr. PRINCE. Mr. Speaker, I reserve all points of order against the bill.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PRINCE] reserves all points of order against the bill.

Mr. PRINCE. Mr. Speaker, I would like to ask the chairman of the Committee on Military Affairs to give us five legislative days in which to file the views of the minority.

Mr. HAY. I hope the gentleman will not insist upon that.

Mr. PRINCE. I do not want to delay the consideration of the bill at all.

Mr. HAY. I am anxious to get this bill through as soon as possible. If the gentleman asks consent to file his report within five legislative days and, notwithstanding that consent, I am allowed to bring it up at any time, I have no objection.

Mr. PRINCE. Of course, I am perfectly willing to do that.

Mr. MANN. Mr. Speaker, may I ask the gentleman if he expects to get the Army bill before the House to-morrow?

Mr. HAY. I desire to do so, and if I can agree with the gentleman I would like to pass it to-day under the suspension of the rules.

Mr. UNDERWOOD. I would like to say, if the gentleman from Virginia will yield, that this bill is the same as the bill which passed the House some time ago. Of course, in the end the differences must be agreed upon in conference. We are anxious to expedite the public business and get these supply bills out of the way. If agreeable to the gentlemen on the other side, inasmuch as the bill has already been passed by the House and does not contain those particular items on account of which the President vetoed the bill, I think it would be well in the way of expediting business to send the bill to the Senate, because, of course, the majority on this side will pass it ultimately, and let the Senate disagree and send it to conference, and then the House can act on the conference report when it comes back here. If that is agreeable to gentlemen on the other side, I think it is the wise thing to do.

Mr. MANN. Mr. Speaker, I take it that this side of the House would make no obstruction to the passage of the bill, but we voted against it when it was passed before. The gentleman could hardly expect us to vote for it in the same form that it is now presented.

Mr. HAY. We do not expect the gentleman to vote for it.

Mr. MANN. That might be required under a motion to suspend the rules.

Mr. UNDERWOOD. Mr. Speaker, I would like to ask the gentleman from Illinois, in the way of expediting this business and disposing of the bill, if it would be agreeable to that side of the House to give unanimous consent that it may be considered this morning and passed without debate. Of course, that can only be done by unanimous consent.

Mr. MANN. Mr. Speaker, I think there is some desire to have a little discussion of the bill. I understand that it is the purpose to go ahead with the Unanimous Consent Calendar to-day. I do not believe there will be any objection to taking the bill up to-morrow.

Mr. PRINCE. None whatever.

Mr. HAY. Under a rule?

Mr. MANN. Under a rule or under some unanimous-consent agreement. Let the gentleman from Virginia [Mr. HAY] and my colleague from Illinois [Mr. PRINCE] get together and agree upon some procedure.

Mr. HAY. Then I will make this request: That to-morrow morning, immediately after the reading of the Journal this bill be taken up, and that general debate be had upon it for one hour on a side, at the end of which time the previous question shall be considered as ordered, and a vote taken upon the final passage of the bill.

Mr. MANN. The bill to be considered in the House as in the Committee of the Whole?

Mr. HAY. Yes. General debate to be limited to two hours—one hour on a side; at the end of which time the previous question shall be considered as ordered, and the vote taken on the final passage of the bill.

Mr. MANN. We might want a ruling on some points of order on the bill.

Mr. HAY. Those points of order have been already ruled upon.

Mr. MANN. I think the gentleman would have no trouble in reaching an agreement to-morrow substantially like that suggested.

Mr. HAY. I do not see why we can not reach it now, because we can bring in a rule in exactly those terms.

Mr. MANN. Oh, certainly.

Mr. HAY. But I do not want to ask for that unless it becomes necessary.

Mr. MANN. Let the gentleman from Virginia and the gentleman from Illinois get together. I think there would be no difficulty in agreeing on the terms upon which the bill should be brought in.

Mr. UNDERWOOD. Mr. Speaker, I suggest to the gentleman from Illinois and the gentleman from Virginia that the House to-day will take up for consideration the Unanimous Consent Calendar and probably run for an hour or two, and that they could go ahead and reach some agreement before adjournment to-day for taking up the military appropriation bill.

Mr. HAY. And that is what I am asking.

Mr. PRINCE. I understood the gentleman wanted to bring it up to-day.

Mr. HAY. Oh, no; I made no such proposition.

Mr. PRINCE. I am perfectly willing to bring this matter up to-morrow morning and dispose of it. We have no desire to obstruct in the slightest degree the public business, but I am inclined to think, from memory now, that there are some points of order that I may want to make—not the same points that I made before, for those have been already passed upon; but the matter will only take an hour on a side and we will expedite it as rapidly as possible.

Mr. HAY. I will say to the gentleman that all points of order were made upon the bill when it passed the House before and they were all ruled upon.

Mr. PRINCE. Possibly all of them, but there may be one or two that were not.

Mr. HAY. Under the agreement which I propose it would be impossible to get at points of order, because I propose that after the general debate the previous question shall be ordered.

Mr. CANNON. But the points of order would lie.

Mr. HAY. You can not make points of order except under the five-minute rule, as I understand it.

Mr. MANN. I would suggest to the gentleman he would have difficulty about that, because the ordering of the previous question would not prevent a point of order being made when the bill was read, and the waiving of the reading of the bill could only be done by unanimous consent or under a rule.

Mr. HAY. Of course.

Mr. MANN. And I do not think the gentleman would desire to bring in a rule to that extent, except by unanimous consent. I do not think there will be any trouble about the matter to-morrow.

Mr. HAY. Very well.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PRINCE] asks unanimous consent to have five legislative days in which to file the views of the minority on the military appropriation bill. Is there objection?

There was no objection, and it was so ordered.

DAM ACROSS WHITE RIVER, ARK.

The SPEAKER pro tempore laid before the House the bill (H. R. 20347) to authorize the Dixey Power Co. to construct a dam across White River at or near Cotter, Ark., with Senate amendments thereto.

The Senate amendments were read.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent to disagree to the Senate amendments and ask for a conference.

The SPEAKER pro tempore. The gentleman from Georgia asks unanimous consent to disagree to the Senate amendments and ask for a conference. Is there objection?

There was no objection.

The Chair appointed the following conferees on the part of the House: Mr. ADAMSON, Mr. RICHARDSON, and Mr. STEVENS of Minnesota.

HON. CHAMP CLARK.

Mr. AUSTIN. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the desk and ask to have read.

The clerk read as follows:

House resolution 592.

Resolved, That the Members of this House, regardless of politics, express their full confidence in the honor, integrity, and patriotism of the presiding officer of this House, the Hon. CHAMP CLARK.

[Applause.]

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

There was no objection.

The SPEAKER pro tempore. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

SUNDRY CIVIL APPROPRIATION BILL—EXTENDING REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend in the RECORD remarks upon H. R. 25069, the sundry civil appropriation bill, in relation to the public-land offices and the receivers, upon that portion of the bill to be found on page 93, from lines 1 to 25, and on pages 94 and 95; and to insert also in the RECORD certain letters and telegrams from public-land States in relation to the office of receiver.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California to extend his remarks in the RECORD on the subject referred to?

There was no objection, and it was so ordered.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER pro tempore. This is the day set aside for the consideration of business on the Calendar for Unanimous Consent, and the Clerk will report the first bill.

EXCHANGE OF SCHOOL LANDS.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 19344) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I thought possibly the gentleman from California was going to make a request, but if he is not I shall object.

Mr. RAKER. Well, the only request to be made is that the House take up the bill and pass it.

Mr. MANN. All right, then I object.

The SPEAKER pro tempore. Objection is heard.

CONFLICT BETWEEN PLACER AND LODE LOCATORS OF PHOSPHATE LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8883) providing for adjustment of conflict between placer and lode locators of phosphate lands.

The Clerk read the bill.

The SPEAKER pro tempore. Is there objection?

Mr. FOSTER. Mr. Speaker, I object.

Mr. MONDELL. Mr. Speaker, I had intended to ask unanimous consent that the bill should go over.

Mr. FOSTER. Certainly.

Mr. MONDELL. Mr. Speaker, I rose for the purpose of asking unanimous consent that the bill just read go over without prejudice.

The SPEAKER pro tempore. Does the gentleman from Illinois waive his objection?

Mr. FOSTER. I have no objection to that.

The SPEAKER pro tempore. The gentleman from Wyoming asks unanimous consent that the bill go over without prejudice. Is there objection? [After a pause.] The Chair hears none.

SALE AND DISPOSITION OF THE SURPLUS AND UNALLOTTED LANDS IN THE STANDING ROCK INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation in the States of South Dakota and North Dakota, and making appropriation and provision to carry same into effect.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, the gentleman from South Dakota [Mr. BURKE] is interested in this bill and has been suddenly called out of town, and asked that this bill might be passed over, and therefore I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER pro tempore. Without objection, it is so ordered. [After a pause.] The Chair hears no objection.

REGULATION OF RADIO COMMUNICATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 6412) to regulate radio communication.

Mr. MANN. Mr. Speaker, reserving the right to object——

Mr. BARTLETT. What is the calendar number?

The SPEAKER pro tempore. The House Calendar number is 243 and the Unanimous Consent Calendar number is 262.

Mr. MANN. Mr. Speaker, that bill is not at the proper place on the calendar, and I think I can explain it. We had a House

bill on the calendar, but this bill was placed on the Unanimous Consent Calendar, and it was understood when the matter came up in the House that the Senate bill should be substituted for the House bill, and I think that was done on the calendar.

The SPEAKER pro tempore (Mr. SIMS). The House Calendar number of the bill is 243, and the number for Unanimous Consent is 262.

Mr. MANN. Mr. Speaker, I reserve the right to object——

Mr. ALEXANDER. Mr. Speaker, the bill has been read heretofore.

Mr. MANN. Does the gentleman desire to have this bill go over again for a couple of weeks?

Mr. ALEXANDER. It just depends upon the attitude of the gentleman from Illinois.

Mr. MANN. I will say to the gentleman I am trying to work somewhat on this bill, and I am not satisfied that it be passed to-day by unanimous consent.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that the bill may go over without prejudice to the next calendar consent day.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

SALE AND ENTRY OF CERTAIN LANDS IN OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22647) providing for the sale and entry of certain lands in the State of Oklahoma, and for other purposes.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object—I do not see the gentleman from Oklahoma [Mr. MORGAN] present.

Mr. FOSTER. Let it go over.

Mr. MANN. All right. Mr. Speaker, I ask unanimous consent that the bill go over without prejudice.

The SPEAKER pro tempore. Without objection, it is so ordered. [After a pause.] The Chair hears no objection.

RENOVATED AND ADULTERATED BUTTER.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24828) to amend the law relative to manufacture and sale of process or renovated or adulterated butter.

The Clerk proceeded with the reading of the bill.

Mr. KINKAID of Nebraska. Mr. Speaker, the bill has already been read once. I ask unanimous consent that it be passed without prejudice.

The SPEAKER pro tempore. This bill that has just been reported?

Mr. KINKAID of Nebraska. Yes.

The SPEAKER pro tempore. The gentleman from Nebraska asks unanimous consent that the bill be passed over without prejudice. Is there objection?

There was no objection.

Mr. BUTLER. It is understood it is passed over without prejudice?

Mr. MANN. And not as having passed the House.

Mr. BUTLER. And not having passed the House.

LANDS FOR HOMESTEAD ENTRY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22090) to subject the lands of the former Fort Niobrara Military Reservation and other lands in Nebraska to homestead entry.

Mr. KINKAID of Nebraska. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

LANDS IN COLVILLE INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 338) authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public park purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby granted and conveyed, for public park purposes, to the town of Okanogan, county of Okanogan, State of Washington, a municipal corporation, the following-described lands, or so much thereof as said town may desire, to wit: All that portion of lot 8 of section 17, township 23 north, range 26 east of the Willamette meridian, containing 47.35 acres.

SEC. 2. That the said conveyance shall be made of the said lands to the said town by the Secretary of the Interior upon the payment by the said town for the said lands, or such portion thereof as it may select, of such sum as may be fixed by the appraisement hereafter to be made under the act entitled "An act to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes," approved March 22, 1906, and patent issued to the said town for the said lands selected, to have and to hold for public park purposes, subject to the existing laws and regulations concerning public parks, and that the grant hereby made shall not include any lands which at the date of the issuance of patent shall be covered by a valid, existing, bona fide right or claim initiated under the laws of the United States: *Provided*, That the said town shall not have the right to sell or convey the lands herein granted, or any parts thereof, or to devote the same to any other purpose than as hereinbefore described, and that if the said lands shall not be used as public parks the same, or such parts thereof not so used, shall revert to the United States: *And provided further*, That the lands conveyed to the town of Okanogan, as authorized herein, shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. I object if nobody desires to be heard on it.

MEDALS OF HONOR TO CAPTAIN, OFFICERS, AND CREW OF THE CARPATHIA.

The next business on the Calendar for Unanimous Consent was the joint resolution (H. J. Res. 306) to provide for the award of medals of honor to the captain, officers, and crew of the Cunard steamship *Carpathia*.

Mr. MANN. The bill was read before, and I reserve the right to object.

Mr. ADAMSON. There is another resolution for a similar purpose, which has been passed by the Senate and is now on the calendar—Senate joint resolution 111. By some means, or for some reason, or without a reason—I do not know which—these bills were sent to different committees, and both committees have reported them promptly. I have conferred with the author of this House joint resolution, the gentleman from Ohio [Mr. FRANCIS], and he thinks it would expedite the completion of legislation and serve substantially the same purpose if we should consider the Senate joint resolution in lieu of this. He has requested me to ask unanimous consent, first, that we take the matter up in the House as in Committee of the Whole, and then request that the Senate joint resolution, reported by the other committee, be taken up and considered in lieu of this.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Well, that is going a good deal, to ask the House to go into Committee of the Whole when the resolution is not on the calendar.

Mr. ADAMSON. Yes; it is on the Unanimous Consent Calendar.

The SPEAKER pro tempore. Does the gentleman wish to pass it informally?

Mr. ADAMSON. Until we reach the other, and then I desire to make the request that I have indicated.

Mr. MANN. I will say to the gentleman from Georgia [Mr. ADAMSON] that one of these bills provides for the thanks of Congress and the other provides for medals to the captain of the *Carpathia* and crew, and so forth. I am not willing to pass at this time by unanimous consent both of the bills. As the gentleman who now occupies the chair by designation is the chairman of the committee that reported one of the bills, I do not wish to take any advantage of him while he is in the chair. If the gentleman wants to pass this without prejudice, it is all right; otherwise, I shall object.

Mr. ADAMSON. The object is to facilitate legislation. The author of this bill will be as well satisfied to pass the Senate bill, because he will secure legislation more quickly. My idea is that this bill should be passed without prejudice until we reach the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia [Mr. ADAMSON]?

Mr. ANTHONY. Will the gentleman answer a question?

Mr. ADAMSON. With pleasure.

Mr. ANTHONY. What does the Senate bill propose to do?

Mr. ADAMSON. It proposes to extend the thanks of Congress.

Mr. ANTHONY. But it does not decorate every member of the crew with a medal?

Mr. ADAMSON. No, I think not; although I have not analyzed that thoroughly.

Mr. MANN. The bill extends the thanks of Congress by name to the captain and to the balance of the crew by general language.

Mr. ANTHONY. I think that would be preposterous, because I think it would be impossible to decorate the entire crew.

Mr. LONGWORTH. Do the thanks of Congress carry with them the right or privilege to the floor of Congress?

Mr. ADAMSON. I so understand.

Mr. MANN. What is the request of the gentleman?

The SPEAKER pro tempore. That the bill be laid over informally until the Senate bill is reached. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

AMERICAN REGISTER FOR THE STEAMER "OCEANA."

The next business on the Calendar for Unanimous Consent was the bill (S. 5207) to provide an American register for the steamer *Oceana*.

The bill was read.

Mr. PADGETT. Mr. Speaker, that bill has been read heretofore.

Mr. GREENE of Massachusetts. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. GREENE] objects.

OBSERVANCE OF MEMORIAL DAY.

The next business on the Calendar for Unanimous Consent was the joint resolution (H. J. Res. 321) relative to observance of Memorial Day.

The House joint resolution was read.

The SPEAKER pro tempore. Is there objection to the consideration of the resolution?

Mr. MANN. I object.

Mr. BARTLETT. Mr. Speaker, I call the attention of the gentleman from Illinois [Mr. MANN] to the fact that the same resolution is over on page 40, No. 278.

Mr. MANN. It was stricken from the calendar at this place, and ought to have gone off the calendar here.

Mr. BARTLETT. It is on page 40 of the calendar here.

Mr. MANN. It was stricken from its place on the calendar, and it appears here by an error of the Clerk.

The SPEAKER pro tempore. Is there objection?

Mr. GARNER. Mr. Speaker, the gentleman from Illinois [Mr. MANN] has just stated that it is through an error on the part of the calendar clerk that the bill appears at this place. He says that it was stricken from the calendar on last unanimous consent day and that it appears——

Mr. BARTLETT. And that it appears in another place——

Mr. GARNER. And that it appears in another place, after it was stricken from the calendar.

Mr. MANN. It was stricken from the calendar on the last unanimous consent day, and placed on the calendar the same day. The Clerk in making up the calendar placed it in both places.

The SPEAKER pro tempore. The Clerk informs the Chair that that is correct. It is an error that it appears in its present place on the calendar. Without objection, it will be stricken from the calendar——

Mr. BARTLETT. At this place——

The SPEAKER pro tempore. At this place.

There was no objection.

RIGHT OF WAY FOR ELECTRIC RAILROAD ACROSS VANCOUVER MILITARY RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 4663) granting to the Washington-Oregon Corporation a right for an electric railroad, and for telephone, telegraph, and electric-transmission lines across the Vancouver Military Reservation, in the State of Washington.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby granted to the Washington-Oregon Corporation, a corporation organized under the law of the State of Washington, under the conditions and restrictions in this act contained, the right to extend, maintain, and operate its electric railway across the Vancouver Military Reservation, in the county of Clarke, in the State of Washington, with the right to construct, maintain, and operate telegraph, telephone, and electric-power transmission lines, the said grant to remain in force during the pleasure of Congress.

SEC. 2. That the works herein authorized shall be constructed upon such location as may be fixed by the Secretary of War, and in such manner, of such character, and with such spurs, switches, and crossings as he may prescribe; and said works shall be maintained and operated subject to such rules and regulations as the Secretary of War or the commander at the said post may from time to time prescribe: *Provided*, That before beginning construction the said corporation shall furnish a bond to the satisfaction of the Secretary of War, conditioned for the completion of the said railroad and other works mentioned herein across said reservation within one year from the approval of said bond by the Secretary of War.

SEC. 3. That any other person or corporation having a franchise for the operation of a street railway in the city of Vancouver, in the State of Washington, including any electric railway as may have authority to do a suburban and interurban business, may, upon obtaining a license from the Secretary of War, use the track and other constructions herein authorized to be placed upon the reservation upon paying just compensation; and if the parties concerned can not agree upon the amount of such compensation, the sum or sums to be paid for said use shall be fixed by the Secretary of War: *Provided*, That if said right of way is located over any land which the public is using, or may hereafter use, as a public highway, the uses herein authorized shall not exclude such public use: *And provided further*, That the said corporation shall surface the said roadway for a width of 24 feet alongside and exclusive of the said railway tracks for the entire distance occupied by said tracks within the reservation, with crushed rock of suitable size, the said roadway to be properly oiled and rolled, and shall maintain the same, including the space between the tracks, at all times in good condition for vehicle traffic; shall keep the said track or roadway within the reservation limits properly lighted by satisfactory electric light without expense to the United States; and shall construct and maintain a suitable drainage ditch along said track.

SEC. 4. That if any portion of the said reservation occupied by the works herein authorized shall cease to be used for some one of the purposes aforesaid, the same shall revert to the United States; and the said corporation, its successors or assigns, shall thereupon restore the premises to good condition, as required by the post commander.

SEC. 5. That the said corporation may be required at all times to improve and maintain its tracks and the spaces between them in good condition for traffic in conformity with the streets or public roadway over which they are laid.

SEC. 6. That the Congress reserves the right to alter, amend, or repeal this act.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, Mr. Speaker, the bill grants to the Washington-Oregon Corporation the right for an electric railroad across a military reservation. There seems to be no report from the War Department shown in the report of the House committee on the bill. I sent and got the report of the Senate committee on the bill, and there is no information contained in that at all. I suggest to the gentleman from Washington [Mr. WARBURTON] that we are entitled to have a report from the War Department. The House report says that the War Department has made a thorough investigation of the subject matter of the bill and has recommended to the Committee on Military Affairs the granting of a franchise instead of the grant recommended. We are entitled to have that report, if a report has been made.

Mr. WARBURTON. Mr. Speaker, this bill had been drawn as a matter of fact and submitted to the War Department before it was introduced by Senator JONES in the Senate. It was referred to the War Department and a favorable report made upon it. I can not explain why the report is not here, but a report was made before the committee when it had this bill up for consideration.

Mr. MANN. The committee did have a report from the War Department on this bill when it recommended favorable action on the bill?

Mr. WARBURTON. It did.

Mr. MANN. Then I shall not object. Mr. Speaker, I withdraw my objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

AMERICAN REGISTRY FOR THE STEAMER "DAMARA."

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22907) to provide American registry for the steamer *Damara*.

The bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. GREENE of Massachusetts. Mr. Speaker, this bill has been read heretofore, and, in the absence of my colleague, Mr. POST, who is in the hospital, I ask unanimous consent that this bill go over.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. GREENE] asks unanimous consent that this bill go over to the next Unanimous Consent Calendar day. Is there objection?

Mr. MANN. It is to be passed over without prejudice?

Mr. GREENE of Massachusetts. Yes; to be passed over without prejudice.

The SPEAKER pro tempore. Without objection, that will be done.

There was no objection.

PATENT TO ENTRYMEN FOR HOMESTEADS UPON RECLAMATION PROJECTS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5545) providing for the issuing of patent to entrymen for homesteads upon reclamation projects.

The Clerk read the title of the bill.

Mr. MANN. Mr. Speaker, I think this bill was read before. I will ask unanimous consent that the bill be passed over without prejudice, in the absence of a number of gentlemen.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the bill S. 5445 be passed over without prejudice. Is there objection?

There was no objection.

AMERICAN HOSPITAL OF PARIS.

The next business on the Calendar for Unanimous Consent was the bill (S. 6380) to incorporate the American Hospital of Paris.

The Clerk read the bill, as follows:

Be it enacted, etc., That John H. Harjes, John J. Hoff, H. H. Harjes, Henry Cachard, S. F. B. Biddle, W. S. Dalliba, Dr. Edmund L. Gros,

Leopold Huffer, Dr. A. J. Magnin, Frank H. Mason, J. Pierpont Morgan, F. W. Sharon, H. A. van Bergen, Dr. Crosby Whitman, and such persons as shall or may hereafter associate with them and in such manner and upon such terms as shall be specified in the by-laws of this corporation, are hereby ordained, constituted, and declared a body corporate in fact and in name in the District of Columbia, by the name and style of the American Hospital of Paris.

SEC. 2. That the said corporation is authorized to take by purchase, gift, grant, devise, and bequest, and to hold, mortgage, lease, transfer, and convey, for the purposes of the said corporation, any real and personal property in the United States of America and in France as may be deemed necessary for the wants or development of the corporation or any of them.

SEC. 3. That it shall be the design and purpose of said corporation to establish, maintain, and conduct in the city of Paris, Republic of France, or in its vicinity, a hospital to furnish, gratuitously or otherwise, medical and surgical aid and care to the citizens of the United States of America, and it shall be lawful for the said corporation to demand and receive a reasonable compensation for such care, sustenance, professional treatment, and other services; and all moneys so received shall be applied to the uses and benefits of the said corporation.

SEC. 4. That the direction and management of the affairs of the said corporation shall be vested in a board of governors composed of not less than 12 nor more than 20 members. The principal office of the corporation shall be located in the District of Columbia, but offices may be maintained and the meetings of the board of governors and committees held elsewhere.

SEC. 5. That the following persons shall, until the first annual election, be held to constitute the first board of governors: John H. Harjes, John J. Hoff, H. H. Harjes, Henry Cachard, S. F. B. Biddle, W. S. Dalliba, Dr. Edmund L. Gros, L. Huffer, Dr. A. J. Magnin, Frank H. Mason, J. Pierpont Morgan, F. W. Sharon, H. A. van Bergen, and Dr. Crosby Whitman. In case any of the above-named persons shall decline to serve or be ineligible, the vacancy or vacancies may be filled by the remaining governors, and any governor shall be eligible for reelection.

SEC. 6. That as soon as practicable after the passage of this act the said board shall organize and shall, by ballot, elect from the members of the board a president, a vice president, a secretary, and a treasurer, who shall hold their respective offices until the annual meeting in the year 1913. At such meeting for organization the said board shall by lot divide into three classes of equal numbers. The term of office of the first class shall continue until the annual meeting in the year 1914; that of the second class until the annual meeting in the year 1915; and that of the third class until the annual meeting in the year 1916. At the expiration of the term of each class as aforesaid, an equal number of governors shall be elected by said corporation at its annual meeting to fill the same, who shall hold office for the term of three years then next ensuing or until their successors shall be chosen. And at each succeeding annual election thereafter an equal number of members of said board of governors shall be so elected for said term to fill the class then becoming vacant as aforesaid.

SEC. 7. That the said board of governors shall have power to conduct and manage all the business and concerns of the said corporation; to fill, until the next annual election thereafter, any vacancy in the board occasioned by death, resignation, or otherwise; and to appoint such attending and resident physicians and surgeons, agents, assistants, and attendants as may be necessary; to fix their compensation, and to discharge them; to make such by-laws as may be necessary and proper and not contrary to law relative to elections and meetings, the qualifications and duties of governors and officers, the admission and qualifications of members, the management and disposition of the estate, business, and concerns of the said corporation, and to alter or to amend the same.

SEC. 8. That five governors shall be a quorum for the transaction of all business, except the sale or alienation of any of the real or personal estate of the said corporation, or the leasing of any real estate thereof for a longer term than one year, for which purposes or any of them the consent of a majority of the said board shall be necessary.

SEC. 9. That the property, real and personal, of said corporation shall be exempt from taxation.

SEC. 10. That this act shall be subject to alterations, amendment, or repeal.

SEC. 11. That this act shall take effect immediately.

The SPEAKER pro tempore. Is there objection?

Mr. BARTLETT. Mr. Speaker, I reserve the right to object, and in doing so I will say I have no objection to the purposes for which it is indicated that this incorporation is sought. I may not be familiar with the fundamental law of this land, but I do not now recall, nor do I believe that anyone here can suggest, any provision of the Constitution of the United States under which authority can be exercised to incorporate this proposed body corporate.

Mr. MANN. It is done in similar cases in the District of Columbia.

Mr. BARTLETT. I am aware of the fact that the District of Columbia has a law by which corporations of this kind can be incorporated. But Congress having provided by law in the District Code and by acts of Congress the means by which all corporations that desire to be incorporated under the law may do so, I do not see how an incorporation of this kind can be authorized.

The bill provides that the principal office of the corporation shall be located in the District of Columbia, but that offices may be maintained and the meetings of the board of governors and committees held elsewhere. This is a bill to incorporate the "American Hospital of Paris," and under section 3 it is provided that it shall be the design and purpose of said corporation to establish, maintain, and conduct in the city of Paris, Republic of France, or in its vicinity, a hospital to furnish, gratuitously or otherwise, medical and surgical aid and care to the citizens of the United States of America. And further—

and it shall be lawful for the said corporation to demand and receive a reasonable compensation for such care, sustenance, professional treatment, and other services; and all moneys so received shall be applied to the uses and benefits of the said corporation.

Mr. Speaker, when bills of this character have been before the House on previous occasions, when I have been present, I have been opposed to their passage, and have voted against them, even in the case of the incorporation of the Red Cross Society, or extending its incorporation, which is an institution that commends itself to everybody. I have always called attention to the fact that Congress, in my judgment, has not the power under the Constitution to create these charters, and I so believe with reference to this. I shall not go over the ground and call attention again to the adjudications of the court, commencing with the case of McCulloch *v.* Maryland and other decisions which I might quote, but in all the cases, even in modern cases, no suggestion has ever been made that Congress had the power or authority to incorporate corporations except those to carry out and perform some governmental function, as in the case of the United States Bank, or to incorporate a railroad engaged in interstate commerce and traversing the public lands of the United States, which were to be sold and the value of them increased thereby and to open up the land, or, as in the bridge case, to span navigable rivers and thereby aid interstate commerce. The courts have never yet, and I apprehend never will, say that Congress exercising its sovereign power has inherent authority to incorporate any sort of corporation, and I call attention to this bill which seeks to incorporate a corporation for the establishment of a hospital to be located in Paris and for certain business and charitable purposes. I have never thought that Congress had the power to enact this sort of law and pass this kind of a bill.

But this particular bill, Mr. Speaker, has some objections to which attention ought to be called, some defects, in my judgment. In the first place, we do not put any limitation upon the life of the corporation. We do reserve the right to amend or repeal the law, but it is unlimited so far as its life is concerned, except hereafter when it is sought to amend or repeal it.

There is no limitation as to the amount of property, either real estate or personalty, that the corporation may hold, whether it come by gift, purchase, or otherwise. They are authorized in the second section to take by purchase, gift, grant, devise, and bequest, and to hold, mortgage, lease, transfer, and convey for the purposes of said corporation. So that we have here an alleged purpose to incorporate an institution for relieving the sick and injured and to render service free, and also service that must be paid for and for which charges are to be made, and also seek to grant power to a corporation which is unlimited as to time and as to the amount of property that it may own, giving it the power to engage in a business of loaning, leasing, and mortgaging, of creating debts and taking mortgages. I suggest to the gentleman from New York [Mr. HARRISON] that there ought to be something in this bill that limits its duration and limits the amount of property that the institution may own.

I need not recall the history of corporations incorporated under the guise of religious corporations, charitable and other eleemosynary institutions, which have gathered great amounts of property. I do not mean that this is in the present day, but the English history shows it, and we ought to be careful in this day when by the very terms of this bill we exempt from taxation all the property that this corporation may acquire by purchase, gift, grant, devise, and bequest, and all the loans that it may create and secure by mortgages, as well as the property in which they may in any wise be interested, whether for an alleged charitable purpose, or purposes beneficial to humanity, in the maintaining of a hospital in Paris. We ought to be slow to pass unnoticed a bill of this character, granting all of these powers, making no limitation as to the duration of the corporation and no limitation as to the amount of property it may own or upon the question of taxation. For instance, they may have an office in Georgia, my own State, or in Illinois, or anywhere else. They may own property in the State of Georgia, in California, or in Illinois, unlimited as to amount, any sort of property, engage in any sort of business, and not a dollar's worth of taxation shall be paid to the State of Georgia or the State of Illinois or any other State in this Union.

Mr. HILL. Mr. Speaker, I would like to ask the gentleman if in his opinion this exemption would go so far as to make it impossible for a State or municipality to tax this institution?

Mr. BARTLETT. It will not, and for the reason that Congress has not the power to incorporate this institution.

Mr. HILL. That is what I thought. Then it is only an exemption from Federal taxation.

Mr. BARTLETT. I do not think so. I will answer the gentleman as best I can and I think to his satisfaction. If Congress has the power to incorporate this corporation, and to exempt it from taxation, the Constitution of the United States and the laws passed in pursuance thereof, and the treaties of the United States being the supreme law of the land, would prevent a State from taxing unless the bill contained a provi-

sion subjecting the institution to the power of the State to tax. The gentleman will recall that a case in point is that of McCullough against The United States Bank. There the question was raised that the State could not tax the shares of the United States Bank, because it was a United States corporation, and for the first time in the history of this country the question was raised whether Congress had the constitutional power to incorporate a bank. It was raised upon the question of whether Maryland could enforce its tax laws against the United States bank, situated in Maryland. The Supreme Court, in order to prevent the State of Maryland from enforcing its tax execution against the United States bank, decided that Congress had the power to incorporate a United States bank, and, therefore, Maryland had no right to tax it. So the question is answered, I hope to the gentleman's satisfaction.

Mr. CANNON. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Certainly.

Mr. CANNON. Mr. Speaker, section 3 allows this corporation to charge a reasonable price for its services.

Mr. BARTLETT. Yes.

Mr. CANNON. Section 9 provides that the property, real and personal, of said corporation shall be exempt from taxation.

Mr. BARTLETT. Yes.

Mr. CANNON. Section 2 provides that the corporation is authorized to take by purchase, gift, grant, devise, and bequest, and to hold, mortgage, lease, transfer, and convey real and personal property, and so forth, as may be deemed necessary for the wants or development of the corporation. Would not the gentleman's objections be removed if the bill were so amended as to eliminate section 9, which exempts the corporation from taxation?

Mr. BARTLETT. In a measure, yes; but not all of them. That would help. I think there ought to be some sort of provision limiting the life of the corporation and limiting the amount of property that it may hold. So far as I am concerned, I might be content to let a thing pass that I did not think Congress could put any life into by passing it.

Mr. LONGWORTH. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Certainly.

Mr. LONGWORTH. I do not know whether the gentleman has distinguished between this and the American Academy at Rome, and, as I recall, the American Archeological Institute in Athens.

Mr. BARTLETT. I did not draw any distinction between those. I remember now that I did not vote for either one of those propositions.

Mr. LONGWORTH. I was only inquiring to know whether the gentleman based his objection generally to Congress authorizing the corporation to do business abroad.

Mr. BARTLETT. I stated to the House, and it is a reiteration of the things I have frequently said, that I did not believe that Congress had the constitutional power to authorize such a corporation as this.

Mr. LONGWORTH. But the Congress has passed those two bills, as I say, and I did not know whether the gentleman had referred to them.

Mr. BARTLETT. Congress has sometimes done things which were afterwards declared to be void.

Mr. MANN. Will the gentleman yield?

Mr. BARTLETT. Yes; I have about finished.

Mr. MANN. The gentleman does not doubt, I take it, the authority of Congress to incorporate this company as a District corporation here if its work is to be confined in the District?

Mr. BARTLETT. No; doubtless it could; but I stated, having passed a law which required all these corporations to be established in a certain way in that case until it was repealed, that is the law.

Mr. MANN. That does not go to the question of power.

Mr. BARTLETT. Oh, no.

Mr. MANN. That goes to the question of propriety.

Mr. BARTLETT. Of method; yes.

Mr. MANN. Now, if we have the power to incorporate this company to transact business in the District of Columbia, have we not the same power to incorporate it to transact business in some other places as a District corporation? For instance, here is a State, one that is very much in the eye of the people just at present, which has extremely liberal corporation laws, called "the mother of trusts."

Mr. BARTLETT. Yes.

Mr. MANN. And a large share of the corporations that have been incorporated under the laws of that State have been intended not for purposes of transacting business in the State, but for the purpose of transacting business out of the State, and I believe no one questioned the power of the State to do that.

Mr. BARTLETT. No.

Mr. MANN. Although a good many have questioned the propriety.

Mr. BARTLETT. Yes; and whenever they have attempted to do business in a State other than that of their creation against the laws of that State the Supreme Court has upheld the laws of that State and sent them out.

Mr. MANN. Of course, they have no right to go into other States except under the laws of that State, nor can we confer——

Mr. BARTLETT. Exactly.

Mr. MANN (continuing). Any power upon those corporations—although that is suggested by the report, I regret to say—which would not be given by the French law, as far as Paris is concerned. The report in this case seems to indicate this company would have much more liberal concessions or powers granted to it in Paris if it were incorporated by the United States than would be the case if it were incorporated under the French law.

Mr. BARTLETT. On account of international comity.

Mr. MANN. That they might treat them better, and whoever drew the report seems to have based his statement upon the opinion of somebody else who did not know.

Mr. BARTLETT. Now, Mr. Speaker, I have thus given my views about the bill, and I say I dislike very much to stand in the way of what purports to be philanthropic and charitable purposes; but I dislike more to have those purposes used, as I fear they may be used and have been used, to enact laws which do not meet my approval and which have no authority in the fundamental law of our land to be enacted. I may be very lonesome in occupying that position. It may be that I have outlived all that, but still those are my convictions, and I have got too far advanced in years to change them before I die. Therefore I make these suggestions, and my friend can answer them. I still reserve the right to object.

Mr. HARRISON of New York. Mr. Speaker, does the gentleman from Connecticut desire to ask a question or to be heard?

Mr. HILL. To be heard.

The SPEAKER pro tempore. Does the Chair understand the gentleman from Georgia objects?

Mr. BARTLETT. I reserve the right to object, if I may be permitted to do so.

Mr. HARRISON of New York. Mr. Speaker, I have listened with very great attention to the learned argument of the gentleman from Georgia [Mr. BARTLETT] as to the constitutional power of Congress to grant charters for purposes of the kind indicated in this bill, and I think that nobody can differ from him in the conclusion he reaches as to the United States charters, but this bill, as was pointed out by the gentleman from Illinois [Mr. MANN], proposes merely to give a charter in the District of Columbia. But the gentleman from Georgia then proceeds to question our power to execute the provisions of this charter in a foreign country. We do not contend that we have any power because of a charter in the District of Columbia which we can force upon the people of France or of any other country without treaty provisions to that effect, but there can be no question whatever that a charter granted by our Congress to a hospital situated in Paris would receive consideration both from the Government of France and in the courts of France far greater than if it were incorporated in any other way. International comity would give this charter of the District of Columbia a standing in France at least equal to the standing which we in New York give to the French hospital in New York, which is incorporated under the French laws and of which French citizens are the directors and which takes care of French people in the city of New York. I feel certain that the Republic of France would give equal recognition such as the State of New York gives to the French corporation incorporated for the same purposes and operating in the same manner in which our corporation would operate in France.

The real reason why it was necessary to come and ask for a charter here was because the American Hospital of Paris, which is now in operation and performing services, the value of which can not be overestimated, was forced to be incorporated under an act known as the "Religious Disabilities Act," in France, by the terms of which the hospital is prohibited from receiving a sum by devise or bequest greater than 500 francs. Now, there are already a very large number of thousands of dollars promised to the American Hospital of Paris as soon as it is legally able to receive these sums, either by gift or by bequest, and I feel confident that there will be a great deal more money forthcoming if this hospital can legally receive the sums as they accrue. Now, under this charter those sums of money could be received by this hospital and could be administered by the directors for the purposes specified in the face of the bill.

I can not quite agree with the gentleman from Georgia [Mr. BARTLETT] as to the inadvisability of passing the bill in its present form, because even though we have not limited the life of the corporation nor limited the amount they may receive by devise or bequest, we have specifically stated in section 10 that this act shall be subject to alteration, amendment, or repeal, a fact which, of course, is inherent in any act of Congress, at any rate.

But I would suggest to the gentleman from Georgia [Mr. BARTLETT]—and I know on unanimous-consent day, even though I were able to prevail over him in the argument, he would still have the power to put the bill off the calendar—I suggest to him that if these gentlemen who are named as directors in this bill or any of their successors should conduct themselves unbecomingly to the dignity of the charter, or should they depart from the eleemosynary character of the charter, Congress could step in at once and repeal the charter or amend it in any way that seemed suitable. I trust the gentleman from Georgia——

Mr. LONGWORTH. Will the gentleman yield for information? Is the property of the French hospital in New York owned by the French Government?

Mr. HARRISON of New York. It is a corporation incorporated under the laws of France.

Mr. LONGWORTH. Is that corporation taxable?

Mr. HARRISON of New York. I do not know whether it is or not.

Mr. LONGWORTH. It does seem that property could not be exempt from taxation in the State of New York.

Mr. HARRISON of New York. Our policy is to exempt eleemosynary institutions.

Mr. LONGWORTH. Whether owned by this country or otherwise?

Mr. BARTLETT. Is it the policy of the State of New York to tax property owned by eleemosynary or other institutions of that character when the income is not used for the purposes of the institution? In other words, an office building owned by it would not be exempt?

Mr. HARRISON of New York. I think it is only the property that is used for eleemosynary purposes.

Mr. BARTLETT. We have the same law in Georgia, for instance, that exempts churches from taxation as well as the property of the Masonic orders, but we do not exempt that property which is rented out for stores and which produce revenue, and I did not think New York did that.

Mr. HARRISON of New York. The gentleman is correct in his opinion. So far as I am concerned, if it would satisfy the gentleman from Georgia and he would let the bill receive consideration, I would consent, so far as I am able to do so, to strike out section 9, which exempts the property from taxation. This property will be in France, anyway, and we can not exempt property in France from taxation.

Mr. MANN. Why does the gentleman say the property will be in France?

Mr. HARRISON of New York. I judge it will be. It is not defined by the bill, but probably it will be.

Mr. MANN. Is it not more profitable to invest money in this country than in France?

Mr. HARRISON of New York. I think for the purpose of a hospital a bequest would more likely be made in securities which could be handled by the directors over there in Paris.

Mr. LONGWORTH. But would not the location of that property be in the District of Columbia?

Mr. MANN. I think it would be more profitable to invest the money in the District of Columbia, where it would not be taxed, than it would be to invest it in France, where the rate of interest is lower and the taxes would run against it.

Mr. HARRISON of New York. My only purpose in making the suggestion was to overcome the objection of the gentleman from Georgia [Mr. BARTLETT].

Mr. MANN. Does not the gentleman think that in granting these franchises we ought to put in a time limit and also a limit on the amount of property to be acquired?

Mr. HARRISON of New York. I should think that would be of very doubtful value. We can put that amendment to the act at any time we wish or we can repeal it entirely.

Mr. MANN. Of course; but the other day we increased the limit of property which a corporation in Italy might acquire from a million dollars to a million and a half dollars.

Mr. LONGWORTH. That was the National Academy at Rome, was it not?

Mr. MANN. Yes.

Mr. LONGWORTH. Has that a fixed period of charter?

Mr. MANN. I am not sure about that, but I understand it has a fixed amount. Usually these acts of incorporation do carry a 99-year provision, or something of that sort, to which there could be no valid objection.

Mr. HARRISON of New York. There could be no objection whatever to such a provision in this bill.

Mr. MANN. Could not the gentleman ascertain the amount of property which would be perfectly agreeable to the gentlemen who desire to incorporate this as a maximum limit?

Mr. HARRISON of New York. I think I can state on my own responsibility that the sum of $250,000 would be reasonable for their buildings.

Mr. MANN. I think the total limit would be more than that, I will say to the gentleman.

Mr. HARRISON of New York. And I will add that they have promises of sums of money aggregating $50,000 or $60,000 at the present time.

Mr. MANN. Have they not already acquired considerable property?

Mr. HARRISON of New York. Just the hospital buildings and grounds. I can not state the exact value.

Mr. MANN. Suppose we make it a million dollars and strike out section 9?

Mr. HARRISON of New York. Would the gentleman from Georgia [Mr. BARTLETT] be satisfied with that amendment?

Mr. MANN. It might not remove his objection to the bill, but it might remove his objection to the consideration of the bill.

Mr. BURKE of Pennsylvania. If the gentleman will permit, if we should strike out section 9, which relates to the official residence of this institution, would that not render liable to taxation all the personal property that the institution owns or holds in the United States?

Mr. HARRISON of New York. I think the gentleman from Ohio [Mr. LONGWORTH] correctly pointed that out. I think that is the fact.

Mr. BURKE of Pennsylvania. Under section 2 the corporation has the option of owning or holding property, real or personal, either in France or in the United States. Now, presuming it exercises its functions to the extent of holding a majority of it in the United States, technically it would be holding and owning it within the limits of the District of Columbia, and if you strike from the bill the section waiving taxation, so far as that is concerned, what is the consequence? Is the property taxable or not taxable? I should say it was taxable.

Mr. MANN. Certainly it would be.

Mr. BURKE of Pennsylvania. Then is it the purpose of this House to render it subject to taxation? If so, you strike out section 9. If not, you leave in section 9.

Mr. MANN. Suppose they buy an office building. Why should they not pay taxes on it?

Mr. BURKE of Pennsylvania. That is not for me to answer.

Mr. MANN. They do not expect to use that office building for eleemosynary purposes.

Mr. BURKE of Pennsylvania. These holdings are to be held in the United States. What part of the United States? In the home office of the corporation, perhaps to the amount of half a million dollars. Now, they are either subject or not subject to taxation. That question is to be answered by the specific provisions of this bill. If there is not a specific provision absolving them from taxation, the burden falls on this institution. If there is a provision absolving them, they will be relieved. Do you wish to relieve them or not relieve them of that burden?

Mr. HARRISON of New York. I think that all property that is used for eleemosynary purposes should be exempted from taxation. I understand that is the principle that prevails in most of the States.

Mr. LONGWORTH. Suppose they acquired an office building in the city of New York, for instance. There is no question but that that would be taxable in the city of New York, because it is used as an investment. It is not used directly for the purposes of the charity.

Mr. BARTLETT. We have the right to charter these people, and we have got the right to say that they shall not be taxed anywhere, because the supreme lawmaking body of the land is the Congress of the United States, exercising the power within its jurisdiction.

Mr. MANN. Mr. Speaker, I ask unanimous consent that this bill may be temporarily passed over until the gentlemen can agree upon something.

The SPEAKER pro tempore. Is there objection?

Mr. BARTLETT. I am perfectly willing that the bill should be passed over without prejudice.

The SPEAKER pro tempore. Does the gentleman from Georgia object to the request of the gentleman from Illinois?

Mr. BARTLETT. I ask that it be passed over without prejudice. I do not want to have to remain here all day.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. I withdraw my request.

The SPEAKER pro tempore. The gentleman from Georgia asks that the bill be passed over without prejudice.

Mr. HILL. Mr. Speaker, will the gentleman withhold his request for a moment?

Mr. BARTLETT. I will.

Mr. HILL. I am heartily in favor of the passage of the bill in some form and hope that no action will be taken which will prevent it during this session of Congress, because I think it is an institution that is greatly needed and ought to be encouraged. And yet there is a feature of the bill which I think should be changed and which, if the request of the gentleman from Illinois [Mr. MANN] could be complied with, might be changed, so that it would have a reasonable certainty of passing at this session of Congress.

I am in favor of the proposition made by the gentleman from Illinois [Mr. CANNON], that section 9 should either be stricken out or modified.

In the State of Connecticut we have had a great deal of trouble in years gone by with such bills as this, especially with charitable associations which have been incorporated. At first they were authorized to hold property and have it free from taxation, until we were forced in that State to put in a provision that the exemption from taxation should apply only to such property as was actually used and occupied by the association for its own purposes. In other words, they were not permitted, as the gentleman from Illinois has suggested, to buy an office building in the District of Columbia or the city of New York and occupy one room in it or a portion of it and rent out the rest for profit, and thereby enable them to sustain the institution on the free basis from the gain on real estate held for purposes of profit, thus depriving the State of what would otherwise be taxable property. I do not think this should be done in this case. I do not believe that it is right and proper that this Congress should give to any institution, I do not care how good the purpose may be, the right to hold an unlimited amount of property free from taxation.

I have a very distinct recollection of a very large bank in the city of New York to-day that a great many years ago received a charter, I think, as a water-power company and is now doing a banking business under that charter. This language is broad enough to enable almost any character of business to be carried on under the terms of this act, anything which is necessary for the "wants or the development of the institution," giving them the power to have entire exemption from taxation whether the institution itself personally uses or occupies the property or not, and I think that that is unfair and unjust. I would go further than the gentleman from Illinois. I would not deem it necessary to strike out section 9 entirely, although, of course, that would strike at the root of the whole evil, but it certainly ought to be amended to provide that only so much of the property as is actually occupied for the hospital institution for its own purposes may be free from taxation.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. HILL. Certainly.

Mr. MANN. As the property which is to be actually occupied for hospital purposes is in a foreign land——

Mr. HILL. Not all of it.

Mr. MANN. I understand all of it.

Mr. HILL. Oh, no. It has an office in the District of Columbia.

Mr. MANN. It may have an office here, but it will have no hospital here.

Mr. HILL. No; but it could hold real estate here for its own purpose.

Mr. MANN. Oh, it could invest in real estate here, but it has no use for real estate here so far as its eleemosynary side is concerned.

Mr. HILL. No; but the headquarters and the office of the association must be in the United States, and I think the question is rather a fine one. I think the wise thing would be to strike out section 9. As I understand it, the gentleman who proposes the bill is entirely willing to strike out that section. I hope that the bill may be passed with that section eliminated.

Mr. BARTLETT. Mr. Speaker, I desire to withdraw my request that I made to pass the bill without prejudice at this time, and say just a word more and then I shall be through.

The SPEAKER pro tempore. Does the gentleman wish the bill to be considered at this time?

Mr. BARTLETT. No; I do not ask to have it passed without prejudice. I still reserve my objection and ask unanimous consent to proceed for a minute or two.

The SPEAKER pro tempore. The gentleman from Georgia withdraws his request and reserves his right to object.

Mr. BARTLETT. Mr. Speaker, I have made a suggestion to the gentleman from New York to strike out section 9 to limit the life of the institution and to limit the amount of property that it may hold. Under those circumstances I do not think I shall object to the bill being considered, but of course I would not promise to vote for it even then. I could not, under my view of the power of Congress. I stated that Congress did not have any power to create such a corporation, and I have here an authority, a very influential authority, which I wish to cite upon that proposition. It is an opinion delivered by Chief Justice Marshall in the case of Osborn against United States Bank.

Mr. MANN. He used to be considered a pretty good authority.

Mr. BARTLETT. He is still a good authority when we come to determine the law. There is, however, nothing that is good authority as against the clamor of the demagogue and the mob, sometimes. Of course, I do not mean to say that my friend is a demagogue, but no doubt he understands the reference.

Mr. YOUNG of Michigan. Nobody misunderstands the gentleman, and nobody is offended.

Mr. BARTLETT. In this case of Osborn against the bank, Ninth Wheaton, the court reviewed the case of McCulloch against Maryland, and I read from the opinion of Chief Justice Marshall:

> Is that law unconstitutional? This point was argued with great ability and decided by this court, after mature and deliberate consideration, in the case of McCulloch *v.* State of Maryland. A revision of that opinion has been requested, and many considerations combine to induce a review of it. The foundation of the argument in favor of the right of a State to tax the bank is laid in the supposed character of that institution. The argument supposes the corporation to have been originated for the management of an individual concern, to be founded upon contract between individuals, having private trade and private profit for its great end and principal object. If these premises were true, the conclusion drawn from them would be inevitable. This mere private corporation, engaged in its own business, with its own views, would certainly be subject to the taxing power of the State as any individual would be; and the casual circumstance of its being employed by the Government in the transaction of its fiscal affairs would no more exempt its private business from the operation of that power than it would exempt the private business of any individual employed in the same manner. But the premises are not true: the bank is not considered as a private corporation whose principal object is individual trade and individual profit, but as a public corporation, created for public and national purposes. That the mere business of banking is, in its own nature, a private business and may be carried on by individuals or companies having no political connection with the Government is admitted, but the bank is not such an individual or company. It was not created for its own sake or for private purposes. It has never been supposed that Congress could create such a corporation. The whole opinion of the court in the case of McCulloch *v.* State of Maryland is founded on and sustained by the idea that the bank is an instrument which is "necessary and proper for carrying into effect the powers vested in the Government of the United States."

And so I might go on, and I repeat that following that decision where the original one was reaffirmed and a distinction clearly marked that no private concern created for private purposes, having no connection with the United States, not discharging a public function or public duties, either a fiscal agent of the Government to issue bills, money for the benefit of the people at the instance of the Government in the way pointed out by that act, following the decisions in the national bank cases reaffirming the same doctrine, all these cases have never gotten away from the doctrine laid down that a mere private corporation for eleemosynary purposes or private profit can not be incorporated by Congress. I have thus, for the first time having seen this bill, thought proper, as I did on one other occasion, to call attention to these matters, because I do not think we have the power to extend to this corporation or any other corporation engaged in a private business, owning property, to be exempt from taxation; and if this bill, if I am correct, is passed, it is not worth anything to the incorporators so far as those objects are concerned.

I can not exactly bring myself to the position, because I believe as I do and because that is my position, to say that I will not permit the bill to be considered. I do not think I am called upon to do that; it is not dangerous enough to anybody's interest or the public interest to stand alone in the way of having it considered. If it is passed, if my views are correct, it can do nobody any harm, because the courts will take care of that, and if I am wrong about it, it may do a great deal of good. However, I do not think I am wrong, but I am willing to have it considered. I shall not vote for it, however.

Mr. HARRISON of New York. Mr. Speaker, I understand the gentleman from Georgia does not object.

Mr. BARTLETT. If certain amendments are offered.

Mr. HARRISON of New York. Mr. Speaker, I ask unanimous consent for the consideration of the bill.

Mr. BARTLETT. I have no objection to the unanimous consent.

Mr. HARRISON of New York. Mr. Speaker, I desire to offer an amendment.

The SPEAKER pro tempore. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Speaker, I desire to offer the following amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Strike out section 9 and insert in lieu thereof the following:
"SEC. 9. That this charter shall continue for a term of 50 years: *Provided*, That at no time shall this corporation hold real estate except for the necessary use of offices and hospital purposes of this hospital."

The SPEAKER pro tempore. This bill is on the Union Calendar.

Mr. HARRISON of New York. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, I would like to ask the gentleman, Ought not the gentleman to say instead of "this corporation" and "this hospital" "said corporation" and "said hospital"?

Mr. HARRISON of New York. Mr. Speaker, I ask unanimous consent that the word "said" be substituted for the word "this" at those two places.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. May I ask the gentleman further, Is there to be an amendment limiting the amount of property which the corporation can acquire?

Mr. BARTLETT. I thought this did it. It states "real estate."

Mr. MANN. As I understand the amendment, it limited real estate to the property actually used for hospital purposes, but it seems to me there ought to be a limitation in the amount of property which the corporation could acquire.

Mr. BARTLETT. I think so, too.

Mr. MANN. That could be added.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to amend section 2 by adding at the end of it:

Provided, That the total value of the property owned at any one time by said corporation shall not exceed $1,000,000.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 7, after the word "then," insert the following:
"*Provided*, That the total value of the property owned at any one time by the said corporation shall not exceed $1,000,000."

Mr. HILL. Mr. Speaker, I wish the gentleman from Illinois would increase the amount. As I understand, this property will be donated by benevolent citizens.

Mr. MANN. I asked the gentleman from New York how much he wished should be the limit, and he said $200,000 would be an extreme limit.

Mr. HARRISON of New York. That is for the real estate. I did not mean personal property.

Mr. MANN. I have no objection to an increase in the amount.

Mr. HILL. If the gentleman will stop to think for a moment, in all probability it would not bring a revenue out of which it owned of over 3 per cent——

Mr. MANN. I say, I have no objection.

Mr. HILL. I move to amend by making it $5,000,000, as long as we are going to do it.

SEVERAL MEMBERS. Oh, no.

Mr. BARTLETT. Not over $2,000,000.

Mr. HILL. Well, I move to amend it by making it $2,000,000. I want to see the United States creditably represented in this institution at Paris. If people are willing to give their money to this purpose I think they ought to be allowed to do it.

The question was taken, and the amendment to the amendment was agreed to.

The question was taken, and the amendment as amended was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. HARRISON of New York, a motion to reconsider the vote by which the bill was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 331. Joint resolution extending appropriations for the necessary operations of the Government under certain contingencies.

WASHINGTON-OREGON CORPORATION.

The SPEAKER pro tempore. A while ago we passed the bill S. 4663 that had been read on a previous day. The attention of the Chair was not called to the fact that there were some House amendments to the bill and that they were not agreed to.

Mr. MANN. I ask unanimous consent to reconsider the vote by which the bill was passed.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to reconsider the vote by which the bill was passed. Is there objection?

There was no objection.

Mr. MANN. And also reconsider the vote by which we passed the bill to the third reading.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 6, strike out the words "the right" and insert in lieu thereof "a revocable license," so that it will read:
"Under the conditions and restrictions in this act contained, a revocable license."

The amendment was agreed to.

The Clerk reported the next amendment, as follows:

Page 2, line 2, strike out the word "grant" and insert in lieu thereof the word "license."

The amendment was agreed to.

The Clerk reported the next amendment, as follows:

Page 2, lines 2 and 3, strike out the words "during the pleasure of Congress" and insert in lieu thereof "at the discretion of the Secretary of War."

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the amended bill.

The bill was ordered to a third reading, was read the third time, and passed.

On motion of Mr. HAWLEY, a motion to reconsider the vote by which the bill was passed was laid on the table.

PATENTS TO SEMINOLE ALLOTTEES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23184) directing the Secretary of the Interior to deliver patents to Seminole allottees, and for other purposes.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, I think the gentleman who is especially interested in this is engaged on other important work over in Baltimore, and I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

GRANTING LANDS TO YUMA, ARIZ.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 19409) granting certain lands to the town of Yuma, Ariz.

The bill was read, as follows:

Be it enacted, etc., That the following-described tracts of lands be, and the same are hereby, granted to the town of Yuma, a municipal corporation of Yuma County, Ariz., and its successors, for public purposes as herein limited and defined, to wit:

Tract No. 1: That portion of the tract of land lying and being within the exterior boundaries of section 35, township 16 south, range 22 east, San Bernardino meridian, in Arizona, and known as the United States military reservation, or the quartermaster's of said United States military reservation, and on the west boundary line of block No. 4, of said town of Yuma, according to White's survey thereof, which is 208.71 feet south from the left and south bank of the Colorado River, and running thence west 150 feet; thence north to the left and south bank of the Colorado River; thence along the left and south bank of the said river to a point due north of the place of beginning; and thence south to said commencement point, and containing, approximately, 1 acre; together with a perpetual easement and right of way over, across, through, and under a strip of land 40 feet in width on the east side of said United States military reservation, and adjoining the west side of said block No. 4, for a roadway and conduit way to and from said last-described and granted tract of land: *Provided*, That the said town of Yuma shall pay all expenses of an official survey and platting of the tracts to be so patented.

SEC. 2. That no part of said described and granted tracts of land shall be sold or conveyed by said town to any person or corporation whatsoever for private use, but shall be held in perpetuity by said town and its successors for public purposes: *Provided, however*, That said town and its successors may convey any portion or portions thereof to the State of Arizona, or any of its county, municipal, educational, or military corporations or organizations for actual public use, and such conveyances may be made by the proper officers of said town or its successor upon and by the resolution of its governing body, notwithstanding any law of said State describing the manner in which municipalities shall convey real property.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the amendment.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the first amendment.

The Clerk read as follows:

Amend, page 2, line 12, by inserting after the word "thence" the word "south."

The amendment was agreed to.

The Clerk reported the next amendment, as follows:

Amend, page 3, lines 6 and 7, by striking out the words "two hundred and eight and seventy-one one-hundredths" and insert in lieu thereof the words "one hundred and fifty."

The amendment was agreed to.

The Clerk reported the following amendment:

Amend, page 3, line 17, by adding after the word "land" the following proviso:

"*Provided*, That the said town of Yuma shall pay all expenses of an official survey and platting of the tracts to be so patented."

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. RAKER, a motion to reconsider the vote by which the bill was passed was laid on the table.

SALE OF CERTAIN LANDS IN MONTANA FOR PARK PURPOSES.

The next business on the Calendar for Unanimous Consent was the bill (S. 6946) authorizing the sale of certain lands in the Flathead Indian Reservation to the town of Ronan, State of Montana, for the purposes of a public park and public-school site.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to sell and convey to the town of Ronan, Mont., under such terms, conditions, and regulations as he may prescribe, not to exceed 20 acres of unallotted tribal land within the Flathead Indian Reservation, at not less than its appraised price; said lands to be used by the town of Ronan for school, park, or other public purposes: *Provided*, That the net proceeds received from the sale of said lands shall be deposited in the Treasury of the United States to the credit of the Flathead Indians and draw interest at the rate now provided by law, and may thereafter be used for the benefit of said Indians.

The SPEAKER pro tempore. Is there objection?

Mr. PRAY. That bill, Mr. Speaker, is on the Union Calendar. I ask unanimous consent that it may be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. Is there objection? [After a pause.] Without objection, that will be done.

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. PRAY, a motion to reconsider the vote whereby the bill was passed was laid on the table.

SPEAKER PRO TEMPORE.

Mr. BARTLETT. Mr. Speaker, I ask unanimous consent to offer for immediate passage an important resolution, which I have sent to the Clerk's desk.

The SPEAKER pro tempore (Mr. PAGE). The gentleman from Georgia [Mr. BARTLETT] asks unanimous consent for the present consideration of the resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 593.

Resolved, That Hon. JOSHUA W. ALEXANDER, a Representative from the State of Missouri, be, and hereby is, elected Speaker pro tempore during the temporary absence of the Speaker.

Resolved, That the Clerk of the House be directed to notify the Senate that the House has elected Hon. JOSHUA W. ALEXANDER, a Representative from the State of Missouri, as Speaker pro tempore during the temporary absence of the Speaker.

Resolved, That the Clerk be instructed to inform the President of the election of Hon. JOSHUA W. ALEXANDER, a Representative from the State of Missouri, as Speaker pro tempore of the House of Representatives during the temporary absence of the Speaker.

Mr. BARTLETT. Mr. Speaker, the resolution which we passed this morning has to be signed by the Speaker. The Speaker is not in the city. He has designated Mr. ALEXANDER as the Speaker for the day. The person designated is not authorized to sign the joint resolution, and it becomes necessary that some one should properly be selected, and I therefore ask that the resolution just read be passed.

The SPEAKER pro tempore. The question is on the adoption of the resolution.

The question was taken, and the resolution was agreed to.

Mr. ALEXANDER resumed the chair as Speaker pro tempore.

Mr. BURKE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state it. But first the Chair will request the gentleman from Pennsylvania to suspend a moment.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution of the following title, when the Speaker pro tempore signed the same:

H. J. Res. 331. House joint resolution extending appropriations for the necessary operations of the Government under certain contingencies.

Mr. BURKE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BURKE of Pennsylvania. Has the joint resolution been signed? If it has, I shall not put the question. My intention was to put the question before the resolution was signed.

The SPEAKER pro tempore. The resolution has been signed.

Mr. CANNON. Regular order.

DAMS ACROSS DUCK RIVER, HICKMAN COUNTY, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24197) to authorize Carl J. Kiefer and Laurent Lowenberg to construct two dams across Duck River, in Hickman County, Tenn.

The Clerk read the bill, as follows:

Be it enacted, etc., That Carl J. Kiefer and Laurent Lowenberg, their successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate two dams across Duck River, in Hickman County, State of Tennessee, at points suitable to the interests of navigation, one about 5 miles east of Centerville, near mouth of Swan Creek, and the other about 4 miles east of first dam, near mouth of Willeys Branch, in the State of Tennessee, in accordance with the provisions of the act approved June 23, 1910, entitled "An act to amend an act entitled 'An act to regulate the construction of dams across navigable waters,' approved June 21, 1906."

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore. Is there objection?

Mr. FOSTER. Mr. Speaker, I want to reserve the right to object. I would like to ask the chairman of the Committee on Interstate and Foreign Commerce if he is willing to let these six bills go over without prejudice to the next unanimous-consent day? I notice that there are six here of the same kind.

Mr. ADAMSON. So far as I am personally concerned, Mr. Speaker, I have no interest in the bills, but they represent enterprises all over the country the promoters of which would like to know what their status is, and if Congress should finish its work and adjourn before the next unanimous-consent day they would lose time in starting their work.

Mr. MANN. Will the gentleman from Georgia permit an interruption?

Mr. ADAMSON. Certainly.

Mr. MANN. I call the gentleman's attention to the fact that as to several of these bills—five of them, anyhow—the bills are not correctly printed as reported by the committee. It seems to me that the gentleman had better accept the suggestion of my colleague, Mr. FOSTER, and in the meantime have the bills corrected, so as to show the amendments recommended by the gentleman's committee.

Mr. ADAMSON. Mr. Speaker, I confess to having been away, for providential causes, and I have not circumstantially examined the text of the bills, and I am not prepared to deny the statement of my friend from Illinois [Mr. MANN]. He is doubtless correct, as he generally is, in his statements. As I said before, I personally have no objection to the request of the gentleman from Illinois [Mr. FOSTER]. I do not know, however, what the authors of the several bills will say. The gentleman from Tennessee [Mr. PADGETT] is here, and if he is willing I will consent that this bill go over.

Mr. PADGETT. Mr. Speaker, I would ask the gentleman not to object to the consideration of this bill. It is very much desired to get it passed at the present session of Congress. I personally know that the river is not navigable, and this is being done out of abundant precaution, to get the consent of Congress. It does not or can not in any way interfere with navigation to construct a dam across this river. There are times at a point where you could not run a canoe down the river without getting out and dragging it over the shoals, and it is desired to get this legislation enacted, so that the parties can begin the construction of the dam in order to supply electric

power to enterprises which are desired to be inaugurated in that vicinity. I beseech the gentleman not to object to the consideration of the bill.

Mr. FOSTER. Mr. Speaker, I have no desire at this time to object to some of these bills. I would say that I have some serious objection as against a part of them. I want to be perfectly frank with the House and say that the gentleman from Mississippi [Mr. HUMPHREYS] was unavoidably called home on account of the serious illness of his brother. I know that two weeks ago he talked to me about these bills, and I know that we have some ideas about them which we would like to take up when they are considered. He has introduced a bill in the House, and I think Senator BURTON has in the Senate, in reference to granting rights to build dams across navigable rivers. For these reasons I suggest to the gentleman from Tennessee [Mr. PADGETT] that this bill, with the others, be permitted to go over until next unanimous-consent day.

Mr. PADGETT. Mr. Speaker, I realize that I am powerless to do otherwise. If the gentleman intends to insist upon his objection, there is nothing else that I can do except to consent that they go over, and yet I wish to appeal to the gentleman that in the urgency of this matter and the absolute lack of navigability in the river he will not insist on his objection.

Mr. MANN. Mr. Speaker, does the gentleman from Tennessee think that is a fair observation? It is not the fault of my colleague from Illinois [Mr. FOSTER] that there is this urgency about the bill. Why was not the bill introduced before?

Mr. PADGETT. It has been pending for some time.

Mr. MANN. It was introduced May 6, 1912; less than two months ago.

Mr. PADGETT. Yes.

Mr. MANN. If gentlemen expect that they can get bills passed by Congress by sticking a penny in the slot, then they have another think coming. Of course I am not referring to the gentleman from Tennessee, but to others who are outside of Congress.

Mr. ADAMSON. Mr. Speaker, I remind my friend, the distinguished gentleman from Tennessee, that all of these bills involve the same question, which is the line of cleavage between the two sides of advocacy in the House and in the Senate. If one of them goes over, I think all of them ought to go over together. I further remind gentlemen that since this bill and all of these bills have been introduced there has been no negligence on the part of the committee.

Mr. PADGETT. None whatever.

Mr. ADAMSON. We have been thrashing out the subject at the places where discussion and reasoning were necessary in order, if possible, to reconcile all differences between them and bring them into the House in shape to pass them.

Mr. PADGETT. Mr. Speaker, in view of the statements made and the attitude upon the matter, I consent to the request of the gentleman from Illinois that they be passed over.

Mr. MANN. Mr. Speaker, will the gentleman from Georgia yield?

Mr. ADAMSON. Yes; with the statement that I desire the same course to be pursued with respect to all of them.

Mr. FOSTER. All six of them.

Mr. ADAMSON. Because the same question that will determine one applies equally to all.

Mr. COOPER. Does that consent of the gentleman from Tennessee preclude the making of objection when the bills come before the House again?

Mr. MANN. Oh, not at all.

Mr. ADAMSON. No.

Mr. MANN. Mr. Speaker, I notice that in all of these bills the committee has adopted a new phraseology, giving the consent of Congress for the construction of dams when authorized by the laws of the State. Just what is the reason for making this change from the accredited form used in the past?

Mr. ADAMSON. Mr. Speaker, I will state to the gentleman that I have been observing the discussions of the question and the reasoning of the Waterways Commission and the letters of the Secretary of War, and the line of cleavage between the two classes of advocates seems to be whether or not Congress will undertake at this time to govern the relations between the company and its patrons in each State or whether it will wait and see if the States will properly adjust those things. Therefore it was suggested, inasmuch as the Waterways Commission had suggested that for the present the question be left for the States to determine, that we adhere to our long-time policy of leaving that without the assumption on the part of the Government of regulating the rates of charge to be made by those water-power companies. As to the language respecting the consent, if the gentleman from Illinois will look at the different bills he will see that the use of those words was adopted in some bills and not in others, because the language and the grammar came along more euphoniously.

Mr. MANN. I see it was adopted in all of them.

Mr. ADAMSON. Oh, I do not think in all. I do not think that is material, anyway.

Mr. MANN. I ask whether it is the assumption of the committee that when we give power to a corporation to construct a dam across a navigable stream, unless you put in there that it shall only be done when authorized by the laws of the State, they have authority to do it, regardless of the laws of the State?

Mr. ADAMSON. Oh, no.

Mr. MANN. I have always assumed that when Congress gave power to construct a dam or bridge across a navigable stream it was essential for the corporation organized to have that power under the laws of the State to do that thing, because all that we gave is the consent to obstruct a navigable water.

Mr. ADAMSON. The gentleman is entirely correct about that, but I will call attention to the further fact, which perhaps operated to induce the insertion of this language "when authorized by the State," that it is being insisted right now on one bill sent to conference this morning, and insisted by others, I understand in conversations with me, that we put in these bills a provision directly reserving the power to fix the rates, or a provision in the alternative that if the State fails to do it, then the Secretary of War may do it. Recognizing the position assumed by the gentleman from Illinois, which he has always occupied, and correctly so, that the State has the right and power and that it is its duty to regulate these things, we say, "when authorized by the State," and my recollection is that in one or two of the bills in which the language is not used it is recited that the grantee has already been authorized by the State to construct a dam.

Mr. MANN. If the gentleman will yield, I have always contended and do now that when Congress gives its consent to place an obstruction in or over a navigable water, it has the right to make terms for the granting of the consent, and that as one of the terms it has the power to retain the right to regulate charges—not to take that right away from the State, but exercising it within the limitation of the granting of the consent. So that Congress could say that the power should not cost more than so much to the consumers or otherwise. I do not understand, however, that that question is involved here, but if it is, then I am opposed to the amendment saying that Congress has no power when it grants consent to obstruct a navigable stream by a dam or bridge to impose conditions.

Mr. ADAMSON. Mr. Speaker, if the gentleman from Illinois will examine the language of the reports——

Mr. MANN. I have read them all through.

Mr. ADAMSON. He will see that we have in each case met his last suggestion by saying that in each bill as well as in the general dam act itself Congress reserves the right to amend, alter, and repeal at any time.

Nobody questions the power of Congress in granting its consent to fix any terms it chooses, but we insisted under the general dam act, in the framing of which the gentleman from Illinois had large part, it is provided that the Secretary of War and the Chief of Engineers may impose all proper conditions which it is proper for Congress to impose. Now, I have nothing further to say.

The SPEAKER pro tempore. The request of the gentleman from Illinois is that this bill go over without prejudice.

Mr. ADAMSON. That all these bills take the same course; I want all to go together if one goes.

Mr. MANN. That would be down to and including H. R. 24028?

The SPEAKER pro tempore. The request is also applied to the following bills:

H. R. 24197. A bill to authorize Carl J. Kiefer and Laurent Lowenberg to construct two dams across Duck River, in Hickman County, Tenn.;

H. R. 23284. A bill to authorize the Great Northern Development Co. to construct a dam across the Mississippi River from a point in Scott County, Iowa, to a point in Rock Island County, Ill.;

H. R. 24067. A bill providing for the construction, erection, maintenance, and operation of a dam across the Osage River, in Miller County, Mo., for the purposes of improving navigation and the development of water power;

H. R. 23571. A bill authorizing and permitting Clinch River Power Co., its successors and assigns, to build and maintain a dam and a water-power development in and across Clinch River, in Anderson County, State of Tennessee;

H. R. 24196. A bill to authorize the construction of a dam across the Kootenai River, in the State of Montana; and

H. R. 24028. A bill authorizing and permitting the Tennessee Hydro Electric Co., its successors and assigns, to build and maintain dams and water-power development in and across Clinch and Powell Rivers, in Anderson County, State of Tennessee.

Is there objection? [After a pause.] The Chair hears none.

TERMS OF DISTRICT COURT, WESTERN DISTRICT OF MICHIGAN.

The next business on the Calendar for Unanimous Consent was the bill (S. 5935) to fix the terms of the district court for the western district of Michigan.

The Clerk read as follows:

Be it enacted, etc., That the term of the district court for the western district of Michigan for the southern division shall be held at Grand Rapids, commencing on the first Tuesdays in March, June, October, and December; and for the northern division at Marquette, commencing on the second Tuesdays of April and September; and at Sault Ste. Marie, commencing on the second Tuesdays in January and July.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. DODDS, a motion to reconsider the vote by which the bill was passed was laid on the table.

SETTLEMENT OF ACCOUNTS DUE FOR BUILDING CORBETT TUNNEL, SHOSHONE IRRIGATION PROJECT.

The next business on the Calendar for Unanimous Consent was the bill (S. 4862) authorizing and directing the Secretary of the Interior to investigate and settle certain accounts, and for other purposes.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to investigate and determine the several amounts remaining unpaid on account of labor and material performed and furnished in the construction of the Corbett Tunnel, in the State of Wyoming, and to pay the same out of the reclamation fund to the persons to whom such several amounts may be found to be justly due.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object—I withdraw my objection.

Mr. FINLEY. Mr. Speaker, reserving the right to object, how old are these claims? When were they contracted?

Mr. MONDELL. Mr. Speaker, the claims are for labor and material furnished.

Mr. FINLEY. Furnished when?

Mr. MONDELL. For building the Corbett Tunnel.

Mr. FINLEY. How long since?

Mr. MONDELL. And the amendment proposed by the committee simply gives those having these claims the right to sue against the bond of the contractor.

Mr. FINLEY. That is the amendment reported by the committee?

Mr. MONDELL. That is the amendment proposed; it gives the parties the right to sue.

Mr. FINLEY. When were these claims contracted?

Mr. MONDELL. During the building of the tunnel, some three years ago.

Mr. FINLEY. It is no claim against the Government of the United States?

Mr. MONDELL. No.

Mr. FINLEY. I withdraw my objection.

The committee amendment was read, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That all persons having supplied labor or materials for the prosecution of the work of constructing the Corbett Tunnel, as a part of the Shoshone irrigation project, in the State of Wyoming, under any contract or contracts let for that purpose by the Government of the United States, and their assigns and legal representatives, are hereby given the full rights and remedies awarded to persons supplying labor and materials in the prosecution of public works, as set forth in the act of August 13, 1894, entitled 'An act for the protection of persons furnishing materials and labor for the construction of public works,' to the same force, extent, and effect as if the act had not been amended, modified, or repealed, with full right of action in the name of the United States for his or their use and benefit against any contractor or contractors and their sureties, upon any bond or bonds furnished to the United States under any such contract: *Provided*, That no action prosecuted under this act shall involve the United States in any expense."

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in the Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore (Mr. SIMS). Is there objection to the request? [After a pause.] The Chair hears none.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read as follows: "An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of constructing the Corbett Tunnel of the Shoshone irrigation project."

On motion of Mr. RAKER, Mr. LAFFERTY, and Mr. MONDELL, a motion to reconsider the vote by which the bill was passed was laid on the table.

CAPT. ARTHUR HENRY ROSTRON.

The next business on the Calendar for Unanimous Consent was a joint resolution (H. Res. 306) to provide for the award of medals of honor to the captain, officers, and crew of the Cunard steamer *Carpathia*.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, was the House resolution read? How does the House resolution get up now?

The SPEAKER pro tempore. The Chair is informed the House resolution was read heretofore and passed without prejudice.

Mr. ADAMSON. The author of the House resolution desires to move to lay that on the table in order to clear the way to pass the Senate resolution which follows.

Mr. FRANCIS. I desire to do that so as to have speedy action. The resolutions are practically the same, except the House resolution is somewhat broader. I ask that the House resolution be laid on the table, and I ask that the Senate resolution be considered in the House as in the Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection to the request just stated? [After a pause.] The Chair hears none, and it is so ordered.

Mr. MANN. What is the request?

The SPEAKER pro tempore. That the House resolution be laid on the table and that Senate joint resolution 111 be considered in lieu thereof.

Mr. MANN. The Senate resolution is now on the calendar and has not yet been reported, I think.

The SPEAKER pro tempore. The Clerk will report the Senate joint resolution.

The Clerk read as follows:

Joint resolution (S. J. Res. 111) to convey the thanks of Congress to Capt. Arthur Henry Rostron, and through him to the officers and crew of the steamship *Carpathia* of the Cunard Line, for the prompt and heroic service rendered by them in rescuing 704 lives from the wreck of the steamship *Titanic* in the North Atlantic Ocean.

Resolved, etc., That the thanks of Congress be, and the same are hereby, presented to Capt. Arthur Henry Rostron, and through him to the officers and crew of the steamship *Carpathia* of the Cunard Line, for promptly going to the relief of the steamship *Titanic* and heroically saving the lives of 704 people who had been shipwrecked in the North Atlantic Ocean.

SEC. 2. That the President of the United States is hereby authorized and requested to cause to be made and presented to Capt. Rostron a suitable gold medal appropriately inscribed, which shall express the high estimation in which Congress holds the service of this officer, to whose promptness and vigilance was due the rescue of 374 women and children and 330 men.

SEC. 3. That the sum of $1,000, or so much thereof as may be necessary for the purchase or manufacture of said medal, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I understand from the gentleman from Ohio [Mr. FRANCIS] who introduced House joint resolution 306, which has just been laid on the table, that he is perfectly satisfied now to pass the Senate joint resolution.

Mr. FRANCIS. That is the idea.

Mr. MANN. Mr. Speaker, I shall not object to the consideration of this joint resolution although the Senate resolution proposes to grant the thanks of Congress to Capt. Rostron and the crew of the *Carpathia*. The House bill proposes to strike medals for all of them. There has been a good deal of praise for the captain and crew, to which I suppose they are entitled. To my mind there is nothing extraordinarily meritorious in going to the succor of the *Titanic*, but the action of Capt. Rostron is great in comparison with the action of Mr. Ismay, and I would like to put another kind of a medal on him.

Mr. MONDELL. Leather?

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

MEMORIAL DAY.

The next business on the Calendar for Unanimous Consent was joint resolution (H. J. Res. 321) relative to observance of Memorial Day.

The resolution was read, as follows:

Resolved, etc., That as a tribute to the memory of those who fought and those who died in defense of their country, the flags on all Government reservations and property shall be lowered to half-mast between 12 o'clock noon and 12 o'clock and 5 minutes post meridian on each Memorial Day hereafter, and that wherever practicable bugles shall sound taps, bells shall be tolled, and a salute of 13 guns shall be fired.

Mr. FRENCH. Mr. Speaker, in harmony with the agreement arranged between the gentlemen who objected to the consideration of the resolution the last time it was considered and others

who are interested in the resolution, I have a couple of amendments that I desire to propose, and I will state the object of the amendments, that all may understand. The first is in line 8, to amend by striking out the last comma and inserting the word "and," and the second to amend by striking out everything in line 9 following the word "tolled" and all of line 10. I send the amendments to the Clerk's desk.

The SPEAKER pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amend, line 8, by striking out the last comma and inserting the word "and."

And amend lines 9 and 10 by striking out all after the word "tolled" in line 9.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the House resolution.

The resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FRENCH, a motion to reconsider the vote by which the resolution was passed was laid on the table.

TENNESSEE SCHOOL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 18719) to authorize the State of Tennessee to sell school lands for educational purposes.

The bill was read, as follows:

Be it enacted, etc., That the State of Tennessee be, and is hereby, authorized, through its legislature, to pass such laws as may be necessary and expedient for the sale, lease, or other disposition of school lands in said State, to the end that the money arising from said sale or lease of lands may be applied to the education of the children of the county wherein said lands are located, and also to provide for the preservation of said fund and the use of the same devoted to the education of the children.

SEC. 2. That any acts of the Legislature of Tennessee authorizing the sale of such lands as have heretofore been passed and not inconsistent with the provisions of this act are hereby ratified and confirmed so far as the assent of the United States to the same may be necessary to the confirmation thereof.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, it seemed to me, upon examining this bill, that it was in the main for the benefit of a lumber company down there.

Mr. MOON of Tennessee. How is that?

Mr. MANN. It seemed to me, on the examination of this bill and report, that the main beneficiary is a lumber company down there.

Mr. MOON of Tennessee. What makes you think that?

Mr. MANN. Reading the report is what made me think it.

Mr. MOON of Tennessee. The report ought to show, as the facts are, that the bill is offered at the request of the superintendent of public instruction. I do not know whether a lumber company proposes to bid on this lumber, but that is immaterial.

Mr. MANN. There is an agreement already to sell this timberland to a lumber company down there, I think, probably for less than the value of it.

Mr. MOON of Tennessee. I do not know. Is the gentleman speaking from the report?

Mr. MANN. Yes.

Mr. MOON of Tennessee. I do not think that means anything more than a statement of the value of the land.

Mr. MONDELL. Will the gentleman from Illinois [Mr. MANN] yield to me in order that I may ask the gentleman from Tennessee a question?

Mr. MANN. I will.

Mr. MONDELL. How has the State of Tennessee been disposing of its school lands heretofore?

Mr. MOON of Tennessee. By sales. It has been all disposed of years and years ago nearly, and there is very little left in the State now.

Mr. MONDELL. How does this legislation come to be necessary at this late day when from the report there are only a section or two of lands left?

Mr. MOON of Tennessee. I take it that it becomes necessary because the superintendent of the county is of the opinion that this act of ratification by Congress is necessary.

Mr. MANN. I can give the gentleman that information. That is not the reason, if the gentleman from Tennessee will pardon me.

Mr. MOON of Tennessee. What does the gentleman from Illinois mean?

Mr. MANN. I just want to state the reason why they are asking this legislation from Congress which the gentleman momentarily has probably forgotten. These are two sections of timberland on which nobody resides. No one resides in the township. It is all timberland or vacant land in the township. Under the law under which these lands were granted to Tennessee they can only be disposed of by the request of the people living in the township, either by vote or otherwise. As no one lives in the township, it seems to be impossible.

Mr. MOON of Tennessee. The gentleman from Illinois, when he interrupted me, prevented me from saying that while that land may not be occupied, the people of the county and the superintendent of instruction in that county desired this action to be taken.

Mr. MANN. Undoubtedly. Now, here the Government granted land for the benefit of schools in a township. Why should we sell it for the benefit of schools somewhere else? Supposing some time this township should become inhabited——

Mr. MOON of Tennessee. Does the gentleman know anything about that township? He seems to know a good deal about this measure.

Mr. MANN. Yes; I do.

Mr. MOON of Tennessee. What do you know about it?

Mr. MANN. I know what is in the report. It is now timbered land. They want to cut the timber off; and wherever they cut the timber off anywhere in this country somebody gets on the land for some purpose.

Mr. MOON of Tennessee. Does the gentleman think that that land ought to remain there without being of any benefit to the State or the institutions of education in the State or in the county, lying back in the mountains where there probably will not be an inhabitant in the next hundred years?

Mr. MANN. Well, I should hope that there would be an inhabitant there within that length of time. But I do not believe that the Government should compel the State of Tennessee to keep a lot of ripe timber which could not be used in any way.

Mr. MOON of Tennessee. This act does not compel a sale.

Mr. MANN. I say I do not believe the Government ought to compel them to keep ripe timber which will not increase in value.

Mr. MOON of Tennessee. I take it that this property perhaps would realize as much to the school fund of the State now as it ever will at any time. I imagine that it is not of any great value except for the timber.

Mr. MANN. They agree to sell it at $10 an acre.

Mr. MOON of Tennessee. That is about twice what it is worth ordinarily. It would be a pretty good sale ordinarily.

Mr. MANN. Well, I should think that there is no timber company down there that would pay twice what it was worth.

Mr. MOON of Tennessee. Well, there might not be any down there, but sometimes there come some from Illinois that do not know any better, and they might pay it. [Laughter.]

Mr. MANN. That may be. We are very often taken in when we go to Tennessee. [Laughter.] We have spent a good deal of money in Tennessee and got back very little for it.

Mr. MOON of Tennessee. You have got this: You have got a better State and a better people to live among than you had before. [Laughter.]

Mr. MANN. Oh, not many people have gone down there to live. They have bought timber and invested their money otherwise. Generally I think they have done well when they bought timberland.

Mr. MOON of Tennessee. Coming down seriously to the question, I think it very hard to beat an Illinois man on a trade. [Laughter.]

Mr. MANN. We are buying down there in that section of country timberland to make it into an Appalachian forest, and that is better land than this, based either on acreage or on timber.

Mr. MOON of Tennessee. If the gentleman is serious about it, and he knows more about it than I do—and it is in my district, and I have been there—if he thinks it worth more than this, let him suggest a higher price. I do not care whether a lumber company in Illinois buys it or a lumber company anywhere else. In the interest of education, the people think it ought to be sold, and that is the only interest I have in it.

Mr. MANN. So far as education is concerned, we have given a section of land for the benefit of one township to help build schoolhouses. The people of another township want to get the property away from them.

Mr. MOON of Tennessee. No; the people of the county.

Mr. MANN. Well, the people of the county. They are not entitled to it under the theory of the law under which it was granted to them at all. This is making it a pure present to the people of the county.

Mr. MOON of Tennessee. The bill leaves that to the legislature, does it not?

Mr. MANN. That does not make any difference.

Mr. MOON of Tennessee. I think it does. I think the legislature of the State ought to be permitted to settle that question. I do not think the Congress of the United States is interested in

that proposition. These lands have been practically disposed of, and here is a section of the State that is not inhabited and Congress is giving the power to the legislature to do what is wise in that matter. Why it should be prohibited from taking such action for its benefit is hard for me to see.

Mr. MANN. Congress did prohibit it in the beginning—the very thing that this bill seeks to allow to be done.

Mr. MOON of Tennessee. If Congress had not done that, we would not be here. The lands are all disposed of except a few sections.

Mr. MANN. I suspect a large share of it has been wasted. It has been so in other places, if not in Tennessee.

Mr. MOON of Tennessee. That may be, but we are not legislating here now in the light of what has been done heretofore.

Mr. MANN. Oh, yes, we are.

Mr. MOON of Tennessee. The gentleman may be right.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

Mr. FOSTER. Mr. Speaker, there are amendments to the bill.

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read the first committee amendment, as follows:

Amend, page 1, by striking out all of lines 6 and 7 and inserting in lieu thereof the following: "of school lands in said State to the end that the money arising from the lease of said lands and the interest derived from the proceeds of the sale thereof may be applied to."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Amend, page 2, by striking out lines 2 and 3 and the word "children," in line 4, and inserting in lieu thereof the following: "are located, and also to provide for the preservation of the proceeds of the sale of said lands in a permanent school fund, the interest of which only shall be devoted to the education of the children."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. MOON of Tennessee, a motion to reconsider the vote whereby the bill was passed was laid on the table.

STORM-DRAINAGE SYSTEM OF HOT SPRINGS, ARK.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24669) authorizing the Secretary of the Interior to make a survey and estimate of the cost of increasing the storm-drainage system, as well as the sanitary-sewer system, of the city of Hot Springs, abutting the Hot Springs Reservation, Ark.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed, at the earliest practicable date, to make a survey of the sewer system of the city of Hot Springs, abutting the Hot Springs Reservation, Ark., and to prepare plans and estimate of the cost of increasing the present storm-drainage system, as well as the present sanitary-sewer system, of the city of Hot Springs, the report of survey, including estimate of cost of the work, to be submitted to Congress as soon as practicable after the 1st day of December, 1912. The sum of $10,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to cover all expenses incident to the work herein authorized, to be expended under the direction of the Secretary of the Interior.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

MIGRATORY GAME BIRDS OF UNITED STATES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 36) to protect migratory game birds of the United States.

The Clerk read the bill, as follows:

Be it enacted, etc., That all wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game birds which, in their northern and southern migrations, pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided for.

SEC. 2. That the Department of Agriculture is hereby authorized to adopt suitable regulations to give effect to the previous section by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country within which said closed seasons it shall not be lawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law, and by declaring penalties by fine or imprisonment, or both, for violations of such regulations.

SEC. 3. That the Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption to cause same to be engrossed and submitted to the President of the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to effect or interfere with the local laws of the States and Territories for the protection of game localized within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MONDELL. Mr. Speaker, reserving the right to object, I would like to have some one give some reason why this extraordinary legislation should be passed. Ultimately I expect to object. As far as I am concerned, however, I will be very glad to hear of any reason why such legislation should pass now or at any other time.

Mr. WEEKS. Mr. Speaker, I should be very glad to furnish the gentleman with, I think, ample reasons why the legislation should pass, but if his announced intention of objecting to the bill in any event is going to be carried out, I do not care to take the time of the House to offer the substantial reasons which I think do exist.

Mr. MONDELL. One slight objection to the bill which might perhaps be urged, although I suppose it would not have much weight just at this time, is that it is unconstitutional. I do not know that that would be an objection that would have any considerable weight with some people in these days.

Mr. WEEKS. Mr. Speaker, that is simply the assertion of the gentleman from Wyoming, and even as good a lawyer as he may be mistaken.

Mr. MONDELL. Mr. Speaker, the gentleman from Wyoming is not a lawyer, but the gentleman from Wyoming assumes that the Supreme Court of the United States is the court of last resort in questions of this character. The Supreme Court of the United States has said that the States are sovereign in control of game within their borders. The court said that years ago in the case of Grear against Connecticut, and more recently in the case of Ward against Racehorse. The matter is pretty well settled, it seems to me.

Mr. WEEKS. Mr. Speaker, the case which the gentleman cites of Grear against Connecticut is an argument in favor of this bill. If he had read the decision in the case carefully, he would have come to the conclusion—if he is basing his objection upon that—that this legislation ought to pass.

Mr. MONDELL. The case of Ward against Racehorse is a little more clearly in point. That is very clear, and it is quite recent.

Mr. WEEKS. Let me add this word, that no one contends that the General Government can in any way regulate the killing of birds of any character which are not migratory, but as to birds which pass from one section of the country to another, which are at times in the far North and at other times in the far South, they are the property of all of the people of the country and should be protected by the General Government under its police powers or under the general welfare clause of the Constitution.

Mr. MONDELL. It may be, Mr. Speaker, that game in Massachusetts is so well behaved and so fixed in its habits that it never passes beyond State lines. The game we have in our country, I think, is not well enough informed with regard to State boundaries to know when they cross it. I do not think our elk are so informed or our deer or antelope. Of course, it is possible that when game go across the State boundary they cease to be game and become a part of interstate commerce, which seems to be the gentleman's argument. But how does the gentleman propose to prove that these birds are not residents of the State—by affidavit of the creatures? The gentleman refers to the police powers of the General Government. I was not aware that the National Government could exercise police powers within the borders of a State. We have heard some very extraordinary suggestions with regard to the general welfare clause of the Constitution, but this is the first time I have heard it suggested that it authorized the National Government to assume control over game birds within a State.

Mr. WEEKS. Mr. Speaker, the confusion of the gentleman is indicated by his calling elk and deer migratory birds. We are attempting to treat of birds of the air that fly from one section of the country to the other.

Mr. MONDELL. Mr. Speaker, if the gentleman from Massachusetts had listened carefully to the gentleman from Wyoming, he would know that the gentleman from Wyoming did not refer to elk and deer as birds, but as game, and that he also referred to birds as game. According to the philosophy of the gentleman from Massachusetts, game, if it is migratory, ceases to be game and becomes interstate commerce, or something of that sort. Do I understand him that game is of two sorts—State and interstate?

Of course, the fact that this would require an innumerable Federal army along all of the watercourses and around all of the ponds and sloughs of all of the States, and would probably result in a considerable portion of the population of most of the States being haled before Federal courts to answer the charge of killing ducks at a time when a Federal understrapper said they should not be killed, is a matter of no consequence in the view of some gentlemen and should have no weight with us in the consideration of the bill. The bill proposes to place migratory birds within the custody and under the protection of the United States; that would of necessity demand the presence of Federal officials wherever the birds fly and wherever they light, in order that they might protect them, and if there were any of them killed contrary to the regulations issued, that those killing them might be haled before a Federal grand jury and indicted and tried in the Federal court; but little interferences of that kind with the rights of the citizens within the sovereign Commonwealths of the Union I suppose are not at all important in the opinion of the gentlemen who favor this bill.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. COOPER. The gentleman seems to apprehend that if this were enacted into law there would be too many Federal officials. The gentleman recalls, does he not, that when the Lacey bill was up, which sought to prevent the shipment outside of a State of game killed within its borders, under certain penalties, that identical argument was made to defeat that legislation—namely, that an excess of Federal officials would at once be created, that the people of the State would be harassed to death because of the intense desire of the National Government to prevent the extermination of certain kinds of birds. Is the gentleman aware of the fact that there has been no complaint of any excess of Government officials? Has the gentleman found anywhere that these prophecies have come true?

Mr. MONDELL. The gentleman from Wyoming did not object to the Lacey bill.

Mr. COOPER. No; but other gentlemen were just as apprehensive that the same sort of legislation would have the effect which he now imagines this would have.

Mr. MONDELL. I do not think that proves anything; but does the gentleman imagine that if the taking of geese and brant and ducks in the State of Wisconsin is made punishable by a Federal law, it will not be necessary to have Federal officials in the great State of Wisconsin, with its splendid streams and beautiful lakes, to see that the law is enforced?

Mr. COOPER. Yes; and I have no doubt, although I have not consulted them, that the people of the State of Wisconsin would willingly endure the comparatively trivial burden of having a few officials there to prevent the extermination of the game. I can recall the time when the wild pigeons flew by the millions, and the heavens were darkened by them. Yet I read recently of the reward of a thousand dollars being offered for anyone who would furnish a male wild pigeon. There is a female wild pigeon in captivity in the zoological garden in Cincinnati, but they have been practically exterminated, and so it will be with these other migratory birds, which the gentleman from Massachusetts by this legislation seeks to preserve. I hope the gentleman from Wyoming will withdraw his objection?

Mr. MONDELL. Mr. Speaker, I have such high regard for the people of Wisconsin that I can scarcely agree with the suggestion of the very worthy and honorable representative of a very considerable portion of that State, that the people there would welcome the establishment within their borders of Federal police jurisdiction. That may be so in Wisconsin, but it is not so in the State that I have the honor to represent. Out in the mountain country we realize that we have sovereign Commonwealths, and that upon the people of those Commonwealths there are placed under our form of government certain duties and responsibilities.

We do not shrink from the performance of those duties and responsibilities. Furthermore, I do not think there is a State in the Union whose people would not, after they come to consider it, protest most vigorously against having their game laws made in a Federal bureau at Washington and enforced by Federal game wardens.

With regard to the goings and comings and protection and taking of game within a State the Federal Government has not anything to do, and should not have anything to do with it and could not have anything to do without an amendment of the Federal Constitution.

Mr. WEEKS. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. WEEKS. The gentleman from Wisconsin is on sound ground in the statement he made, for I have a letter from the governor of his State indorsing this legislation and also a communication from the game warden of that State indorsing this legislation, and to the gentleman from Wyoming I will also say that the highest official in his own State—the governor—has written a letter indorsing this legislation. [Applause.]

Mr. MONDELL. I have no doubt but what there are men who have been elected to high office who have gotten very wrong on this and other questions. The fact they are wrong does not affect my position in regard to it at all. I will say to the gentleman frankly I think the whole thing is ridiculous beyond words. The idea of establishing Federal police jurisdiction over all States of the Union, along all the streams and around all the reedy ponds and beside all the sloughs, and subjecting the citizens of all the sovereign States of the Union——

Mr. BUTLER. Do not forget the babbling brooks.

Mr. MONDELL (continuing). To the danger of being hauled before a Federal grand jury and tried in a Federal court and sent to jail—a Federal jail, as one of my friends here suggests—for the doing of what? For doing what may be entirely a lawful thing for them to do—that is, to take game in accordance with the laws of the States. This is just another illustration of how recklessly and foolishly we are running into federalism. Some of the people of the States, on the one hand, desirous of being relieved from the performance of their duty in regard to these matters and willing to sell their sacred birthright of self-government for a measly mess of Federal patronage, and, on the other hand, what is infinitely more potent in a case of this sort, a coterie of very fine gentlemen in a Federal bureau busily engaged in enlarging the jurisdiction of their bureau until it shall embrace all the earth. What a glorious outlook the Bureau of Biology in the Department of Agriculture will have when it shall number its deputies by the thousand and tens of thousands, sleuthing all over the country, ready to nab every barefooted boy who goes with a single-barrel shotgun to shoot a duck on a pond back of the barn or on the brook below town.

Mr. BOWMAN. Will the gentleman yield at that point?

Mr. MONDELL. Yes.

Mr. BOWMAN. In the mining district of Pennsylvania it is very difficult to protect the game birds—and they are numerous—from the men who kill them, most of whom are foreigners only a short time in this country, and this measure is considered very important by most of the people who live in Pennsylvania.

Mr. MONDELL. My good friend wants to confess on behalf of the State of Pennsylvania that it either has not the courage or public spirit to protect the game birds within its borders; in other words, to do its duty. Now, I do not represent that sort of people. We do protect the game within our borders, and we do not propose to have the Federal Government have anything to do with it. We do not ask the Federal Government to help us protect it except as it may do so incidentally in carrying out its other work. The game belongs to the State, and I can imagine nothing more dangerous than to invite Federal police jurisdiction within the States in the way proposed by this bill. Of course, it appeals to some good people at first blush. It appeals to some good folks, high-minded people, who believe in the protection of game birds, as most of us do. They do not stop to think what a revolutionary thing it is to have game laws made by some clerks in a Federal bureau and enforced by a Federal judge. They say, "Let us take care of the birds; let us invite the Federal Government to help us; we have some lawless people within our borders whom we are powerless to control; let us bring in the strong arm of the Federal Government to control these lawless gun toters." Why, if you need Federal aid in Pennsylvania to prevent men from toting guns against the birds, you certainly would be entirely justified in appealing to the strong arm of the Federal Government to protect the people against the men who tote guns against their fellow men. Some of them are migratory, and human life is vastly more precious than bird life.

Mr. FOWLER. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FOWLER. I desire to ask the gentleman if this bill should become a law which would prevail, the national law or the State law which is passed to regulate the supervision and killing of game birds?

Mr. MONDELL. Well, the gentleman who drafted this legislation evidently hoped that they both would operate, but that the Federal law would be supreme. Of course the fact is that the legislation would not last long after the Supreme Court got hold of it, but in the meantime it would do a great deal of harm. The very fact it has been reported by a committee of this House, the very fact that it is seriously considered, is to me astounding, and I can not understand the frame of mind of men who propose a thing of that sort, men who have local pride, men who have faith in the people of their States, men who believe in our form of local self-government—I can not understand how such men can favor it for a moment, this scheme of Federal bureaucracy. I understand that the protection of game birds is an excellent thing. I live in a State where we have protected the large game better than any State in the Union, and in my State there are folks who occasionally get wrong on the same question and wonder why we have not invited the Federal Government in to help us out. We all know how a thing of this sort secures support. Local people who are interested in game preservation, and who grow impatient because the people of their States as represented in the legislatures do not look at things as they do, are easily influenced by the officials of a Federal bureau, endeavoring to extend their power and authority, into believing that if the Federal Government were to take hold of the matter everything would be adjusted just as they want it. Of course no one would be more disappointed or disgusted with the outcome than those same people, but in the meantime the harm would be done.

The fact that some good people get wrong on these questions does not make it right, does not change the constitutional aspect of the question, and does not in any way make it less harmful and mischievous.

Mr. FOWLER. What would become, then, of the game wardens of the States if this law passed?

Mr. MONDELL. They can go home or they can enlist under the Federal banner. They might, perhaps, be able to get jobs as Federal game wardens.

Mr. MANN. The gentleman wants to be fair, as he always does, and, of course, he knows the proviso especially provides that the law shall not interfere with the game laws of the States that are effective.

Mr. MONDELL. What the bill does is this:

Nothing herein contained shall be deemed—

This is the bill as it was before it was amended:

Nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of game localized.

I have said in my State the game is not acquainted with State boundaries.

Within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

As amended it provides:

That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of game or other birds resident and breeding within their borders.

So it would be necessary to have an affidavit in each case—from the bird, I suppose—that it was or was not a resident.

Mr. SIMS. Have them tagged like an automobile.

Mr. MANN. Does not the gentleman think that refers to individual birds or class of birds?

Mr. BUTLER. Does not the gentleman from Wyoming think he has worked up into a frame of mind where he can justify the objection he intends to make?

Mr. MONDELL. The gentleman assumes that the fact that the bill is unconstitutional is sufficient reason for an objection, and the further fact that it is unwise, if it were constitutional, is a further reason.

Mr. SIMS. Has not the gentleman seen us try here to defeat bills championed by the gentleman from Massachusetts [Mr. WEEKS], and how we failed? What is the use of trying further?

Mr. WEEKS. I will make a suggestion to the gentleman from Tennessee that, in my opinion, there will be a failure in this case. The gentleman from Wyoming can object to this bill to-day, but the people of this country who are familiar with the subject are in favor of this legislation; and the bill, in my judgment, if it is ever gotten before the House, will pass, because it is right. But I do not care to take the time of the House if the gentleman is going to object to it to-day.

Mr. MANN. I think no one will hasten a discussion, because it is interesting to hear a constitutional discussion between the gentleman from Wyoming [Mr. MONDELL], who is not a lawyer, and the gentleman from Massachusetts [Mr. WEEKS], who is not one.

Mr. MONDELL. Mr. Speaker, it may be possible that as objectionable legislation as this may get on the statute books. All things are possible in these days. In these days of hysteria all things may come to pass, but if this law should be put on the statute books of the country its effect would be to shame every man who advocated it. It is unconstitutional. It deprives the people of the opportunity to legislate on their own affairs in their own way. It substitutes Federal bureaucracy for local self-government. It is contrary to our theory of government. I shall have to object.

INVESTIGATION OF COAL COMPANIES.

The next business on the Calendar for Unanimous Consent was the resolution (H. Res. 577) to investigate certain coal companies doing business in Two Harbors, Minn.

The Clerk read the bill, as follows:

House resolution 577.

Resolved, That the Commissioner of Corporations be, and hereby is, authorized and directed to make an investigation of the facts touching the handling and selling of coal at the city of Two Harbors, Minn., in accordance with the powers and authority granted to said commissioner by section 6 of an act entitled "An act to establish the Department of Commerce and Labor," approved February 14, 1903, and the acts amendatory thereof and supplemental thereto, to determine whether the said city of Two Harbors was and is prevented from purchasing coal in wholesale quantities by an agreement, understanding, or conspiracy by and between companies, persons, or partnerships engaged in the coal business and in interstate commerce, and to determine whether any of said companies, persons, or partnerships have committed acts in restraint of trade or otherwise contrary to law in connection with the matters herein referred to.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, does the gentleman from Minnesota [Mr. MILLER] desire to be heard on this?

Mr. MILLER. I shall be pleased to answer any questions that the gentleman desires to ask. If you care to have a statement of the case——

Mr. MANN. This resolution, as I understand it, is to have the Bureau of Corporations investigate the matter of the sale of coal at Two Harbors, Minn. I should doubt very much the desirability of the Government starting in to investigate every local complaint of the violation of the antitrust law.

Mr. MILLER. It seems to have been in contemplation of those framing the Commerce and Labor act that an investigation of this kind should be had by that department, and they do make these investigations constantly.

Mr. MANN. It was I who first proposed the Bureau of Corporations and had charge of the bill which created it. It went through my hands. I should question whether those who framed it contemplated it should be used for the purpose of investigating local matters of this sort.

Mr. MILLER. In view of the statement just made I would not say that the framers of the bill had that in mind, but the language of the bill certainly empowers the Commissioner of Corporations to carry on such investigations.

Mr. MANN. Undoubtedly very comprehensive in its language, and ought to be.

Mr. MILLER. There is one reason in this particular instance that would hardly be found elsewhere. It might be found, but not ordinarily. These coal companies, which it is proposed shall be investigated, will not, I will say, require much of an investigation, and the investigation will not involve any large expense—none at all to speak of. The companies are all engaged in interstate commerce on a large scale. These are not retailers or men doing a small business. The number comprises practically all of the large coal companies which operate mines and sell, in wholesale quantities, coal out through the Northwest. I do not suppose it is necessary to mention their names. Their names are probably known to most of the membership of the House.

Mr. MANN. I would not know the names of the coal companies.

Mr. MILLER. I think these names are known pretty well throughout the country.

Mr. MANN. That may be. I have no objection to a resolution requiring the Bureau of Corporations to investigate coal companies. I should, however, doubt whether it is desirable to have a resolution passed directing the Bureau of Corporations to determine whether anybody is violating the antitrust law. I do not quite see how they can determine that question.

Mr. MILLER. They are not directed to determine it. They are directed to make an investigation to see whether or not any

misconduct was committed in that direction. It is not necessary to make an official determination.

Mr. KENDALL. They are expected to report facts.

Mr. MANN. Well, the resolution says:

And determine whether any of the said companies, persons, or partnerships have committed acts in restraint of trade, or otherwise contrary to the law in connection with the matters herein referred to.

Mr. MILLER. That is perhaps stronger than I thought, but since the matter is brought to my attention it seems to me that is exactly the language contained in that paragraph of the Department of Commerce and Labor bill.

Mr. MANN. I think not, although my memory has not been refreshed in connection with that. It may be in conformity with the language of bills that have been introduced. The bureau has given much information and assistance to the Department of Justice, and to that extent it may be said that it is engaged in endeavoring to determine. But I question the advisability of Congress, at the request of any locality, directing the Bureau of Corporations to make an investigation to determine whether or not local people or the people of any particular locality are violating the antitrust law. I should say that from my city I could readily offer 50 such resolutions at any time.

Mr. MILLER. If the gentleman will permit me, I would like to make a statement of one or two facts that possibly have not come to the gentleman's attention.

Mr. MANN. I will say to the gentleman that no facts have come to my attention in connection with this except the report. I understand that there is a peculiar situation there. I understand that the city of Two Harbors desires itself to go into the coal-handling business and sell coal to its people. It claims it has been discriminated against by these coal companies. I suppose it is so claimed because the companies do not desire to have the municipality to buy coal, or that is the claim, at least, instead of private dealers.

Mr. MILLER. That is the gist of the situation.

Mr. MANN. I will ask the gentleman to let this go over, anyhow.

Mr. MILLER. I will say to the gentleman that if this goes over now I do not suppose any additional reason could be advanced two weeks from now why it should be considered.

Mr. MANN. Possibly not.

Mr. MILLER. And if it is not considered at this session it might as well not be considered at all. I would like to urge upon the attention of the gentleman one or two things. It will take only a few minutes.

Mr. MANN. I simply reserve the right to object, and I hope the gentleman will discuss the question.

Mr. RAKER. Mr. Speaker, a parliamentary inquiry.

Mr. MANN. The gentleman from Minnesota has the floor.

Mr. RAKER. I understood objection was made.

Mr. MANN. No. I reserved the right to object until the gentleman had explained the resolution.

Mr. SIMS. Mr. Speaker——

The SPEAKER pro tempore. Is there objection to the consideration of the resolution?

Mr. MILLER. Mr. Speaker, the coal companies that come within the purview of this resolution are all engaged in interstate commerce, and number about seven. These are not coal companies that are local in their activities. They are coal companies that operate mines in Pennsylvania, in Illinois, in Ohio, in West Virginia, in Virginia, and some of the companies operate in several of these States. They ship the coal by way of the Great Lakes to the head of the lakes, which is the distributing point for the entire Northwest. These coal companies that so operate furnish the coal—probably 99 per cent of all the coal—consumed in the States of Minnesota, Wisconsin, the Dakotas, and even some parts of the more distant Northwest, so that it is of more than a local significance whether they are conducting their affairs in a proper way.

I have no complaint, and have heard of none, with respect to the general conduct of their business. The city of Two Harbors is located at the head of the lakes. It is a city of about five or six thousand people and is chiefly important because of its railroad terminals and lake shipping. For the education of some of the gentlemen from big places, I beg to say that the city of Two Harbors has a tonnage vessel commerce greater than the combined vessel commerce of Galveston, Tex.; New Orleans, La.; Mobile, Ala.; and Pensacola, Fla.

Mr. MANN. Will the gentleman yield?

Mr. MILLER. Yes.

Mr. MANN. When the gentleman makes that statement, he means that the coastwise commerce of Two Harbors is greater than the combined foreign commerce of these other cities?

Mr. MILLER. I did not make any such reservation or restriction.

Mr. MANN. Then, the gentleman will find, when he investigates, that he is mistaken.

Mr. MILLER. I will call the gentleman's attention to the fact that my figures were given me by the board of engineers of the War Department, who furnished them some time ago.

Mr. MANN. That is just it, and the board of engineers furnished the coastwise commerce for the Great Lakes and the foreign commerce for the seaports.

Mr. MILLER. I think the gentleman is mistaken.

Mr. MANN. Oh, I have been over that so often that I can assure the gentleman that I am not mistaken about it.

Mr. MILLER. Some gentleman here asked what is the comparison with Chicago. I should say that Chicago has 14,000,000 tons, and Two Harbors has 12,000,000 tons, so that Chicago has a little the better of it by 2,000,000 tons. But that is neither here nor there. The city of Two Harbors desired to purchase coal in wholesale quantities, and retail the same to her citizens. The companies refused to sell coal to the city for that purpose.

The SPEAKER pro tempore. Is there objection to the passage of the resolution?

Mr. MANN. Mr. Speaker, I reserved the right to object upon this bill, and I ask that the bill go over.

Mr. MILLER. Mr. Speaker, if the gentleman is going to object, then I ask unanimous consent that the bill may be passed over.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent that the bill be passed over without prejudice. Is there objection?

There was no objection.

EXCHANGE OF SCHOOL LAND.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that the bill (H. R. 19344) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, be passed over until the next unanimous-consent day, without prejudice.

Mr. MANN. Has not that bill gone off the calendar once before?

Mr. RAKER. Yes; and it could not come back without this consent.

Mr. MANN. I shall not object to it.

Mr. RAKER. I know that it is unusual, but the conditions are such that I am impelled to try and get it back on the calendar.

The SPEAKER pro tempore. Is there objection?

There was no objection, and it was so ordered.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. PAYNE to withdraw from the files of the House, without leaving copies, papers in the case of Walter H. Burnett, Sixty-first Congress, third session, no adverse report having been made thereon.

DAM ACROSS WHITE RIVER, ARK.

The SPEAKER pro tempore. On account of some apprehension that the appointment of conferees earlier to-day upon the bill H. R. 20347 might not have been regular, the Chair again appoints the following conferees on the part of the House.

The Clerk read as follows:

Mr. ADAMSON, Mr. RICHARDSON, and Mr. STEVENS of Minnesota.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. R. 20738. An act for the transfer of the so-called Olmstead lands in the State of North Carolina from the Solicitor of the Treasury to the Secretary of Agriculture;

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and to certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 20628. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and to certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 331. Joint resolution extending appropriations for the necessary operations of the Government under certain contingencies.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. YOUNG of Texas, indefinitely, on account of important business.

To Mr. DOREMUS, for 10 days, on account of important business.

To Mr. NEEDHAM, for two weeks, on account of important business.

ADJOURNMENT.

Mr. MURRAY. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MURRAY. My point of order is that there is not a quorum present.

The SPEAKER pro tempore. Evidently there is not a quorum present.

Mr. SIMS. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. MURRAY. Mr. Speaker, I demand the regular order.

Mr. SIMS. Mr. Speaker, I desire to call up a bill (S. 7027) on the Speaker's table to prevent the shipping through the mails and in interstate commerce of moving-picture films of prize fights, especially the one between a negro and a white man, to be held in New Mexico on the 4th of July next, and the point of order is made by the gentleman from Massachusetts to defeat the present consideration of that bill, as it will be too late to get it passed before that date if not considered now.

Mr. MURRAY. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The point of order is sustained. Evidently there is not a quorum present.

Mr. UNDERWOOD. Mr. Speaker, it is evident that there is not a quorum present and that a quorum could not be obtained this afternoon. Therefore I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 50 minutes p. m.) the House adjourned until Tuesday, July 2, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of War, calling attention to provisions of S. 4239 and recommending that appropriations for the support of the Army, Army Schools, and the Rifle Practice Board be excepted from said provisions for the fiscal year 1913 (H. Doc. No. 856); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting petition of George T. Hale for himself and other assistants to superintendents of construction in the United States Life-Saving Service, praying for certain legislation in his and their behalf (H. Doc. No. 857); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting petition of P. Julian Latham for himself and other assistants to superintendents of construction in the United States Life-Saving Service, praying for certain legislation in his and their behalf (H. Doc. No. 858); to the Committee on Interstate and Foreign Commerce and ordered by be printed.

4. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior submitting an estimate in the form of authority to allow and credit in the accounts of George W. Evans, chief disbursing clerk, Department of the Interior, certain items disbursed by him amounting to $529.90 (H. Doc. No. 855); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CARTER, from the Committee on Indian Affairs, to which was referred the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma, reported the same without amendment, accompanied by a report (No. 928), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HAY: A bill (H. R. 25531) making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. LEE of Pennsylvania: A bill (H. R. 25532) to provide for the erection of a Federal building at Tamaqua, Schuylkill County, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. HAY: Resolution (H. Res. 594) fixing time and manner of considering the Army appropriation bill; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOWMAN: A bill (H. R. 25533) granting a pension to Lucy E. Puterbaugh; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 25534) for the relief of the estate of Martin G. Spruel; to the Committee on War Claims.

By Mr. CATLIN: A bill (H. R. 25535) granting a pension to Lucy A. Wharton; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 25536) granting a pension to William L. Altdorfer; to the Committee on Pensions.

Also, a bill (H. R. 25537) granting a pension to Henry Moore; to the Committee on Pensions.

By Mr. DONOHOE: A bill (H. R. 25538) granting a pension to Albert F. Alexander; to the Committee on Pensions.

By Mr. GOULD: A bill (H. R. 25539) granting an increase of pension to Orlando Herrick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25540) granting an increase of pension to James E. Marden; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25541) granting an increase of pension to Frank Rowe, jr.; to the Committee on Invalid Pensions.

By Mr. KINKEAD of New Jersey: A bill (H. R. 25542) granting an increase of pension to Emily S. Van Beuren; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 25543) granting a pension to Lawrence F. Hickey; to the Committee on Pensions.

By Mr. LANGHAM: A bill (H. R. 25544) granting an increase of pension to Jane Fleming; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 25545) granting an increase of pension to Thomas Martin; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 25546) to correct the military record of Albert S. Austin; to the Committee on Military Affairs.

By Mr. MOON of Tennessee: A bill (H. R. 25547) granting an increase of pension to Marcus L. Moreland; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 25548) granting a pension to George M. Lawton; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 25549) granting a pension to James W. Clarke; to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 25550) granting a pension to Ferdinand Sandusky; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25551) granting a pension to Manda Sexton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25552) for the relief of John F. West; to the Committee on War Claims.

Also, a bill (H. R. 25553) for the relief of the heirs of Even Jones, deceased; to the Committee on War Claims.

By Mr. RODENBERG: A bill (H. R. 25554) granting a pension to Thomas B. Cline; to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 25555) granting a pension to Lois A. Hastings; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of the Ruthenian Greek Catholic Church, the Ruthenian Beneficial and Political Societies of Philadelphia, Pa., and the Polish Roman Catholic Unions, of Illinois, Colorado, New Jersey, and Pennsylvania, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. AYRES: Petition of the Brotherhood of Locomotive Engineers, favoring the passage of the workmen's compensation act; to the Committee on the Judiciary.

By Mr. BYRNS of Tennessee: Papers to accompany bill for the relief of the estate of Martin G. Spruel; to the Committee on War Claims.

By Mr. CARY: Memorial of the Wisconsin State Medical Society and the Conference of Health Officers of Wisconsin, at Madison, Wis., favoring Senate bill 1, establishing a national health bureau; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of the American Association of Masters, Mates, and Pilots, Harbor No. 28, of St. Louis, Mo.,

favoring passage of House bill 24854; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Brown Shoe Co., the George F. Dittmann Boot & Shoe Co., and the Burron, Jones & Dyer Shoe Co., of St. Louis, Mo., favoring passage of the Pomerene substitute Senate bill 6810; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Southern Shoe Retailers' Association of Memphis, Tenn., against passage of the Campbell bill, relative to manufacturers placing name on goods; to the Committee on Interstate and Foreign Commerce.

Also, petitions of the Scudders-Gal Grocery Co. and William G. Milford's Oyster House and Restaurant, of St. Louis, Mo., favoring passage of House bill 22526, known as the weight or measure branding bill (H. R. 22526); to the Committee on Interstate and Foreign Commerce.

Also, petitions of the A. S. Alve Co., the Elliott Jewelry Co., the St. Louis Pharmaceutical Society, Alf. W. Pauley, the Phoenix Automobile Supply Co., the Wesco Supply Co., and the Moon Motor Car Co., of St. Louis, Mo., against passage of the Oldfield bill proposing change in patent laws; to the Committee on Patents.

Also, petition of the Trenton Chamber of Commerce, of Trenton, N. J., against passage of Senate bill 5458, extending time for completion of a bridge across the Delaware River by the Pennsylvania Railroad Co.; to the Committee on Interstate and Foreign Commerce.

Also, petition of Washington Lodge, No. 15, Benevolent and Protective Order of Elks, against passage of the Jones-Works excise bill (S. 5461), relative to license for the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Washington Presbytery, favoring passage of the Jones-Works excise bill (S. 5461); to the Committee on the District of Columbia.

Also, petitions of the Missouri State Poultry Experiment Station, of Mountain Grove, Mo., and the Missouri Library Commission, of Jefferson City, Mo., favoring passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of St. Louis Chapter of the American Institute of Architects, of St. Louis, Mo., against the repeal of the Tarnsey Act by the sundry civil bill; to the Committee on Appropriations.

By Mr. FULLER: Petition of the Rockford Drilling Machine Co., of Rockford, Ill., protesting against passage of Senate bill 6850, raising the rates on all kinds of circulars and catalogues, etc.; to the Committee on the Post Office and Post Roads.

By Mr. GALLAGHER: Petition of the Polish Roman Catholic Unions of Chicago, Ill., protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Liquor Dealers' Protective Association of Illinois, protesting against the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. GARNER: Petition of the Texas Bankers' Association, of San Antonio, Tex., favoring legislation for promotion of a sound banking system; to the Committee on Banking and Currency.

By Mr. GOLDFOGLE: Petition of John B. Daish, of Washington, D. C., relative to the right of shippers to be heard in court; to the Committee on the Judiciary.

Also, petition of the Brotherhood of Locomotive Engineers, of Cleveland, Ohio, favoring passage of workmen's compensation bill; to the Committee on the Judiciary.

By Mr. HILL: Petition of citizens of Bridgeport, Conn., protesting against appropriation for celebration of 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. KINKEAD of New Jersey: Petition of the Brotherhood of Locomotive Firemen and Enginemen, Atlanta, Ga., protesting against passage of the employees' compensation act; to the Committee on the Judiciary.

By Mr. MOON of Tennessee: Papers to accompany bill for the relief of Marcus T. Moreland; to the Committee on Invalid Pensions.

Also, papers to accompany bill for the relief of Taylor Williams, administrator of S. Y. B. Williams; to the Committee on War Claims.

By Mr. PALMER: Memorial of Bowman's Council, No. 440, of Bowmenstown, Pa., I. O. of A., favoring passage of Senate bill 3175, for literacy test for immigrants; to the Committee on Immigration and Naturalization.

Also, memorial of the Pastors' Association of Easton, Pa., favoring passage of Owen health bill; to the Committee on Interstate and Foreign Commerce.

By Mr. REILLY: Petition of the Fraternal Benefit League, New Haven, Conn., relative to carrying of mail of societies and unions; to the Committee on the Post Office and Post Roads.

Also, petition of the Workmen's Sick and Death Benefit Fund of the United States of America, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of St. Vincent Society, No. 463, New Haven, Conn., protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Order of Railroad Conductors, Memphis, Tenn., protesting against the passage of the employers' liability and workmen's compensation act; to the Committee on the Judiciary.

By Mr. REYBURN: Memorial of the Ruthenian Beneficial and Political Societies of the city of Philadelphia, State of Pennsylvania, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. STEPHENS of California: Petition of the Daughters of Liberty of Los Angeles, Cal., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Brotherhood of Locomotive Engineers, favoring passage of the workmen's compensation act; to the Committee on the Judiciary:

By Mr. WOOD of New Jersey: Petition of citizens of Hamilton, the Township Committee of Hamilton, N. J., and the Trenton Chamber of Commerce, of Trenton, N. J., favoring passage of Senate bill 5458, providing for the extension of time for constructing the railroad bridge across the Delaware River below Trenton; to the Committee on Interstate and Foreign Commerce.

Also, petition of Local Union No. 111, Sheet Metal Workers, of Trenton, N. J., favoring passage of House bill 23625, known as the anti-Taylor system bill; to the Committee on the Judiciary.

Also, petition of Printing Press Union No. 70, of Trenton, N. J., favoring passage of House bill 22339, known as the anti-Taylor system bill; to the Committee on the Judiciary.

Also, petition of Pride of Trenton Council, No. 4, Daughters of Liberty, Trenton, N. J., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

SENATE.

TUESDAY, *July 2, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Journal of yesterday's proceedings was read and approved.

LIQUOR TRAFFIC AMONG INDIANS (S. DOC. NO. 868).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior, submitting an estimate for an increase in the appropriation for the suppression of the liquor traffic among Indians from $75,000 to $100,000, which, with the accompanying paper, was ordered to lie on the table and to be printed.

COAL-MINING OPERATIONS IN WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the joint resolution (S. J. Res. 100) authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming, which was to strike out all after the resolving clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized to allow the Owl Creek Coal Co. to continue the operation of the mine or mines upon any of the lands embraced in Lander, Wyo., coal entries No. 18 to 49, inclusive, until July 1, 1913, upon such conditions and under such rules and regulations as he may prescribe.

Mr. CLARK of Wyoming. I move that the Senate disagree to the amendment of the House and ask a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. SMOOT, Mr. CLARK of Wyoming, and Mr. CHAMBERLAIN conferees on the part of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the following bills and joint resolution.

S. 5935. An act to fix the terms of the district court for the western district of Michigan;

S. 6946. An act authorizing the sale of certain lands in the Flathead Indian Reservation to the town of Roman, State of Montana, for the purposes of a public park and public-school site; and

S. J. Res. 111. Joint resolution to convey the thanks of Congress to Capt. Arthur Henry Rostron, and through him to the officers and crew of the steamship *Carpathia*, of the Cunard Line, for the prompt and heroic services rendered by them in rescuing 704 lives from the wreck of the steamship *Titanic* in the North Atlantic Ocean.

The message also announced that the House had passed the following bills, each with amendments, in which it requested the concurrence of the Senate:

S. 4663. An act granting to the Washington-Oregon Corporation a right for an electric railroad and for telephone, telegraph, and electric transmission lines across the Vancouver Military Reservation, in the State of Washington;

S. 4862. An act authorizing and directing the Secretary of the Interior to investigate and settle certain accounts, and for other purposes; and

S. 6380. An act to incorporate the American Hospital of Paris.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 20347) to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark., asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ADAMSON, Mr. RICHARDSON, and Mr. STEVENS of Minnesota managers at the conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 18719. An act to authorize the State of Tennessee to sell school lands for educational purposes;

H. R. 24669. An act authorizing the Secretary of the Interior to make a survey and estimate of the cost of increasing the storm drainage system, as well as the sanitary sewer system of the city of Hot Springs, abutting the Hot Springs Reservation, Ark.;

H. J. Res. 321. Joint resolution relative to observance of Memorial Day; and

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the National Association of Piano Merchants of America, favoring the adoption of certain changes in the present currency law, which was referred to the Committee on Finance.

He also presented a resolution adopted by the National Association of Piano Merchants of America, favoring the enactment of legislation requiring manufacturers to place their own names upon manufactured articles, which was referred to the Committee on Manufactures.

He also presented the petition of A. Atlee, of Philadelphia, Pa., praying for the establishment of a national department of health, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Belle Plains, Kans., praying for the establishment of a governmental system of postal express, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Solomon, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. CULLOM presented resolutions adopted by the Cook District Liquor Dealers' Protective Association, of Illinois, in convention at Chicago, Ill., remonstrating against the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were referred to the Committee on the Judiciary.

He also presented petitions of Local Lodge No. 363, International Brotherhood of Boiler Makers and Iron-Ship Builders and Helpers of America, of East St. Louis; of Bluff City Lodge, No. 660, International Association of Machinists, of Upper Alton; of Local Union No. 4, Stove Mounters' International Union, of Belleville; and of the Trades and Labor Assembly of Aurora, all in the State of Illinois, praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

He also presented resolutions adopted by the Council of Grain Exchanges, in convention at Chicago, Ill., praying for the enactment of legislation providing for a uniform bill of lading, which were ordered to lie on the table.

GARDEN CITY (KANS.) WATER USERS' ASSOCIATION.

Mr. SUTHERLAND, from the Committee on Irrigation and Reclamation of Arid Lands, to which was referred the bill (S. 6784) for the relief of Garden City (Kans.) Water Users' Association, and for other purposes, reported it with an amendment and submitted a report (No. 900) thereon.

SCHOOL LANDS IN ARIZONA.

Mr. SMITH of Arizona. From the Committee on Public Lands I report back favorably without amendment the bill (S. 7163) authorizing the State of Arizona to select lands within the former Fort Grant Military Reservation and outside of the Crook National Forest in partial satisfaction of its grant for State, charitable, penal, and reformatory institutions. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill.

Mr. ROOT. Is there a report with the bill?

Mr. SMITH of Arizona. There is no report accompanying it, but I will state to the Senator that the Fort Grant Military Reservation has been turned over to the Interior Department and we are selecting for the lands granted to us under the enabling act this particular piece of land for the purpose of establishing a reform school. The bill has been recommended by the Secretary of the Interior, and it is on his recommendation that the committee made a unanimous report in its favor.

Mr. SMOOT. I should like to ask the Senator from Arizona if the amendment was made in accordance with the action of the committee?

Mr. SMITH of Arizona. Exactly as the committee agreed to it the bill was reprinted and it was so reported.

Mr. SMOOT. And it is approved of by the Secretary of the Interior.

Mr. SMITH of Arizonia. Yes; his letter of approval is here.

Mr. SMOOT. I have no objection to the bill.

Mr. McCUMBER. Mr. President, what is before the Senate now?

The PRESIDENT pro tempore. The Senator from Arizona asks unanimous consent for the present consideration of Senate bill 7163, the title of which the Secretary will again read.

Mr. McCUMBER. I will ask the Chair how that comports with the unanimous-consent agreement which was made for to-day's business?

The PRESIDENT pro tempore. The Chair will state that morning business has not yet closed. This bill has just been reported to the Senate, and in the act of reporting it the Senator from Arizona accompanied it with a request for present consideration. It was not called up from the calendar, but it is a part of the morning business. It is before the Senate in connection with the morning business, the report having been received this morning. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JOHNSTON of Alabama:

A bill (S. 7223) to authorize the Secretary of War to lease the surplus water created by any improvement on navigable streams, and for other purposes; to the Committee on the Judiciary.

By Mr. BRISTOW:

A bill (S. 7224) granting an increase of pension to Charles C. Littlefield (with accompanying papers); and

A bill (S. 7225) granting a pension to Adam Ross (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 7226) granting an increase of pension to Thomas Harrison (with accompanying papers); to the Committee on Pensions.

By Mr. THORNTON:

A bill (S. 7227) for the relief of heirs or estate of Joseph Block, deceased (with accompanying papers); to the Committee on Claims.

AMENDMENT TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. CULLOM submitted an amendment proposing to appropriate $250,000 for increasing the capacity of the plant at Rock Island Arsenal for the production of Field Artillery material,

etc., intended to be proposed by him to the sundry civil appropriation bill (H. R. 25069), which was referred to the Committee on Appropriations and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 18719. An act to authorize the State of Tennessee to sell school lands for educational purposes; and

H. R. 24669. An act authorizing the Secretary of the Interior to make a survey and estimate of the cost of increasing the storm drainage system, as well as the sanitary sewer system, of the city of Hot Springs, abutting the Hot Springs Reservation, Ark.

The following joint resolutions were severally read twice by their titles and referred to the Committee on Military Affairs:

H. J. Res. 321. Joint resolution relative to observance of Memorial Day; and

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

THE CHEMICAL SCHEDULE.

The PRESIDENT pro tempore. If there are no concurrent or other resolutions the morning business is closed, and under the unanimous-consent agreement the Senate will proceed to the consideration of House bill 20182.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 20182) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

The PRESIDENT pro tempore. The Chair is informed that the bill has not yet been read, and the Chair awaits the pleasure of the Senate as to the procedure. The Chair will direct the bill to be read unless it is desired otherwise.

Mr. SMOOT. Do I understand that the bill has not been read?

The PRESIDENT pro tempore. It has not been read.

Mr. HEYBURN. I do not understand that there is any requirement that the bill should be read at this time.

The PRESIDENT pro tempore. There is none. The only time when a bill is required to be read is upon its passage.

Mr. HEYBURN. In the Senate.

The PRESIDENT pro tempore. In the Senate, it having already been informally read twice.

Mr. HEYBURN. And it will be informally read the third time.

The PRESIDENT pro tempore. The Chair will conform to whatever may be the desire of the Senate in this regard. There is no rule to that effect, but it is the usual custom to read a bill unless some motion is made to the contrary.

Mr. HEYBURN. I presume that on the request of a Senator the bill would be read, but inasmuch as we are not desirous to-day of killing time I certainly should not make that request. But I would inquire of the Senator in charge of the bill whether or not he desires to take up the amendments suggested by the minority of the committee? I notice that there are some amendments suggested in the views of the minority.

Mr. SIMMONS. I think probably it is just as well to take up the bill as a whole at this time.

Mr. HEYBURN. I would think so.

The PRESIDENT pro tempore. The bill is before the Senate as in Committee of the Whole, and the Senator from Idaho has the floor.

Mr. HEYBURN. Mr. President, in considering Schedule A, the chemical and paint schedule of the tariff act, it is not my intention to speak at length, and I trust not in a tiresome manner. I am not going to deal in long tables or figures. I am going to discuss some general principles that are especially applicable in view of the pronounced policy of the Republican Party at Chicago a few days since. We have now a definite rule for tariff legislation.

I want to suggest to Senators, with the permission of the Chair, that inasmuch as it would not be practicable or fair to suggest the absence of a quorum, that they make it unnecessary to do so and be indulgent with those who are willing to give their energy and their efforts to a brief discussion of this question. Ordinarily we have rules which we can invoke, but unfortunately we have not now, and no one cares to speak that which would be as well written because of the absence of auditors. I merely make this suggestion, because we are under peculiar conditions here this morning. If we were forced to it by any disposition to treat this subject and those discussing it with less consideration than they are entitled to, we might call for a quorum. I merely make this suggestion.

I am not speaking merely for the purpose of speaking. We have to meet this question in a campaign that is about to begin, and I give notice to Senators that, if they persist in absenting themselves, I shall call for a quorum, and they might as well take notice of it.

The reason given by the minority for pressing this legislation is found on page 19 of the House report on "Schedule A—Chemicals, Oils, and Paints," made by the majority of the Committee on Ways and Means. They have taken the trouble to set out under the head "Reason for reductions" the following statement:

A special reason for reducing rates of duty on many of the crude chemical products is found in the fact that their bulk and low unit of cost will not permit of their being moved except under very favorable conditions. The United States imports some of the products shown in Table 10, because while we have abundant supplies it is less expensive to import them from other countries than to install plants or resort to the processes of saving the by-products necessary to introduce the industry here.

They give that as their reason. It is the most unique reason that I have ever seen given for the performance of a public duty—that because it is more convenient to allow these products to be made abroad or to be produced abroad we will not undertake to promote their production at home. I am very much surprised that any great party, speaking through its representatives, should have been candid enough to confess that they were perfectly willing to destroy these interests in America on the sole ground of convenience.

Of course it would be more convenient for the Members of Congress, most of them, to stay at home—and less expensive to the Government in some ways—and not legislate at all, to allow the foreigner to come into the port under his own flag, in his own ship, bring in the products of his own country, take possession of our wharves and warehouses, and sell those products here to those who would buy. That is the rule of convenience. I have never heard it urged before as a legitimate reason for legislation, but that is the reason they give. So we must conclude that they have no other or better reason than that put out in the report of the majority of the Ways and Means Committee.

While it may make little difference to the auditors present, I do not want that there shall be any mistake on the part of those who read the RECORD of the consideration of this question, because I shall use it throughout the campaign, and there I shall have an audience; do not make any mistake about that. I shall use it as the principle upon which this legislation is proposed and enacted, and it will be heard and considered by hundreds of thousands of people—American citizens—determining how they will elect to cast their votes.

I am going to read it again, because it is unique. Such a concession never was made before by any political party. I read:

A special reason for reducing rates of duty on many of the crude chemical products is found in the fact that their bulk and low unit of cost will not permit of their being moved except under very favorable conditions. The United States imports some of the products shown in Table 10, because while we have abundant supplies it is less expensive to import them from other countries than to install plants or resort to the processes of saving the by-products necessary to introduce the industry here.

That is being spoken of a schedule that represents an output of $1,500,000,000 every year. It is dealt with on the rule of convenience. That is being spoken of a product that used in raw material, which they treat so cavalierly here, $900,000,000 in the year 1911; that is being spoken of an item of wages of $240,000,000 a year; that is being spoken of factories making these articles that employ within the factories 12,000 people, and, in connection with the product of the things the factory uses, 300,000 people. That is from their own report. I take those figures from the report, and they are correct, for I have compared them with the statistics of the Government; yet they say that because the United States imports some of the products shown in Table 10—that is the table I am speaking of—while we have abundant supplies—that is, we have those things susceptible of being produced—it is less expensive to import them from other countries, you know, than to install plants. That means making machinery, constructing buildings, employing men, and that kind of expenditure—

or resort to the processes of saving the by-products—

And so forth.

That is, by saving the item of $900,000,000. We have to deal with that kind of a question this morning, and we are going to vote on it, I suppose, directly. I intend that those things shall go out to the country through the medium of the CONGRESSIONAL RECORD, and, at a proper time, through other mediums that will reach a larger percentage of the people.

While our output is $1,500,000,000 in these articles, we imported in 1911 only $48,868,368 worth; so the foreign trade is kept at the minimum. It has not varied 10 per cent in 10 years;

it has been held there by reason of the tariff laws of our country, which are now proposed to be changed; but changed how? Articles valued at $42,000,000, consisting principally of raw material and of articles not produced in this country, came in last year. They estimate that they will collect on those articles on the basis of $38,812,000. That is not a material difference in the volume of the imports. They say they will collect $3,364,000.65, and for that they would make a change involving an entire schedule and hold the Senate here for the consideration of that kind of legislation.

In 1911 the value of the imports under this schedule that came in free was $61,110,766, and the value of those that came in under the dutiable clauses was $33,390,000; so that about two-thirds came in free and one-third was dutiable; and yet, for the reasons given in the report, we are to consider a change of the schedule, not that it will bring in more duty, but that it will transfer the free list to the dutiable list.

They say in the abstract that they are opposed to taxes of this kind. They call it a "tax," and yet they are doubling the taxes, or they are proposing to do so. Of course, they will not do it because the Senate will not permit them to do it, but that is what they are proposing to do. We often judge men—and we may always judge parties—by what they propose to do. It is not necessary to wait for the realization of their promise; if they propose to do a thing, we will take it for granted that they would do it.

This has been a growing industry in this country. In 1900—and that is not very long ago—there were 8,820 etsablishments manufacturing the articles covered by the chemical schedule. Five years later the number had grown to 9,689, and in 1910 to 11,863 establishments engaged in manufacturing under this schedule.

The capital invested in 1900 was $1,180,000,000; in 1905, $1,521,000,000; and in 1910, $2,053,000,000. This business had doubled in 10 years. I will say, in passing, that I am not giving the odd figures; I am giving the master figures of the column.

The value of the product of these factories in the United States in 1900 was $757,000,000; in 1905 it had grown to $1,056,000,000; and in 1910 to $1,479,000,000. So that it is not a dead enterprise. It grew thus because of the legislation that protected the industry. It did not and would not have grown under this hoity-toity statement that "Oh, they are small things; let them come in. Do not notice them as they come through the customhouses; they are too trifling."

In 1900 the salaried officers engaged in this business numbered 34,564, at a compensation of $37,253,000. In 1905 that item had increased from 34,564 to 45,442. In 1910 it had increased to 68,756, at a compensation of $81,037,000, because of the growth of an industry that owed its growth entirely to the discriminating protection that kept out the foreign product.

In 1900 the total average number of wage earners engaged in this enterprise was 185,515, and their wages amounted to $73,349,687; in 1910 the number of wage earners had increased from 185,515 to 242,961, and the wages amounted to $116,214,000. The wages had increased nearly double, and the number of employees had increased about 30 per cent. That is not a long period.

The raw material used in these factories in 1900 had a value of $453,410,783, in 1905 of $629,609,000, and in 1910 of $903,920,000. I am reading these figures to show the growth of this industry, and, of course, the conditions surrounding it must have had something to do with its growth, because the growth of the industry is all out of proportion and in excess of the proportion of the growth of the population of the country.

There are other items which, added together, amount in the aggregate to a considerable sum to be added to those I have given, but I do not intend, as I have said, to go extensively into the tables.

In this bill they propose to transfer from the free list to the dutiable list 80 items, and those 80 items represent about one-half of the imports to this country. The value of imports in the items that are transferred from the free list to the dutiable list amounted to $42,337,887 in 1911. They estimate that under this bill the imports will be $38,812,150 and the duties will be $3,464,065. That involves no material increase in benefits to the customhouse, but is a transfer of items that we do not produce and can not produce to the dutiable list in violation of the principles that they have professed throughout generations. That is to be taken in connection with the reasons which they give on page 19 of the report for the proposition contained in the proposed legislation.

On page 16 of their report they put the interests of the consumer first. That is rather a unique proposition. I want this to go into the RECORD.

At the top of page 16 they say under the caption "Consumer's interests":

> In its revision of Schedule A the committee has also endeavored to give careful consideration to the interest of the consumer. Although the duties on chemicals have a less direct relation to the prices of fully finished products than is the case with many other goods, yet in some instances the rates have an important direct bearing upon prices paid by the consumer.

That is an erroneous principle. The consumer is not to be given the first consideration in legislating, because the consumer may have nothing to consume. The order of importance, if we are to divide industries and the people engaged in industries into classes, would seem to me to be, first, the farmer. I include under that designation all classes of people who produce the things that grow in the earth or on the earth for the comfort and sustenance of mankind. The farmer produces the foodstuffs and the raw material. Of course no other person is interested in what he consumes. He consumes of his own product and adds nothing to the wealth of any other person, but he is of first importance.

There could be no cities without farmers. Bear that in mind. There could be no communities, other than those composed of farmers, without farmers. So the farmer is to be given the first place and not the consumer, as is said on page 16 of the report. The consumer does not exist until after the producer has come into existence, and when you protect the producer you make it possible for the consumer to be protected and to exist.

So I put the farmer first. I place his interest first in considering tariff legislation. Take him out of the category and there is nobody else to protect. There would be no iron furnaces nor spinning mills without the farmer. All the farmer has to do to stop them or control them is to rest the plow in the furrow, sit under the shade of the tree, and eat the product of his own garden and of his own stockyard. There would not be a wheel turned in the factory nor a furnace lighted except for this element of the community. That should be borne in mind. I mention it because the minority of the committee, in its report, has placed the consumer first and the producer last. It barely mentions the producer; in fact, I do not think it saw him clearly. It saw him as through a glass, darkly.

The man of next importance is not the consumer, but the distributor, because if these products remained where they are produced they never would reach anyone outside of the producer. The second largest item for consideration in tariff legislation or in any legislation affecting the prosperity of the people is that of distribution; and that is a big question. It includes the men who haul in their little huckster wagons and deliver to the consumers. It includes the great transportation companies of the country that carry in quantity that which is produced in local centers. It is one of the big questions to be taken into consideration. It is just as important when we are dealing with distribution that we consider the smallest as it is that we consider the largest, because it is distribution that connects the producer with the consumer. There would be no consumers except the producers if it were not for the means of distribution and for the distributors. That has very close application to a schedule of this kind. No ordinary consumer could go to the place of production and secure the benefits of production at all. He would not know where to go. The distances would be prohibitive.

So in classifying these people I place them in that order: First, the producer; second, the distributor; then, the producer of raw material, because without the producer of raw material there would be no wage-earning class in this country. You must have raw material to run any foundry or factory or machine shop, and you must apply the law to the production of raw material as the item third in importance.

This schedule reverses that rule. It creates a false premise; and when you start out with your face in the wrong direction you are not apt to reach the desired destination. To be sure, these questions are familiar to all Members of this body. This is a body of men selected because of their capacity to understand these questions and because of the fact that they do understand them. When we talk here about these questions that may seem academic, it is not that we hope to turn men in their trend of thought, but it is that we speak through this medium to the country that is affected by and interested in this matter. The country expects us to send out the true ring of the true gospel, and it is our duty to do it; otherwise we might as well meet in executive session or write letters to each other.

There are three classes that have been completely ignored in this report—not ignored through oversight, but ignored specifically by substituting some other class for them. So it can not be charged as a mere difference of opinion or oversight; but they have deliberately substituted the wrong persons in classify-

ing those for whom this legislation is intended, and the country should know it; otherwise the country is apt to start from wrong premises—otherwise the country is apt, with its face pointed in the opposite direction, to go astray.

You can make no greater mistake than to believe that the people do not think, that they do not follow these questions. I have no doubt it is the experience of every other Member of this body, when he goes out and is no longer addressed in his official capacity, that he finds that all communities are considering and thinking and talking about these questions. They are not all right, but they are all seeking for the light.

I have heard as interesting discussion of some of these questions in the last three weeks out in local communities as you would hear upon this floor. Many of them started off with false premises. There are certain newspapers that seem to have become popular in some sections of the country that have been preaching false doctrine, and these people excusably take it as a text.

A few days ago some men were talking on the street corner in the midst of one of the most prosperous sections of the State of Pennsylvania. They were sure they were right, and they were denouncing everything that exists and demanding everything that is dangerous. I said to them: "Where do you get these ideas? Where do you get the basis for such statements?" "Why," they said, "from the North American." The North American had insidiously wormed itself into that community and spread venom like a poisonous snake, and those people were mistaking it for the source of wisdom.

That is just as dangerous and as venomous as the things I spoke of yesterday. It leads whole communities astray. When they find, though, with a little careful consideration, that they are wrong, they do not hesitate to turn; but sometimes it is too late. Sometimes it is after election day. Up in the State of Pennsylvania the knowledge came too late. But the knowledge now is spreading itself from mind to mind and house to house. I am hearing from some of it, and they are thinking. What they want is the truth as the basis of thought, and, while they may be longer in arriving at the truth, they will get there. It is not a case of permanent insanity; only one of temporary aberration of mind.

I have considered this statement in the report in its relation to the first three classes of American citizenship. I am not here with my heart filled with pity or sympathy for the laboring classes of other countries. That is a question for missionaries and not for statesmen.

I now come to the class termed manufacturers—that is, those who combine wages with raw material and produce things for man's use. Those are manufacturers. Their work makes a market for the raw material, it makes a market for the labor, and it enlarges the scope of individual and personal civilization. But now we come to the confluence of the streams. When you reach the manufacturer you have reached the point where these streams come together and constitute consumers and producers, because all that we produce in this country that is not sent abroad is consumed by those identified with the manufacture of raw materials into finished products, excepting only that consumed by the producers of raw materials. There is your situation. They start separate streams, as the fingers of your hand, and at the wrist they form that great, mighty stream of American industry and enterprise that is composed of the producer of raw material, those who convert it into a finished product, and those who use it. They are the united result of the separate enterprises. Every one of them is a consumer in kind, to be considered not separate and apart, but as an indispensable part of the other.

The first—that is to say, the farmer, the tiller of the soil—can live and prosper without any of the others. Mark that. The farmer, the tiller of the soil, can live and prosper and be a good citizen without any other element of the people. We have only to remember back within our own lifetimes to know it. We have only to go up in the old garrets and see the spinning wheels and the looms there to know that the ancestors who landed upon this continent and made their homes in the timber built their own looms, made their own spinning wheels, raised their own flax, and converted it into clothing for the family. They raised things to eat; they raised the local stock that constituted the winter's supply of food; and they were as complete a civilization and a governmental power as the richest and strongest nation of the earth.

So I say that you can eliminate the manufacturer, you can eliminate every other class of citizen, and have a perfect and concrete and happy government of men based upon their possession and use of the soil. Then what follows? In legislating upon this or any other subject involved in tariff legislation to classify the very top and crown of human kind at the end of the list, to be considered only if we have time after the day's work is done or perhaps not be reached during the day. The great majority of the errors into which the people fall, the hysteria that marks the proceedings of caucuses and conventions, the mistakes in legislation and in government, result from misapprehension upon this question, from error in classification of those for whom we are legislating.

It was told of a man who had been a noted street-corner orator on political questions, who made much noise and dealt in high-sounding phrase, that finally, in order to quiet him, they sent him to the legislature. He knew the word "legislature"; he did not know how to spell it, but they sent him there. After he had been guided through the preliminary steps of taking an oath of office and being assigned to a seat he looked around and said, "Now, what will I do?" "You are here to legislate." "Well, what is legislating?" "Legislating is making laws." "What laws?" And so on. It illustrates the fact that you must know what you are going to do when you come into a hall of legislation. You want to know who your client is, who is your constituent. Unless you do know you go blind, like that poor fellow did in the legislature, without knowing why he was there or what purpose he was to serve.

We are here to legislate primarily for those who occupy the soil, for the masters, the masters of business, large and small, the masters of the cities, the masters of the banks and the railroads, and everything, that would starve in a week if the soil were to cease to produce. They would not know what to do with the soil if they were placed upon it. They would not know how to plow it, how to plant it, or how to reap it. They are not only helpless in the sense that they depend upon it for the sustenance of life, but helpless because they do not understand it, and would not know how to use it.

Now, Mr. President, we come to those who are to receive the especial consideration under this report, the consumers' interests. I have read the first half of the paragraph. I will now read the last half of it:

The general changes proposed in the duties on the articles included in these paragraphs by H. R. 20182 are such as to reduce the burden of prices resting upon the consumer, as far as possible, with due regard for necessary revenue from the schedule.

There is no provision there for reasonable profits to the producer. It is only the consumer who is to be considered. They are proposing that there shall be due regard to revenue, but there is no mention of the producer. You are going to sacrifice him. They say in their report that these imports will increase the next year from $47,000,000 to $96,000,000. What does that mean? It means that you are going to substitute the difference between $47,000,000 and $96,000,000 by allowing the foreigner to displace that much in our fields of production. It is like the process that took place in the pine trees in Colorado. Great giant pines fell to the ground ages, perhaps not many, ago and were brought in contact with certain solutions which substituted silica for wood fiber and made what we call petrified trees. Substitute the silica of foreign labor and raw material for the wood fiber of American labor and American material and you will have petrified America.

The process will be the same. I have seen those giant trees lie there. When you come to break one of them open and examine them you find that the original intention of the Creator in growing that tree has been displaced; you have a rock. You ask for bread and you get a rock, a petrified tree. You can not build a house out of it, and you can not build a wall out of it either, if petrified.

We are saving up a large amount of forest petrified in time, when we are gone, conserving it. In place of the picture of cities and homes made of those forests you will find the petrifaction of inactivity and solitude. I just say that in passing.

But I was reading the second part of this paragraph. I was calling attention to the fact that no mention is made of the producer. He must work and slave and toil and produce things in order that the consumer may sit around and consume them and growl about high prices. I have not heard the producer talk about prices being too high for his corn or his wheat or his cattle. I have only heard those who would disregard him and his rights complain that he does not work cheaply enough for them, that he asks the right to live on a basis established by himself and not by somebody else.

Now, they proceed to say:

This has been brought about by expanding—

That is, this condition that they deplore—

by expanding classifications and by alterations in the rates of duty.

Then they proceed with the statements, and they are most interesting. I have spent many hours over this report, and I find it as interesting a document as ever was written under the caption of a novel. It reminded me last night when I thought

of it as I was reading it in the night, that if you would start out to write a poem about the lark and describe the crow you would about strike the gait of this report.

I wish it might be possible for that report to go out among the people who would read it and get at the true inwardness of this proposed change in the schedules, the substitution of a free list by a dutiable list upon articles none of which we produce or can produce at all.

They say they are in favor of tariff for revenue. I say they say it; I do not know whether they will say it or not. I notice they start to say it, and some of them interrupt them, and they have not yet reached a conclusion. But the Republican Party has spoken.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. HEYBURN. Certainly.

Mr. SIMMONS. I understood the Senator to express a wish that the report might go out and obtain wide circulation. Will the Senator suggest how many copies he would agree to have printed and circulated?

Mr. HEYBURN. You mean pay for being printed? I would not charge the people for the use of the people's property for the benefit of the people.

Mr. SIMMONS. I thought the Senator in the interest of the public, from his standpoint, would be willing to bear the small expense of printing, and I asked how many copies of the report he would like to have printed.

Mr. HEYBURN. That reminds me——

Mr. SIMMONS. I hope the Senator will make a motion for the printing and circulation of a great many copies of that report.

Mr. HEYBURN. I will be very willing to see it go out just as we vaccinate the public against certain diseases, to send it out under the appropriation we were discussing yesterday of some hundreds of thousands of dollars for the raw material to prevent the disease.

In reference to the cost of sending it to the people, I hear so much about charging the people for that which belongs to them, I will state that I had a letter this morning from one of the departments in reply to a request that a certain document be sent to one of my constituents.

They gave the price at which it could be obtained. It was printed at public expense. It is the property of the people and ought to be free to them, because it pertains to questions the Government is arrogating to itself the right to investigate. Yet those people have to pay for it. Of course that condition should not exist. That is the result of cheeseparing and small minds or small minds engaged in cheeseparing. They are trying to make a reputation as economists, and they think if they can show that they save $19.12 by making their masters pay them for that which they have already paid for, some one will commend them.

I was proceeding to say that we had not heard from Baltimore in regard to the rule of revenue except about such sounds as I heard coming from a neighboring room a bit ago where you would hear a word here and there. But there is a declaration before the country by the master organization.

Mr. ASHURST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Arizona.

Mr. HEYBURN. Yes.

Mr. ASHURST. I should like to have a moment to say that while all our eyes are turned on Baltimore, when the tariff plank is announced there it will be hailed with delight, and will be just what the American people are seeking, and for which they will vote.

Mr. HEYBURN. I was unfortunate in not catching all that the Senator said. His voice was dropped.

Mr. ASHURST. The distinguished Senator from Idaho spoke of Baltimore. I simply rose, with his kind permission, to say that when the result shall finally have been announced, the tariff plank of the platform written there will be hailed with delight throughout the country, and it will call for a downward revision, a promise which, unlike the Payne-Aldrich promise, will be kept.

Mr. HEYBURN. That is sweet music in my ears. I am very fond of reading the old prophets; it is one of my chief delights. I never stop to inquire whether or not the prophecies were fulfilled; the sound of prophecy is a charming thing.

Now, here is the seventh plank in the platform of the great Republican Party. I use the words "great Republican Party" because I do not refer to any offshoots. I mean the party which spoke at Chicago, which spoke, and did not sit silent at Chicago, and whose platform is now before us as a responsible rule of action. A few weeks ago when I spoke in this Chamber upon the tariff question I could only speak on the basis of the past, four years old or more, and what had been done under it, but now by authority——

Mr. SIMMONS. Mr. President, I should like to make an inquiry of the Senator. The Senator says that part of the Republican Party which spoke——

Mr. HEYBURN. No; not that part.

Mr. SIMMONS. Not that which remained silent. Can the Senator give information to the Senate and the country as to what proportion spoke and what proportion remained silent?

Mr. HEYBURN. The Senator has added something to my expression. I did not say that part, because any that remained silent were no part of the Republican Party. I referred to something real and not something that might have been hidden in the darkness.

Now, let us hear the gospel of protection and tariff legislation. I read the seventh plank in the platform, the heading of which is—

Stand on tariff—

That does not mean tread on it and stamp on it; it means stand on it as a foundation—

We reaffirm our belief in a protective tariff—

A protective tariff; not one for revenue—

The Republican tariff policy has been of the greatest benefit to the country, developing our resources, diversifying our industries, and protecting our workingmen against competition with cheaper labor abroad, thus establishing for our wage earners the American standard of living.

That is the crux of it—"the American standard of living." You need no lead pencil to find out what that means. You do not have to telegraph to Berlin or London or Paris to find out what the cost of producing a lead pencil is this morning in order that you may fix the duty to be collected upon it at the customhouse this morning. I will proceed:

The protective tariff is so woven into the fabric of our industrial and agricultural life that to substitute for it a tariff for revenue only would destroy many industries and throw millions of our people out of employment.

That statement is based upon a foundation of facts as stern and stanch as Gibraltar. It will stand no chipping or whittling or sophistry or pretense of reason. I proceed:

The products of the farm and of the mine should receive the same measure of protection as other products of American labor.

That is a raw-material declaration. No party that sends that out upon its banner can ever support a proposition of free raw material. I am glad to see it; I congratulate those who are responsible for the utterance. I proceed:

We hold that the import duties should be high enough, while yielding sufficient revenue, to protect adequately American industries and wages.

"High enough." That means above the boot tops. An 18-inch boot top will not keep your feet dry in 20 inches of water. It means that the tariff is to be "high enough," so that there is no danger of splashing over; so that there is no cheeseparing about it; no whittling down to see how close you can cut the producer to the quick without drawing blood, and, if you draw blood, how you can best stanch its flow. That is the kind of condition with which we have been confronted in the discussion of the tariff question here for many months since that unfortunate expression, upon which an unfortunate interpretation was placed, crept into our declaration of principles. Even in the most solemn hour among men a little levity will creep in. Following that is—

Some of the existing import duties are too high and should be reduced.

I suppose that really got caught and tangled in the fringe of this work as it was brought out from the loom in which it was woven. That is all I can say for it. As I said yesterday, I presume that is true of some items. I mentioned two yesterday. Perhaps the duty may be too high on curled feathers and beeswax or some little things like those. I might be willing to enter into council for the consideration of that question; but it is not too high to protect earnest, responsible enterprise, individual and collective. A free trader would laugh at a provision that would undertake in such terms to qualify the great statement that preceded it. I proceed:

Readjustment should be made from time to time to conform to changing conditions and to reduce excessive rates, but without injury to any American industry.

That is to say, under the rule above stated, but not by schedule, not by nipping in here and there. That platform does not mean to favor revision by schedule. I am going throughout this country during the campaign making that declaration, and no member of the committee that made that platform will dare controvert it or claim for a moment that that is a declaration in favor of revision by schedule, because the Republican Party the last time it spoke responsibly condemned in explicit and

unmeasured terms revision by schedule. The Democratic platform in the same campaign expressly declared in favor of revision by schedule. I make this statement thus early in order that I may lay the foundation upon which I shall rest whatever argument I may make to the people of this country that that is not a declaration in favor of revision by schedule, but that, on the contrary, it is a declaration in favor of the revision of the tariff as a whole, in order that there may be that harmony in the work of revision that insures fair treatment to all, all being considered at the same time and parties to the same decree. If during the campaign I hear anyone claim that that is a declaration in favor of revision by schedule, I shall take issue with him; and the Republican Party and the Republicans will be in harmony with me and will sustain my position. We are not going to turn Democrats at this time or at any other. When you favor revision by schedule you have turned Democrats, because they declared for it and the Republicans declared against it.

I see saner days ahead in the Republican Party; I see a braver spirit to stand up against the tremor and fright of the threats of the enemy; I see sterner warfare, where the noise and the smells of the army of China will no longer frighten or stampede civilization.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER (Mr. JOHNSTON of Alabama in the chair). Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. HEYBURN. Certainly.

Mr. SIMMONS. The Republican Party in 1908 defined what it meant by protection. It stated that industries were entitled to be protected to the extent of the difference between the cost of production here and elsewhere, plus a reasonable profit. I judge from what the Senator from Idaho has just said—I have not read the platform of his party very carefully—that the recent Republican convention abandoned that definition of protection. I should like to ask the Senator whether that is because the party has lost confidence in its definition of 1908 or because of the report of the Tariff Board?

Mr. HEYBURN. It was because of a misuse and misapplication of the statement that had been made in the discussion of tariff legislation; that is why. It never was intended for a moment that the platform of 1908 should change the principle of protection. There was a little scare on the part of certain individuals who thought unless they could get some Democratic votes—and I do not speak of the Presidency—they perhaps could not win; that they perhaps could not be reelected or continue to hold their offices. They tried the experiment of seeing if they could not look like Democrats until they got past the tellers, in order that they might be counted as such. That is about the size of it; and we caught them at it. We found that they attempted to use it in the discussion of the tariff question in violation of the real principles upon which the party had stood. The Republican Party in its greatest platform in recent years announced the doctrine that the revision of the tariff should not be made, except after such lengthened intervals as would represent changed conditions and make it obviously necessary, and they closed with the words "and let it stand thus."

In my judgment, we had upon the committee on resolutions, which drafted the platform at Chicago a few weeks ago some Republicans who knew how to be Republicans, what it was to be Republicans, and how to express Republican sentiment, for which I thank God in the interest of good government and in the interest of the continuance in power of the party of principle.

I reread that:

> Readjustment should be made from time to time to conform to changing conditions and to reduce excessive rates, but without injury to any American industry.

That does not mean without injury alone to the large aggregations of business and capital. It says any interest or any industry. That means the individual who works at his loom to-day alone in his own house or the aggregation of men and capital where thousands of spindles hum. It means the man who has his little forge up in a valley that I have in mind, who makes plows and axes and implements for the farm, as he did or as his father did, to my recollection, 50 years ago. It means that man as much as it means the United States Steel Corporation or any other aggregation of capital. It means the person who has not yet reached manhood——

Mr. JOHNSTON of Alabama. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Alabama?

Mr. HEYBURN. Yes.

Mr. JOHNSTON of Alabama. The Senator from Idaho said a few minutes since that the Republican Party was opposed to the revision of the tariff, schedule by schedule.

Mr. HEYBURN. Yes.

Mr. JOHNSTON of Alabama. If my memory serves me correctly, the present President of the United States heartily recommended that method of revision.

Mr. HEYBURN. Mr. President, I spoke of the Republican Party. No man is the Republican Party. I do not derogate from the respect and credit that I give the President of the United States; but the Republican Party is made up of the Republicans of the country, and it is greater than anything less than every man who is a Republican. I do not intend to cast any aspersion or to be led into any debate that would involve any action of the President. Presidents are selected because they are wise, but not because they are allwise; they are selected for the average of wisdom which they can bring to the performance of their duties, without the expectation that there will never arise an occasion to differ from them. Criticism of the acts of a President should be couched in respectful language and expressed in a respectful manner, because Presidents are chosen by all the people, and respect or respectful treatment in dealing with them is only respectful treatment or respect to the whole people, not necessarily to one individual.

Mr. President, so much for the responsible gospel of Republicanism. There are many other provisions in that platform. There are 30 planks in it, every one of which could be eliminated except that one, and leave a perfect code of government for the party. The others deal with things that come and go; they pass into legislation and out of it without creating more than a local ripple; but the great business problem of the Government is involved in the tariff plank, as it is involved in tariff legislation. It represents the balance of trade between the American people as a whole and the rest of the world; not between some selected malefactor and the world, but between the people as a whole and the world. When we take the books of the customhouse at the end of the year and ascertain by the subtraction of one side of the ledger from the other that we have taken in more money than we have paid out or paid out more than we have taken in, we have the problem of the prosperity of the people as a whole. One man may not have shared equally in this division of business; but I am speaking of the American people. There is the rule. That is the rule that governs a business man. At the end of the year he strikes a balance for the purpose of determining whether or not he has taken in more than he has paid out. If he has paid out more than he has taken in, he is that much to the bad; if he has paid out less than he has taken in, he is that much to the good. The rule applies to individuals and to aggregations of individuals, and that is the tariff, and nothing but the tariff. That balance of trade is influenced by the tariff. If he might not export, he would have no market for his surplus; if he might not import, it would make no difference to him as to the value or cost of things abroad. We regulate those things by the Constitution of the United States in the one case and in the other by the often-changing law.

In the question of the balance of trade in commodities the Government has no interest whatever; it is neither affected one way or the other, except as the citizens are affected. The Government, through its customhouses, leading into its Treasury, is affected in the revenues derived from imports and other sources. The people are not benefited at all by them. Oftentimes they fail to distinguish between the two ledgers—the ledger of the Government and the ledger of the people. Until the people have produced a surplus, they can not make a dollar, except as they mine it from the ground.

The buying and selling between individuals at home neither adds to nor takes from the wealth of the people as a whole; but if the Government, through the levying of discriminating duties, influences the sum of money spent by our people for purchases abroad, there the two streams converge. We get commodities for the money we spend abroad, and presumably consume them; but they add nothing to the wealth of the people.

Mr. President, this bill is confessedly without purpose. No demand was made for this proposed legislation; no claim was made that there was a need of more revenues or increased revenues through the customhouses. It is true that those on the other side of this question have declared their intention of rendering it unnecessary to collect anything at the customhouses; they have declared their intention of substituting other sources of revenue sufficient to maintain the Government; they have declared their intention of substituting such items as I find in the financial statement of the Treasury Department; and this sounds so much like a joke, in view of the discussion of the question upon this floor, as to make it interesting as well as amusing.

The prophecies that were indulged in as to the amount of money that would be realized from the corporation tax would

make some Members rather bashful if you would open the pages of the CONGRESSIONAL RECORD and call their attention to the speeches and prophecies. The Treasury statement issued on June 29 shows that for the fiscal year ended June 30, 1912, there had been collected $28,583,103.90 under the corporation tax. How does that sound as compared with the figures upon which that legislation was procured? It could not have been procured upon any such showing as that. No one would have stopped long enough to give it thought or to support it. It was conceived in a spirit of vengeance and wrought out in a spirit of frenzy. The corporation tax was going to render it unnecessary any longer to levy protective duties, or even revenue duties, at the customhouses. We collected last year at the customhouses $311,257,347.86; and on account of this item, the corporation tax—and so that it may appear in conjunction with the customs duties I will restate the amount—we collected $28,583,103.90.

Now they are proposing another class of taxation. It amounts to an occupation tax, a personal tax. They would substitute a system of personal taxation to make up a large part of the difference between $28,000,000 and $311,000,000; and that is one of the arguments they use. I see a vacant seat over there from which I heard the statement made when we were discussing the last revenue bill that it would not be difficult for the Government legitimately to collect enough taxes through these extraordinary means of local taxation to make it unnecessary to keep open the customhouses. I heard one Member say that he would close every customhouse in the United States and undertake to provide revenues to run this Government.

We have had now more than a year—nearly two years—of actual experience, and there is the result. It was supposed that there would be collected from corporations—and they were so classified as to eliminate all smaller corporations—at least half enough money in the beginning to pay the running expenses of the Government. That I speak of as against the general proposition of changing and shifting our revenue laws with the idea that you are going to eliminate the necessity for a protective-tariff duty. We already bring into this country free about the same amount of merchandise as we import under duty. They are fairly divided.

Mr. President, we are facing both a theory and a condition this morning. We have the theory I have referred to that the Government should be run by local taxation. We have a condition which shows that all the attempts in that direction which have been made have been utterly futile and based upon nothing. The condition is the result of the theory, and we must get rid of both condition and theory. We have too many theorists who theorize without any experience upon which to base their theories. We want to disregard them and eliminate them entirely from the consideration of this question.

The best way to get rid of a theorist is to give him his way and he will explode. It will be a case of spontaneous combustion if you just give him his way, but it is an expensive thing to do. We know the remedy is all right, but it is like many physical remedies—they carry with them an element of danger. The man who is always wanting change and wanting something new is a dangerous man. Our lunatic asylums are filled with those men. I suppose half the people of demented condition to-day are those who imagine they have a panacea for the ills of others. None of them having succeeded they become obsessed with the idea, and go on and on until they land over on the hill.

Just place responsibility upon one of those men and that is the end of him, because he is not able to live up to it; he is not able to make good. He will tell you how he can do this and that, but just put the responsibility on him and you are through with him. But that is another expensive process.

There has been so much noise indulged in or created by those who have been sitting on the fence watching the real workers and laborers in this country that it has really gotten on the nerves of the workers. Here is an idle theorist sitting on the fence telling the farmer how better to plow the furrow, how better to hoe the corn or reap the crop; and he talks from long practice in such a way as to create the impression that he could do these things himself and that he knows from experience how to do it. Tell him to get down off the fence and start to plow the furrow, and the first thing that would happen to him, probably, would be that the plow handle would hit him in the jaw. Farmers will understand that; I do not know whether all Senators will or not. Take him at his word when he is advising the man how to cut down a tree and he probably would throw the tree so that it would fall on him and destroy him. It is a good thing once in a while to call these critics off the fence and say, "Here, you say you can do this; now do it." You are through with him then. That is the end of him.

Mr. President, I have occupied quite as much time as I think I am justified in occupying, and more time than perhaps some think I was justified in occupying. But it was not my intention that there should be any possible ground upon which anyone might base the supposition that the Republican Party did not know the difference between protective-tariff legislation and tariff for revenue. If we are going to have to compare them after the convention at Baltimore is over, I hope I have made some suggestions that may be useful in a further consideration of the difference between these two systems.

Mr. SMOOT. Mr. President, I anticipated proceeding with the discussion of this bill to-day, but there are a number of Senators upon the other side who have asked me not to do so until the Senator from Maine [Mr. JOHNSON] is present. He is detained at the present time and is out of the city. It is quite evident that with the number of Senators absent we can not get a vote upon the bill to-day. Therefore, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the Secretary will call the roll.

Mr. HEYBURN. Mr. President, I rise to a question of parliamentary privilege.

Mr. SMOOT. Mr. President, I will withdraw the suggestion if——

Mr. LODGE. The Senator can not withdraw it.

Mr. SMOOT. Only for a statement, however.

The PRESIDENT pro tempore. Nothing can be entertained unless it relates to the question of a quorum.

Mr. HEYBURN. I rise to a parliamentary question, which, I imagine, may be done. It is that such a suggestion is not in order under the unanimous-consent agreement. If that were not the case, you could destroy any unanimous-consent agreement.

Mr. SMOOT. I believe the Senator said in the beginning of his speech to-day that he could suggest the absence of a quorum, and that would develop the fact that there was not a quorum here to do business.

Mr. HEYBURN. I said that I would do so in an alternative.

The PRESIDENT pro tempore. The Senator submitted his point of order, and the Chair will rule on it. The Chair understands the Senator from Idaho to make the point of order that under the unanimous-consent agreement there can be no question raised as to the presence of a quorum. The Chair is constrained to overrule that point. It is a fundamental proposition that a quorum is essential to the doing of business, and the rule is imperative that whenever that suggestion is made the roll shall be called. There is no exception to it and no variation from it.

Mr. HEYBURN. My suggestion was only in the interest of harmony.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clark, Wyo.	Johnston, Ala.	Root
Bacon	Crawford	Jones	Sanders
Borah	Cullom	Kenyon	Simmons
Bradley	Cummins	Lippitt	Smith, Ariz.
Brandegee	Curtis	Lodge	Smith, Ga.
Briggs	Dillingham	McCumber	Smoot
Bristow	du Pont	Nelson	Sutherland
Brown	Fall	Oliver	Thornton
Bryan	Fletcher	Overman	Tillman
Burnham	Gallinger	Page	Townsend
Catron	Gronna	Paynter	Warren
Chamberlain	Guggenheim	Perkins	Wetmore
Clapp	Heyburn	Poindexter	Works

Mr. THORNTON. I desire to announce that my colleague [Mr. FOSTER] is necessarily absent on account of illness.

Mr. ASHURST. I was requested to announce that the junior Senator from Montana [Mr. MYERS] is necessarily detained from the Senate.

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. SMOOT. Mr. President, I had hoped that the Senator from Maine [Mr. JOHNSON], who spoke on the pending bill the other day, would be present, but he is absent from the city; and under the unanimous-consent agreement I must proceed with what I have to say upon this particular schedule.

In beginning my discussion of the chemical schedule I want at the very outset to congratulate the Democratic Party upon the fact that it has finally come to appreciate the value of information furnished by the Tariff Board in connection with tariff legislation. That these Democratic tributes to the ability of the Tariff Board may not be lost or forgotten, I ask permission to quote the following words uttered by the author of the

chemical bill, Mr. HARRISON of New York, in presenting it to the House of Representatives. He said:

The members of the Ways and Means Committee take this opportunity of expressing to the Tariff Board their appreciation of the very valuable assistance which this report has been to them in the preparation of their bill. When the Tariff Board made this report to us, no inquiry had been made by them as to the supposed difference, if any, in the cost of production here and abroad, so that the Tariff Board documents published with this report refer solely to subjects which are of importance to all revisers of the tariff, either Republicans or Democrats.

This claim that the present bill is based in part, at least, upon information furnished by the Tariff Board or one of its experts is alone sufficient justification for the position taken by those Members who opposed the crude attempt made to revise the chemical schedule last session and fully sustains the President in his veto of that makeshift measure. Do not understand me as saying that even the present bill is based upon any report of the Tariff Board, for it is not. The Tariff Board has not made any complete report on the chemical schedule either to the President or to Congress. That board furnished the Ways and Means Committee of the House with simply a glossary or dictionary of chemical terms for its use in connection with the preparation of this bill. The chemical bill which passed Congress last session was enough to convince anyone that its Democratic proponents were sadly in need of a dictionary to understand even the mere words of that measure. Undoubtedly, if they had had this pocket dictionary at hand last session, they never would have sent such a haphazard bill to the President for the veto that he so justly gave it.

This glossary as prepared by the Tariff Board, excellent as it is for dictionary purposes, does not contain, nor does it purport to contain, any adequate information upon which a revision of the chemical schedule should be based. That there may be no misunderstanding as to the scope of this "glossary" on Schedule A, as it is called, let me quote the definition which Webster's International Dictionary gives of the word "glossary." According to this authority a glossary is—

A collection of glosses, or explanation of words and passages of a work or author; a partial dictionary of a work, an author, a dialect, art, or science, explaining archaic, technical, or other uncommon words.

The chairman of the Tariff Board stated to the Finance Committee that this board had not had time as yet to begin any investigation whatever of the chemical schedule. When asked the direct question, if the Tariff Board had made any investigation of the chemical schedule, Mr. Emery said:

We prepared a glossary explaining what the different articles are and the ordinary statistics regarding them, but we have made no investigation into the industry.

This glossary taken by itself, Mr. Emery said, was not in any way adequate information upon which to base a revision of the chemical schedule and that it did not show the relative cost of making chemicals in this country and in foreign countries at all.

MAGNITUDE OF CHEMICAL INDUSTRY.

Such is the elementary information upon which the proponents of the chemical schedule have undertaken to play with the fate of an industry which alone numbers nearly 12,000 establishments, has an invested capital of more than $2,000,000,000, and employs nearly a quarter of a million wage earners. The industries affected both directly and indirectly by Schedule A include, according to the report of the American Institute of Chemical Engineers for 1905, 56,580 establishments, having 1,107,714 wage earners, whose annual compensation amounted to $575,635,257, and the value of their products $4,716,490,371. The Tariff Board has given its indorsement to the following statement by Dr. J. Lawrence Smith, American commissioner for the Universal Exposition in Paris, concerning the far-reaching scope of the chemical industry:

Industrial chemistry links itself with every modern art in such an intimate manner that were we to take away the influence and results of chemistry it would be almost like taking away the law of gravitation from the universe. Industrial chaos would result in one case as material chaos would in the latter.

The author of this bill has frankly stated that the Tariff Board, in submitting its glossary to the Ways and Means Committee, made no report upon the cost of production of chemicals at home and abroad, which information, from the Republican point of view at least, is absolutely fundamental to any scientific revision of the tariff to which our party is pledged.

The author of the bill was also fair enough to state that the Tariff Board was not responsible for the rates in the bill, that responsibility, he asserted, resting upon the Democratic members of the Ways and Means Committee. Typical of the Democratic method of preparing tariff measures is this gentleman's open avowal that the chemical schedule was chiefly drafted by himself and accepted by the Ways and Means Committee with practically no change. It is likewise a matter of fact that this bill was adopted by the Ways and Means Committee without ever having been read at a session of that committee and was accepted by the Democratic caucus without any reading whatever of its provisions to that body which now controls the legislative program of the House. Furthermore, a gag rule to force its passage through the House was adopted by the Democratic majority of that body without any reading of the bill to inform the Members of the House as to its provisions. This measure came to the Senate, therefore, without any information whatever to show the difference in the cost of production at home and abroad.

The glossary of the Tariff Board does not contain any such information nor has the board made any inquiry into that subject as yet. Moreover, neither the author of the bill nor the Ways and Means Committee of the House obtained any information as to the condition of the chemical industry or its costs of production at home and abroad. No hearings were held by the Ways and Means Committee on this schedule, its author admitting that he had no information upon which to base his revision except the testimony in accordance with which the act of 1909 had been prepared and the informal statements of a few gentlemen who came to Washington and asked the Democratic subcommittee of the Ways and Means Committee for an opportunity to explain their views. Most of these statements undoubtedly were made by importers anxious to tear down the American protective-tariff system. As far as is known, whatever they may have said to the subcommittee in secret was not taken down nor have any of the statements made to that committee been printed. No opportunity was given the other members of the committee to question or cross-examine these importers nor were American manufacturers permitted to make any answer to the arguments that they may have poured into the ears of the author of the chemical schedule.

FINANCE COMMITTEE'S HEARINGS.

In marked contrast with this method of considering measures vitally affecting the prosperity of the American people is the careful consideration which the Committee on Finance has given the pending measure. So far as within its power and its time since the chemical bill was referred to the Finance Committee on February 22, 1912, hearings have been held on that schedule, and everyone desiring to appear before the committee or submit a statement has been accorded the fullest freedom to do so. The minority members of the committee were permitted to be present, summons witnesses of their own, and cross-examine every witness at great length. At the conclusion of these hearings the committee decided that Congress ought to wait until it receives a full and complete report from the Tariff Board before it undertakes to legislate further on this subject.

The bill in itself is a confession that its proponents do not possess adequate information to revise the chemical schedule at this time. If the advocates of this bill contend that it is a just and honest revision of the chemical schedule, then they must admit that the bill which they supported last session was an unjust and dishonest measure. If they insist that the chemical schedule which they passed last session was a fair revision, based upon adequate information, then they confess that the pending bill is unfair and is not based upon information sufficient to warrant jeopardizing the livelihood of more than a million wage earners who are directly or indirectly affected by Schedule A.

I want to be entirely fair in this matter, and I am glad to say that the author of the pending bill, who has assumed all responsibility for its rates, has stated that if the Ways and Means Committee had had an opportunity of originating the chemical schedule last session it would have been drafted upon somewhat different lines. This statement fully sustains the position taken by those Members of Congress who voted against that iniquitous measure and upheld the President in his veto of it.

The pending bill shows a most remarkable change of front by the Democratic Party in regard to the policy of free raw materials. This measure was heralded to the country as another downward revision, yet it contains the greatest transferring of articles from the free to the dutiable list that has been witnessed in tariff legislation for many years. The Democratic Party proposes in this bill to take more than 150 articles from the free list of the act of 1909 and place them on the dutiable list. The value of the articles thus imported free in 1911 under the Republican tariff amounted to $42,347,887, upon which the Democratic bill proposes to place a duty ranging from a quarter of a cent a pound, as in the case of coconut oil, to $3 a ton on nitrate of potash.

The free list of the Democratic bill includes only 16 items, the value of whose imports for 1911 amounted to $283,543. In other words, chemical products valued at more than $42,000,000 are revised upward, while products valued at but little more than a quarter of a million are revised downward. These figures do not bear out the Democratic estimate that their revision in Schedule A is a reduction of 31½ per cent. On the contrary, they fully sustain the estimate that the bill really makes an increase of 20 per cent over the present rates. This increase is due to the most remarkable and wholesale transfer of material from the free to the dutiable list. As regards the finished products covered by the bill, there undoubtedly has been a considerable reduction in rates.

FROM FREE TO DUTIABLE LIST.

The following articles now on the free list will become dutiable if this bill goes into effect:

Ambergris.
Acids: Benzoic acid, phosphoric acid, phthalic acid, picric or nitropicric acid.
Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene. Amended.
Balsams: Copaiba, fir or Canada, Peru, tolu, storax or styrax, and all other crude.
Castor or castoreum.
Alkaloids or salts of cinchona bark.
NOTE.—While these alkaloids should be dutiable and protected as manufactures of the United States, yet the feeling among the people, especially in the South, is that an article of such world-wide use, and a specific for malaria, should be as cheap as possible; that is, providing we count the tariff as a tax.
Coal-tar products known as dead and creosote oil, soluble and sulfonated dead and creosote oil, anthracene and anthracene oil, benzol, naphtol, resorcin, toluol, xylol; all the foregoing not medicinal and not colors or dyes.
Coal-tar products known as anilin oil and salts, toluidin, xylidin, cumidin, binitroluol, binitrobenzol, benzidin, tolidin, dianisidin, naphtylamin, diphenylamin, benzaldehyde, benzyl chloride, nitrobenzol and nitrotoluol, naphtylaminsulfoacids and their sodium or potassium salts, naphtolsulfoacids and their sodium or potassium salts, amidonaphtolsulfoacids and their sodium or potassium salts, amidosalicylic acid, binitrochlorbenzol, diamidostilbendisulfoacid, metanilic acid, paranitranilin, dimethylanilin; all the foregoing not medicinal and not colors or dyes.
Tea siftings, etc.
NOTE.—These are used in the manufacture of caffeine and are not produced in this country. Although the rate of duty on caffeine has been advanced the rate charged on the tea siftings or sweepings would more than compensate for this extra duty.
Cocculus Indicus: An article of little importance. Not grown or made in this country.
Cudbear: Used as a coloring matter. Not produced in this country.
Cuttlefish bone: Large quantities of this are imported. None is produced in this country.
Divi-divi: A tannin-containing material which is used in tanning. It is the husks of a plant imported from South America. It is not produced in this country. It is quite an important article of commerce. A duty on this would increase the cost of tanned skins and leather.
Ergot.
Gums: Amber and amberoid, unmanufactured, or crude gum; arabic; copal; dragon's blood; gambier; kauri and damar; lac, crude, seed, button and stick and shell; resin, crude; scammony; Senegal; tragacanth; and all other gums and gum resins in a crude state.
None of these articles are produced in the United States, and placing a duty on them is a tax on raw materials, increasing the cost of mucilage, pastes, tanning, coloring, etc.
Indigo, crude: As is well known, indigo is a product of India. None is produced in this country. Placing a duty on it would increase the cost of dyeing, especially in the finer grades of woolens.
Iodine, crude.
Leaves, roots, and spices: Buchu; coca leaves; gentian; licorice root, unground; sarsaparilla root; cassia buds, cassia, and cassia vera; cinnamon, and chips of; cloves, unground; clove stems, unground; ginger root, not preserved or candied; mace, unground; nutmegs, unground; pepper, black or white, unground; pimento; saffron, safflower, and extract of, and saffron cake; salicin, a glucoside, obtained from the bark of several species of salix and populus. Used in medicine.
Sheep dip, not containing arsenic.
Strontia, oxide of, and protoxide of strontian, etc.
Terra alba, not made from gypsum.
Tonka beans.
Tumeric.
Turpentine, Venice.
Uranium, oxide and salts of.
Valonia.
Wax, mineral and vegetable.
Grease: Enfleurage; sulphur oil or olive foots; marrow, crude.
Oils: Vegetable, fixed or expressed: Almond, sweet; coconut, not refined or deodorized; mace; Chinese nut oil; peanut oil; olive oil, rendered unfit for use as food; palm; palm kernel; sesame; and soya bean, free. Volatile or essential and distilled: Bitter almond; anise, or aniseed; bergamot; camomile; caraway; cassia and cinnamon; cedrat; citronella or lemon grass; jasmine; juniper, lavender and aspic or spike lavender; lemon; limes; neroli or orange flowers; origanum, red or white; rosemary or anthos; roses, attar of; thyme; and valerian.
Turpentine, and spirits of.
Civet.
Lac dye and lac spirits.
Lacterene or casein.
Annatto, roucou, or orleans, and extracts of.
Arsenic, and sulphide of, or orpiment.
Wood ashes and lye.
Saltpeter, crude, a raw material, a duty on which would increase the cost of manufacture of other articles on which the duty has been reduced.
Nitrate of soda: Used as a fertilizer and in the manufacture of sulphuric acid and nitric acid. A product of Chile, the only place in the world where it is produced. A duty on this will increase the cost of fertilizers and nitrates.
Cyanimid, guano: Used as fertilizers—guano, the natural fertilizer; cyanimid, manufactured. No reason why such distinction should be made, as sulphate of ammonia, another manufactured fertilizer, is still on the free list.
Madder, or munjeet, or Indian madder.
Manna.
Mineral salts, obtained by evaporation from mineral waters.
Myrobolans.
Orchil or orchil liquid.
Pitch, Burgundy.

Under H. R. 20182 the following articles are transferred from the dutiable to the free list:

Acids: Acetic acid, chromic acid, sulphuric acid, and oil of vitriol.
Antitoxins, vaccine virus, and all other serums derived from animals and used for therapeutic purposes.
Blue vitriol or sulphate of copper.
Borax, crude and unmanufactured, and borate of lime, soda, and other borate material, crude and unmanufactured.
NOTE: This paragraph is incorrectly worded, as there is no such article as "crude borax."
Acetate of lime.
Charcoal, blood char, bone char, and bone black, used chiefly by the Sugar Refining Trust.
Copperas or sulphate of iron.
Refined mineral oils, paraffin oil, unmixed.
Paris green.
London purple.
Phosphorus.
Santonin and salts thereof.
Soda, sulphate of, crude, or salt cake, and niter cake.
Strychnia, and salts thereof.
Sulphur, refined or sublimed.

What justification there is, either as a business proposition or an economic theory, for increasing the cost of raw materials to American manufacturers and at the same time decreasing their protection against foreign competition I am utterly at a loss to explain. Yet it seems to have been the deliberate intent of the author of this bill to handicap American manufacturers as much as possible by transferring their raw materials from the free to the dutiable list and at the same time reducing the duties on the finished products of foreign manufacturers made from the same raw materials, on which the foreigner pays no duty. Only a few of the raw materials thus taken from the free list are produced in this country, so that the placing of a duty on them will not benefit any American producer of them as partial compensation for their increased cost to the American manufacturer. The bill is replete with instances of increased rates of duty upon raw materials and decreased rates on articles manufactured from these materials.

INCREASES ON RAW MATERIALS.

The table following gives only a few of the principal items of this character.

Raw material.	Tariff of 1909.	H. R. 20182.	Articles manufactured from—	Tariff of 1909.	H. R. 20182.
Acid, benzoic	Free	5 cents per pound	Benzoate of soda	25 per cent	15 per cent.
Acid, phthalic	do	do	Phenolphthalein	do	Do.
Argols or crude tartar	5 per cent	10 per cent	Tartaric acid	5 cents per pound	3 cents per pound.
			Cream tartar	do	2½ cents per pound.
All of coal-tar products save naphthalin, phenol, and cresol.	Free	5 per cent and 10 per cent.	Coal-tar products not colors or dyes	20 per cent	15 per cent.
			Coal-tar dyes or colors	30 per cent	25 per cent.
Camphor, crude	do	3 cents per pound	Collodion	40 per cent and 45 per cent	15 per cent.
			Articles of collodion	65 cents per pound and 30 per cent.	35 per cent.
Gum chicle	10 cents per pound.	20 cents per pound	Chewing gum	20 per cent	20 per cent.
Iodine, crude	Free	10 cents per pound	Potassium iodide	25 cents per pound	20 cents per pound.
			Iodoform	75 cents per pound	25 cents per pound.
Coca leaves	5 cents per pound	do	Cocaine	$1.50 per ounce	$2 per ounce.
Citrate of lime	Free	1 cent per pound	Citric acid	7 cents per pound	3 cents per pound.
Vanilla beans, crude	do	50 cents per pound	Vanilla extract	60 cents per pound and 25 per cent.	10 cents per pound and 20 per cent to 50 cents per pound and 40 per cent.

Another shifting of the Democratic position in regard to tariff revision is its conversion to the principal of levying specific instead of ad valorem duties upon imports. The chemical schedule, which the Democrats stood sponsor for last session, was based entirely on ad valorem duties. The pending bill is a complete abandonment of the old Democratic theory of ad valorem duties. There is not a duty in the present chemical bill which could be made specific that has not been made specific. Specific duties have been placed even upon articles which carry ad valorem duties under the present law. The Democratic Party is to be congratulated upon having, in this instance at least, progressed far enough to adopt the same method of levying tariff duties that practically every civilized country now has in force, and of which every Secretary of the Treasury, with one exception, regardless of his party affiliations, has declared to be the proper method of levying tariff duties.

I want to call the attention of the Senate for a moment to the map of the United States, included in the glossary of the Tariff Board, which shows the geographical distribution by States of the chemical establishments affected directly by Schedule A. This map is to be found opposite page 312 of the Tariff Board's glossary accompanying the House report on Schedule A (No. 326). The black spots show relatively the number of chemical industries located in each of the States. Notice particularly how large are the spots representing the chemical industry in the Northern and Eastern States, and how small are the spots representing the chemical industry in the Southern States. This map clearly indicates the tariff-revision policy of the Democratic House, controlled, as it is now, by Members from the Southern States. It is the same sectional spirit that prompted the House to revise the woolen and metal schedules before it gave any consideration whatever to the cotton schedule affecting its own part of the United States. Seventy-two per cent of all the chemical establishments in the United States are located in the 14 States constituting the middle and central divisions of the United States. Of the 6,194 chemical establishments in this country only 273 are located in the 15 Southern States.

LOCATION OF ESTABLISHMENTS AFFECTED.

The following table, prepared by the Tariff Board, shows the geographical distribution of establishments directly affected by Schedule A of the tariff act of 1909:

United States	6,194
Middle States	2,441
New York	1,292
New Jersey	288
Pennsylvania	704
Delaware	17
Maryland	128
District of Columbia	12
Central States	2,047
Ohio	470
Michigan	203
Indiana	188
Illinois	593
Wisconsin	130
Minnesota	132
Iowa	98
Missouri	233
New England States	750
Maine	58
New Hampshire	31
Vermont	28
Massachusetts	454
Rhode Island	61
Connecticut	118
Southern States	538
Virginia	66
West Virginia	34
North Carolina	41
South Carolina	10
Georgia	63
Florida	17
Kentucky	71
Tennessee	72
Alabama	38
Mississippi	10
Arkansas	11
Louisiana	40
Indian Territory	1
Oklahoma	5
Texas	59
Pacific States	273
Washington	27
Oregon	20
California	226
Western States	145
Montana	6
Idaho	
Wyoming	2
North Dakota	
South Dakota	4
Nebraska	34
Nevada	4
Utah	16
Colorado	31
Kansas	48
Arizona	
New Mexico	

It is interesting to note that, while the House bill has placed a double burden upon the chemical industry of the Northern States by taxing their raw materials and decreasing the duties on competing products, it has taken good care of at least one item that is an important Southern product by transferring peanut oil from the free list of the present law to the dutiable list with a protective rate of 10 cents per gallon.

The Democratic Party has been loud of mouth in its attack on the trusts and equally as vociferous in proclaiming its love and affection for the "common" people of this country. Let us see what that party has done for the trusts and the people in the pending measure.

SUGAR TRUST AGAIN FAVORED.

First, let us take the Sugar Refining Trust which was so greatly elated over the Democratic sugar bill. That trust has found additional cause for rejoicing over the fact that the Democratic Party, with all the goodness of its heart, has eliminated the 20 per cent duty on bone black and placed that product on the free list. Bone black is used in large quantities by sugar refineries. Beet sugar does not have to go through these refineries and consequently this favor to the Sugar Trust will not be of any assistance whatever to the producers of beet sugar in the Northern and Western States. Bone black is one of the few items that the Democratic bill places upon its free list, so the Sugar Trust is under special obligations to the Democratic Party for reducing the cost of this material of which it makes so much use.

Again, let us take the Standard Oil Trust, about which such voluminous reports have been made by the Democratic investigating committees. This trust practically controls the output of crude gum resin, a residue of turpentine. This resin is used largely by soap manufacturers, especially in the more common grades of soap. Crude gum resin is on the free list of the Republican tariff law, but the Democratic bill proposes to transfer this Standard Oil product to the dutiable list. It is also to be noted in this connection that turpentine is produced largely in the South, and that more than $16,000,000 worth of resin was exported from the United States last year. By increasing the duty on this residue of turpentine the only beneficiary of the country will be the Standard Oil Trust and turpentine producers of the South, who will benefit thereby at the expense of the poor washerwomen or small retailer, from whom will be exacted a hard-earned tribute to the Oil Trust every time they have to buy a bar or box of laundry soap.

The Linseed Oil Trust, a $50,000,000 combination, also has good reason to thank the Democratic Party for the kind consideration it receives in the chemical bill. This trust practically controls the linseed-oil output of the United States. The Republican tariff act reduced the duty on linseed oil from 20 to 15 cents per gallon. The pending Democratic bill has made extensive reductions in many of the duties on oils. When it comes to the product of the Linseed Oil Trust, however, a reduction of only 2 cents a gallon is made, which, of course, is a matter of little consequence to that $50,000,000 organization.

But American trusts are not the only corporations nor are they the chief beneficiaries of the pending bill. The powerful trusts and combinations that control the chemical industry of Europe will reap the greatest benefit from this measure in the reduction of the duties on their products. Even the glossary of the Tariff Board makes clear the fact that the chemical industry of Europe, especially of Germany, is under the control of the trusts and combinations that would not be tolerated in this country. I shall refer to these foreign combinations again in a moment, but first I want to point out how this Democratic tariff bill affects the common people.

I wonder if the good housewives throughout the country are fully aware of the fact that the Democratic bill proposes to take all their spices, including cinnamon, cloves, ginger, mace, nutmegs, and black and white pepper, from the free list and impose duties on these articles so essential to the kitchen of from 1 to 8 cents a pound. Of white and black pepper alone there were imported into the United States 23,193,416 pounds, which under the Republican tariff act came in free of duty. The

Democratic bill proposes to place a duty of 1 cent a pound on black and white pepper and estimates that the housewives of this country will have to contribute $171,230 as the price they will have to pay for a Democratic tariff revision. So much for black and white pepper, which is to be found on the table of every workingman in the country.

Now, let us see what this same Democratic tariff bill does with cayenne or red pepper. This pepper is confined largely to the tables of the rich and is also used especially throughout the South. These users of red pepper can thank the author of the Democratic bill for reducing its duty from 2½ cents to 1 cent a pound. In other words, the rich man will pay the same duty for his cayenne pepper as the poor man will pay for his black pepper.

Olive oil is another article to be found especially on the tables of the rich, yet the pending bill reduces the duty on olive oil in bottles and other containers from 50 to 30 cents per gallon, a revision downward that is of absolutely no benefit whatever to the ordinary individual.

Take the case of perfumed toilet soaps, which are a luxury of the rich. The House bill reduces the duty on perfumed soaps from 50 to 40 per cent, while at the same time increasing the duty on crude gum resin, one of the principal ingredients of laundry soap.

Is it in the interests of the common people of this country that such household articles as sarsaparilla, vanilla beans, licorice, and balsams have been removed from the free to the dutiable list?

BURDEN UPON WORKING PEOPLE.

The pending bill also transfers to the dutiable list certain dyes and indigo which are used largely in the coloring of calico, gingham, prints, and other cotton goods and low-priced fabrics such as denim, used for overalls. The manufacturers of cotton goods declared before the Finance Committee that the placing of a duty on these dyes will necessarily increase the cost of colored cotton goods to consumers in the United States. These fast colors have been imported free of entry since 1883. The Democratic tariff bill is therefore a revision backward of nearly 30 years in this item. The proposed duty of 10 per cent on indigo will increase the price of practically all the cotton garments worn by working people, who necessarily have to use garments of dark colors produced by indigo. A cotton dress or wrapper made of indigo blue and selling at $1.98 contains about 30 cents' worth of dye. The heavier goods require much more dye, at a cost running from 3 to 18 per cent of the entire cost of the article. This indicates the importance of the duty on indigo and other dyes to the users of the more common grades of cotton goods.

Aside from the foreign chemical trusts, the American importers, whose principal offices are in New York City, the home of the author of this bill, will be the chief beneficiaries of the proposed reduction in the tariff on foreign chemical products. I recently received such a frank confession from a New York importer as to their interest in reducing the protection now afforded American industries that I want to quote from his letter to show the small obligation that the American people owe the importers of foreign products:

Based on my own business experience—

Says this New York importer—

I believe that you can show by questioning those importers or those people who advocate a reduction of duties—

First. That the importer will derive on the sale of the imported articles an importer's profit of anywhere from 2½ to 10 per cent.

Secondly. That the only investment made by this importer is covered by a letter of credit furnished by him to the foreign manufacturer, which he in turn obtains from the foreign banker here for a commission of anywhere from one-fourth to 1 per cent, depending on whether the credit is for 30 days or 4 months; that by this process he is not obliged to invest any of his own money, but simply imports his goods against this letter of credit, which he furnishes to the manufacturer or seller on the other side, obtains his goods when they arrive here, disposes of same, collects his money, and retires the draft drawn against the letter of credit.

Thirdly. That the length of time upon which he bills his goods to the buyer here varies from 30, 80, or possibly 90 days, according to the percentage of profit derived by him on the transaction.

If he is dealing in a staple article and working on as close a margin as 2½ per cent, he will not extend to the buyer here more than 30 days' time.

If he is working on a 5 per cent margin, then he may extend 60 days, or possibly 90 days, and if working on a 10 per cent margin, he may be obliged to extend a longer credit; but, in any event, he is able to turn his money, if he has any money invested at all in the transaction, a sufficient number of times each year to return to him a profit of anywhere from 12 to 25 or possibly 30 or 40 per cent without, as above stated, the investment of a single dollar in machinery or the employment of labor in the manufacture of these goods, all of which is done on the other side, he simply taking the manufactured goods and disposing of same to the domestic buyer the same as the manufacturer is obliged to do after he has manufactured his goods.

There is great necessity of building up the chemical industry in the United States to relieve this country of dependency on Europe for such products, as is the case now to a large extent. The imports of chemical products, dyes, medicines, and so forth, for the fiscal year 1909, the last under the Dingley Act, were, in value, in round numbers $78,000,000, and for the calendar year of 1910, under the new law, $89,000,000, and for 1911, $97,000,000. In other words, there has been an increase in imports in two years under the existing law of $19,000,000.

This country now possesses all the natural resources required for the manufacture of organic and fine chemicals. There is an unlimited field for the future development of these branches of the industry. The importance of such development can hardly be exaggerated. It would not only create a new field of consumption for chemicals now produced, but also cheapen the cost to the domestic consumer of the finished product. There is an enormous production of chemicals in Europe in excess of the requirements of the home market. That surplus of products must be marketed, and by means of agreements embracing all the manufacturers this excess production is disposed of in foreign markets at prices which bear no relation to cost of production or to the prices ruling in the home market. A large percentage is dumped into the United States at prices so low that the American buyer is frequently required to agree not to reexport. The proposed reduction of duties on foreign chemicals would simply enlarge the opportunity for the German manufacturers to unload their surplus products in this country, thus replacing the products of American factories and American workmen.

FINE ORGANIC CHEMICAL INDUSTRY.

The manufacturers of fine organic chemicals in Europe employ over 200,000 men, of which 4,000 at least are engineers and chemists. There is no reason why this class of chemicals should not be produced in the United States, to the full extent of consumption at least, instead of relying on European organizations to furnish the requirements of our markets. It is in the fine organic chemical branches of the industry that the European producers make their large profits, and they are very jealous of competition in this market, and do not hesitate to pursue a course destructive to any manufacturer in this country who engages in that branch of the industry.

The report of the Ways and Means Committee on schedule A makes this admission, probably inadvertently, in regard to the superior development of the chemical industry in foreign countries. I read from the report:

There are some branches of the industry in which the United States does not appear to have reached the same stage of development that has been attained in some of the foreign countries, notably in Germany, which leads the world in highly advanced chemical manufacture.

I quote this paragraph from the article on the chemical industry in Germany accompanying the Tariff Board's glossary on schedule A:

Germany possesses to-day the best-developed chemical industry in the world, and accordingly she dominates the chemical trade of the globe. Some of its branches, and these the most profitable, are practically a German monopoly; her supremacy in this field as a whole is at present undisputed; industrially she is still expanding and there is no probability that she will relinquish any of her advantages without a strenuous struggle.

The chemical industry of Europe is practically maintained under what is known as the power of the convention, which is a method of combination. This convention, which is composed of eight corporations, does not hesitate to call meetings instantly to meet any new competition, and to allot each producer of the article a pro rata tonnage which he must place in competition with the new American competitor at a price much below cost.

Germany has giant factories, according to the Tariff Board, "of far-reaching concentration, either in the form of single corporate ownership or through the formation of combinations (cartels) dictating production and prices." A single chemical factory in Germany employs 10,000 persons, not counting the great number of distributing agencies all over the world. German law does not penalize such methods, but the Government assists, so that the industry is under what we would call in this country trust control. A number of these German organizations are bound by agreements of some kind to international "cartels," the object of which is to control the international market. The same condition exists in England, where the tendency is to eliminate competition the same as in Germany, and for identical reasons. One corporation in England has 7,000 employees, and controls a number of other corporations, while another is a consolidation of some forty-odd individual establishments, and they work in harmony, while other combinations with international scope are known to exist. In France certain branches of the French chemical manufactures are fairly consolidated in their management and ownership. One organiza-

tion operates 17 establishments in France alone. These foreign combines now make a business of dumping in the United States. Whenever they have a surplus of any product they send it to this country for disposal, and if any new competitor starts here they make a business of selling below cost to force him out of business. Several instances of this character, with the temporary reduction in prices to force out of business the American competition, were brought to the attention of the Finance Committee. But when competition here is ended the foreign combinations, which are in many cases international in scope, put up prices.

The United Kingdom at one time led the German Empire in the production of chemicals and allied products, but Germany has rapidly forged to the front. The United Kingdom's ready accessibility to raw materials, the latter depending largely upon her extensive shipping facilities, helped her to increase her chemical manufactures while her great mineral wealth added materially in that respect. The manufacture of soda ash by the Le Blanc process was the life and center of the chemical industry for more than half of a century, enjoyed much in this respect in England because no other country had the necessary raw materials—salt or brine, limestone and coal—to be found in such close proximity, while brimstone and pyrites required for making sulphuric acid, which England, like most other countries, must import, were brought back as ballast, and consequently at a very low cost, in vessels that had carried England's merchandise to other lands. Under such conditions the chemical industry of Great Britain developed rapidly, but she has had to give the first place to her German competitors. In 1879 Germany imported 24,000 tons of soda, representing the consumption for that year; in 1910 that country imported only 154 tons, while her exports had gone up from practically nothing to 62,520 tons. Numerous similar instances illustrating the growth of the German chemical industry could be given. According to the Tariff Board's glossary the German chemical industry is the most profitable of all industries in that country, the average dividends per share being 14.03 per cent. The manufacture of dyeing material shows an average dividend of 20.49 per cent. Since 1890 the average rate of dividends paid by establishments in Germany manufacturing dyestuffs, and so forth, was never less than 20 per cent.

One reason for Germany's prosperity is due to the fact that Germany has done all in her power to instill into her own people the love for German goods, while it appears that in the United States there is a large party actuated by a desire to instill a love for the goods of every country other than our own. The Germans have what is called the 10 business commandments posted up in nearly every business house, calling on Germans not to buy a foreign article when the home article would serve the same purpose because it makes the country poorer, and to write on German paper with German pens and German ink, and to use German blotters, and use German clothes to dress with, and so forth; advice that has proven efficacious in that country.

American manufacturers produce only a small part of the chemicals now consumed in this country, and to deprive them of protection for their labor, as proposed by the Underwood bill, means simply to extinguish the American industry and subject our people to the exactions of the European chemical trusts. Canada, with its wealth of raw materials and the valuable water power to be found within her extensive borders, possesses all the elements necessary for the development of a large chemical industry. With a protective tariff of her own and the United States market open freely to it, Canada may be expected to rapidly increase its production and sell its surplus product in our markets.

AMERICAN INDUSTRY IN DANGER.

Germany exported $189,517,498 worth of chemical and allied products in 1910, as compared with $84,588,644 for the United States, but half of our exports were cottonseed oil, fats, and other things not properly classified as chemicals. The American market is the most valuable in the world, and the foreign inventor and his foreign assignee naturally take all the advantage that the law here gives them to exploit this market as profitably as they can. For this reason the development of the chemical industry in this country has not been rapid, but with the imposition of duties on its raw materials and the reduction of the duties on its finished products its development will cease.

Foreigners can take out patents in this country without producing the article here, a privilege not extended to any extent by other countries to inventors in the United States. This accounts for the fact that 62 per cent of our patents in this industry taken out between 1900 and 1910 were obtained by foreigners living in foreign countries, Germany taking out by far the largest number. The author of this bill has stated that the chemical industry was more able than any other to stand upon its feet and not fear invasion from the foreign manufacturers, because many chemicals are the subject of either patents or secret processes. As a matter of fact, with the exception of coal-tar colors and a few coal-tar derivatives, there is hardly a single article mentioned in proposed law which is covered by exclusive patents or secret processes. Even synthetic indigo is now produced in Switzerland. Nearly all processes for the manufacture of these products are known and can be found in the chemical literature.

The American manufacturers are not only in competition with each other, but they are also in competition with these great foreign syndicates and combinations. Under the laws of this country, such combinations would be declared illegal and dissolved. These foreign combinations effectually control the market, regulate prices, and are able to dump surplus product into this country at prices with which our domestic manufacturers can not compete.

The glossary of the Tariff Board referred to by the Ways and Means Committee furnishes statistics which throw some light on the difference between the wages in this country and in Germany. From this authority it appears that for 1910 there were employed in this country in the chemical industry 311,537 persons who received in pay $197,251,000, or an average of $633.15 per annum. The statistics given for Germany show the average paid in 192 establishments to range from $291.55 to $318.44 per annum. In other words, the average paid in this country is more than double that in the same industry in Germany.

In Germany chemists are numerous and can be obtained at a lower wage than the American manufacturer has to pay to his skilled laborers, while the services of a chemist in this country cost four times as much as in Germany. Greater care is taken in Germany in educating both chemists and workers in this industry. That country spends every year millions of dollars for the chemical departments of its universities, where many highly educated professors and their assistants are constantly working hand in hand with the large chemical factories for the development of new processes and the invention of new products. If the salaries were taken out of that total amount, the average German wages would be considerably below the amount stated. The difference between the cost of American and foreign labor is greater when France or Belgium are taken into consideration. Then, in addition to this enormous advantage of lower wages and more efficient labor, because of its better training, there is harmonious union of action without individual competition between the different branches of the industry in Germany and other countries.

It appears from an analysis made of this bill that the revenue on finished products will be reduced from $11,104,090, as shown under the existing law for 1911, to $9,996,097, which is the amount estimated under the proposed bill. This analysis also shows that the duties on raw materials will be increased from $1,812,360 to $6,064,060. This means a double hardship to the manufacturer by removing his protection against the more favorable conditions of manufacture existing in foreign countries, and then taxing his basic materials so as to impose greater hardships on him in this country. The result of such a policy must inevitably be the abandonment by the chemical manufacturers of many branches of the industry, thus throwing many men out of work, and in the final result increasing the prices to consumers.

MEDICINAL AND OTHER PURE CHEMICALS.

The manufacture of medicinal and other pure chemicals requires the highest degree of scientific knowledge and the employment of expert chemists and skilled workmen. Medicinal chemicals are mostly made in small quantities, many of them in lots of only a few pounds or ounces. The preparations have to be conducted either by the hand or under the immediate supervision of expert and experienced chemists. There must be careful supervision to prevent mistakes, as the wrong labeling of a package might be followed by fatal results. The manufacture of pure chemicals should therefore be entitled to a higher protection and not be considered in the same class with technical chemicals, produced in great quantities with the employment of machinery and in the production of which skilled labor plays a less important part and comparatively few high-grade chemists are required. Purity is of the first importance in medicinal chemicals, and the products of the American manufacturers have a higher standing than those of foreign manufacturers. The business is one of a great deal of responsibility, and the principal cost is labor. Machinery can be employed only to a small degree. The higher cost not only of labor but of most materials and things that enter into the making up of the manufacturing plant more than offset the 25 per cent

protection now afforded. A comparison of the rates of duty imposed on the products of the textile, iron, glass, and many other industries will show that the rate of 25 per cent ad valorem on chemicals is comparatively small. That rate is not a sufficient protection now, as is shown by the fact that the importation of medicinal, photographic, and other fine chemicals has been steadily increasing for a number of years. If the duty is reduced to 15 per cent, as proposed by this bill, manufacturers assert that they will have to discontinue the production of a large number of articles and become importers.

There are no exports of medicinal chemicals from the United States, because it does not pay to manufacture here at the present time in competition with Germany, owing to the greater cost of labor and of chemists, while a large part of the apparatus used in chemical manufacture has to be imported. German manufacturers, under their trust agreements, sell their surplus, when necessary, abroad at the cost of manufacture and even less. The result of this is most disastrous to the American producer and of no benefit to the consumer. The "dumping" process is well recognized as a disadvantage to trade, and the foreign makers for that reason dump in this country instead of temporarily reducing prices at home. If importations were stimulated by reducing the duty, it would necessitate the abandonment of five-eighths of the present domestic product to bring the revenue up to the current figures, and thus would destroy the industry in this country and leave us at the mercy of the foreign combines.

Mr. Adolph G. Rosengarten, of Philadelphia, one of the largest manufacturers of chemicals in the country, protested vigorously to the Finance Committee against the passage of this bill, which he stated would end the American manufacture of a number of articles, throw out of employment many persons engaged in various branches of the chemical industry, and in a short time give to the foreign producers the control of the American market in many items. Making benzoic acid, now on the free list, dutiable at 5 cents per pound and reducing the duty on sodium benzoate, made from that acid, from 25 to 15 per cent, would, as Mr. Rosengarten says, stop the production of the latter article in this country.

Citric acid is now dutiable at 7 cents per pound, which it is proposed to reduce to 3 cents, while the raw materials, lime juice, now free, is made dutiable at 10 per cent, and citrate of lime at 1 cent per pound. These two articles are not produced in this country. The duty imposed on the raw material is equivalent to 1¾ cents per pound on the citric acid contained in citrate of lime, and 2 cents per pound on that in the lime juice, which gives only a net protection between 1 and 1¼ cents per pound on citric acid. This leaves the actual ad valorem rate not more than between 3 and 4 per cent instead of 10.4 per cent as stated in the House report. It would be impossible to manufacture this product at this rate of duty in competition with the cheaper labor and free raw materials abroad. There is no country in the world in which an import duty is imposed on lime juice and citrate of lime as proposed by this House bill.

ALKALIES AND ALKALOIDS.

Alkalies, alkaloids, and all chemical and medicinal compounds, mixtures, and salts, and combinations thereof not specially provided for in the bill, are made dutiable at 15 per cent instead of 25 per cent, the existing rate, which is low enough as shown by the value of the imports last year, which amounted to $3,338,419. The estimated value of the imports under this proposed change of duties is placed at $5,040,000. This additional $1,700,000 of foreign products to be imported simply means the sacrifice of so much capital and labor in this country which must be turned into other channels, as the consumption of these articles will not be increased except as the population increases.

A duty of 10 per cent is imposed on quicksilver by the House bill as compared with 7 cents, the specific duty under the existing law. The duty on calomel, corrosive sublimate, and other mercurial medicinal preparations is reduced from 35 per cent to 15 per cent, with a reduction of only 1½ cents a pound on the raw material. This is another industry that would have to be abandoned under the proposed law.

Iodine is now free, but it is proposed by this bill to make it dutiable at 10 cents a pound. It is the raw material for a number of products on which the duties are greatly reduced by the proposed bill. Carbonate of potash is another raw material made dutiable.

Magnesia, calcined, medicinal, is made dutiable at one-half the rate of the existing law. In 1911 some 65,739 pounds were imported, which is said to be greater than the quantity manufactured in this country. Reducing the duty one-half simply means to extinguish the industry here and nearly double the imports.

Epsom salts, made principally from calcined magnesite, is an illustration of lowering the duty one-half on a finished product and imposing a duty on the crude material, none of which is produced in this country.

Strychnine and all salts thereof are made free under the proposed bill, while at the present time they are dutiable at 15 cents an ounce. This alkaloid is manufactured from the nux vomica bean, requiring great skill in its production, and being a violent poison must be made with great care. Why it should be singled out and placed upon the free list is incomprehensible, as it can not be produced in this country in competition with foreign makers if the duty be removed.

Mr. John F. Queeny, a St. Louis manufacturer, testified that the Monsanto Chemical Works is manufacturing six medicinal products, all of which a few years ago were imported from Germany, and that each one of these products is now sold in this country at very materially lower figures than at the time the corporation began business. Under this bill the American producers of those products would have to stop business. One of their productions is phenolphthalein, used in this country quite largely and manufactured up to about three years ago almost exclusively by the Germans. The duty on that product is reduced by the Underwood bill from 25 per cent to 15 per cent, while the raw material, phthalic acid, is taken from the free list and made dutiable at 5 cents per pound, equal to about 20 per cent of its value, or a higher duty than that placed on the finished product.

NO LIGHT ON EXISTING CONDITIONS.

The Manufacturing Chemists' Association of the United States has called attention to the careless way in which this bill has been prepared and states that the question of revising the chemical schedule is a problem that can not adequately be solved except by the assistance of competent experts after prolonged and careful study. The chemical schedule deals with hundreds of different raw materials imported from every country in the world, and the number of combinations of finished products from these various basic elements is practically unlimited. No expert study of the chemical schedule has been completed by any official body. The Tariff Board has made no report upon the subject. That board had prepared "A glossary on Schedule A," which the Manufacturing Chemists' Association states is "a mere glossary or translation of technical chemical terms into laymen's English." That organization goes on to say that "the Ways and Means Committee was assisted by a trained chemist in the employ of the Tariff Board, but the assistance was merely in the nature of technical interpretation and could shed no light on the existing conditions of the American industry, the Tariff Board having conducted no investigation in this regard."

Not only are the rates of duty generally changed in the pending bill and many articles transferred from the free list to the dutiable list and others transferred from the dutiable list to the free list, but the phraseology and classification of the act have undergone many and varied alterations. The result is that if this bill should become a law the entire chemical industry will necessarily undergo a complete readjustment, with a result that would be in many cases disastrous.

Acetic acid, which is made by decomposing acetate of lime with a mineral acid, either sulphuric or hydrochloric, is put on the free list, though it is dutiable under the existing law at a specific rate, according to its specific gravity, the equivalent ad valorem in 1911 being 16 per cent. Europe produces acetic acid in enormous quantities. It frequently becomes of great importance to these foreign manufacturers to dispose of large tonnage of surplus product in this country. There has been a very active contest in progress between American factories, which has reduced the price so low that imports are comparatively small at present. Canada as a competitor will be particularly dangerous, because a manufacturer there will have the home market under the protective tariff of that country and can sell his product in this country with just as much advantage as to transportation rates as the American producer, and will have whatever advantage of lower labor cost and other things that may be derived by producing in that country.

Sulphuric acid can not be transported across the ocean, and therefore a large industry has been built up in the production of that product. But acetic acid, which is manufactured from acetate of lime and requires about 54 per cent of its weight of sulphuric acid to decompose it, can be brought here from Europe. The census of 1910 shows that 56,924,000 pounds of acetic acid were produced in the United States. The House bill now proposes to put it on the free list. One hundred pounds of

this acid represents more than 93 pounds of strong sulphuric acid, which is a by-product in Europe. Acetic acid can be shipped at its maximum strength and diluted as required, and therefore 100 pounds of this product, when imported, would shut off the consumption of 87 pounds of sulphuric acid. Putting acetic acid on the free list would not only destroy that industry in this country, but also seriously interfere with the production of sulphuric acid.

The quantity of sulphuric-acid gas discharged daily into the atmosphere in Kansas, Oklahoma, Colorado, Utah, Montana, and California is so enormous that if the geographical location permitted they could supply the entire world with acid made from that gas and then have enough gas discharged in the atmosphere to make an equivalent of acid sufficient to supply the world many times over. But the geographical location and distribution of these sulphur-bearing ores makes exportation of the acid impossible. With all our waste of sulphur in sulphide ores and all the resulting destruction to vegetation, the manufacturer of sulphuric acid still buys one-half of his sulphur-bearing ores from Europe.

HYDROCHLORIC AND MURIATIC ACID.

Hydrochloric acid, or muriatic acid, furnishes another illustration of the manner in which this bill has been prepared. This acid is made from salt and sulphuric acid, the salt requiring about 90 per cent sulphuric acid to decompose it. Two products result—one, muriatic acid, which protects itself because of the difficulty in its transportation over the ocean, and the other, sulphate of soda, a dry salt. It is used in enormous quantities for window-glass making, for Glauber's salt, and in the manufacture of other chemicals. Sulphate of soda, which has heretofore had a nominal protection of $1 per ton, has arbitrarily been put on the free list, thereby enabling the foreigners to dump their by-products at the expense of our own. Glauber's salt, which contains 50 per cent of sodium sulphate, is left dutiable at $1 per ton.

Bleaching powder, another chlorine product consumed in a very large way, is also made from common salt. The duty is reduced from one-fifth to one-tenth of a cent per pound. It is largely manufactured at Niagara Falls, where some advantages exist in power cost, but the large consumption on the seaboard involves transportation expenses in excess of ocean freights. That accounts for the fact that with all the raw material in this country and every reason to supply the market exclusively with American goods more than 99,000,000 pounds were imported last year.

Magnesia salts are made from magnesite, an imported article. The House bill, therefore, imposes a duty of $1 per ton on the calcined product, the raw material, and at the same time reduces the duty one-half on the finished salts, thus not only handicapping the manufacturer of chemicals, but also the maker of fire bricks, insulating material, and asbestos products.

Chromium salts furnish another example of the disregard of existing conditions. Chromates and bichromates are both reduced to 1 cent a pound, although the existing law reduced the duty on the former from 2 cents per pound to 1¾ cents, and on bichromate of potash from 3 cents per pound to 2¼ cents. This industry has to compete with the foreign manufacturers of Scotland and Germany, who work under an agreement, and sell bichromate of soda in this country at less than the foreign prices, and bichromate of potash at about the same figures, duty paid.

Nitric acid is another product of sulphuric acid, and enters into a large number of other chemicals. Cheap nitric acid and cheap sulphuric acid depend to a large extent on the magnitude of the business done, and if sweeping reductions are made in the chemical salts that consume these acids, then the cost of producing them is enhanced and the chemical salts themselves become more costly to manufacture.

One hundred pounds of aniline oil consumes 84 pounds of sulphuric acid and 81 pounds of nitric acid. Aniline oil is the base of a very large number of other chemicals, the manufacture of which consumes acetic acid, chlorine, bichromate of potash, and a large number of diversified chemical products. In Germany half a dozen companies make them all, and for all practical purposes their agreements reduce these to one great corporation acting as a world-wide trust and monopoly to destroy competition. Many of the reductions proposed in this bill come at the very time when greater protection is needed. Sulphate of ammonia is one of these products; only 16 per cent of the total that might be made is recovered. Approximately 25 per cent ammonia requires 75 per cent sulphuric acid. In 1905 only 30,000,000 pounds were imported, but in 1910, 207,000,000 were imported.

SALICYLIC ACID.

Salicylic acid was dutiable at 10 cents a pound under the Dingley tariff and was reduced to 5 cents a pound by the existing law, and the pending bill proposes a further reduction to 2½ cents a pound. All of the European salicylic acid factories are combined. Seeing in the American manufacturers their only opponents they have been for years making special prices on the American market, much lower than they sell for in their own countries. They want to put the American manufacturers out of business and thereby regain control of the world's market which they enjoyed about 20 years ago, before the first salicylic acid factory was started in this country. The consumers in this country would not benefit by a reduction of the duty to 2½ cents a pound, for after the domestic manufacturers were thereby eliminated the foreign syndicates undoubtedly would advance the price of the product of which they would then enjoy a monopoly. There will be no increase of revenue under this slaughter of rates, because even if the European syndicates get absolute control of this market the revenue on all salicylic acid that can be sold in this country would not amount to more than $10,000.

It is proposed to reduce the duty on tartaric acid to 3 cents a pound as against the existing rate of 5 cents, and on cream of tartar to 2½ cents as against the existing rate of 5 cents, and to increase the duty on argols, the crude material from which those products are chiefly made in this country, from 5 per cent to 10 per cent; that is to say, 100 per cent increase, which will at times make the duty on the crude material exceed the duties on the manufactured products. Foreign manufacturers situated in the argol-producing countries of southern Europe already possess advantages of various kinds over the American manufacturers, the chief of which is their ability to use a lower testing grade of crude material, which will not bear transportation here, and lower labor cost.

The manufacturers on the Pacific coast that use argols protested that the increase of the duty on argols and the reduction of the duty one-half on the finished products would simply make it impossible to find a market for such argols as are produced in this country. If the duty on argols is 10 per cent, the duty on the crude material will be 2½ cents a pound higher than that proposed on the refined goods, such as cream of tartar, tartaric acid, and Rochelle salts.

Blanc fixe is manufactured in this country from weatherite spar chiefly, which is mined in England. There are two small mines in Germany, but none of the weatherite is exported from that country, and there is none available either in the United States or in Canada. The importers pay the same freight rate on the raw materials that the exporters from England and Germany pay on the finished product. The other two articles which enter largely into the manufacture of blanc fixe are sulphuric and muriatic acid. In England muriatic acid is sold at 50 cents a hundred pounds less than the price in the United States, and in Germany sulphuric acid is one-half the price charged in this country. Blanc fixe from England could be sold, duty paid; under the proposed law at $1.61 per hundred pounds less than American cost of production, according to testimony before the Finance Committee. The present duty is one-half cent per pound, and the reduction to one-fourth of a cent, as proposed in the House bill, would simply throw the business into the hands of the English and German manufacturers.

DEXTRINES AND SUBSTITUTES.

The proposed change in the duties on dextrines, burnt starch, or British gums, dextrine substitutes, etc., is another illustration of the unscientific manner in which this bill has been prepared. Dextrines are made from cornstarch, potato starch, tapioca, and sago. Those made in this country are principally from cornstarch and potato starch, both of which are classified under the existing law in the schedule relating to agricultural products. In the proposed law dextrines are subjected to a duty of only three-fourths of a cent per pound, while the duty on potato starch remains at 1½ cents, the practical result of which would be that instead of a duty discriminating in favor of the American manufacturer there will be one discriminating against him and in favor of the foreign manufacture of dextrines. Excluding labor and overhead cost, under this proposed bill 100 pounds of dextrines manufactured in Germany could be sold in the United States for $4, while 100 pounds manufactured here from imported potato starch, without labor and overhead charges, would cost $5.30, making a difference of $1.30 per hundred pounds in favor of the foreign producer, which would be still larger if the labor cost and the overhead charges were taken into consideration.

A very good illustration of the difficulty in building up an industry in the United States without sufficient protection is furnished in the manufacture of lactic acid, which is also made from dextrines, cornstarch, or potato starch, or the waste from sugar mills, and which is manufactured in a small way in the United States. It was stated in the House report on this bill

that lactic acid is specifically an American industry; that the consumption is large and increasing; that four times as much lactic acid is exported as is imported; and that in the foreign market the American product meets successfully the competition of other makers. On the contrary, lactic acid, although first produced in America, is now a German industry, and in the dyeing, printing, and textile industries, the German imports of lactic acid monopolize almost the entire American market—at least 90 per cent thereof. This industry, instead of flourishing in the United States, has shown an actual drop in output. There are only three plants in the United States, and these have been running at less than one-third of their capacity. The production in the United States dropped from more than 1,600 tons American consumption in 1908 to under 1,200 tons in 1910. Of the three producers in the United States, two have never exported a ton of lactic acid to any European market, while the exports of the third producer, located in Massachusetts, have never been sent to any producing country, and, according to the best information obtainable, are far below the tonnage imported. The Massachusetts producer established himself in England, where the acid is not produced, in a small way, so that the English trade became familiar with his product before the Germans produced any, and the English still adhere to the use of the American acid.

The Germans have a good market at home, and the advantage of cheap labor, lower pay to chemists, lower cost of raw material, potato starch in abundance, and a volume of business which has enabled them to go further in the cheapening of the product than Americans have been able to do. In 1897 the manufacture of lactic acid was in its infancy, and the standard strength of the acid in this country was 22 per cent acid, including lactic anhydride. In that year Congress recognized the new industry and placed a duty of 3 cents a pound on lactic acid without specifying the strength. The Germans developed a process of concentration by which they raised the acid content of their imports to a strength of 40 per cent without having to pay any more duty. This concentrated German acid, after its receipt in America, was then, and still is, diluted to the standard strength of 22 per cent before being put on sale. Thus a large proportion of the German tonnage really paid no duty whatever. In 1909 Congress imposed an extra duty of 1 cent a pound on all concentrated above 40 per cent. The Germans then developed their process to the point of 80 per cent concentration, and their imports are to-day of that character. The result has been that the light, refined American lactic acid has been almost entirely driven out of the dyeing trades and the German output has increased. The German acid has nearly the control of that part of the market, and instead of any reduction of the duty there should be a rearrangement so as to impose a duty according to the strength of the acid, and the light or refined and more costly acid should receive a higher protection than the dark acid. But, if the proposed bill becomes a law, the lactic-acid industry will cease to exist in the United States.

THE PYROXYLIN INDUSTRY.

The pyroxylin (soluble guncotton) industry is distinctly and peculiarly American. It was discovered by an American and developed in this country after a large expenditure in the way of experiments. New machinery had to be designed and made, the science of chemistry had to be taxed to produce new and unknown working materials, all resulting in giving to the world a unique commodity and bringing into existence manufacturing communities in the United States that have made this their life study and work, aggregating to-day some 40,000 operatives, or about 200,000 persons dependent upon this industry. Foreign manufacturers copied the American plants and have a decided advantage in the cheapness by which crude materials can be obtained by them, lower cost of labor and overhead expenses, besides many skilled chemists. Competing factories have sprung into existence in Germany, France, England, Russia, Austria, Italy, and also now in Japan, where two very large factories have recently been completed. As conditions stand to-day the foreign manufacturers control all the markets of the world except the United States. This is the result of their cheap labor and other advantages.

There are from six to eight million dollars' worth of foreign articles made from compounds of pyroxylin imported into the United States. The wording of the present law in imposing duties on such articles is not sufficiently defined so as to make certain all of the imports of this product. Many articles made partly or wholly of compounds of pyroxylin are imported into this country under different schedules, causing considerable confusion and loss to the Government.

American manufacturers greatly fear the products of the two large factories that have been recently constructed in Japan. They have a capacity of 4 to 5 tons of material per day. The average daily wage of factory hands in Japan is 12 cents, the lowest being 4.9 cents and the highest 37.4 cents. The Japanese possess unique decorative skill, and their Government controls 90 per cent of the camphor production of the world, camphor being the chief raw material used in the production of celluloid and other combinations of pyroxylin. The selling agent for the Japanese Government for camphor is the same Japanese firm that has erected a large factory for the production of combinations of pyroxylin and which will be perhaps the most dangerous competitor of American manufacturers. The many articles produced from pyroxylin combinations are classified in the tariff as luxuries. The technical nature of the product will not permit the use of automatic machinery such as is used in other industries, but compels manufacturers to rely in a great measure on handwork. In addition to camphor, the manufacturers in this country use approximately 10,000,000 pounds of cotton a year.

It is evident from these facts and the large importations that the existing duty is not too great, and it is doubtful if it will be sufficient to allow American manufacturers to exist in competition with Japan. But the Democrats propose to reduce the duty on manufactured articles from 65 cents a pound and 30 per cent ad valorem to 35 per cent. This reduction is so drastic and so radical that if it becomes a law it may seriously cripple the industry if not wipe it out altogether.

In this connection I wish to refer to a statement which was made by the Senator from Maine [Mr. JOHNSON] upon this item. He says:

> At a hearing before the Ways and Means Committee in 1890, page 384, J. R. France, president of the Arlington Manufacturing Co., one of the companies appearing before the Finance Committee in 1911, in speaking of a bill permitting the use of denatured alcohol in the manufacture of celluloid, said as follows: "The increasing cost of manufacture makes this tax entirely prohibitive to the sale of our goods in all markets except home. There are large fields open to us from which, for this cost, we are entirely shut out. The superiority of American manufacturers in this line is so much in advance of foreign competition that despite the disparity of earnings by employees as compared with foreign labor we could easily compete, and that with good profits, except for this tax." The tax referred to, of course, is the internal-revenue tax upon alcohol then in existence. In view of this statement by Mr. France, the complaint of his successors before the Finance Committee at this session that they will be subjected to ruinous competition by reason of the reductions in the duties upon celluloid is without any substantial foundation.

Mr. President, twenty-two years ago America was about the only country manufacturing celluloid. We led the world at that time in its manufacture. It was essentially an American product. But since that time Austria, Germany, France, England, and Japan have all established the industry, and are making it with the same formula, into the same articles, and by practically the same class of machinery.

I must disagree with the Senator from Maine when he says that the goods made in Japan are of the coarser grade. We have all seen in the stores of this country celluloid articles of the finest quality and beautiful design. There are no people in all the world who imitate so well as do the Japanese.

While 22 years ago the statement of Mr. J. R. France may have been correct, it does not apply to-day.

The existing duty on refined camphor is 6 cents per pound, while the crude material is on the free list. The House bill assesses a duty of 3 cents a pound on crude camphor and reduces the duty on refined to 5 cents a pound, which, taking into consideration the loss in refining, would leave a protection to the American refiner of only 1 and three-quarters of a cent per pound. As one-third of the total consumption of refined camphor in this country is now imported, this change in duty would extinguish the American industry of refining camphor. The capacity of the American refiners is now more than enough to supply the whole United States, but they can not compete altogether with the Japanese refiners. Crude camphor is controlled entirely by the Japanese Government, and can only be purchased from its agents. The importation of refined camphor has increased from 87 pounds in 1890 to 214,049 in 1905, and reached 558,014 pounds in 1909, and has been a little less since that time. This shows the inroads the Japanese are making in the way of exporting refined camphor.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER (Mr. CATRON in the chair). Does the Senator from Utah yield to the Senator from Florida?

Mr. SMOOT. I yield to the Senator.

Mr. FLETCHER. I do not know to what extent we are making progress in the production of crude camphor in this country, but the Government is making efforts to see if it can be produced here, and I know of one plantation in Florida of some 5,000 acres of camphor trees. So far as I am advised the industry is of considerable consequence.

Mr. SMOOT. The camphor produced outside of what is controlled by the Japanese Government is a mere bagatelle, and has no influence on the world's prices. Not to exceed 5 per cent of the camphor used in America is what is known as synthetic camphor.

At one time the Japanese put the price so high that camphor was $1.24 per pound, and then the Germans produced a synthetic camphor made from turpentine, which caused the Japanese to reduce their prices to a point that prevented the importation of this synthetic article. That is the condition to-day, and this proposed imposition of a duty on the raw material and a reduction of the present low duty on the refined material will extinguish the industry in the United States, without a solitary advantage to consumers, for the reason that the Japanese fix the price simply to exclude synthetic camphor.

ALUMINA, ALUM, ETC.

Under the Dingley law the duty on hydrate of alumina was six-tenths of 1 cent per pound. The importation in 1898 amounted to $2,092,082 pounds, and this gradually decreased until only 20,310 pounds were imported in 1909. Under the existing law the rates of duty are decreased to four-tenths of 1 cent per pound when the hydrate does not contain more than 64 per cent of alumina and to six-tenths of a cent per pound above that percentage. As a result imports increased rapidly, amounting to 1,538,619 pounds in 1910 and 2,006,561 pounds in 1911. The total estimated sales of hydrate of alumina of strengths under 64 per cent will not exceed at the maximum 3,000,000 pounds per annum. Thus under the existing law the imports are 50 per cent of the domestic consumption. The duty on strengths above 64 per cent is less than 5 per cent ad valorem, but there is no demand of any consequence for this high-grade product. Hydrate of alumina is produced from bauxite. It is essentially refined bauxite. In Europe, France and Germany are the great producing countries. When the industry is depressed there it leaves a surplus product, which could be sold in this country under any further reduction in the tariff at prices with which no American manufacturer could compete. With one-half of the amount consumed now imported, and the imports increasing each year, there appears to be no excuse for any further reduction in the duty.

The same rate of duty, 15 per cent, is provided by the House bill for alum cake, sulphate of alumina, and so forth. Under the law of 1897, with a specific duty of one-half of 1 cent per pound, the importations were approximately 2,500,000 pounds. By the act of 1909 the duty was changed so that alum, alum cake, and so forth, containing not more than 15 per cent alumina and more than three-tenths of 1 per cent of iron oxide carry a duty of one-fourth of 1 cent per pound, while above that 15 per cent the duty is three-eighths of 1 cent per pound. Under that law importations for 1910 show an increase of 1,000,000 pounds, or more than 40 per cent, while in 1911 there was a further large increase.

Under the proposed bill the classification is changed and the duty reduced more than half.

Sodium sulphide is another example. At three-eighths of a cent per pound the concentrated product contains double the quantity of sodium sulphide per pound of product, and naturally is entitled to proportionately greater protection. The proposed law solves the problem by reducing the duty on each to a quarter of a cent per pound, when long experience has shown that even three-quarters per pound on one product was hardly equal to the three-eighths per pound imposed on the low-strength article. The same criticism can be made of sodium sulphate, sodium silicate, anhydrous bichloride of tin, and other salts, which it is proposed to reduce in some cases to one-half and in some cases to one-third of the former duties.

On sulphide sodium crystals the duty is reduced one-eighth of a cent per pound, viz, from three-eighths of a cent to one-quarter of a cent per pound, while on the concentrated product the duty is reduced one-half of a cent per pound, or from three-quarters of a cent to one-quarter of a cent per pound. In other words, the total duty on 2,000 pounds of sulphide sodium crystals, which makes 1,000 pounds of concentrated sulphide sodium, would be $5 as against a duty of $2.50 to be paid on the concentrated, although the potential value to the consumer of the two articles is identical. Even under the existing law this concentrated product from Germany is making serious inroads upon our markets, and should the proposed law go into effect we would have to abandon the manufacture of this product. The same illogical treatment has been accorded the various strengths of chloride zinc, which are all taxed one-half of a cent per pound.

YELLOW PRUSSIATE OF POTASH.

The House bill reduces the duty on yellow prussiate of potash from 4 cents a pound to 1¼ cents a pound, and on yellow prussiate of soda from 2 cents a pound to three-quarters of a cent per pound, while the duty on refined carbonate of potash, the principal raw material from which prussiate of soda is made, is one-half of a cent per pound, although under the existing law it is on the free list. There is also a surtax charged by the German Government on potash salts.

Nearly 59 per cent of the yellow prussiate of soda used in this country is imported now. The largest American manufacturers of yellow prussiate of soda, a Philadelphia, firm, which had been in business many years, closed out last November because they could see no future in the business for them. There is only one establishment in the country now producing yellow prussiate of potash, and should this bill become a law, as the president of that company said, it would close out immediately.

Labor costs in this country are 60 per cent higher than in England, and the cost of raw material is 40 per cent higher, whereas compared with Germany labor is 100 per cent higher in the United States. There is keen competition, and the price of yellow prussiate of potash has been reduced in the last 10 years from 18 to 13 cents.

The duties on bichromate of potash and bichromate of soda are both reduced, though heavy reductions were made by the existing law. Foreign manufacturers in Germany and in Scotland work together under an agreement or pool to maintain prices. One of the principal raw materials is muriate of potash, on which article, through the monopoly of the German potash syndicate and the arbitrary action of the German Government, American producers have been compelled to pay nearly $12 a ton more than they had contracted. German manufacturers of bichromate of potash in some instances are members of this potash syndicate. In England the process of manufacture is carried on continuously 7 days a week by men who work in two shifts of 12 hours each, and who receive in pay only 41 per cent of the wages paid in the United States in this industry. The reduction of duty proposed by this bill would simply open the American market to these foreign combinations at the expense of the American producers.

CAUSTIC SODA AND BLEACHING POWDER.

The average price of caustic soda in the United States has decreased since 1900 from $46.87 per ton to about $40 per ton, the present market price. This reduction in the cost of this article to the consumer has been effected in spite of the fact that its consumption in this country has increased during the same period from 59,000 to 170,000 tons, the total production during the year of 1911. Importations from abroad in 1890 amounted to about 40,000 tons, with a home production of about 10,000 tons. In 1900 the importations had decreased to 5,700 tons and steadily declined until the year of 1906, when they disappeared entirely.

It appears, therefore, that the American manufacturers of caustic soda have met the greatly increasing demand of the American consumer, lowered the prices to him, and driven out importations of this article from abroad. New enterprises engaged in the manufacture of this article have been started, and existing plants have extended their works and increased their facilities. Now it is proposed by the Underwood bill to cut the protective duty one-half. Such a reduction would be highly injurious to American manufacturers and would arrest the progress which has been made in cheapening the prices to producers. The foreign manufacturers will have an advantage along the Atlantic coast where the principal markets for this soda are found, as the ocean freight rates from abroad are less than inland railroad rates.

The cheapening of the price to the consumer is more notable in the case of bleaching powder than in that of caustic soda. Since 1892 the average price of bleaching powder has been reduced from $52 a ton to $25.60 a ton. In 1892 there were 55,000 tons imported and none manufactured in this country. In 1910 there were 47,000 tons imported and 60,000 produced in the United States. This result has been accomplished notwithstanding the heavy competition from abroad. Approximately one-half of the bleaching powder consumed by the home market is produced by domestic manufacturers using the electrolytic process. The manufacturers using this process to produce caustic soda are compelled to manufacture 2 tons of bleaching powder for each ton of soda. The only practicable manner yet discovered in which the chlorine gas released by electrolysis can be profitably and legally utilized is in the production of bleaching powder. The manufacturers are compelled by law to prevent the escape of this gas as being injurious to public health and property. They comply with the law by turning the gas to a commercial use.

Foreign manufacturers fix the price of bleaching powder abroad. By trade agreements among themselves, where there is no law to prevent, they are enabled to sustain high prices for

the other chemical components of the raw material, and are thus able to treat the bleaching powder as a by-product, placing the whole commercial burden on the other components. That naturally leads them to use the American market as a dumping ground for their bleaching powder. To reduce the duty one-half as proposed by the Underwood bill would help these foreign producers at the expense of their American competitors.

Chlorine gas enters into the manufacture of liquid chlorine, sulphur chloride, benzyl, and naphthalene chlorides, and many miscellaneous articles, as well as indigo, which is not manufactured in this country. The market for these products is very small and the volume of business, as a whole, would only, in a slight degree, reduce the amount of chlorine gas manufactured. It is proposed to reduce the duties on these articles, thus adding to the difficulty of the American producers.

CAFFEINE.

Paragraph 15 proposes to assess a duty of 75 cents a pound on caffeine, with the statement in the House report that the equivalent ad valorem per cent is 41.25, while, as a matter of fact, it is only 23.80 per cent, the correct value of caffeine abroad being $3.22 per pound and not $1.82 per pound, the stated average unit basis. In the same paragraph a duty of 1 cent per pound is proposed on the raw material—tea waste, tea siftings, and so forth—equivalent to about 40 per cent of its actual value or nearly twice as much on the raw material as on the finished product. The imports of caffeine under the existing law have grown to 40 per cent of the consumption in the United States, while there have been no exports. The change in the tariff rates, as proposed in the Underwood bill by reducing the duty and placing a duty of 40 per cent on the raw material, would annihilate the industry in this country, throw the workmen and chemists out of employment, and make useless a large investment.

Paragraph 18 of the House bill imposes a duty on chemical and medicinal compounds and preparations when containing alcohol. The present law provides for "chemical compounds, mixtures, and salts containing alcohol or in the preparation of which alcohol is used." By changing the wording there is no provision in the proposed bill for chemical compounds, mixtures, and salts in the preparation of which alcohol is used. There are a number of medicinal and chemical preparations which are prepared with the use of alcohol, but which do not actually contain alcohol as such in the finished product. One of the basic products for the manufacture of chloral hydrate is alcohol, but the finished chlorate does not contain alcohol as such, as in the process of manufacture it is converted into the chemical product of chloral hydrate. Therefore this product would come in under paragraph 5 at 15 per cent ad valorem duty instead of 55 cents per pound as now assessed. The same arguments hold good on phenacetin (acetphenetidin). It would be absolutely impossible to manufacture this product in this country in competition with Germany with only 15 per cent protection.

ACETATE OF LIME, CHARCOAL, AND WOOD ALCOHOL.

The proposed bill puts acetate of lime on the free list, though it is now dutiable at 25 per cent. It puts charcoal on the free list, which is now dutiable at 20 per cent. It makes the duty on wood alcohol 5 cents per gallon instead of 20 per cent, the present duty. These articles are manufactured in about 100 establishments in the United States, with an investment of about $25,000,000, and give employment and sustenance to about 75,000 persons. They are made from wood, and the wood is to a large extent that of tops, butts, and breaks of trees which have been cut into saw logs, thereby creating from what would otherwise be waste materials valuable commercial commodities and a wide field for the employment of labor. If this bill becomes a law, it will result in the building of a large number of new works in Canada, where wood is more than 20 per cent cheaper than in the United States, and the inevitable result would be to exterminate the American industry. Canada, with its vast areas of cheap raw materials, is offering every encouragement to the building up of the industry within its own borders by paying a large bounty on the manufacture of charcoal iron and a high price for wood alcohol used for denaturing purposes. With our market open to them, the Canadian production would increase rapidly, and they could also "dump" into the United States any surplus product.

In 1907 a free alcohol bill was passed which almost exterminated the wood-alcohol industry. The producers were reduced from a basis of 40 cents a gallon to about 15 cents a gallon, and that put them to a large expense in bringing in foreign apparatus to rehabilitate their industry. These factories are spread throughout the hardwood-lumber districts and high wages have to be paid to get the technical labor required.

Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene are made dutiable in section 6 of the bill at 10 per cent ad valorem. Section 38 imposes the same duty on indigo, indigo extracts or pastes, and indigo carminated. All of these fast dyes, which have been on the free list since 1883, are not manufactured in the United States and never have been, and there is no question of protection involved. They were put on the free list to enable the textile industry in the United States to produce coarse goods which wear, so far as durability is concerned, equal not only to the textile fabrics made in other countries, but to the highest grade of textiles made here. Synthetic indigo sold for 72½ cents a pound in New York in 1894, and it now sells for 16½ cents a pound, this artificial article having taken the place of the indigo formerly used. A great industry has been developed in this country in the production of denims, indigo prints, chambrays, and ginghams, in which those dyes are used. Many other examples of equal force may be found in the dry-goods market. No other country in the world now produces the volume of fast-colored, coarse cotton fabrics manufactured in the United States, with the possible exception of China, where an indigo-dyed cotton cloth is the national dress.

The American Cotton Manufacturers' Association, representing mills in Virginia, North Carolina, Alabama, and elsewhere in the South, appeared before the Finance Committee to protest against the injustice done in the proposed duties on alizarin and anthracene and dyes derived from the same, including indigo. They are not made in this country, and could not be produced here under the duty proposed by the House bill. Synthetic indigo, which comprises practically all of the indigo now used in manufacturing, is a patented article produced chiefly in Germany.

The cotton mills, as one of their representatives told the committee, are having a hard time even now to meet British and other foreign competition. Those countries have these dyes free of duty. They pay the same for raw cotton as our manufacturers do, have much cheaper labor, lower cost of plant, and practically monopolize the trade in this class of goods in the South American countries, Cuba, Porto Rico, and the West Indies. This proposed legislation would enable them to extend their advantages to our own markets.

ALIZARIN ASSISTANT.

An illustration of the haphazard way in which the bill has been drafted is furnished in the duty provided for alizarin assistant. Castor oil is the component material of chief value in alizarin assistant. The oil is made dutiable at 20 cents a gallon, and alizarin assistant at 15 per cent ad valorem, without limitation as to castor-oil contents. Material imported and described as alizarin assistant by reason of the mixture of other substances incorporated therein could go to the point of 95 per cent castor oil, and the foreign substances could, after importation, be removed and leave the castor oil of sufficient purity for large commercial uses. The duty on the castor oil imported in that way would be only about one-half the duty imposed on castor oil imported under its own name. Previous tariff legislation has provided for alizarin assistant based on the castor oil contained in it. But that wise provision in the existing law has been thrown aside and the door opened wide for the importation of castor oil at about one-half of the duty provided for in the bill.

Then there is a provision in the same paragraph for "all other pressed oils and combinations of the same not otherwise provided for, 15 per cent." Nearly, if not quite, all such oils are capable of combination for importing purposes and separation thereafter, thus evading the specific duty provided for elsewhere. Alizarin assistant is used in connection with dyeing, and more especially in dyeing alizarin red, which is the modern name for all turkey red. The proposed tariff of 15 per cent ad valorem on alizarin assistant puts a premium on the imported goods. The Wilson bill carried a duty of 30 per cent on alizarin assistant, and a witness testified before the Finance Committee that he could not produce it in this country in competition with the imported product at that rate of duty. Now it is proposed to impose a duty of one-half of that of the Wilson bill. The cost of the American product f. o. b. Boston is 5½ cents a pound. A 50 per cent alizarin assistant made in England could be sold, duty paid, at less than 5 cents a pound in Boston under this proposed bill.

Castor oil, according to a manufacturer, costs a little above 9 cents a pound in Boston, while the foreign product could be sold under the proposed duty at the same point at 8¾ cents a pound. Hence this proposed bill would end the manufacture of alizarin assistant in the United States. The duty on it would be much less than the duty exacted on the oil in the castor bean, which comes in under another schedule and is not touched by the proposed bill. In other words, a manufacturer stated he would have to pay more duty on the oil that was in the bean than

his competitor would pay on the article which had been manufactured from the beans into the oil and then from the oil into the assistant. The imports of alizarin assistant are now about 25 per cent of the total consumption. There has been a large increase in the imports of oils and seeds under the new tariff, amounting to nearly $5,000,000 increase of dutiable oils for the year 1911 as compared with 1909 and $21,000,000 increase in dutiable seeds in the same time and $10,000,000 increase in oils free of duty and $3,000,000 increase in seeds free of duty.

QUEBRACHO AND TANNING EXTRACTS.

The existing law imposes a duty of seven-eighths of 1 cent a pound on extracts of bark such as are commonly used for dyeing and tanning, and on extracts of quebracho not exceeding in density 28° Baumé one-half of 1 cent per pound, and exceeding 28° three-fourths of 1 cent per pound. The House bill makes the duty on extracts of quebracho and other extracts commonly used for dyeing and tanning three-eighths of 1 cent per pound. In addition to this large reduction in duty on these extracts, a provision is made for a duty of 10 per cent ad valorem on the raw materials—the woods, and so forth—from which the extracts are obtained when the wood has been advanced in condition by peeling. Such woods under the existing law are brought in free of duty. There is nothing that comes into this country in the way of raw material in sticks and wood that is not peeled. The bark naturally falls off or is peeled off when the wood is dry to save paying freight. To make this wood dutiable and then to reduce the duty on the manufactured article from three-fourths of a cent per pound to three-eighths of a cent would seriously affect the industry of producing such extracts in the United States.

A large manufacturer testified before the Finance Committee that if the bill became a law in its present shape, he would "go out of business," for the reason that he could not make it pay. He thought that this insertion of the word "peeling" in the law was some kind of a "joker" in the interest of the foreign producers of these extracts to prevent their manufacture in the United States. These raw materials have been coming in free for about 40 years, and now it is proposed to put a duty on them of 10 per cent by inserting the word "peeling." There is double the quantity of these extracts imported to what is produced in this country, and some grades are sold at such prices as to make it impossible to produce them in the United States. Moreover, competition in this business by home production has kept down prices as in other cases.

Another singular provision in the proposed bill is that of leaving out the distinction between liquid and solid quebracho extracts. The importers have ceased to bring in the liquid extracts because of the comparatively low duty on the solid. The existing law makes a duty of three-fourths of a cent per pound on the solid extracts, though it is evidently too low. Under the proposed law the duty is to be only three-eighths of a cent with a 10 per cent duty on the raw materials. The production in this country under the existing rate is one-third of the consumption and necessarily would cease altogether under the proposed law while there would be no increase in revenue. The largest manufacturers of logwood extracts are to be found in France, which has a prohibitive tariff on such extracts. England has a number of factories which are united into a trust that ships goods to the United States.

The quebracho trust in the Argentine Republic, which has a capital of $10,000,000 and which paid 24 per cent dividends on its common stock last year, will, of course, be greatly benefited by this proposed legislation. There is another large corporation in Argentina producing quebracho extracts, but they have made arrangements with the trust so the two now work together. The business outside of the United States is controlled almost exclusively by this trust, which is composed of Germans backed up by English capital; and they also control the industry in Germany. With the opposition of the American manufacturer removed they would control the business in the United States.

The Argentine manufacturers can produce solid quebracho extracts, containing 65 per cent tannin, for about one-third of the labor cost involved in producing an equivalent chestnut extract in the United States. The German and French Governments not long ago raised their duties to prohibitive rates, which has resulted in making the United States a "dumping" ground for surplus quebracho. From 1898 to 1904 the domestic manufacture increased two or three times in volume, but in recent years the capacity for output has been stationary, while the actual output has decreased. This in the face of the large increase in the consumption of the extract.

COAL-TAR PRODUCTS.

Manufacturers of coal-tar colors and coal-tar products vigorously protested before the Finance Committee against the proposed reduction of duty on their products, while at the same time taking their raw material from the free list and making them dutiable. They maintain that if any change is made in the rate for coal-tar dyes, it should be increased rather than decreased. The consumption of coal-tar dyes in the United States is about seven and a half million dollars' worth annually, of which only one and a half million dollars' worth is produced in this country, the other six million dollars' worth being imported.

By reducing the duty on the finished product, and making the raw material dutiable, the framers of the House bill assume an increase of a million dollars in the imports of this product. That would be equivalent to driving the domestic manufacturers out of business. If the purpose of making this change was to increase the revenues, this object will not be accomplished, for even if the importers should give the American consumers the benefit of the entire reduction of duty the consumption would not be stimulated. But importers will not lower their selling prices because they are given a large market in this country. On the contrary, to judge by past experience, foreign manufacturers with American competition eliminated would raise their prices, so that the final result would be higher prices to the American consumers and smaller revenues to the United States Government.

The mere fact that the industry now exists in this country is a restraining influence on the importers, and saves the American consumer the arbitrary exactions and high prices of the foreign manufacturers.

A manufacturer testified before the committee that he began the production of acids black, 2–B, direct blacks, G–extra, when the duty was 20 per cent, and he found that he could then make a reasonable profit. These colors had been selling at about the same price for many years, but when the American manufacturers began their production in sufficient quantities to disturb the importers, prices began to drop, and were cut in two, so that the domestic producers could not make any profit. In the revision of 1909 particular attention was paid to this schedule, with the result that American manufacturers have been enabled to increase their range of colors considerably. But they had only got fairly started when tariff agitation was renewed and now threatens the existence of their business.

An effort was made some 30 years ago to promote this industry. But the tariff in 1883 reduced the protection, with the immediate result that five of the new factories closed their doors and the remaining four struggled along in reversed conditions, hoping that some future revision would bring them relief. This came in 1909, and now they are again threatened with destruction by another Democratic tariff revision. The cost of establishing a coal-tar dye plant, designed for a yearly output of 3,000,000 pounds, with allowances for depreciation, is $1,134,800 in the United States, as compared with $780,600 in Germany. The employees necessary for conducting such a plant would be paid $116,236 in the United States, as compared with $61,493 in Germany, and the cost of raw materials under the present tariff would be $396,508 in the United States, as compared with $317,206 in Germany. In other words, the cost of producing 3,000,000 pounds of coal-tar dyes under the present tariff rates is $645,784 in the United States, as compared with $480,299 in Germany.

In many cases the most important so-called raw materials—that is, the intermediate products made from coal tar—are imported and are controlled abroad by two or three concerns which fix their own prices that the American manufacturers are compelled to pay. Hence any duty on these raw materials will be exacted from the American manufacturers in the way of increased importation prices. For instance, analine salt and oil are now controlled by a convention, consisting of German, English, and French manufacturers, who fix prices to suit themselves.

The "Glossary of Schedule A," as given in the report of the Ways and Means Committee, on page 203, says:

> The industry of coal-tar products in Germany, especially dyes, is in the hands of powerful combinations. While officially about 40 establishments are engaged in their manufacture, only 4 or 5 furnish the bulk of the production—about 90 per cent—and even these few firms work under an agreement not only to control prices but also to divide profits.

With this strong and powerful combination as the principal competitor of the American producers, it is needless to say that the American coal-tar industry requires all the protection heretofore granted. The coal-tar industry in the United States makes no plea for protection based on the idea of fostering an infant industry, but it asks for a sufficiently high protective tariff to compensate for the difference in wages paid in the United States as compared with the wages of Germany, and for sufficient protection to prevent this country from being made a "dumping" ground for the excess production in Germany.

The foreign trade in coal-tar products in the United States is entirely one-sided, the natural result of the comparatively

undeveloped state of the industry in this country. The only item of exportation is coal tar proper, or the crude raw material, amounting in value, in 1910, to $138,834.

Germany exported in 1910 coal-tar dyes to the value of $44,623,000, of which nearly 22 per cent were exported to the United States, and more than 18 per cent to the United Kingdom. And this notwithstanding the fact that England supplied the world's requirement for staple inorganic chemicals long before Germany entered the field of manufacture in the industry of coal-tar products. The proudest achievement of the German chemical industry was developed with coal tar imported from wherever obtainable, and in the face of the fact that the industry originated in England and France, and had taken root in both countries. Although coal is more expensive in Germany than in England, Germany supplies its own huge requirements of coal tar, the indispensable raw material, and exports enormous quantities. Germany supplies over 85 per cent of the world's consumption of coal-tar dyes, although the United States is much better supplied with the raw material for the production of those dyes than is any other country.

PYROGALLIC ACID AND HYDROCHINON.

The owner of an establishment that was started about two years ago for the manufacture of pyrogallic acid, but which has not yet marketed any of that product, told the Finance Committee that if this bill became a law he would immediately abandon the undertaking. The machinery has to be made especially for the purpose, and he stated that it would be of no value for any other object, but under the reduction of duty as proposed by this bill they can not compete with the German manufacturers, who now have absolute control of this market. The price of pyrogallic acid, which is used for dyeing furs and medicinally to a small extent, and for photographic work, and so forth, varies in accordance with the competition between the foreign manufacturers. In 1908 it sold for $1.10 a pound, but strong competition on the other side caused it to drop to 64.1 cents in 1911. This is a temporary condition, and as soon as the foreign manufacturers settle their differences prices will go up again, but to reduce the duty below a protective point is simply to continue the American consumers of this product entirely at the mercy of the foreign manufacturers.

Hydrochinon, which is an acid used for the same general purpose as pyrogallic acid, was not manufactured in this country until about 18 months ago, when a factory was opened here. Immediately the price was dropped by the foreign producers for export purposes to this country below the cost to manufacture here, so that the man who had invested his capital in that business declared that he would immediately abandon it excepting that he could not dispose of his machinery. That is the condition that follows whenever duties are placed so low as to allow of such temporarily unfair competition or the "dumping" of the foreign product.

It is proposed to impose a duty of 10 per cent on paranitraniline, the raw material from which paranitraniline colors are made, and then to reduce the duty on the colors to 20 per cent. That would leave only 10 per cent protection. The difference in the wages paid in this industry in this country and in Germany requires a protection of about 7 or 8 cents, but under the proposed bill that would be reduced to about 3½ cents, which, of course, would allow the Germans to destroy the trade in this country.

HITTING THE PAINT INDUSTRY.

The Paint Manufacturers' Association found reasons similar to those of other organizations in protesting against the proposed increase of duties on raw materials and a decrease on the finished product. The paint manufacturers call attention to the fact that no opportunity was given them for a hearing by the House committee that prepared this bill, nor has the Tariff Board made any investigation into the production and cost abroad of articles used in their industry. The association asserts that the duties proposed show lack of familiarity with the paint business and as to what are raw materials of the paint grinder, but which are finished products of the dry-color maker from whom he buys. In like manner raw materials to the dry-color maker are, in many instances, the finished product of the chemical manufacturer, who in turn derives his raw materials from the mines bearing the necessary ores. In the case of the articles used in making prepared paints, principally linseed oil, it is the finished product of the crusher of flaxseed, who takes for his raw material the flax, the product of the farmer. The paint manufacturers call attention to the omission of any mention of flaxseed or of zinc and lead bearing ores in the preparation of this schedule, though they are directly connected with their industry.

Wages paid in the paint industry in this country are from two and a half to three times greater than those paid for similar labor in foreign countries, and to reduce the tariff under such circumstances necessarily means a proportionate reduction in the wage scale of the persons employed.

British statistics show that the raw materials in the paint and varnish industry are two-thirds of the cost of the finished product, and that is in accordance with the census returns of this industry in the United States. Crude materials are much cheaper abroad, transportation rates are lower, and the foreigners have many other advantages which can not be met under this proposed change in the duty. But in the preparation of this bill no attention apparently was paid to that fact.

Great strides have been made in the scientific preparation of paint, and a use has been found for the soja-bean oil to the extent of about 5,500,000 gallons in 1911, whereas a few years ago none was used. Now, it is proposed by this bill to transfer that product from the free list to the dutiable list. In the same way wood oil and other materials are made dutiable, and then a reduction of 10 per cent is made in the duties on the finished products.

The American paint industry is a large and growing one, having increased 40 per cent in five years, and shows sales in 1910 of $124,000,000. The industry should be guarded carefully and not treated in the careless and indifferent way that it has been done in this House bill. Rates are not by any means prohibitive under the existing law. Imports are brought in from various countries—England, Germany, Italy, France, and Spain.

The Senator from Maine, to bolster up the Democratic position on this theme, referred to the testimony of a number of witnesses, but I think it is a very, very poor case when he has to quote the evidence of a young man who designates himself as follows:

> I am one of those optimistic, bigoted individuals who believe the American manufacturer can "clean 'em all up" if you will give him low-priced raw materials. I really believe he could do it with half the load removed and one hand tied behind his back. The American manufacturer to-day is a live wire, with heavy, brutal, tariff insulation. Strip even half of it off, and he will galvanize the commercial world into a "sit up and take notice" attitude that will be unparalleled in history.

Mr. President, Mr. Armstrong appeared before the Finance Committee and read his little essay. I have not time to analyze his testimony in full, but he was the party who testified that his profits were 40 per cent per annum and that he thought if the raw materials remained on the free list he could stand a reduction from present duties on paints. The Senator from Maine reached his conclusion upon the statement of this individual. Let us see how much Armstrong has invested in his business and who this man is who pretends to speak for an industry that produces millions and millions of dollars of goods per annum. Senator McCUMBER asked him this question:

> But why should you not give these dear people, then, the benefit of 30 per cent off of those prices and bring them down to a basis of 10 per cent profit?
>
> Mr. ARMSTRONG. I might say in answer to that that theoretically you might be correct if I were purely a philanthropist. But I started in this business about 12 years ago with absolutely nothing. My business has grown so fast that I had to put nearly everything I made into machinery and buildings.

I asked him this question:

> Senator SMOOT. When did you start in business?
> Mr. ARMSTRONG. About 15 or 18 years ago.

An exaggeration within 10 minutes of 6 years did not seem to bother the young man.

> Senator SMOOT. You spoke of making 40 per cent on your capital stock. What is your capital stock?
> Mr. ARMSTRONG. Our capital stock is about $40,000.
> Senator SMOOT. That has all been made out of the business?
> Mr. ARMSTRONG. Practically.
> Senator SMOOT. Has it not all been made out of the business? You said you started with nothing.
> Mr. ARMSTRONG. With the exception of a few thousand dollars, I would say "yes." We had an old ramshackle plant, and it was hard to tell what was there. I could not tell you.

We are asked to change a schedule involving millions of dollars upon the testimony of this man, who says that he is an optimist and a bigot.

In Malaga, Spain, factory labor is paid at the rate of 36 cents a day, and the skilled labor, such as machinists, coopers, and engineers, at the rate of 54 cents a day. In France—Apt in Vaucluse—ordinary labor is paid 50 cents a day and skilled labor 60 cents a day. In London, England, the pay amounts to $4.88 for ordinary labor a week and $7 to $12 a week for skilled labor. But in the United States the paint factories pay for ordinary labor from $10 to $15 a week and for coopers, machinists, and engineers from $15 to $25, and for bricklayers $26.

GLUE AND GELATIN.

The House bill proposes to reduce the duty on gelatin valued not above 10 cents a pound from 2½ cents to 1 cent a pound; valued above 10 cents a pound and not above 25 cents, from an

equivalent ad valorem of 25 per cent to 15 per cent; valued above 25 cents per pound, from an equivalent of 48.50 to 25 per cent. On glue there is a similar reduction.

There is the same difference in the cost of production in the United States and in foreign countries, due to wages paid in this industry, as in others, and the proposed duty of 1 cent a pound does not cover the difference in cost, which manufacturers testify is from 2.2 to 2.8 cents a pound more in this country than in Europe. This is exclusive of interest on investments, which would make the cost considerably greater in this country. The average rate of duty on glue and gelatin for the last 10 years has been considerably less than the average charge collected on all dutiable products.

Pleas have been put forth that the business is conducted by the packing-house interests. That was met in 1909 by affidavits showing that 65 per cent of the 100,000,000 pounds of the glue and gelatin produced in this country is made in factories that are entirely independent and are not owned or controlled by the packing houses. Practically the same conditions prevail to-day as was shown by the sworn statements in 1909.

I was very much surprised to hear the Senator from Maine reiterate that old worn-out charge. I have here the affidavits which were made by manufacturers of glue in this country representing 65 per cent of the product, swearing that they had no connection whatever with the packing industries of this country.

The only Glue Trust in the world is a German-Austrian syndicate, which now controls practically all of the desirable factories in Germany, Austria, Belgium, and all but one in Italy, and is extending its operations in France and Russia. This trust regulates the output of these foreign factories and absolutely controls the selling prices. An American agent of this concern has openly stated that the American market was used for a "dumping" ground for the surplus stock. The lowering of the duties as proposed by the House bill will give this foreign trust advantages that can not be overcome by home manufacturers. During the year of 1911 this European Glue Trust did not operate 19 of its plants, but these plants are ready for operation and would at once begin work when the opportunity to market the product is offered. Such a market would be offered by this reduction proposed in the House bill.

An American agent for this European trust has stated in a letter that 75 per cent of the entire continental glue industry is now under the trust control, "which pervades all countries of the European Continent."

Competition has resulted in keeping down prices to a uniform level, and glue is practically the only article in the list of animal products that has not advanced in price during the last three years. Prices of raw materials, on the contrary, have advanced, and the average of prices paid during the present year is higher than any average for more than 20 years.

The competition in this country is so severe that during the past year one factory has gone out of business entirely, a second one is winding up its business, and a third one has changed hands three times because of the unsatisfactory condition of the business. Very little glue is exported, and that which goes abroad is practically all specialties. They are not competitive glues. They are packing-house products, and the packing house alone has the raw material which can be used in the manufacture of these types of glues. For the last fiscal year $1,352,995 worth of glue and gelatin were imported into this country.

A portion of the raw material has been imported from foreign countries because the domestic production is not large enough to supply the demand. The decrease in duty as proposed would naturally divert a large amount of this raw material to foreign factories. During the fiscal year 1911 the imports of raw material amounted in value to $1,655,679. Germany, according to the statistics given by the Tariff Board, imported hide cuttings for 1910 to the value of $446,726, and exported $314,160, which shows only a small excess of imports over exports, while the imports into the United States furnish the raw material for about one-third of the hide stock glue produced in this country.

A decrease in the shipments of the raw material to this country would tend to lessen the amount of valuable fertilizer material now available to our farmers. It would also deprive the tanneries in this country of a market for a by-product which they now sell to glue manufacturers.

So far as gelatin is concerned, the national pure-food law imposes a greater cost in its production in this country than formerly existed because of the greater care that must be taken for food purposes. The European producers are not restrained by the same regulations.

PARIS GREEN ON THE FREE LIST.

The proposed law removes the duty from Paris green. It is now dutiable at 15 per cent. The president of the National Paint, Oil, and Varnish Association protested to the Finance Committee that this course would close every Paris green factory in the United States. The chief ingredients used in making Paris green are arsenic and sulphate of copper. The former is on the free list, and sulphate of copper, which is now dutiable at one-fourth of a cent a pound, is made free under the proposed schedule. Sulphate of copper is not imported to any extent. Arsenic can be bought in Europe as cheap as in this country, if not cheaper, as is shown by the importation of 3,000,000 pounds last year. As sulphate of copper can be bought, perhaps, cheaper abroad than in this country, and labor is so much lower in Europe, it is conclusive that Paris green can be made abroad at a lower cost than in the United States.

Canada has a duty on Paris green which it manufactures, and, of course, Canada could sell its product in this country. This bill would open our door to the foreigners who close their doors against us, and it would be an inducement to the American manufacturers to transfer their plants across the Canadian border, as many have branches there already.

Paris green is retailed at 30 cents a pound, but the manufacturer sells it at 11 and 12 cents a pound. Hence, if the duty were removed and the American factories closed, the consumers would not get Paris green at any less in price than at present. Moreover, the European syndicates control chemical production, and when they have this market in their power they will put up prices as they have done in other cases.

Blues, including Berlin, Prussian, Chinese, and Milori, are now dutiable at 8 cents a pound, and the proposed law reduces that rate to 20 per cent, or less than 3 cents a pound. This is an extremely drastic cut. Last year approximately 190,000 pounds of blues were imported, a very large proportion of the quantity consumed in this country, and this reduction in rate, it is claimed, will simply close out the American factories, as they can not compete, which is evident from the imports now. The chief ingredient used in making blue is prussiate of potash, and there are only two factories in America at the present time. They are not making any profits owing to foreign competition. Lithopone is reduced in duty under the proposed law from 1¼ cents per pound to 15 per cent ad valorem, but no less than six-tenths of 1 cents per pound. This is another drastic cut. This industry was first started in the United States under the McKinley Act. There are at least five independent and competitive companies, and they have reduced the rates of the article from 7 cents per pound to 3¼ and 3½ cents per pound. In spite of the present duty imports are large, amounting at the port of New York alone for the last fiscal year to 2,100 tons, in addition to the imports at other American ports. The production in this country in 1910 was 12,693 tons. The present cost in this country to produce this article is about 3 cents a pound, as against 2 cents in Germany.

STRIKING AT THE VARNISH INDUSTRY.

The proposition in the House bill to make the raw materials used in the manufacture of varnish dutiable would have the same effect as in many other cases of discriminating against the American manufacturer. The raw materials on which it is proposed to impose duties are either fossil gums not found in the United States or oils made from seeds or nuts which can not be grown in this country. The fossil gums, known under the general name of copals, are found in the Dutch East Indies, in Africa, and in South America. There were imported 10,916,609 pounds in 1911, valued at $615,002. The value per pound was generally from 3 to 16 cents, although some African copal was valued at 70 cents. The proposed duty of one-half cent per pound would increase the cost from 7 to 16 per cent, or an average increase of 9 per cent.

Kauri gum is also a fossil found only in New Zealand. It is the most important of all varnish gums. The imports in 1911 were 7,772,800 pounds, at prices ranging from 3 to 80 cents, with an average of 12½ cents. The proposed duty is 1 cent per pound, which increases the cost 8 per cent. Damar is grown in Java and Sumatra. The imports in 1911 were 4,414,000 pounds, with an average cost of 10 cents per pound. The proposed duty of 1 cent a pound would increase its cost 10 per cent.

Gum shellac is made from the sap of a tree which grows in India. The imports in 1911 were 15,967,200 pounds, at an average price of approximately 15 cents per pound. The duty proposed is 1½ cents a pound, which increases the cost 10 per cent.

Gum copal and shellac also enter largely into the manufacture of varnishes, buttons, billiard and pool balls, hats, electrical supplies, and talking-machines records. No substitute has ever been offered for them. The talking-machine records made of these products are exported to various countries in competition with Germany, France, Italy, and England, and to impose a duty on the raw material will naturally interfere with

the export business now conducted, as there is no duty in foreign countries on these raw products.

Chinese nut oil is expressed from tung nuts found only in China, and of that oil 4,088,800 gallons were imported in 1911. The proposed duty is 5 cents a gallon, which increases the cost at least 10 per cent.

Linseed oil is dutiable at 15 cents a gallon, and that, with rosin, turpentine, and naphtha, is produced in this country.

The other articles used in the manufacture of varnish are not produced in this country, and to place a duty on them would tend to increase the cost of materials used by the varnish maker from 6 to 7 per cent.

Once in a while in connection with a southern industry like that of resin—rosin—an effort is made to encourage it by imposing a duty on raw material now on the free list. Resin, as a residue from the distillation of turpentine, is the crude article not refined. It has been classed as a raw material by a decision of the United States Court of Customs Appeals. It is one of the materials used widely in the manufacture of common laundry soap and an imposition of a tax upon it would be a serious burden to manufacturers of such soap.

More soap is used in the United States per capita than in any other country. There are 436 manufacturing concerns making ordinary soap scattered widely throughout the different States. There is the keenest possible competition between them and they have $60,000,000 of capital and give employment to 15,000 persons. It is an industry that should be encouraged in every way possible, but the authors of this bill have taken steps to discourage it.

Coconut oil, palm oil, palm-kernel oil, soja-bean oil, bergamot, caraway, citronella, and various other ingredients necessary in the manufacture of soap are taken from the free list and made dutiable. The additional cost of soap due to these proposed duties on ingredients not produced in the United States would amount to 21 cents a box, or nearly one-fourth of a cent per cake. The result would be that every cake of soap would have to be sold at an additional cent or the size of the cake reduced, which is an important item to the users of this grade of soap.

Carbonate of potash and caustic soda, also used in soap making, are taken from the free list and made dutiable. The imposition of the duty on coarse kinds of gum resin seems to be altogether for the benefit of a corporation which now controls the market in resin and fixes the price.

PERFUMERY.

Mr. Theodore Ricksecker, of New York, representing the Manufacturing Perfumers' Association of the United States, testified before the Finance Committee as to what is certain to follow when a duty is reduced below a protective point. He equipped a factory in New York for making toothbrushes, and employed English, French, and American workmen, and produced the best toothbrushes made, as was conceded, he stated, personally by the best makers in Paris and London. The work was largely handwork, but the business grew rapidly. In 1884 there was a reduction in the tariff on toothbrushes from 40 to 30 per cent. That closed his factory and nearly ruined him. He testified that all the other factories of the kind closed and the industry has been dead ever since. That is a fair illustration of the effect of a reduction that went below a protective point.

Mr. Ricksecker also told of selling a bill of $300 worth of perfumery to a retailer in Berlin, Germany. A number of the members of the Reichstag in passing the store saw the American goods in the window and got up in the Reichstag and proposed an increased duty on perfumery. The bill was passed and the further shipment of perfumery to Germany was stopped.

The proposed law imposes a duty on almond oil, anise, bergamot, camomile, caraway, and other oils now on the free list, which are the raw materials of the perfumery industry. These oils are not used in the raw state, but are made into perfumery when utilized, compounded, and manipulated under American labor, capital, and skill. To make them dutiable would handicap the perfumery industry in this country for the benefit of the foreign manufacturers. To injure this industry would not only affect men and women directly employed, but the manufacturers of bottles, boxes, labels, and the various other articles used in marketing perfumery.

An exporter of American manufactured goods and also an importer of raw materials also protested against the duty of 20 per cent on perfumery raw materials. Perfumes are luxuries, and there seems to be no excuse for offering further advantages to foreign manufacturers of these products. Under the present law the duty on perfumery was advanced, but the imports have increased at the rate of about $200,000 a year. American perfumery is taxed because of the alcohol used in it. But the French manufacturer is allowed a drawback for the duty paid on his alcohol, which gives him a great advantage in this market, an advantage that will greatly increase under the proposed law of taxing the raw materials.

SUGAR OF MILK.

One of the articles that illustrates how an industry can be developed through a duty is sugar of milk. Not many years ago that article was imported, and the cost was from 40 to 45 cents a pound. There was only one manufacturer making it, located in Burlington, Vt. He was making a small quantity of sugar of milk, and using it in a child's food preparation. The duty was 3 cents a pound. It was proposed to raise the duty to 6 cents a pound. This manufacturer appeared and protested, saying that this was a country where milk was cheap and where milk sugar could be made as low as anywhere in the world, and that he did not want 6 cents a pound duty, because it would create competition. Nevertheless the duty of 6 cents a pound was imposed, and within two years the American sugar of milk was selling at 8½ cents instead of 40 and 45 cents. Later we began to export it to Germany, and Germany immediately put on a higher rate of duty to exclude the American article.

COPPERAS.

When the Wilson tariff law was in preparation a Member of Congress was asked to use his influence to retain the duty on copperas, and he replied that he could not do so as "everything in connection with copper must come in free." It looks as though that ignorant prejudice still exists. Copperas is made from what is known as "sludge," or "waste pickling liquor," vast quantities of which are produced wherever wire rods or tin plate are made. That acid liquor or sludge is not allowed to run into the rivers or sewers, but is used to make copperas. It is costly to produce and can not be carried on in competition with the low-priced labor and other advantages which the European manufacturers have. To put copperas on the free list would make that industry unprofitable in the United States and impose a further hardship on the manufacturer of tin plate, wire rods, and so forth.

PEANUT OIL.

Peanut oil, which is taken from the free list and made dutiable at 10 cents a gallon, is imported to use in the manufacture of butterine, for which the American oil is not suitable because of its taste. The west African peanut makes an oil that is tasteless and is a necessary ingredient in the manufacture of butterine. There seems to be no object gained in imposing a duty on it, as the revenue would be very small, and a duty would only increase the cost of butterine, which is used by many persons who desire a cheaper product than butter.

OLIVES AND OLIVE OIL.

The change of duty on both olives and olive oil under the act of 1909 has given a wonderful impetus to the olive industry in California. The business has increased over one-third in three years, and it is reported that 2,500 acres of young olive orchards are being set out at the present time. From an acreage of about 8,000 bearing trees four years ago there has been an increase to about 14,000 acres in the old and young orchards combined. If the olive industry is let alone, under the present tariff there will be a still larger increase in the immediate future. A reduction in duty as proposed by the House bill means about 20 cents a gallon on olive oil, or about $8 a ton. The manufacturers, because of strong competition, can not stand that loss, and it would have to fall on the grower. Those expert in the business assert that such a reduction would mean virtually the annihilation of the olive industry in both oil and pickles, as they can not produce olives at any such prices as would be necessary under the reduced rates of duty. It takes at least 5 years after the planting of an olive orchard before any returns are obtained, and from that time up to 10 years the young orchard will not produce fruit enough to pay for its care and cultivation, consequently it means an investment running between 10 and 12 years before the revenues exceed the cost of cultivation and care. There are thousands of acres of good land in California and Arizona well suited to the cultivation of olives. If the tariff were left alone as it is at present, this industry would rapidly grow, but the proposed change in duty would strangle it, for which there is no excuse.

SPICES AND MUSTARD.

To impose the same duty, 1 cent a pound, on both whole and ground spices would be a blow at the American industry. The higher prices paid for labor in this country and the pure-food law make the work of grinding much more expensive here than abroad. Most spices arrive here containing more or less moisture, and that would be dutiable at 1 cent a pound on the landed weight. There is a loss in weight in grinding, and there is some

loss in packing, and a higher cost of accessories, such as labels, printing, cartons, cans, boxes, and cases, all of which make the imposition of the same duty on ground spices as on raw material unjust. The English would pay no duty on containers, only duty on net weight, which is subject to only small shrinkage by drying out. No crude spices arriving here wormy or damaged are allowed entrance, but they are used abroad in the grinding process, and after so treated the wormy or damaged article can not be detected. Paragraph 41 also proposes to assess a duty on cloves of 2 cents per pound, equal to about 20 per cent of their value, while vanillin, which is made from cloves, suffers a reduction of 50 per cent to 10 cents per ounce.

The proposed bill takes amber and amberoid from the free list and imposes thereon a duty of $1 a pound. This can only result in making more difficult the manufacture of pipes and smokers' articles in this country and to offer greater inducements to foreign manufacturers of these articles. The material is found only on the shores of the North Sea. At the request of southern planters, who said laurel wood could be used for making pipes in place of French brierwood, a duty was placed on brierwood, but it has been proved that the laurel wood is not suitable. To now put a duty on amber and amberoid is to add to the difficulties of the pipe manufacturers in this country and to assist the importers. Every tobacco user in the country will be affected by this increase if he smokes a pipe.

Mr. President, it seems to me that I have already called attention to enough of the inconsistencies in this bill to prevent any Senator from voting for it. I say again the man who drew the bill either did not know what he was doing or he cared nothing for the effect it would have upon American industries. The bill recites that it is "An act to amend an act entitled 'An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes,' approved August 5, 1909." If the bill should become a law, the title of the original bill should be changed, and it should read something like this: "An act to provide revenue by encouraging the industries of foreign countries, and for other purposes."

The PRESIDING OFFICER (Mr. CATRON in the chair). The Secretary will read the bill.

The Secretary proceeded to read the bill, which is as follows:

Be it enacted, etc., That on and after the day following the passage of this act, there shall be levied, collected, and paid the rates of duty which are prescribed in the paragraphs of this act upon the articles hereinafter enumerated, when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila), and the said paragraphs and sections shall constitute and be a substitute for paragraphs 1 to 83, inclusive, of section 1 and of section 25 of an act entitled "An act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

DUTIABLE LIST.

1. Acids: Benzoic acid, 5 cents per pound; boracic acid, three-fourths of 1 cent per pound; citric acid, 3 cents per pound; formic acid, 1½ cents per pound; gallic acid, 4 cents per pound; lactic acid, 1½ cents per pound; oxalic acid, 1¼ cents per pound; phosphoric acid, 2 cents per pound; phthalic acid, 5 cents per pound; pyrogallic acid, 6 cents per pound; salicylic acid, 2½ cents per pound; tannic acid and tannin, 4 cents per pound; tartaric acid, 3 cents per pound; all other acids not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

2. Acetic anhydrid, 2½ cents per pound.

3. Acetone, 1 cent per pound.

4. Albumen, blood, 2 cents per pound; egg albumen, 6 cents per pound.

5. Alkalies, alkaloids, and all chemical and medicinal compounds, preparations, mixtures and salts, and combinations thereof not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

6. Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, 10 per cent ad valorem.

7. Alumina, hydrate of, or refined bauxite; alum, alum cake, patent alum, sulphate of alumina, and aluminous cake, and all other manufactured compounds of alumina, not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

8. Ammonia, nitrate of, carbonate of, and muriate of, three-fourths of 1 cent per pound; phosphate of, 1 cent per pound; liquid anhydrous, 2½ cents per pound; ammoniacal gas liquor, 10 per cent ad valorem.

9. Argols or crude tartar or wine lees crude or partly refined, containing not more than 90 per cent of potassium bitartrate, 10 per cent ad valorem; containing more than 90 per cent of potassium bitartrate, cream of tartar, and Rochelle salts or tartrate of soda and postassa, 2½ cents per pound.

10. Balsams: Copaiba, fir or Canada, Peru, tolu, and all other balsams which are natural and uncompounded and not suitable for the manufacture of perfumery and cosmetics, if in a crude state, not advanced in value or condition by any process or treatment whatever beyond that essential to the proper packing of the balsams and the prevention of decay or deterioration pending manufacture, 10 per cent ad valorem; if advanced in value or condition by any process or treatment whatever beyond that essential to the proper packing of the balsams and the prevention of decay or deterioration pending manufacture, 15 per cent ad valorem; all the foregoing not specially provided for in this act or in the first section of the act cited for amendment: *Provided*, That no article containing alcohol shall be classified for duty under this paragraph.

11. Barium, chloride of, one-fourth of 1 cent per pound; dioxide of, 1½ cents per pound; carbonate of, precipitated, 15 per cent ad valorem.

12. Blacking of all kinds, and all creams and preparations for cleaning or polishing boots and shoes, 20 per cent ad valorem.

13. Bleaching powder, or chloride of lime, one-tenth of 1 cent per pound.

14. Bromin, 2 cents per pound.

15. Caffein, 75 cents per pound; impure tea, tea waste, tea siftings or sweepings, for manufacturing purposes, 1 cent per pound.

16. Calomel, corrosive sublimate, and other mercurial medicinal preparations, 15 per cent ad valorem.

17. Chalk, natural, ground or bolted, 10 per cent ad valorem; chalk, precipitated, suitable for medicinal or toilet purposes, 25 per cent ad valorem, but not less than one-half of 1 cent per pound; chalk put up in the form of cubes, blocks, sticks, or disks, or otherwise, including tailors', billiard, red, and other manufactures of chalk not specially provided for in this act or in the first section of the act cited for amendment, 25 per cent ad valorem.

18. Chemical and medicinal compounds and preparations, including mixtures and salts, distilled oils, essential oils, expressed oils, rendered oils, greases, ethers, flavoring and other extracts and fruit essences, all the foregoing and their combinations when containing alcohol, and all articles consisting of vegetable or mineral objects immersed or placed in, or saturated with, alcohol, except perfumery and spirit varnishes, if containing 20 per cent of alcohol or less, 10 cents per pound and 20 per cent ad valorem; containing more than 20 per cent and not more than 50 per cent of alcohol, 20 cents per pound and 20 per cent ad valorem; containing more than 50 per cent of alcohol, 40 cents per pound and 20 per cent ad valorem.

19. Chemical and medicinal compounds and all similar articles dutiable under this act or the first section of the act cited for amendment, whether specially provided for or not, put up in individual packages of 2 pounds or less net weight (except samples without commercial value sent by mail) shall be dutiable at a rate not less than 20 per cent ad valorem: *Provided*, That chemicals, drugs, medicinal and similar substances, whether dutiable or free, imported in capsules, pills, tablets, lozenges, troches, or similar forms, shall be dutiable at not less than 25 per cent ad valorem.

20. Chloroform, 4 cents per pound.

21. Coal-tar dyes or colors, not specially provided for in this act or in the first section of the act cited for amendment, 25 per cent ad valorem.

22. All other products or preparations of coal tar, not colors or dyes, not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

23. Coal-tar products known as dead and creosote oil, soluble and sulfonated dead and creosote oil, anthracene and anthracene oil, benzol, naphtol, resorcin, toluol, xylol; all the foregoing not medicinal and not colors or dyes, 5 per cent ad valorem.

24. Coal-tar products known as anilin oil and salts, toluidin, xylidin, cumidin, binitrotoluol, binitrobenzol, benzidin, tolidin, dianisidin, naphtylamin, diphenylamin, benzaldehyde, benzyl chloride, nitro-benzol and nitrotoluol, naphtylaminsulfoacids and their sodium or potassium salts, naphtolsulfoacids and their sodium or potassium salts, amidonaphtolsulfoacids and their sodium or potassium salts, amidosalicylic acid, binitrochlorbenzol, diamidostilbendisulfoacid, metanilic acid, paranitranilin, dimethylanilin; all the foregoing not medicinal and not colors or dyes, 10 per cent ad valorem.

25. Cobalt, oxide of, 10 cents per pound.

26. Collodion and all other liquid solutions of pyroxylin, or of other cellulose esters, or of cellulose, 15 per cent ad valorem but not less than 10 cents per pound; compounds of pyroxylin or of other cellulose esters, whether known as celluloid or by any other name, if in blocks, sheets, rods, tubes, or other forms not polished, wholly or partly, and not made into finished or partly finished articles, 15 per cent ad valorem but not less than 15 cents per pound; if polished, wholly or partly, or if finished or partly finished articles, of which collodion or any compound of pyroxylin or other cellulose esters, by whatever name known, is the component material of chief value, 35 per cent ad valorem but not less than 40 cents per pound.

27. Coloring for brandy, wine, beer, or other liquors, 40 per cent ad valorem.

28. Drugs, such as barks, beans, berries, buds, bulbs, bulbous roots, excrescences, fruits, flowers, dried fibers, dried insects, grains, gums, herbs, leaves, lichens, mosses, nuts, nutgalls, roots, stems, vegetables, seeds (aromatic, not garden seeds), seeds of morbid growth, weeds, and woods used expressly for dyeing or tanning; any of the foregoing which are natural and uncompounded drugs and not edible, and not specially provided for in this act or in the first section of the act cited for amendment, but which are advanced in value or condition by peeling, shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to the proper packing of the drugs and the prevention of decay or deterioration pending manufacture, 10 per cent ad valorem: *Provided*, That no article containing alcohol shall be classified for duty under this paragraph.

29. Ergot, 10 cents per pound.

30. Ethers: Sulphuric, 4 cents per pound; amyl nitrite, 20 per cent ad valorem but not less than 10 cents per pound; amyl acetate and ethyl acetate or acetic ether, 5 cents per pound; ethyl chloride, 20 per cent ad valorem; ethers of all kinds not specially provided for in this act or in the first section of the act cited for amendment, 25 per cent ad valorem but not less than 25 cents per pound: *Provided*, That no article containing alcohol shall be classified for duty under this paragraph.

31. Extracts of nutgalls and of Persian berries, 1 cent per pound; extracts of quebracho, of hemlock bark, of sumac, and extracts and decoctions of logwood and other dyewoods, extracts of barks and of woods other than dyewoods, such as are commonly used for dyeing or tanning, and all extracts of vegetable origin suitable for dyeing, coloring, staining, or tanning, all the foregoing not containing alcohol, not medicinal, and not specially provided for in this act or in the first section of the act cited for amendment, three-eighths of 1 cent per pound.

32. Extract of chlorophyll, 15 per cent ad valorem; saffron and safflower, and extract of, and saffron cake, 10 per cent ad valorem: *Provided*, That no article containing alcohol shall be classified for duty under this paragraph.

33. Formaldehyde solution containing not more than 40 per cent of formaldehyde, or formaline, 1 cent per pound.

34. Fusel oil, or amylic alcohol, one-fourth of 1 cent per pound.

35. Gelatin, glue, and glue size, valued not above 10 cents per pound, 1 cent per pound; valued above 10 cents per pound and not above 25 cents per pound, 15 per cent ad valorem; valued above 25 cents per pound, 25 per cent ad valorem; manufactures of gelatin or manufactures of which gelatin is the component material of chief value, 25 per cent ad valorem; isinglass and prepared fish sounds, 25 per cent ad valorem; agar-agar, 20 per cent ad valorem.

36. Glycerin, crude, not purified, 1 cent per pound; refined, 2 cents per pound.

37. Gums: Amber, and amberoid unmanufactured, or crude gum, $1 per pound; arabic, one-half of 1 cent per pound; camphor, crude, natural, 3 cents per pound; camphor, refined and synthetic, 5 cents per pound; chicle, 20 cents per pound; gum copal, one-half of 1 cent per pound; gum resin, 10 per cent ad valorem; dextrine, burnt starch or British gum, dextrine substitutes, and soluble or chemically treated starch, three-fourths of 1 cent per pound; gum Kauri and damar, and lac, crude, seed, button, and stick, 1 cent per pound; lac dye and shell, 1½ cents per pound.

38. Indigo, indigo extracts or pastes, and indigo carmined, 10 per cent ad valorem.

39. Ink and ink powders, 15 per cent ad valorem.

40. Iodine: Crude, 10 cents per pound; resublimed, 15 cents per pound; potassium iodide, 20 cents per pound; iodoform, 25 cents per pound.

41. Leaves, roots, and spices: Buchu leaves, 10 cents per pound; coca leaves, 10 cents per pound; gentian, one-fourth of 1 cent per pound; licorice root, unground, .15 cent per pound; sarsaparilla root, 1 cent per pound; all the foregoing in a crude state, and not advanced in value or condition by refining, grinding, or other process; cassia buds, cassia, and cassia vera; cinnamon and cinnamon chips; ginger root, unground and not preserved or candied; nutmegs; pepper, black or white; capsicum or red pepper, or cayenne pepper; and clove stems, 1 cent per pound; cloves, 2 cents per pound; pimento, three-fourths of 1 cent per pound; sage, one-half of 1 cent per pound; mace, 8 cents per pound; mustard, ground or prepared, in bottles or otherwise, 6 cents per pound; all other spices not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem.

42. Lemon juice, lime juice, and sour orange juice, all the foregoing containing not more than 2 per cent of alcohol, 10 per cent ad valorem.

43. Licorice, extracts of, in pastes, rolls, or other forms, 15 per cent ad valorem but not less than 2 cents per pound.

44. Lime, citrate of, 1 cent per pound.

45. Magnesia: Calcined, 3½ cents per pound; carbonate of, precipitated, 1½ cents per pound; sulphate of, or Epsom salts, one-tenth of 1 cent per pound; magnesite, calcined, not purified, $1 per ton.

46. Menthol, 50 cents per pound.

47. Methyl alcohol or wood alcohol, 5 cents per gallon.

48. Moss and sea grass, eel grass, and seaweeds, if manufactured or dyed, 10 per cent ad valorem.

49. Oils, rendered: Cod, sod, seal, herring, whale, and other fish oil, not specially provided for in this act or in the first section of the act cited for amendment, 5 cents per gallon; cod-liver oil, 12 cents per gallon; wool grease, including that known commercially as degras or brown wool grease, crude and not refined or improved in value or improved in value or condition, one-fourth of 1 cent per pound; refined or improved in value or condition, and not specially provided for in this act or in the first section of the act cited for amendment, one-half of 1 cent per pound; lanolin, 1 cent per pound; all other animal oils, rendered oils and greases, and all combinations of the same, not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

50. Oils, expressed: Alizarin assistant, sulphoricinoleic acid, and ricinoleic acid, and soaps containing castor oil, any of the foregoing in whatever form, and all other alizarin assistants and all soluble greases used in the processes of softening, dyeing, or finishing, not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem; castor oil, 20 cents per gallon; cocoanut oil, palm oil, palm-kernel oil, and soya-bean oil, one-fourth of 1 cent per pound; olive oil rendered unfit for use as food or for any but mechanical or manufacturing purposes, by such means as shall be satisfactory to the Secretary of the Treasury and under regulations to be prescribed by him, three-eighths of 1 cent per pound; flaxseed and linseed oil, raw, boiled, or oxidized, 13 cents per gallon; poppy-seed oil, raw, boiled, or oxidized, rapseed oil, and peanut oil, 10 cents per gallon; hempseed oil and Chinese-nut oil, 5 cents per gallon; almond oil, sweet, 5 cents per pound; mace oil, 8 cents per pound; sesame or sesamum seed or bean oil, 1½ cents per pound; olive oil, not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem; olive oil, in bottles, jars, kegs, or other packages containing less than 5 gallons each, 30 cents per gallon; all other expressed oils and all combinations of the same, not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

51. Oils, distilled and essential: Peppermint, 25 cents per pound; almond, bitter; anise or anise seed; bergamot; camomile; caraway; cassia; cinnamon; cedrat; citronella or lemon-grass; jasmine or jasmine; juniper; lavender, and aspic or spike lavender; lemon; limes; neroli or orange flower; orange; origanum, red or white; rosemary or anthoss; attar of roses; thyme; and valerian; all the foregoing oils, and all fruit oils and essences, and essential and distilled oils and all combinations of the same, not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem: *Provided*, That no article containing alcohol shall be classified for duty under this paragraph.

52. Opium, crude or unmanufactured, and not adulterated, containing 9 per cent and over of morphia, $3 per pound; opium of the same composition, dried to contain 15 per cent or less of moisture, powdered, or otherwise advanced beyond the condition of crude or unmanufactured, $4 per pound; morphia or morphine, sulphate of, and all alkaloids of opium, and salts and esters thereof, $3 per ounce; cocaine, ecgonine, and all salts and derivatives of the same, $2 per ounce; aqueous extract of opium, for medicinal uses, and tincture of, as laudanum, and other liquid preparations of opium, not specially provided for in this act or in the first section of the act cited for amendment, 60 per cent ad valorem; opium containing less than 9 per cent of morphia, $6 per pound; but preparations of opium deposited in bonded warehouses shall not be removed therefrom without payment of duties, and such duties shall not be refunded: *Provided*, That nothing herein contained shall be so construed as to repeal or in any manner impair or affect the provisions of an act entitled "An act to prohibit the importation and use of opium for other than medicinal purposes," approved February 9, 1909.

53. Perfumery, including cologne and other toilet waters, articles of perfumery, whether in sachets or otherwise, and all preparations used as applications to the hair, mouth, teeth, or skin, such as cosmetics, dentifrices, including tooth soaps, pastes, including theatrical grease paints, and pastes, pomades, powders, and other toilet articles, all the foregoing; if containing alcohol, 60 cents per pound and 50 per cent ad valorem; if not containing alcohol, 60 per cent ad valorem; floral or flower waters containing no alcohol, not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem.

54. Ambergris; enfleurage grease; musk, crude, in natural pods, and musk in the grain; civet, crude; all synthetic and essential oils and all other odoriferous substances or preparations suitable for the manufacture of perfumes or cosmetics, or flavoring extracts, not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem: *Provided*, That no article containing alcohol shall be classified for duty under this paragraph.

55. Plasters, healing or curative, of all kinds, and court-plaster, 15 per cent ad valorem.

56. Baryta, sulphate of, or barytes, including barytes earth, unmanufactured, 15 per cent ad valorem but not less than 40 cents per ton; manufactured, 20 per cent advalorem but not less than $1.30 per ton; blanc-fixe, or artificial sulphate of barytes, and satin white, or artificial sulphate of lime, 20 per cent ad valorem but not less than one-fourth of 1 cent per pound.

57. Blues, such as Berlin, Prussian, Chinese, and all others, containing ferrocyanide of iron, in pulp, dry or ground in or mixed with oil or water, 20 per cent ad valorem but not less than 3 cents per pound; ultramarine blue, whether dry, in pulp, or ground in or mixed with oil or water, and wash blue containing ultramarine, 20 per cent ad valorem but not less than 2 cents per pound.

58. Black pigments, made from bone, ivory, or vegetable substance, by whatever name known; gas black and lampblack, dry or ground in or mixed with oil or water, 15 per cent ad valorem.

59. Chrome yellow, chrome green, and all other chromium colors in the manufacture of which lead and bichromate of potash or soda are used, in pulp, dry, or ground in or mixed with oil or water, 20 per cent ad valorem but not less than 3 cents per pound.

60. Ocher and ochery earths, sienna and sienna earths, and umber and umber earths, Spanish brown, Venetian red, Indian red, and colcothar or oxide of iron, not specially provided for in this act or in the first section of the act cited for amendment, when crude or not powdered, washed or pulverized, 10 per cent ad valorem; if powdered, washed, pulverized, or ground in or mixed with oil or water, 20 per cent ad valorem.

61. Lead pigments: Litharge, orange mineral, red lead, white lead, and all pigments containing lead, dry or in pulp, and ground or mixed with oil or water, not specially provided for in this act or in the first section of the act cited for amendment, 25 per cent ad valorem but not less than 1 cent per pound.

62. Lead, acetate of, white, and nitrate of, 1¼ cents per pound; acetate of, brown, gray, or yellow, 1 cent per pound; all other lead compounds not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem.

63. Varnishes, including so-called gold size or japan, and enamel paints made with varnish, 25 per cent ad valorem: *Provided*, That spirit varnishes containing less than 10 per cent of methyl alcohol of the total percentage of alcohol contained therein, shall be dutiable at $1.32 per gallon and 25 per cent ad valorem.

64. Vermilion reds, containing quicksilver, dry or ground in oil or water, 15 per cent ad valorem but not less than 7½ cents per pound; when not containing quicksilver but made of lead or containing lead, 25 per cent but not less than 4 cents per pound.

65. Whiting and Paris white, dry, one-tenth of 1 cent per pound; ground in oil, or putty, 15 per cent ad valorem but not less than one-fourth of 1 cent per pound.

66. Zinc, oxide of, and white sulphid of, lithopone, and pigments containing zinc, but not containing lead, ground dry, 15 per cent ad valorem but not less than six-tenths of 1 cent per pound; when ground in or mixed with oil or water, 20 per cent ad valorem but not less than 1 cent per pound.

67. Zinc, chloride of and sulphate of, one-half of 1 cent per pound.

68. All paints, colors, pigments, stains, lakes, crayons, including charcoal crayons or fusians, smalts and frostings, and all ceramic and glass fluxes, glazes, enamels, and colors, whether crude, dry, mixed, or ground with water or oil or with solutions other than oil, not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem; all paints, colors, and pigments commonly known as artists' paints or colors, whether in tubes, pans, cakes, or other forms, 25 per cent ad valorem.

69. Potash: Bicarbonate of, and carbonate of, refined, one-half of 1 cent per pound; hydrate of, six-tenths of 1 cent per pound; hydrate of, in sticks or rolls, 1 cent per pound; chlorate of, chromate and bichromate of, 1 cent per pound; cyanide of, 1½ cents per pound; nitrate of, or saltpeter, crude, $3 per ton; refined, $7 per ton; permanganate of, 1½ cents per pound; prussiate of, red, 2 cents per pound; yellow, 1½ cents per pound.

70. Soaps: Toilet soaps, 40 per cent ad valorem, but not less than 20 cents per pound; medicinal soaps, 30 per cent ad valorem, but not less than 8 cents per pound; castile soap and all other soaps not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem, but not less than 1 cent per pound.

71. Soda: Arseniate of, chlorate of, and nitrite of, one-half of 1 cent per pound; bicarbonate of, or supercarbonate of, or saleratus, and other alkalies containing 50 per cent or more of bicarbonate of soda; hydrate of, or caustic; phosphate of; hyposulphite of; sulphid of, and sulphite of, one-fourth of 1 cent per pound; cyanide of, 1½ cents per pound; chromate and bichromate of, and yellow prussiate of, three-fourths of 1 cent per pound; borate of, or borax refined; crystal carbonate of, monohydrate, and sesquicarbonate of; sal soda, and soda crystals; silicates of; and soda ash, one-eighth of 1 cent per pound; and sulphate of soda crystallized, or Glauber salts, $1 per ton.

72. Sponges, 15 per cent ad valorem; manufactures of sponges, or of which sponge is the component material of chief value, not specially provided for in this act or in the first section of the act cited for amendment, 20 per cent ad valorem.

73. Sumac, ground, one-fifth of 1 cent per pound.

74. Talcum, steatite, and French chalk, powdered, washed, or pulverized, 15 per cent ad valorem.

75. Tin, chlorid of, tetrachlorid of, crystals and all other compounds of tin, not specially provided for in this act or in the first section of the act cited for amendment, 15 per cent ad valorem.

76. Vanillin, 10 cents per ounce; vanilla beans, 50 cents per pound; tonka beans, 25 cents per pound.

FREE LIST.

That on and after the day following the passage of this act, the articles enumerate, described, and provided for in the following paragraphs shall, when imported from any foreign country into the United

States or into any of its possessions (except the Philippine Islands and the Islands of Guam and Tutuila), be exempt from duty:

77. Acids: Acetic and pyroligneous, arsenic or arsenious, carbolic, chromic, fluoric, hydrochloric or muriatic, nitric, prussic, silicic, sulphuric acid and oil of vitriol, and valerianic.

78. Albumen, not specally provided for in this act or in the first section of the act cited for amendment.

79. Ammonia, sulphate of.

80. Antitoxins, vaccine virus, and all other serums derived from animals and used for therapeutic purposes.

81. Blue vitriol, or sulphate of copper; acetate and subacetate of copper, or verdigris.

82. Borax, crude and unmanufactured, and borate of lime, soda, and other borate material, crude and unmanufactured, not otherwise provided for in this act or in the first section of the act cited for amendment.

83. Calcium, acetate of, brown and gray, chloride of, crude, and nitrate of, crude.

84. Chalk, natural, not ground, bolted, precipitated, or otherwise manufactured.

85. Charcoal, blood char, bone char, or bone black, not suitable for use as a pigment.

86. Coal tar, crude, pitch of coal tar, and products of coal tar known as naphthalin, phenol and cresol; all the foregoing not medicinal and not colors or dyes.

87. Copperas, or sulphate of iron.

88. Drugs, such as barks, beans, berries, buds, bulbs, bulbous roots, excrescences, fruits, flowers, dried fibers, dried insects, grains, gums, herbs, leaves, lichens, mosses, nuts, nutgalls, logs, roots, stems, vegetables, seeds (aromatic, not garden seeds), seeds of morbid growth, weeds, and woods used expressly for dyeing or tanning; any of the foregoing which are natural and uncompounded drugs and not edible and not specially provided for in this act or in the first section of the act cited for amendment, and are in a crude state, not advanced in value or condition by peeling, shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to the proper packing of the drugs and the prevention of decay or deterioration pending manufacture: *Provided*, That no article containing alcohol shall be admitted free of duty under this paragraph.

89. Magnesite, crude, not purified.

90. Oils: Cottonseed oil; spermaceti, whale, and other fish oils of American fisheries, and all fish and other products of such fisheries; petroleum, crude or refined, including kerosene, benzine, naphtha, gasoline, and similar oils produced from petroleum.

91. Paris green and London purple.

92. Phosphorus.

93. Potash, crude, or "black salts"; carbonate of potash, crude; sulphate of potash, crude or refined; and muriate of potash.

94. Santonin, and all salts thereof.

95. Sheep dip containing five one-hundredths of 1 per cent of arsenic or more, not specially provided for in this act or in the first section of the act cited for amendment.

96. Soda, sulphate of, crude, or salt cake and niter cake.

97. Strychnia or strychnine, and all salts thereof.

98. Sulphur in any form, brimstone, and sulphur ore as pyrites, or sulphuret of iron in its natural state, containing in excess of 25 per cent of sulphur.

99. Talcum, steatite, and French chalk, crude and unground.

SEC. 2. That section 25 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, be, and the same is hereby, amended to read as follows:

"SEC. 25. That where imported materials on which duties have been paid are used in the manufacture of articles manufactured or produced in the United States there shall be allowed on the exportation of such articles a drawback equal in amount to the duties paid on the materials used, less 1 per cent of such duties: *Provided*, That when the articles exported are made in part from domestic materials the imported materials, or the parts of the articles made from such materials, shall so appear in the completed articles that the quantity or measure thereof may be ascertained: *And provided further*, That the drawback on any article allowed under existing law shall be continued at the rate herein provided. That the imported materials used in the manufacture or production of articles entitled to drawback of customs duties when exported shall, in all cases where drawback of duties paid on such materials is claimed, be identified, the quantity of such materials used and the amount of duties paid thereon shall be ascertained, the facts of the manufacture or production of such articles in the United States and their exportation therefrom shall be determined, and the drawback due thereon shall be paid to the manufacturer, producer, or exporter, to the agent of either or to the person to whom such manufacturer, producer, exporter, or agent shall in writing order such drawback paid, under such regulations as the Secretary of the Treasury shall prescribe.

"That on the exportation of flavoring extracts and of medicinal or toilet preparations (including perfumery) hereafter manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used: *Provided*, That no other than domestic tax-paid alcohol shall have been used in the manufacture or production of such preparations. Such drawbacks shall be determined and paid under such rules and regulations and upon the filing of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as the Secretary of the Treasury shall prescribe.

"That the provisions of this section shall apply to materials used in the construction and equipment of vessels built for foreign account and ownership, or for the Government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported."

SEC. 3. That on and after the day following the passage of this act all goods, wares, and merchandise previously imported and hereinbefore enumerated, described, and provided for, for which no entry has been made, and all such goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be subject to no other duty upon the entry or withdrawal thereof than the duty which would be imposed if such goods, wares, or merchandise were imported on or after that date.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

During the reading of the bill,

Mr. SIMMONS. I move that the Senate take a recess until this evening at half past 8 o'clock.

Mr. SMOOT. Mr. President, would it not be better to continue and finish the reading of the bill and then take a recess?

Mr. LODGE. Let us finish the reading of the bill.

Mr. SMOOT. I suggest to the Senator from North Carolina that the reading of the bill be concluded.

Mr. SIMMONS. I inquire on what page the Secretary is now reading?

The PRESIDENT pro tempore. There are about 15 pages more to be read, as the Chair is informed.

Mr. SIMMONS. Very well, I will withhold the motion.

The reading of the bill was resumed and concluded.

RECESS.

Mr. SIMMONS. I move that the Senate take a recess until half past 8 o'clock to-night.

The motion was agreed to, and thereupon (at 3 o'clock and 25 minutes p. m.) the Senate took a recess until 8.30 p. m.

EVENING SESSION.

At 8.30 p. m., on the expiration of the recess, the Senate reassembled.

THE CHEMICAL SCHEDULE.

The PRESIDENT pro tempore. The business before the Senate is the further consideration of House bill 20182.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 20182) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

Mr. SIMMONS. Mr. President, I desire to offer an amendment to the bill on behalf of the minority members of the Committee on Finance. On page 3 I move to strike out lines 3 and 4, which read as follows:

Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, 10 per cent ad valorem.

The PRESIDENT pro tempore. The Secretary will report the amendment proposed by the Senator from North Carolina.

The SECRETARY. On page 3 strike out lines 3 and 4, which read as follows:

Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, 10 per cent ad valorem.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from North Carolina.

Mr. SIMMONS. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. That Senator is necessarily absent, and I withhold my vote.

Mr. FLETCHER (when his name was called). I am paired with the senior Senator from Ohio [Mr. BURTON]. If he were present I should vote "yea." In his absence I withhold my vote.

Mr. THORNTON (when Mr. FOSTER's name was called). I announce the unavoidable absence of my colleague [Mr. FOSTER] on account of illness, and also that he has a general pair with the Senator from Wyoming [Mr. WARREN]. I will let this announcement stand for all subsequent roll calls during the evening.

Mr. GALLINGER (when his name was called). I am paired with the senior Senator from Virginia [Mr. MARTIN]. If I were privileged to vote I would vote "yea."

Mr. HEYBURN (when his name was called). I am paired with the senior Senator from Alabama [Mr. BANKHEAD]. He being absent, I withhold my vote.

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA]. In his absence I withhold my vote. If I were at liberty to vote I should vote "yea."

Mr. PENROSE (when his name was called). I have a general pair with the junior Senator from Mississippi [Mr. WILLIAMS], and therefore I withhold my vote on this and all other questions on the bill this evening.

Mr. LODGE (when Mr. ROOT's name was called). I desire to announce the pair of the senior Senator from New York [Mr. ROOT] with the Senator from Maine [Mr. JOHNSON]. I will let the announcement stand for the evening.

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). The senior Senator from Michigan [Mr. SMITH] is unavoidably absent from the city.

Mr. SUTHERLAND (when his name was called). I have a pair with the senior Senator from Maryland [Mr. RAYNER]. I transfer that pair to the Senator from Wisconsin [Mr. STEPHENSON] and vote. I vote "yea."

The roll call was concluded.

Mr. BURNHAM. I have a general pair with the junior Senator from Maryland [Mr. SMITH]. In his absence I withhold my vote. If he were present, I should vote "yea."

Mr. CRAWFORD (after having voted in the affirmative). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS], who is absent. Not knowing how he would vote, I will withdraw my vote. If I were at liberty to vote I should vote "yea."

Mr. BRANDEGEE. I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I inquire if that Senator has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. BRANDEGEE. Then I withhold my vote. If I were at liberty to vote, I should vote "yea."

Mr. BRIGGS (after having voted in the affirmative). I understand that the senior Senator from West Virginia [Mr. WATSON] has not voted. I therefore withdraw my vote. I have a general pair with that Senator.

Mr. CURTIS. I desire to announce that I am paired with the Senator from Nevada [Mr. NEWLANDS]. Were I at liberty to vote, I should vote "yea."

Mr. DILLINGHAM. I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], who is detained from the Chamber on account of illness. I therefore withhold my vote on this question and all others this evening.

Mr. CRANE (after having voted in the affirmative). In the absence of the junior Senator from Maine [Mr. GARDNER], with whom I am paired, I withdraw my vote.

Mr. McCUMBER. I have a general pair with the senior Senator from Mississippi [Mr. PERCY]. I will transfer that pair to the junior Senator from New Mexico [Mr. FALL], understanding that he has not voted, and vote "yea."

Mr. JOHNSTON of Alabama. I desire to announce the pairs of several Senators who are absent.

The Senator from Texas [Mr. BAILEY] is paired with the Senator from Montana [Mr. DIXON].

The Senator from Texas [Mr. CULBERSON] is paired with the Senator from Delaware [Mr. DU PONT].

The Senator from Indiana [Mr. KERN] is paired with the Senator from Tennessee [Mr. SANDERS].

The Senator from Nevada [Mr. NEWLANDS] is paired with the Senator from Kansas [Mr. CURTIS].

The Senator from Montana [Mr. MYERS] is paired with the Senator from Connecticut [Mr. MCLEAN].

The Senator from Oklahoma [Mr. OWEN] is paired with the Senator from South Dakota [Mr. GAMBLE].

The Senator from Ohio [Mr. POMERENE] is paired with the Senator from Michigan [Mr. TOWNSEND].

The Senator from Missouri [Mr. REED] is paired with the Senator from Michigan [Mr. SMITH].

The Senator from Maryland [Mr. SMITH] is paired with the Senator from New Hampshire [Mr. BURNHAM].

The Senator from South Carolina [Mr. SMITH] is paired with the Senator from Delaware [Mr. RICHARDSON].

The Senator from Missouri [Mr. STONE] is paired with the Senator from Wyoming [Mr. CLARK].

The Senator from Virginia [Mr. SWANSON] is paired with the Senator from Nebraska [Mr. BROWN].

The Secretary recapitulated the vote.

Mr. CLARK of Wyoming. I desire to announce the pair of my colleague [Mr. WARREN] with the Senator from Louisiana [Mr. FOSTER]. My colleague is absent from the Chamber on public business.

Mr. SANDERS (after having voted in the affirmative). Owing to a pair with the junior Senator from Indiana [Mr. KERN], I withdraw my vote.

Mr. TOWNSEND (after having voted in the affirmative). I have just been informed that I was paired with the junior Senator from Ohio [Mr. POMERENE]. I was not aware of that fact, but I am willing to abide the judgment of the Senator from Alabama as to that. There was some talk about my being paired until the 1st of July, so I withdraw my vote.

The PRESIDENT pro tempore. The Chair will state that less than a quorum of Senators has voted upon this amendment, but in order to give an opportunity to secure a quorum, if it is so desired, the Chair will not announce the result.

Mr. GALLINGER. I suggest that the vote ought to be announced and then the names of absentees called.

The result was announced—yeas 35, nays 0, as follows:

YEAS—35.

Ashurst	Clarke, Ark.	Lodge	Poindexter
Bacon	Cullom	Lorimer	Simmons
Borah	Cummins	McCumber	Smith, Ariz.
Bradley	Gronna	Nelson	Smoot
Bryan	Guggenheim	Oliver	Sutherland
Catron	Johnston, Ala.	Overman	Thornton
Chamberlain	Jones	Page	Wetmore
Chilton	Kenyon	Paynter	Works
Clapp	La Follette	Perkins	

NOT VOTING—59.

Bailey	Dillingham	Lippitt	Sanders
Bankhead	Dixon	McLean	Shively
Bourne	du Pont	Martin, Va.	Smith, Ga.
Brandegee	Fall	Martine, N. J.	Smith, Md.
Briggs	Fletcher	Myers	Smith, Mich.
Bristow	Foster	Newlands	Smith, S. C.
Brown	Gallinger	O'Gorman	Stephenson
Burnham	Gamble	Owen	Stone
Burton	Gardner	Penrose	Swanson
Clark, Wyo.	Gore	Percy	Tillman
Crane	Heyburn	Pomerene	Townsend
Crawford	Hitchcock	Rayner	Warren
Culberson	Johnson, Me.	Reed	Watson
Curtis	Kern	Richardson	Williams
Davis	Lea	Root	

Mr. LODGE. I make the point of no quorum, Mr. President.

The PRESIDENT pro tempore. The Senator from Massachusetts makes the point that there is no quorum present. The Secretary will call the roll of the Senate.

Mr. McCUMBER. Before that is done, I am satisfied from the vote that my pair would vote in the same way as I would vote. Therefore I will let my vote stand without the announcement of the pair. I transferred it to the junior Senator from New Mexico [Mr. FALL], who has since returned to the Chamber, and that will give him an opportunity to vote.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clarke, Ark.	Johnston, Ala.	Penrose
Bacon	Crane	Jones	Perkins
Borah	Crawford	Kenyon	Poindexter
Bradley	Cullom	La Follette	Sanders
Brandegee	Cummins	Lippitt	Simmons
Briggs	Curtis	Lodge	Smith, Ariz.
Bryan	Dillingham	Lorimer	Smith, Ga.
Burnham	Fall	McCumber	Smoot
Catron	Fletcher	Nelson	Sutherland
Chamberlain	Gallinger	Oliver	Thornton
Chilton	Gronna	Overman	Townsend
Clapp	Guggenheim	Page	Wetmore
Clark, Wyo.	Heyburn	Paynter	Works

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. SIMMONS. Mr. President, while the roll call has disclosed a quorum, it is apparent that on a vote there is no quorum present. I move that the Senate do now adjourn.

The motion was agreed to; and (at 8 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, July 3, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July 2, 1912.*

The House met at 12 o'clock noon, and was called to order by the Clerk of the House, Hon. South Trimble.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Holy, holy, Lord God Almighty, Maker of heaven and earth, let Thy blessing descend in all fullness upon us that our thoughts may harmonize with Thy thoughts, that our judgments may be in consonance with Thy judgment, and our acts conform to Thy will, that we may be the instruments in Thy hands for the furtherance of the plans which Thou hast ordained. In the spirit of the Lord Jesus Christ. Amen.

The Clerk read the following communication:

JULY 2, 1912.

Hon. SOUTH TRIMBLE,
Clerk House of Representatives:

I hereby appoint and designate Hon. T. W. SIMS, of Tennessee, to act as Speaker and preside over the House to-day.

CHAMP CLARK, *Speaker.*

Mr. SIMS took the chair as Speaker pro tempore amid applause.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent to make some corrections and extensions in remarks I made on the 24th, for the permanent RECORD.

The SPEAKER pro tempore. Without objection, the corrections will be made.

There was no objection.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I ask unanimous consent to take up for present consideration the Army appropriation bill and consider it in the House as in Committee of the Whole House on the state of the Union; that general debate upon the bill be confined to two hours, one hour of which to be controlled by the gentleman from Illinois [Mr. PRINCE] and the other hour by myself, and at the end of that time the previous question shall be considered as ordered and final vote be taken upon the bill.

The SPEAKER pro tempore. The gentleman from Virginia asks unanimous consent that the military appropriation bill be taken up and considered in the House as in the Committee of the Whole House on the state of the Union and that two hours of general debate be had, one half to be controlled by the gentleman from Illinois [Mr. PRINCE] and the other half by the gentleman from Virginia [Mr. HAY], and at the end of the two hours the previous question shall be considered as ordered and the bill voted on as a whole. Is there objection to the request of the gentleman from Virginia? [After a pause.] The Chair hears none.

Mr. HAY. Mr. Speaker, I ask unanimous consent that the Clerk report the bill by title.

The Clerk read as follows:

A bill (H. R. 25531) making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes.

Mr. HAY. Mr. Speaker, I ask unanimous consent to dispense with the first reading of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I suppose the bill ought to be read at some time. I am not sure, under the unanimous-consent agreement, it would be read.

Mr. UNDERWOOD. I will state to the gentleman from Illinois, the bill has been read in the House several times; it is exactly the bill which passed the House, the identical bill.

Mr. MANN. That is the statement of the gentleman from Alabama, which I have no doubt is accurate, but the only way to test that is to have the bill read in the House. This is a new bill.

Mr. GARNER. In order to obviate the difficulty if the gentleman from Illinois merely wants to print the bill, why not have unanimous consent to print the bill at this point?

Mr. MANN. Oh, I think every bill ought to be read at some time. I do not care which reading of the bill it is, but I take it the second reading would be dispensed with under the order, probably.

Mr. HAY. Mr. Speaker, if the bill is to be read, it might as well be read now as any other time.

The SPEAKER pro tempore. The gentleman withdraws the request?

Mr. HAY. Yes.

The SPEAKER pro tempore. The Clerk will read the bill.

The Clerk read as follows:

A bill (H. R. 25531) making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes.

Be it enacted, etc., That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1913.

Contingencies of the Army: For all contingent expenses of the Army not otherwise provided for, and embracing all branches of the military service, including the office of the Chief of Staff, to be expended under the immediate orders of the Secretary of War, $25,000.

OFFICE OF THE CHIEF OF STAFF.

Army War College: For expenses of the Army War College, being for the purchase of the necessary stationery, office, toilet, and desk furniture, textbooks, books of reference, scientific and professional papers and periodicals, printing and binding, maps, police utensils, employment of temporary, technical, or special services, and for all other absolutely necessary expenses, including $25 per month additional to regular compensation to chief clerk of division for superintendence of the War College Building, $9,000.

Contingencies military information section, General Staff Corps: For contingent expenses of the military information section, General Staff Corps, including the purchase of law books, professional books of reference, professional and technical periodicals and newspapers, and of the military attachés at the United States embassies and legations abroad; and of the branch office of the military information section at Manila, to be expended under the direction of the Secretary of War, $10,000: *Provided*, That section 3648, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals to be paid for from this appropriation.

United States service schools: To provide means for the theoretical and practical instruction at the Staff College (including the Army School of the Line, Army Field Engineer School, and the Army Signal School) at Fort Leavenworth, Kans., the Mounted Service School at Fort Riley, Kans., and the School of Fire for Field Artillery at Fort Sill, Okla., by the purchase of textbooks, books of reference, scientific and professional papers, the purchase of modern instruments and material for theoretical and practical instruction, and for all other absolutely necessary expenses, to be allotted in such proportions as may, in the opinion of the Secretary of War, be for the best interests of the military service, $30,000.

THE ADJUTANT GENERAL'S DEPARTMENT.

Contingencies, headquarters of military departments: For contingent expenses at the headquarters of the several military divisions and departments, including the Staff Corps serving thereat, being for the purchase of the necessary articles of office, toilet, and desk furniture, binding, maps, technical books of reference, professional and technical newspapers and periodicals, and police utensils, to be allotted by the Secretary of War, and to be expended in the discretion of the several military division and department commanders, $7,500.

UNDER THE CHIEF OF COAST ARTILLERY.

Coast Artillery School, Fort Monroe, Va.: For incidental expenses of the school, including chemicals, stationery, hardware; cost of special instruction of officers detailed as instructors; extra-duty pay to soldiers necessarily employed for periods not less than 10 days as artificers on work in addition to and not strictly in line with their military duties, such as carpenters, blacksmiths, draftsmen, printers, lithographers, photographers, engine drivers, telegraph operators, teamsters, wheelwrights, masons, machinists, painters, overseers, laborers; office furniture and fixtures, machinery, and unforeseen expenses, $10,000.

For purchase of engines, generators, motors, machines, measuring instruments, special apparatus and materials for the division of the enlisted specialists, $7,000.

For purchase of special apparatus and materials and for experimental purposes for the department of artillery, $3,000.

For purchase of generating, measuring, and mine apparatus, and materials for use in instruction of artillery troops in their special duties in connection with the loading and planting of submarine mines, $5,500.

For purchase and binding of professional books of recent date treating of military and scientific subjects for library and for use of school, $2,500.

Provided, That section 3648, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals to be paid for from this appropriation.

OFFICE OF THE CHIEF SIGNAL OFFICER.

Signal Service of the Army: For expenses of the Signal Service of the Army, as follows: Purchase, equipment, and repair of field electric telegraphs, signal equipments and stores, binocular glasses, telescopes, heliostats, and other necessary instruments, including necessary meteorological instruments for use on target ranges; war balloons and airplanes, including their maintenance and repair; telephone apparatus (exclusive of exchange service) and maintenance of the same; electrical installations and maintenance at military posts; fire control and direction apparatus and material for field artillery; maintenance and repair of military telegraph lines and cables, including salaries of civilian employees, supplies, and general repairs, and other expenses connected with the duty of collecting and transmitting information for the Army by telegraph or otherwise, $375,000: *Provided, however*, That not more than $75,000 of said amount shall be used for the purchase, maintenance, operation, and repair of airplanes and other aerial machines.

Washington-Alaska military cable and telegraph system: For defraying the cost of such extension and betterments of the Washington-Alaska military cable and telegraph system as may be approved by the Secretary of War, to be available until the close of the fiscal year 1914, from the receipts of the Washington-Alaska military cable and telegraph system that have been covered into the Treasury of the United States, the extent of such extensions and the cost thereof to be reported to Congress by the Secretary of War, $50,000.

Annunciator buzzer systems at target ranges: For the installation of annunciator buzzer systems at such target ranges as the Secretary of War may determine, $10,000.

PAY OF OFFICERS OF THE LINE.

For pay of officers of the line, $6,893,908.

For additional pay to officers for length of service, to be paid with their current monthly pay, $1,524,120. That no money appropriated by this act shall be paid to any officer for any period during which he shall have been detached for any duty of any kind for more than four of the preceding six years from the organization in which he is commissioned, unless such continuous detachment from such organization for more than four years shall have been specifically authorized by law.

PAY OF ENLISTED MEN.

For pay of enlisted men of all grades, including recruits, $15,832,000: *Provided*, That no part of the appropriation in this act for the pay of officers and enlisted men shall be paid to any officer or enlisted man in active service for any period of time lost by him on account of diseases which are the result of his own intemperate use of drugs or alcoholic liquors or other misconduct.

For additional pay for length of service, $1,535,000: *Provided*, That on and after the 1st day of July, 1912, there shall be 10 regiments of Cavalry, and no more, in the United States Army, and that the officers who shall be rendered supernumerary by this reduction in the number of Cavalry regiments shall be retained in service, and shall be assigned to vacancies in their respective grades as such vacancies shall occur in the Cavalry, or, in the discretion of the President, to such vacancies in their respective grades as shall occur in any other arm of the service: *Provided further*, That all officers of Cavalry made surplus by such reduction shall be transferred proportionately to the Infantry, Field Artillery, Coast Artillery, Cavalry, according to their relative commissioned personnel strength; and that the officers so transferred shall take rank in the branch to which transferred according to length of commissioned service: *And provided further*, That no officer shall be reduced in grade; and the Secretary of War is directed to carry out the provisions of this act.

CORPS OF ENGINEERS.

For pay of enlisted men, $477,840.

Additional pay for length of service, $65,000.

ORDNANCE DEPARTMENT.

For pay of enlisted men, $221,436.

Additional pay for length of service, $105,500.

QUARTERMASTER'S DEPARTMENT.

For pay of 200 post quartermaster sergeants, at $45 per month each, $108,000.

Additional pay for length of service, $38,000.

SUBSISTENCE DEPARTMENT.

For pay of 207 post commissary sergeants, at $45 per month each, $111,780.

Additional pay for length of service, $45,000.

SIGNAL CORPS.

For pay of 42 master signal electricians, at $900 each, $37,800.
For pay of 132 first-class sergeants, at $540 each, $71,280.
For pay of 144 sergeants, at $36 per month each, $62,208.
For pay of 24 cooks, at $30 per month each, $8,640.
For pay of 156 corporals, at $24 per month each, $44,928.
For pay of 552 first-class privates, at $18 per month each, $119,232.
For pay of 168 privates, at $15 per month each, $30,240.
Additional pay to 12 sergeants, serving as mess sergeants, at $6 per month each, $864.
Additional pay for length of service, $56,000.

HOSPITAL CORPS.

For pay of enlisted men, $850,000.
Additional pay for length of service, $160,000.

PAY TO CLERKS, MESSENGERS, AND LABORERS AT HEADQUARTERS OF DIVISIONS, DEPARTMENTS, POSTS COMMANDED BY GENERAL OFFICERS, AND OFFICE OF THE CHIEF OF STAFF.

One chief clerk, at the office of the Chief of Staff, $2,000 per annum.
Fourteen clerks, at $1,800 each per annum.
Fourteen clerks, at $1,600 each per annum.
Thirty-five clerks, at $1,400 each per annum.
Sixty-eight clerks, at $1,200 each per annum.
Seventy clerks, at $1,000 each per annum.
One captain of the watch, at $900 per annum.
Three watchmen, at $720 each per annum.
One gardener, at $720 per annum.
One packer, at $840 per annum.
Two messengers, at $840 each per annum.
Sixty messengers, at $720 each per annum.
One laborer, at $660 per annum.
Two laborers, at $600 each per annum.
One laborer, at $480 per annum.
Five charwomen, at $240 each per annum.
In all, $303,240.

And said clerks, messengers, and laborers shall be employed and assigned by the Secretary of War to the offices and positions in which they are to serve: *Provided*, That no clerk, messenger, or laborer at headquarters of divisions, departments, posts commanded by general officers, or office of the Chief of Staff shall be assigned to duty with any bureau in the War Department.

FOR PAY OF OFFICERS OF THE STAFF CORPS AND STAFF DEPARTMENTS.

Adjutant General's Department: For pay of officers in the Adjutant General's Department, $88,500.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $22,000.

Inspector General's Department: For pay of officers in the Inspector General's Department, $59,000.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $16,000.

The Corps of Engineers: For pay of officers in the Corps of Engineers, $460,300.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $110,000.

Ordnance Department: For pay of officers in the Ordnance Department, $228,500.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $50,000.

Quartermaster's Department: For pay of officers in the Quartermaster's Department, $348,200.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $86,340.

Subsistence Department: For pay of officers in the Subsistence Department, $123,800: *Provided*, That so much of section 1261 of the Revised Statutes as pertains to additional pay for acting commissaries be, and the same is hereby, repealed.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $34,480.

Medical Department: For pay of officers in the Medical Department, $1,547,800.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $185,000.

Pay Department: For pay of officers in the Pay Department, $152,000.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $40,220.

Judge Advocate General's Department: For pay of officers in the Judge Advocate General's Department, $45,500.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $8,700.

Signal Corps: For pay of the officers of the Signal Corps, $114,200.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $27,760.

Bureau of Insular Affairs: For pay of officers of the Bureau of Insular Affairs, $13,000.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $2,000.

RETIRED OFFICERS.

For pay of officers on the retired list and for officers who may be placed thereon during the current year, $2,800,000.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $465,000.

For increased pay to retired officers assigned to active duty, $46,550.

For additional pay to such officers for length of service, to be paid with their current monthly pay, $18,930.

RETIRED ENLISTED MEN.

For pay of the enlisted men of the Army on the retired list, $2,150,000.

MISCELLANEOUS.

For pay of 75 hospital matrons, $9,000.
For pay of one Superintendent Nurse Corps, $1,800.
For 125 nurses (female), $88,000.
For pay of 42 veterinarians, at $1,700 each, $71,400.

For additional pay to such veterinarians for length of service, to be paid with their current monthly pay, $13,240.

For pay of 30 dental surgeons, at $2,000 each, $60,000.

For additional pay to dental surgeons for length of service, to be paid with their current monthly pay, $12,000.

For pay of 30 acting dental surgeons, at $1,800 per annum, $54,000.
For pay of 10 contract surgeons, at $1,800 each per annum, $18,000.
For pay of Army paymasters' clerks, $156,250.
For pay of 15 Army paymasters' clerks, retired, $24,750.48.
For pay of paymasters' messengers, $19,000.

For traveling expenses of Army paymasters' clerks and expert accountant of the Inspector General's Department, $19,500: *Provided*, That hereafter Army paymasters' clerks and the expert accountant, Inspector General's Department, shall receive mileage at the same rates and under the same conditions as is provided by law for officers of the Army.

For expenses of courts-martial, courts of inquiry, military commissions, and compensation of reporters and witnesses attending the same, $35,000: *Provided*, That hereafter enlisted men may be detailed to serve as stenographic reporters for general courts-martial, courts of inquiry, military commissions, and retiring boards, and while so serving shall receive extra pay at the rate of not exceeding 5 cents for each 100 words taken in shorthand and transcribed, such extra pay to be met from the annual appropriation for expenses of courts-martial, etc.

For additional pay to officer in charge of public buildings and grounds at Washington, D. C., $1,000.

For commutation of quarters to commissioned officers, dental surgeons, and veterinarians on duty without troops at stations where there are no public quarters, $470,000.

For travel allowance to enlisted men on discharge, $800,000.

For clothing not drawn due to enlisted men on discharge, $600,000.

For interest on soldiers' deposits, $130,000, and so much as may be necessary to pay back such deposits.

For pay of translator and librarian of the military information section, General Staff Corps, $1,800.

For pay of expert accountant for the Inspector General's Department, $2,500.

For extra pay to enlisted men employed on extra duty for periods of not less than 10 days in the offices of district artillery engineers, and district ordnance officers, and as switchboard operators, at seacoast fortifications, $10,952.55.

For extra pay to enlisted men employed on extra duty as switchboard operators at each interior post of the Army, $11,369.75.

For extra pay to enlisted men of the line of the Army and to enlisted men of the Signal Corps employed in the Territory of Alaska on the Alaskan cable and telegraph system, for periods of not less than 10 days, at the rate of 35 cents per day, $32,000.

For mileage to officers, dental surgeons, veterinarians, and contract surgeons, "when authorized by law," $500,000.

For pay of one computer for Artillery Board, $2,500.

For payment of exchange by special disbursing agents of the Pay Department serving in foreign countries, and when specially authorized by the Secretary of War by the special disbursing agents of the Pay Department serving in Alaska, $600.

For subsistence, mileage, and commutation of quarters to officers of the National Guard attending service and garrison schools, $21,500.

For three months' additional pay to enlisted men reenlisting within the period of three months from date of discharge from first enlistment, $150,000.

For six months' additional pay to beneficiaries of officers and enlisted men who die while in active service from wounds or disease not the result of their own misconduct, $60,000.

For additional pay to officers below the grade of major required to be mounted and who furnish their own mounts, $180,000.

For amount required to make monthly payment to Jennie Carroll, widow of James Carroll, late major and surgeon, United States Army, as per act of Congress approved May 23, 1908, $1,500.

For amount required to make monthly payment to Mabel H. Lazear, widow of Jesse W. Lazear, late acting assistant surgeon, United States Army, as per act of Congress approved May 23, 1908, $1,500.

For amount required to make monthly payments of $100 to John R. Kissinger, late of Company D, One hundred and fifty-seventh Indiana Infantry Volunteers, also late of the Hospital Corps, United States Army, $1,200.

For Porto Rico Regiment of Infantry, composed of two battalions of four companies each:
Pay of officers, $65,700.
For additional pay for length of service, $10,000.
Pay of enlisted men, $138,960.
Additional pay for length of service, $35,000.

PHILIPPINE SCOUTS.

For pay of officers: For 52 captains, $124,800.
For pay of 64 first lieutenants, $128,000.
For pay of 64 second lieutenants, $108,800.
For pay of 12 majors, in addition to pay as captain, $600 each, $7,200.
Additional pay for length of service, $89,810.
For pay of enlisted men, $585,482.40.
For additional pay for length of service, $65,000.

All the money hereinbefore appropriated for pay of the Army and miscellaneous, except the appropriation for mileage of officers and contract surgeons when authorized by law, shall be disbursed and accounted for by officers of the Pay Department as pay of the Army and for that purpose shall constitute one fund.

Encampment and maneuvers, Organized Militia: For paying the expenses of the Organized Militia of any State, Territory, or of the District of Columbia, which may be authorized by the Secretary of War to participate in such encampments as may be established for the field instruction of the troops of the Regular Army, as provided by sections 15 and 21 of the act of January 21, 1903, entitled "An act to promote the efficiency of the militia, and for other purposes," to be immediately available and to remain available until the end of the fiscal year 1914, $1,350,000.

SUBSISTENCE DEPARTMENT.

Purchase of subsistence supplies: For issue, as rations to troops, civil employees when entitled thereto, hospital matrons, nurses, applicants for enlistment while held under observation, general prisoners of war (including Indians held by the Army as prisoners, but for whose subsistence appropriation is not otherwise made), Indians employed with the Army, without pay, as guides and scouts, and military convicts at posts; for the subsistence of the masters, officers, crews, and employees of the vessels of the Army transport service; hot coffee for troops traveling when supplied with cooked or travel rations; meals for recruiting parties, and applicants for enlistment while held under observation; authorized issues of soap, candles, matches, toilet paper, salt, vinegar, flour, and towels; authorized issues of toilet articles, barbers', laundry, and tailors' materials, for use of military convicts confined at military posts without pay or allowances, and applicants for enlistment while held under observation; for issues of toilet kits to recruits upon their first enlistment; ice for issue to organizations of enlisted men at such places as the Secretary of War may determine; for sales to officers and enlisted men of the Army; coffee roasters and cooking apparatus in the field, and when traveling (except on trans-

ports), bake ovens and apparatus pertaining thereto; scales, weights, measures, utensils, tools, stationery, blank books, and forms, office furniture, commissary chests and outfits, and field desks of commissaries: *Provided*, That the sum of $12,000 is authorized to be expended for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army and the Organized Militia who may be competitors in the national rifle match: *And provided further*, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred. For payments: Of commutation of rations to the cadets at the United States Military Academy in lieu of the regular established ration, at the rate of 30 cents per ration; of the regulation allowances of commutation in lieu of rations to enlisted men on furlough, enlisted men and male and female nurses when stationed at places where rations in kind can not be economically issued, and when traveling on detached duty where it is impracticable to carry rations of any kind, enlisted men selected to contest for places or prizes in department and Army rifle competitions while traveling to and from places of contest, male and female nurses on leaves of absence, applicants for enlistment and military convicts while traveling under orders; of commutation of rations in lieu of the regular established ration for members of the Nurse Corps (female) while on duty in hospital, at 40 cents per ration, and for enlisted men, applicants for enlistment while held under observation, and military convicts sick therein, at the rate of 30 cents per ration (except that at the general hospital at Fort Bayard, N. Mex., 50 cents per ration and at other general hospitals 40 cents per ration are authorized for enlisted patients therein, to be paid to the surgeon in charge); of compensation of civilians employed in the Subsistence Department; of extra pay to enlisted men employed on extra duty in the Subsistence Department for periods of not less than 10 days, at rates fixed by law; of extra-duty pay at rates to be fixed by the Secretary of War for mess stewards and cooks at recruit depots, who are to be graduates of the schools for bakers and cooks, and instructor cooks at the schools for bakers and cooks; for printing, advertising, commercial newspapers, and use of telephones; for temporary buildings, cellars, and other means of protecting subsistence supplies (when not provided by the Quartermaster's Department); for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $900 per *annum*; for other necessary expenses incident to the purchase, testing, care, preservation, issue, sale, and accounting for subsistence supplies for the Army; in all, $8,605,273, to be expended under the direction of the Secretary of War, and accounted for as "Subsistence of the Army," and for that purpose to constitute one fund.

QUARTERMASTER'S DEPARTMENT.

Regular supplies, Quartermaster's Department: Regular supplies of the Quartermaster's Department, including their care and protection, consisting of stoves and heating apparatus required for heating offices, hospitals, barracks and quarters, and recruiting stations, and United States military prison; also ranges and stoves, and appliances for cooking and serving food at posts, and repair and maintenance of such heating and cooking appliances; for furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons and contract dental surgeons when stationed at, and occupying public quarters at, military posts, for officers of the National Guard attending service and garrison schools, and for recruits, guards, hospitals, storehouses, offices, the buildings erected at private cost in the operation of the act approved May 31, 1902; for sale to officers, and including also fuel and engine supplies required in the operation of modern batteries at established posts; for post bakeries; for ice machines and their maintenance where required for the health and comfort of the troops and for cold storage; for the construction, operation, and maintenance of laundries at military posts in the United States and its island possessions; for extra-duty pay of enlisted men and hire of employees; for the necessary furniture, textbooks, paper, and equipment for the post schools and libraries; for the tableware and mess furniture for kitchens and mess halls, each and all for the enlisted men, including recruits; of forage in kind for the horses, mules, and oxen of the Quartermaster's Department at the several posts and stations and with the armies in the field, and for the horses of the several regiments of Cavalry, the batteries of Artillery, and such companies of Infantry and Scouts as may be mounted; for remounts and for the authorized number of officers' horses, including bedding for the animals; for seeds and implements required for the raising of forage at remount depots, and for labor and expenses incident thereto; for straw for soldiers' bedding, and for stationery, typewriters and exchange of same, including blank books for the Quartermaster's Department, certificates for discharged soldiers, blank forms for the Pay and Quartermaster's Departments, and for printing department orders and reports: *Provided*, That no part of the appropriations for the Quartermaster's Department shall be expended on printing unless the same shall be done at the Government Printing Office, or by contract after due notice and competition, except in such cases as the emergency will not admit of the giving notice of competition, and in cases where it is impracticable to have the necessary printing done by contract the same may be done, with the approval of the Secretary of War, by the purchase of material and hire of the necessary labor for the purpose. For the fiscal year ending June 30, 1913, whenever the ice machines, steam laundries, and electric plants shall not come in competition with private enterprise for sale to the public, and in the opinion of the Secretary of War it becomes necessary to the economical use and administration of such ice machines, steam laundries, and electric plants as have been or may hereafter be established in pursuance of law, surplus ice may be disposed of, laundry work may be done for other branches of the Government, and surplus electric light and power may be sold on such terms and in accordance with such regulations as may be prescribed by the Secretary of War: *Provided*, That the funds received from such sales and in payment for such laundry work shall be used to defray the cost of operation of said ice, laundry, and electric plants; and the sales and expenditures herein provided for shall be accounted for in accordance with the methods prescribed by law, and any sums remaining, after such cost of maintenance and operation have been defrayed, shall be deposited in the Treasury to the credit of the appropriation from which the cost of operation of such plant is paid: *Provided further*, That no part of this appropriation shall be expended for the installation of an electric lighting plant at Fort Niagara, $7,456,773.

For the purchase of the necessary instruments, office furniture, stationery, and other authorized articles required for the equipment and use of the officers' schools at the several military posts, $4,000.

Incidental expenses, Quartermaster's Department: Postage; cost of telegrams on official business received and sent by officers of the Army; extra pay to soldiers employed on extra duty, under the direction of the Quartermaster's Department, in the erection of barracks, quarters, and storehouses, in the construction of roads and other constant labor for periods of not less than 10 days, and as clerks for post quartermasters at military posts, and for prison overseers at posts designated by the War Department for the confinement of general prisoners, and for the United States military prison guard; for expenses of expresses to and from frontier posts and armies in the field, of escorts to paymasters and other disbursing officers and to trains where military escorts can not be furnished; authorized office furniture, hire of laborers in the Quartermaster's Department, including the care of officers' mounts when the same are furnished by the Government, and the hire of interpreters, spies, or guides for the Army; compensation of clerks and other employees to the officers of the Quartermaster's Department, and clerks, foremen, watchmen, and organist for the United States military prison, and incidental expenses of recruiting; for the apprehension, securing, and delivering of deserters, including escaped military prisoners, and the expenses incident to their pursuit, and no greater sum than $50 for each deserter or escaped military prisoner shall, in the discretion of the Secretary of War, be paid to any civil officer or citizen for such services and expenses; for a donation of $5 to each dishonorably discharged prisoner upon his release from confinement, under court-martial sentence, involving dishonorable discharge; for the following expenditures required for the several regiments of Cavalry, the batteries of Light Artillery, and such companies of Infantry and scouts as may be mounted, the authorized number of officers' horses, and for the trains, to wit: Hire of veterinary surgeons, purchase of medicines for horses and mules, picket ropes, blacksmith's tools and materials, horseshoes and blacksmith's tools for the Cavalry service, and for the shoeing of horses and mules, and such additional expenditures as are necessary and authorized by law in the movements and operations of the Army, and at military posts, and not expressly assigned to any other department, $1,736,337.

Horses for Cavalry, Artillery, Engineers, etc.: For the purchase of horses of ages, sex, and size as may be prescribed by the Secretary of War, for remounts, for officers entitled to public mounts, for the Cavalry, Artillery, Signal Corps, and Engineers, the United States Military Academy, service schools, and staff colleges, and for the Indian scouts, and for such Infantry and members of the Hospital Corps in field campaigns as may be required to be mounted, and the expenses incident thereto, and for the hire of employees: *Provided*, That the number of horses purchased under this appropriation, added to the number now on hand, shall be limited to the actual needs of the mounted service, including reasonable provisions for remounts, and, unless otherwise ordered by the Secretary of War, no part of this appropriation shall be paid out for horses not purchased by contract after competition duly invited by the Quartermaster's Department and an inspection under the direction and authority of the Secretary of War. When practicable, horses shall be purchased in open market at all military posts or stations, when needed, at a maximum price to be fixed by the Secretary of War: *Provided further*, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army Regulations for Cavalry and Artillery horses, except when purchased as remounts, or for instruction of cadets at the United States Military Academy: *Provided further*, That the accounting officers of the Treasury are hereby authorized and directed to remove any suspensions or disallowances in the accounts of quartermasters for the fiscal years 1910, 1911, and 1912, for the purchase, care, and foraging of horses, because of age, sex, or size, and for the purchase of seeds, machinery, and for labor and other expenditures in connection with the raising of forage at remount depots, from appropriations of the Quartermaster's Department, $275,000.

Barracks and quarters: For barracks, quarters, stables, storehouses, magazines, administration and office buildings, sheds, shops, and other buildings necessary for the shelter of troops, public animals, and stores, and for administration purposes, except those pertaining to the Seacoast Artillery; for repairing public buildings at military posts; for extra-duty pay to enlisted men and hire of employees; for rental of the authorized allowance of quarters for officers on duty with the troops at posts and stations where no public quarters are available; of barracks or authorized allowance of quarters for noncommissioned officers and enlisted men on duty where public quarters are not available; of grounds for cantonments, camp sites, and other military purposes, and of buildings or portions of buildings for occupation by troops, for use as stables, storehouses, and offices, and for other military purposes; for the hire of recruiting stations and lodgings for recruits; for such furniture for the public rooms of officers' messes and for officers' quarters at military posts, as may be approved by the Secretary of War; for wall lockers in permanent barracks and refrigerators in barracks and quarters; for screen doors, window screens, storm doors and sash, and window shades for barracks, offices, and quarters, and for flooring and framing for tents: *Provided*, That no part of the moneys so appropriated shall be paid for commutation of fuel or quarters to officers or enlisted men: *Provided further*, That the number of and total sum paid for civilian employees in the Quartermaster General's Department, including those paid from the fund appropriated for regular supplies, incidental expenses, barracks and quarters, Army transportation, clothing, camp and garrison equipage, shall be limited to the actual requirements of the service, and that no employee paid therefrom shall receive a salary of more than $150 per month, except upon the approval of the Secretary of War: *Provided further*, That of the amount herein appropriated the sum of $25,000 shall be immediately available for the construction of barracks and quarters: *Provided further*, That no part of this appropriation shall be expended at any Army post which the Secretary of War has decided or may decide to abandon in the interest of the service: *Provided further*, That no part of this appropriation shall be expended at any of the following named Army posts: Fort Apache, Boise Barracks, Fort Brady, Fort Clark, Fort George Wright, Fort Jay, Fort Lincoln, Fort Logan H. Root, Fort McIntosh, Fort McKenzie, Madison Barracks, Fort Meade, Fort Niagara, Fort Ontario, Fort Wayne, Whipple Barracks, Fort William Henry Harrison, Fort Yellowstone, Fort Ethan Allen, Plattsburg Barracks, Fort Robinson, Fort Missoula, Fort Logan, Fort Douglas, and Fort D. A. Russell: *Provided further*, That the Secretary of War be, and he is hereby, authorized to transfer and convey to the State of Texas, for the purpose of a State tuberculosis sanitarium, such portion of Fort Clark Military Reservation, not to exceed 640 acres, in the State of Texas, as the governor of the State or his representative and the President of the United States or his representative may agree upon: *Provided*, That should the State of Texas in any event refuse or fail to use or shall abandon the property herein authorized to be conveyed, or any portion thereof, for the purposes designated, then such land and property shall revert to the United States and become a part of the

public domain thereof, $1,621,389: *Provided further*, That no part of the sum appropriated by this act shall be used to convert a mobile Army post of less grade or size than a regimental post into a regimental post or a regimental post into a brigade post.

Military post exchange: For continuing the construction, equipment, and maintenance of suitable buildings at military posts and stations for the conduct of the post exchange, school, library, reading, lunch, amusement rooms, and gymnasium, including repairs to buildings erected at private cost in the operation of the act approved May 31, 1902, to be expended in the discretion and under the direction of the Secretary of War, $40,000.

Transportation of the Army and its supplies: For transportation of the Army and its supplies, including transportation of the troops when moving either by land or water, and of their baggage, including the cost of packing and crating; for transportation of recruits and recruiting parties; of applicants for enlistment between recruiting stations and recruiting depots; of persons on their discharge from the United States military prison to their homes (or elsewhere as they may elect), provided the cost in each case shall not be greater than to the place of last enlistment; of supplies furnished to the militia for the permanent equipment thereof; of the necessary agents and other employees; of clothing and equipage and other quartermaster's stores from Army depots or places of purchase or delivery to the several posts and Army depots and from those depots to the troops in the field; of horse equipments and of subsistence stores from places of purchase and from the places of delivery under contract to such places as the circumstances of the service may require them to be sent; of ordnance and ordnance stores and small arms from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; for payment of wharfage tolls and ferriage; for transportation of funds of the Army; for the hire of employees; for the payment of Army transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant acts), but in no case shall more than 50 per cent of full amount of service be paid: *Provided*, That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large, and shall be accepted as in full for all demands for such service: *Provided further*, That in expending the money appropriated by this act a railroad company which has not received aid in bonds of the United States, and which obtained a grant of public land to aid in the construction of its railroad on condition that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose restricting the charge for such Government transportation, having claims against the United States for transportation of troops and munitions of war and military supplies and property over such aided railroads, shall be paid out of the moneys appropriated by the foregoing provision only on the basis of such rate for the transportation of such troops and munitions of war and military supplies and property as the Secretary of War shall deem just and reasonable under the foregoing provision, such rate not to exceed 50 per cent of the compensation for such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in full for all demands for such service; for the purchase and hire of draft and pack animals in such numbers as are actually required for the service, including reasonable provision for replacing unserviceable animals; for the purchase, hire, operation, maintenance, and repair of such harness, wagons, carts, drays, and other vehicles as are required for the transportation of troops and supplies, and for official, military, and garrison purposes; for drayage and cartage at the several depots; for the hire of teamsters and other employees; and for extra-duty pay of enlisted men driving teams, repairing means of transportation, and employed as train masters; for the purchase and repair of ships, boats, and other vessels required for the transportation of troops and supplies and for official, military, and garrison purposes; for expenses of sailing public transports and other vessels on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans, $10,723,528.

Roads, walks, wharves, and drainage: For the construction and repairs by the Quartermaster's Department of roads, walks, and wharves; for payment of extra-duty pay to enlisted men employed in opening roads and in building wharves; for the pay of employees; for the disposal of drainage; for dredging channels and for care and improvement of grounds at military posts and stations, $598,557: *Provided further*, That no part of this appropriation shall be expended at any of the following-named Army posts: Fort Apache, Boise Barracks, Fort Brady, Fort Clark, Fort George Wright, Fort Jay, Fort Lincoln, Fort Logan H. Root, Fort McIntosh, Fort McKenzie, Madison Barracks, Fort Meade, Fort Niagara, Fort Ontario, Fort Wayne, Whipple Barracks, Fort William Henry Harrison, Fort Yellowstone, Fort Ethan Allen, Plattsburgh Barracks, Fort Robinson, Fort Missoula, Fort Logan, Fort Douglas, and Fort D. A. Russell.

Water and sewers at military posts: For procuring and introducing water to buildings and premises at such military posts and stations as from their situation require it to be brought from a distance; for the installation and extension of plumbing within buildings where the same is not specifically provided for in other appropriations; for the purchase and repair of fire apparatus, including fire-alarm systems; for the disposal of sewage; for repairs to water and sewer systems and plumbing within buildings; and for extra-duty pay of enlisted men and hire of employees, $1,702,595: *Provided*, That no part of this appropriation shall be expended for permanent improvements at any of the following-named Army posts: Fort Apache, Boise Barracks, Fort Brady, Fort Clark, Fort George Wright, Fort Jay, Fort Lincoln, Fort Logan H. Root, Fort McIntosh, Fort McKenzie, Madison Barracks, Fort Meade, Fort Niagara, Fort Ontario, Fort Wayne, Whipple Barracks, Fort William Henry Harrison, Fort Yellowstone, Fort Ethan Allen, Plattsburg Barracks, Fort Robinson, Fort Missoula, Fort Logan, Fort Douglas, and Fort D. A. Russell.

Barracks and quarters, Philippine Islands: Continuing the work of providing for the proper shelter and protection of officers and enlisted men of the Army of the United States lawfully on duty in the Philippine Islands, including repairs and payment of rents, the acquisition of title to building sites, and such additions to existing military reservations as may be necessary, and includng also shelter for the animals and supplies, and all other buildings necessary for post administration purposes, $450,000: *Provided*, That no part of said sum shall be expended for the construction of quarters for officers of the Army the total cost of which, including the heating and plumbing apparatus, wiring and fixtures, shall exceed in the case of quarters of a general officer the sum of $8,000; of a colonel or officer above the rank of captain, $6,000; and of an officer of and below the rank of captain, $4,000.

Clothing and camp and garrison equipage: For cloth, woolens, materials, and for the manufacture of clothing for the Army, for issue and for sale at cost price according to the Army regulations; for altering and fitting clothing and washing and cleaning when necessary; for equipage, and for expenses of packing and handling and similar necessaries; for a suit of citizen's outer clothing, to cost not exceeding $10, to be issued upon release from confinement to each prisoner who has been confined under a court-martial sentence involving dishonorable discharge; for indemnity to officers and men of the Army for clothing and bedding, etc., destroyed since April 22, 1898, by order of medical officers of the Army for sanitary reasons, $4,813,271.

Construction and repair of hospitals: For construction and repair of hospitals at military posts already established and occupied, including the extra-duty pay of enlisted men employed on the same, and including also all expenditures for construction and repairs required at the Army and Navy Hospital at Hot Springs, Ark., and for the construction and repair of general hospitals and expenses incident thereto, and for additions needed to meet the requirements of increased garrisons, $450,000.

Quarters for hospital stewards: For construction and repair of quarters for hospital stewards at military posts already established and occupied, including the extra-duty pay of enlisted men employed on the same, $10,000.

Shooting galleries and ranges: For shelter, shooting galleries, ranges for small-arms target practice, repairs, and expenses incident thereto, including the extra-duty pay of enlisted men and hire of employees, such ranges and galleries to be open, as far as practicable, to the National Guard and organized rifle clubs under regulations to be prescribed by the Secretary of War: *Provided*, That of this amount the sum of $3,450, or so much thereof as may be necessary, is made immediately available for the purchase of additional land adjoining the military reservation of Fort D. A. Russell, Wyo., for use in connection with the rifle range, $93,336.

Maintenance of the Army War College: For supplying the necessary fuel for heating the Army War College building at Washington Barracks and for lighting the building and grounds; also for pay of a chief engineer, at $1,200 per annum; an assistant engineer, at $900; 4 firemen, at $720 each; 1 elevator conductor, at $720, $10,700.

Rent of buildings, Quartermaster's Department: For rent of buildings and parts of buildings in the District of Columbia, for military purposes, during the fiscal year 1913, as follows:

Field medical supply depot, $5,567.10;
Signal Corps test rooms, $2,100;
Quartermaster's stable, $2,700;
Quartermaster's stable and storehouse, $4,938;
Quartermaster's storehouse, $3,600;
Quartermaster's stable and warehouse, $3,600;
Five floors for Army Medical School, $8,680;
Six rooms for attending surgeon and retiring board, $1,000;
Depot quartermaster's office, $2,500;
Garage, Quartermaster's Department, $1,500;
One room (for storage purposes), Quartermaster's Department, $54;
Quarters for officers, noncommissioned officers, and privates on duty with troops where no public quarters are available, $13,347.90;
In all, $49,587.

MEDICAL DEPARTMENT.

Medical and hospital department: For the purchase of medical and hospital supplies, including ambulances and disinfectants, for military posts, camps, hospitals, hospital ships, and transports; for expenses of medical supply depots; for medical care and treatment not otherwise provided for, including care and subsistence in private hospitals of officers, enlisted men, and of civilian employees of the Army, of applicants for enlistment, and of prisoners of war and other persons in military custody or confinement, when entitled thereto by law, regulation, or contract: *Provided*, That this shall not apply to officers and enlisted men who are treated in private hospitals or by civilian physicians while on furlough; for the proper care and treatment of epidemic and contagious diseases in the Army or at military posts or stations, including measures to prevent the spread thereof, and the payment of reasonable damages not otherwise provided for for bedding and clothing injured or destroyed in such prevention; for the pay of male and female nurses, not including the Nurse Corps (female), and of cooks and other civilians employed for the proper care of sick officers and soldiers, under such regulations fixing their number, qualifications, assignment, pay, and allowances as shall have been or shall be prescribed by the Secretary of War; for the pay of civilian physicians employed to examine physically applicants for enlistment and enlisted men, and to render other professional services from time to time under proper authority; for the pay of other employees of the Medical Department; for the payment of express companies and local transfers employed directly by the Medical Department for the transportation of medical and hospital supplies, including bidders' samples and water for analysis; for supplies for use in teaching the art of cooking to the Hospital Corps; for the supply of the Army and Navy Hospital at Hot Springs, Ark.; for advertising, laundry, and all other necessary miscellaneous expenses of the Medical Department, $700,000.

Army Medical Museum and library: For Army Medical Museum, preservation of specimens, and the preparation and purchase of new specimens, $5,000.

For the library of the Surgeon General's office, including the purchase of necessary books of reference and periodicals, $10,000.

BUREAU OF INSULAR AFFAIRS.

Care of insane Filipino soldiers: For the care, maintenance, and treatment at asylums in the Philippine Islands of insane natives of the Philippine Islands cared for in such institutions conformably to the act of Congress approved May 11, 1908, $2,000.

Care of insane soldiers, Porto Rico Regiment of Infantry: For the care, maintenance, and treatment at asylums in Porto Rico of insane soldiers of the Porto Rico Regiment of Infantry, $500.

ENGINEER DEPARTMENT.

Engineer depots: For incidental expenses for the depots, including fuel, lights, chemicals, stationery, hardware, machinery, pay of civilian clerks, mechanics, and laborers, extra-duty pay to soldiers necessarily employed for periods not less than 10 days as artificers on work in addition to and not strictly in the line of their military duties, such as carpenters, blacksmiths, draftsmen, printers, lithographers, photographers, engine drivers, telegraph operators, teamsters, wheelwrights, masons, machinists, painters, overseers, laborers; for lumber and materials and for labor for packing and crating engineer supplies; repairs of and for materials to repair public buildings, machinery, and for unforeseen expenses, $20,000.

For purchase and repair of instruments to be issued to officers of the Corps of Engineers and to officers detailed and on duty as acting engineer officers for use on public works and surveys, $10,000.

Engineer School, Washington, D. C.: Equipment and maintenance of the Engineer School at Washington Barracks, D. C., including purchase of instruments, machinery, implements, models, and materials for the use of the school and for instruction of engineer troops in their special duties as sappers and miners; for land mining, pontoniering, and signaling; for purchase and binding of professional works and periodicals of recent date treating of military and civil engineering and kindred scientific subjects for the library of the United States Engineer School; for incidental expenses of the school, including fuel, lights, chemicals, stationery, hardware, machinery, and boats; for pay of civilian clerks, draftsmen, electricians, mechanics, and laborers; for extra-duty pay to soldiers necessarily employed for periods of not less than 10 days as artificers on work in addition to and not strictly in the line of their military duties, such as carpenters, blacksmiths, draftsmen, printers, lithographers, photographers, engine drivers, telegraph operators, telephone operators, teamsters, wheelwrights, masons, machinists, painters, overseers, laborers; for repairs of and materials to repair public buildings and machinery; for unforeseen expenses; for travel expenses of officers on journeys approved by the Secretary of War and made for the purpose of instruction: *Provided*, That the traveling expenses herein provided for shall be in lieu of mileage and other allowances; and to provide means for the theoretical and practical instruction at the Engineer School by the purchase of textbooks, books of reference, scientific and professional papers, and for other absolutely necessary expenses, $25,000.

Engineer equipment of troops: For pontoon material, tools, instruments, and supplies required for use in the engineer equipment of troops, including the purchase and preparation of engineer manuals, $90,000.

Civilian assistants to engineer officers: For services of surveyors, survey parties, draftsmen, photographers, master laborers, and clerks to engineer officers on the staff of division, corps, and department commanders, $40,000.

Contingencies, Engineer Department, Philippine Islands: For contingent expenses incident to the operations of the Engineer Department in the Philippine Islands, to be expended at the discretion of the Secretary of War, $5,000.

ORDNANCE DEPARTMENT.

Ordnance service: For the current expenses of the Ordnance Department, in connection with purchasing, receiving, storing, and issuing ordnance and ordnance stores, comprising police and office duties, rents, tolls, fuel, light, water, and advertising, stationery, typewriters, and adding machines, including their exchange, and office furniture, tools, and instruments of service; for incidental expenses of the ordnance service and those attending practical trials and tests of ordnance, small arms, and other ordnance stores; and for publications for libraries of the Ordnance Department, including the Ordnance Office, and payment for mechanical labor in the office of the Chief of Ordnance, $300,000.

Ordnance stores—Ammunition: Manufacture and purchase of ammunition and materials therefor for small arms for reserve supply; ammunition for burials at the National Soldiers' Home in Washington, D. C.; ammunition for firing the morning and evening gun at military posts prescribed by General Orders, No. 70, Headquarters of the Army, dated July 23, 1867, and at National Home for Disabled Volunteer Soldiers and its several branches, including National Soldiers' Home in Washington, D. C., and soldiers' and sailors' State homes, $250,000: *Provided*, That no part of this appropriation shall be paid for small-arms powder at a price exceeding 71 cents a pound.

Small-arms target practice: Ammunition, targets, and other accessories for small-arms and machine-gun target practice and instruction; marksmen's medals, prize arms, and insignia for all arms of the service; and ammunition, targets, target material, and other accessories may be issued for small-arms target practice and instruction at the educational institutions and State soldiers' and sailors' orphans' homes, to which issues of small arms are lawfully made, under such regulations as the Secretary of War may prescribe, provided the total value of the stores so issued to the educational institutions does not exceed $30,000, $740,000: *Provided*, That no part of this appropriation shall be paid for small-arms powder at a price exceeding 71 cents a pound.

Manufacture of arms: For manufacturing, repairing, procuring, and issuing arms at the national armories, $600,000.

Ordnance stores and supplies: For overhauling, cleaning, repairing, and preserving ordnance and ordnance stores in the hands of troops and at the arsenals, posts, and depots; for purchase and manufacture of ordnance stores to fill requisitions of troops; for Infantry, Cavalry, and Artillery equipments, including horse equipments for Cavalry and Artillery, $700,000.

National trophy and medals for rifle contests: For the purpose of furnishing a national trophy and medals and other prizes to be provided and contested for annually, under such regulations as may be prescribed by the Secretary of War, said contest to be open to the Army, Navy, Marine Corps, and the National Guard or Organized Militia of the several States, Territories, and of the District of Columbia, members of rifle clubs, and civilians, and for the cost of the trophy, prizes, and medals herein provided for, and for the promotion of rifle practice throughout the United States, including the reimbursement of necessary expenses of members of the National Board for the Promotion of Rifle Practice, to be expended for the purposes hereinbefore prescribed under the direction of the Secretary of War, $10,000.

Automatic machine rifles: For the purchase, manufacture, and test of automatic machine rifles, including their sights and equipments, to be available until the close of the fiscal year ending June 30, 1914, $100,000.

Field artillery for Organized Militia: For the purpose of procuring field artillery material for the Organized Militia of the several States, Territories, and the District of Columbia, without cost to the said States, Territories, or the District of Columbia, but to remain the property of the United States and to be accounted for in the manner now prescribed by law, the Secretary of War is hereby authorized, under such regulations as he may prescribe, on the requisitions of the governors of the several States and Territories or the commanding general of the Militia of the District of Columbia, to issue said artillery material to the Organized Militia; and the sum of $770,000 is hereby appropriated and made immediately available and to remain available until the end of the fiscal year 1914, for the procurement and issue of the articles constituting the same: *Provided*, That hereafter when authorized transfers or sales of ordnance or ordnance stores are made to another bureau of the War Department, or to another executive department of the Government, payment therefor shall be made by the proper disbursing officer of the bureau, office, or department concerned. When the transaction is between two bureaus of the War Department, the price to be charged shall be the cost price of the stores, including the cost of inspection. When the transaction is between the Ordnance Department and another executive department of the Government, the price to be charged shall include the cost price of the stores and the costs of inspection and transportation.

SEC. 2. That hereafter all enlistments in the Army shall be made for the term of five years, and for all enlistments hereafter accomplished five years shall be counted as an enlistment period in computing continuous-service pay.

SEC. 3. That all laws and parts of laws authorizing increase of the pay of commissioned officers and enlisted men of the Army serving beyond the limits of the States comprising the Union, and the Territories of the United States contiguous thereto, are hereby repealed to the extent to which such increase of pay is authorized by such laws.

SEC. 4. That the office establishments of the Quartermaster General, the Commissary General, and the Paymaster General of the Army are hereby consolidated and shall hereafter constitute a single bureau of the War Department, which shall be known as the Quartermaster Corps, and of which the Chief of the Quartermaster Corps created by this act shall be the head. The Quartermaster's, Subsistence, and Pay Departments of the Army are hereby consolidated into and shall hereafter be known as the Quartermaster Corps of the Army. The officers of said departments shall hereafter be known as officers of said corps and by the titles of the rank held by them therein, and, except as hereinafter specifically provided to the contrary, the provisions of sections 26 and 27 of the act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," are hereby extended so as to apply to the Quartermaster Corps in the manner and to the extent to which they now apply to the Quartermaster's, Subsistence, and Pay Departments, and the provisions of said sections of said act relative to chiefs of staff corps and departments shall, so far as they are applicable, apply to all offices and officers of the Quartermaster Corps with rank above that of colonel. The officers now holding commissions as officers of the said departments shall hereafter have the same tenure of commission in the Quartermaster Corps, and as officers of said corps shall have rank of the same grades and dates as that now held by them, and, for the purpose of filling vacancies among them, shall constitute one list, on which they shall be arranged according to rank. So long as any officers shall remain on said list any vacancy occurring therein shall be filled, if possible, from among such officers, by selection if the vacancy occurs in a grade above that of colonel, and, if the vacancy occurs in a grade not above that of colonel, by the promotion of an officer who would have been entitled to promotion to that particular vacancy if the consolidation of departments hereby prescribed had never occurred. The noncommissioned officers now known as post quartermaster sergeants and post commissary sergeants shall hereafter be known as quartermaster sergeants; the Army paymaster's clerks shall be known as pay clerks, and each of said noncommissioned officers and pay clerks shall continue to have the pay, allowances, rights, and privileges now allowed him by law: *Provided*, That no details to fill vacancies in the grade of major in the Quartermaster Corps shall be made until the number of officers of that grade shall have been reduced by 11, and thereafter the number of officers in said grade shall not exceed 46; and no details to fill vacancies in the grade of captain in the Quartermaster Corps shall be made until after the number of officers of that grade shall be reduced by 31, and thereafter the number of officers of said grade shall not exceed 100; and whenever the separation of a line officer of any grade and arm from the Quartermaster Corps shall create therein a vacancy that, under the terms of this proviso, can not be filled by detail such separation shall operate to make a permanent reduction of one in the total number of officers of said grade and arm in the line of the Army as soon as such reduction can be made without depriving any officer of his commission: *Provided further*, That whenever the Secretary of War shall decide that it is necessary and practicable, regimental, battalion, and squadron quartermasters and commissaries shall be required to perform any duties that junior officers of the Quartermaster Corps may properly be required to perform, and regimental and battalion quartermaster and commissary sergeants shall be required to perform any duties that noncommissioned officers or pay clerks of the Quartermaster Corps may properly be required to perform: *Provided further*, That such duty or duties as are now required by law to be performed by any officer or officers of the Quartermaster's, Subsistence, or Pay Departments shall hereafter be performed by such officer or officers of the Quartermaster Corps as the Secretary of War may designate for the purpose: *Provided further*, That there shall be a Chief of the Quartermaster Corps, who shall have the rank of major general while so serving, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among the officers of said corps and in accordance with the requirements of section 26 of the act of Congress approved February 2, 1901, hereinbefore cited: *Provided further*, That when the first vacancy in the grade of brigadier general in the Quartermaster Corps, except a vacancy caused by the expiration of a limited term of appointment, shall hereafter occur that vacancy shall not be filled, but the office in which the vacancy occurs shall immediately cease and determine: *Provided further*, That the Quartermaster Corps shall be subject to the supervision of the Chief of Staff to the extent the departments hereby consolidated into said corps have heretofore been subject to such supervision under the terms of the existing law.

SEC. 5. That as soon as practicable after the creation of a Quartermaster Corps in the Army not to exceed 4,000 civilian employees of that corps, receiving a monthly compensation of not less than $30 nor more than $175 each, not including civil engineers, superintendents of construction, inspectors of clothing, clothing examiners, inspectors of supplies, inspectors of animals, chemists, veterinarians, freight and passenger rate clerks, employees of the classified service, employees of the Army transport service and harbor-boat service, and such other employees as may be required for technical work, shall be replaced permanently by not to exceed an equal number of enlisted men of said corps, and all enlisted men of the line of the Army detailed on extra duty in the Quartermaster Corps or as bakers or assistant bakers shall be replaced permanently by not to exceed 2,000 enlisted men of said corps; and for the purposes of this act the enlistment in the military service of not to exceed 6,000 men, who shall be attached permanently to the Quartermaster Corps and who shall not be counted as a part of the enlisted force provided by law, is hereby authorized: *Provided*, That the enlisted force of the Quartermaster Corps shall consist of not to exceed 15 master electricians, 600 sergeants (first class), 1,005 sergeants, 650 corporals, 2,500 privates (first class), 1,190 privates, and 45 cooks, all of whom shall receive the same pay and allowances as enlisted men of corresponding grades in the Signal Corps of the Army, and shall be assigned to such duties pertaining to the Quartermaster Corps as the Secretary of War may prescribe: *Provided further*, That the Secretary of War may fix the limits of age within which civilian employees who are actually employed by the Government when this act takes effect and who are to be replaced by enlisted men under the

terms of this act may enlist in the Quartermaster Corps: *Provided further*, That nothing in this section shall be held or construed so as to prevent the employment of the class of civilian employees excepted from the provisions of this act or the continued employment of civilians included in the act until such latter employees have been replaced by enlisted men of the Quartermaster Corps.

SEC. 6. That the office establishments of The Adjutant General, the Inspector General, and the Chief of Staff of the Army are hereby consolidated, and shall hereafter constitute a single bureau of the War Department, which shall be known as the Bureau of the General Staff, and of which the Chief of Staff shall be the head. The Adjutant General's and Inspector General's Departments of the Army are hereby consolidated and merged into the General Staff Corps. The officers of said departments shall hereafter be known as officers of said corps and by the titles of the rank held by them therein, and, except as hereinafter specifically provided to the contrary, so far as the officers hereby transferred to the General Staff Corps, and the offices held by them, may be affected, the provisions of sections 26 and 27 of the act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," are hereby extended so as to apply to the General Staff Corps in the manner and to the extent to which they now apply to The Adjutant General's and the Inspector General's Departments; but nothing in said sections shall be held to apply to any officers of the General Staff Corps except the officers transferred to that corps from The Adjutant General's and Inspector General's Departments by the terms of this act, and nothing in said sections or in this act shall be held or construed so as to nullify or change any of the provisions of existing law as to the detail of officers for duty as Chief of Staff, or as to the period for which officers so detailed may serve, and no officer who shall have served four years as Chief of Staff shall, except in case of emergency or in time of war, be eligible for further service as Chief of Staff until after he shall have served for at least two years with the line of the Army or on such other duty not pertaining to the General Staff Corps as the President may direct. The officers now holding commissions as officers of the said departments shall hereafter have the same tenure of commission in the General Staff Corps, and as officers of said corps shall have rank of the same grades and dates as that now held by them, and, for the purpose of filling vacancies among them, shall constitute one list, on which they shall be arranged according to rank. So long as any officers shall remain on said list any vacancy occurring therein shall be filled, if possible, from among such officers, by selection if the vacancy occurs in a grade above that of colonel, and, if the vacancy occurs in a grade not above that of colonel, by the promotion of an officer who would have been entitled to promotion to that particular vacancy if the consolidation of departments hereby prescribed had never occurred: *Provided*, That, except as otherwise specifically provided in this act, after the consolidation of bureaus, departments, and corps hereinbefore provided for shall have been effected, no details to fill vacancies in the grade of colonel in the General Staff Corps shall be made until the number of officers of that grade in said corps shall have been reduced by 3, and thereafter the number of officers of said grade in said corps shall not exceed 10; and no details to fill vacancies in the grade of lieutenant colonel in the General Staff Corps shall be made until after the number of officers of that grade in said corps shall have been reduced by 4, and thereafter the number of officers of said grade in said corps shall not exceed 14; and no details to fill vacancies in the grade of major in the General Staff Corps shall be made until after the number of officers of that grade in said corps shall have been reduced by 7, and thereafter the number of officers of said grade in said corps shall not exceed 25; and no details to fill vacancies in the grade of captain in the General Staff Corps shall be made until after the number of officers of that grade in said corps shall have been reduced by 11, and thereafter the number of officers of said grade in said corps shall not exceed 40; and whenever the separation of a line officer of any grade and arm from the General Staff Corps shall create therein a vacancy that, under the terms of this proviso, can not be filled by detail, such separation shall operate to make a permanent reduction of 1 in the total number of officers of said grade and arm in the line of the Army as soon as such reduction can be made without depriving any officer of his commission: *Provided further*, That such duty or duties as are now required by law to be performed by any officer or officers of The Adjutant General's or Inspector General's Department shall hereafter be performed by such officer or officers of the General Staff Corps as the Secretary of War may designate for the purpose: *Provided further*, That when a vacancy in the grade of major general shall occur among the officers hereby transferred to the General Staff Corps that vacancy shall not be filled, but the office in which the vacancy occurs shall immediately cease and determine: *Provided further*, That officers now holding commissions as officers of either of the departments hereby consolidated with the General Staff Corps may at any time, in the discretion of the President, and shall, whenever they shall have served four years as members of said corps, be detached therefrom and assigned to duty with the line of the Army, or to such other duty not pertaining to the General Staff Corps as the President may direct, and they shall not be returned to duty in said corps until they shall have served for two years under detachment therefrom except in cases of emergency or in time of war, and during their detachment from said corps their places therein may be filled by the selection and detail, under such regulations as the President may prescribe, of line officers having the same rank, respectively, as the officers whose places said line officers are to fill: *Provided further*, That officers of the line of the Army who are now, or who shall hereafter be, detailed for service in any staff corps or department under the provisions of section 26 of the act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," may at any time, in the discretion of the President, be relieved from such service and returned to duty with the line: *Provided further*, That, in order to expedite the reduction of the number of officers of the consolidated General Staff Corps to the limit contemplated by this act, officers who now hold commissions as officers of either of the departments hereby consolidated with the General Staff Corps, and who are eligible for retirement from active service under any law existing at the date of the approval of this act, shall, upon their own applications, and may, in the discretion of the President, be retired from active service: *Provided further*, That all officers of the line of the Army now detailed for service in either of the departments hereby consolidated with the General Staff Corps shall be relieved from duty in said corps at the expiration of their present periods of detail, or sooner if the President shall so direct, and all officers hereafter detailed for service in said corps shall be relieved therefrom at the expiration of four years of such service, or sooner if the President shall so direct, and no officer who shall have served for four years under detail in said corps shall be eligible for further service therein until after he shall have served at least two years with the branch of the Army in which commissioned, except in case of emergency or in time of war: *Provided further*, That hereafter, when any officer shall, under the provisions of section 26 of the act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," be appointed or reappointed to an office with rank above that of colonel his appointment to said office and his acceptance of the appointment shall not create a vacancy in the arm, corps, or department from which he shall be appointed, but he shall retain therein the same relative position that he would have held if he had not been appointed to said office, and he shall return to said relative position upon the expiration of his appointment to said office unless he shall be reappointed thereto.

SEC. 7. That hereafter no vacancies occurring in the grade of major general in the line of the Army shall be filled until the number of officers of that grade shall have been reduced by three, and thereafter the number of officers of said grade shall not exceed four; that hereafter no vacancies occurring in the grade of brigadier general in the line of the Army shall be filled until after the number of officers of that grade shall have been reduced by five, and thereafter the number of officers of said grade shall not exceed 11; and for the purposes of this act general officers not commissioned as officers of any of the staff corps or departments of the Army shall be regarded as general officers of the line: *Provided*, That hereafter the number of officers above the grade of colonel who shall be members of the General Staff Corps under the provisions of section 3 of the act of Congress approved February 14, 1903, entitled "An act to increase the efficiency of the Army," shall be two; *Provided further*, That hereafter service as a cadet of the United States Military Academy or as a naval cadet or midshipman shall not be counted in computing for any purpose the length of service of any officer of the Army: *Provided further*, That hereafter service as a cadet, naval cadet, or midshipman at either the United States Military or Naval Academies, exclusive of the sea service as prescribed by law upon completion of the academic course and preliminary to final graduation at the latter institution, shall not be counted in computing for any purpose the length of service of any officer of the Army.

SEC. 8. That the appropriations herein provided for the several departments consolidated under this act shall be available for the consolidated corps herein created.

SEC. 9. That nothing in this act shall be held or construed so as to separate any officer from the Army or to diminish the rank now held by him, and that all laws and parts of laws, so far as they are inconsistent with the terms of this act, be, and they are hereby, repealed.

Mr. HAY. Mr. Speaker——

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent——

The SPEAKER pro tempore. Does the gentleman from Virginia yield temporarily?

Mr. HAY. I will.

RETURN OF BILL FROM THE PRESIDENT.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to consider the resolution which I have sent to the Clerk's desk in relation to the bill (H. R. 23515) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors. The word "of" before the word "dependent" should be "and." The bill is in the hands of the President, and the resolution requests its return from the President.

The SPEAKER pro tempore. The Clerk will read the resolution.

The Clerk read as follows:

House concurrent resolution 57.

Resolved by the House of Representatives (the Senate concurring): That the President be, and he is hereby, requested to return to the House of Representatives the bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors."

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution offered by the gentleman from Alabama? [After a pause.] The Chair hears none.

The question was taken, and the resolution was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 6847. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 1754. An act to correct the military record of William F. McKim;

S. 6925. An act to authorize the Chicago, Burlington & Quincy Railroad Co. to construct a bridge across the Mississippi River near the city of St. Louis, in the State of Missouri; and

S. 6252. An act to relinquish the title of the United States to certain property in the city and county of San Francisco, Cal.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to bills of the following titles, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MCCUMBER, Mr. BURNHAM, and Mr. GORE as the conferees on the part of the Senate.

S. 5623. An act granting pensions and increase of pensions to certain soldiers and sailors of wars other than the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6084. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6340. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6384. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and to certain soldiers and sailors of wars other than the Civil War and to widows and dependent relatives of such soldiers or sailors;

S. 6851. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 6978. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to return to the House of Representatives, in compliance with its request, the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The message also announced that the Senate had disagreed to the amendment of the House of Representatives to joint resolution (S. J. Res. 100) authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMOOT, Mr. CLARK of Wyoming, and Mr. CHAMBERLAIN as the conferees on the part of the Senate.

THE ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, the Army appropriation bill which has just been read is the bill which originally passed the House on February 16, 1912. It is not the bill which the President vetoed. Of course an Army appropriation bill had to be reintroduced in order to provide for the maintenance of the military establishment by reason of the President's veto. This bill carries $87,777,257.18, which is a reduction of $4,910,528.79 over last year's bill, and is $9,150,731.80 below the estimates for the present fiscal year. I hardly deem it necessary to make any remarks upon the various provisions of this bill because they were very fully discussed when it was before the House, and therefore in what I shall have to say I will refer more to the veto sent in by the President of the United States than to the particular bill.

For many months the officials of the War Department have sought, through the public press and in other ways, to create the impression that the Army bill contained provisions hurtful to the Army and injurious to the various branches of the service. This, in face of the fact that most of the principles contained in the bill have been approved by the War Department, notably the consolidation of the supply corps and the general service corps. The bill as presented by the conferees of the two Houses contained nothing which could justly be called revolutionary, and contained much that is of great advantage to the country and the Army.

The statement in the veto message of what the bill contained when it passed the House can have no bearing upon what was in the bill when it was sent to the President, and why this was injected into the message is not apparent, unless the President wanted to befog the issue. The statement that the Senate "by a decisive vote struck all this new and affirmative legislation from the bill" is not true, the fact being that the only provision in the House bill upon which the Senate took a recorded vote was the provision with regard to the cavalry regiments.

The President deals at some length with what he calls "the dangers inherent in the practice of attaching substantive legislation to appropriation bills." He argues that such legislation should only be attached to appropriation bills "when the desirability of the enactment was recognized and acquiesced in by the common consent of both the Executive and of Congress." Such an interpretation of the rights of the executive branch of the Government is subversive of all the history of legislation which has been obtained from oppressive and reluctant Executives, and if it is to be acquiesced in by Congress, the day is not far distant when Congress will become merely an agent to register the wishes of the Executive. Congress has a right to legislate in any way it pleases; the President, of course, has a right to exercise his veto power, but he has not the right to dictate to Congress the manner or mode in which it may transact its business. The right to legislate on appropriation bills is one which Congress can never give up without jeopardizing the liberty of the people, and this is particularly true of the Army appropriation bill. The history of legislation on Army appropriation bills for the last 10 years discloses the fact that a very large portion of Army legislation has been carried on these bills, and especially is this true of the Army bill for last year. The President's contention amounts to this: That he will sign any appropriation bill if the legislation carried in it is approved by him, but if he does not approve the legislation he will veto it and argue that it is a bad thing for appropriation bills to carry legislation. The bill signed by the President in 1912 carried a large amount of legislation which added to the expenses of the military establishment, and it would seem from this that the President is willing to sign an appropriation bill carrying legislation which takes money out of the Treasury, but is unwilling to sign a bill which has for its purpose the economical administration of the Army.

The President states that the legislation in this bill was hasty and imperfect. This is not true. The legislation was carefully considered by the Military Affairs Committee of the House. Officers of the War Department, including the Secretary of War, were heard at length, and the principles of the bill in most respects were indorsed by them. The bill was debated for some time in the House of Representatives and hearings upon the bill were had before the Senate committee. After giving the general reasons for his veto, the President urged several specific reasons, the first of which was as to the qualifications for the Chief of Staff of the Army. This objection is based on insufficient grounds and a very imperfect conception of the qualifications which are essential to the safe and efficient discharge of the duties of this position. The only purpose which can justify the maintenance of our Army is the purpose of fighting. The fighting part of the Army is preeminently the line, and to that part all other parts are merely contributory. The position of the Chief of Staff under existing law is that of adviser of the President and Secretary of War in military matters. No man is competent to give sound advice relative to the principal part of the Army—the line—unless he has a practical knowledge of it. Such knowledge can only be acquired by actual service in the line as a commissioned officer thereof in grades not above that of colonel. It is true that past wars have developed great commanders, who, under legislation such as that now under consideration, would not have been eligible for service in the position of Chief of Staff in time of peace.

But there is nothing in that legislation to prevent the advancement of such military geniuses in future to the very highest command, including the command of the whole Army, either in time of peace or war, or to prevent their detail as Chief of Staff in time of war or when war is imminent. It is a mistake to say that the position of Chief of Staff is "the highest post in the Army." The Chief of Staff is not a commander, but is merely a staff officer, with no authority of his own by virtue of his position. The highest position which can be held by any officer of the Army is that of its commander. The requirement that in time of peace the Chief of Staff shall have some practical knowledge of the line of the Army does not restrict the power of the President, either in peace or war, to assign to a far higher position or command of the whole Army any person of future military genius, regardless of the amount of his line service, or even if he has had no line service at all. Under the existing Army regulations there is no military head of the Army, the President's command over it being exercised through the Secretary of War, with no second in command. It is therefore apparent that the Chief of Staff, who is the military adviser of the President and the Secretary of War, should have a good practical knowledge of the fighting branch of the Army, the line, to which all other branches are secondary and concerning which the President and Secretary of War most frequently require accurate information and sound advice. The chiefs of the various staff corps are close at hand to give expert advice and accurate information concerning all matters pertaining to the staff branches of the Army. But there is no one except the Chief of Staff to advise upon matters pertaining to the line, the largest and most important part of the Army. Then it is imperative, as the law now provides, that a Chief of Staff should be a general officer. It is equally as imperative that he have knowledge of and experience in the line, so that grave mistakes may not be made, which certainly will be made if an aggressive and erratic officer without line service and with

no knowledge except such as may be gained by a staff officer or a high general officer should be detailed to the position of Chief of Staff. The knowledge, so necessary to a Chief of Staff, can never be acquired except through experience in the line. It can not be supplied by any amount of pretense, misrepresentation, sophistry, self-assertion, or arrogance, even though they may be backed up by strenuous official support and by an assiduously cultivated newspaper claque.

In the organic Chief of Staff act of February 14, 1903, which was approved by the Secretary of War—ROOT—Congress, in the exercise of its statutory right to make rules for the government and regulations of the land and naval forces, adopted a provision which rendered all officers of the Army except general officers ineligible for detail to the position of Chief of Staff. To carry this restriction a little further by requiring that in time of peace a general officer, to be eligible for this detail, must have service for 10 years with the line of the Army as a commissioned officer below the grade of brigadier general was not an infringement upon the right of the President, nor did it restrict unduly his choice for this detail, but was a proper and wise exercise of the indisputable right of Congress. The staff act never contemplated that any other than a general officer of the line should be Chief of Staff. The duties performed by Engineer and Ordnance officers fit them in no possible way to discharge the duties of Chief of Staff. It is idle to say that the restriction in question puts a premium upon mere routine service and that it tends to confine the choice to men who have had least staff experience. All that it does is to exclude the manifestly unfit, who had little or no experience except staff experience. It leaves the door wide open to all others.

In this connection it should be observed that under the operation of the law requiring vacancies occurring in various staff corps of the department to be filled by the temporary detail of officers of the line the time is not far distant when all the staff corps and the departments, except the Medical Corps, the Engineer Corps, and the Judge Advocate General's Department, will be filled from top to bottom with temporarily detailed line officers, all of whom will be both eligible and qualified, so far as long service in the line is concerned, for detail to the position of Chief of Staff whenever they attain the requisite rank. It is not true that the legislation in question was aimed at any particular officer. On the contrary, the conferees who framed the provision were actuated solely by the conviction that such a general requirement of the law is not only wise but that it is demanded in the interest of the War Department, the Army, and the country. Moreover, the conference committee took special pains to frame the provision so that it should not apply to the present Chief of Staff until his detail as such should be terminated, in accordance with existing Army regulations.

With reference to the President's second objection, it is not a fact that the proposed reduction in the number of officers detailed for duty in the General Staff Corps would tend in the least degree "to cripple the most important corps in the Army"; nor is there any basis for the prediction that it would "make necessary the reduction of the work of the War College." The General Staff Corps as now organized, exclusive of the Chief of Artillery and the Chief of the Militia Division, both of whom are additional members of it, consists of 45 officers, to wit, 3 general officers, 4 colonels, 6 lieutenant colonels, 12 majors, and 20 captains. The legislation in question proposed a reduction of 1 general officer, 1 colonel, 2 lieutenant colonels, 4 majors, and 10 captains, making a total reduction of 18 officers, and rendering all of them available for assignment to meet the persistent and clamorous demand for more officers for duty with the line and elsewhere. It has long been manifest that the membership of the General Staff Corps is greatly in excess of that required for the full and efficient discharge of any and all of the legitimate duties of that body. When the corps was about to be organized its sponsors declared, and Congress distinctly understood, that only a minor part of the members of the corps would be stationed in Washington and that the major part would be distributed through the Army, its members being assigned to duty at the various division and department headquarters. Secretary of War ROOT, the father of the General Staff act, who had a hearing before the Committee on Military Affairs of the House of Representatives on December 13, 1902, with regard to the proposed General Staff Corps, said:

> A portion of the members of the corps would be stationed in Washington to conduct the general business falling under the heads enumerated in the description of the duties which I have already read, and a portion of them—the larger portion of them—would be assigned to the different departments to serve under the different department commanders.

But from the very beginning it has been apparent—at least to those fully advised as to the real situation—that there has never been enough legitimate General Staff work, either at division or department headquarters, or at Washington, or at all these places combined, to give appropriate employment to anything like the number of officers now and heretofore authorized for the General Staff Corps.

The result has been that from the first relatively few General Staff officers have been kept with the Army in the field and that a disproportionately large number of them has been kept in Washington, where their superfluousness would be less conspicuous than it would be at department headquarters and where, too, some employment could be provided for them by turning over to them details of administrative work that belong exclusively to and should be disposed of in the various bureaus of the War Department. When the War Department about a year ago deprived department commanders of all of their administrative and of much of their executive authority, it was no longer possible to find even the pretense of employment for General Staff officers at department headquarters, and consequently it was necessary to bring still more of these officers to Washington to swell still further the already excessive number of such officers stationed here. Examination of the last accessible issue of the Army List and Directory discloses the fact that of the entire number of 45 General Staff officers proper allowed by law only 10 are on duty outside of Washington, whereas all of the remainder, 35 in number, are stationed here. If the Chief of Artillery and the Chief of the Militia Division, who are additional members of the corps, are included in the enumeration, they will increase to 37 the number of General Staff officers stationed in this city as against 10 stationed or on duty elsewhere. This showing is directly the reverse of that which Secretary ROOT declared to be proper, and would of itself be convincing evidence that the present allowance of General Staff officers, as fixed by law, is far in excess of the number for which appropriate employment can be found; but there is more direct and conclusive evidence to the same effect. The Army List and Directory abovesaid shows that of the 35 General Staff officers proper stationed in Washington 25 are on duty in the office of the Chief of Staff and 10 are on duty at the War College, an institution that forms no part whatever of the General Staff establishment, although, like many other educational institutions of the Army, it is subject to the supervision of the Chief of Staff. It is plainly improper, as it is unnecessary, that these 10 officers should occupy positions in the General Staff Corps while actually under assignment to the War College. If qualified for that duty, they could quite as well be detailed for it directly from the line, just as instructors are detailed for duty at the Military Academy and other Army schools. A continuing detail in the General Staff adds nothing to their qualifications for War College work, and merely fills places on the General Staff that ought not to be filled at all. It must be evident to anyone that the real reason for detailing these 10 General Staff officers as such to the War College, instead of detailing them directly from the line or first relieving them from the General Staff if already detailed thereon, is that the number of officers allowed by law to the General Staff is greatly in excess of the number for which appropriate and necessary General Staff employment can be found. One of the principal reasons urged for the detail system was that all officers of the Army would in time be detailed to the various staff corps. If officers detailed to the General Staff Corps are to be kept there for a long time, the object desired will not be accomplished. There are other General Staff officers in Washington who ought not to be here.

It is a notorious fact, well known to everyone in reasonably close touch with War Department affairs, that much, if not most, of the time of the Chief of Staff and his 24 immediate assistants is devoted to a mass of business that properly pertains to the various bureaus of the War Department and that is entirely foreign to the work for which the General Staff was created. Secretary of War ROOT was emphatic in the declaration that the members of the General Staff Corps should not be permitted to meddle with the details of administrative work, but that all such details should be kept, as before, in the various bureaus to which they pertain, and that the initiative and responsibility of the bureau chiefs with respect to business pertaining to their bureaus should be in no wise diminished by any activities of the General Staff. If Mr. ROOT had remained longer at the head of the War Department, he would have impressed his own wise views so strongly upon all concerned that much of the trouble which has followed the creation of the General Staff would not have occurred, but he left the department soon after the General Staff was organized and before his well-considered views as to its proper functions and relations could be crystallized into a firmly established practice. His successors have known or cared little about the principles which he laid down, and generally they have left the General

Staff and the bureaus to work out the situation as best they could, the staff naturally reaching out constantly for more power and authority, and the bureaus very naturally striving to preserve their autonomy and to retain the management of the business for the transaction of which they were created and are maintained by law. Although there was always more or less friction between the General Staff and the bureaus, due to lack of a well-established line of demarcation between their respective spheres of activity, none of this friction appears to have been serious until during the last two or three years. Since that time there has been much interference by the General Staff with the bureaus, and a determined and successful attempt to grasp for the General Staff much work of an administrative character that properly belongs to the bureaus and in which the General Staff has no proper concern. This course has been pursued partly because of a desire for the aggrandizement of the General Staff, but there is no doubt that the principal reason for pursuing this course was the necessity of finding some occupation for a lot of General Staff officers for whom there was, and still is, little or nothing to do in the way of necessary and appropriate General Staff work. For this reason the bureaus were raided, their work thrown into confusion and delayed, and their chiefs humiliated and disheartened; and that is the situation to-day. The public business suffers through delay and incompetent handling, and there is a great amount of expensive and wholly unnecessary duplication of work, a duplication which has no excuse and which is only done for the purpose of giving idle hands something to do. That the above is a true presentation of conditions as they now exist in the War Department can be readily established by inquiring of officers of the bureaus most concerned, and who are conversant with the facts. There is not the slightest doubt that a greater reduction than the 18 proposed by the legislation in question could be made in the membership of the General Staff Corps without interfering at all with any proper and necessary General Staff work.

It is not true that by the enactment of legislation such as that in question—

the organized personnel of many of the most important bureaus and corps of the War Department and the military establishment will be disintegrated and the work proceeding under them will be seriously impaired.

The few instances cited in the veto message in support of this sweeping general assertion are by no means justified. The details of line officers to the various staff corps and departments are governed by the Army reorganization act of 1901, as amended, and no change of importance is made in that law by the new legislation under consideration. Under existing law, colonels and lieutenant colonels of the line who have served by detail for four years in any of the staff corps of the War Department are eligible for further detail therein without returning to the line and serving with it for two years, as is now required of all line officers below the grade of lieutenant colonel while in any staff corps or departments, except the Ordnance Department. The new legislation especially exempts the Ordnance Department from the operation of the new provision with regard to this particular matter, but it would require colonels and lieutenant colonels serving for four years by detail in a staff corps or department other than the Ordnance Department to return to the line for two years' service therewith before such detail in the staff, just as is now required of all detailed line officers below the grade of lieutenant colonel, except those detailed in the Ordnance Department.

No other change with regard to this class of details was proposed by the new legislation. Only colonels and lieutenant colonels would be affected by it, and the number of places open or expected to be open to the detail of officers of these high grades is relatively so very small that any little inconvenience that would result from this particular requirement with respect to them would be of no importance. It would sink into insignificance as against the importance, so often and so vehemently insisted upon by the Chief of Staff and the Secretary of War, of having detailed officers after completing a tour of staff service return to the line and serve therewith for considerable periods before returning to staff duty. If this rule is a good one for the many officers below the grade of lieutenant colonel, it is difficult to see why it should not be equally good for the relatively few officers of the grades of lieutenant colonel and colonel to whom staff detail is or will be opened.

It is true that the proposed change in the law would remove two of the officers from the Insular Bureau. One of these officers, as shown by the report of the Secretary of War, published in Senate Document 288, Sixty-second Congress, is a major of Infantry, who, out of a total commissioned service of about 26 years, has served only 9 years and 4 months with the line organization to which he has belonged, and who has been continuously absent from his regiment for more than 9 years last past, being on detailed service in the General Staff Corps and Insular Bureau during the whole of that period. The other officer who would be relieved from the Insular Bureau is a captain of Infantry, who, out of a total commissioned service of about 16 years, has served only 5 years and 6 months with the line organization to which he has belonged, and during the last 13 years has served only a little more than 3 years with his regiment, and during the last 6 years has been continuously absent from his regiment, being detached during the whole of that time for service in the General Staff Corps and in the Insular Bureau. These two cases show very flagrant violation of the rule so strenuously insisted upon when it is convenient or desirable to insist upon it for returning officers to the line for considerable service therein after four years' detached service.

The President was very unfortunate in citing these cases in support of the objection to the legislation which would require such rotation of service. It is impossible to see why the rotation of service which is required by law in all the great staff corps and departments in which details are made from the line should not be required also in the not very important Insular Bureau. It is the fault of the Executive that the abuse of excessive detached service has been permitted in that bureau, and it is time that the abuse be corrected by legislation which shall make it impossible in the future. Substantially the same comments are applicable to the matter of details of officers of the Army for duty with the Philippine Constabulary. It is simply absurd to contend that unlimited details with that civil organization are nearly as necessary or advisable as they are in the great staff corps and departments of the Army, in which they are prohibited by law. It is entirely the fault of the Executive if officers have been permitted to remain on detached service with this organization for an excessive length of time or if conditions exist which will render it difficult in the course of six months to replace in it officers who ought long ago to have been returned to the commands to which they belong. This particular ground of objection to the legislation under discussion shows clearly the necessity for its enactment. It is true that the provision in question would relieve from subordinate positions under the Isthmian Canal Commission a few line officers who have been absent from their organizations longer than they should have been. But it is understood that the head of that commission has admitted that the relief of these few officers would not seriously embarrass him. The objection that the provision would relieve, or might be construed so as to relieve, the engineer officers and other staff officers detailed for duty in connection with the Panama Canal is not well founded. Any such construction of the provision would be most unreasonable, and it is not to be believed that the Executive would place any such construction upon it. In the first place, the provision applies to officers not above the rank of major, and it is known that the engineer and other staff officers and the medical officers who are members of the commission are colonels or lieutenant colonels. In the second place, the provision only applies to officers detached from the branch of the Army in which they are permanently commissioned. By no reasonable construction can it be held that engineer and other staff officers, wherever they may be, are detached from their respective branches of the Army when by order of the Secretary of War and in the service of the United States they are in the full performance of duties peculiarly appropriate to these branches, and especially when they are under the immediate direction and control of a military superior, as the staff officers on the Isthmus are. Service with a staff corps or department does not by any means mean service with troops, or necessarily service with officers or enlisted men of that corps or department. It means nothing more than such service for the United States under the direction of the Secretary of War or other competent military authority as is commonly rendered by officers of the particular corps or departments concerned. It is not apparent that the place of rendition of the service is important.

The author of the veto message was most unfortunate in his reference to the efforts of the present administration "to carry out by Executive action with especial thoroughness" the admittedly wise purpose at which the legislation in question, relative to detached service of officers, is aimed. It was because of the scandalous state of affairs which was recently brought to light in respect to this very matter—and which was due to the inexcusable failure of the present administration to correct it by any kind of Executive action—that it became necessary for Congress to do by legislation what the administration had completely failed to do by Executive action toward correcting this evil.

Under date of January 30, 1912, in response to a resolution of the Senate calling for the information, the Secretary of War transmitted to the Senate a list showing the names and service

records of no less than 179 line officers who during the 6 years ended July 31, 1911, had not served 2 years with the organizations in which they were commissioned; also a similar list of 39 line officers who during the 12 years ended July 31, 1911, had not served 4 years in the organizations in which they were commissioned. The response of the Secretary and the two lists which accompanied it were published in Senate Document No. 288, Sixty-second Congress. The publication of this document disclosed a state of affairs which was as discreditable as it was astonishing. The document shows that many officers of long, or relatively long, service had spent less than a half or a third or a fourth of that time with the organizations to which they belonged, having been favored with detached service of various kinds and leaves of absence during the greater part of their entire service. One of the especially favored officers, who had been in service a little over 10 years, had served only 9 months with his regiment.

The worst feature of this showing is to be found in the fact, the responsibility for which lies at the door of the present administration, that of the 179 officers whose names appear on the 6-year list of absentees all but 9 were still absent on the date of compiling the list, to wit, January 1, 1912; and of the 39 officers whose names are borne on the 12-year list all but 1 were still absent January 1, 1912.

Examination of the last issue of the Army List and Directory brings to light the significant fact that, notwithstanding the exposure which was effected by the publication of the Senate document, many officers whose names appear on the lists of absentees published in that document are still absent from their organization, and many whose cases are among the most flagrant of those exposed are actually stationed in Washington at the present time, being immediately under the eyes of the Chief of Staff and the Secretary of War.

Objection is made to lengthening the term of enlistment from three to four years. The ground which is stated as the basis for that objection is that the change "will tend to make difficult or impossible the establishment of a proper reserve" for the Regular Army. The exhaustive investigation made by the Committee on Military Affairs of the House of Representatives with regard to this subject, as set forth fully in the report of that committee on the pending Army appropriation bill, established beyond a doubt that the plan advocated by the Chief of Staff and approved by the Secretary of War, attempting to create a reserve from our small Army, is impracticable, enormously expensive, and visionary in the extreme. Moreover, a Senate amendment embodied in the bill which was vetoed provided a practicable and inexpensive way of bringing former soldiers back to the colors when they are needed in time of emergency. This provision, as well as the fact that fixing the Army enlistment period at four years places the Army on the same footing as the Navy and the Marine Corps in this respect, seems to have been overlooked or ignored by the President.

The objection that the provision for a mixed commission of Senators, Representatives, and retired Army officers to consider certain questions relative to Army posts seeks to deprive "the regularly constituted authorities of our military establishment of all voice in the formulation of one of the most important policies now confronting the Nation in the maintenance of its Regular Army," and that "it devolves the leadership in that matter" upon a number of retired officers, has no other foundation than a positive and unqualified misstatement of facts. The creation of an independent and unconstrained commission for no other purpose than to furnish Congress information not colored by the preconceived views of those who have already presented their side of the case very fully to Congress in no wise tends to deprive the regularly constituted authorities of any part of their voice in the matter. The Chief of Staff and the Secretary of War have already, and at great length, communicated their views about this question to Congress, and they will undoubtedly have ample opportunity to be heard with regard to it further and as fully as they may desire before any action is taken by Congress upon the subject. The fact that the Executive objects to an effort on the part of Congress to supplement information and opinions already furnished to it by the War Department by information and opinions to be procured and furnished independently by a commission composed in part of certain distinguished officers whose active military careers have ended and whose futures can not be affected by Executive favor or disfavor suggests very strongly that the real ground for the objection is that the regularly constituted authorities will have no opportunity to shape or color the report of the commission. The assertions that the creation of the commission devolves upon the retired officers who may be members of its leadership in the matter to be investigated and reported upon hardly deserves serious consideration. The War Department has already taken leadership by bringing the question very forcibly to the attention of Congress, and that department or its representatives will have full opportunity in future to exercise its leadership with regard to the question in the same way, or any other way, as it may see fit to adopt. The provision for the commission is merely an attempt on the part of Congress in the exercise of its unquestionable right to obtain information and expert opinions from all sides of a case which is far too important to be disposed of on any one-sided presentation of it, or on information or advice which shall be obtained from a single source.

The objection urged that there will be no saving made by the passage of this bill, and the suggestions made that deficiencies will occur, show to what length the Executive is willing to go in vetoing an appropriation bill. Surely it will not be denied, even by the present President of the United States, that Congress has the sole right to say how much money it will appropriate for the use of the Army, and certainly Congress will not permit itself to be dictated to by the Executive as to the amounts which it shall appropriate.

I reserve the balance of my time, Mr. Speaker.

Mr. PRINCE. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. BROWNING].

Mr. BROWNING. Mr. Speaker, the woolen and worsted industry is one of great importance in the State of New Jersey and in the district which I have the honor to represent in this House, and I wish to submit some remarks on Schedule K, in answer to the very able speech made by the gentleman from New York [Mr. REDFIELD].

In an address recently delivered on this floor, analyzing and criticizing the report of the Tariff Board on Schedule K, the gentleman from New York [Mr. REDFIELD] once more takes occasion to indulge in a very radical and at the same time most unwarranted and illogical attack upon the woolen and worsted industry of the United States. The gentleman certainly erred in his interpretation of the tariff plank of the last national Republican platform. That plank reads:

> In all tariff legislation the true principle of protection is best maintained by the imposition of such duties as will equal the difference between the cost of production at home and abroad, together with a reasonable profit to American industries.

And again:

> * * * the aim and purpose of the Republican policy being not only to preserve, without excessive duties, that security against foreign competition to which American manufacturers, farmers, and producers are entitled, but also to maintain the high standard of living of the wage earners of this country, who are the most direct beneficiaries of the protective system.

It surely can not be seriously maintained that any man with knowledge of business ever supposed or supposes to-day that there was or is one cost of production for all American woolen and worsted mills, or that it would be possible to determine mathematically the exact difference in cost of production between such mills in the United States and in Europe. On the other hand, as every practical man knows, and as manufacturers with experience on both sides of the Atlantic have testified, there is a difference in cost of production between this country and the manufacturing countries of Europe, and the purpose of the American protective tariff is to equalize this difference. If there is any variation in the cost of production, as ascertained by careful inquiry, the protective policy requires that the tariff be fixed at a point which will insure a fighting chance to the American manufacturer.

A good deal has been said by the gentleman about what constitutes the cost of production, and he has dwelt at great length upon the fact that such cost can be decreased by increased output. He has also repeatedly enlarged upon the possibility of increasing output by increasing wages in return for a speeding up of the workpeople. As a matter of fact, these ideas of scientific management are to a great extent theoretical and, at least, have not been tried out to such a degree as to produce any startling results.

Woolen and worsted manufacturers as a whole are heartily in sympathy with the principles of scientific management and would rejoice to see them applied to the fullest possible extent. This question, however, is not germane to the tariff question. Only the most chauvinistic American will assert that America has any monopoly on industrial efficiency. In respect to efficiency and its effect upon productive cost, the European is as favorably situated as the American. Brains and energy are not concentrated in any one spot of earth, and the possibilities of individual initiative open to the citizens of one nation are open to those of another. The cost of production differs not only in America, but also in Europe; efficiency and inefficiency exist side by side not only in the United States, but also on the other side of the Atlantic. Between the nations of Europe, however, and the United States there is a wide, impassable gulf, created by years of unrivaled prosperity; it is the gulf which separates the standard of values in this country from the standard of

values abroad. Whether this difference of values will always exist, or whether we shall sink to the cheap level of prices prevalent in Europe, or whether Europe will rise to our level, depends on the wisdom of our statesmen. Of prime importance for us to-day is the fact that there is this difference in values, not only in one industry but throughout the whole commercial structure of the Nation.

If the cost of building and equipping an up-to-date woolen and worsted mill is 50 per cent greater in America than in Europe, it is evident that the fixed charges, even at equal interest rates, must be that much higher; but interest rates generally are also higher in the United States than in Europe. And with plant and machinery costing so much more, the machinery cost, as well as the labor cost, must necessarily be so much greater than in Europe. Everybody knows that the cost of production varies inversely with the output; but this holds true in all countries, and it is mere idle boasting to arrogate to Americans, in those competitive industries which have been similarly developed on both sides of the Atlantic, a possible superiority in efficiency and power of production sufficient to offset the cheaper labor, machinery, and overhead costs of Europe. As a matter of fact, the advantage in this respect lies with the textile industries of Europe, due especially to their greater age and their more settled and better trained body of workers, and also owing to the fact that the industry in European countries has not been the shuttlecock of political parties and initiative has not been paralyzed by threatened changes of commercial policy.

To destroy the values of one industry by throwing open our home market, as respects the products of that industry, to foreign competition, is simply to invite ruin and disaster. And in doing this, to say that it is being done for the benefit of the industry, to make it more efficient, more productive, is the direst confusion of cause and effect. The American woolen and worsted industry must be protected, and every other industry which needs protection must be protected. And the remedy for possible inefficiency does not lie in inviting in the foreign manufacturer to cut the ground from under the feet of American industry, but in putting the industry at home upon such a solid and safe basis as to stimulate and encourage domestic competition. In a previous speech the gentleman from New York ridiculed most unmercifully the antiquated methods of some English manufacturers in his own line of business. Now, England has been a free-trade country for nearly three-quarters of a century, with all the "stimulus" of foreign competition. And yet the inefficiency of the firm he mentioned was almost beyond belief. The gentleman's English friends have undoubtedly a different opinion of the "beneficial" effects of untrammeled foreign competition.

The question of the reclamation or the nonreclamation of waste and the utilization of by-products is purely a matter of profitableness and not an abstract scientific one. In his quotation the gentleman from New York says that, according to Industrial Organic Chemistry, wool grease can be profitably extracted from raw wool as a by-product, of which a value of $3.75 can be produced for 60 cents. A reference to the original work from which he quotes shows that it takes 1 ton of raw wool to yield the quantity of grease mentioned. No details are given regarding the cost of reclamation. It is mere assertion against the practical experience of hundreds of manufacturers. He does not quote the suggestion also made by the author of Modern Industrial Progress in connection with the above statement that most of the wool fat and potash contained in the waste scouring liquid could be saved by establishing degreasing plants at the principal points where wool is shipped. Where are those principal points? How many plants would have to be established? What would be the cost and the fixed charges of such plants? What prospects of continuous employment would they have?

Of interest in this connection are the following remarks from a paper, "The pollution of streams by manufacturing wastes," presented by William S. Johnson at the Congress of Technology in Boston, in April, 1911, upon the occasion of the celebration of the fiftieth anniversary of the granting of a charter to the Massachusetts Institute of Technology:

> Every manufacturer has some idea of the great value of the material escaping with his wastes, but he is also probably aware that the cost of recovering this material, at least by the present methods, is likely to be greater than the value of the recovered product. Even if it could be recovered at a small profit the trouble and annoyance of carrying on such an industry outside of the regular business of the factory would more than offset any profit.

And again:

> Certain of the most valuable portions of wastes, like the fats from the wool-scouring processes, have been recovered with more or less success where it has been necessary to purify the wastes before they are discharged into the streams, and the results have shown that, while the cost of purifying the wastes is not met by the sale of the product, still the net cost of purification is much less than it would be were these products not recovered. The experience of the wool-scouring mills, however, indicates one great difficulty which is to be met. Several factories having put in wool-scouring plants recently, the market has become overstocked with degras, and the price has consequently been reduced to a very low figure. It is probable that a market can be made for this material, but it can not well be done by the individual manufacturer.

From the experience of manufacturers in Europe and this country it can be stated most positively that the rentability of a plant for reclaiming the by-products mentioned is very doubtful. Even in the case of very large mills the possibility of profit is limited by the varying production; and with smaller mills it is out of the question to install the necessary plant and equipment for the very small amount of by-products which could be reclaimed.

The gentleman from New York mentions one mill which was not visited by the representatives of the Tariff Board, and adds:

> I am told by what I think sound authority that the owners of this mill have said they do not care about a tariff to protect their manufacturing processes, because they are efficient enough to take care of themselves. It is but natural that the name of such a mill should not appear on the visited list, for they might fear to give away the results of their initiative.

While criticizing other mills for not having this wonderful standard of efficiency, he yet intimates that such excellence is something in the nature of a secret, unknown to the average mill owner, and to be jealously guarded by the possessors thereof. It is a bold statement, made, by his own confession, upon hearsay, and no details are given in support of it. Even if the existence of such a mill were admitted and the facts were as he says, the best construction to be put upon the whole matter would be that the conditions of that particular mill are exceptionally favorable, and it therefore can not be taken as a type in determining a fiscal policy. Moreover, the fact that many woolen and worsted mills exist in America with higher efficiency than others, so far from offering ground for criticism of the protective system, is really a strong argument in favor of that system. Efficiency is evidently possible under a protective tariff, and the competition of such mills with less efficient mills can be depended upon to keep prices at a reasonable level and also to stimulate the less efficient mills to greater exertions.

The gentleman from New York speaks with a good deal of derision of the cost accounting common in textile mills. If he had taken the trouble to go carefully and thoroughly into this question, instead of lightly making disparaging assertions about it, he might have become less eloquent, but he certainly would have become much wiser. He is far from making it clear what cost system he would have the textile manufacturer adopt, and without doubt there is a good reason for his silence on this point.

The problem of a practical system of cost accounting in a woolen and worsted mill, which shall actually show the cost of production without imposing an unbearable burden of overhead expense upon the output of the mill, has been and is still being studied by men versed in accounting and the manufacturing processes. The whole science of accurate costing in factories is still a comparatively new science and the practical results accomplished therein, in comparison with the expense, are still far from being final. Smaller mills with a limited output can not always afford the services of experts to install elaborate systems, nor can they afford an expensive staff to maintain such systems. But conditions are not as bad as the gentleman's illustrations would indicate. The examples he gives are amusing, but they are not convincing. On the face of things, a hasty generalization from the few data which have come under his own personal observation, however striking and sensational such generalization, must obviously be erroneous and misleading. A brief glance at the literature of this subject will show that the newer science of cost accounting has made most rapid progress in those factories whose output is confined to a few simple styles where the work can be standardized and simple records are required. In the woolen and worsted industry many factors conspire to complicate the question of cost. Besides the frequent and numerous changes of style made necessary by ever-fluctuating fashions, each manufacturing process is in itself a variable quantity. The amount of sorting necessarily varies with each lot of wool and the purposes for which it is destined. For the finer goods, the fleeces must be most carefully sorted to obtain those qualities of wool which alone can be used in the manufacture of those fabrics.

Hardly any two lots of wool are quite alike, this one requiring more scouring than another, that one more or less carbonizing, and the greatest watchfulness being necessary throughout to see that the process on the one hand is effective enough to thoroughly cleanse the wool and on the other hand that it is not so severe as to injure the wool fiber, which is extremely sensitive to all the various agents which must be em-

ployed in its cleansing. In all the subsequent processes of carding, combing, drawing, spinning, weaving, and so forth, the greatest possible attention is necessary, and the process has to be gauged to the peculiarities of the wool or blend of wools that are being worked, necessitating great judgment and vigilance on the part of the operatives and overseers if a perfect product is desired. In the process of finishing, especially, the amount of processing any particular piece of goods is to be subjected to depends on the judgment of the finisher, and many processes have to be repeated two or more times to obtain the desired effect. In other words, the making of fine woolens and worsteds is an industrial art and not a science, and the volume of output must always be subordinate to the requirement of excellence in quality.

In his latest as well as in his previous speeches the gentleman from New York has spoken a good deal about "efficiency," as if it were some panacea for all the ills that flesh is heir to. He seems to measure the woolen and worsted industry by certain standards of efficiency with which he has become familiar in an industry entirely different. The woolen industry, from the sorting of the greasy wool to the last of the numerous finishing processes, is replete with complexity. In this connection it is worth while to quote from another paper presented at the Congress of Technology in Boston in April, 1911.

The gentleman has undoubtedly gained a good deal of information of the subject from the writings of men who are considered authorities in this line, but many of whom are carried away by their enthusiasm into claiming for their system many things which can not be accomplished, at least not at once, without long and persistent and patient effort. The quotation given shows that even in the engineering profession the whole question may be looked at from different points of view. In a paper entitled "A consideration of certain limitations of scientific efficiency," Mr. Henry G. Bradlee said:

During the past year we have become quite familiar with the word "efficiency." It has appeared prominently in the public press, in popular magazines, and in many more serious publications. Recently we have been startled by the statement that our steam-railroad systems are wasting a million dollars a day—$365,000,000 a year—which might be saved through the adoption of so-called scientific methods of management. We do not infrequently see statements like the following, which I quote from a volume recently published by a prominent industrial engineer:

"Inefficiency is not a local evil. It extends through the whole of American life—extends through the whole industrial life of the world.

"The American railroad, by the most advanced engineering and industrial methods, carries an absurdly small net load for an absurdly small distance at an unnecessarily high cost.

"Railroad repair shops throughout the country do not show 50 per cent efficiency, on an average, as regards either materials or labor.

"Coal wastes on railroads are almost as bad as labor and material wastes.

"This inefficiency of effort pervades to a greater or less degree all American activities.

"Inefficiency similar to that in the manufacturing shops exists in all building operations to the same or even greater extent.

"The United States and State agricultural bureaus have determined like inefficiencies in farming operations.

"In our whole educational system there is the same inefficiency. Years are given to study, yet better results have been attained in months."

Why should we be treated to such wholesale condemnation as this? In all modern nations industrial development has claimed the services of the very highest order of intellect and ability. Can it be that the great industrial leaders and workers of the past have all been wrong? Can it be that they have been directing and executing the work of the world with great inefficiency, and is it possible that this inefficiency may be removed by some comparatively simple process? This whole question has recently jumped into prominence because a group of men who have been doing some very excellent and successful work have been tempted into the realm of prophecy and have possibly allowed their enthusiasm to outstrip their judgment.

It would no doubt be presumptuous for one to attempt at this time to place a limit on what may be accomplished in the future through scientific efficiency methods, and certainly no one would wish to criticize or suggest weak points in these methods were it not for the fact that the public may be misled by exaggerated statements and may unreasonably condemn those who are doing most to develop and direct our industries.

In view of the statements which have been made, it certainly seems reasonable and proper for us to consider whether there are not some practical limitations which have prevented a general adoption of these methods in the past, and which may prevent the wholesale overturning of our present industrial system prophesied by certain efficiency engineers.

The entire paper is deserving of a careful perusal, but it will suffice here to quote further the following two paragraphs:

Low cost of operation or of manufacture is, after all, only one factor out of many to be considered in measuring industrial efficiency. It frequently happens that the lowest cost can be secured only through sacrificing other and more important factors. This we have already mentioned in connection with steam-railroad organization. Let us consider some other examples.

A majority of our countrymen believe in a tariff to protect home industries when the cost of manufacture at home is greater than that abroad. They approve the tariff because they believe that there are advantages from diversified business which more than offset any increased price of manufactured goods.

Theoretical or nominal efficiency of machinery and actual efficiency are widely different things. The whole question of efficiency is a relative one, dependent on character of work and the nature of the product. The more the personal supervision of the operator is essential for perfect work and the less automatic the turning out of a perfect product; in other words, the more the personal equation creeps in, the harder it is to attain a nominal standard of efficiency. Especially in the fine woolen and worsted goods manufacture it is most imperative to avoid sacrificing quality to quantity. Many of the finest fabrics absolutely do not permit of speeding up the machinery. As a matter of fact, although some looms with a speed of 130 picks per minute are used in the industry, yet for certain goods special looms built to run at a speed of only 60 picks a minute are employed. Even with the most skilled weavers this moderate speed is necessary to permit of proper supervision and to avoid imperfections, the costliness of which, of course, increases with the fineness of the goods. To try to increase unduly the turnout of the looms would certainly result in proving the truth of the saying, "More haste, less speed."

If the American woolen and worsted industry were the egregious sinner the gentleman from New York makes it out to be, how is it that the American standard of values as a whole is so much higher than in Europe? If the removal of protection from the American woolen and worsted industry is necessary to make that industry more efficient and bring it up to date, what about the many American industries and occupations which, being by nature absolutely or partly protected, do not depend on the tariff for their existence? Are they all inefficient, and what will bring them out of the slough of their inefficiency? Or are they all, in contrast to the woolen and worsted industry, models of efficiency? And how have they attained this degree of efficiency without the stimulus (?) of foreign competition?

A fatal defect in the gentleman's discussion of the entire subject, as it seems to me, is that the whole matter is approached from an absolute and not from an historic point of view. He speaks as if old mills could be torn down and old machinery thrown away without further ado. The woolen and worsted industry, even more than other industries and institutions of America, is an organism representing years of growth—a growth retarded, however, more than once by actual or threatened experimental changes in our commercial policy.

The gentleman from New York evidently takes a keen interest in the tariff question, but in applying experience gained by him in certain lines to an industry with which he is entirely unfamiliar, his zeal seems to lead him astray. His intentions are undoubtedly excellent, but his information regarding the woolen and worsted industry seems to be very meager and fragmentary. In this respect, as in all others, the words of Pope hold true:

A little learning is a dangerous thing,
Drink deep, or taste not the Pierian spring.

Instead of helping the woolen and worsted industry and the many workers dependent upon it, he injures it and them; and whether he injures it willfully or for lack of knowledge, the harm done is the same. He is undoubtedly a practical man, but many practical men, when they forsake the particular field with which they are familiar, become more theoretical and impractical than the wildest visionary. He says in the peroration of his speech:

We offer an affirmative, not a negative, teaching.

This is most emphatically not so. Despite his plausible arguments and his noble sentiments, the gentleman's teaching, at least as far as the woolen and worsted industry is concerned, is nothing but a destructive and hostile criticism.

Mr. PRINCE. Mr. Speaker, I now yield 15 minutes to my colleague on the committee, the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Speaker, when a similar bill was before the House in the early part of February the minority members of the Committee on Military Affairs at great length expressed their disapproval of the legislative sections contained in the bill. They have had no reason to change their views in that regard.

The President, in his veto message against the former bill, properly says:

The dangers inherent in the practice of attaching substantive legislation to appropriation bills have been frequently pointed out by my predecessors. The only justification that has been offered for such practice is that it has been found a convenient method for facilitating the passage of measures which are deemed expedient by all the branches of government which participate in legislation. Thus, it has more than once occurred that useful items of Army legislation, generally of an urgent character, have been passed in this manner, when the desirability of the enactment was recognized and acquiesced in by the common consent of both the Executive and of Congress. But no condition of urgency is here disclosed, nor can it be claimed that there is any such reason for attaching the present legislation to this Army appropriation bill.

Now, the chairman of the Committee on Military Affairs stated a moment ago that the President in setting forth his reasons for his veto undertook to usurp the power of Congress. I think that the gentleman [Mr. HAY] rather undertakes to usurp the power of the Executive. The Executive is authorized under the Constitution to place his veto upon any legislation that is objectionable to him.

And whether that legislation be carried in an appropriation bill or in a bill simply covering the legislation to which he objects is immaterial. If the legislation be not approved by the Executive he should veto it, whether it be in a great appropriation bill or whether it be in a separate bill covering the objectionable legislation. This bill which is now before the House carries at least three specific items to which the President objected in his veto message. And the majority of this committee in again reporting this bill with these objectionable legislative features, simply court another veto to the great detriment of the Army and to those men in every section of the country who furnish the articles that make up the subsistence and other supplies of the Army. The President, in his veto message, referring to the former bill, says:

By reducing the number of the General Staff the bill, in my opinion, tends to cripple the most important corps of the Army—that corps which, though of comparatively recent organization, is performing invaluable work toward the creation of a consistent military policy for the Nation and the organization of an efficient and economical Army. If, as I believe to be the case, this bill would make necessary the reduction of the work of the War College, harm would be done to our military establishment which would be well-nigh incalculable.

Here the President gives a specific reason why he objected to a certain provision of the former bill, and yet this bill which we are asked to vote upon to-day carries an identical provision. It certainly courts another veto and, being general legislation, it should not find a place in this Army appropriation bill.

The President further says:

By the provisions of the bill which limit the period during which an officer may remain upon detached service or staff duty the organized personnel of many of the most important bureaus and corps of the War Department and military establishment will be disintegrated, and the work now proceeding under them will be seriously impeded. While these provisions aim at a wise purpose and one which my administration has sought to carry out by Executive action with especial thoroughness, the enactments of this bill are deemed too radical and drastic. By removing at once all of the officers of the Bureau of Insular Affairs, except its chief, they would seriously interfere with the work of that most important bureau in administering the affairs of our insular possessions.

Again:

Earnest protest has been received from the insular government of the Philippines to the effect that so prompt a relief of all of the officers who have had the especial training and experience necessary for these positions would be disastrous to the morale and efficiency of that important body, and would be a serious handicap to the preservation of law and order in the Philippine Islands.

The provision would at once relieve all but one of the line officers now on duty in the work of constructing the Panama Canal, and, under a very probable construction of the law, it would also relieve the Engineer officers and other staff officers detailed to that work. The organization of the force of officers and men by whom the canal is now being constructed has earned the admiration of the entire Nation. Under this organization that work is fast approaching its completion. The drastic character of the provision can be best understood when it is considered that it might at once relieve from duty the general purchasing officer of the Isthmian Commission, by whom all of the complicated machinery for the locks and gates is being purchased; the officer who is building the Gatun Dam and the spillway; the line officer who, as chief engineer, is relocating the Panama Railroad; the officer in charge of the construction of the new breakwater at Colon; and the medical officer under whose inspection the sanitary work of the zone is being conducted. It would be practically impossible to replace these men or the special knowledge and skill which they have in their departments of the work. The entire organization of the great work in which they are almost indispensable agents would be disintegrated and impaired.

The fact that a single provision of the bill can cause such serious consequences offers further evidence of the unwisdom of a method which deprives legislation of its usual safeguards of scrutiny and discussion.

Now, to my mind, those are very serious objections to this legislation and yet the bill carries substantially those provisions.

Mr. HAY. Will the gentleman permit me to interrupt him?

Mr. KAHN. Certainly.

Mr. HAY. What provision in the bill provides for a detail of officers, for example, in the Philippine Constabulary?

Mr. KAHN. I have not it right at my finger's end. If that has been omitted, I do not know of it.

Mr. HAY. There is no provision in the bill which does what the gentleman states.

Mr. KAHN. With regard to the Philippine Constabulary?

Mr. HAY. No; in regard to the Insular Bureau or any of these other details. There was an amendment offered by the gentleman from Texas [Mr. SLAYDEN] with regard to the detail of Army officers, but that amendment does not go that far.

Mr. KAHN. As I recollect the amendment, it provided that where an officer has served four years he was to be taken away from his detail, no matter what the work might be that he was engaged upon, or be deprived of his salary.

Mr. HAY. No; it intended to do that, but as a matter of fact it did not do that.

Mr. KAHN. I understood that that was the purpose of the provision.

Mr. HAY. That was the purpose of it; yes.

Mr. KAHN. That was a very objectionable feature. I understand that the same purpose is attempted in the present bill. While I have not examined it carefully, yet——

Mr. HAY. The same amendment is in the present bill, but it does not do what the gentleman says it does.

Mr. KAHN. The President in his message says, as I recall now, that it is capable of such a construction.

Mr. HAY. No. The President says in his message that it is a "very probable construction" that engineer officers may be taken from their detail upon the Panama Canal. But while he may think it a probable construction, nobody else that I have ever heard of who has read the provision thinks so.

Mr. KAHN. Well, the President is looked upon as a very capable lawyer.

Mr. HAY. That is true, but——

Mr. KAHN. And the fact that he says it is capable of a probable construction of that kind would indicate to me, at least, that it is an ambiguous section and has no place in this bill.

Mr. HAY. Who would construe it? The President would, would he not? He would hardly construe it against the interest of the canal.

Mr. KAHN. The department would construe it, and yet another bureau chief coming in might construe it differently.

Mr. HAY. The President will have the final construction of it. But that provision which the gentleman is talking about is not in this bill.

Mr. KAHN. Where is the provision to which the gentleman refers?

Mr. MANN. If the gentleman from California [Mr. KAHN] will permit, I may say that the President does not confine his observation with regard to the probable construction to engineer officers. He says, "And other staff officers."

Mr. CANNON. Does this bill change it so that it is different from the other bill, so as to meet the objections of the President?

Mr. KAHN. No; I do not think it does.

Mr. CANNON. Why not?

Mr. KAHN. Because the majority of the committee have reported this bill out just as it was in the other House bill, and the President says that it is capable of that construction—the construction that he refers to in his message.

Mr. TILSON. So far as that matter is concerned, the present bill contains exactly the language that was in the bill which the President vetoed.

Mr. KAHN. Yes. I will ask my colleague from Virginia [Mr. HAY] to let me have the page as soon as he finds it.

The President in his message also referred to the increase of the time of the term of enlistment. When the vetoed bill was up in the House last February it was shown by figures that a five-year enlistment period resulted in increased desertions. Since the bill passed this House I have had letters from enlisted men, in which they have told me that a three-year enlistment period was a proper period and that the five-year enlistment period was entirely undesirable.

In my own mind I think that a short period of enlistment is the best. A one-year enlistment, in my judgment, would be better than a three-year period of enlistment. Many men enlist, young men, probably 20 or 21 years of age, without any experience in life. They are ambitious; they are patriotic; they see a possibility of advancement in the Army, and they enlist. Within a few months after they have signed the articles of enlistment it frequently happens they find that they are entirely unsuited for the service, and they want to get out. In cases of that kind the enlisted man should be given his discharge at the end of one year.

Mr. HAY. I have that provision now. It is on page 6, line 21. It provides:

That no money appropriated by this act shall be paid to any officer for any period during which he shall have been detached for any duty of any kind for more than four of the preceding six years from the organization in which he is commissioned, unless such continuous detachment from such organization for more than four years shall have been specifically authorized by law.

Mr. KAHN. I thank my colleague for having cited the language. That is the language that was in the other bill?

Mr. HAY. No; that is not the language at all that was in the bill that was vetoed.

Mr. KAHN. Then why is it here? That was the language of the bill as it passed the House. Was it not the same language that was agreed to by the conferees?

Mr. HAY. Not at all. The Senate amended the House provision, and that, as amended, went to the conferees, and they

wrote an entirely new section upon this particular subject, providing that no officer below the rank of lieutenant colonel shall be detached, and so forth.

Mr. KAHN. That was said to refer to Lieut. Col. Wilson, the subsistence officer on the Canal Zone.

Mr. HAY. It did not affect him at all, because it would apply only to those below that rank.

Mr. KAHN. The lieutenant-colonel proviso was put in in order to save one man.

Mr. HAY. Not at all. This provision does not at all do what the President is opposed to. That is the point I make.

Mr. KAHN. This language, however, does prevent a man from continuing in the work to which he has become accustomed by at least four years' service.

Mr. HAY. But is not that right? I ask the gentleman from California——

Mr. KAHN. I do not think it is right. There are many cases when a man by his experience becomes especially adapted to a certain line of work, and to take him away and break in a new man who knows nothing about it at all is, in my opinion, exceedingly injurious.

Mr. HAY. Will the gentleman yield?

Mr. KAHN. In a moment; and gentlemen here in Congress constantly speak of the fact that long service here is a beneficial thing to their constituents.

Mr. HAY. That is an entirely different proposition.

Mr. KAHN. It is not a different proposition at all. Men after long experience in a certain position can perform their duties in a manner beneficial and advantageous to the country, while a new man would probably know nothing about those duties and would require some time in acquiring the necessary information and training to properly perform those duties. There would probably be delay, there would possibly be additional expense, and new methods would likely be tried out that might prove exceedingly disastrous to the public service.

Mr. HAY. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. HAY. Is the gentleman in favor of the detail system in the Army?

Mr. KAHN. Certainly.

Mr. HAY. Let us take, for example, the Insular Bureau, to which the President referred.

Mr. KAHN. Yes.

Mr. HAY. There are detailed in that bureau only two Army officers.

Mr. KAHN. Yes.

Mr. HAY. One is a major and the other is a captain. The captain has been there for a little over a year.

Mr. KAHN. Yes.

Mr. HAY. Does the gentleman say that that bureau would be affected in a detrimental manner by the detail of some other captain to that service? Does not the gentleman know that that officer has been away from the organization to which he belongs in the General Staff on other detached duty for eight or nine years, and does the gentleman think that is right?

Mr. KAHN. I understand that that officer has been away. but the major in that bureau, who by virtue of his position there has the rank of colonel——

Mr. HAY. But I am asking the gentleman now about the captain.

Mr. KAHN. That captain is learning his duties there, and so long as the superior officer over him continues in his place the latter can always regulate the work of that office.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. HAY. Mr. Speaker, I yield five minutes more to the gentleman.

Mr. KAHN. I thank the gentleman from Virginia.

Mr. HAY. Then the argument of the gentleman goes to the abolition of the detail system, because, if he is correct, when a man is detailed to a position in any one of these corps and he learns the duties there he ought not to be disturbed.

Mr. KAHN. Oh, there are some places in the Army where a man can be taken from his detail without any loss to the service. There are other places, such as are enumerated by the President in his veto message, where it would be a great loss to the Government to take a man away from his detail.

Mr. HAY. The President enumerated the Philippine Constabulary, for example.

Mr. KAHN. Yes.

Mr. HAY. All of the officers who are now on duty with the Philippine Constabulary have been there for 4 years, some of them 8, some 9, and one as many as 10 years. Does the gentleman think that these men ought to be kept there and no other officers detailed to that work? What is the idea of the detail system? The idea is that the officers of the Army should be detailed for these several services in order that the whole Army may be educated. That was the argument used to inaugurate the detail system, and the duties that are to be performed in the Philippine Constabulary are not very difficult. Some other officers ought to be sent there. Some officer might die, and then, according to the argument made by the gentleman and the President, the whole service will be thrown into confusion.

Mr. KAHN. Not at all.

The SPEAKER pro tempore. The time of the gentleman from California has again expired. He has consumed 15 minutes which have been charged to the gentleman from Illinois and 5 minutes which have been charged to the gentleman from Virginia.

Mr. HAY. Mr. Speaker, I again yield to the gentleman another 5 minutes.

Mr. KAHN. I again thank the gentleman from Virginia. In the Philippine Constabulary, and in other branches of the Government service, there are officers who have become thoroughly familiar with the duties of the particular work in which they are engaged. I think it is ill-advised under such conditions to take the officers away from that kind of work; but there are many places to which officers are detailed—for instance, to colleges as military instructors—where, after four years of service, a man can be detached without any detriment to anybody. A comparison of the provision in this bill with the provision in the vetoed bill indicates to me, at any rate, that the present provision is even more drastic than the provision referred to in the President's veto, and, if anything, is more objectionable.

But, Mr. Speaker, there is one provision of the bill in particular to which I desire to call the attention of the House, aside from the legislative features of the bill, and that is the item making appropriation for the subsistence department of the Army. In my judgment, the amount appropriated in this bill is entirely inadequate. The appropriation for the subsistence of the Army last year was $9,033,579.40. The estimates for this year were $8,988,867.42. This bill carries for subsistence $8,605,273. The Commissary General of the Army, in explaining the difference in the estimates, stated that the amount asked for last year was predicated upon the full strength of the Army, namely, 80,000 men; and this year his estimates were for only 75,000 men, or 5,000 less than the full strength.

Yet the committee has materially reduced the amount estimated by the Commissary General. What happened to the appropriation of last year? The department recently sent to the Committee on Appropriations a deficiency item of nearly $600,000 for the purchase of commissary supplies for the Army. If this bill goes through in its present shape I believe that the deficit will be nearer $1,000,000 than $600,000. There is entirely too great a decrease in the appropriation carried in this bill for that purpose.

What has happened as a result of the cheeseparing process of the committee? Merchants all over the United States who have furnished supplies to the Army can not get their money. I have received telegrams from the merchants of the Pacific coast telling me that they had to go to the banks to borrow money in order to keep themselves afloat, paying interest upon their loans. The Government of the United States does not pay a dollar of interest to any man who has to wait for his money from the Government. One man sent me a telegram recently saying that he had not had a dollar for 60 days, that the appropriation was exhausted, and yet he was compelled to live up to the letter of his contract in furnishing supplies or suffer a penalty. He is compelled to borrow from his bankers, although the Government owes him a large sum of money. I have here a telegram from San Francisco in regard to this matter, which reads as follows:

SAN FRANCISCO, CAL., *June 24, 1912.*

Hon. JULIUS KAHN,
House of Representatives, Washington, D. C.:

We, in company with other merchants, have sold and delivered goods to the War Department of the United States, and for the past 60 days have not received payment for same. We entered into this obligation with the United States Government, relying upon being paid for our deliveries within a reasonable time. We are informed that the War Department can not make payment owing to a want of funds. We understand that a deficiency appropriation bill, to provide the funds to meet these obligations of the Government, is now before Congress, and we would request the assistance of the California delegation in obtaining the passage before the 1st of July of the necessary bill. Please communicate with the congressional delegation.

WM. CLUFF CO.
J. A. FOLGER & CO.
HAAS BROS.
GUGGENHEIM & CO.
JOHN ROTHSCHILD & CO.
GETZ BROS. & CO.
MILLER & LUX (INC.).
GARCIA & MAGGINI CO.
HARRIS & CAHEN.
ROSENBERG BROS. & CO.
SPERRY-FREITAS CO.
FRED HILLMAN CO.
SPERRY FLOUR CO.
JONAS ERLANGER.
M. J. BRANENSTEIN & CO.

The firms who sign that telegram are gentlemen who furnish supplies to the Government. They are reputable business men who stand high in the community in which they live. They ought not to be compelled to wait so long for money that is justly due them. This cheeseparing policy will result in additional expense to the Army. When business men find that they can not receive their pay as their bills fall due they may be tempted, when bidding on Government contracts in the future, to raise the price of their commodities in order to offset the interest they have to pay to the banks that loan them money to tide over their financial difficulties by reason of the Government's nonpayment of its just debts. It is not good business to compel the contractors to wait 60 days for their pay after they have furnished the materials required by the Government. No private concern would dare to treat its creditors that way. And the Government ought in all such matters to set the example for the private citizen. There are many other defects in the pending bill which my limited time will not permit me to point out. I am opposed to the measure in its present shape and hope it will be voted down.

The SPEAKER pro tempore. The time of the gentleman from California has again expired.

Mr. HAY. Mr. Speaker, I yield five minutes to the gentleman from Kansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Speaker, when the conference report on the military appropriation bill was before the House, I voted for its adoption. I did so because I was convinced that the bill carried a great deal of valuable legislation in it for the Army. I did not approve of all of it. There were some things in the bill that I would not have voted for if a separate vote could have been had on each proposition. For instance, I did not approve of lengthening the term of enlistment for the soldiers in the Army, and I would not have voted for any provision which would have imposed an excessive limitation upon the requirements for service of an officer as Chief of Staff. But I did find in the bill as it came from the conference legislation which I considered of vital importance to the Army. I am sorry to be compelled to take exception to the statements just made by the gentleman from California [Mr. KAHN] in reference to the desirability of continuing indefinitely on special duties officers of the line of the Army who have been assigned to detached service. I think that one of the greatest evils in the Army to-day comes from the fact that there are hundreds of officers detached on special duty away from their companies and their regiments. Before the Military Committee there have come time and time again the Secretaries of War, the Chiefs of Staff, and even the President of the United States, when he was Secretary of War, calling our attention to this crying evil, and recommending legislation which would cut off these continual and perpetual details, and asking for legislation which would send those men back to their regiments.

Mr. PRINCE. Mr. Speaker, will the gentleman yield?

Mr. ANTHONY. Certainly.

Mr. PRINCE. Has the gentleman read the veto message by the President, on page 4, where he used this expression:

While these provisions aim at a wise purpose and one which my administration has sought to carry out by Executive action with especial thoroughness the enactments of this bill are deemed too radical and drastic.

So you and the President are in accord that these provisions are too radical and drastic, and for that reason he vetoed it.

Mr. ANTHONY. I believe the President wrote that statement without an accurate impression of what the bill would do. I contend that if there are officers of the line doing duty as commissary officers down on the Isthmus of Panama who would be taken away from that duty on the canal and were returned to their regiments, that there are hundreds of just as capable officers in the line of the Army to-day who could be assigned to that duty, and very glad to have it, and the work would not suffer one iota. I contend there is no subordinate officer on detached duty to-day in the Army but who could be replaced by hundreds of equally competent officers, and I contend that it would vastly increase the morale of the Army to send these men who have so long enjoyed the special privilege of detached service away from the line of the Army back to their regiments and detail other officers in their places, and it is for that reason I hope that this really good legislative feature will be retained in the bill when it is finally enacted.

In the original bill and in the present bill under consideration I think unwise, and I am opposed to, the provision for the extension of the enlistment period; likewise the provision eliminating cadet service in computing length of service, and also the reduction of the Cavalry arm.

I heartily approve the provisions of the bill for the establishment of a quartermaster corps by the consolidation of the present Quartermaster, Commissary, and Pay Departments; also the establishment of a service corps of enlisted men, provided such corps shall be gradually created so as not to interfere with the tenure of office of any of the present teamsters, bakers, firemen, storekeepers, and laborers now employed throughout the Army, and that only vacancies be filled by service-corps men, and no person now under civil-service regulations be affected. I also indorse the idea of requiring a proper length of previous service with the line of the Army as a requisite to appointment to most of the places on the General Staff.

The need of some legislation concerning the absence of officers from their regiments has been apparent for several years. The Army regulations cover the subject, but little or no attention has been paid to the flagrant violations of the regulation, which had become practically a dead letter. Information called for by Congress developed a condition demanding drastic remedy. The legislation proposed is objected to mainly by those who have profited by failure to apply the regulations, and who under any fair system would have been long since returned to duty with their organizations. The legislation conforms to the principle commended by the President, of rotation in staff and other details. The Army is filled with capable officers and there will be no difficulty in finding substitutes for those who may be relieved under the new legislation, which is nothing more than an enactment of an Army regulation into a statute. [Applause.]

The SPEAKER pro tempore. The gentleman has two minutes remaining.

Mr. ANTHONY. I yield back those two minutes.

Mr. HAY. I yield five minutes to the gentleman from Tennessee [Mr. MCKELLAR.]

Mr. MCKELLAR. Mr. Speaker, as I view this bill it is entirely different from the bill that has been vetoed by the President. I think gentlemen are confusing it somewhat. The first ground of veto offered by the President is the provision limiting the eligibility of officers of the staff. That provision is not in this bill.

Mr. KAHN. Nobody contends that.

Mr. MCKELLAR. Not at all. Now, take the next one. To reduce the number of the General Staff, that provison is not in this bill——

Mr. KAHN. Oh, yes.

Mr. MCKELLAR. Not exactly as it is here. It is a different measure which the President vetoed in that regard. Now, take the third provision——

Mr. KAHN. This reduces the General Staff.

Mr. MCKELLAR. If gentlemen on the other side will examine page 6 of the bill that was vetoed, as shown here on this memorandum, and then examine this page 6 of the bill now under consideration, they will see that is an entirely different provision in the bill now proposed, wholly different in all respects from the bill that the President vetoed.

Mr. BURKE of Pennsylvania. May I ask the gentleman in what respect is that difference in the gentleman's mind?

Mr. MCKELLAR. I will suggest this, that the President objects to it because it is too drastic. Now, if the gentleman will just read, on page 9 of the veto message of the President, he will see the drastic measure to which the President objected. If he reads on page 6 of the bill under consideration, he will see that it contains no such drastic features as the President points out.

Mr. KAHN. Will the gentleman yield?

Mr. MCKELLAR. Yes.

Mr. KAHN. The gentleman has stated that the present bill does not reduce the number of officers in the General Staff.

Mr. MCKELLAR. No; I did not; I said not in the same way in which the bill which was vetoed reduced it.

Mr. KAHN. The gentleman will admit that this bill reduces the number of officers of the General Staff very materially.

Mr. MCKELLAR. Of course.

Mr. PRINCE. Will the gentleman yield?

Mr. MCKELLAR. Certainly.

Mr. PRINCE. I think the gentleman tried to get at this question very fairly, but let me call his attention to page 9 to the proviso to which the gentleman referred.

Mr. MCKELLAR. Of what?

Mr. PRINCE. Of the veto message of the President:

Provided, That hereafter in time of peace whenever any officer holding a permanent commission with rank below that of lieutenant colonel shall not have been actually present for at least two years—

Then he shall receive no pay. That is the amendment.

Mr. MCKELLAR. That is not in this bill.

Mr. PRINCE. Now, look on page 6 of the bill, line 21:

No money appropriated by this act shall be paid to any officer for any period during which he shall have been detached for any duty of any kind for more than four of the preceding six years from the organization in which he is commissioned.

No officer, even a major general. The other was a lieutenant colonel. The provision now in the bill is even broader than the one vetoed and more drastic. It goes on to say—

Unless such continuous detachment from such organization for more than four years shall have been specifically authorized by law.

So that the whole includes the part. He vetoes a part, and yet you say the whole is not as great as the part.

Mr. McKELLAR. I think the gentleman is mistaken in that entirely.

Mr. PRINCE. If the gentleman will read that proviso he will see I am not.

Mr. McKELLAR. It is not nearly as drastic; but, of course, that is a difference of opinion.

Mr. PRINCE. All right.

Mr. McKELLAR. I think the gentleman is mistaken. Now, we come to the next provision of the President's veto message, which is in regard to the term of enlistment. Now, of course, the President suggests that as a reason why he vetoed this bill. I do not believe he would have vetoed it if that was the only reason. It is very natural he should take that position, but the difference of opinion is this: This House has passed before the five-year term of enlistment and it has proposed to pass in this bill a five-year term of enlistment, and, as I say, that is just a difference of opinion for which, I am sure, the President would not veto this bill. The next provision constitutes the commission; that is not in the bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HAY. I yield the gentleman two minutes additional.

Mr. McKELLAR. The next provision is purely a difference of opinion about the expenditures that may be required under this bill. It is a different bill from the bill that was vetoed, and I do not think that the President would urge that as a reason why he should veto this bill. And now it seems to me that the features of this bill to which the President really objected, which we all know, are Nos. 1 and 2, as the President has pointed out. Those are the reasons, as we all believe, why the President vetoed the bill. Those provisions are not in this bill, and I see no reason why we should not reenact the measure as passed by the House before, and I hope the bill will pass. [Applause.]

Mr. PRINCE. I now yield five minutes to my colleague on the committee, the gentleman from Connecticut [Mr. TILSON].

Mr. TILSON. Mr. Speaker, the present bill is the same as that which passed this House on February 16, 1912. That bill went its way to the Senate, where it was amended, then through a prolonged conference between the two Houses, where it was further amended, and finally to the President, where, on June 17, 1912, it met the well-deserved fate of a veto. The reasoning of the presidential veto is so conclusive that no attempt has been made to meet it. Instead, we are confronted with a new bill, which is, in fact, the old bill with the Senate and conference amendments eliminated. While some of the objectionable features referred to in the veto message have been removed, others, left out of the House bill by the Senate and the conference, have been restored.

When the former bill was under discussion here the matter of extending the enlistment period from three years to five years was gone into in much detail and, in my opinion, the arguments then made against the extension have not been and can not be answered. I shall not attempt to repeat the arguments made on that occasion and shall refer to only one of them in order to enlarge somewhat upon it.

The adoption of the five-year enlistment period would be, in my opinion, a very serious step backward and directly opposed to the best military thought of the present day. The tendency under such a policy would be toward a professional army. A professional army as small as ours in a country as large as ours is an absurdity. A war of any consequence must be fought, as have been our wars in the past, by men brought into the service at the time for the particular purpose. When all arms were of short range and men could fight in compact bodies it was a less difficult matter to train men for efficient military service. It was a comparatively simple matter to fill the ranks of skeleton companies with raw recruits and trust to the impetus of the trained men to carry the entire mass forward in case of conflict. With the rapid development in firearms has come new and more difficult problems in warfare. The heavy column has been necessarily replaced by the thin skirmish line. Instead of going forward with locked arms or in solid phalanx, it often becomes necessary to advance only a few men at a time, or even individual soldiers. This means that each man must be trained. If skeleton organizations are filled up with raw recruits the trained men will be impeded or demoralized by the failure of the untrained.

Our Army as it exists to-day is little more than a school of training for the national defense in case of war. The training required of officers makes it necessary that they be professional soldiers, and they become essentially military teachers. With the man in the ranks it is quite different. It is generally agreed that a private soldier can be well trained within a year, and that any time beyond three years is wasted, so far as necessary training is concerned.

There are two widely differing theories as to how best to maintain our Army in time of peace that it may most effectively perform its function in time of war. The one upon which this provision in the bill seems to be based is that it is better to train only a few men and keep these in the service as long as possible. There would be a sounder foundation for this theory if our Army were large enough of itself to need no assistance in case of war. The other theory—and, as I believe, the only sound one—is that inasmuch as it will surely be necessary to draw from civil life the bulk of our soldiery in case of war it is extremely important that there be as many trained men as possible in civil life. The supply of such trained men will grow less as the period of enlistment is increased. If the period of enlistment were only sufficient for thorough training and no more, the number of such men would rapidly increase. The President, in his veto message, referring to the extended term of enlistment, well says:

It will tend to make difficult or impossible the establishment of a proper reserve by which the Regular Army could in time of emergency be brought up to its full strength.

Several weeks ago, while the former bill was still in the Senate or in conference, I introduced a bill providing for just such a reserve as that referred to by the President. It is now pending before the Committee on Military Affairs, and I shall continue to press it before that committee as one of the most important propositions touching our national defense.

We have all become familiar with the word "conservation" as applied to our natural resources, but little has been said touching conservation of our military resources. For a long time it has seemed to me that we have failed to take full advantage of one of our chief military resources so as to be able to use it in case of war. Each year a considerable number of men, well trained for service, go out of the Army and return to civil life. My bill proposes to make of these men a national military reserve. I can not go into the details of that bill here, though I commend it to the thoughtful consideration of those who are interested in the question of a proper and reasonable national defense.

It is enough to say here that the principle involved is to conserve our resources in trained men. Having at great expense trained men in our Army and in our militia, instead of turning them loose without keeping any record of them as to where they can be found in case of emergency I propose to make a reserve, which substantially means that all organizations in the Army and in the militia will be potentially filled to the maximum war strength with trained men, ready in case of trouble to step into the ranks of their organizations, instead of having our skeleton regiments filled up with raw recruits.

One additional feature I would add is that if this reserve can be brought about as provided in the bill to which I have referred, it can be done with comparatively little cost. I am prepared to show, from figures which I believe to be reliable, that a reserve sufficient to fill every organization in the Army to its maximum war strength can be established and maintained for less than it would cost to maintain two regiments of Infantry.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. TILSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PRINCE. Mr. Speaker, I now yield five minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Speaker, there are many objectionable provisions in this bill, and if the opportunity for amendment had been given I should have offered or voted for quite a number of amendments. I am not in favor of the change in the terms of enlistment. I think it is a very great mistake to increase that term. I am not in favor of the reduction of the strength of the Cavalry arm, and particularly at this time. If I had the opportunity, I should offer amendments striking out certain provisions in the bill, found on pages 31, 33, and 37, which prohibit the use of appropriations made for barracks and quarters, and for roads, walks, wharves, and drainage, and for water and sewer systems at certain Army posts. This bill, Mr. Speaker, illustrates, by its violation of it, the wisdom of the

general rule against legislation on appropriation bills. Our rules for a great many years have prohibited general legislation on such bills. That rule is modified to a certain extent in the present rules by the so-called Holman rule, under which a certain very wide class of amendments can be made which contain legislation. In my opinion it is very unwise to give the appropriations committees of the House any authority under any pretense to place legislation on appropriation bills. The members of those committees should be required, as the members of the other committees are, to bring their proposals of legislation before the House in a regular way, to present them for consideration, to have them considered in an orderly way, and on their merits, and without regard to items that may be carried on an appropriation bill. So long as the committees are allowed to legislate, so long we shall have and ought to have presidential vetoes of appropriation bills. The appropriation committees of this House have arrogated to themselves powers that can not be exercised by other committees of the House. By reason of their control over appropriations they have brought in appropriation bill after appropriation bill containing all sorts and kinds of legislative matter. Many of the propositions, if standing alone and on their own merits, would not and could not receive the support of the House. That being the case, these committees should not be given the opportunity to secure indirectly what they could not secure by direct legislative action.

The SPEAKER pro tempore. The time of the gentleman from Wyoming has expired.

Mr. PRINCE. Mr. Speaker, I now yield three minutes to the gentleman from Pennsylvania [Mr. BOWMAN].

Mr. BOWMAN. Mr. Speaker and gentlemen, there is a provision in the latter part of the bill, starting on page 63, at the bottom of that page, to the effect that hereafter the service of a cadet at the United States Military Academy, or as a naval cadet or midshipman, shall not be counted in computing for any purpose the length of service of any officer of the Army. I understand this method of computing time has been practiced for some 30 years or more.

Now, as an employer of labor to some extent I have always considered that good treatment and good pay secure good men. I can not understand what purpose the committee had in view in practically cutting down the pay of the cadet officers to the extent of about 10 per cent. Certainly the cost of living is increasing, and wages are or should be increased proportionately. There is a great demand for the sort of talent that the United States needs in its Army and Navy, and there is great difficulty to-day in getting the sort of men at Annapolis and at West Point that the United Sates Government needs.

I suggested to some bright young men in my district that they ought to offer themselves as candidates for West Point and Annapolis. Their answer was that they did not care anything for those positions; they would rather go to work and earn money sufficient to put themselves through college on their own responsibility and have their services belong to themselves. They did not care to go there and put themselves under the authority which they are obliged to encounter and do the work which they are called upon to do for the pay that they get. And in talking over this matter with officers at West Point and Annapolis I am advised by them that a great many of the men who have acquired the education leave the Government service as soon as possible, because they are offered better pay in civil life.

It is true that after entering the Military Academy the cadet receives his education and training at the expense of the Government, but his appointment to the grade of second lieutenant is made contingent on his ability to pass satisfactorily through the difficult course outlined in the Official Register of Officers and Cadets of the Military Academy.

If civilians were required to pass an examination even remotely approximating the requirements of the curriculum of West Point there would be justice in the assertion that Congress, not the War Department, had discriminated in favor of graduates of the academy, but the cadet before entering West Point acquires at his own expense practically the same education which the civilian acquires at his own expense. The Government pays for the education of the cadet, not with a view to benefiting him but with a view to benefiting the State; the civilian is not required to qualify in the curriculum of the academy. On this score there is no discrimination against the civilian.

Upon entering the military service neither the civilian nor the cadet is required to demonstrate fitness for the military profession. While the cadet is receiving training in the rudiments of his profession his pay is $709.50 per year; while the civilian is receiving training in the rudiments of his profession as a second lieutenant his pay is $1,700 per year. On this score again there is no discrimination against the civilian.

The average age of the cadet upon entering the Military Academy is 19 years; the average age upon graduation, 23 years. If unsuccessful in securing an appointment to enter West Point, the civilian may enlist at the age of 18, and at the age of 20 may receive his appointment as second lieutenant by passing an examination equivalent to that required for first-year men at West Point, or equivalent to that required for civilians in entering the Army. As a soldier he would receive the pay and allowances of his grade. He can reach the grade of second lieutenant three years earlier than the average cadet; service as an enlisted man under the act of June 18, 1878, is counted in computing his service for longevity pay and retirement, while the advantage of seniority in attaining the grade of second lieutenant ahead of older men in the Corps of Cadets will remain with him during the rest of his career, will permit him to attain promotion in the higher grades three years ahead of graduates of the Military Academy, and will place him in command of them whenever they serve together. Should he fail in his examination at West Point he may secure his appointment as second lieutenant either by taking the examination as a civilian or by enlisting and passing through the ranks, and in the latter case his time spent in the ranks will be counted in computing his service for longevity pay and for retirement.

On the whole, it would therefore seem that no real advantage is enjoyed by the cadet under existing law, and that if the privilege now accorded him by statute be taken away he will be at a serious disadvantage as compared to civilians and enlisted men. If this be done the time spent in a rigorous course of training at the Military Academy will become a handicap which the Government ought not to impose.

The proposed legislation withdraws the privilege of counting cadet service for retirement as well as for pay. Officers of long service regard the retirement privilege as a valuable one, and while advantage is not often taken of the laws permitting retirement before reaching the age at which it is compulsory, there is and will be a natural feeling of sorrow upon the part of such officers that, as they approach the end of their careers in the service, it should be considered proper to curtail the privilege of honorable retirement under the expectation of which they have given long service to the Government. Enlisted men can claim retirement after 30 years' service, and can then receive three-quarters of their allowances as well as three-quarters of their pay. Officers can claim the right of retirement only after 40 years' service, and then receive three-quarters of their pay only, losing all of their allowances. The privilege of counting cadet service with respect to retirement does not therefore seem to be out of accord with other similar privileges which are granted by law.

Midshipmen at the Naval Academy are at all times subject to orders into general service, and they have actually been so employed, as when, during the Civil War, midshipmen were ordered to cruising vessels after only two or three years' training instead of undergoing full course of four years. During the Spanish War midshipmen of all classes were ordered to active duty, some of them even doing duty as regular watch officers on board the smaller vessels. Again, for several years after 1902 midshipmen were ordered to sea before the completion of their academic term to help meet the requirements of the active service.

Further, during the course at the Naval Academy the midshipmen spend one-quarter of each year at sea in vessels in active service in the fleet. During this time they perform actual responsible duty, which if not done by them would have to be performed by other officers.

Their four years as midshipmen is therefore not a purely educational period, but part educational, part active service. Further, as they are subject to whatever duty may be assigned to them, without any choice of their own, from the moment of entering the naval service, they should be credited with service for longevity pay and purposes of retirement from the same date.

As regards retirement, if the 4 years' service as midshipmen were to be neglected the purpose of the 30, 40, and 45 years' retirement laws would be defeated, the aim of those laws being to secure younger officers for the arduous duties in the several higher grades. To raise all these ages 4 years would nullify the progress made in the past 10 years in the desired direction, unless the laws mentioned were correspondingly modified.

Enlisted men's service counts for all benefits from the day of enlistment, yet their unproductive period of preliminary training is comparatively longer than a midshipman's, and continues for some months after their drafting into regular service. After

only 8 months' service midshipmen regularly go to sea and perform responsible duty; they are at any time available for such duty throughout their 4 years as midshipmen, and thereafter for 40 years or more, whereas the enlisted man is seldom capable of regular service under 6 months and generally not for a year, or one-quarter of his whole term.

In general, in seafaring life, and particularly in the naval profession, instruction and service go hand in hand, so that to regard the midshipmen's 4 years as purely educational would be as far from correct as to consider the ensign's 3 years or the lieutenant's 8 years as purely practical. The proportions of study, instruction, and responsible duty vary too widely to make an arbitrary ruling without injustice, not to individuals, but to the whole grade of officers concerned.

The Government of the United States has secured good men in the past, but I candidly believe it can not secure men of like character in the future unless it gives as much or more for the service than it has paid in the past. I can not believe this provision will be an advantage to the service, and I trust it will be defeated.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BOWMAN. I ask unanimous consent to extend and revise my remarks in the RECORD.

The SPEAKER pro tempore. Without objection, the gentleman will be permitted to extend his remarks in the RECORD.

There was no objection.

Mr. PRINCE. Mr. Speaker, how much time have I left?

The SPEAKER pro tempore. The gentleman has 31 minutes remaining.

Mr. PRINCE. I do not wish to dispute with the Chair, but only the gentleman from California has used 15 minutes.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. TILSON] had 5 minutes yielded him, the gentleman from Wyoming [Mr. MONDELL] had 5 minutes, the gentleman from New Jersey [Mr. BROWNING] 1 minute, the gentleman from California [Mr. KAHN] 15 minutes, and 3 minutes to the gentleman from Pennsylvania [Mr. BOWMAN].

Mr. PRINCE. I now yield, Mr. Speaker, five minutes to my colleague from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, the objections to the provisions of this bill were quite completely expressed by my colleague, Mr. PRINCE, and other members of the Committee on Military Affairs when the other Army appropriation bill was before the House. The provisions which were in the conference report that were especially objectionable, and which were discussed when the conference report was before the House, are not in this bill. We all understand, those of us who are here, that the passage of this bill in this form at this time is mainly perfunctory. The other bill having been passed by this House, and the conference report upon it having been agreed to, and it having been sent to the President, the President vetoed it.

There was then only one of two things which could be done—either to bring the vetoed bill before the House for a final vote or to introduce a new bill practically in the form in which it passed the House before. If the vetoed bill had been brought before the House, I think the veto would have been sustained; that is, I do not think there would have been a two-thirds vote in either body in favor of the bill.

The gentleman from Virginia [Mr. HAY] has now put before the House the bill with a new number, the same as it passed the House before. It was quite fully discussed in the House before, at the time of its consideration previously, and I take it that the object is now to have this bill go into conference again and to endeavor there to meet the objections which the President raised by his veto.

I hope that the gentlemen in charge of the House will understand that the President is quite within his rights and privileges in vetoing an appropriation bill because he objects to the legislation upon it. No legislative body at this day, in my judgment, can afford to withhold appropriations because of a difference of opinion concerning general legislation; that is, appropriations for the maintenance of the Government—in this case for the support of the Army. I hope that the conferees will be able, when they bring a final report before the House, to present a conference report which can meet the approval of both sides of the House and meet the approval of the President when the bill is sent to him.

It is not a case for stubbornness on either side. There will have to be some yielding, probably, by all the parties in controversy. But on this side of the House, although we would like to express our disapproval of the provisions of the bill by a roll call, I take it that my colleague in charge of the bill on this side will consider the peculiar conditions under which we are operating and express the disapproval of this side of the House in the statement which he makes on the floor, and that the President and others throughout the country who are interested in this legislation will understand that the failure to demand a roll call on the bill, or possibly even the failure to demand tellers or a division, if that should not be done, will not be because we are in favor of the bill, but because we are not in favor of stopping legislation on account of the absence of so many gentlemen at Baltimore. We are quite willing on this side of the House to exchange the ordinary amenities of civilized warfare with the gentlemen on that side of the House, without attempting to prevent them from transacting business or attempting to override them because they are temporarily in a minority.

Mr. GARNER. We have had enough war in the last two weeks without bringing any in here. [Laughter.]

Mr. MANN. Well, if I should read the last report we had from Baltimore it would seem so. [Laughter.]

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PRINCE. Mr. Speaker, I now yield five minutes to my colleague from Illinois [Mr. CANNON].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. CANNON] is recognized for five minutes.

[Mr. CANNON addressed the House. See Appendix.]

Mr. PRINCE. Mr. Speaker, I yield five minutes to my colleague on the committee, the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE of Pennsylvania. Mr. Speaker, in line with the suggestions just made by the distinguished gentleman from Illinois [Mr. CANNON] I believe the President of the United States, if he was ever justified in vetoing an appropriation bill, exercised that power with wisdom and in strict line with his duty on this occasion. So far as the bill as it originally passed the House is concerned, it may be well for us to stop for a moment and see what this method of legislation means and what the provisions the bill contained mean.

Here was to be presented to the President an appropriation bill which reduced the Army by five regiments of Cavalry; which changed the existing term of the soldiers' enlistment; which altered the amounts of pay and conditions of allowances made to officers and enlisted men; which consolidated the three great supply corps of the Army; and which also merged The Adjutant General's and Inspector General's Departments with the General Staff, making changes which necessarily had a far-reaching effect upon the military policy of the Nation. Where are those provisions found? They are found in a bill containing appropriations aggregating nearly $100,000,000, necessary to keep the military establishment of this Government in operation; and yet you place before not only the President of the United States but the Commander in Chief of that Army in the last days of a legislative session the alternative of acceding to these vicious and unwise provisions or of striking down the entire appropriation. I say that that is not in keeping with the high standard of public service which should mark the performance of duty by this House.

There is another provision that I do not believe should go back to conference or sent to the Senate, and that is the provision, originally contained in the bill, and which is in the one under present consideration, striking down the pay of the men in the foreign service, the men who in good faith made a contract with the United States Government, who donned its uniform, and sailed across the seas, who are to-day 10,000 miles away from home, and helpless to aid themselves against the imposition of this wrong, while we on the floor of this House undertake to abrogate the contract, strike down the little pay we guaranteed them, and make, I believe, as unjust an attack upon them in their absence as was ever made upon men serving in the military ranks of any nation. [Applause.]

An American soldier should never be shot in the back, but if he is, the last body to do it should be the Congress of the United States.

His pay at best is not large, and the average extra pay for the foreign service is by no means commensurate with the additional expense and vicissitudes. He enters the service for a given number of years with at least an implied promise of certain compensation. If he breaks that pact he is branded a "deserter" and suffers consequently. While the brand of infamy attaches to the soldier's violation of the contract, to say the least its violation by a powerful and wealthy Government is by no means creditable. If the foreign pay is to be reduced, reduce it at the end of the enlistment periods of those now in the military service.

In addition to this there is another suggestion I wish to make in passing, with reference to this particular bill, which went to

the President and was finally vetoed. There was substantive legislation added in conference. I am just as jealous as any man in this House of the respective rights of the two branches of the legislative department as I am of the rights of conferees appointed by them, but I do not believe that any set of men outside of this body and the Senate has the right to set up, as a result of their superior confidence in themselves, a third or additional legislative branch of the Government. I do not believe that any committee on conference ever had the right to initiate original legislation of this kind, tack it onto appropriation bills, and send it to the President with, as I said before, the alternative of acceding to their demands or striking down a great appropriation bill in the last hours of a legislative session.

If it were not for the Baltimore convention and other conditions that have existed in this country for the last three or four weeks, it is more than probable that this Congress would now be adjourning and we would find ourselves as a consequence of this unwise policy which I have outlined face to face with a prolonged summer session engaged in a controversy over this bill, with the additional peril of having the military establishment crippled, or, on the other hand, acceding to the unwise provisions that have been inserted in the Army bill by those who had no authority whatever to do so.

Mr. Speaker, I believe that the provisions outlined by the President as being obnoxious should be stricken out now in so far is this House can, in its wisdom, see its way clear to do so, and I do not believe that we ought again to send either to the Senate or to a conference committee a measure of this kind and impose upon them the duty of doing that which we, in our wisdom, ought to do here and now.

No other body should be regarded by this House as possessing superior legislative ability. No measure should leave this House in a condition which we will admit will require changing for the better. It certainly is no credit to the House to be compelled to recede from any position it takes in initiating legislation. Nothing so impairs the influence of this body or increases that of another so much as forcing us to yield to views in conflict with those which we have gone so far as to frame and pass in the form of original House bills. The high standing of this body will best be preserved always by pursuing that patient, cautious course which defies being departed from, and the expression, "It will be cured elsewhere," will disappear from the parlance of the House.

Passing bills which are certain to be vetoed is also a senseless policy.

Mr. PRINCE. Mr. Speaker, the House passed the Army appropriation bill on February 16, and it was like unto the one now before us. That bill went to the Senate. That body struck out all of the legislative portions of the present bill and of the bill of date February 16. The measure went to conference. The conferees after long and arduous work agreed upon a measure. The two Houses agreed to the conference report, and it went to the President. The President vetoed the measure and sent to Congress his message of date June 17, 1912. He specifically finds fault with the bill to the extent of six provisions in his veto message. As was properly stated by my colleague, the leader of the minority, the gentleman from Illinois [Mr. MANN], two courses were left open for the Military Affairs Committee of the House, namely, to bring back the bill as vetoed by the President and seek to pass it over his veto or else abandon that course and bring in another measure to be passed by the House. The first course was abandoned. We are now presented with the second course of procedure, namely, by the recommendation into this House of the bill like unto the one passed by the House of date February 16, 1912. The President in his message of veto, on page 1, said:

> Among other things, this legislation reduced the Army by five regiments of Cavalry; it changed the existing term of the soldiers' enlistment; it altered the amounts of pay and conditions of allowances made to officers and enlisted men; it consolidated the three great supply corps of the Army, and also merged The Adjutant General's and Inspector General's departments with the General Staff; it reduced not only the number of general officers of the Army, but also reduced very materially the total number of officers and changed the number and methods of detail of such officers to the various departments; and in other ways made changes which necessarily had a far-reaching effect upon the military policy of the Nation as well as upon the organization with which that policy must be carried out.

That is what the President said under date of June 17, 1912, with reference to the bill passed by the House of date February 16, 1912. The same bill, subject to the same criticism, subject to the same expressions set forth by the President in his message, is here to-day in this House seeking to be passed on its way to the President to meet his views as expressed in his veto message. True it is that of the six provisions that he enumerates in his message three are not applicable to this bill. Three of them are applicable to this bill. What are the three? In his message the President says:

> Second. By reducing the number of the General Staff the bill, in my opinion, tends to cripple the most important corps of the Army—that corps which, though of comparatively recent organization, is performing invaluable work toward the creation of a consistent military policy for the Nation and the organization of an efficient and economical Army. If, as I believe to be the case, this bill would make necessary the reduction of the work of the War College, harm would be done to our military establishment which would be well-nigh incalculable.

If the bill of February 16 contained that well-nigh incalculable harm, this bill contains the same well-nigh incalculable harm.

> Third. By the provisions of the bill which limit the period during which an officer may remain upon detached service or staff duty the organized personnel of many of the most important bureaus and corps of the War Department and military establishment will be disintegrated, and the work now proceeding under them will be seriously impeded. While these provisions aim at a wise purpose and one which my administration has sought to carry out by Executive action with especial thoroughness, the enactments of this bill are deemed too radical and drastic. By removing at once all of the officers of the Bureau of Insular Affairs, except its chief, they would seriously interfere with the work of that most important bureau in administering the affairs of our insular possessions. Again, they would, on January 1, 1913, relieve all of the officers now assigned to the Philippine Constabulary. Earnest protest has been received from the insular government of the Philippines to the effect that so prompt a relief of all of the officers who have had the especial training and experience necessary for these positions would be disastrous to the morale and efficiency of that important body, and would be a serious handicap to the preservation of law and order in the Philippine Islands.
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> Again, the provision would at once relieve all but one of the line officers now on duty in the work of constructing the Panama Canal, and, under a very probable construction of the law, it would also relieve the engineer officers and other staff officers detailed to that work. The organization of the force of officers and men by whom the canal is now being constructed has earned the admiration of the entire Nation. Under this organization that work is fast approaching its completion. The drastic character of the provision can be best understood when it is considered that it might at once relieve from duty the general purchasing officer of the Isthmian Commission, by whom all of the complicated machinery for the locks and gates is being purchased; the officer who is building the Gatun Dam and the spillway; the line officer who, as chief engineer, is relocating the Panama Railroad; the officer in charge of the construction of the new breakwater at Colon; and the medical officer under whose inspection the sanitary work of the zone is being conducted. It would be practically impossible to replace these men or the special knowledge and skill which they have in their departments of the work. The entire organization of the great work in which they are almost indispensable agents would be disintegrated and impaired.
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> The fact that a single provision of the bill can cause such serious consequences offers further evidence of the unwisdom of a method which deprives legislation of its usual safeguards of scrutiny and discussion.

That provision was in the bill in a broader sense on date of February 16, 1912. The conferees modified that provision and made it affect a less number of officers, but the President saw fit to veto it and especially called attention to it. The measure which is before the House to-day makes this provision broader than the provisions which the President vetoed. On page 6, beginning with line 21, you find:

> That no money appropriated by this act shall be paid to any officer for any period during which he shall have been detached for any duty of any kind for more than four of the preceding six years from the organization in which he is commissioned, unless such continuous detachment from such organization for more than four years shall have been specifically authorized by law.

If the lesser provision brought forth the lightning of the President in the form of a veto, can we hope or expect the broader provision will share a less fate at his hands? And yet we are asked to pass it.

Mr. HAY. Will the gentleman yield?

Mr. PRINCE. Certainly.

Mr. HAY. The gentleman does not want the House to misunderstand him, certainly.

Mr. PRINCE. No, sir.

Mr. HAY. The provision which the gentleman has just read says that unless otherwise specifically provided by law. Now, it is specifically provided by law that a lieutenant colonel and colonel can be redetailed.

Mr. PRINCE. Yes.

Mr. HAY. So that the statement the gentleman makes that it applies to everybody and all officers is not correct.

Mr. PRINCE. Except those specifically authorized by law. I have read the whole provision.

Mr. HAY. The House did not understand it.

Mr. PRINCE. I want the House to understand it, because I read it just as the provision is. If I have by argument sought to enlarge it, the provision governs instead of my argument.

Mr. HAY. I know.

Mr. PRINCE. The next objection made by the President is on page 4, and is as follows:

> Fourth. The second section of the bill lengthens the term of enlistment from three to four years. This change has been opposed by the recommendations of the President, the Secretary of War, and the General Staff of the Army. It will tend to make difficult or impossible

the establishment of a proper reserve by which the Regular Army could, in time of emergency, be brought up to its full strength. In my opinion it is a step contrary to enlightened military policy.

The bill of February 16, 1912, contains that provision which the President specifically vetoed. The bill under consideration, which we are asked to pass to-day, has the same provision which the President vetoed under date of June 17, 1912. Now, I do not, Mr. Speaker, care to go into an argument of this bill more fully. For eight days we had it before us in February. We discussed it from every angle we could. We made objections to the bill, offered amendments, made points of order, but the other side of the House, being in control, voted us down and passed it out of this body. When the conference report came back this side of the House again exercised its rights under the rules and under the Constitution.

We again made specific objections in the shape of points of order for hours, for almost a day we discussed them here in this body. We were overruled and the bill finally passed and went to the President and received his veto. To-day we do not want to appear to be captious in the slightest degree. We merely want to preserve our rights and our integrity as to our views as expressed heretofore upon this great measure. We are fully aware that owing to conditions many Members of this House are away upon other duties, discharging them by direction of their States in another body, seeking to nominate a candidate for the Presidency. We know that if we insist upon a roll call here to-day that we would only delay its passage in this body. We know that if we would exercise our constitutional rights by calling for a quorum, by asking for a roll call, that men could be brought here from 40 miles away, if not to-day to-morrow or the day following, but we do not desire to do anything of the kind. We have been anxious all along to hurry legislation, to get it out of this House and get this House and its coordinate branch to adjourn and finish up this Congress. [Applause.] But here we are after the 1st of July. On the 31st of May, when the Military Academy bill was up for consideration, I called attention then to the condition of the calendar with reference to the appropriation bills. More than a month has passed between that time and this, and yet we have not passed the appropriation bills necessary to conduct the affairs of this Government. For the first time in many years yesterday we were called upon to pass a joint resolution to continue the great affairs of this Government in its various branches by a resolution making appropriations for at least one month's pay for this Government. I do not want to repeat the arguments I made then, but I want the country to see the conditions; I want the country to know just exactly how matters stand; and I want the country to know in addition that this side of the House does not stand here as obstructionists; that we are willing and able to hurry up as fast as we can legislation, but we give you notice now, we give the country notice, and we give the President notice that we are not in favor of this measure; that we are as unalterably opposed to it now as we were when we voted against it on its passage in this House, I think on February 16, 1912. So that we say to you who are responsible for legislation, so we say to you to whom the people have given the control of the House of Representatives, go on with your legislation without obstruction on our part, go on and pass this bill and present it, if you see fit, to the President with the assurance that he has given you in his veto message, push it up again against the buzz saw if you want to; it is your action and not ours, but we enter our protest as far as we can as Members of the House. We shall not, however, insist upon a quorum, we shall not insist upon a roll call; we will permit you to pass it and move it on to the other body, and then when they act upon it and it comes to a conference, I hope that the second sober judgment of the conferees will act along the lines suggested by the leader on our side of the House [Mr. MANN], my colleague, and we will try to harmonize this legislation; that we will try to put in shape that which meets the wishes of the Executive as expressed in his veto message, and we will not try to do that which will be in the shape of obstruction, but finally obtain legislation for the good of the country and for the good of the Army. [Applause.]

Mr. HAY. Mr. Speaker, I call for a vote.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENSION OF REMARKS.

Mr. BURKE of Pennsylvania. Mr. Speaker, I ask unanimous consent that all gentlemen who have addressed the House on the subject of this bill may be allowed to extend their remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that gentlemen who have addressed the House on this bill may have leave to extend their remarks in the RECORD.

Mr. MANN. For how long?

Mr. BURKE of Pennsylvania. For five legislative days.

The SPEAKER pro tempore. For five legislative days. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. LEVER, for 10 days, on account of sickness in family.

To Mr. AUSTIN, for 1 day, on account of sickness.

ADJOURNMENT.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 15 minutes p. m.) the House adjourned to meet to-morrow, Wednesday, July 3, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of State submitting item for reappropriation for the expenses of arbitration of outstanding pecuniary claims between the United States and Great Britain in accordance with the special agreement concluded for that purpose August 18, 1910 (H. Doc. No. 860); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Acting Secretary of the Interior, transmitting, in compliance with law (4 Stat. L., 430), papers in the claim of Charlotte E. Rockwell, widow of Thomas H. Rockwell, late of Company E, Third New York Volunteer Infantry, original No. 836013 (H. Doc. No. 859); to the Committee on Military Affairs and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DODDS: A bill (H. R. 25556) to provide for the erection of a public building on the site owned by the Government in the city of Boyne City, in the State of Michigan; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 25557) to provide for the purchase of a site and the erection of a public building thereon at Greenville, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. MILLER: A bill (H. R. 25558) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries; to the Committee on the Public Lands.

By Mr. MATTHEWS: A bill (H. R. 25559) to provide for the erection of a public building at Donora, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. MOORE of Pennsylvania: Joint resolution (H. J. Res. 333) to authorize the loan of obsolete Springfield rifles, etc., to the Historical Pageant Committee, Philadelphia, Pa.; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 25560) granting an increase of pension to John Deturk; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25561) granting an increase of pension to Philander Jones; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 25562) granting an increase of pension to William M. Temple; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 25563) granting an increase of pension to Johnson V. Fisher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25564) granting an increase of pension to George W. Pitner; to the Committee on Invalid Pensions.

By Mr. GRAY: A bill (H. R. 25565) granting an increase of pension to William J. Sutton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25566) granting a pension to Sarah F. Bales; to the Committee on Invalid Pensions.

By Mr. HUGHES of Georgia: A bill (H. R. 25567) granting a pension to H. C. Clements; to the Committee on Invalid Pensions.

By Mr. MATTHEWS: A bill (H. R. 25568) granting a pension to Nina J. Eckles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25569) granting a pension to Isaac Shoaf; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 25570) granting a pension to Elizabeth A. Campbell; to the Committee on Invalid Pensions.

By Mr. DANIEL A. DRISCOLL: A bill (H. R. 25571) granting a pension to Edward Lichtenstein; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BUTLER: Petition of the Daughters of Liberty of Parkesburg, Pa., favoring the discontinuance of the wearing of religious garb in Indian schools; to the Committee on Indian Affairs.

By Mr. FULLER: Petition of the Brotherhood of Locomotive Engineers, Cleveland, Ohio, favoring the passage of the workmen's compensation act, etc.; to the Committee on the Judiciary.

Also, petition of the Committee of Wholesale Grocers of New York City, concerning the proposed duty on raw and refined sugar; to the Committee on Ways and Means.

By Mr. McMORRAN: Petition of church parishes and societies of Detroit and Hamtramck, Mich., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. PRAY: Petition of postal employees at Helena, Mont., against provision in House bill 24023, relating to five-year tenure of office for Government employees; to the Committee on Appropriations.

By Mr. SCULLY: Petition of the Daughters of Liberty of New Jersey and Pride of Hickering Council, No. 927, Order of Independent Americans, Charlestown, Pa., both favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Brotherhood of Locomotive Engineers, Cleveland, Ohio, favoring passage of the workmen's compensation act; to the Committee on the Judiciary.

By Mr. J. M. C. SMITH: Paper to accompany bill granting pension to Elizabeth A. Campbell; to the Committee on Invalid Pensions.

SENATE.

WEDNESDAY, *July 3, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

UNRIGGED VESSELS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4445) concerning unrigged vessels, which were, on page 1, line 3, after "by," to insert "a"; on page 1, line 3, to strike out "shipbuilders" and insert "shipbuilder"; on page 1, line 4, after "that," to insert "an"; on page 1, line 4, to strike out "vessels" and insert "vessel of the United States"; on page 1, line 5, to strike out "have" and insert "has"; and, on page 1, line 6, to strike out "are" and insert "is."

Mr. NELSON. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

WHITE RIVER DAM, ARK.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 20347) to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark., and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CLARKE of Arkansas. I ask that the bill and amendments may lie on the table, without prejudice, subject to the further action of the Senate.

The PRESIDENT pro tempore. The bill and amendments will lie on the table until called up by the Senator from Arkansas.

CORBETT TUNNEL, WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4862) authorizing and directing the Secretary of the Interior to investigate and settle certain accounts, and for other purposes, which was to strike out all after the enacting clause and insert:

That all persons having supplied labor or materials for the prosecution of the work of constructing the Corbett Tunnel as a part of the Shoshone irrigation project in the State of Wyoming, under any contract or contracts let for that purpose by the Government of the United States, and their assigns and legal representatives, are hereby given the full rights and remedies awarded to persons supplying labor and materials in the prosecution of public works, as set forth in the act of August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works," to the same force, extent, and effect as if the act had not been amended, modified, or repealed, with full right of action in the name of the United States for his or their use and benefit against any contractor or contractors and their sureties upon any bond or bonds furnished to the United States under any such contract: *Provided*, That no action prosecuted under this act shall involve the United States in any expense; and to amend the title so as to read: "An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of constructing the Corbett Tunnel of the Shoshone irrigation project."

Mr. BORAH. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 19409. An act granting certain lands to the town of Yuma, Ariz.;

H. R. 25069. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes; and

H. R. 25531. An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes.

The message also announced that the House had agreed to a concurrent resolution (No. 57) requesting the President to return to the House the bill (H. R. 23515) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 458. An act for the relief of the Turner Hardware Co.;

S. 897. An act for the relief of Alfred L. Dutton;

S. 1293. An act for the relief of Herbert Thompson;

S. 1754. An act for the relief of William F. McKim;

S. 4180. An act for the relief of Alessandro Comba;

S. 5287. An act for the relief of Kate Ferrell;

S. 6252. An act to relinquish the title of the United States to certain property in the city and county of San Francisco, Cal.;

S. 6369. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6847. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6925. An act to authorize the Chicago, Burlington & Quincy Railroad Co. to construct a bridge across the Mississippi River near the city of St. Louis, in the State of Missouri;

S. J. Res. 94. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress; and

S. J. Res. 111. Joint resolution to convey the thanks of Congress to Capt. Arthur Henry Rostron, and through him to the officers and crew of the steamship *Carpathia*, of the Cunard Line, for the prompt and heroic services rendered by them in rescuing 704 lives from the wreck of the steamship *Titanic* in the North Atlantic Ocean.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented a petition of sundry citizens of Laconia, N. H., praying for the enactment of an interstate

liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. CULLOM presented a petition of Local Union No. 710, Packing House Teamsters and Chauffeurs' Union, of Chicago, Ill., praying for the enactment of legislation providing for the better protection of American seamen, which was referred to the Committee on Commerce.

He also presented petitions of Local Union No. 841, United Brotherhood of Carpenters and Joiners of America, of Carbondale; of Local Union No. 140, Amalgamated Sheet Metal Workers' International Alliance, of Normal; and of Local Union No. 4, American Brotherhood of Cement Workers, of Chicago, all in the State of Illinois, praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

Mr. ASHURST presented a petition of Local Union No. 476, International Union of Steam Engineers, of Miami, Ariz., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

Mr. ROOT presented a petition of sundry assistant inspectors of steam vessels at the port of New York, praying for an increase in their salaries, which was referred to the Committee on Commerce.

Mr. BRIGGS presented petitions of sundry veterans of the Spanish-American War, residents of Newark, N. J., praying for the enactment of legislation to pension widow and minor children of any officer or enlisted man who served in the War with Spain or the Philippine insurrection, which were referred to the Committee on Pensions.

He also presented petitions of the Cigar Makers' Local Union; of the Typographical Union; of Local Union No. 228, Journeymen Tailors; of Carmen's Local Union No. 540; of Local Union No. 124, Bartenders' League; and of Machinists' Lodge No. 315, of Trenton; and of the International Association of Machinists, of Elizabeth, all in the State of New Jersey, praying for the enactment of legislation to regulate the method of directing the work of Government employees, which were referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Fisheries, to which was referred the amendment submitted by Mr. LODGE on the 3d ultimo to the sundry civil appropriation bill (H. R. 25069), proposing to appropriate $5,000 to investigate the method of fishing known as beam or otter trawling, reported it without amendment, submitted a report (No. 903) thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. NELSON, from the Committee on Commerce, to which was referred the bill (S. 7195) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River, reported it without amendment and submitted a report (No. 902) thereon.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the bill (H. R. 1739) to amend section 4875 of the Revised Statutes, to provide a compensation for superintendents of national cemeteries, reported it without amendment.

Mr. WARREN. On June 27 the message from the President of the United States recommending an appropriation to defray the expenses of camps and maneuvers of the Organized Militia during the coming summer was received and was referred to the Committee on Appropriations. I ask that that committee be discharged from further consideration of the message of the President and that it be referred to the Committee on Military Affairs, as it relates to items in the Army appropriation bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CUSTOMHOUSE BUILDING AT BOSTON, MASS.

Mr. SUTHERLAND. From the Committee on Public Buildings and Grounds I report back favorably without amendment the bill (H. R. 24227) to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of public-building acts, and for other purposes," approved March 4, 1909. I call the attention of the Senator from Massachusetts [Mr. LODGE] to the bill.

Mr. LODGE. I ask for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

Mr. CHAMBERLAIN. I should like to have the Senator from Massachusetts state the purpose of the bill. I have not seen it.

Mr. LODGE. Congress appropriated for the new customhouse at Boston $1,800,000 and included in that appropriation the cost of taking temporary quarters during the change and all expenses connected with the removal to temporary quarters and back again. It has been found absolutely impossible to complete the building and pay those expenses out of the fund appropriated for the building. This is simply to allow the original amount to go for the construction of the building and to pay those expenses separately. The bill has passed the House after very full hearing and discussion. It is absolutely necessary for the completion of the building, which is now under way.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LANDS IN HARNEY NATIONAL FOREST.

Mr. CLARK of Wyoming. From the Committee on Public Lands, I report back favorably without amendment the bill (H. R. 21259) to allow an exchange of certain lands in the Harney National Forest, and I submit a report (No. 901) thereon. As it is in the nature of a correction of an act already passed by both Houses, I ask for the immediate consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment.

Mr. GRONNA. I ask that the bill be read again.

The PRESIDENT pro tempore. Without objection, the bill will be read by the Secretary.

The Secretary again read the bill.

The bill was ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MARTINE of New Jersey:

A bill (S. 7228) granting an increase of pension to James McMahon (with accompanying papers); to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 7229) to make desert-land entries eligible to patent by means of the dry-farming process; to the Committee on Public Lands.

A bill (S. 7230) to grant an honorable discharge to John E. Simmons (with accompanying papers); to the Committee on Military Affairs.

By Mr. WORKS:

A bill (S. 7231) granting an increase of pension to Samuel E. Merriam (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7232) granting an increase of pension to Carrie M. Mathews (with accompanying papers);

A bill (S. 7233) granting an increase of pension to William J. Heal (with accompanying papers);

A bill (S. 7234) granting an increase of pension to Andrew E. Clark (with accompanying papers);

A bill (S. 7235) granting an increase of pension to Isaac A. Conant (with accompanying papers); and

A bill (S. 7236) granting an increase of pension to Charles G. Glidden (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 7237) to reserve certain lands and to incorporate the same and make them a part of the Santiam National Forest; to the Committee on Public Lands.

By Mr. LODGE:

A bill (S. 7238) granting a pension to Jane M. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. CURTIS:

A bill (S. 7239) to correct the military record of John W. Cleavenger; and

A bill (S. 7240) to correct the military record of William S. Hess; to the Committee on Military Affairs.

A bill (S. 7241) granting a pension to Samuel Jackson;

A bill (S. 7242) granting a pension to Marshall Ray;

A bill (S. 7243) granting a pension to Mrs. D. H. Crews;

A bill (S. 7244) granting a pension to Henry Synnamon;

A bill (S. 7245) granting an increase of pension to Timothy Ellison;

A bill (S. 7246) granting an increase of pension to Joseph Bigham;

A bill (S. 7247) granting an increase of pension to James B. Evans (with accompanying paper);

A bill (S. 7248) granting a pension to Samuel Jackson (with accompanying papers);

A bill (S. 7249) granting a pension to Margaret A. Graham (with accompanying papers);

A bill (S. 7250) granting a pension to Lettie Vilatt (with accompanying paper); and

A bill (S. 7251) granting a pension to James Thompson (with accompanying paper); to the Committee on Pensions.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. SMOOT submitted an amendment proposing to appropriate $5,500 for the compensation of the clerk and assistant clerk to the Joint Committee on Printing, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. OVERMAN submitted an amendment proposing to appropriate $900 for the salary of the terrapin and fish culturist at the biological station, Beaufort, N. C., etc, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. FLETCHER submitted an amendment proposing to increase the appropriation for the post-office building at St. Petersburg, Fla., in the sum of $25,000, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

MILL EMPLOYEES AT LAWRENCE, MASS.

Mr. POINDEXTER. Mr. President, I move that the report of the Secretary of Commerce and Labor in regard to the condition of employees in the mills at Lawrence, Mass., be printed as a Senate document.

Mr. SMOOT. This report was submitted to the Senate, I think, on July 1. There were no instructions for printing the document accompanying the reference to the Committee on Printing. It is an exceedingly voluminous report. I do not know how many volumes there will be in it, but quite a number. The expense will be quite heavy. I just want to call the attention of the Senate to the fact, and then Senators can determine whether it is best to be printed as a public document or not. If the Senate thinks best, of course it will be done; but I want to say to the Senator that it will be a very, very expensive piece of work.

Mr. GALLINGER. If the Senator from Washington will permit me, I will ask the Senator from Utah if an estimate has been made as to the expense of printing this document?

Mr. SMOOT. I have not asked for an estimate, for the reason that there was no instruction to have it printed. But I think before it is printed, if the Senator from Washington desires it to be printed, the best thing to do would be to let it go over, and I will ask for an estimate, and we will know just what the work will cost.

Mr. GALLINGER. I suggest to the Senator from Washington that he do that. I will cooperate with him to have this printed if the Senator thinks it desirable. It is now in the hands of the committee, and I think the committee ought to be allowed to make the usual inquiry.

Mr. POINDEXTER. I agree with the Senator as to that matter. The only reason I made the motion was because the chairman of the committee had informed me that they would take no action unless they were so directed by the Senate. I should like to ask the Senator from Utah how long it will be before he can give the Senate an idea of the cost of this printing?

Mr. SMOOT. By Friday or Saturday we will have an estimate.

Mr. POINDEXTER. If the Senator will do that, I will defer the matter until that time.

Mr. SMITH of South Carolina. I should like to ask the Senator from Washington if this report that he is asking to have printed as a Senate document is a report made pursuant to a resolution of Congress to investigate conditions at Lawrence?

Mr. POINDEXTER. Yes; it was a Senate resolution.

PENSIONS AND INCREASE OF PENSIONS.

The PRESIDENT pro tempore laid before the Senate the following concurrent resolution (No. 57) of the House of Representatives, which was read:

Resolved by the House of Representatives (the Senate concurring), That the President be, and he is hereby, requested to return to the House of Representatives the bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I ask the Senate to agree to the resolution.

The concurrent resolution was considered by unanimous consent and agreed to.

HOUSE BILLS REFERRED.

H. R. 19409. An act granting certain lands to the town of Yuma, Ariz., was read twice by its title and referred to the Committee on Public Lands.

H. R. 25069. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, was read the first time by its title and referred to the Committee on Appropriations.

H. R. 25531. An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes, was read the first time by its title and referred to the Committee on Military Affairs.

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER. On the 1st instant the Senate disagreed to the amendments of the House of Representatives to the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, and requested a conference with the House on the disagreeing votes of the two Houses thereon. I desire to enter a motion to reconsider the votes by which the House amendments were disagreed to.

The PRESIDENT pro tempore. The motion to reconsider will be entered.

Mr. McCUMBER. I move that the House be requested to return to the Senate the bill and amendments of the House.

The motion was agreed to.

IRRIGATION PLANT AT GARDEN CITY, KANS.

Mr. CURTIS. I ask unanimous consent for the immediate consideration of the bill (S. 6784) for the relief of the Garden City (Kans.) Water Users' Association, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. SMOOT. Let the bill be read first.

The PRESIDENT pro tempore. The Secretary will read the bill for the information of the Senate.

The SECRETARY. The Committee on Irrigation and Reclamation of Arid Lands proposes to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and hereby is, authorized to have appraised, and dispose of at not less than the appraised value, at public or private sale, by sealed bids or otherwise, under such terms as may be approved by him, the irrigation plant built under the terms of the reclamation act of June 17, 1902 (Stat. L., p. 388), located in Finney County, Kans., together with the machinery, wells, pumps, transmission lines, and all other appurtenances, and the lands of the United States on which they are located, either as a whole or separately, in his discretion. The Secretary of the Interior is hereby authorized to execute appropriate conveyances for the real property sold hereunder.

SEC. 2. That the contracts heretofore entered into between the Finney County Water Users' Association, of Finney County, Kans., or with individual landowners, and the Secretary of the Interior, for the supply and use of water from the irrigation plant of the United States be, and the same are hereby, canceled and relieved and the liens upon the lands in said county created by such contracts are hereby released and discharged.

There being no objection, the bill was considered as in Committee of the Whole.

Mr. SMOOT. I should like to ask the Senator from Kansas to make a brief statement as to why the bill should pass, and the object of it.

Mr. CURTIS. Mr. President, the bill as reported was drawn by the Department of the Interior.

About 10 years ago this project was built by the Government and under an agreement to supply water to the members of the water users' association. They have never been able to comply with the contract. The management was not satisfactory and the plant as put in was not feasible.

Two years ago Congress authorized an extension of time to see if proper arrangements could not be made, but they have failed. The plant has not been used for two years or longer. It is in the hands of a carekeeper, who is being paid for taking care of it. The water is not being used; in fact, the machinery is not being used. Nothing is being done with it. The officers of the department think it would be best to sell the machinery and get rid of the plant to the best advantage possible.

Mr. HEYBURN. Mr. President, I should like to ask a question or two in connection with this bill, because it goes to the sufficiency and efficiency of the whole system.

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. CURTIS. Certainly.

Mr. HEYBURN. Was this a pumping plant?

Mr. CURTIS. It was a pumping plant, and one of the first put in; but I understand that the experience of the Government at this plant has caused them to change their plans in other places. I think I was advised by the department that there were but three or four plants put in of this kind.

Mr. HEYBURN. How much did this pumping plant cost?

Mr. CURTIS. Something over $300,000, all told.

Mr. HEYBURN. Where did it get the water?

Mr. CURTIS. The water was supposed to be supplied from a number of wells; I think 20 in number.

Mr. HEYBURN. This was a well proposition?

Mr. CURTIS. This was a well or pumping proposition, including the plant, machinery, and so forth.

Mr. HEYBURN. In what part of the State of Kansas is it located?

Mr. CURTIS. It is in the southwestern part of the State, where they have a great underflow, and this was supposed to tap that underflow.

Mr. HEYBURN. It is an arid region on the surface?

Mr. CURTIS. Semiarid.

Mr. HEYBURN. Semiarid. They bored these, some 15 or 20 of these wells?

Mr. CURTIS. About 20 of them.

Mr. HEYBURN. Did they tap that underground flow of water?

Mr. CURTIS. They did; and I think they made a mistake in trying to carry the water a long distance in sand ditches instead of in cement ditches.

Mr. HEYBURN. That is, they pumped it to the surface and then undertook to distribute it by natural flow over the surface?

Mr. CURTIS. They did; not by the natural flow, but by means of ditches, carrying the water by gravitation.

Mr. HEYBURN. That is, the water flowed naturally?

Mr. CURTIS. Yes; for some 10 or 12 miles.

Mr. HEYBURN. Did the ditches leak?

Mr. CURTIS. That water seeped out; yes, sir.

Mr. HEYBURN. And the water that had been pumped up was lost?

Mr. CURTIS. It was largely lost.

Mr. HEYBURN. How many acres were to be supplied?

Mr. CURTIS. About 7,600 acres.

Mr. HEYBURN. The entire cost of this plant was about how much?

Mr. CURTIS. It was over $300,000. I can not tell exactly how much.

Mr. HEYBURN. Did they get any water on any of the lands?

Mr. CURTIS. On a few pieces the first year or two, but it has not been a success.

Mr. HEYBURN. On a few pieces?

Mr. CURTIS. On a few tracts.

Mr. HEYBURN. But practically not at all?

Mr. CURTIS. Not enough to justify the continuance of the plant.

Mr. HEYBURN. Now, it is proposed to sell the plant and the machinery, I suppose?

Mr. CURTIS. It is proposed to sell the machinery, because the principal expense has been in putting in the machinery.

Mr. HEYBURN. Why do they not move it to some other plant?

Mr. CURTIS. That was considered by the department; and, I understand, they thought it would be better to sell it, because other pumping plants are being used successfully in that neighborhood, where they pump water directly on the land and do not try to carry it in ditches 6 or 8 or 10 miles, and there should be a demand for the plant.

Mr. HEYBURN. Has the probable price the machinery will bring been estimated?

Mr. CURTIS. It has not been. The department, of course, knows what it cost. The principal expense was in building the plant and for the machinery.

Mr. HEYBURN. I am not seeking to catechize the Senator, but am merely asking these questions for the sake of obtaining information.

Mr. CURTIS. I appreciate that fact.

Mr. HEYBURN. We have a pumping plant in our State, and I am looking for information as to the feasibility of pumping plants. I do not want to see, nor does any Senator desire to see, money expended in the installation of pumping plants unless the results are satisfactory.

Mr. CURTIS. Mr. President, there was a letter written by the department two years ago, which is a part of the files of the committee, asserting that this plant was not feasible, and time was asked to see if it could not be made feasible.

Mr. HEYBURN. When was the plant installed?

Mr. CURTIS. About 10 years ago.

Mr. HEYBURN. And it took them about 10 years to find that out?

Mr. CURTIS. It took them about eight years to find it out.

Mr. ROOT. May I ask the Senator from Kansas a question?

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from New York?

Mr. CURTIS. Certainly.

Mr. ROOT. I should like to ask whether any Government lands have been irrigated or are being irrigated by this plant?

Mr. CURTIS. No Government lands are irrigated by this plant at all.

Mr. ROOT. May I ask, then, what was the warrant of law, the constitutional authority, for the Government to establish this plant and to engage in the business of irrigating private lands?

Mr. CURTIS. That is a question I can not answer. I know that the plant was established. I was not a Senator at the time it was done, but know that it has been established; and that is all that I know about it.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from Utah?

Mr. CURTIS. I do.

Mr. SMOOT. Is the Government to lose all the money that is lost in the process?

Mr. CURTIS. Oh, no. As I have stated, the principal item of expense has been the machinery. The machinery is nearly as good as new, and it ought to bring a good price, if it is transferred to some other locality, to be used. It is just about as good as new machinery.

Mr. SMOOT. Did the water users dig the ditches or did the Government pay for them?

Mr. CURTIS. I can not answer that question positively, but I think the Government dug the ditches.

Mr. SMOOT. Has the Senator any idea as to what the cost will be to the Government in abandoning the plant?

Mr. CURTIS. I do not know what the machinery will bring, but I should judge that it could be sold for about what it cost; and I understand that most of the money was put into machinery.

Mr. HEYBURN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas further yield?

Mr. CURTIS. Yes.

Mr. HEYBURN. If the Government built the ditches and they were unsuitable for the purpose of carrying the water, then that would be a dead loss, would it not?

Mr. CURTIS. Certainly; but the ditches were dug in sand and could not have been very expensive.

Mr. HEYBURN. Did the Government drill the wells?

Mr. CURTIS. The wells are only 20 feet deep, and there was little expense in drilling wells of that depth.

Mr. HEYBURN. And this plant, as the Senator from Kansas has stated in response to a question of the Senator from New York [Mr. ROOT], was installed solely for commercial purposes, to sell water to owners of land in which the Government had no interest?

Mr. CURTIS. So I understand—under certain contracts.

Mr. HEYBURN. I think it would be very difficult to find any warrant of law for that kind of procedure. I should like to have seen a pretty thorough investigation in a case of this kind, so as to perpetuate the facts for future reference, because all sorts of experiments are being tried. I am thoroughly in sympathy with the system of irrigating the public lands, but I am not in favor of the Government engaging in the business of producing water and selling it to private owners.

Mr. GALLINGER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to the Senator from New Hampshire?

Mr. CURTIS. Certainly.

Mr. GALLINGER. I assume, Mr. President, that if the matter shall remain as it is now this will be a dead loss to the Government——

Mr. CURTIS. It is a dead loss; it is an expense every year.

Mr. GALLINGER. While, if the terms of the bill are complied with and the property is sold, the Government will recoup itself to some extent.

Mr. CURTIS. Certainly.

Mr. GALLINGER. The Senator from Kansas is optimistic when he says that the Government will get as much for the machinery as it originally cost.

Mr. CURTIS. I did not mean that. I meant about as much as it cost, as the machinery is in good condition.

Mr. GALLINGER. It seems to me that inasmuch as it seems to be definitely settled that this project is a failure, the sooner

the Government unloads it the better, because the Government will get back a part of the money that has been expended. For that reason I shall vote for the bill.

I am a believer in the irrigation project, although it does not affect my part of the country; I have given it my support; but I have taken occasion several times to say that I think there has been very great mismanagement on the part of somebody in establishing these irrigation projects in certain sections of the West, and it seems to me that this is a demonstration that, at least in one instance, there has been a lack of judgment or good business sense in expending the public money. If this matter will lead to an inquiry along the lines suggested by the Senator from Idaho [Mr. HEYBURN], as to the propriety or feasibility of establishing pumping stations, or whatever you may call them, it may save us some money in the future. I shall vote for the Senator's bill on the ground that we had better get something out of this rather than to have a dead loss to the Government and to the people of the country.

Mr. HEYBURN. A further question, if the Senator from Kansas will permit me.

Mr. CURTIS. Certainly.

Mr. HEYBURN. Does this bill provide for a report being made to Congress of the result of this sale?

Mr. CURTIS. It does not.

Mr. HEYBURN. Well, I think it should provide for an account being stated regarding this enterprise.

Mr. CURTIS. I am perfectly willing that an amendment of that kind be attached to the bill.

Mr. HEYBURN. I have not at hand a copy of the bill, and I think it has not been reprinted.

Mr. CURTIS. That can be provided for by a resolution at any time.

Mr. HEYBURN. We can just as easily provide for it in this bill. I now have a copy of the bill, and I will move to amend by adding to section 3 a proviso——

Mr. GALLINGER. Why not make it a separate section?

Mr. HEYBURN. Very well; I will make it a separate section. I move to amend by adding as a new section the following:

SEC. 3. That the Secretary of the Interior shall make to Congress a statement of the expenditure connected with this reclamation project and the amount received from its sale.

I think that covers it.

Mr. CURTIS. I have no objection to that amendment.

Mr. BORAH. Mr. President, this enterprise is perhaps a failure in a sense; but it is no surprise that in initiating or inaugurating a great scheme of reclamation of the arid lands, such as was inaugurated a few years ago, there should be some mistakes. I ask, however, Senators to bear in mind that these mistakes are not borne by the Treasury, but they are borne by the people who are out upon the land, and we need not be disturbed over the fact that a few dollars are lost, so far as the Government is concerned. We are going to have to take up very shortly, however, the subject of relieving the settlers from the burden of any mistakes which have been made in any of these enterprises. If mistakes are made, which ought not to be a surprise, still the Government must in the end bear the same. Any unnecessary or mistaken charges should not be charged against the settler. I propose later to submit this whole proposition in proper form for the consideration of the Congress.

Mr. HEYBURN. Mr. President, I would not like to have it understood that I was antagonistic to the reclamation system; on the contrary I have always been one of its most ardent supporters. I think, however, where an effort was made, as it was made in this case, and it has not succeeded, we should obtain the information as a guide to us in our future action. There can be no objection to having the facts in the case.

Mr. BORAH. I have no objection to having the facts in this particular instance, but I do object to the general criticism which seems to be lodged against the department, because, as I have said, while this particular enterprise may have been a failure, it is no surprise that there should be misjudgment in one particular instance, or even in several instances. The matter was wholly a new proposition and must necessarily be worked out with experience and, therefore, result in some mistakes. I said a moment ago, whatever mistakes there have been have been lodged upon the settlers, and when we get ready to rectify these mistakes we ought not to direct our attention so much to the Public Treasury as to relieving the settlers of the mistakes and exempting them from the results of these mistakes.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Kansas yield to his colleague?

Mr. CURTIS. Certainly.

Mr. BRISTOW. I myself regret that the Government has not continued the operation of this plant. I understand the theory is that the water has to be lifted farther than is justified by pumping in order to secure water to irrigate the crops that are grown there. As I understand, the water has to be lifted about 15 feet, has it not?

Mr. CURTIS. The difficulty is not so much in raising the water as it is in carrying it and putting it upon lands that are located a long distance from the pumping plant and the wells.

Mr. BRISTOW. The objection, as I understand from the officers in charge, was that the department had concluded that the water was costing more than it was worth. I do not believe that it ought to cost more than it is worth; but I am not going to antagonize the wishes of the department in disposing of this plant, because I believe it will be acquired by somebody who will make a success of it. The department has failed, but I think that failure is due more to prejudice against the proposition than it is to anything else.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Idaho [Mr. HEYBURN] to the amendment reported by the committee. The Secretary will state the amendment to the amendment.

The SECRETARY. At the end of the bill it is proposed to add a new section to read as follows:

SEC. 3. That the Secretary of the Interior shall make to Congress a statement of the expenditure connected with this reclamation project and the amount received from its sale.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ARMY MANEUVERS.

Mr. DU PONT. I am directed by the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 332) appropriating $1,350,000 for encampment and maneuvers for the Organized Militia, to report it favorably with amendments. I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to the consideration of the joint resolution.

Mr. SMOOT. I desire to ask the Senator in charge of the joint resolution whether it carries the same amount that was appropriated in the Army appropriation bill?

Mr. DU PONT. I will say to the Senator from Utah that I understand it to be exactly the same amount.

My attention has been called to the fact that the resolving clause of the joint resolution as it passed the House is not in the form required by law or statute. I therefore move to amend the resolving clause by striking out the words "Be it," in the first line of the joint resolution, and inserting the words "of America" after "United States," in line 2. I do so in order to make it conform to the statute.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to amend the resolving clause of the joint resolution so as to conform to the statute and to read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time and passed.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I move that the Senate proceed to the consideration of House bill 20728, being the Indian appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 20728) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1913.

Mr. CLAPP. I call attention to page 11, which was passed day before yesterday, and, in line 1, after the word "to," to strike out "pay" and insert "approve the payment of." It would seem as it is that this is an authority for the payment of money, whereas payment has already been made.

The PRESIDENT pro tempore. The Secretary will state the amendment offered by the Senator from Minnesota.

The SECRETARY. On page 11, in the committee amendment, line 1, strike out the word "pay," the last word in the line, and insert "approve the payment of," so that it will read:

The accounting officers of the Treasury are hereby directed to approve the payment of the salary of H. C. Phillips.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. GALLINGER. Mr. President, I was called from the Chamber when the bill was under consideration before. I will ask the Senator from Minnesota if the bill has been concluded, so far as the committee amendments are concerned?

Mr. CLAPP. Oh, no; but I will treat the Senator's amendment as a committee amendment, if the Senator wishes to offer it now.

Mr. GALLINGER. Mr. President, when this bill was before the Senate a few days ago there was more or less discussion as to the paragraph on page 5, commencing with line 20, and including line 24, which reads:

To relieve distress among Indians and to provide for their care and for the prevention and treatment of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases, including the purchase of vaccine and expense of vaccination.

In the House bill $60,000 was appropriated. I believe the recommendation was that it should be $250,000, and it was compromised by making it $150,000.

I took occasion when the matter was up before to make some observations as to the indefiniteness of the prevalence of these diseases among the Indians, recognizing the fact that they existed, but not being satisfied as to the accuracy of the statements concerning their prevalence. One Senator, for instance, said he understood that about 70 per cent of the Indians in the United States were afflicted with trachoma, an infectious disease of the eyes. It seemed to me extraordinary that that could possibly be the fact.

Mr. President, we propose to expend $150,000 to relieve this condition, provided the bill as amended is agreed to by the conferees. I desire to offer an amendment to that paragraph making a small appropriation for an investigation of this matter, with a view to having definite information when the next bill shall be under consideration, and I send to the desk the amendment I propose.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 5, line 24, after the word "dollars," insert:

Provided, That the sum of $10,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated to enable the Public Health and Marine-Hospital Service to make a thorough examination as to the prevalence of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases among the Indians of the United States, full report to be made to Congress not later than February 1, 1913, with such recommendations as may be deemed advisable.

Mr. CLAPP. The committee will accept that as a committee amendment.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to. The Chair understands that the amendment preceding that has already been agreed to.

Mr. CLAPP. Yes.

The PRESIDENT pro tempore. The present occupant of the chair was not in the chair at that time.

Mr. GRONNA. I wish to offer an amendment on page 5——

The PRESIDENT pro tempore. Committee amendments under the order are first to be considered.

Mr. GRONNA. I understand that the chairman——

Mr. CLAPP. If the Senator will yield to me for a moment, I think if we can at this time pass these matters, which are somewhat formal, we may as well close them up.

The PRESIDENT pro tempore. Very well.

Mr. CLAPP. Therefore I will treat it as a committee amendment, and the Senator can offer it.

Mr. GRONNA. On page 5, line 11, strike out "seventy-five" and insert "one hundred." This was not estimated for, as I understand, when the bill was before the committee, but the President pro tempore laid before the Senate yesterday a letter which fully explains the importance of the amendment I now offer.

The PRESIDENT pro tempore. The Secretary will report the amendment.

The SECRETARY. On page 5, line 11, strike out "seventy-five" and in lieu insert "one hundred," so that if amended it will read:

For the suppression of the traffic in intoxicating liquors among Indians, including the illegal introduction of intoxicating liquors into the State of Oklahoma, $100,000.

The amendment was agreed to.

Mr. CLAPP. I notice the Secretary read that provision as though the words "including the illegal introduction of intoxicating liquors into the State of Oklahoma" were in the paragraph. Strictly speaking they were stricken out, although I am going to move to reinsert them, and at this point I move to reconsider the vote by which those words were stricken out.

The PRESIDENT pro tempore. The Senator from Minnesota moves to reconsider the vote by which the Senate disagreed to the amendment found on page 5, lines 10 and 11. Without objection the motion to reconsider is agreed to. The question now is on the motion of the Senator from Minnesota—to what effect?

Mr. CLAPP. To agree to the amendment as it has been amended.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CLAPP. On page 14 there is an item which went over. I move that the Senate agree to the Senate amendment on page 14.

The PRESIDENT pro tempore. The Secretary will state the amendment on page 14, the Chair being informed that it has not yet been reported to the Senate.

The SECRETARY. On page 14, line 3, after the word "dollars," it is proposed to insert the following proviso:

Provided, That the proportion of the cost of the irrigation project on the Gila River Indian Reservation heretofore and herein authorized to be paid from the public funds shall be repaid into the Treasury of the United States as and when funds may be available therefor: *Provided further*, That in the event any allottee shall receive a patent in fee to an allotment of land irrigated under this project before the United States shall have been wholly reimbursed as herein provided, then the proportionate cost of the project, to be apportioned equitably by the Secretary of the Interior, shall become a first lien on such allotment, and the fact of such lien shall be recited on the face of each patent in fee issued and the amount of the lien set forth therein, which said lien, however, shall not be enforced so long as the original allottee or his heirs shall own the allotment; and the receipt of the Secretary of the Interior, or of the officer, agent, or employee duly authorized by him for that purpose, for the payment of the amount assessed against any allotment as herein provided shall, when duly recorded by the recorder of deeds in the county wherein the land is located, operate as a satisfaction of such lien.

The PRESIDENT pro tempore. The question is on the adoption of the amendment just read.

Mr. CLAPP. I wish to call the attention of the Senator from Idaho [Mr. HEYBURN] to this amendment. It is a matter which was passed over on his request. It comes in at the place where we make provision for the Pima Indians. The charges for irrigation, so long as they retain the title, will not be collected, but will become collectible upon their sale of the land.

Mr. HEYBURN. Mr. President, it is an embargo upon transfer. Do I understand that it would be an accumulated charge in the event of an attempt to sell at the end of five years, or would it only result in charges being collected after the sale?

Mr. CLAPP. It is the proportionate cost of the project. I wish to say that this is done by the Federal Government as a gratuity, and it is in the nature of a limitation upon the gratuity. So long as the Indian himself or his heirs enjoys the gratuity the Government does not enforce it, but if the Indian desires to sell his land then it becomes a charge against the land.

Mr. HEYBURN. The difficulty seems to me to arise out of the failure to take into consideration the fact that the Indian already owns the land.

Mr. CLAPP. He owns the land, but does not own this increased value the Government gives by reason of the irrigation.

Mr. HEYBURN. But he is not asking for this blessing. He is content to own the land. Now along comes a very generous patron who says, "We will add to the value of your property upon which you are living perfectly content at present, and we will put a burden upon it that will prevent you from ever selling it."

Mr. CLAPP. If the Senator will pardon an interruption, I do not think his deduction is properly drawn. This land would be worthless without water. While there are some Indians who do not yet appreciate the value, the average Indian to-day does desire to have an increased value placed upon his allotment. As to these particular Indians I am not able to state; they may not have asked for this; but I do know that in many instances the Indians have asked that we appropriate money to irrigate their land, and it is not in all cases forced upon them.

Mr. HEYBURN. Mr. President, I think the Government should make provision for irrigating the Indian lands where they need irrigation. Some grave mistakes have been made. For instance, in the case of the Pocatello Indian Reservation, they provided for a large payment in money to the Indians. They should have provided for an expenditure of the money to bring water on the land. That is only one instance. I could

name a number of such instances. We ought to get away from that class of mistakes in dealing with these funds that might be applied to the irrigation of Indian lands. The Indians are not so organized that they themselves can negotiate loans or organize water companies or do the ordinary things that are available to other citizens.

I did not intend to precipitate a general consideration of the question of irrigating Indian lands when I made this suggestion. I merely intended to do no more than call attention to it in passing.

It is a tribe of Indians with which I have little or no acquaintance. I am not familiar enough with the facts to say whether or not these Indians have been given lands in severalty that were of no value except that they afterwards be subjected to the burden of irrigation at the expense of the Government with a forfeiture clause, because this amounts to a forfeiture clause, in the event they want to sell the lands.

The Indian to-day is a very different proposition from the Indian of a few years ago. Our Indians are just as capable of transacting business as their white neighbors, and it is a farce to talk about having guardians over them. A great evil in the last 12 years has grown out of the erroneous idea that the Indians must have a guardian. They were getting along very well 12 years ago. In many instances they were capable of making contracts satisfactory to them in regard to the use of their lands. But a lot of men who wanted a job, men who wanted to multiply the necessity for offices, got in and said, "No, Mr. Indian, you may think you are wise; you may conduct yourselves so that other people will think you are; but we would not have any job unless we got the opportunity to get possession of your land and treat you as though you were not intelligent human beings."

I know from observation, as do many other Senators, that the idea that the Indian is a ward who must be taken care of and administered is no longer based upon facts. We have tribes of Indians where I have attended the commencement exercises, and I have witnessed the commencement exercises of schools where the Indians were as good performers as you would find anywhere in the United States. Farmers who ride upon their reapers and binders and sulky plows and have stock and homes as others are not to be treated as the wards of anybody. They are more like barons. Take them down on the Umatilla Reservation or on the Nez Perce Reservation; they employ white men to work for them, because they are rich enough to do it. They have a larger balance to their credit in the banks than any other class of people, and notably so. Now, if we are going to treat them as though they were children in violation of their rights we must account for it.

I was rather interested in the little discussion that preceded this section and the talk about spending $100,000 to investigate the cause of the difficulty with the Indians' eyes. When I first went among the Indians, a good bit more than 30 years ago, they lived in tepees with the fire even on the ground and the only outlet for the smoke was the unfurled peak of their wigwam or tent, and they all had what we called "blinky" eyes. Their eyes were opening and shutting all the time from habit and necessity growing out of the smoky condition inside their tepees. That is no disease. It probably resulted in a general weakness of the eyes. It did not appear until the Indians were pretty well grown, and then you would see young Indians of both sexes, especially female Indians who would be in the tepees more of the time than the male Indians, who had acquired the habit of opening and shutting the eyes constantly, and not being able to hold them open as others not subjected to those conditions. Yet we have been talking about spending $100,000 to find out the cause of something that is termed a disease, that is no disease at all.

I merely speak these words of admonition. In dealing with the Indians we must recognize that they are progressive people, too, as well as some others.

Mr. CLAPP. Mr. President, to correct one erroneous thought that might flow from the Senator's remarks I want to say that this is not the imposition of a burden upon the Indians. Primarily this fund would be repayable in regular terms. It is the extension of the payment indefinitely on condition that the Indian shall remain the owner of the land.

Mr. HEYBURN. It was because of that I asked the Senator the question whether or not this applied when the Indians sold the land and thenceforward, or whether there was an accumulated charge to be taken into account and when they sold the land that would have to do with it.

Mr. SMITH of Arizona. Mr. President, this particular item leads me to call the attention of the Senate at this time to the very different treatment accorded the Indians and the white men not only at Yuma, but all over the West. We have been attempting, under the irrigation scheme at Yuma, to extend the time of payment which the farmers owe the Government for that project. Contracting for a few million dollars, the Government has finally a claim against those people for a vast sum of money running into the millions. Under the terms of their agreement with the farmers those debts will soon fall due. Inasmuch as the farmers are at great expense outside of the contract that they have with the Government they feel that their time for payment should be extended. I purpose, if I can during this session, to get an extension of that time.

I will not delay this bill now, but I call the attention of the Senate to the fact and to the absolute necessity of the Government dealing some sort of favor to those people, as is shown in the effort here to do a very great justice to the Indians in this matter. I shall content myself now with this mere observation.

Mr. CLAPP. I wish to say, Mr. President, I am thoroughly familiar with the case the Senator refers to; it is a meritorious case, and when the time comes, for one I shall be very glad to contribute my small influence in securing a remedy.

I ask for the adoption of the amendment on page 14.

The amendment was agreed to.

Mr. CLAPP. I call the attention of the Senate to page 21 and offer the following amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 21, after line 9, insert the following item:

For the construction of buildings for agency headquarters on the Coeur d'Alene Indian Reservation in Idaho, $30,000.

Mr. CURTIS. Is that estimated for?

Mr. CLAPP. It was not estimated for. It is a supplemental estimate which the department sent in.

Mr. HEYBURN. The report of the department is here.

Mr. CLAPP. The department recommended it.

The amendment was agreed to.

Mr. CLAPP. I now desire to call the attention of the Senate to page 39. In the items under "North Carolina," I desire to move the following committee amendment:

On line 18, in lieu of the word "twenty-six," insert "thirty-one"; on line 19, in lieu of "six," insert "five"; and on line 19, in lieu of the word "fifty," insert "sixty."

It seems that the amount placed in the bill was a misprint, and these are to correct it to conform to the estimate.

The PRESIDENT pro tempore. The Secretary will state the amendment.

The SECRETARY. On page 39, line 18, strike out "twenty-six" and insert "thirty-one"; line 19, strike out "six" and insert "five"; and line 19, before the word "dollars," strike out "fifty" and insert "sixty," so that if amended it will read:

For support and education of 180 Indian pupils at the Indian school at Cherokee, N. C., and for pay of superintendent, $31,560.

The amendment was agreed to.

Mr. CLAPP. I move to further amend by making the total agree to the figures which have been substituted.

The PRESIDENT pro tempore. The amendment will be agreed to, changing the total as stated.

Mr. CLAPP. I now desire to call attention to page 55. I offer the following amendment to be inserted after line 3 after the amendments already inserted upon that page.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 55, just above the subhead "Oregon," insert:

That the act of Congress approved February 19, 1912 (Public, No. 91), being an act to provide for the sale of the surface of the coal and asphalt lands of the Choctaw and Chickasaw Nations, and for other purposes, be, and the same is hereby, amended to provide that the classification and appraisement of such lands shall be completed not later than February 1, 1913.

Mr. CLAPP. That is to extend the time for making the classification. The amendment is offered on the request of the department.

The amendment was agreed to.

Mr. CLAPP. On the same page, following the amendment just agreed to, I offer the following committee amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. To follow the amendment just agreed to, insert:

That the Secretary of the Interior be, and he is hereby, requested to report to Congress at the opening of the next session of Congress as to the advisability and the probable cost of securing homes in Oklahoma and New Mexico for the Apache Indians now held as prisoners of war on the Fort Sill Military Reservation, Okla.

The amendment was agreed to.

Mr. CLAPP. I desire to call the attention of the Senator from Kansas [Mr. CURTIS] to the amendment I am about to

offer. Some time ago the Senate passed a bill authorizing the exchange of homestead allotments on the Osage Reservation, subject to the authority of the Secretary of the Interior. I realize that it is legislation. In the absence of the Senator from Oklahoma I shall offer it as an amendment, following the amendment just agreed to.

Mr. CURTIS. I make the point of order against the amendment. I will wait until after it is read.

The PRESIDENT pro tempore. On what ground does the Senator make the point of order?

Mr. CURTIS. That it is general legislation and the cost has not been estimated for.

Mr. CLAPP. It does not involve any cost.

Mr. GALLINGER. I would suggest that the amendment should first be read. I do not know what it is.

The PRESIDENT pro tempore. The Secretary will read the amendment.

The SECRETARY. After the amendment just agreed to, on page 55, insert:

That the Secretary of the Interior be, and he hereby is, authorized to permit the exchange of homesteads or other allotments, or any portions thereof, of Osage allottees under such rules and regulations as he may prescribe and upon such terms as he shall approve: *Provided*, That where a homestead or homesteads pass in the exchange, in whole or in part, an equivalent in value of land suitable for agricultural purposes shall be furnished, to be designated as a homestead. The new homestead shall be subject to the same restrictions as the original homestead. The Secretary shall have authority to do any and all things necessary to make these exchanges effective. That the Secretary of the Interior be, and he hereby is, authorized, in his discretion and upon application, to remove restrictions upon alienation of all or only a described portion of the surplus lands of any Osage allottee.

Mr. CURTIS. Mr. President, that being a general bill and having passed the Senate I think I shall insist upon the point of order. It is general legislation in an Indian appropriation bill.

Mr. CLAPP. There is no question as to the soundness of the point that is raised. I would say that it is a bill that has been recommended by the committee and by the department and it has passed the Senate.

The PRESIDENT pro tempore. The Chair understands the Senator from Minnesota to concur in the opinion that it is general legislation.

Mr. CLAPP. Oh, certainly, it is general legislation.

The PRESIDENT pro tempore. The Chair is compelled to sustain the point of order.

Mr. CLAPP. I desire, now, to call attention to the pages of the bill from 29 to 33, which were passed over, beginning at line 23 on page 29.

The PRESIDENT pro tempore. The Chair is informed that all of those items relating to Montana were passed over.

Mr. CLAPP. They were passed over. If the Secretary will read them we may take them up in the order in which they appear.

The Secretary resumed the reading of the portion of the bill heretofore passed over, beginning on page 28, line 10, under the heading "Montana."

The next amendment of the Committee on Indian Affairs was, on page 28, line 12, after the word "employees," to strike out "fifteen" and insert "twenty-five," so as to make the clause read:

SEC. 10. For support and civilization of the Indians at Fort Belknap Agency, Mont., including pay of employees, $25,000.

The amendment was agreed to.

The next amendment passed over was, on page 29, line 5, before the word "hundred," to strike out "two" and insert "four," so as to read:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $400,000.

Mr. CURTIS. Mr. President, I hope that amendment will not be agreed to. The department only asks for $250,000. I think the amendment provides for too large an increase, and I hope the acting chairman of the committee will agree that the amendment may be voted down and accept an amendment giving the amount which the department asks, which is $250,000.

Mr. CLAPP. The acting chairman will accept the suggestion of the Senator from Kansas, and move that the amendment be rejected and that the House provision stand.

The PRESIDENT pro tempore. Without objection, the amendment will be disagreed to.

Mr. CURTIS. Now, I suggest that we make the amount $250,000, which is the sum asked for.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Kansas will be stated.

The SECRETARY. On page 29, line 5, after the word "hundred," it is proposed to insert the words "and fifty," so that it will read "$250,000."

Mr. CLAPP. That is right.

The PRESIDENT pro tempore. Without objection, the amendment will be agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs passed over was, on page 29, in line 7, after the date "1910," to insert "$50,000, to be immediately available."

Mr. CLAPP. I ask that the amendment may be disagreed to.

The amendment was rejected.

The next amendment passed over was, on page 29, line 8, after the date "1910," to strike out:

Provided, That no portion of the amount herein appropriated shall be used for continuing the construction of irrigation systems, except upon the Jacko and Pablo units now under construction.

The amendment was agreed to.

The next amendment passed over was, on page 29, line 17, before the word "thousand," to insert "and fifty," so as to read:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Blackfeet Indian Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $150,000, reimbursable in accordance with the provisions of the act of March 1, 1907.

Mr. CURTIS. I suggest that that amendment ought to be disagreed to. The department only asked for $100,000 for that work.

Mr. CLAPP. It is clearly subject to the point of order.

The PRESIDENT pro tempore. Without objection, the amendment will be disagreed to.

The next amendment passed over was, on page 29, line 19, after the date "1907," to strike out:

Provided, That no portion of the amount herein appropriated shall be used for continuing the construction of irrigation systems, except upon the Two Medicine unit now under construction.

The amendment was agreed to.

The next amendment passed over was, on page 29, after line 22, insert:

For continuing construction of irrigation systems to irrigate allotted lands of the Indians of the Fort Peck Indian Reservation in Montana, including necessary surveys, plans, and estimates, $75,000, reimbursable, the same to be immediately available.

Mr. CLAPP. I move to amend the amendment by increasing the appropriation from $75,000 to $100,000, in line 1, on page 30. I do that because that is the estimate, and, I take it, there may have been some mistake in copying the amendment. So I offer the amendment now.

The PRESIDENT pro tempore. The amendment to the amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. It is proposed to amend the amendment, on page 30, line 1, before the word "thousand," by striking out "seventy-five" and inserting "one hundred," so as to read "$100,000."

The amendment to the amendment was agreed to.

Mr. GALLINGER. I wish to call the attention of the Senator from Minnesota to the fact that as the words "the same to be immediately available" are to be stricken from the bill there ought to be some words, I think, either preceding or following the word "reimbursable," either "to be reimbursable," or, as in former paragraphs, "in accordance with the provisions of the act of March 1, 1907."

Mr. CLAPP. I will say to the Senator that it is quite the custom now to use the language in the bill, but the words suggested by the Senator can be inserted if it is so desired.

Mr. GALLINGER. I have no objection, but I noticed in a preceding section attention was called to a certain case where such language was used.

Mr. CLAPP. Sometimes it is "the same to be reimbursable."

Mr. GALLINGER. "The same to be reimbursable." I will make that suggestion.

Mr. CLAPP. I accept the suggestion on behalf of the committee.

The PRESIDENT pro tempore. The amendment proposed by the Senator from New Hampshire will be stated.

The SECRETARY. After the word "dollars," on page 30, line 1, it is proposed to amend the amendment by inserting "the same to be," so as to read "the same to be reimbursable," and so forth.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Indian Affairs passed over was, on page 30, after line 2, to insert:

There is hereby appropriated the sum of $40,000, to remain available until expended, and the Secretary of the Interior is hereby authorized and empowered to use said money, or so much thereof as may be necessary, in the erection of buildings for agency purposes on the Flathead

Indian Reservation in Montana; for the purchase of lands therein for an agency site not to exceed 80 acres if such is deemed by the Secretary of the Interior to be necessary for the proper location of such agency; for the expenses of the removal of the agency to the new site selected; and for the protection and repair of any other buildings required for the efficient conduct of the affairs of the Flathead Indians in Montana: *Provided*, That the entire sum expended hereunder for the purposes herein mentioned shall be reimbursed the United States from the proceeds arising from the sale of lands and timber within the Flathead Indian Reservation.

The amendment was agreed to.

The next amendment passed over was, on page 30, after line 19, to insert:

The sum of $30,000, ar so much thereof as may be necessary, is hereby appropriated, out of the funds in the Treasury not otherwise appropriated, for the purpose of surveying the land on the Fort Belknap Indian Reservation, Mont.

The amendment was agreed to.

The next amendment was, at the top of page 31, to insert:

There is hereby appropriated the sum of $20,000, to remain available until expended, and the Secretary of the Interior is authorized to use this money, or so much thereof as he may deem necessary, in the purchase of a sawmill and logging equipment and the employment of suitable persons to manufacture and to lumber burned timber on the Flathead Indian Reservation, Mont., and to protect the remaining timber from fire and trespass: *Provided*, That the sum expended under authority of this act shall be reimbursed the United States from the proceeds arising from the sale of lands and timber within said reservation under existing acts of Congress: *Provided further*, That the amounts paid to persons employed hereunder shall not be included within the limitation of salaries and compensation of employees in the Indian Service contained in the act of June 7, 1897 (13 Stat. L., p. 90).

The amendment was agreed to.

The next amendment passed over was, on page 32, after line 14, to insert:

That so much of the act of Congress approved March 3, 1911 (36 Stat. L., p. 1066), which provides for the reservation of an easement over tracts of land bordering Flathead Lake, Mont., be, and the same hereby is, amended to read as follows: "That an easement in, to, and over all lands bordering on or adjacent to Flathead Lake, Mont., which lie below an elevation of 9 feet above the high-water mark of said lake for the year 1909, is hereby reserved for uses and purposes connected with storage for irrigation or development of water power, and all patents hereafter issued for any such lands shall recite such reservation."

Mr. CURTIS. Mr. President, I desire to ask the Senator in charge of the bill if that proposed legislation was requested by the department? It is purely legislation.

Mr. CLAPP. It is, of course, legislation; but it is asked for by the department at the request of the Geological Survey in order to adjust a situation there. The request of the Geological Survey was indorsed by the Department of the Interior.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs passed over was, on page 33, after line 2, to insert:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share of the Northern Cheyenne Indians in the permanent fund created under section 17 of the act of Congress approved March 2, 1889 (U. S. Stat. L., vol. 25, p. 888), and to expend it for the benefit of said Northern Cheyenne Indians in the purchase of stock cattle, or such articles as in his judgment will best advance said Indians in civilization and self-support.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs passed over was, on page 33, after line 12, to insert:

That there is hereby appropriated the sum of $100,000, out of any moneys in the Treasury not otherwise appropriated, or so much thereof as may be necessary for the purpose of purchasing cattle for the benefit of the Northern Cheyenne Indians, the appropriation herein made to be reimbursable and to be repaid within a period not to exceed 20 years, the first payment to be due and payable within 5 years from the date of this act: *Provided*, That this appropriation be expended for the benefit of the Northern Cheyenne Indians and also repaid to the Government by said Indians under such terms, conditions, and regulations as the Secretary of the Interior may prescribe.

Mr. CURTIS. Mr. President, I make the point of order against the amendment that it is general legislation on an appropriation bill. I do it for this reason: The preceding amendment provides that the money in the Treasury shall be used for the purpose of buying stock cattle for these Indians. That being true, I think it would be best to try the experiment and see how it works before expending more money for the benefit of these Indians. I therefore make the point of order against the amendment, from line 13 to line 25, inclusive, on page 33.

Mr. CLAPP. The committee will have to concede the soundness of the point.

The PRESIDING OFFICER. The point of order is sustained.

Mr. CLAPP. Mr. President, I now offer the amendment which I send to the desk, to come in at the end of the Wisconsin items.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In the Wisconsin items, on page 69, after line 5, it is proposed to insert:

That for the purpose of carrying into effect certain treaty stipulations between the United States and the United Nation of Chippewa, Ottawa, and Pottawatomie Indians, and for the purpose of carrying into effect the act of June 25, 1864 (13 Stat. L., p. 172), the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of that portion of the Wisconsin Band of Pottawatomie Indians now resident in the States of Wisconsin and Michigan the sum of $447,339, the same being the proportionate share of these Indians in annuities and moneys of the Pottawatomie Tribe in which they have not shared, as set forth in the report of the Secretary of the Interior to the House of Representatives, embodied in House Document No. 830, Sixtieth Congress, first session; and said sum shall be immediately available for said purpose. From the said sum the said Secretary is authorized and directed to pay to Mrs. R. B. Belt, widow of R. B. Belt, deceased, the attorney who in his lifetime represented the Wisconsin Band of Pottawatomie Indians in the proceedings, under an accounting set forth in said document, 10 per cent of such sum, in lieu of and in full for the amount due him under the contract approved by the Commissioner of Indian Affairs on the 1st day of November, 1902, which amount shall be immediately available for said purpose; and the balance of said sum placed to the credit of said Indians shall bear interest at the rate of 5 per cent per annum, which said interest shall be distributed per capita under the direction of the Secretary of the Interior to the members of said band now resident in the States of Wisconsin and Michigan, or shall be expended in his discretion for their benefit.

Mr. CURTIS. Mr. President, I very much dislike to make a point of order on this amendment. I realize from the report of the Secretary of the Interior that there is that amount of money due these Indians, and I think some arrangement should be made for their payment; but I do believe it unwise on the floor of the Senate to put an item on an Indian appropriation bill providing for the payment of attorneys' fees and matters of that kind. I hope the Senator in charge of the bill will be content simply to offer an amendment authorizing the payment of the interest to these Indians and let the other matter go over until the next session of Congress. The point of order I make against the amendment is that it provides for the payment of a claim; that it has not been estimated for in the regular way; and that it is not proper that it should be placed upon an appropriation bill under Rule XVI.

Mr. CLAPP. Mr. President, I would hardly concede, if time warranted a discussion of this matter, the soundness of the point of order. To my mind the amendment is merely to carry out treaty stipulations. I do not know that a provision involving the payment of attorneys for their services where it is necessary to go into the Court of Claims to get the stipulations provided for in the treaty has ever been before the Senate. This is an amount which ought to be settled and adjusted, and it will grow no less by letting it run along. This matter has been before the Senate time and again. However, in view of the fact that the time is so limited, rather than argue the matter—although I would not want to be understood as admitting the soundness of it—I will accept the suggestion and will offer an amendment providing that the Secretary of the Treasury be authorized to pay interest upon the sum named in the amendment.

The PRESIDING OFFICER. The point of order is sustained.

Mr. CLAPP. Mr. President, that concludes the Senate amendments, with the exception of one on page 68, which was passed over, and to which I call the attention of the senior Senator from Georgia [Mr. BACON].

Mr. BACON. What page is that?

Mr. CLAPP. Page 68.

The PRESIDING OFFICER. The Chair will direct the attention of the Senator from Minnesota to the fact that the Secretary informs the Chair that the amendment on page 68, commencing with line 18, was passed over.

Mr. CLAPP. No, sir; my record shows that that was adopted. I remember making the statement. However, to save any question I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is upon the adoption of the amendment.

Mr. McCUMBER. Mr. President, what amendment are we now speaking of?

The PRESIDING OFFICER. The amendment will be read. It is on page 68, commencing at line 18.

Mr. CLAPP. The other is regarded as adopted, I understand.

The SECRETARY. On page 68, after line 17, it is proposed to insert the following:

That the Secretary of the Treasury is hereby authorized and directed to pay, out of the sum of $1,500,000 set aside and held in the Treasury of the United States for the use and benefit of the Colville Indians under the provisions of an act approved June 21, 1906 (34 Stat. L., p. 337), the sum of $45,000 to Hugh H. Gordon for his individual services in behalf of said Indians, which sum of $45,000 is hereby appropriated for said Gordon's exclusive use and benefit out of any money in the Treasury not otherwise appropriated, and the same shall be charged against the funds set aside for the benefit of said Indians.

Mr. McCUMBER. Mr. President——

Mr. CURTIS. If the Senator will yield, I made a point of order against that amendment yesterday.

Mr. McCUMBER. I was going to ask the Senator to withhold his point of order, at least until we can perfect the amendment. Then I should like to discuss the point of order. I think properly, at least, we can perfect the amendment first.

Mr. CURTIS. I shall very gladly do that, Mr. President, if by doing it I do not waive the right to make the point of order. In my judgment, if a point of order is not made when an amendment is first presented, and it is permitted to be amended and discussed, the point is waived. I may be wrong in that.

The PRESIDING OFFICER. The Chair would hold that the point of order could be made at any stage of the consideration of the matter.

Mr. CURTIS. If the Chair will hold that, I have no objection. I want to make the point of order against the whole of the amendment, and I should like to state the grounds now.

First, it is in violation of section 1 of Rule XVI, in that it adds a new item of appropriation, whch is not intended to carry out the provisions of any existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during this session.

Second, it is in violation of section 3 of Rule XVI, in that it proposes general legislation in an appropriation bill.

Mr. McCUMBER. Mr. President, I am somewhat acquainted with this particular case and with the litigation that has grown out of it. I do not intend to go into the details of the case, but I do wish to present to the Senate enough of it to enable the Senate to clearly understand not only the merits of the matter, but also the parliamentary question as to whether or not it is proper upon an appropriation bill.

When the Colville Indian Reservation was opened it was opened pursuant to an agreement entered into between the United States and the Colville Indians. It was a treaty or agreement made between the United States and those Indians. Whatever right may exist for payment of funds that shall be appropriated in this bill or otherwise must depend upon a treaty stipulation and relate to that treaty stipulation.

We agreed to pay those Indians a certain sum for the cession of their rights to about one-half of the reservation.

Congress neglected, year after year, to perform its duty. There is no question about that. It was necessary, in order to bring the matter clearly before Congress and to get Congress to take some action toward performing its part of the agreement, that the Indians should employ counsel. That counsel performed his duties. Without the aid of the counsel, in my opinion, upon both the facts and the law in the case, the matter never would have been decided. So, whatever of counsel fees shall be provided in this bill, I for one am in a position to declare from my knowledge of the case that the fees have been honestly earned, and that without those services the Colville Indians would not have had the appropriation.

The counsel who first entered into the agreement with the Indians to demand from the United States the fulfillment of its obligation made a contract with those Indians for the payment to him of 15 per cent upon the amount recovered. That was not an excessive charge. The claimant in this case, Mr. Gordon, was one of the original attorneys, or, perhaps I might say, the original attorney. This contract lapsed by reason of the time specified in which the relief was to be obtained. Afterwards another contract was made, which, as I remember, provided for a fee of 10 per cent, but in which contract Mr. Gordon retained an interest, and other attorneys were introduced into the case.

Mr. CURTIS. May I interrupt the Senator there?

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Kansas?

Mr. McCUMBER. Certainly.

Mr. CURTIS. I simply wished to say that, as I understand, that contract was not approved.

Mr. McCUMBER. This contract had expired, at all events, whether it was approved or not. But notwithstanding the expiration of the contract, the services of the attorneys were continued before the department and before the Committee on Indian Affairs, with the consent and at the request of the tribe. Therefore, the services having been performed at the request of the Indians and they having received the benefit of the services, they are in equity estopped from denying the right of the counsel to a reasonable compensation. That was the view taken by the committee a few years ago. The matter was submitted to the Court of Claims as to the right of the Indians to recover the amount to which they were entitled, and the value of the services of the counsel rendered upon a quantum meruit.

Remember that the amount they contracted to pay in the first instance was 15 per cent. In the second instance, I think, it was 10 per cent. Part of the services, and most of them, perhaps, were performed under the original contract calling for a fee of 15 per cent.

Mr. BACON. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. Certainly.

Mr. BACON. If the Senator will permit me a moment, the fact is that the original contract with the Indians was for 15 per cent. It was submitted to the Interior Department for approval, and the department, while approving the contract in all other particulars, cut down the fee to 10 per cent.

Mr. McCUMBER. Yes; I knew that was substantially correct. The second understanding was, at least, that it was to be 10 per cent.

When the matter was finally submitted to the Court of Claims that court, as I remember, allowed $1,500,000 as the basis of the claim. Ten per cent upon that would be $150,000. So if even the whole $150,000 had been paid out of that sum to the attorneys it would not have been unjust to the Indians, considering the character of the litigation. But the court awarded as compensation to the attorneys, as I remember, $60,000, which was divided among most of the attorneys who had taken part in the trial of the action and in producing the evidence and presenting the facts before Congress year after year.

Inasmuch as $60,000 was awarded, and that was the limit of the amount allowed for the services of other attorneys, having some knowledge on my own part of the services rendered by the several attorneys, and by this particular attorney who instituted the action in the first instance and has been connected with it all the time, he having received no sum whatever so far for his services, it seems to me that upon a quantum meruit basis he ought to be allowed a reasonable sum. Considering the entire sum received by all, I think $45,000 is more than he should receive.

For that reason, Mr. President, I am going to move to strike out the words "forty-five thousand" and insert in lieu thereof the words "twenty-five thousand." That leaves the matter still open as to another $14,000, which is still in litigation, and the litigation concerning which, as I am credibly informed, has cost this claimant nearly the full amount of about $14,000.

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from North Carolina?

Mr. McCUMBER. Certainly.

Mr. OVERMAN. My sympathies have always been with Mr. Gordon, and I want to see him paid; but why was it that he did not receive part of this $60,000?

Mr. McCUMBER. As I remember, $14,000 was awarded as Mr. Gordon's share. Other attorneys interested in the case, directly and indirectly, as was brought out before the committee, brought suits against him, and have tied up this money by injunction or otherwise. The defense of these suits, as I understand, including the costs in the original case, has cost him just about the amount of money involved.

Mr. OVERMAN. There is $14,000, then, that is held up pending litigation, as I understand?

Mr. McCUMBER. Yes. But, as I say, the proposed payment of $25,000 and this $14,000, most of which has been used up in litigation, I think would be a fair compensation for him, on the basis of the allowances made by the Court of Claims to other attorneys for their services in the case.

Just one word, Mr. President, on the point of order.

Mr. SMITH of Georgia. Will the Senator yield to me for a moment?

Mr. McCUMBER. I yield.

Mr. SMITH of Georgia. Is not this really the trouble about the $14,000: Mr. Gordon had the assistance of additional counsel besides those paid by the action of the Court of Claims, and they claim additional sums from him for their services that are not provided for? They claim that this $14,000, or most of it, should go to them, in addition to what went to the other lawyers? That is about the status of the matter, as I understand.

Mr. McCUMBER. I think that is not wholly correct, Mr. President. An action was brought, not by the principal attorney in the case, but by some other attorneys, against Mr. Gordon, and this $14,000 has been tied up.

Mr. SMITH of Georgia. I do not think I made myself clear. My suggestion was this: Is it not true that lawyers not men-

tioned in the decision of the Court of Claims, and in addition to them, claimed that they had also done some work for Mr. Gordon in connection with the matter, and that out of his $14,000 he must pay them, and that it will take a large part of that sum to pay them?

Mr. McCUMBER. That is correct, Mr. President, as I understand.

Now, a word on the other subject:

The United States agreed to pay the Colville Indians for the cession of certain of their lands. The lands were ceded to the United States in consideration of that agreement. That agreement was, in effect, a treaty, and such a treaty as is referred to in the rules. The payment that is authorized by this bill is a payment of money that grew out of that treaty.

I do not understand that in appropriating to carry out the provisions of a treaty which requires us to pay certain sums of money we are going outside of the rule when we provide how that money shall be distributed. That is the only difference between a certain portion of this money being paid to counsel and the principal being paid to the Indians themselves that is not wholly in accord with the original agreement.

This question was brought up some years ago under a treaty in which it was attempted, by an amendment which I offered, to distribute in a certain manner the money which was to be paid pursuant to a treaty. A point of order was raised, similar to the point raised by the Senator from Kansas. The Chair held—Mr. Frye then being in the chair—that under the rule, after making an appropriation, the Senate could provide for its distribution in any manner it saw fit without such provision constituting new legislation, and that the only question there involved was whether the original appropriation of itself constituted new or independent legislation.

Mr. BACON. Mr. President, I want to say one word further in regard to the point of order.

The same point of order was made by the Senator from Kansas when this bill was before the Senate two years ago. It was then sustained by the Chair, the Vice President being in the chair at the time. I want to call attention to the ground upon which the ruling was made, to show that it does not apply to the present case.

The ruling made by the Vice President was that it was general legislation, because the amendment provided that the amount should be immediately available. The contention on the part of the friends of the amendment was that it was a payment of a fee due out of a particular fund which belonged to the parties from whom the fee was charged to be due, and that it was therefore strictly germane.

The Vice President conceded that, but here is his ruling. I will read first the remarks made by me and then the reply. The Vice President said:

The VICE PRESIDENT. The point of order is sustained.

Mr. BACON. I would beg permission of the Chair to make a suggestion in reference to a point of order previously ruled upon.

The VICE PRESIDENT. The Chair will be very glad to hear the Senator.

Mr. BACON. If this were a simple claim against the Indians for that much money, independent of this particular fund, I think the ruling of the Chair would certainly be correct; but this in a claim upon this particular fund and not a general claim against the Indians. This is what would be recognized in a court as a lien on a fund. It relates to the particular fund which is being appropriated. I think there is a distinction between that and an effort which might be made to collect some other debt against the Indians and asking that it be paid out of this fund.

Here is a fund which Congress is appropriating, and this is a part of the particular transaction which brings about this appropriation. Therefore I can not see how it can come under the terms of the rule. The object of the rule, which says that general legislation shall not be permitted, is that independent matter shall not be engrafted upon an appropriation bill. This is not an independent matter; it is a matter which directly relates to and is connected with the provision making the appropriation.

To that the Vice President made this reply:

The VICE PRESIDENT. The point which the Chair made was that this is a bill providing appropriations for the Indian Department during a fiscal year. The amendment provides for another appropriation——

Mr. DAVIS interjected:

Distinct from this.

The Vice President continuing said:

For payment at a different time, which makes it a legislative provision in the opinion of the Chair.

Mr. BACON. I presume it is because I am not entirely familiar with this Indian legislation that I do not understand the exact statement the Chair makes.

The VICE PRESIDENT. Here is a provision which, under certain circumstances, might be considered purely as a limitation upon the appropriation being provided for, but the amendment makes provision that the appropriation shall be immediately available, which takes it out of the fiscal year for which we are making the appropriation.

Mr. BACON. I did not know of that, Mr. President, or I would have suggested to the author of the amendment that that ought to have been stricken out. That puts an entirely new phase on it. I did not know that that was in the mind of the Chair.

Now, Mr. President, that was the ground upon which the ruling was based, that when the amendment provided that the fund should be immediately available it took it out of that appropriation bill and provided for general legislation, making it a charge upon an altogether different appropriation bill.

Now, that is not in this amendment. Here is a particular fund, the balance of $100,000 coming to these Indians. It is in the nature, as I said upon that former occasion, of a lien upon that particular fund. It does not come out of the Treasury of the United States. It does not fall in any measure or in any manner within the spirit or purpose of the rule, which is to protect the Treasury of the United States against a particular appropriation being ingrafted upon a general appropriation bill, thus tending in its effect to take out of the Treasury of the United States money which has not been properly estimated for, and so forth.

The PRESIDING OFFICER. The hour of 2 o'clock having arrrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 20182) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

Mr. BACON. I think, Mr. President, that that clearly differentiates it, and the statement of the Vice President——

Mr. SIMMONS. Mr. President, I am willing that the unfinished business shall be laid aside until the Senator finishes his remarks, if he desires. Otherwise I should like to go on with the unfinished business.

Mr. BACON. I have no desire to finish my remarks unless the matter is going to be acted upon. If the appropriation bill is going to be laid aside, I would prefer to wait until it is taken up again.

Mr. CLAPP. I think the better plan would be now to take up the tariff measure and vote on it and get it out of the way, and then the Senator from Georgia will have such time as he desires.

Mr. BACON. Very well; I am willing that that course should be pursued.

ADJOURNMENT TO FRIDAY.

Mr. NELSON. I move that when the Senate adjourns to-day it adjourn to meet on the 5th of July.

The PRESIDING OFFICER. The Senator from Minnesota moves that when the Senate adjourns to-day it be to meet on Friday, the 5th day of July.

The motion was agreed to.

THE CHEMICAL SCHEDULE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H R. 20182) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909.

Mr. SIMMONS and Mr. SMOOT suggested the absence of a quorum.

The PRESIDING OFFICER. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Kenyon	Reed
Bacon	Cullom	Lea	Root
Bailey	Cummins	Lippitt	Shively
Bourne	Curtis	Lodge	Simmons
Bradley	Dillingham	Lorimer	Smith, Ariz.
Brandegee	du Pont	McCumber	Smith, Ga.
Briggs	Fall	Martin, Va.	Smith, Md.
Bristow	Fletcher	Martine, N. J.	Smith, S. C.
Brown	Gallinger	Nelson	Smoot
Bryan	Gardner	Newlands	Thornton
Burnham	Gronna	Oliver	Tillman
Catron	Guggenheim	Overman	Townsend
Chamberlain	Heyburn	Page	Wetmore
Clapp	Johnson, Me.	Paynter	Works
Clark, Wyo.	Johnston, Ala.	Perkins	
Clarke, Ark.	Jones	Rayner	

Mr. THORNTON. I wish to announce the unavoidable absence of my colleague [Mr. FOSTER] on account of illness.

Mr. JONES. I wish to state that my colleague [Mr. POINDEXTER] is detained from the Chamber by reason of public business.

The PRESIDING OFFICER. Sixty-two Senators have answered to their names. A quorum of the Senate is present. The pending amendment will be stated.

The SECRETARY. The pending amendment is the amendment offered by the Senator from North Carolina [Mr. SIMMONS]. On page 3 it proposes to strike out lines 3 and 4, which read as follows:

Alizarin, natural or artificial, and dyes derived from alizarin or from anthracene, 10 per cent ad valorem.

The PRESIDING OFFICER. The yeas and nays were ordered and taken on the amendment, and no quorum appeared. The roll will be again called on agreeing to the amendment.

The Secretary proceeded to call the roll.

Mr. BAILEY (when his name was called). I have a general pair with the Senator from Montana [Mr. DIXON], and in his absence I withhold my vote.

Mr. BRANDEGEE (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I do not see him on the floor, and therefore I withhold my vote. I would vote "yea" if I were at liberty to vote.

Mr. BRIGGS (when his name was called). I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. I see that he is not present, and therefore I withhold my vote. I should vote "yea" if I were at liberty to vote.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In the absence of that Senator I withhold my vote.

Mr. CRAWFORD (when his named was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. Not knowing how he would vote, I withhold my vote.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON]. I therefore withhold my vote.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber, I withhold my vote.

Mr. FLETCHER (when his name was called). I am paired with the senior Senator from Ohio [Mr. BURTON]. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "yea."

Mr. THORNTON (when Mr. FOSTER's name was called). I announce the unavoidable absence of my colleague [Mr. FOSTER] an account of illness, and furthermore that he is paired with the senior Senator from Wyoming [Mr. WARREN]. I make this announcement for the day.

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senate from Alabama [Mr. BANKHEAD]. In his absence I withhold my vote.

Mr. RAYNER (when his name was called). I am paired with the junior Senator from Utah [Mr. SUTHERLAND]. If he were present I should vote "yea."

Mr. REED (when his name was called). On this vote I have a pair with the Senator from Michigan [Mr. SMITH]. I transfer that pair to the Senator from Nebraska [Mr. HITCHCOCK] and vote. I vote "yea."

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). The senior Senator from Michigan [Mr. SMITH] is unavoidably detained from the Senate. As stated by the Senator from Missouri, he is paired with that Senator. If the senior Senator from Michigan were present, he would vote "yea."

Mr. SMITH of South Carolina (when his name was called). I have a general pair with the senior Senator from Delaware [Mr. RICHARDSON]. In his absence I withhold my vote. Were he present I would vote "yea."

Mr. SMOOT (when Mr. SUTHERLAND's name was called). My colleague [Mr. SUTHERLAND] is unavoidably detained from the Senate. He has a general pair with the senior Senator from Maryland [Mr. RAYNER]. If my colleague were here, he would vote "yea."

The roll call was concluded.

Mr. BRIGGS. I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. I transfer that pair to the junior Senator from Wisconsin [Mr. STEPHENSON] and vote. I vote "yea."

Mr. DILLINGHAM (after having voted in the affirmative). I observe that the senior Senator from South Carolina [Mr. TILLMAN] has not voted, and as I have a pair with him I withdraw my vote.

Mr. CRAWFORD. I desire to state that my colleague [Mr. GAMBLE] is unavoidably absent. He has a general pair with the Senator from Oklahoma [Mr. OWEN].

Mr. ASHURST. I wish to state that the Senator from Montana [Mr. MYERS] is unavoidably detained, and he is paired with the Senator from Connecticut [Mr. MCLEAN].

Mr. OLIVER. I desire to announce that my colleague [Mr. PENROSE] is temporarily detained from the session of the Senate. He is paired with the Senator from Mississippi [Mr. WILLIAMS]. If my colleague were present, he would vote "yea."

Mr. CULLOM. I think I will take the liberty of voting. I vote "yea."

Mr. RAYNER. I vote "yea."

The result was announced—yeas 58, nays 0, as follows:

YEAS—58.

Ashurst	Cullom	Lippitt	Root
Bacon	Cummins	Lodge	Sanders
Borah	Curtis	Lorimer	Shively
Bourne	Fall	Martin, Va.	Simmons
Bradley	Fletcher	Martine, N. J.	Smith, Ariz.
Briggs	Gallinger	Nelson	Smith, Ga.
Bristow	Gardner	Oliver	Smith, Md.
Brown	Gronna	Overman	Smoot
Bryan	Guggenheim	Page	Swanson
Burnham	Johnson, Me.	Paynter	Thornton
Catron	Johnston, Ala.	Perkins	Townsend
Chamberlain	Jones	Poindexter	Wetmore
Clapp	Kenyon	Pomerene	Works
Clarke, Ark.	Kern	Rayner	
Crane	Lea	Reed	

NOT VOTING—36.

Bailey	Dillingham	McCumber	Smith, Mich.
Bankhead	Dixon	McLean	Smith, S. C.
Brandegee	du Pont	Myers	Stephenson
Burton	Foster	Newlands	Stone
Chilton	Gamble	O'Gorman	Sutherland
Clark, Wyo.	Gore	Owen	Tillman
Crawford	Heyburn	Penrose	Warren
Culberson	Hitchcock	Percy	Watson
Davis	La Follette	Richardson	Williams

So Mr. SIMMONS's amendment was agreed to.

Mr. SIMMONS. I offer the following amendment: On page 10, lines 9 and 10, I move to strike out the words "gum copal, one-half of 1 per cent per pound."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from North Carolina.

The amendment was agreed to.

Mr. SIMMONS. On page 10, line 13, I move to strike out the words "gum kauri and damar."

The amendment was agreed to.

Mr. SIMMONS. On page 10, line 16, I move to strike out the word "indigo."

The amendment was agreed to.

Mr. SIMMONS. On page 12, line 25, I move to strike out the words "and soya-bean oil."

The amendment was agreed to.

Mr. SIMMONS. On page 13, line 9, I move to strike out the words "Chinese-nut oil."

The amendment was agreed to.

Mr. SIMMONS. On page 17, line 21, I move to strike out the word "twenty-five" and substitute in lieu thereof the word "fifteen."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 17, line 21, strike out the word "twenty-five" and in lieu insert "fifteen," so that if amended it will read:

Varnishes, including so-called gold size or japan, and enamel paints made with varnish, 15 per cent ad valorem.

Mr. SMOOT. Mr. President, I hope the Senate will not agree to that amendment. It proposes to reduce the rate on varnishes, not only on plain varnishes but on gold size or japan varnishes and enamel paints made with varnish. The rate in the bill as passed by the House is 25 per cent, and now it is proposed that it shall be reduced to 15 per cent. I hope the Senate will not agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from North Carolina. [Putting the question.] The noes appear to have it.

Mr. SIMMONS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BAILEY (when his name was called). I again announce my pair with the Senator from Montana [Mr. DIXON]. To avoid the trouble of repeating it I will ask that this announcement may stand for the day. I also desire to couple with the announcement the statement that if I were at liberty to vote I would vote generally with my party associates.

Mr. BRIGGS (when his name was called). I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. I transfer that pair to the junior Senator from Wisconsin [Mr. STEPHENSON] and vote. I vote "nay." I make this announcement for the day of the transfer of my pair.

Mr. CLARK of Wyoming (when his name was called). I again announce my pair with the senior Senator from Missouri [Mr. STONE]. I will let this announcement stand for the day.

Mr. FLETCHER (when his name was called). I am paired with the senior Senator from Ohio [Mr. BURTON]. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "yea."

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANK-

HEAD]. In his absence I will withhold my vote. Were he present and were I permitted to vote I would vote "nay."

Mr. REED (when his name was called). I repeat the announcement of my pair with the Senator from Michigan [Mr. SMITH] and the transfer of that pair to the Senator from Nebraska [Mr. HITCHCOCK]. I will let this announcement of the transfer stand for the day. I vote "yea."

Mr. SMITH of South Carolina (when his name was called). I am paired with the junior Senator from Delaware [Mr. RICHARDSON], and I therefore withhold my vote. If I were at liberty to vote, I would vote "yea." I will let this announcement stand for the day.

The roll call was concluded.

Mr. CULLOM (after having voted in the affirmative). It may be possible that the Senator with whom I am paired may differ from me on this question, and I therefore withdraw my vote.

Mr. DU PONT (after having voted in the negative). As I observe that the senior Senator from Texas [Mr. CULBERSON], with whom I have a general pair, is not present, I withdraw my vote.

Mr. McCUMBER (after having voted in the negative). I will ask if the senior Senator from Mississippi [Mr. PERCY] has voted?

The PRESIDING OFFICER. The Chair is informed that that Senator has not voted.

Mr. McCUMBER. I have a general pair with him, and I will therefore withdraw my vote.

Mr. WILLIAMS (after having voted in the affirmative). I wish to ask if the Senator from Pennsylvania [Mr. PENROSE] has voted upon this roll call?

The PRESIDING OFFICER. The Chair is informed that that Senator has not voted.

Mr. WILLIAMS. Then I withdraw my vote, because I am paired with the senior Senator from Pennsylvania.

Mr. RAYNER (after having voted in the affirmative). I withdraw my vote. I am paired with the junior Senator from Utah [Mr. SUTHERLAND].

The result was announced—yeas 29, nays 29, as follows:

YEAS—29.

Ashurst	Gardner	Overman	Smith, Ga.
Bacon	Johnson, Me.	Paynter	Smith, Md.
Bristow	Johnston, Ala.	Poindexter	Swanson
Bryan	Kern	Pomerene	Thornton
Chamberlain	Lea	Reed	Tillman
Clarke, Ark.	Martin, Va.	Shively	
Crawford	Martine, N. J.	Simmons	
Fletcher	Newlands	Smith, Ariz.	

NAYS—29.

Bourne	Cummins	Lippitt	Sanders
Bradley	Curtis	Lodge	Smoot
Briggs	Dillingham	Lorimer	Townsend
Brown	Fall	Nelson	Wetmore
Burnham	Gallinger	Oliver	Works
Catron	Gronna	Page	
Clapp	Guggenheim	Perkins	
Crane	Jones	Root	

NOT VOTING—36.

Bailey	Davis	La Follette	Richardson
Bankhead	Dixon	McCumber	Smith, Mich.
Borah	du Pont	McLean	Smith, S. C.
Brandegee	Foster	Myers	Stephenson
Burton	Gamble	O'Gorman	Stone
Chilton	Gore	Owen	Sutherland
Clark, Wyo.	Heyburn	Penrose	Warren
Culberson	Hitchcock	Percy	Watson
Cullom	Kenyon	Rayner	Williams

So Mr. SIMMONS's amendment was rejected.

Mr. SIMMONS. I move, on page 10, line 10, to strike out the words "gum resin."

The PRESIDING OFFICER. The Chair would suggest to the Senator from North Carolina that the words "10 per centum ad valorem" should also be stricken out.

Mr. SIMMONS. The Chair is right.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 10, line 10, it is proposed to strike out the words "gum resin, 10 per centum ad valorem."

The amendment was agreed to.

Mr. SIMMONS. On page 8, line 6, I move to amend by striking out after the words "or condition by" the word "peeling."

The amendment was agreed to.

Mr. SIMMONS. On page 22, line 14, I move to amend, after the words "or condition by," by striking out the word "peeling."

The amendment was agreed to.

Mr. SIMMONS. On page 12, in line 19, after the word "soaps," I move to amend by striking out the words "containing castor oil, any of the foregoing in whatever form," and by inserting in lieu thereof the words "all of the foregoing made from or containing castor oil in whatever form, 20 per centum ad valorem," to be followed by a comma.

The amendment was agreed to.

Mr. SIMMONS. On page 21, line 19, I move to amend by inserting after the word "gray" the words "carbide of."

The amendment was agreed to.

Mr. SIMMONS. On page 21, after paragraph 78, I move to amend by inserting a new paragraph, as follows:

Alizarin and indigo, natural or artificial, and dyes derived from alizarin or from anthracene.

The amendment was agreed to.

Mr. SIMMONS. On page 22, line 2, I move to amend by inserting after the words "known as" and before the word "naphthalin" the words "anthracene and anthracene oil," to be followed by a comma.

The amendment was agreed to.

Mr. SIMMONS. On page 22, after paragraph 88, I move to amend by inserting as a new paragraph the following:

Gums, copal, kauri, damar, and resin.

The amendment was agreed to.

Mr. SIMMONS. On page 22, line 25, after the word "petroleum," I move to insert "soya-bean oil and Chinese nut oil."

The amendment was agreed to.

Mr. SIMMONS. Mr. President, I have no further amendments to offer.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. SIMMONS. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. Not seeing him on the floor, I withhold my vote. I will make no further announcement of the pair during the day. I desire to say that if the Senator from New York were present and I were at liberty to vote, I should vote "nay."

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote. If allowed to vote, I should vote "nay."

Mr. CRAWFORD (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. If he were present and I were at liberty to vote, I should vote "nay."

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. He is not in the Chamber, and I therefore withhold my vote. Were he present, I should vote "nay."

Mr. FLETCHER (when his name was called). I am paired with the senior Senator from Ohio [Mr. BURTON], but I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "yea."

Mr. CRAWFORD (when Mr. GAMBLE's name was called). My colleague [Mr. GAMBLE] is unavoidably absent. He has a general pair with the Senator from Oklahoma [Mr. OWEN]. If my colleague were present, he would vote "nay."

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. He is absent, and I therefore withhold my vote. If he were present and I were at liberty to vote, I should vote "nay."

Mr. McCUMBER (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. PERCY]. He being absent, I am compelled to withhold my vote. Were I at liberty to vote, I should vote "nay."

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). The senior Senator from Michigan [Mr. SMITH] is unavoidably absent from the Senate. He is paired with the junior Senator from Missouri [Mr. REED]. If present, the senior Senator from Michigan would vote "nay."

Mr. SMITH of South Carolina (when his name was called). I have already made a statement in reference to my pair, and will let that stand for the remainder of the day.

Mr. CLARK of Wyoming (when Mr. WARREN's name was called). My colleague [Mr. WARREN] is unavoidably absent on business of the Senate. He is paired with the senior Senator from Louisiana [Mr. FOSTER]. If present and at liberty to vote, my colleague would vote "nay."

The roll call was concluded.

Mr. DILLINGHAM (after having voted in the negative). I observe that the senior Senator from South Carolina [Mr. TILLMAN] has not voted. As I have a general pair with him, I withdraw my vote.

Mr. RAYNER. I am paired with the Senator from Utah [Mr. SUTHERLAND]. If he were present and I were at liberty to vote, I should vote "yea."

Mr. MARTINE of New Jersey. I have been requested to announce the pair existing between the Senator from West Virginia [Mr. CHILTON] and the Senator from Illinois [Mr. CULLOM].

The result was announced—yeas 27, nays 32, as follows:

YEAS—27.

Ashurst	Johnson, Me.	Overman	Smith, Ariz.
Bacon	Johnston, Ala.	Paynter	Smith, Ga.
Bryan	Kern	Poindexter	Smith, Md.
Chamberlain	Lea	Pomerene	Swanson
Clarke, Ark.	Martin, Va.	Reed	Thornton
Fletcher	Martine, N. J.	Shively	Williams
Gardner	Newlands	Simmons	

NAYS—32.

Borah	Clapp	Jones	Penrose
Bourne	Crane	Kenyon	Perkins
Bradley	Cummins	Lippitt	Root
Briggs	Curtis	Lodge	Sanders
Bristow	Fall	Lorimer	Smoot
Brown	Gallinger	Nelson	Townsend
Burnham	Gronna	Oliver	Wetmore
Catron	Guggenheim	Page	Works

NOT VOTING—35.

Bailey	Davis	La Follette	Smith, Mich.
Bankhead	Dillingham	McCumber	Smith, S. C.
Brandegee	Dixon	McLean	Stephenson
Burton	du Pont	Myers	Stone
Chilton	Foster	O'Gorman	Sutherland
Clark, Wyo.	Gamble	Owen	Tillman
Crawford	Gore	Percy	Warren
Culberson	Heyburn	Rayner	Watson
Cullom	Hitchcock	Richardson	

So the Senate refused to pass the bill.

COTTON FUTURES.

Mr. SMITH of South Carolina. Mr. President, during my absence, having been called away a week or two ago because of illness in my family, the bill (S. 4654) to regulate contracts for the future delivery of cotton, being Calendar No. 670, was placed under Rule IX. I ask unanimous consent that it be restored to the calendar under Rule VIII.

Mr. THORNTON. Mr. President, I shall object to that, on account of the wishes of the Senator from Mississippi, who had the bill placed on the calendar under Rule IX. I would rather not have it taken up in his absence.

Mr. SMITH of South Carolina. It is not a question of taking up the bill. I merely ask unanimous consent that it be restored to the calendar under Rule VIII.

Mr. THORNTON. I object to anything being done with it in the absence of the Senator referred to.

Mr. SMITH of South Carolina. Then, Mr. President, I move that the bill be restored to its place on the calendar under Rule VIII. It is a bill introduced by me and favorably reported by the Committee on Agriculture and Forestry. During the time of my unavoidable absence the bill was taken from the calendar under Rule VIII and placed on the calendar under Rule IX. I move that it be restored to its place under Rule VIII.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. I ask the Senate to resume the consideration of House bill 20728, the Indian appropriation bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 20728) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1913.

The PRESIDING OFFICER. The pending amendment is, on page 68, line 18 to line 5, inclusive, on page 69. The Senator from Kansas [Mr. CURTIS] made the point of order against the amendment.

Mr. CURTIS. I desire to know whether the Senator from Georgia [Mr. BACON] has completed his remarks on the point of order. I understood he had not done so.

The PRESIDING OFFICER. If the Senator will permit the Chair, the Chair recalls the fact that the Senator from North Dakota [Mr. MCCUMBER] offered an amendment to the paragraph. Does the Senator from Georgia desire to proceed now, or will he allow the amendment offered by the Senator from North Dakota to be acted on?

Mr. BACON. I am perfectly willing to have the amendment acted upon first.

Mr. LODGE. The point of order must be first considered.

The PRESIDING OFFICER. The point of order relates to the paragraph. This is an amendment to the text of the bill.

Mr. MCCUMBER. It was agreed that that should be the course.

The PRESIDING OFFICER. The Secretary will report the amendment.

The SECRETARY. On page 68, line 25, it is proposed to strike out the word "forty-five," before the word "thousand," and in lieu thereof to insert the word "twenty-five," so that, if amended, it will read:

That the Secretary of the Treasury is hereby authorized and directed to pay, out of the sum of $1,500,000 set aside and held in the Treasury of the United States for the use and benefit of the Colville Indians under the provisions of an act approved June 21, 1906 (34 Stat. L., p. 337), the sum of $25,000 to Hugh H. Gordon for his individual services in behalf of said Indians, which sum of $25,000 is hereby appropriated for said Gordon's exclusive use and benefit out of any money in the Treasury not otherwise appropriated, and the same shall be charged against the funds set aside for the benefit of said Indians.

The amendment to the amendment was agreed to.

Mr. CURTIS. Mr. President, it seems to me the Senators who have argued the point of order have overlooked two things. In the first place, the amendment is not to a provision in the bill. It is a separate and distinct item. The amendment against which I made the point of order some two years ago was an amendment to an item in the bill. But it seems to me that whether that is true or not, the material point in this case is the fact that this amendment seeks to amend an act of Congress.

In 1906 this claim was before Congress. The Senate at that time placed an item in the Indian appropriation bill; and I desire to call the Chair's attention to that item, because this amendment repeals that act of Congress and sets aside the decision of the Court of Claims.

The item was as follows:

The act of June 21, 1906, supra, in addition to setting aside the $1,500,000 for the use and benefit of the Colville Indians, contained the further provision that "jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render final judgment in the name of Butler & Vale (Marion Butler and Josiah M. Vale), attorneys and counselors at law, of the city of Washington, D. C., for the amount of compensation which shall be paid to the attorneys who have performed services as counsel on behalf of said Indians in the prosecution of the claim of said Indians for payment for said land, and in determining the amount of compensation for such services the court may consider all contracts or agreements heretofore entered into by said Indians with attorneys who have represented them in the prosecution of said claim, and also all services rendered by said attorneys for said Indians in the matter of said claim * * *; and the Secretary of the Treasury is hereby authorized and directed to pay the sum of money so awarded by said court to the said attorneys (Butler & Vale) upon the rendition of final judgment, out of the said sum herein set apart or appropriated for the benefit of said Indians, and payment of said judgment shall be in full compensation to all attorneys who have rendered services to said Indians in the matter of their said claim, the same to be apportioned among said attorneys by said Butler & Vale as agreed among themselves: *Provided*, That before any money is paid to any attorney having an agreement with Butler & Vale as to the distribution of said fees, each of the same shall execute and deliver to the Secretary of the Interior a satisfaction and discharge of all claims and demands for services rendered said Indians in the matter of their said claim."

In accordance with this provision of law a petition was filed in the Court of Claims, the case being docketed as No. 29526, Butler & Vale (Marion Butler and Josiah M. Vale) *v.* The United States and the Indians residing on the Colville Reservation. A decision was rendered by the court on May 25, 1908 (43 C. C., 497), and a decree entered in favor of claimants in the aggregate sum of $60,000, apportioned as follows:

Benjamin Miller, administrator of the estate of Levi Maish, deceased, $6,000.
Hugh H. Gordon, $14,000.
Marion Butler, $20,000.
Josiah M. Vale, $10,000.
Daniel B. Henderson, $5,000.
Herbert J. May, $3,000.
Frederick C. Robertson, $2,000.

The Court of Claims construed the act of June 21, 1906, supra, as limiting the court to a judgment on the basis of a quantum meruit. Booth, J., in delivering the opinion of the court, said:

"In view of the facts and circumstances surrounding the enactment of the jurisdiction statute here questioned, we can not hold otherwise than that Congress intended to reward claimants, if entitled to reward, upon the basis of a quantum meruit."

This amendment repeals that act of Congress. It sets aside that decision of the Court of Claims. It is clearly general legislation, attempted to be placed upon the Indian appropriation bill. It seems to me that the bare statement of the fact that it does repeal this former act of Congress, and that that must of necessity be done in order to give these people any money whatever, is sufficient to make it subject to the point of order. It is general legislation, because it repeals a general act of Congress.

The PRESIDING OFFICER. Does any other Senator desire to be heard on the point of order? Upon carefully examining the proposed amendment, the Chair finds in it nothing that is apparently deserving of consideration, except the fact that it is a private claim. The question, in the mind of the Chair, is

whether or not, under the rules of the Senate, a private claim of this nature may be placed upon an appropriation bill.

Mr. BACON. Mr. President, as I did not have anything to say on that point, I should like to say one word in that connection, if I may do so without intruding too far upon the time of the Senate or of the Chair.

The rule that has been invoked refers to private claims against the Government. This is not a claim against the Government. Here is a fund that belongs to the Indians, and it is the last of the fund. It is a fund which has been recovered under the contract for which this fee is claimed. It seems to me the rule with reference to a private claim has no application whatever so far as it would bar this item from the right to be put upon an appropriation bill. It has no relation to a claim against the Government.

Mr. McCUMBER. Mr. President——

Mr. BACON. If the Senator will pardon me a moment, I will say just one word. This is a claim against a specific fund. When that fund is once paid out this claim never can be thereafter enforced against it. It is not like a claim against the Government, which, if denied in one place, may be asserted and maintained and recovered in another. It is here or nowhere. It is about to be paid out. The money is already in the Treasury to the credit of these Indians.

Mr. McCUMBER. Mr. President, I want to call the Chair's attention to the fact—probably it has been already brought to its attention—that exactly the same question was passed upon on March 23, 1904.

The PRESIDING OFFICER. The Chair has not yet concluded its statement, but will be glad to hear from any Senator who wishes to enlighten the Chair.

Mr. McCUMBER. I will call attention to the particular point of order then made:

The Indian appropriation bill being under consideration, on page 53, after line 9, the committee reported the following amendment:

"For payment to J. Hale Sypher, to be paid out of any funds in the Treasury of the United States belonging to the Choctaw Nation, $50,000, which said sum the Secretary is hereby authorized and directed to pay immediately to J. Hale Sypher upon execution by him of a receipt in full of all claims against the Choctaw Nation for his services and expenses as attorney of said nation under contract entered into on the 7th day of November, A. D. 1891, between said J. Hale Sypher and the said Choctaw Nation.

Mr. Kean raised a point of order that it was a private claim and not in order.

The PRESIDENT pro tempore (Mr. Frye). The Chair calls the attention of the Senate to the item on page 53 of this bill, beginning in line 10 and ending with line 19, for payment to J. Hale Sypher of $50,000. The point of order was made by the Senator from New Jersey [Mr. Kean]. The Chair is of opinion that the private claim, under Rule XVI barred from appropriation bills, must necessarily be a claim against the Government of the United States which would take money from the United States Treasury. This item is not such a claim. It is neither against the Government nor does it take Government money from the Treasury. In the opinion of the Chair the committee having full jurisdiction of the subject had a right to report this item favorably and thus make it in order. So the Chair overrules the point of order raised by the Senator from New Jersey.

Mr. CURTIS. But, Mr. President, that item in the appropriation bill thus passed upon did not attempt to repeal a former act of Congress, nor did it attempt to set aside a finding of the Court of Claims. That is what this amendment does.

The PRESIDING OFFICER. The Chair was about to remark when interrupted that it is of opinion that this is not general legislation. The Chair would agree with the Vice President in the ruling he made when the point of order was made against this identical claim—that it became general legislation only for the reason that the words "to be immediately available" were inserted in the amendment.

The Chair is familiar with the ruling of the late Senator Frye, which has been read by the Senator from North Dakota, and has likewise observed that as long ago as February 13, 1855, in the Thirty-third Congress, this identical question arose in the Senate and was ruled upon. It arose on an amendment providing for the payment to Richard W. Thompson, as attorney for the Menominee Indians, of an amount for services, in conformity with a memorial of said Indians. Mr. Badger, in the chair, decided it in order because it was not a claim against the Government, but payable from the annuities of the Indians, although a private claim.

Mr. CURTIS. But, Mr. President, does the Chair hold that we can, on an Indian appropriation bill, or any other, repeal a general act of Congress, and that an amendment of that kind will be in order if a point is made? Does the Chair hold that Congress can set aside the judgment of a court without the item becoming general legislation?

The PRESIDING OFFICER. The Chair does not think the amendment repeals an act of Congress, and does not take that matter into consideration at all. The Chair is of opinion that it is competent for the Senate to pass upon the validity of this claim upon precisely the ground that was determined by the late President pro tempore of the Senate, Mr. Frye, and by Mr. Badger as long ago as in the Thirty-third Congress. The Chair is inclined to overrule the point of order, but will be glad to have it further discussed.

Mr. CLARKE of Arkansas. Mr. President, I desire to hear from the Senator from North Carolina [Mr. OVERMAN], who has knowledge of the history of this claim, as to the reasons which take it beyond the rule established by the precedents which have been read before the Senate. My understanding is that this whole matter was once before under discussion in this body, and the Congress of the United States solved the difficulty then presented by referring the whole matter to the Court of Claims for adjudication, both as to the liability and the extent thereof. The Court of Claims found in behalf of the claimants for $63,000. That sum was accepted by the claimants, including this particular claimant.

Mr. OVERMAN. When the appropriation of the money was made they received it in full, and it was provided that they should receive that much in full of all claims and demands.

Mr. CLARKE of Arkansas. That being the case, it seems to me the entire proceeding was novated into that judgment, and that precluded and estopped everybody who attempted to assert any right under that transaction. It seems to me it then required an affirmative act of Congress to create a liability when the court and the action of the parties themselves decided that no liability existed and that nobody ought to pay any more on account of that particular transaction.

If that is the case—and I understand from the Senator from North Carolina that while rather an imperfect statement of it, it is not an incorrect one so far as it goes—it would not be a claim to be dealt with.

The PRESIDING OFFICER. The Chair will state that the Chair did not understand that particular fact in this case.

Mr. CLARKE of Arkansas. I was sure the Chair did not.

The PRESIDING OFFICER. It had not been stated to the Chair.

Mr. OVERMAN. The recollection of the Senator from Kansas fully agrees with mine about that. I very well remember the debate upon this claim on the floor of the Senate some four or five years ago. It was then understood that we would leave to the Court of Claims the question as to what amount should be allowed upon the idea of the quantum meruit. The court allowed some $63,000. Then, of course, there had to be an appropriation to pay the $63,000. As I understand, in conference it was provided that this $63,000 should be paid, provided it was accepted in full of all claims and demands. They did so receive it, and $14,000 was allowed to this claimant. Now he comes here and asks for $45,000 more. If it is granted, what is to hinder any other attorney engaged there from coming to Congress hereafter and asking for forty or fifty or a hundred thousand dollars more, on the ground that the Court of Claims erred, after he had agreed to go into the Court of Claims and have the amount allowed upon a quantum meruit?

This matter has been here three times before, has been voted down by the Senate, and now it comes up here again. This money is in the Treasury. I remember it was said that the Senator from North Dakota wanted to leave $93,000 there, the disposition of it to be determined hereafter. But why is this money left there when we provided for the disposition of this fund some two years ago?

I sympathize with Mr. Gordon because this $14,000 is in litigation. It is true that it is not a claim against the Government. But the Government is the guardian of these poor Indians, and they are its wards, and I think they ought to be treated just like anybody else.

Mr. NELSON. Mr. President, I think—and I say it with all due respect—that the Chair misapprehended the point of order. I observed—and I am not saying it by way of criticism—that while the Senator from Kansas [Mr. CURTIS] was reading from the document to which he referred, the Chair was reading from the bill. I think if the Chair had heard what the Senator from Kansas read on that point it would have made a different ruling on the point of order. I therefore ask that the Senator from Kansas will again read what he read before.

The PRESIDING OFFICER. Before that is done, the Chair will venture to ask the Senator from North Carolina whether this claimant accepted a sum of money and receipted for it?

Mr. OVERMAN. No, Mr. President. I understand that the $14,000 mentioned has been in litigation. An injunction has been issued, and there is litigation over that money right now. That was his part of the award.

Mr. CURTIS. The litigation has held up the payment of the amount.

Mr. OVERMAN. The court said he was entitled to the $14,000, but the injunction held up its payment, and other lawyers are suing for it.

The PRESIDING OFFICER. The Chair will be glad to hear from the Senator from Kansas.

Mr. CURTIS. I made the point of order that this was general legislation, because of this decision of the court, as I stated.

Mr. NELSON. I wish the Senator would again read what he read just now.

Mr. CURTIS. I intend to read it.

The PRESIDING OFFICER. Before the Senator does that, the Chair will state that it is familiar with the ruling the Vice President made on this claim. Was the point the Senator is now going to urge urged at that time?

Mr. CURTIS. The point urged by me at that time was that it was general legislation; but this argument was not made, because, as I understand—I have not looked at the RECORD—the Chair ruled upon the point that the money was made immediately available. I do not recall whether I made this point and read this decision at that time or not; but my recollection is that the matter went off on the other point.

If the Senate will bear with me, this is the part I read a while ago:

The act of June 21, 1906, supra, in addition to setting aside the $1,500,000 for the use and benefit of the Colville Indians, contained the further provision that "jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render final judgment in the name of Butler & Vale (Marion Butler and Josiah M. Vale), attorneys and counselors at law, of the city of Washington, D. C., for the amount of compensation which shall be paid to the attorneys who have performed services as counsel on behalf of said Indians in the prosecution of the claim of said Indians for payment for said land, and in determining the amount of compensation for such services the court may consider all contracts or agreements heretofore entered into by said Indians with attorneys who have represented them in the prosecution of said claim, and also all services rendered by said attorneys for said Indians in the matter of said claim * * *; and the Secretary of the Treasury is hereby authorized and directed to pay the sum of money so awarded by said court to the said attorneys (Butler and Vale) upon the rendition of final judgment, out of the said sum herein set apart or appropriated for the benefit of said Indians, and payment of said judgment shall be in full compensation to all attorneys who have rendered services to said Indians in the matter of their said claim, the same to be apportioned among said attorneys by said Butler and Vale as agreed among themselves: *Provided*, That before any money is paid to any attorney having an agreement with Butler and Vale as to the distribution of said fees, each of the same shall execute and deliver to the Secretary of the Interior a satisfaction and discharge of all claims and demands for services rendered said Indians in the matter of their said claim."

In accordance with this provision of law a petition was filed in the Court of Claims, the case being docketed as No. 29526, Butler & Vale (Marion Butler and Josiah M. Vale) *v.* the United States and the Indians residing on the Colville Reservation. A decision was rendered by the court on May 25, 1908 (43 C. C., 497), and a decree entered in favor of claimants in the aggregate sum of $60,000, apportioned as follows:

Benjamin Miller, administrator of the estate of Levi Maish, deceased, $6,000.
Hugh H. Gordon, $14,000.

Mr. OVERMAN. Is that the Hugh H. Gordon mentioned in this bill?

Mr. CURTIS. The same claimant.

Marion Butler, $20,000.
Josiah M. Vale, $10,000.
Daniel B. Henderson, $5,000.
Herbert J. May, $3,000.
Frederick C. Robertson, $2,000.

The Court of Claims construed the act of June 21, 1906, supra, as limiting the court to a judgment on the basis of a quantum meruit. Booth, J., in delivering the opinion of the court, said:

"In view of the facts and circumstances surrounding the enactment of the jurisdiction statute here questioned, we can not hold otherwise than that Congress intended to reward claimants, if entitled to reward, upon the basis of a quantum meruit."

Mr. McCUMBER. Mr. President, I think the Senator from Kansas is mixing up the merits of this case with the parliamentary question whether or not it is proper to be considered upon an appropriation bill.

The very first question that naturally arises in this case is whether or not, there being $1,500,000 to the credit of these Indians, the Congress had a right to say that any portion of it should be applied for attorneys' fees. The moment we admit that Congress had the right to distribute it in a certain way, the moment we admit that Congress had a right to say that the court should advise Congress—because that is all it means—as to what fee ought to obtain in this case, that moment we concede the right of Congress to go over the subject in an appropriation bill.

Suppose the court had said $60,000, as it did, and Congress had appropriated only $30,000 or $40,000, or suppose Congress at that time had said "We will not take the advice of the court as conclusive and we will appropriate $65,000 instead of $60,000." Is there any question of the power of Congress to do that?

Mr. NELSON. Mr. President——

Mr. McCUMBER. I will yield the floor in just a moment. If Congress had the power to determine what portion of the appropriation should be applied for a certain purpose at one session of Congress, it would have a right to increase or diminish that at another session of Congress. So, after all, it seems to me that it is not a question of new legislation, a question of abolishing other laws, but it is a question as to whether Congress will grant so many thousand dollars in addition to what it has heretofore appropriated for that purpose.

Mr. LODGE. Congress, as I understand it, made no appropriation. It simply directed a payment from a fund.

Mr. McCUMBER. That is the same thing.

Mr. LODGE. Not at all. The law did not provide that the court should advise Congress as to what they were to appropriate. The law distinctly says "and payment of said judgment shall be in full satisfaction of all attorneys." The judgment was to fix the amount.

Mr. President, I do not care to take the time of the Senate in discussing the point of order. I do not agree with the original decision of Mr. Frye in the Sypher case, and I never did; but I think this comes under an entirely different head. If it is not general legislation to reverse the previous action of Congress and to reverse the decision of a court, it is difficult for me to understand what general legislation is.

Mr. BACON. Mr. President, I hesitated about entering upon a discussion involving the merits of the question, and I carefully avoided that in what I had to say before to the Senate. But the matter has been presented in such a way that it seems to me a recitation of the facts in this case is somewhat essential, if the point of order is to be broadened to the extent now indicated. With the permission of the Senate, I will occupy a few minutes just to state what this case is, and I hope I may have the attention of the Senate, especially of Senators who seem to be indisposed to recognize the propriety of this claim.

Congress passed upon the question as to whether or not it was indebted to these Indians, the Colville Indians, on account of the opening of a reservation, the contention being that while the reservation should be opened the Indians did not have a claim to it, and that while the lands would be sold no compensation would be given to the Indians. That contention was made by one of the most honored and careful Senators in this body, and one in whom the Senate had as much confidence as it ever had in any other Senator in this body—one who was particularly familiar with Indian affairs, Mr. Orville H. Platt. He contended that the Government of the United States was under no obligation to pay these Indians one dollar, and the act which was passed opening the lands to settlement and practically taking them away from the Indians did not carry with it any appropriation; and while I can not recall that it did so in words, it did in effect deny that there was anything to be paid to these Indians.

In that condition of affairs Mr. Gordon made a contract with these Indians that he would endeavor to secure for them compensation from the United States Government. The Indians entered into a contract with him in writing by which they agreed that they would pay to him and to his associate who was with him in the contract—I mention the name of only Mr. Gordon for brevity—15 per cent of all that might be gotten from the United States Government in payment for these lands in the State of Washington. That contract was brought by him to the Interior Department for its approval. An examination of the contract was made by the then Secretary of the Interior, my present colleague [Mr. SMITH], and he cut the fee down from 15 per cent to 10 per cent and approved it upon those terms. It was a solemn contract in writing that upon the recovery which should be had from the United States Government under the claim which he would prosecute for them he should be paid the amount of 10 per cent. The Indians, of course, were perfectly satisfied with that contract. The contract had in it an additional provision that it should run for the term of 10 years.

That contract was prosecuted with the utmost industry by Mr. Gordon and by those whom he employed to assist him. The work was done and the end practically and almost certainly assured before the expiration of the limitation of 10 years prescribed in the contract. I do not make that statement in a general way simply from hearsay, but I make it as a fact found by the Court of Claims.

It so happened that after Gordon's contract had expired by limitation, and after the work had already been done, other parties sought to make a contract with these Indians, and probably did have some form of contract with them. When the case was before the Court of Claims this second body of lawyers tried to establish a claim against this fund on the ground that they had rendered certain services after the expiration of the 10 years. The Court of Claims denied to them any compensation whatever upon the express ground that all the work had been done before the 10 years had expired, and that therefore the parties who came in afterwards were not entitled to anything. They were denied the right to any com-

pensation upon the ground that Gordon and those who had done the work under Gordon's contract had done all the work, and that these parties therefore were not entitled to anything.

I mention that simply as conclusive evidence of the fact that while technically the contract of Gordon was limited to 10 years, and he might not be held to be entitled to anything under the contract after that time, it is a fact judicially ascertained that he had performed all the work before that, that the result was due exclusively to his work, and that therefore those who came in and claimed for services subsequently rendered were not entitled to anything. When I speak of Gordon I speak of him and those whom he employed to work under him.

Gordon employed some other lawyers, principally a firm by the name of Butler & Vale. Gordon himself, after having spent a number of years in looking after it, left it largely to those whom he employed, and he is certainly entitled to the benefit of whatever resulted from the work of those whom he employed. There was never any other living human being who had a contract with these Indians except Gordon and the man who was associated with him and Butler & Vale. No other lawyer ever had any contract with these Indians. The contract was with Gordon alone and the lawyer who was associated with him, and all the work performed by other lawyers was under an employment by Gordon that they should assist him in the work.

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. OVERMAN. My recollection of this matter is——

Mr. BACON. I would prefer that the Senator would allow me to conclude my statement of the question.

Mr. OVERMAN. I speak of the contract. This contract——

Mr. BACON. The Senator goes ahead.

The PRESIDING OFFICER. The Senator from Georgia declines to yield.

Mr. OVERMAN. The amendment was made six years ago in a conference committee and had never been considered in either House. The fight came on when the report of the conference committee was presented.

Mr. BACON. I object to the Senator's interruption of my narration with an argument.

Mr. OVERMAN. I am speaking of the contract.

Mr. BACON. I would prefer to go on.

Mr. OVERMAN. I am stating facts.

Mr. BACON. The Senator is doing it without my permission.

Mr. OVERMAN. I beg pardon. I thought I had the Senator's permission.

Mr. BACON. I endeavored in as courteous a way as I could to suggest to my honored friend that I should be permitted to complete my narration before he entered upon an argument.

Mr. OVERMAN. I beg the Senator's pardon.

Mr. BACON. I am now narrating the history of the case. While the matter was under consideration before Congress as to whether or not these Indians should be paid anything for this property, which was afterwards recognized by Congress as being worth $1,500,000, when it was afterwards denied that they were entitled to one cent of it, and when Gordon and his partner with him in the contract was endeavoring to secure for them that for which they had no evidence of indebtedness whatever, the Spanish War came on and Gordon went off into the Army. After a service of some time the matter was still pending here in Congress and the active charge of it really went out of his hands. It was in the hands of those whom he had employed, not in the hands of associate counsel employed by the Indians, because nobody else had been employed by the Indians. Gordon and his partner in the contract were the sole parties to any contract with the Indians, and these other parties were simply his employees. He himself having interests in the far South, living, practically, in Florida, although he was from my State, and having property interests there, and the matter dragging slowly along, the lawyers whom he had employed living here in Washington, he naturally left it to them. Everything which they did in the prosecution of that case was as much his act as if he had himself been present. After the term expired these same lawyers continuing to prosecute the claim, although the contract by its limitation of 10 years had expired, the appropriation was finally secured, after long-continued and most earnest effort, with a claim utterly denied and disputed as having any validity by such a man as Orville H. Platt.

Finally Congress was brought to a recognition of the fact that these Indians were entitled to be paid, and Congress proceeded to arrange to pay them $1,500,000 for this property which it had gotten, for which it had refused originally to pay a cent, and which it had finally been induced to recognize. Congress agreed to pay $1,500,000 exclusively through the efforts of Gordon and those whom he employed to represent him.

When the question of the distribution of that fund came up in Congress and the claim was made for $150,000, which was the contract of the Indians which had materialized to their great benefit in securing $1,500,000 for them out of the repudiated claim, the contention was as to whether or not these lawyers should have the money. Gordon was not here; he was leaving it to the parties whom he not only understood but knew to be his employed attorneys to represent him in all these matters. I recollect well the debate in the Senate. Under the act which the Senator from Kansas has read, instead of paying $150,000, which was the plain letter of the contract, and which nobody was disputing was justly due and was a reasonable fee for a claim which had been utterly repudiated and denied by the Government after a long contention here, in which there were a great many personalities, which my friend from North Carolina will recall, in a part of which he was a little prominent himself, as there seemed to be some matters which related to distinguished gentlemen from his own State, it was finally so ordered that the act was passed directing the Court of Claims to pass upon it as a quantum meruit, but the act recited that in passing upon it as a quantum meruit these contracts should be taken into consideration, or rather that they should take cognizance of them.

Mr. Gordon was not here. He was not a party consenting to that in any way. He was not present at the time of the adjudication by the court. He has never consented to receive $14,000 in full payment. He has never received a cent of it, and he has never made any signature agreeing that he should be limited to $14,000. It can not be produced; it does not exist; it never has existed. Yet it is said that under those circumstances a point of order can be raised.

Mr. President, how does that repeal any law? Here is a fund in court, as it were. It is not a court, but it is likened to that. Here is a claim upon this particular fund. Where else can this claim be asserted? It is not as in the case of a claim against the Government where, when a point of order is made upon an amendment proposing to put it upon a bill and that point of order is sustained, the party can go and bring it up in the next session of Congress or propose it in another bill. When this money is once paid to these Indians it is gone, and gone for good. It is really a question as to what is due in justice and in equity.

This matter originated 20 years ago, and 10 or 15 of the best years of this man's life have been passed hanging around this Capitol; first, in the effort to secure justice for these Indians, and next, in the effort to get a poor pittance for himself in compensation for his work. He has grown old and gray in the effort.

Mr. President, if this were a case where we were seeking to secure a payment for some alleged service where no particular fund was the fruit of that service, it would be a bad enough case if it were meritorious, but in a case where the fund is the fruit of that service and where that fund is a great and a valuable fund, and where not a dollar of it would have been gotten but for the work of this man and those whom he has employed, where these Indians are the recipients of a great sum of money once repudiated by the Government, not repudiated in a careless, thoughtless way, but repudiated after careful consideration and upon the judgment of such a man as Orville H. Platt, then to say, Mr. President, that we would be untrue to our wards if we required that out of that fund a reasonable pittance should be paid for this service, because it is a pittance compared with the original amount, can, in my opinion, find no justification.

Mr. President, I repeat the statement I made in the earlier part of what I have had to say, or possibly on the subject of the point of order originally, that this man has not received one dollar, and, practically, unless this amount is allotted him, he will not receive a dollar. Butler & Vale employed other men to represent them. Other men got mixed up in it. When this unfortunate claimant sought to get the small pittance of $14,000 out of the $150,000 which was the original contract, with suits innumerable and injunction after injunction, this pittance has been tied up in the court and denied him. As fast as one case would be decided in his favor another would be instituted. It has been little short of blackmail, sir. If the $14,000 ultimately comes to him, every dollar of it will practically have been consumed in his expenses in trying to get some little return for the great work which he accomplished through himself and those whom he employed in securing $1,500,000 for these Indians.

Mr. President, that is not all. He not only secured that, but this particular contention in regard to the payment of this money, while it related particularly to the northern half of the property of the Colville Indians, settled the principle which

controlled the money which they have received for the southern half. If the figures which I have understood to be correct are true, these Indians have not only received a million and a half dollars for the northern half, but over a million and a half dollars for the southern half, controlled by the same principle, amounting altogether to nearly $4,000,000, every dollar of which has been paid over to them but $100,000, which is still in the Treasury. When that is gone not another dollar is available for the payment of this money, the payment of this fee. It is the fruit of this work. It is the remnant, the small remnant, of the fruit of this work, without which work not one dollar would have ever gone to these Indians.

Mr. President, I do not see how any man can hesitate in the opinion that this amount should be paid. The Senator from North Dakota has offered an amendment which reduces it to $25,000. I will say very frankly that I am glad he offered the amendment, not because I have any doubt of Mr. Gordon's being entitled to the $45,000, because I have none whatever. It is better that he shall have that than nothing at all. Even then it would be far less in the aggregate than the $150,000 which these Indians themselves agreed in writing under the approval of the Secretary of the Interior to pay.

Mr. President, in what possible way can it be contended that it is subject to a point of order? There may be reasons which will be sufficiently influential with the Senate upon the merits of the question to cause Senators to say that the money shall not be paid, but it does seem to me that there is nothing here which should subject it to a point of order. The bill in no manner sets aside any former legislation. It in no manner sets aside the adjudication of the court. It is an independent question whether or not this fund shall be subjected to the payment of this pittance to this man or whether after 20 years of work, first in behalf of the Indians themselves and then in the effort to secure scant justice for himself, he shall be turned out for all time, forever and for aye, without a dollar, when there has been this great result from his labors to be enjoyed by others, and when it is only proposed that out of that rich fruit of his labors this small pittance shall be paid to him after this long delay.

Mr. LODGE. Mr. President——

Mr. BACON. I want to ask——

Mr. LODGE. I beg pardon; I thought the Senator had finished.

Mr. BACON. I want to add something which I recall. I have here the letter of the Department of the Interior addressed to the Senator from Minnesota [Mr. CLAPP], signed by the former Secretary of the Interior, which I ask may be read as a part of my remarks. It shows the absolute justice of this claim and the propriety of its payment.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, May 2, 1910.

Hon. MOSES E. CLAPP,
Chairman Committee on Indian Affairs,
United States Senate.

SIR: I have the honor to acknowledge receipt, by your reference of March 3, 1910, of a copy of an amendment intended to be proposed by Senator Clay to H. R. 19028, the Indian appropriation bill for the fiscal year 1911, which has since become a law, it having been approved on April 4, 1910, without the proposed amendment being included.

It was proposed to insert in the last paragraph of section 23 (sec. 25 of the act as approved), relating to the Colville Reservation, after the words "provided by law," the following:

"*Provided further,* That the Secretary of the Treasury is hereby authorized to set aside from said annual installment the sum of $90,000 and pay said sum to Hugh H. Gordon, attorney for said Indians, for services rendered in the prosecution of their claim for the payment for lands ceded to the United States."

The paragraph which it was intended to amend appropriates the sum of $300,000 for the fourth of five installments to the Indians of the Colville Reservation for the cession of land opened to settlement by the act of July 1, 1892 (27 Stat. L., 62), being a part of the full sum of $1,500,000 set aside in the Treasury in payment for said land under the terms of the act of June 21, 1906 (34 Stat. L., 325, 377).

It is assumed that the insertion was intended to be made after the words "provision of law," as the words "provided by law" do not appear in the section to which reference is made.

The services for which Mr. Gordon seeks compensation were rendered by him in connection with the claim of the Colville Indians against the United States for $1,500,000 in payment for the lands on the north half of the Colville Reservation, which were opened to public settlement by the act of July 1, 1892, supra, as fully set out in his memorial presented in the Senate by Senator Clay on March 1, 1910, and referred to the Committee on Indian Affairs.

The act of June 21, 1906, supra, in addition to setting aside the $1,500,000 for the use and benefit of the Colville Indians, contained the further provision that "jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render final judgment in the name of Butler & Vale (Marion Butler and Josiah M. Vale), attorneys and counselors at law, of the city of Washington, D. C., for the amount of compensation which shall be paid to the attorneys who have performed services as counsel on behalf of said Indians in the prosecution of the claim of said Indians for payment for said land, and in determining the amount of compensation for such services the court may consider all contracts or agreements heretofore entered into by said Indians with attorneys who have represented them in the prosecution of said claim, and also all services rendered by said attorneys for said Indians in the matter of said claim * * *; and the Secretary of the Treasury is hereby authorized and directed to pay the sum of money so awarded by said court to the said attorneys (Butler & Vale) upon the rendition of final judgment, out of the said sum herein set apart or appropriated for the benefit of said Indians, and payment of said judgment shall be in full compensation to all attorneys who have rendered services to said Indians in the matter of their said claim, the same to be apportioned among said attorneys by said Butler & Vale as agreed among themselves: *Provided,* That before any money is paid to any attorney having an agreement with Butler & Vale as to the distribution of said fees, each of the same shall execute and deliver to the Secretary of the Interior a satisfaction and discharge of all claims and demands for services rendered said Indians in the matter of their said claim."

In accordance with this provision of law a petition was filed in the Court of Claims, the case being docketed as No. 29526, Butler & Vale (Marion Butler and Josiah M. Vale) *v.* The United States and the Indians residing on the Colville Reservation. A decision was rendered by the court on May 25, 1908 (43 C. C., 497), and a decree entered in favor of claimants in the aggregate sum of $60,000, apportioned as follows:

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Hugh H. Gordon, $14,000.
Marion Butler, $20,000.
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Frederick C. Robertson, $2,000.

The Court of Claims construed the act of June 21, 1906, supra, as limiting the court to a judgment on the basis of a quantum meruit. Booth, J., in delivering the opinion of the court, said:

"In view of the facts and circumstances surrounding the enactment of the jurisdiction statute here questioned, we can not hold otherwise than that Congress intended to reward claimants, if entitled to reward, upon the basis of a quantum meruit."

It is rather a remarkable circumstance that the jurisdictional act authorized the court to render judgment in the name of Butler & Vale, and provided that the latter should distribute the compensation awarded, when the facts as established by the court conclusively show that Butler & Vale first became interested in the case as employees of Gordon.

The findings of the court established that Maish and Gordon's contract (to which Hugh H. Gordon succeeded on the death of Maish) was the only contract ever executed by the Colville Indians respecting their claim, and that it was likewise the only legal authority whereby any attorney appeared for the Indians during its operation. It is also of interest to note that all the persons who were awarded compensation by the Court of Claims were brought into the case by Gordon in the nature of his employees; that is, Gordon did not assign to these persons an interest in his contract, as approved by the department in accordance with section 2106, Revised Statutes, but he made separate agreement with them, so that while the contract was in operation Gordon was the only attorney, after the death of Maish, recognized by the department as representing the Colville Indians in this matter, the others simply being his employees.

While it is true that the judgment of the court was not based on the contract of Gordon, and that this was simply used as evidence in the case, yet it is a remarkable fact that all the attorneys who were awarded compensation for their services were brought into the case at the instance of Hugh H. Gordon, or claimed to be so brought in, and that none of the attorneys who worked independently of Gordon was awarded compensation. Another matter worthy of notice is that Messrs. Butler & Vale were awarded by the Court of Claims a sum equal to that which they would have received from Mr. Gordon had the Indians' claim been settled while the Maish and Gordon contract was in operation and had its terms been carried out.

There seems to be no doubt that it was due to the agitation initiated by Hugh H. Gordon that the Colville Indians finally received compensation for their lands. The Indians expected at the time they made the contract with Maish and Gordon to pay 15 per cent of the amount recovered, which would have been $225,000. The department reduced the rate of compensation to 10 per cent. It seems altogether probable that if the appropriation had been made before the expiration of the Maish and Gordon contract a fee would have been allowed in the amount provided for therein. Mr. Gordon asserts that although the appropriation was not made until June 21, 1906, almost two years after the expiration of his contract, yet, as a matter of fact, the case in favor of his clients—the Indians—had been fully made up before July 25, 1904, at which time the contract, by its own terms, expired. This seems to be substantially correct in that no additional facts were presented or new argument advanced thereafter; the efforts subsequently being in the line of urging upon the Congress the justice of the claim and the propriety of an appropriation upon the facts and arguments theretofore submitted. The Congress saw fit, however, to refer the matter to the Court of Claims in the manner provided in the act of June 21, 1906. That court, in pursuance of the jurisdiction conferred upon it, has heard the case and rendered its judgment. The contention of Gordon, as set forth in his memorial presented by Senator Clay and referred to your committee March 1, 1910, that he should have been awarded a fee in the amount named in his contract rather than an amount to be determined upon the basis of a quantum meruit, is not one for this department to pass upon. If the court wrongly construed the jurisdiction act, as asserted by Gordon, and thereby did him an injustice, it is for the Congress to determine whether it may now correct the mistake. The dispute between those found by the court entitled to share in the judgment as to their respective shares is one in which this department can have no interest. The history of the case, the connection of each attorney therewith, and the services performed by each are set forth quite in detail in the statement of facts made in connection with the decision of the Court of Claims.

Very respectfully, R. A. BALLINGER, *Secretary.*

Mr. OVERMAN. What is the date of that communication? That same fellow was here when we turned the claim down in the last Congress, in 1910.

The PRESIDING OFFICER. The date of the document is May 2, 1910.

Mr. BACON. Mr. President, I want to say a word in response to what the Senator from North Carolina [Mr. OVERMAN] has

said. The Senator from North Carolina, in his effort to disparage this case before the Senate, says that that letter was here when the Senate turned that case down two years ago.

Mr. OVERMAN. Is not that correct?

Mr. BACON. No, sir; it is not correct.

Mr. OVERMAN. Well, I stand corrected.

Mr. BACON. I am proposing to correct the Senator. The Senate did not turn it down at all. It went off on a point of order.

Mr. OVERMAN. It was turned down; it went out; and that case was here at that time. It went out, whether the Senate turned it down or not. I do not know whether or not there was an appeal from the decision of the Chair, but that is sufficient.

Mr. BACON. But the impression sought to be produced by the Senator from North Carolina is an absolutely unfair one. The impression sought to be produced by him is that the Senate had considered the matter and rejected it, whereas the truth is it went out on a point of order upon an expression in that bill which is not in this bill, and it would not have gone out on a point of order if the amendment had then been framed as it now is. It was a ruling based on the provision which made the amount "immediately available," and nothing else.

Mr. OVERMAN. The Senate did not make the appropriation, and the claim did go out. That same letter was here. Is it unfair to make that kind of a statement?

Mr. BACON. It is when the impression is sought to be conveyed that the Senate had passed upon the merits of this case and had rejected any favorable consideration of it.

Mr. OVERMAN. It was attempted——

Mr. BACON. The fact is that it went off on other considerations altogether.

Mr. OVERMAN. This claim has been here three or four times. It was attempted to get it through by getting a letter from the Secretary of the Interior, who stated the truth about it, as did the Senator from Kansas. The case came here and it was ruled out on a point of order. The language may have been different. There was no appeal from the decision of the Chair; the claim was not appropriated for, and therefore it went out.

But, Mr. President, I was starting, in interrupting the Senator from Georgia, to state some facts in reference to this case when it came up. As I said, this was attempted to be done in conference; it was not argued in the House of Representatives or in the Senate. It came back here in a conference report. The Senator from South Carolina [Mr. TILLMAN] then made the point of order that the conference committee had no right to legislate in any such manner. I arose and asked the question, What services had these men performed? There had just been a scandal over this country in reference to a case in which lawyers had been allowed over a million dollars out of Indian funds. The whole country was full of the scandal. I simply rose and asked what services had been performed by these lawyers. No one said what services had been performed, except that they had been here time and time again before the Senate and the House of Representatives and before committees.

The Senator from Texas then drew from his desk an opinion of the Supreme Court of the United States holding that a contract for the performance of services before Congress was void, as such contract was against public policy. I read that and it is now in the debate. After that was done some Senators claimed that those lawyers ought to be allowed something for their services, although the contract was void on account of public policy. Then we agreed here upon the floor that we would send the case to the Court of Claims and that every lawyer who had performed services for these Indians should go into a proper court and establish his claim. They all went there. If Mr. Gordon did not go there it is his own fault; but, nevertheless, he did go there. The Senator from Georgia says he was allowed his $14,000. Now, a second time after that here comes his claim again, though this same debate had then occurred.

What right have we to take this money from the Indians just because they are Indians and because it is not a claim against the Government? It is our duty as Senators here, because these Indians are our wards, to stand by them just as well as we do by the other taxpayers of this country.

Mr. LODGE. Mr. President——

Mr. BACON. I hope the Senator from Massachusetts will allow me to reply for a moment to the Senator from North Carolina.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. I yield, certainly.

Mr. BACON. Mr. President, the Senator from North Carolina speaks of a scandal. I do not know anything about the case to which he refers, but it will never be considered a scandal in any community or in any body of men that a fee of 10 per cent should be permitted in a case where there had been a recovery of a claim, the entire justice of which had in the beginning and for many years been utterly denied and repudiated by this Government; so that while there may have been other cases in which there were scandalous fees, this could not have been so considered. It is not, I think, exactly fair to endeavor to disparage the claim by a comparison of that kind. Especially so, when this contract was one made with these Indians with the careful approval of its terms by the Interior Department. That made it a legal contract.

Here is a case where the Government, not in a general way, but in its legislation, had said that it did not owe a dollar and that not a dollar should be paid, and, through the efforts of these two attorneys, Gordon and Maish, and those whom they employed, not only $1,500,000 was recovered for those Indians, of which otherwise they would not have had a cent——

Mr. OVERMAN. How was it recovered?

Mr. BACON. By getting Congress to pass a bill recognizing it, after Congress had refused to do so time and time again, and for more than 16 years refused it. By arguments before committees the matter was finally recognized as a legitimate claim against the Government, and $1,500,000 was recognized as the proper amount, and appropriated as the proper amount, for the payment of it. In addition to that, the principle being once settled, a still larger amount for other property resting upon the same title was awarded to these Indians, so that altogether the amount is nearly $4,000,000.

I want to call attention to one fact, and I really do not care about detaining the Senate with much more on this subject. Gordon and Maish employed Butler & Vale, and agreed that they should have a certain percentage of the fees. Maish died, and Gordon, for the reason which I have already mentioned and in the circumstances which I have already narrated, practically left the matter in charge of these men whom he had employed. One of them, from North Carolina, Mr. Butler, had a contract with Gordon, under which he was to receive a certain percentage of this fee. Gordon left to him the representation before Congress in the effort to secure this fee. He undertook to represent it before the courts; and when the award was made, Butler, if my information is correct—and I think it is—got all from that court he would have gotten if Gordon had collected his entire $150,000 and paid Butler the amount he was entitled to receive under his contract. Therefore this distinguished North Carolinian is in receipt of every dollar he would have gotten if the original $150,000 had been collected. After that is done this other distinguished North Carolinian, the Senator now opposing this claim, is perfectly content that the poor Georgian shall go without anything at all, his North Carolina friend having received everything which he would be entitled to receive if the full fee had been paid to Gordon under his contract.

Mr. LODGE. I should like——

Mr. OVERMAN. One minute, if the Senator please.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. OVERMAN. The Senator from Georgia has stated in his former speech——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. I yield.

Mr. OVERMAN. The North Carolina lawyer against whom the Senator thought I had some feeling had been a United States Senator. What I complain of is that men should go out of the United States Senate, loaf around Washington, get contracts from the Indians, and come here and try to get enormous amounts from the Indians by contracts which the Supreme Court says are void. I will show you the decision and how their contract is void. The Senator admits that the Georgia lawyer has done nothing but to go before the committee time and time again. A contract to get 10 per cent of a million dollars to appear before a committee is robbery of the Indians, I say.

Mr. BACON. But the unfortunate thing is that the North Carolinian got his part of it, and then the Senator is satisfied.

Mr. OVERMAN. The court did that; I did not do it. The court allowed your man $14,000.

Mr. LODGE. Mr. President, I have no desire to discuss the merits of this case, because its merits have absolutely nothing whatever to do with the point of order; but I wish to call the Chair's attention, if the Chair will permit me, to a case in the Senate which is almost exactly like this, although it is not quite so strong. That was a case which occurred in 1909 in regard to a provision in the Indian appropriation bill for pay-

ing 10 per cent out of the loyal Creek fund to Mr. Peel, of Arkansas. The Senator from Kansas [Mr. CURTIS], who has reminded me of the case, which I remember very well, raised the question of order that the amendment as amended proposed general legislation to a general appropriation bill, and was therefore not in order. This is what occurred:

Mr. LODGE raised a further question of order, viz, that this amendment as amended is a provision for a private claim, which can only be received to a general appropriation bill when it carries out the provisions of an existing law or a treaty stipulation, which shall be cited on the face of the amendment, and inasmuch as no treaty stipulation is cited on the face of this amendment, it is therefore not in order.

The Vice President said:

The Chair has been greatly impressed by the strength of the argument of the friends of the amendment as to the equitable character of the claim. But in deciding the point of order the Chair is, of course, precluded from considering either the equitable nature of the claim or the supposed merit of the claim that is involved in the amendment.

The Chair is of the opinion that in determining the parliamentary question which is raised, it is impossible for him to go back of the act of Congress of 1903 and consider any agreements, awards, or settlements which may have been made prior thereto. The Congress has spoken upon the question, and it is not within the province of the Senate to set aside, nor is it within the province of the Chair to ignore, its deliberate, conclusive action. It is provided in the act as follows—

I shall not read that, for it is simply the provision of the act for the loyal Creek claims.

Congress, in order, apparently, to leave no doubt as to its purpose and the effect of the act, provided:

That said sum shall be accepted by said Indians in full payment and satisfaction of all claim * * *.

Unless this act has been very materially modified or repealed by a subsequent act it stands as the supreme law, and standing as it does it negatives the suggestion that the pending amendment is to carry out an existing law or treaty stipulation.

The Chair is clearly of opinion that the amendment can not be entertained under the third paragraph of Rule XVI. It proposes to change a general law. Therefore it is in the nature of general legislation, and is obnoxious to the rule.

The Chair sustained both points of order. Vice President Fairbanks was then the occupant of the chair.

Mr. President, it seems to me perfectly clear that this is a change of the existing law. I know that our rule is not like the House rule, which forbids any amendment changing existing law, while ours is against general legislation; but it seems to me to follow that, if you change a general act of Congress, the change proposed must be in the nature of general legislation. I do not see how that point can be escaped. I will not pause to argue the other question.

Mr. POINDEXTER. Mr. President, it seems that there are precedents on both sides of this point of order relating to the point that it is a private claim. The attempt is made to except this case from the rule which prohibits a private claim from being incorporated on a general appropriation bill upon the ground that it is not a claim against the United States. I fail to see any merit in that argument. There is nothing in the rule of the Senate which makes an exception of claims which are not claims against the United States. The fact of the case is that this is a private claim which is proposed to be paid by the United States. It is said that it is proposed to pay it out of a special fund; but if there is any merit in the rule of the Senate which excludes private claims from being incorporated in general appropriation bills, it has twice the merit when it applies to funds which the United States is holding in trust for the Indians.

Mr. LODGE. Will the Senator allow me there?

Mr. POINDEXTER. I yield.

Mr. LODGE. I wish the Senator would read the precise language of that rule, as he is arguing the point that the amendment is a private claim. The rule says "provide for a private claim." There is no suggestion that it should be an appropriation. The rule is purposely broad. If you provide for a private claim, no matter how you provide for it, it seems to me obnoxious to the rule.

Mr. POINDEXTER. I thank the Senator for his statement. It corroborates the point which I was attempting to make. The change of the application of that rule would be a change of the rule itself, the reading into the rule of something that the rule does not contain. If we are proposing here now to pay a claim which the United States is not liable for, then we must be paying a claim which the Indians are liable for, without consulting the Indians and without giving the Indians an opportunity to be heard.

The Senator from Georgia [Mr. BACON] has gone at some length into the merits of this claim, and he is justified in doing so because other Senators have gone into the merits of it, and a discussion of the merits of it in a way indirectly may be pertinent to the point of order. It seems that he bases the argument that this is an equitable claim on the ground that Mr. Butler took advantage of Mr. Gordon in the distribution of this fee. I do not see that that creates any obligation on the part of the United States to reimburse Mr. Gordon. If Mr. Butler took advantage of Mr. Gordon, broke faith with him, and took more of this money for his fee than he was entitled to receive, Mr. Gordon's claim is against Mr. Butler and not against the United States.

Mr. CLAPP. Mr. President, will the Senator yield to me a moment?

Mr. POINDEXTER. I yield to the Senator.

Mr. CLAPP. A man whose name is referred to in the Senate is almost powerless to protect himself. While I do not care to become involved in this controversy, and while I am in favor of paying Mr. Gordon this $25,000, I do want to say, in order that it may go into the RECORD, that I have been familiar with the history of this case from the beginning, and I can not feel that there is warrant for saying that Mr. Butler defrauded Mr. Gordon or anyone else in this case.

Mr. BACON. I have not said that he did.

Mr. CLAPP. No; I desire to say that I did not understand the Senator from Georgia to say that. I think we are sometimes somewhat careless and indifferent in our statements in the Senate. We forget that the RECORD is almost imperishable; we forget the circulation of the RECORD; and we forget how helpless a man is to protect himself when any charges are made against him in the RECORD. Thousands who never saw him may read these statements in the RECORD. I am not, as I have said, taking any part in this matter, although I do feel that Mr. Gordon should have this $25,000, and if I have an opportunity I will vote to give it to him.

Mr. OVERMAN. Will the Senator yield to me for a question?

Mr. CLAPP. Certainly.

Mr. OVERMAN. Does not the RECORD show that Mr. Butler got exactly what the court allowed him?

Mr. CLAPP. Mr. Butler got what the court allowed him; yes. The court allowed the attorneys in this case $63,000 to be distributed among them. Mr. Gordon undertook the case early in its history, before any of the others were interested in it, at a time when one of the leading Senators in this Chamber had declared that the claim had no merit, that Congress would not recognize it, and that the department would not recognize it; yet these men worked upon that case until the court decided that the Indians were entitled to the south half of the reservation, and awarded them $1,500,000 for the northern half of the reservation. The court made the division of the fund.

Mr. BACON. I have not said any words that indicated to the contrary.

Mr. CLAPP. I know the Senator has not.

Mr. POINDEXTER. I desire to ask the Senator from Minnesota if he does not think that $63,000 was fair compensation for the legal services rendered?

Mr. CLAPP. I do not think it begins to be reasonable compensation for the services rendered.

Mr. POINDEXTER. Does the Senator know what these attorneys did, what legal services they rendered?

Mr. CLAPP. I know in a general way they had to take this case to the courts. They had to make the proof, and they had to establish the case.

Mr. POINDEXTER. To what court did they take it?

Mr. CLAPP. The Court of Claims.

Mr. OVERMAN. I think the Senator is mistaken about that. They did not take the Colville case to the Court of Claims; they only took their own case to that court. The Colville case was settled by Congress.

Mr. CLAPP. They had to take their case to the Court of Claims.

Mr. OVERMAN. Yes; on a quantum meruit. That is all they went to the court about—their own fees.

Mr. NELSON. Will the Senator from Washington allow me?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. POINDEXTER. I yield to the Senator.

Mr. NELSON. The only case, as I understand from what has been said here, that these attorneys took to the Court of Claims was their own claim for compensation. That is the only matter they took to the Court of Claims, and Congress authorized them to do so.

Mr. CLAPP. Exactly.

Mr. NELSON. They performed no other legal services; the only court they attended was the Court of Claims; and the only case they had in the Court of Claims was their own claim for compensation, and not the claim of the Indians.

Mr. CLAPP. That is true——

Mr. NELSON. And the fact is, according to the statements made, that at first the claim of the Indians made no impression

on Congress, but, subsequently, after all these assistant attorneys came in, they succeeded in converting Congress to their view. Does not a case such as that come within the spirit of the decision of the Supreme Court that that kind of service is not legal service and that it is contrary to the spirit of the law? The court would not have allowed the attorneys' claim in this case but for the fact that Congress consented to it.

Mr. CLAPP. Exactly; but when Congress authorized the attorneys to go into the Court of Claims and there by proof establish the value of their services, Congress waived whatever there was as to the technical want of legality in the service they had previously performed. But I simply rose to say——

Mr. BACON. I want to call the attention of the Senator, if he will pardon an interruption, to the fact——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Georgia?

Mr. POINDEXTER. I yield.

Mr. BACON. This was under a contract which had been approved by the Government.

Mr. CLAPP. That is a fact, of course, that has appeared time and again in the discussion of this case.

Mr. POINDEXTER. Mr. President, referring to the remarks of the Senator from Minnesota [Mr. CLAPP], I think the Senator will fail to find anything in what I have said in criticism of Mr. Butler or Mr. Gordon or anyone else. I know nothing whatever about the private arrangement between Mr. Gordon and Mr. Butler. I understood the Senator from Georgia [Mr. BACON] to say that Mr. Gordon had left the presentation of the claim for attorneys' fees to Mr. Butler, and that, as a result of that, Mr. Gordon had not obtained his share of the fee.

Mr. BACON. I do not claim that Mr. Butler was responsible for the fact that Mr. Gordon did not secure a larger award from the court. I simply stated the fact that he had not received the same amount. Mr. Gordon was not present, and Mr. Gordon has never received a dollar under that award.

Mr. POINDEXTER. The court allowed Mr. Gordon $14,000, it allowed Mr. Butler $20,000, and Mr. Vale $10,000. A great number of attorneys were employed in this same matter, and in the aggregate a sum was awarded, as the Senator from North Carolina, I think, has stated, of $63,000. Herbert J. May received $3,000; F. C. Robertson, $2,000; and Daniel B. Henderson, $5,000.

It is said here that there was some dispute as to whether the Indians were entitled to this money. That would require going back and investigating the Indian claims, which of course, the Senate is not prepared to do in the consideration of this claim for an attorney's fee by Mr. Gordon. I fail to see how there could have been any serious doubt about the title of the Indians to the money for lands which they occupied and which had been set aside for them by treaty with the United States Government; and all that this great corps of attorneys did, who received $63,000 for their services, was to secure to the Indians an appropriation of money for lands which the Government had taken from the Indians for a reservation which had been set aside to them by a treaty signed by the Government of the United States.

Mr. HEYBURN. Mr. President, if the Senator will permit me——

Mr. POINDEXTER. I yield to the Senator.

Mr. HEYBURN. He has raised a question that it will probably be proper to consider in connection with this matter. First, the Government undertook to make a treaty with the Colville Indians for the opening of the northern half of their reservation. That treaty was agreed to. It came before the Senate for consideration, and the Senate, after very considerable discussion, disregarded the treaty, and the reservation was opened by an act of Congress. It was the first case, if I remember correctly, where the Congress took the position that they might take Indian lands by an act of Congress instead of taking them under the provisions of a treaty.

Mr. CLAPP. That is right.

Mr. HEYBURN. That covered the north half of the Colville Reservation. That question was taken into the courts. I tried it before the United States court in the case of Northern View Mining Co. *v.* Bubb, I think, and there is an elaborate opinion filed by the judge of that court in that case. It afterwards went to the circuit court of appeals. This was a good many years ago.

Now, Congress disregarded the treaty rights of the Indians, and disregarded the treaty, and determined the amount the Indians should receive for this land by an act of Congress rather than through the treaty. In other words, they took it out of the hands of the Indians entirely and violated all of the precedents up to that time.

It then became a live question as to whether or not Congress should do it or could do it, and notwithstanding the treaty, Congress opened the north half of the Colville Reservation and fixed the compensation which should be paid to the Indians for that land and the terms of the cession. That cession has been sustained in the courts. In other words, the courts recognize the right of Congress to disregard the treaty rights of the Indians, and out of that all of this controversy has arisen.

Now, of course we can not go back upon the act of Congress opening this reservation; we can not do that because it is something that has passed into the fixed law of the land. So that there was nothing for anyone to do to secure any further compensation to those Indians. It was payable as a draft upon the Government, and when the controversy finally arose they thought—the Indians did not think so; if you could hear their side of the story you would understand how they were led to believe that Congress could not be trusted at all. They were led to believe that they were at the mercy of Congress and had no rights whatever, and so a lot of attorneys, insisting that their services were necessary, inveigled themselves into this controversy; and now this grows out of the violation of the treaty with those Indians.

Mr. BACON. Will the Senator from Idaho permit me for a moment?

Mr. HEYBURN. I will, although I have not the floor.

Mr. BACON. I have not the papers before me, but I am sure the Senator is incorrect in one particular. The Senator says the Government disregarded the treaty and took the lands of the Indians by act of Congress for certain consideration.

Mr. HEYBURN. That is what it did.

Mr. BACON. In fact, they took the lands and denied obligation for any consideration at all.

Mr. HEYBURN. They provided for a consideration.

Mr. BACON. Never. On the contrary I assert it, and I will, if time permits, produce the evidence of it——

Mr. POINDEXTER. Mr. President——

Mr. BACON. One moment. I will not trespass long upon the time of the Senator from Washington. I want to finish my sentence.

Mr. POINDEXTER. I will yield briefly to the Senator from Georgia.

Mr. BACON. They passed the act of Congress providing for the opening of the land and taking these lands and denying any obligation to pay a cent, on the contrary absolutely repudiating the possibility of any claim on the part of these Indians; and no less a man than Orville H. Platt, one of the authorities on the subject of everything that related to Indians, and one of the ablest and most prominent men who ever sat in this Chamber, contended that the Government did not owe these Indians a dollar. It was not a case where the Government had taken the land by act of Congress and provided they would pay a certain amount and where the Indians were led to believe nothing would be paid to them under that contract. It was a case where the Government had denied that it had to pay anything, and had asserted the right to take the property without paying anything, and it was 15 or 16 years after the taking of the property before the right of payment was recognized by the Government—the right of payment of anything, of a dollar or of a penny.

Mr. POINDEXTER. That is going into the treaty with the Colville Indians, going back to the question of this reservation, which had been set aside to the Indians, recognized by the Government as their country, and which had been made the basis of a treaty between the Government of the United States and the Indians, in which treaty it was provided that the Indians should be compensated for the lands which were taken from them and opened to the settlement of white people—questions which are not concerned in any way at all either in the point of order or in the merits of the claim of Mr. Gordon for legal services. Mr. Gordon has presented his claim for all the legal services that he rendered in that case. It has been adjudicated in the court constituted for the purpose of hearing such claims. All the other attorneys have had their claims adjudicated. The claims of these parties and what proportion should be allowed each one have been adjudicated. So much for the merits of the case.

I simply repeat upon the point of order that the amendment is obnoxious to the rule against the insertion of a private claim in a general appropriation bill. There is nothing in the language of that rule upon which any exception can be based. The amendment is also obnoxious to the rule against general legislation, because it can not be denied that this whole matter has been covered by general legislation, been disposed of, and the amount he is entitled to has been allowed. If we are going to

open that up again, we do it, as the Senator from Massachusetts said, by a statute which in effect modifies or repeals a general law which has already been passed by Congress, and, of course, in doing so it is necessarily general legislation.

The PRESIDING OFFICER. When the Chair undertook to rule and was interrupted by debate, the Chair was not aware of some facts which have developed in the discussion since that time.

The Chair was cognizant of the ruling made by the present Vice President on a similar amendment, which was ruled out of order on the ground that it was general legislation because it contained certain words which placed it in the category of general legislation, and which words do not appear in the present amendment. The Chair did not recall, if the questions were raised at that time, the points that have been raised by the Senator from Kansas in the debate that has recently closed. As before stated, the Chair is familiar with the ruling of President pro tempore Frye and President pro tempore Badger that a claim of this kind does not come under the inhibition of Rule XVI, relating to private claims.

But in the debate which has occurred during the last hour very serious questions have been raised upon which Senators entertain widely differing opinions, both as to the point of order and as to the facts in this case. The mind of the Chair has been disturbed, and it is not an easy matter to form an opinion sufficiently clear to make a ruling on the question without giving the matter more consideration than can be given to it now. Therefore the Chair takes the liberty, under the provision of Rule XVI, to submit the matter to the Senate, the question being, Is the amendment in order on an appropriation bill? Senators agreeing that the amendment is in order will say "aye"; those of a contrary mind will say "no." The noes appear to have it. The noes have it, and the amendment is——

Mr. BACON. I ask for a division.

Mr. CLARKE of Arkansas. Mr. President, there is one matter which cropped out in the opinion of the Secretary of the Interior which I think has not been sufficiently brought to the attention of the Senate. It appears that this contract described certain services that the attorneys were to render, fixing the compensation when rendered, to be paid out of the amount recovered and in proportion to it. There was also a limitation of time, that the service was to be rendered within a given time. The service was not rendered within the specified time, but the attorneys continued to serve in their capacity attending upon committees of Congress explaining this matter, hoping that some turn would be taken by which they would be compensated.

At the time the payment was made by Congress no contract existed with the attorneys. The assumption of the court must have been that the services were to be measured by the rule quantum meruit. That was brought to my mind from listening to the letter from Mr. Secretary Ballinger, written about two years since.

The PRESIDING OFFICER. On this question a division is demanded.

There were on a division—ayes 10, noes 21.

The PRESIDING OFFICER. The Senate decides that the amendment is not in order.

Mr. CLAPP. On page 46, after line 13, I desire to submit a proposed amendment which is accompanied by a request of the department.

The SECRETARY. On page 46, after line 13, insert as a separate paragraph the following:

The Secretary of the Interior is hereby authorized to approve the findings of the district court of the State of Oklahoma for Kay County in the matter of the determination of the heirs of Buck Bill, a deceased Tonkawa Indian; to make an equitable partition of the estate among such heirs; and in his discretion to issue patents in fee to the adult heirs for their respective portions of said estate.

The amendment was agreed to.

Mr. CLAPP. On page 68, at the end of the Wisconsin items, I offered an amendment this morning. I now move to reconsider the vote by which the amendment was adopted. It relates to the Pottawatomie Indians.

The SECRETARY. On page 68, at the end of the Wisconsin items, the following amendment was agreed to:

That for the purpose of carrying into effect certain treaty stipulations between the United States and the United Nation of Chippewa, Ottawa, and Pottawatomie Indians, and for the purpose of carrying into effect the act of June 25, 1864 (13 Stat. L., p. 172), the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of that portion of the Wisconsin Band of Pottawatomie Indians now resident in the States of Wisconsin and Michigan the sum of $22,368, the same being the interest upon the proportionate share of these Indians in annuities and moneys of the Pottawatomie Tribe in which they have not shared as set forth in the report of the Secretary of the Interior to the House of Representatives embodied in House Document No. 830, Sixtieth Congress, first session, and said sum shall be immediately available for said purpose, which said interest shall be distributed per capita under the direction of the Secretary of the Interior to the members of said band now resident in the States of Wisconsin and Michigan, or shall be expended in his discretion for their benefit.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

The motion to reconsider was agreed to.

Mr. CLAPP. I ask that the amendment be rejected.

The amendment was rejected.

Mr. CLAPP. At the same place I offer the following amendment.

The SECRETARY. On page 68, after line 7, insert:

That there be, and there is hereby, appropriated out of any money in the Treasury not otherwise appropriated the sum of $22,366.95 to those members of the Wisconsin Band of Pottawatomie Indians now resident in Wisconsin and Michigan, the same being 5 per cent interest for one year upon the sum of $447,339, the proportionate share of these Indians in annuities and moneys of the Pottawatomie Tribe in which they have not shared, as set forth in the report of the Secretary of the Interior to the House of Representatives, embodied in House Document No. 830, Sixtieth Congress, first session. Said sum shall be distributed per capita under the direction of the Secretary of the Interior or shall be expended in his discretion for their benefit.

The amendment was agreed to.

Mr. CLAPP. On looking over the bill, in view of the fact that it will be passed subsequently to the 1st of July, it has occurred to me that, on page 47, line 7, the word "ensuing" should be changed to "current."

I therefore move to amend the committee amendment, on line 7, page 45, by striking out the word "ensuing" and inserting in lieu thereof the word "current."

The PRESIDENT pro tempore. Without objection, the amendment to the amendment is agreed to.

Mr. CLAPP. The original amendment has been already agreed to.

The PRESIDENT pro tempore. The Chair will not require a reconsideration of the amendment for that purpose. By unanimous consent, the change will be made. The amendment as amended is agreed to.

Mr. CLAPP. That completes the suggestions of the committee. I understand the Senator from Oklahoma wishes to offer some amendments.

Mr. GORE. Mr. President, I desire to submit an amendment to the sections just amended upon motion of the Senator from Minnesota. Are we now in Committee of the Whole or in the Senate?

The PRESIDENT pro tempore. In Committee of the Whole.

Mr. GORE. I presume I would have to move to reconsider that amendment, then.

The PRESIDENT pro tempore. That will be necessary.

Mr. GORE. Then I move to reconsider the amendment.

The PRESIDENT pro tempore. The Senator from Oklahoma moves that the Senate reconsider the vote by which it agreed to the amendment to section 18. Without objection, the motion to reconsider prevails.

Mr. GORE. Now, I ask the Secretary to read the amendment, and during the reading I will suggest two or three verbal changes.

The PRESIDENT pro tempore. The Secretary will report the amendment, as requested.

The SECRETARY. Under the heading of "Five Civilized Tribes," on page 46, the committee propose to strike out lines 15 to 22, inclusive, and to insert a new section 18, as follows:

SEC. 18. For expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $174,000.

For salaries and expenses of district agents for the Five Civilized Tribes of Oklahoma and other employees connected with the work of such agents, $100,000: *Provided*, That during the fiscal year ending June 30, 1913, no moneys shall be expended from the tribal funds belonging to the Five Civilized Tribes except for schools for the current year and for the equalization of allotments, per capita, or other payments authorized by law to individual members of the respective tribes.

Mr. GORE. One amendment I desire to move is to transpose those two clauses.

Mr. CLAPP. If the Senator will pardon me, I will undertake to assist him by reading the amendment. He moves to take out, on page 47, the following words, in lines 8, 9, and 10:

For the equalization of allotments, per capita, or other payments authorized by law to individual members of the respective tribes—

And insert them after the word "except," on line 7, following such insertion with the word "and," so that it would read, beginning with line 7:

Five Civilized Tribes except for the equalization of allotments, per capita, or other payments authorized by law to individual members of the respective tribes, and for schools for the current year.

I understand that to be the amendment.

Mr. GORE. Yes; that is one of the amendments I desire to offer.

Mr. CLAPP. I move that amendment.

The PRESIDENT pro tempore. The Secretary will report the amendment suggested by the Senator from Minnesota.

The SECRETARY. It is proposed to insert, after the word "except," in line 7, the following words occurring in lines 8, 9, and 10:

For the equalization of allotments, per capita, or other payments authorized by law to individual members of the respective tribes—

And also to insert the word "and."

The amendment to the amendment was agreed to.

Mr. GORE. I will ask the Secretary now to proceed with the reading, continuing from the word "salaries."

The Secretary read as follows:

And the salaries and contingent expenses of the governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the Five Civilized Tribes, and attorneys of said tribes.

Mr. GORE. I wish to submit an amendment to that. It should be "mining trustees of the Chickasaw and Choctaw Tribes." The language of the bill is, "mining trustees of the Five Civilized Tribes." There are no such officers for the Five Civilized Tribes. It is only the Chickasaw and Choctaw Tribes that have mining trustees.

The PRESIDENT pro tempore. The Secretary will report the amendment.

The SECRETARY. It is proposed to strike out the words "Five Civilized Tribes" and to insert in lieu thereof the words "Chickasaw and Choctaw Tribes."

The amendment to the amendment was agreed to.

Mr. GORE. I now move to transpose the phrase "current year" to a position after "Chickasaw and Choctaw Tribes."

The PRESIDENT pro tempore. The Secretary will report the proposed amendment.

The SECRETARY. It is proposed to insert after the words "the Chickasaw and Choctaw Tribes" the words "for the current year."

The amendment to the amendment was agreed to.

Mr. GORE. Now I will ask the Secretary to proceed with the reading.

The Secretary read as follows:

Employed under contract approved by the President, without specific appropriation by Congress, except as hereinafter provided: *Provided further*, That the Secretary of the Interior is hereby authorized to continue the tribal schools of the Choctaw and Chickasaw Nations, and to use funds arising from royalties on coal and asphalt for their maintenance.

Mr. GORE. Mr. President, I think the last clause there, from "*Provided*" on, is covered by the preceding provision, and I believe I will raise a point of order to that provision.

Mr. CLAPP. Mr. President, I am afraid the Senator is falling into confusion. My judgment would be to suggest to him that he let the matter stand, and if there is any question of that kind it can be settled in conference.

Mr. GORE. There has been some little confusion or controversy upon that point. That policy is now being pursued, as I understand. These moneys are being used for the purpose of maintaining these schools.

Mr. CLAPP. Yes; but I understand the department holds that there is at least very serious doubt as to its authority to use moneys for this purpose without this direct authorization.

Mr. GORE. Yes; and a great many of these Indians are unwilling to have the law made explicit. That is the reason why I raise the point of order. It undoubtedly would be subject to a point of order, I think.

Mr. CLAPP. On the other hand, I understand some of them desire it. If there is any conflict about it, I shall be glad to call the Senator's attention to it when we get into conference.

Mr. NELSON. Mr. President, I rise to inquire of the Senator from Minnesota as to what is implied in that. It is difficult to gather the force of the amendment. It seems that there is a reservation in that paragraph in favor of some attorneys. How is that?

Mr. CLAPP. There are certain attorneys who are regularly employed, at a salary of $5,000 a year, under contract approved by the President. At the beginning of this section—it is somewhat involved as it reads, although I think it can be all straightened out in conference—there was a limitation placed upon this appropriation that during the fiscal year ending June 30, 1913, no moneys should be expended from the tribal funds belonging to the Five Civilized Tribes except for certain purposes then enumerated. One of those purposes was the equalization of allotments, per capita, or other payments; another was the salaries and contingent expenses of the governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the tribes, and the attorneys whose contracts are approved by the President, and the schools that are also included in this exception. I would very strongly urge the Senator to let the matter go into conference in that shape.

Mr. GORE. It is my own theory that these appropriations ought to be made in an annual budget, and the necessary sums ought to be annually appropriated by Congress. I do not think it wise to vest the Secretary of the Interior with plenary powers, unlimited as to time and as to amount, with reference to these schools. I am very decidedly of the opinion that there ought to be annual appropriations. I have no objection to them as annual appropriations, but I do not think it wise to insert a provision here without any limitation.

Mr. CLAPP. I am very quick to accept the suggestion of the Senator. As I understand the situation now, the latter clause could be for only one year, while the others are annual, in the nature of a continuing matter, as suggested by the Committee on Appropriations. If there is any question about the matter, I shall be very glad to correct it.

Mr. GORE. As I understand, the last provision is entirely without limitation as to amount or as to time.

Mr. CLAPP. Then, after the word "maintenance," in line 19, I move the insertion of the words "for one year."

Mr. GORE. That is all right. Just say "for the current year."

Mr. CLAPP. "For the current year," then.

The PRESIDENT pro tempore. Does the Senator offer that as an amendment?

Mr. CLAPP. Yes, sir.

The PRESIDENT pro tempore. The Secretary will report the proposed amendment.

The SECRETARY. After the word "maintenance," in line 19, it is proposed to insert the words "for the current year."

The amendment to the amendment was agreed to.

Mr. CLAPP. Now I move the adoption of the amendment, as amended.

The amendment as amended was agreed to.

Mr. GORE. Mr. President, I have another amendment which I desire to send to the desk.

I may state, by way of preliminary, that a bill has passed the present Congress providing for the sale of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations—a tract comprising about half a million acres of land. It happens that there are several small cemeteries situated in that section. There is no provision under existing law, for the reservation of these cemeteries. The amendment which I send to the desk provides for excepting those cemeteries.

I will add that accompanying the amendment there is a letter from the Secretary of the Interior, which I will ask to have printed in the RECORD. It need not be read.

The SECRETARY. On page 49, line 4, after the word "resold," it is proposed to insert:

And provided further, That where any cemetery now exists the land within said cemetery, together with land adjoining the same, where necessary, not exceeding 20 acres in the aggregate to any one cemetery and where a church was in existence on February 19, 1912, land not exceeding 1 acre for each church, may, in the discretion of the Secretary of the Interior, be sold to the proper party, association, or corporation under such terms, conditions, and regulations as he may prescribe, provided application to purchase the same for such purpose is made within 90 days from date hereof.

Mr. CLAPP. I hope the amendment will be adopted.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Oklahoma.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The Chair understands the Senator from Oklahoma to request also that the accompanying letter be printed in the RECORD.

Mr. GORE. Yes; I do not care to have it read.

The PRESIDENT pro tempore. It is so ordered, without objection.

The letter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 18, 1912.

Hon. R. J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: In response to your request of April 3, 1912, for a report on S. 6078, introduced in the Senate on March 28, 1912, by Mr. OWEN, of Oklahoma, and being "A bill amending the act entitled 'An act to provide for the sale of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations, and for other purposes,' approved February 19, 1912," I have the honor to invite your attention to the fact that the above bill, being an amendment to the act of Congress approved February 19, 1912 (Public, No. 91), passed the Senate on April 5, 1912. (See CONGRESSIONAL RECORD, 62d Cong., 2d sess., vol. 48, No. 97, for Friday, Apr. 5, 1912, p. 4569.) However, the amendment as adopted provides only for the sale of adjoining land to cemeteries, but makes no provision for setting aside the land covered by existing cemeteries on the surface of the segregated coal-land area, nor is there any provision for such sale under existing law. In the same connection it is suggested that a provision should also be made

in the proviso for land not exceeding 1 acre for church purposes where churches have already been established.

I have recommended to the chairman of the House Committee on Indian Affairs that in lieu of the proviso in S. 6078 there be inserted the following:

"*And provided further*, That where any cemetery now exists the land within said cemetery, together with land adjoining the same, where necessary, not exceeding 20 acres in the aggregate to any one cemetery, and where a church was in existence on February 19, 1912, land not exceeding 1 acre for each church, may, in the discretion of the Secretary of the Interior, be sold to the proper party, association, or corporation under such terms, conditions, and regulations as he may prescribe, provided application to purchase the same for such purpose is made within 90 days from date hereof."

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

The amendment as amended was agreed to.

The PRESIDENT pro tempore. The bill is still as in Committee of the Whole and open to amendment. If there are no further amendments to be proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended and the amendments were concurred in.

Mr. SMITH of Arizona. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 17, at the end of line 13, insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to construct suitable steel and concrete wagon bridges, with approaches thereto, across the Gila and San Carlos Rivers on the White Mountain or San Carlos Indian Reservation, in the State of Arizona, for the use and accommodation of the Indians and the general traveling public on the said Indian reservation; that the Secretary of the Interior is hereby authorized to select the most practicable available sites for the said bridges at points on said rivers; that the Secretary of the Interior is hereby authorized to make all necessary regulations to carry out this act, and for the purpose of carrying its provisions into effect there is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of $100,000, or so much thereof as may be necessary.

Mr. CURTIS. I make the point of order against that amendment. It has not been estimated for by the department.

Mr. SMITH of Arizona. I recognize that the point of order is good. I know that the measure is favored by the department. While there has been no estimate made, I offered the amendment with the hope that the Senator might be gracious enough to our suffering class to have withheld the point of order and let the amendment go.

The PRESIDENT pro tempore. The Senator from Kansas will please state the ground of his point of order.

Mr. CURTIS. I make the point of order on the ground that the item was not estimated for by the department.

The PRESIDENT pro tempore. The Chair sustains the point of order.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

NAVAL APPROPRIATION BILL.

Mr. PERKINS. I move that the Senate proceed to the consideration of House bill 24565, the naval appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, which had been reported from the Committee on Naval Affairs with amendments.

Mr. PERKINS. I ask that the formal reading of the bill be dispensed with and that the amendments of the committee be considered as they are reached.

The PRESIDENT pro tempore. The Senator from California asks that the formal reading of the bill be dispensed with and that the bill be read for action on the committee amendments. Without objection, it will be so ordered.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Naval Affairs was, on page 3, after line 8, to insert:

That all officers of the Navy who, since the 3d day of March, 1899, have been advanced or may hereafter be advanced in grade or rank pursuant to law shall be allowed the pay and allowances of the higher grade or rank from the dates stated in their commissions.

Mr. BRISTOW. I raise the point of order on the amendment that it is new legislation. It is advancing all officers to a grade higher upon retirement than they held.

The PRESIDENT pro tempore. What is the ground on which the Senator from Kansas makes the point of order?

Mr. BRISTOW. That it is general legislation.

The PRESIDENT pro tempore. The Senator from Kansas makes the point of order that the amendment just read is general legislation, not coming within the rule. The Chair is constrained to sustain the point of order. The Secretary will proceed with the reading of the bill.

The reading of the bill was continued.

The next amendment was, on page 3, after line 20, to insert:

The Auditor for the Navy Department is directed to allow payments made to hospital stewards who were granted permanent appointments as of date of May 13, 1908, which have heretofore been disallowed by reason of a decision of the Assistant Comptroller of the Treasury dated December 29, 1910, and to pay them out of the appropriations for "Pay of the Navy."

The amendment was agreed to.

The next amendment was, on page 4, after line 3, to strike out:

That hereafter any officer retired under the provisions of sections 8 and 9 of the act approved March 3, 1899, an act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States, shall be retired with the rank and three-fourths the sea pay of the grade from which he is retired.

And insert:

That hereafter commissioned officers of the staff corps of the Navy who are graduates of the Naval Academy below the rank of captain shall be promoted in rank with the officer of the line with whom or next after whom they take precedence on the list of order of precedence of the Navy, and to carry out this provision temporary changes shall be made, when necessary, in the numbers of the various grades and ranks established by law for the staff corps: *Provided*, That there shall be no other promotion in grade or rank in any staff corps except in accordance with this act, and all laws and acts in conflict with this provision are hereby repealed: *Provided further*, That nothing herein contained shall be held to increase the total number of officers in any staff corps as now fixed by existing laws and provided for in this act.

Mr. BRISTOW. I make the same point of order on that amendment—that it is general legislation.

Mr. PERKINS. I ask the Senator to let the amendment go over until the Senator from South Carolina [Mr. TILLMAN], who wishes to be here when it is considered, is present.

Mr. BRISTOW. I am perfectly willing to let the ruling go over, but I want to make the point now, so that if I should be out of the Chamber when it is again taken up I may not lose my right to interpose the point of order.

Mr. PERKINS. That is understood.

Mr. LODGE. The amendment can be passed over and the point of order reserved.

The PRESIDENT pro tempore. The point of order will be reserved and the amendment passed over.

The reading of the bill was continued.

The next amendment was, on page 5, line 11, after the word "other," to strike out "dependent relative of" and insert "person previously designated by," and in line 12, after the words "enlisted man," to strike out "previously designated by him," so as to make the clause read:

That hereafter immediately upon official notification of the death, from wounds or disease not the result of his own misconduct, of any officer or enlisted man on the active list of the Navy and Marine Corps the Paymaster General of the Navy shall cause to be paid to the widow, and, if no widow, to the children, and, if there be no children, to any other person previously designated by such officer or enlisted man, an amount equal to six months' pay at the rate received by such officer or enlisted man at the date of his death, less $75 in the case of an officer and $35 in the case of an enlisted man, to defray expenses of interment, and the residue, if any, of the amount reserved shall be paid subsequently to the designated person.

The amendment was agreed to.

The reading of the bill was continued to line 15 on page 6.

Mr. PERKINS. On page 6, line 1, I move to strike out the word "line" and insert in lieu thereof the word "nine," so as to read:

Shore-duty pay and allowances of the rear admiral of the lower nine.

The amendment was agreed to.

The next amendment was, on page 6, after line 15, to insert:

That hereafter the pay of the secretary to the Admiral of the Navy shall be at the rate of $3,000 per annum.

The amendment was agreed to.

The next amendment was, on page 6, after line 18, to insert:

Hereafter any naval officer on the retired list may, in the discretion of the Secretary of the Navy, be ordered to such duty as he may be able to perform at sea or on shore, and while so employed in time of peace shall receive the pay and allowances of an officer of the active list of the grade from which he was retired: *Provided*, That no such retired officer so employed on active duty shall receive, in time of peace, any greater pay and allowances than the pay and allowances which are now or may hereafter be provided by law for a lieutenant commander on the active list of like length of service: *And provided further*, That any such officer whose retired pay exceeds the highest pay and allowances of the grade of lieutenant commander shall, while so employed in time of peace, receive his retired pay only, in lieu of all other pay and allowances.

Mr. OVERMAN. I am satisfied that the Senators on this side of the Chamber, there being so few here, do not know that this bill is up. I think they ought to know it. Therefore I suggest the absence of a quorum.

Mr. PERKINS. I think we can make progress by going on with the reading and passing over any amendments to which there may be objection.

The PRESIDENT pro tempore. The Senator from North Carolina suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Page	Swanson
Bacon	Gardner	Penrose	Thornton
Briggs	Gronna	Perkins	Tillman
Bristow	Heyburn	Pomerene	Townsend
Burnham	Johnston, Ala.	Sanders	Warren
Catron	Lodge	Simmons	Wetmore
Chamberlain	Nelson	Smith, Ariz.	
Clapp	Newlands	Smith, S. C.	
Fall	Overman	Smoot	

Mr. PERKINS. Before the result is announced I will state that the committee has no objection to the bill going over until Friday, at the close of the morning business, and I will therefore agree to an adjournment with that understanding.

The PRESIDENT pro tempore. The Senator from California asks that the bill be temporarily laid aside?

Mr. LODGE. No; the Senator from California gave notice that he will move to take up the bill on Friday immediately after the routine morning business.

The PRESIDENT pro tempore. That would be the effect of laying it aside. It is the unfinished business.

Mr. LODGE. I am aware of that.

Mr. PERKINS. I move that the Senate adjourn.

Mr. SMOOT. If the Senator will withhold that motion I will explain to him that there are a number of Senators who desire a brief executive session.

Mr. PERKINS. I withdraw the motion.

The PRESIDENT pro tempore. Thirty-three Senators only are present. A quorum of the Senate is not present.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 18 minutes p. m.) the Senate adjourned until Friday, July 5, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July 3, 1912.*

The House met at 12 o'clock m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who hast never forsaken us, blessed be Thy name forever. Inspire us by Thy holy presence to be faithful servants unto Thee, rich in thought, noble in deed, giving ourselves to those things which seemeth best in Thy sight; and with perfect faith and confidence in the overruling of Thy providence help us to submit ourselves to all the vicissitudes of life, assured that all things work together for good to them that love God. For thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

ADJOURNMENT OVER.

Mr. UNDERWOOD. Mr. Speaker, as to-morrow is a legal holiday, I ask unanimous consent that when the House adjourns to-day it adjourn to meet on Friday next.

The SPEAKER. The gentleman from Alabama asks unanimous consent that when the House adjourns to-day it adjourn to meet on Friday next. Is there objection? [After a pause.] The Chair hears none.

TO CONVEY TO WILMINGTON, N. C., PORTION OF MARINE-HOSPITAL RESERVATION.

The SPEAKER. This is Calendar Wednesday. The call rests with the Committee on Public Buildings and Grounds. The unfinished business is the bill S. 6603, which is on the Union Calendar, and the House resolves itself automatically into the Committee of the Whole House on the state of the Union, and the gentleman from Georgia [Mr. ADAMSON] will take the chair.

The CHAIRMAN. The Clerk will read the title of the bill.

The Clerk read as follows:

An act (S. 6603) authorizing the Secretary of the Treasury to convey to the board of education of New Hanover County, N. C., portion of marine-hospital reservation not needed for marine-hospital purposes.

Mr. MANN. The bill has not been read in the committee.

The CHAIRMAN. The Chair was misinformed, then. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to convey to the board of education of New Hanover County, State of North Carolina, the following-described tract of land, being a portion of the marine-hospital reservation in the city of Wilmington, which, in the opinion of the Secretary of the Treasury, is no longer needed for marine-hospital purposes, to wit, 34.1 acres of land, more or less, covering six whole and three one-half city blocks lying east of Tenth Street, in the city of Wilmington, county of New Hanover, and State of North Carolina, such conveyance to be upon condition that the land shall be used exclusively for industrial-school purposes, the title thereof to revert to the United States if at any time the land or any building erected thereon shall no longer be used for such purpose.

Mr. MANN rose.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MANN] desire recognition?

Mr. MANN. I thought that some gentleman in charge of the bill would desire recognition.

The CHAIRMAN. The Chair, not hearing anyone in charge of the bill who desires recognition, will recognize the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, a number of years ago the Government purchased a piece of property at Wilmington, N. C., for which it paid cash, for a marine-hospital site—a tract of about 40 acres. It is now proposed to donate to the board of education of the county, at Wilmington, 34 acres of this land for nothing. The land which it is proposed to donate is valued at $22,500, which is believed to be a conservative value. The Government paid for the tract 50 years ago $6,500. What excuse can anyone give for the Government to purchase a piece of land for its own use, for which it pays cash, and to donate the major portion of the land to one of the municipalities of a State for no consideration whatever? I shall be glad to hear any reason that can be given.

Mr. HAMMOND. What was the total acreage bought?

Mr. MANN. About 50 acres were bought, and it is proposed to donate 34 acres, and to donate them undoubtedly for a good purpose—for a school of some kind. But why should the General Government purchase land in order to turn it over to a State or any municipality or other organization of the State without consideration?

I reserve the balance of my time.

Mr. CULLOP. I would like to ask the gentleman from Illinois a question.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Indiana?

Mr. MANN. I do.

Mr. CULLOP. What is the purpose of turning this land over?

Mr. MANN. To be used for an industrial school.

Mr. CULLOP. Without any consideration?

Mr. MANN. Without any consideration.

Mr. CULLOP. What has it been used for by the United States heretofore?

Mr. MANN. The Government purchased in 1857 a little less than 50 acres, upon which it located the marine hospital used for marine hospital purposes. Those services only occupy something less than 4 acres, and it is said, and truthfully said, that although this bill should pass it would leave 15 acres there, and it is very likely that the Government would not be discommoded by turning over this land to the county, but I can see no reason why the county should not pay at least the proportionate share of the original cost of the land.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield at that point?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. STEPHENS of Texas. Has the gentleman examined the precedents for bills like this? Is it not a fact that if he will examine into the matter he will find that in the Western States, in numerous instances, public lands have been given to cities and towns—public lands and Indian lands to cities and towns and municipalities, and sometimes to States—for schools and other purposes, hospitals, and so forth?

Mr. MANN. Well, I very much regret that the committee presided over by the distinguished gentleman from Texas [Mr. STEPHENS] has on several occasions reported bills to grant Indian lands or other lands, and other committees have reported bills to grant other lands for various purposes. A number of those have not been passed, and Congress in recent years has, usually at least, refused to pass such bills where no consideration was proposed unless there were very exceptional circumstances existing, which I do not believe exist in this case.

Mr. STEPHENS of Texas. Will the gentleman yield further?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Texas?

Mr. MANN. Oh, certainly. I yield to any gentleman who desires information.

Mr. STEPHENS of Texas. In the Fifty-first Congress, I believe, a bill, which I think came from the Committee on Public Lands, passed this House and was approved, taking part of the

public domain, the property of the people of the whole United States, and devoting it to educational purposes.

The CHAIRMAN. The Chair is unable to hear the gentleman.

Mr. STEPHENS of Texas. I was simply asking the gentleman from Illinois if there were not numerous precedents for bills of this kind, and if other bills of like character have not been passed by this House?

Mr. MANN. The Government possesses the title to two sections in each township of the public land in the public-land States, to be devoted to public purposes, and it frequently grants additional land for educational purposes. But it is not the custom, although it has sometimes been done, for the Government to give away land which it has purchased and for which it has paid. Take the case over in New York, which was referred to the other day by the gentleman from New York [Mr. FITZGERALD] when another bill was up—a bill which came from the committee of which I was formerly a member, and of which the gentleman [Mr. ADAMSON] presiding over this Committee of the Whole is now the chairman—in reference to conveying a portion of a lighthouse site in New York, where they wanted it for road purposes. We made them pay $50,000 or $60,000, or some such amount as that, for the small portion of land which was taken.

Mr. FOSTER. Does the gentleman yield for a moment?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. FOSTER. I would like to ask the gentleman if he understands that this tract of 34 acres which it is proposed to give away is worth $22,000—the whole tract of land?

Mr. MANN. Well, there might be a question about that; but from the statement I had understood that the tract to be given away was worth——

Mr. FOSTER. Twenty-two thousand dollars?

Mr. MANN. Yes. Whether it really was or not I do not know.

Mr. FOSTER. Does the gentleman understand that this land is within the corporate limits of Wilmington, a city of 30,000 or 40,000 people?

Mr. MANN. I understand so.

Mr. FOSTER. And we are asked now to give away to the city this tract of 34 acres, which is worth $22,000? That is the proposition?

Mr. MANN. Yes; that is the proposition.

Mr. FOSTER. And for which the Government paid for the whole tract $6,500 50 years ago?

Mr. MANN. Yes; $6,500. I would not, so far as I am concerned, insist upon the city paying for the present value of the land, but it seems to me that the city ought voluntarily to be willing to pay the proportion which the land granted bears to the whole of the original purchase price of the land.

Mr. FRENCH. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. FRENCH. In answer to the suggestion of the gentleman from Illinois [Mr. MANN] that the city or county in which this land is situated should pay its proportionate share of the original cost of this land, I will say that the county will be glad to do that, as was brought out in the committee, providing there would be granted to the county that which would naturally be granted when a payment of that kind is made—a deed in fee simple to the land. There is a reservation in the present bill that if the land ceases to be used for the purpose contemplated in the bill it shall revert to the Government, and it was owing to that condition that the committee felt that we should not attach to the county the obligation of paying even a proportionate share of the value of the land. I am satisfied—in fact it was represented to the committee—that the county will gladly pay its proportionate share of the cost of the land if a deed be made in fee simple to the county.

Mr. MANN. Yes; but if the deed is to be made in fee simple to the county it ought to pay the present value of the land.

Mr. FRENCH. Well, the committee looks at the question from this point of view: The purpose for which the grant is made is for an industrial school for the education of the negro population of that section of the country. That is a State that has not received the liberal grants of land for educational and other purposes that Western States have received. The very purpose of this grant is to aid the citizens there who do not bear a considerable portion of the burden of taxation of the county and State government. The committee felt that to make this grant would be not only in line with the precedents, but that it would be doing a right and equitable thing to the South, to the State of North Carolina, and to the people who will be benefited. We can well afford to make this grant without cost on condition that if the land shall cease to be used for the purpose of the grant it shall revert to the United States. The land is not needed further for the original purpose for which it was bought.

More than that, it has been suggested that the county should pay, if it is to receive the title in fee simple, a proportionate share of the present value of the land. I would say that it hardly seems right that the Government should want to make a profit on a real-estate investment in selling the land for school purposes. If any cost is to be taxed up to the county, it should simply be the proportionate share of the original cost of the land to the Government.

Mr. MANN. I will yield to the gentleman from Georgia.

Mr. HARDWICK. Mr. Chairman, I ask unanimous consent to extend some remarks in the RECORD.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend remarks in the RECORD. Is there objection?

There was no objection.

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman from Idaho, with the permission of the gentleman from Illinois, if he does not think that the United States Government is entitled to some consideration where property that it owns has increased in value?

Mr. FRENCH. Unless you want to take into consideration the suggestion I made a few minutes ago, that the Government has acted generously with other States, has made grants to similar institutions in other States, and that here is a section of the country that has not received very much of grants of this character. More than that, the grant is not for the State generally or for the white people, but rather for the benefit of the colored population of that section. It seems to me that it would be a generous thing to do for the Government to make the grant on the basis provided in the bill; or, if you are going to impose a charge for the property, it seems reasonable that you limit it to the proportionate cost that the amount of land granted the county bears to the original cost to the Government of the entire original tract.

Mr. MANN. Mr. Chairman, it is very natural that the gentleman who has just addressed the House should believe that wherever the Government owns land, and the State or any local or municipal organization under the State desires it, that we ought to grant it. Because we have been so liberal to the Western States the Representatives from that section have come to believe that if they want any portion of the public domain in the State they are entitled to it without any compensation. But it is going a little further to say that when anybody wants land which the Government does not own the Government ought to buy the land, pay for it out of the Federal Treasury, and then donate it. The Government purchased this land for its use as a marine-hospital site and paid $6,500 for it. Whenever the Government owns a piece of land that it does not need, whether it has been purchased or reserved, the moment it is seen that the Government does not need it the local counties, towns, cities, or States say that they want it, and ask that it be given to them. Now, does the gentleman from Idaho believe that we ought to adopt that as the policy of the Government?

Mr. FRENCH. I would not lay that down as a policy, but it seems to me that with all the circumstances surrounding this particular case it would be a proper course to pass the bill as reported by the committee. It would be impossible for this industrial school to be established or to be enlarged—because there is an industrial school there at this time—except at great expense. This is a tract of land that by reason of belonging to the Government has been reserved from passing into private ownership, and it practically adjoins the property that is being used now for industrial school purposes.

Mr. KENDALL. By the State?

Mr. FRENCH. By the county for the education of the colored population of the county, and I see no bad precedent that can be established by the passage of this bill.

Mr. KENDALL. The land to be applied to public purposes?

Mr. FRENCH. It will be applied to public purposes, certainly.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman from Illinois yield while I ask a question of the gentleman from Idaho?

Mr. MANN. Certainly.

Mr. MOORE of Pennsylvania. There appears to be nothing in the report indicating any intent to erect a school or to carry out the purpose to which the gentleman has referred.

Mr. FRENCH. I will say that the bill itself provides that.

Mr. MOORE of Pennsylvania. What pledge or promise has the committee?

Mr. FRENCH. The bill provides that it shall be granted to the county for industrial school purposes and also provides that in the event of its ceasing to be used for that purpose it shall revert to the Government. It is because of that provision that the committee thought it was not necessary to charge the county for the land.

Mr. MOORE of Pennsylvania. Has any suggestion come from any one that the county really wants to build a school there, or that it proposes to build one, should the land be granted?

Mr. FRENCH. Oh, the committee had a hearing upon that subject from the Senator who introduced the bill.

Mr. MOORE of Pennsylvania. There is nothing in the report to indicate any purpose on the part of anybody to build a school.

Mr. FRENCH. I think that is fully covered in the bill itself, together with the reservation that shall it not be used for that purpose the title shall revert to the United States.

Mr. MOORE of Pennsylvania. But there is no direct proposition that a school is to be built. The land is to be transferred on condition that one shall be built?

Mr. FRENCH. Yes.

Mr. MOORE of Pennsylvania. In other words, the Government is offering an inducement for the county to erect schools by giving the land. What does the county say about it? That is what I want to get at.

Mr. FRENCH. It is well understood, as we were assured by the Senator who introduced the bill, when he appeared before the committee, that the county proposes to build this institution.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman from Illinois [Mr. MANN] permit me to ask a further question?

Mr. MANN. Certainly.

Mr. MOORE of Pennsylvania. The report of the Secretary of the Treasury makes no recommendation upon this subject at all. His letter makes no reservation, but merely submits the facts.

Mr. FRENCH. Yes; submits the facts that a certain amount of land is used for marine-hospital purposes, and we are leaving for that purpose a large amount besides. We propose in this bill to grant to this industrial school an amount from the land that is not used at all by the Government for marine-hospital purposes.

Mr. MOORE of Pennsylvania. Is it not the policy of the Treasury Department to hold onto that land which it has, rather than to let go of it?

Mr. FRENCH. I think there can be no good policy in holding onto this land.

Mr. MOORE of Pennsylvania. I am asking if it is not the policy now of the Treasury not to dispose of these public lands?

Mr. FRENCH. I think wherever the land could be used for some good purpose by the Government that the Government ought to retain the land; but these lands are so far away from the harbor that they can not ordinarily be used for the purpose of an immigration station or anything of that character. That question was brought out in the committee, and there seems to be no purpose for which the Government could use the land.

Mr. MOORE of Pennsylvania. The gentleman brought in a bill the other day which provides for a transfer of a piece of land in San Francisco which had formerly been used for marine-hospital purposes. I would like to have the gentleman explain why, when a bill is introduced, as one has been by me for three or four successive Congresses, for the sale of a piece of land for which there is absolutely no public use, that we can not get a report on the bill?

Mr. MANN. If the gentleman were proposing to give it away the committee would undoubtedly report it very quickly.

Mr. MOORE of Pennsylvania. In this instance we asked that the land be sold. It is of no further public use.

Mr. MANN. I know, but to sell anything and get cash for it offends the sensibilities of the committee.

Mr. MOORE of Pennsylvania. In this instance the Treasury reported against the sale of land for which it has had no use for nearly 100 years.

Mr. FRENCH. Of course, I am not familiar with the particular bill to which the gentleman refers, but I am addressing myself to the merits of this bill.

Mr. MOORE of Pennsylvania. But it bears very strongly upon the policy of the Department of the Treasury, which, according to the letter in this North Carolina case, seems to be that it is just as well to hold on to the land.

Mr. FOWLER. Mr. Chairman, I desire to ask if there is anybody else behind the proposed industrial school save the county?

Mr. FRENCH. It was not so indicated to the committee; no.

Mr. FOWLER. Is there any donation or donations that this industrial school will receive—any donation from any source other than that of the county?

Mr. FRENCH. I am not familiar with that; I could not answer the gentleman.

Mr. FOWLER. Is there any other colored school in the county?

Mr. FRENCH. I am not familiar with that question; I do not know.

Mr. FOWLER. And is it to be exclusively for colored children?

Mr. FRENCH. That is my understanding from the general hearings the committee held.

Mr. FOWLER. What is the proposed cost of the building and the capacity thereof for educational purposes?

Mr. FRENCH. Well, that feature was not developed, other than it would naturally be developed by assuming it would be a rather large institution, located in the county in which it is and in a city that is made up of so large a colored population as Wilmington.

Mr. FOWLER. And is it intended to accommodate students outside of the town of Wilmington or the county in which the school is located?

Mr. FRENCH. I do not know.

Mr. LONGWORTH. If the gentleman will permit, I suggest it might be wise——

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Ohio?

Mr. MANN. I yield.

Mr. LONGWORTH. I suggest it might be wise for the gentleman in whose district this city is to explain some of the questions that the gentleman on the committee is unable to answer. I do not know who is the Representative.

Mr. GODWIN of North Carolina. Mr. Chairman, I represent that district. I want to ask the gentleman from Illinois [Mr. MANN]—I have just come on the floor and did not hear his first remarks—I would be glad to hear in a brief statement what objection he has to the bill.

Mr. MANN. Well, the objection which I made was that there is no provision in here that the county will pay anything to the Government as a consideration for the transfer of the property. The original 50 acres cost $6,500, or at the rate of about $135 an acre, and here it is proposed to convey 34 acres without any consideration, except it should be used for certain purposes.

Mr. GODWIN of North Carolina. Is it not a fact that the bill proposes to convey it upon conditions?

Mr. MANN. Yes; that is what I have just stated.

Mr. GODWIN of North Carolina. And those conditions are based upon the fact that the land shall be used for educational purposes. Now, if the transfer of this property is to be made solely upon the condition that it is to be used for educational purposes to establish an industrial school for the colored people, then what objection would the gentleman have? That is what I understand the bill does.

Mr. MANN. I did not know it was to be used for a colored industrial school. There is no statement to that effect in the bill or report.

Mr. BURKE of Pennsylvania. Will the gentleman yield for a question? I would like to ask the gentleman who has just catechized the gentleman from Illinois with reference to the saving clause, which reads as follows:

> The title thereof shall revert to the United States if at any time the land or any building erected thereon shall no longer be used for such a purpose.

Now, what does that mean?

Mr. GODWIN of North Carolina. I am perfectly willing for that to be part of the transfer.

Mr. BURKE of Pennsylvania. The conveyance must necessarily use the language of the act.

Mr. GODWIN of North Carolina. Yes.

Mr. BURKE of Pennsylvania. Suppose the language of that act necessarily implies that there can be no abandonment until there has been an actual occupancy. Suppose they do not enter upon an occupancy of this ground, and suppose they do not erect a building, what becomes of the title, the conveyance having already been made?

Mr. GODWIN of North Carolina. That could be cured by a clause to require them to enter upon the property upon conditions.

Mr. BURKE of Pennsylvania. That should be incorporated in this legislation.

Mr. GODWIN of North Carolina. I am perfectly willing for that to be done. I want to state further, Mr. Chairman, that this bill came from the Senate, and as I have been away from the Capitol for the past two weeks attending my primary I

am not as familiar with it as I otherwise would have been. I am perfectly willing for this transfer to be made upon the condition that this property shall be used for educational purposes, because it is a matter of fact that the marine hospital there has more real estate, more acreage, than they find necessary to use, and it would be to the decided advantage of the colored people of the South and the people of that section of the country, as well as the city of Wilmington, to have this bill passed, and I am anxious to have the bill passed upon fair and equitable terms and provisions.

Mr. MANN. If the gentleman will permit, as far as conditions are concerned I think the bill covers the question very well. The bill expressly provides that the conveyance shall be upon the condition that the land shall be used exclusively for industrial-school purposes.

Mr. GODWIN of North Carolina. Yes.

Mr. MANN. And if it is no longer used for that purpose the title shall revert to the United States. Of course, we all know that as a matter of fact if at any time they conclude they want to use this for any other public purpose they would come to Congress and get the authority, and very likely properly so.

Mr. GODWIN of North Carolina. That is not the desire. This bill is based solely upon the intention of using this property, the portion that the marine hospital does not need, for educational purposes.

Mr. MANN. I will say to the gentleman from North Carolina the question which I raised was whether the Government, where it purchases property for one purpose, perhaps it is for building a public building in a city, and concludes it wants to use some other site, the question is whether it shall then turn around and give away the site for educational or any other purposes without any compensation. I acknowledge, that in the light of what has been said about this being used for a colored industrial school, that it makes some difference in the situation; but may I ask the gentleman if he can give an approximate idea of the proportion of colored and white population in the county or city of Wilmington?

Mr. GODWIN of North Carolina. I am very sorry I have not the exact figures.

Mr. MANN. Well, I do not need them.

Mr. GODWIN of North Carolina. But I think it would be safe to say at least one-third of the population in Hanover County are colored people.

Mr. MANN. How much of a colored industrial school is there now?

Mr. GODWIN of North Carolina. None whatever, as I understand it.

Mr. MANN. The gentleman from Idaho stated——

Mr. GODWIN of North Carolina. I desire to say I was not before the committee; I was not in the city at the time, and requested before leaving here that Senator SIMMONS be allowed to represent me before the House committee, which he did.

Mr. MANN (continuing). That there was now an industrial school there.

Mr. FRENCH. I think a small industrial school that occupies about one or two blocks that is near this particular tract of land.

Mr. GODWIN of North Carolina. Yes, sir. I do not know as to that. I have no information.

Mr. PAGE. I ask the Chair for recognition.

The CHAIRMAN. The gentleman from North Carolina [Mr. PAGE] is recognized.

Mr. PAGE. The gentleman who represents the district in which Wilmington is situated has not come upon the floor. I do not care to occupy the time of the committee further than to state to it that the purpose for which this land is to be used is to establish an industrial school for the education of the negro. The State of North Carolina has not been a frequent asker of the National Government for contributions of any sort, nor do I think any locality in it would be averse to the payment of a reasonable sum for anything it asks now. And this is no unusual proposition that is put to the Congress. I am sure in the brief service that I have had here that I have seen half a hundred bills passed donating land of the United States to municipalities and counties and States without a question being raised as to compensation.

Mr. MANN. Will the gentleman permit?

The CHAIRMAN. Will the gentleman from North Carolina yield to the gentleman from Illinois [Mr. MANN]?

Mr. PAGE. I yield with pleasure.

Mr. MANN. Does the gentleman think that statement is correct if it should mean land which the Government had purchased? I am quite confident that the passage of those bills has been very infrequent, indeed.

Mr. PAGE. I agree with the statement of the gentleman that cases of land that has been purchased and a price been paid for it by the Government and that has been donated by it have not been frequent. I think there have been instances of this kind that might be cited. But I do not distinguish, as does the gentleman, between the land that the Government donates, whether it was purchased or whether it came into the hands of the Government in another way. It was the land of the Government and was as valuable, whether or not purchased for a given sum or whether it came into the hands of the Government originally in some other way. The State of North Carolina has certainly never had any land at the hands of the Government, being one of the original thirteen States, and there was no Government land in them and no donation of land to my State.

Mr. MANN. The State owned all the land?

Mr. PAGE. The State owned all the land, and therefore the Government could not give it any.

Mr. Chairman, I believe, in the light of all the facts that surround this particular case, this bill should pass. Although I do not want to make any plea here to the credit of the citizens or the taxpayers of the State of North Carolina or any other Southern State, it is only fair to say that for 50 years 95 per cent of the taxes of the State of North Carolina have been paid by the white people of the State; that they have taxed themselves and divided the school taxes in educating the negro, and they have had a burden that gentlemen on the other side of this aisle know nothing about. I do not think men ought to quibble about a few thousand dollars, even though it should be donated to a municipality in my State; and, of course, the tax money which is to support this school will be the money paid by the taxpayers of this county. I believe the National Government can well afford to make a donation of these few acres of land, for which it has no use now and which it can not use in all time to come. It is not of great value, because of its situation and character. I only want to say that, and ask that the bill pass.

Mr. GODWIN of North Carolina. I want to say just a word further. The land that we are seeking to transfer is not now necessary for the purpose of operating the marine hospital. It can be readily seen they now have more than they need with which to carry on that enterprise; and in view of that fact, and in view of the further fact that the land is lying idle and is rendering no service to the Government, the people of Wilmington, or the State of North Carolina, I am candid in my belief that this committee ought to pass the bill, because the proposition is made upon fair and reasonable terms. We come here and ask you to pass a bill and convey the land for educational purposes. We have done a great work in the State of North Carolina along the line of education, and we come and ask you to give us the privilege there to erect a great industrial school for the colored race; and we state further that we request that the lands be conveyed upon the condition that if we do not use them, or if we use them and abandon them at any time in the future, they may revert immediately to the Government. That seems to be a fair proposition.

Mr. MOORE of Pennsylvania. A while ago I tried to get some information from the gentleman from Idaho [Mr. FRENCH], the gentleman from North Carolina not being present. I wanted to know if there was any immediate prospect of the erection of a school or the extension of a school on these premises for educational purposes.

Mr. GODWIN of North Carolina. I am glad you asked me that question. While I was away from here the other day I was in the city of Wilmington, and had a talk with Mr. Carr, chairman of the board of education of New Hanover County, the county in which the city of Wilmington is situated, and he told me if this bill should pass they would begin the erection of this industrial school immediately; that the work would be undertaken and prosecuted this summer.

Mr. MOORE of Pennsylvania. North Carolina is quite liberal in its treatment of the negro so far as education is concerned. I am aware of that fact.

Mr. GODWIN of North Carolina. Yes, sir.

Mr. MOORE of Pennsylvania. I would like to know if the gentleman would agree to fix a limitation of time within which the improvement of this property for educational purposes is to begin?

Mr. GODWIN of North Carolina. I am perfectly willing to agree to that; but I do not think it is necessary, because I assure the gentlemen here that this work will begin speedily, and I feel it safe to say that it will begin this year.

Mr. MOORE of Pennsylvania. This property is located on the Cape Fear River, is it not?

Mr. GODWIN of North Carolina. Yes; on the Cape Fear River.

Mr. MOORE of Pennsylvania. The gentleman from Idaho [Mr. FRENCH] a little while ago stated that there had been a number of gentlemen before the committee to discuss this matter and had stated incidentally that it was intended for educational purposes for the advancement of the negro?

Mr. GODWIN of North Carolina. Yes.

Mr. MOORE of Pennsylvania. There is an intent on the part of the people of that county to improve these premises for the purpose of advancing the education of the negro?

Mr. GODWIN of North Carolina. Certainly; that is the sole intent. That will be done if this bill passes.

Mr. MOORE of Pennsylvania. Does the gentleman object to an amendment to the bill which would indicate that it is for the purpose of aiding the colored man?

Mr. GODWIN of North Carolina. I will not object to it, because I understand that is the purpose. I do not care for that, though, and we do not think that ought to go in.

Mr. MANN. "For industrial school purposes" is the language used in the bill.

Mr. MOORE of Pennsylvania. In North Carolina they are comparatively liberal in their treatment of the negro. There is no question about that. But so long as the purpose to help the negro is not stated in the bill, I am satisfied with having it brought out in the discussion. I shall not insist on the amendment.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. GODWIN of North Carolina. I do.

Mr. BARTLETT. I want to say to my friend from Pennsylvania [Mr. MOORE] that he need not confine the liberality he refers to in regard to taxation and the erection of school buildings and the education of negro children to North Carolina. The same applies equally to any of the other Southern States.

Mr. GODWIN of North Carolina. We admit that they are liberal in Georgia.

Mr. MOORE of Pennsylvania. I am glad to have the gentleman [Mr. BARTLETT] make that statement. I happen to know that in North Carolina they are doing the best they can under the circumstances.

Mr. BARTLETT. We are doing that also in Georgia, and we are taxing ourselves to a burdensome degree for that purpose.

Mr. MOORE of Pennsylvania. I am glad to hear the gentleman from Georgia make the statement.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield.

Mr. GODWIN of North Carolina. With pleasure.

Mr. STEPHENS of Texas. The State of Texas, I may say, appropriates the same amount of money to the colored race per capita for education as to the white children; that is, for the common schools.

Mr. GODWIN of North Carolina. We do that also in North Carolina.

Mr. STEPHENS of Texas. Then we have the higher schools. We have a normal school in Texas upon which we expend quite a large sum of money annually. They have splendid buildings, and they have the same resources to draw from, and we pay the same amount of money to each individual negro as we do to our own people.

Mr. MOORE of Pennsylvania. The schools for the negroes in Texas are separate from the schools for the white children, are they?

Mr. STEPHENS of Texas. Yes. That is so throughout the South.

Mr. MOORE of Pennsylvania. Are your taxes separate for the two kinds of schools?

Mr. STEPHENS of Texas. No; they are not.

Mr. MOORE of Pennsylvania. The general taxation applies equally to the education of the colored and the white children?

Mr. STEPHENS of Texas. Yes; it is the same general taxation, and the white people pay over 90 per cent, I may say 95 per cent, of the amount that is collected for the purpose of running all the schools of the State.

Mr. GODWIN of North Carolina. Now, Mr. Chairman, I ask for a vote on this bill.

Mr. HILL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Will the gentleman from North Carolina yield to the gentleman from Connecticut?

Mr. HILL. I would like to say a word. Does the gentleman yield?

Mr. GODWIN of North Carolina. Yes, sir.

Mr. HILL. Mr. Chairman, I am in favor of the bill on its merits. I am in favor of anything that will tend to educate and uplift either the white or the black man who needs it in the South, but I am exceedingly tired of hearing men stand on this floor claiming to themselves great credit for paying taxes to educate illiterate people in the South. That is done all over the country. You are entitled to no more virtue and no more credit for doing it in North Carolina than we are in Connecticut, and if you would pay the same wages to these men and women in the South that we pay in the North they would pay their own taxes.

Bear that in mind. Your platform, issued yesterday, says:

We denounce the Republican pretense on that subject and assert that American wages are established by competitive conditions and not by the tariff.

And you in the South, beating down and having a lower rate of wages with child labor and longer hours than in any other part of the United States, are establishing competitive conditions by which the wages are kept down in the Northern States. So take no credit to yourselves that you are educating poor people in the South, because you are getting back a thousandfold the taxes that you pay in the lesser wages that you give to these poor people than we pay to like and corresponding and competing labor in the North.

I am in favor of your bill, but you should ask its passage on the merits of the case and not under any pretense, pharisaical or otherwise, that you are doing it as a matter of charity when you are getting your money back again many times in the lower wages you are paying to both blacks and whites. [Applause on the Republican side.]

Mr. GODWIN of North Carolina. Mr. Chairman, I am satisfied that the gentleman from Connecticut [Mr. HILL] misinterpreted the intent of the provisions of this bill, and also misconstrued what was said on this side of the House by some of the gentlemen from the South. I think it can be safely stated here that the South has been as fair and as equitable and as true to the colored race as has any other section of the country.

Mr. HILL. I do not dispute it.

Mr. GODWIN of North Carolina. While I do not care to inject a discussion of the race question or the salary or wages paid to the negroes in the South into the question of the passage of this bill, I want to say that the South pays the negro and the white man also an equitable wage for the services rendered every day in the year. [Applause on the Democratic side.] It has done that in the past and will continue to do it in the future. But, Mr. Chairman, I can not see how that can come legitimately into the question of the passage of a bill to educate the negro and to establish this industrial school in the South to better his condition. Therefore, Mr. Chairman, if the discussion has been concluded I ask for a vote.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. EDWARDS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to bill of the following title:

S. 4445. An act concerning unrigged vessels.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest; and

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of the public building acts, and for other purposes," approved March 4, 1909.

The message also announced that the Senate had passed bill and joint resolution of the following titles in which the concurrence of the House of Representatives was requested:

S. 7163. An act authorizing the State of Arizona to select lands within the former Fort Grant Military Reservation and outside of the Crook National Forest in partial satisfaction of its grant for State charitable, penal, and reformatory institutions; and

S. J. Res. 121. Joint resolution authorizing the use of certain unexpended balances to defray expenses incident to parting and refining bullion.

The message also announced that the Senate had passed with amendment joint resolution of the following title in which the concurrence of the House of Representatives was requested:

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 7163. An act authorizing the State of Arizona to select lands within the former Fort Grant Military Reservation and

outside of the Crook National Forest in partial satisfaction of its grant for State charitable, penal, and reformatory institutions; to the Committee on the Public Lands.

TO CONVEY TO WILMINGTON, N. C., PORTION OF MARINE-HOSPITAL RESERVATION.

The committee resumed its session.

Mr. FOWLER. Mr. Chairman, I am deeply interested in the passage of this bill, for it deals with a question which is of vital importance to the American people. It proposes to authorize the Secretary of the Treasury to convey 34.1 acres of land, now owned by the United States, to the board of education of New Hanover County, in the State of North Carolina, for the purpose of establishing an industrial school for the education of colored people. It is a part of a 50-acre tract of land which the United States purchased in 1857 for marine-hospital purposes for the sum of $6,500. It is not now, and under all probability it will never, be used for marine-hospital purposes, as the remaining 15 acres are yet owned by the United States on which a marine hospital has been erected, and is regarded as being ample for all future use. The greater portion, if not all of the proposed transfer, lies in the city of Wilmington and lies adjacent to a small tract of land on which a colored school is located. If the proposed transfer of the 34.1 acres is consummated, it is the intention, I understand, to erect a commodious building and convert this school into an industrial college for the purpose of giving the colored boys and girls an opportunity for higher education, which, in my opinion, is most commendable.

Mr. Chairman, it is contended by some that this proposed grant of land for this industrial school is worth $22,500, and for this reason they claim that this bill should not pass, unless the county of New Hanover is willing to pay what the land is now worth, or at least pay what the Government originally paid for it. There might be some force to this contention if the Government stood in need of the land and could not part with it without being compelled to replace it by purchasing other lands, but no such conditions exist here. The Government can make no use of it, and probably will never have occasion to use it. It never has used it and for more than 50 years it has remained idle, yielding no benefit either to the public or to the private citizen. Under these conditions I see no reason why the donation should not be as complete and as generous as though the land came to the United States without cost. It is not a question of dollars and cents. It lies deeper than that. It goes down to the basis of our civilization and deals directly with the standard of citizenship of this Republic.

The perpetuity of our institutions depends upon the education of the many. It is said that a Republic can not endure half free and half slave; neither can it endure half educated and half illiterate. It will either resolve itself into a depotism, with the cultured as the rulers, or perish in anarchy and bloodshed at the hands of the ignorant. The colored people of this country number more than one-tenth of our population to-day, and it must be admitted that their opportunity for education is limited. Most of them are poor and depend solely upon their daily labor for the support of themselves and families. They do not have the advantage of educated ancestors to inspire them to greater efforts, and many of the children do not have the advantage of educated parents to aid and assist them in their studies. The beginning of their education dates back less than 50 years. Men are yet living who can remember when colored children were not sent to school at all. No preparation was then made on the part of the public for any kind of education for them and but few of them ever learned to read and write. Many old colored people are still living who learned to read and write after their children entered school. Thus handicapped by poverty and illiteracy, the colored people of to-day are struggling on to higher levels and to higher life. They need the assistance of the public to establish schools and libraries to aid them in their struggles, and I am of the opinion that we can make no better use of this tract of land than to donate it without cost and without price as the site of a great industrial colored school. Such an institution would be an ornament to the South. It would be an ornament to the Nation. It would be a blessing to the colored man. Then why not pass this bill?

Mr. Chairman, while it is true that in every part of this beautiful Republic, even in the South, I am informed, as well as in the North, there is great activity on the part of the governments of the different States to furnish the colored people with equal opportunities for education with that of the whites, yet it is a regrettable fact, Mr. Chairman, that by custom, and not by law, the colored man has not had that equal opportunity in any portion of this country. I am sorry to say that there still lingers in the bosom of a portion of the public at least, in the North as well as in the South, a feeling that the education of the colored people is only of secondary importance, thereby depriving him of the same opportunity for education that has heretofore been accorded to the white people. The environments of their ancestors, the limited amount of education of their parents, their poverty, and their lack of understanding of the value of knowledge has had a wonderful retarding influence over their ambition for education; but, as a whole, their advancement since their emancipation has been marvelous, and we wonder how it has been possible for them to rise in such a short time in many instances from dependence and poverty to independence, filling responsible positions of trust in official and professional and business life.

Confronted on all sides with prejudice and opposition to their advancement in education and society, they early betook themselves to their own quarters and their own color for counsel as to how they might best solve the problem of their own moral and intellectual advancement. They have established their own churches throughout the country and placed men of their own color in the pulpit, many of whom are now able ministers of the gospel and are wielding a wonderful influence in the moral uplift of their race. Inspired by the same influences, they demanded separate schools for their children and placed colored teachers over them. They have erected colleges in many places in the country, affording better opportunities for higher education for their children, among which is the Tuskegee Institute, conducted by Booker T. Washington. He is running this institution upon the theory that the colored man must work out his own salvation, and it is generally conceded that his school has done more for the advancement of the colored people, intellectually and morally, than any other institution in America. I understand that he is annually turning out well-educated boys and girls, with practical knowledge, thereby fitting them for teachers of colored schools and other responsible positions in business and professional life.

Mr. Chairman, I believe there is an instinct in all animal life, capable of working out its own destiny and filling the mission for which it was created. Acting upon this theory, I believe that the colored man is able to solve the problems of his own future, and if he elects to have industrial schools for the education of his children, separate and apart from the white schools, I see no good reason why he should not have them. In my district the colored people generally have separate schools, with teachers of their own color, and it is my opinion that they are making greater advancement than they would if they were taught in mixed schools by white teachers. I am sorry to say, Mr. Chairman, that there yet prevails an opinion all over this land, in the breasts of some at least, that the colored man is inferior and ought not to be educated equally with the whites.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. FOWLER. Certainly.

Mr. MOORE of Pennsylvania. The colored brother votes quite freely in the North.

Mr. FOWLER. I understand he does, and to the great astonishment of our institutions, some of them, like some of the whites, have the reputation of repeating on election day.

Mr. MOORE of Pennsylvania. That is a reflection on the colored brother that I did not make. The gentleman misunderstood the question.

Mr. FOWLER. I want the black man educated like I want the white man educated, so that both will rise above the business of repeating on election day, and help to maintain the purity of the ballot and preserve inviolate the institutions of our fathers.

Mr. MOORE of Pennsylvania. The gentleman from Illinois is in favor of the free education of the negro?

Mr. FOWLER. I am.

Mr. MOORE of Pennsylvania. And the gentleman is in favor of free suffrage for the negro?

Mr. FOWLER. I am.

Mr. MOORE of Pennsylvania. All over the country?

Mr. FOWLER. I am.

Mr. MOORE of Pennsylvania. Then the gentleman is a patriot.

Mr. FOWLER. I stand for equal education for all the people. The best interest of this country demands it.

Mr. FOCHT. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. FOCHT. I am afraid my colleague from Pennsylvania omitted a suggestion, that if the gentleman from Illinois is in favor of the free franchise of the negro his remarks ought to be addressed to the other side of the House instead of this side.

Mr. FOWLER. I am addressing my remarks to both sides of the House—as well to this side as to your side. If you were as much in favor of educating the colored man as you are the white man, there would not be one of you on that side of the

aisle who would raise your voice against the passage of this bill.

Mr. Chairman, the true friend of the colored people is anxious to give them a fair and equal opportunity to prepare themselves for the discharge of the grave responsibilities which rest upon the citizens of this Republic, regardless of color or previous conditions of servitude. All others are their enemies. I am sorry, Mr. Chairman, that the question of politics should be injected into this most important subject by the distinguished gentleman from Connecticut [Mr. HILL]. The question is too big for sectionalism or partisan politics. It appeals to our highest statesmanship with a warning that the life of this Republic depends upon the moral and intellectual education of the masses. This bill is the product of Members from the South. Many of its most ardent supporters come from the South. I am glad, indeed, Mr. Chairman, to see the South, as well as all other sections of this country, deeply concerned in the establishment of good schools for the education of the colored people, and for one I want to register my vote and my influence for the upbuilding and the education of the colored man the same as any other people of this country. Let us pass this bill. [Applause.]

Mr. BURKE of Pennsylvania. Mr. Chairman, I am very much delighted to be able to be present at the opening of the campaign of 1912, and from the deliverances which I have heard here during the last 20 minutes, I am sure it will be one of the most entertaining and delightful through which men of political experience have had the felicity of passing during the last half century. [Laughter.]

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. BURKE of Pennsylvania. I yield for a question.

Mr. FOWLER. Does the gentleman allude to the section of the Democratic platform that was read by the gentleman from Connecticut [Mr. HILL] and to the political speech which he made a few minutes ago?

Mr. BURKE of Pennsylvania. Mr. Chairman, I did not pay any attention to the reading of the platform, but I did hear the remarks of the gentleman from Connecticut in which he congratulated those who are behind this bill upon their progress as an evidence of the improvement throughout this country upon the part of men upon both sides of the aisle to do that which ultimately means the uplifting of both races in the country.

I claim not for this side of the House alone the selfish credit of having done all that has tended to bring about a better condition of the black man. I know there are patriots and wise and able and far-seeing men on the Democratic side of this House, just as there are upon the Republican side, and I know that there are men on that side of the aisle who in their hearts would go as far as many on this side to improve the conditions of the negro race in the United States. In my comment with reference to the opening of the campaign it was intended at first to be facetious, but if the gentleman seeks to give it an earnest color, then those on this side of the House are willing to pick up the glove where he threw down the gage.

There are in my district more colored boys and girls than there are in any other congressional district in the State of Pennsylvania, and that which you are doing or intending to do in the city of Wilmington we have been doing in the State of Pennsylvania for half a century. Our State appropriates more money for the education of its children than any other State in the family of this Union, and we make no discrimination between the black children and the white who walk the streets and the highways on their way to school in response to the music of the bell that sings from the tower on every school day. [Applause.]

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman how many schools there are in the State of Pennsylvania for the colored children alone?

Mr. BURKE of Pennsylvania. Mr. Chairman, the gentleman's question implies a discrimination which does not exist in the State of Pennsylvania. You will find in every section of the Keystone State schools in which the white boy and the black boy are being taught under the same roof.

Mr. FOWLER. Mr. Chairman, I desire, then, further to ask what percentage of colored boys and girls graduate in the high schools of Pennsylvania?

Mr. BURKE of Pennsylvania. And I will answer the gentleman by saying that the question of moral, political, or social right and wrong was never determined by a question of percentage.

Mr. FOWLER. I will ask the gentleman again if in the great universities of this country there is not a custom to discourage the admission of the colored boys and girls to the schools on an equality with the whites?

Mr. BURKE of Pennsylvania. Mr. Chairman, I can speak from my own experience as a graduate of one of the greatest universities of the North, the University of Michigan, and say that no such discrimination ever existed there in the past nor does it exist there to-day.

Mr. FOWLER. May I say that I have the honor to be a graduate of that great university, and in my class of more than 280 there were just two colored men who graduated.

Mr. BURKE of Pennsylvania. Does the gentleman mean to say that there was any discrimination against those colored boys, or that they were deprived of a single right that he enjoyed while in that institution?

Mr. FOWLER. No; not by law, but by custom; and that is what I refer to when I say that the colored man has not had in America, either in the North or in the South, an equal opportunity for education.

Mr. BURKE of Pennsylvania. Did the gentleman, during his time of being tutored in the University of Michigan, ever have occasion to raise his voice in protest against the treatment accorded to the two colored boys of whom he speaks?

Mr. FOWLER. I did not.

Mr. BURKE of Pennsylvania. That is a complete answer to my question and a vindication of my proposition that no such discrimination exists.

Mr. FOWLER. And then for that reason, because of that very custom, there is a necessity throughout the country to give to the colored men somewhere an opportunity to get a good education, and a separate school like the one proposed, which is of a character like that conducted by Booker T. Washington, who is doing more for the colored man to-day, to educate and uplift him, than all the people in the State of Pennsylvania. Such a school, in my opinion, offers an opportunity to the colored people for education superior to that afforded by the common schools.

Mr. BURKE of Pennsylvania. Mr. Chairman, when the bill is read I desire to offer an amendment, and I will refer to that amendment now.

The CHAIRMAN. The Chair will suggest that if the general debate is closed the bill will be read for amendment under the five-minute rule.

Mr. BURKE of Pennsylvania. Mr. Chairman, I was just about to give the gentleman from North Carolina [Mr. GODWIN] an opportunity to digest it while the bill is being read. I suggest as an amendment, to insert, after the word "purposes," on page 2, line 3, the words "that the board of education aforesaid shall within one year from the passage of this act enter and begin improvements upon the land and that," so as to place a limitation of one year within which they must enter and take possession of the land, and thus guarantee its use for school purposes at a reasonably early date.

Mr. GODWIN of North Carolina. Mr. Chairman, I desire to say, as I stated a while ago, that I have the assurance of the board of education of the county of New Hanover that they will make immediate entry.

Mr. BURKE of Pennsylvania. Then the gentleman can have no objection to that amendment. The question arises in my mind whether we do not establish a bad precedent if we place no limitation whatsoever upon it, and if they are going to enter upon the land within a year there can be no objection, or the gentleman may make it two years if he wishes. I have no objection to that.

Mr. GODWIN of North Carolina. Well, I have the understanding that they will make immediate entry, but still we do not know what will intervene, and I suggest that the gentleman make it two years. Then I have no objection.

The CHAIRMAN. The Clerk will read the bill.

The bill was read.

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, line 3, by inserting after the word "purposes" the following: "That the board of education aforesaid shall within two years from the passage of this act enter and begin improvements upon said land, and that."

Mr. GODWIN of North Carolina. Mr. Chairman, after considering this I think that the amendment would jeopardize the bill in conference. It is a well-known fact that we are near the end of the present session, and I am anxious to get the bill passed at this session.

Mr. MANN. If the gentleman will permit, while I do not think the amendment is at all necessary, as I understand the amendment it gives the county two years' time in which to commence the work.

Mr. GODWIN of North Carolina. Yes, sir.

Mr. MANN. Well, I do not see how anyone can make any objection to that. I think the Senate will agree to that without any trouble.

Mr. GODWIN of North Carolina. That is the only objection I have.

Mr. MANN. The gentleman understands commencing the thing is a very simple proposition, to haul one board on the land; you do not even need to dig a hole.

Mr. BURKE of Pennsylvania. If the gentleman is apprehensive of the final consequences, I will withdraw the amendment, if I may, by unanimous consent. I ask unanimous consent to withdraw the amendment.

Mr. GODWIN of North Carolina. I would very much appreciate it.

The CHAIRMAN. Without objection, the amendment will be considered as withdrawn.

Mr. MOORE of Pennsylvania. Mr. Chairman, I understand there are several gentlemen on this side who may oppose the bill if there is not some such stipulation as proposed by this amendment. Before the motion is put I should like to know whether some understanding could not be had as to some limitation as to time. I think some of the gentlemen on this side are apt to vote against the bill unless there is a limitation such as proposed by the amendment offered by the gentleman from Pennsylvania [Mr. BURKE].

Mr. MANN. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. MANN. As far as that is concerned, how can you make it any stronger than it is in the bill when it says that the title shall revert to the United States if at any time the land shall no longer be used for such purposes?

Mr. MOORE of Pennsylvania. Well, I am not expressing my own opinion now with regard to the bill itself, but I made the statement that several gentlemen intended to vote against the bill and had so expressed themselves, unless a limitation of time was introduced as proposed.

Mr. MANN. I think they were under the impression there was no limitation in here. This limitation in here requires the county to take this land at once and use it as soon as they get title to it.

Mr. MOORE of Pennsylvania. Well, the limitation is simply a guaranty of good faith upon the part of the county authorities. I question very much whether the bill would be held up. Some gentlemen have said that this bill establishes a precedent. It does in a way, because it takes from the Government a piece of property for which the Government has paid actual cash and gives it free to a county for purposes which were not clearly explained in the beginning of the discussion of the bill. We have since learned that it is intended that the county shall erect a school to educate colored children, a very worthy and commendable purpose, and for which I think most everyone upon this side of the House would vote, but the question of good faith is involved——

Mr. HOWARD. May I ask the gentleman why does he say "on this side"? Why does the gentleman put it that way?

Mr. MOORE of Pennsylvania. Simply because objection to the bill seems to be raised largely on this side of the House.

Mr. HOWARD. I am very glad the gentleman explains it.

Mr. MANN. Because that side of the House is always willing to give away something for nothing.

Mr. HOWARD. Especially to help the colored people who need it so much.

Mr. MOORE of Pennsylvania. Mr. Chairman, I renew the amendment made a moment ago by the gentleman from Pennsylvania [Mr. BURKE].

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend page 2, line 3, by inserting, after the word "purposes," the following: "That the board of education aforesaid shall within two years from the passage of this act enter and begin improvements upon said land and that."

Mr. MOORE of Pennsylvania. Mr. Chairman, just one moment. I am entirely friendly to the purposes of this bill, and I desire to vote for it. I did not intend to discuss the political questions which have been raised in the opening of the campaign at the close of two great conventions. Those questions will be discussed in ample time, and when the people understand them fully the Republican Party will unquestionably win in a walk, as it deserves to do.

Mr. BURNETT. Which branch of it; there were two conventions.

Mr. MOORE of Pennsylvania. There is no division in the ranks of the Republican Party; we will vote as one man for the President.

Mr. CARLIN. Which man?

Mr. MOORE of Pennsylvania. Who? Why the nominee of the Republican Party at Chicago——

Mr. CARLIN. Which convention?

Mr. MOORE of Pennsylvania. The Republican convention at Chicago.

Mr. CARLIN. Which Republican convention?

Mr. MOORE of Pennsylvania. And I believe that when the Republican Party comes together in November there will be but one song, and that the song of victory.

Mr. CARLIN. The gentleman has not answered my question.

Mr. MOORE of Pennsylvania. Mr. Chairman, I had not intended to discuss politics. They seem to have greatly troubled gentlemen upon the other side of the House during the past 10 days, and there is good reason for them now to take a rest. I wish I might discuss politics for a moment, however, because I would like to pay a tribute——

Mr. HOWARD. Will the gentleman yield right there?

Mr. MOORE of Pennsylvania. The gentleman is breaking in on a tribute. I was going to pay a tribute to one of your great Democrats. I would like, Mr. Chairman, to discuss politics for a moment to pay tribute to one of the great Democrats of this Nation, a man who I intended to applaud upon his entrance here this morning, and I am sorry I was a minute too late. [Applause.]

Mr. BUTLER. We applauded two of them. Which one does the gentleman mean?

Mr. MOORE of Pennsylvania. And I want to say to those Democrats who have been attacking individuals on this side of the House and in the great Republican Party, and who have taken for truths those rumors and gossip which have been published with great frequency recently, that they now have an evidence of the tyranny of that so-called popular opinion, which, centered in the hands of one man, enabled him in the Baltimore convention to crush the presidential prospects of one whose 16 years of political life has been devoted faithfully to the service of the Democratic Party of this Nation. It is something for Democrats who have been assailing Republicans to think about; that after a life devoted honestly and courageously and with self-sacrifice to the cause in which he believed, the reputation and character of the Speaker of this House should at one fell swoop be assailed and taken away at the instance of another, who for the moment happened to have the ear of the newspapers and the applause of his followers.

But I am not going to discuss politics. I wanted to talk about education. I wanted to confirm what the gentleman said a moment ago in answer to my question in regard to the attitude of the State of North Carolina toward the education of the negro. I believe an honest effort is being made by the white people of North Carolina who do control that State politically to lead the negro onward and upward. I glorify the Southern State that undertakes this sort of work. All of the States below the old Mason and Dixon line have had difficulties to contend with, and they have struggled along bravely to do the best they could with conditions they knew better, perhaps, than the rest of us in other sections of the country. [Applause.] But since North Carolina now proposes to give the negro a chance to follow up this advance sentiment that prevails amongst the white people of the State, and to give the negro an opportunity, I am willing, for one, to vote over for educational purposes a piece of property the Government no longer needs. I shall support this bill and hope the amendment, which will show the good faith of the county authorities, shall be attached to it.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. SMALL rose.

The CHAIRMAN. Is the gentleman from North Carolina [Mr. SMALL] opposed to the amendment?

Mr. SMALL. I am opposed to it and wish to address myself to the merits of the amendment proposed by the gentleman from Pennsylvania [Mr. MOORE]. The gentleman from Illinois [Mr. MANN] stated a while ago what must be absolutely correct, that the United States is amply protected by the last clause of the bill on page 2. The language is as follows:

The title thereof to revert to the United States if at any time the land or any building erected thereon shall no longer be used for such purpose.

When the deed shall have been executed by the proper officials of the Government to this board of education that language will appear in the deed. It will be a condition subsequent which the authorities may at any time take advantage of by a proper suit and declare the deed void and restore the title to the Government. Of course, the Government will wait a reasonable length of time before instituting any such action, but as

matter of law it would have the right to institute it at any time under this condition subsequent, which will be inserted in the deed.

Mr. BURKE of Pennsylvania. Mr. Chairman.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. SMALL] yield to the gentleman from Pennsylvania [Mr. BURKE]?

Mr. SMALL. Certainly.

Mr. BURKE of Pennsylvania. Would it not solve the question if you struck out the words "no longer" and inserted the word "not"?

Mr. SMALL. Where?

Mr. BURKE of Pennsylvania. The words "no longer." The question is whether the words "no longer" imply a previous possession, and if you simply inserted the word "not" would it not cure the whole business?

Mr. SMALL. That would subject it to the same objection which was urged by my colleague, Mr. GODWIN, representing the district in which Wilmington is situated, and I submit that the words "no longer" are not ambiguous, and that they cover the purpose which the gentleman has in mind.

Mr. BURKE of Pennsylvania. I am reconciled to that view of it.

Mr. SMALL. The point I was submitting was, when this condition shall be inserted in the deed, the Government of the United States may at any time it chooses, in its discretion, if this property shall not be entered on and actually used for an industrial school as provided in the bill, institute a suit and have the title restored to the Government of the United States.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. GODWIN of North Carolina. Mr. Chairman, I move that the committee do now rise and report the bill to the House favorably with the recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. ADAMSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 6603) authorizing the Secretary of the Treasury to convey to the board of education of New Hanover County, N. C., portion of marine-hospital reservation not needed for marine-hospital purposes, and had directed him to report the same to the House with the recommendation that the bill do pass.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was read a third time, and having been read a third time, was passed.

On motion of Mr. GODWIN of North Carolina, a motion to reconsider the vote by which the bill was passed was laid on the table.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The SPEAKER announced his signature to enrolled bills and joint resolutions of the following titles:

S. 6369. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6925. An act to authorize the Chicago, Burlington & Quincy Railroad Co. to construct a bridge across the Mississippi River near the city of St. Louis, in the State of Missouri;

S. 6847. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. J. Res. 111. Joint resolution to convey the thanks of Congress to Capt. Arthur Henry Rostron, and through him to the officers and crew of the steamship *Carpathia*, of the Cunard Line, for the prompt and heroic service rendered by them in rescuing 704 lives from the wreck of the steamship *Titanic* in the North Atlantic Ocean;

S. 6252. An act to relinquish the title of the United States to certain property in the city and county of San Francisco, Cal.;

S. 1754. An act for the relief of William F. McKim;

S. J. Res. 94. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress;

S. 458. An act for the relief of the Turner Hardware Co.;

S. 4180. An act for the relief of Alessandro Comba;

S. 1293. An act for the relief of Herbert Thompson;

S. 897. An act for the relief of Alfred L. Dutton; and

S. 5287. An act for the relief of Kate Ferrell.

ENCAMPMENT AND MANEUVERS OF ORGANIZED MILITIA.

Mr. DENT. Mr. Speaker, I desire to call up House joint resolution 332, appropriating $1,350,000 for encampment and maneuvers of the Organized Militia, and move to agree in a Senate amendment. It is a mere formal amendment adding the words "of America" after the words "United States" in the resolving clause. They were left out inadvertently.

Mr. WILSON of Pennsylvania. What is that?

Mr. DENT. A resolution providing for the joint maneuvers.

The SPEAKER. The Journal Clerk informs the Chair that this bill has no amendment to it.

Mr. DENT. I understand an amendment was made by the Senate.

Mr. MANN. I think, Mr. Speaker, if the Chair will wait a moment the engrossing clerk can give us some information on the subject. He has gone out to get it.

The SPEAKER. The Committee on Public Buildings and Grounds has had two days, and the Clerk will now proceed to read the call of committees.

The Clerk proceeded with the call of committees.

DEPARTMENT OF LABOR.

Mr. WILSON of Pennsylvania (when the Committee on Labor was called). Mr. Speaker, I desire to call up the bill (H. R. 22913) to create a department of labor.

The SPEAKER. The Clerk will report the bill.

The Clerk proceeded with the reading of the bill.

Mr. WILSON of Pennsylvania (interrupting the reading). Mr. Speaker, I desire to call attention to the fact that this bill is on the Union Calendar.

The SPEAKER. That is true.

Mr. WILSON of Pennsylvania. Is the reading of the bill required before its consideration?

The SPEAKER. No. The House would resolve itself automatically into Committee of the Whole House on the state of the Union.

Mr. MANN. Mr. Speaker, just a moment, before the House goes into Committee of the Whole. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. This bill, as I understand, has now been called up—the Department of Labor bill?

The SPEAKER. Yes; the bill has been called up, but the Chair has not announced that the House has gone into Committee of the Whole House on the state of the Union.

Mr. MANN. I think, Mr. Speaker, we ought to have a quorum here to consider an important bill like this, and I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point that there is no quorum present, and evidently there is none.

Mr. CLAYTON. Mr. Speaker, I move a call of the House.

Mr. WILSON of Pennsylvania. I demand a call of the House, Mr. Speaker.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] moves a call of the House.

Mr. CANNON. Mr. Speaker, while I have no objection to a call of the House, or to the consideration of the bill, I want to say that this is the 3d of July and a great many Members on this side of the House are out of the city, and I suppose a great many on that side are absent also. As to-morrow is the Fourth of July, does the gentleman think it well to consider the bill to-day?

Mr. CLAYTON. I am very sorry that the minority leader [Mr. MANN] has raised the question of no quorum. I think that this is a matter that both sides of the House will probably favor. I do not speak of the details of it because, as the gentleman from Illinois knows, there have been party declarations, I think, on the part of both parties in favor of this proposition to create a department of labor with a member of the President's Cabinet at its head.

It was right for Congress to create the youngest Cabinet officer—that is, the Secretary of Commerce and Labor—and it was right for Congress to have created the office of Secretary of Agriculture, and no department has rendered more valuable service to the great agricultural interests of the country than our Department of Agriculture at Washington. The Department of Commerce and Labor has rendered great aid to our commerce, foreign and domestic, and I think that the multiplied interests of millions of our American citizens who are laborers demand that we create a separate department of labor and that such a department be represented by a Cabinet officer. Hence I heartily favor this bill and hope that it will pass now.

Mr. CANNON. A bill of this importance ought to be considered with a quorum present, so I agree with the gentleman from Illinois [Mr. MANN], my colleague, upon that point. I have no objection to the consideration of the bill. I am willing to consider it at any time, but——

Mr. CLAYTON. I am afraid that if we would take the suggestion of my friend from Illinois this bill would not, perhaps,

get any consideration at this session, and it is very desirable that this bill be acted upon at the earliest possible day. I think we can get a quorum present to-day.

Mr. CANNON. I have no objection to the gentleman's effort to get a quorum. It is a suggestion made in the most perfect good faith and not to embarrass the consideration of the bill.

Mr. CLAYTON. The gentleman from Illinois always makes his suggestions in good faith and with great courtesy.

Mr. WILSON of Pennsylvania. Mr. Speaker, this bill comes from the committee with a unanimous report. A similar bill has been pending before that committee for years and there never has anyone appeared before that committee in opposition to the bill. There is a general demand for a department of this kind, and now that we have reached the point where the committee in charge of the bill can secure consideration before the House I insist upon proceeding with the call of the House.

The SPEAKER. The question is on the motion for a call of the House.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and Members, when their names are called, will answer "present."

The Clerk proceeded to call the roll, and the following Members failed to answer to their names:

Adair	Dupré	Kindred	Porter
Ainey	Dwight	Kinkead, N. J.	Post
Akin, N. Y.	Dyer	Knowland	Powers
Allen	Ellerbe	Konig	Prince
Ames	Esch	Konop	Pujo
Anderson, Ohio	Evans	Kopp	Randell, Tex.
Andrus	Fairchild	Korbly	Redfield
Anthony	Farr	Lafferty	Reyburn
Ashbrook	Finley	Lamb	Riordan
Austin	Fitzgerald	Langham	Roberts, Mass.
Ayres	Flood, Va.	Langley	Roberts, Nev.
Barchfeld	Focht	Lawrence	Rucker, Colo.
Bartholdt	Fordney	Lee, Pa.	Rucker, Mo.
Bates	Fornes	Legare	Scully
Beall, Tex.	Gardner, Mass.	Lenroot	Sells
Bell, Ga.	Gardner, N. J.	Lever	Shackleford
Boehne	George	Levy	Sharp
Bradley	Gillett	Lewis	Sheppard
Broussard	Good	Lindbergh	Sherley
Brown	Goodwin, Ark.	Lindsay	Sherwood
Burke, S. Dak.	Gould	Linthicum	Sisson
Burke, Wis.	Graham	Littleton	Slayden
Burleson	Green, Iowa	Lobeck	Smith, Saml. W.
Byrnes, S. C.	Gregg, Tex.	Longworth	Smith, Cal.
Calder	Guernsey	Loud	Smith, N. Y.
Callaway	Hamill	McCoy	Smith, Tex.
Campbell	Hamilton, Mich.	McCreary	Stack
Candler	Hanna	McDermott	Steenerson
Cantrill	Harris	McHenry	Stephens, Nebr.
Carlin	Harrison, Miss.	McLaughlin	Stephens, Miss.
Carter	Harrison, N. Y.	McMorran	Stevens, Minn.
Cary	Hartman	Macon	Sulloway
Clark, Fla.	Haugen	Madden	Sulzer
Claypool.	Hay	Maher	Switzer
Collier	Hayden	Malby	Taggart
Conry	Hayes	Martin, Colo.	Taylor, Ohio
Copley	Heald	Martin, S. Dak.	Thayer
Covington	Heflin	Matthews	Thomas
Crago	Helgesen	Mays	Tilson
Crumpacker	Helm	Miller	Townsend
Curley	Henry, Conn.	Moon, Pa.	Underhill
Currier	Henry, Tex.	Moore, Tex.	Underwood
Curry	Higgins	Morse, Wis.	Utter
Dalzell	Hinds	Mott	Vare
Danforth	Hobson	Needham	Volstead
Davidson	Howland	Nelson	Vreeland
De Forest	Hughes, N. J.	Nye	Webb
Denver	Hughes, W. Va.	Olmsted	Weeks
Dickson, Miss.	Humphrey, Wash.	O'Shaunessy	Whitacre
Dies	Humphreys, Miss.	Palmer	White
Difenderfer	Jackson	Parran	Willis
Dodds	James	Patten, N. Y.	Wilson, Ill.
Doremus	Johnson, Ky.	Patton, Pa.	Wilson, N. Y.
Draper	Johnson, S. C.	Payne	Young, Mich.
Driscoll, D. A.	Jones	Peters	Young, Tex.
Driscoll, M. E.	Kent	Plumley	

The SPEAKER. The roll call shows that 167 Members are present—not a quorum.

Mr. WILSON of Pennsylvania. Mr. Speaker, it is apparent that there is no quorum present, and it is likely that no quorum is present in the city at this time, so soon after the adjournment of the convention and the fact that the Fourth of July follows immediately. So, Mr. Speaker, I move that the House do now adjourn.

Mr. MANN. I should have supposed that there would be a quorum immediately after the Baltimore convention, for they would have no other place to go.

The SPEAKER. They are probably asleep. [Laughter.]

Mr. DENT. Mr. Speaker, I wish the gentleman from Pennsylvania would withhold his motion to adjourn for a moment. I would like to inquire whether House joint resolution 332, with a Senate amendment, has come back to the House.

The SPEAKER. The Chair will state to the gentleman that it would not make any difference whether it has or not, because the House can not take any action without a quorum.

Mr. DENT. I did not suppose that any Member would make any point in regard to it.

The SPEAKER. But the point of no quorum has already been made. The roll call has disclosed that no quorum is present and the Chair must take cognizance of the fact.

ADJOURNMENT.

The motion of Mr. WILSON of Pennsylvania was then agreed to; accordingly (at 2 o'clock and 2 minutes p. m.) the House, in accordance with its previous order, adjourned until Friday, July 5, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of State submitting estimate of appropriation to eradicate the opium evil (H. Doc. No. 861); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Missouri River near Omaha, South Omaha, Florence, and Dundee (H. Doc. No. 862); to the Committee on Rivers and Harbors and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. SAUNDERS: A bill (H. R. 25572) to amend the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on Interstate and Foreign Commerce.

By Mr. McGILLICUDDY: A bill (H. R. 25573) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law; to the Committee on Ways and Means.

By Mr. STANLEY: A bill (H. R. 25574) to provide for the securing of plans for additional buildings for the Department of Agriculture in the District of Columbia; to the Committee on Public Buildings and Grounds.

By Mr. COX of Ohio: Resolution (H. Res. 595) to investigate conditions in the Treasury Department; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 25575) to remove the charge of desertion against Peter Gumm; to the Committee on Military Affairs.

By Mr. COX of Indiana: A bill (H. R. 25576) granting a pension to Kate Nye; to the Committee on Pensions.

By Mr. DYER: A bill (H. R. 25577) granting a pension to Horace Olive Gray; to the Committee on Pensions.

By Mr. FOSTER: A bill (H. R. 25578) granting an increase of pension to Thomas F. Bland; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 25579) granting an increase of pension to William Furness; to the Committee on Invalid Pensions.

By Mr. HARTMAN: A bill (H. R. 25580) granting an increase of pension to William A. Peterson; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 25581) for the relief of the heirs of Henry H. Smith, deceased; to the Committee on War Claims.

By Mr. MORSE of Wisconsin: A bill (H. R. 25582) granting a pension to Kate M. Hale; to the Committee on Invalid Pensions.

By Mr. NEELEY: A bill (H. R. 25583) granting an increase of pension to Taylor Lobdell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25584) granting an increase of pension to John Shallenberger; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 25585) granting a pension to George M. Maginnis; to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 25586) granting a pension to Leander Thomas; to the Committee on Pensions.

Also, a bill (H. R. 25587) granting an increase of pension to Joseph Roach; to the Committee on Pensions.

Also, a bill (H. R. 25588) for the relief of the heirs of Lewis M. Davenport, deceased; to the Committee on War Claims.

By Mr. SMALL: A bill (H. R. 25589) granting an increase of pension to Thomas B. King; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BURKE of Wisconsin: Evidence in support of bill (H. R. 24573) granting an increase of pension to Margaret Berg; to the Committee on Invalid Pensions.

Also, petition of Paul J. Wiechmann and 25 other citizens of Fond du Lac, Wis., favoring passage of House bill 22339 and Senate bill 6172; to the Committee on Labor.

By Mr. FOSTER: Petition of Division No. 175, Order of Railway Conductors, of Memphis, Tenn., and Bluff City Division, No. 308, of Mount Carmel, Ill., against passage of employers' liability act; to the Committee on the Judiciary.

By Mr. FULLER: Petition of R. M. Pritchett and others of Dana, Ill., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. HANNA: Petition of Enderlin Division, No. 453, Order of Railway Conductors, against passage of the Federal employees' compensation act and favoring employers' liability act; to the Committee on the Judiciary.

By Mr. HARTMAN: Petition of the Order of Independent Americans, of South Fork, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Patriotic Order Sons of America, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Philadelphia Chamber of Commerce, favoring 2-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Somach Noflim Lodge, No. 190, of Altoona, Pa., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. HUGHES of New Jersey: Petition of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. KINKEAD of New Jersey: Petition of citizens of Jersey City, N. J., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of the Spanish War Veterans, favoring passage of House bill 17470, giving pensions to widows and orphans of the Spanish-American War; to the Committee on Pensions.

Also, petition of the Brotherhood of Locomotive Engineers, favoring passage of the workmen's compensation act; to the Committee on the Judiciary.

Also, petition of the Architectural League of New York, protesting against the repealment of the Tarsney Act for securing Government architects; to the Committee on Appropriations.

By Mr. MAGUIRE of Nebraska: Petition of Silas A. Strickland Post, No. 13, Department of Nebraska, Grand Army of the Republic, against passage of Senate bill 18, relative to incorporation of the Grand Army of the Republic; to the Committee on the Judiciary.

By Mr. McDERMOTT: Memorial of the Hebrew veterans of the War with Spain, of New York City; the Workmen's Sick and Death Benefit Fund of the United States of America; and the Boskrigo Serca Jezusa Society, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. REILLY: Petition of the Hebrew veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. THISTLEWOOD: Petition of citizens of Gale, Ill., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. WILSON of New York: Petition of the Brooklyn League, of Brooklyn, N. Y., favoring retention of the National Economy and Efficiency Commission; to the Committee on Appropriations.

Also, petition of the Architectural League of New York, against the repeal of the Tarsney Act in the sundry civil bill; to the Committee on Appropriations.

SENATE.

FRIDAY, *July 5, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of the proceedings of Wednesday last, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

VANCOUVER MILITARY RESERVATION, WASH.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4663) granting to the Washington-Oregon Corporation a right for an electric railroad and for telephone, telegraph, and electric-transmission lines across the Vancouver Military Reservation, in the State of Washington, which were, on page 1, line 6, to strike out "the right" and insert "a revocable license"; on page 1, line 10, to strike out "grant" and insert "license"; and on page 1, line 11, to strike out "during the pleasure of Congress" and insert "at the discretion of the Secretary of War."

Mr. JONES. I move that the Senate disagree to the amendments of the House, ask a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. DU PONT, Mr. WARREN, and Mr. JOHNSTON of Alabama conferees on the part of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 6603) authorizing the Secretary of the Treasury to convey to the Board of Education of New Hanover County, N. C., portion of the marine-hospital reservation not needed for marine-hospital purposes.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 332) appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

The message further announced that the House insists upon its amendment to the bill (S. 5623) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 6340) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 6384) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 6851) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message further announced that the House insists upon its amendment to the bill (S. 6978) granting pensions and increase of pensions to certain soldiers and sailors of the Regular

Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 4445. An act concerning unrigged vessels.

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest; and

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of the public-building acts, and for other purposes," approved March 4, 1909.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented resolutions adopted by Local Union No. 21, United Garment Workers of America, of Chicago, Ill., praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

Mr. BRISTOW presented a petition of members of the Young People's Christian Union of Chanute, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. JONES. I present telegrams in the nature of petitions from members of the Alaska Steamship Co., the Associated Chambers of Commerce of the Pacific Coast, and the Shipowners' Association of the Pacific Coast, favoring the adoption of a proposed amendment to the sundry civil appropriation bill, which was submitted by me on the 13th instant, to appropriate $115,000 to establish a light and fog signal at or near Cape St. Elias, Alaska. I move that the telegrams be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. GARDNER presented petitions of Northern Light Grange, Patrons of Husbandry, of Monroe; of Weavers' Local Union No. 703, of Brunswick; and of sundry citizens of Portland, all in the State of Maine, praying for the establishment of a governmental system of postal express, which were referred to the Committee on Post Offices and Post Roads.

Mr. TILLMAN presented a petition of the congregation of the Methodist Episcopal Church South, of St. Matthews, S. C., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. WETMORE presented a petition of Local Union No. 534, Brotherhood of Painters, Decorators, and Paperhangers of America, of Newport, R. I., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

Mr. GRONNA presented a memorial of Local Division No. 453, Order of Railway Conductors, of Enderlin, N. Dak., remonstrating against the passage of the so-called employers' liability and workmen's compensation bill, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by Stevens Post, No. 1, Grand Army of the Republic, Department of Washington, of Seattle, Wash., expressing confidence in the integrity and faithfulness of C. H. Hanford, United States district judge for the western district of Washington, which were referred to the Committee on the Judiciary.

He also presented a petition of the faculty of the University of Washington, Seattle, Wash., and a petition of the faculty of the University of Washington (summer school), Seattle, Wash., praying for the establishment of a department of public health, which were ordered to lie on the table.

THE SPONGE INDUSTRY.

Mr. FLETCHER, from the Committee on Fisheries, to which was referred the bill (S. 6385) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and Straits of Florida; the landing, delivering, curing, selling, or disposing of the same; providing means of enforcement of same; and for other purposes, reported it with amendments and submitted a report (No. 904) thereon.

EUGENE PRINCE.

Mr. LODGE. From the Committee on Immigration I report back favorably, with an amendment striking out the preamble, the joint resolution (H. J. Res. 220) to grant American citizenship to Eugene Prince. I ask for the present consideration of the joint resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole.

Mr. JOHNSTON of Alabama. I ask the Senator from Massachusetts why it is necessary to pass the joint resolution.

Mr. LODGE. I will be very glad to tell the Senator and tell the Senate. It is a very strange case. I never heard of one like it.

This young man's grandfather went to Russia as the representative of a large firm in Boston and established himself there. His son, John Henry Prince, was born there and remained an American citizen, but has resided in Russia ever since. He is the agent for the Niles Tool Works and the Bethlehem Steel Works. His son, the subject of the joint resolution, was born in Russia. Our statute, section 1993, provides that—

All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

His father has never resided in the United States. Therefore he can not take by descent. He is not a Russian subject. He therefore can not be naturalized, for he has no allegiance to renounce. He could have become a Russian subject and then come here and renounced his allegiance, but he declined to swear allegiance to the Czar. He can not even get a passport to leave the country. It had to be arranged by our ambassador there with the knowledge of the Russian state department, and he was allowed to come out on a letter which they gave him.

Mr. JOHNSTON of Alabama. He is a man without a country now, of course.

Mr. LODGE. The House report, which I shall ask to have printed in the RECORD, says that Eugene Prince is a citizen of no country on earth. I may add that his family have been settled in the town of Wenham, Mass., since 1643. So he may fairly be described as American stock.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. The committee recommend that the preamble shall be stricken out. It will be so ordered, without objection.

Mr. LODGE. I ask that the House report may be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[House Report No. 856, Sixty-second Congress, second session.]

Mr. SABATH, from the Committee on Immigration and Naturalization, submitted the following report, to accompany House joint resolution 220:

The Committee on Immigration and Naturalization, to which was referred House joint resolution (H. J. Res. 220) to grant American citizenship to Eugene Prince, reports the same without amendment and recommends that it be passed.

Eugene Prince is a citizen of no country on earth. His father is an American citizen residing in Russia; but under section 1993, Revised Statutes of the United States, American citizenship has not descended to Eugene Prince. On the other hand, as will be seen from the subjoined letters of the State Department and of the American ambassador at St. Petersburg, under Russian law Eugene Prince is not a Russian subject.

Prince is at present employed in Chicago, Ill., by the International Harvester Co. He is 22 years of age. It is impossible for him satisfactorily to meet the legal requirements of naturalization in the United States, as he has no allegiance to renounce.

The young man's history is as follows:

He comes of a family who settled in Essex County, Mass., in 1643. His relatives are residents of Wenham, Salem, Andover, and Cambridge, Mass.

As a young man his grandfather, George Henry Prince, left Salem, Mass., and went to St. Petersburg, Russia, to represent the firm of Messrs. W. Ropes & Co., of Boston, Mass., exporters of petroleum. Subsequently he became a partner of the firm, dying in Finland in 1900. George H. Prince's fifth child, John Henry Prince (father of Eugene Prince), was born in Russia and never resided in the United States, retaining, however, his American citizenship and acting as agent for various American firms, such as the Niles Tool Works, of Hamilton, Ohio, the Bethlehem Steel Works, etc. John Henry Prince is now about 49 years old. He is carried on the Russian records as an American citizen doing business in St. Petersburg under an annual permit of residence known as a "billet de sejour." Under the Russian law his offspring are also held to be American citizens.

Eugene Prince, the beneficiary under H. J. Res. 220, son of John Henry Prince, was born January 22, 1890. On completing his studies he became a clerk in the office of the International Harvester Co. at Moscow, Russia. As he approached the age of 21 years he determined to return to America and take up his residence, but soon found that there was difficulty about his citizenship and consequently about his passport for leaving Russia.

Under section 1993, Revised Statutes of the United States, American citizenship does not descend to the children of an American citizen who has never resided in the United States. Consequently, as John Henry Prince has never resided in this country, our diplomatic and consular officers in Russia could not recognize his son, Eugene Prince, as an American citizen and therefore could issue him no passport.

On the other hand, Russian law does not recognize Eugene Prince as a subject of the Czar, and therefore he could not get a passport as a Russian.

It appears that when an American resident in Russia desires to leave that country he must arm himself with a permit from the Russian Government allowing him to pass the border. This permit is only issued upon the presentation of his American passport. As Eugene Prince could present no American passport he could get no Russian permit to cross the border. Ambassador Rockhill and various consular officers interested themselves in the matter and affairs were finally adjusted temporarily through the good offices of Ambassador Guild. The Russian Government issued to Eugene Prince a special permit in the form of a letter, and then by the American consul he was passed over the border and put on the steamship at Libau, Russia.

Some time in 1911 Prince arrived in this country. After a visit to his relatives in Wenham, Mass., he entered the Chicago offices of the International Harvester Co., and at the same time made declaration of his intention to become an American citizen, should it prove impossible to obtain special legislation in his behalf. It now appears that this declaration does not and can not conform with the terms of the law. Unless this resolution is passed, Prince will be in a deplorable situation, without standing as a citizen of any country and without the possibility of returning to Russia because he can secure no passport either as an American citizen or as a subject of the Czar. And yet his chief value to his employers obviously arises from the fact that his knowledge of the Russian tongue and of Russian business methods makes him a most acceptable agent to send to Russia from time to time to straighten out difficulties and to help in the introduction of new lines of goods. Unless his way is open for free entrance into Russia and free exit from Russia his services to his employers will be of little or no value. He must probably content himself with a very inferior situation.

It is true that Eugene Prince could to some extent have solved the difficulty before leaving Russia had he been willing to take the necessary steps to obtain Russian citizenship. The opportunity was open to him under Russian law to swear allegiance to the Czar, to have himself received into a "class" so called, to pay certain fees and conform to some formalities. In this way he could have become a Russian subject and could have obtained a passport as such whenever he should desire to revisit Russia. Naturally enough, however, he had no desire to swear allegiance to the Czar, and then proceed at once to the United States for the purpose of renouncing that very allegiance. His convenience would have best been served by adopting Russian citizenship. He has passed the age for military service and no embarrassing obligations would have fallen to his lot. Nevertheless, it was and is repugnant to his sentiments to abandon his desire to be recognized as a citizen of the United States in view of his descent and in view of his training and sympathies and in view of the fact that until recently he always supposed that his American citizenship was an unquestioned fact.

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MARCH 12, 1912.

Hon. JOHN L. BURNETT,
House of Representatives.

SIR: With reference to your letters of February 10 and 17, 1912, concerning House joint resolution 220, providing for the citizenship of Eugene Prince, who was born in Russia of an American father who had never resided in this country, you are informed that this case has been informally and unofficially referred to a member of the Russian embassy, who confirms the conclusion already reached by the department that Mr. Prince did not acquire Russian nationality by the fact of his birth within the territory of Russia, the Russian law of nationality being based upon the jus sanguinis and not upon the jus soli. While it is believed that this information can be relied upon for the purpose you have in view, yet, if you so desire, the department will seek to obtain from the appropriate Russian authorities an official statement of the law applicable in this case. I venture the suggestion, however, that to obtain such a statement would not improbably require considerable time.

I have the honor to be, sir, your obedient servant,
HUNTINGTON WILSON,
Acting Secretary of State.

—

ST. PETERSBURG, *May 3, 1912.*

The honorable the SECRETARY OF STATE, *Washington.*

SIR: Referring to the department's unnumbered instructions of April 13 last, relative to the citizenship of Eugene Prince, I have the honor to report that under Russian law Mr. Prince can not be considered a Russian subject.

In determining the nationality of a native Russian in foreign lands the Russian law only considers the question of whether such individual obtained permission from his Government to renounce his allegiance thereto and to assume a foreign citizenship, or, if born in a foreign country, whether his parents were Russian subjects. Under this theory the Russian law applies the same test to foreigners who may be born or who reside in Russia.

Thus Mr. Prince, whose grandfather and father were Americans, is also considered an American, even though born in Russia. He had the opportunity of becoming a Russian subject at any time after five years' continuous residence, but did not do so.

I have the honor to be, sir, your obedient servant,
CURTIS GUILD.

—

[Section 1993, Revised Statutes of the United States.]

All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SANDERS:

A bill (S. 7252) to amend section 107 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911 (with accompanying papers); to the Committee on the Judiciary.

By Mr. BURTON:

A bill (S. 7253) granting an increase of pension to Lucy E. Richards; to the Committee on Pensions.

By Mr. ROOT:

A bill (S. 7254) for the relief of Nicholas Redmond and certain other Army officers and their heirs and legal representatives; to the Committee on Claims.

By Mr. GARDNER:

A bill (S. 7255) to remove the charge of desertion from the record of James L. Pierce (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7256) granting a pension to Mary J. D. Arkett (with accompanying papers); to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 7257) granting an increase of pension to Jennie E. Engle (with accompanying papers); and

A bill (S. 7258) granting an increase of pension to Margaret Staton, including Earnest M. Staton; to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 7259) granting a pension to Cornelia Coleman Bragg; to the Committee on Pensions.

By Mr. GORE (for Mr. OWEN):

A bill (S. 7260) providing for the sale of the remaining portion of the Choctaw and Chickasaw unallotted and segregated lands; to the Committee on Indian Affairs.

By Mr. BRADLEY:

A bill (S. 7261) granting an increase of pension to William L. Brown (with accompanying paper); to the Committee on Pensions.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. JONES submitted an amendment proposing to appropriate $50,000 for the establishment in Alaska of a fisheries experiment station, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Fisheries and ordered to be printed.

He also submitted an amendment proposing to appropriate $35,000 for the improvement of the Government road in the Mount Rainier National Park, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

OMNIBUS CLAIMS BILL.

Mr. CULLOM submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to lie on the table and be printed.

Mr. CATRON submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to lie on the table and be printed.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to be printed and, with the accompanying paper, to lie on the table.

Mr. CRANE submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to be printed and, with the accompanying paper, to lie on the table.

IRRIGATION AND RECLAMATION (S. DOC. NO. 869).

Mr. WORKS. Mr. President, I have here a paper on irrigation and reclamation by Francis G. Tracy, of New Mexico. It is a very interesting and instructive presentation of the question, containing valuable information in the way of statistics relating to the Reclamation Service and various other things. I should like to have it printed as a public document.

The PRESIDENT pro tempore. The Senator from California asks that the paper which he has described be printed as a public document. Is there objection? The Chair hears none, and it is so ordered.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolutions:

On July 1, 1912:

S. 3203. An act to authorize the sale of certain lands within the Umatilla Indian Reservation to the city of Pendleton, Oreg.

On July 3, 1912:

S. J. Res. 69. Joint resolution authorizing the licensing and employment of Otto Neumann Sverdrup as master of vessels of the United States;

S. 547. An act for the relief of Sarah A. Waite;

S. 1337. An act authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list and increasing the retired list by one for the purposes of this act;

S. 7018. An act to authorize the appointment of Harold Hancock Taintor to the grade of second lieutenant in the Army;

S. 2601. An act for the relief of Douglas B. Thompson;

S. 5046. An act to authorize the appointment of Shepler Ward FitzGerald and of Alden George Strong to the grade of second lieutenant in the Army;

S. 2127. An act for the relief of the heirs of Robert S. Gill; and

S. 6009. An act to increase the limit of cost of the United States post-office building at Huron, S. Dak.

On July 3, 1912:

S. J. Res. 94. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution in the class other than Members of Congress;

S. 462. An act for the relief of Slavo Ramadanovitch, of Cetigne, a Montenegrin subject, heir and administrator of Marcus Ramadanovitch, alias Radich, deceased;

S. 837. An act to reimburse the officers and crew of the lighthouse tender *Manzanita* for personal-property losses sustained by them on the foundering of that tender October 6, 1905;

S. 2427. An act for the relief of the legal heirs of A. G. Strain;

S. 3469. An act for the relief of the American Surety Co. of New York; and

S. 4751. An act for the relief of Albert S. Henderer.

MISSOURI RIVER BRIDGE.

Mr. McCUMBER. Before the unfinished business is taken up, I ask unanimous consent for the consideration of a bridge bill that will take only a moment. It is the bill (S. 7195) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Great Northern Railway Co., a corporation organized and existing under the laws of the State of Minnesota, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a bridge and approaches across the Missouri River at a point suitable to the needs of navigation, to be selected by said company and approved by the Secretary of War, either in the county of McKenzie or Williams, in the State of North Dakota, or the county of Dawson or Valley, in the State of Montana, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is expressly hereby reserved.

Mr. HEYBURN. The title does not state under the laws of what State the corporation was organized. It is in the body of the bill. I ask that that be stated.

The PRESIDENT pro tempore. The Secretary will again read that part of the bill.

The Secretary read as follows:

A corporation organized and existing under the laws of the State of Minnesota, its successors and assigns.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SCHOOL LANDS IN IDAHO.

Mr. PERKINS. I move that the Senate proceed to the consideration of House bill 24565, the naval appropriation bill.

Mr. HEYBURN. Will the Senator from California yield to me for a moment. I merely want to have taken from the calendar and passed a bill affecting school lands in my State.

Mr. PERKINS. I will yield for that purpose.

Mr. HEYBURN. I ask for the present consideration of the bill (H. R. 20684) providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation, in the State of Idaho.

Mr. BANKHEAD. If the Senator from California will yield to me I wish to make a motion which will take but a moment.

The PRESIDENT pro tempore. The Senator from Idaho has asked unanimous consent to call up a bill from the calendar.

Mr. HEYBURN. It is a matter that should involve no discussion.

Mr. BANKHEAD. After that is disposed of I will ask for recognition.

The PRESIDENT pro tempore. The Senator from Idaho asked the Senate to proceed to the consideration of the bill (H. R. 20684) providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation in the State of Idaho.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NAVAL APPROPRIATION BILL.

Mr. BANKHEAD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Alabama?

Mr. PERKINS. I will yield as soon as the naval appropriation bill is laid before the Senate.

The PRESIDENT pro tempore. The Senator from California moves that the Senate now proceed to the consideration of House bill 24565, being the naval appropriation bill. Is there objection?

Mr. MYERS. What bill is that?

The PRESIDENT pro tempore. That is the naval appropriation bill.

Mr. MYERS. Has the morning business been concluded?

The PRESIDENT pro tempore. The Chair is not sure that the announcement was made, but it has in fact been concluded. The Chair will now say that, unless the Senator has morning business——

Mr. MYERS. I wanted to make a motion before the morning business was closed. I ask the Senator from California if he will withhold his motion, so that I may make a motion?

The PRESIDENT pro tempore. The Chair has not made the announcement, and therefore the Senator may submit the matter.

INDIAN APPROPRIATION BILL.

Mr. MYERS. Mr. President, on Wednesday of this week, during my necessary and unavoidable absence, the Senate took up and passed to a third reading, and finally passed, House bill 20728, being the Indian appropriation bill. There were considered during the proceedings several amendments that mean very much to the people of Montana. Some of those amendments were passed upon adversely. There was no one on the floor of the Senate to speak for Montana, to speak for those most interested. I regret very much that it was absolutely impossible for me to be here, and I know that the action of the Senate in taking up the bill and passing adversely on matters of great importance to the people of Montana was unintentionally and inadvertently taken in my absence. Of course, I know that no one would think of doing it intentionally. I understand the excitement and rush of affairs that have been on in the Senate for some days past and the irregularity of proceedings; but, while it may or may not do any good, I should like very much for the people of Montana to be allowed, at least, to be heard, to have a word spoken in their behalf in those matters before they are finally passed upon. I am satisfied that the Senate will agree thereto. In fact, I have been so assured by the Senator from Minnesota [Mr. CLAPP], who is in charge of the bill.

I move that the vote by which House bill 20728 was passed be reconsidered. My object in making that motion is simply that there may be a review of the action of the Senate on two or three amendments, and then the Senate may do what it may see fit after I have made a statement.

Mr. LODGE. Mr. President, I have never before heard of reconsidering the vote by which an appropriation bill was passed and bringing it back to the Senate because Senators for any reason were unable to be present and take part in discussing amendments. It seems to me, if we enter on the recalling of appropriation bills so as to discuss amendments which have been voted down or voted in, there will be absolutely no end, no finality, to the business of the Senate. I hope such a motion will not be adopted.

Mr. MYERS. Mr. President, since I have been a Member of this body, which is now 16 months, I have been absent but 5 days during its sessions—3 days this week, Monday, Tuesday, and Wednesday, on account of the Democratic national

convention at Baltimore; 1 day this session previous thereto, upon which I was in attendance at the funeral of a relative near here; and 1 day during the special session last summer, during which I was confined to my bed by illness. Five days have I been absent from the sessions of this body—1 day by illness, 1 by reason of a funeral, 2 days by reason of being a delegate to the Democratic national convention at Baltimore, and 1 day only, Wednesday of this week, on account of pressing private business and family matters, which rendered my absence absolutely unavoidable.

I was much surprised yesterday to learn that the Senate had taken up the Indian appropriation bill, when neither Senator from Montana was on the floor to be heard and when that bill involved amendments amounting to hundreds of thousands of dollars of appropriations for reclamation work upon Indian reservations in Montana, and this, too, when, as I have said, there was not a voice to be heard here on behalf of the people of Montana. I did not learn anything about it until yesterday; I had no means of knowing that that bill was to be taken up on Wednesday—the one day out of my 16 months of service here when I was necessarily and unavoidably absent on account of private business and family matters. This bill was not on any calendar. I had received no notice that it was to be taken up. The unfinished business of the Senate was the chemical tariff bill. I was paired with the Senator from Connecticut [Mr. MCLEAN] and supposed that that pair would protect me on all matters that might come before the Senate.

I arrived here from Baltimore about 5 o'clock Wednesday afternoon. I could not possibly be ready to leave Baltimore until 12.30 o'clock. I then found that the next train did not leave until 2.43 o'clock; but that train was late in arriving at the depot in Baltimore, and it was further delayed on the way, so that it was about 5 o'clock when I arrived here. I went to my office, knowing, as I have stated, that I had a pair with the Senator from Connecticut and supposing that I would be protected on all matters coming before the Senate; but I found awaiting me 10 days' accumulated mail, which I started to look into. I had not finished looking over my mail until the sound of the electric bell notified me that the Senate had adjourned for the day. I repeat I had no way of knowing that that bill would come up that day.

Mr. LODGE. Mr. President, if the Senator will allow me, the notice of the acting chairman of the committee of his intention to call up that bill was on the front page of the calendar for days and days.

Mr. MYERS. Well, I had not seen it, and my secretary informed me it was not there.

Mr. LODGE. That is really not the fault of the calendar.

Mr. MYERS. No; I will admit that. If such notice was on the calendar I was not aware of it.

Mr. ASHURST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Arizona?

Mr. MYERS. I yield to the Senator from Arizona.

Mr. ASHURST. Mr. President, the RECORD will show distinctly that on Monday last, while we were discussing the Indian appropriation bill, the Senator from Minnesota [Mr. CLAPP] asked that the consideration of the portion of the bill relative to Montana be deferred until the return of the Senator from Montana, and it was the understanding that those items were to be passed over.

Mr. CLAPP. Mr. President, I doubt whether that is an exact statement of the situation. Of course, I knew that many Senators were away on Monday and Tuesday last. I think the suggestion was made that, in view of the absence of the Senator from Montana, the items in reference to his State be passed over at that time. I supposed that on Wednesday morning all Senators were in Washington, though not necessarily in the Chamber until they might find it to their convenience to be here. At the same time, so far as I am personally concerned, rather than have any misunderstanding of the slightest nature as to the naval appropriation bill—I would not want to interrupt the consideration of that bill at this time—after the passage of that bill, while it is an unusual proceeding and a most undesirable precedent to establish, if the Senate feels so inclined, I certainly, for one, would have no objection to again bringing the Indian bill before the Senate for the purpose of permitting the Senator from Montana to urge the amendments to which he refers.

Mr. LODGE. I simply want to call attention to the fact that on June 27, 1912, the Senator from Minnesota [Mr. CLAPP] gave notice that on Monday, July 1, following the routine morning business, he would ask the Senate to take up and consider the Indian appropriation bill. That notice remained on the calendar until the bill was disposed of. It never went off the calendar; it was there every day.

Now, Mr. President, one word. I appreciate the Senator's close attendance here; I appreciate the importance of the amendments to which he refers; but if we are to have appropriation bills reconsidered and brought back here, the necessary business of the Congress will never be done. Here we are trying to get through the work of the session in some reasonable time in this hot weather, and if we bring that bill back and reconsider the vote by which it was passed, we shall reopen the whole bill. It seems to me that there will be no end to it if we begin to reconsider and bring back appropriation bills.

Mr. OVERMAN. Can we not get unanimous consent to take up nothing else but the items referred to by the Senator from Montana? With that understanding, I think the Senator will agree to let the bill come up.

Mr. MYERS. There are only three amendments.

Mr. LODGE. Is every Senator to have the same privilege?

Mr. OVERMAN. No; not at all. This is an exceptional case.

Mr. LODGE. If for any reason a Senator is not here when an appropriation bill passes, is he to have the right to have it brought back?

Mr. OVERMAN. The items to which the Senator from Montana refers will not take half an hour.

Mr. LODGE. Very well. I am speaking of the principle. If we make the concession to one Senator, every other Senator will have a right to make the same request when by any misfortune or by any necessity he is absent from the Senate and finds that some amendment has passed or failed to pass in which he is interested. He will have a right to have a great appropriation bill brought back and reconsidered when perhaps we are on the eve of adjournment in a short session on the 4th of March.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Montana if there was any item affecting Montana in the Indian appropriation bill as it passed the House that was stricken from the bill by the Senate?

Mr. MYERS. I believe not, Mr. President. The amendments that were defeated were amendments proposed by the Senate Committee on Indian Affairs, which increased some appropriations over the amounts the House had allowed.

Mr. SMOOT. I should like to ask the Senator, then, were any of the increases that were recommended estimated for by the department?

Mr. MYERS. My understanding is that they were recommended by the Reclamation Service. I will ask the Senator from Minnesota [Mr. CLAPP] if there was not some recommendation along that line?

Mr. SMOOT. I will ask the acting chairman of the committee, who has the bill in charge, was there an item affecting Montana in the Indian appropriation bill as it passed the House that was stricken out in the Senate?

Mr. CLAPP. Mr. President, I will answer that question and perhaps avoid further questions by going a little further than merely making the answer the question would require.

There were two unimportant provisions of the Indian appropriation bill as it passed the House about which the Senator from Montana, as I understand, makes no contention. Then there were certain increases which the Senate committee proposed, some to the extent of the estimates and some in excess of the estimates. The particular item which was recommended by the Reclamation Service was allowed to stand. The increases which the Senate committee recommended were cut down in the Senate to the amounts estimated for.

Mr. SMOOT. So that the bill provides for all the amounts that were estimated for?

Mr. CLAPP. Yes; all that the estimates covered.

Mr. LODGE. Then it would be perfectly useless to go back, because a point of order would take them all out.

Mr. CLAPP. There was one item, which appears on page 33, that was objected to on a point of order, and the point of order was sustained.

Mr. SMOOT. Then, of course, the Senator from Montana could not have it adopted if the bill was reconsidered, because the same point of order would be made against it. The amounts estimated for are in the bill, and a point of order would lie against an amendment increasing the amount, so that it would be useless to bring the bill back to the Senate.

Mr. MYERS. I am not seeking to bring up anything against which a point of order was made.

Mr. SMOOT. I understand the Senator is not, but the Senator is seeking to bring the bill back into the Senate for the purpose of increasing certain appropriations, and those increases are increases over the amounts estimated for by the department.

Mr. MYERS. Well, is that new business?

Mr. SMOOT. The increases would be subject to a point of order.

Mr. LODGE. The increases not being estimated for, would go out on a point of order.

Mr. SMOOT. Yes; they are not estimated for and would go out on a point of order.

Mr. SWANSON. Mr. President——

Mr. MYERS. Mr. President, I believe I have the floor, but I will yield to any Senator who wishes to speak.

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Virginia?

Mr. MYERS. Certainly.

Mr. SWANSON. Mr. President, it seems to me the request submitted by the Senator from Montana ought certainly to be acceded to by the Senate. His only request is that we may reconsider the Indian appropriation bill to give him an opportunity to present, for the consideration of the Senate, certain amendments very material to the well-being of Montana. He has explained to the Senate very clearly how he was misled and the reason for his absence. It seems to me we can conduct the business here more rapidly and more satisfactorily if the request of the Senator from Montana, which is a reasonable one, is granted.

The bill has not left the Senate; a motion for the reconsideration of the entire bill is in order; the acting chairman of the committee says he is willing that a motion to reconsider be agreed to; but the Senator from Montana does not ask that; he simply asks that the bill be reconsidered by unanimous consent to the extent of permitting him to offer three amendments very important to his State. Whether they will pass or not pass, he is entitled to the privilege of having them presented for the consideration of the Senate.

Mr. LODGE. And entitled to the privilege of having a point of order made against them.

Mr. SWANSON. As I understand, the Senator from Montana says that he will offer no amendment that will be subject to a point of order.

Mr. LODGE. If the amendments propose amounts beyond the estimates the Senator from Virginia knows as well as I do that they are subject to a point of order.

Mr. SWANSON. Increases?

Mr. LODGE. If they are beyond the estimates they are subject to a point of order.

Mr. SWANSON. Beyond the estimates?

Mr. LODGE. Certainly; of course they are.

Mr. CLAPP. Mr. President, if Senators will pardon me a moment, I wish to make a suggestion.

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Minnesota?

Mr. MYERS. Certainly.

Mr. CLAPP. My impression is that, if the Senator will go through the various items in the Indian appropriation bill, he will find that, with the exception of the item against which the point of order was made, the items were adopted. So his motion might rest for the present and we can go on with the naval appropriation bill. The Senator can then go over the items, and possibly he will be satisfied with them as they have been disposed of, if not, he can bring in a concrete suggestion as to the particular matters he desires to bring up.

Mr. SWANSON. I should like to call the attention of the Senator from Minnesota to what the RECORD shows about this matter:

> Mr. CURTIS. In view of the fact that the Montana Senators are absent, I suggest that we pass over the Montana amendments and take them all up at one time. I understand there are other amendments in the bill to be passed over, and I presume there will be no objection to this course.
>
> Mr. CLAPP. There is no objection to it.
>
> The PRESIDING OFFICER. If there is no objection, the amendments under the heading "Montana" will be passed over for the present.

So that on account of the absence of the Montana Senators the matter went over. All the Senator from Montana now asks is to have the privilege of bringing certain amendments up for the consideration of the Senate.

Mr. SMOOT. That was on Monday, was it not, Senator?

Mr. SWANSON. Monday.

Mr. SMOOT. If the view reached by the Senator was carried to its logical conclusion when the bill came up in the Senate on Wednesday and was ready for passage, it should have been laid aside until the Senator arrived.

Mr. SWANSON. It was impossible for the Senator to arrive in time. This was an unusual occurrence. A Democratic convention meets only once in four years. It does not meet every week. Consequently the exigency was unusual.

Mr. SMOOT. It does seem to me that the suggestion of the Senator from Minnesota is a sensible one. Let the Senator from Montana take each of the items and see whether a point of order will lie against them. If it will, there is no need of bringing the bill back to the Senate. If it will not, then we can take up the question for further consideration.

Mr. MYERS. I will say, in reply to some of the suggestions that have been made, that these increases were recommended by the Senate Committee on Indian Affairs, and, according to my understanding, that eliminates them from the schedule of new business and makes them in order.

Mr. SMOOT. That is not the rule. If they fall within the rule of not being estimated for, they will go out on a point of order. I have no doubt the rule of this body is such that a point of order would lie against the amendments.

Mr. SMITH of Georgia. If the committee recommends them they can be considered.

Mr. SMOOT. That is only a recommendation. That does not put them in a position where a point of order will not lie against them.

Mr. CLAPP. Mr. President, this is the next legislative day, a day within which the motion to reconsider can be made and save the point. It holds the bill here now. In the meantime we can go into these matters.

Mr. MYERS. Yes; I understand that thoroughly. I want to say a few words further if I may, without interruption, in reply to some things which have been said.

The Senator from Massachusetts [Mr. LODGE] called my attention to the fact that on the 27th of last month the Senator from Minnesota [Mr. CLAPP], the acting chairman of the committee, gave notice that he would move last Monday to call up the bill. I was not here on the 27th day of June, and I have not seen the calendar since then until yesterday.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Massachusetts?

Mr. MYERS. Certainly.

Mr. LODGE. The Senator from Minnesota gave notice on May 31 that he would call up the act making appropriations for Indian affairs at the earliest possible moment, and that notice was carried on the face of the calendar for one month.

Mr. MYERS. I did not know what the earliest possible moment would be. I am not endowed with divine foreknowledge of these things. I could not have foreseen that the bill would be called up day before yesterday.

Mr. LODGE. The Senator from Minnesota gave notice that he intended to call it up immediately after the routine morning business at the very first opportunity, and he gave that notice a month ago.

Mr. MYERS. I did not know when the first opportunity would be. The Senator from Massachusetts may have; I did not.

Mr. LODGE. It served to put the Senator on notice, inasmuch as the notice appeared on the calendar.

Mr. MYERS. I presume I was supposed to remain here every second of the time from the 31st of May to the very hour when the bill was called up, in order to keep business that affects the people of the State of Montana from being railroaded to an adverse decision in my absence one day out of the 16 months I have been a Member of this body.

Mr. WILLIAMS. Mr. President, it seems to me that what the Senator from Montana asks is something that is merely fair. We entered into a sort of gentleman's agreement that no important business should be taken up between certain dates. At the time we entered into that agreement we thought that those dates would cover the two great national conventions. As a matter of fact, the agreement did cover the Republican convention, and protected every Republican Senator—every one. The spirit of the agreement was for mutual protection. The agreement was that no important legislative matter should be taken up.

But, as a matter of fact, the Democratic national convention lasted not only longer than anybody expected, but I believe longer than any other one ever did.

Mr. LODGE. Will the Senator from Mississippi allow me for a moment?

Mr. WILLIAMS. Yes.

Mr. LODGE. I want that agreement carried out in spirit as much as the Senator does. I want it to cover both conventions. As it covered the Republican, I want it to cover the Democratic convention; and if this had happened on Monday or Tuesday I should not have said one word, but it happened on Wednesday, after the conclusion of the Democratic convention,

and Baltimore is within a comparatively short distance of Washington.

Mr. WILLIAMS. I did not know that. I thought the matter had been brought up on Monday.

Mr. SMOOT. I should like to call the attention of the Senator also to the fact that we were so careful that the spirit of the agreement should be carried out that even the unanimous-consent agreement that was made for Tuesday failed.

Mr. WILLIAMS. I said what I did then under a misapprehension of the facts. I thought it occurred while the Baltimore convention was in session.

Mr. MARTIN of Virginia. I think the Baltimore convention did not adjourn until 2 o'clock Wednesday morning. Therefore a Senator can not be said to have been derelict in not being here when the bill came up on Wednesday, he being detained in the convention hall until 2 o'clock in the morning of Wednesday. But, independently of that, it seems to me that Senators are antagonizing a reasonable motion. There seems to be an indisposition to allow a fair hearing in respect to a matter which very much concerns a Senator who was unavoidably absent on that occasion.

Mr. LODGE. I thought it had been arranged, on the suggestion of the Senator from Minnesota, that he go over the question with the Senator from Montana, and if the point of order would not lie, the matter would be taken up. The motion to reconsider has been entered.

Mr. MARTIN of Virginia. If that is agreeable to the Senator from Montana, I shall have nothing more to say.

Mr. MYERS. It is.

Mr. President, I wish to say a few words on this subject. I suppose I have been guilty of consuming an entirely undue proportion of the time of this body, to the exclusion of those Members who have practically nothing to say, but I will trespass a little further.

I have been here for 16 months. I have time and again heard the request made on the floor of the Senate that certain business be allowed to go over because a State that had an interest in such legislation was not represented on the floor or because a Senator who was interested in it was not present on the floor. I have never objected to any of those requests. I have favored all of them. I have myself made request that legislation go over because a Senator who was interested in it was not present. I am astounded, I am amazed, that this bill was put through on Wednesday, and that amendments involving hundreds of thousands of dollars, in which the people of Montana are interested, were decided adversely in the absence of both Senators from Montana. I repeat emphatically I am amazed that it was done.

I would have thought that there would have been some one Senator, be he Democrat or Republican, on this floor who would have arisen and called attention to the fact that Montana was not represented on the floor of the Senate and asked that that part of the bill be allowed to go over. I have made those requests myself, and I have seen it done time and again, and I have never objected to it, and it seems to me that it might have been done for me and my colleague on Wednesday; but it was not.

These amendments in which I am interested were not offered by me; they were offered by my colleague; but, nevertheless, I am no less interested in them; and I consider it as much my duty to say what the people of Montana wish said about them as if they were my own amendments and I had offered them. I feel just as much interested in them as if they were my own amendments; I feel there is just as much merit in them as if they were my own amendments; and even if the Senators from Montana are not entitled to sufficient consideration to be allowed to be present when matters of this kind are considered, I think the State of Montana and the people of the State of Montana are entitled to that much consideration.

Now, Mr. President, having made a motion to reconsider the vote by which the bill passed the Senate, and understanding that the bill is retained in the possession of and under the jurisdiction of the Senate, and that my motion will protect any rights I may have or interests I may desire to further in the bill, and not desiring to be in the way of anything else, and understanding that the Senate wishes to take up the naval appropriation bill, I will let the motion lie over until after the naval bill is disposed of, and then I will call it up.

I will say further, while I have the floor, that I gave notice some time ago that to-day I would submit to the Senate some remarks on the right of Mr. LORIMER, a Senator from the State of Illinois, to a seat in this body. I have not been able to give the matter the exhaustive attention and investigation I had desired or to make the analysis I had desired of the law and the facts in the case, and would have to confine myself to a few extemporaneous remarks; but, understanding that it is the desire to get the naval bill under consideration to-day and finish it if possible, I will waive my right to speak on the Lorimer case to-day and will let it go over until to-morrow, and will endeavor to get an opportunity to make what remarks I may see fit in the general discussion, which will begin to-morrow and continue until that matter is disposed of.

STANDARD GRADES FOR APPLES.

Mr. BANKHEAD. I ask that the Committee on Standards, Weights, and Measures be discharged from the further consideration of the bill H. R. 21480, and that is be referred to the Committee on Interstate Commerce.

The PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the order as agreed to was reduced to writing, as follows:

Ordered, That the Committee on Standards, Weights, and Measures be discharged from further consideration of the bill (H. R. 21480) to establish a standard barrel and standard grades for apples when packed in barrels, and for other purposes, and that it be referred to the Committee on Interstate Commerce.

NAVAL APPROPRIATION BILL.

Mr. PERKINS. I ask that the Senate proceed with the naval appropriation bill.

The Senate, as in Committee of the Whole, resumed consideration of the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes.

Mr. LODGE. On page 4 the clerk very naturally said "strike out lines 4 to 10 and insert." There is nothing to be inserted. Those are two entirely distinct amendments. To strike out lines 4 to 10 is one amendment, and the clause in italics is another amendment. They have no relation to each other and should be disposed of separately. I think we can do that now.

The PRESIDENT pro tempore. The question is on the amendment striking out lines 4 to 10.

Mr. LODGE. That is the pending question.

The PRESIDENT pro tempore. Without objection, the amendment will be agreed to.

Mr. LODGE. Now comes the new amendment.

The PRESIDENT pro tempore. The amendment will be stated.

The amendment was, on page 4, after line 10, to insert:

That hereafter commissioned officers of the staff corps of the Navy who are graduates of the Naval Academy below the rank of captain shall be promoted in rank with the officer of the line with whom or next after whom they take precedence on the list of order of precedence of the Navy, and to carry out this provision temporary changes shall be made, when necessary, in the numbers of the various grades and ranks established by law for the staff corps: *Provided*, That there shall be no other promotion in grade or rank in any staff corps except in accordance with this act and all laws and acts in conflict with this provision are hereby repealed: *Provided further*, That nothing herein contained shall be held to increase the total number of officers in any staff corps as now fixed by existing laws and provided for in this act.

Mr. PERKINS. I desire, on the part of the committee, to correct the amendment by striking out the words "who are graduates of the Naval Academy."

The SECRETARY. On page 4, in the committee amendment, line 12, strike out the words "who are graduates of the Naval Academy," so that if amended it will read:

That hereafter commissioned officers of the staff corps of the Navy below the rank of captain shall be promoted, etc.

The PRESIDENT pro tempore. Without objection, the amendment to the amendment is agreed to.

Mr. LODGE. I merely desire to say that I, and I think the Senator from Minnesota and perhaps one or two other members of the committee, agreed to this amendment with that limitation. It is clearly open to a point of order, and with that limitation stricken out I make the point of order on the clause.

The PRESIDENT pro tempore. Does the Senator from Massachusetts understand that the amendment has been agreed to striking out the words?

Mr. LODGE. I do. I did not desire to oppose the amendment, but if there is to be no limitation on this great increase of pay and rank, I desire to make a point of order.

Mr. PERKINS. I call the attention of the Senator from South Carolina to it.

Mr. LODGE. I make the point of order, and I suppose that is all there is before the Senate, is it not?

The PRESIDENT pro tempore. That is the question before the Senate. The amendment has not yet been reported to the Senate.

Mr. LODGE. It was read the other afternoon.

The PRESIDENT pro tempore. The Chair is informed that it has been, and the Chair is now informed that a point of order was made against it by the Senator from Kansas [Mr. BRISTOW]. So the pending question is on the point of order.

Unless something is to be suggested to the contrary, the Chair sustains the point of order.

The next amendment was, on page 6, after line 18, to insert:

Hereafter any naval officer on the retired list may, in the discretion of the Secretary of the Navy, be ordered to such duty as he may be able to perform at sea or on shore, and while so employed in time of peace shall receive the pay and allowances of an officer of the active list of the grade from which he was retired: *Provided*, That no such retired officer so employed on active duty shall receive, in time of peace, any greater pay and allowances than the pay and allowances which are now or may hereafter be provided by law for a lieutenant commander on the active list of like length of service: *And provided further*, That any such officer whose retired pay exceeds the highest pay and allowances of the grade of lieutenant commander, shall, while so employed in time of peace, receive his retired pay only, in lieu of all other pay and allowances.

Mr. NELSON. I desire to call the attention of the chairman of the committee to the fact that under this amendment, on page 6, lines 22 and 23, a retired officer when put on active duty gets the pay and allowances of the grade at which he is retired. Now, that is unfair for this reason: In many instances just before they are retired they are given an extra grade, and they are given this pay on the extra grade which was given to them just as they were retired.

Mr. LODGE. The proviso, if the Senator will allow me, cuts it down.

Mr. NELSON. It does cut it down in some cases, but not in all cases.

Mr. LODGE. It cuts it down to the rank of lieutenant commander, and there are very few retired officers below that rank. This is to stop the employment of retired officers. That is the point of the amendment. It leaves the grade of lieutenant commander as the only retired pay. They now get full pay if they are put on active duty above the grade of lieutenant commander.

The amendment was agreed to.

The next amendment was, on page 7, after line 8, to insert:

The act "to authorize and provide for the disposal of useless papers in executive departments," approved February 16, 1889, is hereby amended so that accumulations in the files of vessels of the Navy of papers that, in the judgment of the commander in chief, are not needed or useful in the transaction of current business and have no permanent value or historical interest may be disposed of by the commander in chief by sale, after advertisement for proposals, as waste papers if practicable, or if not practicable, then otherwise, as may appear best for the interests of the Government, the commander in chief to make report thereon to the Secretary of the Navy: *Provided always*, That no papers less than two years old from the date of the last indorsement thereon and no correspondence, or the related papers, with officers or representatives of a foreign Government shall be destroyed or disposed of by such commander in chief.

The amendment was agreed to.

The next amendment was, on page 8, beginning with line 1, to insert the following:

Hereafter the commander in chief of the United States Atlantic Fleet and the commander in chief of the United States Pacific Fleet, respectively, shall each, after being designated as such commander in chief by the President, and from the date of assuming command of such fleet until his relinquishment of such command, have the rank and pay of an admiral; and in each of the above-named fleets the officer serving as second in command thereof shall each, after being designated as such second in command by the President, and from the date of assuming duty as such second in command until his relinquishment of such duty, have the rank and pay of a vice admiral; and the grades of admiral and vice admiral in the Navy are hereby reestablished and authorized for the purposes of this section. The annual pay of an admiral shall be $12,000 and of a vice admiral $10,000: *Provided*, That in time of peace officers to serve as commander in chief and as second in command of the two said fleets shall be designated from among the rear admirals on the active list of the Navy: *And provided further*, That nothing herein contained shall create any vacancy in any grade in the Navy nor increase the total number of officers allowed by existing law, and that when an officer is detached from duty as such commander in chief or as such second in command, as above provided, he shall return to his regular rank in the list of rear admirals, and shall thereafter receive only the pay and allowances of such regular rank.

Mr. BRISTOW. Mr. President, I desire to make a point of order on that amendment.

Mr. PERKINS. Mr. President, before the Chair rules upon the point of order I desire to state that the Committee on Naval Affairs of the Senate consists of 15 members; it has given consideration to 40 or 50 amendments that have been presented to them, and no amendment has been recommended by the committee unless it has the approval of the entire committee, with one exception.

It seems just and proper from every standpoint that we should establish these grades. Other nations have admirals. England has 4 admirals of the fleet; Germany, 2; Japan, 1. England has 12 admirals; Germany, 5; Japan, 7. England has 22 vice admirals; France, 15; Germany, 12; Japan, 20. England has 55 rear admirals; France, 30; Germany, 22; Japan, 38.

Of course the committee made this recommendation after consulting with the Navy Department. I am sorry that we did not have the benefit of the counsel and advice of the Senator from Kansas, but he has had quite enough to do on the Committee on Military Affairs. That committee brought in more legislation on the military appropriation bill than on any bill that has been presented in my recollection during the 19 years that I have been here. Nevertheless your committee has recommended this amendment and also other amendments. I think as a question of policy it ought to be adopted.

I send to the desk a letter from the head of the department in relation to this matter and ask the Secretary to read it.

The PRESIDENT pro tempore. The Senator from California asks that the communication which he sends to the desk may be read. Without objection, it will be read by the Secretary.

The Secretary read as follows:

THE SECRETARY OF THE NAVY,
Washington, June 11, 1912.

Hon. GEORGE C. PERKINS,
Chairman Committee on Naval Affairs,
United States Senate.

MY DEAR MR. CHAIRMAN: In accordance with a telephone request from your office this morning referring to page 8, lines 1 to 26, H. R. 24565, the department believes that the enactment of a measure reestablishing the higher grades of flag officers has now become of urgent necessity. This opinion is based on the principle that rank should be commensurate with the importance of the command and should be higher than that of subordinate officers in the same command, also on a consideration of the material national interests likely to become involved.

Fleets are properly commanded by admirals; squadrons, which are smaller than fleets, by vice admirals; and divisions, which are smaller than squadrons, by rear admirals.

The Atlantic Fleet contains five divisions, organized into two squadrons and a separate cruiser division. The proper officers are 1 admiral, 2 vice admirals, and 3 rear admirals; actually all 6 flag officers are of the same rank, rear admiral.

It is customary in international cooperation for the supreme direction to be intrusted to the ranking officer of the combined forces, this irrespective of the standing and interest of his country or of the strength and importance of his command.

There have been fleet reviews recently in England, France, Germany, and the United States. Had these several fleets been cooperating, the American commander in chief would have been outranked by 3 admirals, 10 vice admirals, and 17 rear admirals.

England, France, Germany, and Japan have in the aggregate 243 flag officers, of whom 100 are of higher rank than rear admiral.

The authorized number of flag officers of the United States Navy, apart from the Admiral of the Navy, who holds his office by special provision of law, is 18 rear admirals.

Such conditions are at variance with the importance of the present flag commands in the Navy and with the country's material national interests. They would be somewhat ameliorated by the creation of the limited number of higher flag officers. Believe me,

Faithfully, yours,

G. V. L. MEYER.

Mr. LODGE. Mr. President, this amendment is open to the point of order, but I hope that it will not be made. The House committee reported this provision and it went out on a point of order in the House. This committee reported it unanimously, as did the House committee.

I desire to assure the Senate that it is of very great importance. It has become important owing to the growth of the American Navy into fleets. We now have two fleets. As we are now doing, it is exactly like trying to run the Army with nothing but colonels. It is necessary to have brigadier generals. It is necessary to have major generals. It is necessary in certain cases to have a lieutenant general and general.

We have now an Admiral, of course, created, as is well known, for distinguished service. But this is a provision merely for fleet command. It is to give them proper rank and proper organization when in command of a fleet.

It also gives them during their service as vice admiral or admiral, and no longer, only for the year or two that they have that position, an increase of pay. It will amount to a very few thousand dollars in the long run, because there will not be, at the outside, more than four, owing to the divisions of the fleet. They are obliged to go to foreign ports, and a great burden is thrown upon them, for which provision is made in every other navy by allowances for expenses of entertainment. They have to carry this expense out of their not very large pay now.

It is absolutely necessary, Mr. President, I think, that we should have these ranks if we are to have a proper arrangement of fleets and squadrons and divisions.

Mr. BRISTOW. It seems to me from the facts that can be gleaned from the records of the military establishments of the United States the principal purpose of the higher grade is for retirement privilege.

Mr. LODGE. The Senator understands, of course, that this does not retire them.

Mr. BRISTOW. But it creates the rank of admiral and rear admiral.

Mr. LODGE. Only during the absolute time of command of the fleet. The moment they leave the command they retire. They retire as rear admirals.

Mr. BRISTOW. I can not see any reason why in the command of these fleets the senior officers can not assume command as they always have done heretofore and as they do now.

I wish to call the attention of the Senate to a significant fact. There are now on the retired list 210 rear admirals. A rear

admiral is the highest grade in the Navy at this time. The retired pay of the rear admirals is $1,105,500 per annum. In the grade of commodore, which is the next grade below rear admiral, there are 49 retired commodores. Taking the Army there are 236 retired brigadier generals and but 27 brigadier generals in the active service.

I make the point of order against this amendment because it is general legislation, and I do not think it ought to be enacted on an appropriation bill.

Mr. POINDEXTER. Mr. President, I do not desire to discuss this question, but on another matter after the Chair has ruled.

The PRESIDENT pro tempore. The point of order is sustained.

Mr. POINDEXTER. I ask to turn back in the bill which is under consideration to page 3, the amendment on which a point of order was made by the Senator from Kansas [Mr. BRISTOW], beginning on line 9, and including the intervening lines to line 13. I was not present when that matter was disposed of. I notice from the RECORD that there must have been a misapprehension as to the effect of the amendment. The Senator from Kansas stated in making the point of order, as I notice from the RECORD of July 3, that the effect of the amendment would be to retire officers at a higher grade than the one which they held. He said:

I raise the point of order on the amendment that it is new legislation. It is advancing all officers to a grade higher upon retirement than they held.

Mr. BRISTOW. I desire to state that at the time I made that remark I was under the impression that it was another amendment, but after considering the amendment and knowing what its application is, I would still make the point of order against it, because I do not believe it is proper legislation. I think when an officer is confirmed his term of office should begin the same in military life as in civil life.

Mr. POINDEXTER. Of course, if the Senator insists on his point of order, in view of the actual effect of the amendment, I have nothing to say, but I hoped very much that the Senator would withdraw the point of order. The effect of the amendment is simply to allow officers to draw pay of the rank which their commission calls for from the date of the commission.

Mr. BRISTOW. From the date of the commission instead of the date of the confirmation. I think it should be the date of confirmation as the law now requires. I do not see why the law should be changed.

Mr. POINDEXTER. The commissions are issued bearing a certain date. It is my opinion, and in that I am perfectly clear, that the officer ought to draw the pay his commission calls for.

Mr. BRISTOW. He is not in that grade until the Senate confirms his appointment.

Mr. POINDEXTER. When the Senate confirms his appointment it dates from the date of the commission.

Mr. BRISTOW. My contention is that the Senate is just as much a part of the appointing power as is the Executive, and until the Senate performs its act the appointment is not made.

The reading of the bill was resumed. The next amendment was, under the subhead "Pay, miscellaneous," in the item of appropriation for commissions and interest, on page 10, line 20, after the words "two hundred and," to strike out "$54,654.25" and insert $80,000," so as to make the proviso read:

Provided, That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for clerical, inspection, and messenger service in navy yards, naval stations, and purchasing pay offices for the fiscal year ending June 30, 1913, shall not exceed $280,000; in all, $1,000,000.

The amendment was agreed to.

The next amendment was, on page 11, after line 11, to insert:

That the term of enlistment of all enlisted men of the United States Navy other than those who are enlisted during minority shall be four years.

The amendment was agreed to.

The next amendment was, on page 11, after line 14, to insert:

That the term of enlistment of any enlisted man in the Navy may, by his voluntary written agreement, under such regulations as may be prescribed by the Secretary of the Navy, with the approval of the President, be extended for a period of either one, two, three, or four full years from the date of expiration of the then existing four-year term of enlistment, and subsequent to said date such enlisted men as extend the term of enlistment as authorized in this section shall be entitled to and shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of their term of enlistment, and such extension shall not operate to deprive them upon discharge at the termination thereof of any right, privilege, or benefit to which they would be entitled at the expiration of a four-year term of enlistment.

The amendment was agreed to.

The next amendment was, on page 12, after line 4, to insert:

That section 1,573 of the Revised Statutes of the United States be, and the same is hereby, amended to read as follows: "If any enlisted man or apprentice, being honorably discharged, shall reenlist for four years within four months thereafter, he shall, on presenting his honorable discharge or on accounting in a satisfactory manner for its loss, be entitled to a gratuity of four months' pay equal in amount to that which he would have received if he had been employed in actual service: *Provided*, That any enlisted man in the Navy whose term of enlistment has been extended for an aggregate of four years shall, after the expiration of the preceding four-year term of enlistment upon which the extension is made and if otherwise entitled to an honorable discharge, be paid the gratuity above provided: *And provided*, That any man who has received an honorable discharge from his last term of enlistment, or who has received a recommendation for reenlistment upon the expiration of his last term of enlistment, who reenlists for a term of four years within four months from the date of his discharge, shall receive an increase of $1.36 per month to the pay prescribed for the rating in which he serves for each successive reenlistment: *And provided further*, That an extension of the period of enlistment as hereinbefore authorized, aggregating four years, shall be held and considered as equivalent to continuous service with respect to all rights, privileges, and benefits granted for such service pursuant to law."

The amendment was agreed to.

The next amendment was, on page 13, after line 5, to insert:

That under such regulations as the Secretary of the Navy may prescribe, with the approval of the President, any enlisted man may be discharged at any time within three months before the expiration of his term of enlistment or extended enlistment without prejudice to any right, privilege, or benefit that he would have received, or to which he would thereafter become entitled, had he served his full term of enlistment or extended enlistment: *Provided*, That nothing in this act shall be held to reduce or increase the pay and allowances of enlisted men of the Navy now authorized pursuant to law.

The amendment was agreed to.

The next amendment was, on page 14, line 9, after the word "dollars," to insert:

Provided, That the Secretary of the Navy is authorized to transfer all the lepers of Guam now segregated, and other cases that may later appear, to such island possession of the United States as in his judgment may be best adapted to the permanent care and segregation of such sufferers, and to pay the cost of their transfer and maintenance from this appropriation.

So as to make the clause read:

Care of lepers, island of Guam: Naval station, island of Guam: Maintenance and care of lepers, special patients, and for other purposes, $14,000: *Provided*, That the Secretary of the Navy is authorized to transfer all the lepers of Guam now segregated, and other cases that may later appear, to such island possession of the United States as in his judgment may be best adapted to the permanent care and segregation of such sufferers, and to pay the cost of their transfer and maintenance from this appropriation.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Navigation," on page 15, line 6, before the word "dollars," to strike out "seven hundred and fifty thousand" and insert "eight hundred and forty-three thousand two hundred and fifty," so as to make the clause read:

Transportation: For travel allowance of enlisted men discharged on account of expiration of enlistment; transportation of enlisted men and apprentice seamen at home and abroad, with subsistence and transfers en route, or cash in lieu thereof; transportation to their homes, if residents of the United States, of enlisted men and apprentice seamen discharged on medical survey, with subsistence and transfers en route, or cash in lieu thereof; transportation of sick or insane enlisted men and apprentice seamen to hospitals, with subsistence and transfers en route, or cash in lieu thereof; apprehension and delivery of deserters and stragglers, and for railway guides and other expenses incident to transportation, $843,250.

The amendment was agreed to.

The next amendment was, on page 15, line 12, before the word "thousand," to strike out "twenty-five" and insert "forty-five," so as to read:

Recruiting: Expenses of recruiting for the naval service; rent of rendezvous and expenses of maintaining the same; advertising for and obtaining men and apprentice seamen; actual and necessary expenses in lieu of mileage to officers on duty with traveling recruiting parties, $145,000.

The amendment was agreed to.

The next amendment was, on page 17, line 15, before the word "dollars," to strike out "eight hundred and seventy thousand" and insert "nine hundred and sixty-seven thousand seven hundred and seventeen," so as to make the clause read:

Outfits on first enlistment: Outfits for all enlisted men and apprentice seamen of the Navy on first enlistment, at not to exceed $60 each, $967,717.

The amendment was agreed to.

The next amendment was, on page 20, line 10, before the word "dollars," to strike out "twenty-two thousand four hundred and eighty" and insert "twenty-three thousand seven hundred and fifty," so as to read:

Naval War College, Rhode Island: For maintenance of the Naval War College on Coasters Harbor Island, and care of grounds for same, $23,750.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the Naval War College, Rhode Island, on page 20, line 23, before the word "dollars," to strike out "eight thousand nine hundred and eighty" and insert "ten thousand two hundred and fifty," and, in line 24, before the word "dollars," to strike out "twenty-eight thousand five hundred and

eighty" and insert "twenty-nine thousand eight hundred and fifty," so as to make the proviso read:

Provided, That the sum to be paid out of this appropriation under the direction of the Secretary of the Navy for clerical, inspection, drafting, and messenger service for the fiscal year ending June 30, 1913, shall not exceed $10,250. In all, Naval War College, Rhode Island, $29,850.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Ordnance," in the items of appropriation for ordnance and ordnance stores, on page 24, line 17, after the word "proposals," to insert:

Provided, That the Secretary of the Navy is hereby authorized to make emergency purchases of war material abroad: *And provided further*, That when such purchases are made abroad this material shall be admitted free of duty.

The amendment was agreed to.

The next amendment was, on page 24, line 22, before the words "of smokeless powder," to strike out "Manufacture" and insert "Purchase and manufacture"; in line 24, before the word "thousand," to strike out "nine hundred" and insert "one million one hundred and fifty"; and in the same line, after the word "dollars," to insert:

Provided, That the plant for the manufacture of smokeless powder at Indianhead may be enlarged and extended to meet as nearly as may be the necessities of the Navy, including the purchase of additional land, necessary dredging, the erection of additional buildings, purchase of additional machinery, and such other objects as may be necessary to the efficient extension of the plant at a total cost not exceeding $650,000, toward which the sum of $325,000 is hereby appropriated out of any sums in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. LODGE. Mr. President, at this point, to follow the amendment just adopted, I desire to offer, with the permission of the chairman of the committee, the amendment which I send to the desk.

The PRESIDING OFFICER (Mr. OVERMAN in the chair). The amendment will be stated.

The SECRETARY. After the amendment just agreed to, on page 25, it is proposed to insert the following:

Provided further, That the Secretary of the Navy is hereby authorized to exchange such quantities of potassium nitrate now in store as may not be needed in the manufacture of black powder for sodium nitrate of equal value for use in the manufacture of smokeless powder.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 27, after line 6, to insert:

Mines and mine appliances: For naval-defense mines, appliances, and accessories for mine ships, $100,000.

The amendment was agreed to.

The next amendment was, on page 28, after line 18, to insert:

Hereafter appropriations for the naval service under the headings "Ammunition for ships of the Navy," "Fire-control instruments for ships of the Navy," "Small arms and machine guns," "Torpedoes and appliances," "Experiments, Bureau of Ordnance," "New batteries for ships of the Navy," "Arming and equipping Naval Militia," "Modernizing projectiles," "Modernizing turrets of ships of the Navy," "Naval Gun Factory, Washington, D. C.," and "Battle compasses" shall be available for obligation for two fiscal years: *Provided*, That the balances unobligated on January 11, 1912, under any of these appropriations shall be available for obligation until the close of the fiscal year ending June 30, 1913.

The amendment was agreed to.

The next amendment was, on page 29, after line 8, to strike out the subhead "Bureau of Equipment."

The amendment was agreed to.

The next amendment was, in the item of appropriation for equipment of vessels, on page 30, line 16, before the words "shore stations," to strike out "wireless telegraph" and insert "radio"; in line 19, after the words "work in," to strike out "wireless telegraphy" and insert "radio telegraphy"; and in line 20, after the word "naval," to strike out "wireless telegraph" and insert "radio," so as to read:

Service and supplies for coast signal service, including the purchase of land as necessary for sites for radio shore stations; instruments and apparatus, supplies, and technical books and periodicals required to carry on experimental and research work in radio telegraphy at the naval radio laboratory.

The amendment was agreed to.

The next amendment was, on page 31, line 14, before the words "shore stations," to strike out "wireless telegraph" and insert "radio"; and in line 17, before the word "laboratory," to strike out "wireless telegraph" and insert "radio," so as to read:

Provided further, That the sum to be paid out of this appropriation for the purchase of land for sites for radio shore stations shall not exceed $50,000: *Provided further*, That the total expenditures under this appropriation at the naval radio laboratory shall not exceed $5,000.

The amendment was agreed to.

The next amendment was, on page 32, line 20, after the word "dollars," to strike out:

Provided, That the coal purchased by the Government shall be mined by labor that is employed not exceeding eight hours a day.

So as to make the clause read:

Coal and transportation: Coal and other fuel for steamers' and ships' use, and other equipment purposes, including expenses of transportation, storage, and handling the same, and for the general maintenance of naval coaling depots and coaling plants, water for all purposes on board naval vessels, including the expenses of transportation and storage of the same, $4,000,000.

The amendment was agreed to.

The next amendment was, on page 32, after line 22, to insert:

Depots for coal: To enable the Secretary of the Navy to execute the provisions of section 1552 of the Revised Statutes, authorizing the Secretary of the Navy to establish, at such places as he may deem necessary, suitable depots for coal and other fuel for the supply of steamships of war, $500,000: *Provided*, That $75,000 of said sum, or so much thereof as may be necessary, may be used for the mining of coal and development work on public lands in Alaska for the purpose of supplying coal for the United States Navy.

The amendment was agreed to.

The next amendment was, on page 33, after line 18, to insert:

Toward the purchase and preparation of necessary sites, purchase and erection of towers and buildings, and the purchase and installation of machinery and apparatus of high-power radio stations (cost not to exceed $1,000,000), to be located as follows: One in the Isthmian Canal Zone, one on the California coast, one in the Hawaiian Islands, one in American Samoa, one on the island of Guam, and one in the Philippine Islands, $400,000, to be available until expended.

Mr. BRIGGS. Mr. President, I make the point of order that that amendment is new legislation, that it is not estimated for, and that it is not relevant to the bill.

Mr. LODGE. It has been estimated for, Mr. President.

Mr. BRIGGS. When?

Mr. LODGE. The estimate has been furnished to us and is here before us.

Mr. BRIGGS. I say that it was not estimated for as a regular estimate.

Mr. LODGE. No; it was sent in as a supplemental estimate; but it has been estimated for and, I think, is clearly in order. It is an amendment reported from a committee providing for work that has frequently been done by the Navy and is in continuance of its regular work. It is a matter of the utmost importance. It was reported by the House committee and is to give us a wireless system from certain points in the Pacific Ocean of enormous importance and value commercially. I do not think the point of order would lie, but, in any event, I hope the amendment will be adopted.

Mr. BRIGGS. Mr. President, this proposition, if adopted, would simply embark the Government on a new commercial enterprise and would occasion unnecessary expenditure, for the same thing can be accomplished in other ways without expense to the Government.

The PRESIDING OFFICER. The question is, Has the item been estimated for?

Mr. LODGE. I have the estimate in my hand.

Mr. BRIGGS. I make the point that it is new legislation and also is in contravention of paragraph 3 of Rule XVI. I claim it is out of order on that ground.

Mr. LODGE. I hold in my hand an estimate for the item sent in by the department. Radio telegraphy or any form of signaling in the Navy is a part of the regular work of the Navy; it is a work that is being done by the Navy all over the world, and this simply provides for increasing the system. It is an extension of or an addition to the naval work and rests on the same ground as the increase in the Navy in battleships or in any other way, which has been held in order repeatedly in the other House, where the rules are much narrower than here. The amendment has also been reported by a standing committee, which takes it out of the rule referred to by the Senator from New Jersey.

Mr. PERKINS. It has also received the recommendation of the Secretary of the Navy, and I ask that the letter from him which I send to the desk may be read.

The PRESIDING OFFICER. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

NAVY DEPARTMENT,
Washington, February 28, 1912.

Hon. GEO. C. PERKINS,
Chairman Committee on Naval Affairs, United States Senate.

SIR: The department has this day forwarded to the Honorable the Secretary of the Treasury, for transmission to Congress, a supplemental estimate of appropriation required for the Naval Establishment for the fiscal year ending June 30, 1913, as follows:

Bureau of Equipment: Navy wireless-telegraph stations, $1,000,000.

It is suggested that this item, if it meets with the approval of Congress, be included in the naval bill immediately following the appropriation "Equipment of vessels."

Respectfully, yours, G. v. L. MEYER.

Mr. BRIGGS. Mr. President, I still think that the amendment is new legislation, and, further, that it is contrary to paragraph 3 of Rule XVI, which provides:

Nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto.

The PRESIDING OFFICER. The Chair thinks, it having been estimated for and reported by a committee, that, under the rulings heretofore by other presiding officers, the amendment is in order. The question is on agreeing to the amendment.

Mr. JONES. I offer an amendment to the amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. On page 33, line 24, after the words "California coast," it is proposed to insert the following: "One on the Washington or Alaska coast."

Mr. PERKINS. The committee has no objection to either one.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Washington.

Mr. BRIGGS. I hope the amendment will be stricken out.

The PRESIDING OFFICER. The question is first upon the adoption of the amendment offered by the Senator from Washington to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. HEYBURN. Mr. President, I would ask that the Senate recur to a previous amendment, and that it be passed over. It was read rapidly.

Mr. LODGE. What amendment?

Mr. HEYBURN. The one in reference to the mining of coal. I ask that it be passed over.

Mr. LODGE. What amendment does the Senator refer to?

Mr. HEYBURN. The amendment at the bottom of page 32 and the top of page 33.

Mr. LODGE. The amendment regarding depots for coal?

Mr. HEYBURN. No; the mining of coal. It provides—

That $75,000 of said sum, or so much thereof as may be necessary, may be used for the mining of coal.

And so forth.

Mr. LODGE. Under the head of "depots for coal"?

Mr. HEYBURN. Yes, sir.

The PRESIDING OFFICER. Without objection, the amendment will be considered as passed over.

Mr. HEYBURN. Just the portion of it with reference to the mining of coal.

The SECRETARY. The proviso beginning on line 4, page 33, and going down to and including line 8.

Mr. POINDEXTER. I offer an amendment, on line 4, page 33, to strike out "seventy-five" and insert "two hundred and fifty."

Mr. LODGE. That whole amendment has just been passed over temporarily.

Mr. POINDEXTER. Very well; then I give notice of the amendment.

The PRESIDING OFFICER. The Secretary will resume the reading of the bill.

The reading of the bill was resumed, beginning at line 4, page 34.

The next amendment of the Committee on Naval Affairs was, on page 34, line 24, after the date "1912," to strike out "*Provided further*, That the Secretary of the Navy shall report to Congress at the beginning of its next ensuing session the distribution of the duties of the Bureau of Equipment made by him under the authorization herein granted, with full statement in relation to said distribution and the performance of navy-yard work therein involved," and insert "*Provided further*, That the Bureau of Equipment in the Navy Department be, and the same is hereby, abolished, and the duties heretofore performed under that bureau shall be distributed in such manner as the Secretary of the Navy shall judge to be expedient and proper among the other bureaus of the Navy Department," so as to make the clause read:

Distribution of duties: That duties assigned by law to the Bureau of Equipment shall be distributed among the other bureaus and offices of the Navy Department in such manner as the Secretary of the Navy shall consider expedient and proper during the fiscal year ending June 30, 1913, and the Secretary of the Navy, with the approval of the President, is hereby authorized and directed to assign and transfer to said other bureaus and offices, respectively, all available funds heretofore and hereby appropriated for the Bureau of Equipment and such civil employees of the bureau as are authorized by law, and when such distribution of duties, funds, and employees shall have been completed, the Bureau of Equipment shall be discontinued as hereinbefore provided: *Provided*, That nothing herein shall be so construed as to authorize the expenditure of any appropriation for purposes other than those specifically provided by the terms of the appropriations, or the submission of estimates for the Naval Establishment for the fiscal year 1914, except in accordance with the order and arrangement of the naval appropriation act for the year 1912: *Provided further*, That the Bureau of Equipment in the Navy Department be, and the same is hereby, abolished, and the duties heretofore performed under that bureau shall be distributed in such manner as the Secretary of the Navy shall judge to be expedient and proper among the other bureaus of the Navy Department.

The amendment was agreed to.

The next amendment was, on page 35, after line 10, to insert:

That the Hydrographic Office, now assigned by law to the Bureau of Equipment, shall be attached to and be a part of such bureau of the Navy Department as the Secretary of the Navy may direct.

The amendment was agreed to.

The next amendment was, on page 35, after line 14, to insert:

That all available funds heretofore and herein appropriated for and such civil employees of the Bureau of Equipment as the Secretary of the Navy may designate shall be assigned to the other bureaus of the Navy Department.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Yards and Docks," on page 36, line 11, before the word "thousand," to insert "and forty," so as to read:

Maintenance, Bureau of Yards and Docks: For general maintenance of yards and docks, namely: For books, maps, models, and drawings; purchase and repair of fire engines; fire apparatus and plants; machinery; purchase and maintenance of horses and driving teams; carts, timber wheels, and all vehicles, including motor-propelled vehicles for freight-carrying purposes only for use in the navy yards; tools and repair of the same; stationery; furniture for Government houses and offices in navy yards and naval stations; coal and other fuel; candles, oil, and gas; attendance on light and power plants; cleaning and clearing up yards and care of buildings; attendance on fires, lights, fire engines, and fire apparatus and plants; incidental labor at navy yards; water tax, tolls, and ferriage; pay of watchmen in navy yards; awnings and packing boxes; and for pay of employees on leave, $1,540,000.

The amendment was agreed to.

The next amendment was, under the subhead "Public works, Bureau of Yards and Docks," on page 37, line 2, after the word "dollars," to insert "continuing extension of quay wall, $100,000"; and in line 3, after the words "in all," to insert "one hundred and," so as to make the clause read:

Navy yard, Portsmouth, N. H.: Crane track and railroad extension, $20,000; tool house for naval prison, $2,000; quarters for commanding officer, naval prison, $12,000; improvement and additions to power plant, $10,000; continuing extension of quay wall, $100,000; in all, $144,000.

The amendment was agreed to.

The next amendment was, on page 38, line 4, after the word "dollars," to insert "rebuilding building No. 7, $50,000," and in line 7, before the word "thousand," to strike out "thirty" and insert "eighty," so as to make the clause read:

Navy yard, Philadelphia, Pa.: Sanitation system, reserve basin, to complete, $45,000; Pier No. 5, to extend, $75,000; water-closets and laundry, $10,000; rebuilding building No. 7, $50,000; in all, navy yard, Philadelphia, $180,000.

The amendment was agreed to.

The next amendment was, on page 38, line 17, after the word "electric," to strike out "light," and in line 18, after the word "repairs," to strike out "to," so as to make the paragraph read:

Navy yard, Norfolk, Va.: Railroad tracks, extensions, $5,000; electric plant, extensions, $20,000; repairs, buildings, St. Helena, $25,000; improvements to water front, $50,000; paving and grading, $10,000; heating system, extension, $15,000; water-closets and lavatories for ships in dock, $15,000; incinerator, St. Helena, $5,000; in all, navy yard, Norfolk, Va., $145,000.

The amendment was agreed to.

The next amendment was, on page 39, line 6, after the word "dollars," to insert "improvements to water front, $300,000," and in line 8, before the word "thirty-nine," to insert "three hundred and," so as to make the clause read:

Navy yard, Charleston, S. C.: Paving and grading, to continue, $5,000; railroad system, extensions and improvements, $5,000; conduit system extension, $5,000; bathroom and lavatories for enlisted men, $4,000; storehouse for oil, $20,000; improvements to water front, $300,000; in all, $339,000.

The amendment was agreed to.

The next amendment was, on page 39, line 11, after the word "dollars," to strike out "in all, $30,000" and insert "paving and grading on Whitehead, Front, and Green Streets where abutting on naval station, $5,500, or so much thereof as may be necessary: *Provided, however*, That the cost of the United States Government's share for paving and grading said streets shall not exceed one-fourth of the total cost thereof; in all, $35,500," so as to make the clause read:

Naval station, Key West, Fla.: Power plant, $25,000; grading and paving, $5,000; paving and grading on Whitehead, Front, and Green Streets where abutting on naval station, $5,500, or so much thereof as may be necessary: *Provided, however*, That the cost of the United States Government's share for paving and grading said streets shall not exceed one-fourth of the total cost thereof; in all, $35,500.

The amendment was agreed to.

The next amendment was, on page 40, after line 15, to insert:

The appropriation made by the naval act approved June 24, 1910, for a torpedo station near the Pacific coast of the United States, is hereby reappropriated and such part as the Secretary of the Navy may deem necessary is made available for expenditure for the same purposes at the naval station, Puget Sound, Wash.

The amendment was agreed to.

The next amendment was, on page 40, line 25, before the word "dollars," to strike out "three hundred and fifty thousand" and insert "four hundred and eighty-six thousand five hundred," and in the same line, after the word "to," to strike out "complete" and insert "continue," so as to read:

Naval station, Pearl Harbor, Hawaii: Dry dock (limit of cost is hereby increased to $3,486,500), to continue, $1,050,000; water-front development, $100,000; street paving, $25,000.

Mr. REED. I should like to inquire of the chairman of the committee why that increase from $3,350,000 to $3,486,500 is made.

Mr. PERKINS. I will state that the Navy Department find it necessary to have this additional sum, and make this recommendation for the reason that they found quicksands in sinking excavations for the dry dock in Pearl Harbor, Hawaiian Islands. This is only to authorize them to expend that much more money if it is found absolutely necessary. We acted entirely upon the recommendation of the Chief of the Bureau of Yards and Docks and the Secretary of the Navy.

Mr. LODGE. If the Senator will allow me to add one word, in digging they found it became necessary to use what they call a richer concrete, a stronger concrete, on account of the condition of the earth; and to complete the work it is necessary to increase the total amount. But they have ample to cover it, and it will result in no additional appropriation for 1913.

Mr. PERKINS. It is simply that the limit may be extended.

Mr. REED. I simply wanted to understand the reason for it, as it is a large item.

Mr. PERKINS. Certainly. I will state to the Senator that in the report I made to the Senate that matter is all covered.

The amendment was agreed to.

The next amendment was, on page 41, after line 22, to insert:

The Secretary of the Navy is authorized to purchase, from the appropriation "Naval station, Pearl Harbor, Hawaii, fresh-water system," made by the act of March 4, 1911, 1 acre, more or less, of land in the island of Oahu, Territory of Hawaii, for the location of wells for supplying fresh water to the naval station, Pearl Harbor, Hawaii, and to acquire a right of way for a pipe line from such wells to the naval station.

The amendment was agreed to.

The next amendment was, on page 42, line 20, after the word "dollars," to insert "underground conduit and lighting system, to extend, $5,000; in all, $15,000," so as to make the clause read:

Naval training station, Rhode Island, buildings: Repairs to barracks "B" and "C," $10,000; underground conduit and lighting system, to extend, $5,000; in all, $15,000.

The amendment was agreed to.

Mr. LODGE. On page 43, after line 2, in the Naval Observatory clause, I offer the following amendment.

The PRESIDING OFFICER (Mr. SWANSON in the chair). The Secretary will report the amendment.

The SECRETARY. On page 43, after line 2, it is proposed to insert the following:

The Secretary of the Navy is hereby authorized to arrange for the exchange of data with such foreign almanac offices as he may from time to time deem desirable with a view to reducing the amount of duplication of work in preparing the different national nautical and astronomical almanacs and increasing the total data which may be of use to navigators and astronomers available for publication in the American Ephemeris and Nautical Almanac: *Provided*, That any such arrangement shall be terminable on one year's notice: *Provided further*, That the work of the Nautical Almanac Office during the continuance of any such arrangement shall be conducted so that in case of emergency the entire portion of the work intended for the use of navigators may be computed by the force employed by that office and without any foreign cooperation whatsoever: *Provided further*, That any employee of the Nautical Almanac Office who may be authorized in any annual appropriation bill and whose services in whole or in part can be spared from the duty of preparing for publication the annual volumes of the American Ephemeris and Nautical Almanac may be employed by said office in the duty of improving the tables of the planets, moon, and stars, to be used in preparing for publication the annual volumes of the office: *Provided further*, That section 435, Revised Statutes, is hereby repealed.

The amendment was agreed to.

The next amendment was, on page 43, line 9, after the word "dollars," to insert "one set of double quarters for commissioned officers, $18,000"; and in line 11, before the word "thousand," to strike out "nineteen" and insert "thirty-seven," so as to make the clause read:

Naval proving ground, Indianhead, Md.: Repairs to wharf and coal-handling plant at powder factory, $10,000; new surveillance magazine, $1,500; two dry houses for smokeless powder, $7,500; purchase of 5 acres (more or less) of additional land, $200; one set of double quarters for commissioned officers, $18,000; in all, naval proving ground, Indianhead, $37,200.

The amendment was agreed to.

The next amendment was, at the top of page 44, to insert:

Naval magazine, Fort Lafayette, N. Y.: Dredging channel, widening water approach, $15,000.

The amendment was agreed to.

The next amendment was, on page 44, line 6, after the word "dollars," to insert "water pipe mains, $4,000; fire and boundary wall, $5,000"; and in line 8, before the word "thousand," to strike out "seventeen" and insert "twenty-six," so as to make the clause read:

Naval magazine, Lake Denmark, N. J.: One locomotive house, $2,500; one magazine building, including clearing, preparing, grading of site, railroad tracks, $15,000; water pipe mains, $4,000; fire and boundary wall, $5,000; in all, $26,500.

The amendment was agreed to.

The next amendment was, on page 45, line 7, after the word "dollars," to insert "improvements to water front, $22,000; assembly and repair shop, $50,000"; and in line 10, before the word "thousand," to strike out "one hundred and thirty-five" and insert "two hundred and seven," so as to make the clause read:

Naval torpedo station, Newport, R. I.: New power house, toward building (cost not to exceed $60,000) and equipping (cost not to exceed $120,000), to complete, $120,000; paving, $5,000; extension of fresh-water, steam-heating, and conduit system, $10,000; improvements to water front, $22,000; assembly and repair shop, $50,000; in all, $207,000.

The amendment was agreed to.

The next amendment was, on page 45, line 12, after the word "dollars," to insert "one general magazine, $13,000; one shell house, $20,000; in all, $73,000," so as to make the clause read:

Naval magazine, Hingham, Mass.: Improvement of channel, $40,000; one general magazine, $13,000; one shell house, $20,000; in all, $73,000.

The amendment was agreed to.

The next amendment was, on page 46, line 20, before the word "hundred," to strike out "four million five hundred and seventy-eight thousand eight" and insert "five million one hundred and eighty-six thousand three," so as to make the clause read:

Total public works, navy yards, naval stations, naval proving grounds and magazines, Naval Academy, Naval Observatory, and Marine Corps, $5,186,300.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Medicine and Surgery," on page 47, line 2, before the word "thousand," to insert "and thirty," so as to make the clause read:

Medical Department: For surgeons' necessaries for vessels in commission, navy yards, naval stations, Marine Corps, and for the civil establishment at the several naval hospitals, navy yards, naval medical supply depots, Naval Medical School, Washington, and Naval Academy, $430,000.

The amendment was agreed to.

The next amendment was, in the item of appropriation for "Contingent, Bureau of Medicine and Surgery," on page 47, line 9, after the word "of," to insert "and," so as to read:

For tolls and ferriages; care, transportation, and burial of the dead; purchase of books and stationery, binding of medical records, unbound books, and pamphlets; hygienic and sanitary investigation and illustration; sanitary and hygienic instruction; purchase and repairs of wagons, automobile ambulances, and harness; purchase of and feed for horses and cows; trees, plants, garden tools, and seeds, etc.

The amendment was agreed to.

The next amendment was, in the item of appropriation for "Contingent, Bureau of Medicine and Surgery," on page 47, line 23, after the words "Pacific coast," to insert "for dental outfits and dental material, not to exceed $15,000," and on page 48, line 2, before the word "thousand," to strike out "eighty-two" and insert "ninety-seven," so as to read:

For the care, maintenance, and treatment of the insane of the Navy and Marine Corps on the Pacific coast; for dental outfits and dental material, not to exceed $15,000, and all other necessary contingent expenses; in all, $97,000.

The amendment was agreed to.

The next amendment was, on page 48, line 17, before the word "thousand," to strike out "four hundred and ninety-seven" and insert "five hundred and forty-two," so as to make the clause read:

In all, Bureau of Medicine and Surgery, $542,000.

The amendment was agreed to.

The next amendment was, on page 49, line 2, before the words "dental surgeons," to strike out "assistant," and in line 3, before the words "dental surgeons," to strike out "assistant," so as to make the clause read:

That the appointment of not more than 30 dental surgeons be, and the same is hereby, authorized, said dental surgeons to be a part of the Medical Department of the United States Navy, to serve professionally the personnel of the naval service, and to perform such other duties as may be prescribed by competent authority.

The amendment was agreed to.

The next amendment was, on page 49, after line 6, to insert:

That there shall be 1 dental surgeon with the rank of lieutenant commander, 4 passed assistant dental surgeons with the rank of lieutenant, and 25 assistant and acting assistant dental surgeons with the rank of lieutenant (junior grade), to be appointed and promoted as hereinafter provided.

The amendment was agreed to.

The next amendment was, on page 49, line 17, before the word "years," to strike out "not over 27" and insert "between 24 and 32," so as to read:

That all original appointments herein authorized shall be made by the Secretary of the Navy in the grade of acting assistant dental surgeon, and all appointees to such grade shall be citizens of the United States, between 24 and 32 years of age, and shall be graduates of standard medical or dental colleges, trained in the several branches of dentistry, of good moral character, of unquestionable professional repute, and before appointment shall pass satisfactory physical and professional examinations.

The amendment was agreed to.

The next amendment was, on page 50, line 12, after the words "in this," to strike out "section" and insert "act," so as to make the clause read:

That at the end of three years from the passage of this act all acting assistant dental surgeons who have had two or more years' service under their original appointment, as herein provided, shall undergo such physical and competitive professional examinations as the Secretary of the Navy may prescribe to determine their fitness to receive commissions in the Navy, and if found qualified they shall be appointed assistant dental surgeons, with the rank of lieutenant (junior grade), in the order of standing as determined by the professional examinations provided for in this act.

The amendment was agreed to.

The next amendment was, on page 50, after line 12, to insert:

That at the end of three years from the date of the examinations provided for in this act all assistant dental surgeons shall undergo such physical and competitive professional examinations as the Secretary of the Navy may prescribe to determine their fitness for promotion to fill the theretofore existing vacancies in the grade of passed assistant dental surgeon, and said vacancies shall be filled by the four officers, if qualified, standing highest as a result of the professional examinations provided for in this act and in the order of their standing.

The amendment was agreed to.

The next amendment was, on page 50, after line 22, to strike out:

That after the competitive examinations provided for in section 3 of this act have been held, acting assistant dental surgeons thereafter appointed shall serve a probationary period of three years, and upon the completion of such period shall undergo such examinations as the Secretary of the Navy may prescribe to determine their fitness to receive commissions in the Navy, and, if found qualified, they shall be appointed assistant dental surgeons with the rank of lieutenant (junior grade).

And in lieu to insert:

That at the end of five years from the date of the examinations provided for in this act the senior officer in the grade of passed assistant dental surgeon shall undergo such physical and professional examinations as the Secretary of the Navy may prescribe to determine his fitness for promotion to fill the theretofore existing vacancy in the grade of dental surgeon, and said vacancy shall be filled by said officer, if qualified, as a result of the professional examinations provided for in this act: *Provided*, That if said officer be found not qualified the provisions of this act shall apply successively in order of rank to the other officers of lower seniority in said grade of passed assistant dental surgeon.

The amendment was agreed to.

The next amendment was, on page 51, after line 18, to insert:

That after the competitive examinations provided for in this act have been held, acting assistant dental surgeons thereafter appointed shall serve a probationary period of three years, and upon the completion of such period shall undergo such examinations as the Secretary of the Navy may prescribe to determine their fitness to receive commissions in the Navy, and, if found qualified, they shall be appointed assistant dental surgeons, with the rank of lieutenant (junior grade): *Provided*, That all promotions among said dental surgeons other than the promotions provided for in this act shall be made in the same manner and under the same relative conditions, so far as applicable, as now are or may hereafter be prescribed in pursuance of law for officers of the Medical Corps of the Navy.

The amendment was agreed to.

The next amendment was, on page 52, line 9, after the words "prescribed in," to strike out "sections 3 and 4 of," and in line 11, before the word "dental," to insert "assistant," so as to make the clause read:

That if any acting assistant dental surgeon shall fail upon the examinations prescribed in this act he shall be honorably discharged from the naval service, and the appointment of an acting assistant dental surgeon may be revoked at any time in the discretion of the Secretary of the Navy.

The amendment was agreed to.

The next amendment was, on page 52, line 15, after the word "precedence," to strike out "next below other officers of the rank of lieutenant (junior grade) now or hereafter commissioned in the Navy" and insert "in the same manner in all respects as in the case of appointees to the Medical Corps of the Navy," so as to make the clause read:

That all appointees authorized by this act shall take rank and precedence in the same manner in all respects as in the case of appointees to the Medical Corps of the Navy and shall not exercise command over persons in the Navy other than dental surgeons and such enlisted men as may be detailed to assist them by competent authority.

The amendment was agreed to.

The next amendment was, at the top of page 53, to insert:

Provided, That acting assistant surgeons in the Navy shall receive the same pay and allowances as are now or may hereafter be provided by law for assistant surgeons in the Navy.

The amendment was agreed to.

The next amendment was, on page 53, line 5, after the words "authorized by," to strike out "the preceding sections of," and in line 6, after the word "retirement," to insert "at the age of 70 years," so as to read:

That all officers authorized by this act shall be eligible to retirement at the age of 70 years in the same manner and under the same conditions as officers of the Medical Corps of the Navy: *Provided*, That section 1445 of the Revised Statutes of the United States shall not be applicable to the officers herein authorized: *And provided further*, That the dentist now employed at the Naval Academy shall not be displaced by the operation of this act.

Mr. PERKINS. On page 53, line 5, the first line in the paragraph, after the word "officers," I move to insert the words "of the Dental Corps."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. GALLINGER. If the Senator from California will permit me, I should like to offer an amendment at this point that I feel sure he will accept. I would not offer it now except that I have to leave the Chamber to attend a committee meeting.

I ask the Secretary first to read the proviso on page 53, lines 12 and 13.

The PRESIDING OFFICER. The Secretary will read the proviso.

The Secretary read as follows:

And provided further, That the dentist now employed at the Naval Academy shall not be displaced by the operation of this act.

Mr. GALLINGER. At the end of line 13 I move to add:

And he shall have the same official status, pay, and allowances as may be provided for the senior dental surgeon at the Military Academy.

Mr. PERKINS. I have no objection to the amendment.

Mr. REED. Mr. President, it seems to me curious that the bill expressly provides that a certain man shall continue to hold his position.

Mr. GALLINGER. That is the provision in the bill as it passed the House, that the dental surgeon at the Naval Academy shall not be displaced. I will say to the Senator from Missouri that there are more boys at the Naval Academy than there are at the Military Academy. They have two dental surgeons at the Military Academy and one at the Naval Academy. We have legislated so as to give both the surgeons at the Military Academy a higher salary than the dentist at the Naval Academy. Not only that, but this bill creates a corps of assistant dental surgeons, and every one of those dental surgeons would have a higher salary than the man who has been serving at the Naval Academy since 1889, I believe. This amendment simply provides that he shall have equivalent pay with the senior dental surgeon at the Military Academy. It is but fair.

Mr. REED. I was not addressing myself to the amendment offered by the Senator from New Hampshire. I see no objection to that amendment, if the other language is to remain, but what strikes me as curious and upon which I desire to have some light, is why a bill should specifically provide that a particular individual should continue to hold a particular place. There is undoubtedly some reason for it and I ask for light.

Mr. PERKINS. I will state to the Senator from Missouri that this provision was inserted by the House of Representatives, and undoubtedly they had light on the subject or they would not have recommended it.

Mr. LODGE. This dentist, who has been for some time at the Naval Academy, as the Senator from New Hampshire stated, would have been removed by the operation of the creation of a corps, and the House, wishing to retain him, put in that special clause.

Mr. REED. I have no desire to take the time of the Senate in opposing a matter of this kind, but I wish to say, as a general proposition, that it strikes me as being a very bad practice when an appropriation bill is written to write into it provisions that certain people shall retain their positions. To provide for the retention of a position is all right, but to provide that a certain man shall continue to hold that position is, in my judgment, not the best practice.

I have nothing further to say. I am not going to take the time of the Senate to move to strike out, but I do not think it is good practice.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New Hampshire [Mr. GALLINGER].

The amendment was agreed to.

The next amendment was, on page 53, after line 13, to strike out:

That the Secretary of the Navy is hereby authorized to appoint, for temporary service, suitably qualified acting dental surgeons when necessary to the health and efficiency of the personnel of the Naval Service: *Provided*, That the total strength of the dental corps, including those appointed for temporary service under this section, shall not exceed the proportion of one to each thousand of the authorized enlisted strength of the Navy and Marine Corps: *Provided further*, That appointments issued under authority of this section may be revoked at

any time, shall have no legal force or effect except for the time the temporary appointee is in active service, and shall include no right of retirement.

The amendment was agreed to.

The next amendment was, on page 54, line 2, before the word "dental," to insert "assistant," so as to make the clause read:

That all appointments authorized by this act, except the appointment of acting assistant dental surgeons, shall be made by the President, by and with the advice and consent of the Senate.

The amendment was agreed to.

The reading of the bill was continued to line 12, on page 54.

Mr. OVERMAN. I offer an amendment to be inserted after line 12. I understand it is satisfactory to the chairman of the committee.

The PRESIDING OFFICER. The amendment proposed by the Senator from North Carolina will be stated.

The SECRETARY. It is proposed to insert, after line 12, on page 54, the following additional proviso:

Provided further, That of the dental surgeons hereby authorized to be appointed to the said Medical Reserve Corps and to the said dental corps, the whole number ordered to active duty shall not exceed the number the Secretary of the Navy may deem actually necessary to the health and efficiency of the personnel of the Navy and Marine Corps, and in time of peace the number shall not exceed the proportion of one dental officer to 1,000 of said personnel.

Mr. PERKINS. The committee are willing to accept the amendment.

The amendment was agreed to.

The next amendment was, on page 54, after line 12, to insert:

That pharmacists shall, after six years from date of warrant, be commissioned chief pharmacists after passing satisfactorily such examination as the Secretary of the Navy may prescribe, and shall, on promotion, have the rank, pay, and allowances of chief boatswains.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Supplies and Accounts," in the item of appropriation for provisions of the Navy, on page 56, line 2, after the words "shall not exceed," to strike out "$492,299.36" and insert "$520,000," so as to make the proviso read:

Provided, That the Secretary of the Navy is authorized to commute rations for such general courts-martial prisoners in such amounts as seem to him proper, which may vary in accordance with the location of the naval prison, but which shall in no case exceed 30 cents per diem for each ration so commuted; labor in general storehouses and paymasters' offices in navy yards, including naval stations maintained in island possessions under the control of the United States, and expenses in handling stores purchased and manufactured under the general account of advances; and for the purchase of United States Army emergency rations, as required: *Provided further*, That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for chemists and for clerical, inspection, and messenger service in the general storehouses and paymasters' offices of the navy yards and naval stations for the fiscal year ending June 30, 1913, shall not exceed $520,000. In all, $8,542,328.25.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Construction and Repair," on page 57, line 2, after the word "aeroplanes," to strike out "(not to exceed $10,000)," so as to read:

Construction and repair of vessels: For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; steam steerers, pneumatic steerers, steam capstans, steam windlasses, aeroplanes, and all other auxiliaries.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Steam Engineering," on page 60, line 6, after the word "dollars," to strike out "*Provided*, That the sum to be paid out of this appropriation for aeroplane machinery shall not exceed $20,000," so as to make the clause read:

Steam machinery: For completion, repairing, and preservation of machinery and boilers of naval vessels, including cost of new boilers; distilling, refrigerating, aeroplane, and auxiliary machinery; preservation of and small repairs to machinery and boilers in vessels in ordinary, receiving and training vessels; repair and care of machinery of yard tugs and launches and for pay of classified force under the bureau, $4,250,000.

The amendment was agreed to.

The next amendment was, under the subhead "Commissary department," on page 64, line 22, after the word "dollars," to insert "*Provided*, That such additional payments from the midshipmen's commissary fund, as the Superintendent of the Naval Academy may deem necessary, may be made to the waiters herein authorized," so as to make the clause read:

Commissary department: One chief cook, $1,200; 4 cooks, at $600 each, and 8 assistants, at $300 each; 1 steward, $1,200, and 1 assistant, $600; one head waiter, $720, and 2 assistants, at $480 each; 2 pantrymen, at $420 each; 1 chief baker, $1,200; 1 baker, $600; 2 assistants, at $540 each, and 1 assistant, $420; necessary waiters, at $16 per month each, $13,440; 1 messenger to the superintendent, $600; 27 attendants, at $300 each; in all, $35,760: *Provided*, That such additional payments from the midshipmen's commissary fund, as the Superintendent of the Naval Academy may deem necessary, may be made to the waiters herein authorized.

The amendment was agreed to.

The next amendment was, on page 65, after line 18, to strike out:

Expenses of the Board of Visitors of the Naval Academy, $600: *Provided*, That so much of the act approved February 14, 1879, as relates to the constitution of the Board of Visitors to the Naval Academy be amended and reenacted to read as follows.

The amendment was agreed to.

The next amendment was, at the top of page 66, to strike out:

That hereafter the Board of Visitors to the Naval Academy shall consist of five members of the Committee on Naval Affairs of the Senate and seven members of the Committee on Naval Affairs of the House of Representatives, to be appointed by the respective chairmen thereof; the members so appointed shall visit the Naval Academy annually at such time or times as the chairmen of said committees shall appoint, and the members from each of said committees may visit said academy together or separately as the said committees may elect during the session of Congress; and the superintendent of the academy and the members of the Board of Visitors shall be notified of such date by the chairmen of the said committees. The expenses of the members of the board shall be their actual expenses while engaged upon their duties as members of said board not exceeding $5 per day and their actual expenses of travel by the shortest mail routes: *Provided further*, That so much of the act approved February 14, 1879, making appropriations for the naval service for the year ending June 30, 1880, and for other purposes, as is inconsistent with the provisions of this act is hereby repealed.

The amendment was agreed to.

The next amendment was, on page 66, after line 22, to insert:

Expenses of the Board of Visitors of the Naval Academy, being mileage and $5 per diem for each member for expenses during actual attendance at the academy, and for clerk hire, carriages, and other incidental and necessary expenses of the board, $3,000.

The amendment was agreed to.

The next amendment was, on page 67, line 6, before the word "dollars," to strike out "forty-three thousand six hundred" and insert "forty-six thousand," so as to make the clause read:

In all, current and miscellaneous expenses, $46,000.

The amendment was agreed to.

The next amendment was, on page 68, line 11, before the word "hundred," to strike out "seventy-eight thousand two" and insert "eighty thousand six," so as to make the clause read:

In all, Naval Academy, $580,620.

The amendment was agreed to.

The next amendment was, under the head "Marine Corps," on page 71, line 2, before the word "dollars," to strike out "one thousand eight hundred" and insert "two thousand," so as to make the clause read:

In the office of the paymaster: One chief clerk, at $2,000; one clerk, at $1,500; one clerk, at $1,200.

The amendment was agreed to.

The next amendment was, on page 71, line 6, before the word "dollars," to strike out "one thousand eight hundred" and insert "two thousand," so as to make the clause read:

In the office of the adjutant and inspector: One chief clerk, at $2,000; 1 clerk, at $1,500; 1 clerk (in lieu of 1 clerk in the office of the assistant adjutant and inspector), $1,200.

The amendment was agreed to.

The next amendment was, on page 72, line 4, before the word "hundred," to strike out "three" and insert "seven," so as to make the clause read:

In all, for pay of civil force, $30,711.28; and the money herein specifically appropriated for pay of the Marine Corps shall be disbursed and accounted for in accordance with existing law as pay of the Marine Corps, and for that purpose shall constitute one fund.

The amendment was agreed to.

The next amendment was, on page 72, line 10, before the word "hundred," to strike out "eighty-six thousand seven" and insert "eighty-seven thousand one," so as to make the clause read:

In all, pay, Marine Corps, $4,387,121.78.

The amendment was agreed to.

The reading of the bill was continued to line 18, on page 73.

Mr. PERKINS. On page 73, line 17, after the word "quality," I move to strike out the proviso which reads as follows:

Provided, That the coal shall be mined by labor that is employed at not exceeding eight hours per day.

Mr. REED. Mr. President, why is that amendment offered?

Mr. PERKINS. Because the coal is mined by the ton and not by the day, and it is not possible to apply an eight-hour day to it.

Mr. REED. The coal is obtained in this country principally?

Mr. PERKINS. Altogether.

Mr. REED. I should like to inquire why we can not get coal that is mined by labor at eight hours a day.

Mr. LODGE. Mr. President, if the Senator will allow me, the coal, as the committee is informed, is mined and paid for by the ton, and the transportation that brings it is paid by the

day or month. The Navy Department inform us that if this clause goes through as it is it will be utterly impossible for the department to get coal for a considerable time until they can establish supplies of their own. It will simply tie up the ships. They could not do anything if this is passed suddenly in this way.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from California.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 75, line 3, after the word "dollars," to insert: "*Provided*, That authority is hereby granted to employ the services of an advertising agent in advertising for recruits under such terms and conditions as are most advantageous to the Government," so as to make the clause read:

Transportation and recruiting, Marine Corps: For transportation of troops, and of applicants for enlistment between recruiting stations and recruit depots or posts, including ferriage and transfers en route, or cash in lieu thereof; toilet kits for issue to recruits upon their first enlistment and the expense of the recruiting service, $317,000: *Provided*, That authority is hereby granted to employ the services of an advertising agent in advertising for recruits under such terms and conditions as are most advantageous to the Government.

The amendment was agreed to.

The next amendment was, on page 78, line 21, before the word "hundred," to strike out "five" and insert "nine," so as to make the clause read:

Total Marine Corps, exclusive of public works, $7,425,978.78.

The amendment was agreed to.

The next amendment was, under the subhead "Increase of the Navy," at the top of page 79, to insert:

That for the purpose of further increasing the naval establishment of the United States the President is hereby authorized to have constructed two first-class battleships, each carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and great radius of action, and to cost, exclusive of armor and armament, not to exceed $7,425,000 each.

Mr. JOHNSTON of Alabama. I wish to move to amend the paragraph. In line 3 I move to strike out "two battleships" and insert "one battleship."

I wish to call the attention of the Senate to the fact that we have now under construction 6 battleships, 13 destroyers, 5 colliers, 2 seagoing tugs, and 18 submarines. These are already provided for by law, and when completed will cost the Government $100,000,000. I ask leave to insert a table which has been prepared showing the special vessels under construction.

The table referred to is as follows:

United States naval vessels under construction.

No.	Vessels.	Building yards.	Engines.	Number of shafts.	Speed, knots.	Percentage machinery completed 1912.	
						May 1.	June 1.
	BATTLESHIPS.						
32	Wyoming	Wm. Cramp & Sons	Parsons turbine	4	20½	94.34	94.95
33	Arkansas	New York Ship Building Co	do	4	20½	97.57	97.57
34	New York	Navy yard, N. Y.	Reciprocating	2	21	26.04	29.06
35	Texas	Newport News Co	do	2	21	61.80	64.40
36	Nevada	Fore River Ship Building Co	Curtis turbine	2	20½	4.16	4.79
37	Oklahoma	New York Ship Building Co	Reciprocating	2	20½	.....	.....
	DESTROYERS.						
37	Fanning	Newport News Co	Parsons turbine	3	29½	90.70	95.30
38	Jarvis	New York Ship Building Co	do	3	29½	67.37	82.82
39	Henley	Fore River Ship Building Co	Curtis turbine and reciprocating	2	29½	79.15	87.79
40	Beale	Wm. Cramp & Sons	Parsons turbine	3	29½	85.43	89.88
42	Jenkins	Bath Iron Works	do	3	30	96.03	99.45
43	Cassin	do	Parsons turbine and reciprocating	2	29	22.15	29.31
44	Cummings	do	do	2	29	22.15	29.31
45	Downes	New York Ship Building Co	Curtis turbine and reciprocating	2	29	5.75	6.38
46	Duncan	Fore River Ship Building Co	do	2	29	23.47	31.74
47	Aylwin	Wm. Cramp & Sons	Zoelly turbine and reciprocating	2	29½	42.09	50.42
48	Parker	do	do	2	29½	31.86	45.80
49	Benham	do	do	2	29½	31.66	38.55
50	Balch	do	do	2	29½	31.10	38.12
	COLLIERS.						
9	Proteus	Newport News Co	Reciprocating	2	14	37.60	42.90
10	Nereus	do	do	2	14	34.50	39.90
11	Orion	Maryland Steel Co	do	2	14	86.33	92.76
12	Jason	do	do	2	14	48.19	53.05
3	Jupiter	Navy yard, Mare Island	Electric	2	14	36.27	40.27
	SEAGOING TUGS.						
12	Sonoma	New York Ship Building Co	Reciprocating	1	14	67.90	77.73
13	Ontario	do	do	1	14	68.30	78.40
	SUBMARINES.						
21	F-2	Union Iron Works	Diesel	2	14	98.64	100.00
22	F-3	Seattle Construction & Dry Dock Co	do	2	14	97.70	99.20
23	F-4	do	do	2	14	88.60	90.70
	G-1	Lake Torpedo Boat Co	White & Middleton	2	12½	98.00	98.00
27	G-2	do	do	2	14½	98.10	98.10
31	G-3	do	Diesel-Sulzer	2	14	11.97	12.36
26	G-4	Wm. Cramp & Sons	Laurenti	2	14	76.46	78.61
28	H-1	Union Iron Works	Diesel	2	14	73.48	78.12
29	H-2	do	do	2	14	68.58	78.08
30	H-3	Seattle Construction & Dry Dock Co	do	2	14	53.60	62.80
32	K-1	Fore River Ship Building Co	do	2	14	17.44	19.31
33	K-2	do	do	2	14	17.34	19.25
34	K-3	Union Iron Works	do	2	14	16.26	19.52
35	K-4	Seattle Construction & Dry Dock Co	do	2	14	13.80	16.30
36	K-5	Fore River Ship Building Co	do	2	14	.....	2.08
37	K-6	do	do	2	14	.....	1.26
38	K-7	Union Iron Works	do	2	14	.....	1.49
39	K-8	do	do	2	14	.....	1.49

Mr. JOHNSTON of Alabama. Mr. President, instead of entering into competition with foreign nations in building battleships, one for every two of England and one for every one of Germany, France, or Japan—instead of being governed in our expenditures or following the pace set by these nations, it would be far better, both for ourselves and for the burdened taxpayers of foreign nations, to endeavor to provide treaties that would put an end to these struggles for supremacy and these vast and unnecessary wastes of public funds. The burden of every appropriation, the final incidence of every dollar expended by this Government, falls upon the citizens, rich and poor, of the United States. The glory that was Rome, the games and largess of its emperors, made many a Roman holiday and bent with toil many a Roman citizen or else extinguished the light of happiness in provincial cottages. A nation has no riches by inheritance or by speculation. The last cent of its revenue is taken

from the pockets of the people. Great ships do not spring from mere ideas of grandeur, but are slowly constructed by the sweat of a nation.

Whenever we build a war vessel England builds two and Germany, France, and Japan build one; thus six ships, not one, are involved when the Congress of the United States increases its Navy by one. At least $75,000,000 of energy are wrung from five nations and wasted as utterly and remorselessly as by fire. Some, in the face of this fact, advocate that we shall build enough battleships to command both the Atlantic and Pacific Oceans, which, even if England stood still in her construction and addition to her navy, would require the expenditure of billions of dollars, would extend the income tax into every home, take its toll from every wage and income, and abolish for all time the bright dream of tariff reduction. In 1900 our appropriations for the Navy were about $55,000,000. Last year they were $120,000,000, and with all the paring down of a Democratic House, and after eliminating excess battleships, the present House bill calls for $118,547,137.48, and this bill adds over $15,000,000.

When are we to stop? How long will it take at this pace to saddle upon the backs of our people burdens they can only bear by denying their families the necessities of life? Very few of our people, with sound minds and sound appetites, would have their hunger assuaged by the knowledge that we had the second greatest Navy in the world. Ideas of grandeur fill the mind, not the stomach.

The militarism of the German Empire has imposed such burdens upon their people that they have been forced to Socialism and other fancied panaceas of brotherhood in the hope of relief. Monarchical grandeur has no place in a republic. The American people must not be sweated out of taxes to provide pageants. Montesquieu was wise when, in speaking of the corruption of democracy, he said that the people themselves are corrupted when false leaders—

to disguise their own ambition speak to them only of the grandeur of the state. (Book VIII, 2.)

All grandeur, force, and power are relative. Care, therefore, must be taken that in endeavoring to increase the real grandeur the relative be not diminished. (Book IX, 9.)

The total revenue of the Government is about $1,000,000,000, or an average of $10 for every man, woman, and child in the United States. Of this vast sum over $600,000,000, or an average of nearly $6 for each person, is expended for war or in preparation for or in reparation of the ravages of war. This requires over $12,000,000 from the people of Alabama.

We should now determine our policy. Is the United States to proceed upon this delirium of paranoia and invite the fevered unrest which has followed lavish military outlay in every European country, or shall we forestall that result by reducing the burden of taxation and applying our revenue to works of permanent usefulness and of benefit to the common people who must stand the burden?

Our policy not many years since was to build one ship each year. Now, when the Panama Canal is almost completed, linking the oceans together and satisfying the supposed necessity for two fleets, one on the Atlantic and the other on the Pacific, we are asked to build two or four each year, and a few warriors, to whom war is a stage and not the grim reality of hell, advocate six.

I have seen war. It extends beyond the wounds and deaths upon the battle field to the homes of the people. We have scarcely recovered from the conflict between the States now after 50 years. That war cost in money and destruction of property over $5,000,000,000 and the lives of the flower of the manhood of this country. In money burden we still have as a legacy nearly $200,000,000 a year to disburse in pensions. Our gigantic outlay for purposes of war, curtailed or diverted to the uses of the people, would enable us to abolish the tariff and make this great land smile with peace and plenty. With highways universally and permanently maintained, the postal service extended to every hill and dale and made to embrace the carriage of parcels and express; with systematic extension of the aid to agricultural demonstration and experiment; our schools endowed and equipped; institutions for the treatment of our ill and infirm and for the extension of knowledge, and for relief and instruction upon all questions involving social and physical well-being established and maintained; with all this possible if we can devise a procedure which will save us from this staggering martial waste, how can this national competition in armament be justified?

When we build a *Dreadnought*, have supplied its armament, and made it ready for battle, we shall have to spend over $10,000,000; and to keep it on the sea, properly manned, will cost annually about a million dollars. The distinguished Senator from Maine, Mr. Hale, an expert in these matters, said in a speech in the Senate on May 20, 1910 (RECORD, p. 6594):

That every battleship of the *Dreadnought* class that we built cost, when fully completed and equipped and ready for war, from $16,000,000 to $18,000,000—

And that he had given the matter minute investigation.

In a decade, after we have spent some $30,000,000 on its construction and maintenance, it becomes a second-class ship, and in 10 more years it is relegated to the third class, and soon thereafter becomes practically useless. The great battleships of 1900 are now in the second or third class, and in a few years more will be more valuable to demonstrate their uselessness, their mistakes in design, their wasted cost, and as junk than for use in war. All of the millions expended will have been swallowed up like the *Titanic* in the remorseless sea. The great guns placed upon these vessels thunder forth their futility. A hundred shots—and they belch greater danger to our brave gunners and the ship than to the enemy.

We have a great Nation, and claim to be a Christian Nation, and to stand for peace on earth and good will to all. We have the greatest resources of any nation in the world. God has led us from over seas to a land separated from probable aggression by thousands of miles of water. We should stand for peace and good will on earth and employ our industry and our resources in the arts of peace.

Mr. President, we want no sailor settled like an "old man of the sea" on the back of every man who must then labor not only for himself and his family but for his costly rider. What nation would measure swords with us or invade our shores even if we had no battleships?

Our duty and responsibility is plain. We must maintain a Navy reasonably adequate to police our shores and our dependencies. We must by world treaties secure to the Philippines immunity from seizure and attack, open them to the enlightenment and development of all nations, and extend our weary protectorate until such time as the gradual civilization of the waste places of the earth has reached those islands and made their people fit for self-government. For these purposes we need no annual multiplication of vessels of war nor dollar diplomats. We need a State Department with the love of humanity for its guide and the example and conviction of a great people to back stand it.

Instead of harkening to the romantic visions of great conquests, I desire to submit to the Senate that we should not only set all nations an example by limiting this evergrowing waste for armament and appeal to the Christian spirit of the world, but should hold such inducement as we can to bring an end to this orgy of expenditure for war. With every farmer in Germany burdened with the equivalent of maintenance of six nonproducing men at arms, with England in social chaos from her great outlay, let the United States, in determining its tolls for the use of the Panama Canal, prescribe a differential against the ships of every nation which constructs more than one battleship of the first class a year.

Mr. President, let us take the first step toward the redemption of modern times from socialism and anarchy, those grim reflexes of martial waste. Let us add to our example the force of economic expediency. I shall earnestly oppose the construction of more than one battleship, and I will submit to the Panama bill when it shall come before the Senate an amendment embodying my idea of the first step toward international disarmament and which will make the use of the Panama Canal on equal terms with other nations conditional upon a limitation of naval expenditure.

Mr. PERKINS. Mr. President, I hope the amendment proposed by the Senator from Alabama will not be adopted. The provision contained in the bill is unanimously recommended by the Committee on Naval Affairs, with the exception of 1 member, 14 of the 15 members constituting that committee being in favor of it. I have prepared a short statement in regard to the amendment of the committee, which I ask the Secretary to read at this time.

The PRESIDENT pro tempore. The Secretary will read as requested, in the absence of objection.

Mr. JOHNSTON of Alabama. Mr. President, did the Chair lay before the Senate the amendment which I proposed to the amendment of the committee?

The PRESIDENT pro tempore. The amendment has been received, and will be laid before the Senate as soon as the time comes for a vote. In the meantime the Senator from California has asked that a statement relative thereto be read. The Secretary will read.

The Secretary read as follows:

Your committee has deemed it advisable to recommend the construction of two battleships. The progress of the great nations in naval

construction is such as to compel the United States to add yearly to its fleet fighting vessels of the greatest possible efficiency in order not to fall so far behind in offensive and defensive strength as to invite aggressive policies by other countries. The opening of the Panama Canal will be followed by changes in the great trade routes of the world, and the United States, through its ownership and control of the new waterway, will be brought into closer contact with the great world powers than ever before, and the latter will have interests in the Western Hemisphere which do not now exist. The Caribbean Sea will become one of the centers of the world's greatest commercial activity, in which all the great nations will play prominent parts. The concentration of the trade interests of all the great maritime countries at the Isthmus of Panama will necessitate on the part of these countries such action as all nations take to safeguard their commerce, and there will be an incentive for the exhibition of foreign naval and military strength in the waters contiguous to the canal, which has hitherto been lacking. The new interests which other nations will have in the Western Hemisphere on account of the new trade routes established through the Panama Canal will almost surely bring into the field of international discussion as never before the so-called Monroe doctrine, and the United States, as its promulgator and sponsor will doubtless have to deal with questions arising thereunder, some of which may well be such as to render it advisable to have adequate naval strength behind official negotiations. Such naval strength is secured mainly through battleships, the floating force which, when necessity arises, must meet and contend with battleships of a foe. If we are to maintain ourselves upon the sea, our offensive strength must be at least equal to that of any probable antagonist. And it goes without saying that if we do not construct vessels equal in power to those which other nations build, we shall soon become so far inferior as an antagonist upon the sea as to render impotent objections to what, under the Monroe doctrine, might be considered unfriendly acts. M. d'Estournelles de Constant in the report of the Commission of the Interparliamentary Union, in behalf of the limitation of naval and military expenditures, pertinently says:

"Only senseless beings—and whatever may be said, they are rather rare—would make light of the fate of their country, as good citizens profit by modern progress in order to develop their activity, as their independence and dignity grow, the more their sense of duty toward national defense develops; in the same way a father would defend his child, his family, his home."

For the past three or four years the United States has stood next to Great Britain in sea power. To-day she has yielded that place to Germany. Not only in gross tonnage of naval vessels is Germany far ahead—1,087,399 tons against 885,066—but in real fighting strength as represented by battleships.

Built and building, Germany has 726,119 tons of first-class battleships and battleship cruisers against 555,796 tons for the United States. These figures represent 42 German vessels and 35 American. And the building program of Germany goes steadily on, and next year will see a further discrepancy between the sea strength of the two countries if we remit our efforts; but comparison with Japan will reveal in a very striking manner the unwisdom of refusing to add capital vessels to maintain our sea strength. The battleships and battleship cruisers built and building in Japan to-day aggregate only 372,498 tons against 555,796 tons for the United States—21 fighting ships against 35; but at this time Japan has no all-big-gun ships, though six are under construction, yet the program adopted by Japan will place that country on an equality in that respect in 1920, even if we continue the policy of building two battleships a year. In that year the United States would have 24 fighting vessels, 16 battleships armed with 14-inch or larger guns and 8 with 12-inch guns, while Japan would have 23 capital ships, only two of which would carry guns as small as 12 inches. She would have 21 ships carrying guns of 14-inch caliber or over, to pit against only 16 United States vessels of the same class. In calling attention to this state of affairs, the Scientific American says:

"It is surely only necessary to enumerate the facts to impress upon the country the seriousness of the position and the folly of even thinking of reduction."

Mr. CLAPP. Mr. President, I should like to inquire of the Senator in charge of the bill, or of the Senator from Massachusetts, if it is a fact that other countries are now engaged in building battleships larger than those contemplated by this bill?

Mr. LODGE. Of course the expression "contemplated by this bill" is rather indefinite. There are some larger ships built and being built by other countries than any we have yet undertaken to construct.

Mr. CLAPP. Yes; but that is not exactly the question. I desire to know whether the Senator understands that this bill—and I ask for information—would warrant our entering upon the construction, simply under the authority conferred by this bill, of battleships as large as those that are now being constructed by some of the other nations?

Mr. LODGE. This provision would permit the Secretary of the Navy to build battleships as large as those the department decided were of the best type.

Mr. CLAPP. That is what I wanted to appear in the RECORD.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. JOHNSTON] to the amendment reported by the committee.

Mr. JOHNSTON of Alabama. Mr. President, it is necessary, I find, to add other amendments to perfect the amendment I have offered. I move to change the word "battleships," in line 3, to "battleship," and in lines 3 and 8 to strike out the word "each" where it occurs.

The PRESIDENT pro tempore. The Secretary will state the amendment as modified to the amendment of the committee.

The SECRETARY. On page 79 it is proposed to amend the amendment of the committee, in line 3, before the word "first-class," by striking out "two" and inserting "one"; in the same line by striking out "battleships" and inserting "battleship"; and in lines 3 and 8 by striking out the word "each."

Mr. OVERMAN. Mr. President, before the vote is taken on the amendment of the Senator from Alabama I should like to inquire of the Senator from Massachusetts, or the chairman of the committee, how many battleships are now being built and how many have been contracted for that are in process of building at this time?

Mr. PERKINS. There are 29 already constructed and ready for service.

Mr. OVERMAN. I mean how many have been provided for and not yet completed?

Mr. PERKINS. Four are under construction and two have have been authorized.

Mr. OVERMAN. So that six are now under construction?

Mr. JOHNSTON of Alabama. Six are now under construction.

Mr. OVERMAN. And two more authorized?

Mr. PERKINS. If the recommendation of the Committee on Naval Affairs is adopted by Congress, two more battleships will be authorized.

Mr. OVERMAN. So that if this appropriation is made it will make eight battleships provided for by law but not completed?

Mr. PERKINS. Yes.

Mr. OVERMAN. If we provide for two battleships now, how long will it take to construct them?

Mr. PERKINS. About three years.

Mr. OVERMAN. If they are begun at once; but can they be begun at once when two already provided for are uncontracted for?

Mr. PERKINS. It will be six months before the plans are ready, and it will be two or three years, at least, before they are completed.

Mr. OVERMAN. How about the two that we have not even contracted for which were required to be built?

Mr. PERKINS. They have been referred to the general board of the Navy for the preparation of plans, and so forth, and, as I understand, bids are about to be asked for their construction.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama to the amendment of the committee.

Mr. BURTON. I call attention to the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Ohio suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	McCumber	Simmons
Bacon	Cullom	Martin, Va.	Smith, Ariz.
Bourne	Cummins	Martine, N. J.	Smith, Ga.
Bradley	Curtis	Myers	Smith, Md.
Brandegee	Fletcher	Nelson	Smith, S. C.
Bristow	Gallinger	Newlands	Smoot
Bryan	Gardner	Overman	Swanson
Burnham	Gronna	Page	Thornton
Burton	Guggenheim	Paynter	Tillman
Catron	Heyburn	Perkins	Townsend
Chamberlain	Johnston, Ala.	Poindexter	Warren
Clapp	Jones	Pomerene	Watson
Clarke, Ark.	Kenyon	Reed	Wetmore
Crane	Kern	Root	Williams
Crawford	Lodge	Sanders	Works

The PRESIDENT pro tempore. Sixty Senators have answered to their names. A quorum of the Senate is present.

Mr. POINDEXTER. Mr. President, I rise only to state that I shall vote against the amendment proposed by the Senator from Alabama, not because I am opposed to the program of economy that he speaks for, but because I regard an adequate fleet as an insurance against loss by war. I shall vote against this amendment in the interest of economy.

The Senator stated in his speech, I believe, that for every battleship built by the United States, Germany built one and England two.

Mr. JOHNSTON of Alabama. I did.

Mr. POINDEXTER. I think that is correct; but if it is intended to draw from that the inference that if we cease our shipbuilding program, Germany and England will cease theirs, I deny the correctness of the inference. The shipbuilding program of Germany and England is, I apprehend, only remotely dependent on our program. Theirs will go on whether we build ships or not, although, perhaps, their programs might be affected remotely by our action.

It is only very recently that we noticed in the public prints statements of the chancelleries of Germany and England of the intentions of those countries in regard to building ships, and we

have read the official statement in the House of Commons that——

Mr. JOHNSTON of Alabama. Mr. President——

Mr. POINDEXTER. Just one moment—and the notice served upon Germany by England that for every ship laid down by Germany England would lay down two; so that whatever our program may be and whatever contingent difficulties we may have in the enforcement of our foreign policy, we will be confronted by those fleets, regardless of the program which we may adopt here.

Mr. JOHNSTON of Alabama. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Alabama?

Mr. POINDEXTER. I yield.

Mr. JOHNSTON of Alabama. I should like to ask the Senator from Washington if he thinks we can ever equal England in its armament and its fleet? How much money would we have to pay out to do so? Would it not be over $2,000,000,000 if she just stood still?

Mr. POINDEXTER. If we should undertake to do that, Mr. President, we would have to pay out $216,000,000 a year for our naval estimates.

Mr. JOHNSTON of Alabama. For 20 years?

Mr. POINDEXTER. Well, for the present rate of increase or for the present equipment. What period of time would be required to overtake England in armament is a matter dependent, of course, upon various circumstances that can not be calculated here.

Mr. JOHNSTON of Alabama. The Senator's idea is not that we can ever accomplish the result of having as large a fleet as England at all, is it?

Mr. POINDEXTER. I do not think we ought to have any such object in view. I do not think that it is necessary.

Mr. JOHNSTON of Alabama. But if we had the idea, we could not do it.

Mr. POINDEXTER. My idea is that if we wanted to do it we could do it.

Mr. JOHNSTON of Alabama. We could not do it at all.

Mr. POINDEXTER. We could afford to do it, and there is nothing in the world that I can see and nothing that the Senator has so far pointed out which would prevent this Nation from building a fleet as great as that of England. I do not contend that we ought to do that; that is not involved in this proposition; but I do say, in answer to the Senator's question, that, if the necessity arose for it, we have the wealth, the resources, and the ability to build a fleet equal to that of England.

Mr. JOHNSTON of Alabama. I think the Senator will admit that England has as great ability and as great resources as we have for building battleships.

Mr. POINDEXTER. No; I do not admit that at all.

Mr. JOHNSTON of Alabama. Well, we differ widely.

Mr. POINDEXTER. The resources incident to the construction of battleships consist of natural resources and accumulated wealth, and I insist that this country has more resources than has the Empire of Great Britain; but that is a mere academic discussion.

We have undertaken to assert, Mr. President, since we have become a nation of importance, what has come to be known as the Monroe doctrine. That doctrine is not accepted as a part of international law by the great nations of Europe. The only way we can maintain it is by the possession of a sufficient military force. For every ship we build we are relieved to that extent of the necessity of maintaining an army.

It is only commonplace to refer to the wars in which we have already been engaged, and to call attention to the fact that we have been successful in those wars, including the great Civil War, because of our Navy. In the great Civil War the Federal Union was successful because it commanded the seas and the Confederate States possessed no navy. So it was in the Revolutionary War. The services of John Paul Jones, together with the services rendered to us by the French fleet, were responsible to a large extent for the success of the American Army and the American Nation in the war for independence. So it has been throughout our history.

Mr. JOHNSTON of Alabama. I want to ask the Senator how our Navy in the Revolutionary War compared with the English Navy. We had only a few ships then.

Mr. POINDEXTER. It compared very favorably in point of brilliant service. It compared favorably enough for us to threaten the city of London, to gain victories off the coast of the islands of Great Britain, and to threaten the commerce of England.

Mr. SWANSON. If the Senator will permit me, I will suggest that it was the French fleet in Chesapeake Bay that compelled the surrender of the British forces at Yorktown. If the French fleet had not been in American waters at that time to maintain the naval supremacy of our cause, the results of the Revolutionary War would have been vastly different.

Mr. POINDEXTER. I have not the slightest doubt of the accuracy of the statement of the Senator from Virginia. But I say it is only commonplace to cite the fact that not only in our own experience, but in that of England itself, and that of all the great nations of the world, their success and their greatness have been due to their navy, to their command of the sea. That was the case with the Empire of Rome. England never would have survived the attacks of Napoleon if it had not been for the superiority of her fleet, the superiority of her admirals, her command of the sea.

We can not blind ourselves to the fact that we are facing the contingency, at least, of foreign difficulty, not only in the Atlantic but in the Pacific. The danger is constantly increasing; the possibility of those difficulties is becoming more acute year by year as the pressure of population and the struggle for existence become more acute in the great nations bordering upon those oceans. We are compelled to be prepared to defend ourselves. The moment we cease to maintain an armament, that moment we become a prey to the necessities and to the ambitions of the nations which rival us upon the Atlantic and upon the Pacific.

We have had practical experience already with Japan and with England and with Germany—I hope the incidents will not be repeated, but they are matters of recent history—when we were able to maintain the honor of the United States, not through diplomacy, not through negotiations, but because our diplomacy was backed up by an adequate fleet. The only way we can continue to maintain the honor of this country, so long as the program of military armament by other nations is continued, is to continue to be able to use force when it is necessary.

I am in favor of peace, as we all are. If the Senator from Alabama could institute a negotiation which would result in the simultaneous cessation of warship building by Japan and Germany and England and the United States, he would render a great service not only to his own country but to mankind. But for the United States to undertake to stop the extension of its Navy, without consideration of what the other nations are going to do, would be, in my judgment, perfect folly.

Mr. HEYBURN. Mr. President, there is another phase of this matter which ought to be mentioned. When we provide for the building of two battleships we are merely providing a market for at least $20,000,000 of American material and American labor. If we were going to buy these ships in a foreign market, ships constructed out of foreign material by foreign labor, that would be a different proposition. But we are merely going to make occupation for American citizens by giving them a chance to construct these ships. Nothing is lost in the way of money expended, because it is merely an interchange or an exchange. It is creating an opportunity to do business.

One of the wisest provisions in regard to the construction of these ships is that they must be constructed of home material by home labor, and that goes far to justify the expenditure of these large sums of money. It is not an expenditure in one sense of the word, but it is employing our own resources and making opportunities for men.

I have never hesitated to vote liberal appropriations for the construction of ships for the Navy, not because I thirst for war or strife, but because I regard their construction as a guaranty against war and as a guaranty of protection to our people and their property. The responsibility of founding this Nation rested upon those who did that great act, but the responsibility of maintaining it rests upon each succeeding generation that follows.

There should be no cessation, no period when this Government should not be expending the money which it collects in tolls from foreign peoples and nations to protect us against the aggression of those peoples. We take in every year at our customhouses enough money to build 30 battleships. We make the foreign manufacturers and producers of dutiable articles build our Navy out of only a small portion of the money we collect from them. So my conscience does not trouble me in regard to the expenditure of money for this purpose.

Think how much more desirable it is to keep an enemy out of the country than it is to take care of him after he gets into the country. We do not want foreign soldiers landed upon American soil. When they are once landed we are confronted with a very different proposition. The Navy of the country is,

and should be, primarily intended to protect our people against the invasion of foreign foes, and it has always met the necessity.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment offered by the Senator from Alabama to the committee amendment.

Mr. JOHNSTON of Alabama. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LODGE. Mr. President, I understand a vote for the amendment is a vote for one battleship, while a vote against the amendment is a vote for two?

The PRESIDENT pro tempore. The Senator is correct; at least in the first part of his statement.

Mr. MYERS. Will the Chair have the amendment read, in order that we may see in what form it is?

The PRESIDENT pro tempore. The Secretary will report the amendment.

The SECRETARY. On page 79, in the proposed committee amendment, it is proposed, before the word "first-class," in line 3, to strike out "two" and insert "one"; also, on the same line, to strike out the word "battleships" and insert the singular, "battleship"; also, on lines 3 and 8, to strike out the word "each," so that, if amended, it will read:

That for the purpose of further increasing the naval establishment of the United States the President is hereby authorized to have constructed one first-class battleship, carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and great radius of action, and to cost, exclusive of armor and armament, not to exceed $7,425,000.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I am paired with the junior Senator from New York [Mr. O'GORMAN]. Not seeing him on the floor I withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. CHAMBERLAIN (when his name was called). I am paired with the junior Senator from Pennsylvania [Mr. OLIVER], but I am assured that he would vote as I intend to, and, therefore, I take the liberty of voting. I vote "nay."

Mr. CRAWFORD (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. I transfer it to the junior Senator from Wisconsin [Mr. STEPHENSON] and will vote. I vote "nay."

Mr. CURTIS (when his name was called). I am paired with the junior Senator from Nebraska [Mr. HITCHCOCK] and therefore withhold my vote.

Mr. THORNTON (when Mr. FOSTER's name was called). I wish to announce that my colleague [Mr. FOSTER] is necessarily detained from the Chamber on account of sickness. He is paired with the junior Senator from Wyoming [Mr. WARREN]. I am also authorized by my colleague to say that, if present, he would vote for two battleships.

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. I do not know how he would vote if he were present, and in his absence I withhold my vote. I will say that if he were present and I were at liberty to vote, I should vote "nay."

Mr. WETMORE (when Mr. LIPPITT's name was called). My colleague [Mr. LIPPITT] is unavoidably absent. He has a general pair, I understand, with the Senator from Tennessee [Mr. LEA]. If my colleague were present, he would vote "nay."

Mr. McCUMBER (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. PERCY]. He being absent, I withhold my vote.

Mr. MYERS (when his name was called). On this and other matters for the time being I am paired with the Senator from Connecticut [Mr. MCLEAN]. It is my information and understanding that if he were here he would vote "nay" on this amendment, while if at liberty to vote I should vote "yea." But, on account of being paired, I refrain from voting.

Mr. OVERMAN (when his name was called). On this amendment I am paired with the junior Senator from West Virginia [Mr. CHILTON]. He favors two battleships; I favor one. He would vote "nay" if present, and I should vote "yea."

Mr. SMITH of South Carolina (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. RICHARDSON], and in his absence I withhold my vote.

Mr. SMOOT (when Mr. SUTHERLAND's name was called). My colleague [Mr. SUTHERLAND] is unavoidably detained from the Chamber. He has a general pair with the senior Senator from Maryland [Mr. RAYNER]. If my colleague were present, he would vote "nay."

Mr. WARREN (when his name was called). On this question I am paired with the senior Senator from Louisiana [Mr. FOSTER], and withhold my vote.

The roll call was concluded.

Mr. CRAWFORD. I desire to announce that my colleague [Mr. GAMBLE] is unavoidably absent. He has a general pair with the Senator from Oklahoma [Mr. OWEN].

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is unavoidably absent from the Chamber, and I understand he is paired with the junior Senator from Missouri [Mr. REED].

Mr. REED (after having voted in the affirmative). I had risen to my feet to say that I voted inadvertently, without noting the absence of the Senator from Michigan [Mr. SMITH]. I transfer my pair with the Senator from Michigan to the Senator from Nebraska [Mr. HITCHCOCK], and will allow my vote to stand. I am just informed that the Senator from Nebraska is paired, and under the circumstances I withdraw my vote.

Mr. WARREN. My colleague [Mr. CLARK] is at home ill. He has a general pair, I believe, with the senior Senator from Missouri [Mr. STONE].

Mr. BRANDEGEE. I transfer my pair with the junior Senator from New York [Mr. O'GORMAN] to the junior Senator from Illinois [Mr. LORIMER], and will vote. I vote "nay."

Mr. STONE. I have a general pair with the senior Senator from Wyoming [Mr. CLARK]. I do not know how he would vote, and therefore I withhold my vote.

Mr. HEYBURN. I transfer my pair with the senior Senator from Alabama [Mr. BANKHEAD] to the junior Senator from Pennsylvania [Mr. OLIVER], and will vote. I vote "nay."

Mr. CLAPP. I desire to state that the senior Senator from Montana [Mr. DIXON] is unavoidably absent. He is paired with the junior Senator from Texas [Mr. BAILEY]. If the senior Senator from Montana were present, he would vote "nay."

Mr. CULBERSON. In view of my general pair with the Senator from Delaware [Mr. DU PONT], who is absent, I withhold my vote.

The result was announced—yeas 12, nays 43, as follows:

YEAS—12.

Bacon	Clapp	Johnston, Ala.	Smith, Ariz.
Bristow	Fletcher	Kern	Tillman
Burton	Gronna	Pomerene	Williams

NAYS—43.

Ashurst	Cullom	Lodge	Simmons
Bourne	Cummins	Martin, Va.	Smith, Ga.
Bradley	Dillingham	Martine, N. J.	Smith, Md.
Brandegee	Fall	Nelson	Smoot
Bryan	Gallinger	Page	Swanson
Burnham	Gardner	Paynter	Thornton
Catron	Guggenheim	Penrose	Townsend
Chamberlain	Heyburn	Perkins	Watson
Clarke, Ark.	Johnson, Me.	Poindexter	Wetmore
Crane	Jones	Root	Works
Crawford	Kenyon	Sanders	

NOT VOTING—39.

Bailey	Dixon	McCumber	Reed
Bankhead	du Pont	McLean	Richardson
Borah	Foster	Myers	Shively
Briggs	Gamble	Newlands	Smith, Mich.
Brown	Gore	O'Gorman	Smith, S. C.
Chilton	Hitchcock	Oliver	Stephenson
Clark, Wyo.	La Follette	Overman	Stone
Culberson	Lea	Owen	Sutherland
Curtis	Lippitt	Percy	Warren
Davis	Lorimer	Rayner	

So the amendment of Mr. JOHNSTON of Alabama to the amendment was rejected.

The PRESIDENT pro tempore. The question now is upon the amendment proposed by the committee.

The amendment was agreed to.

Mr. ASHURST. I have an amendment to propose. I was on my feet when the question was put, although possibly I did not present the matter quickly enough. I want to propose an amendment to that section.

The PRESIDENT pro tempore. The Chair will consider it, if there be no objection.

Mr. ASHURST. I offer the following amendment——

Mr. LODGE. The amendments of the committee have not yet been completed.

The PRESIDENT pro tempore. Does the Chair understand the Senator from Arizona to say that he wishes to amend the amendment just adopted? That can not be done without a reconsideration of the vote.

Mr. ASHURST. I then offer it as an independent amendment, Mr. President.

The PRESIDENT pro tempore. The Senate is now considering the committee amendments, and unless it is an amendment to a pending amendment, the Senator will have to withhold it for the present.

Mr. ASHURST. Very well; I will do so.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 79, line 11, after the words "navy yards," to insert

"one to be built in a navy yard on the Pacific coast," so as to make the clause read:

Two fuel ships to cost, exclusive of armor and armament, not to exceed $1,140,000 each, and which shall be built in navy yards, one to be built in a navy yard on the Pacific coast.

The amendment was agreed to.

The next amendment was, on page 79, line 19, before the word "submarine," to strike out "Four" and insert "Eight"; in line 21, before the word "thousand," to strike out "two million two hundred and forty" and insert "four million four hundred and eighty"; in line 23, before the word "dollars," to strike out "eight hundred thousand" and insert "one million six hundred thousand"; and in the same line, after the word "purpose," to insert "and the Secretary of the Navy is directed to consider the advisability of stationing four of said submarine torpedo boats at or near the mouth of the Mississippi River and the United States seaports of the Gulf of Mexico as a proper naval defense thereof," so as to make the clause read:

Eight submarine torpedo boats in an amount not exceeding in the aggregate $4,480,000; and the sum of $1,600,000 is hereby appropriated for said purpose, and the Secretary of the Navy is directed to consider the advisability of stationing four of said submarine torpedo boats at or near the mouth of the Mississippi River and the United States seaports of the Gulf of Mexico as a proper naval defense thereof.

Mr. JONES. Mr. President, I desire to offer an amendment to the section, which I send to the desk.

The SECRETARY. On page 80, in line 3, after the word "thereof," it is proposed to insert the words "and the other four upon the Pacific coast."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 80, line 8, after the words "in this," to strike out "except submarines," and in line 10, after the word "authorized," to strike out "except submarines," so as to make the clause read:

The Secretary of the Navy may build any or all of the vessels authorized in this act in such navy yards as he may designate, and shall build any of the vessels herein authorized in such navy yards as he may designate, should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels, have entered into any combination, agreement, or understanding, the effect, object, or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels.

The amendment was agreed to.

The next amendment was, on page 80, after line 17, to strike out:

The appropriation made by the act of May 4, 1898, for one gunboat to be built on the Great Lakes and to take the place of the United States ship *Michigan* (now *Wolverine*) is hereby made available for the construction of a river gunboat, which may, as advantage may offer, be built elsewhere than on the Great Lakes or their connecting waters.

The amendment was agreed to.

The next amendment was, on page 81, line 4, before the word "thousand," to strike out "eight million nine hundred and forty-six" and insert "twelve million six hundred and fifty-eight," so as to make the clause read:

Construction and machinery: On account of hulls and outfits of vessels and steam machinery of vessels heretofore and herein authorized, $12,658,205.

The amendment was agreed to.

The next amendment was, on page 81, line 16, before the word "thousand," to strike out "three hundred and twenty-five" and insert "four hundred and forty-five," so as to make the clause read:

Increase of the Navy; equipment: Toward the completion of equipment outfit of the vessels heretofore and herein authorized, $445,000.

The amendment was agreed to.

The next amendment was, on page 81, line 20, before the word "thousand," to strike out "five million two hundred and sixty-five" and insert "thirteen million one hundred and ninety-three," so as to make the clause read:

Increase of the Navy; armor and armament: Toward the armor and armament for vessels heretofore and herein authorized, $13,193,200.

The amendment was agreed to.

Mr. PERKINS. I offer the amendment I send to the desk.

The SECRETARY. On page 81, line 23, change the total so as to read "$29,799,373.48."

The amendment was agreed to.

The Secretary continued the reading of the bill and read to line 21, page 83, the last paragraph read being as follows:

That every contract hereafter made to which the United States, any Territory, or the District of Columbia is a party, and every such contract made for or on behalf of the United States, or any Territory, or said District, which may require or involve the employment of laborers or mechanics shall contain a provision that no laborer or mechanic doing any part of the work contemplated by the contract, in the employ of the contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work; and every such contract shall stipulate a penalty for each violation of such provision in such contract of $5 for each laborer or mechanic for every calendar day in which he shall be required or permitted to labor more than eight hours upon said work; and any officer or person designated as inspector of the work to be performed under any such contract, or to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, forthwith report to the proper officer of the United States, or of any Territory, or of the District of Columbia, all violations of the provisions of this act directed to be made in every such contract, together with the name of each laborer or mechanic who has been required or permitted to labor in violation of such stipulation and the day of such violation, and the amount of the penalties imposed according to the stipulation in any such contract shall be directed to be withheld for the use and benefit of the United States, the District of Columbia, or the Territory contracting by the officer or person whose duty it shall be to approve the payment of the moneys due under such contract, whether the violation of the provisions of such contract is by the contractor or any subcontractor. Any contractor or subcontractor aggrieved by the withholding of any penalty as hereinbefore provided shall have the right within six months thereafter to appeal to the head of the department making the contract on behalf of the United States or the Territory, and in the case of a contract made by the District of Columbia to the commissioners thereof, who shall have power to review the action imposing the penalty, and in all such appeals from such final order whereby a contractor or subcontractor may be aggrieved by the imposition of the penalty hereinbefore provided such contractor or subcontractor may within six months after decision by such head of a department or the Commissioners of the District of Columbia file a claim in the Court of Claims, which shall have jurisdiction to hear and decide the matter in like manner as in other cases before said court.

The next amendment of the Committee on Naval Affairs was, on page 83, line 22, to strike out the word "section" and insert the word "act."

The PRESIDENT pro tempore. If there is no objection, the amendment is agreed to.

Mr. HEYBURN. The question in my mind is as to what is agreed to. That section, in part, is as it comes from the House and is not subject to amendment during the consideration of committee amendments, but there are contained in the section several provisions that might be subject to amendment now.

Mr. LODGE. Perhaps the Senator did not notice the amendments by the Senate committee which are included.

Mr. HEYBURN. They are all included in the section; but the question is whether now in considering those very meager amendments we are to be taken as accepting the portions of the bill on pages 82 and 83, in which there are no amendments except one, in which the word "act" is substituted for the word "section."

Mr. LODGE. That is the bill precisely as it passed the Senate.

Mr. HEYBURN. When?

Mr. LODGE. The eight-hour bill. It is the eight-hour bill as it passed the Senate.

Mr. HEYBURN. I understand that; but we are now considering it as a part of this legislation.

Mr. LODGE. I am aware that it is a part of this bill. I can only say that the committee followed the bill as it passed the Senate. They did not feel that it was possible, after the recent action of the Senate on that bill, to enter on an attempt to change the bill in connection with the naval appropriation bill, and they hope it will be allowed to go without debate on the subject, because we are anxious to pass the bill.

Mr. HEYBURN. I was inquiring, in my mind, as to why it was necessary to reenact the existing law. I would call the Senator's attention to the question as to why it is necessary to enact an existing law in this bill.

Mr. LODGE. It was necessary to enact it because the law as passed does not become effective until after the 1st of January, 1913, and it was desired to make the law effective for the naval work between now and that time. The clause, by an error, was left in the bill on page 85, and of course it will be taken out. It is the clause fixing the date.

Mr. HEYBURN. As I understand it, it amounts to this, that a piece of bad legislation, which, fortunately, was deferred, is now hastened forward in this bill. I thought it was very regrettable that Congress should have enacted that law, and I got some comfort out of the fact that its operation was deferred. Now that little comfort is to be taken away by making it operative a long time before Congress intended it should be operative. I do not care to enter again——

Mr. SWANSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Virginia?

Mr. HEYBURN. Yes.

Mr. SWANSON. Under the present law, before the passage of what is commonly known as the eight-hour law, the construction of battleships was already under the eight-hour law. The only effect of this provision is to extend the common eight-hour law to subcontractors. The battleships last let were let to contractors under the operation of the eight-hour provision that was placed in the appropriation bill for the Navy. So this is but a limited extension of the present law operating now on this measure.

Mr. GALLINGER. If the Senator from Idaho will permit me, I will ask the Senator from Virginia if any harm has come

to anybody because of the operation of the eight-hour law under which the battleships have heretofore been built?

Mr. SWANSON. None that I have heard of. The Newport News shipyard contracted to build a ship under the eight-hour law, and I have heard of no dissatisfaction. They have gotten along very nicely.

Mr. GALLINGER. This eight-hour law seems to be of so much importance that we have got to enact it and reenact it and reenact it again.

Mr. SWANSON. The occasion for this provision being included here is that the eight-hour law passed the House and came to the Senate and there was some doubt as to whether it would pass the Senate or not. So it was put in this bill. Then, after it was included in this bill, as the general eight-hour law as passed does not operate until 1913, it was thought that possibly it might repeal the eight-hour law which was carried in the naval appropriation bill of last year and the year previous to that, limiting the work on battleships contracted for to eight hours. Then the eight-hour law was extended to subcontracts under the interpretation. We saw no occasion why the eight-hour law should not be made operative at once on battleships, for the reason that contracts might be made now which would extend over two and three years. If we should have a contract made before the 1st of January, 1913, under the eight-hour law it might extend over two or three years, which time would be taken for the completion of the battleship, and so we thought it better to include the provision in the pending bill.

Mr. GALLINGER. If the Senator from Idaho will permit me——

Mr. HEYBURN. Certainly.

Mr. GALLINGER. The only comfort I got out of the discussion and the vote upon the eight-hour bill was that on my motion it was not to be operative until January 1, 1913. In other words, it gave contractors of the Government a little time to digest this matter and to prepare themselves for the operation of a law which to my mind is going to do a great deal of harm. But we did get that little bit of comfort out of it. Now, that is a law, and yet at the suggestion of somebody the law is to be reenacted, and that provision is stricken from it.

Mr. SWANSON. No; it is simply to be enacted as to this appropriation bill; that is, to make it apply to battleships the contracts for which are to be made under this bill. It provides for ships to be built years from now, and if they are to enter on contracts between now and the 1st of January, 1913, when the eight-hour law becomes operative, there is doubt as to whether they ought to make contracts under the general eight-hour law or not. To eliminate that difficulty the intention was to let the eight-hour law apply at once to the battleships to be contracted for and to be built under this bill—contracts which will extend over many years.

Mr. GALLINGER. Yet the Senator a moment ago admitted that under the eight-hour law there was no trouble about building the battleships which had been provided for.

Mr. SWANSON. There was this conflict: The Attorney General held that the eight-hour law simply applied to work done in the yard, not to contracts and work elsewhere, and the general eight-hour law was passed to get rid of some interpretations of that kind.

Mr. HEYBURN. Mr. President, we enacted this law less than a month ago. On June 19, 1912, the act was approved. It provides:

> That all classes of work which have been, are now, or may hereafter be performed by the Government shall, when done by contract, by individuals, firms, or corporations for or on behalf of the United States or any of the Territories or the District of Columbia, be performed in accordance with the terms and provisions of section 1 of this act.

That is the obnoxious provision contained in section 1 of the act. Now it is proposed to repeal the last clause of the act approved June 19, 1912, less than a month ago. It is proposed to repeal that which came into the bill through the amendment, I believe, offered by the Senator from New Hampshire [Mr. GALLINGER], which reads as follows:

> SEC. 3. That this act shall become effective and be in force on and after January 1, 1913.

We are proposing, as I said, to repeal that provision of the act so recently enacted. Of course that was considered at the time. There has been no test of the efficiency or applicability of the act. Sufficient time has not elapsed in which anything could occur that would justify a change in the provisions of an act so recently enacted; but we are, in this appropriation bill, proposing to repeal section 3 of that act. I can see no reason why we should do so.

As I said, I shall not go back and enter into a discussion of the merits of the law of June 19, 1912. I only protest against enlarging the scope of what, in my judgment, was not only bad legislation but void legislation, which undertakes to say that a man shall not be allowed to work more than eight hours, that he shall be fined, and that the contractor shall be fined and punished, and that the subcontractor shall be fined and punished if he permits a man to exercise a right that we had always supposed, until this class of freak legislation came in vogue, was one of the inalienable rights of a man.

Mr. President, we ought not to do it. If that law is to remain let it remain subject to the consideration of the next meeting of Congress, which may be wise enough to repeal it between the meeting of Congress and the 1st day of January, 1913. I have thought perhaps there was some ground upon which to base a hope that the further thought upon this question might prompt Congress to repeal that act.

In my judgment, Congress went beyond its powers in saying that a man might not contract for his own time and sell it by the hour or by longer periods or sections. I do not believe it is within the power of Congress to say that a man shall or shall not work, except in the case of a conviction for an infraction of the law in the nature of a punishment. I do not believe that Congress had any more right to say that a man should not work more than eight hours than to say that he should work more than eight hours. I believe that the right of individual contract for the services of the individual is one of those inalienable rights that can not be controlled or disturbed by legislation. Congress thought otherwise—I will not say in its wisdom, but in its hours of inattention and forgetfulness. It seemed to think——

Mr. GALLINGER. Mental aberration.

Mr. HEYBURN. Yes; mental aberration. It seemed to think that its powers were unlimited over the personal and private affairs of the individual, and thrust this statute upon the statute books. I had hoped that within the short time that has elapsed since the enactment of this law, less than 20 days ago, Congress might have gathered some wisdom and some conservative judgment. I had hoped that it might have done so, but it seems to be still under the mental strain which resulted in that enactment, and is inclined not only to repeat it but to emphasize it.

Can it be possible if this eight-hour law, as it is called, were before Congress to-day, after a conservative consideration of it, a fearless consideration of it, with the national conventions gone by, with no selfish motive for bidding for support, that Congress would reenact that measure? The Senate of the United States has been denominated a conservative body. It has in the past stood against such erratic propositions and the consummation of them by legislation.

Who made this demand that a man should have taken away from him the right to labor? There is a sensational element of the people that claims the power to take away from a man the right not to work. Now, we have reached the point where it is asserted that we have the power to take away from a man the right to work.

I am in thorough sympathy with the right of individual contract, whether it be for 6 hours or for more. It is purely an individual question. We have knowledge of conditions that exist in this country where men work what are termed 8-hour shifts with 20-minute passes. There is a crew of men who go on in the Comstock lode and work 20 minutes and come out and another crew go in and take their place and work 20 minutes. In the aggregate the crew work only 6 hours because of the conditions in those mines—water so hot as to be only bearable, condition of atmosphere that renders it impossible for men to work a continuous shift of 6 hours. But it is a question of contract with them. They are paid for the full shift, notwithstanding that they work only a comparatively small portion of it.

Now, while we are not confronted with the Comstock question here we are confronted with possible conditions where men by their contract with their employers regulate the hours and conditions under which they work. We do not recognize that any longer. We have established the principle, if you may call it one, of regulating in the Chambers of Congress the right of a man to work. We have disregarded the necessity, we have disregarded the benefits of the laborer, we have disregarded his wishes in the matter, and we not only fine the man who does it, but fine those who employ him.

Now, that was bad enough. I am hoping and praying that the conservative wisdom of the people will correct that error, and I am protesting here, not only against continuing it and specifically providing for it in this bill, but hastening the day when its wicked and baneful purpose shall confront the people of this country.

The PRESIDENT pro tempore. The Chair had already announced that the amendment was agreed to, but withheld the final conclusion.

Mr. HEYBURN. I ask for the years and nays on that provision.

The PRESIDENT pro tempore. The question is on the amendment on page 83, striking out the word "section" in line 22 and inserting the word "act" in lieu thereof. Upon the adoption of that amendment does the Senator from Idaho call for the yeas and nays?

Mr. GALLINGER. Mr. President, I think the Senator from Idaho did not quite mean that. As I understood the Senator, he meant to demand the yeas and nays upon this eight-hour provision as a whole after it had been amended. I think that was his purpose.

Mr. HEYBURN. That was the purpose.

The PRESIDENT pro tempore. That was the purpose of the Senator from Idaho?

Mr. HEYBURN. Yes.

The PRESIDENT pro tempore. The Senator will demand the yeas and nays on the section, then.

Mr. HEYBURN. My objection was directed to the eight-hour provision. Whether it is necessary, under parliamentary rules, to submit the entire section or not is one that I have not given consideration to.

The PRESIDENT pro tempore. There are a number of amendments in the section, and the votes will have either to be limited to particular amendments as offered or else the vote will be taken, if desired by the Senator, upon the section as finally amended, which would include the particular amendments.

Mr. HEYBURN. I think the vote should be taken on the section as a whole as amended. Then, if it is rejected or sustained, it can be dealt with further.

The PRESIDENT pro tempore. Then the Senator desires to withhold the call for the yeas and nays until the entire section has been dealt with?

Mr. HEYBURN. Yes, sir.

Mr. MARTINE of New Jersey. With the Senator's permission, I desire to inquire whether it is his purpose to strike out the eight-hour provision that was enacted some weeks ago as affecting Government construction.

Mr. HEYBURN. It is to strike out the provision which advances the time when the eight-hour law takes effect.

Mr. CLARKE of Arkansas. Mr. President, I listened to the explanation made as to why this particular provision was incorporated in the bill, but I did not hear any statement giving the true condition of the attempt to amend the statute.

While the so-called eight-hour bill was pending in the Senate, the friends of this measure in the House, rather out of abundant caution, concluded that it was best to insert that bill bodily in the naval appropriation bill, word for word, as it passed the House. After the naval appropriation bill had passed the House and was pending here the Senate, after having amended the eight-hour bill slightly, passed it. The House on the 5th of June concurred in the Senate amendments, and on the 19th of June the President signed the bill. In the meantime the provision included in the House was permitted to remain in in the Senate; and the Senate amendments to the original bill were incorporated in this bill. So what is pending now is a complete word-for-word copy of the eight-hour law, approved by the President on the 19th of June.

Mr. HEYBURN. But, Mr. President——

Mr. CLARKE of Arkansas. With this exception, that it does not include a provision that it shall take effect on the 1st of January, 1913. If the matter shall remain in the bill as it now stands it will take effect together with every other provision in the pending bill as soon as it is approved by the President. The effect of it will be to advance the date on which the eight-hour law is to take effect to the date on which the President shall approve the naval appropriation bill.

Those in favor of that change in the law, and for which I have heard no satisfactory explanation, and for which I see no particular reason, will vote to retain the matter in this bill. If it is amended so as to include the provision that it shall not take effect until the 1st of January, 1913, then all the matter on pages 82 and 83 and the following pages might be stricken out, because it is a literal reproduction of existing law, and it would amount to nothing more than an act of folly to reenact it in that form.

By failing to include a provision that it shall take effect on the 1st of January, 1913, we make it operative immediately. That is the issue presented here now. If the proposition of the Senator from Idaho shall be adopted it is not to strike out anything, but to incorporate an amendment that this part of the bill shall not take effect until the 1st of January, 1913. That identical effect can be obtained by striking out the entire eight-hour law from the bill, for it has no place here, if it is going to take effect on the same day that the existing law will become operative, if it has been made to conform literally and absolutely with the law approved the 19th of June.

Mr. HEYBURN. I would suggest to the Senator that perhaps it could be accomplished by inserting after the word "made," in line 1, page 82, the words "after January 1, 1913."

Mr. CLARKE of Arkansas. Then that would make it exactly as the law is now and encumber the record with an unnecessary provision.

Mr. HEYBURN. It is in that first line that the difficulty occurs. It is in that first line that the act becomes immediately operative.

Mr. CLARKE of Arkansas. The law becomes immediately operative unless we include in it a provision specifically mentioning another date. What the Senator desires to do can be accomplished not by striking out anything but by moving to insert a provision that has been erroneously printed in the bill on page 85, lines 13 and 14. I understand the committee did not authorize the clerk to include the words contained in those two lines as a committee amendment. If that shall be included, then the law in this bill will be exactly the law that is now upon the statute books, and there is no good reason why we should duplicate existing law.

Mr. CRAWFORD. Mr. President, may I ask the Senator from Arkansas if lines 13 and 14, on page 85, are not found in the amendment proposed by the committee?

Mr. CLARKE of Arkansas. I understand that that is not true, because if that were true the whole provision ought to go out, as it is a mere duplication of existing law.

Mr. HEYBURN. This print would indicate it.

Mr. CLAPP. Will the Senator from Arkansas yield to me?

Mr. CLARKE of Arkansas. I will be very glad to yield to the Senator from Minnesota.

Mr. CLAPP. Lines 13 and 14, page 85, have no place in the bill, and were placed there inadvertently. The Senator from Arkansas is correct as to one proposition, and that is that unless the provision is to take effect at once none of it is necessary.

Mr. CLARKE of Arkansas. Of course not.

Mr. CLAPP. It was put in here not to advance the time when the general law should take effect, except as to the matters covered by the bill. As this bill is passed at this time, as contracts may be contemplated at this time, and as possibly work will progress, it was thought that it would avoid confusion by advancing the time at which the eight-hour law takes effect as to these matters to the time of the passage of this bill.

Mr. CRAWFORD. But the effect of the use of this verbiage is simply to put the law already passed into effect six months before the time it was intended it should go into effect.

Mr. CLARKE of Arkansas. That is it.

Mr. CLAPP. As to those matters within this bill.

Mr. CLARKE of Arkansas. The Senator is mistaken about that. There are no exceptions. It is the incorporation of the general eight-hour law, which applies to all kinds of Government contracts, whether connected with the construction of naval vessels or any of the other works which the Government undertakes.

Mr. HEYBURN. Mr. President, if I might state the amendment that I have already written in the bill, it might probably shed some light. I have the bill marked on page 82, after the word "made," in line 1, to insert "after January 1, 1913." That goes to the time of the making of the contract. Then I had it marked to strike out lines 13 and 14, on page 85. I think that would leave the eight-hour law stand only to be operative after January 1, 1913.

Mr. CLARKE of Arkansas. That is very true; but it can be accomplished in a much more parliamentary way by striking out the entire provision. It has no business there; it is simply a duplication of existing law. If it is not the purpose of the Senate to make the law operative at once, then the thing to do is to strike it all out.

Mr. HEYBURN. I will cheerfully yield to any effort the Senator may make in that direction.

Mr. CLARKE of Arkansas. Until we have taken a vote upon the proposition to amend, so that it shall not take effect until the 1st of January, 1913, I shall withhold the motion to strike it all out; but if that amendment be adopted, then there will be no reason why it should be incorporated in this bill, because it is already the law, having been approved, as I understand, on the 19th of June last.

Mr. HEYBURN. I wish merely to make a parliamentary inquiry, which is whether or not it will be proper to propose two amendments at the same time, inasmuch as they deal with the same subject; that is, the motion to insert the words "after

January 1, 1913," on line 1, page 82, and to strike out? But first, I will propose the amendment on page 82.

Mr. CLARKE of Arkansas. That is equivalent to providing that the act—defining it—shall take effect at that time. If that shall be done, it will make it an exact copy of existing law, and therefore there will be no reason why it should be included in this bill.

Mr. CLAPP. If I may address myself to the Senator from Idaho [Mr. HEYBURN], I will say that it seems to me the proper procedure is to perfect this amendment; and one of the steps toward perfecting it on the request of the committee would be to strike out lines 13 and 14. Then the question would be whether the Senate desired the eight-hour law to take effect as to these matters before the time fixed in the law itself. If it did not, then the simple way would be to strike out the entire amendment.

Mr. SWANSON. Mr. President, through an inadvertence the purposes of the committee have not been carried out in this provision. The purpose of this provision was to have the eight-hour law applicable immediately to contracts under this bill. That is what we desired. The committee intended that the eight-hour law should be operative at once on contracts that were entered into under this naval appropriation bill. We have no purpose of changing our eight-hour law as to the time it should be operative generally. Neither did we have any desire to delay it until the 1st of January, 1913, so as to make it operative as to the appropriations under this bill. A battleship might be contracted for at once, while its construction would extend through two or three years. There might be some constructed under the eight-hour law and some not under the eight-hour law. So it was necessary to make the eight-hour law operative at once as to the provisions of this bill. It was by inadvertence that this was extended to 1913. The proper thing to do is to eliminate from the bill lines 13 and 14, on page 85.

Mr. PERKINS. If the Senator will permit me, I will, on behalf of the committee, offer that amendment.

Mr. SWANSON. Here is where I want to offer an amendment. I will yield for a moment for the Senator's amendment to be read, if it accomplishes the purpose.

The SECRETARY. On page 85 it is proposed to strike out lines 13 and 14.

Mr. SWANSON. I accept that amendment; but here is another thing that ought to be done.

Mr. CLAPP. Let us have it understood that that amendment is agreed to.

The PRESIDENT pro tempore. The Chair will state that there are other amendments in that portion of the bill which have not yet been acted upon. The Senate has not yet reached that point of their consideration.

Mr. POINDEXTER. If the Senator from Virginia will yield, I should like to inquire——

Mr. SWANSON. I will yield when I have made clear my statement.

Mr. POINDEXTER. I merely wish to ask a question.

The PRESIDENT pro tempore. The Senator from Virginia declines to yield.

Mr. SWANSON. I will yield in a moment. Having got rid of the delay of this being operative until the 1st of January, 1913——

Mr. CLAPP. Mr. President, I call the Senator's attention to the fact that we have not yet got rid of that provision, and I desire to call the Chair's attention to the fact.

Mr. SWANSON. I want to offer to amend the amendment, if the Senator will permit me. I refuse to yield any further now, Mr. President.

The PRESIDENT pro tempore. The Senator from Virginia declines to yield.

Mr. HEYBURN. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Idaho rises to a parliamentary inquiry, which he will state.

Mr. HEYBURN. One amendment is pending. Another amendment is not in order until the amendment pending is disposed of. That amendment is to amend, in line 1, on page 82, by inserting the words "after January 1, 1913," and upon that I ask for the yeas and nays.

The PRESIDENT pro tempore. That is not a committee amendment; and, unless it is offered as an amendment to the amendment, would not now, under the agreement of the Senate, be in order.

Mr. PERKINS. I desire, on the part of the committee, to correct their amendment striking out lines 13 and 14, on page 85. That perfects the committee amendment. It is for the Senate to determine what they will do.

The PRESIDENT pro tempore. The Chair will submit that amendment, although there are other amendments in the previous paragraphs which will have to be returned to, as they have not yet been acted upon.

Mr. SWANSON. Mr. President, if the Senator will permit me——

Mr. GALLINGER. We do not agree to the amendment that the Senator has offered.

The PRESIDENT pro tempore. The Chair so understands.

Mr. SWANSON. Now, to carry out the purpose of the committee, on page 82, line 1, I move to amend the provision, so as to read:

That every contract under this bill hereafter made—

And so forth. That would carry out the purpose of the committee, which was to limit the immediate operation of the eight-hour law to contracts made in pursuance of this bill. I would suggest, on page 82, that it read in this way:

That every contract under this bill hereafter made.

Then strike out lines 13 and 14, on page 85. That would carry out the purpose of the committee, and would limit the immediate operation of the eight-hour law to contracts under this bill.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from California [Mr. PERKINS].

Mr. PERKINS. I have offered the amendment on behalf of the committee.

The PRESIDENT pro tempore. Does the Senator from Virginia offer an amendment?

Mr. SWANSON. No. My amendment would not be in order, as a committee amendment is pending.

The PRESIDENT pro tempore. The amendment proposed by the Senator from California on behalf of the committee will be stated.

The SECRETARY. On page 85 it is proposed to strike out the committee amendment inserting lines 13 and 14, which read as follows:

That this act shall become effective and be in force on and after January 1, 1913.

Mr. GALLINGER. Mr. President, I do not know that I shall oppose striking out those words; but I will appeal to my friend, the Senator from Idaho [Mr. HEYBURN], to let the friends of this provision—which is simply reenacting a law which is on the statute books—amend it as they please. Then the Senator can move to strike out the entire provision. We shall have the yeas and nays on that, and while we shall expect to be voted down we shall at least go on record as being opposed to twice passing a law which we think is a bad law. I think that will be the better procedure.

Mr. HEYBURN. That is true.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from California [Mr. PERKINS], striking out lines 13 and 14.

Mr. POINDEXTER. Mr. President, I think, in voting on this amendment, we ought to take into consideration the fact that if this law is not so amended that it will go into effect at once all contracts that are let under it will be let without any provision as to an eight-hour day, while all similar contracts that are let after the 1st of January, 1913, will be let subject to the requirement of an eight-hour day under the general law; so that we shall have the condition of some contracts for Government work being under an eight-hour day, while some contracts may be under a 12-hour day or a day of any other number of hours.

Mr. GALLINGER. Mr. President——

Mr. POINDEXTER. Just one moment. Let me complete the sentence and then I shall yield.

If this amendment offered on behalf of the committee is not adopted every contract provided for in this bill may be let before the 1st day of January, 1913, and not be limited by the eight-hour day provision at all.

Mr. GALLINGER. Mr. President, if the Senator will permit me, it would be absolutely limited under existing law to eight hours. The only difference would be that it would not apply to subcontractors. That is about all.

Mr. POINDEXTER. I think the Senator from New Hampshire is under a misapprehension in regard to that, because the existing law does not go into effect until the 1st day of January, 1913, and the contracts that are made before that date would not be subject to it.

Mr. GALLINGER. No; we have an eight-hour law on the statute books independently of this eight-hour law. We are just piling eight-hour laws in this country one upon another.

Mr. POINDEXTER. How many are there?

Mr. GALLINGER. This will be the third one, I think.

Mr. POINDEXTER. I think the Senator is mistaken as to that. There is an eight-hour law applying to Government work

done by the Government itself and in the Government navy yards. There was a law passed, which goes into effect on the 1st day of January, 1913, relating to work done by contract. The purpose of this amendment is to extend the operations of the last law to which I have referred to the time of the passage of this act, so as to include the vast amount of work which will be done under this appropriation bill, and to put all the contracts upon the same footing.

Mr. SWANSON. Mr. President, I ask the chairman or some other member of the committee whether the amendment embracing lines 13 and 14 on page 85 has been agreed to?

The PRESIDENT pro tempore. It has not been. The pending question is on the amendment offered by the Senator from California [Mr. PERKINS] to strike out lines 13 and 14 on page 85. That motion was arrested by the debate, which was continuous. The question now is upon the amendment offered by the Senator from California.

The amendment was agreed to.

Mr. SWANSON. Mr. President, on behalf of the committee, I want to offer an amendment to carry out the purposes we had in view. I am requested by the chairman of the committee to offer an amendment to the text on page 82, line 1, after the word "contract," so that it will read:

That every contract authorized by this act, hereafter made, to which the United States * * * is a party.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 82, line 1, after the word "contract," it is proposed to insert the words "authorized by this act," so that if amended it will read:

That every contract authorized by this act, hereafter made, to which the United States, etc.

Mr. CLARKE of Arkansas. Mr. President, I hope that amendment will not be adopted, because it will produce a most anomalous condition. Here is a long act, covering all kinds of contracts, set out on the face of this bill to accomplish the narrow purpose of extending the provisions of that act, or so much of its provisions as apply to a certain character of contracts. If it is the intention to extend the provisions of that act to contracts made under the authority of this act, a line can do that by a mere reference; but it is not necessary to set out the entire act. The whole eight-hour act would become operative, I take it, as to the naval appropriation bill if there were inserted a provision that it shall take effect at the time of the approval of the bill. The method proposed is a clumsy way to do it, and does not accomplish what we are trying to do.

The distinct proposition submitted here is as to whether or not the eight-hour law shall take effect upon the approval of the naval appropriation bill or whether it shall take effect on the 1st of January, 1913. If it is determined by the Senate that it shall take effect at once, then there is no use of emasculating the eight-hour law by assuming that it shall not hereafter apply to any other contracts except such as are made under the authority of this act. The intention of the eight-hour law is that it shall apply to all contracts; but this, being the last expression of the legislative branch of the Government, would limit the operation of the eight-hour law to such contracts as are made under the authority of this act. The provision in this bill is word for word the eight-hour act, and would, by implication, repeal the other one and make this the law henceforth.

The thing to do is to determine whether or not the Senate desires that the eight-hour law shall take effect immediately upon the approval of the naval appropriation bill, or whether it shall take effect on the 1st day of January, 1913; and it would involve only a simple process to determine that fact. If it is the intention to bring all contracts made under the authority of the naval appropriation act under the operation of the eight-hour law before it would take effect ordinarily, which will be on the 1st of January, 1913, a simple sentence would do that; and it would not be necessary to amend the entire eight-hour law, as this amendment will do, and limit its scope to such contracts as are authorized by this act. The provision in this bill is a permanent law, and will take the place of the other.

Mr. CLAPP. Will the Senator from Arkansas allow me to ask him a question?

Mr. CLARKE of Arkansas. I shall be glad to do so.

Mr. CLAPP. I understood the Senator to say that his understanding was that if the language in the bill were changed so that it limited the provision to contracts provided for in this act, because it recited in terms an existing law and made it applicable only to those matters covered by this act, it would repeal the existing law.

Mr. CLARKE of Arkansas. Oh, yes; it will take the place of the other law.

Mr. CLAPP. The Senator can not mean that.

Mr. CLARKE of Arkansas. That is what it says; and I can only know exactly what it means by what it says.

Mr. CLAPP. As amended by the amendment proposed by the Senator from Virginia [Mr. SWANSON], it reads "every contract authorized by this act hereafter made," and so forth. There is a law to-day which provides for the eight-hour day to take effect on the 1st day of January, 1913. Now, the Senate passes a bill to-day relating to specific work, and states in the bill that every contract hereafter made authorized by this bill shall be subject to the general law, reciting the existing law.

Mr. CLARKE of Arkansas. But the Senator is reciting something that nobody has recited.

Mr. CLAPP. Clearly the Senator does not mean that that would operate to repeal that general law which is now on the statute book beyond repealing it pro tanto as to the time it takes effect as to the matters provided for in this bill.

Mr. CLARKE of Arkansas. I do insist on it, and I insist on it very earnestly, because it is a fact. The language of the law is now:

That every contract—

Without any limitation as to this act or any other act—

hereafter made to which the United States, any Territory, or the District of Columbia is a party—

shall be covered by certain provisions which are set out. Now you insert—it does not make any difference on what particular piece of paper you insert them—words of limitation, "that every contract made under the authority of this act," and so forth, and then go on to set out at considerable length the procedure by which it is to be made operative and fix certain penalties. When you do that I do insist, because it is a fact, that you pass a new law. You take up the existing law word for word; you cover the whole subject; and it is a well-recognized canon in the construction of statutes that when the same subject matter is taken up and dealt with comprehensively all laws which are in conflict with it are repealed.

Mr. CLAPP. Will the Senator permit an interruption?

Mr. CLARKE of Arkansas. Gladly.

Mr. CLAPP. I think the mistake comes, if I may use the expression, from the declaration of the Senator that the provision referred to in this bill covers everything covered by the existing law. The existing law applies to all contracts to which the Government is a party direct or through subcontractors. That is the existing law; but now we enact by this bill a law that, as to certain contracts specified in this bill—simply reciting the law again—shall apply at once. I can not think that the Senator means to insist——

Mr. CLARKE of Arkansas. Yes, sir; that is what I do mean to insist upon——

Mr. CLAPP. That in reenacting this law——

Mr. CLARKE of Arkansas. That is exactly what I want you to understand me as meaning.

Mr. CLAPP. That in reenacting the existing law as to certain contracts——

Mr. CLARKE of Arkansas. It excludes from it every contract not mentioned.

Mr. CLAPP. It repeals it as to these contracts to which this enactment does not relate.

Mr. CLARKE of Arkansas. That is exactly what I say; that is exactly what I mean; and that is what I want the Senate to understand me as meaning. It does not make any difference because it occupies a place in an appropriation bill. Suppose an independent bill were introduced here to amend the act to provide for an eight-hour law and it should go on and recite that it should only apply to such contracts as were authorized in the naval appropriation bill. It is text law, about which there is no dispute, that thereafter the act amended or the act dealt with would pass out of existence, and the law upon the subject would be covered by the last expression of the legislature on that subject. The effect of the amendment offered by the Senator from Virginia is to limit the character of contracts under the contractual power of the Government covered by the eight-hour law.

Mr. CLAPP. The general law is to take effect immediately as to certain specific contracts.

Mr. CLARKE of Arkansas. If you intend that, then why not simply say that the contracts made under the authority of this act shall be included within the terms of the act, giving the title of it, approved on June 19, 1912, and you have done all that you desire?

Mr. CRAWFORD and Mr. CUMMINS addressed the Chair.

The PRESIDENT pro tempore. To whom does the Senator from Arkansas yield?

Mr. CLARKE of Arkansas. The Senators may settle that matter for themselves. [Laughter.]

Mr. CRAWFORD. I would simply like to know why the necessity exists for putting all this controversy in the bill?

Mr. CLARKE of Arkansas. There is no reason for it on earth that I can see.

Mr. CRAWFORD. Whether it is to be interpreted as the Senator from Arkansas contends or as the Senator from Minnesota contends, it is a repetition, and does, it seems to me, unnecessarily place the present statute in an anomalous condition. Why should that be done? Where does the public interest require that we repeat this statute in this bill when the general law on the subject will go into effect on the 1st day of next January?

Mr. CLARKE of Arkansas. The Senator's question answers itself.

Mr. CRAWFORD. Then why not strike out the provision?

Mr. CUMMINS. Mr. President——

Mr. CLARKE of Arkansas. I yield to the Senator from Iowa.

Mr. CUMMINS. I think I can make a suggestion that will accomplish all that is desired on both sides.

Mr. CLARKE of Arkansas. Very well; I shall be very glad, so far as I am concerned, to have the Senator do so.

Mr. CUMMINS. It is this: If we were to provide that the law approved June 19, 1912, should be in force as to all contracts made under this act from and after its passage, we would cover the matter.

Mr. CLARKE of Arkansas. That is all that is necessary.

Mr. CUMMINS. And all this other matter should be stricken out as tending simply to confuse the situation.

Mr. CLARKE of Arkansas. I agree absolutely with the Senator from Iowa.

Mr. HEYBURN. Mr. President, I think I have a motion pending to strike out this provision.

The PRESIDENT pro tempore. The pending question is on the amendment offered by the Senator from Virginia [Mr. SWANSON], on behalf of the committee, to insert certain words in the first line on page 82.

Mr. HEYBURN. I do not understand that the committee insist on that amendment.

The PRESIDENT pro tempore. The Chair recognized the Senator from Virginia to offer the amendment because he said that he did so on behalf of the committee.

Mr. HEYBURN. I think, if I am correct, that the Senator from Virginia and those who are cooperating with him withdrew that amendment, and I think they agreed among themselves to that effect. At any rate, I so understood.

Mr. CUMMINS. Mr. President, my suggestion is—and I submit it in deference to those who are in charge of the bill—that we strike out all contained on pages 82, 83, and 84 down to and including line 12, on page 85, and insert the following:

That the provisions of the act of Congress entitled "An act limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory, or for the District of Columbia, and for other purposes," approved June 19, 1912, shall be in force as to all contracts made under this act from and after its passage.

Mr. LODGE. That covers it.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Virginia [Mr. SWANSON] on behalf of the committee.

Mr. SWANSON. I think the amendment offered by the Senator from Iowa [Mr. CUMMINS] covers it more accurately and in better terms; and, speaking for myself as a member of the committee, I should be glad to accept his amendment.

Mr. HEYBURN. Then, the Senator from Virginia withdraws his amendment and I have the floor.

The PRESIDENT pro tempore. Does the Senator from Virginia withdraw his amendment?

Mr. SWANSON. I think I have the floor, Mr. President.

Mr. HEYBURN. The Senator from Virginia can not transfer the floor to another Senator for the purpose of offering an amendment.

Mr. SWANSON. I have been holding the floor, and it is taken away from me.

Mr. HEYBURN. I have been holding the floor.

The PRESIDENT pro tempore. Does the Senator from Virginia withdraw the amendment which he offered on behalf of the committee?

Mr. SWANSON. I should like to confer with members of the committee before I agree to do so. [A pause.] On behalf of the committee, as it is a committee amendment, I should like to substitute for my amendment the amendment suggested by the Senator from Iowa [Mr. CUMMINS].

The PRESIDENT pro tempore. On behalf of the committee?

Mr. SWANSON. On behalf of the committee. The members of the committee authorize me to do that. The amendment suggested by the Senator from Iowa carries out the purpose of the committee.

Mr. HEYBURN. Mr. President, I rise to a parliamentary inquiry. The Senator from Virginia had an amendment pending and withdrew it. He can not turn over either the time or the floor to anyone else to offer another amendment. I had risen and had the floor for the purpose of offering an amendment, and I think I am entitled to the floor.

Mr. SWANSON. A parliamentary inquiry, Mr. President. As I understand, the committee has preference in the offering of amendments?

The PRESIDENT pro tempore. Under the order adopted by the Senate in the consideration of the bill the committee amendments were to be first considered. The Chair entertained the amendment offered by the Senator from Virginia only because the Senator said he offered it on behalf of the committee. He now proposes, on behalf of the committee, to modify that amendment by substituting therefor another amendment, which he offers for the committee. So it is still a committee amendment, but the Senator from Idaho has the floor to speak to that amendment if he desires to do so.

Mr. HEYBURN. Well, Mr. President, I have already spoken to the whole provision. It is new doctrine to me, and I have perhaps not kept pace with the parliamentary proceedings.

The PRESIDENT pro tempore. Will the Senator from Idaho indulge the Chair a moment until the amendment in its present shape may be stated to the Senate?

Mr. HEYBURN. Whose amendment is it?

The PRESIDENT pro tempore. The amendment of the committee; otherwise it would not now be entertained.

Mr. HEYBURN. What member of the committee?

The PRESIDENT pro tempore. The Senator from Virginia [Mr. SWANSON], a member of the committee, who says that he speaks for the committee.

Mr. HEYBURN. Is it authorized by the committee?

The PRESIDENT pro tempore. The Senator from Virginia says that he offers the amendment as representing the committee.

Mr. HEYBURN. Mr. President, if I may have the attention of the Chair for a moment, it amounts to this, that, notwithstanding the declaration which I made that I intended to offer an amendment to strike out this provision, a member of the committee—and there are a good many of them in the Senate—offers an amendment. Members of the committee have no preference over any other Senator in offering amendments. An amendment to a committee amendment may be offered by any Member of the Senate. There is no precedence at all in behalf of a member of the committee. I desire to have the action of the Senate upon my motion to strike out the entire provision. If this matter is to be passed around in a play of battledore and shuttlecock from one Member to another, each adopting the other's amendment in order to let them keep possession of the floor, then, of course, there is nothing for any other Senator, except a member of the committee, to do in regard to this bill.

The PRESIDENT pro tempore. The Chair will state to the Senator that after the committee amendments have been acted upon he will certainly have full opportunity and right to offer any amendment he sees proper to offer.

Mr. HEYBURN. Yes; but I wanted action first on the motion to strike out the entire provision.

Mr. GALLINGER. A parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. If the Senator will pardon the Chair a moment, the Senator from Idaho insists upon his right to a vote upon the motion to strike out. There are two objections to that. One is that the friends of the amendment have a right to perfect it before the motion to strike out is entertained. The second is that it would be necessary, under the order of the Senate, to have the amendments of the committee first acted upon.

Mr. HEYBURN. I fully realize that rule.

Mr. GALLINGER. A parliamentary inquiry, Mr. President. I was about to inquire if there are not certain other amendments in the text of the bill which have not been acted upon?

The PRESIDENT pro tempore. There are.

Mr. GALLINGER. I think they ought first to be acted upon, and then, unquestionably, the committee would have the right to offer the amendment suggested.

The PRESIDENT pro tempore. The Chair has called attention to the fact that certain amendments have not been acted upon.

Mr. GALLINGER. I will ask that the amendments be taken up in order. I think there will be no objection to that course.

The PRESIDENT pro tempore. The Senator from New Hampshire asks that the amendments may be taken up in their order, and after that, if it so desires, the committee may offer further amendments.

Mr. GALLINGER. The committee can offer any amendments it chooses.

The PRESIDENT pro tempore. The pending amendment, then, is on page 84, beginning in line 2. The Secretary will state the amendment.

The SECRETARY. On page 84, lines 2, 3, and 4, it is proposed to strike out the words "or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not," and to insert the words "or to the construction or repair of levees or revetments necessary for protection against floods or overflows on the navigable waters of the United States," so as to make it read:

That nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for such materials or articles as may usually be bought in open market, except armor and armor plate, whether made to conform to particular specifications or not, or to the construction or repair of levees or revetments necessary for protection against floods or overflows on the navigable waters of the United States.

Mr. GALLINGER. That amendment makes this part of the bill exactly conform to the law that was passed June 19, 1912; so there is no objection to it.

The amendment was agreed to.

The next amendment was, on page 84, line 15, after the word "imminent," to insert "and until January 1, 1915, as to any contract or contracts entered into in connection with the construction of the Isthmian Canal"; in line 19, after the words "due to any," to insert "extraordinary events or conditions of manufacture, or to any"; in line 24, after the words "have been," to strike out "justifiable" and insert "excusable"; in line 25, after the word "this," to strike out "section" and insert "act"; and, on page 85, line 6, after the date, "eighteen hundred and ninety-two," to strike out "or to apply to work done under contracts made prior to the passage of this act" and insert "as modified by the acts of Congress approved February 27, 1906, and June 30, 1906, or apply to contracts which have been or may be entered into under the provisions of appropriation acts approved prior to the passage of this act," so as to make the proviso read:

Provided, That all classes of work which have been, are now, or may hereafter be performed by the Government shall, when done by contract, by individuals, firms, or corporations for or on behalf of the United States or any of the Territories or the District of Columbia, be performed in accordance with the terms and provisions of this act. The President, by Executive order, may waive the provisions and stipulations in this act as to any specific contract or contracts during time of war or a time when war is imminent and until January 1, 1915, as to any contract or contracts entered into in connection with the construction of the Isthmian Canal. No penalties shall be imposed for any violation of such provision in such contract due to any extraordinary events or conditions of manufacture, or to any emergency caused by fire, famine, or flood, by danger to life or to property, or by other extraordinary event or condition on account of which the President shall subsequently declare the violation to have been excusable. Nothing in this act shall be construed to repeal or modify the act entitled "An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia," being chapter 352 of the laws of the Fifty-second Congress, approved August 1, 1892, as modified by the acts of Congress approved February 27, 1906, and June 30, 1906, or apply to contracts which have been or may be entered into under the provisions of appropriation acts approved prior to the passage of this act.

The amendment was agreed to.

The PRESIDENT pro tempore. The question now is upon the amendment offered on behalf of the committee, to strike out all of pages 82, 83, and 84, down to and including line 12 on page 85. The Secretary will state the proposed amendment.

The SECRETARY. It is proposed to strike out all of pages 82, 83, and 84, and page 85 down to and including line 12, and insert:

The act entitled "An act limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory or for the District of Columbia, and for other purposes," approved June 19, 1912, shall be in force as to all contracts authorized by this act from and after the passage of this act.

The PRESIDENT pro tempore. The Chair would like to inquire of the Senator from Idaho what is the amendment he proposes, because it might be precluded, and the Chair desires to have it stated. Does the Senator desire to amend the amendment offered by the committee?

Mr. HEYBURN. My attention will now be directed to opposing this amendment. Other amendments having been made, this proposes to strike out everything, including the amendments made, and to insert a new provision which repeals section 3 of the act of June 19, 1912.

Mr. GALLINGER. Mr. President, I make the point of order that these being two distinct propositions they should be dealt with as separate subjects.

The PRESIDENT pro tempore. It was with a view to that matter that the Chair made the inquiry, the Chair's purpose being to say that if the Senator desired to offer any amendment he should do so before the vote was taken.

Mr. GALLINGER. I will ask that the question be first put on striking out.

The PRESIDENT pro tempore. The Senator undoubtedly has a right to that division.

Mr. HEYBURN. Mr. President, that brings the question to the point where I was considering it and proposing to strike out the section. I now move to strike out the paragraph as amended, following the suggestion of the Senator from New Hampshire that the question be divided and that the Senate act upon the motion to strike out the entire matter as amended. If the Senate strikes it out, it will be time enough then to consider the question as to whether we shall offer a substitute for it.

The PRESIDENT pro tempore. The Senator from New Hampshire calls for a division of the question.

Mr. POINDEXTER. Mr. President, a parliamentary inquiry: Does that involve two questions? I do not understand that there is any motion to strike out separate and apart from the motion to insert. The motion is to strike out and insert. I do not understand that the mover desires to strike out unless the words he proposes shall be inserted. One is dependent upon the other.

Mr. HEYBURN. Then I will move to amend the motion so that it will read that the words commencing with line 1, page 82, going down to and including line 12, page 85, shall be stricken out.

The PRESIDENT pro tempore. The pending motion is to strike out the several pages mentioned and to insert the proposed amendment in lieu thereof. Upon that the Senator from New Hampshire asks for a division of the question.

Mr. HEYBURN. But I have asked to amend the amendment.

The PRESIDENT pro tempore. As the Chair understands the amendment offered by the Senator from Idaho, it is practically the same thing; the only difference is that the vote will be taken first on the motion to strike out and afterwards, if the motion to strike out prevails, the question will recur upon the remaining part of the amendment, which is to insert other matter in lieu thereof.

Mr. HEYBURN. It is immaterial to me which way it is approached, so it is accomplished.

The PRESIDENT pro tempore. The Chair was wrong in the statement just made. Rule XVIII provides that a motion to strike out and insert can not be divided.

Mr. SWANSON. The Senator made a motion to strike out and insert. Should not that be voted on prior to a motion simply to strike out, as it is perfecting the text?

It would seem to me that the motion to strike out and insert, which is a motion tending to perfect the text, should be voted on prior to the motion simply to strike out which was submitted by the Senator from Idaho.

Mr. HEYBURN. I moved to amend the motion to strike out and insert.

Mr. SWANSON. But the Senator's motion was a direct motion to strike out the paragraph entirely. My motion, or, rather, that of the Senator from Iowa, was to strike out and insert, which is to substitute the text in that amendment for the original text contained in the bill, which is to perfect the amendment before it is struck out. I have not examined it carefully, but it would seem to me that a motion to strike out and insert should be voted on before a mere motion to strike out.

Mr. LODGE. The Senator from New Hampshire expressed some surprise when I said a motion to strike out and insert could not be divided.

The PRESIDENT pro tempore. Rule XVIII prescribes that it can not be divided.

Mr. LODGE. I want to call his attention to the fact that the rule says that—

if the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, which shall not be divided.

I do not know what Mr. Frye's ruling may have been, but I know what the rule of the Senate is.

The PRESIDENT pro tempore. The Chair has already recognized the fact that it made an error in stating otherwise in the beginning.

Mr. GALLINGER. If the Senator will read the conclusion of that rule and turn to the precedents of the Senate, I think he will find that a very distinguished presiding officer decided that these were two separate motions:

Pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

I am not particular about it, however, Mr. President. I think the rule is a little vague, and we may as well vote on it as a whole and decide it in that way.

Mr. HEYBURN. It will accomplish the same purpose, but it will take one more vote.

The PRESIDENT pro tempore. The Chair will have the entire rule read to the Senate.

The SECRETARY. Rule XVIII of the standing rules of the Senate is as follows:

If the question in debate contains several propositions, any Senator may have the same divided, except a motion to strike out and insert, which shall not be divided; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor shall it prevent a motion simply to strike out; nor shall the rejection of a motion to strike out prevent a motion to strike out and insert. But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

The PRESIDENT pro tempore. It was with that part of the rule in view that the Chair asked the Senator from Idaho what was his purpose, in order that he might not be precluded. The Chair did not know what the Senator intended by his amendment, which was not clearly in the minds of some Senators, as it is in the nature of an amendment to the part proposed to be stricken out.

The Chair will state to the Senator that under its construction of the rule, if the motion to strike out and insert should be rejected, the Senator would still have the right, under the rule, to move separately to strike out.

Mr. HEYBURN. I had that matter in view—as to whether or not, with the motion to strike out and insert adopted, I would have a right to move an amendment until we come into the Senate. That is the difficulty that confronted me.

Mr. CUMMINS. The Senator from Idaho sought to amend the amendment proposed by myself by the suggestion that part of the motion to insert be eliminated and that it remain a motion simply to strike out. I take it, under the ruling of the Chair, that such a motion as that would not be in order.

The PRESIDENT pro tempore. The Chair thinks it would be in conflict with the express provision of the rule, although not put exactly in the same shape.

Mr. CUMMINS. Precisely.

The PRESIDENT pro tempore. The question now is on the motion to strike out and insert, which, under Rule XVIII, is not divisible.

Mr. GALLINGER. I move to amend that by substituting this language for the language that the Senator from Virginia proposes to insert:

That this provision shall become effective and be in force on and after January 1, 1913.

The PRESIDENT pro tempore. The Chair understands that the Senator from New Hampshire offers an amendment to the part which it is proposed to insert.

Mr. GALLINGER. Exactly.

The PRESIDENT pro tempore. The Chair thinks that is in order.

Mr. GALLINGER. Undoubtedly.

Mr. HEYBURN. Mr. President, that is the same amendment which was already pending. A motion is now made to strike out. The amendment which I offered was to the part proposed to be stricken out.

The PRESIDENT pro tempore. The Chair will hold that both the amendments proposed can be entertained as to the matter which it is proposed to strike out, although the Chair believes that has been already adopted.

Mr. HEYBURN. The amendment offered by the Senator from New Hampshire is entirely satisfactory to me. It accomplishes the same purpose I had in view. It is immaterial to me which of the amendments is adopted. I therefore withdraw my amendment.

The PRESIDENT pro tempore. The Secretary will report to the Senate the amendment offered by the Senator from New Hampshire to the language proposed to be inserted.

Mr. GALLINGER. I will send it to the desk, Mr. President.

The SECRETARY. In lieu of the words proposed to be inserted by the Senator from Virginia it is proposed to insert the following words:

That this provision shall become effective and be in force on and after January 1, 1913.

Mr. SWANSON. Mr. President, the effect of the amendment offered by the Senator as an amendment to the amendment of the Senator from Iowa is simply to continue the existing law. If the amendment I have offered, which was prepared by the Senator from Iowa, is voted down, then the amendment of the Senator from New Hampshire will prevail anyway. That is the general law now. This is simply an effort to make the law operative with regard to the contracts made under this bill.

This bill provides for battleships that will be two or three years in course of construction. There was an uncertainty as to whether or not the law made before the 1st of January, 1913, known as the eight-hour law, could be enforced on contracts made prior to that time. To make it clear and to let the new battleships provided in this bill be built under the eight-hour law this provision was put in. Its effect will be to let the eight-hour law continue as it is with regard to all contracts of all kinds until 1913, except as to the provisions of the naval bill. The amendment offered by the Senator from Iowa would make the eight-hour law operative at once as to the contracts and the work to be done under the naval bill.

The amendment offered by the Senator from New Hampshire simply applies the general law that at present exists to the naval bill. If our amendment is voted down—that is, the amendment of the Senator from Iowa—it means that the amendment offered by the Senator from New Hampshire prevails. I think a point of order would lie against it, as it is existing law to-day.

Mr. HEYBURN. It is not existing law, Mr. President, until January 1, 1913.

Mr. LODGE. No point of order would lie.

Mr. HEYBURN. I simply want to correct the impression that it is existing law. It is not existing law.

Mr. SWANSON. It simply declares what is existing law—that the eight-hour law, as far as it affects contracts under this bill, shall be operative on the 1st of January, 1913. That is the present law that has been passed by the House and Senate and signed by the President.

Mr. GALLINGER. Mr. President, I will change my proposed amendment so as to amend the amendment of the Senator from Virginia by striking out "authorized by this act from and after its passage" and inserting "shall become effective and be in force on and after January 1, 1913."

The PRESIDENT pro tempore. The Secretary will report the amendment as offered by the Senator from New Hampshire.

The SECRETARY. It is proposed to amend the part of the amendment of the Senator from Virginia which proposes to insert certain words by striking from the words proposed to be inserted the following:

Authorized by this act from and after its passage—

And inserting in lieu thereof—

shall become effective and be in force on and after January 1, 1913.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from New Hampshire to the amendment offered by the Senator from Virginia.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question now is upon the adoption of the amendment offered by the Senator from Virginia on behalf of the committee.

Mr. GALLINGER. Mr. President, I desire to make simply a single observation in regard to that. A moment ago the Senator from Washington took issue with me as to the law that was on the statute books before the act of June 19, 1912, was approved, in reference to the eight-hour question. The Senator thought there was not any law that limited labor to eight hours.

Now, I want to read just a paragraph from the act of August 1, 1892:

That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics to require or permit any such laborer or mechanic to work more than eight hours in any calendar day except in case of extraordinary emergency.

The fine in this case was not placed upon the individual laborer, as it is in the act of June 19, 1912, but upon the contractor.

In the act of June, 1912, as I recall it, there is a fine of $5 for each employee who is permitted to work over eight hours a day either by the contractor or the subcontractor, while in the act of 1892 there is a fine "not to exceed $1,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof," that fine running against the contractor.

When the act of June 19, 1912, was under consideration it occurred to me that there was not any necessity for that legislation, and there was not, except as it goes into refinement on certain points, and makes it all the more difficult for contractors who are doing work for the Government to do that work in a comfortable way.

Mr. President, we have the anomaly of this act of August 1, 1892, and on top of that we have the act of June 19, 1912, and in this bill it was seriously contemplated to place on top of both those acts another act, which is identical in phraseology, except as to the period when it becomes operative, so that we

would have had three acts relating to the eight-hour question covering substantially the same ground.

It has seemed to me that in this class of legislation, under influences that are well known—and I do not question their propriety—we were running rather wild, and I do know that we have already legislated in such a way that it is costing the Government 30 or 40 per cent more for the construction of battleships than it would if the contractor or subcontractor had been allowed to do his work for the Government as they are doing their work for private individuals and against which, in my judgment, there never was any sound or proper objection.

Now, as I remarked a moment ago—and I am not going to occupy any time in this discussion, because I think I know what the result will be—when the act of June 19, 1912, was under consideration we had a long discussion, a good-natured discussion. There were wide differences of opinion on the part of Senators, and on my motion the time was extended until January 1, 1913, to give the men who are now taking contracts from the Government a little breathing space to adjust their work to the new conditions; and there did not seem to be any objection to it. But lo and behold, almost before the ink is dry on the statute, on an appropriation bill comes a proposition to repeal that provision of law and to make the act operative at once.

Under the terms of the bill as it came here from the Committee on Naval Affairs it was beyond a question a general provision. It was a repeal of an act that we passed less than one month ago. Now it is proposed—and that is an improvement—to make it applicable only to work upon ships that are provided for in this bill.

I am glad that that concession has been made, but I do not think that this ought to be done. I think the act we passed less than a month ago ought to be allowed to stand as it is, and that in due time—and it will not be very long—it will be determined by experience whether or not it is a good law, and then we can, if need be, take it up for serious consideration later on. But notifying, as we did on the 19th day of June, 1912, the men who are taking contracts from the Government that they were to have this short time in which to adjust their business conditions, we rush in here two weeks afterwards and undertake to pass—and I suppose we will pass it—a bill that practically repeals that provision of that act.

I regret that it is so, Mr. President, but I am content to record my vote against the provision, which I shall have an opportunity to do.

I ask unanimous consent to insert in the RECORD as a part of my remarks the act of August 1, 1892, and the act of June 19, 1912.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The acts referred to are as follows:

An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia.

Be it enacted, etc., That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor, whose duty it shall be to employ, direct, or control the services of such laborers or mechanics to require or permit any such laborer or mechanic to work more than eight hours in any calendar day except in case of extraordinary emergency.

SEC. 2. That any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor, whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon any of the public works of the United States or of the District of Columbia who shall intentionally violate any provision of this act shall be deemed guilty of a misdemeanor, and for each and every offense shall upon conviction be punished by a fine not to exceed $1,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

SEC. 3. The provisions of this act shall not be so construed as to in any manner apply to or affect contractors or subcontractors, or to limit the hours of daily service of laborers or mechanics engaged upon the public works of the United States or of the District of Columbia for which contracts have been entered into prior to the passage of this act.

Approved, August 1, 1892.

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An act limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory, or for the District of Columbia, and for other purposes.

Be it enacted, etc., That every contract hereafter made to which the United States, any Territory, or the District of Columbia is a party, and every such contract made for or on behalf of the United States, or any Territory, or said District, which may require or involve the employment of laborers or mechanics shall contain a provision that no laborer or mechanic doing any part of the work contemplated by the contract, in the employ of the contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than eight hours in any one calendar day upon such work; and every such contract shall stipulate a penalty for each violation of such provision in such contract of $5 for each laborer or mechanic for every calendar day in which he shall be required or permitted to labor more than eight hours upon said work; and any officer or person designated as inspector of the work to be performed under any such contract, or to aid in enforcing the fulfillment thereof, shall, upon observation or investigation, forthwith report to the proper officer of the United States, or of any Territory, or of the District of Columbia, all violations of the provisions of this act directed to be made in every such contract, together with the name of each laborer or mechanic who has been required or permitted to labor in violation of such stipulation and the day of such violation, and the amount of the penalties imposed according to the stipulation in any such contract shall be directed to be withheld for the use and benefit of the United States, the District of Columbia, or the Territory contracting by the officer or person whose duty it shall be to approve the payment of the moneys due under such contract, whether the violation of the provisions of such contract is by the contractor or any subcontractor. Any contractor or subcontractor aggrieved by the withholding of any penalty as hereinbefore provided shall have the right within six months thereafter to appeal to the head of the department making the contract on behalf of the United States or the Territory, and in the case of a contract made by the District of Columbia to the commissioners thereof, who shall have power to review the action imposing the penalty, and in all such appeals from such final order whereby a contractor or subcontractor may be aggrieved by the imposition of the penalty hereinbefore provided, such contractor or subcontractor may within six months after decision by such head of a department or the Commissioners of the District of Columbia file a claim in the Court of Claims, which shall have jurisdiction to hear and decide the matter in like manner as in other cases before said court.

SEC. 2. That nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not, or for such materials or articles as may usually be bought in open market, except armor and armor plate, whether made to conform to particular specifications or not, or to the construction or repair of levees or revetments necessary for protection against floods or overflows on the navigable waters of the United States: *Provided*, That all classes of work which have been, are now, or may hereafter be performed by the Government shall, when done by contract, by individuals, firms, or corporations for or on behalf of the United States or any of the Territories or the District of Columbia, be performed in accordance with the terms and provisions of section 1 of this act. The President, by Executive order, may waive the provisions and stipulations in this act as to any specific contract or contracts during time of war or a time when war is imminent, and until January 1, 1915, as to any contract or contracts entered into in connection with the construction of the Isthmian Canal. No penalties shall be imposed for any violation of such provision in such contract due to any extraordinary events or conditions of manufacture, or to any emergency caused by fire, famine, or flood, by danger to life or to property, or by other extraordinary event or condition on account of which the President shall subsequently declare the violation to have been excusable. Nothing in this act shall be construed to repeal or modify the act entitled "An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia," being chapter 352 of the laws of the Fifty-second Congress, approved August 1, 1892, as modified by the acts of Congress approved February 27, 1906, and June 30, 1906, or apply to contracts which have been or may be entered into under the provisions of appropriation acts approved prior to the passage of this act.

SEC. 3. That this act shall become effective and be in force on and after January 1, 1913.

Approved, June 19, 1912.

Mr. HEYBURN. Mr. President, I will not be content with recording my vote against it.

Mr. GALLINGER. The Senator will have to be.

Mr. HEYBURN. No; I do not have to be content. I submit, but I am not content. I do not feel like conceding at this time—before the vote—that protest is useless. I have great confidence in the Senate of the United States. When I am satisfied that a question is right or wrong, I am always ready to give my judgment upon it, based upon my estimate of the Senate of the United States.

I do not see that this amendment improves conditions any. I believe I first interposed an objection to the legislation under consideration here because it repealed the third section of the act passed within 23 or 24 days, and which is not yet a law. It will become a law effective on the 1st of January. It is the promise of a law. Congress could repeal it between now and then if it saw fit, or the Supreme Court may hold, as I think it will hold, that it is absolutely void, that we have no such power as is undertaken to be conferred by this act.

I sincerely hope that some industrious man will work more than eight hours, and that he will be arrested and fined, and that he will appeal to the court for a decision as to whether or not he has any control over a contract for his personal service. I sincerely hope that the court will be called upon, before this act becomes effective, to determine that question.

I also hope that when Congress has gone through the turmoil of the coming election, and when the inclination to deal in sensational legislation may possibly not be so strong, it will come back here and repeal it, because if you would submit it to the working people—I do not mean the men who hold offices in labor organizations, but the people who really work—they would repeal it. It might be well if it could be submitted under the rule of the referendum.

But, Mr. President, I would not like to have it said or thought that I ever so far forgot or was tempted to disregard the right

of the citizen as to accede to such a proposition as that contained here, simply because we are going to add probably three or four or five million dollars to the cost of our battleships for which we are just providing.

Mr. GALLINGER. More than that.

Mr. HEYBURN. Yes; the Senator on my left says more than that. But we are talking about economy and we are cheeseparing, and quibbling, and trifling over these matters under the pretense of economy. We will sit here and vote for a provision that will add 25 or 30 per cent to the cost of these battleships. How does that appeal to Senators who are opposing the building of battleships because they cost money? It is a question of stop and look and listen; and that admonition might well be posted in plain view upon the walls of this Chamber when we have such sensational legislation, legislation that originates in the ingenious minds of those who are engaged in farming labor, making their living off of laboring men without performing any services or giving any equivalent therefor. Some day the laboring men will rise up and rend those barnacles from one end of the country to the other.

Mr. POINDEXTER. Mr. President, I wish to say only one word on account of the apparent difference of opinion between the Senator from New Hampshire and myself to which he has called attention, as to whether we are simply repeating legislation on the same subject. I do not care to go at any length whatever into that question. The Senator from New Hampshire has mastered one great profession, that of medicine, and I must compliment him on having demonstrated from long experience as a legislator that he is a pretty good lawyer also.

A mere glance at the two acts which I hold in my hand, the act of August 1, 1892, and the act of June 19, 1912, shows that they do not cover the same ground. Of course it is perfectly evident that the pending provision does not cover the same ground. Neither one of the provisions does. They relate to different periods of time and simply extend the application of the act of 1912 to a period and to work which otherwise it would not cover.

The act of August 1, 1892, in the language which determines its scope, relates to the public works of the United States and of the District of Columbia. The exact meaning of that, of course, is not definite, but it probably applies to works which are being constructed by the United States and by the District of Columbia, and would not apply to the construction of ships in private shipyards under a contract with the Government of the United States.

That is all I have to say in that connection. Of course it is not necessary here to go into the great question raised by the Senator from Idaho [Mr. HEYBURN] as to the advisability of the regulation by the Government of the hours of labor. That is a legal, constitutional, and moral question, involving wise considerations of public policy. The legality of it, which the Senator, with his independent mind, attacks, I understand, has been long established by the courts.

As to the cost of the construction of battleships by reason of this provision in the law, it is only a short time since when I was talking with an engineer in charge of a great work, upon which a great many laborers were employed, working under the 8-hour law, and he told me that they got more work and better work out of their men under the 8-hour-day provision than they did when they worked 10 hours a day.

Even supposing that it should increase the cost of battleships, the effect of it would be simply to distribute the cost. It would affect the class of people who bear the cost of the battleships and take a part of the burden at least from the laboring men who put their labor into the ships and place that portion of it upon the rest of the community. That would be the effect of it, supposing that it does increase the cost; but I do not think it ought to increase the cost.

The Senator argues upon the basis that the wages of labor upon battleships would be the same for an 8-hour day that they are for a 10-hour day or a 12-hour day, or whatever the present labor day may consist of. If that is the case, of course they get the benefit of the change. If they do 8 hours of work, and it is true as it is asserted by men competent to judge that the 8 hours of work produce a greater result than 10 or 12 hours of work in the long run, there is no loss to anybody and no increase of cost.

The PRESIDENT pro tempore. The question is on the adoption of the amendment of the committee to strike out the several pages indicated and insert the matter which has been read.

The amendment was agreed to.

The next amendment was, on page 85, after line 14, to strike out:

That no part of the appropriations authorized by this act shall be expended for the pay of enlisted men or seamen, not including commissioned and warrant officers, while doing repair work belonging to any recognized trade, on battleships of the Navy, when such battleships are docked or laid up at any navy yard for repairs: *Provided further*, That this provision shall not apply to such ordinary duties as are engaged in by the crew while at sea, except the dismantling and assembling of armament for the purpose of repairs.

Mr. ASHURST. Mr. President, I am opposed to the adoption of this amendment, and I favor this part of the bill as it came from the House. This provision was originally proposed in the House by Mr. MURRAY, of Massachusetts. I ask permission to have read at the desk and incorporated in the RECORD a letter which I have received from the International Association of Machinists, in which very cogent reasons are set forth why this committee amendment should not be adopted.

The PRESIDENT pro tempore. Does the Senator desire to have it read?

Mr. ASHURST. I will ask unanimous consent that it be read.

The PRESIDENT pro tempore. The Secretary will, without objection, read the letter.

The Secretary read as follows:

WASHINGTON, D. C., *June 13, 1912.*

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In view of the fact that the Naval Affairs Committee of the Senate has decided to strike out the proviso on page 85, lines 15 to 23, inclusive, in the naval appropriation bill, as a representative of organized labor I desire to briefly touch upon a few reasons why this paragraph should remain in the bill and why it deserves your support. The aim of the paragraph is to prevent enlisted men or seamen from being used to encroach upon the sphere of civilian occupations in the repair work on vessels of the Navy at our navy yards.

During the year 1906 the Navy Department adopted the policy of using, as far as possible, enlisted men to do the work of mechanics in repairs on naval vessels, but, with the exception of repairs done on the battleship *Missouri* in October, 1906, this policy was not enforced to any great extent until March, 1911, when it was again tried at some of our principal navy yards. As a result of this policy hundreds of skilled mechanics have been discharged, and the process of elimination is still going on.

Hundreds of letters have been sent to Congressmen and Senators asking them to intercede with the department to have this practice stopped, but the department thus far has been unwilling to relent, their principal plea being economy.

The reasons we have for opposing the use of enlisted men in place of mechanics are as follows:

1. It subjects the civilian employee, who usually has a family to support, to unfair competition.

2. All trades and occupations have a recognized scale of wages which labor insists upon receiving.

3. Organized labor practices what it preaches in that respect, since it does not expect anyone to lower their standard of living while doing its work. It always pays the prevailing union scale of wages.

4. This practice has a tendency to demoralize the Navy, since men do not enlist for the purpose of becoming workmen and compete against their fellow citizens. It is reported that many desertions have accompanied this practice, besides poor repair work being done.

The laboring people have consistently stood against all kinds of unfair competition. Our main reason for opposing oriental labor and convict labor is because it is cheap. They do not have to maintain our standards of living or citizenship because they are outside of the social pressure which forces us to do so.

We have favored the limitation of child labor not only for the welfare of the child, but also because the employers of labor have taken advantage of the defenselessness of the child and its freedom from the responsibility to maintain our social standards which enables it to work cheaply, and have thus driven adult labor from the field.

* * * * * * *

We believe that ship building and ship repairing should be left to civilians, and that the activities of the enlisted man should be confined to such duties as are likely to arise at sea with the environments of the sea.

It is claimed by some that the repairing done by enlisted men is necessary to secure his efficiency when at sea. This reason is, however, not advanced by the Secretary of the Navy in his last annual report (see p. 6 of report) for having the enlisted men do repair work formerly done by mechanics. The only consideration there given is economy. The practice that an enlisted man would get while repairing a vessel at a navy yard would not fit him to do the same things at sea where the facilities of the navy yard are absent, and where only such things could be done as do not require extensive equipment. His practice for emergencies at sea must be on the sea and not in the navy yard.

It is not necessary for every enlisted man, on the one hand, to be proficient as a machinist, carpenter, electrician, boiler maker, etc., and, on the other hand, to have the strategical knowledge possessed by the commander of the fleet, in order to be proficient as a member of the crew. In an article written by Commander Leigh Parner, United States Navy, appearing in the Scientific American December 9, 1911, he speaks of the duties of a gun crew, but no reference is made to their mechanical qualifications.

The paragraph herein referred to I believe is not more drastic than is necessary to correct the evils which have grown up under this new venture of the Navy Department, since it does not prevent the crew from performing any of its ordinary functions or duties. The paragraph simply prevents them from being used as workmen on repairs while vessels are in dock. From our point of view the paragraph could be further strengthened by inserting after the word "battleships," in line 18, page 85, the words "or other vessels," and after the word "battleships," in line 19, the words "or vessels."

If the verbiage is regarded as covering unnecessary ground, which might in some unforeseen way hamper the functions of the Navy, there would be no objection on our part to have such changes made as to make it workable, provided such changes do not destroy its purpose.

While a letter is not the best medium through which to present an argument, I trust that the few suggestions herein briefly made will enable you to understand our point of view, and that you will see the justice of our contention.

I trust that the paragraph above referred to will not be stricken from the bill in the Senate.

Very respectfully, yours,

N. P. ALIFAS,
President District No. 44,
International Association of Machinists.

Mr. LODGE. Mr. President, I wish to say one word in regard to the action of the committee. There is no intention, and never has been any intention, on the part of the department to have any work done by enlisted men which ought properly to be done by the mechanical force employed in the different yards. I have had a great deal of complaint from the great yard at Boston in regard to the use of enlisted men, and I am desirous, if there is anything wrong in that direction, to have it remedied. But this clause as it came from the House is so drastic that it would prevent anything being done on the ship of the most trifling character if it happened to be in a navy yard. It says, "Repair work belonging to any recognized trade." They could not put in an electric lamp, they could not do anything, under the provision as it stands.

It is true that a ship's company to-day is not composed of seamen alone. At least 50 per cent of it is mechanical, and necessarily mechanical, men who have to make repairs while the ship is in foreign ports and when the ship is at sea. It is most essential that those men should be properly trained in caring for the machinery and all the intricate arrangement which they have to care for when the ship is on the high seas and when she is in a foreign port.

Mr. President, it was the view of the committee that this clause as it stood was too extreme and too drastically worded, and they thought the best thing to do was to strike it out and take it into conference and there frame with the House conferees a proper clause which would prevent, if any such action was needed, the undue employment of enlisted men to perform anything which ought to be done by the mechanical force at the yard, and make the law serve the purpose which it is intended to serve in a reasonable way, and not make it impossible to take care of the ship when she happens to be in one of our own navy yards.

Mr. CUMMINS. Mr. President——

Mr. LODGE. I yield to the Senator from Iowa.

Mr. CUMMINS. I desire to ask a question of the Senator from Massachusetts in order to discover whether I understand this paragraph or not. There is nothing in the paragraph as it came from the House that would prevent an enlisted man from doing the work suggested by the Senator from Massachusetts, is there?

Mr. LODGE. Does the Senator mean the slight repairs?

Mr. CUMMINS. Yes.

Mr. LODGE. Most certainly there is.

Mr. CUMMINS. I do not so read it. It seems to me that it is simply a prohibition against paying them anything for it.

Mr. LODGE. That is the way of getting at it. It is to deprive the enlisted man of his pay if he does any work. That is the only way of getting at it. It does not mean to pay him for that work; it is to deprive him of the pay which he has under the law.

Mr. CUMMINS. That is what I wanted to know.

Mr. LODGE. He is paid nothing for doing it now.

Mr. CUMMINS. It reads:

That no part of the appropriations authorized by this act shall be expended for the pay of enlisted men or seamen, not including commissioned and warrant officers, while doing repair work belonging to any recognized trade on battleships of the Navy when such battleships are docked or laid up at any navy yard for repairs,

Mr. LODGE. It would stop their pay.

Mr. CUMMINS. But the Senator from Massachusetts would not contend that if an enlisted man spent five minutes repairing an electric light the Government would be compelled to deduct from his pay a proportional amount for the five minutes in which he was so engaged?

Mr. LODGE. The mere fact that he performed any work of that sort would stop his pay.

Mr. CUMMINS. I do not believe that is a reasonable construction of the paragraph.

Mr. LODGE. It would stop his pay while doing the repair work. Where does the Senator draw the line?

Mr. CUMMINS. What it means is that if he shall enter into general repair work, instead of work that he was employed to do, then his pay should cease; but I can not believe that it would be construed to cover the little things which every man must do about any sort of structure and which do not require any considerable time or any considerable skill.

Mr. LODGE. Perhaps my illustration was unfortunate. Suppose, for example, it was a question affecting shafts. Accidents happen to shafts on steamships all the time at sea, and they have to be repaired then and there, both on merchant marine and naval ships. Suppose some such ship comes into the navy yard with some repair of that sort. It may take a day. It would be repaired, as a matter of course, when men are at sea or in a foreign port. Their pay would be stopped if they had to do that work—there is not any doubt about it—under that clause.

Mr. CUMMINS. On the contrary, I think the paragraph provides for the very case suggested by the Senator. I read:

Provided further, That this provision shall not apply to such ordinary duties as are engaged in by the crew while at sea, except the dismantling and assembling of armament for the purpose of repairs.

Mr. LODGE. What I refer to are not ordinary duties.

Mr. CUMMINS. I understood the Senator from Massachusetts to say they are things done by seamen ordinarily.

Mr. LODGE. They are not done by seamen; they are done by engineers. In all the cases I referred to the seamen do not do this work at all.

Mr. CUMMINS. Of course, if the paragraph bears the construction put upon it by the Senator from Massachusetts, his criticism is just, but I do not think it bears that construction.

Mr. LODGE. If there is a doubt about it, as there is in the Senator's mind and mine, certainly it ought to be framed so as to leave no doubt on that point. I think it could be arranged in conference with the House conferees, who framed the clause, without any reasonable trouble.

Mr. PERKINS. I ask the Secretary to read the construction placed upon the provision by the Secretary of the Navy.

The PRESIDENT pro tempore. The Secretary will read the paper sent to the desk by the Senator from California.

The Secretary read as follows:

The naval appropriation bill as passed by the House contains a provision, page 71, lines 6 to 14, as stated in the amendment on page 7732 of the CONGRESSIONAL RECORD, reading as follows:

"That no part of the appropriation authorized by this act shall be expended for the pay of enlisted men or seamen, not including commission and warrant officers, while doing repair work belonging to any recognized trade on battleships of the Navy when such battleships are docked or laid up at any navy yard for repairs: *Provided further*, That this provision shall not apply to such ordinary duties as are engaged in by the crew while at sea excepting dismantling and assembling armament for the purpose of repairs."

It is inconceivable that the Government can deliberately contemplate depriving itself even in part of the skill and services of its trained enlisted personnel.

The men of the Navy, from the very nature of their calling, are a combination of skilled mechanic and fighting man. The ships upon which these men are serving are intricate mechanical devices—filled with costly machinery that demands constant care and adjustment.

The necessity for battle training and target practice has been recognized; equally imperative is the necessity for the uninterrupted pursuit of mechanical training—the unhampered, unrestricted right, without question or quibble of law, to do the work that falls to the lot of the enlisted carpenter, machinist, boilermaker, or coppersmith.

It is not always possible for the work incident to repair and upkeep of a vessel of the Navy to proceed in an orderly and deliberate fashion—the demands of the service, the honor of the country, frequently call for the exercise of the utmost speed; the concentration of the greatest number of trained men upon the work in hand.

To dock, clean, and paint a ship is as much an evolution as to coal and provision her. The number of men in any community capable of doing this work is limited. The ship has at least 500 men that can be instantly thrown into this important work—trained civilian employees can not be obtained in such numbers on an emergency; thus without the assistance of the ship's crew a vessel may be detained in dock for several days at a time when her presence afloat is most imperative.

I feel convinced that the effects of this legislation will be so pernicious and destructive in its results as to seriously jeopardize the efficiency and readiness of the American Navy.

I urge that the entire amendment be stricken from the bill.

Mr. PERKINS. Mr. President, I wish to say, in addition to the statement just read at the desk, that on the battleship *Kansas* there are 856 enlisted men, and, with the officers and marines, there are about a thousand souls. Of the enlisted men there are detailed to the engine room 256 and 10 officers. A large percentage of them are enlisted as engineers or mechanics. They get from two to three times the pay of the bluejackets, the sailorman. As all Senators understand, there are machines, such as dynamos for the generation of electricity, hoisting engines for hoisting the anchors, and so forth, for sanitary and many other purposes on shipboard. To say that enlisted men shall not repair them seems to me a travesty upon their duty. I hope, therefore, that the amendment will not prevail and that the committee's recommendation will be sustained.

Mr. SWANSON. Mr. President, I have no doubt that there are some difficulties and wrongs at navy yards because of recent rulings by the Secretary of the Navy as to the work done that ought to be corrected. A battleship comes in for repairs and stays at a navy yard for some time. Mechanics are connected with the yard and perhaps have worked there for a long time; but their only means of subsistence is denied them when a great part of the repair work is done by the seamen. To a large extent such a practice is injurious to the force the department keeps at the navy yards. There has been an uncertainty in recent years as to the amount of work that they shall

have; there is no clear line of demarcation as to what work seamen shall do and what work mechanics employed in the navy yards shall do. In recent years there has been uncertainty in that respect.

I agree with the Senator from Massachusetts [Mr. LODGE] that there ought to be some law passed that will, without affecting the efficiency of the Navy and of the enlisted mechanics who go out to sea to take care of a ship and repair it, provide at the same time some line of demarcation as to division of work between the enlisted seamen and the employees in the navy yards. Expert mechanics may have been employed in a navy yard for years. They have given their life to the work. A ship may come in, the repairs on which will require the services of 400 or 500 seamen to do work which has heretofore been done by civilian mechanics. Sometimes the work is given them, while on other occasions it is not. That has produced an uncertainty in employment, which is not only unjust to the mechanics in the navy yard, but it also has a tendency to make a great many good mechanics leave that work and seek other employment. I think there ought to be some legislation to eliminate this trouble.

Mr. PERKINS. Mr. President, I have here on my desk a book containing several hundred pages of the rules and regulations of the Navy Department, defining the duties of enlisted men as well as the duties of the officers. It seems to me that legislation on our part in this respect would nullify those rules and regulations.

Mr. GALLINGER. I will ask the Senator if he has ever known of an instance where a ship coming into port has been largely repaired while she was lying at the dock? Is is not a fact always that such repairs as are made under such circumstances are minor repairs?

Mr. SWANSON. The complaint I hear from employees at the Portsmouth Navy Yard is that extensive repairs of late have frequently been made under such circumstances.

Mr. GALLINGER. Does the Senator from Virginia refer to the Portsmouth, N. H., Navy Yard?

Mr. SWANSON. I refer to Portsmouth, Va., to the Norfolk Navy Yard.

Mr. GALLINGER. I have had some complaint from Portsmouth, N. H., but an investigation developed the fact that it was not worth considering. The most vehement complaints I have had from Portsmouth, N. H., have been that the men who are confined in the naval prison there, mostly for minor offenses, frequently for reenlisting—that is, the great offense——

Mr. SWANSON. We do not have any trouble of that kind in the Norfolk Navy Yard. They are very good and moral men there. Criminal offenses there do not bother us much.

Mr. GALLINGER. But some of them are sent to the naval prison at Portsmouth, N. H. The most vehement protests have been that those men were permitted to go outside and clean up the yard; that they ought not be permitted to do so; that there ought to be given a chance for outside men to do that sort of work. I think that there have been extreme notions in the minds of our labor friends about those things.

I agree with the Senator that there ought to be some provision inserted in this bill, or in some other bill, that would define exactly what can and what can not be done by the enlisted men; and I will join with the Senator in that, because we do not want to do any wrong to men who are outside. On the other hand, we have enlisted men on our ships who are carpenters, machinists, and electricians, and they have a right to be employed. If a ship comes into port with some minor trouble they might well be permitted to make repairs rather than to send out and get two men to come there, for they never send one; they always send a man and a helper, and the man always forgets a tool and sends the helper back for it. It would cost a great deal to do the little repair work that the men on the ship could do.

Mr. SMITH of Georgia. I should like to ask the Senator from New Hampshire are not these men in the employ of the Government when the ship comes into port?

Mr. GALLINGER. Certainly.

Mr. SMITH of Georgia. They could not do the work unless they were so employed?

Mr. GALLINGER. Of course not.

Mr. SMITH of Georgia. Then, why should they not do it?

Mr. GALLINGER. I think they should; they have to do it at sea.

Mr. MARTINE of New Jersey. Mr. President, as I understand, the laboring organizations are almost a unit in favor of the particular clause which is proposed to be stricken out. With a number of them who came to see me I raised the question that has been advanced by the Senator from Massachusetts [Mr. LODGE]—that it would seem ridiculous that an enlisted man could not adjust a lamp or screw in an electric-light bulb. Their response universally was that that was absurd; that they had not thought of interfering to that degree. They further insisted, as has been suggested, I think, by the Senator from Iowa [Mr. CUMMINS], that this provision should not apply to such ordinary duties as are performed by the crew at sea; that the Government should be amply protected. It is a fact, as I have gathered from other sources, that in very many instances the present practice has worked harm and is a source of unfairness to organized labor. It seems to me that there can be no harm in adopting the provision as it came from the other House. For one I shall vote against striking out the provision.

Mr. GALLINGER. Mr. President, I will only say that I hope the amendment proposed by the committee will prevail, because I do not think we ought to be entirely governed in our legislation by the fact that organized labor wants us to do a certain thing.

Mr. CUMMINS. Mr. President, inasmuch as I made the inquiry of the Senator from Massachusetts [Mr. LODGE], I want to be distinctly understood about my own position. I am in favor of enlisted men doing in port precisely what they do at sea, but I am not in favor of turning them into general constructors of ships or of their making repairs such as could not be done at sea. If they are mechanics at sea they are also mechanics in port, and they should be permitted to do there what they do when the ship is afloat and what they are really hired to do; but I thought, and I still think, that the provision in the bill does not preclude the enlisted men from doing, when the ship is in port, what they are hired to do and what they do when the ship is on a voyage.

The PRESIDENT pro tempore. The question is on the amendment proposed by the committee to strike out, on page 85, the provision beginning in line 15 and extending to line 23.

Mr. MARTINE of New Jersey. On that I ask for the yeas and nays, Mr. President.

Mr. REED. Mr. President, if I understood the statement made, I think, by the Senator from Massachusetts [Mr. LODGE], the purpose in striking out this provision is to have it go to conference so that language may be agreed upon which is clearer, which will fully protect the rights of the laboring men, and at the same time preserve a fair condition toward the Government.

Mr. LODGE. That is my purpose.

Mr. REED. And if this is voted out that will be taken care of in conference.

Mr. LODGE. That is my purpose. As I understand, the sole purpose of the committee is to put this provision in proper form.

Mr. REED. I should not like unequivocally to vote this provision out, but with the explanation that the matter will be taken care of in conference and reported back, I will support the amendment.

Mr. JONES. Mr. President, I should like to ask the Senator from Massachusetts, if the committee was not exactly satisfied with this provision, but thought that some such provision ought to be put in, why they did not suggest to the Senate some amendment covering the proposition.

Mr. LODGE. Because they thought it could be done much more expeditiously by arranging it with the committee of the other House which drafted this provision. I think it will only require some slight modification. We could have carried it into conference by striking out one word; but it seemed better to throw the whole question into conference so as to enable the representatives of the other House and of the Senate to agree on the proper language. That is all.

Mr. JONES. The trouble is that by such a procedure most of us are not considered in this matter at all and are not given an opportunity of either rejecting or adopting the proposition one way or the other. If the committee had suggested what they thought was proper language, it seems to me it would have been better. I myself dislike the idea, that seems to be increasing, of simply striking out things and throwing them entirely into conference, leaving them to the consideration of the conference committees, and bringing in propositions as a part of a conference report which we have to take as a whole or reject as a whole.

Mr. LODGE. Mr. President, it is not uncommon, I think, in the case of some single item like this, where the Houses are agreed to have some legislation, to leave the wording to the conferees. There is no intention of changing the purpose of this item. The only thing is to get a wording that both Houses shall consider suitable and proper.

Mr. JONES. Yes; but the action of the committee is to strike it out entirely.

Mr. LODGE. In order to bring it before the conferees; that was the purpose; and it is not an unusual thing about a small

item of this character, especially where the Senate is told, as it is in this case, exactly what is the purpose of the committee.

Mr. JONES. I know it is not unusual, and that is one thing I complain of. I think it is getting to be a little bit too usual. If this were a question of the principle involved, it would be a different matter; but the two Houses do not differ in the desire to make a proper demarcation between the duties of men at sea and men in the navy yards.

The PRESIDENT pro tempore. The question is upon the amendment of the committee to strike out the lines indicated on page 85, lines 15 to 23, inclusive. Upon that question the Senator from New Jersey has asked for the yeas and nays.

Mr. MARTINE of New Jersey. Mr. President, with the permission of the Senate, I will withdraw the request for the yeas and nays, but I will vote against the amendment on a viva voce vote.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Naval Affairs was, on page 86, after line 19, to insert:

That there is hereby established a council of national defense, consisting of the President of the United States, who shall be ex officio president of the council, the Secretary of State, who shall preside in the absence of the President, the Secretary of War, the Secretary of the Navy, the chairman of the Committee on Appropriations of the Senate, the chairman of the Committee on Foreign Relations of the Senate, the chairman of the Committee on Military Affairs of the Senate, the chairman of the Committee on Naval Affairs of the Senate, the chairman of the Committee on Appropriations of the House of Representatives, the chairman of the Committee on Foreign Affairs of the House of Representatives, the chairman of the Committee on Military Affairs of the House of Representatives, the chairman of the Committee on Naval Affairs of the House of Representatives, the Chief of the General Staff of the Army, an officer of the Navy not below the rank of captain to be designated by the Secretary of the Navy, the president of the Army War College, and the president of the Naval War College.

That the chairmen of the several committees of the Senate and House of Representatives herein named shall act as members of the council until their successors have been selected.

That said council shall report to the President for transmission to Congress a general policy of national defense and such recommendation of measures relating thereto as it shall deem necessary and expedient.

That said council shall meet at least once in each calendar year on such date or dates as it shall fix: *Provided*, That in time of war said council shall meet only upon the call of the President of the United States: *Provided further*, That special meetings may be called by the president of the council: *And provided further*, That the council may summon for consultation at any of its meetings any citizen of the United States, and upon request by the council the Secretary of War and the Secretary of the Navy shall order any officer of the Army, Navy, or Marine Corps to appear before the council for consultation.

That for carrying out the purposes of this act there is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $20,000, to be available until expended, and to be expended upon vouchers signed by the president of the council: *Provided*, That all necessary expenses of the chairmen of committees of the Senate and of the House of Representatives, when called to attend meetings of said council when Congress is not in session, and the necessary expenses of all persons summoned shall be paid from this appropriation, upon approval by the president of the council.

Mr. REED. Mr. President, that is a matter, I am very sure, on which some of us desire light, and I think it will involve some discussion. It is a very hot afternoon——

Mr. LODGE. To what part of the bill does the Senator refer?

Mr. REED. All that part of the bill which we have now reached, which appears in italics, from near the bottom of page 86, including all of pages 87 and 88. It is a matter upon which I should like some light, and I should not like to pass upon it hastily. I think it will involve some discussion.

Mr. OVERMAN. I think, Mr. President, this provision has not been estimated for.

Mr. LODGE. No; it has not been.

Mr. OVERMAN. Then, I raise the point of order, Mr. President, that, not being estimated for, the amendment is obnoxious to the rule and is new legislation.

Mr. SMITH of Georgia. I have been waiting for the amendment to come up to raise that point. It is also general legislation.

The PRESIDENT pro tempore. The Chair sustains the point of order that the amendment proposes general legislation. The Chair will call the attention of the Senator from Massachusetts to the word "*Provided*," at the bottom of page 85. Possibly, after the action on the preceding amendment, that may be needed. The Chair will inquire if the word "*Provided*" is intended to be retained?

Mr. LODGE. That proviso applies to the terms of the bill and is part of the existing law. That is a provision put in every naval appropriation bill.

The PRESIDENT pro tempore. The Chair referred to the word "*Provided*," at the beginning of the clause on line 24, page 85.

Mr. LODGE. The word "*Provided*" can be taken out and the provision stand as a paragraph by itself.

The PRESIDENT pro tempore. That is all the Chair had reference to.

Mr. LODGE. I beg pardon. I did not understand.

The PRESIDENT pro tempore. Does the Senator offer an amendment to that effect?

Mr. LODGE. I suggest that the word "*Provided*," on page 85, line 24, be stricken from the bill.

The amendment was agreed to.

The PRESIDENT pro tempore. The Chair will call the attention of the chairman of the committee to the amendment on page 32, which was passed over. The Secretary will state the amendment.

The SECRETARY. On page 32, after line 22, the committee reported an amendment to insert:

Depots for coal: To enable the Secretary of the Navy to execute the provisions of section 1552 of the Revised Statutes, authorizing the Secretary of the Navy to establish, at such places as he may deem necessary, suitable depots for coal and other fuel for the supply of steamships of war, $500,000: *Provided*, That $75,000 of said sum, or so much thereof as may be necessary, may be used for the mining of coal and development work on public lands in Alaska for the purpose of supplying coal for the United States Navy.

Mr. HEYBURN. I offer the amendment which I send to the desk as an amendment to the committee amendment.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 33, after the word "dollars," it is proposed to strike out the proviso, beginning in line 4, down to and including line 8, and to insert:

That $75,000 of said sum, or so much thereof as may be necessary, may be used for the survey, investigation, and report upon coal and coal fields available for the production of coal for the use of the United States Navy or any vessel of the United States.

Mr. HEYBURN. Mr. President, the amendment as reported by the committee reads:

Provided, That $75,000 of said sum, or so much thereof as may be necessary, may be used for the mining of coal and development work on public lands in Alaska for the purpose of supplying coal for the United States Navy.

Seventy-five thousand dollars would not put the men in the field and clear the brush off the ground. We do not know where the coal is. We have to find the coal first. We must have some kind of a survey, and if we are going to expend $75,000, let us do it for that purpose and not provide for mining coal under a provision that would be utterly futile.

Mr. PERKINS. The Navy Department reported to the committee that they can use the $75,000 to advantage.

Mr. HEYBURN. We want to know what the advantage is. The first advantage to be gained in Alaska is to find out where the coal is; whether it is suitable, and whether it can be made available.

Mr. PERKINS. Where does the Senator propose to amend the amendment?

Mr. HEYBURN. On page 33, after the word "dollars" in line 4, as I have written out the amendment.

Mr. PERKINS. For how much?

Mr. HEYBURN. The same sum—$75,000.

Mr. ROOT. It is a substitute.

Mr. HEYBURN. I move to strike out and insert. I would say that there is no known coal field——

Mr. PERKINS. As far as I can accept it on the part of the committee, I do so.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Idaho, to strike out and insert in the amendment of the committee, as indicated by the Senator.

Mr. POINDEXTER. Mr. President, I only want to say in regard to that that the amendment to the amendment destroys the entire amendment. I understand it is to strike out the appropriation altogether.

Mr. HEYBURN. No.

Mr. LODGE. No; it changes the wording.

Mr. POINDEXTER. So as to make it, instead of developing it, a proposition——

Mr. HEYBURN. Instead of mining coal with this money, it is proposed to use the money for the purpose of ascertaining first whether there is anything to be mined and second whether it can be mined commercially; and it calls for the necessary reports.

Mr. POINDEXTER. We have been investigating the matter for the last 12 years. There are at least a dozen reports of experts on those mines. There are documents published in the Ballinger investigation going into the minutest details of the coal fields.

Mr. HEYBURN. If the Senator will permit me, it is because of those investigations—and I have sat in committee where that

matter has been investigated for weeks—that I offered the amendment. There is in Alaska no known coal that is available to navigable waters. It involves the matter of transportation. I have had put on the wall a map that shows where the coal fields are, and it is utterly futile to talk about mining coal. This amendment as reported by the committee says the money shall be expended for mining coal. Suppose you mine it back from reach of navigable waters, how will you get it there? We want some definite proposition, and it must necessarily include transportation from the mines to vessels.

Mr. POINDEXTER. How many more reports does the Senator think ought to be made? We have had at least a dozen reports, representing that many investigations.

Mr. HEYBURN. This would be a definite report directed to the purpose to be served. The reports that have been made heretofore have not been directed to this purpose at all.

Mr. POINDEXTER. How is that?

Mr. HEYBURN. The reports that have been made have not been directed to the purpose of ascertaining whether coal was available or not.

Mr. POINDEXTER. Oh, yes; we have had such reports. I have two of them here.

Mr. HEYBURN. I have those reports.

Mr. POINDEXTER. At this late hour I do not propose to discuss the question, but that question has been examined by competent experts and reported upon at length; and, furthermore, there are a great many men who are perfectly familiar with the ground. Take the Bering River coal fields. The character of that coal has been analyzed and reported upon by experts, and anybody who goes there can see it. It is available to navigable water. It is only 23 miles to a safe harbor.

Mr. HEYBURN. How would you get it over the 23 miles?

Mr. POINDEXTER. By railroad.

Mr. HEYBURN. Who would build the railroad?

Mr. POINDEXTER. The Government of the United States.

Mr. HEYBURN. Now we have the Government of the United States mining coal and building a railroad to bring it out for $75,000.

Mr. OVERMAN. I rise to a point of information. What is before the Senate?

The PRESIDENT pro tempore. The question before the Senate is the amendment offered by the Senator from Idaho.

Mr. LODGE. That has been accepted by the committee.

Mr. ROOT. And voted upon.

Mr. LODGE. And voted upon.

Mr. OVERMAN. And voted upon in the affirmative.

Mr. LODGE. The chairman of the committee stated that he had accepted the amendment of the Senator from Idaho, and it was then voted on.

The PRESIDENT pro tempore. The vote was taken, but before——

Mr. LODGE. The vote was not announced.

The PRESIDENT pro tempore. Before the result was announced the Senator from Washington addressed the Chair, which he had a right to do. The question now is upon the amendment as amended with the consent of the committee.

Mr. POINDEXTER. I submit the matter upon the statement I have already made, but I feel that there certainly ought to be an end some time to investigation and the beginning of action.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment as amended.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. The question is, Shall the amendments made as in Committee of the Whole be concurred in?

Mr. JONES. Mr. President, I desire to reserve the amendment on page 75 with regard to employing an advertising agent to secure recruits for the Navy, in order that I may make a point of order against it.

The PRESIDENT pro tempore. With the exception of the amendment indicated, then, without objection, the amendments adopted by the Senate as in Committee of the Whole are concurred in.

The Senator from Washington is now in order to make his point of order upon the particular amendment excepted.

Mr. JONES. I make a point of order against the amendment on page 75, as being new legislation.

Mr. LODGE. Mr. President, I think that is simply carrying out the general purposes of the recruiting service.

The PRESIDENT pro tempore. The Chair would be glad to have the Senator state the proposition in detail.

Mr. LODGE. The paragraph provides for recruiting, and this proviso gives authority to advertise for recruits in a particular way. Of course advertising for recruits has to be done. In fact, there is provision of law for doing it. The authorities now advertise for recruits. That is provided for. This simply provides a particular method, allowing them to advertise in a particular way.

Mr. CLAPP. Mr. President, I think the point of order is well taken. The hour is late, and I do not want to detain the Senate; but I wish to call attention to a condition that formerly existed in regard to advertising for recruits for the Navy.

Some years ago I took an advertisement which I found on a telegraph pole in the city where I live, for the purpose of bringing it to Washington, but I have mislaid it. I think at that time, undoubtedly without the knowledge of the Navy Department, the subordinates engaged in the work of recruiting actually maintained a moving-picture show to which young men had access free of charge, where were exhibited pictures designed to portray in the most alluring manner the life of a sailor, and calculated to lure young men to enlist upon an entirely erroneous supposition as to the real experience in store for them; and I have no doubt this led to a great many of the desertions that occurred in the Navy. Young men were lured to enlistment through these devices, and of course found the real experience entirely different. I do not think the department knew of the practices that were being resorted to, and think they have been largely discontinued. Of course notices of opportunity to enlist have to be given; but I think it well enough to withhold this proposition for advertisement, and believe the point is well taken.

The PRESIDENT pro tempore. The Chair can only judge by the language of the context. The paragraph is:

Transportation and recruiting, Marine Corps: For transportation of troops, and of applicants for enlistment between recruiting stations and recruit depots or posts, including ferriage and transfers en route, or cash in lieu thereof; toilet kits for issue to recruits upon their first enlistment and the expense of the recruiting service, $317,000.

The proviso is:

Provided, That authority is hereby granted to employ the services of an advertising agent in advertising for recruits under such terms and conditions as are most advantageous to the Government.

The Chair is of opinion that that could be held to be not an enlargement of the law only if it were included in the previous provisions of the section. The addition of it, in the opinion of the Chair, is in the nature of general legislation, enlarging that authority. The Chair therefore sustains the point of order.

Mr. MYERS. Mr. President, I offer an amendment to the bill, which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to add, on page 79, line 3, after the word "battleships," the following:

At least one of which shall be constructed in a navy yard of the United States.

Mr. MYERS. I move the adoption of the amendment.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment offered by the Senator from Montana, which has just been read from the desk.

Mr. LODGE. I think it ought to be stated before that amendment is voted on that that will necessitate a very large increase in the amount of money appropriated for the two battleships.

Mr. GALLINGER. Undoubtedly.

Mr. LODGE. It costs, I think, from a quarter to a third more to build a battleship in a navy yard than to build it in a private establishment.

Mr. GALLINGER. About 40 per cent more in one instance.

The PRESIDENT pro tempore. The question is upon the adoption of the amendment offered by the Senator from Montana.

The amendment was rejected.

The PRESIDENT pro tempore. The question is, Shall the amendments be ordered to be engrossed and the bill to be read a third time?

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

INDIAN APPROPRIATION BILL.

Mr. MYERS. Mr. President, I now call up the motion I made this morning to reconsider the vote by which the Senate passed the Indian appropriation bill, House bill 20728.

Before the question is put and a vote taken, I will say that in accordance with the suggestions that were made to me from both sides of the Chamber this morning, I have consulted with the Senator from Minnesota [Mr. CLAPP], the acting chairman of the Committee on Indian Affairs, and I have agreed with him that there are only two amendments that I will ask to have reconsidered.

I ask unanimous consent, instead of putting the motion to a vote, that the vote be reconsidered, solely for the purpose of considering two amendments, one reading:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana,

and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $400,000.

The other reading:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Blackfeet Indian Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $150,000, reimbursable in accordance with the provisions if the act of March 1, 1907.

I ask unanimous consent to reconsider the vote by which the bill passed, solely for the purpose of considering those amendments.

Mr. GALLINGER. Mr. President, the bill is not here is it?

The PRESIDENT pro tempore. The Chair understands the bill is still in the possession of the Senate.

Mr. CURTIS. I do not think the amendments should be changed, but I will not object to a reconsideration in order that we may have a vote upon the matter. However, I think it would be a very serious mistake to open up the question and give them the increase they are asking for.

The PRESIDENT pro tempore. The request of the Senator from Montana is that, for the purposes indicated, the Senate shall reconsider the votes by which the amendments were ordered to be engrossed and the bill read the third time and passed. Is there objection? The Chair hears none, and it is so ordered.

THE PANAMA CANAL.

Mr. BRANDEGEE. I move that the Senate now proceed to the consideration of H. R. 21969, being Order of Business No. 771, known as the Panama Canal bill. Then I shall ask to have it temporarily laid aside, in order that the unanimous-consent provided for on the calendar for to-morrow's business may be taken up.

The PRESIDENT pro tempore. The Senator from Connecticut moves that the Senate proceed to the consideration of House bill 21969, the title of which will be stated by the Secretary.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. MYERS. Mr. President, I wish to ask for some information. Under the unanimous-consent agreement, does the consideration of the Lorimer case begin at 12 o'clock to-morrow or after the morning hour?

Mr. BRANDEGEE. I do not care to object, but of course that inquiry is not in order under the motion I have made.

Mr. MYERS. I do not want to interfere with any motion made by the Senator.

Mr. BRANDEGEE. There is a motion pending. As soon as that is acted upon——

The PRESIDENT pro tempore. The question is upon the motion of the Senator from Connecticut.

Mr. SIMMONS. What was the request of the Senator?

Mr. BRANDEGEE. To proceed to the consideration of the Panama Canal bill, which, if agreed to, would make it the unfinished business. Then it will be temporarily laid aside.

Mr. SIMMONS. Mr. President, I object to that.

Mr. BRANDEGEE. It is not debatable.

The PRESIDENT pro tempore. The motion is not debatable.

Mr. SIMMONS. I understand the effect of the Senator's motion is to make it the unfinished business.

Mr. GALLINGER and Mr. LODGE. Let us have the question.

The PRESIDENT pro tempore. The question is upon the motion of the Senator from Connecticut that the Senate proceed to the consideration of House bill 21969.

Mr. ASHURST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Arizona suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clapp	Jones	Sanders
Bacon	Crane	Lodge	Smith, Ariz.
Bourne	Crawford	Myers	Smith, S. C.
Bradley	Curtis	Nelson	Smoot
Brandegee	Fall	Overman	Stone
Bristow	Gallinger	Page	Townsend
Burnham	Gardner	Penrose	Warren
Burton	Heyburn	Perkins	Works
Catron	Johnson, Me.	Poindexter	
Chamberlain	Johnston, Ala.	Root	

The PRESIDENT pro tempore. On the call of the roll 38 Senators have answered to their names. A quorum of the Senate is not present.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock and 3 minutes p. m.) the Senate adjourned until to-morrow, Saturday, July 6, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July 5, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, we thank Thee for the spirit which moved our fathers to the high resolves and deeds of heroism which gave us a Government so wise in its conception, so broad in its construction, so lofty in its purpose that it would guarantee to every citizen life, liberty, and the pursuit of happiness. We thank Thee that under Thy providence we have grown in all that tends to make a nation great, but we realize that with every step of progress, every advance in civilization, comes a greater responsibility.

"Except the Lord build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain."

Increase our religious fervor and make us vigilant, wise, pure, and inspire us with a holy patriotism that the genius of our Republic may be fulfilled to the honor and glory of Thy holy name. Amen.

The Journal of the proceedings of Wednesday, July 3, 1912, was read and approved.

ENCAMPMENT AND MANEUVERS OF ORGANIZED MILITIA.

The SPEAKER laid before the House House joint resolution 332, appropriating $1,350,000 for encampment and maneuvers of the Organized Militia, with a Senate amendment thereto.

The Senate amendment was read.

Mr. HAY. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the following omnibus pension bills, and move to agree to the conference asked by the Senate, which bills I send to the desk and ask to have the Clerk report the same.

The SPEAKER. The Clerk will report the bills.

The Clerk read as follows:

S. 5623. An act granting pensions and increase of pensions to certain soldiers and sailors of wars other than the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6340. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6384. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and to certain soldiers and sailors of wars other than the Civil War and to widows and dependent relatives of such soldiers and sailors;

S. 6851. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 6978. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors.

The SPEAKER. The gentleman from Alabama asks unanimous consent to take from the Speaker's table the bills the titles of which have been reported by the Clerk. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Alabama that the House agree to the conference asked for by the Senate on these various bills.

The question was taken, and the motion was agreed to.

The Chair appointed the following conferees: Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey.

WITHDRAWAL OF PAPERS.

Mr. HARRISON of New York. Mr. Speaker, I ask unanimous consent to withdraw from the files of the House the papers filed with the bill (H. R. 19746) authorizing the Secretary of the Treasury to award a first-class life-saving medal to Joseph Donellen, which bill has been referred to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Is there objection?

There was no objection, and it was so ordered.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest; and

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the

Treasury to carry out certain provisions of the public building acts, and for other purposes," approved March 4, 1909.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 4445. An act concerning unrigged vessels.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President of the United States, by Mr. Latta, announced the approval of bills and joint resolutions of the following titles:

On June 28, 1912:

H. J. Res. 299. Joint resolution proposing an international maritime conference; and

H. R. 22204. An act granting a right of way to the Panama-Pacific International Exposition Co., or such successors or assigns as may be approved by the Secretary of War, across the Fort Mason Military Reservation in California.

On July 1, 1912:

H. J. Res. 331. Joint resolution extending appropriations for the necessary operations of the Government under certain contingencies; and

H. R. 18849. An act for the relief of the Winnebago Indians of Nebraska and Wisconsin.

On July 3, 1912:

H. R. 20480. An act excepting certain lands in Lawrence and Pennington Counties, S. Dak., from the operation of the provisions of section 4 of an act approved June 11, 1906, entitled "An act to provide for the entry of agricultural lands within forest reserves."

OHIO CONSTITUTIONAL CONVENTION (H. DOC. NO. 863).

Mr. COX of Ohio. Mr. Speaker, I ask unanimous consent to have published as a public document a statement relating to the work of the Ohio constitutional convention. I think it is proper to state for the information of the House that since this convention has concluded its work I have had a great many inquiries from Members of the House and the Senate as to the nature of the amendments suggested, and with reference to all of the things that were gone into. I think it would be a very useful public document.

Mr. MANN. Mr. Speaker, as I understand the gentleman's request it is to print as a House document the proposed constitutional amendments submitted by the constitutional convention of Ohio.

Mr. COX of Ohio. I want to be entirely fair with the gentleman, however; that with this is a comprehensive statement made by the president of the convention.

Mr. MANN. That is an official communication?

Mr. COX of Ohio. Yes, sir.

The SPEAKER. The Chair would request the gentleman from Ohio to state his request again so the Chair can put it to the House.

Mr. COX of Ohio. I ask unanimous consent that there might be published as a House document the constitutional amendments adopted by the constitutional convention in the State of Ohio together with a statement made by the president of that convention.

The SPEAKER. The gentleman from Ohio [Mr. COX] asks unanimous consent to print as a public document the amendments adopted by the late constitutional convention of Ohio, also with an official statement from the president of that convention. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. CANDLER, indefinitely, on account of important business.

To Mr. LOBECK, for 3 days, on account of illness.

To Mr. GOEKE, for 10 days, on account of important business.

EXTENSION OF REMARKS ON FARMERS' NATIONAL COOPERATIVE CREDIT COMMISSION.

Mr. NORRIS. Mr. Speaker, on the 29th of March last I introduced House joint resolution 282, to provide for the appointment of a Farmers' National Cooperative Credit Commission, and on the 29th day of May, at a hearing before the Committee on Agriculture, I made some remarks on that resolution and others pending in the House and the Senate. I ask unanimous consent to extend my remarks in the RECORD by printing the remarks that I made before the Committee on Agriculture.

The SPEAKER. The gentleman from Nebraska [Mr. NORRIS] asks unanimous consent to extend his remarks in the RECORD on the subject named. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

PRINTING ARTICLE BY PROF. F. W. TAUSSIG ON WOOL AND WOOLENS (H. DOC. NO. 864.)

Mr. McCALL. Mr. Speaker, I have here an article by Prof. F. W. Taussig, senior professor of economics in Harvard University, printed in the American Economic Review, on the report of the Tariff Board on wool and woolens. It is a nonpartisan dissection of the tariff report, and I ask unanimous consent that it be printed as a House document.

The SPEAKER. The gentleman from Massachusetts [Mr. MCCALL] asks unanimous consent to print as a House document an article from Dr. Taussig, professor of economics in Harvard University, on wool and woolens. Is there objection?

Mr. UNDERWOOD. Mr. Speaker, as I remember the article—I think I have read it—it is not a partisan article or directed from a partisanship side of the question.

Mr. MCCALL. Not at all.

Mr. UNDERWOOD. As a matter of fact, he does not agree with either that side of the House or this side of the House, if I remember correctly.

Mr. MCCALL. It is a very independent article, and I think a very valuable one; he is a great economic scholar.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

AMERICAN REGISTERS FOR SEAGOING VESSELS, ETC.

Mr. UNDERWOOD. Mr. Speaker, I desire to ask unanimous consent for an order that H. R. 16692, a bill to provide American registers for seagoing vessels wherever built and to be engaged only in trade with foreign countries and the Philippine Islands and the islands of Guam and Tutuila, and for the importation into the United States free of duty of all materials for the construction and repair of vessels built in the United States, and for other purposes, may be called up as a matter of privilege, not to interfere with appropriation bills, conference reports, or tariff bills.

Mr. MANN. Mr. Speaker, reserving the right to object——

The SPEAKER. Will the gentleman from Alabama please send the bill up?

Mr. WILSON of Pennsylvania. Mr. Speaker, I will ask the gentleman from Alabama to include in his request——

Mr. UNDERWOOD. I will make the request about the other bill later. I want to get them one at a time.

Mr. MANN. This is a short bill——

The SPEAKER. The Clerk will report the title of the bill, so the House will understand it.

Mr. UNDERWOOD. I will ask the gentleman from Missouri [Mr. ALEXANDER], chairman of the committee, to explain the purpose of the bill.

The SPEAKER. Is not the matter the gentleman sent up the title of the bill?

Mr. UNDERWOOD. No; it is a memorandum I had in my hand. It is not the bill; it is merely a memorandum which I had in my hand; the gentleman from Missouri has the bill.

Mr. ALEXANDER. The request of the gentleman from Alabama [Mr. UNDERWOOD] is that H. R. 16692, known as the freeship bill, may be taken up for consideration under the conditions named by him. It is a bill of four sections. The first section provides that American citizens may purchase ships wherever they can buy them the cheapest, and that they may be registered under the American flag to engage in the foreign trade. The second section provides that all material that enters into the construction or repair or equipment of ships may be entered free of duty, and in that regard somewhat amplifying the present tariff law. This bill has been approved by the Department of Commerce and Labor and has the indorsement of the administration and has been recommended by the Committee on the Merchant Marine and Fisheries for passage.

Mr. MANN. Is this bill unanimously reported from the committee?

Mr. ALEXANDER. No, sir. There are two or three gentlemen of the minority of the committee who have united in a minority report.

Mr. MANN. Have those gentlemen been notified or asked about this proposition of setting the bill down for consideration?

Mr. UNDERWOOD. Mr. Speaker, I would like to say to the gentleman from Illinois [Mr. MANN] that this bill is on the Union Calendar. It is an important bill. It is a bill that would justify a rule, if brought in, for its consideration. I merely desire to obviate the time, and my request makes no limitation on debate. It leaves ample opportunity for fair consideration, because it has got to go into the Committee of the Whole House to be fully debated; and it is only a request that, instead of being compelled to bring in a rule to get the bill before the House, we will bring it up by general order in committee.

Mr. MANN. I will say to the gentleman that it has always been customary that where a request of this sort was sub-

mitted to have members on both sides of the committee who are interested informed in regard to the request. What has been done in this case I do not know.

Mr. ALEXANDER. The ranking member of the minority of the committee, the gentleman from Massachusetts [Mr. GREENE], is right here.

Mr. GREENE of Massachusetts. I shall object.

Mr. UNDERWOOD. Then, Mr. Speaker——

RADIO COMMUNICATION.

The SPEAKER. I wish the gentleman would state what the number of the bill is he is about to bring up and on what calendar it is.

Mr. UNDERWOOD. Mr. Speaker, the second bill that I make the request for is on the House Calendar. It is H. R. 15357, a bill to regulate radio communication, and I ask unanimous consent that it may be in order to take this bill up as a matter of privilege any day following to-day, not to interfere with appropriation bills, conference reports, or tariff bills.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent to make the bill which he has mentioned privileged on any day after to-day, not to interfere with appropriation bills, tariff bills, or conference reports.

Mr. MANN. Mr. Speaker, reserving the right to object, I will say to the gentleman that I have been in conference all the morning with some of the officials of the Government concerning that bill and have another conference for to-morrow morning already agreed upon concerning the same bill. As I understand, there are a number of conferences going on relating to that bill. I have no doubt within the course of a few days there will be no objection whatever to taking it up for consideration. But this morning I am not willing to have it called up, nor to-morrow, if I can prevent it.

Mr. ALEXANDER. I am not asking that it be called up to-morrow, but I would like to call it up one day next week.

Mr. UNDERWOOD. I will say to the gentleman that we have reached a place in the House, with appropriation bills in the Senate, where it is necessary to agree on some order of business while waiting for conference reports to come back. I think this bill is of sufficient importance to give it the right of way.

Mr. MANN. I agree with the gentleman that some action ought to be taken. A conference in London has been held relating to this matter, which, I think, closed yesterday. I have been endeavoring to obtain information whether that conference agreed upon anything which changed the agreement at the Berlin conference. Nobody on this side of the water yet seems to know. If there has been a change agreed upon in the London conference which ought to be incorporated in this bill, it would not hurt to hold it for a few days until we ascertained whether that is the case or not.

Mr. ALEXANDER. I will say to the gentleman that all the information I have on that subject is through the press of a day or two ago. There was mention made of what had been agreed on. But I will say to the gentleman if he waives his objection that this bill will not be called up until some day next week mutually agreeable to us. I asked Mr. Chamberlain to confer with you that we might come to some understanding about the bill, and I will wait until some day next week until you have had ample opportunity to confer with him.

Mr. MANN. Well, with that understanding, I shall not make any objection. I do not desire to prevent the proper passage of a proper bill——

Mr. ALEXANDER. The administration is very anxious to have something done along this line——

Mr. MANN (continuing). Although I suppose it will be much easier to have a conference with those gentlemen before it is agreed that the bill shall be considered than it will be afterwards.

Mr. RODDENBERY. Mr. Speaker, I reserve the right to object.

Mr. UNDERWOOD. I understand objection has been made.

The SPEAKER. Is there objection? Does the gentleman from Massachusetts [Mr. GREENE] object to the consideration of this bill?

Mr. UNDERWOOD. No; I now understand objection was not made.

Mr. RODDENBERY. Does it rest with the gentleman who seeks to make this bill privileged——

Mr. CANNON. Which bill is it?

The SPEAKER. The bill relating to radio communication.

Mr. RODDENBERY (continuing). To have it considered only subject to the prior right of way by appropriation bills, tariff bills, and conference reports? Could not the gentleman include in his request also a request for the consideration of a bill from the Committee on Immigration and Naturalization—an immigration bill, making it a measure of privilege along with this, which will tend to make it certain that we shall get up this important measure and consider it at this session?

Mr. UNDERWOOD. I have no doubt the bill to which the gentleman refers will be taken up at the proper time. I did not ask for the consideration of tariff bills. I was asking for the consideration of certain bills coming from the Committee on the Merchant Marine and Fisheries. When that request is disposed of there will then be opportunity, if the gentleman who has charge of the Committee on Immigration and Naturalization desires to present his request to the House, to ask that his bill be considered. But I do not desire to make the request in his behalf without his presence here.

Mr. RODDENBERY. Well, Mr. Speaker, until there is some understanding relative to that measure, which I regard as paramount, and compared with which I regard this other proposition as trifling, I shall object until the bill I referred to is treated in the same way.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] objects.

BILLS ON THE PRIVATE CALENDAR.

The SPEAKER. The Chair will announce that this is private-bill day. In order that we may have a perfect understanding of the matter, the Chair will read the rule. It is as follows:

On Friday of each week, after the disposal of such business on the Speaker's table as requires reference only, it shall be in order to entertain a motion for the House to resolve itself into Committee of the Whole House to consider business on the Private Calendar in the following order: On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion. On every Friday except the second and fourth Fridays the House shall give preference to the consideration of bills reported from the Committee on Claims and the Committee on War Claims, alternating between the two committees.

The Chair will entertain a motion to resolve the House into Committee of the Whole House to consider bills on the Private Calendar.

Mr. MANN. Oh, let us adjourn. Mr. Speaker, I make the point of order that there is no quorum present.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, it is evident that a quorum is not present, and I therefore move that the House stand adjourned.

The motion was agreed to; accordingly (at 12 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Saturday, July 6, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GREENE of Massachusetts, from the Committee on the Merchant Marine and Fisheries, to which was referred the resolution (H. J. Res. 173) providing for an investigation by the Commissioner of Fisheries as to the destructiveness of the method of fishing known as otter and beam trawling, reported the same with an amendment, accompanied by a report (No. 929), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LAFFERTY: A bill (H. R. 25590) to provide soldiers and sailors additional homesteads; to the Committee on the Public Lands.

By Mr. RUSSELL: A bill (H. R. 25591) granting the city of Branson, Mo., authority to construct a dam across White River in Missouri; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 25592) authorizing the construction, maintenance, and operation of a dam or dams across the Current River in Ripley, Carter, and Shannon Counties for the purposes of improving navigation and the development of water power; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: A bill (H. R. 25593) authorizing and directing the Secretary of the Interior to terminate the Shawnee Training School, Shawnee, Okla., and to provide reduced allotments to Indians who were allotted lands of no value, and for other purposes; to the Committee on Indian Affairs.

By Mr. HULL: A bill (H. R. 25594) to amend section 3 of an act entitled "An act to protect trade and commerce against

unlawful restraints and monopolies," approved July 2, 1890; to the Committee on the Judiciary.

By Mr. NORRIS: A bill (H. R. 25595) providing for presidential primaries; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. BROUSSARD: A bill (H. R. 25596) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and for other purposes; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN: A bill (H. R. 25597) granting a pension to Ellen Pierce; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 25598) granting an increase of pension to Cornelia Bragg; to the Committee on Invalid Pensions.

By Mr. DANIEL A. DRISCOLL: A bill (H. R. 25599) granting a pension to Edward Lichtenstein; to the Committee on Invalid Pensions.

By Mr. HARRIS: A bill (H. R. 25600) granting a pension to Stillman S. Perkins; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 25601) granting an increase of pension to George W. Noah; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25602) granting an increase of pension to Ardell D. Grigsby; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 25603) granting an increase of pension to William Green; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 25604) granting an increase of pension to Elizabeth N. Brand; to the Committee on Invalid Pensions.

By Mr. McKELLAR: A bill (H. R. 25605) for the relief of the heirs of Earl Pate; to the Committee on Claims.

By Mr. PARRAN: A bill (H. R. 25606) for the relief of Samuel B. Gasaway, alias Peter Smith; to the Committee on Military Affairs.

Also, a bill (H. R. 25607) for the relief of B. W. Gladden; to the Committee on Claims.

Also, a bill (H. R. 25608) for the relief of Mary E. E. Cheseldine, mother of William Amos Cheseldine, deceased; to the Committee on Military Affairs.

By Mr. RAUCH: A bill (H. R. 25609) for the relief of John Vankirk; to the Committee on Military Affairs.

By Mr. STEPHENS of California: A bill (H. R. 25610) granting an increase of pension to Levi G. Courtney; to the Committee on Invalid Pensions.

SENATE.

SATURDAY, *July 6, 1912.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Almighty God, our heavenly Father, without whom not a sparrow falleth, Thou knowest how frail we are, Thou rememberest that we are dust. And it is not because we doubt Thy providence, our Father, that we grieve for the loss of a Member of this Congress, but because our hearts are made lonely, and because we are reminded of the uncertainty of all earthly things. In the midst of life we are in death. But naught can shake our trust in Thee, who art our refuge in distress and a very present help in trouble. Be with those, we pray Thee, to whom this sorrow is most sore. Give unto them beauty for ashes and the oil of joy for the spirit of heaviness. In all things uphold us by Thy spirit and comfort us with Thy presence. And unto Thee, our Father, who hast loved us with an everlasting love and hast called us into Thine eternal kingdom in Christ, be glory and praise on earth and in heaven, now and forevermore. Amen.

Mr. GALLINGER took the chair as President pro tempore under the order of the Senate of June 12, 1912.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SENATOR FROM NEVADA.

Mr. NEWLANDS. Mr. President, I present the credentials of Hon. W. A. MASSEY, of Nevada, who has been appointed by the governor of Nevada to fill the vacancy in the Senate caused by the death of Hon. GEORGE S. NIXON.

The PRESIDENT pro tempore. The credentials will be read.

The Secretary read the credentials of W. A. MASSEY, appointed by the governor of the State of Nevada a Senator from that State to fill until the next meeting of the legislature thereof the vacancy caused by the death of Hon GEORGE S. NIXON June 5, 1912, in the term ending March 3, 1917.

The PRESIDENT pro tempore. The credentials will be placed on file.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore.

S. 4862. An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of constructing the Corbett tunnel of the Shoshone irrigation project;

S. 5935. An act to fix the terms of the District Court for the Western District of Michigan;

S. 6603. An act authorizing the Secretary of the Treasury to convey to the board of education of New Hanover County, N. C., portion of marine-hospital reservation not needed for marine-hospital purposes;

S. 6946. An act authorizing the sale of certain lands in the Flathead Indian Reservation to the town of Ronan, State of Montana, for the purposes of a public park and public-school site; and

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial signed by D. Miller, president of the Chicago, Burlington & Quincy Railroad Co., and sundry other presidents of various railroads of the country, remonstrating against the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

Mr. CULLOM presented a petition of sundry members of the Ladies of the Maccabees of the World, residents of Chicago, Ill., praying for the enactment of legislation granting to the publications of fraternal associations the privileges of second-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Manufacturers and Shippers' Association, of Rockford, Ill., remonstrating against the proposed discontinuance of the Commerce Court, which was ordered to lie on the table.

He also presented a petition of Local Union No. 997, United Mine Workers of America, of Springfield, Ill., and a petition of Local Union No. 21, United Garment Workers of America, of Chicago, Ill., praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

Mr. PAYNTER presented a petition of sundry citizens of Fayette County, Ky., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. PENROSE presented a memorial of sundry citizens of South Pittsburgh, Pa., remonstrating against an appropriation being made to be used for the purpose of celebrating the one hundredth anniversary of peace with England, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Philadelphia, Pa., praying for the adoption of certain amendments to the patent laws, which was referred to the Committee on Patents.

Mr. LODGE presented a petition of Local Branch, Pattern Makers' Association, of Quincy, Mass., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

FORT BERTHOLD INDIAN RESERVATION LANDS.

Mr. CLAPP. I am directed by the Committee on Indian Affairs to report back favorably with amendments the bill (S. 6191) to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak. I call the attention of the junior Senator from North Dakota [Mr. GRONNA] to the bill.

Mr. GRONNA. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment was, to add a new section to the bill, to be known as section 3, as follows:

SEC. 3. That the President of the United States shall appoint a commission, consisting of three persons, to inspect, classify, appraise, and value all of the lands described in section 1 of this act that shall not have been allotted in severalty to said Indians or granted or reserved by the terms of this act, said commission to be constituted as follows: One of the commissioners shall be a person holding tribal relations with said Indians, one a representative of the Interior Department, and one a resident citizen of the State of North Dakota. That within 20 days after their appointment said commissioners shall meet and organize by the election of one of their number as chairman. The said commissioners shall then proceed to personally inspect and classify and appraise, in 160-acre tracts, all of the remaining lands described in section 1 of this act, except sections 16 and sections 36. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timberland; fifth, mineral land, if any. That said commissioners shall be paid a salary of not to exceed $10 per day each while actually employed in the inspection and classification of said lands and necessary expenses, exclusive of subsistence, to be approved by the Secretary of the Interior; such inspection and classification to be completed within six months from the date of the organization of said commission.

The amendment was agreed to.

The next amendment was, to add a new section to the bill, to be known as section 4, as follows:

SEC. 4. That for the purpose of carrying into effect the provisions of this act the sum of $10,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. CULLOM. I wish to inquire whether this bill has gone through the hands of a committee.

The PRESIDENT pro tempore. It has just been reported from the Committee on Indian Affairs, and unanimous consent was given for its consideration.

Mr. CULLOM. It seems to me that it is a very complicated bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. OVERMAN:

A bill (S. 7262) granting a pension to Overman King; to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 7263) to provide for the purchase of a site for the erection of a Federal building at Santa Rosa, N. Mex.; to the Committee on Public Buildings and Grounds.

A bill (S. 7264) to indemnify Juan A. Valdez; to the Committee on Post Offices and Post Roads.

A bill (S. 7265) granting a pension to Bertie L. Wade; to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BRISTOW submitted an amendment proposing to increase the appropriation for the salary of the superintendent of farm and transportation at the United States penitentiary, Leavenworth, Kans., from $900 per annum to $1,500 per annum, intended to be proposed by him to the sundry civil appropriation bill (H. R. 25069), which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $1,800 to pay F. H. Wakefield for preparing the history of legislation for the Senate in the first and second sessions of the Sixty-second Congress, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

CROW INDIANS OF MONTANA.

Mr. TOWNSEND submitted the following resolution (S. Res. 352), which was read and referred to the Committee on Indian Affairs:

Resolved, That the Secretary of the Interior be, and he is hereby, authorized to place in the hands of the Attorney General such papers, records, and other information in reference to the affairs of the Crow Indians of Montana as will enable the Attorney General to investigate such affairs and to bring such action as may be necessary to protect the interests and secure the rights of said Indians; and the Attorney General is hereby authorized to make such investigation and to bring such action, if any, as the investigation may disclose to be necessary.

INTERNATIONAL INSTITUTE OF AGRICULTURE.

Mr. FLETCHER submitted the following resolution (S. Res. 351) which was read, considered by unanimous consent, and agreed to:

Resolved, That 20,000 additional copies of Senate Document No. 855, Sixty-second Congress, entitled "International Institute of Agriculture," be printed for the use of the Senate document room, and that the notice signed by David Lubin, American delegate to the International Institute of Agriculture, Rome, Italy, be included as a part of said document.

GERARD BRANDON, ADMINISTRATOR, V. THE UNITED STATES.

Mr. OVERMAN. I ask to have printed in the RECORD the dissenting opinion of Judge Howry in the case of Gerard Brandon, administrator, against United States.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The opinion is as follows:

Court of Claims of the United States.

CONGRESSIONAL, No. 13855–7.

(Decided May 6, 1912.)

GERARD BRANDON, ADMINISTRATOR, V. THE UNITED STATES—ON MOTION FOR REHEARING.

HOWRY, *Judge*, dissenting:

This cause was regularly transmitted to this court for an investigation and a report of the facts to Congress pursuant to a proper resolution under section 14 of the act of March 3, 1887 (set forth in the margin),[1] commonly known as the Tucker Act. The cause was pending here March 3, 1911, being the time of the approval of the "act to codify, revise, and amend the laws relating to the judiciary." This last act did not go into effect until January 1, 1912, and contained a provision that the Court of Claims should have jurisdiction to hear and determine (that is, enter judgment) the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of a previous act approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," and acts amendatory thereof where the property so taken was sold and the net proceeds placed in the Treasury, any statutes of limitations to the contrary notwithstanding. On the hearing of a montion to dismiss the present cause for want of jurisdiction to make an investigation and report, the majority of the court sustained the motion on the ground that the remedy given in cases of seizure of abandoned and captured property under the original act mentioned was exclusive; and that the proceeds in the Treasury for captured property are yet held in trust for those who brought suit within the jurisdictional period and established their loyalty and ownership by a decree of this court.

Without hearing any proof or making any investigation whatsoever the majority of the court then proceeded to take jurisdiction of the merits of the present case to the extent of drawing inferences not required by law and conclusions of fact not warranted by the terms of the act referring the bill.

That the claim before the court on which the jurisdiction was thus denied (being alleged to be for cotton taken before June 1, 1865, but taken after the passage of the act providing for the proceeds to be placed in the Treasury) could not be refused an investigation appeared for reasons set forth in an opinion by me dissenting from the action refusing jurisdiction to investigate and make report to Congress, and also dissenting from the majority opinion in denying jurisdiction and yet undertaking to report conclusions without considering the testimony and investigating the facts. My opinion shows that—

1. Where jurisdiction is wanting to find the facts under section 14 of the act of March 3, 1887, jurisdiction is also wanting to report conclusions of law as to the nature of the demand under the amendment of June 25, 1910.

2. The Supreme Court has declared that proceeds of captured cotton under the act of 1863 are a trust for the benefit of such as should establish their claim to it, subject to disposition by Congress, and that the act of 1863 did not intend to confiscate cotton seized under it.

3. Ownership of cotton by the Confederate Government requires a conclusion adverse to the claimant.

4. The grant of jurisdiction by section 162 of the Judicial Code over cotton claims originating after June 1, 1865, does not destroy jurisdiction already existing over claims originating before that date.

5. Jurisdiction to find the facts and jurisdiction to render judgment rest upon separate grants of authority by Congress to this court.

6. Jurisdiction to find the facts under section 14 of the Tucker Act is designed generally for demands outside the jurisdiction of this court to render judgment, but is not inconsistent with such jurisdiction.

7. A right to an appropriation after a finding of facts does not necessarily follow from a finding of facts under section 14 of the Tucker Act.

8. Section 14 of the Tucker Act was designed to remedy deficiencies in the Bowman Act in the jurisdiction to find facts for the relief of Congress.

9. Jurisdiction under section 14 of the Tucker Act over claims for net proceeds in the Treasury under the captured and abandoned property acts has been directly sustained by the opinion of this court in Chieves *v.* United States (42 C. Cls., 21) and in numerous findings in other cases governing the present case. The cases examined and stated.

10. The act of 1868, declaring the remedy of the act of 1863 in captured and abandoned property claims to be exclusive, related to the then existing power to adjudicate such claims.

11. The exclusiveness of jurisdiction to adjudicate claims under the act of 1863 does not affect the jurisdiction to find the facts under the Tucker Act, passed in 1887.

12. Section 14 of the Tucker Act is not a repeal of the limitation on adjudication in the act of 1863, but a new and general grant of a different jurisdiction, designed to aid the right of petition and relieve Congress from the investigation of facts in private claims.

[1] SEC. 14. That whenever any bill, except for a pension, shall be pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending may refer the same to the Court of Claims, who shall proceed with the same in accordance with the provisions of the act approved Mar. 3, 1883, entitled "An act to afford assistance and relief to Congress and the executive departments in the investigation of claims and demands against the Government," and report to such House the facts in the case and the amount, where the same can be liquidated, including any facts bearing upon the question whether there has been delay or laches in presenting such claim, or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitation should be removed, or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy, together with such conclusions as shall be sufficient to inform Congress of the nature and character of the demand, either as a claim, legal or equitable, or as a gratuity, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

13. The denial of jurisdiction over claims for proceeds of captured and abandoned property under the act of 1863 is inconsistent with the repeated admission of jurisdiction in other classes of claims for which an exclusive tribunal had been provided before the passage of the Tucker Act in 1887.

14. The judicial code reserves all rights in proceedings pending at its passage, and therefore has no relation to the present case.

15. The test of the power of the court to find the facts is the power granted to either House of Congress to refer the bill.

The new code does not repeal section 14 of the Tucker Act, because there are no words of repeal and none by implication. On the contrary, the section is substantially reenacted in section 151 of the new codified law. Besides, jurisdiction over the cause now under consideration, for the purposes of preserving testimony and reporting the facts to Congress, was retained by section 299 of the new code, which expressly declares that all suits "and proceedings for causes arising or acts done prior to" the time of the taking effect of the new judiciary code "may be commenced and prosecuted within the same time, and with the same effect, as if said repeal or amendments had not been made," and that the new judiciary act "shall not affect any act done or any right accruing or accrued * * * pending at the time of the taking effect" of the new act.

Authorities were cited by the majority to show that the proceeds of captured property now in the Treasury are held in trust for those only who brought suit within the jurisdictional period and established their loyalty and ownership by a decree of the Court of Claims, but that as to all others the title of the United States became absolute. And again, that cotton was a legitimate subject of capture by the national forces.

No one has ever disputed since the Supreme Court passed on the matter that cotton was, from its character, "potentially an auxiliary" of enemy forces and a legitimate subject of capture by national forces. But confiscation of the proceeds of captured cotton was never the intention of Congress in authorizing the seizure of cotton, and the decisions of the Supreme Court have shown that there has been no confiscation of the proceeds of any such property.

Laying aside the case of Ford *v.* Surget (97 U. S., 594) (cited by the majority) as having nothing to do with the present issue, because that was a suit on the part of the citizen against a Confederate officer for burning the cotton of the citizen, we come to the privileges of all owners of cotton where the proceeds were placed in the Treasury.

In Young *v.* United States (97 U. S., 62) Chief Justice Waite, speaking for the Supreme Court, said:

"Whoever could bring himself within the terms of the trust might sue the United States and recover, but no one else."

When that opinion was written there was neither a reversal nor an intimation of a reversal of the decisions respecting the effect of a pardon upon the right of any owner to sue for the proceeds of his cotton in the Treasury, except as such an owner's claim and right to recover had become barred by the two years' statute of limitations.

In the case of Armstrong's Foundry (6 Wall., 769) it was held that the general pardon granted relieved the owner from the penalty which such an owner had incurred to the United States. In Ex parte Garland (4 Wall., 380) the Supreme Court held the effect of a pardon to be such "that in the eye of the law the offender is as innocent as if he had never committed the offense." In United States *v.* Padelford (9 Wall., 531, 543) the Supreme Court, by a unanimous opinion, answered the suggestion that the property was captured in fact, if not lawfully; and that the proceeds having been paid into the Treasury the petitioner was without remedy in the Court of Claims, unless proof was made that he gave no aid or comfort to the cause hostile to the United States, by saying:

"The suggestion is ingenious, but we do not think it sound. The sufficient answer to it is that after the pardon no offense connected with the rebellion can be imputed. If in other respects the petitioner made the proof which, under the act, entitled him to a decree for the proceeds of his property, the law makes the proof of pardon a complete substitute for proof that he gave no aid or comfort. A different construction would, as it seems to us, defeat the manifest intent of the proclamation and of the act of Congress which authorized it. Under the proclamation and the act the Government is a trustee, holding the proceeds of the petitioner's property for his benefit, and having been fully reimbursed for all expenses incurred in that character loses nothing by the judgment, which simply awards to the petitioner what is his own."

In Klein's case (13 Wall., 138) the court, after declaring the intention of Congress and that title to the proceeds of cotton captured and placed in the Treasury was not divested absolutely out of the original owners of the property, said that:

"The property of the original owner is in no case absolutely divested. There is no confiscation."

In Pargoud's case (4 C. Cls. R., 337) the defendants moved to dismiss the case "because it is not stated and set forth in said petition that the claimant has at all times borne true faith and allegiance to the Government of the United States, and that he has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the Government of the United States, as required by the twelfth section of the act of Congress to reorganize the Court of Claims, approved March 3, 1863"; and the court allowed the motion dismissing the case. The Supreme Court reversed that decision (13 Wall., 157), holding that it was unnecessary in a claim in the Court of Claims to prove adhesion or personal pardon for taking part against the United States, as the President's proclamation was unconditional and without reservation.

And in Mrs. Armstrong's case (13 Wall., 154), in alluding to the effect of a previous proclamation granting pardon unconditionally and without reservation, the Supreme Court declared that the proclamation "was a public act of which all courts of the United States are bound to take notice and to which all courts are bound to give effect."

In Haycraft *v.* United States (22 Wall., 81) the court analyzed Klein's case, without reversing it, by saying:

"If a suit was commenced within two years, a pardoned enemy could recover as well as a loyal friend. But the commencement of the suit within the prescribed time was a condition precedent to the ultimate relief. The right of recovery was made to depend upon the employment of the remedy provided by the act." (Captured and abandoned property act.)

There are other cases which, like Haycraft's case, hold that the pardon came too late for owners of cotton to avail themselves of the remedy. These cases all relate to the remedy and the effect of the statute of limitations in bar of the remedy under the act authorizing this court to render a judgment under the abandoned and captured property act.

In Brent *v.* Bank of Washington (10 Pet., 617) the Supreme Court, in declining to take that case out of an established rule, said that the act of limitations operated only to bar the remedy, not to extinguish the right, citing with approval Bank *v.* Donnelly (8 Pet., 361). In affirming the rule the court said:

"The legal remedy is barred, but the debt remains as an unextinguished right."

In Townsend *v.* Jemison (9 How., 407) the Supreme Court explains the difference between statutes whose effect is to vest title to property by adverse possession and those which merely affect the remedy. The court said:

"The rule in the courts of the United States in respect to pleas of limitation has always been that they strictly affect the remedy and not the merits."

An obligation is distinct from the remedy. The obligation to do a thing is derived either from contract or from the act of the parties.

As applied to personal property, where one has had the peaceable, undisturbed, and open possession for the period which under the law would bar an action for its recovery by the real owner, the weight of authority is in favor of the title of the person as against the neglect of a real owner to avail himself of his legal rights. But before this rule can be applied there must be an assertion of ownership on the part of the person who has acquired possession from the real owner. Before time can vest the right the mere possessor of the property can not plead that he has acquired a good title. He must assert ownership before any lapse of time can divest the right of the real owner. As to the proceeds of cotton in the Treasury, the United States have never asserted ownership, but, on the contrary, have disclaimed title by those subsequent acts of Congress which applied to all cotton seized in enemy States, under which the Secretary of the Treasury was directed to pay on proper proofs.

I have submitted the foregoing observations not because they are strictly applicable to the matter of jurisdiction in the present case, but because the majority of the court have undertaken to make a conclusion (under the act of June 25, 1910) of fact. "The jurisdiction of a court can never depend upon the merits of a case brought before it; but upon its right to hear and decide at all." (Basso *v.* United States, 40 C. Cls. R., 202.)

An exclusive remedy provided for one owner to have an opportunity to obtain a judgment can hardly be said to be any remedy at all for another owner whose claim can not be considered for the purpose of obtaining judgment because of the statute of limitations. The words "exclusive remedy" operate for the benefit of that class whose cotton was taken after June 1, 1865, and the proceeds placed in the Treasury. But even as to such persons that class may waive whatever right the new statute gives to obtain judgment and yet proceed to have an investigation and report to Congress under section 299 of the new code.

The words "exclusive remedy" relate only to jurisdiction for the purpose strictly of taking a judgment. The investigation and report of a claim have never been considered a remedy until on the report an appropriation is provided by Congress. The mere investigation and report is no remedy at all until Congress gives effect to such an investigation as the basis of a remedy which the legislative power alone may provide at will.

Examine the act authorizing an investigation and report and we find that there must be a bill providing for the payment of a claim against the United States, legal or equitable, for a grant, gift, or bounty to any person, and the reference of such a bill to the Court of Claims. It is passing strange that if, according to the majority of the court, petitioner has no right to an investigation and a report because the statute of limitations is in the way of any opportunity on his part to proceed to judgment on a claim, jurisdiction yet exists for the benefit of any person preferring a claim, whether barred by any statute of limitations or not, or for donations and gifts to be inquired into and reported to Congress. The discrimination against the individual with a claim in favor of one without a claim is utterly inconsistent and indefensible.

If this claimant has money in the Treasury he had, according to the Supreme Court, a right to prefer his demand as a proper claim against the Government within the time allowed by law for prosecuting claims. If barred, he yet had a right under section 14 of the Tucker Act to an investigation and a report, because the statute of limitations only affected the exclusive right given by law to get into the court for the purpose of taking a judgment. But, according to the several decisions of the Supreme Court, the remedy only has been taken away, but the right of the claim is yet unextinguished.

Universal amnesty without restrictions or qualifications of any kind conferred the right on the disloyal by the proclamation of the President of July 4, 1868, to ask of this court judgment for the proceeds of cotton traced to the Treasury. But at the time of the proclamation of 1868 the right to prosecute had become barred by the statute of limitations for those persons who had been unable up to the time of the proclamation to prove loyalty. Though the proclamation came too late to do the disloyal any good for the purpose of obtaining judgment until Congress should remove the bar, they yet had the constitutional right of petition to Congress for relief. That right was as perfect July 4, 1868, as it is now. It can not be taken away even by the legislative body. Still less can this court, or any other court, take away a right of this character because of the fundamental law.

In Ohio Life Insurance Co. *v.* De Bolt (16 How., 416) the Supreme Court said that "no one legislature can by their own act disarm their successors of any of the powers or rights of sovereignty confided by the people to the legislative body unless they are authorized to do so by the Constitution." Congress may refuse to send cases to this court for investigation, but can not refuse to receive petitions for relief. But Congress have not repealed the act which authorizes the present investigation, whether the demand be for a claim against the United States for or something else less than a claim.

The authority to investigate and report claims by section 14 of the Tucker Act without reference to any statute of limitation was the result of the decision of the Supreme Court in the case of Ford *v.* United States (19 C. Cls. R., 519; 116 U. S., 213). When that decision was rendered under the Bowman Act the fourteenth section had no existence. It came into life the next year after the decision in Ford's case was finally made. All that Ford's case did decide was that in 1886 the claim was not within the jurisdiction of this court under the law as it then stood; that is, that it was not within the jurisdiction because of the bar arising from the statute of limitation of six years prescribed by section 1069 of the Revised Statutes. The Supreme Court merely said that it was unreasonable "to suppose that Congress intended to invest one of its branches with authority to suspend a general statute of limitation; that every claim cognizable by the Court of Claims must be determined with reference to the limitation prescribed for claims of the class to which it belongs, unless Congress by statute otherwise

directs." Then the court added that reference (under the law as it then stood) would not itself entitle the claimant to a judgment because of the limitation, and that—

"It is undoubtedly within the power of Congress to place claims referred to the court by the Senate or by the House of Representatives on a better footing than other claims by providing that they may be determined upon their merits without reference to lapse of time or any previous bar by limitation."

Nobody ever claimed that this court could render a judgment by virtue of a Tucker Act reference unless the claim had become the subject of suit within the six years' bar prescribed by the other sections of the act of March 3, 1887. But section 14 of this Tucker Act referring a bill requires the court to investigate and report ultimate facts to Congress in all cases, notwithstanding the bar of the period of limitation.

The only lawful course for the court to take by express command of the law is to make investigation, where the claim can be liquidated, to include any fact bearing upon the question whether the bar of any statute of limitation should be removed. The section providing the jurisdiction interprets itself and can not be destroyed by construction. The fact that the majority have undertaken to support their denial of jurisdiction to investigate and make a report to Congress by a Supreme Court decision wholly without application demonstrates the weakness rather than the strength of the position taken in refusing to examine the merits and report the same to Congress. The interpretation given by them only confuses a practice perfectly plain until this cotton claim came along—a practice which the court, as now constituted, aided to establish as final and entirely uniform until now sought to be changed.

The opinion of the majority undertakes to harmonize the purpose and scope of the Tucker Act by the recent amendment to section 14 which requires the court to make an investigation and report to Congress "together with such conclusions as shall be sufficient to inform Congress of the nature and character of the demand, either as a claim, legal or equitable, or as a gratuity, against the United States." If the claim at bar is a gratuity, the jurisdiction is apparent. If it is a claim of a legal or equitable character, the jurisdiction is also clear. If the United States yet have the proceeds of this owner's cotton, the conclusion made by the court as a matter of law or of fact or as a mixed question of law and fact is erroneous, because the statute of limitations has not extinguished the right. If the United States hold the proceeds and to that extent have received a benefit, restitution of the proceeds rests with the Government because of the advantage it did receive and which was never designed to be taken permanently from any owner, except as that owner was shown to be a hostile government. Under the amendment relied on the court is constantly stating to Congress that where a private owner's property has been taken a claim now for its value is equitable because of the benefit originally received by the United States. The "harmony" is too inharmonious to be consistent or to be made to rest upon sound reasons.

Summarizing the objections taken to entertaining jurisdiction, it would appear that the refusal to do so has this effect:

(1) It abridges, as far as this court can abridge, the citizen's constitutional right of petition, because there is practically no other method provided for the investigation of claims barred by limitation except under the fourteenth section of the Tucker Act.

(2) It discriminates against claims (where the United States have received a benefit) in favor of gifts, grants, and bounties.

(3) So much does the refusal discriminate in favor of the investigation of bills providing for donations only, the majority omitted to notice that at the last term the court rendered a unanimous opinion in the case of Atlantic Works (46 C. Cls. R., 60), where it appeared that though it was admitted by the Atlantic Works that the matter before the court was an application for a donation, yet the court decided that jurisdiction must be taken if the resolution transmitting the bill was proper. That case is yet before the court to be investigated with the right stated by the court in its opinion to disclose by findings whether the bill had brought to the court an application for a "donation" or for a "claim" against the United States.

(4) It reverses the Chieves case (42 C. Cls. R., 21) and numerous cases since then, thereby breaking down the principle of stare decisis.

(5) It misconstrues Vincent's case (39 C. Cls. R., 456), because in that case it appeared that a claimant had once had his day in court on an alleged claim under an act then being administered, and where the case had been dismissed because jurisdiction under the act was clearly wanting because of the hostility of an Indian tribe; and also because this court said that jurisdiction would attach had the resolution covered the reference of a bill providing for a gift.

(6) It reverses the action taken in Vincent's case by almost immediately investigating and reporting under the Tucker Act dismissed Indian depredation claims to Congress (in this writer's absence) as "claims."

If anything had been said in argument or intimated from any source that the court should take jurisdiction regardless of the law, I could understand why the case of a negro soldier begging for reinstatement in the Army after his alleged misconduct at Brownsville should be mentioned as authority to prove that jurisdiction is not a matter of sympathy or favor, as was said by the Supreme Court in Reid's case (211 U. S., 539). Later, the occasion may be taken by me to say something further about courts sometimes taking jurisdiction when they should not, but for the present the subject need be no further discussed.

MILL EMPLOYEES AT LAWRENCE, MASS. (S. DOC NO. 890).

Mr. SMOOT rose.

Mr. POINDEXTER. I renew the motion which I made to print the report of the Secretary of Commerce and Labor on the Lawrence strike.

Mr. SMOOT. I was just going to call the attention of the Senate to that matter at this particular time. As promised the other day, I have secured an estimate of the cost of printing the usual number of the document. If the document is printed with all of the tables, it will cost $3,229.14. If the report only is printed with the tables eliminated, it will cost $1,084.14.

Mr. BACON. Mr. President, we would like to hear what the Senator is saying.

The PRESIDENT pro tempore. The Chair appeals to Senators to observe order and refrain from audible conversation. The Senator from Washington renews the motion to have the report of the Commissioner of Labor on the Lawrence strike printed. The Senator from Utah is addressing himself to that motion.

Mr. SMOOT. I was saying that if the report is printed in full, including all the tables, the cost of printing the usual number would be $3,229.14. If the report is printed with the tables eliminated, it will cost $1,084.14.

Mr. President, if it is to be printed, if the Senate so desires, and I think it ought to be printed, I believe that the entire report, with the tables and all, should be printed, and under the cost of $3,229.14 there would be printed 2,127 copies. However, the Senator from Washington did not state whether he wants to have the number divided between the Senate and the House. Does the Senator desire to have it printed for the document room or only for the use of the Senate?

Mr. POINDEXTER. I think a sufficient number of copies ought to be printed to supply both the House and the Senate. This is a matter which is of importance and interest, relating to one of the pending tariff bills, and I suppose there will be some demand for copies in the country.

Mr. SMOOT. I would suggest to the Senator that the order be made to print it for the use of the document room of the Senate. Then, if the House desire any additional copies, they can take whatever action they wish in the matter.

Mr. POINDEXTER. That it be printed for the use of the Senate document room?

Mr. SMOOT. Yes. Then it becomes a public document, and the House can take whatever action they desire in the matter.

Mr. POINDEXTER. Very well.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Washington.

There being no objection, the order was agreed to and reduced to writing, as follows:

Ordered, That the letter of the Secretary of Commerce and Labor, transmitting, in answer to the resolution of the Senate of May 7, 1912, a report of the investigation by the Bureau of Labor of the condition of the mill workers in Lawrence, Mass., as bearing upon the strike of the textile workers in that city, be printed as a document.

SENATOR FROM ILLINOIS.

The PRESIDENT pro tempore. The morning business is closed. The unanimous-consent agreement will be read to the Senate.

The Secretary read as follows:

It is agreed by unanimous consent that on Saturday, July 6, 1912, immediately after the conclusion of the routine morning business, the Senate proceed to the consideration of S. Res. No. 315, declaring that corrupt practices were employed in the election of WILLIAM LORIMER as a Senator from Illinois, and that his election was invalid, and that before adjournment on that legislative day a vote be taken upon said resolution and all amendments to and substitutes therefor.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912.

Mr. DILLINGHAM addressed the Senate (see Senate proceedings of July 9). After having spoken for more than an hour and a half, he said:

I am coming to the question of Mr. Stringer's attitude before that legislature. It is a very interesting question, too. I wish there were more Senators present this afternoon to listen to it, because it throws a flood of light on the situation when Mr. LORIMER became a candidate.

Mr. JONES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TOWNSEND in the chair). The Senator from Washington suggests the absence of a quorum, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clapp	Heyburn	Root
Bacon	Clarke, Ark.	Johnston, Ala.	Sanders
Bailey	Crane	Jones	Simmons
Borah	Crawford	Kenyon	Smith, Ariz.
Bourne	Cullom	Lorimer	Smith, Mich.
Bradley	Cummins	McCumber	Smith, S. C.
Brandegee	Curtis	Martine, N. J.	Smoot
Bristow	Dillingham	Myers	Swanson
Brown	Fall	Nelson	Thornton
Bryan	Fletcher	Newlands	Townsend
Burnham	Gallinger	Overman	Warren
Burton	Gardner	Page	Wetmore
Catron	Gronna	Perkins	Williams
Chamberlain	Guggenheim	Pomerene	

Mr. THORNTON. I wish to announce the necessary absence of my colleague [Mr. FOSTER].

The PRESIDENT pro tempore. Fifty-five Senators have answered to their names. A quorum of the Senate is present. The Senator from Vermont will proceed.

Mr. DILLINGHAM resumed his speech (see Senate proceedings of July 9). After having spoken in all 2 hours and 40 minutes, he said:

I intended at this time, Mr. President, to take up, in connection with the subject to which I have just referred, the case of Mr. Beckemeyer and two or three other other parties, whose votes are in question in this case, and examine them in the light of the facts which I have already given; but I have now spoken almost three hours, and I understand the Senator from North Dakota [Mr. MCCUMBER] desires to speak on the same question, and that he has an address which perhaps will occupy the remainder of the afternoon. So, if the Senate will permit me, I will be glad to resume my remarks on Monday next and yield now to the Senator from North Dakota, unless there is objection. I will say also, Mr. President, that on Monday I will continue my remarks not only in relation to these parties, but also in reference to what seem to me to be other interesting features of this question.

The PRESIDENT pro tempore. The Chair hears no objection.

Mr. MCCUMBER. Mr. President, not of my own volition do I break in on the lucid argument that is being made by the Senator from Vermont [Mr. DILLINGHAM], but the day is warm, and he informed me a short while ago that he would not desire to speak longer this afternoon, but would be pleased if I would take up the rest of the day in a discussion of this subject.

Mr. President, there is no important question that can be considered which does not develop during its discussion some subsidiary question which may become far more important than the principal question. In this case the right of Mr. LORIMER to a seat in the Senate is a most important question, but the question of the right of the Senate to try and retry again and again the right of a Senator to a seat upon substantially the same evidence until by a change in the personnel of the Senate that body may be able to evict him is a far more important question to the country at large than is the right of a single individual Senator to a seat in the Senate. The question whether future contested-election cases in the United States Senate shall be tried upon questions of law and fact and in accordance with well-established legal principles common to the Empire of Great Britain and the United States is more important than the mere question of the right of any single individual to a seat in the United States Senate.

Mr. President, the question whether or not these cases are to be tried upon the evidence and in accordance with the law of the case rather than merely conforming to a public sentiment upon a question wherein the public may have erroneous opinions is far more important than the right of any Senator to a seat in this body.

One of the subsidiary questions in the discussion of this case, which, to my mind, has now become a principal question, is whether or not the Constitution of the United States ought to be so amended that the right of a Member to a seat either in the Senate of the United States or in the House of Representatives should be tried by a tribunal made up of other than Members of the respective bodies themselves.

So, Mr. President, before the Senate proceeds to do what to some seems to be a most joyful act—the execution of one of its own Members—I think it proper to enter upon the permanent records of the Senate, very briefly, my reasons for refusing to be a party to this political murder.

Mr. President, the prosecution of Mr. LORIMER was initiated by the greatest blackmailer and criminal yet unhung, Charles A. White. That prosecution has been continued with a spirit of malice unequaled in American journalism, and the culminating act of this tragedy will, in my judgment, be the most tyrannical that ever was inspired by self-aggrandizement or induced by political fear.

I am slow, Mr. President, to change the Constitution of our country. I am still a believer in both the Constitution and our republican form of government. I believe to-day, when public sentiment is more than ever a creature of the great press and when the creation of a biased and morbid ill sentiment seems to be most profitable to that press, that we need the anchor of our old Constitution to keep our ship of state from drifting into the maelstrom of anarchy.

I am not, however, a standpatter for the Constitution whenever standpattism would interpose itself against rational progress. I know that all progress means change, but I also know that all change does not mean progress. I would change the Constitution whenever the changing conditions of the country indicate the wisdom of such an act. I would change it to correct wrongs, but never to create them or invite them. I honor and respect the Constitution, but do not give it a fetish adoration or worship. Experience has shown that some of its provisions should be changed, and the very first change that ought to be made in that venerable instrument is one which should deprive the Senate and the House of the right to determine their own membership, and that should place that question where it properly belongs, with the courts of the country which try cases on law and fact and in conformity with both law and fact.

Whatever may have been our qualifications to sit as jurors in this case when it was first brought before us, I have no hesitancy in declaring that the Senate is to-day so influenced by partisan and factional prejudice and so hampered by political self-interest as to render its Members, as a body, biased and improper jurors.

Suppose, Mr. President, this case were being tried by a court, and the membership of this body constituted the jury panel, and that the court had listened to some of the speeches that had been made in this case by members of that panel, would the court not be compelled to sustain a challenge for bias against the speech makers? Is not justice thwarted when either prosecuting attorneys or defendant's attorneys sit as jurors to pass judgment upon their own pleas; and is not the very temple of justice desecrated and made a shamble when the life or the honor of a man is to be tried by his prosecutors or defenders; and when, if acquitted, he may be brought up and retried again and again, until by a change in the personnel of the jury there shall be more prosecutors than defenders and his destruction thereby assured?

Mr. President, I have served in the Senate 13 years. During that time there has been one impeachment trial and several contests for seats in this body. These cases have demonstrated to me the impropriety of the Senate sitting in judgment on the right of a claimant to a seat. It has demonstrated to me that a body whose membership is necessarily partisan or factional, and from whose decision there is no appeal, ought never to have been given the right to exercise such extraordinary authority.

My experience has further demonstrated that any man whose position here depends upon his conforming his vote to a popular belief or demand created by the press, without any study of the facts, a popular belief which holds one guilty because he is charged with guilt, is not a fair and unprejudiced juror and ought for that reason not only to be excused, but to be forbidden to act in the matter.

I say this without criticism. But, Mr. President, I find just about as much of the human in this Senate Chamber as I find out of it. If to-day any court in the country were trying this Lorimer case with its knowledge of the position which every Senator occupies with relation to his own constituency, with its knowledge that practically the whole country believes Mr. LORIMER guilty, not through any investigation of the testimony, but because for years the whole teaching of the press has been that official life is corrupt, with its knowledge that by casting a vote out of harmony with this general belief, the Senator's own honesty and integrity would be questioned, while a vote in harmony with this belief would add to his popularity—with this knowledge, I repeat, the court would of its own motion refuse to allow any Senator to sit on a jury in the trial of that case. If not implied prejudice at least a suspected influence of fear on the part of the Senator would justify the ruling.

But, outside of this Lorimer case, have I any authority to justify my conclusion as to our being governed by partisan or factional prejudice? Mr. President, we have been so governed in the trial of past cases and we will be so governed in the trial of this Lorimer case.

Mr. President, but a few years ago a Republican judge was tried before the Senate on impeachment charges brought by the House of Representatives. With the exception of two Republican Members of this body, every vote, as I now remember, on over a dozen charges, was a partisan vote. Every Democrat voted guilty and every Republican, but the two mentioned, voted not guilty. There is no use of our saying that these votes were not influenced by party prejudice, party affiliations, or party bias. No sensible person would believe us if we should so state and we would not believe ourselves.

If we needed any further argument to demonstrate the worse than impropriety of the Senate passing on the right of another Senator to remain a Member of this body, the conduct of the Senate in the trial of the Lorimer case would be most conclusive.

In providing that the two Houses should be judge of the right to seats of their own Members, the Constitution contemplated the calm deliberation of men acting in a judicial capacity and not a political prosecution. How far we have strayed from that purpose we all well know. The famished pack in the wake of the fleeing deer could not be more persistent and, I might almost say, more bloodthirsty than has been this prosecution. To my mind it has not been a trial; it has been a persecution in which the desire for popular approval or fear of popular condemnation in many instances has marred our vision and dulled our sense of exact justice.

I have an abiding conviction, a conviction that has grown and strengthened during the time this case has been before the Senate, and I would feel myself lacking in sincerity and candor if I did not so declare, that the desire to win public approval and the ambition to hold official positions dependent upon that approval is the great, powerful, moving influence that guides the thought continuously toward the political guillotine for Senator LORIMER. The public, without evidence, have convicted, hence the judgment of the Senate must carry out that public sentence. I do not charge a desire to punish, but rather a desire to retain or secure a standing which necessitates a victim for punishment.

As I have read the press of the country, as I have listened to the debates in the Senate, the scene of Parrhasius and the captive comes to my mind—where the great painter binds the captive, an old man, to the torture rack, not through malice, not through fiendishness, but that he might sketch the death agony upon the brow, the last quiver of the dying lips, and thereby achieve an undying fame. He heard not the groans of the victim but only the plaudits of the millions yet to be.

In these addresses we hear again the soliloquy of Parrhasius as with keen, artistic eye he studies each convulsive feature as the poisoned links sink deeper into the quivering flesh:

> Pity thee, so I do;
> I pity the dumb beast at the altar;
> But does the robed priest for his pity falter?
> I'd rack thee though I knew
> A thousand lives were perishing in thine,
> What were ten thousand to a fame like mine?

To prevent a vote being had when it was certain that such a vote would result in acquittal, we have seen Senators stand on the floor and talk away the livelong night. We have heard speeches full of invection and every expression emphasized in a voice of passion. And while the perspiration streamed down the cheek, while the hot blood purpled the temples' veins, while the eyes flashed the fire of an inveterate animosity, we have heard Senators, with a voice like the voice in prayer, solemnly declare that this, the Senate of the United States, is the greatest deliberative body in the world. Mr. President, as I have heard this oft-repeated declaration, after one of these exhibitions of factional frenzy, I have been compelled to look into the face of the speaker to ascertain whether back of the outward expression there was not the inward reflection of a grim and ghastly humor.

Let us view this case in the light of public sentiment. The great mass of the people of the country believe Mr. LORIMER is guilty of procuring his election as Senator by the use of money in bribing members of the legislature. They believe it because their minds have so long been poisoned with the idea of corruption in political life that a charge requires no proof to satisfy them of its truth. A great number of them, who do not know each Senator personally, will, if he votes in Mr. LORIMER's favor, believe that his vote was so cast because he does not condemn bribery, and that a Senator who votes to convict does so because he does condemn such methods.

The Senator who believes that Mr. LORIMER is not guilty and so votes, by that very act votes a punishment upon himself. He knows that in performing his duty in accordance with the dictates of conscience and demands of honor he will be assaulted by those who condemn without evidence, or who would use any weapon for a political advantage; and it requires some courage to follow his honest convictions. The Senator who votes against Mr. LORIMER knows that he is making himself more popular by so doing; and this requires, at least, no courage.

Mr. President, I have an abiding belief that if this case were tried by a court or a jury, no jury on the face of the earth would, upon the evidence submitted, ever find Mr. LORIMER guilty of the charges. I go further and say that if this case were tried upon the law and this evidence, by a judge unbiased and unafraid, he would dismiss the action for insufficient evidence to go to a jury. He would first declare the law to be that if Mr. LORIMER had cast for him 102 honest votes—untainted votes—his election is valid, unless he was a party to or had knowledge of bribery or attempted bribery in his behalf. He would then hold that there was no sufficient evidence of participation in or knowledge of bribery or attempted bribery to justify the submission of that question to a jury.

I have a great deal of faith in the American jury system. Upon rumor and without evidence, people will generally believe anyone charged with a crime to be guilty, and this is especially true if the one charged is holding an official position.

But place the case once fairly before them, let them understand it, let them hear the evidence, and their verdict will generally ring true. We have had a demonstration of this in the jury trials had in connection with this very case and with the elections of those charged with having received bribes for voting for Mr. LORIMER. The public, who do not know the facts but only the charges made by a man like Charles A. White, may believe that they are true; but when you call in this same public, make them jurors, where they can look into the faces of the witnesses and hear their testimony, where they are more or less acquainted with the character and reputation of the witnesses, they quickly estimate the amount of credence that should be given to the testimony of a self-confessed blackmailer. They quickly arrive at the truth.

This blackmailer charged Lee O'Neil Browne with having bribed him to vote for LORIMER. He was tried for that offense. He was tried by this same public before a court where both sides could be heard and by a jury instructed by the court to try the case on the evidence and not on newspaper charges, and the jury said, "Not guilty." He charged others with the same offense. Others so charged were acquitted. Still others submitted the truth of those charges to the same public when they again became candidates for their old positions, and the public again said, "Not guilty." And so in every case where the public have tried the very charges which the Senate is trying for the second time, they have said that Charles A. White is a blackmailer, a liar, the blackest of criminals; and upon investigation have said that there is no evidence to corroborate his statements.

In the one case we have the verdict of the people when they have not heard the evidence, and that verdict is "guilty." In the second case we have the verdict of the same people when they have heard the evidence, and their verdict is "not guilty."

I have little hesitancy in saying that if all the American people could read the testimony, could hear the arguments, could see the witnesses, the vote of the very people who are now condemning Mr. LORIMER would be almost unanimous in his favor.

The sentiment, however, the belief, is prevalent that Mr. LORIMER is guilty of acts of bribery. The evidence to my mind is that he is not guilty. And while I fully appreciate that no man can stand by his convictions in this case, if those convictions are favorable to Mr. LORIMER, without injuring himself, and while I know that already a vote for Mr. LORIMER has possibly defeated the return of Senators to this Chamber, and while it may affect me as it has affected others, I can only say that whether it injures or not the print of my footsteps toward political success shall never bear the stain of the blood of an innocent man.

Upon both the law and the facts Mr. LORIMER should be acquitted of this charge. He should be acquitted—

First, because, after a long and tedious trial he has been acquitted by the Senate of the United States; and so strong is the sentiment of the world against persecution that even in our Constitution and in the constitution of every State in the Union we declare that no man shall be twice tried for the same offense. This continued persecution to my mind is abhorrent, subversive of every principle of human justice, and destructive of human rights.

That the vote of the Senate in 1910, seating Mr. LORIMER, was the judgment of a body acting in its judicial capacity, and as such, entitled to all the consideration of a final judgment at law, can not be successfully questioned.

The rule was clearly enunciated by Senator Carpenter in the Ransom *v.* Abbott contest in the following words:

> The duty cast upon the Senate by this provision of the Constitution is judicial in character. We may not inquire or consider what party interests demand; whether it would appear impartial to decide against a political friend or whether a decision in his favor would be condemned in political circles. The question to be determined is one of strict right, depending upon legal principles, as settled by former decisions, parliamentary and judicial; and we have no more right than a judge upon the bench to turn away from the law to consider the political or partisan interest involved in the case or to be affected by the decision.

The vote heretofore had on this case, as well as the one which will probably be given to-day, shows how far we have wandered from the principle just enunciated, that the question is to be determined on strict legal principles, and that we have no more right than a judge upon the bench to turn away from the law to consider the political or partisan interests involved, and, I might add, the view of the public, not supported by the evidence.

As a judgment of this tribunal, acting in a judicial capacity, the vote to establish the right of Senator LORIMER to a seat in this body on the 11th day of March, 1911, is a final judgment, and we have neither the legal nor the moral right to unsettle that judgment. The rule of res adjudicata is just as applicable to that judgment as to the judgment of any other judicial tribunal.

I go even further, I think, than a majority of the committee in my conviction that a prosecution involving the question of

the commission of an indictable offense ought on every principle of justice to be tried the same as a criminal prosecution, and that a defendant having once been acquitted should thereafter be forever protected against a second prosecution for the same offense.

But, even assuming that we should not adopt this latter view, and should consider the case as one in which a new trial might be had and the case reopened on the grounds of newly discovered evidence, still by every principle of law and equity we would be estopped from opening up this judgment, first, because the evidence, even if it had been admitted to be true, would be merely cumulative; second, because this cumulative evidence or claim of evidence has been disproved by overwhelming and conclusive testimony.

The newly discovered evidence must be of such character and strength that it is reasonably certain that it would have produced an opposite result if produced at the trial; it must be incontrovertible and conclusive; it must not be merely cumulative or corroborative. No such evidence has been offered as a basis for a new trial.

Second, he should be acquitted, because even though some of his ardent friends—false friends—may have used money to influence some of the criminally inclined in the Legislature of the State of Illinois to vote for him—and I do not admit nor believe a single vote was so influenced—if the number of votes vitiated by bribery, when deducted, still left a majority of honest votes in his favor, and if, also, he was not a party to such acts and had no knowledge of them, and the evidence is conclusive that he was not a party to and had no knowledge or information of such acts. The acts of one or two or three criminally inclined men can not and should not overturn and destroy the calm registered conviction of the honest majority of those voting.

The number of votes cast on the day on which Mr. LORIMER was elected was 202; 102 votes were a majority; Mr. LORIMER received 108. I do not believe that a single one of these 108 were influenced to vote for LORIMER by the use of money; but if, drawing upon our imagination rather than upon the evidence, we conclude that some two or three were so influenced, you would still have 105 untainted votes. And if he received 102 votes uninfluenced by any impure motive and he himself was ignorant of and not a party to any wrong committed by anyone acting in his behalf, then he has been honestly elected, and should retain his seat.

I am not going into the evidence to any extent. It has already been considered for days and weeks and months. I can only give my conclusion when I say that it is my honest and earnest conviction that Mr. LORIMER received more than 102 votes of honest men, honest votes, and neither I nor the Senate has therefore the moral right, though we may have the power, to deprive those 102 or more men of their legislative rights under the constitution of their State.

I shall, however, consider one phase of the testimony, enough to show the unclean hands of those that seek the destruction of Mr. LORIMER.

Charles A. White comes before this Senate and says in effect: "I am the worst character of criminal. I am not even a repentant criminal. For money I would do worse than murder. I would destroy forever the good name of a man, which is dearer than life. I sought to blackmail Mr. LORIMER. I wrote an article charging him with a crime. I was induced to write this article for no other purpose than that of extortion. I offered to suppress that article upon the payment of $75,000. He indignantly spurned my offer. But I was bound to have the money from some source, and so I found a great daily in the city of Chicago that was willing to publish my article and pay me $3,500 if I should agree to bolster it up. And so I sold my soul to hell for that $3,500. I have no regret, no shame, for what I have done. My only regret is that I secured such a small sum for so great a crime."

This man is the instigator of the charge. That he has not been killed is some proof of the patient endurance of the man he sought for cash to destroy.

Again, the evidence shows that there was what was called a jackpot in that legislature, from which funds were distributed to influence legislators on any subject. It is apparent from all the testimony that there were many legislative schemes in which funds were being used. I am morally certain from reading all the evidence that at least some, if not all, of those persons who received money—and I have no doubt but that some of them received money—received such money for votes upon other questions than the election of a Senator.

I am satisfied in my mind that this is true with reference to the bribery of Michael Link, Beckemeyer, and others. I believe Mr. Link received a thousand dollars and $900. He was caught with the goods, and he knew he was caught. He was arrested. He was put through the third degree. And right in connection with this third-degree inquisition I pause to call attention to one of the greatest crimes in our American court system—a crime that has grown up in our cities and often winked at by courts. The process by which evidence is sought in these cases is generally far more reprehensible than the crime sought to be uncovered. It is found from the testimony of Mr. Link that he did receive this money; that he did get it improperly; but that he did not get it for voting for Mr. LORIMER. He had to explain where he got it. He could be prosecuted. He was indicted for perjury, not bribery, and was then told by the prosecuting officers, through days of inquisition and torture, that if he would just say he got the thousand dollars for voting for Mr. LORIMER the case would be dismissed. He denied again and again that he got the money for voting for Mr. LORIMER. It nowhere appears that there was any attempt in all of that third-degree work to ascertain for what purpose he did get it. There were just two pictures presented to him—on the one side, penitentiary, disgrace, separation from family; on the other side, freedom. But freedom must be purchased by implicating LORIMER. He was weak. All criminals are weak; all bribe takers are weak. Were it not for their weaknesses they would not be criminals and bribe takers. And to save himself from the penitentiary he said, "I got it for voting for LORIMER."

Mr. DILLINGHAM. Mr. Link denied it.

Mr. MCCUMBER. I am going to modify it. I say he denies it. The action was dismissed and he was a free man. He appeared before this investigating committee. He admitted again that he got the thousand dollars, but again denied that he got it for voting for LORIMER, and he even denied that he told those officers who were putting him through the inquisition that he so received it. He did not tell for what purpose he got it.

In my opinion Mr. Link never got a dollar for voting for LORIMER. His evidence is not only not in support of bribery, but that evidence and all the facts surrounding it establish to my mind that he obtained that thousand dollars from some other source and probably for a vote on some other question. He obtained it in a criminal way, but there is no evidence that a Lorimer fund furnished it.

One thing is clearly established; that is, that a fund called a jack pot had for some years been used in the Illinois Legislature. I do not know which would be the more appropriate name for it, "corruption fund" or "fund to satisfy blackmailers." One of the oldest and probably most vicious means of filching corporations by corrupt men who work themselves into legislatures, deceiving their constituents by their cries of fraud and the rights of the people, is the practice of introducing drastic bills which would work disaster to the business of such corporations and then desisting for a valuable consideration. The legislative journals of many States will show vast numbers of bills having no further purpose.

To meet the requirements of these cases and to silence these blackmailers, corporations whose interests are most liable to be assaulted have been in the habit of raising a defense fund used to answer holdup demands.

In the hearings in this very case this practice is described by Gov. Deneen, and he mentions the companies most liable to be held up and who are called upon to answer in hush money, as gas companies, electric light companies, liquor interests, stockyard companies, elevator companies, railroad companies, street car companies, and Pullman companies.

This practice became so brazen that it was necessary for these interests to meet and band themselves together to resist the holdup. This holdup system was in full sway and power during the session of the Legislature of Illinois of the year 1909.

This, in my opinion, was the fund out of which Link, Beckemeyer, and others received their donations. It is inconceivable to me that men should be bribed to cast votes for a candidate whom they had promised long before to vote for without any inducement. Bribes are used to secure hostile votes, not friendly ones. Out of this jack pot these criminals in the legislature received money; and to save themselves from the penitentiary, under a promise to dismiss indictments, these men were forced to say it was Lorimer money.

And in the face of the fact that after a thorough examination of every company in which Mr. LORIMER had an interest—the report of the committee shows that there was no Lorimer fund—we are asked, as Senators, to ignore the overwhelming testimony in Mr. LORIMER's favor and become a party to this persecution.

If any credence can be given to any testimony, it is quite certain that Mr. Link promised to vote for Mr. LORIMER some time in March, provided a Democrat could not be elected.

Mr. DILLINGHAM. I think the Senator is laboring under a misapprehension. Neither one of those men ever admitted it.

Mr. McCUMBER. Holstlaw, I think, admitted it.

Mr. DILLINGHAM. That is a different case. He was not before the grand jury.

Mr. McCUMBER. The promise was made directly to Mr. LORIMER in the presence of two of Link's neighbors and acquaintances.

If one will read the testimony from page 290 to page 311 he will get something of an understanding of the inquisitory methods adopted in this case for the purpose of securing a so-called confession. This evidence clearly shows that there was an organized conspiracy not to get at the truth of bribery but to force witnesses, in order to save themselves, to declare that money obtained by them was for voting for LORIMER.

In the first instance, Mr. Link was subpœnaed as a witness only, and yet for a week or so one of a force of detectives, having in view but one object, namely, to incriminate LORIMER, practically kept Mr. Link a prisoner, the detective even going to his home and staying four days with him there. One after another of the detective force and prosecuting attorney's force would proceed to weaken him by threats and promises into saying that he got the money for voting for LORIMER.

We first find Mr. Wayman, assistant prosecutor, attempting to get not a confession but a declaration that the money received by Link was for voting for Mr. LORIMER.

Mr. President, I have reduced this testimony to a narrative form for the sake of brevity, as we do when we take appeals from an inferior to a higher court, to reduce the cost of the transcript as much as possible, and to present only the salient parts of the testimony. Reducing this to a narrative form we have the following. Mr. Link said:

According to my recollection I told him [Wayman] that I voted for Senator LORIMER, and had no excuses to make for it. I denied absolutely that I had been paid for it. I told this to the whole grand jury.

Mr. President, I ask the indulgence of the Senate to go briefly through this testimony, and I know that every Senator must be convinced that so far, at least, as the testimony of Link is concerned it shows a conspiracy not to get at the truth, but to implicate Mr. LORIMER by keeping out that portion of the truth which would free him from suspicion.

I denied receiving any money for voting for Senator LORIMER. I then left the grand-jury room. That was the 5th or 7th of May. I was then put into the custody of an officer. I was not indicted at that time and no complaint of charges was made against me. Mr. O'Keefe was with me most of the time. He was a detective appointed to the State attorney's office. He took charge of me. The first night I went to dinner with him. I remained in his custody and he kept his eye on me like I was a criminal. Another officer was Oake. He would not allow me to telephone to friends and was keeping his eye on me.

Remember this man was not arrested. He had had nothing but a subpœna to appear as a witness and state the truth, and he was kept a prisoner that he might not disclose the whole truth.

I was not allowed to discuss any matters at all. Other officers were armed and took out their revolvers and laid them on the table so I could see them. I was continually in charge of some officer of the States attorney's office.

I got a subpœna served on me to go to Springfield on my return home Saturday evening. I went to Springfield to answer this subpœna and a detective went home with me from Springfield and stayed with me. This officer went to my house, went home with me and stayed with me, was with me wherever I went. He was with me four days at my home until I insisted upon having him called off. There was no warrant for my arrest at that time, just a subpœna. The officer claimed that it was for my own protection that he was staying with me. I told him positively that I needed no protection, that I could protect myself. He was under orders from a gentleman in Chicago. He gave my wife a present while he was there, a present for his board.

I told Wayman, "If you have a warrant, arrest me; if I am guilty, arrest me; but no more detectives. I shall not submit to detectives any longer."

When I was in a room in a hotel in Chicago a young lawyer came in and asked O'Keefe why he was holding me in custody. The detective threatened that if this lawyer would not get out he would arrest him, and take him before the grand jury, something like that. He gave him to understand that he would have to keep away.

This lawyer had perhaps been sent by some friend to learn why this man who was not charged with any offense at that time was being treated as a criminal and held under arrest. It is evident that they did not wish Mr. Link to get away and tell all the truth. They wished to get a portion of the truth, a half truth, just enough truth to make a foundation for a false implication, which is equivalent to a whole lie.

After I swore to the grand jury that I had never got any money from Browne or anybody else, I was indicted for perjury by the same grand jury.

Remember, it was not for bribery but for perjury, and I will show you why, and you will understand why, as you read the testimony further:

Q. Was it for perjury for not telling them you had received money for voting for LORIMER?—A. That I had not met Robert Wilson—no money consideration in it at all, but that I had not met Robert Wilson.

After I was indicted I was taken to the State's attorney's office and talked with about my testimony. They kept flaunting the indictment for perjury, putting it in front of my face, showing it to me and speaking to me.

Q. Who did that?—A. The assistant State's attorney and the State's attorney himself.

Mr. Wayman would show it to me and talk to me about losing my home. He told me that if I would go before the grand jury and state that I had received some money from Browne and Robert Wilson that I would be cleared and go home a free man.

Not that he would tell the truth as to how he got it or for what consideration, but that he should admit that he got it from those two men, and by stopping there, the prosecution through the testimony of White, the blackmailer, could then connect these two men with LORIMER:

I told him that I had told all I knew, and he denied that I had. We kept up the conversation and he said he was a farmer himself in the early days, South. He says: "You come up here and let these Chicago lawyers get hold of you and they will take your farm away from you."

Was he really interested in the man's farm or was he interested in seeing that no attorney should get hold of him and get the full truth out of him?

That was the line of talk. He told me to rest over night—that was Friday evening—and to come in by 10 o'clock on Saturday morning and make a confession and he would have the perjury charge expunged from the record, and I would go home a free man. That was the sum and substance of the conversation. Had more than an hour's talk at that time. Then I was put in custody again. O'Keefe took me back to Morrison Hotel and stayed with me, stayed all the time. He took out his revolver and put it on the table in my presence. He talked with me about what the State's attorney talked to me about—

Now, mark this:

He talked with me about what the States's attorney talked to me about—about my going back and telling what the State's attorney wanted me to tell.

Not the truth, but what the State's attorney wanted him to tell, and as you go on further in the evidence you will find that the State's attorney wanted him to tell just so much and no more. He instructed him over and over again not to tell the truth, but only to tell a little of it. If he told only part, the prosecution could by the aid of a man, shown to be capable of committing any crime, connect up the line of testimony and make a prima facie case. If he told the whole truth, it destroyed their case and only implicated some one they were not after.

He said: "Link, I would not stand by the other fellows; I would stand by Wayman; he is the man to stand by in this matter; make a confession. I don't like to see you get into trouble, and you are going to get into trouble." That was the principal substance of the conversation. He took me to the State's attorney's office the next morning. McGuire, of the McGuire & White Detective Agency, talked with me. He was present nearly every time I met Wayman. McGuire tried to put words into my mouth several times.

Yes, not come and tell the whole truth, but say certain things, and lest he might not say just what he was wanted to say the words are suggested to him, or, as he says, attempted to be put into his mouth.

He said I should not be friendly to the Browne side and the LORIMER side, etc., it doesn't look well; that don't look well. I told him it was none of his business. I think one of the assistant State's attorneys told me that I had better tell what I knew, or would go to the penitentiary. I do not know whether McGuire said that to me or not, but his conversation ran on that line.

The assistant State's attorney, Mr. Arnold, came to me about 20 minutes before 5 o'clock in the evening and says, "Link, you have got just 20 minutes to save your life."

That is it. Your life or LORIMER'S.

I says, "What do you mean?" He says, "You have got just 20 minutes to go in and tell all you know to save your life." I says, "I have told all I know." He says, "All right, Link, it is your funeral; it is not mine." He goes into the grand jury room and an indictment was returned that evening.

He does not stop there.

I was told that night that I had been indicted for perjury.

Not bribery.

Mr. Wayman told me that. Mr. Wayman in talking to me laid more stress on the penitentiary than any of his assistants. He pictured it very strenuously—

Here is your third-degree work and its honesty—

He pictured it very strenuously between the penitentiary and my home.

Appealing to the dearest sentiment in a man's breast.

He said, "It will be much better for you to be here with your family than to go to the penitentiary and lose your home."

The family he left—the wife on one side, the penitentiary on the other side. Which would he take? He could purchase his freedom by one little sentence—"I got the money for my vote for LORIMER."

He pictured what the penitentiary was, etc.—

Think of it—

that I might lose my home and he put a great deal of stress upon the penitentiary and my home, I being a farmer and away from my home and my family.

Days and nights of torture, with the penitentiary and its iron bars, or the smile of the wife and children and happiness at home. This is the way evidence is sought to put a man out of the Senate of the United States.

Wayman pictured the penitentiary on one side and my home and my wife on the other; that I would lose my home, and that meant that I would lose my wife, too; that if I would go before the grand jury and tell what—

Tell what?—

tell what he wanted me to I could go home a free man and not a perjurer in any manner, shape, or form.

Not if he will tell the truth, not if he will make a clean breast of it, but if he will tell what Wayman wants him to tell, make a connecting link and stop there, without giving the entire truth.

That if I made acknowledgment that I had received $1,000 from Browne; that if I would say that I had received $1,000 from Browne for voting for WILLIAM LORIMER for United States Senator, I could go home—

Then he adds:

that was not true; no, sir.

Q. And that was what the State's attorney wanted you to tell the grand jury, was it not?—A. I presume just two answers, if I would answer when I went before the grand jury; that is all that Mr. Wayman asked me, was those two questions.

Q. Did Mr. Wayman tell you that you had been indicted and that he would take you before the criminal court for trial on that indictment if you didn't go before the grand jury and tell that body what Mr. Wayman wanted you to tell?

Not the truth.

A. Why, certainly; he said I would have to give a bond, and it was a $15,000 bond, and they made it $5,000, I think.

Q. Did Mr. Wayman tell you what he would do if you would go before the grand jury and tell them what he wanted you to tell them?

Not the truth, but what the prosecution wanted.

A. Nol-pros it and have it expunged from the record, so in future years it would not be on the record.

Q. Did you say to Mr. Wayman, "Well, I will go before the grand jury and lie if I have to; but I don't want to"? Did you say that or that in substance?—A. That in substance.

He would tell a lie to save his life and to remain with his family to escape the penitentiary.

I then told the grand jury that I had received $1,000 from Browne and I had received $900 from Robert Wilson; that is what I told the grand jury.

That was sufficient for their purpose, because White had made the other connecting link in his story. They wanted more. They wanted him to say "for voting for LORIMER," but were compelled to be satisfied with that. They had at least kept back the important truth as to the original source of this money payment.

Q. Did you tell the grand jury that you had received that money or any part of it for voting for Senator LORIMER for United States Senator?—A. Positively no.

Q. Just before you went before the grand jury that last time, did Mr. Wayman tell you that if you would go and tell the grand jury what he wanted you to you would keep out of trouble and keep from disgracing your family?—A. Yes, sir. Mr. Wayman took me before Judge McSurely and said: "Mr. Link has made a clean breast of the whole affair." I did not know what he called a "clean breast," but these were his words. I denied making a clean breast of anything except the truth.

And you might add just to the extent he was allowed to tell the truth:

Then the indictment was quashed, and I was allowed to go home.

Now, let us follow this up:

The next week I was put in custody of another officer. A subpœna was served on me to go to Springfield. I was then put in the custody of another officer. I wrote to Wayman that I would not submit to it, and told him personally when I went to Chicago, "No more detectives for me," that I was not a criminal and would not stand for it, and told him to recall Mr. O'Keefe, which he did.

At Mr. Wayman's advice—

Here again I ask the attention of the Senate. This is a most important proposition—.

At Mr. Wayman's advice I refused to answer questions at Springfield, and at his advice I refused to answer questions.

Why did Mr. Wayman wish him not to answer the questions? Can any Senator give an honest reason? You can nolle pros an indictment, no matter what the criminality may be, if you desire to use the party for a witness; but they did no want the whole answer brought out.

Mr. Wayman knew I had been summoned as a witness there. He told me not to answer, but to stand on the grounds that I might incriminate myself by answering any questions before the grand jury. I told him that I wanted to answer the question my way that were put to me there. He said: "Don't do it, Link, don't do it." He knew that I had been subpœnaed to testify before the grand jury on these matters.

Wayman in effect says to him: Do not go any further than to say you have got the money from these people. If I can not get you to say you got it for voting for Mr. LORIMER, I, at least, do not want you to say for what purpose it was paid you. I want enough to connect it with other testimony, and do not want anything that will destroy that chain of evidence.

Q. What did he tell you as to the subject matter? Did he tell you not to answer the questions of the State's attorney or the grand jury of Sangamon County?—A. The question all hinged upon one answer, "No" or "Yes," to one certain question, and that question was, "Did you receive or were you offered or do you know of anybody being offered any money in Springfield for voting on any question?" That was the question—

He could not get an opportunity to answer that on account of the interpositions, according to his testimony, of Mr. Wayman—

and when I finally got permission from Mr. Wayman, which I answered positively, right straight out, "No." I answered "No." That is all there was about that. He wouldn't let me answer the question at all.

These are other questions. You can give just as much credence to them as you desire. I have given just enough of this testimony to show the conspiracy, the purpose of the prosecution not to get at the real facts, the real source from which the money came, but to prevent a full acknowledgment with a promise, "If you will say that you got it for voting for LORIMER, and so help us make a case against him, we will not prosecute you any further."

Q. Did you ever receive any money or any other thing of value from anybody—Browne, Wilson, or anybody else—on condition, or on the promise or agreement or understanding, directly or indirectly, that you were to vote for WILLIAM LORIMER for United States Senator?—A. I certainly did not.

Q. Did you ever receive any money from Lee O'Neil Browne, Bob Wilson or R. E. Wilson—whatever his name is—or anybody else, or from any source whatever, or did you receive any other thing of value at any time from anybody because you had voted for WILLIAM LORIMER for United States Senator?—A. No, sir.

He had already said that he did receive the money; but in answer to that question he said:

No, sir.

Q. Was there ever any consideration moving to you, or to anybody for you, or for your benefit, in any place, from any source whatever, with the understanding that you were to vote for WILLIAM LORIMER for United States Senator, or if you had voted for WILLIAM LORIMER for United States Senator, any consideration of any kind?—A. None whatever. I voted for Mr. LORIMER for the reason that I liked him and that I favored, and my people favored, the things he favored in relation to deep waterways from the Lakes to the Gulf.

The following testimony on cross-examination becomes more or less pertinent. It goes into details as to why he voted for LORIMER. On cross-examination we have this:

Q. Now, after you were indicted for perjury you were given the alternative of going before the grand jury and telling the truth, were you not, or be prosecuted for perjury?—A. I came before the grand jury to clear myself.

He does not answer directly that it was a question of truth, but to clear himself.

Q. And tell them the truth?—A. To clear myself.

He refuses to answer that question directly. He did tell the truth so far as he went, but he knows that he did not tell the whole truth.

Q. What do I understand by "clearing yourself"?—A. Telling them I had received some money.

Q. They (the third-degree methods) were the methods that made you tell the truth—they didn't make you tell a falsehood, did they?—A. They didn't ask me to lie; that is true.

But what did they do? They asked him to tell a little of the truth, and not the whole truth, and that is the worst kind of a lie.

Q. Now, Mr. Link, did you go back before the grand jury?—A. I certainly did, on Saturday morning.

Q. You told the truth and they nolled the indictment for perjury against you, didn't they?—A. Yes, sir; after I had answered those two questions.

He refuses again to say that it was after he had told the truth.

Q. When you went before the grand jury subsequently, you told them you got $1,000 from Browne?—A. I answered two questions—one was that I got $1,000 from Browne, and the other that I got $900 from Wilson.

Mr. President, the method adopted in securing the testimony of Mr. Link is of the same character, and the methods were exactly the same as the methods by which testimony was secured from other witnesses to blacken the character of Mr. LORIMER. Men were indicted for perjury, the jury in one case was impaneled, and those men were brought face to face with the penitentiary. The promise was then made that "if you testify you got the money for voting for LORIMER—not testify where you got it, not go into the details of it—but if you will only make an affidavit before the grand jury to that effect you will be with your family and your home; and if you do not, there is the penitentiary"; and the cowards said, "Yes; we will sacrifice LORIMER for ourselves." Mr. President, I would not convict a dog on testimony obtained in that manner.

I could go over a great deal of the evidence showing exactly the same condition, but I think that I have quoted it sufficiently to show the character of the prosecution, and I wish now to close.

Mr. President, the evidence in the Lorimer case shows that in the legislative assembly of 1909, as in previous legislative years, large sums of money had been raised and paid to legislators to influence legislation; that this fund was raised by liquor companies, electric light, gas, stockyard, elevator, railroad, street railway, Pullman car, and other companies, against whose interest holdup bills were being introduced; that this money so used was called "the jack pot" and paid out to those whose votes or influence had been used; that there was no Lorimer fund in that legislature and no money paid for voting for LORIMER; that a few dishonest legislators, who had undoubtedly received money for their influence or votes out of this jack-pot fund, were indicted for perjury in falsely swearing they had not received any money from certain persons; that through a most dastardly conspiracy and by a most criminal inquisition these men, already criminals, were promised absolute immunity for their crimes if they would commit another crime and say the money was obtained for voting for Mr. LORIMER; that they were bought to cloud the election of Mr. LORIMER to save themselves from the penitentiary for the commission of another offense.

Mr. President, that evidence further shows that Mr. LORIMER was fairly and honestly elected. This is the finding and the conclusion of the large majority of the Committee on Privileges and Elections, who took the testimony, heard the witnesses, and had an opportunity to weigh their testimony; and this is also my own conclusion.

In honor bound to try this case on the evidence, I am equally bound in honor to conform my verdict to my conclusions upon that testimony and in accordance with the findings of honorable Members of this Senate who conducted the investigation.

I am further bound under the law of this case to declare by my vote that Mr. LORIMER, having been once tried and acquitted of this charge, can not by law, and ought not in good morals, be tried again on the same charge.

Mr. President, some time ago I received through the mail a clipping from the Washington Times of June 10, headlined "Going down with LORIMER." I believe this was sent me by a friend who desired to warn me of the danger of casting a vote in accordance with the law and the facts as established by the evidence. Possibly it might have been sent for another purpose. It matters little. This clipping reads:

> The issue of Lorimerism was pressed in the recent Iowa and South Dakota primaries, where two United States Senators were asking for indorsement of the Republican voters. KENYON, of Iowa, who was anti-Lorimer, swept everything before him by the greatest primary majority ever given a candidate in that State. GAMBLE, of South Dakota, went down in defeat because he supported LORIMER, although he had represented his constituency fairly well upon other issues.
>
> How many other United States Senators will sign their political death warrants on July 6 next?

And so, Mr. President and Senators, in order to avoid the fate of the one and enjoy the success of the other, I must disobey every mandate of law; I must ignore the testimony; I must vote to place a stigma of disgrace upon the brow of a fellow Senator who I believe to be innocent. I must not only commit an atrocious crime against him, but an equally atrocious crime against my own conscience.

Mr. President, whether in the Senate or out of the Senate, I must live with myself every day of my life, and I decline to keep company with a moral or a political coward.

Mr. SMOOT. Mr. President, I am unaware as to whether there is any other Senator who desires to speak this afternoon. I understand, however, there is no one wishing to speak. If the Senator from Montana [Mr. MYERS] desires to proceed, there is plenty of time for him to do so. If not, I was intending to move that the Senate take a recess.

Mr. MYERS. Mr. President, I had intended to deliver, and do intend to deliver some extemporaneous remarks on this matter, but it is not material to me at what time I deliver them. If the Senator from Vermont [Mr. DILLINGHAM], who is chairman of the investigating committee, would prefer, merely for the sake of continuity, that no further interruptions be made or injected into the course of his argument, I will defer my remarks. I will say frankly that in what few remarks I shall submit to the Senate I do not intend to uphold the right of Mr. LORIMER to a seat in this body; and while I do not expect to advance any arguments of any weight or worth for consideration, yet if the Senator from Vermont, for any reason whatever, would prefer to proceed without interruption——

Mr. DILLINGHAM. I am perfectly willing that the Senator from Montana should go on this afternoon.

Mr. MYERS. Mr. President, if the Senator would prefer that the continuity of his arguments be not further broken into, or if Senators are tired of a long and continuous session and had rather take a recess until Monday morning, I shall have no objection to deferring the making of what few remarks I have to make until Monday. It is immaterial to me. I am willing to submit the matter to the wish of the Senate.

Mr. DILLINGHAM. Mr. President, it makes no difference to me. I have spoken three hours to-day; I am tired; and I do not care to go further at this time. I intend to continue on Monday, and if the Senator from Montana would like to go on now, I have no earthly objection to his doing so.

Mr. SMOOT. And there is plenty of time this afternoon for the Senator from Montana to proceed. If the Senator from Montana does not desire to go on, then I shall move that the Senate take a recess; but if he had just as soon speak this afternoon, I should like very much that he should proceed.

Mr. MYERS. Very well.

Mr. SMOOT. Then, if the Senator from Montana desires to proceed, I shall not now move a recess.

Mr. MYERS. I will submit some remarks at this time, Mr. President.

The PRESIDING OFFICER (Mr. POMERENE in the chair). The Senator from Montana will proceed.

Mr. MYERS. Mr. President, I will not be able, as are some Senators, to submit a carefully prepared address on this subject. I have not had the time or the opportunity to prepare myself therefor. My remarks will be largely of an extemporaneous nature, an extemporaneous expression of some thoughts that have come to my mind in the last few days in the study, consideration, and investigation that I have at different times given to this matter. My reason for expressing them is that, after having given some thought and consideration to the subject, I deem it to be a matter of such great moment and of such far-reaching importance to the people of the whole country, as well as to the Senator from Illinois [Mr. LORIMER], to the people of the State of Illinois, and to the dignity and honor of the Senate that I believe it to be the duty of every Senator on this floor who has given any especial thought or consideration to the question to express his views to the Senate, in the hope that out of all the discussion of this grave matter there may come some light from some source that may lead to a correct solution of the question at the bar of the Senate.

Further, my reason is that the dignity, the honor, the independence, and the manhood of the Senate are, I believe, just as dear to the hearts of the newer and younger Members of this body as they are to the older and more experienced Members. I do not believe that there can be any Member of the Senate to whom its honor, dignity, honesty, and independence mean more than to the newer and younger Members. I appreciate the distinguished honor of being a Member of this body, but only in so far as this body honors itself and maintains its honor, its dignity, and its independence.

In discussing this subject I wish to say at the outset that I do so absolutely without any personal feeling of ill will toward any person whomsoever. I do so solely from a sense of duty, and I do so with the most profound respect for those Senators who entertain different views from those entertained by me upon the law or the facts in the case, and especially with the greatest respect for those members of the investigating committee who have made a report in favor of Mr. LORIMER and who sustain his right to a seat in the Senate.

I know that all honest men can not think alike. I have been around courts too much not to know that all honest men can not look alike at any disputed question of fact or law. I know how hard it is to get 12 men on a jury to look alike at any disputed question of fact. I know how difficult it is to get members of a court, constituted of more than one judge, to look alike at questions of law. I know too well how many decisions are handed down from courts with majority and minority opinions to feel that everybody should look alike upon this question. I do not expect that, Mr. President, any more than I expect a large body of men to look alike at any other disputed question of law or fact.

I will say further that in what remarks I shall make I shall do so absolutely without any feeling against the subject of this investigation, the Senator from Illinois [Mr. LORIMER]. During my service in the Senate I have had the pleasure of some acquaintance with him, and in what acquaintance with him I have enjoyed I have found him to be a very companionable and pleasant gentleman; modest, unassuming, and congenial; and against him as an individual I have naught to say, nor have I any feeling against him in any relation whatever.

With these few explanatory remarks I will say that even had I not intended to say anything upon this subject I would now, since the address of the Senator from North Dakota [Mr. MCCUMBER], feel almost compelled to say something, because,

while I know the Senator does not so intend, and while he is honest and conscientious in his convictions, the tendency of his remarks is to convey the idea that all of us who vote to unseat Mr. LORIMER are acting from cowardice, because of public opinion, or are pandering to the expression of the public opinion of the country. I say I think that might be construed to be the tendency of his remarks by anyone reading them and not knowing the Senator from North Dakota.

So far as I am concerned, I do not care what the people of my State think about this matter; I do not care what the people of Montana think about my course in this matter; I do not care what the people of the United States think about this matter or about my course regarding it; I do not care what the other Members of the Senate think about this case or about my course regarding it; I intend to decide it, so far as I am concerned, absolutely and solely upon the law and the evidence, as I would any other proposition involving law and facts brought before me for decision. I do not care what public opinion is. Public opinion is not a part of the record in this case, and I intend to stay as near as I can within the record.

The Senator from North Dakota rather complains that public opinion has expressed a sentiment about this case, and that it is an uninformed sentiment. I hardly see why the Senator says that. Why is the public uninformed about this matter? Has it not read the newspaper reports, the testimony, and the proceedings in the case? Did it not have an opportunity of reading them at the former trial of this case? Why anybody should say the public is uninformed is more than I can understand, but I care not what the public opinion about the matter is or whether it is informed or uninformed. It has nothing to do with the trial of this case.

As to the argument of the Senator from North Dakota, while it is an able argument and while I know that it is honest and conscientious, yet it has a strangely familiar sound to me. Where have I so often heard it before? In the criminal courts, from counsel defending men charged with crime. According to them, the prosecuting attorney must be put on trial instead of the defendant; they endeavor to make the jury think it is the prosecuting attorney who is the real criminal and who is on trial instead of the defendant.

The witnesses for the State are all liars and thieves and murderers and scoundrels, and the only honest men are the defendant and the witnesses who appear in his behalf. That seems to be the theory of some who have expressed opinions about this case, that all who have testified against Mr. LORIMER are scoundrels and unworthy of belief, and that all who have testified in his behalf are men of the most unimpeachable veracity and integrity. I would gather from some of the remarks that have been made that we should take this view of the case, the old familiar view in such matters of which we have often heard so much. The theory seems to be that the honest man is the man who takes the money and stays bought; that the honest man is the man who puts corrupt money down in his pocket and says nothing about it, who shields the infamous transaction by silence and, if brought into court and put under oath, can "perjure himself like a gentleman"; but the scoundrel is the man who, having committed a wrong, turns State's evidence and sets the wheels of justice in operation. That is the theory of which we hear so much in the criminal courts to-day.

That is one of the things that has served to bring the administration of criminal jurisprudence in this country into disrepute and make it compare unfavorably with the administration of criminal jurisprudence in Great Britain.

We are told that Lee O'Neil Browne has been a number of times acquitted by juries in this country. That proves nothing. The administration of criminal jurisprudence in this country is an absolute farce. There are more murderers discharged and held guiltless in any one of several States of this Union in a year than in all of Great Britain. The administration of criminal justice in this country has become a hissing and a byword. It has been condemned by the President of the United States for its laxity and failure to promote justice; it has been condemned by the American Bar Association; and it is a common theme of comment that every day men guilty of crime are pronounced not guilty by juries, and walk out of the courthouses of the land, sneering at justice, acquitted of something of which everybody in the community believes them to be guilty.

The fact that Lee O'Neil Browne has been acquitted in criminal proceedings in some cases arising out of this matter has absolutely no weight with me, and should have absolutely no weight with the Senate. That should not be taken into consideration. I believe that this body has sufficient ability, integrity, and independence to decide this case on its merits and of its own accord, following its own methods without taking into consideration what some criminal court may have done somewhere else.

To begin with, this is not a criminal case. Mr. LORIMER must not be proven guilty of anything beyond all reasonable doubt; he must not be proven guilty of anything at all. This proceeding is a civil proceeding; it involves a civil right—the right to hold an office—and the case must be decided by the preponderance of the evidence, and not at all by the rules of criminal procedure. There is no manner of room in this case for the theory of proof of guilt beyond all reasonable doubt. If it were a criminal trial, then if we, as jurors often do, should make up our minds to find a doubt and should go to hunting for a doubt, we might find it; because a juror never started out in the trial of a criminal case to hunt for a doubt that he did not succeed in finding it. But that has nothing to do with the trial of this case.

Having made these few remarks that seem to me to be called for by some of the able arguments that have preceded, I will turn my attention to some thoughts that have suggested themselves to me connected with the law and the facts of the case.

The doctrine of res adjudicata has been suggested in this case by one of the Senators who preceded me in the argument. It has been suggested by counsel for Mr. LORIMER in their brief, and has been suggested by the majority report of the committee.

I see nothing profound or intricate about that suggestion. It seems to me so simple and so plain that I believe any man who carries a license to practice law is warranted in discussing it. If this body, vested with plenary power in matters of this kind by the highest law of the land, the Constitution of the United States, has not the power to grant a new trial in such a proceeding, then it is the only court under the English system of jurisprudence of which I ever heard that has not such power.

Every court in the land, every court under the English system of jurisprudence, which is a court of general jurisdiction and common-law powers and a court of record, having a clerk and a seal, has the power to grant a new trial. I never heard of such a court that did not have the right to grant a new trial, either upon application of any party to the proceedings, or of its own motion. Any such court has the right of its own motion to set aside a judgment and order a new trial for anyone on any ground, and that, I claim, is exactly what has been done in this case.

This body, this court, of its own motion, has set aside and vacated the judgment heretofore entered in this proceeding, and ordered a new trial. The only courts of which I ever heard, under our system of jurisprudence, that have not the power to grant a new trial, are justice of the peace and police courts. Has the Senate of the United States sunk so low in the estimation of some of its Members that it is to be put on a plane with justice of the peace and police courts? They are the only courts of which I know that can not grant a motion of this kind; and in some States even those courts are given such powers by statute. If this body has not of its own motion set aside and vacated the judgment heretofore rendered and entered in this matter and ordered a new trial, I am at a loss to know how it could be done, and I should like to be informed to what procedure it would be necessary to resort in order to bring it about.

We are told by the majority committee report and by counsel for Mr. LORIMER that the Senate should proceed in this case carefully and painstakingly, by analogy comparing it with the proceedings in courts of law. That, I think, is what has been done in this case. I am willing to accept that admonition. In the district courts of my State, courts of general jurisdiction and common-law powers, trial courts of record, as in nearly all of the other States of the Union, if a judgment is rendered, had, and entered upon the trial of an action, any party to the action that is dissatisfied with the judgment may move to set it aside and ask for a new trial. It is true that must be done upon certain statutory grounds, which are enumerated in the statutes of the State. But this body is not hampered by any statutory grounds.

The Constitution of the United States gives this body ample and plenary power in matters of this kind. It gives it the power to judge of and determine the qualifications and election of its own Members. It does not say that after one hearing in a proceeding of this kind there must be allegations of newly discovered evidence, fraud, corruption, mistake, surprise, inadvertence, or deceit. It does not say there must be anything of the kind. It simply gives this body ample and plenary power, unlimited and unrestricted, in such matters.

Yet if we are to be guided by analogy to the practice in courts of law, that course has been pursued in this instance. Allegations were made to this body of newly discovered evidence. Very well, let us take it so and follow the analogy further.

We are now told by some in this body that it develops that there is no newly discovered evidence; that there is no new evidence in the case; and that therefore this proceeding, launched and started in good faith and with full understanding as a new trial of this matter, should be abandoned at this stage of the proceedings and held for naught.

As long as we are talking about analogy, I will ask who ever heard of a new trial being granted in a court of law on allegations of newly discovered evidence, and a new trial being had and the evidence being produced, and then of an attorney for the adverse side getting up and addressing the court and saying to the court, "It develops that there is no new evidence in this case, and the court should take the case from the jury and dismiss it without further proceedings"?

The new trial having been once ordered, the former judgment is vacated, and becomes functus officio. It is dead and can not be revived. It is a new doctrine to me, strange and unheard of, that a new trial may be granted upon allegations of newly discovered evidence, and then that the court at the new trial, after hearing the evidence, may say: "There is no newly discovered evidence. This court has been deceived and imposed upon. This case will not go to the jury the second time. The order granting a new trial is canceled, annulled, and rescinded, and there will be no new trial."

I never before heard of such a doctrine. If there is any analogy to State or Federal practice that can evolve such a doctrine, it is wholly new to me, and something of which I never before heard, and I do not believe it exists.

The new trial of this matter was granted upon allegations of newly discovered evidence. The new trial has been had, the evidence has been submitted, and it is for this body to say whether there is any newly discovered evidence. It is not for anyone else to say. It is for this body alone to say whether or not there is newly discovered evidence. And even if there is no newly discovered evidence, the order for the new trial having been made and the new trial having been granted, the case must be tried, argued, submitted, and decided again upon the evidence that is brought out at this trial, whether it involves any new evidence or not.

There is no such thing known to the law as turning back. There must be another verdict in this case. No analogy that can be suggested, in my opinion, can point to any other conclusion.

But even so, as I say, this body is not confined to the statutory grounds of newly discovered evidence to which State courts are confined in the granting and conduct of new trials. This body has powers of its own that are superior to any other, and can not be governed by the statutory provisions for the government of State or Federal courts.

Much has been cited in the brief of counsel for Mr. LORIMER on the subject of res adjudicata. A number of cases have been cited. But, after a careful study of those cases and the remarks of counsel concerning them, I fail to see anything to sustain the contention of counsel.

The case of Fitch and Bright, in connection with Lane and McCarty, from Indiana, is cited. But in that case Messrs. Fitch and Bright were seated. The Legislature of Indiana afterwards concluded to undo the matter and elect Messrs. Lane and McCarty. When Messrs. Lane and McCarty appeared here they were simply told that there were two duly accredited Senators occupying the seats of the Senators from the State of Indiana. If there is any analogy to this case or any res adjudicata about that, I utterly fail to see it.

In the case of Mr. DU PONT, from Delaware, which is cited by the learned counsel for Mr. LORIMER, Mr. DU PONT'S right to a seat in this body was tried and adjudicated. It was adjudicated adversely to him. Afterwards he made an application to this body for a new trial and a rehearing of the proceeding. Meantime, before that could come to a hearing, Mr. Kenney had been elected by the Delaware Legislature and accepted by this body as a Senator from the State of Delaware, and the rights of a third party had intervened. The rights of no third party have intervened in this case, and therefore, to my mind, the du Pont case is not applicable to this proceeding and is no authority in behalf of Mr. LORIMER. Nor do I find any other cases cited that sustain the doctrine of res adjudicata.

Indeed, from a careful perusal of the able brief of the learned counsel for Mr. LORIMER one would be led to the conclusion that the learned counsel had never heard of such a thing as a new trial; that in all of his life he had never heard of the new trial of an action or that such a thing was possible. Only in one instance, on page 88 of that able and interesting brief, are the words "new trial" mentioned. Save for that one might think the able counsel was in total ignorance of the law of new trial.

The proposition which, to my mind, governs this proceeding is absolutely and entirely ignored. I claim that for a new trial new evidence is not necessary, but I claim that, even so, there is new evidence in this case. While the claim is made that there is no new evidence, I claim that in a number of instances there is new evidence, and in one of the most important particulars, I think, there has been new evidence adduced, viz, to show that after visiting Senator John Broderick, Mr. Holstlaw deposited the sum of $2,500 to his own credit in a bank in Chicago.

At the former trial of the matter there was serious dispute as to whether there was any convincing evidence that Mr. Holstlaw had deposited any money in a bank to his credit after visiting Senator Broderick. It was the contention, and it was urged with much plausibility, that somebody had impersonated him in that transaction, and that the deposit slip was not made out by him, but was made out by some false impersonator who had gone there with strange design to injure Mr. Holstlaw and cast some reflection upon him, and to make him the beneficiary, strange to say, of $2,500, which he knew nothing about. The contention in that respect was that his name on the deposit slip was misspelled, and that it must have been made out by somebody other than Mr. Holstlaw—somebody who wanted to confer upon him the strange and mysterious favor of depositing to his credit in a bank the sum of $2,500 without his being aware of it—either to make him a present of that sum or in that wonderful and mysterious way to work some injury to him.

But the retrial of the case has established the fact that that deposit slip was made out by a clerk in the bank, and that Mr. Holstlaw did go there, and that while he did not personally and by his own hand make out the deposit slip, it being made out by an employee of the institution, Mr. Holstlaw did deposit $2,500 there immediately after the conference with Senator Broderick in which he received the sum of $2,500.

That incident is acknowledged now by gentlemen who take the other view of this case. It is acknowledged by the majority report in this case. That which is now acknowledged and conceded on all sides was before a very seriously disputed point, and it was stoutly contended by the defenders of Mr. LORIMER to the last that there was no evidence that Mr. Holstlaw was the man who deposited the $2,500. That is some new evidence, sufficient alone and in itself to authorize another trial of this case, if any ground be necessary.

I will say no more about the doctrine of res adjudicata. From what has been said about it in the committee report and on the floor of the Senate, I hardly believe it is seriously taken or advanced. I hardly believe this body is going to contend that it is the only court under the English system of jurisprudence, except police and justice of the peace courts, which has not the inherent power on its own motion to grant new trials; and I pass along from that subject.

Now, then, as to the facts of this matter. I have heard and read long, entertaining, and learned explanations of why those 53 Democrats in the Illinois Legislature voted for Mr. LORIMER, a Republican. I meet those arguments with the simple declaration that whenever there is a serious contest in a legislature over the election of a United States Senator, and when under those circumstances a Democrat who is a member of that legislature votes for a Republican for United States Senator there is something the matter either with his head or his morals, or both.

Of course I can understand that in some instances which have been cited here, as in the New England States, where we will say there are a hundred members of the legislature, and 70 of them are Republicans and 30 are Democrats, and the 70 Republican members caucus and unanimously agree to support for election or reelection some efficient public servant and greatly beloved man (as I understand was the case with the late lamented Senator Frye, of Maine, upon one occasion), the 30 Democrats, knowing that the 70 Republican votes will elect, anyway, and having no one whom they especially wish to compliment by their vote, may vote for the Republican candidate, knowing he will be elected, anyway, and without their votes. I can understand that sort of reasoning and that sort of conduct. But I say, in a legislature where there is a close and a serious contest and a Democrat votes for any Republican for the position of United States Senator it is a strong presumption, to my mind, that there is something wrong either with his head or his morals or both, and probably both.

Men do not violate trusts of that character with impunity and without some underlying motive. They are not voting for themselves. They are not voting their own convictions. They are voting in a representative capacity. They are acting in a trust capacity for their constituents; their constituents have elected them, and by their votes have said that they want a Democrat elected United States Senator; and when they go to

the legislature and grossly betray that trust, I say it is a strong presumption that there is something wrong; it is sufficient at least to put the public upon guard and to arouse suspicion. They must show me.

Now, as to motives. The entire fight on the other side centers on Charles A. White. If he had put into his pocket the money which he had received and had maintained discreet silence, had said nothing, and had not started this proceeding, I presume he would have been an honest man and would have been honored and esteemed by his associates in crime. But Charles A. White committed what is to criminals and rogues the unpardonable sin of all sins—he turned State's evidence and dragged others into the light of exposure, and to men of that class that is the greatest crime any man can commit, being, in their estimation, even worse than murder. Therefore he is an unbelievable scoundrel, we are told. But I am not ready, offhand and instantly, to accept that view of the matter.

Which is the more reasonable to believe—that Charles A. White, having never received a dollar of money from anybody for or on behalf of Senator LORIMER, having never accepted one dollar of corrupt money in regard to the senatorial election in Illinois, being absolutely clean in regard to this proceeding, would sit down and deliberately and maliciously concoct and make up and weave out of whole cloth this entire proceeding, being in its entirety without a shred of truth or honesty or fact, against an innocent set of men, against Mr. LORIMER, Lee O'Neil Browne, Wilson, and others associated with him; that he would attempt to draw them all down through fabrication and malice to the utmost depths of infamy and degradation—I ask which is the more reasonable theory in this matter, that, or the theory that Charles A. White was paid and accepted money to vote for Mr. LORIMER for United States Senator, and is telling the truth when, as we say, he turned State's evidence about it? Which is the more reasonable theory of the matter; which is the more borne out by the facts and circumstances in the matter?

I say this case does not rest alone upon the testimony of Charles A. White. He is corroborated by the testimony of other direct witnesses. He is corroborated by a thousand facts and circumstances and incidents. He is corroborated by everything in the case which tends to point to the true state of affairs.

To my mind the theory that there is a monstrous conspiracy, that Gov. Deneen and the owners of the Chicago Tribune, the Chicago News, and the Chicago Record-Herald, and State's Attorney Wayman, and Charles A. White, and all these people sat down and put their heads together and deliberately concocted a vile and false conspiracy stranger than anything in the Arabian Nights, Baron Munchausen, or Jules Verne's writings—an utter fabrication, willfully and knowingly, on the part of all these people, each and every one of them—for the sole purpose of destroying an innocent and an honest man, has too much of the romancing, too much of the skyrocketing, too much of the airship appearance about it to commend itself to me.

You either have to believe Charles A. White and those who testified with him, and believe all the facts and circumstances that go to bear out his theory and his testimony, or you have to believe that Mr. Kohlsaat, of Chicago, the proprietors and editors of the Chicago Record, the Chicago Tribune, the Chicago News; that Gov. Deneen, State's Attorney Wayman, the attorney general of Illinois, the prosecuting attorney of Sangamon County, the prosecuting attorney of Cook County, and scores of other officials and well-known men deliberately entered into the most monstrous conspiracy ever known to the history of mankind to wreck a purely innocent and honest man. I can not accept that theory of romancing and aeroplaning and skyrocketing. It does not commend itself to my judgment or reason at all.

This theory, of which I hear much in the committee reports and in the brief of counsel for Mr. LORIMER, as to why these people entered into this monstrous conspiracy—that during a long period of years back Mr. LORIMER upon different occasions had offended the editor of the Chicago Record-Herald, had offended the editor of the Chicago Tribune, had offended State's Attorney Wayman, had offended Gov. Deneen, had offended this man and that man, all because each and every one in turn had asked him to do something that he did not think was right, and that he refused the request, and thereupon each and every one of these men conceived an implacable and immeasurable degree of malice toward Mr. LORIMER and all these years have laid it up for him and carried it against him, and when they found Charles A. White all came together with one accord and said we have found the time, the place, and the man to carry out this nefarious scheme, this monstrous conspiracy, and that they thereupon got together upon that occasion and manufactured all this evidence, is to my mind too much like the Arabian nights. It does not commend itself to me at all.

With all the facts and circumstances, I think, it is more reasonable to believe that Charles A. White and the other witnesses who directly corroborate him about the facts and circumstances and times and places and payments and conditions are telling the truth, some of them reluctantly, some of them voluntarily, but they are telling what actually transpired. Is it reasonable to believe that Charles A. White and those who corroborate him would give their testimony as they did and would consign themselves to infamy and disgrace in the eyes of all men, that they would put themselves in this extremely disagreeable attitude, that they would bring obloquy and oblivion upon themselves if there was not one word of truth in all that they have told? Do innocent men who have done no wrong, who have committed no crime, do those things? Do they bring these consequences and results upon themselves? It is contrary to all the experience and observation and reasoning of mankind.

There are very, very many facts and circumstances and incidents that, to my mind, absolutely bear out the truth of the testimony given by Charles A. White and those who corroborate him. Take this man Wilson, who, it is said, took a part in the nefarious work and engaged in a part of the corruption and bribery. During the former hearing of this case, when evidence was being taken before the investigating committee, this man Wilson fled from the United States, went to Canada, registered at a hotel under an assumed name, and remained there during the entire proceeding.

Is that the way innocent men do? Is that the way honest men do? Is there a single Member of this body who during any court proceeding has ever fled from the United States, gone to Canada, registered at a hotel under an assumed name, and remained there until the proceeding was over, and then returned to this country?

Mr. FLETCHER. Will the Senator yield long enough to allow me to suggest that Wilson did testify in the hearings?

Mr. MYERS. If I am incorrect I am glad to be set right.

Mr. FLETCHER. He testified here in Washington, and his testimony is a part of the record.

Mr. KENYON. But he did go to Canada and register under an assumed name, as stated by the Senator from Montana.

Mr. MYERS. I stand corrected to the extent of his having returned and testified.

Mr. FLETCHER. The question is that the Senator stated that Wilson remained away during the whole proceeding. He did go to Canada but he returned and testified finally before the committee here, and his testimony is a part of the record.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Missouri?

Mr. MYERS. Certainly.

Mr. REED. Can the Senator enlighten us upon the question as to why he ran away in that instance?

Mr. FLETCHER. I have no idea. I only know that he said he was an ill man and he went because of his health. That is not the question at all, to my mind. I know that the Senator from Montana did not want to make a statement that was not accurate, and I took the liberty of correcting it to the extent of stating that Wilson did return here and did testify, and his testimony is a part of the record. Whether he went to Canada or went to Europe is utterly immaterial and does not bear on the question, and why he went does not bear on the point I make.

Mr. REED. Mr. President, just for information, since the Senator is shedding light on the subject, I should like to ask if it was necessary for him to register under an assumed name in order to have his health restored.

Mr. MYERS. I stand corrected to that extent. It seems that I was in part in error and in part correct. This record is so voluminous and there are so many reports and treatises upon it that I have not been able, I will admit, to thoroughly master it all. But I stand corrected gladly to that extent.

I presume if Mr. Wilson was ill, registering in Canada under an assumed name benefited his health very greatly. It seems that doing it restored him to health sufficiently to return to this country and testify. But at any rate, it seems that when the hearing came on he left the country and went to Canada and there registered at a hotel under an assumed name. By that I am reminded that Holy Writ tells us that the wicked flee when no man pursueth. But I believe they generally flee a whole lot faster when somebody is after them. It very much accelerates their flight to have somebody after them. I am reminded, too, of the case of Mr. C. F. Wiehe, who I believe the evidence shows was advised by Mr. Edward Hines to get out

of the State of Illinois because the grand jury was in session. The wicked generally flee when the grand jury is in session. There is nothing that hurries them up like a grand jury.

Are those the ways of honest men? Do those circumstances indicate nothing in this case? What are the bearings of those circumstances, and scores of other circumstances like them? To my mind they all point inevitably to the conclusion that White and those who corroborate him are telling the truth.

I have observed, I think, one tendency in the majority committee report in this case, and that is to admit—in fact it has been admitted by the Senator who preceded me—that money was paid to and received by some of these men in their official capacity as legislators, but to ascribe it to other sources and motives than those charged in this case. It seems to me that is largely the indulgence of surmise. I read in the majority committee report, and it has been admitted here on the floor by the Senator who preceded me, that several different members of the legislature received money, but it is denied that they received it for their votes for Mr. LORIMER. It is contended that they received it for other purposes, and when this witness and that witness and another witness says:

Yes; I received money from Lee O'Neil Browne or from Wilson, but I did not receive it in consideration of my vote for Mr. LORIMER; I had already promised to vote for Mr. LORIMER, or I would have voted for Mr. LORIMER any way; I do not know why this money was paid to me, but it was not paid to me and not received by me in consideration of my vote for Mr. LORIMER—

Those men are all put down as good men, as honest men who are telling the truth and whose word we must accept.

But see; who comes here now? What have we now? Charles A. White appears on the scene. He testifies that he received money and that it was paid to him by Lee O'Neil Browne, and was paid to him and received by him in consideration of his vote for Mr. LORIMER for United States Senator. Presto, change! Unspeakable scoundrel, miserable wretch, degraded creature—the truth is not in him. He has sunken to the depths of infamy and degradation; he traces this to money used in connection with Mr. LORIMER's election.

I do not see, under the circumstances in this case, why it may not be considered that Charles A. White is telling the truth when he gives his version of these money transactions as well as the others who admit the taking of the money but deny that it was received in consideration of their vote for Mr. LORIMER, when all the facts and circumstances and incidents in the case tend to show that they were all in the same boat and that the money was paid to all for corrupt purposes, and probably for the same corrupt purpose.

In going over the testimony of the record in this case there are circumstances and incidents that it would take days upon days to comment upon, and all of which, to my mind, point unerringly to the guilt of those who were charged with corruption in this case.

Many, many facts and circumstances and incidents there are. They can not possibly all be enumerated in any one argument or any series of arguments; but, taking the record as a whole, from my reading of it, in my opinion, it is reeking with infamy and dripping with corruption and redolent of crime. The whole record shows conclusively to my mind that there was corruption in the air and corruption on the ground at the time of the election of Mr. LORIMER to a seat in this body.

The evidence in this case conclusively stamps such men as Lee O'Neil Browne and Wilson and Edward Hines as men who lend themselves to any scheme of corruption that will further any interest that they have in any matter that may be advanced by any means whatsoever known to the coarse and brutal power of money. Take the record of the proceedings of this case on the day of the election of Mr. LORIMER. The very atmosphere was charged with the knowledge that there was corruption on the ground. It was charged on the floor of the legislature and bandied back and forth. Everybody seemed to know what was going on and how it was going on, and it is too much for human credulity for me to believe that the beneficiary of it all, Mr. LORIMER, was serene and innocent and had no knowledge of what was going on upon that occasion. His associations with Lee O'Neil Browne, both before and since, show him to be in privity with all thereof.

I will read some extracts from some of the proceedings on that day which give some indication of what was seen and known and heard and felt of all men upon that occasion. I quote from an account of the proceeding:

During the talking which inevitably preceded the ballot, only one roll call being necessary to decide the senatorial issue, although that one consumed over two hours and a half, some ugly charges were made by intimation. They afterwards gave rise to the statement that an investigation of methods by which Mr. LORIMER might have secured Mr. Hopkins's place would be asked for in the United States Senate. This statement was promptly squelched by Mr. Hopkins himself.

"I am through," said the former Senator. "I shall not contest the election of Mr. LORIMER. I am through with it."

* * * * * * *

"That is not altogether for Senator Hopkins to say," said Col. Frank L. Smith, who accompanied him from the scene of defeat. "It is for the members of the legislature and the Republican voters of Illinois to determine whether they are satisfied with the manner in which Mr. LORIMER secured his election."

In spite of that statement it was admitted that so far as the Hopkins people are concerned, the election of Mr. LORIMER is final, and that no demand will be made by them or for them that the charges hinted at by Democrats themselves on the floor of the house during debate be investigated.

Here is one of the choice expressions used by that alleged Democratic leader, Lee O'Neil Browne, he who led his forces not to victory, but to infamy, that day on the floor of that house. He said:

You can't cash dreams and you can't cash hopes.

We are told that you can't cash dreams and that you can't cash hopes.

Another member shouted, and he asked:

What can you cash in this legislature—votes?

Those are samples of the charges that were hurled back and forth.

The infamous leader, Lee O'Neil Browne, felt it necessary to make a speech of about one hour's duration in explanation of his vote. Why is it that when a man does something that is questionable he always wants to make an explanation? If a man is going to do something wrong, I think he had better do it, and say nothing about it; the less that is said about it the better; but Mr. Browne that day felt called upon to make a speech of about an hour's duration in explanation of the remarkable stand that he had taken and of the remarkable vote that he was about to cast. Speaking of Mr. LORIMER he said:

I could state a thousand reasons why WILLIAM LORIMER now should be the choice of the Democratic party and its members.

A thousand reasons why he should vote for Mr. LORIMER! Yes; I believe him. I believe he had a thousand reasons why he should vote for Mr. LORIMER, and I believe he had every one of those reasons in his pocket, or that he had in his pocket a bank certificate of deposit for them, and on every one of those reasons I believe there was an imprint of an American eagle and the words "In God we trust."

He should have been honest and told what kind of reasons he had. After he had ceased to speak another Democratic member of the legislature arose and said:

I want to ask you Democrats, Do you expect to tell the whole reason? Every reason that can be given for your votes?

If you do, your people will retire you into that oblivion where you rightfully belong.

* * * * * * *

Representative J. Groves absolved himself from further leadership of Browne, and added fuel to the scorching flames with this declaration, which sent an electric spark through the sweltering assembly: "The gentleman from La Salle said there was a knocking at the Democratic door, summoning us to vote for a Republican for Senator."

Then, he went on to say that there was a knocking at the Democratic door—the knocking of opportunity, but it was the opportunity to put the three gilded balls of the pawnbroker above the door of the Democratic Party of Illinois. This ran on during the entire voting, two hours and a half.

More of it:

It is said on the other side that there was a knocking on the Democratic door. Yes; there has been much knocking at doors, and there is a new sign on the Democratic door. Before that door there hangs this day, and for many days will hang, as a result of this day the three balls that signify what you mean and what you have done.

The proceedings of that day appeared to be no secret. I think from my investigation of the record and from my reading of the proceedings of that day, that they lacked only one thing to complete the infamy of the State of Illinois.

The thing lacking was that the Stars and Stripes, which float over the statehouse at Springfield, should have been hauled down from the flag mast, and in their place should have been run up the red flag of the auctioneer. That would have capped the climax and would have completed the infamy of that day. That red flag of the auctioneer should have defiantly flaunted there until this very day and until this matter is settled right by this body.

The power of money is the greatest evil in this world; it is the greatest evil with which this country to-day must contend. The Money Trust is the most serious problem that confronts this Government. Beside it all others pale into insignificance. It is productive of more harm, of more misery, of more wretchedness, of more corruption, of more ills than all the other evils of this Government to-day. Its ramifications into every avenue of society and political life are sapping and undermining society and our political existence. It is charged that it influences courts and executive departments and legislatures; but when it works its way into this body by insidious and devious

methods and makes its coarse and brutal power, to the subversion of right and justice, felt in this body, the Senate should say that its influence shall no longer be tolerated here; that this is one place where it shall not enter with its baneful effects to pollute everything with which it comes in contact.

The awakened conscience and sentiment of the American people demand; right and justice demand; the honor, the integrity, the manhood, and independence of this body demand; and I believe that the record, the circumstances, and the evidence in this case demand that we shall take a stand for right and justice and purity of elections to this body by declaring that the title by which Mr. LORIMER holds a seat in the Senate was secured by corrupt means and that it shall be forfeited and set aside.

I thank the Senate, Mr. President, for its kind attention.

DEATH OF REPRESENTATIVE MALBY, OF NEW YORK.

A message from the House of Representatives, by J. C. South, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. GEORGE R. MALBY, late a Representative from the State of New York, and transmitted resolutions of the House thereon.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions (H. Res. 596), as follows:

IN THE HOUSE OF REPRESENTATIVES,
July 6, 1912.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE R. MALBY, a Representative from the State of New York.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expense in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. DILLINGHAM. Mr. President, the Senator from New York [Mr. ROOT] is necessarily absent from the Chamber this afternoon. At his request and in his name, I offer the resolutions which I send to the desk.

The resolutions (S. Res. 353) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. GEORGE R. MALBY, late a Representative from the State of New York.

Resolved, That a committee of nine Senators be appointed by the President pro tempore to join the committee appointed on the part of the House of Representatives to take order for superintending the funeral of the deceased.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The PRESIDENT pro tempore appointed under the second resolution as the committee on the part of the Senate Mr. ROOT, Mr. O'GORMAN, Mr. BURNHAM, Mr. JONES, Mr. OLIVER, Mr. BACON, Mr. BRYAN, Mr. THORNTON, and Mr. MARTINE of New Jersey.

Mr. DILLINGHAM. I now move, as a further mark of respect to the deceased, that the Senate take a recess until Monday morning at 11 o'clock.

The motion was unanimously agreed to; and (at 5 o'clock and 35 minutes p. m.) the Senate took a recess until Monday, July 8, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *July 6, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, once more in the dispensation of Thy providence our hearts are bowed in sorrow and grief. Surely in "the midst of life we are in death." We know not the moment when the summons shall come, but with perfect faith and confidence in Thee who doeth all things well, help us to do the work Thou hast given us to do faithfully, conscientiously; going forward to meet the shadowy future with brave and manly hearts. Comfort us, the bereaved wife and children, in the blessed hope of the immortality of the soul. In the name of Him who said, "I am the resurrection and the life; whosoever liveth and believeth in me shall never die." Amen.

The Journal of the proceedings of yesterday was read and approved.

JOSEPH H. CALL (H. DOC. NO. 865).

Mr. RAKER. Mr. Speaker, I ask unanimous consent to have printed as a House document the address of Joseph H. Call, of Los Angeles, on May 3, 1912, on the Higher Cost of Living and its Relation to Transportation.

Mr. Call was special counsel for the Government for 18 years, and this address is most valuable.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to have printed as a House document an address of Mr. Call, of Los Angeles, Cal., on the Higher Cost of Living. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I should like to ask the gentleman whether this has been submitted to the chairman of the Committee on Printing?

Mr. RAKER. No, sir; it has not.

Mr. MANN. I shall not make an objection, but will make the suggestion to gentlemen who desire to have matters printed as House documents that they ought first to be submitted to the chairman of the Committee on Printing.

Mr. RAKER. I will say to the gentleman that I did not know that had been the practice. If I had known it I would have done so.

Mr. MANN. It has not been the practice to print things of this sort as House documents, but it is coming to be the practice, and I think not a bad practice; but I think, as a rule, they ought to be submitted in advance to the chairman of the Committee on Printing.

Mr. RAKER. I think so; and hereafter I will follow that rule.

The SPEAKER. Is there objection?

There was no objection.

ALABAMA INDIANS OF TEXAS (H. DOC. NO. 866).

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to have printed as a House document a report by Mr. William Loker with reference to the Alabama Indians of Texas, and certain letters from the department with reference to those Indians.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent to have printed as a document a report by William Loker and certain letters of the Indian Department relative to the Alabama Indians of Texas. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment the following concurrent resolution (H. Con. Res. 57):

Resolved by the House of Representatives (the Senate concurring), That the President be, and he is hereby, requested to return to the House of Representatives the bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6784. An act for the relief of the Garden City (Kans.) Water Users' Association, and for other purposes; and

S. 7195. An act to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 20684. An act providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation in the State of Idaho.

The message also announced that the Senate had passed with an amendment joint resolution (H. J. Res. 220) to grant American citizenship to Eugene Prince.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 4663) granting to the Washington-Oregon corporation a right for an electric railroad, and for telephone, telegraph, and electric transmission lines across the Vancouver Military Reservation, in the State of Washington, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. DU PONT, Mr. WARREN, and Mr. JOHNSTON of Alabama as the conferees on the part of the Senate.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S.

4862) authorizing and directing the Secretary of the Interior to investigate and settle certain accounts, and for other purposes.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 4445) concerning unrigged vessels.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution of the following title, when the Speaker pro tempore signed the same:

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 6946. An act authorizing the sale of certain lands in the Flathead Indian Reservation to the town of Ronan, State of Montana, for the purposes of a public park and public-school site;

S. 5935. An act to fix the terms of the district court for the western district of Michigan;

S. 6603. An act authorizing the Secretary of the Treasury to convey to the board of education of New Hanover County, N. C., portion of marine-hospital reservation not needed for marine-hospital purposes; and

S. 4862. An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of constructing the Corbett Tunnel of the Shoshone irrigation project.

ENROLLED BILLS PRESENTED TO THE PRESIDENT OF THE UNITED STATES.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of the public-building acts, and for other purposes," approved March 4, 1909; and

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 7195. An act to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River; to the Committee on Interstate and Foreign Commerce.

S. 6784. An act for the relief of the Garden City (Kans.) Water Users' Association, and for other purposes; to the Committee on Irrigation and Reclamation of Arid Lands.

DEATH OF HON. GEORGE R. MALBY.

Mr. PAYNE. Mr. Speaker, it becomes my sad duty to announce to the House the death of the Hon. GEORGE R. MALBY, one of my colleagues, which occurred in the city of New York yesterday evening. I will state that the funeral of the deceased will take place at his late home at Ogdensburg, on Tuesday, at 2 o'clock. At a future day I shall ask the House to set aside a time that Members may pay tribute to the life, character, and services of the deceased. I now offer the following resolutions, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolutions.

The Clerk read as follows:

House resolution 596.

Resolved, That the House has heard with profound sorrow of the death of Hon. GEORGE R. MALBY, a Representative from the State of New York.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expense in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

The SPEAKER announced the appointment of the following committee:

Mr. FITZGERALD, Mr. DWIGHT, Mr. TAYLOR of Ohio, Mr. SULZER, Mr. MICHAEL E. DRISCOLL, Mr. CAMPBELL, Mr. SMITH of New York, Mr. MOTT, Mr. ROBINSON, Mr. DE FOREST, Mr. PEPPER, Mr. WEDEMEYER, Mr. GREENE of Massachusetts, Mr. SLOAN, and Mr. J. M. C. SMITH.

The SPEAKER. The Clerk will read the additional resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect, this House do now adjourn.

The resolution was agreed to; accordingly (at 12 o'clock and 18 minutes p. m.) the House adjourned until Monday, July 8, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill (S. 5309) to amend section 3 of the act of Congress approved May 14, 1880 (21 Stat. L., 140), reported the same with amendment, accompanied by a report (No. 930), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (S. 5446) relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908, reported the same without amendment, accompanied by a report (No. 931), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill (S. 7002) to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes, reported the same without amendment, accompanied by a report (No. 932), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 4012) to authorize the exchange of certain lands with the State of Michigan, reported the same with amendment, accompanied by a report (No. 933), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (S. 4745) to consolidate forest lands in the Paulina (Oreg.) National Forest, reported the same without amendment, accompanied by a report (No. 934), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., reported the same with amendment, accompanied by a report (No. 936), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. DANIEL A. DRISCOLL, from the Committee on Pensions, to which was referred the bill (H. R. 20362) granting a pension to Catherine Wise, reported the same with amendment, accompanied by a report (No. 935), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 18521) granting an increase of pension to Henry Minnett; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 22557) granting a pension to William S. Smith; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. ROBINSON: A bill (H. R. 25611) to authorize the sale of certain lots in the Hot Springs Reservation for church and hospital purposes; to the Committee on the Public Lands.

By Mr. SHERLEY: A bill (H. R. 25612) to amend an act entitled "An act to allow the bottling of distilled spirits in bond"; to the Committee on Ways and Means.

By Mr. TAYLOR of Colorado: A bill (H. R. 25613) to increase the limit of cost of the public building at Denver, Colo.; to the Committee on Public Buildings and Grounds.

By Mr. COX of Ohio: A bill (H. R. 25614) to prevent the desecration of the flag of the United States of America; to the Committee on the Judiciary.

By Mr. TALCOTT of New York: Memorial from the Legislature of the State of New Mexico, calling for the return of the Spanish and American archives relating to New Mexico which are now in the hands of the Librarian of Congress; to the Committee on the Library.

By Mr. LEVY: Memorial from the Legislature of the State of New Mexico, calling for the return of the Spanish and American archives relating to New Mexico which are now in the hands of the Librarian of Congress; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 25615) granting a pension to Manerva Hedges; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25616) granting a pension to Emaline Powell; to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 25617) granting an increase of pension to Martin V. Strine; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 25618) granting an increase of pension to Nathaniel Burton; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 25619) granting an increase of pension to James Flanagan; to the Committee on Invalid Pensions.

By Mr. McKENZIE: A bill (H. R. 25620) granting an increase of pension to Gustavus Schuetze; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 25621) granting a pension to Sarah C. Kennedy; to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 25622) granting a pension to Lester C. Lyke; to the Committee on Invalid Pensions.

By Mr. WATKINS: A bill (H. R. 25623) to authorize the transfer of Lieut. Sydney Smith from the retired to the active list of the Army; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARTHOLDT: Petition of the Brotherhood of Locomotive Engineers of Cleveland, Ohio, favoring passage of the workmen's compensation act; to the Committee on the Judiciary.

Also, petition of the Campbell Glass & Paint Co., of St. Louis, Mo., protesting against passage of bill requiring manufacturers' brand on all goods; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Gaines & Stoke Millinery Co., of St. Louis, Mo., favoring the 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of 27 citizens of St. Louis, Mo., protesting against increase of postage on second-class mail; to the Committee on the Post Office and Post Roads.

Also, petitions of the Phoenix Automobile Supply Co., the Moon Motor Car Co., the Wisco Supply Co., the St. Louis Pharmaceutical Society, the A. S. Alve Optical Co., and the Alf. W. Pauley Drug & Chemical Co., of St. Louis, Mo., protesting against any change in the present patent laws that might affect price maintenance; to the Committee on Patents.

Also, petition of 40 citizens of St. Louis, Mo., favoring the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Beyer Bros. Drug Co., of St. Louis, Mo., protesting against the passage of the Richardson drug bill; to the Committee on Interstate and Foreign Commerce.

By Mr. BARTLETT: Petition of the Junior Order of United American Mechanics of Council No. 10, Enterprise Council No. 1, and Eureka Council No. 7, favoring the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CATLIN: Memorial of the Hebrew Veterans of the War with Spain, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ESCH: Petition of the health officers of Wisconsin, at Madison, Wis., favoring passage of Senate bill 1, known as the Owen bill, for establishment of a national board of health; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Milwaukee, Wis., favoring passage of House bill 357, for investigation of the business of foreign and domestic fire insurance companies; to the Committee on Interestate and Foreign Commerce.

Also, petition of 1,700 members of the Wisconsin State Medical Society, at Wausau, Wis., favoring passage of Senate bill 1, known as the Owen bill, for a national board of health; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Medical Society of Milwaukee County, Wis., favoring by special act the appointment of Dr. A. Ivans Comfort to captain of the Regular Army, etc.; to the Committee on Military Affairs.

Also, memorial of the Pennsylvania Civil Service Reform Association, against passage of clause in House bill 24023, for five-year tenure of office for Government employees; to the Committee on Appropriations.

By Mr. FORNES: Petition of the Brotherhood of Locomotive Engineers of Cleveland, Ohio, favoring passage of the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of 4,000 Spanish War veterans, favoring passage of House bill 17470, to pension widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, petition of Joseph H. McGuire, of New York, against the repeal of the Tarsney Act by the sundry civil bill; to the Committee on Appropriations.

By Mr. FULLER: Petition of Rockford Manufacturers and Shippers' Association, of Rockford, Ill., favoring the continuance of the Commerce Court, etc.; to the Committee on Appropriations.

Also, petition of the Chicago Association of Commerce, of Chicago, Ill., favoring passage of bill for operation and control of the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Memorial of Admiral Reynolds Post, No. 405, Grand Army of the Republic, of Lancaster, Pa., favoring passage of House bill 25193, providing for the perpetuation of Memorial Day; to the Committee on Military Affairs.

By Mr. HOUSTON: Papers to accompany bill (H. R. 4515) for relief of Andrew J. Pugh; to the Committee on Invalid Pensions.

By Mr. KINKEAD of New Jersey: Petition of citizens of Jersey City, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LANGHAM: Petition of the Hebrew Veterans of the War with Spain, New York, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LEVY: Petition of the Amalgamated Society of Carpenters and Joiners, of New York, N. Y., and the United Garment Workers of America, favoring passage of the seamen's bill (H. R. 23673); to the Committee on the Merchant Marine and Fisheries.

Also, petition of the American Exporter, of New York, favoring passage of Sulzer bill for improving the consular and diplomatic service; to the Committee on Foreign Affairs.

Also, petition of the Committee of Wholesale Grocers, favoring reduction of duties on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of the American Thread Co., of New York, relative to tariff; to the Committee on Ways and Means.

Also, petition of the Hebrew Veterans of the War with Spain, of New York, and the Lackawanna Steel Co., of New York, protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Order of Railroad Conductors of America, of Memphis, Tenn., protesting against the passage of the employers' liability and workmen's compensation act; to the Committee on the Judiciary.

Also, petition of the National Retailers' Coupon Co., of New York, protesting against the passage of House bill 22766, prohibiting the use of trading coupons; to the Committee on Ways and Means.

Also, petition of Benjamin Alterman, of New York City, favoring passage of House bill 22766, prohibiting the use of trading coupons; to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of Allied Printing Trades Council of New York, protesting against passage of Senator BOURNE'S parcel-post bill increasing postage on third and fourth class mail; to the Committee on the Post Office and Post Roads.

Also, memorial of the National Guard Association of the State of New York, favoring the bill to pay the State National Guards as a part of the United States Army; to the Committee on Military Affairs.

By Mr. MANN: Petition of Assumption of Blessed Virgin Society, No. 122, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. McDERMOTT: Petition of A. H. Hitchcock, of Chicago, Ill., against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. MONDELL: Petition of 565 members of the First Christian Church of Sheridan, Wyo., for passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. O'SHAUNNESSY: Petition of the Brotherhood of Railroad Trainmen of Valley Falls, R. I., favoring passage of a workmen's compensation law; to the Committee on the Judiciary.

Also, petition of citizens of Newport, R. I., against appointment of a commission, etc., for celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. REDFIELD (by request): Petition of the Order of Railway Conductors, Memphis, Tenn., protesting against the passage of the employees' liability and workmen's compensation act; to the Committee on the Judiciary.

Also, petition of the Hebrew Veterans of the War with Spain, New York, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ROBINSON: Papers to accompany House bill 5145, authorizing the city of Hot Springs, Ark., to occupy and construct buildings for the use of the fire department of said city on lot No. 3, block 115, in the city of Hot Springs, Ark.; to the Committee on the Public Lands.

Also, papers to accompany House bill 7251, to confer title in fee and to authorize the disposition of certain lots now situated on Hot Springs Reservation, in the State of Arkansas, and for other purposes; to the Committee on the Public Lands.

Also, papers to accompany House bill 24266, to authorize the sale of burnt timber on the public domain; to the Committee on the Public Lands.

Also, petition of the Brotherhood of Railroad Trainmen of Pine Bluff, Ark., against passage of the workmen's compensation bill; to the Committee on the Judiciary.

By Mr. RUCKER of Colorado: Petition of the South Park Ranchmen's Protective Association, of Colorado, protesting against the present methods of the Forestry Bureau; to the Committee on Agriculture.

By Mr. SABATH: Memorial of the Polish Societies of Chicago, Ill., against passage of bill restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Senate and House of Representatives of the State of Illinois, relative to control of the waterways of the lower Mississippi Valley; to the Committee on Rivers and Harbors.

By Mr. SMITH of New York: Petition of the Tuscarora Nation of Indians, of Niagara County, N. Y., relative to leasing their limestone lands; to the Committee on Indian Affairs.

Also, petition of the Hebrew Veterans of the War with Spain, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SULZER: Memorial of the New York Board of Trade and Transportation, favoring House bill 22589, to provide embassy, legation, and consular buildings for United States representatives in certain foreign countries; to the Committee on Foreign Affairs.

Also, petition of citizens of the United States, favoring passage of the old-age pension bill (H. R. 13114) for deserving men and women who are 65 years of age and upward; to the Committee on Pensions.

Also, petition of the Allied Printing Trades Council of Greater New York, protesting against parcel-post bill (S. 6850); to the Committee on the Post Office and Post Roads.

Also, petitions of the Committee of Wholesale Grocers of New York, favoring a reduction in the tariff on sugar; to the Committee on Ways and Means.

Also, memorial of the Brotherhood of Locomotive Engineers, of Cleveland, Ohio, favoring the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Hebrew Veterans of the War with Spain, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of John T. Nagle, of New York City, favoring passage of House bill 21412; to the Committee on Military Affairs.

By Mr. TALCOTT of New York: Petition of the Military Order of the Loyal Legion of the United States, protesting against passage of bill for appropriation commemorative of the services of the Confederate Navy on the Mississippi and its tributaries during the Civil War; to the Committee on the Library.

Also, petition of the Pennsylvania Civil Service Reform Association, protesting against the five-year tenure of office for employees of the District of Columbia; to the Committee on Appropriations.

Also, petition of the Daughters of Liberty, of Utica, N. Y., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of St. Stanislaus Society, No. 149, of New York, and the Workmen's Sick and Death Benefit Fund Association, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of members of Grace Church, Waterville, N. Y., and the Women's Auxiliary to the Board of Missions, favoring passage of bill for relief of the natives of Alaska; to the Committee on the Territories.

Also, petition of the trustees of the Humboldt Chamber of Commerce, Eureka, Cal., relative to the Redwood National Park; to the Committee on Agriculture.

By Mr. WHITACRE: Memorial of citizens of Youngstown, Ohio, protesting against the Burton-Littleton bill to appropriate money for the celebration of 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

Also, petition of the Order of Railway Conductors of America, Division No. 402, Massillon, Ohio, protesting against the workmen's compensation bill; to the Committee on the Judiciary.

SENATE.

MONDAY, *July 8, 1912.*

(Continuation of legislative day of Saturday, July 6, 1912.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

Mr. CURTIS. Mr. President, I make the point that there is no quorum present.

The PRESIDENT pro tempore. The Senator from Kansas suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and after a little delay the following Senators answered to their names:

Bacon	Culberson	Johnston, Ala.	Smith, Ariz.
Borah	Cullom	Jones	Smith, Ga.
Bourne	Curtis	Lea	Smith, S. C.
Brandegee	Dillingham	Martine, N. J.	Smoot
Bristow	Fall	Nelson	Stephenson
Brown	Fletcher	Oliver	Sutherland
Bryan	Gallinger	Overman	Swanson
Burnham	Gamble	Page	Thornton
Catron	Gardner	Paynter	Tillman
Chamberlain	Gronna	Perkins	Townsend
Clapp	Guggenheim	Pomerene	Warren
Clark, Wyo.	Heyburn	Root	
Crawford	Johnson, Me.	Simmons	

Mr. THORNTON. I wish to announce the unavoidable absence of my colleague [Mr. FOSTER].

The PRESIDENT pro tempore. Fifty Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

Mr. DILLINGHAM resumed the speech begun by him on Saturday (see Senate proceedings of July 9). After having spoken for nearly four hours, he said:

Mr. President, I had hoped to finish my remarks to-day, but I have been rather anxious to direct the attention of the Senate to the evidence in the case, and it has taken much more time than I anticipated. I have now been speaking nearly four hours, and I understand that the Senator from Florida [Mr. FLETCHER] is willing to go on this afternoon. With the consent of the Senate, I will be glad to resume to-morrow morning when I will promise to finish. I yield the floor to the Senator from Florida, unless there is objection.

The PRESIDENT pro tempore. The Chair hears no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 17937) authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance

Department for improvement or economy in manufacturing processes or plant.

The message also announced that the House insists upon its amendments to the bill (S. 4663) granting to the Washington-Oregon Corporation a right for an electric railroad, and for telephone, telegraph, and electric-transmission lines, across the Vancouver Military Reservation, in the State of Washington, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. HAY, Mr. DENT, and Mr. KAHN managers at the conference on the part of the House.

The message further returned to the Senate, in compliance with its request, the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 20684) providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation in the State of Idaho, and it was thereupon signed by the President pro tempore.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912.

Mr. SMITH of Arizona. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Arizona suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Clarke, Ark.	Kern	Root
Bacon	Crane	Lea	Shively
Bailey	Cullom	Lippitt	Smith, Ariz.
Borah	Cummins	Lorimer	Smith, Mich.
Bourne	Curtis	McCumber	Smith, S. C.
Bradley	Dillingham	Martin, Va.	Smoot
Brandegee	du Pont	Martine, N. J.	Stephenson
Briggs	Fall	Myers	Sutherland
Bristow	Fletcher	Newlands	Swanson
Brown	Gallinger	Oliver	Thornton
Bryan	Gamble	Overman	Tillman
Burnham	Gronna	Page	Williams
Catron	Heyburn	Penrose	Works
Chamberlain	Johnston, Ala.	Perkins	
Clapp	Jones	Pomerene	
Clark, Wyo.	Kenyon	Rayner	

Mr. THORNTON. I again state the unavoidable absence of my colleague [Mr. FOSTER]. I ask that the announcement may stand for the day.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. A quorum of the Senate is present. The Senator from Florida will proceed.

Mr. FLETCHER. Mr. President, the Senate adopted a resolution June 7, 1911, naming a committee and authorizing, empowering, and directing it to forthwith investigate "Whether in the election of WILLIAM LORIMER as a Senator of the United States from the State of Illinois there were used and employed corrupt methods and practices." The committee was "further and specially instructed to inquire fully into and report upon the sources and use of the alleged jack-pot fund, or any other fund, in its relations to and effect, if any, upon the election of WILLIAM LORIMER to the Senate."

Beginning June 20, 1911, the committee examined 186 witnesses, took 8,588 pages of testimony, exclusive of exhibits, and has made report. Minority views have also been submitted, together with the resolution under consideration, declaring the election invalid.

It will be remembered that a similar investigation was conducted, beginning September 22, 1910, and ending December 7, 1910, through a subcommittee, which reported to the full committee December 17, which reported to the Senate December 20, 1910, and the minority views of two members of the committee, respectively, were filed later.

Lengthy discussions were had, and finally a vote was taken March 3, 1911, resulting in the defeat of a resolution condemning the election of Senator LORIMER, practically to the same effect as the one now offered.

The same election is involved now.

The testimony taken by said subcommittee has been substantially repeated in most parts. Much additional testimony has been taken in this second investigation.

The Senate of Illinois on the 17th day of January, 1911, appointed a committee to investigate the election here involved, and on May 17, 1911, that committee made its report, and on May 18, 1911, the Senate of Illinois adopted a resolution declaring that, "based on the report and findings of said committee, the election of WILLIAM LORIMER to a seat in the United States Senate was brought about by bribery and corruption." That resolution, with a copy of said report, and of the evidence taken, were certified to and filed in the United States Senate June 6, 1911, and was referred to the Committee on Privileges and Elections. It is fair to say there was not a full hearing in that instance, and the affidavits of a special agent, pretending to set forth statements made to him, which have been shown to have been untrue, were received as testimony.

BASIS OF REINVESTIGATION.

It was claimed that new eivdence had been discovered since March 3, 1911, or that new and additional evidence existed and could be found. The directions and authority to the special committee were plain and more or less specific.

On February 7, 1911, I submitted some remarks on the case as it then stood, and I shall not review the case as presented by the former record in detail. I shall more particularly consider what the new lines of inquiry developed and what the additional testimony shows.

We have some further light on the situation at Springfield just preceding the election, May 26, 1909, and on political conditions then existing and their influence as an impelling cause in that election.

First. The story of the alleged $100,000 fund was exhaustively searched and we shall need to analyze that.

Second. The alleged jack-pot fund and its handling and all the circumstances surrounding and growing out of it were inquired into, and we must examine that testimony and ascertain what relation, if any, all these may have had to the election in question.

Third. The result of the long struggle at Springfield, in the forty-sixth general assembly, and the final vote for United States Senator, including the action of the Democrats in that matter, we will consider, and we will find, I submit, they are most reasonably accounted for on other than corrupt grounds.

I hold that a careful survey of the evidence, and all the surrounding circumstances, will satisfy the faithful, impartial investigator that conditions, political mainly, and personal and local, not the use of money or other improper means, in respect to the senatorial election, brought about the election of Senator LORIMER. I further hold that the moving, actuating causes which led to the final vote and the result of that contest were free from corrupt practices and methods, so far as Senator LORIMER was concerned, or any one authorized by him, or acting with his knowledge or consent, and so far as bringing about his election was accomplished.

Under like conditions as then and there existed, including the absence of corruption in the Senatorial election, the same result would naturally and logically follow to-day. There was no need to purchase votes, and none in fact were purchased for him. There was no payment of money for or because of votes cast for him. It is absurd to claim, because it is believed to be shown that money was paid to and received by certain members of the legislature, at that session, lasting some six months, during which numerous measures were introduced and considered involving liquor interests, railroad interests, the fish industry, division of judicial circuits, patronage, "jobs," reshaping the laws concerning corporations, grafting propositions of various kinds, that such use of money was connected with and had to do with the election of United States Senator, in the absence of reliable, legal evidence to that effect. It does not follow that every joint act of that legislature was illegal and void.

It is still more absurd to hold that after the election money was paid to members who voted for Senator LORIMER, notwithstanding such members had no reason to expect and no cause to claim remuneration for their votes. If money was used or improper practices were resorted to, Senator LORIMER had no part therein, or knowledge thereof, nor does it appear that anyone furnished any money for use in his election. The use of money or the employment of improper practices were not necessary to nor did they contribute to his election. There can be no warrant for the finding that corrupt practices were employed and money was distributed after the election voluntarily by people who if they had it would have kept it and to people who had and asserted no claim on it, and if they had, were helpless to enforce such claim. If this has ever taken place in the history of the world there is no authentic case recorded. It would be contrary to human nature and at war with all human experience. It would be in irreconcilable conflict with the corrupt character of such men as would participate in such a transaction. Honor among thieves never extended that far wherever it may have obtained.

For instance, Holstlaw says he was ready to vote for Mr. LORIMER, had made up his mind to do so, without any inducement whatever having been offered him; he volunteered to Broderick and to others the assurance that he would do so. He

did so vote; Mr. LORIMER was elected. Does anyone believe, if Broderick had any amount of money to use in purchasing votes for LORIMER, that some time after that election he would have voluntarily sent for Holstlaw and freely paid to him any part of the money? Broderick had no need to either promise or pay Holstlaw anything for his vote. There was some real reason for the payment of that money to Holstlaw by Broderick in no wise connected with the senatorial election. It was Holstlaw's money in Broderick's hands, placed there as his share of the proceeds arising from some legislative action, or it may have been the contribution of the liquor interests to his campaign, in which he carried every "wet" county and lost every "dry" county in his district, although he was supposed to be a "dry" man and candidate. It was not money which Broderick could retain in silence if he liked. It may have had to do with binding Holstlaw to some future action or course. It was not likely the self-imposed price of some past action. It was, then, not paid to him because of or in consideration of his vote for Mr. LORIMER. In that case it would have been simply a donation by one in no wise obligated to make it. It would have been such a generous recognition of a favor as the most exaggerated credulity will not credit Broderick with. It does not appear even that it would have been any great favor to Broderick for Holstlaw to vote for Mr. LORIMER. Broderick was not active for Mr. LORIMER. He was not electioneering for him, participating in meetings, soliciting support, or doing other work in his behalf. He was not connected with the activities of the Lorimer forces, and it does not appear that it was a matter of consequence to him whether Mr. LORIMER was elected or not. He does not seem to have been in any confidential relations with the Lorimer leaders at any time or to have cooperated with the forces making for their triumph. So far as the testimony shows, Broderick was no more a friend and supporter of Mr. LORIMER than Holstlaw was at any time, except that the former had known Mr. LORIMER longer. The morning of the election Broderick told Mr. LORIMER that he "would be with" him when Mr. LORIMER told him, "I think I am going to win to-day." Broderick voted for 20 or 30 Democrats in the course of the balloting, and voted for Mr. LORIMER on the last ballot. He said before that he would vote for Mr. LORIMER for Senator, and his reasons (p. 3910) are given in answer to the question:

What was it that induced you to vote for Mr. LORIMER that day?

Answer. Just friendship; that is all; knowing we had no chance to elect our Democratic candidate. If we had, I would not have voted for Mr. LORIMER. I knew there was no chance whatever to elect Stringer. Now, it was between Hopkins and LORIMER, and it was LORIMER for me.

Holtslaw talked with members of the legislature about voting for Mr. LORIMER (pp. 3018, 3085, 3086) and had said:

If I ever had an opportunity I would vote for him for Senator.

Holtslaw further says he—

did not think very much about what Broderick said about the $2,500, because I intended to vote for him anyway, and that did not have any influence whatever with me. (Pp. 3019, 3085, 3086, 3087, 3116.)

Broderick says:

I do not remember that he told me that night (May 25) that he was going to vote for LORIMER. I did not tell him on that occasion that if he did, there would be $2,500 for him. No such conversation ever occurred. (Pp. 3912, 3938, 3939.)

One very peculiar thing is that while, according to Holtslaw, when he told Broderick he thought Mr. LORIMER would be elected and he was going to vote for him the next day, and Broderick had then said, "You are?" and he said, "Yes, sir," that *then* Broderick said, "If you want to vote that way, there is $2,500 for you"; and while he did not consider that a promise or an agreement, even as to the $2,500, why should there be two payments, aggregating $3,200, one in June and the other in August, if those payments had reference to the vote for Mr. LORIMER? Why should Broderick offer to pay Holtslaw to do what he had voluntarily determined to do? That money had no relation to the election of Senator.

If Broderick had the money, or could get it, he would not have promised it after Holstlaw told him he was going to vote as wanted, and he certainly would never have paid more than the sum promised.

Holtslaw has sworn to numerous contradictory statements regarding these transactions; Broderick persistently denied the payment of any money, and produced witnesses who appear to corroborate his version of what took place in his saloon when Holstlaw called, and the worst that can be claimed is that there is still uncovered truth regarding the matter—still mystery about what the payment of money to Holstlaw by Broderick was for—but we can not find it in consideration of Holstlaw's vote for Mr. LORIMER. Under the evidence it is impossible to conclude that if money was paid to Holstlaw, White, Beckemeyer, Luke, Link, Shephard, Blair, or any other member of the legislature, it was paid with Senator LORIMER's knowledge, consent, or subsequent acquiescence, or that of anyone for him or in his behalf. If such money was paid one can not be convinced from the whole evidence that it was consideration for a vote for Mr. LORIMER or that it had any real connection with the election of United States Senator.

THERE WAS NO CORRUPTION FUND.

Diligent inquiry has been made for many months to show money was distributed to members of the legislature, and search has been prosecuted for evidence to establish a connection between such disbursement and the election of Senator.

More or less persuasive proof was gathered tending to show that White, Beckemeyer, Luke, Link, and Holstlaw participated in disbursements of moneys after the legislature adjourned. Suspicion was cast upon Blair and Sheppard; Browne, Wilson, and Broderick, as distributors, were involved. To connect the transactions in which these men engaged with the election of Senator, exhaustive effort was made to show that a fund of $100,000 was raised and improperly used in accomplishing the election of Senator LORIMER. Such a fund, if raised, was not circulated about Springfield. No evidence could be found tending to show that any money was disbursed during the session of the legislature. There was some talk in a general way of corruption immediately before and after the election of Senator, but no witness could be found who could testify to the actual corrupt use of money at that time. If it could be proven that such a fund was raised, and if, later on, money appeared in the hands of supporters of Senator LORIMER under suspicious circumstances not accounted for, the inference might be drawn that he was elected by improper means which not only reflected upon his honor, as well as upon the Legislature of the State of Illinois, but rendered his election illegal. It became important, therefore, to show the first condition of such inference, to wit, that money had been raised to aid in or bring about his election.

This effort culminated and centered around what is designated as the Hines-Funk conversation, which took place in May, 1909, at the Union League Club in Chicago.

Let me say, before taking up that story, that the committee engaged at the outset competent and industrious counsel, learned in the law and energetic in search of facts, and the testimony of every person we could imagine might have had information concerning such a fund, if it had been raised or ever existed, was taken, and no trace of any such fund could be found anywhere. The conception of it originated with Mr. Funk, who advanced the idea to Mr. Kohlsaat by way of pretending to relate to him a conversation with Mr. Hines, had immediately after the election of Senator in May, 1909.

THE FUNK-HINES CONVERSATION.

That conversation is detailed by Mr. Funk at pages 544 and 545 of the proceedings. He says Mr. Hines, with whom his relations were "casual," not "confidential or intimate," came up to him and said, "Hello; you are just the man I was looking for," or "that I wanted to see. I want to see you a moment"; and after taking a seat on a couch in the lounging room on the main floor of the club Hines said, "Well, we put LORIMER over down at Springfield, but it cost us $100,000 to do it," or "about $100,000." He went on to explain that they had to act quickly when the time came, and did not have time to consult anybody, and he said, "So we put up the money. Now we are seeing some of our friends to get the matter fixed up."

Mr. Funk says he inquired how much he was getting from his different friends, and Mr. Hines said, "Well, we can only go to a few big people; but if about 10 of us would put up $10,000 apiece we would clean it up." Mr. Funk asked him why he came to him, and Mr. Hines said, "Because you are as much interested as anybody in having the right kind of a man in Washington." Mr. Funk then told him "We would have nothing to do with the matter * * * because we are not in that kind of business." Further on Mr. Funk says that "before he got through his talk" Mr. Hines said, "Just send the money to Ed Tilden." That was before Mr. Funk told him he would have nothing to do with it (p. 545). No other names were mentioned (p. 546). Mr. Funk was not surprised at such a statement or request. He regarded Mr. Hines as a "loose talker; a man quite inclined to boast of his achievements, quite disposed to be familiar on short acquaintance, and quite anxious for people to think he was a large factor in large matters" (p. 549). Mr. Hines emphatically denies that any such conversation took place, and he is corroborated by the witnesses Carney, Hall, and Baker, who were present and heard most of the conversation.

Two or three days afterwards (p. 550) Mr. Funk told Mr. McCormick and Mr. Randolph, the president and general counsel, respectively, of the International Harvester Co., of that conversation.

Some time after that, possibly a few months, he told Mr. Kohlsaat of this conversation, in strict confidence (p. 552). Mr. Funk was quite sure that occurred in the fall of 1909 (p. 553), then he fixed it after January, 1910. Mr. Kohlsaat was editor of the Record-Herald, which he became (p. 428) January 1, 1910, and Mr. Kohlsaat fixed the time of the conversation with Funk, in May, 1910, about a year after the Funk-Hines talk (p. 431). This conversation was confidential throughout—Mr. Kohlsaat is a stickler as to his word of honor not to violate a confidence, he says (p. 438). Yet he told the story, Funk's name and all, to three people—Mr. Lawson, Mr. Roosevelt, and his wife (p. 440). He told numerous people the whole story (p. 440), omitting names. He finally construed the confidential limitation to apply only to newspaper publication. The editorial of February 15, 1911, was published (p. 438), in which reference is made to "the $100,000 fund that was raised to pay for LORIMER's vote."

In the meantime, Mr. Kohlsaat had secretly communicated with Senators who were acting as judges in the case wherein the testimony had been closed and reported, and he had sat almost within hearing of the witnesses who had given that testimony under oath (p. 601), possessing the information imparted by Funk, without troubling to enlighten the committee or advise anyone looking for testimony at the time, except the counsel for the Tribune, who was acting as prosecutor, having assumed and undertaken on his own application to present the evidence, and who sacredly guarded the information and kept it from the committee.

Funk is positive he mentioned no names but Hines and Tilden to Kohlsaat (p. 598), but the latter says others were mentioned, to wit, Sullivan, Conway, and Weyerhaeuser (p. 436). There is direct conflict, it will be observed, between Funk and Kohlsaat on a number of details.

THE SECOND HINES-FUNK CONVERSATION.

Funk says he had a second conversation with Hines. The date he does not remember (p. 557). About 9 o'clock one morning Hines came to his office and "said he did not want me to misunderstand our talk the *other day*." He further says the first conversation was "shortly after the Senator was elected"—May 26, 1909. "And the next conversation was some time *after the Record-Herald editorial*." This was *February 15, 1911*, 21 months after the first conversation; and then he says Hines referred to "our talk of the other day."

Later on he said this conversation took place after he was introduced to Senator LORIMER in Washington in December, 1909 (p. 559). Yet Hines, he says, on or about February 15, 1911, alludes to a conversation which took place May 26, 1909, as "*our talk the other day*." Mr. Hines conclusively shows that he was not in Chicago between February 7 and March 5, 1911. He was in Washington (p. 864). He is corroborated by records. He denies positively that the alleged second conversation with Funk ever took place as Funk claims, or that there ever was any such conversation (pp. 862, 866, 872). It is plain that Funk attempts to support his testimony regarding the interview of May 27, 1909, by saying Hines called on him afterwards and endeavored to impress on his mind there was nothing improper mentioned in that conversation. Although he says Hines called at his place of business in an excited state and referred to "our conversation" of "the other day," he is unable to produce a single witness, any memoranda, or other evidence to sustain that statement, which is flatly denied by Mr. Hines.

Before the Helm committee April 5, 1911, and before the Senate special committee on June 26, 1911, Funk testified this second conversation took place shortly after the publication of the editorial in the Chicago Record-Herald of February 15, 1911, using the language in one instance as "a few days after the publication of the Record-Herald editorial"; in another instance, when the date of that editorial was stated as February 15, 1911, and he is asked, "When would you say that conversation was held?" he said, "I think it was a short time after that."

It developed by Mr. Hines's testimony, supported and confirmed in numerous ways, that he was not in Chicago from February 7, 1911, to March 5, 1911, and he could not have had any such conversation as stated by Funk.

Before the board of directors of the Union League Club on November 13, 1911, and January 2, 1912, Funk repudiated his sworn testimony before the two committees and fixed another and different date for that second conversation.

First, he now, after it had been clearly shown it could not have taken place at the time he had previously given, places it "*a few months*" after the conversation of May 27, 1909. He moved it back 16 months.

Then he has a "distinct recollection" that Hines's visit was a few days after an editorial in the Record-Herald of January 20, 1911.

He has, in his various accounts of this conversation, given the date of its occurrence all the way from a few days after May 27, 1909, through September and October, 1910; then prior to September, 1910; then a few days before or after February 15, 1911; then on or about January 20, 1911. So we have it, with equal positiveness, at about seven dates scattered over a period of little less than two years. That is the testimony upon which you are urged to condemn this election. Mr. Funk gives seven different dates covering a period of a little less than two years for that conversation.

Mr. Funk's memory is unreliable. Mr. Hines has been fortunate in not having to depend on his own memory entirely. His system of keeping records of his movements and his business files have enabled him to substantiate his version, and we are not left to decide between the given recollection of the two men alone. Mr. Hines has shown by evidence we can not disregard that this alleged second conversation did not take place. This was introduced and relied upon by Funk as giving support to his account of the first conversation, and with the support the whole structure falls.

He said he told Mr. Kohlsaat of the two conversations with Mr. Hines shortly after the second, and before the Burrows committee met in Chicago, which was September 8, 1910. The subject came up casually, and was discussed confidentially. On this point it is interesting to note what Mr. Kohlsaat said:

Mr. KOHLSAAT. I think it was a year ago last May that, on my way to the Chicago Club to lunch one day, I met Mr. Clarence S. Funk, the general manager of the International Harvester Co., on Jackson Boulevard near Wabash Avenue. I had not seen him for some time and we stopped and shook hands, and it was raining slightly, and we stepped into the doorway of the W. W. Kimball Piano Co. I have forgotten just how the conversation started on the Lorimer case, but he used some such expression as that money was used to buy that election; and I said: "How do you know it?" "Well," he says, "I feel very positive it was. I was asked myself for a contribution." I said: "Tell me about it." "Well," he said, "I do not want to get mixed up in this thing at all. I do not want to bring the company into it in any manner, shape, or form, so that I had better not say anything about it." I said: "I won't bring your name into it. You give me the information, and if I use it, I will keep your name absolutely confidential." And under that promise Mr. Funk told me that he had been approached by Edward Hines, who said that they had had a chance the closing days of the legislature to put over Senator LORIMER'S election; that it took $100,000 to do it; that they did not have time to go around and raise the money, so a few of them underwrote it, and they were now around seeing a few people to ask them to partially reimburse them for the money that they had spent to elect LORIMER.

Mr. MARBLE. Did he, in that conversation, say to you that Mr. Hines had mentioned any names of persons interested in that election?

Mr. KOHLSAAT. He told me that Mr. Hines had told him that Edward Tilden was interested in collecting the fund.

Mr. MARBLE. Did he report to you that Mr. Hines had mentioned any other names than Mr. Tilden?

Mr. KOHLSAAT. I do not know whether he said that Mr. Hines had told him some names or not. There were some names used at the time, but I never have given them out, because I do not want to bring anybody into disrepute unless there is some occasion for it.

The other names mentioned were Roger Sullivan, E. S. Conway, and "one of the Weyerhaeusers" (p. 436).

The editorial of February 15, 1911 (p. 438), was based on that conversation.

He told three people the story, giving Funk's name (p. 439), which he had promised not to do. These included Mr. Lawson, of the Daily News, "and it influenced his editorial policy during the entire period of the LORIMER investigation" (p. 440), and Theodore Roosevelt, who was then on his way to the Cheyenne celebration, about August 15 or 17, 1910, and who "stayed in Chicago about an hour and a half"—between trains—and he and Mr. Kohlsaat "took a drive through the parks" (p. 441).

Regarding Mr. Funk, Mr. Kohlsaat said their relations were not confidential or intimate; that he had known Mr. Funk five or six years; met him casually at times (p. 433). "I have not known him intimately. We do not mingle in the same circles in life. He is a much younger man than I. He is connected with a manufacturing company and my work is newspaper work. I go to the Chicago Club and have a great many friends there, and he does not belong to the Chicago Club," testified Mr. Kohlsaat.

He told the Funk story to many other people (p. 444), including Mr. Keeley, of the Tribune (p. 445).

Senator GAMBLE. And Mr. Keeley, during practically the entire progress of the investigation in Chicago, was there present with the attorney of the Chicago Tribune, and at that time, you say, he had this information, without the name?

Mr. KOHLSAAT. Yes.

Senator KENYON. And many others had?

Mr. KOHLSAAT. Yes.

Senator KENYON. Was it a matter of general talk around Chicago about the time the investigating committee were there?

Mr. KOHLSAAT. I do not think so. I did not hear it discussed.

Senator GAMBLE. As a member of the committee, I may say that it never came to my knowledge, and never was suggested to me by any member of the committee.

Mr. MARBLE. I think it is not suggested in the old record by any person whatever.

Senator GAMBLE. Not at all

Mr. HANECY. I know it is not.

Senator LEA. Mr. Keeley had no information that he could have imparted without placing you in an embarrassing position before the committee?

Mr. KOHLSAAT. He could not possibly give it out. It would have been a very great breach to bring the name of my friend in.

Senator JONES. You talked freely, I understood, about this matter, except that you did not disclose the name?

Mr. KOHLSAAT. Yes.

* * * * * * *

Senator GAMBLE. First, I will put it supposing that you were not an editor, and I made such disclosures to you. Are we not in a position, both of us, of protecting criminals? And is there any obligation in morals or in ethics requiring that you should protect me in that, and deny the public information that they ought to have? I will dissociate you from the editorship in that question.

Mr. KOHLSAAT. I do not see how I can dissociate myself from the editorship, because this came to me as the editor of a newspaper.

Senator GAMBLE. Suppose I make the same disclosure to Senator Jones, for instance.

The CHAIRMAN. You did not use that as an editor when you were sitting around the table in the club and giving out the information?

Mr. KOHLSAAT. Let me make it clear on that. I was not bound to any secrecy on the subject matter of the hundred thousand dollars; but I was bound to secrecy as to the name of my informant.

Then, why did he not tell the Burroughs committee about the hundred thousand dollars? That was not a confidential matter.

If I had been bound to secrecy on the entire information, it would have been absolutely valueless to me as the editor of a newspaper.

The CHAIRMAN. And the information you had was pure hearsay, was it not?

Mr. KOHLSAAT. Mr. Funk told me.

The CHAIRMAN. Yes; it was pure hearsay, as to the fact.

Mr. KOHLSAAT. Absolutely.

The CHAIRMAN. And yet you were sending out that fact, not only to Members of the United States Senate, but around the club, that it was the fact?

Mr. KOHLSAAT. Yes.

What an admission—what a spectacle—going about making the most damaging statements as facts, as matters within his knowledge, when he knew it was only hearsay and that of doubtful character! Messrs. Funk, Kohlsaat, Lawson, and Keeley all had the information Funk claimed to have derived from Hines when the first committee was investigating this matter in Chicago, September, 1910, and none of them furnished it or suggested how it might be had to any member of that committee. This indicates they doubted if there was real foundation for the story, or it is a serious indictment of their good faith.

INFORMATION KEPT SECRET, BUT FOSTERS CONSPIRACY.

After the testimony closed and after the reports were filed and while debate was on, this editorial was published and was followed by correspondence with Senators, as detailed. Referring to this, the record shows (p. 442):

Senator FLETCHER. You mentioned the amount of the fund, did you, not only that he was asked to contribute $10,000, but the amount of the fund?

Mr. KOHLSAAT. The $100,000?

Senator FLETCHER. Yes.

Mr. KOHLSAAT. Yes, sir.

Senator JOHNSTON. Did you confer with Mr. Funk after hearing from Senator ROOT and Senator LA FOLLETTE as to whether you could disclose the information?

Mr. KOHLSAAT. I telephoned Mr. Funk. That was the question, I think, that this gentleman asked here just a moment ago, about my asking if I had seen Mr. Funk again, and asked for a release. When I received this letter from Senator ROOT—the Senator wrote me a forceful letter—and he said:

"As you have read my speech, you will probably see that I have based a good deal of the reliability on your letter"—

Or words to that effect.

"Now, if you can get your friend to come down here and tell that conversation, it will have a great effect on this case."

At that same time I had telegrams from Senator LA FOLLETTE, who was trying to press me to give up the name of my informant on that editorial, and I sent him wires that I could not, that I was duty bound not to do it.

And I sent for Mr. Funk, telephoned him, and he came over to my office, and I showed him the telegrams and the letters, and I said, "You are the only man in the United States that can settle this question." He said, "Well, I do not see how I can do that. In the first place, it is simply my word against Hines, and it did not come to me as a private individual. It came to me as an officer and employee of this company, and I have no right to bring the company into this sort of publicity, and it would be very injurious to me to do it. If I were the only one concerned, I would not hesitate a second; but I do not feel that I have a right to do the other." I said, "All right, sir; my confidence is still good. I will not give them the names."

And I wrote Senator ROOT to that effect and telegraphed Senator LA FOLLETTE.

Here is a man giving this hearsay secretly, covertly, so it could not be met or answered in any way, to Senators who are passing judgment upon the case—giving it not merely as hearsay, but backing it up with his own assertion that it was true that $100,000 had been raised with which to elect LORIMER.

So we have Mr. Kohlsaat peddling this heresay, supporting it with his personal opinion that Funk had told the truth, and Hines had told him what he said and that was true—violating confidence which he avowed was a thing as sacred as a confession to a priest—withholding it from a committee then in search of the facts and putting it out in a covert way after the committee had made its report, but always when it could not be answered by those concerned, all the while posing as a guide in public morals and defender of the public good. Asked to account for this conduct he replies by boasting of his close relations with Presidents and on some occasion having been the trusted guardian of state secrets of great international importance!

The methods of the assassin of character are here matched with the disposition of the snob. The obsequious regulator of public affairs struts the stage along with the fawning sycophant in the presence of dignitaries. The result was the Tribune broke loose afresh. The News echoed its "editorial policy" in condemnation of the election. The Record-Herald joined in the chase, yelping corruption, pretending to have found a fresh scent, and although the leader, the Tribune, was not approved, it followed and encouraged the pack in the effort to "drive LORIMER out of politics in Illinois."

The Honeythunder press takes up the cry and dins in the ears of the public through the deep bass of the metropolitan journal, the cracked soprano of the less pretentious dailies, and the sharp, rasping tenor of the weekly, all in full cry, bent on the destruction of LORIMER.

The public is told that a dangerous man, a menace to society, pulling down the institutions of the country, is wielding power, and must be suppressed and disposed of.

To be specific, he has purchased a seat in that body which has to do with making laws for the people, and which some have designated the "Rich Man's Club." It is necessary to unseat this impossible man and protect the Government. How did he buy it? From the Legislature of Illinois. The people of Illinois elected to the legislature a lot of bribe takers to represent them. They sold their votes even as was done in the comitia just preceding the downfall of the Roman Republic, and this rich and powerful and wicked man bought or caused to be bought, or is the beneficiary of the purchase of the votes of the representatives of the people of that State.

So persistent and loud and far-reaching was this chorus of calumny that public opinion was manufactured, aroused, and directed to the extent, it is boldly proclaimed by those who began the crusade, that no man dare stand for sober, common justice to LORIMER. They boast that the men whose consciences and judgments required them to square their action with the truth, rather than with the spasm of prejudice and the terror of misguided clamor, have been driven from public life. They brazenly threaten that the popular will which they have created will expel from office every man who dares to act in this matter in accordance with the advice of Wolsey to Cromwell—

> Be just and fear not;
> Let all the end thou aims't at be thy country's,
> Thy God's and Truth's!

Why this poisoning of the public mind—this lashing into a frenzy the thought of the people? The humble, struggling Tribune—with its $10,000,000 of assets—must protect the plain people who are about to be despoiled against this "boss," because forsooth Funk confided to Kohlsaat that Hines told him that $100,000 had been used to elect LORIMER, and having once said the horse was 15 feet high, Funk must stick to it.

Funk did not give the conversation correctly and never expected to hear from it again:

Mr. HYNES. When you related this matter to Mr. Kohlsaat, did you repose the confidence in him as a personal friend?

Mr. FUNK. Yes.

Mr. HYNES. You do not remember, do you, whether he was editing a newspaper at the time or not?

Mr. FUNK. Why, I think he was.

Mr. HYNES. Was it as an editor or as an individual personal friend that you gave that matter to him?

Mr. FUNK. I talked to him as a friend, not as a newspaper man.

Mr. HYNES. Did you expect him to use it in the press?

Mr. FUNK. No, sir.

Mr. HYNES. Did you expect him to tell it to anybody?

Mr. FUNK. No, sir.

Mr. HYNES. Did not you confine your injunction to him to keep it confidential simply to the suppression of your name?

Mr. FUNK. I regarded the whole matter as confidential.

So you have Funk and Kohlsaat at cross purposes regarding that conversation:

Mr. HYNES. Both the name of Mr. Hines——

Mr. FUNK. Yes, sir.

Mr. HYNES. And Mr. Tilden—oh, you do not remember mentioning Mr. Tilden's name?

Mr. FUNK. I do not think I did. I regarded the whole communication as confidential.

Mr. HYNES. Did you know that he was telling it around in the clubs?

Mr. FUNK. No, sir.

This is Funk telling about that conversation with Kohlsaat, and he does not remember the whole conversation as Mr. Kohlsaat gives it, either:

Mr. HYNES. Do you remember how the names of Roger Sullivan and Mr. Conway and Mr. Weyerhaeuser got into conversation between you and Mr. Kohlsaat?

Mr. FUNK. No; I do not. There was not anything to my knowledge that would justify the bringing of those names into conversation, and I do not recall they were brought in. I have read Mr. Kohlsaat's evidence as it appeared in the paper.

Mr. HYNES. He says that you brought it in.

Mr. FUNK. I think he has confused me with some one else in that gossip.

Gossip! That is just what it was—gossip. And upon gossip the Senate of the United States proceeds here with a special committee for months and months, at enormous expense, to open up a case once decided by it! And that gossip is in dispute between the men who engaged in it.

Senator GAMBLE. As I understand, you have no recollection of the names of Mr. Sullivan and Mr. Weyerhaeuser and Mr. Conway being mentioned as between you and Mr. Kohlsaat respecting the suggestion or otherwise?

Mr. FUNK. No; I have not. It is my best recollection that those names were not mentioned in my conversation. I think there were some other conversations.

So while Kohlsaat communicates these matters as of his personal knowledge to Senators, and then about the club, and bases his action upon them, Funk says he did not tell to Kohlsaat the things Kohlsaat says he did. Kohlsaat says he mentioned the names of these other men, and Funk absolutely denies it.

It is singular that Messrs. Tilden, Sullivan, and Conway never heard of any money being raised or contributed. If Hines was collecting funds to reimburse them or those who furnished money in the election, was it not peculiar that he stopped with Funk? Hines's talk with Funk terminated pleasantly—why did not he approach these other men or some other man on the subject? He only proposed to have Funk contribute a portion, and he was to see some nine others, according to Funk, and get the remainder. Hines's efforts seem to have ended with Funk. *Not one of the other nine ever heard of the matter.* Yet there was nothing to warn or caution him in what Funk said.

The whole story is absurd. Hines had a bare acquaintance with Funk, and no one can fail to give him credit for having more sense than to solicit a contribution to a corruption fund from him, under the circumstances and conditions as they existed. Funk was as positive that Hines was active down at Springfield as he is about the substance of that conversation, but the fact is Hines had not been in Springfield for three years before or two years after the election of Senator in 1909 (pp. 544, 595).

EFFORTS TO FIND THE FUND AND THE RESULT.

It was sought to locate the source of some such fund, and at great expense expert accountants were employed to thoroughly investigate the books of all parties who might have been connected with it if any ever existed.

I need only refer to the report of the experts, as follows:

To further determine the question whether Mr. Hines had been a contributor to or had any part in it, and whether Mr. Tilden had received or disbursed the same, the committee employed the firm of Barrow, Wade, Guthrie & Co., certified public accountants, of New York. Mr. Ritchie, of that firm, made an examination of the accounts of the Edward Hines Lumber Co. and all its subsidiary branches and of the companies controlled by it, including the North Wisconsin Lumber & Manufacturing Co.; Hayward Mercantile Co.; First National Bank, Hayward, Wis.; Mason State Bank, Mason; White River Lumber Co.; Iron River Lumber Co.; Virginia & Rainy Lake Co., covering the period from April 1, 1909, to December 31, 1909, as well as the personal books of Edward Hines for the year ending December 31, 1909, and reported to the committee as follows:

"(*a*) That there was no evidence of the Edward Hines Lumber Co. or any of its subsidiary or controlled companies having received or disbursed any moneys in connection with the election of Mr. WILLIAM LORIMER, on May 26, 1909, to the United States Senate from the State of Illinois.

"(*b*) That there was no evidence of Mr. Edward Hines as an individual having received or disbursed any moneys in connection with the aforesaid election.

"In order to ascertain whether or not Mr. Hines might have negotiated a loan from one or other of the banks in Chicago with which he was connected, or with which he had business relations, I visited the following banks and trust companies: Continental National Bank, Hibernian Banking Association, Fort Dearborn National Bank, Northern Trust Co., Corn Exchange National Bank, Metropolitan Trust & Savings Bank.

"At each of these banks I examined their record of notes discounted during the last week in May, 1909, and the first part of June, 1909.

"I am able to report, therefore, that at none of these banks, in the period under review, did Mr. Hines discount any note or notes, either as drawer or as indorser."

An examination was also made of the books of Mr. Edward Tilden, and after reciting the method of the same and the theory upon which it was conducted, Mr. Ritchie reported to the committee that—

"There was no evidence that Mr. Tilden had been custodian of the fund, alleged to have been raised in connection with the election of Mr. WILLIAM LORIMER to the United States Senate from the State of Illinois. (6233.)"

WILLIAM M. BURGESS—HIS TESTIMONY FALSE.

The Funk story is sought to be reenforced by the testimony of William M. Burgess, a resident of Duluth, who testified to the effect that he boarded a train from Duluth to Virginia City, 73 miles, 10 minutes before it started, about 7.10 o'clock p. m., March 8, 1911, and in the smoking room of the Pullman had a conversation with C. F. Wiehe, the brother-in-law of Edward Hines, and secretary of the Hines Lumber Co., about an hour after the train left Duluth. In this compartment at various times during the trip were Messrs. Johnson, Cusson, F. J. Weyerhaeuser, Harper, and R. Weyerhaeuser, and a gentleman from Canada (pp. 1334 and 1335).

At the time of the conversation he says Wiehe, sitting on the leather seat running crosswise the car, in the corner next to the aisle, and the young Canadian, on the same seat next to the window, and himself, in a chair "crosswise" from Wiehe (p. 1335), 3 or 4 feet away, were in the compartment.

As Mr. John Weyerhaeuser left the compartment, Burgess inquired of Wiehe who he was, and he does not "remember how the conversation drifted over onto LORIMER's election," but Wiehe said that LORIMER had not spent any of his own money for his election, but, he stated, "there was, as he called it, a jack pot raised for Mr. LORIMER's election. I know what I am talking about, because I subscribed $10,000 to it myself" (p. 1336). "He said there was a jack pot of $100,000" (p. 1337). The conversation lasted probably 20 minutes.

At another time, on cross-examination, the witness said "Mr. Weyerhaeuser sat in the corner and Mr. Wiehe next to him"; then came John Weyerhaeuser, and then the Canadian (p. 1350). Johnson sat opposite the Canadian in a chair. Cusson sat forward of Burgess, next the entrance (p. 1351).

Rudolph Weyerhaeuser and Mr. Harper came in "and stood up against the washbowls" (p. 1351) about 10 minutes. Cusson was there about three-quarters of an hour—"followed me [Burgess] in" (p. 1352). John Weyerhaeuser was there when Burgess entered (p. 1354); Johnson was in the corner. Thinks the man from Canada was there also. All left but himself, Wiehe, and the Canadian, John Weyerhaeuser leaving last (p. 1335).

BURGESS CONTRADICTED BY ALL THE WITNESSES.

B. A. Johnson was in the smoking compartment until after Wiehe left (pp. 1523, 1534, and 1543), and he swears positively no such conversation as Burgess testified to occurred while he was there; that nothing was said about the Lorimer election; that the name of Father Greene was not mentioned (p. 1524).

John B. Price, of Seattle, came into the smoker 10 or 15 minutes after leaving Duluth, and there were in the smoker then McGowan, Johnson, and Burgess (p. 1559).

He was there all the while until after Wiehe left, except for a space of a minute or two, when he went into the body of the car to see about his grip (p. 1551), and so forth.

He is equally positive that nothing was said about Father Greene (p. 1553) and nothing was said about the election of Mr. LORIMER (pp. 1553, 1583).

No attempt was made to impeach these disinterested witnesses.

Charles McGowan testified, as did Price and Johnson, and he was in the smoking compartment every minute from Duluth to Virginia City.

S. J. Cusson (pp. 1606, 1607) went into the compartment about 20 minutes after leaving Duluth, and remained in it until Virginia was announced. He says Johnson never left until after Wiehe did, and that nothing was said about the election of LORIMER (pp. 1606, 1607, 1604).

Here are four witnesses, beside Mr. Wiehe, who flatly contradict Burgess. Mr. Wiehe swears he made no contribution to any LORIMER corruption fund (p. 1675), and had no conversation with Burgess in respect to Mr. LORIMER's election (pp. 1643, 1760).

Aside from the improbability of such an occurrence and Mr. Wiehe's emphatic denial, the testimony of the occupants of the smoker leave no room for doubt that the Burgess story is a mendacious fabrication out of the whole cloth.

W. H. COOK—HIS TESTIMONY WORTHLESS.

Burgess and Wirt H. Cook were good friends and joint conspirators. The latter was prompted by personal enmity toward Edward Hines, and his bearing on the witness stand, manner of testifying, and general appearance confirm the only reasonable conclusion that he was desirous of injuring Mr. Hines, and he maliciously invented the telephone conversation which he says took place in his room at the Grand Pacific Hotel, May 26, 1909.

Mr. Hines's account of that conversation is borne out by his records, his relations to the whole matter, all the circumstances

surrounding it, and by the testimony, too, of the others then present, Messrs. Baker, O'Brien, and Wiehe.

No fair-minded, reasonable person can find any place to stand in defense of Cooks' extraordinary illusions about that conversation. It is difficult to see how any extension of charity can relieve him from the guilt of deliberate, willful exaggeration and false swearing.

Funk, Burgess, and Cook, sons of Belial, relied on to establish the corruption fund, have made a miserable, discreditable failure. Each of them stands alone in his specialty. Each, unsupported by any sort of corroboration, testified to conversations which, it so happens, from three to four witnesses in each instance testified never occurred. They undertook to rear structures on the sand of their own imagination or malicious, vindictive falsehood, which crumbled away under the test of truth. What a spectacle in civilized society, that the good name of reputable citizens can be smirched, the reputation of a faithful public official can be well-nigh wrecked, and he financially impoverished, disgrace heaped upon him, the fame of a great State blackened and her people and representatives humiliated by such flimsy, false, and dastardly concocted stories as these three severally related. In each instance there were witnesses present no one of whom corroborated the story given by either Funk, Burgess, or Cook; but, to the contrary, every witness on each occasion contradicted these star performers. There was no such fund raised or contemplated, and therefore there could have been no discussion of it.

What a colossal top was started spinning on that feeble support, and what a deserved and dismal collapse followed its unbalancing!

UNREASONABLE TO ATTACH CORRUPT MOTIVES TO HINES'S ACTIVITIES.

The contention is Edward Hines was sent on a special mission by those looking out for "special interests" to do more than carry a message to LORIMER. The latter already knew the President and leading regular or stand-pat Republicans were favorable to his election. The promoters of privilege, it is claimed, whom Hines represented, were rushing him to Springfield because LORIMER'S vote was needed in the Senate—according to the argument made by the Senator from Indiana.

This is not unlike most of the leaps and bounds logic is made to take by those supporting this resolution, and involves violent assumptions frequently resorted to in the effort to make plausible a conclusion reached in advance of the argument.

The Republican majority in the Senate was ample at all times and on every schedule to write the tariff law as it saw fit. There never was a time when the stand-pat Republicans needed Mr. LORIMER'S vote. His vote was of greater consequence in the House he was then a Member of than in the Senate. The record will show that the Payne-Aldrich Tariff Act had a larger majority in the Senate than it had in the House on the final vote agreeing to the conference report. There was a margin of only 12 votes in the House. The alleged "special interests," the "powers of privilege," if they needed Mr. LORIMER, needed him most where he was.

Here is the way the record stands on the Payne-Aldrich bill, Sixty-first Congress, first session:

April 9, 1909. Passed House, 217 yeas and 161 nays; 9 did not vote. (CONGRESSIONAL RECORD, p. 1301.)
July 8, 1909. Passed Senate, 45 yeas and 34 nays; 13 did not vote. (CONGRESSIONAL RECORD, p. 4316.)
July 31, 1909. House agrees to conference report, 195 yeas and 183 nays; 10 did not vote. (CONGRESSIONAL RECORD, p. 4755.)
August 5, 1909. Senate agrees to conference report, 47 yeas and 31 nays; 14 did not vote. (CONGRESSIONAL RECORD, p. 4949.)

IF VOTES WERE PURCHASABLE, WHY NOT BUY THEM FOR HOPKINS?

On the other hand, the contention proceeds upon the assumption that Hopkins was not satisfactory to "big business," "special privilege," "preferred interests," and the like. The fallacy of the suggestion that Hopkins was not a regular of the regulars and a standpatter of the standpats is overthrown by his entire past public record. Why should the powers in Washington, if Hines was the representative claimed, on the mission asserted, chosen to carry out their will, concern themselves in the selection of a Senator other than Hopkins? Surely, they could not improve on him. If a simon-pure, regular Republican—regular in all his connections and convictions—was needed, why should not Hopkins, the nominee at the primary, as well as a pronounced and unquestioned high protectionist, be the object of the "interests'" solicitude and assistance?

He filled all demands of the character indicated, and possessed the added strength of being the primary choice and already in the Senate when the legislature met.

If it be said he was not popular with the Democrats, I grant it; indeed, I will say he was most unpopular with them. He was abhorrent to many of them. I will admit this was not the case with Mr. LORIMER.

If by this you mean it would have been difficult to get Democrats to vote for Hopkins, I agree again, but you have proceeded upon the idea that this was a matter of dollars and cents, and if so, sentiment played an insignificant part. In that situation, if votes were to be purchased, why not buy them for Hopkins?

If you say Democrats could have been bought for LORIMER, but not for Hopkins, I reply that my mind does not grasp the premise that only the Democrats in that legislature were vile. I decline to follow you into the position that Democrats were purchasable, but the Republicans were incorruptible.

There were enough Republicans in that legislature to elect Hopkins and have 50 to spare.

If Hines was the boodle carrier and the money changer for the "special interests," bent on the corrupt election of a Senator of the high-protection, stand-pat variety, instead of buying Democrats to vote for LORIMER, his business sagacity stood him in miserable stead, and the judgment of his advisers was weaker than it is reputed to have been, when he overlooked the bargain counter of 7 Republicans needed to elect Hopkins, or 7 Democrats for that matter. Hopkins received 95 votes and only needed 7 more. I will not admit—I can not follow in my mind the reasoning which prompts the inference that Democrats were purchasable, but Republicans were not, any more than I can the suggestion that LORIMER was a good Republican in the estimation of the regulars of that party, but Hopkins was not. Nor can I quite grasp the idea raised that Hines, as special representatives of "special interests," was dispatched to Springfield to corrupt the legislature and bring about LORIMER'S election by the use of money, and yet was so derelict in performing that mission as to stop in Chicago, while the legislature, ready to be corrupted, pulled off the election in his absence. Such thoughtless, careless conduct when Hines was known to be within six hours and on his way, and hungry Democrats had waited for months for money bags to appear, scarcely comports with the reputation given them.

What was shrewd, wide-awake Lee O'Neil Browne thinking of? What negligence for Browne and Tippit to deliver the goods—53 Democratic votes—without seeing the money. In all seriousness I ask, What interest could have been subserved by LORIMER'S election that would not have been subserved by the election of Hopkins?

What was the occasion for pouring in money to elect LORIMER?

The fact that Democrats voted for LORIMER rather evidences the absence of any purchasing of votes than otherwise.

It was conceded that the Democrats had no prospect or hope of electing a Democrat. Elected to the house were, Republicans 89, Democrats 64; to the senate, Republicans 38, Democrats 13; total, on joint ballot, Republicans 127, Democrats 77. A member of the house died in January and a member of the senate was absent on the ninety-fifth ballot, when 202 were present and voting and Mr. LORIMER received 108 votes. The view of the Democrats was that it was good politics to widen the breach in the Republican ranks, and make choice among Republicans of one with whom many were on terms of personal friendship as against a stalwart, bitter partisan whom the strongest of their number cordially disliked. The result was Democratic gains throughout the State in the elections that followed, thus vindicating their judgment.

INSULT TO MR. LORIMER ADVERTISED TO HIS INJURY.

And so the whole fabric of alleged new evidence tumbles. On it was built the attack of the newspapers, as before stated. On it was based the action of Theodore Roosevelt, a spectacular figure in public life then as now refusing, and publishing to the world his refusal, to sit at dinner given by the Hamilton Club in Chicago with Senator LORIMER, one of its members. Mr. Kohlsaat brought about that by repeating the gossip from Funk to the exemplar of purity in politics and high ideals in Government and good manners in society (p. 477). He could enjoy a luncheon with Booker Washington at the White House, but could not afford to dine in the same room with Mr. LORIMER, a member of the club of which he was a guest. He could not countenance sitting "at meat with publicans and sinners." This insult was grist to the mill of the Tribune, the News, and the Record-Herald, and was published from one end of the country to the other. The headquarters of morality did not know then and has not since taken the trouble to become acquainted with the facts; he depended on the hearsay information furnished by his friend Kohlsaat, setting forth the false allegation that $100,000 had been raised and used to elect Mr. LORIMER. The damning of a respectable citizen, the head of a "beautiful family," as Kohlsaat states, the representative of a State in high office, was a welcome thing if it gave opportunity to attitudinize as the standard of honor and righteousness and the paragon of civic virtue. He is the man aspiring for the highest

honors of the country who, on his flamboyant arrival in Chicago on the 15th of last month, engaged in frantic efforts to nominate himself for a third term, made a speech in which he denounced his opponents on the Republican national committee as "tolerating robbery" and being guilty of "brazen theft," and defined the issue as "a fight between the rank and file plain people and corrupt politicians and thieves." You would have thought there was bound to be enough slaughtering to satisfy the blood lust of the most fiery Democrat, but it turned out there was not enough gore letting to supply the exigencies of a French duel. Some of these traducers and defamers would do well to study Mr. LORIMER'S life and strive to approach, as he can, the ideals of Kipling—

If you can talk with crowds and keep your virtue,
If you can walk with kings nor lose the common touch;
If neither foes nor loving friends can hurt you,
If all men count with you, but none too much;
If you can fill the unforgiving minute
With sixty seconds' worth of distance run;
Yours is the earth, and everything that's in it,
And, which is more, you'll be a man, my son.

WILLIAM LORIMER THE MAN.

Who is this wicked man assailed in public print and on platform as one who profits by the shame and disgrace of a State, as the beneficiary of corruption in its legislature, the conscienceless machine boss, at once the high priest of special privilege and the ruler of the dive keepers, ward heelers, and political parasites? Everyone here knows this picture is libellous.

He is no stranger in Illinois, where he grew to manhood, hampered by a grinding poverty and crushing responsibilities, beginning with his childhood; unable to enjoy a day's attendance in the public schools he toiled early and late, doing what he best could to help provide for a widowed mother and younger children, never faltering in his devotion to them, and always, as he grew to manhood, conducting himself in an upright, honorable manner. He was sober, industrious, moral, and faithful in every undertaking. These qualities became fixed in the man. They were not merely spasmodic, occasional, or emotional. They became habits of life. The practice of truth and honor was not a mere sentiment, but became a rule of conduct. His energy and abilities and character thus formed won for him influence and place in local affairs and then in the broader governmental fields.

They say he is a "boss" and "undesirable." The distinction between a "boss" and a "leader" is sometimes confused. Whether the leader of a "bolt" is a leader of the people or a "boss" in the real sense may give some trouble to determine. The methods of Mr. LORIMER appear to have been that instead of answering in the newspapers the charges and criticisms hurled against him he calls the people together and personally and directly and frankly lays the whole question before them. He openly takes the people into his full and unrestricted confidence. Instead of conniving and conspiring with a selected few job hunters in some dark room and secretly forming plans and schemes to trick and deceive the people, or colluding with a few powerful and influential men who wish to control political affairs in their own way, assuming that they know what is best for the people, so many of whom they hold are too ignorant and so many of whom they regard as too lacking in honor and principle as well as in intelligence and patriotism to be trusted, he spurns such a course and assembles the people en masse and discusses fully the questions involved and submits to them the procedure desired.

WILLIAM LORIMER, THE OFFICIAL.

Since 1894, when he was first elected to Congress, he has moved in and out these premises, attending to his duties in his *quiet*, unassuming, democratic way. Reelected six times from a normally Democratic district, proving his efficiency, he has taken his cause on every occasion straight to the people of his district, and refused to bow the knee to the domination of influences dictated by violently antagonistic newspapers.

This refusal is unforgivable. The even tenor of his way did not suit powerful forces in his own party, which sought that control in public affairs they could not obtain without making way with him.

Let his open, avowed enemies speak. "The Tribune has always opposed Senator LORIMER" * * * (1897)—its policy has been "to drive WILLIAM LORIMER out of politics in Chicago and Illinois," says, on his oath, Mr. Keeley, its general manager and editor (p. 2053). Mr. Keeley was perfectly frank and unambiguous in his statements to the committee. Mr. Kohlsaat swore he had opposed Mr. LORIMER for 20 years (p. 428). Two days after his election, May 28, 1909, the Tribune said, editorially (p. 1880):

The Illinois Senatorial contest is over, and the result needs no extended discussion. The Tribune can not approve it, but without regard to the personality of the new Senator elect.

* * * * * * *

That he has been elected largely by Democratic votes does not in itself disturb the Tribune.

That seems to be about the only thing that is disturbing certain Members of the Senate. It did not disturb the Tribune the day after the election.

That he has been elected largely by Democratic votes does not in itself disturb the Tribune. The Tribune will usually welcome the support of Democratic votes for Republican candidates, whether voting for Republican Senator or a Republican President. The discontent of this paper relates to the Republican legislators and Republican leaders who have seen fit to ignore the results of a primary that ought fairly and justly to have been held binding.

That was the gravamen of the complaint. There was no charge of corruption, purchase of votes, or selling out of Democrats. The Tribune said the day after the election that the Republicans ought to have stood by the primary choice. That was its criticism.

The forty-sixth general assembly, it may be remarked in this connection, has been exceptionally fertile in mistakes, and it would be well if its members should devote the two remaining days of this demoralized session to the enactment of some of the meritorious measures that have thus far escaped the legislative wastebasket. This suggestion is especially worthy of the prompt consideration of those leaders who have proved their control of the operations of the assembly so conclusively in the election of Mr. LORIMER.

Respecting the new Senator elect, the Tribune hardly will be accused of undue favoritism. It has been aggressive and thoroughgoing in its opposition to him at many points of his career. At the same time it recognizes his many merits. No one questions his ability. In many respects he is an able, efficient Congressman. What the Tribune wishes to see him become is more of a statesman and less of a boss politician.

That is the editorial of the Tribune the day after that election.

Nearly a year passed by before the Tribune's opportunity came, in the shape of the White story, to reassert its old-time enmity.

Mr. Kohlsaat said regarding Mr. LORIMER, "From all I know, as I said before, his home life, his family life, is ideal. He has a beautiful family of children, which he has raised splendidly" (p. 429).

It is somewhat difficult to reconcile this estimate of a man—by his enemies—with a charge that he has purchased a seat in the United States Senate.

It ought to count for something that a man's private life is absolutely clean, his habits in the highest degree commendable, his associations without possible criticism, his truthfulness and honesty unquestioned, his ability recognized, his home brought in close relation with his church affiliations—the type of the God-fearing citizen.

The testimony of political adversaries is illustrated by that of Mr. Lawrence B. Stringer, the Democratic candidate for governor in 1904, and the Democratic primary nominee for United States Senator in 1908, and who was present in Springfield as the Democratic candidate during the contest of 1909, who told this committee—and this man's statement of a fact is conclusive, to my mind—that he had never heard Mr. LORIMER'S honesty and integrity as a man questioned, but, on the contrary, had heard it spoken of very highly, and "that when he made a promise you could rely upon it" (p. 2327). I need not refer to the evidence of friends on that point. Now, what I wish to emphasize is: I am not one of those who believe that a man may rob and steal until he arrives at his deathbed and immediately before dissolution profess religion and thereby secure for his soul the same situation as if he had lived a correct life. Nor, on the other hand, do I believe a man who has grown to past middle life developing and building a good character, quickening his sense of honor, intensifying his hatred of wrong, and exalting his hopes for humankind, will turn to bribing legislators or authorizing or consenting to such bribery or accepting or holding what may be produced thereby. To a man whose *character* is sound, whose habits of thought and feeling are well formed, the judgment of the hereafter is of more consequence than any prize the State or Nation can offer. *Character* is said to be "the one indestructible material in destiny's fierce crucible."

I feel convinced that WILLIAM LORIMER would not stoop to the vulgar, disreputable business of purchasing votes, the debauching of a legislature, nor would he permit such a thing in his behalf, nor would he accept the alleged benefits of such corruption, and if, afterwards, it was shown, *or he believed*, an office had come to him tainted, even without his knowledge, by such villainy, he would surrender it the instant that situation arose.

WE CAN NOT CONSIDER WHETHER OUR POSITION IS THE POPULAR ONE.

I realize the view I am compelled to take in this matter is not the popular one, and no one believes more fully in the correctness and soundness of the judgment of all the people than I do, when they know the facts. In this case they could not read and study this testimony of over 8,000 pages. They have been

misinformed by glaring headlines and prejudiced and unenlightened expressions in the newspapers.

I realize that some of these have repeatedly warned Senators that if they voted in favor of Mr. LORIMER holding his seat as a Senator from the Commonwealth of Illinois, to which the legislature of the State, in the regular manner prescribed by law, elected him, they would be retired to private life. Threats have been made of dire consequences, but I apprehend no Senator will be diverted from a conscientious discharge of his duty by methods of that kind. They have gone so far as to claim that a number of Senators have already been defeated by reason of their votes in this case on March 3, 1910, and give names, the fact not stated being some of them have died, others were not candidates, and others were succeeded by new Senators by reason of a change in the party majority in the legislatures of their States, and they forget to mention the numerous changes of like character which have taken place among those who voted *for* the resolution to declare the election invalid.

It would be worse than base to consider such motives as would be prompted by these suggestions. As late as June 10, scarcely a month ago, one of these newspapers published an editorial, mentioned by the Senator from North Dakota [Mr. MCCUMBER] on Saturday, entitled "Going down with LORIMER," and concluded it with "How many other United States Senators will sign their political death warrants on July 6 next?"

The Senator from North Dakota was sent this clipping, showing it had reached his State, and it contained the statement that in the senatorial race in Iowa Senator KENYON, who is against Mr. LORIMER, had won largely over his opponent, who, the inference was, favored Mr. LORIMER, whereas the fact is that opponent, Mr. Young, voted against Mr. LORIMER on the former hearing. They were not on opposite sides of that question at all. The same newspaper published an editorial on the 7th instant, yesterday, entitled "Vale Lorimer," in which this language appears:

> It is sincerely to be hoped he will not resign. Nothing would help more in the national task of cleaning the bosses and the cappers out of Congress than to compel one more line-up on this Lorimer issue.
>
> The people have uniformly wabbled right on LORIMER. It's like the business of stealing a nomination for President; they understand enough about it, without all the details, to get right.
>
> If LORIMER resigns, it will add to the difficulty of retiring a large number of Senators whose greatest service to the public could be rendered outside public life. If he sticks, and forces a vote, he will perform the one real service of his nauseous public career. He will be voted out, and that vote will line up, in full view of the community, the bunch of undesirable Senators and mark them for the slaughter that thus far has not missed any Lorimer supporter.

This is intended to threaten and intimidate, and if published concerning a case on trial in an ordinary court would be clearly in contempt of that court.

The reckless character of the statements in this newspaper, the misrepresentations and inveracities it indulges in, is indicated by the editorial in the adjoining column entitled "Stop thief the issue," containing this:

> In vain will politicians of both old parties endeavor to excite the people by the old battle cries and interest them in the old issues. The people have been awakened, as from a deep sleep, to a realization of the truth that they have been fighting among themselves over minor issues the while their Government has been filched from them by special privilege and bosses. They have awakened to a realization of the truth that among those who have been stealing control of the Government there are no such issues as tariff and currency and foreign policies, no Republican or Democratic Parties.
>
> * * * * * * *
>
> At Chicago for the first time, and for the only time up to now, the powers that have undermined our system of representative government through adroit manipulation of the party system were forced into the open, and so great was their extremity that they had perforce to abandon their stealth and openly resort to plain, naked theft.

I wonder if the people of this country will take lessons in virtue and morality and patriotism from lawless instructors who would put over them a Diaz or a Castro.

There will be some people impressed, and, unfortunately, misled by such references to this case.

I do not forget that in Persia an individual poses as a god and Americans go all the way there to see him. They are credulous.

Louis XVI claimed that God made him King and he was responsible to no other authority. Public opinion allowed it until there was a collapse of public opinion—then the revolution.

Charlotte and Juan looked out their windows one evening and one half of Paris was butchering the other half—fanaticism.

I prefer the light that guides to the lightning that drives, the one who shows the way to the one who forces the way.

Let reason have sway and let us cling eternally to a correct sense of justice.

Is it possible that we have reached that point when it may be presumed that Senators, acting as judges in a case like this, are to be hampered, shackled, and cowed by the servile fear of the loss of position or of political support if they dare to do their duty?

We have heard much about the recall of judges, but here is the announcement of a doctrine which can only be likened to that humiliating travesty on the forms of judicial administration which would require the submission of the decisions of the judges upon the bench to the crowd on the courthouse steps.

So far as I am concerned, I do not believe sane people will take that position. If I felt it possible to allow considerations of the kind suggested to influence my action in this matter, I could find no cause for alarm concerning political support for the simple reason that the electors of Florida are intellectually of age. When that condition obtains everywhere, free government is beyond danger.

My people know it has been my duty to see and hear the witnesses, and to study and understand this evidence, and they believe I am capable of analyzing it and passing judgment upon it, and they believe I will do that without fear or favor.

They are sufficiently reasonable, furthermore, to grant that a man of ordinary intelligence who has read the testimony, and, especially, if he has also seen and heard the witnesses on the stand, is better qualified to determine what that testimony shows and arrive at the truth than a man, no matter how brilliant and exalted he may be, who has never read it.

I will not dwell on such threats because, of course, any Senator who would place his vote for or against this resolution on his calculation of its effect on his reelection is unworthy to be in a position to cast that vote at all—in this or any other case.

HEARINGS BEFORE COMMITTEE OF ILLINOIS SENATE.

Comment has been made by the Senator from Indiana on the fact that Mr. Hines never gave his version of the conversation with Funk to the Helm committee or elsewhere until he testified before this committee. The fact is Mr. Hines was called before the Helm committee *before* Mr. Funk was and was questioned, and answered, flatly denying that he ever discussed the question of raising money to aid in the election of Senator LORIMER with anyone (pp. 32, 34, and 35).

Afterwards Mr. Kohlsaat and then Mr. Funk were summoned and Mr. Hines expected to be called regarding the conversation which had for the first time been introduced, but the Helm committee did not call him and shortly suspended the hearings because of inability to reach witnesses outside the State. That committee had received the affidavits of a special agent, M. B. Coan, setting forth what certain persons had told him, and it was well to discontinue that sort of testimony, because those parties were brought before this committee and swore that Coan's statements of what they said to him were absolutely false. Findings based on such testimony can not carry weight, and the resolution of the Illinois Senate may be thus explained. Mr. Hines had no opportunity to meet the testimony of Funk before the Helm committee.

Reference has been made to the testimony of Fred E. Sterling, giving conversations with Corcoran and some "general talk" regarding the use of money. He was for Hopkins, and had been told, "Mr. Hopkins appreciates what you have done for him, and if he is elected he will not forget you" (p. 5481).

He did not undertake to run down or make public what he had heard, and contented himself with reporting it to Senator Hopkins. The entire force and effect of his testimony is destroyed by the letter he wrote consequently, a few days after the election, to wit:

> THE REGISTER-GAZETTE (ESTABLISHED 1840),
> *Rockford, Ill., May 28, 1909.*
>
> Hon. WILLIAM LORIMER, *Chicago, Ill.*
>
> MY DEAR SENATOR: Please permit me to extend to you my sincere congratulations on the great personal triumph which you won in your election this week to the United States Senate. I believe you will make a great record in the upper branch of Congress and win over to your support many of those who have been against you in the past simply because they do not know you. I am glad I am not in this class. Because of personal obligations which Senator Hopkins placed me under months ago I could not honorably do other than give him my humble and feeble support. Inasmuch as it was impossible for him to win, I am glad the result was as it was, and hope your election will bring about harmony in the party in this State. I shall be glad to contribute my mite toward this end. I beg to inclose an editorial from to-night's Register-Gazette, to which I thought you might be interested. With deepest personal regards and best wishes, I remain,
>
> Very sincerely, F. E. STERLING.

Here is the man referred to and quoted in arguments here as sustaining the claim that there had been a corrupt use of money in the election of a Senator.

MR. LORIMER'S ELECTION APPROVED AT THE TIME.

In this connection, it is worth while to note some of the telegrams and letters sent to Mr. LORIMER at and about the time of his election, directing attention to but not stopping to quote them; their contents and authors are found in the hearings on pages 7554 to 7561, inclusive. The list includes:

Mr. John G. Shedd, president of the Marshall Field Co.;

Lloyd W. Bowers, Solicitor General, Department of Justice;

Joseph W. Fifer, one time governor of Illinois and member of Interstate Commerce Commission;

Charles G. Dawes, president of the Central Trust Co., of Illinois;

Adams A. Goodrich, one time judge and a prominent Democrat in Illinois;

John M. Harlan, son of the late justice of the Supreme Court and one time nominee for mayor of Chicago by the Republican convention;

Charles A. Wightman, treasurer of Evanston Democratic Club;

J. B. Harris and six others, Democrats, of Champaign County;

Francis C. Kelley, head of the Catholic Church Extension Society;

Samuel R. Robinoff, president and on behalf of the Jewish Political League of Chicago;

Frank D. Shuts, pastor of Court Street Methodist Episcopal Church, Rockford, Ill.; and

Robert S. Iles, of the law firm of Iles & Martin, Chicago, who said:

Your election is a consummation I have devoutly wished, and to find it realized is a personal gratification to me.

Your ability, eminent public service, and integrity entitle you to the honor, and your experience in the practical needs of the Nation and of the relation of Illinois to the Federal Union make you eminently the man of the hour and the most fitting representative Illinois could have at this time and for years to come (p. 7559).

This is a fair sample of the expressions contained in the voluntary letters and telegrams I have only stopped to mention. There were others, from the following:

Theodore Brentano, supreme court judge, Chicago;

John Gibbons, judge of circuit court of Cook County;

Richard S. Tuthill, judge of circuit court of Cook County;

W. N. Gemmill, judge of municipal court of Chicago;

Jesse A. Baldwin, now on the appellate court of Chicago;

M. F. Girten, judge of the municipal court of Chicago; and

William G. Beale, one of the three trustees controlling the Tribune property (p. 7544).

REASON FOR OPPOSITION OF THE NEWSPAPERS.

The question may be asked, Why were certain newspapers so persistent in their bitter attacks? The record shows on that point the following:

Senator FLETCHER. Yesterday you said, Senator LORIMER, that the newspapers—I think you mentioned particularly the Tribune and the Record-Herald and the News—had been for 10 or 15 years endeavoring to drive you out of public life. Can you summarize the reasons for that and tell us why they pursued that course?

Senator LORIMER. The only reason I have been able to assign for it, Senator, is because I never have been much of a newspaper man. The newspapers have always wanted to run the Republican politics of our city and county and State, and I never have consulted the editors of the newspapers to find out whether or not I should do what I wanted to do. The time was when Joseph Medill absolutely controlled the affairs of the Republican Party in Cook County. Mr. Kohlsaat, when he bought the Inter-Ocean, aspired to divide the influence with him; and I got into a quarrel with him—or, rather, got into trouble with him, not into any quarrel—because I would not do the things he wanted to have done in politics.

Senator FLETCHER. Then, do you mean to give us to understand that the real reason of that opposition was that the newspapers could not control or dictate to you?

Senator LORIMER. That was it; yes.

NO MONEY WAS RECEIVED FOR VOTES FOR SENATOR.

The Senator from Indiana in his argument in this case indulged in many broad and general assertions which naturally led to inconsistencies, and by reason of the lack of specifications and detail were calculated to create an erroneous impression on the minds of those not thoroughly familiar with this record. An illustration of such generalization, wanting in accurate confine to the evidence, may be mentioned. He says, "Is it true that four men confessed to taking bribes, two of whom connected the bribe with the election of the Senator?" and answered "Yes." (CONGRESSIONAL RECORD, p. 8423.)

On page 8427 he says, "* * * the four men who testified positively and without equivocation that there was jack-pot money received by them, and two testified with equal positiveness that they were paid money before that time by Senator LORIMER's accredited agent, Lee O'Neil Browne, in consideration of their vote in the senatorial election."

In one statement *two* of these men only connected the money received by them with the election of Senator; in the next breath *four* of them testified positively they were paid this money in consideration of their votes in the senatorial election. Which is correct? Neither. As will appear from the evidence only *one* man so testified—White—and he was thoroughly discredited.

We find such further expressions as "confessions of guilt came and the evidence of wholesale corruption piled mountain high," Democrats are denounced as "deserting miscreants." It is asserted that "men do not betray party or principle in that way under those circumstances save for *money*."

The circumstances given were: "This condition of things at Washington were such the reforms for which the Democratic Party had fought for 50 years might be defeated by that one vote that was about to be sent from Illinois." I have already shown that the record clearly establishes that it was not a question of one vote or ten.

I challenge any man to show by this testimony or otherwise that any four men or two men ever confessed or stated they were paid money "in consideration of their vote in the senatorial election."

I challenge any man to point out in this entire record where any man except White ever said he was paid any money or other thing of value in consideration of his vote for Mr. LORIMER.

I challenge any man to show by this record or otherwise that one vote from Illinois or elsewhere was needed to put through the Republican program at Washington in 1909, or to prevent the Democrats from accomplishing the reforms they had fought for.

Of course, the averment of the existence of "wholesale corruption" and that the evidence of corruption "piled mountain high" are rash conclusions, which ought to be fully answered by the failure to point out this "mountain-high" evidence.

WHITE CAN NOT BE BELIEVED.

As a matter of fact, there was no confession in any proper sense or correct use of the word. White's story was no confession. Practically a year after the election White conceived the idea of bettering his financial condition by preparing what he called his experience in the legislature, which, to make it yield anything, had to take the form of alleged exposure. He had in mind a plain, everyday, blackmailing scheme. He offered his effusion to Senator LORIMER on that basis. He endeavored to sell it to magazines, but the standing of the author was such no reputable publisher would take it without investigation. He knew of the bitter hostility of the Tribune to Senator LORIMER. At any rate, the suggestion was made to him that a market for his production might be found in that quarter. White knew of the attitude of the Tribune toward Mr. LORIMER. He knew he could never have got one dollar from the Tribune if it had dealt merely with a jack pot and did not connect it with the senatorial election. The story was not worth while unless it involved Senator LORIMER. White voted for him.

White had participated in the legislative jack pot, but unless this jackpot had to do with the election of Senator LORIMER there would be lacking the element of chief value. White was after the value, and he supplied the connecting link so far as his own testimony is concerned, but he, the Tribune, the detectives, the prosecuting officers, with all their threats and terrorizing combined, have not been able to show that any member of the legislature ever in an unguarded moment, or through reward, intimidation, fear, or duress, admitted he voted for Mr. LORIMER because of money paid or promised to him. It is sought to stimulate some reliance on White by claiming his is not an instance of original sin, but of subsequent downfall, which lamentable catastrophe happened when he got into politics. It is immaterial to this inquiry to determine more than that when he devised and sold his story he was steeped in iniquity, his conscience was "seared as with a hot iron," and he continued in that state up to the time he testified before this committee when he swore that he aspired to become a member of the legislature as a reformer and for the purpose of correcting the errors and preventing the crimes in the Illinois Legislature theretofore indulged in, and that he was actuated while a member by that same commendable purpose, to wit, to ferret out and expose corruption whenever and wherever he could find it. Prompted by this high aim, he accepted a bribe, kept the money, said nothing about it for nearly a year, and then told of it for more money. The record is full of evidence showing White's "grafting" propensities, and he was in position on committees and otherwise to share in any legislative jack pot. The only possible excuse for attempting a defense of White must be found in the knowledge that the charges here rest and depend on him. He confessed to numerous false statements and no reliance can be placed on anything he might say.

LEE O'NEIL BROWNE WAS NOT MR. LORIMER'S AGENT.

There is no evidence whatever that Lee O'Neil Browne ever was Mr. LORIMER's "accredited agent" in the sense that he was authorized to represent Mr. LORIMER in any negotiation, transaction, agreement, or arrangement looking to obtaining, procuring, or inducing votes for him.

Mr. LORIMER had no such agent, and all the evidence shows it. Therein the present record is more conclusive than the former.

Mr. LORIMER's own testimony completely demolishes any such suspicion.

Lee O'Neil Browne made no such claim. No witness testified to any such fact or to facts from which that might be reasonably inferred.

Mr. LORIMER positively denied that he had any such agent, "accredited" or otherwise.

It would scarcely be warranted to designate every friend and supporter of a candidate as the "accredited agent" of such candidate. This was the precise relation of Lee O'Neil Browne to Mr. LORIMER after he became a candidate.

ANNUAL JACK POT.

The "mountain-high" evidence simply shows the "wholesale corruption" to have been the plain, vulgar, graft kind, just as had existed for years in every Illinois Legislature. United States Senators are only elected every six years, but this scandal, talk, hold-up conduct, and paying in and receiving money to defeat or to pass bills appears to have been an annual affair.

Mr. Hinman, editor of the Inter Ocean (p. 205), gives that as his opinion and belief, and says "that common report has existed in fairly strong shape and for every legislature that has been in Illinois since I have been there—12 years."

Ex-Gov. Yates said: "The general subject of money being used to influence legislation or to procure the passage of legislation has been talked about" seriously and otherwise for 30 years (p. 220).

Mr. Stringer said:

Oh, I have heard rumors of money being used, perhaps, at times to influence legislation, but I have no concrete information along that line. I think the first time my attention was called to it was in connection with what was known as the Allen bill (p. 2295).

This was in 1897 or 1898.

Gov. Deneen gives the clearest idea and most graphic description of that condition (p. 1120). He says:

They wanted to get rid of me. I do not know that they wanted to send me to the Senate, but I felt sure that they wanted to get rid of me.

Senator KERN. And they were willing to pay that price to get rid of you?

Mr. DENEEN. They were willing to kick me upstairs or kick me downstairs, I think.

Senator JONES. Do you think they were promoting this conference that you referred to?

Mr. DENEEN. That would be purely a matter of inference. I would not want to say as to that. I have no evidence on the matter.

Senator JONES. The leaders of it were those who professed to be your friends, anyway?

Mr. DENEEN. There were leaders there who were very friendly to those interests who were very friendly to putting me out of office, or making me Senator. I do not know the relation between them and the men back of them.

Senator KENYON. Governor, was there any relationship between the interests that were trying to get rid of you and the "jack pot" we have heard about?

Mr. DENEEN. I thought so.

Senator KENYON. You did?

Mr. DENEEN. Yes, sir.

Senator KENYON. At the time of the passage of the local-option measure——

Mr. DENEEN. I do not mean to imply now that I am speaking of Senator LORIMER in this matter.

Senator KENYON. No. At the time of the passage of the local-option measure were the liquor interests very active in Illinois?

Mr. DENEEN. Very.

Senator KENYON. That was while you were governor?

Mr. DENEEN. While I was governor.

Senator KENYON. Was the "jack pot" in evidence at that time?

Mr. DENEEN. I think so. The general impression is that it was.

Senator KENYON. How long has this jack pot existed, to your knowledge?

Mr. DENEEN. Nobody knows exactly except those who participated in it; but the general understanding is that it began in 1897 with some "constructive legislation" with reference to the so-called Allen bill, the Humphrey bill, the gas-consolidation bill, the warehouse bill, and some "constructive legislation" that was passed at that session.

Senator KENYON. Did you regard these same interests that were trying to secure your election to the Senate, or were suggesting your election to the Senate, as contributors to the jack pot?

Mr. DENEEN. I do not know as to that. I could not tell.

Senator KENYON. Of course, you do not know because you did not see it.

Mr. DENEEN. No.

Senator KENYON. But you had a pretty general understanding of the situation there, apparently.

Mr. DENEEN. My information was that they contributed pretty heavily to the funds to defeat me. Whether they gave any to the legislature thereafter I do not know. Whether they expected men to vote from a sense of obligation for large donations at the primaries or elections or whether more substantial inducements were brought to bear I do not know.

Senator KENYON. You say Mr. Lee O'Neil Browne was understood to represent the liquor interests?

Mr. DENEEN. The liquor interests.

Senator KENYON. Was that the general understanding?

Mr. DENEEN. I think it was known everywhere. It was charged in the papers and mentioned during the contest.

Senator KENYON. Was it ever denied by him?

Mr. DENEEN. I never saw any denial. I do not know whether he denied it or not. I think it was generally understood.

The CHAIRMAN. What do you know about the jack pot in 1897, at the time the various bills you have spoken of were pending?

Mr. DENEEN. I was not a member of the legislature in 1897. I had been in the legislature four years before that, and only have such information as is public information as the matter has been charged.

The CHAIRMAN. Give us what you know about it.

Mr. DENEEN. The charge was made at that time that large amounts of money were distributed in the legislature to pass the so-called Allen bill, which would give the city councils in the State power to grant franchises for 50 years to certain public-utility companies.

The CHAIRMAN. By whom was the Allen bill supported?

* * * * * * *

The CHAIRMAN. I do not know whether I interrupted you when you were stating what you knew about the common report as to contributions to the fund of that year.

Mr. DENEEN. What fund? Do you mean 1897?

The CHAIRMAN. Yes.

Mr. DENEEN. I do not know at that time. I mentioned the funds against me in 1908, when I ran.

About the "jack pot," if you care to know, this is the general situation that obtained in our legislature for a number of sessions: The legislature meets in January and adjourns when it chooses. It can remain in session two years if it chooses. It has been the custom for several legislatures to defer the appointment of committees until the session has far advanced. Sometimes, I think, they have deferred it for eight weeks. The constitutions of some States limit the session to eight weeks, but in our State they hardly get organized for eight weeks. Then the bills are introduced, and they range in number from 800 to, I should think, 1,300 bills. They have about 60 committees. The minority agree upon a leader, and the majority elect a speaker, and the minority leader and the speaker arrange for the appointment of these committees and their chairmen. Then the committees meet and begin their work; and the bills that are introduced to regulate corporations—they are all regulated out there—are introduced and receive about the same consideration. They get through one house and get up to the second reading in the second house—the lower house usually, because they are more numerous in number—and the struggle then begins to get those bills to action and to prevent action. At that time the date of adjournment is fixed by joint resolution, and they pass most of the legislation.

For instance, in one of the legislatures that has been in session since I have been governor they passed about 235 or 240 bills. About 20 or 25 of those were passed the second day preceding the adjournment, and all the rest of them were passed in the last two days. When it gets up to the second day preceding adjournment, with a congested calendar, the speaker rules that a bill can not be heard unless it is on special order, and the special order requires a two-thirds vote. The constitutional provision is a majority vote. So that to get a bill up requires 102 votes, and to pass it requires 77 votes; and to prevent a bill getting advancement there are the men who are against it per se, and then all the men who fear that their bills will be ignored when other bills get up that will consume three or four hours. So it is impossible to advance anything without the speaker. Then those bills that are advanced, these "regulators," usually meet their fate on those two days, and as they meet time after time, are introduced, and are referred to the same class of committees, the general suspicion is that they could not bear the test of an exhaustive coroner's inquest. That is the suspicion. Then the general understanding in our State is that the money is paid, and that it accumulates in the hands of several men and is distributed according to the judgment of the men who control.

Senator FLETCHER. Is the "jack pot" opened at that critical moment, or later?

Mr. DENEEN. The general impression, the gossip, is that it is opened a considerable time later.

Senator KERN. It is done cautiously.

The CHAIRMAN. On what principle is it distributed, Governor?

Mr. DENEEN. I do not know.

The CHAIRMAN. Who has the determining power?

Mr. DENEEN. The men who create the fund, who gather the fund, I assume.

The CHAIRMAN. The men who gather the fund—certain leaders?

Mr. DENEEN. That is the general impression—certain leaders; yes.

Senator KENYON. How much of a fund is that supposed to be at a session?

Mr. DENEEN. I never have heard, definitely.

Senator KENYON. You have heard rumors?

Mr. DENEEN. I have heard rumors and other matters, but I have never heard definitely. I do not know.

Senator JONES. Have you heard of those who contributed to the "jack pot" fund?

Mr. DENEEN. Only the general suspicion.

Senator JONES. You have heard the general suspicion?

Mr. DENEEN. Oh, yes; I have heard that.

Senator JONES. Who was it?

Mr. DENEEN. I have heard that the railroads have contributed for years to protect themselves against legislation; that the gas companies or gas company of Chicago, and the electric-light company, and the liquor interests, and the stockyards companies, and the elevator companies, I think, and the Pullman Co., and the street car companies have contributed.

Senator JONES. Has it been charged that those interests have pretty generally contributed to the legislature?

Mr. DENEEN. I would not say as to that. I do not know specifically enough. I know only the general running rumor. I do not know that it is based on facts at all.

The CHAIRMAN. Has the matter ever been investigated by the Legislature of Illinois?

Mr. DENEEN. There was an investigation made during the term of my predecessor, Gov. Yates, about the passage of the so-called Mueller bill that he referred to the other day, affecting Chicago; and the charge was made by Mr. Hinman, of the Inter Ocean, that the street railway companies were contributing money to promote that bill. They had an investigation of the matter at that time, and I think it was referred to the other day by the governor. I read his testimony.

Senator KENYON. Governor, have you ever made an investigation of these conditions yourself?

Mr. DENEEN. No; I have no power to make an investigation, and no facilities.

The testimony in this case, in so far as it touches upon the use of money and develops the dirty and disgraceful, shows the order of things dating back to 1897 has continued in that regard, and this rottenness had no relation to the senatorial

election. It can not be held to invalidate every act of the legislature, especially action not legislative in character.

White is the only man who says he was promised money and paid it for his vote for Senator. White got money for that statement. Holstlaw, Beckemeyer, Luke, Link, Browne, Wilson, Broderick, Shephard, Blair, and every other witness under suspicion swore, when the question was put squarely, each for himself, that he cast his vote for Senator without any valuable consideration promised or paid in that behalf.

HOLSTLAW UNTRUSTWORTHY, AND THE SOURCE OF MONEY PAID HIM AND OTHERS LOCATED.

Holstlaw was indicted in Sangamon County for perjury growing out of his engaging in the sale of a furniture contract for the State, as a member of a legislative committee, for which he was to receive $1,500; and that indictment was dismissed, and he was granted immunity from prosecution when he stated Broderick said to him:

Mr. LORIMER is going to be elected to-morrow; there is $2,500 for you if you want to vote that way (p. 4759).

Holstlaw could not have gotten immunity from prosecution for perjury in connection with the furniture deal without bringing in Broderick and connecting that with the senatorial election. This was about May 9, 1909. The White story was published April 30. Holstlaw stated that he had made up his mind to vote for Mr. LORIMER before that alleged conversation with Broderick, but that was not put in his statement to the State's attorney. The idea was to connect with the senatorial election. This State senator could get off with perjury and boodling, provided he could help out the White story. Holstlaw testified that early in the evening before the election Broderick said to him: "Senator LORIMER will be elected to-morrow. I said, 'I think so, and I am going to vote for him.' He said, 'You are?' I said, 'Yes, sir.' He said, 'If you want to vote that way there is $2,500 for you.'" Broderick was indicted on this charge of Holstlaw, tried in Sangamon County, and acquitted. Broderick did pay Holstlaw not $2,500 only, but $2,500 on June 16, 1909, when he said, according to Holstlaw, "there would be more coming," and $700 on August 28, 1909, when he said "there is that money."

There is something wrong here. Is it believable that Broderick paid Holstlaw $2,500 a month after there was any need to pay him anything, and urged it on him at that? Is it believable that Broderick paid Holstlaw $700 more which he never had promised and Holstlaw had no reason to expect?

Holstlaw had stated repeatedly to members and others he intended to vote for Mr. LORIMER (pp. 3017, 3018, etc.). He swears that what Broderick said to him about the $2,500 "did not have any influence whatever" with him (p. 3019).

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Texas.

Mr. FLETCHER. I do.

Mr. BAILEY. The Senator from Florida has now been speaking for two hours and a quarter and I am satisfied he does not feel like proceeding longer this afternoon. If he does, of course the Senate will be glad to hear him. If he does not, I will ask the Senate to take a recess.

Mr. FLETCHER. We have had a long session, beginning at 11 this morning; it is now a quarter after 5, and if Senators would like to take a recess I am certainly agreeable to that course.

Mr. BAILEY. It is not anything like the tax upon the Senate that it is upon the Senator. I know he has been here since 11 o'clock, and I know an address of 2 hours and 15 minutes under these circumstances is physical exhaustion. It was his own convenience that I was attempting to consult. If he desires to proceed, we shall be glad to hear him; otherwise——

Mr. FLETCHER. I appreciate the Senator's interruption. I would prefer to discontinue my remarks at this time, if agreeable to the Senate, and resume them in the morning.

Mr. BAILEY. Then the Senator gives notice that he will resume the floor to-morrow.

Mr. CULLOM. If the Senator from Florida does not wish to speak further to-day, I will move that the Senate take a recess until 11 o'clock to-morrow.

Mr. BAILEY. Will the Senator withhold that motion for a moment until I can submit an amendment and ask for its appropriate reference? It is morning business.

The PRESIDENT pro tempore. The Chair is not sure that under the unanimous-consent agreement other business can be received.

Mr. BAILEY. I have not examined the agreement. I was under the impression that bills could be introduced or amendments submitted as routine morning business. If I am mistaken about that, of course I will not attempt to violate the agreement.

The PRESIDENT pro tempore. Of course, there is no call for morning business under such a proceeding.

Mr. BAILEY. I thought the Senate never disabled itself from receiving bills, but I withdraw the request.

Mr. CULLOM. I move that the Senate take a recess until to-morrow at 11 o'clock.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m., Monday, July 8) the Senate took a recess until Tuesday, July 9, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *July 8, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou God and Father of us all, in whom we live and move and have our being, increase our faith and confidence in Thee, quicken our hopes and aspirations, comfort, we beseech Thee, the sorrowing, strengthen the weak, lift up the fallen, forgive the erring. Give light to those who sit in darkness, guide our wandering footsteps and make us faithful servants unto Thee and to our fellow men, that we may hallow Thy name. In the spirit of the Master. Amen.

The Journal of the proceedings of Saturday, July 6, 1912, was read and approved.

PENSIONS.

The SPEAKER laid before the House the following Senate resolution, which was read:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. Without objection, it will be so ordered.

There was no objection.

RESIGNATION FROM THE CONFERENCE COMMITTEE.

The SPEAKER laid before the House the following communication, which was read:

JUNE 13, 1912.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: I hereby resign my position as a member of the conference committee on the river and harbor bill.

Important business will necessitate my being absent from Washington for some time, and on this account I think it is best to take the above action.

Yours, very sincerely, J. H. DAVIDSON.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

The SPEAKER. The gentleman from Wisconsin [Mr. DAVIDSON] was appointed on this conference committee to fill a vacancy caused by the resignation of the gentleman from Massachusetts [Mr. LAWRENCE]. Mr. DAVIDSON now resigns, and the Chair reappoints Mr. LAWRENCE, who has returned to the city.

NAVAL APPROPRIATION BILL.

Mr. PADGETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the naval appropriation bill (H. R. 24565) with Senate amendments thereto, and disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to take from the Speaker's table the naval appropriation bill, disagree to the Senate amendments thereto, and ask for a conference. Is there objection?

Mr. MANN. Mr. Speaker, I hope the gentleman will not make that request until the bill has been printed with the Senate amendments. Let it lie on the Speaker's table for a day or two until the Senate amendments have been printed.

Mr. PADGETT. Will it be printed until some action has been taken or a request has been made?

Mr. MANN. It can be printed by order of the House.

Mr. PADGETT. Mr. Speaker, I withdraw my request, and ask unanimous consent that the naval appropriation bill with Senate amendments thereto be printed to show the Senate amendments.

The SPEAKER. Is there objection?

Mr. GARNER. Mr. Speaker, is that not necessarily done under the rules of the House?

Mr. PADGETT. Not unless some action is taken.

Mr. MANN. Under the rules it is not done as long as it remains on the Speaker's table.

The SPEAKER. The rule does not provide for printing. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

REWARD FOR IMPROVEMENTS, ORDNANCE DEPARTMENT.

The SPEAKER laid before the House the bill (H. R. 17937) authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance Department for improvement or economy in manufacturing processes or plants, with a Senate amendment thereto.

The Senate amendment was read.

Mr. HAY. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

WASHINGTON-OREGON CORPORATION.

The SPEAKER laid before the House the bill (S. 4663) granting to the Washington-Oregon Corporation a right for an electric railroad and for telephone, telegraph, and electric transmission lines across the Vancouver Military Reservation, in the State of Washington, with House amendments thereto.

Mr. HAY. Mr. Speaker, I will state that the House amendments to the bill just laid before the House by the Speaker have been disagreed to and the Senate has asked for a conference. I move, therefore, that the conference be agreed to and the Chair appoint the conferees on the part of the House.

The motion was agreed to.

The Chair appointed the following conferees: Mr. HAY, Mr. DENT, and Mr. KOPP.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 24565. An act making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes.

The message also announced that the Senate had passed the following resolutions (S. Res. 353):

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. GEORGE R. MALBY, late a Representative from the State of New York.

Resolved, That a committee of nine Senators be appointed by the President pro tempore to join the committee appointed on the part of the House of Representatives to take order for superintending the funeral of the deceased.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

In compliance with the foregoing resolutions the President pro tempore appointed under the second resolution as the committee on the part of the Senate Mr. ROOT, Mr. O'GORMAN, Mr. BURNHAM, Mr. JONES, Mr. OLIVER, Mr. BACON, Mr. BRYAN, Mr. THORNTON, and Mr. MARTINE of New Jersey.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20684. An act providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation in the State of Idaho.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following joint resolution:

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

IMPEACHMENT OF JUDGE ROBERT W. ARCHBALD.

The SPEAKER. The Chair recognizes the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, I present to the House a privileged report on House resolution 524. It relates to charges made against Judge Robert W. Archbald. The committee has reached a unanimous conclusion. I do not desire, Mr. Speaker, at this time to make any very lengthy statement in regard to this resolution or the report thereon. The report itself is very full. It starts with a statement as to the origin of this proceeding and gives a summary of the findings of facts and conclusions of law and conclusions respecting the conduct of this judge and recommends that the judge be impeached upon 13 separate articles of impeachment which are appended to the report. The committee gave more than a month's study to an investigation of charges against this judge and his conduct. We heard witnesses under oath; we took documentary testimony; we gave the fullest and most careful investigation to the subject; and I believe that the committee reached a correct conclusion in respect to the action that should be had toward this judge. At any rate the committee was of the opinion that this judge should be impeached for the reasons set forth in the report. With the indulgence of the House I shall read the conclusion and recommendations of the committee. The facts and law as found by the committee are set forth in the report, and I desire to call the attention of the House to the conclusions reached by the committee.

Judges "shall hold their offices during good behavior." Thus says the Constitution. The framers of that instrument were desirous of having an independent and incorruptible judiciary, but they never intended to provide that any judge should hold his office upon nonforfeitable life tenure. We sometimes hear it stated that a Federal judge holds his office for life. The most casual examination of the Constitution will convince any one that he holds it during good behavior. Those who formulated the organic law sought to protect the people against the malfeasance and misfeasance of unjust and corrupt judges. Therefore, they wisely limited the tenure of office to "during good behavior" and provided the remedy for misbehavoir to be forfeiture of office and the removal therefrom by impeachment. The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity that generally characterizes the Federal judiciary. Be it said to the credit of the wisdom of our fathers and in behalf of our American institutions that the judges have, as a rule, deported themselves in such manner as to merit and keep the confidence of the people. The public respect for the judicial branch of our Government has almost amounted to reverence. This confidence has been deserved, and let us hope that it will continue to be deserved to the end that an upright and independent judiciary may be maintained for the perpetuation of our Government of law.

Now it might be said, Mr. Speaker, that if the remedy by an impeachment of a corrupt or unjust judge is not adequate, and it has sometimes been so argued in other cases, we know that the people will demand an adequate remedy to get rid of an unfaithful judge. I am of opinion that the remedy of impeachment is adequate and the House of Representatives has, I believe, in every case shown the willingness wherever proper to invoke the remedy of impeachment. Sometimes it has been said that another tribunal has not been as responsive to the public demands where an unjust or unfaithful judge was sought to be gotten rid of, but I believe that certainly now both branches of Congress, the House that inaugurates the impeachment and the Senate that tries it finally, are sufficiently responsive and sufficiently alive to the public necessity for the preservation of and for demonstrating the efficiency of the remedy of impeachment to apply it justly and properly in this case, according to the law and the facts. Of course, if the facts do not warrant the impeachment of this judge, he should not be impeached. Your committee is of the opinion that the facts do warrant his impeachment, and your committee is of the opinion that they can convince the Senate, when the witnesses are examined, that the facts will warrant the conviction of this judge and his removal from office. A judge should be the personification of integrity, of honor, and of uprightness in his daily walk and conversation. He should hold his exalted office and the administration of justice above the sordid desire to accumulate wealth by trading or trafficking with actual or probable litigants in his court. He should be free and unaffected by any bias born of avarice and unhampered by pecuniary or other improper obligations.

Your committee is of opinion that Judge Archbald's sense of moral responsibility has become deadened. He has prostituted his high office for personal profit. He has attempted by various transactions to commercialize his potentiality as judge. He has shown an overweening desire to make gainful bargains with parties having cases before him or likely to have cases before him. To accomplish this purpose he has not hesitated to use his official power and influence. He has degraded his high office and has destroyed the confidence of the public in his judicial integrity. He has forfeited the condition upon which he holds his commission and should be removed from office by impeachment.

Your committee reports herewith the accompanying resolution and articles of impeachment against Judge Robert W. Archbald, and recommends that they be adopted by the House and that they be presented to the Senate with a demand for the conviction and removal from office of said Robert W. Archbald, United States circuit judge designated as a member of the Commerce Court.

Following the report, Mr. Speaker, are the resolution and the articles of impeachment, which are attached to the report.

Now, Mr. Speaker, with this brief statement, which is no more than the conclusion reached by the committee, it has occurred to the committee that perhaps it would be proper to let the report be printed in to-day's RECORD, and that this resolution be called up for consideration to-morrow, and that action be then had. And I therefore, Mr. Speaker, ask that the report of the committee with the accompanying resolution and articles of impeachment be printed in the RECORD; that the same do lie over until to-morrow, and that the same be called up immediately after the reading of the Journal to-morrow for consideration and for the action of the House.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks unanimous consent that the report of the Judiciary Committee, together with the resolution and the articles of impeachment, be printed in the CONGRESSIONAL RECORD, and the gentleman notifies the House that to-morrow he will call up the resolution and articles of impeachment.

Mr. MANN. I would ask the gentleman whether the resolution submitted as a part of the report will be printed separately, too.

Mr. CLAYTON. Certainly. It will also be printed separately and be printed in the RECORD as a part of the report, because the House will have to act on the resolution and, therefore, the gentleman from Illinois [Mr. MANN] is right in asking that it be printed separately, just as any other resolution is printed.

The SPEAKER. The understanding, then, is that these papers named by the gentleman from Alabama be printed in the RECORD and that the resolution be printed separately also.

Mr. CLAYTON. That is the understanding.

The SPEAKER. Is there objection?

Mr. MANN. Also print same as the report?

Mr. CLAYTON. Yes; surely.

Mr. NORRIS. The way the Chair put it he would only print the resolution separately.

The SPEAKER. The whole thing ought to be printed separately, like any other resolution.

Mr. CLAYTON. In order to have it perfectly understood, I ask that this report, just as I have presented it—and the Clerk has it there in his hand—containing, according to this print, 52 pages, beginning with the heading—

Robert W. Archbald, judge of the United States Commerce Court—

And winding up, on page 52, with—

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office—

Be printed as the report of the committee as usual, and that the resolution itself be separately printed as resolutions are usually printed and that this report be printed in its entirety in the CONGRESSIONAL RECORD.

The SPEAKER. You wish the report printed separately?

Mr. CLAYTON. As a document and also to go into the RECORD.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks unanimous consent that this document, containing 52 pages, as he states, be printed in the CONGRESSIONAL RECORD for to-day, and that in addition to that it be printed as a separate document.

Mr. MANN. Mr. Speaker, a privileged report having been made, I take it that the Speaker will refer it to the House Calendar and to be printed.

The SPEAKER. That is exactly what the Chair will do.

Mr. CLAYTON. And in anticipation of that I had those words printed on the report.

The SPEAKER. The Chair orders it printed and referred to the House Calendar. Is there objection to the gentleman's request?

There was no objection.

The following are the documents referred to:

[House Report No. 946, Sixty-second Congress, second session.]

ROBERT W. ARCHBALD, JUDGE OF THE UNITED STATES COMMERCE COURT.

Mr. CLAYTON, from the Committee on the Judiciary, submitted the following report, to accompany House resolution 524:

The Committee on the Judiciary, having had under consideration House resolution 524, make the following report:

The resolution is in the following words:

Resolved, That the Committee on the Judiciary be, and is hereby, authorized to inquire into and concerning the official conduct of Hon. Robert W. Archbald, formerly district judge of the United States Court for the Middle District of Pennsylvania, and now a judge of the Commerce Court, touching his conduct in regard to the matters and things mentioned in House resolution No. 511, and especially whether said judge has been guilty of an impeachable offense, and to report to the House the conclusions of the committee in respect thereto, with appropriate recommendation;

And resolved further, That the Committee on the Judiciary shall have power to send for persons and papers, and to subpœna witnesses and to administer oaths to such witnesses; and for the purpose of making this investigation said committee is authorized to sit during the sessions of this House; and the Speaker shall have authority to sign and the Clerk to attest subpœnas for any witness or witnesses.

ORIGIN OF THIS IMPEACHMENT.

This impeachment proceeding had its origin in the resolution adopted by the House of Representatives on April 25, 1912, which is set out in the following message of the President to the House of Representatives on May 3, 1912:

To the House of Representatives:

I am in receipt of a copy of a resolution adopted by the House on April 25, reading as follows:

"*Resolved*, That the President of the United States be, and he is hereby, requested, if not incompatible with the public interest, to transmit to the House of Representatives a copy of any charges filed against Robert W. Archbald, associate judge of the United States Commerce Court, together with the report of any special attorney or agent appointed by the Department of Justice to investigate such charges, and a copy of any and all affidavits, photographs, and evidence filed in the Department of Justice in relation to said charges, together with a statement of the action of the Department of Justice, if any, taken upon said charges and report."

In reply, I have to state that, in February last, certain charges of improper conduct by the Hon. Robert W. Archbald, formerly district judge of the United States Court for the Middle District of Pennsylvania, and now judge of the Commerce Court, were brought to my attention by Commissioner Meyer of the Interstate Commerce Commission. I transmitted these charges to the Attorney General, by letter dated February 13, instructing him to investigate the matter, confer fully with Commissioner Meyer, and have his agents make as full report upon the subject as might be necessary, and, should the charges be established sufficiently to justify proceeding on them, bring the matter before the Judiciary Committee of the House of Representatives.

The Attorney General has made a careful investigation of the charges, and as a result of that investigation has advised me that, in his opinion, the papers should be transmitted to the Committee on the Judiciary of the House to be used by them as a basis for an investigation into the facts involved in the charges. I have, therefore, directed him to transmit all of the papers to the Committee on the Judiciary; but in my opinion—and I think it will prove in the opinion of the committee—it is not compatible with the public interests to lay all these papers before the House of Representatives until the Committee on the Judiciary shall have sifted them out and determined the extent to which they deem it essential to the thoroughness of their investigation not to make the same public at the present time. But all of the papers are in the hands of the committee and, therefore, within the control of the House.

WM. H. TAFT.

THE WHITE HOUSE, *May 3, 1912.*

INQUIRY INTO THE ALLEGED MISCONDUCT OF JUDGE ARCHBALD.

Your committee began the hearings under House resolution 524 hereinbefore set out on May 7, 1912, and concluded such hearings on June 4, 1912. The testimony was taken by the committee in open session from day to day or from time to time until concluded. At the hearings witnesses were sworn and examined, and Judge Archbald was present in person and was represented by counsel in accordance with his request made of the committee. His counsel was permitted to cross-examine the witnesses.

The testimony taken by the committee is now presented to the House, but on account of its volume it is deemed not advisable to have the same again printed in extenso as a part of this report. A copy of such testimony and of the proceedings had at the hearings in this matter is, however, accessible to each Member of the House.

JUDGE ARCHBALD'S APPOINTMENT.

Robert W. Archbald was appointed in vacation a United States district judge for the middle district of Pennsylvania and was duly commissioned as such judge on the 29th day of March, 1901, as appears from his commission, which is in the following words and figures:

WILLIAM MCKINLEY,
PRESIDENT OF THE UNITED STATES OF AMERICA.

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I do appoint him United States district judge for the middle district of Pennsylvania, as provided for by act approved March 2, 1901, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert Wodrow Archbald, until the end of the next session of the Senate of the United States, and no longer, subject to the conditions and provisions prescribed by law.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 29th day of March, in the year of our Lord 1901, and of the independence of the United States of America the one hundred and twenty-fifth.

[SEAL.] WILLIAM MCKINLEY.

By the President:
JOHN W. GRIGGS, *Attorney General.*

After the vacation and upon the convening of Congress Robert W. Archbald was appointed a United States district judge for the middle district of Pennsylvania and was duly commissioned as such judge on the 17th day of December, 1901,

as appears from his commission, which is in the following words and figures:

THEODORE ROOSEVELT,
PRESIDENT OF THE UNITED STATES OF AMERICA.

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert W. Archbald, of Pennsylvania, I have nominated, and by and with the advice and consent of the Senate, do appoint him United States district judge for the middle district of Pennsylvania, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert W. Archbald, during his good behavior.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 17th day of December, in the year of our Lord 1901, and of the independence of the United States of America the one hundred and twenty-fifth.

[SEAL.] THEODORE ROOSEVELT.

By the President:
P. C. KNOX, *Attorney General.*

The said Robert W. Archbald was duly appointed an additional circuit judge of the United States from the third judicial circuit and designated as a judge of the United States Commerce Court, and was confirmed by the Senate and was duly commissioned as such judge on the 31st day of January, 1911, as will appear from his commission, which is in the following words and figures, to wit:

WILLIAM H. TAFT,

PRESIDENT OF THE UNITED STATES.

To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated, and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert Wodrow Archbald, during his good behavior. Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent, and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, in the year of our Lord 1911, and of the independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WILLIAM H. TAFT.

By the President:
GEORGE W. WICKERSHAM,
Attorney General.

THE FACTS.

The facts found by your committee are substantially as follows:

THE NEGOTIATIONS WITH THE HILLSIDE COAL & IRON CO. RELATIVE TO THE KATYDID CULM DUMP AT MOOSIC, PA.

[See article 1.]

On or about March 31, 1911, Judge Archbald entered into a partnership agreement with one Edward J. Williams, of Scranton, Pa., for the purchase of a certain culm dump known as the Katydid culm dump, located near Moosic, Lackawanna County, Pa., for the purpose of disposing of the said property at a pecuniary profit to themselves.

Most of the coal contained in this culm dump was taken from land known as the Caldwell lot, which is owned in fee simple by the Hillside Coal & Iron Co. The larger portion of the dump now rests on land known as lot 46, which is jointly owned by the Hillside Coal & Iron Co. and the Everhart estate. The entire capital stock of the Hillside Coal & Iron Co. is owned by the Erie Railroad Co. and a number of the managing officers and directors of the railroad company are also managing officers and directors of the coal company. The Katydid dump was formed from the operation of the Katydid colliery by the firm of Robertson & Law, and later by John M. Robertson, who succeeded the firm, which operated the colliery under a verbal agreement to pay the Hillside Coal & Iron Co. certain royalties on all coal mined. It appears that the Everhart estate received certain royalties from the Hillside Coal & Iron Co. for all coal above the size of pea taken from the tract in which the Everhart estate held a one-half undivided interest. The plant was operated from 1887 to 1909, when the breaker and washery were destroyed by fire, and since then the operation has been abandoned by Robertson.

In furtherance of his agreement with Williams, Judge Archbald used his official position as judge of the Commerce Court, on March 31, 1911, and at various other times, by correspondence, personal conferences, and otherwise, to improperly induce and influence the officers of the Hillside Coal & Iron Co. and the Erie Railroad Co. to enter into an agreement with himself and Williams to sell the interest of the Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500, against the policy and practice of the Erie Railroad Co. and its subsidiary, the Hillside Coal & Iron Co.

Judge Archbald and Williams then secured an option to purchase whatever equity Robertson held in this property for a consideration of $3,500 and entered into negotiations with several parties with a view to the sale of the culm dump at a large profit. One of these parties was the manager of an electric railroad who was then purchasing large quantities of coal consumed in the operation of the road from the Hillside Coal & Iron Co. at the usual market rates. It was claimed that there were certain complications in the title to this property; but however this may be, Judge Archbald considered that the options from the Hillside Coal & Iron Co. and Robertson covered the entire interest in the dump, and so stated in a letter to this prospective purchaser.

After a careful survey a disinterested mining engineer estimates that the Katydid culm dump contains about 90,000 gross tons, of which approximately 46,704 tons are marketable coal. This coal is appraised by the engineer at $47,533.18, subject to an increase of $3,803.40 provided that an increment of small coal can be saved in the process of reclamation. It is further estimated that the operation of this culm dump by the Hillside Coal & Iron Co. would net it approximately $35,000 and that the Erie Railroad Co. would realize a profit in the neighborhood of $35,000 for the transportation of the coal to tidewater, making a total profit to the Erie and its subsidiary of about $70,000.

During the period covering these negotiations with the officers of the Hillside Coal & Iron Co. and the Erie Railroad Co. Judge Archbald was a United States circuit judge, duly assigned to serve in the Commerce Court, and the Erie Railroad Co., a common carrier engaged in interstate commerce, was a party litigant in certain suits then pending in the Commerce Court and known as The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 39. In the opinion of your committee Judge Archbald's participation in this transaction, under all the circumstances, was reprehensible and prejudicial to the confidence of the American people in the Federal judiciary.

THE ATTEMPT TO SELL THE STOCK OF THE MARIAN COAL CO. TO THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.

[See article 2.]

On October 18, 1910, the Marian Coal Co., which operated a washery at Taylor, Pa., filed a complaint against the Delaware, Lackawanna & Western Railroad Co. and several other railroads before the Interstate Commerce Commission, containing a demand for reparation for damages alleged to have been suffered by the complainant in the amount of $55,238.27, with interest, for overcharges and discrimination in freight rates, and concluding with a prayer that the Interstate Commerce Commission issue an order requiring the defendants to cease various acts alleged to have been committed for the purpose of suppressing the competition of the complainant in the coal market, and establishing just and reasonable rates upon commodities shipped by the complainant from its washery at Taylor, Pa., to all points within the jurisdiction of the commission.

Some time in July or August, 1911, William P. Boland and Christopher G. Boland, who were the controlling stockholders of the Marian Coal Co., employed one George M. Watson, of Scranton, Pa., as an attorney to effect a sale of two-thirds of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co., and to settle this case which was still pending before the Commerce Commission. The decision of the Interstate Commerce Commission in this case was subject to review by the Commerce Court, and there was at that time pending in the Commerce Court a suit entitled "The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38," to which the Delaware, Lackawanna & Western Railroad Co. was a party litigant.

With full knowledge of these facts, Judge Archbald entered into an agreement to assist George M. Watson, for a valuable consideration, to sell the stock of the Marian Coal Co., held by the Bolands, to the Delaware, Lackawanna & Western Railroad Co. and settle the case between the said coal company and the railroad company. In pursuance of this agreement, Judge Archbald, by means of correspondence, personal conferences, and otherwise, persistently attempted to induce the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with Watson to settle the case then pending before the Interstate Commerce Commission and purchase the stock of the Marian Coal Co. at a highly exorbitant price.

In all of his correspondence with the officers of the Delaware, Lackawanna & Western Railroad Co. relative to this matter Judge Archbald used the official stationery of the United States Commerce Court, and it is apparent from an examination of the

testimony taken before this committee that he used his influence as a judge of that court to bring about the successful consummation of these negotiations. His persistent activity in said negotiations forces the conclusion that he expected to receive a portion of the fee which the Bolands had agreed to pay Watson in the event that a settlement should be effected, together with a portion of the large amount demanded by Watson of the Delaware, Lackawanna & Western Railroad Co. in excess of the price which the Bolands were willing to accept for their stock in the Marian Coal Co.

THE NEGOTIATIONS WITH THE LEHIGH VALLEY COAL CO. AND THE GIRARD ESTATE RELATIVE TO A CULM DUMP KNOWN AS PACKER NO. 3, NEAR SHENANDOAH, PA.

[See article 3.]

The Lehigh Valley Coal Co., which is owned by the Lehigh Valley Railroad Co., holds a lease on certain coal land located near Shenandoah, Pa., and owned by the Girard estate. This lease was made to run for a period of 15 years, of which about 13 years have elapsed.

On August 11, 1911, and at numerous other times thereafter, Judge Archbald, by means of correspondence and personal interviews, persistently sought to induce, and did induce, the officers of the Lehigh Valley Coal Co. to relinquish the right of that company to operate a certain culm dump, known as Packer No. 3, containing approximately 472,670 gross tons, and located on the land leased from the Girard estate, provided that a very small royalty should be paid the coal company for coal reclaimed from the dump, and provided further that the coal should be shipped over the lines of the Lehigh Valley Railroad. Judge Archbald thereafter applied to the Girard estate for an operating lease on the culm dump, known as Packer No. 3, stating that he had secured the consent of the Lehigh Valley Coal Co. to operate the property if the Girard estate would approve of the arrangement. The judge proposed to pay the Girard estate the same royalties on various sizes of coal which were being paid by the Lehigh Valley Coal Co. under its lease, which was executed about 13 years theretofore, when coal values were materially less than they were at the time Judge Archbald's proposition was submitted. The trustees of the Girard estate promptly declined to grant Judge Archbald the lease on the terms proposed, and the deal has never been consummated.

While these negotiations with the Lehigh Valley Coal Co. were in progress the Lehigh Valley Railroad Co. was a party litigant in two suits pending before the United States Commerce Court, known as The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and The Lehigh Valley Railroad Co. *v.* The Interstate Commerce Commission, Henry E. Meeker, intervener, No. 49.

If Judge Archbald and his associates could have operated this culm dump at a profit, the Lehigh Valley Coal Co., by reason of its greater facilities for washing and shipping coal, could have operated the property at a larger profit, and it is the conclusion of your committee that the officers of the coal company relinquished the right to operate the said culm dump because of the influence exercised upon them through Judge Archbald's position as a member of the Commerce Court.

THE LOUISVILLE & NASHVILLE RAILROAD CASE.

[See article 4.]

In February, 1911, upon the organization of the Commerce Court, a suit known as The Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission, which had theretofore been filed in the United States Circuit Court at Louisville, Ky., was transferred to the United States Commerce Court (Docket No. 4). The case was argued on the 2d and 3d of April, 1911, and submitted to the court for adjudication. On August 22, 1911, Judge Archbald, who afterwards delivered the majority opinion in this case, wrote to Helm Bruce, the attorney for the Louisville & Nashville Railroad Co., at Louisville, Ky., requesting him to confer with one Compton, traffic manager of the Louisville & Nashville Railroad, who had given material testimony before the Interstate Commerce Commission, and to advise the judge whether the witness intended to give an affirmative answer, as appeared from the record, or whether he intended to give a negative answer to a question propounded to him by the chairman of the commission. In pursuance of this request Bruce conferred with Compton and advised the judge that the witness intended to give a negative answer to the question referred to, which the attorney for the railroad contended was shown by the context of the testimony. The receipt of this letter was acknowledged by Judge Archbald on August 26, 1911.

On January 10, 1912, Judge Archbald again wrote to Bruce, calling attention to certain conclusions reached by another member of the court, which, it was claimed, refuted statements and contentions advanced in Bruce's original brief and sustained the action of the Interstate Commerce Commission with respect to certain features of the case. In this letter Judge Archbald asked Bruce whether he would still affirm the position taken in his brief and, if so, upon what theory it could be sustained, assuming that the conclusions of the other member of the court were correct. The judge followed this question with a number of other questions relative to the features of the case which were not then clear to the court. On January 24, 1912, Bruce sent the judge a letter in answer to the questions which had been propounded to him, wherein he argued these special features of the case in behalf of the railroad company at considerable length. His letter was clearly in the nature of a supplemental brief submitted for the purpose of overcoming certain doubts as to the merits of the case of the railroad company which apparently had arisen in the minds of some of the members of the court.

On February 28, 1912, this case was decided by the Commerce Court in favor of the railroad company. Judge Archbald wrote the opinion of the majority, which followed the views expressed by Bruce, and Judge Mack dissented. The attorneys for the Interstate Commerce Commission and the United States were given no opportunity to examine and answer the arguments advanced by the attorney for the Louisville & Nashville Railroad Co. in his communication to Judge Archbald of January 24, 1912, nor were they informed that such correspondence had been had.

In the opinion of your committee, this conduct on the part of Judge Archbald was a misbehavior in office and unfair and unjust to the parties defendant in this case.

NEGOTIATIONS WITH THE PHILADELPHIA & READING COAL & IRON CO. RELATIVE TO THE LINCOLN CULM DUMP NEAR LORBERRY, PA., AND THE WRONGFUL ACCEPTANCE OF A GIFT, REWARD, OR PRESENT FROM FREDERIC WARNKE, OF SCRANTON, PA.

[See article 5.]

In 1904 Frederic Warnke, of Scranton, Pa., purchased a two-thirds interest in an operating lease on some coal land located near Lorberry Junction, Pa., and owned by the Philadelphia & Reading Coal & Iron Co. The entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which owns the entire capital stock of the Philadelphia & Reading Railway Co., a common carrier engaged in interstate commerce. He put up a number of improvements and operated the culm dump on the property for several years, but owing to the action of the elements his operations were carried on at a loss. Warnke then applied to the Reading Co. for the mining maps of the land covered by his lease. He was informed that the lease under which he claimed had been forfeited two years before its assignment to him, and his application was therefore denied. He then made a proposition to George F. Baer, president of the Philadelphia & Reading Railway Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under his lease, provided that the Philadelphia & Reading Coal & Iron Co. would grant him an operating lease on another property owned by said corporation at Lorberry, Pa., and known as the Lincoln culm bank.

Mr. Baer referred Warnke's proposition to Mr. W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action. Richards and Baer thereafter concluded that there was no valid reason why they should make an exception to the general rule of the coal company not to lease its culm banks. Warnke then made several attempts, through attorneys and friends, to have this decision reconsidered, and failing in this he asked Judge Archbald to intercede in his behalf with Richards.

In the latter part of November, 1911, Judge Archbald called upon Mr. Richards at his office in Pottsville, Pa., in pursuance of an appointment made by letter, and attempted to influence Richards to reconsider his refusal to accede to Warnke's proposition. Judge Archbald was informed, however, that the decision of Richards and Baer must be considered final and the judge so advised Warnke.

In December, 1911, Warnke was considering the advisability of purchasing a certain culm fill located near Pittston, Pa., and owned by the Lacoe & Shiffer Coal Co. One John Henry Jones, of Scranton, Pa., advised him that Judge Archbald was familiar with the title to the property and the rights of way of certain railroads over it. In pursuance of this assurance from Jones, Warnke consulted the judge, who advised him that the title was clear. Warnke had but two conversations with Judge Archbald regarding this matter, not exceeding 30 minutes in length altogether, but he at that time stated to Judge Archbald that he would pay the judge $500 for the information which he had received. Shortly thereafter Warnke and several business associates purchased this property for a consideration of $7,500, and in the month of March, 1911, a day or so after Judge

Archbald had called at the office of Warnke and his associates, Warnke drew a promissory note for $500, as president of the coal company which had purchased the fill, and caused the same to be delivered to Judge Archbald. The note was discounted in one of the banks of Scranton, but has not yet matured.

Your committee finds that Judge Archbald was guilty of misbehavior in office in attempting to use his influence as a member of the Commerce Court with the officials of the Philadelphia & Reading Coal & Iron Co. and its allied railroad corporation for the purpose of aiding Warnke to secure a lease on a certain culm bank owned by the coal and iron company, after the managing officers of said company had declined to grant the lease. Thereafter Warnke gave Judge Archbald $500 in the guise of compensation for legal advice rendered, but which, in fact, was in the nature of a reward for favors previously shown in connection with the judge's efforts to bring about the acceptance of Warnke's proposition to the Philadelphia & Reading Coal & Iron Co.

THE NEGOTIATIONS WITH THE LEHIGH VALLEY COAL CO. RELATIVE TO THE EVERHART TRACT AND THE MORRIS AND ESSEX TRACT.

[See article 6.]

Since 1884 the Lehigh Valley Coal Co., which is a subsidiary of the Lehigh Valley Railroad Co., has owned a one-half interest in a certain tract of coal land located near Wilkes-Barre, Pa., which consists of about 800 acres. During the past few years this company has purchased about four-fifths of the remaining one-half interest in this tract. The remaining portion of the tract is leased by the coal company from certain beneficiaries of the Everhart estate. The coal company has been negotiating for several years to purchase the fee to this outstanding portion of the tract, but the owners would not accept the terms offered.

In December, 1911, or January, 1912, Judge Archbald entered into an agreement with one James R. Dainty, of Scranton, Pa., to open negotiations with the Lehigh Valley Coal Co. and the Everhart estate for the purpose of effecting the sale of this property to the coal company, on the understanding that he and Dainty should secure an operating lease on another tract of about 325 acres of coal land owned by the Lehigh Valley Coal Co., and known as the Morris and Essex tract, as a consideration in the nature of a commission for their services.

In furtherance of this agreement Judge Archbald attempted to use his official influence as a member of the Commerce Court, through telephone conversations and personal conferences, to affect the action of the general manager of the Lehigh Valley Coal Co. with respect to the purchase of this property. While these negotiations were in progress the cases of the Lehigh Valley Railroad Co. *v.* The Interstate Commerce Commission and Henry E. Meeker, intervenor, No. 49, and the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, in which the Lehigh Valley Railroad Co. was a party litigant, were pending before the Commerce Court for adjudication. The persistency with which Judge Archbald sought these business favors or property concessions from railroad companies having litigation, or likely to have litigation, before the Commerce Court indicates a well-defined plan to use his official position and influence as a member of such court for financial gain and profit.

THE DISCOUNT OF THE W. W. RISSINGER NOTE.

[See article 7.]

In the fall of 1908 the case of The Old Plymouth Coal Co. *v.* The Equitable Fire & Marine Insurance Co. et al. was pending before the United States district court over which Judge Archbald presided. Mr. W. W. Rissinger, of Scranton, Pa., was the controlling stockholder of the plaintiff company. The case was predicated on certain insurance contracts between the Old Plymouth Coal Co. and the various insurance companies named as parties defendant, and the total damages sought to be recovered amounted to about $30,000. The case was on trial in November, 1908, and after the plaintiff's evidence had been presented the defendant insurance companies demurred to the sufficiency of the evidence and moved for a nonsuit. After extended argument by attorneys for both plaintiff and defendant Judge Archbald overruled the motion and the defendant companies proceeded to introduce their evidence. Before the evidence was all in the attorneys for the insurance companies made a proposition of compromise to the attorneys for the Old Plymouth Coal Co., which was accepted on November 23, 1908. Consent judgments were entered on that day, in which the plaintiff ultimately recovered about $28,000, and the defendant companies were given 15 days in which to satisfy the judgments.

Some time prior to November 28, 1908, Judge Archbald entered into a deal with Rissinger for the purchase of an interest in a gold-mining project in Honduras, which Rissinger was then promoting in Scranton. In order to finance the transaction, it became necessary to raise $2,500, and on November 28, 1908, or five days after the judgments in favor of the Old Plymouth Coal Co. were entered, a promissory note for that amount, to run three months, signed by Rissinger, in favor of and indorsed by Judge Archbald, and Sophia J. Hutchison, Mr. Rissinger's mother-in-law, was presented to the County Savings Bank of Scranton, Pa., for discount. The bank evidently put no reliance upon Judge Archbald's indorsement of the note, but made an extended investigation of Mrs. Hutchison's financial condition, and on December 12, 1908, discounted the note, after first filing a judgment against Mrs. Hutchison in the county court of Lackawanna County, Pa., according to the practice in that State.

Shortly after the consent judgments in favor of the Old Plymouth Coal Co. were entered on November 23, 1908, this note was also presented for discount to Mr. John T. Lenahan, one of the attorneys for Rissinger and the Old Plymouth Coal Co. in the litigation with the insurance companies, but Lenahan refused to discount the note or have the same discounted in a trust company of which he was a director. The note has never been paid, but has been renewed at the expiration of each successive period of three months by Mr. Rissinger, and the discount on the renewals have been paid by him.

The attempt to discount this note, coming but a few days after the Old Plymouth Coal Co. had prevailed in the litigation with the insurance companies, tends strongly to indicate that Judge Archbald had entered into negotiations with Rissinger while such litigation was pending before the United States district court of which he was judge.

But, at all events, the action of Judge Archbald in accepting an interest in this enterprise, under the conditions, constituted misbehavior in office.

THE DISCOUNT OF THE JOHN HENRY JONES NOTE.

[See articles 8 and 9.]

In the fall of the year 1909 the case of John W. Peale *v.* The Marian Coal Co., which involved a considerable sum of money, was pending before the United States district court at Scranton, Pa., over which Judge Archbald presided. The Marian Coal Co. was principally owned and controlled by Christopher G. Boland and William P. Boland, of Scranton, Pa., and this fact was well known to Judge Archbald. In the latter part of November or the early part of December, 1909, for the purpose of raising funds to invest in a timber project in Venezuela, which was being promoted by one John Henry Jones, of Scranton, Pa., Judge Archbald drew and indorsed a promissory note for $500, payable to himself, which note was signed by Jones as promisor.

Judge Archbald thereupon agreed and consented that Edward J. Williams should present this note to Christopher G. Boland and William P. Boland, or either of them, for discount. In pursuance of this agreement or approval of Judge Archbald, Williams did present the note to each of the Bolands for the purpose of having the same discounted, but they refused to grant the discount, on the ground that it would be highly improper for them to do so under the existing circumstances. Williams reported the refusal of the Bolands to discount the note to Judge Archbald, and thereafter took it to the Merchants & Mechanics Bank of Scranton, but this bank also refused to discount the paper.

The note was finally discounted by John Henry Jones in the Providence Bank, a small State bank located in a suburb of Scranton. The president of this bank was one C. H. Von Storch, of Scranton, Pa., an attorney at law, who had prevailed as a party in interest in litigation before Judge Archbald's court within a year prior to the date of the discount of the note. The note was brought to Von Storch by Jones at the suggestion of Judge Archbald. Moreover, Judge Archbald advised Von Storch that he would consider it a great favor if the discount should be granted. The note has never been paid, although the bank has made at least one call for payment, and the discount on each renewal has been paid by John Henry Jones.

It is apparent that Judge Archbald's financial condition at the time the incident occurred was such that his note was not considered good bankable paper, and your committee is forced to the conclusion that he attempted to use his influence as judge to secure the loan from parties litigant before his court, and, failing in this, he did use his influence as such judge to secure the loan through an attorney who was then practicing before his court and who had but a short while before received favorable judgment in a suit adjudicated therein.

THE WRONGFUL ACCEPTANCE OF MONEY ON THE OCCASION OF A PLEASURE TRIP TO EUROPE.

[See articles 10 and 11.]

In the spring of 1910 Judge Archbald allowed one Henry W. Cannon, of New York City, to pay his entire expenses on a pleasure trip to Europe. Mr. Cannon was then, and still is, a stockholder and officer in various interstate railroad corporations, including the Great Northern Railroad, the Lake Erie & Western Railroad Co., the Fort Wayne, Cincinnati & Louisville Railroad Co.; the Pacific Coast Co., which owns the entire stock of the Columbia & Puget Sound Railroad Co.; the Pacific Coast Railroad Co.; and the Pacific Coast Steamship Co., together with various other corporations engaged in the business of mining and shipping coal.

It is claimed that Mr. Cannon is a distant relative of Judge Archbald's wife, but, however this may be, your committee regards it as improper for a judge to thus obligate himself to an officer of numerous corporations likely to become directly or indirectly involved in litigation before his court or before other courts over which he might be called upon to preside from time to time.

On the occasion of this same pleasure trip to Europe one Edward R. W. Searle, clerk of the United States district court at Scranton, Pa., and one J. B. Woodward, of Wilkes-Barre, Pa., jury commissioner of said court, both of whom were appointed by Judge Archbald, raised a subscription fund of money amounting to more than $500, which was presented to Judge Archbald on his departure. This fund was not raised as the result of a bar-association movement, but was composed of contributions of varying amounts from certain attorneys practicing before the United States district court, some of whom had cases then pending before said court for adjudication.

Judge Archbald accepted this fund of money and acknowledged receipt of the same to the contributors whose names were submitted to him at the time that the fund was presented. Your committee regards it as improper and subversive of the confidence of the public in the judiciary for a judge to place himself in this manner under obligations to attorneys practicing before his court.

THE APPOINTMENT OF A RAILROAD ATTORNEY AS JURY COMMISSIONER.

[See article 12.]

On March 29, 1901, Judge Archbald was appointed United States district judge for the middle district of Pennsylvania. On April 9, 1901, under the exercise of authority granted by the act of June 30, 1879 (21 Stat., 43), Judge Archbald appointed one J. B. Woodward, of Wilkes-Barre, Pa., as jury commissioner of the said district court. The said Woodward was then and has since been a general attorney for the Lehigh Valley Railroad Co.

Under the annual appropriation acts, the compensation of jury commissioners is limited to $5 per day, for not more than three days at any one term of court. It is apparent that the compensation attached to this position is so insignificant that the appointment would have no attraction for a railroad attorney except for the power it affords in the selection of juries for the trial of cases in the Federal courts.

Judge Archbald's action in appointing to this position the legal representative of a large railroad corporation which was likely to become directly or indirectly involved in litigation before the United States district court was misbehavior in office, calculated to bring the Federal judiciary into disrepute.

GENERAL MISBEHAVIOR OF JUDGE ARCHBALD.

[See article 13.]

The testimony in the whole case tends to support this general specification. Judge Archbald was appointed a United States district judge for the middle district of Pennsylvania on the 29th day of March, 1901, and held such office until January 31, 1911, on which last-named date he was appointed an additional United States circuit judge, and on the same day was duly designated as one of the judges of the United States Commerce Court, which position he has since held and now holds.

The testimony shows that at different times while Judge Archbald was a judge of the United States district court he sought and obtained credit and in other instances sought to obtain credit from persons who had litigation pending in his said court or who had had litigation pending in his said court.

The testimony shows that after Judge Archbald had been promoted to the position of a United States circuit judge and had been duly designated as one of the judges of the United States Commerce Court, he in connection with different persons sought to obtain options on culm dumps and other coal properties from officers and agents of coal companies which were owned and controlled by railroad companies.

The testimony further shows that in order to influence the officers of the coal companies which were subsidiary to and owned by the railroad companies, Judge Archbald repeatedly sought to influence the officials of the railroads to enter into contracts with his associates for the financial benefit of himself and his said associates. In most instances the contracts were executed in the name of the person associated with the judge in the particular transaction or trade, and the judge's name was not disclosed on the face of the contract. The testimony shows, however, that he was, as a matter of fact, pecuniarily interested in such contracts, and that while his interest was not known to the public it was known to the officials of the railroad companies and of the coal companies, subsidiary corporations thereof. The evidence discloses that while the judge's several associates or partners would locate properties, the judge would take up the matter of the purchase or sale of said properties with the officials of the coal companies and of the railroad companies which, as already stated, in most instances owned and controlled the coal companies. The testimony shows that while these negotiations were being conducted, and agreements were made and sought to be made, the railroad companies with whose officers Judge Archbald was making contracts and agreements and seeking to make contracts and agreements were common carriers engaged in interstate commerce and had litigation pending in the United States Commerce Court.

The testimony shows that such options, contracts, and agreements were sought and obtained and sought to be obtained by Judge Archbald to such an extent that the exposure of the judge's several transactions through the press gave rise to a public scandal.

The testimony fails to disclose any case in which Judge Archbald invested any actual money of his own in any of these several trades or deals, but shows that he used his personal influence as a judge, in consideration of which he received or was to receive his share or interest in the property or his profits in the deal.

Your committee finds that Judge Archbald by his conduct in carrying on traffic in culm dumps and coal properties owned directly or indirectly by railroads, and in using his influence to secure such contracts from coal companies which were owned and controlled by railroad companies as aforesaid, and in using his influence with high officials of said railroads to induce them to permit or direct the said coal companies to enter into contracts with him or his associates which resulted in financial profit to himself and those associated with him, grossly abused the proprieties of his said office of judge, was guilty of misbehavior and of a misdemeanor in office.

THE LAW.

CONSTITUTIONAL PROVISIONS RELATING TO JUDICIAL IMPEACHMENTS.

The provisions of the Constitution of the United States bearing upon the impeachment of judges are as follows:

The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment. (Art. I, sec. 2.)

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law. (Art. I, sec. 3.)

The President * * * shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. (Art. II, sec. 2.)

The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and disdemeanors. (Art. II, sec. 4.)

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office. (Art. III, sec. 1.)

The trial of all crimes, except in cases of impeachment, shall be by jury. (Art. III, sec. 2.)

The Senate shall have the sole power to try all impeachments. When sitting for the purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside. And no person shall be convicted without the concurrence of two-thirds of the Members present. (Art. I, sec. 3.)

THE GENERAL NATURE OF IMPEACHMENTS.

The fundamental law of impeachment was stated by Richard Wooddesson, an eminent authority, in his Law Lectures delivered at Oxford in 1777, as follows (vol. 2, pp. 355, 358):

It is certain that magistrates and officers intrusted with the administration of public affairs may abuse their delegated powers to the extensive detriment of the community and at the same time in a manner not properly cognizable before the ordinary tribunals. The influence of such delinquents and the nature of such offenses may not unsuitably engage the authority of the highest court and the wisdom of the sagest assembly. The Commons, therefore, as the grand inquest of the nation, became suitors for penal justice, and they can not consistently, either with their own dignity or with safety to the accused, sue elsewhere but to those who share with them in the legislature.

On this policy is founded the origin of impeachments, which began soon after the constitution assumed its present form (p. 355).

* * * * * * *

Such kind of misdeeds, however, as peculiarly injure the Commonwealth by the abuse of high offices of trust, are most proper—and have been the most usual grounds—for this kind of prosecution (p. 358).

Referring to the function of impeachments, Rawle, in his work on the Constitution (p. 211), says:

The delegation of important trusts affecting the higher interests of society is always from various causes liable to abuse. The fondness frequently felt for the inordinate extension of power, the influence of party and of prejudice, the seductions of foreign states or the baser appetite for illegitimate emoluments, are sometimes productions of what are not unaptly termed "political offenses" (Federalist, No. 65), which it would be difficult to take cognizance of in the ordinary course of judicial proceeding.

The involutions and varieties of vice are too many and too artful to be anticipated by positive law.

In Story on the Constitution (vol. 1, 5th ed., p. 584) the parliamentary history of impeachments is briefly stated as follows:

800. In examining the parliamentary history of impeachments, it will be found that many offenses, not easily definable by law, and many of a purely political character, have been deemed high crimes and misdemeanors worthy of this extraordinary remedy. Thus lord chancellors and judges and other magistrates have not only been impeached for bribery, and acting grossly contrary to the duties of their office, but for misleading their sovereign by unconstitutional opinions, and for attempts to subvert the fundamental laws, and introduce arbitrary power. So where a lord chancellor has been thought to have put the great seal to an ignominious treaty, a lord admiral to have neglected the safeguard of the sea, an ambassador to have betrayed his trust, a privy councilor to have propounded or supported pernicious and dishonorable measures, or a confidential adviser of his sovereign to have obtained exorbitant grants or incompatible employments—these have been all deemed impeachable offenses. Some of the offenses, indeed, for which persons were impeached in the early ages of British jurisprudence, would now seem harsh and severe; but perhaps they were rendered necessary by existing corruptions, and the importance of suppressing a spirit of favoritism and court intrigue. Thus persons have been impeached for giving bad counsel to the King, advising a prejudicial peace, enticing the King to act against the advice of Parliament, purchasing offices, giving medicine to the King without advice of physicians, preventing other persons from giving counsel to the King except in their presence, and procuring exorbitant personal grants from the King. But others, again, were founded in the most salutary public justice, such as impeachments for malversations and neglects in office, for encouraging pirates, for official oppression, extortions, and deceits, and especially for putting good magistrates out of office and advancing bad. One can not but be struck, in this slight enumeration, with the utter unfitness of the common tribunals of justice to take cognizance of such offenses, and with the entire propriety of confiding the jurisdiction over them to a tribunal capable of understanding and reforming and scrutinizing the polity of the state, and of sufficient dignity to maintain the independence and reputation of worthy public officers.

IMPEACHABLE OFFENSES UNDER THE CONSTITUTION.

The provision in Article II, section 4, of the Constitution of the United States defining impeachable offenses as "treason, bribery, or other high crimes and misdemeanors" was taken from the British parliamentary law, established and prevailing at the time of the formation of our Government. It must, therefore, be interpreted by the light of time-honored parliamentary usage, as contradistinguished from the common municipal law of England.

Our fathers, mindful of the flagrant persecution of the subjects of England in the guise of prosecutions for treason against the Crown, specifically defined the elements of the offense of treason against the United States in Article III, section 3, of our organic law.

The offense of bribery had a fixed status in the parliamentary law as well as the criminal law of England when our Constitution was adopted, and there is little difficulty in determining its nature and extent in the application of the law of impeachments in this country.

In addition to the specific offenses of treason and bribery, all offenses falling within the classification of "high crimes and misdemeanors," which were subjects of impeachment by the British Parliament, were made impeachable offenses under the Constitution of the United States, subject to the limitations prescribed by that instrument.

In a footnote to Fourth Blackstone (p. 5, Lewis's Ed.) Christian says:

The word "crime" has no technical meaning in the law of England. It seems, when it has a reference to positive law, to comprehend those acts which subject the offender to punishment. When the words "high crimes and misdemeanors" are used in prosecutions by impeachment, the words "high crimes" have no definite signification but are used merely to give greater solemnity to the charge.

The term "misdemeanor" has a twofold legal significance. Under the common law it signifies a criminal offense, not amounting to felony, which is punishable by indictment or other special criminal proceeding. As applied to civil officers, in the sense of the lex parliamentaria, it signifies maladministration or misbehavior in office, irrespective of whether such conduct is or is not indictable.

It is well established by the authorities that impeachable offenses under the British constitution and under our Constitution are not limited to statutable crimes and misdemeanors or to offenses indictable under the common law and triable in the courts of ordinary jurisdiction.

In his commentaries on the Constitution John Randolph Tucker defines impeachable offenses as follows (vol. 1, sec. 200):

What are impeachable offenses?

(a) Treason: This is defined by the Constitution.

(b) Bribery: Which needs no special comment. For its definition resort may be had to its meaning in Criminal Procedure.

(c) High crimes and misdemeanors. What is the meaning of these terms? Much controversy has arisen out of this question. Do these words refer only to offenses for which the party may be indicted under the authority of the United States? Do they mean offenses by the common law? Do they include offenses against the laws of the State, or do they mean offenses for which there is no indictment in the ordinary courts of justice? Or do they include maladministration, unconstitutional action of an officer willful or mistaken, or illegal action willful or mistaken?

(d) Up to September 8, 1787, the clause in reference to the impeachable offenses only included treason and bribery. On that day Mr. Mason moved to add the words "or maladministration." Mr. Madison objected to the vagueness of this term, whereupon Mr. Mason withdrew the word "maladministration" and substituted "other high crimes and misdemeanors against the United States," and the clause was then agreed to by a vote of 10 States to 1. As the word "other" is inserted before the words "high crimes and misdemeanors," these last words may be interpreted by the nature of the crimes "treason and bribery." Why should an officer be impeached for treason? Obviously because an officer guilty of treason against the United States would be disqualified personally from being an officer of a government to which he was a traitor. How could a President properly command an Army of the United States when he was engaged in levying war against them or adhering to their enemies? The utter inconsistency of this double position made it a proper offense for the jurisdiction of impeachment. The same objection would apply to any other officer of the United States. To be employed in the service of the United States against which he was levying war or adhering to their enemies was a total personal disqualification.

(e) So in respect to bribery. Bribery corrupts public duty. The difference between treason and bribery is that the first is a crime defined by the Constitution, as to which Congress has no power except to declare its punishment. Bribery is not a constitutional crime, and was not made a crime against the United States by statute until April, 1790. These two cases, therefore, show that the words "high crimes and misdemeanors" can not be confined to crimes created and defined by a statute of the United States; for if Congress had ever failed to have fixed a punishment for the constitutional crime of treason, or had failed to pass an act in reference to the crime of bribery, as it did fail for more than a year after the Constitution went into operation, it would result that no officer would be impeachable for either crime, because Congress had failed to pass the needful statutes defining crime in the case of bribery and prescribing the punishment in the case of treason as well as bribery. It can hardly be supposed that the Constitution intended to make impeachment for these two flagrant crimes depend upon the action of Congress. The conclusion from this would seem to be inevitable that treason and bribery, and other high crimes and misdemeanors, in respect to which Congress had failed to legislate would still be within the jurisdiction of the process of impeachment.

(f) The word "maladministration," which Mr. Mason originally proposed, and which he displaced because of its vagueness for the words "other high crimes and misdemeanors," was intended to embrace all official delinquency or maladministration by an officer of the Government where it was criminal; that is, where the act done was done with willful purpose to violate public duty. There can be no crime in an act where it is done through inadvertence or mistake or from misjudgment. Where it is a willful and purposed violation of duty it is criminal.

(g) This construction is aided by the fact that judges hold their offices during "good behavior." These words do not mean that a judge shall decide rightly, but that he shall decide conscientiously. He is not amenable to impeachment for a wrong decision, else when an inferior judge is reversed he would be impeachable; or, in the Supreme Court, a dissenting judge might be held impeachable because a large majority of the court affirmed the law to be otherwise. But if he decides unconscientiously—if he decides contrary to his honest conviction from corrupt partiality—this can not be good behavior, and he is impeachable. Again, if the judge is drunken on the bench, this is ill behavior, for which he is impeachable. And all of these are generally criminal or misdemeanor, for misdemeanor is a synonymn for misbehavior. So, if he omits a judcial duty, as well as when he commits a violation of duty, he is guilty of crime or misdemeanor; for, says Blackstone, "crime or misdemeanor is an act committed or omitted in violation of a public law either forbidding or commanding it."

To confine the impeachable offenses to those which are made crimes or misdemeanors by statute or other specific law would too much constrict the jurisdiction to meet the obvious purpose of the Constitution, which was, by impeachment, to deprive of office those who by any act of omission or commission showed clear and flagrant disqualification to hold it. On the other hand, to hold that all departures from, or failures in, duty, which were not willful, but due to mistake, inadvertence, or misjudgment, and to let in all offenses at common law, which, by the decisions of the Supreme Court, are not within Federal authority at all, would be to extend the jurisdiction by impeachment far beyond what was obviously the purpose and design of its creation. It must be criminal misbehavior—a purposed defiance of official duty—to disqualify the man from holding office or disable him from ever after holding office, which constitute the penalty upon conviction under the impeachment process. The punishment, upon conviction, indicates the character of the crime or misdemeanor for which impeachment is constitutional. If the crime or misdemeanor for which the impeachment is made be not such as to justify the punishment inflicted, we may well conclude it was within the purpose of the Constitution in using the impeachment procedure.

In Cooley's Principles of Constitutional Law it is said (p. 178):

The offenses for which the President or any other officer may be impeached are any such as in the opinion of the House are deserving of punishment under that process. They are not necessarily offenses against the general laws. In the history of England where the like proceeding obtains, the offenses have often been political, and in some cases for gross betrayal of public interests punishment has very justly been inflicted on cabinet officers. It is often found that offenses of a very serious nature by high officers are not offenses against the criminal code, but consist in abuses or betrayals of trust or inexcusable

neglects of duty, which are dangerous and criminal because of the immense interests involved and the greatness of the trust which has not been kept. Such cases must be left to be dealt with on their own facts and judged according to their apparent deserts (p. 178).

In his work on the Constitutional History of the United States, George Ticknor Curtis says (vol. 1, pp. 481–482):

Among the sperate functions assigned by the Constitution to the Houses of Congress are those of presenting and trying impeachments. An impeachment, in the report of the committee of detail, was treated as an ordinary judicial proceeding and was placed within the jurisdiction of the Supreme Court. That this was not in all respects a suitable provision will appear from the following considerations: Although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime, nor is there any necessity, in the case of crimes committed by public officers, for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offenses against positive law. The purposes of an impeachment lie wholly beyond the penalties of the statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed, as where the individual has, from immorality or imbecility or maladministration, become unfit to exercise the office. The rules by which an impeachment is to be determined are therefore peculiar and are not fully embraced by those principles or provisions of law which courts of ordinary jurisdiction are required to administer. (Vol. 1, pp. 481–482.)

In Watson on the Constitution (vol 2, p. 1034, published in 1910) it is said:

A misdemeanor comprehends all indictable offenses which do not amount to a felony, as perjury, battery, libels, conspiracies, attempts and solicitations to commit felonies, etc. These seem to be the definitions of these terms at common law, but it would be strange if a civil officer could be impeached for only such offenses as are embraced within the common-law definition of "other high crimes and misdemeanors." There is a parliamentary definition of the term "misdemeanor," and a modern writer on the Constitution has said: "The term 'high crimes and misdemeanors' has no significance in the common law concerning crimes subject to indictment. It can only be found in the law of Parliament and is the technical term which was used by the Commons at the Bar of the Lords for centuries before the existence of the United States." Synonymous with the term "misdemeanor" are the terms misdeed, misconduct, misbehavior, fault, transgression.

In Story on the Constitution (5th ed., vol. 1, secs. 796, 799) it is said:

Is the silence of the statute book to be deemed conclusive in favor of the party until Congress have made a legislative declaration and enumeration of the offenses which shall be deemed high crimes and misdemeanors? If so, then, as has been truly remarked, the power of impeachment, except as to the two expressed cases, is a complete nullity, and the party is wholly dispunishable however enormous may be his corruption and criminality. (Sec. 796.)

Congress has unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct; and the rules of proceeding, and the rules of evidence, as well as the principles of decision, have been uniformly regulated by the known doctrines of the common law and parliamentary usage. In the few cases of impeachment which have hitherto been tried, no one of the charges has rested upon any statutable misdemeanors. (Sec. 799.)

Foster, in his work on the Constitution (sec. 93), says:

The term "high crimes and misdemeanors" has no significance in the common law concerning crimes subject to indictment. It can be found only in the law of Parliament and is the technical term which has been used by the Commons at the Bar of the Lords for centuries before the existence of the United States.

* * * * * * *

Impeachable offenses are those which were the subject of impeachment by the practice in Parliament before the Declaration of Independence, except in so far as that practice is repugnant to the language of the Constitution and the spirit of American institutions. An examination of the English precedents will show that, although private citizens as well as public officers have been impeached, no article has been presented or sustained which did not charge either misconduct in office or some offense which was injurious to the welfare of the State at large.

In this class of cases, which rest so much in the discretion of the Senate, the writer would be rash who were to attempt to prescribe the limits of its jurisdiction in this respect.

An impeachable offense may consist of treason, bribery, or a breach of official duty by malfeasance or misfeasance, including conduct such as drunkenness, when habitual or in the performance of official duties, gross indecency, and profanity, obscenity, or other language, used in the discharge of an official function, which tends to bring the office into disrepute, or an abuse or reckless exercise of a discretionary power, as well as a breach or omission of an official duty imposed by statute or common law; or a public speech when off duty which encourages insurrection. It does not consist in an error in judgment made in good faith in the decision of a doubtful question of law, except perhaps in the case of a violation of the Constitution.

In the American and English Enclycopedia of Law, second edition (vol. 15, pp. 1066–1068), it is said:

The Constitution of the United States provides that the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. If impeachment in England be regarded merely as a mode of trial for the punishment of common-law or statutory crimes, and if the Constitution has adopted it only as a mode of procedure, leaving the crimes to which it is to be applied to be settled by the general rules of criminal law, then, as it is well settled that in regard to the National Government there are no common-law crimes, it would seem necessarily to follow that impeachment can be instituted only for crimes specifically named in the Constitution or for offenses declared to be crimes by Federal statute. This view has been maintained by very eminent authority, but the cases of impeachment that have been brought under the Constitution would seem to give to the remedy a much wider scope than the above rule would indicate. In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses not indictable either at common law or under any Federal statute, and in almost every case brought offenses were charged in the articles of impeachment which were not indictable under any Federal statute, and in several cases they were such as constituted neither a statutory nor a common-law crime. The impeachability of the offenses charged in the articles was in most of the cases not denied. In one case, however, counsel for the defendant insisted that impeachment would not lie for any but an indictable offense; but after exhaustive argument on both sides this defense was practically abandoned. The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of indictable crimes; that the phrase "high crimes and misdemeanors" is to be taken not in its common-law but in its broader parliamentary sense, and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, and even gross improprieties, by judges and high officers of State, although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute. Additional weight is added to this interpretation of the Constitution by the opinions of eminent writers on constitutional and parliamentary law and by the fact that some of the most distinguished members of the convention that framed it have thus interpreted it.

It will thus be seen that the common law of crimes and the parliamentary law of impeachments have no direct connection, although the principles of the one may be invoked in the application of the other. They represent two distinct branches in our scheme of jurisprudence and they should be so treated in the consideration of the case which is here presented.

THE TENURE OF FEDERAL JUDGES LIMITED TO "DURING GOOD BEHAVIOR."

The provision in Article III, section 1, of our Constitution that "the judges, both of the Supreme and inferior courts, shall hold their offices during good behavior," which was also borrowed from the English laws, should be considered in pari materia with Article IV, section 2, providing that all civil officers of the United States shall be removed from office upon "impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors."

Good behavior is thus made the essential condition on which the tenure to the judicial office rests, and any act committed or omitted by the incumbent in violation of this condition necessarily works a forfeiture of the office. The Constitution provides no method whereby a civil officer of the United States can be removed from office save by impeachment. It follows, therefore, that the framers of our Constitution must have intended that Federal judges, who are civil officers, should be removable from office by impeachment for misbehavior, which is the antithesis of good behavior. Otherwise the constitutional provision limiting the tenure of the judicial office to "during good behavior" would be without force and effect.

In his work on the Constitution, Foster says (p. 586):

The Constitution provides that—

"The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior."

This necessarily implies that they may be removed in case of bad behavior. But no means except impeachment is provided for their removal, and judicial misconduct is not indictable by either a statute of the United States or the common law.

In Watson on the Constitution, the proposition is stated as follows (vol. 2, pp. 1036–1037):

A civil officer may so behave in public as to bring disgrace upon himself and shame upon his country, and he may continue to do this until his name would become a national stench, and yet he would not be subject to indictment by any law of the United States, but he certainly could be impeached. What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges which says, "Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior"? This means that as long as they behave themselves their tenure of office is fixed, and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says "A judge shall hold his office during good behavior" it means that he shall not hold it when it ceases to be good. Suppose he should refuse to sit upon the bench and discharge the duties which the Constitution and the law enjoin upon him, or should become a notoriously corrupt character, and live a notoriously corrupt and debauched life? He could not be indicted for such conduct, and he could not be removed except by impeachment. Would it be claimed that impeachment would not be the proper remedy in such a case?

IMPEACHMENTS NOT CONFINED TO OFFENSES COMMITTED IN AN OFFICIAL CAPACITY.

It is not essential that an offense should be committed in an official capacity in order that it may come within the purview of the constitutional provisions relating to impeachments.

Black, in his work on Constitutional Law, says (2d ed., pp. 121–122):

Treason and bribery are well-defined crimes. But the phrase "other high crimes and misdemeanors" is so very indefinite that practically it is not susceptible of exact definition or limitation, but the power of impeachment may be brought to bear on any offense against the Constitution or the laws which, in the judgment of the House, is deserving of punishment by this means or is of such a character as to render the

party accused unfit to hold and exercise his office. It is, of course, primarily directed against official misconduct. Any gross malversation in office, whether or not it is a punishable offense at law, may be made the ground of an impeachment. But the power of impeachment is not restricted to political crimes alone. The Constitution provides that the party convicted upon impeachment shall still remain liable to trial and punishment according to law. From this it is to be inferred that the commission of any crime which is of a grave nature, though it may have nothing to do with the person's official position, except that it shows a character or motives inconsistent with the due administration of his office, would render him liable to impeachment. It will be perceived that the power to determine what crimes are impeachable rests very much with Congress. For the House, before preferring articles of impeachment, will decide whether the acts or conduct complained of constitute a "high crime or misdemeanor." And the Senate, in trying the case, will also have to consider the same question. If, in the judgment of the Senate, the offense charged is not impeachable, they will acquit; otherwise, upon sufficient proof and the concurrence of the necessary majority, they will convict. And in either case there is no other power which can review or reverse their decision.

In 1862 West H. Humphreys, United States district judge for the district of Tennessee, was impeached on several specifications, one of which was based on his action in making a speech at a public meeting, while off the bench, inciting revolt and rebellion against the Constitution and Government of the United States. The evidence clearly showed that he was in no wise acting in a judicial capacity, yet he was convicted on this charge.

A number of the impeachments of judges of the several States of the Union have been predicated on various acts of debauchery entirely separate from the performance of their official duties.

Any conduct on the part of a judge which reflects on his integrity as a man or his fitness to perform the judicial functions should be sufficient to sustain his impeachment. It would be both absurd and monstrous to hold that an impeachable offense must needs be committed in an official capacity. If such an atrocious doctrine should receive the sanction of the congressional authority, there is no limit to the variety and the viciousness of the offenses which a Federal judge might commit with perfect immunity from effective impeachment.

IMPEACHMENT FOR OFFENSES COMMITTED IN ANOTHER JUDICIAL OFFICE.

Certain of the proposed articles of impeachment against Judge Archbald are based on offenses committed while he held the office of United States district judge for the middle district of Pennsylvania, whereas he now holds the office of circuit judge of the United States for the third judicial circuit, and is assigned to serve for a period of four years in the Commerce Court. In this respect the case here presented seems to be unique in the annals of impeachment proceedings under our Constitution.

By virtue of the provisions of section 609 of the Revised Statutes, which were then in force, Judge Archbald, while holding the office of United States district judge, was duly clothed with authority to sit or preside in the United States circuit court, and he was actually presiding over such circuit court at Scranton, Pa., during the time that some or all of the offenses charged in these articles were committed.

Since his elevation to a circuit judgeship the United States circuit courts have been abolished by the act of March 3, 1911 (36 Stat., 1087), entitled "An act to codify, revise, and amend the laws relating to the judiciary," but the provisions relative to the interchangeability of district and circuit judges remain substantially the same. Section 18 of this act provides that—

Whenever, in the judgment of the senior circuit judge of the circuit in which the district lies, or of the circuit justice assigned to such circuit, or of the Chief Justice, the public interest shall require, the said judge or associate justice or Chief Justice shall designate and appoint any circuit judge of the circuit to hold said district court.

Thus it appears that Judge Archbald now holds a civil office, within the meaning of the Constitution, of the same judicial nature as the office held by him at the time of the commission of the offenses charged in the said articles, and that, under the existing law, he may be called upon at any time to perform precisely the same functions that he performed as United States district judge.

In State *v.* Hill (37 Nebr., 80) the Legislature of Nebraska had impeached certain ex-officers of the State for offenses alleged to have been committed during their respective terms of office. The Supreme Court of Nebraska held that inasmuch as they had ceased to be civil officers of the State they were not subject to impeachment. In the course of the decision the court said (pp. 88–89):

Judge Barnard was impeached in the State of New York during his second term for acts committed in his previous term of office. His plea that he was not liable to impeachment for offenses occurring in the first term was overruled. Precisely the same question was raised in the impeachment proceedings against Judge Hubbel, of Wisconsin, and on the trial of Gov. Butler, of this State, and in each of which the ruling was the same as in the Barnard case. There was good reason for overruling the plea to the jurisdiction in the three cases just mentioned. Each respondent was a civil officer at the time he was impeached and had been such uninterruptedly since the alleged misdemeanors in office were committed. The fact that the offense occurred in the previous term was immaterial. The object of impeachment is to remove a corrupt or unworthy officer. If his term has expired and he is no longer in office, that object is attained and the reason for his impeachment no longer exists. But if the offender is still an officer, he is amenable to impeachment, although the acts charged were committed in his previous term of the same office.

In the cases discussed there was a constructive breach in the tenure of the offices held by the defendants between the time of the commission of the offenses charged and the adoption of the articles of impeachment. Even though the offices held by the defendants at the time of their impeachment had not been the same offices which they held at the time of the commission of the alleged offenses, it might well have been decided, on principle, that impeachment would lie if in fact the prescribed functions of such offices were of the same general nature and susceptible to the same malversations and abuse.

It is indeed anomalous if this Congress is powerless to remove a corrupt or unfit Federal judge from office because his corruption or misdemeanor, however vicious or reprehensible, may have occurred during his tenure in some other judicial office under the Government of the United States prior to his appointment to the particular office from which he is sought to be ousted by impeachment, although he may have held a Federal judgeship continuously from the time of the commission of his offenses. Surely the House of Representatives will not recognize nor the Senate apply such a narrow and technical construction of the constitutional provisions relating to impeachments.

CONCLUSION.

Judges "shall hold their offices during good behavior." Thus says the Constitution. The framers of that instrument were desirous of having an independent and incorruptible judiciary, but they never intended to provide that any judge should hold his office upon nonforfeitable life tenure. Those who formulated the organic law sought to protect the people against the malfeasance and misfeasance of unjust and corrupt judges. Therefore they wisely limited the tenure of office to "during good behavior" and provided the remedy for misbehavior to be forfeiture of office and the removal therefrom by impeachment.

The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity that generally characterizes the Federal judiciary. Be it said to the credit of the wisdom of our fathers and in behalf of our American institutions that the judges have, as a rule, deported themselves in such manner as to merit and keep the confidence of the people. The public respect for the judicial branch of our Government has almost amounted to reverence. This confidence has been deserved, and let us hope that it will continue to be deserved, to the end that an upright and independent judiciary may be maintained for the perpetuation of our government of law.

A judge should be the personification of integrity, of honor, and of uprightness in his daily walk and conversation. He should hold his exalted office and the administration of justice above the sordid desire to accumulate wealth by trading or trafficking with actual or probable litigants in his court. He should be free and unaffected by any bias born of avarice and unhampered by pecuniary or other improper obligations.

Your committee is of opinion that Judge Archbald's sense of moral responsibility has become deadened. He has prostituted his high office for personal profit. He has attempted by various transactions to commercialize his potentiality as judge. He has shown an overweening desire to make gainful bargains with parties having cases before him or likely to have cases before him. To accomplish this purpose he has not hesitated to use his official power and influence. He has degraded his high office and has destroyed the confidence of the public in his judicial integrity. He has forfeited the condition upon which he holds his commission and should be removed from office by impeachment.

RECOMMENDATION.

Your committee reports herewith the accompanying resolution and articles of impeachment against Judge Robert W. Archbald, and recommends that they be adopted by the House and that they be presented to the Senate with a demand for the conviction and removal from office of said Robert W. Archbald, United States circuit judge designated as a member of the Commerce Court:

House resolution 622.

Resolved, That Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stat. L., vol. 36, 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve for four years in the Commerce Court, be impeached for misbehavior and for high crimes and misdemeanors; and that the evidence heretofore taken by the Committee on the Judiciary under House resolution 524 sustains 13 articles of impeachment which are hereinafter set out; and that said articles be, and they are hereby, adopted by the House of Representatives, and that

the same shall be exhibited to the Senate in the following words and figures, to wit:

Articles of impeachment of the House of Representatives of the United States of America in the name of themselves and of all of the people of the United States of America against Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stat. L., vol. 36, 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve for four years in the Commerce Court:

ARTICLE 1.

That the said Robert W. Archbald, at Scranton, in the State of Pennsylvania, being a United States circuit judge, and having been duly designated as one of the judges of the United States Commerce Court, and being then and there a judge of the said court, on March 31, 1911, entered into an agreement with one Edward J. Williams whereby the said Robert W. Archbald and the said Edward J. Williams agreed to become partners in the purchase of a certain clum dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson, for the purpose of disposing of said property at a profit. That pursuant to said agreement, and in furtherance thereof, the said Robert W. Archbald, on the 31st day of March, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise, to induce and influence, and did induce and influence, the officers of the said Hillside Coal & Iron Co. and of the Erie Railroad Co., a corporation, which owned all of the stock of said coal company, to enter into an agreement with the said Robert W. Archbald and the said Edward J. Williams to sell the interest of the said Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500. That during the period covering the several negotiations and transactions leading up to the aforesaid agreemnt the said Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting as such judge; and at the time aforesaid and during the time the aforesaid negotiations were in progress the said Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 39, then pending in the United States Commerce Court; and the said Robert W. Archbald, judge as aforesaid, well knowing these facts, willfully, unlawfully, and corruptly took advantage of his official position as such judge to induce and influence the officials of the said Erie Railroad Co. and the said Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and the said Edward J. Williams, as aforesaid, for profit to themselves, and that the said Robert W. Archbald, then and there, through the influence exerted by reason of his position as such judge, willfully, unlawfully, and corruptly did induce the officers of said Erie Railroad Co. and of the said Hillside Coal & Iron Co. to enter into said contract for the consideration aforesaid.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

ARTICLE 2.

That the said Robert W. Archbald, on the 1st day of August, 1911, was a United States circuit judge, and, having been duly designated as one of the judges of the United States Commerce Court, was then and there a judge of said court.

That at the time aforesaid the Marian Coal Co., a corporation, was the owner of a certain culm bank at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies as defendants, charging said defendants with discrimination in rates and with excessive charges for the transportation of coal shipped by the said Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce. That the decision of the said case by the Interstate Commerce Commission at the instance of either party thereto was subject to review, under the law, by the United States Commerce Court; that one Christopher G. Boland and one William P. Boland were then the principal stockholders of the said Marian Coal Co. and controlled the operation of the same, and they, the said Christopher G. Boland and the said William P. Boland, employed one George M. Watson as an attorney to settle the case then pending as aforesaid in the Interstate Commerce Commission and to sell to the Delaware, Lackawanna & Western Railroad Co. two-thirds of the stock of the said Marian Coal Co.; and at the time aforesaid there was pending in the United States Commerce Court a certain suit entitled the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, to which suit the said Delaware, Lackawanna & Western Railroad Co. was a party litigant.

That the said Robert W. Archbald, being judge as aforesaid and well knowing these facts, did, then and there, engage, for a consideration, to assist the said George M. Watson to settle the aforesaid case then pending before the Interstate Commerce Commission and to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the said Marian Coal Co., and in pursuance of said engagement the said Robert W. Archbald, on or about the 10th day of August, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise, to induce and influence the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with the said George M. Watson for the settlement of the aforesaid case and the sale of said stock of the Marian Coal Co.; and the said Robert W. Archbald thereby willfully, unlawfully, and corruptly did use his influence as such judge in the attempt to settle said case and to sell said stock of the said Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

ARTICLE 3.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about October 1, 1911, did secure from the Lehigh Valley Coal Co., a corporation, which coal company was then and there owned by the Lehigh Valley Railroad Co., a common carrier engaged in interstate commerce, and which railroad company was at that time a party litigant in certain suits then pending in the United States Commerce Court, to wit, The Baltimore & Ohio Railroad Co. et al. *v.* Interstate Commerce Commission et al., No. 38, and The Lehigh Valley Railroad Co. *v.* Interstate Commerce Commission et al., No. 49, all of which was well known to said Robert W. Archbald, an agreement which permitted said Robert W. Archbald and his associates to lease a culm dump, known as Packer No. 3, near Shenandoah, in the State of Pennsylvania, which said culm dump contained a large amount of coal, to wit, 472,670 tons, and which said culm dump the said Robert W. Archbald and his associates agreed to operate and to ship the product of the same exclusively over the lines of the Lehigh Valley Railroad Co.; and that the said Robert W. Archbald unlawfully and corruptly did use his official position and influence as such judge to secure from the said coal company the said agreement.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a misdemeanor in such office.

ARTICLE 4.

That the said Robert W. Archbald, while holding the office of United States circuit judge and being a member of the United States Commerce Court, was and is guilty of gross and improper conduct, and was and is guilty of a misdemeanor as said circuit judge and as a member of said Commerce Court in manner and form as follows, to wit: Prior to and on the 4th day of April, 1911, there was pending in said United States Commerce Court the suit of Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission. Said suit was argued and submitted to said United States Commerce Court on the 4th day of April, 1911; that afterwards, to wit, on the 22d day of August, 1911, while said suit was still pending in said court, and before the same had been decided, the said Robert W. Archbald, as a member of said United States Commerce Court, secretly, wrongfully, and unlawfully did write a letter to the attorney for the said Louisville & Nashville Railroad Co. requesting said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that the said witness had given in said suit, and communicate the same to the said Robert W. Archbald, which request was complied with by said attorney; that afterwards, to wit, on the 10th day of January, 1912, while said suit was still pending, and before the same had been decided by said court, the said Robert W. Archbald, as judge of said court, secretly, wrongfully, and unlawfully again did write to the said attorney that other members of said United States Commerce Court had discovered evidence on file in said suit detrimental to the said railroad company and contrary to the statements and contentions made by the said attorney, and the said Robert W. Archbald, judge of said United States Commerce Court as aforesaid, in said letter requested the said attorney to make to him, the said Robert W. Archbald, an explanation and an answer thereto; and he, the said Robert W. Archbald, as a member of said United States Commerce Court aforesaid, did then and there request and solicit the said attorney for the said railroad company to make and deliver to the said Robert W. Archbald a further argument in support of the contentions of the said attorney so representing the said railroad company, which request was complied with by said attorney, all of which on the part of said Robert W. Archbald was done secretly, wrongfully, and unlawfully, and which was without the knowledge or consent of the said Interstate Commerce Commission or its attorneys.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 5.

That in the year 1904 one Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by tht Philadelphia & Reading Coal & Iron Co., located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated a culm dump located on said property for several years thereafter; that operations were carried on at a loss; that said Frederick Warnke thereupon applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the said land covered by the said lease, and was informed that the least under which he claimed had been forfeited two years before it was assigned to him, and his application for said maps was therefore denied; that said Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under the said lease, provided that the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what was known as the Lincoln culm bank located near Lorberry; that said George F. Baer referred said proposition to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that the general policy of the said coal company being adverse to the lease of any of its culm banks, the said George F. Baer and the said W. J. Richards declined to make the lease, and the said Frederick Warnke was so advised; that the said Frederick Warnke then made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; that on or about November 1, 1911, the said Frederick Warnke called upon Robert W. Archbald, who was then and now is a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court, and asked him, the said Robert W. Archbald, to intercede in his behalf with the said W. J. Richards; that on November 24, 1911, the said Robert W. Archbald, judge as aforesaid, pursuant to said request, did write a letter to the said W. J. Richards requesting an appointment with the said W. J. Richards; that several days thereafter the said Robert W. Archbald called at the office of the said W. J. Richards to intercede for the said Frederick Warnke; that the said W. J. Richards then and there informed the said Robert W. Archbald that the decision which he had given to the said Warnke must be considered as final, and the said Archbald so informed the said Warnke; that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which also owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a common carrier engaged in interstate commerce.

That the said Robert W. Archbald, judge as aforesaid, well knowing all the aforesaid facts, did wrongfully attempt to use his influence as such judge to aid and assist the said Frederick Warnke to secure an operating lease of the said Lincoln culm dump owned by the Philadelphia & Reading Coal & Iron Co., as aforesaid, which lease the officials of the said Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to the said Robert W. Archbald.

That the said Robert W. Archbald, judge as aforesaid, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co. aforesaid in behalf of the said Frederick Warnke,

and on or about the 31st day of March, 1912, willfully, unlawfully, and corruptly did accept as a gift, reward, or present from the said Frederick Warnke, tendered in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and the said coal company, and for other favors shown by said judge to the said Frederick Warnke, a certain promissory note for $500 executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as a judge and high crimes and misdemeanor in office.

ARTICLE 6.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about the 1st day of December, 1911, did unlawfully, improperly, and corruptly attempt to use his influence as such judge with the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to induce the officers of said companies to purchase a certain interest in a tract of coal land containing 800 acres, which interest at said time belonged to certain persons known as the Everhardt heirs.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 7.

That during the months of October and November, A. D. 1908, there was pending in the United States district court, in the city of Scranton, State of Pennsylvania, over which court Robert W. Archbald was then presiding as the duly appointed judge thereof, a suit or action at law wherein the Old Plymouth Coal Co. was plaintiff and the Equitable Fire & Marine Insurance Co. was defendant. That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit; that in order to secure the money with which to purchase said stock the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of such evidence and moved for a nonsuit, and after extended argument by attorneys for both plaintiff and defendant the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence, before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,129.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused and which was later discounted by a bank and has never been paid.

All of which acts on the part of the said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge and render him guilty of a misdemeanor.

ARTICLE 8.

That during the summer and fall of the year 1909 there was pending in the United States district court for the middle district of Pennsylvania, in the city of Scranton, over which court the said Robert W. Archbald was then and there presiding as the duly appointed judge thereof, a civil action wherein the Marian Coal Co. was defendant, which action involved a large sum of money, and which defendant coal company was principally owned and controlled by one Christopher G. Boland and one William P. Boland, all of which was well known to said Robert W. Archbald; and while said suit was so pending the said Robert W. Archbald drew a note for $500, payable to himself, and which note was signed by one John Henry Jones and indorsed by the said Robert W. Archbald, and then and there during the pendency of said suit as aforesaid the said Robert W. Archbald wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland, or one of them, for the purpose of having the said note discounted, corruptly intending that his name on said note would coerce and induce the said Christopher G. Boland and the said William P. Boland, or one of them, to discount the same because of the said Robert W. Archbald's position as judge, and because the said Bolands were at that time litigants in his said court.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his office as judge, and was and is guilty of a misdemeanor in his said office as judge.

ARTICLE 9.

That the said Robert W. Archbald, of the city of Scranton and State of Pennsylvania, on or about November 1, 1909, being then and there a United States district judge in and for the middle district of Pennsylvania, in the city of Scranton and State aforesaid, did draw a note in his own proper handwriting, payable to himself, in the sum of $500, which said note was signed by one John Henry Jones, which said note the said Robert W. Archbald indorsed for the purpose of securing the sum of $500, and the said Robert W. Archbald, well knowing that his indorsement would not secure money in the usual commercial channels, then and there wrongfully did permit the said John Henry Jones to present said note for discount, at his law office, to one C. H. Von Storch, attorney at law and practitioner in said district court, which said Von Storch, a short time prior thereto, was a party defendant in a suit in the said district court presided over by said Robert W. Archbald, which said suit was decided in favor of the said Von Storch upon a ruling by the said Robert W. Archbald; and when the said note was presented to the said Von Storch for discount, as aforesaid, the said Robert W. Archbald wrongfully and improperly used his influence as such judge to induce the said Von Storch to discount same; that the said note was then and there discounted by the said Von Storch, and the same has never been paid, but is still due and owing.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his said office, and was and is guilty of a misdemeanor in his said office as judge.

ARTICLE 10.

That the said Robert W. Archbald, while holding the office of United States district judge, in and for the middle district of the State of Pennsylvania, on or about the 1st day of May, 1910, wrongfully and unlawfully did accept and receive a large sum of money, the exact amount of which is unknown to the House of Representatives, from one Henry W. Cannon; that said money so given by the said Henry W. Cannon and so unlawfully and wrongfully received and accepted by the said Robert W. Archbald, judge as aforesaid, was for the purpose of defraying the expenses of a pleasure trip of the said Robert W. Archbald to Europe; that the said Henry W. Cannon, at the time of the giving of said money and the receipt thereof by the said Robert W. Archbald, was a stockholder and officer in various and divers interstate railway corporations, to wit: A director in the Great Northern Railway, a director in the Lake Erie & Western Railroad Co., and a director in the Fort Wayne, Cincinnati & Louisville Railroad Co.; that the said Henry W. Cannon was president and chairman of the board of directors of the Pacific Coast Co., a corporation which owned the entire capital stock of the Columbia & Puget Sound Railroad Co., the Pacific Coast Railway Co., the Pacific Coast Steamship Co., and various other corporations engaged in the mining of coal and in the development of agricultural and timber land in various parts of the United States; that the acceptance by the said Robert W. Archbald, while holding said office of United States district judge, of said favors from an officer and official of the said corporations, any of which in the due course of business was liable to be interested in litigation pending in the said court over which he presided as such judge, was improper and had a tendency to and did bring his said office of district judge into disrepute.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 11.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, did, on or about the 1st day of May, 1910, wrongfully and unlawfully accept and receive a sum of money in excess of $500, which sum of money was contributed and given to the said Robert W. Archbald by various attorneys who were practitioners in the said court presided over by the said Robert W. Archbald; that said money was raised by subscription and solicitation from said attorneys by two of the officers of said court, to wit, Edward R. W. Searle, clerk of said court, and J. B. Woodward, jury commissioner of said court, both the said Edward R. W. Searle and the said J. B. Woodward having been appointed to the said positions by the said Robert W. Archbald, judge aforesaid.

Wherefore said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 12.

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district, and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United States district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 13.

That Robert W. Archbald, on the 29th day of March, 1901, was duly appointed United States district judge for the middle district of Pennsylvania and held such office until the 31st day of January, 1911, on which last-named date he was duly appointed a United States circuit judge and designated as a judge of the United States Commerce Court.

That during the time in which the said Robert W. Archbald has acted as such United States district judge and judge of the United States Commerce Court he, the said Robert W. Archbald, at divers times and places, has sought wrongfully to obtain credit from and through certain persons who were interested in the result of suits then pending and suits that had been pending in the court over which he presided as judge of the district court, and in suits pending in the United States Commerce Court, of which the said Robert W. Archbald is a member.

That the said Robert W. Archbald, being United States circuit judge and being then and there a judge of the United States Commerce Court, at Scranton, in the State of Pennsylvania, on the 31st day of March, 1911, and at divers other times and places, did undertake to carry on a general business for speculation and profit in the purchase and sale of culm dumps, coal lands, and other coal properties, and for a valuable consideration to compromise litigation pending before the Interstate Commerce Commission, and in the furtherance of his efforts to compromise such litigation and of his speculations in coal properties, willfully, unlawfully, and corruptly did use his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., the Lackawanna & Wyoming Valley Railroad Co., and other railroad companies engaged in interstate commerce, respectively, to enter into various and divers contracts and agreements in which he was then and there financially interested with divers persons, to wit, Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, and others, without disclosing his said interest therein on the face of the contract, but which interest was well known to the officers and agents of said railroad companies.

That the said Robert W. Archbald did not invest any money or other thing of value in consideration of any interest acquired or sought to be acquired by him in securing or in attempting to secure such contracts or agreements or properties as aforesaid, but used his influence as such judge with the contracting parties thereto, and received an interest in said contracts, agreements, and properties in consideration of such influence in aiding and assisting in securing same.

That the said several railroad companies were and are engaged in interstate commerce, and at the time of the execution of the several contracts and agreements aforesaid and of entering into negotiations looking to such agreements had divers suits pending in the United States Commerce Court, and that the conduct and efforts of the said Robert W. Archbald in endeavoring to secure and in securing such con-

tracts and agreements from said railroad companies was continuous and persistent from the said 31st day of March, 1911, to about the 15th day of April, 1912.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office.

Mr. CLAYTON. Mr. Speaker, I beg to say, for the benefit of the Members of the House, that a thousand copies of this report, with the accompanying resolution, have been printed by the committee, so that any Member of the House desiring to have a copy of this report, with the accompanying resolution, may have the same by applying to the Committee on the Judiciary at its rooms in the House Office Building.

CHIEF CLERK OF THE HOUSE.

The SPEAKER laid before the House the following communication from the Clerk of the House:

HOUSE OF REPRESENTATIVES,
CLERK'S OFFICE,
Washington, D. C., July 8, 1912.

To the Speaker of the House:

Desiring to be absent from my office for a short period of time, I hereby designate the Chief Clerk of the House, J. C. South, Esq., to sign all papers that may require my official signature, and to do all other acts under the rules and practice of the House to be done by the Clerk of the House.

Respectfully submitted.

SOUTH TRIMBLE,
Clerk of the House.

JURISDICTION OF THE POLICE COURT, DISTRICT OF COLUMBIA.

Mr. JOHNSON of Kentucky. Mr. Speaker, I call up Senate bill 5271, to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the police court of the District of Columbia shall have jurisdiction, concurrently with the Supreme Court of the District of Columbia, of affrays and the keeping of a bawdy or disorderly house, and any person convicted of such an offense shall be punished by a fine not exceeding $500 or imprisonment not exceeding one year, or both.

SEC. 2. That said police court shall also have concurrent jurisdiction with said supreme court of threats to do bodily harm, and any person convicted of such offense shall be required to give bond to keep the peace for a period not exceeding six months, and in default of bond may be sentenced to imprisonment not exceeding six months.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

AMENDMENT TO SECTION 808, CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

The SPEAKER. The Clerk will report the next bill.

Mr. JOHNSON of Kentucky. Mr. Speaker, it is the bill H. R. 21712, to amend section 808 of the Code of Law for the District of Columbia.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Code of Law for the District of Columbia be amended by striking out section 808 and substituting therefor the following:

"SEC. 808. Rape: Whoever has carnal knowledge of a female forcibly and against her will or whoever carnally knows and abuses a female child under the age of 12 years shall be deemed guilty of rape, and shall be imprisoned for not less than 5 nor more than 30 years: *Provided*, That in any case of rape the jury may add to their verdict the words 'with the death penalty,' in which case the punishment shall be death by hanging: *Provided further*, That if the jury fail to agree as to the punishment, the verdict of guilty shall be received and the punishment shall be imprisonment as provided in this section.

"SEC. 808 a. Carnal knowledge: Whoever carnally knows and abuses a female child between the ages of 12 and 16 years of age shall be imprisoned for not less than 1 nor more than 15 years.

SEC. 2. That this act shall take effect upon its passage.

Mr. MANN. Mr. Speaker, as I understand, this bill proposes to lessen the punishment for the crime of rape. The present punishment, where a girl is less than 16 years of age, can not be less than 5 years' imprisonment nor more than 30 years' imprisonment. This bill proposes to leave the punishment the same as to rape committed on a girl under the age of 12, but to lessen the punishment for rape committed on a girl over 12 and under 16. May I ask the gentleman in charge of the bill what reason the District attorney gives for proposing the lessening of the punishment? As I understand, this bill was introduced at the request of the District attorney. I assume there must be some very good reason for it.

Mr. JOHNSON of Kentucky. Where does the gentleman find the lessening of the punishment?

Mr. MANN. The present law provides that the punishment for rape committed against a girl under 16 years of age shall be not less than 5 years' imprisonment nor more than 30 years, unless the jury recommends capital punishment.

Mr. JOHNSON of Kentucky. The gentleman will note in the report, in the proposed new section, section 808a, there is a punishment for simple carnal knowledge of a girl between the ages of 12 and 16; whereas above, under section 808, if it be rape, then the crime will punished as rape. But this is an additional punishment for having carnal knowledge of a girl between 12 and 16 years of age with her consent. Instead of lessening it, the Attorney General endeavored to make the punishment greater.

Mr. MANN. I think the gentleman is correct about that. This makes it rape when the girl is under 16 years of age, whether the offence is committed with or without her consent?

Mr. JOHNSON of Kentucky. Yes.

Mr. NORRIS. Under the present law is there no statute that would make it rape on a girl of that age if she consented?

Mr. JOHNSON of Kentucky. No.

Mr. NORRIS. And this simply adds a new crime in rape?

Mr. JOHNSON of Kentucky. Yes.

Mr. MANN. I think the gentleman is correct.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

AMENDMENT TO SECTION 842, CODE OF LAW, DISTRICT OF COLUMBIA.

Mr. JOHNSON of Kentucky. Mr. Speaker, I now desire to call up the bill (H. R. 21710) to amend section 842 of the Code of Law for the District of Columbia.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That section 842 of the Code of Law for the District of Columbia be amended as follows:

"SEC. 842. False pretenses: Whoever, by any false pretense, with intent to defraud, obtains from any person anything of value, or procures the execution and delivery of any instrument of writing or conveyance of real or personal property, or the signature of any person, as maker, indorser, or guarantor, to or upon any bond, bill, receipt, promissory note, draft, or check, or any other evidence of indebtedness, and whoever fraudulently sells, barters, or disposes of any bond, bill, receipt, promissory note, draft, or check, or other evidence of indebtedness, for value, knowing the same to be worthless, or knowing the signature of the maker, indorser, or guarantor thereof to have been obtained by any false pretenses, shall, if the value of the property or the sum or value of the money or property mentioned or described in the instrument so obtained, procured, sold, bartered, or disposed of is $35 or upward, be imprisoned not less than 1 year nor more than 10 years, or, if less than that sum, shall be fined not more than $200 or imprisoned for not more than 1 year, or both. Any person who obtains any lodging, food, or accommodation at an inn, boarding house, or lodging house without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at such an inn, boarding house, or lodging house by the use of any false pretense, or who, after obtaining credit or accommodation at such an inn, boarding house, or lodging house, absconds or surreptitiously removes his baggage therefrom without paying for his food, accommodation, or lodging, shall be deemed guilty of a misdemeanor, and upon conviction thereof in the police court of the District of Columbia shall be fined not more than $100 or imprisoned not more than six months, or both, in the discretion of said court."

SEC. 2. That this act shall take effect upon its passage.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6191. An act to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6191. An act to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.; to the Committee on Indian Affairs.

PASSENGER VEHICLES FOR HIRE.

Mr. JOHNSON of Kentucky. Mr. Speaker, I desire to call up now the bill (H. R. 22010) to amend the license law approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

The bill was read, as follows:

Be it enacted, etc., That paragraph 11 of section 7 of the act of Congress approved July 1, 1902, entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," be, and the same is hereby, amended by adding thereto the following:

"That in the District of Columbia no person, not an employee of a railway or traction company, shall engage in driving or operating any passenger vehicle for hire, whether said vehicle be driven or propelled by an animal or animals, or by any other form of motive power, without first procuring a license from the assessor of the District of Columbia, which license shall not be issued except upon evidence satisfactory to him that the applicant is a person of good moral character.

"Each person licensed under the provisions of this amendment shall pay an annual license tax of $1.

"Application for such license shall be made to said assessor in such form as shall be prescribed by the Commissioners of the District of Columbia, and no such license shall be issued until an investigation of the character of applicant shall have been made by a member of the Metropolitan police force, designated for this purpose by the major and superintendent of police, and a report of such investigation shall have been delivered to the assessor by said major and superintendent of police.

"Each annual license issued under the provisions of this act shall be numbered, and there shall be kept in the Metropolitan police department a record containing the name of each person so licensed, his annual license number, and all matters affecting his qualifications to be licensed hereunder.

"All passenger vehicles operated for hire, except passenger vehicles operated by railway or traction companies, shall carry, in such place as may be designated by the commissioners, a number corresponding with the number of the license issued to the driver or operator thereof, and of such character and dimensions as said commissioners shall prescribe.

"No license issued under the provisions of this act shall be assigned or transferred.

"Every person violating any of the provisions of this amendment shall be punished as provided in paragraph 47 of said section 7. In addition to such penalties, any license issued under the provisions of this amendment may be revoked by the Commissioners of the District of Columbia upon conviction of the licensee, in the proper court, of a violation of any of the provisions of this amendment, or of a violation of any law or regulation governing the maintenance or disposition upon the public streets of public vehicles for hire, or upon conviction of a crime involving moral turpitude; and also if, in the opinion of said commissioners, any licensee hereunder shall become disqualified or unfit to continue to drive or operate a public passenger vehicle for hire, for any cause or reason which might endanger the safety of passengers in the vehicle driven or operated by said licensee, or of the public, said commissioners may require said licensee to show cause why his license should not be revoked, and in such event shall grant a hearing to said licensee, who may be represented by counsel; and if, in the opinion of said commissioners, the public safety requires the revocation of such license they may revoke the same."

With the following amendments:

Page 2, line 2, after the word "a," insert the word "street," and after the word "railway" strike out the words "or traction."

On page 3, line 4, after the word "by," insert the word "street," and after the word "railway" strike out the words "or traction."

Mr. MANN. Mr. Speaker, if I understand this bill, it provides for the licensing of drivers of vehicles for the carrying of passengers for hire and is an amendment to paragraph 11 of the act of 1902.

After going over the matter, I do not feel certain whether this amendment would apply to livery stables and to the keepers of auto establishments or not.

Paragraph 11 of the act of 1902 covers the proprietors or owners of hacks, coaches, omnibuses, carriages, wagons, and other passenger vehicles for hire.

Paragraph 12 of the same act covers proprietors or owners of livery stables.

The act now in existence provides that the driver's license shall have the same number as the vehicle license. That is, the badge now required of the driver must have the same number as the license number of the vehicle. This proposes that the vehicle shall have the same number as the number of the driver.

It is perfectly patent that if this amendment applies to the keepers of automobiles for hire it is not a practicable amendment. Whether it does or not, I do not know. I am not seeking to oppose the bill, but I call attention to that situation.

It is impossible for the same man always to drive an automobile. Here you license the individual and provide that no one else can operate the machine or drive the team except the person who has the license.

Mr. KAHN. When he quits he takes away his number and gives it to another machine if he goes into the employ of somebody else.

Mr. MANN. Suppose he does not quit?

Mr. KAHN. Then he continues with his number.

Mr. MANN. He can not operate the machine all day long.

Mr. KAHN. He can operate it a good part of the day, and I understand that the chauffeurs who run machines do operate them most of the day. But, under this bill, if another man were to come in his place the second man would have to take off the first man's number and put his own number on the machine. I want to ask the chairman of the committee whether, in his judgment, there should not be a clause in this bill to repeal the provision of the license law which provides for certain specific numbers for automobiles and carriages? Is there not a conflict between the general license law, which compels a man to get a number which he carries on his machine during the entire year, as I understand it, and this measure, which compels him to get a number corresponding with the number of the license of the chauffeur?

Mr. JOHNSON of Kentucky. This bill was prepared and sent up to the committee by the chief of police, Maj. Sylvester.

Mr. MANN. I understand it was prepared by the District officials.

Mr. JOHNSON of Kentucky. Yes. The committee went over it, and in going over it we apprehended some conflict between this bill and the law sought to be amended. We finally reached the conclusion, however, that there was no conflict. This bill simply says that no person shall be authorized to drive one of these machines for hire until he has been authorized so to do after an inquiry into his qualifications, and has paid a fee of $1. As drafted down at the District Building, it could have related to motormen of street cars. The bill has been so changed that it does not apply to them.

In the larger cities over the country a great many crimes have been committed by people who took taxicabs or automobiles for the purpose of getting to the place of the crime and getting away from it.

This bill has for its object, as explained to me by the city authorities, the fact that many criminals become chauffeurs and drivers of taxicabs that they may better cooperate with their confederates. If this bill is adopted, then any taxicab company, or anybody else running machines for hire, can not secure a driver for them until he has been approved by the police authorities.

Mr. MANN. As I understand this bill—take the case of a garage keeping automobiles for hire; they will have machines that are numbered.

Mr. JOHNSON of Kentucky. If the gentleman will permit me to interrupt him, I do not believe that there is anything in this bill which interferes with the original law as to privately owned machines.

Mr. MANN. I think there is nothing in the bill that covers privately owned machines; only those kept for hire.

Mr. JOHNSON of Kentucky. Therefore the driver of a taxicab used for hire does not have to have the same number as the taxicab, if this becomes a law. The driver of the taxicab can step out at any time he pleases.

Mr. MANN. As I understand, now the driver of a machine does not have to display his personal number on the machine. The purpose of this bill is to require that there shall be displayed conspicuously on the machine itself, or on the rig, whatever it is, the personal number of the driver, so as to identify in every case the driver of the rig or machine.

Mr. KAHN. When a machine is put into commission in the District of Columbia——

Mr. JOHNSON of Kentucky. Private or public?

Mr. KAHN. Private or public, it is given a number at the license office.

Mr. MANN. I think the public machines are not given a number.

Mr. KAHN. The public machines are all numbered; every taxicab, every public carriage, has a number in the District of Columbia at the present time. All the taxicabs have numbers, and I presume that is provided for under the general license law. Now, would this bill cause a conflict between that law and this in the matter of numbers? And would it not lead to confusion?

Mr. MANN. It would not, but if the gentleman from California is correct, it would cause two numbers to be displayed on the machine. I would like to make this suggestion to the gentleman from Kentucky, without meaning to be hypercritical. Where the gentleman reports a bill of this kind which has been prepared by the District authorities, I suggest that he insert in the report either a letter from the officials or some kind of a statement from them showing the purpose which they seek to accomplish. It would be a matter of great convenience, and in this case the report gives no information.

Mr. JOHNSON of Kentucky. I think I have correctly stated the real demand for this legislation.

Mr. MANN. I quite agree with the gentleman about that, but the question is whether it accomplishes the purpose. If we had a statement from the officials we could tell better about it.

The SPEAKER. The Clerk will read the amendments.

The Clerk read the following committee amendments:

Page 1, line 11, after "a" and "railway," insert the word "street"; in same line strike out "or traction"; in same line, after the word "company," insert a comma.

Page 2, line 24, after the word "by," insert "street"; same line strike out "or traction."

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

FOURTEENTH STREET NE.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering bills relating to the District of Columbia.

The motion was agreed to; accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. TAYLOR of Colorado in the chair.

Mr. JOHNSON of Kentucky. Mr. Chairman, I call up the bill (H. R. 22648) to authorize the change of the location of Fourteenth Street NE., District of Columbia, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Commissioners of the District of Columbia be, and they are hereby, authorized to prepare a new highway plan for Fourteenth Street NE., between Otis and Varnum Streets, and for such change in other streets so far as it may be necessary to connect said streets with the new location of Fourteenth Street, so as to avoid improvements lying in close proximity to said Fourteenth Street as now proposed, if extended, and so that the new location of said street will be in a straight line between the intersections of Otis and Fourteenth Streets and Varnum and Fourteenth Streets, under the provisions contained in the act of Congress approved March 2, 1893, entitled "An act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities," and an amendment to said act approved June 28, 1898, and that upon the completion and recording of said new highway plan it shall take the place of and stand for any previous plan for said streets.

SEC. 2. That whenever the owners of the land comprised in that portion of the new location of Fourteenth Street NE. authorized herein, lying south of Randolph Street, shall dedicate the same to the District of Columbia to be used as a public highway, in a manner approved by the Commissioners of the District of Columbia, the said commissioners be, and they are hereby, authorized and directed to vacate and abandon as a public highway all of Fourteenth Street NE. now publicly owned lying between Otis and Randolph Streets, and not included in the new location of Fourteenth Street authorized herein; that part of Perry Street NE. lying between the easterly line of Fourteenth Street as now located and the westerly line of tract of land designated as parcel 146–2 in book of assessment and taxation in the office of the surveyor of the District of Columbia; and that part of Quincy Street NE., lying between the westerly line of Fourteenth Street as now located and the easterly line of the new location of Fourteenth Street authorized herein; and the title to the land contained in said abandoned part of public highway shall revert to the owners of the land abutting thereon.

Mr. KAHN. Mr. Chairman, this bill is recommended by the District Commissioners. It changes the location of Fourteenth Street and straightens it out somewhat. There is a parcel of land used as a Franciscan Monastery in the section of Washington where this street is located, and if this bill be passed it will enable the commissioners to lay out the street in a straight line so as not to interfere with the property of that monastery.

The monastery has been there a long time, and the improvement is desired by the Commissioners of the District and by everybody who lives in that vicinity.

Mr. SISSON. How much will it cost?

Mr. KAHN. There is no cost to the District.

Mr. MANN. Mr. Chairman, there have been at times various propositions before the House authorizing the commissioners to prepare new highway plans in different portions of the District, some of which have been hotly controverted.

Mr. KAHN. Yes.

Mr. MANN. Is there any controversy over this?

Mr. KAHN. None whatever. The people in the vicinity where the changes are to be made all favor it, and there is no opposition to it from any source. No protest has been received in the committee from anyone.

The CHAIRMAN. If there is no further general debate, the Clerk will read the bill for amendment under the five-minute rule.

The Clerk read the bill.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

EXTENSION OF UNDERWOOD STREET NW.

Mr. JOHNSON of Kentucky. Mr. Chairman, I call up the bill (S. 23) to authorize the extension of Underwood Street NW., which I send to the desk and ask to have read.

The Clerk read the bill as follows:

Be it enacted, etc., That, under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, within six months after the dedication, in accordance with law, of the land necessary to widen Underwood Street from its present western terminus west of Eighth Street west to Seventh Street west, to its full width of 90 feet, as laid down on the permanent system of highways plan, the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land that may be necessary to extend said Underwood Street from its present western terminus west of Eighth Street west to the Piney Branch Road, with a width of 90 feet, as laid down on the permanent system of highways plan: *Provided*, That if the dedication referred to herein shall have been made prior to the passage of this act, the Commissioners of the District of Columbia are authorized and directed to institute the condemnation provided for herein within six months after the passage of this act: *Provided further*, That the entire amount found to be due and awarded by the jury in said proceeding as damages for, and in respect of, the land to be condemned for said extension, plus the costs and expenses of the proceeding hereunder, shall be assessed by the jury as benefits.

SEC. 2. That there is hereby appropriated, out of the revenues of the District of Columbia, an amount sufficient to pay the necessary costs and expenses of the condemnation proceedings taken pursuant hereto, and for the payment of amounts awarded as damages, to be repaid to the District of Columbia from the assessments for benefits, and covered into the Treasury to the credit of the revenues of the District of Columbia.

Mr. KAHN. Mr. Chairman, this bill is recommended by the commissioners, and there are no protests against it from any source.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Certainly.

Mr. MANN. It is quite possible that under the circumstances the inquiry is not pertinent, and yet I wondered whether the proposed extension of Underwood Street met with the approval of Mr. Bryan? [Laughter.]

Mr. KAHN. I would refer the gentleman to the gentleman from Alabama [Mr. UNDERWOOD].

Mr. MANN. Oh, I do not think the gentleman from Alabama ought to be called upon to state his case. He is in the hands of his managers, and he is not required to make any personal reference to a thing of this sort. He requires no defense from anybody, but I wondered if the bill had met with the approval I speak of. I made the inquiry in good faith. A few days ago I really hoped that there might be a good deal in the extension of Underwood Street. I suppose now it is not important whether Mr. Bryan has approved it or not.

Mr. JOHNSON of Kentucky. Mr. Chairman, I might say to the House that during two Congresses I have sought to defeat the passage of this bill. The street has now been dedicated for its entire length, except a very small portion which will enable those who may hereafter live upon the street or have use for it to get to the railroad station. I have changed my attitude from opposing it to now being in favor of it.

The CHAIRMAN. The Clerk will read the bill for amendment under the five-minute rule.

The Clerk read the bill.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

METROPOLITAN COACH CO.

Mr. JOHNSON of Kentucky. Mr. Chairman, I now call up the bill (S. 2904) to confer upon the Commissioners of the District of Columbia authority to regulate the operation and equipment of the vehicles of the Metropolitan Coach Co., which I send to the desk and ask to have read.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Commissioners of the District of Columbia are hereby empowered to regulate and control the character of the vehicles and equipment to be used by the Metropolitan Coach Co. of the District of Columbia and the operation of said vehicles by said company.

SEC. 2. That said commissioners are hereby given authority to issue such permits or licenses for the operation of said vehicles as may be necessary to carry this act into effect, and for cause shown to revoke the same, and further to make, alter, or amend from time to time, reasonable rules, regulations, and orders for the equipment and operation of said vehicles, which rules and regulations and orders when so made shall be valid and binding on the said Metropolitan Coach Co. and upon all persons.

SEC. 3. That said company shall provide and furnish at all times such service and facilities as shall be reasonably safe and adequate; and it shall at all times maintain its vehicles in good and proper repair, neat and clean, free from offensive smoke, noise, and odors, in a sanitary condition, sufficient in number, and reasonably comfortable and convenient. The company shall operate its vehicles over a route or routes approved by the commissioners, or to be approved by them, so as to give expeditious passage to all persons desiring to use the same, and on such time schedule or schedules and for such rates and charges as said commissioners may from time to time fix and determine. The said commissioners shall have power by a rule or rules from time to time to require and compel obedience to the provisions of this section after notice to and opportunity given said company to be heard.

SEC. 4. That said Metropolitan Coach Co. and its officers and employees are hereby required to obey all the provisions of this act and such reasonable rules, regulations, and orders as may be made by said commissioners, and if said company or its officers or employees violate any provision of this act or any of said rules, regulations, or orders made by said commissioners, or permit such violation, said company or each of said officers or employees shall be punished by a fine of not more than $100, and prosecution for each of said violations shall be made on information in the name of the District of Columbia, filed in the police court of the District of Columbia by the corporation counsel or one of his assistants.

SEC. 5. That the provisions of this act shall be effective on and after the 1st day of January, 1912, and, in addition to the penalties in this act provided, the failure of the Metropolitan Coach Co. at any time or times hereafter to comply with the terms hereof shall make it unlawful for it to operate its vehicles over its route, and if said company shall, within a period of 30 days of notice thereof, fail to comply with any of said rules, regulations, or orders, made by said commissioners, its right to operate said vehicles shall terminate without notice, and the commissioners are directed thereupon to prevent the use of the public highways by said company.

SEC. 6. That Congress reserves the right to alter, amend, or repeal this act.

Mr. KAHN. Mr. Chairman, this bill was reported by the gentleman from Ohio [Mr. ANDERSON]. He is not here at the pres-

ent time to explain it, and therefore I shall endeavor to give the committee an idea of the purpose of the bill. At the present time the Metropolitan Coach Co. is operating a line of busses, beginning at the corner of Sixteenth and U Streets NW., going down Sixteenth Street to Massachusetts Avenue, down Massachusetts Avenue to Fifteenth Street, down Fifteenth Street to K Street, down K Street to Fifteenth Street, and down Fifteenth Street to Pennsylvania Avenue; thence westward along Pennsylvania Avenue to Seventeenth Street, down Seventeenth Street to F Street, and along F Street to Twenty-second Street NW., and return. The vehicles that the company owns are rather old-fashioned and dilapidated looking. The company has been operating at a loss for many years. The section of the company's franchise from Fifteenth Street and Pennsylvania Avenue, out Pennsylvania Avenue to Seventeenth Street, down Seventeenth Street to F, and out F to Twenty-second is pretty well covered now by the street railroads of the city of Washington, and the company finds that that section of its line is altogether unprofitable. The company, through its officers and attorneys, has appeared before the Committee on the District of Columbia and has given assurances that if it can secure a franchise allowing it to go from Sixteenth and U Street down its old route as far as Pennsylvania Avenue and Fifteenth Street it will put on new busses that will run on regular schedule time, and that it will give the people of Sixteenth Street an excellent service.

Sixteenth Street, as you all know, has no street-railroad service at all. The only transportation service it has is this bus line. The chairman of the committee [Mr. JOHNSON of Kentucky] suggests that there is no nearer service on Sixteenth Street than along Fourteenth Street, two blocks to the east—and they are rather long blocks—or along Connecticut Avenue, which is some distance to the west; so that Sixteenth Street really should have a good service. The committee has prepared some amendments to the bill which will allow this company to interchange transfers with the Capital Traction Co. and also with the Washington Railway and Electric Co., so that a passenger using this line will be able to go out F Street to Twenty-second, or even to Georgetown, or will be able to take the New York Avenue line and go easterly out to the District line. The committee favors the bill, and I believe it has the indorsement of the District Commissioners.

Mr. LONGWORTH. Will the gentleman yield for a question?

Mr. KAHN. Certainly.

Mr. LONGWORTH. When they say they agree to furnish new busses, does that mean really new busses or busses 50 years old?

Mr. KAHN. No; the gentlemen who appeared for the company before the committee said that they felt that here was an opportunity to rehabilitate the line. These men who have invested their money in it have done so in good faith, and it has been operated at a loss steadily. They say they will put additional money in it and furnish new busses, with up-to-date, modern improvements, and will try to give the city of Washington—in fact, will give the city of Washington—a good service along that street.

Mr. LONGWORTH. At what fare?

Mr. KAHN. Six tickets for a quarter or 5 cents for a single fare.

Mr. BUTLER. How many omnibuses have they in operation now?

Mr. KAHN. I think they have two in operation.

Mr. BUTLER. Are they going to increase the number or the size?

Mr. KAHN. It is intended to increase the number.

Mr. BUTLER. And not the size?

Mr. KAHN. I presume they may increase the size, but they certainly intend to put more on the line.

Mr. BUTLER. And patch the roofs.

Mr. SIMS. Mr. Chairman, I want to say a few words in relation to this bill. I heartily approve everything the gentleman from California has said, and I am speaking about this matter simply because I have been watching this line during its experimental stage and I know it is a fact that the line has lost money. It had to try out different sorts of busses and lost a lot of money in doing so; and I think if the gentleman from Ohio knew how hard these people have tried to succeed he would not think for a moment there was anything in the words "new busses," but that new improvements is what is meant.

Mr. LONGWORTH. The gentleman says they are experimental. If they would come down to some used perhaps in the last 20 or 30 years, why——

Mr. MANN. These busses they have now are new, are they not? How old are they?

Mr. KAHN. Three or four years.

Mr. JOHNSON of Kentucky. The management says now it has found one which will work on the streets.

Mr. SIMS. Persons who have lived on Sixteenth Street, as I have, know it is very inconvenient to have to go over two blocks to the west to Connecticut Avenue or over to Fourteenth Street to get to the car lines. Besides, these busses are not as dangerous as a street car. There never ought to be a street car line on Sixteenth Street.

Mr. BUTLER. They can not run over their own shadows.

Mr. SIMS. I do think this line is a proper enterprise, and ought to be encouraged. It is very desirable to have this supplemental bus service in connection with the street car lines, without the danger and noise that follows the installment of street car tracks upon streets not now having them.

Mr. LONGWORTH. I am glad to know that the gentleman believes that there is now some kind of an automobile that is not dangerous.

Mr. SIMS. The automobile itself never was dangerous. It is only the crank who runs it that makes it dangerous.

Mr. MANN. They have to have cranks, or they could not run.

Mr. SIMS. The gentleman from Illinois is "literally correct," as he always is.

Mr. MANN. I would like to make an inquiry of the gentleman from Tennessee [Mr. SIMS] and the gentleman from California [Mr. KAHN]. After all, the question is, What is the economical method of transportation. Is it practicable to carry passengers in the city by this method? Is it practicable to carry passengers in a city in large numbers in any way except upon rails as laid in the streets?

Mr. KAHN. I think, if the gentleman will recall, there is a motor bus line which runs up Fifth Avenue in New York City, and in the city of London practically all——

Mr. MANN. There is no use in citing the city of London, because busses there are being driven out.

Mr. KAHN. The old horse busses are disappearing; they are giving place to motor busses, such as it is proposed to run on this street.

Mr. MANN. They have given place to underground street car lines.

Mr. KAHN. There are a few tube lines, as they call them, but the number of busses along the Strand and Fleet Street is exceedingly large, and a man is kept pretty busy dodging them.

Mr. MANN. It is one part of the question of economy whether they can operate at a profit to themselves. The other question is whether they can operate at a profit to the public. A street car line improves its rails, and cars run upon them, and they have to be obtained by the street car company. The bus line runs upon an asphalt pavement put in at public expense, and it wears out. With the asphalt pavement or other pavement the public has to do the maintenance.

Mr. KAHN. I submit to the gentleman from Illinois that I do not think a motor bus of this kind is near so hard on the streets as those heavy so-called "chump chariots" which are going around showing the visitors to the city the sights at so much per head.

Mr. JOHNSON of Kentucky. It occurs to me, if the gentleman will indulge me a moment, that it should not matter to the Congress whether it is profitable to the owners of the herdic line or not. They are anxious for this bill to pass; and, after it has passed, it gives the commissioners the right to compel them to operate.

Mr. MANN. I hope the gentleman will not think that I have any opposition to the bill. I think anything that will improve the service up there will be good, but I doubt whether it will ever be very satisfactory.

Mr. KAHN. The question in my mind is whether they will be able to do it at the small price they are asking, but they seem to think there is enough business to warrant the experiment, and they are willing to put their money in it.

Mr. MANN. As to the regulations in regard to the transfers between this car line and the street car line——

Mr. KAHN. I dare say the Capital Traction Co. may fight it in the courts, but it is probable an arrangement can be made whereby the transfer facilities will be accorded. The motor bus company has a transfer arrangement with the Connecticut Avenue line.

Mr. SIMS. And with the Washington Electric Co., which was put on by legislation in Congress and which they have always lived up to.

Mr. MANN. The gentleman says it is already provided. I would think that it is not provided for completely, or it would not be here.

Mr. KAHN. It is provided for at the corner of Fifteenth and H Streets NW.

Mr. MANN. The question I asked was whether you could provide in this bill that these companies should give transfers to this company or whether you would have to amend the franchise under which the street car companies operate? I take it those laws are subject to amendment. This, of course, does not purport to be an amendment to the original law.

Mr. KAHN. No.

Mr. MANN. I think we decided in our city that we had the right to require absolutely transfers between any street car lines, within the old city limits anyhow.

Mr. KAHN. As the gentleman from Tennessee [Mr. SIMS] said a moment ago, when this company undertook to change this line from a horse bus line to a motor bus line, the House at that time put a provision in the bill compelling the Washington Electric Co. to interchange transfers at the corner of Fifteenth and H Streets NW. The railroad company accepted the proposition.

Mr. MANN. They always have had transfers there since I have known anything about it.

Mr. KAHN. It was simply done by agreement, as I recall it; never by law. Therefore we put it into the law. The street car company never in any way attempted to get around it.

Mr. SIMS. I do not think the Capital Traction Co. will, either.

Mr. JOHNSON of Kentucky. Mr. Chairman, before the matter is disposed of, I desire to say on the part of the committee that there has never been any objection in the committee to this bill. A large number of pastors of churches in that section have earnestly sought the passage of the bill. I say for the committee that the bill would long ago have been brought up in this House for passage, except for some very objectionable lobbying that was done with the committee concerning the bill. In the beginning there were lobbyists who opposed the passage of the bill and who could give no sufficient reason for their opposition.

In a little while those same lobbyists who had just opposed the bill made miserable the life of nearly every man upon that committee, urging its passage. Why these particular lobbyists changed front we have never been able to discover, but it was a character of lobbying that the committee determined to discourage, and even went so far as to delay the passage of a good bill for the purpose of thus saying to the lobbyists that they must quit that objectionable system of lobbying; that no bill for which they lobbied would ever get through that committee. That character of lobbying ceased several weeks ago, and, in consequence of its cessation, the bill has been called up to-day for passage.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Kentucky. Yes.

Mr. LONGWORTH. I think the gentleman's statement is rather surprising. I assume that this is not a very large company or one that has a very large capital. Its only assets are two large automobiles?

Mr. KAHN. Yes; and the franchise.

Mr. LONGWORTH. Yes; and the franchise.

Mr. JOHNSON of Kentucky. I will say to the gentleman that the company itself has done practically no lobbying in regard to this bill. The lobbying was done by people apparently on the outside—people who made themselves objectionable to practically every member of the committee.

Mr. LONGWORTH. What reasons were advanced for their action?

Mr. JOHNSON of Kentucky. We can only guess at the motives of those who were lobbying against the passage of the bill at the beginning, and we can only guess as to why they changed their attitude from opposing the bill to being in favor of it. Nevertheless, that has been done, and those who were fighting it at first are now its most ardent advocates, without being able to give any reason for their change of heart. They have annoyed the committee to the extent that the committee was disposed at one time to defeat this bill because of objectionable lobbying.

Mr. LONGWORTH. So that now the committee is for the bill, in spite of the opposition?

Mr. JOHNSON of Kentucky. Yes.

The CHAIRMAN. The Clerk will read the bill under the five-minute rule for amendment.

The Clerk read as follows:

SEC. 2. That said commissioners are hereby given authority to issue such permits or licenses for the operation of said vehicles as may be necessary to carry this act into effect, and for cause shown to revoke the same, and further to make, alter, or amend from time to time, reasonable rules, regulations, and orders for the equipment and operation of said vehicles, which rules and regulations and orders when so made shall be valid and binding on the said Metropolitan Coach Co. and upon all persons.

Mr. MANN. Mr. Chairman, I ask that the Clerk correct the spelling of the word "vehicles" in line 3 of page 2.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. That said company shall provide and furnish at all times such service and facilities as shall be reasonably safe and adequate; and it shall at all times maintain its vehicles in good and proper repair, neat and clean, free from offensive smoke, noise, and odors, in a sanitary condition, sufficient in number, and reasonably comfortable and convenient. The company shall operate its vehicles over a route or routes approved by the commissioners, or to be approved by them so as to give expeditious passage to all persons desiring to use the same, and on such time schedule or schedules and for such rates and charges as said commissioners may from time to time fix and determine. The said commissioners shall have power by a rule or rules from time to time to require and compel obedience to the provisions of this section after notice to and opportunity given said company to be heard.

The CHAIRMAN. The Clerk will read the committee amendments.

The Clerk read the first committee amendment as follows:

Strike out, page 2, lines 16, 17, and 18, the words "over a route or routes approved by the commissioners, or to be approved by them."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MANN. Mr. Chairman, in striking out in section 3 the language "over a route or routes approved by the commissioners or to be approved by them" is that proposed to be stricken out because the committee intends to cover that itself by amendment?

Mr. KAHN. Yes. The committee has drawn two amendments to cover that.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

Page 2, line 19, insert after the words "such" the word "reasonable."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read the next committee amendment, as follows:

On page 2, line 20, strike out the words "and for such rates and charges."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next section of the bill.

The Clerk read as follows:

SEC. 4. That said Metropolitan Coach Co. and its officers and employees are hereby required to obey all the provisions of this act and such reasonable rules, regulations, and orders as may be made by said commissioners, and if said company or its officers or employees violate any provision of this act or any of said rules, regulations, or orders made by said commissioners, or permit such violation, said company or each of said officers or employees shall be punished by a fine of not more than $100, and prosecution for each of said violations shall be made on information in the name of the District of Columbia, filed in the police court of the District of Columbia by the corporation counsel or one of his assistants.

With the following committee amendment:

Insert after section 4 the following:

"SEC. 5. That the vehicles of the Metropolitan Coach Co. shall follow its present route to Fifteenth Street and Pennsylvania Avenue, and shall go thence west to Madison Place, north to H Street, east to Fifteenth Street, and thence to Sixteenth and U Streets, by the route followed coming south; and said company, if it so elects, shall be permitted, in lieu of sending its vehicles west on Pennsylvania Avenue, as above provided, to send them south on Fifteenth Street and east on Pennsylvania Avenue to Eighth Street west, and thence reverse to Sixteenth and U Streets.

"SEC. 6. That said company shall issue to all passengers received by it north of H Street NW., and desiring same, a transfer ticket to the cars of the Capital Traction Co. at the intersection of Fifteenth Street and New York Avenue and Pennsylvania Avenue NW., said transfer ticket to be good for passage on the cars of the Capital Traction Co. going south or west, and the said Capital Traction Co. shall receive and transport on its said cars said passengers on said transfer tickets without the payment of additional fare; and the said Capital Traction Co. shall issue to all its passengers desiring same, on cars going east on Pennsylvania Avenue and north on Fifteenth Street, at said intersection, a transfer ticket to the coaches of the said Metropolitan Coach Co., and the said Metropolitan Coach Co. shall receive and transport on its coaches said passengers on said transfer tickets without the payment of additional fare.

"SEC. 7. That said Metropolitan Coach Co. shall issue to all its passengers desiring same a transfer ticket to the cars of the Washington Railway & Electric Co. at the said intersection of Fifteenth Street, New York Avenue, and Pennsylvania Avenue NW., said transfer ticket to be good for passage on the cars of the said Washington Railway & Electric Co., and the said Washington Railway & Electric Co. shall receive and transport on its said cars said passengers on said transfer tickets without the payment of additional fare; and the said Washington Railway & Electric Co. shall issue to all its passengers desiring same at said intersection a transfer ticket to the coaches of the said Metropolitan Coach Co., and the said Metropolitan Coach Co. shall receive

and transport on its coaches said passengers on said transfer ticket without the payment of additional fare.

"SEC. 8. That any company named herein that fails to comply with the requirements of sections 6 and 7 of this act shall be punished by a fine of not more than $100 for each violation thereof, and prosecutions shall be made as prescribed in section 4 of this act; that the Commissioners of the District of Columbia shall make and enforce the regulations necessary to carry the provisions of these sections into effect."

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 5. That the provisions of this act shall be effective on and after the 1st day of January, 1912, and, in addition to the penalties in this act provided, the failure of the Metropolitan Coach Co. at any time or times hereafter to comply with the terms hereof shall make it unlawful for it to operate its vehicles over its route, and if said company shall, within a period of 30 days of notice thereof, fail to comply with any of said rules, regulations, or orders, made by said commissioners, its right to operate said vehicles shall terminate without notice, and the commissioners are directed thereupon to prevent the use of the public highways by said company.

With the following committee amendments:

In line 15, page 5, strike out the figure "5" and insert in lieu thereof the figure "9."

In lines 16 and 17, page 5, strike out the words "the 1st day of January, 1912," and insert in lieu thereof the words "six months from the date of its passage."

The amendments were agreed to.

The Clerk read as follows:

SEC. 6. That Congress reserves the right to alter, amend, or repeal this act.

With the following committee amendment:

On page 6, in line 3, strike out the figure "6" and insert in lieu thereof the figure "10."

The committee amendment was agreed to.

Mr. KAHN. I move that the bill as amended be laid aside, to be reported to the House with a favorable recommendation.

The motion was agreed to.

BENNING ROAD.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move that we take up the bill (H. R. 6083) to amend an act entitled "An act for the widening of Benning Road, and for other purposes," approved May 16, 1908.

The bill was read, as follows:

Be it enacted, etc., That the act of Congress entitled "An act for the widening of Benning Road, and for other purposes," approved May 16, 1908, be, and the same is hereby, amended by striking out section 1 of said act and inserting in lieu thereof the following:

"That, under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, within 90 days after the passage of this act the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land necessary to widen Benning Road from Fifteenth Street east to Oklahoma Avenue, exclusive of the strip of land 30 feet wide acquired by the Columbia Railway Co. under the provisions of the act of Congress approved June 13, 1898, entitled 'An act to authorize the extension eastwardly of the Columbia Railway.' The width of said Benning Road when widened to be 110 feet between the limits named, including the strip of land 30 feet wide acquired by the said Columbia Railway Co.; *Provided, however*, That the entire amount found to be due and awarded by the jury in said proceeding as damages for and in respect of the land to be condemned for said extension, plus the costs and expenses of said proceeding, shall be assessed by the jury as benefits: *And provided further*, That nothing in said subchapter 1 of chapter 15 of said code shall be construed to authorize the jury to assess less than the aggregate amount of the damages awarded for and in respect of the land to be condemned and the costs and expenses of the proceeding hereunder: *And provided further*, That the said Columbia Railway Co., its successors or assigns, shall remove its tracks to the center of the street when widened, when required so to do by the Commissioners of the District of Columbia."

Mr. KAHN. Mr. Chairman, a bill practically similar to this has passed the House in the last two or three Congresses. The Benning Road is now one of the main traveled roads of the District. Large number of vehicles use it constantly. From the old White House Station, as they call it, to Oklahoma Avenue the road is quite narrow.

Mr. JOHNSON of Kentucky. It is said to be narrower than the bridge across the river.

Mr. KAHN. As suggested by the gentleman from Kentucky [Mr. JOHNSON], the road is narrower than the bridge across the Eastern Branch. The railroad company which occupies the land immediately to the north of Benning Road was notified when applying for its franchise that in the years to come it would undoubtedly be necessary to widen the road, and the company took the franchise subject to that notice. The railroad company officials are the only people who have shown any disposition to antagonize the passage of this bill.

In certain places it is difficult to cross the railroad tracks from the lands north of the tracks to the road. It is proposed to widen the road to the north and to place the tracks more in the center of the road. In some parts of it there is practically only a narrow driveway alongside the railroad track. The right of way of the railroad is on the extreme northern border of the road, and is fenced off, so that it is exceedingly difficult at times for heavy vehicles to pass one another.

The House has heretofore passed similar legislation, and this is simply another effort to secure the enactment of a law that will enable a very important artery of travel to be widened to a sufficient width.

Mr. TILSON. Who is to pay the expense of the widening under this bill?

Mr. KAHN. The abutting property owners. That is the usual course that is pursued here in the District when a road or street is widened or extended.

Mr. TILSON. Does not the Benning Road proceed for some distance along what is practically a causeway over swampy land?

Mr. KAHN. Not the part provided for in this bill. To the east of Oklahoma Avenue the road goes down a rather sharp grade and then strikes some low land near the Eastern Branch.

Mr. WEEKS. Does the railroad company pay any part of the expense of widening?

Mr. KAHN. I imagine it will have to. It will have some of the benefit. The tracks will have to be moved.

Mr. WEEKS. It would not be necessary to widen the road if the tracks were not there, would it?

Mr. KAHN. It would be necessary to widen the road, because, as I understand it, the tracks are on a private right of way, fenced off from the highway in many places.

Mr. WEEKS. What is the policy which has been pursued in widening roads or streets under such conditions in the District?

Mr. KAHN. When the commissioners determine that a road ought to be widened they apply to Congress for the passage of a law giving them authority to proceed in rem to condemn the necessary property, and the accruing benefits and damages are adjusted between the abutting property owners.

Mr. WEEKS. By the commissioners?

Mr. KAHN. By the commissioners.

Mr. WEEKS. And do they assess some part of that expense upon all interests?

Mr. KAHN. Yes.

Mr. WEEKS. Including the street railway company?

Mr. KAHN. I believe so.

Mr. MANN. The gentleman says "I believe so," but he speaks it in a hopeful way. The street railway company now owns 30 feet of ground upon which its tracks are laid.

Mr. KAHN. Exactly.

Mr. MANN. How do you propose to require the street car company to pay for widening the road when you take their land, unless they be paid for their own land?

Mr. JOHNSON of Kentucky. I will say that there is already a law by which, when this street is widened, it must take up that 30 feet.

Mr. MANN. This bill provides that when the road is widened the street car company shall move its tracks to the middle of the street whenever ordered to do so by the commissioners. Who, then, owns the private property now belonging to the street railway company that is not condemned?

Mr. KAHN. It will have to be condemned.

Mr. MANN. It is not condemned by this bill.

Mr. JOHNSON of Kentucky. I was about to say to the gentleman when interrupted that under existing law the 30-foot strip becomes a part of the street whenever widened.

Mr. MANN. That could be done by the street railway company by their consent, but we can not dedicate it.

Mr. JOHNSON of Kentucky. I think it was a condition precedent to the acquirement of it.

Mr. MANN. I think likely that is covered by the original act. I remember when this original act passed. I remember the discussion that was had in regard to it. That was the bill where my distinguished friend from Tennessee, now sitting in front of me [Mr. SIMS], stopped horse racing in the District of Columbia by placing a rider upon a bill for the opening of a street, prohibiting the maintenance of horse racing, and which nobody thought would ever pass. That bill provided that we would condemn the land for the widening of Benning Street whenever one-half of the property necessary for its widening had been dedicated. Are the people there unwilling to dedicate?

Mr. KAHN. Some are.

Mr. MANN. The majority are.

Mr. JOHNSON of Kentucky. If I understand correctly, no dedication is necessary. If the street were widened on the south side of the road, many houses would have to be interfered with, but it is to be widened on the north side by taking this 30-foot strip which the railroad now uses. Under existing law, whenever the street is widened they must then move their tracks to the center of the street and abandon to public use the 30-foot strip which they now use.

Mr. MANN. I do not understand that this is to take the 30-foot strip owned by the railroad company.

Mr. KAHN. The gentleman from Kentucky says that under the original grant of franchise there was a provision that when it should become necessary to widen Benning Road the street railway company would dedicate this 30-foot strip for that purpose; that that was a condition of the grant.

Mr. MANN. That may all be; I am not referring to that. The original act provided that we would condemn the balance whenever 50 per cent was dedicated. It is a somewhat unusual thing to widen a street to the width of 110 feet. It seems to me wholly unnecessary to have a width that great unless the people want it and show it by some form of dedication.

Mr. KAHN. If the gentleman will recall, that road is the artery by which a great many of the truck farmers come into Washington, and it is also a street over which a great many heavy vehicles pass in order to take the refuse of the city to the crematory.

Mr. MANN. I have been out on the road lots of times, and I think there is no more occasion for a street 110 feet wide there than there is for a street 1,000 feet wide.

Mr. KAHN. The street car line may take 30 feet out of the center of the road, which will not make the street any too wide for the heavy traffic that goes over it.

Mr. MANN. When the street car line is moved to the center of the street, it has no occasion for the use of the 30 feet. Two tracks is all they need, and two tracks do not occupy 30 feet.

Mr. KAHN. No; but two tracks will occupy probably 15 or 17 feet.

Mr. MANN. A little more than that. It means in the end, of course, an enormous expense on the District in paving the street and a very large so-called planting space, which is left entirely unimproved.

Mr. KAHN. Of course, there is a very large traffic over it, and I daresay in the years to come the traffic will grow.

Mr. MANN. The gentleman says a large traffic, but he does not mean a large traffic as compared to the traffic in the gentleman's city or in my city on streets not over half the width.

Mr. KAHN. I want to say frankly to the gentleman that about three months ago the chairman of the subcommittee on streets, Mr. ADAIR, took me over there about 3 o'clock in the afternoon, an hour in the day at which one would expect to see comparatively little traffic, and yet I was surprised to see a great number of heavy vehicles that were passing over that road—a constant procession of them.

The CHAIRMAN. The Clerk will read the bill under the five-minute rule.

The Clerk read the bill.

Mr. KAHN. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

Mr. JOHNSON of Kentucky. Mr. Chairman, there are several other bills which the committee would like to take up and have passed at this time, but because of the absence of gentlemen who have them in charge, or who originated them, and at their request I move that the committee do now rise and report the bills with a favorable recommendation.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. TAYLOR of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration sundry bills reported from the Committee on the District of Columbia, and had directed him to report the same back, some with amendments and some without amendments, with a recommendation that the amendments be agreed to, and that the bills as amended do pass.

The SPEAKER. The Clerk will report the first bill.

The Clerk read as follows:

H. R. 22648. To authorize a change in the location of Fourteenth Street NE., in the District of Columbia, and for other purposes.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

S. 23. To authorize the extension of Underwood Street NW.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

S. 2904. To confer upon the Commissioners of the District of Columbia authority to regulate the operation and equipment of the vehicles of the Metropolitan Coach Co., with amendments.

The amendments were read.

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, I move to amend the title by adding to the present title the words:

And to provide for transfers between said company and the Capital Traction Co. and the Washington Railway & Electric Co.

The SPEAKER. The question is on agreeing to the amendment to the title.

The question was taken, and the amendment was agreed to.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

H. R. 6083. To amend an act entitled "An act for the widening of Benning Road, and for other purposes, approved May 16, 1908."

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the gentleman from Oklahoma [Mr. MORGAN] may address the House for 20 minutes.

Mr. HENRY of Texas. Mr. Speaker, I object.

The SPEAKER. The gentleman from Texas objects.

PROCEDURE IN CONTEMPT CASES.

Mr. HENRY of Texas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

Mr. MANN. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. MANN. If the gentleman will not concede courtesies he will not get them.

Mr. HENRY of Texas. Mr. Speaker, I move a call of the House.

The question was taken, and the Chair announced the noes seemed to have it.

On a division (demanded by Mr. HENRY of Texas) there were—ayes 27, noes none.

Mr. HILL. Mr. Speaker, may I make a suggestion?

The SPEAKER. The Chair will hear the suggestion.

Mr. HILL. Mr. Speaker, it will take a good deal longer to get a call of the House than it would take to give the gentleman from Oklahoma a chance to speak, and I think that we might reach a compromise by which we might do both. To tell the honest truth about it, I will state to the gentleman from Texas I would like to have about 10 or 15 minutes myself.

Mr. HENRY of Texas. I think there will be no trouble about giving the gentleman time under the bill we propose to get up if that will be satisfactory. I believe that the chairman of the Committee on the Judiciary will agree to that.

Mr. MANN. Mr. Speaker, I suggest that a quorum having been ascertained not to be present there is nothing the House can do by unanimous consent or otherwise except to develop a quorum or quit.

The SPEAKER. Really that is true.

Mr. CLAYTON. Mr. Speaker, I think the time asked for by the gentleman from Oklahoma would be accorded to him——

Mr. MANN. The gentleman from Texas, without any explanation, objected right off the bat.

The SPEAKER. The point of order made by the gentleman from Illinois is absolutely good——

Mr. HENRY of Texas. I talked with the gentleman from Oklahoma about the matter.

The SPEAKER. The Doorkeeper will close the doors——

Mr. MANN. The gentleman did not talk to me.

The SPEAKER. The Sergeant at Arms will notify absentees——

Mr. CLAYTON. For myself I would very much like to hear the gentleman from Oklahoma, because I want to know whether he is going to join the third party or be a Democrat or stand pat, and therefore I would like to hear him——

The SPEAKER. And the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Adair	Beall, Tex.	Calder	Cravens
Aiken, S. C.	Berger	Callaway	Crumpacker
Alexander	Boehne	Candler	Curley
Ames	Booher	Cantrill	Currier
Anderson, Ohio	Borland	Carter	Curry
Andrus	Bradley	Cary	Dalzell
Anthony	Browning	Catlin	Daugherty
Ashbrook	Bulkley	Claypool	Davidson
Ayres	Burke, Pa.	Conry	Davis, W. Va.
Bates	Burleson	Cox, Ohio	De Forest
Bathrick	Byrnes, S. C.	Crago	Dickson, Miss.

Dies	Haugen	Maher	Sheppard
Doremus	Heald	Martin, S. Dak.	Sherley
Draper	Heflin	Matthews	Sherwood
Driscoll, D. A.	Helm	Mays	Simmons
Driscoll, M. E.	Henry, Conn.	Mondell	Slemp
Dwight	Higgins	Moon, Pa.	Sloan
Dyer	Hinds	Moore, Pa.	Smith, J. M. C.
Ellerbe	Hobson	Moore, Tex.	Smith, Cal.
Estopinal	Hughes, Ga.	Morse, Wis.	Smith, N. Y.
Evans	Hughes, N. J.	Moss, Ind.	Sparkman
Fairchild	Hughes, W. Va.	Mott	Speer
Farr	Humphreys, Miss.	Murray	Stack
Ferris	Jackson	Needham	Steenerson
Finley	Johnson, S. C.	Neeley	Stephens, Nebr.
Fitzgerald	Kindred	Nelson	Stephens, Miss.
Focht	Kinkead, N. J.	Nye	Stevens, Minn.
Fordney	Knowland	Olmsted	Talbott, Md.
Fornes	Konig	O'Shaunessy	Taylor, Ala.
Foss	Kopp	Page	Taylor, Ohio
Gardner, N. J.	Lafean	Palmer	Thayer
Garrett	Langham	Patten, N. Y.	Thomas
George	Langley	Peters	Townsend
Gillett	Lawrence	Plumley	Tuttle
Glass	Legare	Porter	Underhill
Godwin, N. C.	Lindsay	Post	Utter
Goeke	Linthicum	Powers	Vare
Goldfogle	Littlepage	Pujo	Volstead
Gould	Littleton	Randell, Tex.	Vreeland
Graham	Lobeck	Ransdell, La.	Wedemeyer
Gregg, Pa.	Loud	Rees	Wilder
Griest	McCoy	Reyburn	Wilson, N. Y.
Guernsey	McDermott	Riordan	Wood, N. J.
Hamill	McGuire, Okla.	Robinson	Woods, Iowa
Hamilton, Mich.	McHenry	Rothermel	Young, Mich.
Hanna	McKinley	Scully	Young, Tex.
Hardwick	McLaughlin	Sells	
Hardy	McMorran	Shackleford	
Harrison, N. Y.	Macon	Sharp	

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

The SPEAKER. The membership of the House at the present time consists of 390 Members. There are four vacancies. It takes 196 Members to constitute a quorum. There are 197 Members present—a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move that further proceedings under the call be dispensed with.

The SPEAKER. The gentleman from Alabama moves that further proceedings under the call be dispensed with.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

LEAVE OF ABSENCE.

Mr. DAVIS of West Virginia, by unanimous consent, was granted leave of absence for 10 days, on account of important business.

WITHDRAWAL OF PAPERS.

Mr. HUMPHREY of Washington, by unanimous consent, was granted leave to withdraw from the files of the House, without leaving copies, papers in the case of Fred T. Macomber (H. R. 19193, 61st Cong.), no adverse report having been made thereon.

PROCEDURE IN CONTEMPT CASES.

The SPEAKER. The Chair recognizes the gentleman from Texas [Mr. HENRY].

Mr. HENRY of Texas. Mr. Speaker, I offer the resolution which is already at the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 597 (H. Rept. 945).

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider the bill (H. R. 22591) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911. That there shall be three hours' general debate on said bill and one substitute, and at the expiration of such time the previous question shall be considered as ordered on the bill and said substitute to final passage without any intervening motion except the motion to recommit.

Mr. HENRY of Texas. Mr. Speaker, I demand the previous question on the resolution.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. HENRY of Texas. Division, Mr. Speaker.

The House divided; and there were—ayes 81, noes 37.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 140, nays 42, answered "present" 8, not voting 200, as follows:

YEAS—140.

Akin, N. Y.	Broussard	Cline	Dixon, Ind.
Allen	Brown	Collier	Donohoe
Ansberry	Buchanan	Connell	Doughton
Austin	Bulkley	Covington	Dupré
Barnhart	Burgess	Cox, Ind.	Edwards
Bartlett	Burke, Wis.	Davenport	Faison
Beall, Tex.	Byrns, Tenn.	Dent	Fergusson
Bell, Ga.	Carlin	Denver	Flood, Va.
Blackmon	Clark, Fla.	Dickinson	Floyd, Ark.
Brantley	Clayton	Difenderfer	Foster
Fowler	Johnson, Ky.	Morrison	Slayden
Francis	Jones	Neeley	Small
Fuller	Kendall	Oldfield	Smith, Tex.
Gallagher	Kennedy	Padgett	Stedman
Garner	Kinkaid, Nebr.	Patton, Pa.	Stephens, Cal.
Godwin, N. C.	Kitchin	Pepper	Stephens, Tex.
Goodwin, Ark.	Konop	Pickett	Stone
Gray	Korbly	Pou	Sulzer
Gregg, Tex.	Lafferty	Pray	Sweet
Gudger	La Follette	Prince	Switzer
Hamilton, W. Va.	Lamb	Rainey	Taggart
Hamlin	Langham	Raker	Talcott, N. Y.
Hardy	Lee, Ga.	Rauch	Taylor, Colo.
Harrison, Miss.	Lee, Pa.	Redfield	Towner
Hartman	Lever	Richardson	Tribble
Hay	Lewis	Roberts, Nev.	Turnbull
Henry, Tex.	Lindbergh	Rodenberg	Underwood
Hensley	Lloyd	Rothermel	Watkins
Holland	McCreary	Rouse	Webb
Houston	McGillicuddy	Rubey	Whitacre
Howard	McKellar	Rucker, Colo.	White
Hughes, Ga.	Maguire, Nebr.	Russell	Willis
Hull	Martin, Colo.	Sabath	Wilson, Pa.
Jacoway	Moon, Tenn.	Sims	Witherspoon
James	Morgan	Sisson	The Speaker

NAYS—42.

Ainey	Davis, Minn.	Lenroot	Roddenbery
Anderson, Minn.	Dodds	Longworth	Smith, Saml. W.
Barchfeld	Esch	McCall	Sterling
Bartholdt	French	McKenzie	Thistlewood
Bowman	Good	McKinney	Tilson
Burke, S. Dak.	Green, Iowa	Madden	Utter
Butler	Harris	Mann	Warburton
Cannon	Hayes	Miller	Weeks
Cooper	Howell	Murdock	Young, Kans.
Copley	Howland	Norris	
Danforth	Jackson	Payne	

ANSWERED "PRESENT"—8.

Adamson	Campbell	Hill	Rucker, Mo.
Burnett	Fields	Parran	Sulloway

NOT VOTING—200.

Adair	Ellerbe	Kindred	Pujo
Aiken, S. C.	Estopinal	Kinkead, N. J.	Randell, Tex.
Alexander	Evans	Knowland	Ransdell, La.
Ames	Fairchild	Konig	Rees
Anderson, Ohio	Farr	Kopp	Reilly
Andrus	Ferris	Lafean	Reyburn
Anthony	Finley	Langley	Riordan
Ashbrook	Fitzgerald	Lawrence	Roberts, Mass.
Ayres	Focht	Legare	Robinson
Bates	Fordney	Levy	Saunders
Bathrick	Fornes	Lindsay	Scully
Berger	Foss	Linthicum	Sells
Boehne	Gardner, Mass.	Littlepage	Shackleford
Booher	Gardner, N. J.	Littleton	Sharp
Borland	Garrett	Lobeck	Sheppard
Bradley	George	Loud	Sherley
Browning	Gillett	McCoy	Sherwood
Burke, Pa.	Glass	McDermott	Simmons
Burleson	Goeke	McGuire, Okla.	Slemp
Byrnes, S. C.	Goldfogle	McHenry	Sloan
Calder	Gould	McKinley	Smith, J. M. C.
Callaway	Graham	McLaughlin	Smith, Cal.
Candler	Greene, Mass.	McMorran	Smith, N. Y.
Cantrill	Gregg, Pa.	Macon	Sparkman
Carter	Griest	Maher	Speer
Cary	Guernsey	Martin, S. Dak.	Stack
Catlin	Hamill	Matthews	Stanley
Claypool	Hamilton, Mich.	Mays	Steenerson
Conry	Hammond	Mondell	Stephens, Miss.
Cox, Ohio	Hanna	Moon, Pa.	Stephens, Nebr.
Crago	Hardwick	Moore, Pa.	Stevens, Minn.
Cravens	Harrison, N. Y.	Moore, Tex.	Talbott, Md.
Crumpacker	Haugen	Morse, Wis.	Taylor, Ala.
Cullop	Hawley	Moss, Ind.	Taylor, Ohio
Curley	Hayden	Mott	Thayer
Currier	Heald	Murray	Thomas
Curry	Heflin	Needham	Townsend
Dalzell	Helgesen	Nelson	Tuttle
Daugherty	Helm	Nye	Underhill
Davidson	Henry, Conn.	Olmsted	Vare
Davis, W. Va.	Higgins	O'Shaunessy	Volstead
De Forest	Hinds	Page	Vreeland
Dickson, Miss.	Hobson	Palmer	Wedemeyer
Dies	Hughes, N. J.	Patten, N. Y.	Wilder
Doremus	Hughes, W. Va.	Peters	Wilson, Ill.
Draper	Humphrey, Wash.	Plumley	Wilson, N. Y.
Driscoll, D. A.	Humphreys, Miss.	Porter	Wood, N. J.
Driscoll, M. E.	Johnson, S. C.	Post	Woods, Iowa
Dwight	Kahn	Powers	Young, Mich.
Dyer	Kent	Prouty	Young, Tex.

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Yea."

The Clerk announced the following pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. GLASS with Mr. SLEMP.

Mr. RIORDAN with Mr. ANDRUS.

Until further notice:

Mr. SCULLY with Mr. BROWNING.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. LEGARE with Mr. LOUD.

Mr. SABATH with Mr. PORTER.

Mr. LITTLETON with Mr. DWIGHT.

Mr. YOUNG of Texas with Mr. LAFEAN.
Mr. DIES with Mr. MOORE of Pennsylvania.
Mr. SHARP with Mr. FOSS.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. TALBOTT of Maryland with Mr. PARRAN.
Mr. PUJO with Mr. MCMORRAN.
Mr. GARRETT with Mr. FORDNEY.
Mr. SHEPPARD with Mr. BATES.
Mr. CARTER with Mr. KAHN.
Mr. FINLEY with Mr. CURRIER.
Mr. PALMER with Mr. HILL.
Mr. DANIEL A. DRISCOLL with Mr. FARR.
Mr. LOBECK with Mr. HAUGEN.
Mr. RUCKER of Missouri with Mr. DYER.
Mr. DRAPER with Mr. DAUGHERTY.
Mr. BURNETT with Mr. HELGESEN.
Mr. CLAYPOOL with Mr. FOCHT.
Mr. BORLAND with Mr. DALZELL.
Mr. CANDLER with Mr. MICHAEL E. DRISCOLL.
Mr. BOOHER with Mr. CURRY.
Mr. BOEHNE with Mr. CRUMPACKER.
Mr. BATHRICK with Mr. CRAGO.
Mr. AYRES with Mr. CARY.
Mr. ASHBROOK with Mr. CALDER.
Mr. ANDERSON of Ohio with Mr. BURKE of Pennsylvania.
Mr. ALEXANDER with Mr. ANTHONY.
Mr. AIKEN of South Carolina with Mr. AMES.
Mr. ADAIR with Mr. HINDS.
Mr. STEPHENS of Nebraska with Mr. WOODS of Iowa.
Mr. THAYER with Mr. PORTER.
Mr. STEPHENS of Mississippi with Mr. OLMSTED.
Mr. SMITH of New York with Mr. WILSON of Illinois.
Mr. SHERLEY with Mr. VREELAND.
Mr. POST with Mr. SPEER.
Mr. Moss of Indiana with Mr. REYBURN.
Mr. LINTHICUM with Mr. NYE.
Mr. MCCOY with Mr. PROUTY.
Mr. LITTLEPAGE with Mr. POWERS.
Mr. Cox of Indiana with Mr. GARDNER of New Jersey.
Mr. GOEKE with Mr. HEALD.
Mr. GEORGE with Mr. HAWLEY.
Mr. CULLOP with Mr. GILLETT.
Mr. CURLEY with Mr. GREENE of Massachusetts.
Mr. FIELDS with Mr. LANGLEY.
Mr. PETERS with Mr. J. M. C. SMITH.
Mr. PATTEN of New York with Mr. SIMMONS.
Mr. REILLY with Mr. TAYLOR of Ohio.
Mr. ROBINSON with Mr. YOUNG of Michigan.
Mr. KONIG with Mr. NEEDHAM.
Mr. DAVIS of West Virginia with Mr. GRIEST.
Mr. ELLERBE with Mr. GUERNSEY.
Mr. SHERWOOD with Mr. WEDEMEYER.
Mr. STANLEY with Mr. WOOD of New Jersey.
Mr. MCDERMOTT with Mr. REES.
Mr. EVANS with Mr. HAMILTON of Michigan.
Mr. FERRIS with Mr. HANNA.
Mr. FITZGERALD with Mr. HENRY of Connecticut.
Mr. GOLDFOGLE with Mr. HIGGINS.
Mr. TOWNSEND with Mr. KOPP.
Mr. GRAHAM with Mr. HUGHES of West Virginia.
Mr. WILSON of New York with Mr. LAWRENCE.
Mr. GREGG of Pennsylvania with Mr. HUMPHREY of Washington.
Mr. HARRISON of New York with Mr. KNOWLAND.
Mr. HEFLIN with Mr. MCKINLEY.
Mr. HAYDEN with Mr. MCLAUGHLIN.
Mr. HELM with Mr. MARTIN of South Dakota.
Mr. RANDELL of Texas with Mr. SMITH of California.
Mr. SHACKLEFORD with Mr. VARE.
Mr. HUGHES of New Jersey with Mr. MATTHEWS.
Mr. JOHNSON of South Carolina with Mr. MONDELL.
Mr. KINDRED with Mr. MOON of Pennsylvania.
Mr. MURRAY with Mr. ROBERTS of Massachusetts.
Mr. KINKEAD of New Jersey with Mr. MOTT.
Mr. PAGE with Mr. SELLS.
Mr. THOMAS with Mr. MCGUIRE of Oklahoma.
Mr. TUTTLE with Mr. DE FOREST.
Mr. MAYS with Mr. CATLIN.
Two weeks from June 28:
Mr. BYRNES of South Carolina with Mr. PLUMLEY.

The SPEAKER. On this vote the yeas are 140, the nays are 42, "present" 8, making 190 Members present, while 196 are necessary to make a quorum.

Mr. HENRY of Texas. Mr. Speaker, I move a call of the House.

Mr. UNDERWOOD. Mr. Speaker, a quorum is not present. I think under the rule an automatic call of the House is required.

The SPEAKER. That is exactly what we are doing.

Mr. HENRY of Texas. I think the call is automatic, Mr. Speaker, when a quorum fails to develop.

The SPEAKER. The Doorkeeper will lock the doors, the Sergeant at Arms will send for the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 151, nays 25, answered "present" 15, not voting 199, as follows:

YEAS—151.

Ainey	Dixon, Ind.	Johnson, Ky.	Redfield
Akin, N. Y.	Donohoe	Jones	Rodenberg
Alexander	Doughton	Kendall	Rothermel
Allen	Dupré	Kennedy	Rouse
Ansberry	Edwards	Kinkaid, Nebr.	Rubey
Austin	Faison	Kitchin	Rucker, Colo.
Barchfeld	Fergusson	Konop	Russell
Barnhart	Flood, Va.	Korbly	Sabath
Bartlett	Floyd, Ark.	La Follette	Saunders
Beall, Tex.	Foster	Lamb	Sims
Bell, Ga.	Fowler	Langham	Sisson
Blackmon	Francis	Langley	Slayden
Booher	Fuller	Lee, Ga.	Small
Borland	Gallagher	Lee, Pa.	Smith, Tex.
Bowman	Garner	Lever	Stanley
Brantley	Godwin, N. C.	Lewis	Stedman
Buchanan	Good	McGillicuddy	Stephens, Cal.
Bulkley	Goodwin, Ark.	McKellar	Stephens, Tex.
Burgess	Gould	Maguire, Nebr.	Stone
Burke, Wis.	Gray	Martin, Colo.	Sulzer
Byrnes, S. C.	Gregg, Tex.	Miller	Sweet
Byrns, Tenn.	Gudger	Moon, Tenn.	Switzer
Campbell	Hamilton, W. Va.	Morgan	Taggart
Carlin	Hamlin	Morrison	Talcott, N. Y.
Clark, Fla.	Hardy	Neeley	Taylor, Ala.
Clayton	Harrison, Miss.	Oldfield	Towner
Cline	Hay	Padgett	Tribble
Collier	Hayden	Patton, Pa.	Turnbull
Connell	Hayes	Pepper	Underwood
Copley	Henry, Tex.	Peters	Watkins
Cox, Ind.	Hensley	Pickett	Webb
Cullop	Holland	Pou	Whitacre
Davenport	Houston	Pray	White
Davis, Minn.	Howard	Prince	Willis
Dent	Hughes, Ga.	Prouty	Wilson, Pa.
Denver	Hull	Rainey	Witherspoon
Dickinson	Jacoway	Raker	The Speaker
Difenderfer	James	Rauch	

NAYS—25.

Anderson, Minn.	French	McKenzie	Sterling
Butler	Harris	McKinney	Tilson
Cannon	Howland	Madden	Utter
Cooper	Lenroot	Murdock	Warburton
Danforth	Longworth	Norris	
Dodds	McCall	Roddenbery	
Esch	McCreary	Smith, Saml. W.	

ANSWERED "PRESENT"—15.

Adamson	Green, Iowa	Howell	Parran
Burke, S. Dak.	Greene, Mass.	Jackson	Rucker, Mo.
Burnett	Hawley	Lloyd	Slemp
Fields	Hill	Mann	

NOT VOTING—199.

Adair	Draper	Hobson	Murray
Aiken, S. C.	Driscoll, D. A.	Hughes, N. J.	Needham
Ames	Driscoll, M. E.	Hughes, W. Va.	Nelson
Anderson, Ohio	Dwight	Humphrey, Wash.	Nye
Andrus	Dyer	Humphreys, Miss.	Olmsted
Anthony	Ellerbe	Johnson, S. C.	O'Shaunessy
Ashbrook	Estopinal	Kahn	Page
Ayres	Evans	Kent	Palmer
Bartholdt	Fairchild	Kindred	Patten, N. Y.
Bates	Farr	Kinkead, N. J.	Payne
Bathrick	Ferris	Knowland	Plumley
Berger	Finley	Konig	Porter
Boehne	Fitzgerald	Kopp	Post
Bradley	Focht	Lafean	Powers
Broussard	Fordney	Lafferty	Pujo
Brown	Fornes	Lawrence	Randell, Tex.
Browning	Foss	Legare	Ransdell, La.
Burke, Pa.	Gardner, Mass.	Levy	Rees
Burleson	Gardner, N. J.	Lindbergh	Reilly
Calder	Garrett	Lindsay	Reyburn
Callaway	George	Linthicum	Richardson
Candler	Gillett	Littlepage	Riordan
Cantrill	Glass	Littleton	Roberts, Mass.
Carter	Goeke	Lobeck	Roberts, Nev.
Cary	Goldfogle	Loud	Robinson
Catlin	Graham	McCoy	Scully
Claypool	Gregg, Pa.	McDermott	Sells
Conry	Griest	McGuire, Okla.	Shackleford
Covington	Guernsey	McHenry	Sharp
Cox, Ohio	Hamill	McKinley	Sheppard
Crago	Hamilton, Mich.	McLaughlin	Sherley
Cravens	Hammond	McMorran	Sherwood
Crumpacker	Hanna	Macon	Simmons
Curley	Hardwick	Maher	Sloan
Currier	Harrison, N. Y.	Martin, S. Dak.	Smith, J. M. C.
Curry	Hartman	Matthews	Smith, Cal.
Dalzell	Haugen	Mays	Smith, N. Y.
Daugherty	Heald	Mondell	Sparkman
Davidson	Heflin	Moon, Pa.	Speer
Davis, W. Va.	Helgesen	Moore, Pa.	Stack
De Forest	Helm	Moore, Tex.	Steenerson
Dickson, Miss.	Henry, Conn.	Morse, Wis.	Stephens, Miss.
Dies	Higgins	Moss, Ind.	Stephens, Nebr.
Doremus	Hinds	Mott	Stevens, Minn.

Sulloway	Thomas	Vreeland	Wood, N. J.
Talbott, Md.	Townsend	Wedemeyer	Woods, Iowa
Taylor, Colo.	Tuttle	Weeks	Young, Kans.
Taylor, Ohio	Underhill	Wilder	Young, Mich.
Thayer	Vare	Wilson, Ill.	Young, Tex.
Thistlewood	Volstead	Wilson, N. Y.	

The Clerk announced the following additional pairs:

Until further notice:

Mr. CONRY with Mr. BARTHOLDT.

Mr. BROUSSARD with Mr. ANTHONY.

Mr. CANTRILL with Mr. CURRY.

Mr. DOREMUS with Mr. DALZELL.

Mr. HUMPHREYS of Mississippi with Mr. BURKE of South Dakota.

Mr. UNDERHILL with Mr. PLUMLEY.

Mr. HAMMOND with Mr. ROBERTS of Nevada.

Mr. HAMILL with Mr. WOOD of New Jersey.

Mr. RICHARDSON with Mr. SULLOWAY.

Mr. TAYLOR of Colorado with Mr. WEEKS.

Mr. TAYLOR of Alabama with Mr. LAFFERTY.

During the roll call the following occurred:

The SPEAKER pro tempore (Mr. GARNER). The Chair will state that several Members have come to the Chair and have asked him whether they are simply to vote present, or whether they may vote on ordering the previous question. The Chair understands that the question now being voted on is the ordering of the previous question, and gentlemen may vote yea, nay, or present, as they may desire.

Mr. MANN. Mr. Speaker, a parliamentary inquiry. Under what rule are we proceeding?

Mr. HENRY of Texas. Mr. Speaker, I understand that the tally clerk has not thus far any record of the yea-and-nay votes. In view of that fact, I ask unanimous consent that the roll call so far be vacated in order that Members may have an opportunity to vote intelligently on this question.

Mr. MANN. I shall have to object to that.

Mr. HENRY of Texas. Of course they can change their votes after the roll call is completed.

Mr. MANN. The whole roll call is without precedent or rule.

The SPEAKER pro tempore. The Clerk will record the Members as they answer.

The SPEAKER resumed the chair.

Mr. MANN. Mr. Speaker, is this call for the purpose of voting on a pending question, or for the purpose of developing the presence or absence of a quorum? In other words, how may I vote?

Mr. UNDERWOOD. Mr. Speaker, I make the point of order that it is not in order to interrupt a roll call.

The SPEAKER. The point of order made by the gentleman from Alabama is well taken.

Mr. MANN. I think it is not well taken, and I should like to be heard on that question.

The SPEAKER. The Chair will state that Members are voting on ordering the previous question.

Mr. MANN. What became of the other roll call, then?

The SPEAKER. There was no quorum here.

Mr. MANN. That does not make any difference. That does not affect the roll call.

The SPEAKER. The previous roll call amounted to nothing, because there was no quorum here.

Mr. MANN. That does not make any difference. The roll is still being called.

The SPEAKER. The Chair has already ruled that this vote is on ordering the previous question. If any gentleman differs with the Chair he has the right of appeal. The Clerk will proceed with the roll call.

At the conclusion of the roll call,

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he voted "Aye."

The SPEAKER. On this vote the ayes are 160, the noes are 27, present 11. A quorum is present. The ayes have it, and the previous question is ordered. The Doorkeeper will open the doors. The gentleman from Texas [Mr. HENRY] has 20 minutes and the gentleman from Pennsylvania [Mr. DALZELL] has 20 minutes.

Mr. MANN. Mr. Speaker, the gentleman from Pennsylvania [Mr. DALZELL] does not seem to be present.

The SPEAKER. The Chair will recognize the gentleman from Illinois [Mr. MANN] to control the time on that side.

Mr. MANN. I suggest the gentleman from Wisconsin [Mr. LENROOT].

The SPEAKER. The gentleman from Wisconsin [Mr. LENROOT] will be recognized to control the 20 minutes on that side. The gentleman from Texas [Mr. HENRY] is recognized for 20 minutes.

Mr. HENRY of Texas. The resolution now pending provides for the consideration of the contempt bill reported from the Committee on the Judiciary, and the rule provides that immediately upon the adoption of the same there shall be three hours' general debate on the bill and substitute and that at the end of the general debate the previous question shall be considered as ordered and the vote taken upon the bill and the substitute. That is all there is in this rule. The previous question has been ordered, and as soon as the debate of 40 minutes is exhausted and the rule adopted the House will begin consideration of the contempt bill. The proposed bill divides contempts into direct and indirect, and prescribes jury trials in the cases of indirect contempts.

Mr. SLAYDEN. Will the gentleman yield for a question?

Mr. HENRY of Texas. I yield for a question.

Mr. SLAYDEN. Is there to be another vote before the three hours' debate begins?

Mr. HENRY of Texas. There is to be another vote on the adoption of this resolution.

Mr. CAMPBELL. The next vote will be on the passage of this resolution?

Mr. HENRY of Texas. The next vote will be on the adoption of this special rule or resolution, and if the resolution is adopted then the House will proceed to consider the contempt bill, and will debate it for three hours.

The SPEAKER. The vote on this rule will be taken in 37 minutes from now, provided, of course, that the debate occupies 37 minutes.

Mr. HENRY of Texas. I yield one minute to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. It is my purpose, Mr. Speaker, to speak briefly on the bill itself when it shall be before the House, assuming that it will come before the House. At this time I desire to say, in answer to inquiries made to me by gentlemen on both sides of the Chamber whether it is the desire of the managers of this bill to conclude the hearing upon it and to have a vote upon it to-night, that the Committee on the Judiciary asked some days ago for this special rule bringing this bill in. The committee did not anticipate its coming in to-day, but, speaking for the majority of the committee, we are glad that it is here. It being here, I hope the House will be patient enough to give it full consideration this afternoon and to act upon it to-night. I desire to say that it is the expectation that we will vote on the bill to-night.

Mr. GARNER. Will the gentleman yield?

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. HENRY of Texas. I yield one minute more to the gentleman.

Mr. GARNER. Whether or not the gentleman from Alabama has had the assurance of his side of the House and of the other side of the House, or the gentleman from Illinois, that they are not going to use the entire three hours of debate under the rule?

Mr. CLAYTON. I have not had it in terms, but I may say that from personal conversation with gentlemen on this side and gentlemen on the other side I think the three hours will be consumed in the discussion of the merits of the main proposition when it comes before the House.

Mr. MANN. Will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. MANN. Did I understand the gentleman from Alabama to say that he desired to get a vote on the bill to-night?

Mr. CLAYTON. That is my desire.

Mr. MANN. The gentleman knows that that would be very inconvenient to some Members on the Republican side of the House.

Mr. HENRY of Texas. The Republicans have a reception to-night.

Mr. CLAYTON. Mr. Speaker, I did not know that fact; the Republicans have been very self-sacrificing—the Republicans as well as the Democrats have been very constant in attendance at this session.

The SPEAKER. The time of the gentleman from Alabama has again expired.

Mr. HENRY of Texas. I yield one minute more to the gentleman.

Mr. CLAYTON. Mr. Speaker, I did not know that it would interfere with the program contemplated for to-night by our Republican friends. But now, being informed of that fact, I shall not insist upon going on to a vote to-night; but I hope that we may have at least one hour's discussion and consideration before we adjourn. [Applause on the Republican side.]

Mr. LENROOT. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, this is a very drastic rule that is proposed here. The previous question has been ordered upon it so that it can not be amended. It provides that the House may talk, but it can not act; it is subject to all the charges that ever were made by gentlemen on that side of the House against this side of the House when this side was in control. It says you can talk for three hours, but you can not amend. The purpose of the rule is not merely to keep this side of the House from amending the bill but keeping that side of the House from amending the bill; a bill which does not meet the Democratic platform, which does not meet the Democratic promises in the past, and which they are afraid to throw open for amendment.

You have charged us in the past with Cannonism, with adopting rules which prevented amendment. I have heard Democratic Members of this House time and time again say that they never would vote for a rule which prevented them from offering an amendment or voting for an amendment, and yet you meekly surrender your individual rights and bow your head in shame to the yoke placed upon you by the gentleman from Texas.

You can go back to your homes where you made your campaign in favor of the right of the individual Member to offer an amendment and apologize to the men who voted for you and sent you here believing that you meant what you said.

There are more than 150 bills on the calendar, and you propose to pick out and make special orders these bills which the gentleman from Texas desires to have considered, and propose to have them considered so that nobody can amend them, so that you can not offer an amendment to the bill, so that we can not offer an amendment to the bill, so that everyone here must swallow the pill the way he prepares it. There never was a time in my service in this House of more than 15 years when a rule so drastic as this, or more drastic than this, was ever adopted.

Mr. CLAYTON. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. CLAYTON. Is the gentleman aware of the fact that five of the minority members of the committee have agreed upon a substitute bill for this bill, and that the rule provides that the House may come to a vote on that substitute agreed upon by the five minority members?

Mr. MANN. I am aware of the fact; but we ought to have the same right to offer amendments as any five minority members on the committee. [Applause on the Republican side.] Any individual Member of this House ought to have a chance to offer an amendment upon five new sections of the judicial code, as important sections as can be written into law, and we ought not to be foreclosed because five of us perchance have agreed upon something. I am in favor of the right of the Member to offer an amendment, and of the right of this House to vote upon amendments. [Applause.]

Mr. LENROOT. Mr. Speaker, I yield six minutes to the gentleman from Nebraska [Mr. NORRIS].

Mr. NORRIS. Mr. Speaker, as a member of the Committee on the Judiciary, and as one of those Members who favor the bill to which this rule applies, I want to offer my protest against the rule itself. I am in favor of the bill. I think it suits me pretty well. I helped to frame it. I have joined with the majority in the report upon the bill. I would be glad to have the Committee on Rules bring in a rule here which would make this bill in order; but, Mr. Speaker, I want to give to those who oppose the bill the same right and the same privilege that I have always claimed for myself when I was opposed to legislation that was brought in. [Applause.] I have always contended—and I think the membership here will bear me out in the statement that I did so against the leadership on my side of the House—against any rule, particularly on a small bill like this, which, while it is important, is only three pages in length, which would prohibit the right that every man here ought to have to offer any amendment that he sees fit and that the membership generally ought to have the right to vote upon. This rule makes it impossible to propose any amendment to this bill, so that I am at least consistent in claiming that those who are opposed to me, those who are against this bill, ought to have the privilege of offering amendments and of voting upon those amendments. It seems to me that it is wrong for any majority to say, "We have agreed upon a certain bill, upon certain language, and we will not allow anybody in the House to even suggest an amendment." I have seen bills here that I have myself brought in which suited me very well, but on discussion I myself have voted for some amendments that I thought improved the bill. It might occur on this bill if an opportunity to offer amendments were presented; but under this rule no man here may offer an amendment.

The only amendment that can be voted on will be a substitute which the chairman says, and says truly, has been agreed upon by five members of the Committee on the Judiciary. That does not give to the great body of the membership here the right that we ought to insist upon. I have always opposed gag rule in the past, usually, it is true, when I was opposed to the bill to which it applied, but I am opposing a gag rule here and now that the majority are attempting to fasten upon a bill that I favor, a bill that I helped to frame and that I expect to vote for. As far as I know I would not now, unless convinced otherwise, vote in favor of any amendment that may be offered to this bill. As I said, the bill suits me. I believe it is a step in the right direction. I believe we ought to take it. I believe we owe it to the country to pass the bill, but I do not want those who are here, the same as I am, to be deprived of the right to offer an amendment if they see fit.

This bill, as I said, in only a little more than three pages in length. If instead of devoting three hours to general debate we had no general debate, but considered it under the five-minute rule and let every man who saw fit offer an amendment, we would get through with this bill in less than three hours. We can not deceive the country with the proposition that we allowed three hours of debate on a bill. Three hours of talk will not do anything. The way to legislate is to permit men to offer amendments and to vote on amendments. What is the use of debating a bill if you have decided in advance by a rule that it shall not be amended and can not be amended? That is to assume that your bill is perfect, and every man knows that we can not have perfection from human beings. Therefore it seems to me that we ought in the first place to have voted down the previous question, so that the rule might be amended, cutting out that part of it that provides that there shall be no amendment except the substitute, and let it be considered as all legislation ought to be considered, upon the floor of the House, giving to each Member the full right that he ought to have under the Constitution to offer whatever amendments he believed were proper, and to see that those amendments were voted upon.

The SPEAKER. The time of the gentleman from Nebraska has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, it is gratifying to me—and it should be gratifying to all people who live under our system of jurisprudence, inherited, as it is, from the English-speaking people across the water—that now after many years of endeavor we are arriving at a time when we can place upon the statute books that much deserved and much desired and much merited measure which provides that no man in a criminal or quasi criminal case shall be mulcted and fined, or punished by confinement in jail, without a trial by jury when he shall demand it. [Applause.]

The first bill that I ever introduced into this House, seventeen years ago, when I came here as a new Member, was a bill to give a trial by jury in all cases of indirect contempt in the Federal courts, and which is referred to in the report of the Committee on the Judiciary and a copy of it presented in the hearing before that committee. It is true the committee have improved upon that bill and bills of like character. They have reported a bill which does not take away from the court its right to try violations of its orders or of its decrees, simply in the enforcement of the orders and decrees of the court, such as collecting money from officers of the courts who have it in their possession and will not pay it over; but the committee have gone to the heart of the contention and have reported a bill which, in my opinion, meets the demands of the people and of the country for trial by jury in criminal contempt cases as far as it should go. Now, Mr. Speaker, I have not the time to discuss in detail this proposed measure. I had the honor, when the bill providing for the government of Alaska was being considered, in 1902, to offer and engraft upon that bill this amendment:

> In other cases of contempt the trial shall proceed upon testimony produced as in criminal cases, and the accused shall be entitled to be confronted with the witnesses against him, but such trial shall be by the court, or in the direction of the court, upon application of the accused, a trial by jury may be had as in any criminal case.

I could not force a majority on that side, a Republican majority, to accept anything further, but the people of Alaska, in this last new Territory of ours, have in their law which gave them the right when they are charged with criminal contempt to have a trial by jury. Yet what is granted in frozen Alaska is denied to the people of this great country and the courts of the country. We ought to welcome it, and I do welcome it. It was put in the Democratic platform of 1896 at Chicago and reiterated in the various platforms we have adopted, and reiter-

ated with strength and firmness at Baltimore when we nominated a man who will next year take a seat in the White House. [Applause.]

Mr. Speaker, we ought to be congratulated that the time has come when no man shall be punished and fined, when no man shall be imprisoned in a quasi criminal case except according to the terms of that great instrument wrung by our fathers from a reluctant King and handed down to us through blood and struggle to be preserved as a paladium of the liberties of our people and every English-speaking man. Mr. Speaker, this is the provision of our platform of 1896:

We denounce arbitrary interference by Federal authority in local affairs as a violation of the Constitution of the United States and a crime against free institutions, and we especially object to government by injunction as a contempt of the laws of the United States and rights of the citizen, become legislators, judges, and executioners, and we approve of the bill passed at the last session of the United States Senate and now pending in the House of Representatives relative to contempts of court, providing for trials by jury in certain cases of contempt.

We have not failed to call attention to these abuses. I have no attack to make upon the courts; I have no attack to make upon judges. They are human, but I would not leave in the hands of any judge the power to be the grand jury, to be the prosecutor, the trier, and the punisher of any man charged with a criminal offense. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. LENROOT. Mr. Speaker, I am in favor of the provisions of this bill. I expect to vote for it. If I had opportunity to offer amendments to it, I do not know that I would offer any; but, Mr. Speaker, I voted against the previous question and shall vote against this resolution, because the resolution cuts off the right to offer any amendment to this bill. And, Mr. Speaker, a greater principle is at stake there than even in the bill itself. It is no answer to say that this is a meritorious bill and therefore a gag rule is proper, for when that is done you have created a precedent which I now prophecy you will carry out in time to come and use these precedents for bad bills as well as good ones. The gentleman from Texas [Mr. HENRY] will shortly conclude this debate, and I am going to ask him to answer two or three questions, which I shall now propound. I shall ask him, as representing the Democratic majority, first, whether he, representing that majority, believes there is more consideration and better consideration of legislation under general debate than under the five-minute rule. If he is honest with himself, and I believe he is, I know he will agree with me when I say there is more real consideration of legislation in this House in one hour under the five-minute rule than there is in one week under general debate. [Applause on the Republican side.] Having answered that question, I want him next to answer this one: Why was not his rule so framed that instead of giving three hours of general debate there should not at least have been given one hour's consideration under the five-minute rule? I want him to answer why this rule is so prepared as to cut off all right of amendment. Have not you sufficient confidence in your own majority to trust your own membership upon that side of the House to support your bill as coming from the committee? If you have, why have not you given these other Members of the House the right to offer amendments under the five-minute rule? [Applause on the Republican side.] Mr. Speaker, I am sorry that the Democratic majority has taken the position that it has with reference to rules of this character. Ever since I have been a Member of this House I have fought against gag rules when the Republicans were in the majority, I have fought against them when the Democrats were in the majority, and I propose to fight against them so long as I remain a Member of the House of Representatives. What has come over the Democratic membership of this House—every one of you? At the last session of Congress you were fighting the very things for which you are voting now.

What excuse have you to go back to your constituents and talk about "Cannonism" and the things that existed during the last Congress and the one before that when you, time after time, are voting for exactly the same kind of rules that brought about a revolution in this House at the last session of Congress?

I noticed, Mr. Speaker, in the press a day or two ago that the distinguished Speaker of the House and the distinguished leader of the majority had communicated with the Democratic nominee for President with reference to legislation pending in the House at the present session, and I have wondered, Mr. Speaker, whether your Democratic nominee for President stands for rules of this character or whether he stands for real deliberation in the great House of Representatives. I hope he does not stand for rules of this character, for I am inclined to think that your candidate for President is just a little better than your party.

I shall not take further time. I have discussed this same question over and over again. I do not expect it to have any effect now, and I am inclined to think that for the present at least we must say of the Democratic majority as was said of old, "Ephraim is joined to his idols. Let him alone." [Applause.]

The SPEAKER. The gentleman from Wisconsin [Mr. LENROOT] has four minutes remaining and the gentleman from Texas [Mr. HENRY] nine.

Mr. LENROOT. I yield back the balance of my time.

Mr. HENRY of Texas. Mr. Speaker, the gentleman from Wisconsin [Mr. LENROOT] was kind enough to ask me one or two questions. I want to ask him a question or two. One is whether his nominee is better than his party, and who is his nominee? Is it Taft or Roosevelt?

Mr. LENROOT. I trust the gentleman will use some of his time in answering my questions before propounding questions to me.

Mr. HENRY of Texas. I will do that. Of course, I knew the gentleman was not ready to answer that question.

Mr. Speaker, the simple truth is that for 15 years the American people have asked for legislation restoring the right of trial by jury to American citizens. For 15 years, when a Republican occupied the seat now occupied by the distinguished gentleman from Missouri, and appointed the Rules Committee, we have besought you to give us legislation on this subject. And if your Speaker and his tyrannical Rules Committee, the creatures of his high authority, had given us this bill as now written, we would not have asked for the right to offer a single amendment. Every Democrat would have voted for it without protest, and we would have promptly voted for the previous question in order to give this law to the American people.

Ah, Mr. Speaker, I am distressed at the situation of the gentlemen on the other side. It grieves me to see my distinguished friend from Illinois [Mr. MANN] gag when we administer to him a sugar-coated dose of his own medicine. But since his party has stood in the way of relief of this kind, we have come to the conclusion that the sooner we meet the demand of the American people and write into the statutes this meritorious measure, which has been prepared by the distinguished gentleman from Alabama [Mr. CLAYTON] and his committee, the better it will be for all citizens. Therefore the Committee on Rules has brought in a special rule, giving this House the right to discuss the bill for three hours under general debate. We have accorded to you the right to offer a substitute, which has been prepared and agreed upon by the Republican minority on the committee, and, more than that, after that substitute is voted down, as it should be, because it would destroy and emasculate this meritorious bill, you will have the right under the rule to offer a motion to recommit. Therefore you will have two opportunities to vote for measures that suit you and vote against this measure if you desire.

But gentlemen talk about amendments to the bill and complain that they have not the right to offer amendments, and yet do not propose a single one. Not one is suggested by the gentleman from Nebraska [Mr. NORRIS], not one is suggested by the minority leader. And why? Simply because they know no amendment is necessary in order to make this bill meet the requirements of the American people.

Mr. NORRIS. Will the gentleman yield for a question?

The SPEAKER. Will the gentleman from Texas [Mr. HENRY] yield to the gentleman from Nebraska [Mr. NORRIS]?

Mr. HENRY of Texas. I yield for a question.

Mr. NORRIS. If there is no amendment that is going to be offered, and the gentleman is not afraid of any amendment, then why does he prohibit by his rule the offering of an amendment?

Mr. HENRY of Texas. You can offer a substitute or you can move to recommit, if you want to do so, and put any amendment on that you desire.

Mr. NORRIS. That recognition would be given to the same men who bring in this substitute, and the gentleman knows it.

Mr. HENRY of Texas. There is no use in doing a foolish thing.

Mr. NORRIS. Then why should we have three hours of general debate if you do not want to do a foolish thing? Why should we do a foolish thing like that when we know we can not have the opportunity that we desire?

Mr. HENRY of Texas. I do not think we ought to have even three minutes of general debate on this bill. It is so meritorious.

Mr. NORRIS. Very well. Then why does the gentleman ask for three hours? Why not have debate under the five-minute rule?

Mr. HENRY of Texas. Mr. Speaker, there is nothing in that proposition, but I thought it well enough to question the gentle-

man from Nebraska for a few minutes, because there are some of us who are in doubt as to his views in the State of Nebraska, and we would like to hear from him.

Mr. NORRIS. Why did not the gentleman provide for that in the rule? I would be glad to tell the gentleman, if I had an opportunity, what my views are in the State of Nebraska; but I would be out of order by this rule.

Mr. HENRY of Texas. If the gentleman is out of order, he has been put out of order by the conditions in Nebraska, and not by this rule.

Mr. NORRIS. I did not understand the gentleman's remark.

Mr. HENRY of Texas. I said if the gentleman is out of order it is not the Committee on Rules that has placed him out of order. It is the conditions in the State of Nebraska.

Mr. NORRIS. That is correct. I accept that statement.

Mr. HENRY of Texas. That is correct and perhaps true.

Mr. NORRIS. But that has not happened yet.

Mr. HENRY of Texas. Gentlemen undertook to criticize the Committee on Rules and talk about it being an arbitrary body and speak of czars and such things. The simple truth is that the Committee on Rules as now constituted is but the humble instrument and agent of the Democratic Party and of the American people in order to get into this body meritorious measures like this, that have been suppressed by Mr. CANNON and those who stood by him during all his administration. We intend to pass this bill as it has been written by the gentleman from Alabama [Mr. CLAYTON] and his colleagues, and restore to the people the right of trial by jury as the founders of this Government intended, and to destroy "government by injunction." And the sooner we get to it the better. When no man can offer an amendment that is tenable, when no one can suggest a change that is sensible, I say the sooner we vote on the proposition the better it is for the people. And when the time comes, after your substitute has been voted down and the roll is called, I expect to see all of the gentlemen on the other side hunt for cover and vote for this bill as it has been reported by the Committee on the Judiciary.

Mr. LENROOT. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. HENRY of Texas. Yes; I yield for a question.

Mr. LENROOT. Will the gentleman answer why he did not permit one hour of debate under the five-minute rule?

Mr. HENRY of Texas. The gentleman has not answered my first question yet. [Laughter.]

Mr. MANN. You have not answered his question, either. [Laughter.]

Mr. LENROOT. I beg to suggest that my question is germane to this rule that is now under consideration.

Mr. HENRY of Texas. And I beg to suggest to the gentleman that my question is "pertinent."

The SPEAKER. The time of the gentleman from Texas has expired. All time has expired. The question is on the adoption of this resolution.

The question was taken, and the resolution was agreed to.

Mr. CLAYTON rose.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] is recognized for one hour.

Mr. CLAYTON. How long did the Speaker say?

The SPEAKER. One hour.

Mr. CLAYTON. I thought it was an hour and a half.

The SPEAKER. The Chair is aware of that, but no arrangement has been made.

Mr. MANN. I suggest to the gentleman that he ask unanimous consent to have the time divided.

Mr. CLAYTON. That was why I made the inquiry of the Chair.

The SPEAKER. Under the rule, unless there is an agreement, nobody is entitled to more than an hour.

Mr. CLAYTON. Then, Mr. Speaker, I ask that unanimous consent be given that, of the three hours of general debate to be allowed, one-half of the time be controlled by myself and one-half be controlled by the gentleman from Illinois [Mr. STERLING], and that at the end of three hours the question be taken on a motion to recommit with a substitute offered by the gentleman from Illinois.

Mr. MANN. The rule provides for the offering of the substitute.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks unanimous consent that he control one-half of the three hours and that the gentleman from Illinois [Mr. STERLING] control the other half. Is there objection? [After a pause.] The Chair hears none. The gentleman from Alabama [Mr. CLAYTON] is recognized.

Mr. CLAYTON. Mr. Speaker——

Mr. STERLING. Mr. Speaker, will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. STERLING. Has the bill been read?

Mr. CLAYTON. I believe it has not been read.

The SPEAKER. The Clerk will read the bill.

Mr. STERLING. I ask, Mr. Speaker, that the Clerk also read the substitute, following the reading of the bill.

The SPEAKER. If there be no objection, it will be so ordered. The Clerk will read both the bill and the substitute.

Mr. CLAYTON. Mr. Speaker, I assume that the time occupied in reading the bill will not be taken from the three hours' general debate.

The SPEAKER. No; it will not.

The Clerk read the bill (H. R. 22591) as follows:

Be it enacted, etc., That the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and the same is hereby, amended by inserting after section 268 thereof five new sections, to be numbered, respectively, 268 a, 268 b, 268 c, 268 d, and 268 e, reading as follows:

"SEC. 268 a. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 268 b. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

"If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them, as the court may direct; but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

"SEC. 268 c. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States.

"SEC. 268 d. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 268 a of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 268 e. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

The Clerk read the substitute, as follows:

Strike out all after the enacting clause and insert:

"That the act entitled 'An act to codify, revise, and amend the laws relating to the judiciary,' approved March 3, 1911, be, and the same is hereby, amended by inserting after section 268 thereof seven new sections, to be numbered, respectively, 268 a, 268 b, 268 c, 268 d, 268 e, 268 f, and 268 g, reading as follows:

"'SEC. 268 a. That contempts of court are divided into two classes, direct contempts and indirect contempts, as hereinafter defined.

"'SEC. 268 b. That contempts committed in the presence of the court or of a judge at chambers are direct contempts. All other contempts are indirect contempts.

"'SEC. 268 c. A person charged with direct contempt of court, if found guilty, shall be punished summarily and judgment thereon shall be entered of record accordingly, which judgment shall contain a statement of the acts constituting the contempt and a statement, if any, of the accused relied on as a defense or made in extenuation of the offense and the sentence of the court in the case.

"'268 d. Any person charged with indirect contempt of court shall be given a written statement of the charge or charges against him specifically setting forth the acts on which the charge of contempt is predicated. Thereupon the accused shall be arraigned and his plea entered of record. If the accused should plead guilty to the charge the court shall enter judgment thereon and impose sentence in the case. If he pleads not guilty the court shall set the case for trial and admit the accused to bail until final determination of the case. The trial shall be by the court, and witnesses called and examined for and against the accused as in criminal cases. If the accused shall be found guilty, judgment shall be entered accordingly and the punishment prescribed. Said punishment may be by fine or imprisonment, or both, in the discretion of the court: *Provided*, That in cases where the fine is payable to the United States the same shall not exceed the sum of $1,000 in any case; and in no case shall the term of imprisonment exceed six months.

"'SEC. 268 e. If any person who has entered a plea of not guilty to a charge of indirect contempt shall make affidavit that the judge before whom the case is set for trial in the first instance is prejudiced against him and that on account of such prejudice he believes he can not have a fair and impartial trial such judge shall designate forthwith some other judge to hear and determine the case.

"'SEC. 268 f. That the evidence taken on the trial of any person accused of indirect contempt shall be preserved by bill of exceptions and any judgment entered in such case may be reviewed on appeal or by writ of error as now provided by law in criminal cases and such judgment may be reversed or modified as justice may require. When an appeal is taken or a writ of error granted, execution of the judgment shall be stayed and the accused shall be admitted to bail in such sum as is fixed by the court.

"'SEC. 268 g. That the provisions of this act shall apply to all proceedings for contempt in all courts of the United States except the Supreme Court: *Provided*, That this act shall not affect any contempt proceedings pending at the time of the passage of this act.'"

Mr. STERLING. Mr. Speaker, I call the attention of gentlemen who have printed copies of the substitute in their hands to the fact that the substitute as read contains a correction which I send to the desk. The word "person," in line 1, on page 2, should be "presence."

The SPEAKER. The Chair understands that that correction has already been made in the bill which was read from the Clerk's desk.

ADJOURNMENT.

Mr. CLAYTON. Mr. Speaker, after conference with my associate on the Judiciary Committee, the gentleman from Illinois [Mr. STERLING], and at the suggestion of several gentlemen on this side, as well as on that side, in view of the lateness of the hour, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 35 minutes p. m.) the House adjourned until to-morrow, Tuesday, July 9, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. KAHN, from the Committee on Military Affairs, to which was referred the bill (H. R. 15509) to authorize the construction and maintenance of a sewer pipe upon and across the Fort Rodman Military Reservation at New Bedford, Mass., reported the same without amendment, accompanied by a report (No. 938), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 7251) to confer title in fee and to authorize the disposition of certain lots now situate on Hot Springs Reservation, in the State of Arkansas, and for other purposes, reported the same without amendment, accompanied by a report (No. 940), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 24266) to authorize the sale of burnt timber on the public domain, reported the same with amendment, accompanied by a report (No. 941), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 5145) authorizing the city of Hot Springs, Ark., to occupy and construct buildings for the use of the fire department of said city on lot No. 3, block No. 115, in the city of Hot Springs, Ark., reported the same without amendment, accompanied by a report (No. 942), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, to which was referred the bill (S. 6934) to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation, reported the same with amendment, accompanied by a report (No. 943), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CAMPBELL, from the Committee on Indian Affairs, to which was referred the bill (S. 6126) for the purpose of removing restrictions on encumbrance and alienation of allotted lands within the Cherokee Nation, reported the same with amendment, accompanied by a report (No. 944), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SHERWOOD, from the Committee on Invalid Pensions, to which was referred the bill (S. 1152) granting an increase of pension to Mary Bradford Crowninshield, reported the same without amendment, accompanied by a report (No. 937), which said bill and report were referred to the Private Calendar.

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill (H. R. 21019) to restore Lieut. Cyrus R. Street, retired, to the active list of the Army, reported the same without amendment, accompanied by a report (No. 939), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. O'SHAUNESSY: A bill (H. R. 25624) providing for the sale of the old post-office property at Providence, R. I., by public auction; to the Committee on Public Buildings and Grounds.

By Mr. PARRAN: A bill (H. R. 25625) providing for an estimate of the cost of construction of an electric railroad from Washington, D. C., to the naval proving grounds, Indian Head, Charles County, Md.; to the Committee on Naval Affairs.

By Mr. TAYLOR of Colorado: A bill (H. R. 25626) authorizing the city of Montrose, Colo., to purchase certain public lands for public-park purposes; to the Committee on the Public Lands.

By Mr. SIMS: A bill (H. R. 25627) to regulate the issuance of injunctions in suits instituted in court to enjoin, set aside, annul, or suspend orders of the Interstate Commerce Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: A bill (H. R. 25628) providing for the lease of the public grazing lands in the arid States and Territories of the United States; to the Committee on the Public Lands.

Also, a bill (H. R. 25629) requiring any citizen of a foreign country who may apply for a copyright registration or for letters patent from the United States for an invention to pay to the United States for such copyright or patent the same amount of fees and be subject to the same laws, rules, and regulations relating to the registration of copyrights and the issuance of letters patent, and relating to the issuance and maintenance of copyrights and letters patent as the government of such foreign country exacts by its laws and regulations from citizens of the United States in such cases; to the Committee on Patents.

Also, a bill (H. R. 25630) to promote competition and to prevent discrimination in trade; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 25631) to limit the jurisdiction of the district and circuit courts of the United States; to the Committee on the Judiciary.

By Mr. NEELEY: A bill (H. R. 25632) providing the order of procedure in the district courts of the United States; to the Committee on the Judiciary.

By Mr. FAISON: A bill (H. R. 25633) for the study and prevention of pellagra; to the Committee on Interstate and Foreign Commerce.

By Mr. HULL: A bill (H. R. 25634) to promote efficiency in the Government service; to the Committee on Reform in the Civil Service.

By Mr. GREEN of Iowa: A bill (H. R. 25635) providing an appropriation to check the inroads of the Missouri River in Pottawattamie County, Iowa; to the Committee on Rivers and Harbors.

By Mr. O'SHAUNESSY (by request): Joint resolution (H. J. Res. 334) appropriating $25,000 for meeting the expenses of an international congress of the educators of the leading nations of the world; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLARK of Florida: A bill (H. R. 25636) for the relief of John Wilson; to the Committee on War Claims.

By Mr. FOCHT: A bill (H. R. 25637) granting a pension to Laura L. Junkin; to the Committee on Invalid Pensions.

By Mr. GOODWIN of Arkansas: A bill (H. R. 25638) granting an increase of pension to William R. Fitzgerald; to the Committee on Pensions.

By Mr. GOULD: A bill (H. R. 25639) granting an increase of pension to Lewis V. Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25640) granting an increase of pension to Albert Longley; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 25641) granting an increase of pension to Milton Ross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25642) granting an increase of pension to George T. Caltrider; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25643) granting an increase of pension to Mrs. L. A. Drennin; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 25644) for the relief of the heirs of Peter Goodman; to the Committee on War Claims.

By Mr. JAMES: A bill (H. R. 25645) for the relief of William A. Kinsolving; to the Committee on War Claims.

Also, a bill (H. R. 25646) for the relief of the estate of James E. Morgan, deceased; to the Committee on War Claims.

Also, a bill (H. R. 25647) for the relief of the estate of Wilson Thompson, deceased; to the Committee on War Claims.

By Mr. KAHN: A bill (H. R. 25648) authorizing the President to appoint Weldon B. Page a second lieutenant in the United States Army; to the Committee on Military Affairs.

By Mr. LA FOLLETTE: A bill (H. R. 25649) for the relief of Fred A. Rogers; to the Committee on Claims.

By Mr. LANGLEY: A bill (H. R. 25650) granting a pension to Thomas F. Arnett; to the Committee on Pensions.

By Mr. McKINNEY: A bill (H. R. 25651) granting an increase of pension to David P. Worrell; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 25652) for the relief of David A. Lindsay; to the Committee on Military Affairs.

By Mr. NEELEY: A bill (H. R. 25653) granting a pension to Alice Whaley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25654) granting an increase of pension to Lewis C. Pound; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 25655) granting a pension to Emma C. Devor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25656) granting an increase of pension to Emma Sophia Kipp; to the Committee on Invalid Pensions.

By Mr. PETERS: A bill (H. R. 25657) granting a pension to Elizabeth Gibson; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 25658) granting a pension to Elizabeth C. Earhart; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 25659) granting an increase of pension to John Schroeder; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 25660) granting an increase of pension to Nancy J. Gilman; to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 25661) granting a pension to George Archbald; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the Workmen's Sick and Death Benefit Association of America, Branch No. 71, of St. Louis, Mo., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also (by request), memorial of St. Casimir's Society, No. 531, of Johnstown, and Sir Barttomiezir Ajxa Society, No. 484, of Philadelphia, Pa., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Memorial of Eventide Council, Daughters of America, of Coshocton, Ohio, against the use of a distinctive religious dress by the Government in Indian schools; to the Committee on Indian Affairs.

Also, petition of the Woman's Auxiliary of the Protestant Episcopal Church in the Diocese of Southern Ohio, favoring legislation which will improve the hygienic and sanitary conditions of the natives of Alaska; to the Committee on the Territories.

By Mr. AYRES: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America, at New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. BULKLEY: Memorial of citizens of Cleveland, Ohio, against passage of House bill 20741, relative to celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. BURNETT: Petition of H. E. Wills, joint national representative of the Brotherhood of Locomotive Engineers, Order of Railroad Conductors, and of Railway Trainmen, relative to the Federal accident compensation act; to the Committee on the Judiciary.

By Mr. CALDER: Petition of the Architectural League of New York, against the repeal of the Tarsney Act by the sundry civil bill; to the Committee on Appropriations.

Also, petition of the Brooklyn League, of Brooklyn, N. Y., favoring appropriation for retention of the National Economy and Efficiency Commission; to the Committee on Appropriations.

Also, petition of the Diamond Workers' Protective Union of America, of Brooklyn, N. Y., favoring passage of seamen's bill (H. R. 23673); to the Committee on the Merchant Marine and Fisheries.

Also, petition of the United Spanish War Veterans, of New York City, favoring passage of House bill 17470, for pensions for widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, petition of the Daughters of Liberty, of Brooklyn, N. Y., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Department of Health of New York City, favoring passage of Senate bill 4792, relative to Public Health and Marine-Hospital Service collecting descriptive matter relative to hospitals; to the Committee on Interstate and Foreign Commerce.

Also, petition of Towns & James, of Brooklyn, N. Y., against passage of the Richardson bill, relative to pure drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. CLARK of Florida: Evidence in support of claim of John Wilson, of the State of Florida; to the Committee on War Claims.

Also, petition of Sheet Metal Workers' Local Union No. 135, of Jacksonville, Fla., favoring passage of Clayton injunction bill; to the Committee on the Judiciary.

By Mr. COPLEY: Petition of the Daughters of Liberty of Joliet, Ill., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FAISON: Memorial of the North Carolina Medical Society, of Hendersonville, N. C., favoring appropriation for the study of pellagra; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOYD of Arkansas: Petition in support and to accompany House bill 3978, to abolish the Ozark National Forest; to the Committee on the Public Lands.

By Mr. FOCHT: Petition of citizens of Pennsylvania, favoring passage of House bill 13114, pensioning deserving men and women over 60; to the Committee on Pensions.

By Mr. FULLER: Petition of the Packing House Teamsters' and Chauffeurs' Union, Local No. 710, of Chicago, Ill., favoring passage of the Wilson seamen's bill (H. R. 23637); to the Committee on the Merchant Marine and Fisheries.

By Mr. GARNER: Memorial of the Order of Railway Conductors, Guadalupe Division, No. 275, of Yoakum, Tex., favoring passage of the employers' liability act; to the Committee on the Judiciary.

By Mr. HARTMAN: Memorial of Blair Council, No. 15, of Juniata, Pa.; Juniata Council, No. 372; and Altoona Council, No. 152, of Altoona, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of St. Casimirs Society, No. 531, of Johnstown, Pa., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of citizens of the nineteenth congressional district of the State of Pennsylvania, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Pennsylvania State Association of the American Institute of Architects, of Pittsburgh, Pa., against the repeal of the Tarsney Act by the sundry civil bill; to the Committee on Appropriations.

By Mr. HAYES: Petition of H. C. Bradley, of Madison, Wis., and of H. C. Bradley of Sonora, Cal., for appropriation for improvement of Yosemite Valley; to the Committee on the Public Lands.

Also, petition of J. G. Munson, of San Jose, Cal., against passage of Oldfield bill to change patent laws; to the Committee on Patents.

Also, petition of Silas W. Mack, of Monterey, Cal., favoring passage of Kenyon-Sheppard bill; to the Committee on the Judiciary.

Also, petition of Guy F. Slaughter, of San Francisco, Cal., favoring House bill 718, relative to providing military aviators; to the Committee on Military Affairs.

Also, petition of the Daughters of Liberty of San Francisco, Cal., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. HILL: Petition of the Workmen's Sick and Death Benefit Fund of America, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, papers to accompany bill relative to Owen Farrell, Company I, Seventh Regiment Connecticut Volunteer Infantry; to the Committee on Military Affairs.

By Mr. HUGHES of New Jersey: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America, at New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. KINKEAD of New Jersey: Petition of James Scott, of Jersey City, N. J., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LA FOLLETTE: Petition of citizens of the State of Washington, favoring passage of the Goeke bill (H. R. 19133), for postal express system; to the Committee on Interstate and Foreign Commerce.

By Mr. MAHER: Petition of the Hebrew Veterans of the War with Spain, New York, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National Guard Association of the State of New York, of Albany, N. Y., favoring passage of the militia pay bill; to the Committee on Military Affairs.

By Mr. McCOY: Petition of the Pennsylvania Civil Service Reform Association, protesting against the passage of section 5 of House bill 24023, making a five-year tenure of office for Government employees in the District of Columbia; to the Committee on Appropriations.

Also, petition of the Patriotic Order Sons of America, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Trenton Chamber of Commerce, protesting against the construction of a bridge south of Trenton, as proposed by the Pennsylvania Railroad; to the Committee on Interstate and Foreign Commerce.

By Mr. McGILLICUDDY: Petition of Luke A. Spear and others, favoring passage of bill for creating a postal express; to the Committee on the Post Office and Post Roads.

By Mr. PAYNE: Petition of the First Baptist Church of Scipioville, N. Y., favoring passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. STEPHENS of California: Petition of the California State Commission of Horticulture, Sacramento, Cal., favoring the passage of the Simmons bill, establishing a Federal quarantine against insect and other pests; to the Committee on Agriculture.

By Mr. SCULLY: Memorial of the Hebrew Veterans of the War with Spain and the Workmen's Sick and Death Benefit Fund of the United States of America, at New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Daughters of Liberty, of Harmony, N. J., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. SULZER: Memorial of the Workmen's Sick and Death Benefit Association of the United States of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. UTTER: Petition of the Sarsfield Literary Association, of Woonsocket, R. I., and citizens of Warnica, R. I., protesting against the appointment of a commission for the purpose of celebrating 100 years of peace with England; to the Committee on Foreign Affairs.

Also, petition of the Rhode Island Chapter of American Institute of Architects, protesting against the repeal of the Tarsney Act, relative to employing Government architects; to the Committee on Appropriations.

Also, petition of the Union Electric Supply Co., of Providence, R. I., protesting against the passage of the Oldfield bill, for maintaining resale prices; to the Committee on Patents.

By Mr. WEBB: Petition of citizens and the Daughters of Liberty of Jonas Ridge, N. C., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. WILSON of New York: Memorial of the National Guard Association of the State of New York, at Albany, N. Y., favoring passage of the militia pay bill; to the Committee on Military Affairs.

Also, memorial of the Hebrew Veterans of the War with Spain and the Workmen's Sick and Death Benefit Fund of the United States of America, at New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

SENATE.

TUESDAY, *July 9, 1912.*

(*Continuation of legislative day of Saturday, July 6, 1912.*)

At 11 o'clock a. m., on the expiration of the recess, the Senate reassembled.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Johnston, Ala.	Simmons
Bacon	Crawford	Jones	Smith, Mich.
Bourne	Culberson	Lea	Smith, S. C.
Briggs	Cullom	Lodge	Smoot
Bristow	Curtis	Lorimer	Stephenson
Brown	Dillingham	McCumber	Thornton
Bryan	du Pont	Martin, Va.	Tillman
Burnham	Fletcher	Myers	Townsend
Burton	Gallinger	Overman	Warren
Chamberlain	Gardner	Page	Watson
Clapp	Gronna	Perkins	Wetmore
Clark, Wyo.	Guggenheim	Pomerene	Williams
Clarke, Ark.	Heyburn	Shively	Works

Mr. THORNTON. I wish to announce the unavoidable absence of my colleague [Mr. FOSTER]. I ask that this announcement may stand for the day.

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is detained by important business.

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

Mr. FLETCHER. Mr. President, without stopping even to summarize the points attempted to be covered by the discussion up to the time of the recess yesterday, I will take up the thought then being presented and continue as rapidly as possible to a conclusion. I realize the tax on the Senate a review of the record in this case imposes, sift the chaff from the grain as much as we may. It has been my hope, inasmuch as it was made my duty to serve on this special committee—and in pursuance of that duty I was present 93½ days out of the 102 spent in examining the witnesses—to save my colleagues time and labor by presenting what seemed to me the material and important matters in as condensed a form as possible and setting forth, as I have done, the pages of the record where the testimony referred to can be found.

When we recessed I was proceeding to trace somewhat further the jack pot; then to consider briefly the conditions, political and otherwise, existing at the time of the election, which would include a consideration of the circumstances under which the Democrats voted for Mr. LORIMER; then the question of res adjudicata, and to finally show that bipartisan combinations are to some extent inevitable in Illinois. I had stated that Holstlaw had said to a number of members of the legislature that he intended to vote for Mr. LORIMER before he had his alleged conversation with Broderick regarding the $2,500.

The amount paid Holstlaw does not correspond with that mentioned, as stated, nor with amounts alleged to have been paid White, Beckemeyer, Luke, and Link, and there was no evidence of activity on the part of Broderick in the senatorial election; and all the circumstances, to say nothing of Broderick's denials, point to these transactions between Broderick and Holstlaw as separate and distinct from the "jack pot" and

also separate from the senatorial election. The significant fact that Holstlaw posed as a "dry" man and yet carried all the "wet" counties and lost all the "dry" counties in his district, taken in connection with Broderick's business and association, would strikingly indicate that the liquor interests were taking care of his campaign expenses. This idea is further supported by the fact that Welch, a Republican saloon keeper at Carlyle, supported Holstlaw in his race for the senate. On any other theory these payments constituted a sheer and voluntary waste of money on Broderick's part.

Mr. JOHNSTON of Alabama. Will the Senator permit me?

Mr. FLETCHER. Certainly.

Mr. JOHNSTON of Alabama. I wish to suggest that Holstlaw also testified that his expenses in that election were $3.500.

Mr. FLETCHER. I am obliged to the Senator for that suggestion. In addition to what I have said, Holstlaw testified that his campaign expenses amounted to about $3,500 when he ran for the senate.

We can understand how Link swore he "considered it campaign money."

That is the testimony of Link. He considered the payment to him at St. Louis as campaign money.

The clear solution of the mystery surrounding Jandus and his cash, De Wolf and his Bible money, Blair and his baseball bills, Wheelan and his borrowing, referred to in the minority views, will be found in the fact that they were each allied with the "wet" side in their respective counties, arrayed against prohibition, and in some, if not all, instances were elected on that issue. The evidence shows local-option measures were before the legislature of 1909. Various other bills calculated to draw forth contributions were introduced, referred, and disposed of.

OTHERS UNDER SUSPICION SITUATED IN SIMILAR WAY.

Lee O'Neil Browne had been for a number of years attorney for the Thirty-ninth District of Liquor Dealers' Association (p. 4939).

Wheelan managed three campaigns for antiprohibition leagues against the prohibitionists (p. 4033).

De Wolf was the "wet" candidate and his opponent the "dry" candidate when he was elected (p. 5394). He was "a wet man on the liquor question," he said, in the forty-sixth general assembly (p. 5395).

Jandus was opposed to local option and was a member of the United Societies for Local Self-Government (pp. 4013, 4024–4025).

Wilson stood on the wet side. There were local option bills before the forty-fifth. forty-sixth, and forty-seventh general assemblies (pp. 3749–3829).

Luke was generally drunk. Link and Beckemeyer were not prohibitionists, neither was White. Beckemeyer voted "wet" on the local option bills in pursuance of instructions from home, he said (pp. 3005–3008).

Holstlaw being a deacon of the church was classed as a "dry" man, but was elected by "wet" counties.

Was this "jack pot" a liquor concoction?

Wilson, with Lee O'Neil Browne, one Traut, and one Hirscheimer were indicted in Sangamon County for conspiracy. "It was something in regard to a fish bill," he says (p. 3887). That indictment was dismissed. Beckemeyer and De Wolf were interested in that fish bill (p. 2877); they were on the committee handling it. Bauter Bros., wholesale fish dealers, operating on the Illinois River, were pleased to have the bill defeated and asked Beckemeyer "what was done with all the money that had been collected up and down the river there" (p. 2879). Joe Clark told Beckemeyer "that there was a pot collected among the fishermen on the Illinois River, and that it had been paid, he thought, to Foster, chairman of the committee, and it had never been turned into the general or larger jack pot, and that Foster and Browne were at outs about that" (p. 2879).

Evidently there were fish in the jackpot. Goldfish in alcohol was one form this "corruption" designated as "wholesale" took. There was nothing appertaining to the election of United States Senator about it. In addition to the above was the corporation act which the governor vetoed and which was calculated to yield considerable jack-pot money.

That some money was apportioned out after the legislature adjourned and paid over to certain members of the legislature there is evidence. That this was a common occurrence there is evidence. This record discloses quite clearly defined trails leading toward original sources of such supply in no wise connected with the election of Senator. Tracing it, according to the proofs, only blind alleys, unused paths running into insurmountable obstacles, lead in the direction of the senatorial election.

Shall we follow the plain, blazed, traveled way wherever it may lead, or shall we abandon that and wander about through the underbrush of doubt and uncertainty, hew our own path around the natural obstructions unguided to the point fixed only by suspicion and inference and preconceived notions?

I have pointed out the beaten route to the true origin of the money distributed.

CONDITIONS, POLITICAL AND OTHERWISE, AT THE TIME AND PLACE OF ELECTION.

Senator Isley, a Democrat, voted for Stringer on every ballot, made a speech the day of the election urging Democrats not to vote for a Republican, said he had no distinct knowledge on the subject of corruption in the legislature, never knew anyone who received anything for voting for Senator, and he further swore that "if there was any Democrat in the legislature who would be justified in voting for LORIMER it was George W. Alschuler" (p. 5545); that Hopkins was very bitter and cold toward Democrats; that LORIMER was popular with the Democrats (pp. 5527, 5543). He and Homer E. Shaw sought to organize Democrats against LORIMER and any other Republican (p. 6830). Welborn, Womack, and Shaw voted always for Stringer.

Homer E. Shaw, a Democratic member of the forty-sixth general assembly, said he heard "only such general talk of corruption in the forty-sixth general assembly as has been for the past 50 years in every legislature" (p. 6821). He has been in politics for 25 years. He testified that Hopkins was very unpopular with the Democrats, who were bitter against him (p. 6827); that Mr. LORIMER had a great many friends among the Democrats (p. 6828), growing out of his waterways advocacy. He further testified that "three or four days or a week before the election White told him he was going to vote for BILL LORIMER if he got a chance" (p. 6818). White voluntarily assured Mr. LORIMER he would vote for him some days before the election (p. 7646). This destroys White's story about Browne coming to his room on the night of May 24 proposing to pay money for his vote.

Lawrence B. Stringer, the Democratic nominee for United States Senator, was in Springfield all the while the legislature was in session (p. 2272), and he had no information given him as to any wrongdoing or improper or dishonest attempt to influence the vote of any member in the senatorial election (p. 2295). He further testified that Mr. LORIMER had a great many friends among the Democrats in the general assembly (p. 5527). Here were all these men actively and continuously fighting Mr. LORIMER and the Republicans generally, keeping close watch on every move by those of their own party, as well as of the Republican Party, and they had no information that money was being used or promised in connection with the senatorial election.

There is no ground to question the integrity of Democrats like Tippit, Alschuler, and others who voted for Mr. LORIMER.

There was no chance to elect a Democrat. It is absurd to claim that it was as reasonable to expect Republicans would go to the Democratic candidate as for Democrats to make a choice among Republicans when the Republicans had a majority of 50 on joint ballot.

Members of both the Browne and Tippit factions voted for Mr. LORIMER, as well as both those leaders.

The evidence clearly established a situation relative to the election under consideration which had no dependence whatever on corruption of any kind. This is expressed in the testimony of a number of responsible witnesses heretofore mentioned and indicated further by Mr. Isley and Mr. Tippit. There was no Republican in the State who stood as high with the Democrats as Mr. LORIMER, according to State Senator A. E. Isley, an attorney of Newton, Ill. (p. 5527).

Mr. Thomas Tippit, for six years a member of the Illinois General Assembly, and leader of one of the Democratic factions in the forty-sixth, composed of 26 Democrats, testified: "I could state further that it was my information, has been, and is now, that the election of Mr. LORIMER to the United States Senate was favored by Adlai E. Stevenson, late candidate for governor and former Vice President of these United States, and Mr. Louis Stevenson said to me that he would like the Democrats to vote for Mr. LORIMER because of what he had done for his father in the late election" (p. 4264).

He also testified that, "My understanding is that three-fourths, probably, of the Democratic central committee favored the election of Mr. LORIMER to the United States Senate. I think that is true" (p. 4265).

I apprehend, in view of this testimony, Members of the Senate, particularly those on this side of the Chamber, will not be able to follow the theory advanced by the Senator from Indiana [Mr. KERN] and the Senator from Montana [Mr. MYERS] that something was wrong either with the heads or the morals of the Democrats who voted for LORIMER.

I submit that under these conditions the charge that principles and party were deserted under circumstances which

showed "wholesale bribery had been resorted to in order to bring about that result" is not justified.

Such a contention can only be urged on the basis of Mayor Sapsea's notion in "The Mystery of Edwin Drood," that "proof, sir, must be built up stone by stone. As I say, the end crowns the work. It is not enough that justice should be morally certain; she must be immorally certain, legally, that is."

THE FORMER JUDGMENT PRECLUDES FURTHER ACTION.

This case has been adjudicated; the action taken March 3, 1911, was final and forever settled the question involved, certainly in the absence of new evidence of such a nature that, had it been introduced before, would or might have produced a different result.

This case was passed upon by the Senate of the Sixty-first Congress, the term expiring March 4, 1911. Some 30 changes had taken place in the membership of the Senate by the time the Sixty-second Congress convened. Owing to these changes this case was ordered retried—the alleged grounds being, however, that new evidence had been discovered, which, if presented and considered, would make a different case. Many Senators believed additional and newly discovered evidence existed, and in view of the charges made it would be advisable to make another investigation and ascertain what new facts could be uncovered. This action will likely serve as a precedent—although the Senate treats each case, apparently, from the standpoint of power and might—that is liable to plague us in future. In similar cases the Senate adopted the doctrine of res adjudicata as far back as 1858.

The change of the personnel of the Senate should not prompt a change of decision reached as judges acting in a judicial capacity any more than a change in the individual justices on the bench should of itself give grounds for the rehearing of a cause. Unless a different case is presented involving different facts or additional, material facts not known before, clearly it must be recognized as an unjust interference, wrongfully imposing expense and trouble, to repeatedly bring to the bar a Senator and require him time after time to defend his right to his seat in this body. If, in the Sixty-first Congress, he is tried, and again in the Sixty-second, can he not be in the Sixty-third and Sixty-fourth, and yearly to the end of his term? When is the judgment of the Senate to be conclusive, and forever bar any further proceedings to adjudicate the same question? The authorities uniformly hold that the rule of res adjudicata applies in this case, and is a complete answer to the resolution offered and now pending. The report of the committee sets forth a number of authorities, and I will not elaborate upon them. The Senate has the *power* to force a reexamination of the questions and a new vote by a new Senate on a resolution to the same effect as the one previously voted on, but that is not the same thing as having the legal or moral *right* to do so.

Certainly there is nothing in the present case, although thousands of pages of additional testimony, legal and illegal, relevant and irrelevant, admissible and inadmissible, competent and incompetent, were taken, which makes it stronger against the sitting Member than it was at the last trial. On the contrary, it is a weaker case than it was before, and made so by the testimony of Senator LORIMER and further light on general political conditions and further proof of perfidy on the part of White and the evidence of improper motives, malice, and desperation on the part of enemies of Mr. LORIMER.

I think the former judgment ought not to be disturbed, and that further inquiry is thereby precluded. The precedents directly in point are the leading cases mentioned in the report, which I simply call to the attention of the Senate, in the hope that they will not be ignored when the vote is taken.

The first is the case of Senators Fitch and Bright and Lane and McCarty, of Indiana, in the Thirty-fourth and Thirty-fifth Congresses. (Taft's Senate Election Cases, 164; Buck's Senate Election Cases, 244.)

The doctrine was again applied in the case of Francis W. Sykes and George E. Spencer, decided by the Senate in the Forty-third and Forty-fourth Congresses (Taft's Senate Election Cases, 556; Buck's Senate Election Cases, 611–633), in which the committee used this language in its report:

> The question having been definitely settled, it was considered by the committee that it was not competent to reopen it, and that it must be treated as res adjudicata.

In the du Pont case (1898) the question was squarely presented (Buck's Senate Election Cases, 818–874), and on reference of a memorial to again investigate the case, after holding that the Senate might review its decisions for fraud and for such causes as enable a court in direct proceedings to vacate a judgment, and that the Senate might overrule a legal doctrine pronounced in a former case, the committee said:

> But there is no case known in other judicial tribunals in which a final judgment in the same case can be rescinded or reversed merely because the composition of the court has changed or because the members of the court who originally decided it have changed their mind as to the law or fact which is involved.

On the application of Senator DU PONT to reopen the case, the committee unanimously decided that there had been an adjudication of it, "and that nothing further remained to be done," and the application was denied. Senator Hoar insisted the doctrine of res adjudicata should be applied in such cases, and although the adjudication had been by a majority of only one, he said the judgment of the Senate was "just as binding in law, in all constitutional vigor and potency, when it was rendered by one majority as when it was unanimous." (CONGRESSIONAL RECORD, vol. 29, pp. 2524, 2555, 1559, 1560.)

If you hold this case has not been finally disposed of it means nothing less than a decision that the Senate may try such a case and decide it once, then, at the same or the next session, or at the next term, after there has been a change in the membership of this body, try it again, and the next session try it again, and so continue until the Senator whose right to his seat is thus brought in question is exhausted by the pecuniary tax, mental and physical strain; broken financially and in health, he is forced to finally allow the trial to go by default or resign. In that way the case is determined and the conclusion is reached, not on the merits at all, but solely by the arbitrary, unjust exercise of power. If that be any sort of justice or any approach to proper practice, I confess my inability to see it. It is rather the Rob Roy plan—

> Let him take who has the power;
> Let him keep who can.

PUBLIC PREJUDICE MANUFACTURED.

We might as well recognize this is a newspaper war on Mr. LORIMER. "Let the people rule," the people being the Tribune, the News, and the Record-Herald, in Chicago. Here, "the people" is one man, who has access to the public through the press, being a front-page feature in all the newspapers; yonder, "the people" is another man who hires and puts in operation his news bureau to promote his own selfish and inordinate ambition. "Down with the boss" they cry, meaning the person making the demand wants all the room there is in which to play the "boss" to the limit himself.

A patriotic, courageous, unshackled, and unbiased press is the greatest beneficent force in modern civilization.

If malicious, tyrannical, or venal it becomes an influence terribly destructive and woefully bad.

This power may be a blessing incalculable, or it may be a curse unbearable. It may tremendously advance the highest good or become an insufferable nuisance.

Mr. Candidate wants an office. Whether it be constable or President, the first thing he must do is to organize a publicity bureau. The size and cost of this corresponds with the importance of the office in some degree, because the larger the office the more people must be impressed with the public and private virtues, the great ability, and other qualifications of Mr. Candidate.

If an opponent is to be got rid of the same method is the latest device. With such a bureau public opinion will be manufactured to order.

Industriously feed the kind of literature experts can prepare to a chain of newspapers extending across the country both ways, including the national weeklies as well as the dailies, and the result will be a public opinion made and sustained, for a time at least, as wanted.

It is easy to make charges so general and by such indirection they can not be disproved.

The specific charges in this case have been met; it is reasonable to exact proof of vague and broad insinuations and assertions before approving them.

We are told to "purge the Senate of LORIMER," who "represents the old régime." "Purge" for what? "The old régime" means what? "Represents" how? Where is the proof? We are given to understand there is a terrible situation here. May we not ask for some evidence of it?

He was elected by Democratic votes you say. Are there not other Republican Senators here who have been assisted by Democratic votes and against whose election no criticism is made on that account? Are there not Democratic Senators here who were elected by Republican votes the validity of whose elections has never been questioned? Can it be fairly claimed that this is such an exceptional case, after all, as to preclude good faith and honesty?

BIPARTISAN ACTION INEVITABLE AND NOT OUR AFFAIR.

Because of the alleged bipartisan action, the evils of "the machine," the "rule of the boss" are painted in frightful colors.

Let me tell you the constitution of Illinois opens the way for bipartisan action and facilitates, if it does not make inevitable, bipartisan combinations. If that be an unmitigated evil, the

constitution of the State, and not WILLIAM LORIMER, is responsible for it. If that be a curse, the fundamental law of the State in its provisions for minority representation chains the political affairs of Illinois to the body of that death. You can not fasten the blame for that condition on any man. For instance, when it comes to elect three representatives from a given county, the electors, under the constitutional provision, are permitted to cast one vote for each of the three candidates or one and a half votes for two of them or three votes for one. That is the provision of the constitution. Can you ever escape bipartisanship arrangements and combinations under such a provision as that in any contest waged on practical political lines?

Illinois will never be free from bipartisan deals and combinations until her constitution is changed. I do not condemn the constitution. I thought it was a very good provision, when I first saw it, but I can see that in practical application it leads to the very thing the newspapers are arrayed against—bipartisan combinations. That is a question with which we have nothing to do. If a Senator be elected as a result of the operations of the law, and that is the real gravamen of the complaint, the Senate can afford no remedy if it would and ought not if it could. The commission of a sovereign State is entitled to some respect here.

SOLEMN STAND ON UNDISPUTED GROUND.

It appeals to a great many people for one to indulge in general indorsement of, and laboriously plead for, civic righteousness, clean politics, good intentions, patriotic, unselfish efforts, as if these were matters sane men would combat or draw in question. You need not raise your hands to high heaven and proclaim vehemently, and even violently, that you are for a good man as against a bad man, an honest man as against a rascal, a sincere man as against a trickster. This may impress some people as entitling the speaker to praise, but thinking people will know such a view ought to exist without argument and as a matter of course. Nor shall I concede that continuous repetition of self-evident, undisputed propositions is evidence of one's superior virtue.

Unless there is proof justifying it, I shall hold no man up as a "horrible example" because it strikes a popular chord to do so.

There is no evidence in this record of WILLIAM LORIMER'S misconduct, unfitness, or disqualification for the position for which the legislature of his State deliberately selected him. There is no evidence in this record that "predatory wealth" named him or has been instrumental in defending him.

I would like for some of those who find apparent relish in assailing him to point out somewhere in the record before us, or outside it, a fact indicative that he is not making in this case his own fight, single handed, and in a manly, frank way.

If he is the representative of "privilege," "special interests," "malefactors of great wealth," "predatory riches," it is extremely remarkable that some evidence of their sympathy and concern has not appeared.

That he is a Republican is scarcely a sufficient answer. I disagree with him absolutely in his views on economic, governmental, and political questions, but if that is to determine our action in this case our Republican friends, if they should adopt the same rule, might easily perpetuate the Republican majority in this body. The legislature may not have been in agreement with him on political questions, and yet it may have done what it conceived to be the best it could in the circumstances, and I do not see that corruption should be presumed.

All the platitudes about the necessity for maintaining the integrity of the Senate, which no one gainsays, all the abuse by the self-constituted censors of public men, all the protestations by the Honeythunders, will not create prejudice, favor, or fear to supplant in my vote the principle of simple justice.

The idea of "justice among the people" must embrace, not exclude, those in public life, must apply to each individual as well as all combined—the component parts as much as the entire body politic. Justice in this case demands the defeat of the resolution and the approval of the report of the committee.

Mr. DILLINGHAM. Mr. President, it is with a feeling of relief that I approach a period in the proceedings of the Senate when the question of the right of the Senator from Illinois [Mr. LORIMER] to his seat shall be determined. On the other hand, it is with a feeling of responsibility which is somewhat oppressive that I approach the discussion of this case, because of the great volume of testimony which has been taken and the multitudinous phases of it which demand examination.

The committee appointed to make the investigation devoted to it a vast amount of time, a vast amount of patience, and presented to the Senate a volume of testimony so large that it is impossible for any Member of this body to read it as a whole, or by use of the digest index to follow or comprehend all the lines of evidence and the subjects which were investigated.

The investigation has been full and complete. The committee employed as counsel Mr. John H. Marble, of this city, and Mr. John J. Healy, of Chicago, the latter having acted as counsel for the Helm committee, so called, a committee appointed by the Senate of the State of Illinois "to investigate alleged acts of bribery and official misconduct of members of the forty-seventh or forty-sixth general assemblies." Counsel were instructed to seek suggestions and secure information from every possible source, and were especially instructed to confer with the owners and managers of the Chicago Tribune, which has been the most aggressive factor in the prosecution against Senator LORIMER. They mingled freely with the representatives of that paper, both in Washington and in Chicago. For the committee I may say that during the entire time devoted to this work no member ever objected to any line of investigation suggested by another member of the committee or by counsel. And I want to add that while members of the committee sharply differ in judgment in reaching conclusions based upon the evidence, nothing has ever occurred to cast a shadow upon their personal relations or to disturb the harmony existing among them in the prosecution of the work. They have acted in perfect harmony, in perfect accord, and with a common purpose to secure the truth.

The committee made a report to the Senate which embodies its findings as to the facts connected with the election of Senator LORIMER. That report was prepared with care; in it references to the record are made, so that anyone may readily turn to the testimony and judge whether the statements are sustained; and the committee asks of the Senate fair consideration of the result of its work.

Two Senators who signed the report—Messrs. GAMBLE of South Dakota and JOHNSTON of Alabama—were members of the Burrows Committee, so called, the subcommittee of the Committee on Privileges and Elections, which made the former investigation. Senator FLETCHER and myself were at that time members of the Committee on Privileges and Elections, but not of the subcommittee. We both joined, however, in the report of that committee that the story of Charles A. White, to the effect that Lee O'Neil Browne bribed him to vote for Mr. LORIMER, was a fabrication and wholly without foundation in fact. The fifth member of this committee joining in this report is the Senator from Washington [Mr. JONES], who was not a member of the subcommittee or of the full committee at the time of the first investigation. As a Senator he then both spoke and voted against Senator LORIMER'S right to a seat in this body, but after hearing all of the evidence taken on this investigation he has been compelled to reverse his judgment, and has joined with the others whom I have mentioned in reporting that in the election of WILLIAM LORIMER they find no corruption.

With the presentation of this report and of such statements as the individual members of the committee may make to the Senate, their duty is done, their responsibility ceases. The responsibility is then transferred to the Senate to receive the facts and to act upon them in accordance with its judgment. I need not say that I am anxious to be of service to those who are not so familiar with the testimony as I may be, and for that reason I purpose to present a story of the circumstances and events leading up to Mr. LORIMER'S election and the charges made against its validity in their logical order.

Mr. President, it is impossible to understand the questions involved without considering the political conditions in the State of Illinois at the time of the election of Senator LORIMER by the legislature of that State on the 26th day of May, 1909. In discussing such conditions I shall have to refer to the political affiliations of a good many gentlemen in public life in Illinois, but in doing so I shall rely wholly upon the evidence taken during the investigation.

POLITICAL CONDITIONS AT TIME OF ELECTION.

The evidence shows that previous to 1904—I go back four years from the election of 1908—there had existed a strong personal and political friendship between Senator LORIMER and Gov. Deneen. They had worked together in many political campaigns; had fought many battles and won many victories. Gov. Deneen was admitted to the bar in 1886, and was made the attorney of the sanitary district of Chicago in 1895 at a salary of $5,000 per year. In 1896, and from thence on to 1904, Mr. Deneen was the State's attorney for Cook County. From his salary and fees collected he amassed a fortune of $300,000. He was warmly supported by Mr. LORIMER for both of these positions; and testified that his reelection to that office in 1900 came through Mr. LORIMER'S strong friendship for him and because he was able to overcome the opposition of his (LORIMER'S) friends to Deneen's nomination. That friendship continued unbroken down to 1904, when Mr. Deneen became an aspirant for the office of governor of Illinois. At that time it

appeared to Mr. LORIMER that Mr. Deneen had deserted him politically and had gone over to what was called "the newspaper crowd" in Chicago in order to secure that support in his new ambition.

It is a conceded fact that for 20 years it has been the policy of the Chicago Tribune—and I am not saying this in criticism of the Tribune nor in approbation of it, for that matter—but for 20 years the policy of that paper has been, according to the testimony of its manager, Mr. James Keeley, to drive Mr. LORIMER out of public life and out of the politics of Illinois. Everyone connected with it——

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Indiana?

Mr. DILLINGHAM. Certainly.

Mr. KERN. It was shown by the evidence that the Chicago Tribune had at practically every election at which Mr. LORIMER was a candidate for Congress supported him.

Mr. DILLINGHAM. It did sometimes, as it supported the Republican ticket, and sometimes it did not; but does the Senator from Indiana deny the statement that I have just made?

Mr. KERN. What statement was that?

Mr. DILLINGHAM. Of Mr. Keeley, as to the policy of the paper.

Mr. KERN. That is, as to the general policy of the paper?

Mr. DILLINGHAM. Yes.

Mr. KERN. I do not deny it, but I was unable all the time to reconcile it with the fact that was conceded all around, as I understood, that while the Chicago Tribune opposed Mr. LORIMER at the primaries, it supported him almost universally at the elections as against the Democratic candidate, with one single exception, and in their editorials advised Republican voters and all the voters of the district to vote for Mr. LORIMER.

Mr. DILLINGHAM. That was undoubtedly true at times; but before I have finished I shall call attention to evidence on that matter, because Mr. Keeley testified, as I have said, that he regarded Mr. LORIMER as a malign influence; that it had been the policy of the Tribune, and of Mr. Medill McCormick, who preceded him as manager of that paper, continuously, persistently, and consistently, to drive Senator LORIMER out of politics in Illinois, and that every effort and influence possible had been employed in furtherance of that purpose.

The editor of the Record-Herald, Mr. Kohlsaat, testified that for 20 years he had been politically opposed to Mr. LORIMER. That paper is owned by Victor F. Lawson, who is also the owner of the Chicago Daily News, so that when we speak of the Chicago press we naturally think of those three great leading daily papers.

ELECTION OF 1904.

As we approach the election of 1904 we find that Mr. Deneen was a candidate for governor and was having the "newspaper support," so called, of Chicago. Gov. Yates was a candidate for reelection. Mr. LORIMER was supporting Mr. Lowden for that office. The now famous Republican State convention of that year extended over a period of four weeks before being able to make a nomination. During its continuance the situation became so acute that it took a recess of 10 days for consultation with the people. Gov. Yates, while unable to secure the nomination, held the balance of power in the convention and could control the nomination. He states in his testimony, in substance, that while he had no agreement with Gov. Deneen, and did not make a proposition to him or receive a promise from him before the act, yet there was an understanding between them that after he had thrown his influence to Gov. Deneen and thus secured his nomination for governor as against Mr. Lowden, he should have the support of Gov. Deneen two years later, in 1906, in a contest which he intended to make against the distinguished senior Senator from Illinois [Mr. CULLOM] for a seat in this body. He testified that he failed to receive that support, and from that day to this he has been the bitter and persistent political enemy of Gov. Deneen. I mention this incident as evidence of one of the conditions which existed when the legislature of 1909 came together.

From 1904 to 1908 Mr. Deneen was governor of the State. The Republican Party in Illinois during those four years was divided. Gov. Deneen was naturally the leader of one faction and Senator LORIMER the leader of the other.

ELECTION OF 1908.

In 1908 Gov. Deneen was a candidate for reelection. Again ex-Gov. Yates loomed up against him as a candidate, and Mr. LORIMER was among Gov. Yates's supporters. The primary system had at that time been inaugurated and all these candidates went before the people. The situation was complicated by the fact that Senator Hopkins was a candidate for reelection to the United States Senate, and with the other candidates—Mr. Foss, Mr. Mason, and Mr. Webster—went before the same primaries as a candidate for that position. In that primary contest Gov. Yates and Mr. LORIMER warmly supported Senator Hopkins and his candidacy. Gov. Deneen also favored the candidacy of Mr. Hopkins; but after the primary election was over it appeared—and the evidence is undisputed—that Mr. Hopkins had failed utterly to return any of the favors which had been rendered to him by the respective candidates for the governorship, and had evidently disappointed both. From that time on there was a coldness toward Mr. Hopkins both on the part of Mr. Yates and Mr. LORIMER, and also on the part of Gov. Deneen.

Mr. REED. Mr. President, will the Senator allow me to ask him a question for information?

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Missouri?

Mr. DILLINGHAM. Gladly.

Mr. REED. What were the favors to which the Senator refers that Mr. Hopkins failed to return? What was the character of them?

Mr. DILLINGHAM. Nothing except the warm, hearty, and earnest support they had given him in his candidacy for the senatorship.

Mr. REED. Support for what?

Mr. DILLINGHAM. His candidacy before the primaries.

Mr. REED. No; I mean what support was he to give them—for what office?

Mr. DILLINGHAM. Gov. Yates expected that Senator Hopkins would give him his support for the governorship, and I presume Gov. Deneen also expected the same evidence of friendship on the part of Senator Hopkins; but neither of them got it.

Mr. REED. Was not Gov. Deneen elected that year?

Mr. DILLINGHAM. He was elected that year.

Mr. LODGE. The support expected was for the nomination?

Mr. DILLINGHAM. The support expected was for the nomination at the primaries. I am speaking about the primary election now.

Mr. REED. I thank the Senator. I only wanted a little clearer statement.

Mr. DILLINGHAM. It is evident from the testimony that both the candidates for the governorship that year were not, after the election was over, in a pleasant frame of mind toward Senator Hopkins.

A STARTLING SITUATION IN WHICH GOV. DENEEN FINDS HIMSELF.

When the general election of 1908 had been held and the results known, it was found that President Taft had carried the State of Illinois by a majority of 179,000, while Gov. Deneen had carried it by a majority of only 23,000—179,000 as against 23,000! The situation was further complicated by the fact that our former Vice President, Mr. Stevenson, who that year was the Democratic candidate for governor of Illinois, gave notice that he would institute proceedings to contest the election of Gov. Deneen, founded upon the ground of alleged frauds in the election; so that when the legislature assembled on the 6th day of January, 1909, Gov. Deneen faced not simply the possibility or probability but the absolute certainty of a contest before that body.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. DILLINGHAM. Certainly.

Mr. CRAWFORD. Did Gov. Yates and Mr. LORIMER admit that after Deneen had carried the primaries and secured the nomination they practically bolted and opposed him at the general election so that on that account he ran far behind President Taft?

Mr. DILLINGHAM. I do not recall any evidence in which he admitted that.

Mr. CRAWFORD. Neither of them admitted it?

Mr. DILLINGHAM. No; I recall no such evidence. There were insinuations of that kind.

ORGANIZATION OF THE LEGISLATURE.

Mr. President, it is clear from what I stated before the interruption, that it was absolutely necessary for his political preservation that Gov. Deneen should control the organization of the legislature of 1909, before which this gubernatorial contest would come. In the preceding legislature he and Speaker Shurtleff had become opposed to each other, and the fact is undisputed that the governor felt very bitterly toward Speaker Shurtleff, and that his friends fully sympathized with his attitude in this respect. Before the legislature convened Gov. Deneen had inaugurated a movement to control the organization of the house. He had control of the senate, and to secure to the governor control of the house his friends held meetings in all parts of the State and multiplied candidates for the speakership as against Mr. Shurtleff. On the Monday evening preceding the organization of the legislature on Wednesday, January

6, 1909, the Deneen Republicans held a secret conference and agreed to support Representative King for speaker. The regular Republican caucus had been called for Tuesday, and having learned of the action taken on Monday night, Mr. Shurtleff was angry, undoubtedly angry, and refused to participate in that caucus.

THE GOVERNORSHIP CONTEST DETERMINED THE SPEAKERSHIP.

The Democrats were quick to see the opportunity they desired and equally quick to take advantage of it. Mr. Stevenson's contest for the governorship against Mr. Deneen was the one thing they had in mind, and to secure its success was the one purpose they had in their hearts. Gov. Deneen realized that if Shurtleff was speaker of the house he would have the power to appoint the committee to which would be submitted the question whether Mr. Stevenson or Gov. Deneen was entitled to that office, and the relations then existing between the latter and Mr. Shurtleff were such that he had no reason to expect any favors from him. To make the story brief, I may say that Gov. Deneen frankly admits in his testimony that this contest on his part was a fight for his political life.

As I have said, Mr. Shurtleff did not go into the Republican caucus, but he was a candidate for the speakership on the floor of the house. Eighty-five votes were cast—25 Republicans and 60 Democrats—for Mr. Shurtleff, and he was elected speaker of the house. Every Democratic member, with the exception of two, voted for him.

In his testimony Mr. Shurtleff says:

I think the gubernatorial contest overshadowed everything else.

All the witnesses are agreed, I think, in the opinion that Mr. Shurtleff's election as speaker had nothing to do with the pending senatorial election. At that time no person had been suggested for the Senatorship except those who had been before the primaries. Except as between them, no contest was anticipated. Even those who disliked Senator Hopkins had never dreamed that his election could be prevented except by the choice of one of the gentlemen who had participated in the primaries.

Gov. Deneen says he felt compelled to support Mr. Hopkins for the Senatorship because of the fact that he was the primary nominee, and he (Gov. Deneen) had been leader in the movement to secure the adoption of the primary system of nomination.

Senator LORIMER at that time and for a long time after had no thought that any contest could or would be made against Senator Hopkins. Seventeen members of the house who were cordial supporters of Senator Hopkins voted for Mr. Shurtleff, showing that the question of the Senatorship was not at all involved in the election of a speaker.

Mr. Hopkins testified that his personal friends, and some who had supported him to the end, voted for Mr. Shurtleff; that he regarded the question of the speakership as a controversy between Gov. Deneen and Mr. Shurtleff; that there was no general talk that the Senatorship was involved in the election of Shurtleff; and that none of his friends ever suggested to him the thought that such was the fact.

Speaker Shurtleff says:

I never heard it mentioned in any way whatever.

Many of the prominent Democratic members of the house testified to the same effect—that the election of Speaker Shurtleff was no part of such a plan and as such was never mention by anyone.

Thomas Tippit, leader of one faction of the Democrats in the house, testified: "There was no thought of it."

Representative De Wolf (Democrat) testified that he heard no intimation at the time the speaker was elected that the senatorial election was involved.

Mr. Espy (Democrat) testified that the election of speaker had no sort of reference or relation to the senatorial election.

Mr. Donahue, also a Democrat, testified quite at length upon that subject. The following extracts from his testimony clearly express his views:

Mr. HEALY. Did you have any understanding of any sort with reference to the election of Mr. Shurtleff which in any way affected the Democratic membership of that body?

Mr. DONAHUE. No. Mr. Shurtleff stood pretty well throughout the State as being a very fair speaker. He was very popular with the Democrats, and they thought he was the fairest speaker Illinois had had for many years. That was the general impression among the Democrats. It was discussed, and it was said that former speakers, be they Democrats or Republicans, would not recognize the minority at all in any legislation or in any way; but Mr. Shurtleff broke over that rule and gave every member a fair show to get measures through if he could. He did not recognize any politics in so far as general legislation was concerned. That was the feeling among the Democrats throughout the State. There was talk of a contest over the governorship, and the Democrats felt that if Shurtleff was speaker they would probably get a recount of the votes.

In this connection it must be remembered that at that time no Republican was a candidate for the senatorship except Messrs. Hopkins, Foss, Mason, and Webster—those who had been before the primaries. No other names had even been suggested.

Senator LORIMER was not in the city of Springfield between November, 1908, and January 12, 1909, a week after Mr. Shurtleff had been elected speaker. He was in Washington when Congress assembled. Went to his home in Chicago for the holidays, but did not go to Springfield until a week after the speaker had been elected. So far as the evidence in this case shows, his only connection with any movement for the organization of the house of representatives was during the Christmas recess, when he was at home. It appears that during such recess Messrs. Shurtleff and Shanahan, members-elect of the Illinois Legislature, called upon him in Chicago regarding the speakership. They told him that Gov. Deneen had suggested Col. Chiperfield, who was then a member of the governor's military staff, in connection with that position, and stated that Mr. Chiperfield had been twice to Chicago to confer with Mr. Shurtleff in regard to his proposed candidacy. Although Mr. Chiperfield had not been one of his political friends, Mr. LORIMER expressed the opinion that in the interest of party harmony the selection of Mr. Chiperfield for the speakership was a proper course to pursue, and that he would ask his friends to cooperate in securing his election; but as Gov. Deneen subsequently declined to support Mr. Chiperfield, nothing resulted from the conference.

The evidence does not disclose a fact, so far as I can remember, in any way connecting Mr. LORIMER with the organization of the house of representatives.

GOV. DENEEN'S EXTREMITY.

It will be understood, I think, by those who have followed me thus far that Gov. Deneen appreciated his helplessness as he faced the contest with Mr. Stevenson. He realized that unless he controlled the organization of the house in some form a committee might be appointed consisting of men who might oust him from the governorship. No one denies that such a danger stared him in the face. His anxiety was extreme. It was so great that through his political and personal friend and adviser, Roy O. West, he caused a meeting of the Republican State central committee to be called to devise means to induce the Republican members of the house of representatives to support the governor in an effort to have the appointment of the house commitees taken away from the speaker. The meeting of that committee was held in Springfield January 12, 1909, and adopted a resolution substantially to that effect, but the members did not back it up with their friends in the house, and it was always referred to as the "paper resolution," because it utterly failed to accomplish the result so ardently hoped for by the governor, and too late he discovered that he had been deserted by those upon whom he thought he had the best right to rely.

I can not conceive of any man elected as chief magistrate of a sovereign State, standing in a more helpless position than that in which Gov. Deneen found himself at that time. He had alienated friends with whom he had affiliated politically for many years in the past. He had alienated Mr. Shurtleff, who as speaker of the house had the power to appoint all committees. He had failed to secure, through the efforts of the State central committee, a modification of the rules of the house so as to take the appointment of committees from the speaker; and he stood alone, confronting a situation fraught with danger and threatening his political downfall.

What did he do? In his extremity he remembered his former friend WILLIAM LORIMER, and though they had not met for several years, he sent Roy O. West to Mr. LORIMER, who had just reached Springfield, to ask if he would object to an interview with him. Mr. LORIMER replied that he would not, and an interview was arranged. Neither one asserts that they had been politically estranged. Mr. LORIMER says that he always believed that Mr. Deneen liked him personally, and would be glad to affiliate with him politically, but had been won away from him by powerful influences. Mr. Deneen took pains to testify that a wrong impression had gone out as to his relations with Mr. LORIMER; that while separated politically they had not been unfriendly, but the fact remains that they had not been in conference and had had no common interests for five or six years.

AN EFFORT TO UNITE THE REPUBLICAN PARTY AND SAVE THE GOVERNORSHIP.

On the 13th day of January, the very day following the meeting of the State central committee, the proposed interview was had between Gov. Deneen and Mr. LORIMER, beginning at 5 o'clock in the afternoon, in the governor's office, and extending until 9 o'clock, and then from 9 o'clock until midnight at the gubernatorial mansion. At that meeting, according to the testimony of Gov. Deneen, they discussed the waterway legislation,

which was a paramount issue in Illinois. They discussed an anticipated decision nullifying the primary law. They discussed their previous political relations. They discussed political conditions generally. They discussed the senatorial situation. They discussed the organization of the house. Mr. LORIMER testified that they talked about the committee that would probably be appointed to investigate Gov. Deneen's title to the governorship, and the organization of the house only to that extent, showing that the discussion of this subject was the leading object in Gov. Deneen's mind when he sought this conference with Senator LORIMER.

The real purpose on Gov. Deneen's part was expressed by Mr. LORIMER when he says that Deneen seemed to be fearful that a committee might be appointed that would turn him out of office regardless of the evidence, and he felt that Speaker Shurtleff was so antagonistic to him that he would do anything to destroy him.

Senator FLETCHER inquired:

That was after Shurtleff had been elected speaker?

Senator LORIMER. That was after Shurtleff had been elected speaker. I never discussed the house organization with him prior to that time and no other committee except that one.

From Gov. Deneen's testimony it further appears, in answer to a question by the Senator from Indiana [Mr. KERN]:

Was the election of Shurtleff discussed by you and Senator LORIMER?

Mr. DENEEN. I do not recollect the details, but I suppose it was.

Senator KERN. You had been opposed to Shurtleff's election?

Mr. DENEEN. I had been opposed to it.

Senator KERN. And he had favored Shurtleff's election, as I understand?

Mr. DENEEN. He had favored it.

Senator KERN. Was there any discussion between you as to the reasons?

Mr. DENEEN. The discussion was regarding the elements of strength that I had relied upon and had not felt that I was supported as well as I had hoped and expected.

He admitted that those who had been supporting him had failed. He was looking for help. They were having a heart-to-heart talk.

Proceeding, Gov. Deneen says:

And he was pointing out the weaknesses of my position, and we were discussing it. It ran along and was a frank talk about conditions. I think my contest was discussed then only in a general way—no details at all. I discussed with him what would be the outcome of this coalition as it affected me, and particularly as to whether I would be ousted from office. That, I think, was mentioned at that time.

Senator KERN. Did he indicate to you that he would be opposed to your being ousted?

Mr. DENEEN. No; he did not give me his views on that subject, nor did I ask him his views. The point was to expedite the hearing and bring it to an end, and, if I was to be ousted, to have it occur at once and get rid of it, and not have it drag along indefinitely and to nobody's advantage.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Missouri?

Mr. DILLINGHAM. Certainly.

Mr. REED. A few moments ago the Senator from Vermont, in discussing Shurtleff's election, said it was not regarded as in any manner inimical to the interests of Senator Hopkins. I understood the Senator to say that and to cite some evidence. I am not so familiar with this record as I had hoped to be, but in that connection it seems to me the man most interested and most likely to know would be Senator Hopkins, and I desire to call attention, with the Senator's kind permission, to the following from the abstract of the hearings, appearing at page 8597.

Mr. DILLINGHAM. What page does the Senator read from?

Mr. REED. Abstract of the record, page 8597.

Mr. DILLINGHAM. I desire to say to the Senator from Missouri that I never have read that abstract.

Mr. REED. It appears in the record proper, as given by a reference here, at pages 312, 313, and 314, and I read the following, beginning on page 312, so that we may have the context:

I heard nothing during the six months of the deadlock about the proposed candidacy of Mr. LORIMER until just a couple of weeks before the close. I knew that LORIMER was there to defeat me, and my understanding was that he would use any instrument that he could to bring about my defeat.

Now, the reference to page 313 is as follows:

Shurtleff did not vote for me at all. He was actively against me.

Now to the point to which I am calling attention, page 314:

The election of Shurtleff could not be otherwise than hostile to my candidacy. I did not know that Shurtleff would be elected until the news was flashed from Washington. I regarded it as a blow to my candidacy. As I understand the election of Shurtleff, there was a deal in the legislature.

It seemed to me that when the Senator was quoting the evidence of others to the effect that the election of Shurtleff had no effect upon the senatorial contest, it would only be right that the Senate, at least, should know that in the opinion of the man most interested, Senator Hopkins, the election of Shurtleff did have a most detrimental effect upon his candidacy.

Mr. DILLINGHAM. Senator Hopkins testified that at that time he had no thought of it, that his friends had no thought of any such thing; and that to which reference is now made was entirely an afterthought, judged only by the result. Senator Hopkins in his testimony makes this perfectly clear.

Probably no man was ever more bitterly opposed than was Senator Hopkins by the Democrats of that body. Everyone appearing before the committee testified to the extreme dislike of the Democrats for Senator Hopkins, for the reason that when he was upon the stump in Illinois he used terms in reference to them which cut them to the quick. In other words, as they expressed it, he was harsh and severe in his denunciation of Democracy and of Democrats. It can not be denied that the entire Democratic body entertained toward Senator Hopkins a feeling of hostility not entertained toward any other person in the State of Illinois.

I will demonstrate as I go along that this desire to defeat him was a matter of growth. I have already indicated that he had alienated the sympathy of Yates and of LORIMER and of Deneen and of others, and that the delay which came later, and which I ask the Senator from Missouri to note when I reach it, gave the opportunity for all these forces to unite to defeat Senator Hopkins. It was this delay, not the election of the speaker by Democratic votes, that resulted in his downfall.

Resuming the discussion and coming back to Gov. Deneen's testimony, in answer to the question of Senator KERN:

Did he indicate to you that he would be opposed to your being ousted?

Mr. DENEEN. No; he did not give me his views on that subject, nor did I ask him his views. The point was to expedite the hearing and bring it to an end, and if I was to be ousted, to have it occur at once and get rid of it, and not have it drag along indefinitely and to nobody's advantage.

Senator KERN. In the course of that five hours' conversation, did he indicate any feeling on his part as to whether he wanted you to be governor of Illinois or wanted to have Stevenson governor?

Mr. DENEEN. No; I did not ask him about that. His conversation was friendly, but we did not discuss that more than that. We did not go into the details. Then we went on to another matter that was of importance to us; that I will state.

Senator KENYON. Before you leave that subject, did you consider Mr. LORIMER a party who would be influential in determining whether or not you would be ousted from office?

Mr. DENEEN. I assumed that he and Mr. Shurtleff would finally settle it.

The result of that meeting, which lasted five hours, was, as Mr. LORIMER expresses it, that there was a sort of semifriendly relationship established, and it was understood that they would meet each other and discuss political affairs in the future.

About that time it appears from the evidence that Gov. Deneen had become very much disappointed in Mr. Hopkins. A meeting was held the next week between Gov. Deneen and Mr. LORIMER, and the governor testifies that that meeting and the next one and all subsequent meetings between them were either by appointment or agreement or suggestion between himself and Senator LORIMER. He is asked the question:

Mr. HANECY. And they were all friendly conferences?

Mr. DENEEN. All of them.

Mr. HANECY. You were considerably annoyed, after the meeting of the State central committee on the 12th, at Senator Hopkins and his friends, for the position they took in that meeting toward you and your measures, were you not?

Mr. DENEEN. Considerably disappointed.

Mr. HANECY. You were more than that, were you not?

Mr. DENEEN. Well, I was disappointed very much. I do not know about being annoyed about it.

On the 18th of January another meeting between the governor and Mr. LORIMER was held, after which the latter returned to Washington.

GOV. DENEEN RESPONSIBLE FOR OBSTRUCTING ELECTION OF SENATOR.

At that time Gov. Deneen determined upon a course of action which changed existing conditions and ultimately resulted in the defeat of Senator Hopkins. He assumed the entire responsibility of preventing or "postponing," as he called it, the election of Senator Hopkins until the question of his own title to the governorship was determined; and, as a matter of fact, that "postponement" extended from January 18 to March 18, a period of two months, during which time all the elements against Hopkins became united and made his election impossible.

January 19 the vote for Senator was taken in the separate Houses, and 15 of Gov. Deneen's political adherents—Republicans—refrained from voting for Mr. Hopkins. The result was no choice. On January 20 the first joint vote in the general assembly was taken, and 13 of Gov. Deneen's adherents withheld their votes from Senator Hopkins, preventing his election on that day. There is no disguising the fact——

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Indiana?

Mr. DILLINGHAM. Certainly.

Mr. KERN. How many Lorimer Republicans withheld their votes?

Mr. DILLINGHAM. I do not remember. I will ask the Senator how many?

Mr. KERN. You have the record here.

Mr. DILLINGHAM. I have not the record. I have an extract from the record.

Mr. KERN. There were more, I will say, of the so-called Lorimer Republicans than there were of the Deneen Republicans who refrained from voting.

Mr. DILLINGHAM. I do not recall that fact. I will not dispute the Senator.

Mr. KERN. But why should the Senator emphasize the fact that certain friends of Gov. Deneen failed to vote for Mr. Hopkins without referring to the fact that other Republican senators and members of the house also refrained from voting for him?

Mr. DILLINGHAM. I will tell the Senator. I will quote from Mr. Deneen's testimony. It will be found on page 1141, if anyone cares to look at it, where he assumes the responsibility for that action. That election, as he calls it, was "postponed" from January 19 to March 18, a period of two months, that his title to the governorship might be tried and established. His testimony is as follows:

Mr. HEALY. Is it true that at any time during the senatorial deadlock you retarded or attempt to retard in any way the election of Senator Hopkins?

Mr. DENEEN. My friends and I postponed the election of Senator Hopkins, or some of them did, rather, until my matter was settled in reference to the contest on March 17 or 18. A number of my friends felt that Senator Hopkins's friends intended to join and put me out of office, not with his approval, and, I think, against his judgment, and it would have been against his advice if consulted. They felt he would have no influence with those men and that they intended to join and put me out.

Further on in his testimony he says:

Some of the more active men felt that the senatorial matter should not be settled until the gubernatorial matter was settled. They were interested in a lot of legislation, and they felt the matters should be settled together, and I think some of them remained out for that reason.

It can not be denied, as I was about to say when interrupted, that Gov. Deneen and his friends were responsible for preventing the election of Senator Hopkins during that long period of two months.

On January 27 another of these friendly conferences between Gov. Deneen and Mr. LORIMER occurred extending from 10 o'clock at night until morning, in which they became friends and reestablished old relations. Mr. LORIMER said:

I thought Gov. Deneen was trying to establish friendly relations with the men I was associated with in Illinois, and I am sure that was my disposition.

At that time they agreed to work together for fair primaries; they discussed the situation in Chicago, where they feared the influence of Mayor Busse and the police force. They discussed the influence of the 7,000 saloons in Chicago; also the mayor's use of the police force of that city, and took into consideration the fact that 40 per cent of the Republican vote of the State was in Cook County; and coming to the question of the senatorship, Mr. Deneen said that if Hopkins should be reelected whatever power and influence went with the office would go to Busse and Campbell and that element of the party in Cook County, and he complained again because the Senator had not rendered him such assistance as he felt he should have rendered; and he said it would be for the best interests of the party that Mr. Hopkins should not be reelected and that he would not help him.

It was also at this meeting that Gov. Deneen complained to Mr. LORIMER of the harsh treatment of Senator Hopkins in not giving him his support, and particularly the lack of support on the part of Mr. Hopkins's friends at the State committee meeting, over the results of which he felt so much chagrin. Gov. Deneen evidently realized the embarrassing situation to which his mistakes had brought him, and he was frank in his acknowledgment.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield further to the Senator from Indiana?

Mr. DILLINGHAM. Certainly.

Mr. KERN. Was there harmony between Gov. Deneen and Senator LORIMER in their testimony as to the events of that evening?

Mr. DILLINGHAM. I think so. I do not understand that they disagreed.

Mr. KERN. Did Gov. Deneen testify to the fact?

Mr. DILLINGHAM. He testified to all these meetings. Does the Senator understand that he denied that statement?

Mr. KERN. No; I am asking the Senator from whom he is quoting.

Mr. DILLINGHAM. I was quoting this from Senator LORIMER's testimony.

Mr. KERN. I understood the Senator to state certain facts and then to draw certain conclusions therefrom. I ask him whether he quotes those facts from the testimony of Senator LORIMER or the testimony of Gov. Deneen.

Mr. DILLINGHAM. I quoted those from the testimony of Senator LORIMER, but I do not understand that they were ever denied. Senator LORIMER said:

At the interview, when he told me positively that he, Gov. Deneen, would try to defeat Senator Hopkins, I then urged him to become a candidate.

Mr. HANECY. You urged Gov. Deneen?

Senator LORIMER. Yes. That was the latter part of January.

Mr. HANECY. What did Gov. Deneen say to your suggestion in that respect?

Senator LORIMER. At the first interview he rather indicated, I thought, that he would like to think about the matter. He did not encourage it.

Mr. HANECY. Did he repel it?

Senator LORIMER. No; I think not.

Mr. REED. I do not like to interrupt the Senator, but may I ask what was the date of the meeting Senator LORIMER was testifying to?

Mr. DILLINGHAM. January 27, as I remember it.

Mr. REED. Does not the Senator recall that that is directly in the teeth of Senator Hopkins's testimony that Senator LORIMER at Willard's Hotel long before that had given him to understand that he was against him?

Mr. DILLINGHAM. Certainly; and I will tell you that circumstance. There is no question about it. Senator LORIMER, after the election of 1908, knew and felt that Senator Hopkins had not supported Gov. Yates, and he resented it. Mr. LORIMER had no expectation of opposing him for it, but when Senator Hopkins sought an interview with him he declined to grant one, and when, afterwards, Senator Hopkins met him here in Washington at the Willard Hotel and attempted to discuss with him what action he would take when the legislature met, Senator LORIMER told him it would not do any good to discuss the matter.

Senator LORIMER testifies that he would have been glad to see Mr. Hopkins defeated, but he had no expectation that any means could be adopted to defeat him, and it did not occur to him until after these interviews with Gov. Deneen that such a thing as that would be possible. That explains the matter about which the Senator inquired.

Mr. REED. I caught it perhaps wrongly. I would not misquote the Senator, but the impression I got from the Senator's remarks was that Senator LORIMER had testified that he had not been in opposition to Senator Hopkins.

Mr. DILLINGHAM. I do not think that I said anything of the kind. I said in the very beginning that Senator Hopkins had gained the distrust or the ill will both of Yates and LORIMER, and in addition, that of Gov. Deneen, because his attitude in the primary election had been such as to disappoint all of them, but not that they had come to the point of deciding to oppose his election. They did not like his action——

Mr. REED. I think that was away in the past.

Mr. DILLINGHAM. Yes; that was in November.

Mr. REED. I may have misunderstood the Senator, and I rose to try to get myself right in this matter. I understood the Senator to state, in effect, that Senator LORIMER had not opposed Senator Hopkins in the early part of his contest for the Senatorship before the legislature, and I wanted to ask the Senator if it was not true that Senator Hopkins had testified to a meeting at the Willard Hotel prior to the election actually coming on in which Senator LORIMER had told Senator Hopkins that he was opposed to him.

Mr. DILLINGHAM. I thought I just told the Senator that Mr. LORIMER told Senator Hopkins that he was opposed to him, and there was no use talking about it.

Mr. REED. I may have misunderstood the Senator.

Mr. DILLINGHAM. I want to remind the Senator that Senator LORIMER testified that even then and for a long time after he had no intention of taking any steps to oppose Mr. Hopkins's election, because he did not suppose it would be possible to defeat him, but in his heart he did not like him and would have been glad to have had some other person elected Senator. I do not think there is any misunderstanding as to Senator LORIMER's position on that point.

Resuming, let me say that good relations between Gov. Deneen and Mr. LORIMER followed that meeting of January 27.

HARMONY RESTORED BETWEEN GOV. DENEEN AND SPEAKER SHURTLEFF.

One of the results which followed is shown in the testimony of Mr. Shurtleff, where he speaks of the committee that was

appointed to consider questions involved in the contest between Mr. Stevenson and Gov. Deneen for the governorship. He says:

The committee was appointed upon the 11th day of February—a majority of Republicans—and every Republican appointed by me was a Deneen man, thoroughly a Deneen man. One of Gov. Deneen's close friends, Edward J. King, candidate for speaker, was on the committee; Mr. Reynolds, of Rockford, was chairman of the committee. He was one of their candidates for speaker. I appointed no Republican upon that committee who had any affiliations with any of our friends or who had any affiliations except the closest with Gov. Deneen, which practically settled the contest on February 11.

Mr. REED. That seems to be a very frank admission that they packed the jury.

Mr. DILLINGHAM. Senator Jones asked this question:

So, if you packed any committee, you packed that committee in behalf of Gov. Deneen?

Mr. SHURTLEFF. I did.

I do not think there is any dispute between the Senator and myself on that point.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. DILLINGHAM. Certainly.

Mr. CRAWFORD. While we may differ as to what was in the mind of these men, does not the Senator admit that the speaker of the house elected at the time of its organization was hostile to the candidate for the United States Senate who had carried the primaries, and was also hostile to the governor who had been chosen at the election in November?

Mr. DILLINGHAM. I will have to divide that question in answering it. I do not understand that he was opposed to Senator Hopkins. I do not remember what his attitude was.

Mr. CRAWFORD. There is not anything in the record to indicate that Senator Hopkins, the party nominee, had his wish followed in choosing a presiding officer for the house, is there?

Mr. DILLINGHAM. There was no contest about that.

Mr. CRAWFORD. But the speaker who was selected was a loyal and intimate friend of Senator LORIMER.

Mr. DILLINGHAM. He was; there is no question about that.

Mr. CRAWFORD. So that, whether it was designedly brought about or not, the fact remains that the nominee for the Senate, Mr. Hopkins, failed to secure a loyal friend as presiding officer, and Senator LORIMER did secure in that office a personal, loyal friend. That is the fact, is it not?

Mr. DILLINGHAM. I have no doubt that is the fact; but it was not claimed at that time, nor for months after, that it had any reference to Senator LORIMER's candidacy, and as I proceed I will demonstrate that to the Senator.

Mr. CRAWFORD. Well, that is a matter for inference. Is it not also a fact that Gov. Deneen, who, as the Senator says, had his very official life at stake, a contest hanging over him, did not have his choice selected for speaker, and that Mr. LORIMER had his intimate friend in that position, so that they held the destiny of the governor-elect in their hands by securing the reorganization of the house?

Mr. DILLINGHAM. I was trying to demonstrate the fact——

Mr. CRAWFORD. Does the Senator from Vermont differ from me in saying that that is the fact, no matter what was the motive of these men in bringing the situation about?

Mr. DILLINGHAM. I do not undertake to say what Speaker Shurtleff's attitude was on the senatorial question when the legislature opened; I do not recall it. I have the record of the several roll calls in my hand, but it would take some time to examine them. I will do this, and call the Senator's attention to it later.

Mr. REED. May I interrupt the Senator for a further question?

Mr. DILLINGHAM. Yes, for a question; but I do not want to be interrupted in my remarks too frequently because I have a long statement to make, and the question of physical endurance is one to be seriously considered in this weather.

Mr. REED. The question I am asking is in good faith and for light and not to provoke a controversy. The Senator stated that there was an antipathy between Gov. Deneen and Senator LORIMER.

Mr. DILLINGHAM. I did not say that there was an antipathy between the governor and Senator LORIMER.

Mr. REED. Political antipathy?

Mr. DILLINGHAM. No; they had remained friends, but they had separated politically.

Mr. REED. Yes; a political antipathy.

Mr. DILLINGHAM. I did not call it "antipathy."

Mr. REED. Well, whatever name the Senator calls it. He said there was a contest, and that was gotten out of the way, for Shurtleff, who had been bitterly opposed to the governor, appointed a committee solely of his friends. The Senator has simply stated what was the result. What were the considerations? How was that effected? How did it happen that Shurtleff, who had been bitterly opposed to Gov. Deneen, so bitterly that they expected him to pack the committee against the governor, after a conference with these gentlemen turned around and packed the committee for him? There must have been a reason for it.

Mr. DILLINGHAM. If the Senator has patience and will allow me to proceed, I will tell him. I can not stop to explain in advance that which I intend to discuss later on.

Mr. LORIMER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Illinois?

Mr. DILLINGHAM. I yield to the Senator from Illinois.

Mr. LORIMER. To answer the question as to whether or not Speaker Shurtleff ever voted for Senator Hopkins, I will say that the record will show that Speaker Shurtleff testified that Senator Hopkins's friends called on him and asked him to make a statement in writing, which he did, that whoever received the majority of the vote in his senatorial district he would vote for. At that time Senator Hopkins naturally supposed that he would receive a large majority in that district, because that district had been in the congressional district that he represented in Congress for a great many years. Congressman Foss received about two votes to one over Senator Hopkins, and Speaker Shurtleff voted for Mr. Foss, and continued to vote for him from the first ballot until the last ballot, except the time when he voted for me and when he once voted for Gov. Deneen. That is the record.

Mr. CRAWFORD. Mr. President——

Mr. DILLINGHAM. I find from examining the record that down to the fifty-seventh ballot he voted for Mr. Foss.

Mr. CRAWFORD. That would indicate that naturally he would not be the choice of Mr. Hopkins as the speaker of the house of representatives, would it not?

Mr. DILLINGHAM. Coming back to the matter I was discussing when interrupted, Senator LORIMER testified that Gov. Deneen also stated that he would try to defeat Hopkins, and in that connection asked Mr. LORIMER to suggest to Speaker Shurtleff that in the appointment of a committee to visit the charitable institutions of the State he should select only Hopkins men. Their duties as members of such committee would take them away from Springfield for a couple of weeks, tiding over the period of the vote on the senatorship. Mr. LORIMER assumed that this was done, as he conveyed the governor's suggestion to the speaker, who called upon the governor the following day to discuss it.

Concerning their relations afterwards, Senator LORIMER says:

I think I talked with him [Gov. Deneen] every week from that time on until the last week or the second last week of the session of the general assembly; some weeks one interview.

GOVERNERSHIP CONTEST SETTLED.

On March 18, which was two months after the organization of the house, the title to the governorship was settled. In the meantime there had been created a union of forces against Mr. Hopkins. In February there occurred general discussions as to the advisability of bringing forward a compromise candidate. There is no question but that at that time Gov. Deneen, Senator LORIMER, and many others were of the opinion that the contest would result in the election of some person other than those who up to that time had received the votes of the general assembly. In February, after they had discussed the possible candidacy of Gov. Deneen, the latter suggested that they cooperate in putting the election of Senator over until after the 4th of March, when the seat would become vacant and the people insistent that it be filled, thereby creating a condition under which Gov. Deneen could consistently accept the place.

About March 15 Gov. Deneen told Mr. LORIMER that it would be embarrassing to him personally to make arrangements to become a candidate for the Senate, and the latter suggested that he have his friend, Roy O. West, come to Springfield the following week, and that he [LORIMER] would discuss the plan with him. This was done, and plans were made between LORIMER and West to bring about the election of Gov. Deneen, it being agreed that his name would be presented to the legislature on March 24, but on the evening of March 23 Mr. West informed Mr. LORIMER that the governor would not be a candidate.

If Senators will read the testimony of Mr. Alschuler, brother of a former candidate for governor of that State on the Democratic ticket, a man who went to that legislature from Senator Hopkins's home town and home county, elected as a Democrat, and whose sole mission in that body was to defeat Senator

Hopkins's reelection, and who apparently thought of nothing else from the opening of the session to the day of the election——

Mr. KERN. Mr. President——

Mr. DILLINGHAM. Let me finish my sentence. Senators will find that Mr. Alschuler testified that it was expected that Gov. Deneen's name would come before the legislature, and that he immediately saw all the Democrats he could and asked them to support the governor.

Mr. KERN. Did I understand the Senator to say that Alschuler had been the Democratic candidate for governor?

Mr. DILLINGHAM. No. I said his brother—I will ask the Senator to correct me if I am wrong.

Mr. KERN. He had a brother who was a candidate for governor, but in his testimony he expressly exonerated his brother from any complicity in his conduct or in anything he said.

Mr. DILLINGHAM. Exactly. I quite agree with the Senator as to that; Mr. Alschuler has been a member of a subsequent legislature, and is now the Democratic leader of that body.

Mr. KERN. He measured swords with Lee O'Neil Browne.

Mr. DILLINGHAM. He testified that on that occasion the Democrats were ready to throw their strength to Mr. Deneen, if his name had been presented. Senator LORIMER testified that Gov. Deneen said that opposition developed against his candidacy, because his election would make Mr. Oglesby, then the lieutenant governor, governor of the State, and that for some reason or other, not necessary to examine at this time, his elevation to that office would not be agreeable to Mr. Deneen's friends.

As time ran on they attempted to agree upon Mr. Shurtleff as a candidate for the Senate. Mr. LORIMER says in his testimony, speaking of an interview with Gov. Deneen:

I suggested the name of Speaker Shurtleff. We talked about him for quite a while, and that night he said that he thought I ought to become a candidate.

I talked for Shurtleff, and he said he would let me know in about a week; that he would have a talk with his friends in Chicago about that. We had a conference every week for, I think, a period of time running over about three weeks. Finally he told me he had talked with his newspaper friends in Chicago, and named Mr. Noyes, the editor of the Record-Herald, and they were opposed to Mr. Shurtleff's election, and he said: "Why, I can not support him, because I can not afford to break with my friends on account of it."

Gov. Deneen says in his testimony in relation to this matter:

He [LORIMER] suggested Mr. Shurtleff, and I discussed that with him. The point of the thing was this: The discussion was of considerable length. I stated to him that I thought it would be a great misfortune for him, from his standpoint or that of his organization, to elect Mr. Shurtleff, because Mr. Shurtleff did not represent any forces in his organization.

He was a man of very considerable ability and experience, and individually was a very strong man, but he had not any large force back of him. I said he had not any great influence back of him, and that he would not add to it, and it would be a misfortune, I thought, to elect him from his standpoint. He urged it and said that he thought he could be elected; that he had the strength that came from organization there; the Democrats had voted for him there, and they could afford to vote for him as senator, because they had voted for him for speaker, and he argued the matter. I then said to him, "Well, if you have the power to elect Mr. Shurtleff, why do you not elect yourself? You are a power and he is not a power in Illinois politics, except as an individual factor, a man of ability."

Now comes the reason why Mr. LORIMER would not be a candidate when urged by Gov. Deenen, with the assertion that he was a power in the State and could be elected:

He stated that he could not afford to take it, because he had advanced in the House to such a position that he thought he had considerable influence in reference to waterway legislation, and it would take some time to acquire that influence in the Senate, and that the question was ripe for action and he could do more service in the House than in the Senate, as I recall it; and he dismissed it and the subject and went to other matters.

There is the testimony of Gov. Deneen as to the attitude of Mr. LORIMER at that time.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Indiana?

Mr. DILLINGHAM. Certainly.

Mr. KERN. I think it is fair that the Senate should understand whether the Senator is attempting or pretending to quote from the testimony in the record or whether he is giving his own digest and some of his own conclusions. I am unable to find——

Mr. DILLINGHAM. This is a quotation from the testimony of Gov. Deneen, pages 1123 and 1124 of the record.

Mr. REED. From the abstract?

Mr. DILLINGHAM. No; I do not refer to the abstract; no one does that; refer to the record.

CONDITION OF SENATORIAL DEADLOCK AT END OF THREE MONTHS.

We come along in this story to the middle of April, three months after the beginning of the deadlock. During this time Mr. LORIMER never had been a candidate, but had consistently and positively refused to be a candidate. At different times he had urged upon Gov. Deneen the possibility of Mr. Boutell's election. The testimony shows that Mr. Boutell had an interview with the President and went to Chicago to consult with his friends, in the hope that the factions might agree upon him; but he found that was not possible and his candidacy was abandoned. Mr. Lowden was suggested, also Congressman MCKINLEY, Congressman RODENBERG, A. C. Bartlett, Mr. Calhoun, and possibly others; but Mr. LORIMER testifies that Gov. Deneen found some reason for opposing all who had been mentioned. Roy O. West was anxious to become a candidate and had requested the governor to intercede for him; but in that case Mr. LORIMER was the objector, as he was not favorable to Mr. West's candidacy.

ALL WILLING TO SUPPORT DENEEN.

The committee finds as follows:

These general conditions continued for some considerable time; the situation was discussed in the newspapers and it seemed that no one among those mentioned was developing any strength; several State senators, some of whom were friendly to both Mr. LORIMER and Gov. Deneen, importuned Gov. Deneen to enter the race. And after the situation had been generally discussed for some time in the public press and otherwise, Mr. LORIMER again took up with the governor the question of his becoming a candidate, strongly urged him to enter the field, and assured him that he and his friends would support him. Gov. Deneen testified that the "Senator urged me very strongly to take it," stating that it was a position where "I must expect criticism," but that it was the only opportunity "I would ever have to go to the Senate, because if I did not the party would be organized on other theories and it would be impossible to overcome the difficulties."

Senator Curtis had presented the matter to Gov. Deneen and discussed it with him several times, urging as a reason the harmony which his candidacy would bring to the party, and that it would quiet the disturbances which had existed there for years. Mr. LORIMER also assured him that he would receive all but 15 of the Republican votes in the general assembly and most of the Democrats.

THE GOVERNOR'S ATTITUDE.

Gov. Deneen hesitated. He evidently wanted to become a candidate at that time. But he was the father of the primary law, and felt that it would not do for him to become a candidate against Senator Hopkins, who had been named in the primaries; and his reasons are shown in the testimony of Mr. Lundin, who was formerly a member of the State Senate of Illinois, and afterward a Member of the House of Representatives of the United States. I presume Senators know him. I will read what the committee finds from Mr. Lundin's testimony:

It appears from the testimony of Hon. Frederick Lundin, former member of the Illinois State Senate, and also of Congress, that he had frequent conferences with Gov. Deneen regarding the senatorial situation; that as late as the first week in May—that was nearly four months after the deadlock began—in a conference between them the governor thought it would be a good plan and good politics to make the deadlock secure and not elect a Senator at that time; that the object of the conference at that time was to get four or five Hopkins supporters to agree with others to vote for some one else; that the reason Gov. Deneen wanted this done was that he did not really know whether he wanted the Senatorship or not; that he would like it, but was not just sure that he dared take it; that while he wanted it, he supposed that the newspapers—the Record-Herald, Tribune, and Daily News—would not let him take it.

Mr. Lundin testified that during these conferences Gov. Deneen said that the men with whom he had worked in past years had not done right by him; that if Senator LORIMER's friends and his friends should work together, there would be no question but that they would be the controlling element in the Republican Party in the State; that he thought that Senator LORIMER could afford better than any other man to take the Senatorship; that it would injure him less, and, in fact, he said it might be a good solution of the deadlock to have Mr. LORIMER elected by Democratic votes.

WHY MR. LORIMER CONSENTED TO BECOME A CANDIDATE.

The deadlock, as I have said, had continued almost four months, and there was no immediate prospect of the election of anyone, and it was feared there would be adjournment of the legislature without the election of a Senator from that State. In that crisis it appears that Col. John R. Thompson, Col. Chauncey Dewey, and Col. Copley, all members of the governor's staff and his warm personal and political friends, men who were influential leaders in the Republican Party, became active in their efforts to induce Mr. LORIMER to become a candidate for the Senate. As the deadlock continued and it became apparent that Mr. LORIMER was probably the only person upon whom the different factions could unite, he finally determined to do so.

In addition to those last mentioned, he had the support of Gov. Yates and Speaker Shurtleff, who had been strongly urging him to accept Democratic votes and the election. Many other prominent Republicans were anxious to support him, and he also developed strength among the Democratic members, but it was not until two or three weeks before the election, which occurred May 26, 1909, and it had become perfectly apparent that unless he did become a candidate the legislature would adjourn without an election, that Mr. LORIMER's candidacy began to be seriously considered, and he thinks it was about the 10th or 12th of May when he determined to ascertain

whether he could be elected. This substantially accords with the testimony of Gov. Deneen; and, if my recollection serves me correctly, it was on May 14 that the Chicago Tribune first mentioned Mr. LORIMER's name in connection with that office as a candidate.

When Mr. LORIMER began to consider the suggestion that he become a candidate for the Senatorship he went to his friend Mr. Shurtleff and to others to advise with them regarding the propriety and advisability of doing so. Mr. Shurtleff testifies that after talking with Mr. LORIMER he conferred with Mr. Browne as to his attitude in the matter. Mr. LORIMER says he knew that Mr. Browne would support Mr. Shurtleff if he were to become a candidate, and Mr. Shurtleff testifies that Mr. Browne had in fact urged him to become a candidate, and had assured him of the Democratic support in that event. It is equally true that Mr. Browne did not at any time favor the election of Mr. Hopkins, but was earnestly opposed to his election.

In relation to that matter Mr. Shurtleff testifies as follows:

Mr. Browne had been to me two or three different times and proposed to have the Democrats vote for me for United States Senator. He said it was the chance of my life; that I could be United States Senator; that there were a large number of Democrats who would vote for me and wanted to vote for me. I think he came to me two or three different times, telling me that I was making the mistake of my life that I did not let the Democrats vote for me for United States Senator. When the Lorimer movement started it was generally understood that there were two forces that had to be in unison to elect anybody United States Senator outside of A. J. Hopkins. One of these forces was Gov. Deneen and the other was Mr. Browne. Possibly to some of my friends I had said something about Browne's offer to vote for me, and I think they had been very solicitous to have me be a candidate. The suggestion was made that I go to Mr. Browne and ask him to vote for Senator LORIMER, which I did.

There you have the first introduction of this subject to Mr. Lee O'Neil Browne, through Mr. Shurtleff.

Mr. MARBLE. What did Mr. Browne say to you when you asked him to vote for Senator LORIMER?

Mr. SHURTLEFF. Well, he discussed the thing. He said he had voted for me for speaker, and that the Democrats in the district had been very well satisfied with it; that is, there had been no trouble over that; and that he had thought they could vote for me for Senator, inasmuch as they had voted for me for speaker; but the question of Senator LORIMER was a different proposition. He would have to consider it. He wanted to talk with the men in his district.

Mr. MARBLE. He gave you no answer positively, then, at the time of the first conversation?

Mr. SHURTLEFF. He gave me no answer positively.

Mr. Browne's version of the interview with Mr. Shurtleff is as follows:

Mr. Shurtleff asked me what I thought of WILLIAM LORIMER as a candidate for the position of United States Senator, or asked me whether I could support him—I can not tell you which, but it was something in substance to that effect—and also how many of the Democrats of my crowd, or my faction, so called, I thought would support him. I said to him that I had never given the matter any thought or consideration, that I could not speak for anybody but myself, and that as far as I was concerned I would have to think it over before I could determine or would determine whether I would be willing to vote for him myself or not. As to the others, if I voted for him myself, or concluded to support him, I would have to talk with the members individually in order to ascertain or know anything relative to the matter. He asked me if I would do that, if I would think it over. I told him I would and would give him an answer relative to myself first.

I also said to him at that time, "Why do you not become a candidate yourself, Ed?" He said, "Well, I am not known at Washington at all. I would be a stranger. I would not have the acquaintance there which Senator LORIMER has, and especially if I was sent down there by virtue of any Democratic votes at all, being a stranger I would have no force there as a Senator. Besides, I do not believe I could get enough votes to elect me." I said, "Neither do I." That is the sum and substance of that conversation.

Mr. LORIMER's recollection is as follows:

Senator KERN. Have you any recollection as to what occurred between you and Mr. Browne at that first conference?

Senator LORIMER. No; I do not recall the language. I talked with him about the friends in Chicago that were supporters of Browne, and he knew they were supporters of his, and he knew how friendly they were to me—such men as Cermak, and Sullivan, and Werdell, and Griffin, and John Walsh, and George Hilton—men that I was very well acquainted with, and that were my friends, and had been for a great many years. He said he knew that what I was saying was correct, and finally agreed to support me.

Senator KERN. Did he ever make any inquiry as to whether Roger Sullivan would support you or not?

Senator LORIMER. Yes; since you mention that, Senator, he did. He said this to me: "Now, you and Sullivan are very close personal friends," as we are. Our families are very friendly, and his boy and my boys went to Andover together. The only sport that I follow is sailing, and his boy was a sailor, and had a boat, and my boys always have had boats, and we follow the regattas and we were very intimate, and that was known to everybody. He said, in substance, that there was not room enough for Roger Sullivan and him and that I could not be his friend and Sullivan's friend, too. He said: "I am not going to help a man, even though my friends are anxious to have me help him, and put him into a place where he will have power, and then have that power used for the benefit of my enemy and to destroy me." I said to him that Mr. Sullivan had not indicated that he was going to support me, and I did not think he would help me, and I said: "You can depend upon it that if I am elected Senator, while I will not be unfriendly to Mr. Sullivan on account of your support, I will never do anything that will injure you. I will never do for Mr. Sullivan things through which he can injure you." After considerable talk along that line he said—he is a rather impulsive man: "Well, LORIMER, I will take your word for it, and I will support you;" and that ended the discussion between him and me about Mr. Sullivan.

Senator KERN. He being the Democratic leader, you recognized the importance of having his support?

Senator LORIMER. I recognized the importance of having his support, whether he was the Democrat leader or not, because there is no more influential man in the House of Representatives of Illinois than Mr. Browne; and I really thought he had more influence in the house before he was leader than he had at the time he was leader; I am sure he did.

Senator KERN. His followers, or the men that belonged to his faction, would be inclined to follow him, would they not?

Senator LORIMER. I can not answer as to that. I know that the men that belonged to his faction that were friends of mine would vote for me, if I was a candidate, whether Lee O'Neil Browne was for me or not. I know that from what they have said to me.

Senator KERN. You think you had more influence with them than he had?

Senator LORIMER. No; I think this way about it: If it was a question of their supporting Browne or me, if they had to choose between the two of us, some of them would have voted for Browne and some of them would have voted for me. I am quite sure Emanuel Abrahams would have voted for me as against Browne or anybody else, unless it was a condition of this sort, where, as a Democrat, he was candidate for United States Senator or some office of that kind and Emanuel Abrahams's vote would elect him as a Democrat. In such a case Abrahams would vote for him; but on questions that are not political Abrahams was more friendly to me than he was to Browne. There is not any doubt about that.

On this point Lee O'Neil Browne testified as follows:

I made up my mind to vote for him, providing there would be enough votes, combined Republican and Democratic, to elect him.

I cite this testimony because it appears in evidence that Mr. LORIMER had insisted he would not allow his name to go before the General Assembly of Illinois until assured that he would be elected without a contest. Mr. Browne in his testimony gives his reasons for insisting on that condition. He says:

I made up my mind to vote for him, providing there would be enough votes, combined Republican and Democratic, to elect him; and I never for a moment considered the proposition of myself, a lone Democrat, voting for him, because no such contingency could arise or be possible.

Senator KENYON inquired:

When you made up your mind to vote for him, did you not at the same time make up your mind to get enough Democrats to vote for him so that you could elect him?

Mr. BROWNE. I made up my mind, Senator, to use whatever influence I had with my friends to legitimately influence them to vote for Senator LORIMER, provided it would not hurt them or injure them politically; and I can cite you one instance where I expressly advised one of my followers not to vote for Mr. LORIMER, and he did not do it, because he said it would hurt him at home. I said to him "If that is the case, don't you vote for him, and don't you let anybody persuade you."

Senator JONES. Who was that?

Mr. BROWNE. George Meyers.

Senator JONES. Do you know whether that is the Meyers who testified here?

Mr. BROWNE. That is the Meyers who has been here and testified; yes, sir.

Mr. Browne testified as to what Mr. Shurtleff advised in this regard. Mr. Marble asked him this question:

And what did Mr. Shurtleff say?

Mr. BROWNE. He agreed with me that the contingency that I placed in my answer was a perfectly reasonable one. He agreed to it and said that he would not think of starting a roll call under any other circumstances, and then he suggested that I ascertain how many of the Democrats of my faction would vote for Mr. LORIMER. I told him I would do so, and I suggested to him that I be informed at as early a day as possible about how many of the so-called Tippit faction would support Mr. LORIMER.

Mr. Browne and Mr. Tippit were leaders of the rival factions of the Democratic membership of the house during that entire session.

Mr. Browne testified that at the time he advised Speaker Shurtleff that he would support Mr. LORIMER for the senatorship he made "it a point of honor with both him and Mr. LORIMER that no roll call for Mr. LORIMER should be started until it was an absolutely assured fact that there were votes enough to elect him." Mr. Shurtleff gave this promise for himself, and Mr. Browne then told Mr. Shurtleff that he would exact the same promise from Mr. LORIMER, which he did at their first meeting thereafter, according to the testimony of Mr. Browne. Senator KENYON inquired: "Then when did you exact it from Mr. LORIMER?"

Mr. BROWNE. Just as soon as I had any conversation with him in regard to the matter, which was shortly after I saw Mr. Shurtleff—very shortly, because the conferences relative to that campaign commenced to take place in those rooms very shortly after my telling Mr. Shurtleff what I would do.

We are now at the point where the deadlock had continued for four months, and the legislature would soon adjourn without choosing a United States Senator unless a compromise candidate could be agreed upon.

LORIMER BECOMES A CANDIDATE.

I have examined all the evidence bearing upon political conditions affecting the election of a United States Senator, and down to the 10th or 12th of May, practically four months after the first ballot was taken, and within two weeks of his election,

I can find no instance in which Mr. LORIMER wavered in his refusal to become a candidate. It was not until it became perfectly evident to every observing person that the legislature would take an adjournment without the election of a United States Senator unless he would consent to become a compromise candidate, that he even considered the proposition. No one testified that he had been a candidate, or that he had indicated by word or action up to that point that he would become a candidate. On the contrary, it appears in the evidence over and over again that he had persistently refused to entertain any suggestion of the kind. But when the crisis was reached, and it appeared that Illinois would be represented by only one Senator, he faced a responsibility, and urged by gentlemen from every wing of the Republican Party, he instituted inquiries to ascertain the real situation. He absolutely refused to publicly announce his candidacy, or to permit his name to be presented to the legislature, until he could be assured that his election would follow without a contest. He never intended to go before that legislature as a candidate with any doubt about his election. He did not care enough about it. He had become potential in the House of Representatives in connection with the great project to connect the Lakes and the Gulf by a deep waterway, and was beginning to see the successful accomplishment of that gigantic undertaking to which he had devoted large sums of money and long years of hard work, and he doubted much whether in this body he would possess the same power and influence with which he was loath to part. At that time he understood and believed that Gov. Deneen was supporting him. He was acting under the advice of three members of the governor's military family. He was sending them and others to Gov. Deneen to inquire of him in relation to the matter, and while he had no personal assurance from Gov. Deneen that he was then supporting him, he had been strongly urged by the governor to enter the lists, and from interviews between his supporters and Gov. Deneen and because of the friendship that had been renewed between them during the conferences covering a period of four months, he was led to believe, and did fully believe, that Gov. Deneen would favor his election. He discovered nothing to the contrary until the Sunday night before the Wednesday upon which day the election occurred, when he heard in the city of Chicago that the governor was not for him; he returned at once to Springfield and in response to inquiries among his friends learned that such was the fact.

Now, what were the peculiar and controlling conditions existing at that time in and about the General Assembly of the State of Illinois? Mr. Hopkins had been defeated in the primaries in Cook County and also in his home county of Kane. George W. Alschuler, whom I have already mentioned, a resident of his home city, a Democrat, had been elected to the house, his avowed object in taking the election being to defeat the reelection of Mr. Hopkins to the United States Senate. He had exerted himself days and nights during the entire session to accomplish this purpose. Col. COPLEY, now a Member of Congress from Mr. Hopkins's district, a Republican, was opposed to him. All testified that they did not know a Democrat to whom Mr. Hopkins was not offensive politically. He had carried the primaries by a small plurality, but the testimony shows there was a strong impression existing that he did not intend to abide by the result of the primaries, had he then been defeated. Whether there was any foundation for that impression I do not know, but that was the talk in Springfield. At that time Gov. Deneen was actively opposing Mr. Hopkins, though not openly. Speaker Shurtleff was consistently supporting Mr. Foss and was known to be opposed to Mr. Hopkins. Gov. Yates was opposed to both Hopkins and Deneen.

The feeling of Gov. Yates toward Gov. Deneen had, as before stated, been extreme. When it came to his knowledge that Mr. LORIMER was conferring with Gov. Deneen, offering his support for the Senatorship, he was displeased, and he testifies that he wrote to Mr. LORIMER from Florida, between February 15 and April 8, saying in substance:

> I see by the papers that you and your friends have definitely determined to support Gov. Deneen for United States Senator.
>
> You and your friends may have it in your power to do this; but after you have done it, and it is all settled, I want you to do me the favor to call Mr. Deneen aside and tell him that you have one friend who says that he is a liar still, and I am the man.

All this indicates the disruption of Republican Party harmony which was evident everywhere.

The Democrats, as I have said, were the bitter opponents of Mr. Hopkins, and they knew they could not elect their candidate—Mr. Stringer. No one considered that a possibility.

I am coming to the question of Mr. Stringer's attitude and standing, as Democratic candidate for the United States Senate, before that legislature. It is an interesting subject, and I wish there were more Senators present in the Chamber to hear it discussed, because it will throw a flood of light on the situation as it existed when Mr. LORIMER consented to become a candidate.

Mr. President, I shall now take up the question of the conditions existing in the legislature of Illinois at the time Mr. LORIMER authorized a canvas to be made to ascertain his strength.

NO HOPE FOR THE DEMOCRATIC CANDIDATE.

I have already called attention to the fact that the Democrats were bitter in their opposition to the reelection of Senator Hopkins. They knew that they could not elect the Democratic candidate designated by their primaries, Mr. Stringer, who is a high-minded, candid man and one of the fairest witnesses I have ever seen upon the stand. On the other hand they lived in fear lest there be brought about a union of forces which might result in Mr. Hopkins's election, and they were willing to do almost anything to prevent such a result. To that end they were willing to vote for some other Republican who might be elected. I suppose that they were governed by the same consideration that has controlled the opposition in many State legislatures under similar circumstances.

I recall the fact that when I was elected to this body for the first time after a sharp contest, more than one-half of the Democrats in the Vermont Legislature—having become convinced that they could not elect their own candidate—voted for me, because as between the two Republicans they preferred me. My colleague [Mr. PAGE] received every Democratic vote at his last election by the Vermont Legislature. My friend, a member of this committee, the Senator from Tennessee [Mr. LEA], received, at his election, a large number of Republican votes, because they preferred him to some other Democrat as a Senator from that State. Such incidents are not unusual among the States of the Union.

REMARKABLE STATEMENT BY DEMOCRATIC CANDIDATE FOR SENATOR.

The conditions in the Illinois Legislature at that time were not only peculiar but most astonishing. Mr. Stringer, in his testimony, tells a sad story of his desertion by the members of his own party in that body. I think I never heard of a condition in political life more pathetic in its nature than that of Mr. Stringer as a candidate of the Democratic Party before the Illinois Legislature. In his testimony he reveals the hopelessness of his cause when he says:

> As I have said before, I was not in the confidence of any of those who were managing affairs at that time. I barely had an acquaintance with Mr. Shurtleff, and I had no conversation whatever with him. I do not think I talked with Mr. Browne more than three times during the entire contest, and those conversations were very brief.

This reference was to Mr. Browne, the Democratic leader of the house, and Mr. Stringer testified that during the entire contest he did not have more than three conversations with him.

Senator KERN asked:

> Why did you have no conversation with him?
>
> Mr. STRINGER. I did not think that Mr. Browne's theory of the Democratic position was the correct theory.
>
> Senator KERN. What was his theory?
>
> Mr. STRINGER. I judged that his notion was to cast the Democratic vote for some Republican with a view, as I understood it, of disrupting the Republican organization. I could not see, however, where the election of any Republican whoever he was, was going to disrupt the Republican organization, when they were in a deadlock from which they could not extricate themselves except by Democratic assistance.
>
> Senator KERN. Did you ever talk with him about that policy of his?
>
> Mr. STRINGER. No, sir; I never did, Senator. Mr. Browne did not confer with me at any time during the contest. While my relations with him had been friendly, yet I did not feel at liberty to talk with him.

Think of it, Mr. President, he, the primary candidate of the Democratic Party, and Mr. Browne the leader of that party in the house, yet Browne never conferred with him during the entire session, nor did he feel at liberty to seek conferences with Mr. Browne.

> Senator KERN. Why not?
>
> Mr. STRINGER. I did not feel that he was looking at the matter of policy as I looked at it.
>
> Senator JONES. You did not try to convert him to your theory?
>
> Mr. STRINGER. No; I did not, Senator, because Mr. Browne is a man of very positive convictions, and it he arrives at certain convictions it is almost useless to endeavor to argue a proposition with him.
>
> Senator JONES. You understood that he had reached definite conclusions in regard to that matter?
>
> Mr. STRINGER. I judged that he had; yes.
>
> Senator KERN. Before the election of Senator LORIMER?
>
> Mr. STRINGER. Yes.
>
> * * * * * * * *
>
> Senator GAMBLE. Do you think his views were well known to members of the legislature?

And what I am about to read shows that this was determined as a policy early in the session, early in the history of the deadlock.

Mr. STRINGER. I do not know as to that. I felt this way, Senator, that he was the leader of a large number of Democratic members, that they had a great deal of admiration for him and would do just about as he said. This demoralization in the vote took place along about the middle of February, in which they would give complimentary votes to one another.

Within a month, and it was nearer than that, as I shall show later on. Mr. Stringer says:

This demoralization in the vote took place along about the middle of February, in which they would give complimentary votes to one another and to various Democrats throughout the State, and it seemed to me that he was not desirous of keeping up the party organization. I felt that way about it. Consequently I did not feel at liberty to talk with him, and he did not come to me and talk with me or consult with me. Occasionally I would hear him on the floor suggest to different members: "We will give So-and-so a complimentary vote to-day." He would do that without any consultation with me; and, of course, not giving me his confidence, I did not feel at liberty to go to him.

Is it to be wondered at that he closed his headquarters, as he did, just about a month after that contest began? He had headquarters at the beginning—the candidate of the Democratic Party—yet within a month he closed such headquarters and never reopened them.

Mr. KERN. Did he not remain there until the very last, begging the Democrats to vote for him?

Mr. DILLINGHAM. Three days in a week.

Mr. KERN. Begging them to stand in line?

Mr. DILLINGHAM. Yes; but he had no headquarters.

Mr. KERN. And pointing out certain conditions in Washington?

Mr. DILLINGHAM. He lived 30 miles from Springfield. He held a government office by appointment of Gov. Deneen. His duties were in that city; he went there to attend to them, but he went home nights. He did go to the Democrats and beg them to vote for him, but he never had the hearty support of Lee O'Neil Browne nor any other Democratic leader. Even the representative of the Democratic national committee only went there once, as I remember. Am I right about that?

Mr. KERN. I do not know. He was there more than once; once to prevent reported sales of Democratic votes for Hopkins, and he told them to stand by the nominee.

Mr. DILLINGHAM. I do not recall any other instance when he asked the Democrats to stand by the nominee.

Mr. KERN. He was there frequently during the session.

Mr. DILLINGHAM. Again Mr. Stringer testifies:

I was making an uphill fight for about two months, and I was making a fight substantially all alone; and I was discouraged all along the line. Still, I felt that I could not afford to let go for my own sake, if for no other reason.

The CHAIRMAN. There seemed to your mind to be no cohesive power in the Democratic Party as represented in the legislature?

Mr. STRINGER. No. There is not very much cohesiveness in the Democratic Party in the State of Illinois, as a general proposition.

The situation was one which had been determined, as it seems, from the very beginning of the session. Mr. Stringer says:

I should say, Mr. Healy, that almost from the beginning there was more or less discussion of the question of Democrats going over and voting for some Republican. Personally, I was opposed to any sort of a bipartisan alliance, even looking to the election of a Republican speaker, and I do not know any particular time at which the matter was first brought up. It was discussed generally all during the session.

The truth is that the time had come, it was past the middle of May, when the members of that general assembly were consumed by a desire to go home. A great portion of them were farmers. They receive an annual salary for their services, so that a long session diminishes their revenue. Toward the end of the session it is probable that Mr. LORIMER would have had the support of the Democrats at any time when he would have consented to become a candidate for Senator. Probably the same is true of Mr. Shurtleff. The only question to be determined was whether Mr. LORIMER would receive enough Republican votes. Mr. Stringer discusses the situation in his testimony as follows. Senator GAMBLE makes this inquiry:

I mean the general result. It did not come as a surprise to you?

Mr. STRINGER. No; I could not say that it did. I expected Mr. LORIMER to be elected that week. In fact, I thought he would be elected on the 25th. It was current rumor that he would be elected on the morning of the 25th.

Senator GAMBLE. And that a sufficient number of Democrats would vote for him to "put him over"?

Mr. STRINGER. A sufficient number of Democrats and Republicans. The question still seemed to be whether or not there would be a sufficient number of Republicans. For four or five days it was substantially conceded that there would be about 53 Democrats.

There is the authority of the Democratic candidate that for four or five days it had been conceded that 53 Democrats would vote for him.

Senator GAMBLE. But the question was whether he would have a sufficient number of Republicans?

Mr. STRINGER. Whether he would have a sufficient number of Republicans.

Senator GAMBLE. With the 53 Democrats, to elect him?

Mr. STRINGER. Yes, sir.

Senator GAMBLE. That was the point. That is all.

Senator KENYON came in at that point with this inquiry:

You say it was conceded for four or five days before his election that he would have 53 Democrats?

Mr. STRINGER. That seemed to be the general understanding, Senator; yes.

Senator KENYON. It was not just sprung the day of the election, then?

Mr. STRINGER. Oh, no. I think I heard, four or five days before, that there would be in the neighborhood of 45 or 50 Democrats that would support Mr. LORIMER. I heard that frequently.

He was inquired of further, and in answer to Mr. Hanecy's questions testified as follows:

Mr. HANECY. And I think you said yesterday, and probably again this morning, that it was understood about 10 days or 2 weeks before Mr. LORIMER was elected United States Senator that he could be elected at any time by Democratic votes?

Mr. STRINGER. Yes; that was the general understanding.

Mr. HANECY. And there was no secret about that at all, was there, at any time within two weeks or so before his election?

Mr. STRINGER. Oh, I think it was the general understanding that Mr. LORIMER could possibly get enough Democratic votes to elect him.

And he adds:

I think everybody was expecting it.

I think that a proper understanding of the actual conditions thus described by Mr. Stringer as existing in that body would warrant such a conclusion.

WHAT THE ROLL CALLS DISCLOSE.

How about Mr. Stringer's vote in the general assembly? Bear the fact in mind that during all the time that Mr. Stringer was before that body as the candidate of the people of Illinois of the Democratic faith he never had the serious consideration of his party in that general assembly. On January 20, the first day of the joint session of the two bodies of that legislature, two Democrats dropped away from him on the fifth roll call. On January 21, the second day the joint assembly voted, 20 Democrats dropped away from him.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Indiana?

Mr. DILLINGHAM. Certainly.

Mr. KERN. Is it not true that that was in spite of the fact that during the primary Mr. Stringer had carried every precinct in the State of Illinois and had been unanimously indorsed for the nomination by the Democratic State convention?

Mr. DILLINGHAM. I think so. He was the candidate of the Democratic Party.

Mr. KERN. How do you account, then, for the faithlessness of those men so early in the session?

Mr. DILLINGHAM. I do not account for it. I account simply for the fact which existed in that legislature at that time, at a time when everybody supposed that Mr. Hopkins was going to be elected Senator.

On the 27th, the third day, 16 Democrats went wandering, not loyal to the candidate of the party in that body.

At the end of three weeks—on February 10—Mr. Stringer had only 53 votes of his party, and 23 had been cast for some other person. Take the period from February 10 to March 10—a full month—and his average vote was 41, with 35 wanderers. In the meantime, as I have already said, Mr. Stringer had become discouraged, had closed his headquarters, had taken his keeper away, and went home nights, 30 miles away, only returning to attend to his official duties, and, as my friend from Indiana has suggested, occasionally to beg some Democrat to vote for him.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont further yield to the Senator from Indiana?

Mr. DILLINGHAM. I do.

Mr. KERN. I submit to the Senator from Vermont that it is hardly a fair statement that Mr. Stringer occasionally begged some Democrat to vote for him.

Mr. DILLINGHAM. I shall be very glad to be corrected by the Senator from Indiana.

Mr. KERN. I understand his testimony to be that at the end of the session, while he had closed his headquarters, he was there pointing out conditions at Washington and begging Democrats to remain true to him, and he gave his reasons why he did that.

Mr. DILLINGHAM. I accept the Senator's statement. Perhaps I ought not to have said "occasionally." He was there on certain days of the week. I do not think he was there every day, because he went home nights, 30 miles away. But he was standing there as a candidate and claiming that he ought to have the support of the party. He admitted that he did plead

and that he did argue with individual members of his party, but that, nevertheless, the party never did stand by him through that lengthy period. And yet there is not a word of evidence that, up to that time and down to May 10 or 12, Mr. LORIMER had ever been mentioned, with his consent, as a candidate for the senatorship.

What were the conditions in the legislature when Mr. LORIMER determined to become a candidate? I think that the forty-ninth vote was taken on March 24. On that day Mr. Stringer had 23 votes, and 45 votes were cast for Mr. A. J. Graham, another Democrat. These were some of the many complimentary votes to which Mr. Stringer referred. On the fifty-third ballot Mr. Stringer received 26 votes, and 41 votes were cast for Mr. McGoorty. On the fifty-second ballot he received 22 votes, and 43 votes were cast for H. E. Shaw, another Democrat. On the fifty-fourth ballot Mr. Stringer received 27 votes, and 40 Democratic votes went to E. J. Rainey. On the fifty-sixth ballot he received 23 votes, and there were 35 votes cast for J. J. Mitchell. On the fifty-eighth ballot Mr. Stringer received 28 votes, and 32 votes were cast for J. M. Dailey.

Coming down to March 25—the sixty-first ballot, midway of the period of the deadlock—Mr. Stringer received on that sixty-first ballot 15 votes, while 49 votes were cast for J. T. Murray. On April 8, on the sixty-eighth ballot, he received 21 votes, and 37 votes were cast for P. J. Lucey. On the seventy-sixth ballot, April 27, Mr. Stringer received 21 votes, and 47 votes were cast for William Loefler. On the eighty-second ballot, on May 6, about a week before Mr. LORIMER concluded to ascertain the situation, Mr. Stringer received 17 votes, and 42 Democratic votes went to George A. Cook.

These figures are eloquent of the fact that the Democratic Party in that general assembly was in just the condition described by Mr. Stringer. There was no hope whatever of his election, and those who should have supported him were idly frittering away their strength casting complimentary votes, and simply waiting for a time when a union could be made which would result in the election of some Republican who was less objectionable to them than Senator Hopkins.

Under the conditions which I have last described, Mr. President, on the 12th of May, or about that time, Mr. LORIMER, as he says, reluctantly consented to become a candidate, provided that enough votes could be brought to light to satisfy him that he could be elected without a contest. He and his friends began to look around to ascertain if that could be done. The testimony of Mr. Shurtleff, of Mr. Browne, of Mr. LORIMER, and of others is that they were inquiring of the different members of the legislature in both houses to learn what could be done; that they met in the speaker's room evenings; that Mr. Browne was there; that Mr. LORIMER came in; that the speaker was there—there is no question about that—and that reports were made about how men stood. Eventually, on the 26th of May, Mr. LORIMER was elected, as everybody knows.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Indiana?

Mr DILLINGHAM. I do.

Mr. KERN. If it be true that there were this number of Democrats who were willing to vote for Mr. LORIMER all the time—that is, during the last two or three weeks—why was it necessary for Mr. Lee O'Neil Browne t pursue the activities testified to by him? Why should he do that if the Democrats were for LORIMER? Browne testified that he went out; that they held meetings, a dozen conferences in a night, going out to ascertain how certain Democrats were, and coming back and reporting; going backward and forward night after night. My question is, If the Democrats were already for LORIMER before that time, why were those activities of Lee O'Neil Browne necessary at all?

Mr. DILLINGHAM. Mr. President, I was speaking of the general condition existing among the Democrats in that legislature before their attention was directed to Mr. LORIMER, for it had not been directed to him until the time of the announcement. I say the conditions in that legislature, as shown by subsequent events, were such that the Democratic members were ready to go to Mr. LORIMER, and I think they would have gone to Mr. Shurtleff if he had become a candidate. It became necessary, in order to meet the condition laid down by Mr. Browne, that he would not support Mr. LORIMER unless he was satisfied that he could be elected, and to meet the condition laid down by Mr. LORIMER that he would not be a candidate unless he could be assured that he could be elected without a contest on the first ballot—to ascertain these facts.

There is no question about that. Mr. LORIMER says he began to look around to see how many votes he could get; his friends began to look around; and there was a general looking around. When he left the city, at the end of the week before the election, he was satisfied that he would have sufficient votes, and he had no manner of question about that fact until he heard the rumor, when in Chicago, the Sunday night before the election, that Gov. Deneen was not for him. He returned to Springfield to make further inquiries, and he let one vote be taken on the 25th of May without permitting his name to be used. After that vote was declared he was satisfied that Gov. Deneen could not turn his friends away from him, and on May 26 he allowed his name to go before the legislature, and he received the election.

OPINIONS OF PROMINENT DEMOCRATS.

Mr. Homer E. Shaw, a prominent Democrat of the house, is a banker, a man of whom everyone thinks well, and as a legislator a consistent supporter of Mr. Stringer. He did not believe it was good policy for the Democratic Party to break away from its candidate and vote for any Republican. He therefore organized a club for the avowed purpose of holding the Democratic Party together and to secure its united support for the Democratic candidate. He testifies that after two or three days' effort on the part of himself and his associates he found it impossible to hold the Democrats together; that the Chicago Democrats were extremely friendly to Senator LORIMER; that their personal friendship for Mr. LORIMER was stronger than their party fealty and affiliations, and that he knew from the start that Mr. LORIMER was the most formidable candidate who could come before the legislature.

The evidence clearly establishes a situation in the general assembly relative to the election of a United States Senator which had no dependence whatever on corruption of any kind. This conviction was expressed in the testimony of witnesses like Mr. Isley and Mr. Tippit, to the effect that no Republican in the State stood as high in the estimation of the Democratic Party as did Mr. LORIMER. Mr. Isley, an attorney, a Democrat, testifies to that effect, and Mr. Tippit, who was leader of one of the Democratic factions in the legislature, and for six terms a member of the General Assembly of Illinois, said:

My understanding is that three-fourths, probably, of the Democratic State central committee favored the election of Mr. LORIMER to the United States Senate. I think that is true.

In the State of Illinois bipartisan combinations are common. They grow out of the constitution of Illinois, which provides for a representation of the minority in the legislature. For instance, from every senatorial district three representatives are elected to the house. Every person entitled to the franchise has three votes. The individual may cast all three of his votes for one of the three candidates, or he may cast two votes for one candidate and one for a second candidate; he may divide his votes or mass them, as I have suggested. The result is that if it is a Republican district the Democrats will mass their votes on one man and in that way secure a Democratic representative. Thus they are certain of a minority representation in the legislature. The possibilities of the system naturally bring about bipartisan arrangements between Republicans and Democrats in the various elections. These combinations are common, and you will find multiplied instances of them in every Illinois election, because of the differing conditions in different districts.

MR. LORIMER'S STANDING WITH THE PEOPLE.

Couple the foregoing conditions with the fact that Mr. LORIMER had become a leading figure and justly popular with thinking people in both political parties because of his able and enthusiastic leadership in the colossal scheme to connect the Great Lakes with the Gulf of Mexico by a waterway for ships—a scheme to the accomplishment of which he had devoted years of effort—until, as Gov. Deneen expressed it, he had become a "power" in the political circles of the State. Occupying that exalted position, he refused even to consider becoming a candidate for the Senate until forced to do so if Illinois was to be represented by two Republican Senators from that State in this body.

When Mr. LORIMER entered Congress the Chicago Drainage and Ship Canal was in process of construction. It is one of the most remarkable waterways in the world. When in Chicago last autumn I traveled from Chicago to Lockport on that canal, and was profoundly impressed by what I observed. It has a depth of 26 feet, and I was told by the engineer who accompanied us that, aside from the Panama Canal, it is the largest waterway construction of its kind in the world.

The scheme of extending that canal and using the water of the Great Lakes in connection with others to establish a ship canal to the Mississippi River, and thus connect the commerce of the Lakes with that of the Gulf of Mexico, giving an outlet to the great Mississippi Valley, is one which had been agitated for many years, but had never been seriously undertaken until

the burden was assumed by Mr. LORIMER. Look at his record in connection with this magnificent scheme. As early as the year 1900 Mr. LORIMER induced the trustees of the drainage ship canal to give a banquet to Congress to discuss the deep-waterway proposition and thus give it national standing. On the 16th day of March, 1900, that banquet was given at the Raleigh Hotel in Washington, and was attended by substantially two-thirds of the Senators and Representatives in Congress. The entire evening was given to the discussion of this great project. The present Senator from Ohio [Mr. BURTON], at that time chairman of the Committee on Rivers and Harbors of the House of Representatives, was present and called a special meeting of that committee for the following evening. The following day Mr. LORIMER introduced a joint resolution for the appropriation of $200,000 for surveys from St. Louis to Lockport. That joint resolution was reported favorably by the committee, the survey was made, and the Engineer Corps of the War Department reported to Congress that it was feasible to construct a 14-foot channel at a cost of $31,000,000.

To arouse public sentiment on the matter Mr. LORIMER, at his own expense, constructed a launch in which he journeyed, traveling only by daylight, from Chicago to New Orleans. He stopped at every hamlet, village, town, and city throughout the entire distance. He took on friends at every stopping place, using them as speakers at the next, and then excusing them to take on others, repeating this process the entire distance. He held meetings at every place, large and small, and everywhere organized Lakes to the Gulf deep waterway associations. An organization of the same character among Members of Congress was also perfected by him, of which he became president and Hon. HENRY T. RAINEY became secretary.

In 1906 a great convention was held at St. Louis, consisting of 1,100 delegates, brought together as the result of this work.

In October, 1907, another great convention was held at Memphis, at which were present 3,000 delegates, among them being found 50 Members of Congress and 18 governors of States in the Mississippi Valley and the President of the United States. In 1908 another and a still larger convention was held in Chicago to encourage this great work, and its success was contributed to by the attendance of President Taft and Mr. Bryan.

After the favorable report of the Engineer Corps an appropriation of $5,000,000, to extend the drainage canal to Lake Joliet, was refused, it having been urged in debate in Congress that the Illinois Members were interested in getting money enough to improve the water-power reach of the channel, but that having done that they would have little interest in the waterway to the Gulf; that what they wanted was to develop power to yield to the State of Illinois a revenue of $3,000,000 annually for rentals.

At that stage of the proceedings Mr. LORIMER proposed to Speaker Shurtleff and others the adoption of an amendment to the constitution of Illinois providing for the expenditure of some $20,000,000 in that cause as an evidence of the sincerity and good faith of the people of that State. That amendment was submitted to the people and was carried by an overwhelming majority. Before that was done, however, Senator LORIMER, as the testimony shows, spoke in every part of the State of Illinois, exhibiting maps, charts, surveys, as well as estimates of engineers, advocating the proposition in season and out of season. He formed associations throughout the State, composed alike of Democrats and Republicans, to carry on the work. Nothing of a political nature entered into the movement; it was a question which challenged the attention of all the people of the State; they became interested in it; they approved it and wanted it; and the constitutional amendment was adopted by a majority greater than was ever given by the people of that State for any other measure.

On the 6th day of January, 1909, the very day the legislature which elected Mr. LORIMER to the Senate was organized, he, here in Washington, introduced a bill to provide for obtaining lands and other property necessary for the construction, repair, and preservation of certain public works in the interest of commerce and navigation on St. Marys River, Mich., and an appropriation was made therefor during that session, its purpose being to control the waters coming into the Great Lakes through that river, such control to be utilized in connection with the establishment of the deep waterway between the Great Lakes and the Gulf.

Mr. President, I have called attention to these facts to show the power and influence which Mr. LORIMER had attained in his legislative experience and some of the elements of strength possessed by him at the time of his election, and to account for the general trend of public sentiment in the Legislature of Illinois toward him, thus bringing to view conditions which have never been understood in the Senate of the United States.

ELECTION OF SENATOR LORIMER.

On the 26th day of May, 1909, Mr. LORIMER's name was allowed to go before the general assembly and he was elected a Senator of the United States from the State of Illinois, receiving 55 Republican and 53 Democratic votes. On the next day the Chicago Tribune published an editorial, from which the following is taken as bearing upon then existing conditions in the legislature:

> The Illinois senatorial contest is over and the result needs no extended discussion. The Tribune can not approve it, but without regard to the personality of the new Senator elect. It does not think the result is right in view of the expressions of the voters at the primary last August. The Tribune has considered that the primary election ought to be held conclusive. It accepted the result of the primary and thereafter supported the candidate whom it had not originally indorsed. For the outcome some of the more ardent friends of the direct-primary law are largely responsible, and it does not alter the situation that some of the best Republicans in the legislature have voted for the newly elected Senator.
>
> That he has been elected largely by Democratic votes does not in itself disturb the Tribune. The Tribune will usually welcome the support of Democratic votes for Republican candidates, whether voting for a Republican Senator or a Republican President. The discontent of this paper relates to the Republican legislators and Republican leaders who have seen fit to ignore the results of a primary that ought fairly and justly to have been held binding.

NO CLAIM OF BRIBERY OR CORRUPTION WAS MADE BY ANYONE—THE ELECTION WAS REGARDED AS THE NATURAL OUTCOME OF A DEADLOCK WHICH HAD COVERED A PERIOD OF FOUR MONTHS.

Having traced the history of the election of Mr. LORIMER to its completion, I need only add that Senator LORIMER appeared in this body, bearing unquestioned credentials, took the oath of office, and served for a whole year.

THE BREAKING OF THE STORM.

On the morning of April 30, 1910, nearly a year after Mr. LORIMER entered the Senate, there appeared in the Chicago Tribune a story purporting to have been written by Charles A. White, which involved two propositions; first, the existence of a condition of corruption in the Illinois Legislature in the form of a jack pot made up of contributions from corporations interested in pending legislation, to be distributed among certain members of the general assembly, the purpose being to control legislation in which such corporations were interested, and having no reference whatever to the senatorial election; secondly, a specific charge that his, White's, vote for Senator LORIMER was the result of a definite agreement entered into by him with Mr. Lee O'Neil Browne on the night of May 24, 1909, that in consideration of $1,000 to be paid him by Browne he would vote for WILLIAM LORIMER.

On the 28th of May, 1910, Senator LORIMER addressed the Senate, denied White's story in every detail, charged a conspiracy against himself, and offered a resolution providing for an investigation of the circumstances connected with his election. The matter was referred to the Committee on Privileges and Elections, which acted through a subcommittee over which the then chairman of the committee, Senator Burrows, presided. The subcommittee made a report stating that after seeing, observing, and hearing Mr. White as a witness and taking into consideration other evidence bearing on the question of the truthfulness or the falsity of the testimony that he gave, it was the opinion of six out of seven of such subcommittee that no credence should be given to his testimony tending to establish bribery. In that report the full committee, with two exceptions, concurred. The case was exhaustively debated in the Senate, and on March 1, 1911, Senator LORIMER's right to retain his seat in the United States Senate was established.

It will be remembered that the Burrows committee in its report to the Senate stated that if the money paid to Mr. White came from any fund it must have been from a jack-pot fund, but that it had nothing whatever to do with Mr. LORIMER's election. That committee felt that it had no authority to investigate the character of that fund, and therefore this body was without any of the information which naturally would come from an investigation of that nature.

After Mr. LORIMER's right to retain his seat in the Senate had been determined it appears that a committee of the Illinois Senate, which has been called the "Helm committee," began its sittings in Springfield, and it compelled the attendance as a witness of Mr. Kohlsaat, of the Chicago Record-Herald, who just previous to that time had published an editorial in which he inquired "Do we know all there is to be known concerning the $100,000 fund that was raised to pay for LORIMER's votes?" and required him to testify as to the subject matter to which that editorial referred. He utterly refused to impart the source of his information, saying that it had come to him in confidence, and while he had faith in it himself he was not at liberty to disclose it. It resulted in the committee taking a recess for a week in order to give him time to consider. It was very evident that the committee intended to enforce its authority and

to compel Mr. Kohlsaat to testify, and the public press announced that he was facing imprisonment should he continue in contempt of the committee's authority.

FIRST INTIMATION OF ANY CORRUPTION FUND.

As a result of this situation, Clarence S. Funk, general manager of the International Harvester Co., the person from whom he had received that information and whose name up to that time and for more than a year he had concealed, came forward and announced that he was the author of the statement. Mr. Funk appeared before that committee and testified, and this was the very first definite suggestion even that ever came to the public of any specific fund that could have been used to promote the election of Mr. LORIMER, and this was the first intimation the Senate had concerning such a fund.

The testimony given by Mr. Funk before the Helm committee, as reported by that committee to this body, was as follows:

That in the latter part of the month of May, 1909, or the early part of the month of June, 1909, and shortly after the election of WILLIAM LORIMER to the United States Senate, he had a conversation in the city of Chicago with Edward Hines, of the Edward Hines Lumber Co., in which conversation Mr. Hines informed him that, with others, he had succeeded in electing Mr. LORIMER to the United States Senate at a cost to him and the other unnamed persons of about $100,000.

That the money so used had to be raised quickly and without any opportunity to consult persons who might have been willing to contribute to such election, and that he, said Hines, was then engaged in seeing people who might be willing to reimburse and pay back the said sum of $100,000, and that in pursuance of such purpose he sought Mr. Funk with a request that the company of which Mr. Funk was general manager should contribute $10,000 toward the reimbursement of the advancement theretofore made by Mr. Hines and his unknown associates, with the added direction that said contribution should be sent to Edward Tilden, at Chicago.

ACTION OF THE SENATE.

The newspapers teemed with accounts of the testimony given by Mr. Funk before the Helm committee, and on the day following Senator LA FOLLETTE introduced a resolution into this body providing for a new investigation of the case.

The press of the country, as I have said, gave great publicity to Mr. Funk's testimony before the Helm committee, and in support of his resolution Senator LA FOLLETTE made an address occupying parts of several days, exhibiting an interest in this matter which was honorable to himself and to the credit of the body in which he served, showing an earnest desire to go to the very bottom of the question and to ascertain the fundamental facts. In the resolution which he offered he referred to this newly discovered evidence which had appeared through the public press.

Other resolutions were introduced, but the debate in the Senate related more to the question of the composition of the committee than otherwise, and a resolution was adopted which committed the investigation to the committee of which I have the honor to be the chairman.

The ground upon which the case was reopened, as stated by all of the resolutions and by almost every speaker, was that of newly discovered evidence, the story of Mr. Funk being its subject matter, coupled with the request of the Illinois Senate that this body take further action. I was of the opinion that the case ought to be reopened upon the grounds mentioned, that the Senate had authority to reopen the case, whatever one might think of the doctrine of res adjudicata and its application to cases of this character. I had in my mind, and in the few remarks which I then made I cited, the du Pont case, in which the report of the committee was drawn by the late Senator Hoar of Massachusetts. In it he said:

We do not doubt that the Senate, like other courts, may review its own judgments where new evidence has been discovered, or where by reason of fraud or accident it appears that the judgment ought to be reviewed. The remedy which in other courts may be given by writs of review or error or bills of review may doubtless be given here by a simple vote reversing the first adjudication. We have no doubt that a legal doctrine involved in a former judgment of the Senate may be overruled in later cases. But there is no case known in other judicial tribunals in which a final judgment in the same case can be rescinded or reversed merely because the composition of the court has changed or because the members of the court who originally decided it have changed their minds as to the law or fact which is involved.

THE PRECISE QUESTIONS TO BE INVESTIGATED.

The resolution which was finally adopted by the Senate contained two specific provisions. The precise question submitted to the committee for investigation was whether in the election of WILLIAM LORIMER as a Senator of the United States from Illinois there were used and employed corrupt methods and practices. The committee was further and specially instructed to inquire fully into and report upon the sources and use of the alleged jack-pot fund, or any other fund, in its relation and effect, if any, upon the election of WILLIAM LORIMER to the Senate.

Under the instructions contained in this resolution this committee spent in taking testimony alone 102 days. The evidence submitted to the Senate covers between eight and nine thousand printed pages; the time consumed in the consideration of this evidence has been so great as to become a burden to those who drew the report. Those who have done the committee the honor to read its report have found there recorded the salient facts of the case, with a reference to the record where evidence bearing upon each question may be found, as well as the opinions of the committee founded thereon. In the views of the minority, also presented to the Senate, further light and suggestion is to be found.

But to aid the Senate in coming to a correct solution of the questions involved I have thought it best to review a little more in detail some of the more essential features of the case and to call attention to some of the more important testimony.

THE JACK POT.

It may be best, in the first instance, to take up this question of the jack pot, which has excited so much interest, and ascertain what the evidence discloses in respect of its existence and its uses.

The Senate will appreciate, I think, the difficulty of securing evidence of the existence of a jack pot; that is, by any direct testimony, because men who contribute to such a corruption fund are loath to testify, and men who have been participants in it will not willingly disclose the facts. The committee has been compelled to receive more or less of hearsay testimony, and to treat it for what it is worth in the light of the surrounding circumstances. When we called as witnesses men whom we supposed might have more knowledge of the subject than others, because of their interest in the question and their efforts to ascertain the truth as to the alleged existence of such a fund, there was a pretty general consensus of opinion among them that for many years such jack. pots had been formed in the Illinois Legislature. Many members of that body in 1909 testified that they had never heard the question discussed; others that while it had been discussed, it was in a joking way; that, if a man changed his vote on any question, or if a bill passed or failed to pass, some one would ask, "What was in it?" or make other inquiry of that character; but there were thoughtful witnesses who testified to gossip and common report to the effect that in previous legislatures and in the legislature of 1909 corruption had been practiced either to secure or to retard legislation.

Mr. Hinman, editor of the Chicago Inter Ocean, testified that, while having no personal knowledge on the subject, it was a matter of common report, and that in his opinion and belief, there had been a jack pot in every legislature since he had lived in Illinois, a period of 12 years, and that common report connected the liquor interests with the jack pot.

Mr. Keeley, manager and editor of the Chicago Tribune, testified that he heard charges that there were jack pots; that various bills were "hold-up" bills; that money had been paid or solicited before their passage; that the liquor interests had contributed to it; that it was a matter of common gossip, but not of knowledge, and that, in his experience of 20 years in the newspaper business, it had been common gossip, but apparently incapable of proof.

Mr. Kohlsaat, editor of the Chicago Record-Herald, testified that it was the general impression that a jack pot had been an established institution in the Legislature of Illinois for years, although he had no definite knowledge on the subject.

The speaker of the house, Mr. Shurtleff, in his testimony, states that during his service in the legislature he heard many statements regarding corruption, some of which he thinks were seriously made and others in a jocular way; but, to be more specific, he says that in the spring of 1909 he was invited to a dinner by certain gentlemen from different parts of the country who were connected with railroads at which the subject of railroad legislation was discussed, and a protest made against the nature of bills that were introduced in the legislature, and they sought his cooperation, as speaker in the assembly of 1909, against bills and proposed legislation which they deemed radical. He does not remember the language used, but says that he absorbed the idea that in years back the railroads had felt that they had been blackmailed or compelled to pay tribute, and that the dinner was by way of a declaration of independence from such legislation, and to ask his assistance in the effort they were making to protect themselves against being held up and blackmailed. No particular bill was discussed and no specific instance alleged.

Gov. Deneen had become very much interested in this question of a jack pot, and in one of the political campaigns since Mr. LORIMER's election had made that a topic of discussion in some parts of the State. He testified in substance that there is a general understanding that the jack pots began in 1897 and have continued ever since. Concerning the existence of jack pots he did not profess to have any personal knowledge or to be

able to state any definite facts, but he testified that it is the general understanding in Illinois that money is paid; that it accumulates in the hands of several men; and is distributed according to the judgment of the men who control it.

He further testified that he did not know upon what principle the pot was distributed, but assumed that the men who gather the fund, certain leaders, have the determining power as to how it shall be done. He testified that he had heard that railroads had contributed for years to protect themselves against legislation. He also mentioned gas companies, or the gas company of Chicago; also electric-light companies, the liquor interests, stock-yard companies, and elevator companies; and he thought that the Pullman Co. and the street-car companies have contributed; that such is the general rumor; that he does not know that it is based on facts at all; that he never made an investigation; and that he has no power or facility to do that—and yet that was his judgment, standing in the intimate relation to the legislature compelled by his duties.

Gov. Deneen became more specific in his allegations as the testimony went on, and testified that in the forty-sixth general assembly, that of 1909—the assembly which elected Mr. LORIMER to this body, railroad presidents from different parts of the country asked him to meet them, saying that bills were being presented that went to the length of confiscation of their property, and that under the Federal laws their books were examined to such an extent that they could not do what they were going to be asked to do, even if they wanted to; the implication being that their books, under the Federal law, were so examined that they could not make contributions to the Illinois Legislature, even if they wanted to do it, without discovery; that they were against such practices, except in self-defense, when men held them up at the point of a gun.

The governor testified that he told them that the only way to do would be to call in the leading men, to have them go down to Springfield in such numbers as to overcome the influence of the other men, and that they said they intended to make a stand against the practice, and that they would cease to be held up by them.

Gov. Deneen further testified that, according to the newspapers, they sent a thousand men down there at one time; that they were greatly excited about the matter, and appealed to him for aid. Further testifying, the governor said that the implication was that the railroads had been previously held up and that they took that method of defeating legislation instead of contributing to a jack pot.

From this evidence the committee found that the term "jack pot" as used by the people of Illinois and by the newspapers of that State referred to a supposed fund created by contributions of persons and corporations for the purpose either to secure or defeat pending or proposed legislation; such fund to be corruptly used for one of those purposes and divided, ordinarily, a considerable time after the adjournment of the legislature. So, without having any direct positive proof of the existence of this jack pot and nothing except what could be gathered from the circumstantial evidence adduced, but which satisfies me, personally, as to the existence of specific jack pots. the committee could only report that a general belief existed among many classes of people in Illinois that corruption funds, which had recently come to be known as "jack pots," have been more or less common in connection with the legislature of that State. As I have said before, personally I am fully convinced of that fact from the circumstances which have come to my attention.

THE JACK POT OF 1909.

This brings us to the question of whether there was a jack pot in the legislature of 1909, which elected a United States Senator. This is not only confessed, but it is asserted by men who know. Three members of that legislature have been before investigating committees and before courts—Mr. White, Mr. Link, and Mr. Beckemeyer. Link is dead, but his testimony has been preserved. There is, as has been suggested by my friend the Senator from Indiana [Mr. KERN] in his speech the other day, reason to suspect that a considerable number in addition to those named were participants in this fund, but there is no satisfactory evidence of that fact. In the case of these three men, however, there can be no doubt about it, because of their own confessions and their own actions.

Before we go further let me state who Mr. White is. He is a young man. When he came to the legislature he was 28 years of age. He had been in various employments until he became a street car conductor at O'Fallon, Ill., and the largest wage he had ever received was $65 a month. In the preceding legislature he had been a "legislative representative," as he called himself, of certain labor organizations. He was a young, bright, and energetic fellow; he had made himself popular in labor circles; they had sent him to Springfield in 1907 as their representative to look after legislation there; and he was allowed $6 a day and his expenses, as against $65 a month, which he had received as a conductor.

He spent that session without profit to himself. The evidence all shows that he fell into dissipation and all manner of excesses. He came in contact with men whose influence upon him was such that his mind was filled with the thought of securing money without labor.

At the end of that session he returned to O'Fallon, but was not happy working for $65 a month. He interested himself at once in local politics, and through the influence of his labor organizations he secured an election to the General Assembly of Illinois which convened in January, 1909.

Link and Beckemeyer, whom I have mentioned, were also members of that legislature. Each one of these three received from the jack pot of that year $1,900. How did they receive it? Each one of them received $1,000 from Lee O'Neil Browne; each one of them received $900 from one Robert E. Wilson. The money came from the same source, and must have belonged to a common fund, and the nature of that fund must determine the controversy in this case. If that was an ordinary jack-pot fund that had been raised to control legislation, contributed to by parties who were interested in specific measures, either to retard or to give impulse to the passage of the same, it was the jack-pot fund to which the governor and the speaker referred in their testimony, which, after the close of the session, was divided among those who had been faithful followers of the leaders who had collected such fund. On the other hand, if that fund was raised to elect WILLIAM LORIMER, then the case is altogether a different one; and that is the question to which the attention of the Senate should be directed. And I want to call attention to the fact that nowhere in the record, from beginning to end, can there be found a word of testimony indicating that the fund from which these payments were made, either in its origin or application, had anything to do with the election of WILLIAM LORIMER to the Senate of the United States.

Charles A. White is the only witness who makes the charge that any money was raised or paid to anyone for voting for WILLIAM LORIMER. He says that Lee O'Neil Browne, when he paid him that thousand dollars, paid it to him because he had promised on the night of May 24, 1909, to vote for WILLIAM LORIMER, but even he admits that the $900 that came from Wilson was jack-pot money.

There you have from the chief witness in this case the admission of the existence of a jack pot in that legislature, a legislative jack pot, a corruption fund to control legislation. White admits it, and says the $900 came from that fund.

On the other hand, Link and Beckemeyer admitting that they, like White, got the $1,000 and the $900, both say it had nothing to do with WILLIAM LORIMER, but was all jack-pot money; a fact which I will demonstrate before I complete these remarks. And I want to say to Senators that when they determine this case they will be compelled to do so upon the claim made by White, that on the night of May 24 he was bribed by Lee O'Neil Browne to vote for Mr. LORIMER in consideration of $1,000, to be paid him in consideration of such vote. The case stands or falls upon the truth or falsity of his statement.

When the Senate comes to face the question in the light of all the record contains, it will be forced to determine whether, upon the testimony of Charles A. White, they will blast a fellow Senator's reputation and deprive the State of Illinois of the services of one whom its legislature has elected to this body.

What kind of a man was White? He had drawn in about seven weeks, and had spent his entire salary, mileage, and stationery allowance, amounting to $2,132. He admits that during the session he had communicated to Mr. Browne his embarrassed circumstances; he was a spendthrift; he was given to dissipation; and he says that Browne had said if things worked out all right he thought White would be able to make a little side money out of the session, as he did. He admitted that $900 of it was from that fund, and I will demonstrate that the whole amount, $1,900, was also from that fund.

When and how was this money paid? White was so hard up that he went to Browne before the legislature adjourned in order to get help, and he received $100 from him before he left Springfield.

Then White went to Chicago and received the balance of the thousand dollars, $50 on the evening of June 16, and $850 on the following morning, June 17. Now, what follows? On June 21, four days later, Mr. Browne went to St. Louis, out of the State, and there paid $1,000 each to Beckemeyer and Link. White was not present on this occasion, he having been paid the same amount as the other men who say it was jack-

pot money and that it had nothing to do with the election of Senator LORIMER.

A few weeks later, and on July 15, at the suggestion of Browne and Wilson—when you speak of one you must speak of the other, because they were acting fully in concert—all of these parties, including White, went to St. Louis, and there they were paid $900 apiece by Wilson.

Now, then, if there is any fact in the world that can be firmly established it is that these three men stood upon the same plane; that they were paid precisely the same sums of money by precisely the same persons and at substantially the same time. Link and Beckemeyer not only confess, but assert it was jack-pot money, and White admits that $900 of it was from that fund. It was a common fund and equally divided among these men.

Through whom did it come? I have already said that it came through Lee O'Neil Browne, the leader of the Democratic minority. Who Mr. Browne is will more fully appear as the discussion proceeds.

Now, then, how was this fund raised? Who were its contributors? The committee received little light on that subject. It is not easy to say how men are influenced in a legislature. The corruptionist does not confess his crime. He who receives the corrupt fund does not confess his guilt. But here is a suggestive incident taken from the testimony of Mr. Hull, who was a follower of Gov. Deneen. He is a bright man, a lawyer, and from Chicago. He referred to a bill introduced into the legislature to prevent brewers from having an interest in saloons which dealt in their products. That bill was considered by the committee on licenses and was favorably reported to the legislature—it was a unanimous report. He described how vigorously and earnestly the measure was supported; how the bill was urged on to its second reading in the afternoon of a certain day. It appeared as though it would be rushed to a third reading and to the question of its passage with the greatest possible speed. It received its second reading and went to the calendar. Mr. Hull suspected that the urgent support of the bill would have accomplished its purpose and that the bill would be allowed to die. In the evening he discovered it was not called up for a third reading by those who had previously pushed it so vigorously, so he arranged with the speaker to do so, and himself called it up for a third reading. What was the result? What was the vote on it? The committee, composed of 24 members, had unanimously reported the bill, On the question of its third reading only 2 of the 24 voted in favor of it, while 14 members of the committee voted against it. Eight were absent or not voting.

What was the inference? The inference was that after the bill had reached its second reading, having been pushed to that point with vigor, the matter was "arranged." It is surmised that this bill may have been one of the sources of the jack pot of 1909. That is as far as the committee could go in securing evidence in connection with that measure, but the facts already stated are eloquent in and of themselves; and if corruption existed in connection with liquor legislation, what can be expected in connection with other classes of legislation coming before that body?

White, in his jack-pot story, tells of a trip taken by him upon the Lakes in the following summer with Lee O'Neil Browne and others friends, while he was living a life of dissipation; that Browne stated to him at that time that had it not been for the veto of a certain bill by the governor at the close of that session there would have been $35,000 more paid into the legislative jack pot. He did not know what bill it was. This came to the attention of Mr. Keeley, of the Chicago Tribune, when he first read the White story. He went to Gov. Deneen for counsel. That circumstance was mentioned, and the governor thought he identified it as Senate bill No. 286, known as the "corporation bill," a measure which proposed to revolutionize a policy of Illinois, which had been in existence for 50 years, limiting the powers of corporations to absorb one another. By the terms of this measure any corporation might own stock in another corporation and might organize, as Gov. Deneen expressed it, as a barber shop and proceed to run a railroad. I will have more to say about this in another connection as we proceed. Its only bearing at this point is to indicate one of the ways in which jack pots are supposed to have been created.

WHITE'S STORY IS A FABRICATION.

Charles A. White's present story of having been bribed by the payment of a thousand dollars to vote for Mr. LORIMER is a fabrication to carry out the purposes of a corrupt mind. The evidence is conclusive upon this point.

Why did he invent this story?

His experience as a lobbyist the year before had opened his eyes to what was going on. He was a man of corrupt instincts. As I have said, up to that time he had been a street car conductor at $65 a month; in 1907 a legislative agent at $6 per day and expenses, and during that session he lived at a first-class hotel and fell into habits of extravagance and of dissipation. We have the testimony of William M. Rossell, secretary of the legislative committee of the Chicago Federation of Labor and vice president of No. 208, International Association of Machinists, who had been appointed by Gov. Deneen on a committee to investigate and prepare a bill for the health, comfort, and protection of employees in factories. He testified to a wild scheme that White had suggested to him, to the effect that they secure pictures of members of that legislature under compromising circumstances, give public entertainments about the State, one of them exhibiting the pictures and the other delivering a lecture regarding them, out of which, according to White's plan, they would make a "barrel of money." Whatever importance may be attached to that testimony, it simply indicates the character of White's mind and the direction in which it was running.

He went home and says that he heard one Pratt, a man connected with labor organizations, make a statement, in which he said that he had accepted a bribe of $5,000 and had used it himself, spent it for his own purposes. His justification of the act was that he had disclosed the fact to his associates; there was nothing wrong in taking it; that he had not done it secretly; that he had not been influenced by it, but he was boasting of it to his associates, and it was very evident that that story inspired White.

White was elected to the legislature of 1909, and he admits that he went to Springfield with such a purpose in view. Listen to his own statements:

Mr. WHITE. I did not say I had made the statement that I would accept bribes.

The CHAIRMAN. What was in your mind?

Mr. WHITE. That was in my mind when I did it; yes, sir; that I would.

Think of the character of that man's mind. In his testimony before this committee he attempted to justify boodling upon the ground that when bribes were given they were given by what he called "the interests"—I suppose he refers to corrupt interests—and he justified such action on his part on the ground that the money having come from such sources he had a perfect right to take it, because he could put it into circulation where it would do the common people some good. Those are the morals of the man upon whose testimony you must depend if Senator LORIMER is to be turned out of this body.

What was the relation between Mr. Browne and Mr. White? Mr. Browne, as soon as he was elected to the legislature, was a candidate for minority leader. White was a new member with a definite purpose. The senatorship was not a question. There was not a man in Illinois at that time who did not believe that one of the three candidates voted for in the primaries—that is to say, Mr. Hopkins, Mr. Foss, and Mr. Mason—would be elected, and the suggestion of Mr. LORIMER'S name was not made until nearly six months after Mr. Browne announced his candidacy and began canvass for the position of minority leader. The acquaintance between Browne and White began on the 20th of November, 1908, when Mr. Browne wrote Mr. White, addressing him as "Dear sir and fellow Democrat," congratulating him upon his election and announcing his candidacy and asking for White's support. In this letter he uses this language.

If I am honored by your support, I can assure you that that support will be appreciated sincerely and that you will find me ever ready to meet you fully along friendship's lines. If elected leader, I will do all in my power to be a leader for the good of the minority and its individual membership. I shall have the best interests and the record of that minority constantly at heart.

Then in a postscript he suggests a meeting at St. Louis at the Southern Hotel, Friday, November 27:

I shall be there at that time, and hope you will make it a point and find it possible to meet me and the others. I believe it to be somewhat important.

On the following day White received a letter from M. S. Link, whom I have mentioned. He had served in a previous legislature. He congratulates Mr. White upon his election to the house of representatives and says:

I think Lee O'Neil Browne, of Ottawa, will be chosen Democratic leader, and a worthy one he will make; and, my friend, I assure you that it is far better to be with the majority than on the outside. Take my advice and be for him.

November 23 Mr. White wrote to Mr. Browne saying that he has received several letters from members who desire to become the leader on the Democratic side, "but have not pledged myself to the support of anyone." The evidence does not show that there was a large number aspiring to that position. Mr. Tippit was a candidate. Mr. White continues:

I am inclined to believe you would make a worthy leader, because I think you have the ability and firmness that such position requires.

I will try and see you at the Southern Hotel, St. Louis, Friday, and have a talk with you.

Between November 23 and December 3, 1908, they held the meeting at St. Louis.

December 23 Browne called his supporters to Chicago for a conference, and he wrote White:

I am especially desirous and anxious to see you at my headquarters and have a talk with you the first thing Monday morning and before the meeting. I believe it to be important to both of us.

December 28 White thought so, too, and he was in Chicago at Mr. Browne's banquet, which was given at the Sherman House to his supporters.

December 31 Mr. Browne wrote to Mr. White urging White to be at the preliminary caucus of his supporters at 3 o'clock p. m., January 5, 1909; and in his letter of January 1 to Mr. White he says:

I hope you will find it possible to be at Springfield early Monday, or, better still, Sunday some time. While we have the other crowd beaten forty ways, as you saw clearly at Chicago on Monday, at the same time we must not let up for a minute. I shall rely on such good, solid friends as yourself and others like you to keep up the good work. All the members will get in Monday, and I would like to have you there and meet them and interview all the new members who are not with me. Try to get there early. My best regards to you, old man. We will win in a walk.

Then, in his postscript he suggested:

P. S. Have you sent for your transportation as yet?
Chicago & Alton, write to president Chicago & Alton Railroad, Railway Exchange Building, Chicago, Ill.
Illinois Central, write John G. Dieman, general counsel, Park Row, Chicago, Ill.
Wabash Railroad Co., write Col. Wells H. Blodgett, general counsel, St. Louis, Mo.
Pullman passes, write Hon. John H. Runnels, general counsel Pullman Parlor Car Co., Pullman Building, Chicago, Ill., for one-half dozen sets Pullman passes, and return, good 60 days.
More later, as soon as lists are made out.

I read these letters simply to show you these two men were being drawn together, Browne as leader and Mr. White as follower. After reaching Chicago White signed a written agreement to support Mr. Browne for minority leader, and he says he did it without objection. The caucus was held and Mr. Browne was nominated, but Mr. Tippit, who had also been a candidate, refused to stand by that action, and he organized a faction of his own containing 26 men, and thereafter during the session Browne and Tippit were leaders of different factions of the Democratic Party.

Mr. White's mental attitude is indicated by the fact that he testifies that the Illinois Southern Railroad Co. sent its attorney to him with a pass, asking him to vote against a certain specific bill—Senate 313—a bill that provided for making findings of fact by juries final, but he says that Browne advocated the bill and, although he had accepted the pass, he voted for it. Mr. White is not a modest man in his demands. Nobody, I think, who has heard him or has read his testimony, will conceive for a moment that he is. We find that early in the session in a letter without date he wrote to Mr. Browne, saying:

I herewith inclose you a list of the committees that I would like to be appointed on.

Here is the list of committees:

(1) Appropriations, (2) corporations, (3) deep waterways, (4) manufactures, (5) mines and mining, (6) penal and reformatory institutions, (7) railroads, (8) insurance, (9) to visit penal and reformatory institutions.

He was a man who did business on his own initiative. During that session Mr. Curran, chairman of the committee on labor, says that Mr. White requested him to hold up the women's 10-hour bill, which White, as a member of that committee, had agreed to have reported favorably; they had considerable discussion over it, and when Mr. Curran refused to hold it up, Mr. White said, "I thought you were a 'good fellow.'" What did he mean by that expression "good fellow"? Mr. Curran thought that he knew what he meant, although White made no explanation at that time; but we find that when White had prepared his story of the jack pot he told his counsel, Mr. Webb, to whom he submitted the manuscript to ascertain if he was making himself criminally liable, that he got $900 as a member of the "good-fellow gang." There is his own interpretation of that term, admitting, as he does, that it came from the jack-pot fund.

Mr. Doyle, who was inspector of boilers on the Wabash Road, went to Springfield to oppose certain provisions of several railroad bills, representing both the employees in certain departments of the railroads and the railroads themselves in that connection. He says that coming across the rotunda of the State House he met Mr. White.

Mr. HANECY. Charles A. White?
Mr. DOYLE. Yes, sir. He said to me, "How is railroad legislation coming on?" I said, "All right." He said, "You fellows are the damnest cheapest bunch I ever saw. How do you expect us fellows to live around here; on wind?" I said, "I do not know. I have not got a dollar to give you or to cite you to where you could get any. I am surprised at you making that statement, elected as you were." Somebody stepped up, and the conversation ended there.

White followed it up the next day, as the following testimony of Mr. Doyle indicates:

It was, if I am correct, the next afternoon. I was on the Democratic side, in the lobby there, and he came along and said, "You fellows had better get busy. You are not out of the woods yet." I said, "We are busy." I did not want to get into any argument with him, and walked away.
Mr. HANECY. You said that when you met Charlie White you said to him you did not have any money and could not give him any, and did not know where he could get it.
Mr. DOYLE. Yes, sir.
Mr. HANECY. Or that in substance?
Mr. DOYLE. Yes, sir.

This is one of the incidents cropping out in evidence, indicating White's corrupt mind and his manner of approaching those representing different interests in that legislature.

Another significant circumstance occurs to me. The session had advanced to May 31. It was after the election of Senator LORIMER, which occurred on May 26. Mr. Browne wrote to Mr. White May 31, 1909:

It has been determined for everybody to be here for roll call on Thursday morning next. We will have to have a full house at that time in order to close up the business of the session and bring about a sine die adjournment. It can not be accomplished without a full attendance. Please be here for Thursday morning roll call.

It struck me as peculiar that the legislature could not adjourn without having a full house, but it occurred to me also that there is evidence in the case—the evidence of Gov. Deneen and others, which I dislike exceedingly to take the time of the Senate to read, but which may indicate why it was necessary to have a full house. He states that a large number of bills—800 to 1,300—are introduced during a session, and that they have about 60 committees to which the bills are referred.

The majority elect a speaker and the minority agree upon a leader. The speaker and the minority leader arrange for the appointment of the committees and their chairmen. Then the committees meet and begin their work. Gov. Deneen says:

The bills that are introduced to regulate corporations—they are all regulated out there—are introduced and receive about the same consideration. They get through one house and get up to the second reading in the second house—the lower house usually, because they are more numerous in number—and the struggle then begins to get those bills to action and to prevent action. At that time the date of adjournment is fixed by joint resolution, and they pass most of the legislation. For instance, in one of the legislatures that has been in session since I have been governor they passed about 235 or 240 bills. About 20 or 25 of those were passed the second day preceding the adjournment, and all the rest of them were passed in the last two days.

There, Mr. President, is the opportunity that has been suggested, when the work can be done. It is at a particular stage in the legislature. When time and circumstances combine to make possible "hold ups" of corporations which are interested in pending legislation and thus secure contributions to the jack-pot fund.

On February 26 I find that Mr. Browne was writing to Mr. White as one of his followers. He says:

The senate reapportionment bill will in all probability be sent across from the senate to the house on Monday next, and will be up for consideration in the house next week. For which reason, in addition to several other reasons, I believe it important that each member should be present on Tuesday morning next.

On March 5 he was writing to him at O'Fallon, saying:

I believe that it is absolutely necessary for you, as well as the rest of our fellows, to be present in the house next Tuesday morning when the session opens. Please be there without fail at that time.

I have read these letters to show that Mr. White was a follower of and on best terms with Mr. Browne, minority leader of that house, and that they sustained close relations.

HOW THE JACK-POT MONEY WAS PAID.

White left there June 5 or 6. June 7 he wrote to Browne.

Before leaving Springfield he had received $100 from Mr. Browne. There is no copy of the letter that he wrote to Mr. Browne after getting away, but he testifies:

At that time I had those offices, as I told you here some time ago, in East St. Louis, and they had practically drained all of my financial resources. I wrote Mr. Browne a letter, I think, asking him for some advice upon the question of my continuing that office and made a request of him that he give me the other money as soon as possible.

That is the unpaid portion coming to him of the thousand dollars that was to be paid to each of these men. He received a letter June 9 from Mr. Browne, which is quite long and full of meaningless expressions; but in it he uses this expression:

I would hardly know what to say to you without seeing you personally. In any event, unless you would care to see me before that time by coming here or meeting me in Chicago, I expect to see you and have a visit with you some time within the next two weeks. I shall be only too glad to advise with you along the line of the matters referred to and suggest anything that may be appropriate and proper. You know where I stand, old man, and that I will go my length for you. Should you find it necessary to see me before the end of the next two weeks you had better arrange to come to Chicago and meet me there.

Later on in the letter he says:

I want you to feel and realize that I am as good a friend as you have in the world, and that I am not only willing but ready to do anything in my power for you at any time.

Mr. REED. What is the date of that letter?

Mr. DILLINGHAM. The date of that letter is June 9.

Four days later Browne wrote to White at the Briggs House, Chicago, saying:

FRIEND CHARLES: Your letter did not reach me till too late to do any good. I was in Chicago, but could not have remained longer had I got your letter. Got home here this evening and am due in court to-morrow a. m. But, Charlie, I will be in Chicago Tuesday or Wednesday sure (this is under your hat, though, for I do not want to be bothered by every job hunter in Chicago). If you can wait, I'll do my best to see you. I'll be at the Briggs when there.

Three days later, June 16 and 17, White was in Chicago and met Browne at the Briggs House, and in the evening Browne gave him $50 in money and the next morning he paid him $850, which, with the $100 paid him in Springfield, made the thousand dollars which he says he received from Browne; and this was only four days before Browne went to St. Louis and paid the same amount to the other men. It was a common fund which he was dividing. White was simply one of the participants.

Mr. REED. I dislike to interrupt the Senator, but I should like to have him answer another question.

Mr. DILLINGHAM. Certainly.

Mr. REED. Is it conceded that Browne did pay this sum of money—a thousand dollars—to White?

Mr. DILLINGHAM. Absolutely; and he paid a like sum to three or four others; probably more.

Mr. REED. And that was a corruption fund of some kind?

Mr. DILLINGHAM. That is what I think.

Mr. REED. Now, is it not true that Senator LORIMER contributed $10,000 to the defense of this man Browne who, you admit, and who the record clearly shows, had been guilty of corruption?

Mr. DILLINGHAM. He did; and I will explain the circumstance. I will do it very fully and be very glad to do it——

Mr. REED. Very well; I shall be pleased to hear the explanation.

Mr. DILLINGHAM. That question came up at the first meeting between the State's attorney, Mr. Wayman, and the manager of the Chicago Tribune, Mr. James Keeley, before the Tribune bought the story from Charles A. White. At that time Mr. Wayman told Mr. Keeley that White's story was only a 20 per cent story at best, and he also told him that Mr. LORIMER would be obliged to defend any man charged with receiving money because of his vote for him for United States Senator, because the Tribune fight was against Mr. LORIMER and not against the corruption in the Illinois Legislature. I think I would have done the same had I been in Senator LORIMER's place. If the same combination had been working to convict a man, and through that man to charge me wrongfully with having been the beneficiary of corruption, I would spend all my money in an effort to destroy such a conspiracy.

Mr. REED. And to clear a man who had been guilty of corrupting the legislature?

Mr. DILLINGHAM. No, sir; not at all. I do not say anything about Lee O'Neil Browne in connection with legislative corruption.

I am not standing here to defend him. But when an attempt is made to connect that fund with Senator LORIMER's election I stand here to deny the right to do it on the evidence and record in this case. They have failed in the courts of Illinois to do it. Every time the question has been decided, where the principles of law and justice could be applied; where the tryers acted in a judicial capacity upon their convictions and upon knowledge, an acquittal has followed.

Mr. REED. Oh, yes; and also the reelection of Mr. Browne; and the Senator stands here and admits they are guilty of the grossest corruption. I want to say this. I think the Senator did not mean to say that he would in any way under any circumstances have put himself in the position of defending that sort of a man. I can not imagine the Senator doing that.

Mr. DILLINGHAM. If I found that in a case like this men had been paid money corruptly for their action in the legislature, knowing that it had nothing whatever to do with me, and it was attempted by a combination of political enemies to make it appear that it was money that I had furnished or that my friends had furnished for my election, and the issue was to be tried in the court, one man having been charged as the agent through which it was claimed it was done, I would have defended him to the extent of my means and my power. That is just what I mean.

Mr. REED. If the Senator will pardon me, does not the Senator think that it would be more pertinent to defend himself instead of standing to defend, if not a self-confessed, at least a clearly guilty rogue?

Mr. DILLINGHAM. That is just precisely what Senator LORIMER was doing. It was self-defense, and nothing but self-defense.

Returning to the question under discussion, when Mr. White tells about taking that thousand dollars from Lee O'Neil Browne he gives himself away in the statement he makes, and I want the Senate to give attention to the fact. He shows that it was a part of this general corruption fund to control legislation. Continuing his testimony, he says:

During this conversation he said that some of the Chicago members wanted to handle the Chicago end of it, but that he was going to handle it himself.

What is the "Chicago end" of a case of bribery between Browne and White? I wish somebody would tell me.

During this conversation he said that some of the Chicago members wanted to handle the Chicago end of it, but that he was going to handle it himself.

What does it mean? It means the fund from which that thousand dollars came.

He went on to say that a little later on, about the 15th of July, he would be able to give me that much or a little more.

To what did it relate? To the $900 that was paid him on the 15th of July; and that was a part of the same fund that he was receiving at that time.

He told me that he expected to be in St. Louis in a few days and meet these members from southern Illinois and give them their money.

It was all one fund, Mr. President. There were Chicago parties; there were those he was to meet at St. Louis. He had just paid White $1,000. "Next month I will pay you $900 more." It was all one fund. It had nothing to do with LORIMER, and I want Senators to understand, if they are to sit here and vote according to their oath of office and on the evidence in this case and as they would act if sitting in a court of justice, that they have no evidence but the uncorroborated story of Charles A. White upon which to unseat Mr. LORIMER; and he, in this very story, fully admits that he was one of several who was sharing in a fund which had no connection with Mr. LORIMER's election.

White adds:

I requested him to let me know when he was down there, and I told him I would come over and meet him. He did not do it, though.

Of course he did not. There was no occasion to notify White to meet him in St. Louis when Browne went there to make the first distribution to the others, because White, who was hard up and had been importuning him for money, had received his thousand dollars, his first distributive share of the fund, in advance.

He proceeds:

Mr. MARBLE. Was anything else said?

Mr. WHITE. Yes. He said that he ought to have more out of it than the other members.

More out of what? The thousand dollars that he was to pay White for voting for LORIMER? Consider the nonsensical character of such a claim. That he ought to have more out of it than anyone else because he had assumed a greater risk. Of what was he talking? He was talking about this common corruption fund that he was distributing. Such language would not have been employed in regard to a transaction confined to two individuals.

Then Browne added, after having said "that he ought to have more out of it than the other members"—

"You couldn't tell some of the members that." He said that he took a greater chance than some of the members. I think he suggested at that time that the governor had vetoed a bill that there had been $35,000 put up to secure the passage of.

But I am coming to that later.

Charles A. White absolutely admits that the thousand dollars he received was a part of the fund to which reference has been made and which was being distributed in different sections, and not to anything else.

What are the facts? Browne did meet the others on June 21 at St. Louis and paid them a thousand dollars apiece. Wilson did meet them on the 15th of July, as it had been suggested by Browne, and paid them $900 apiece. White was there and was one of them, and never has denied that it was jack-pot money.

What did he mean by "the Chicago end of it"? The Chicago end of what? The evidence does not disclose; we do not know; we can only imagine. Yet Browne was saying that about July he could give him about as much more money. He did give it to White. He admits it and says it was jack-pot money.

This is just exactly what Mr. Keeley, the editor of the Chicago Tribune, understood when he had read that story of White's and was considering the purchase of it. It came into his possession on the 11th day of March, and on the 16th day of March Mr. Keeley sought counsel from his friend, Gov. Deneen, bringing him from Springfield to Chicago in response to his request by telephone for that purpose. Mr. Hanecy asked Mr. Deneen this question:

What, then, was said, except that Keeley told you that he had a story of that kind?

Keeley had not bought the story; he was trying to find out whether the venue of any prosecution for bribery would be in Chicago, in Cook County, or whether it would be elsewhere. The value of that story to him depended almost wholly on whether the case would be tried in Chicago or whether it must be done at Springfield. The Tribune is published in Chicago.

Gov. Deneen testifies regarding his interview with Editor Keeley:

He outlined in a general way the character of it; that money was put in a jack pot; that men were voting and receiving money for it; that they were voting; that they did not know for which ballot they were receiving money; that the leaders would not tell them; that they voted for bills that they supposed had money in them when there was not, and the reverse.

In other words, they followed their leaders in the legislature.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. OLIVER in the chair). Does the Senator from Vermont yield to the Senator from Iowa?

Mr. DILLINGHAM. I do.

Mr. CUMMINS. The Senator believes, I think, that Mr. White was one of Mr. Browne's followers, and that he voted according to Mr. Browne's wishes.

Mr. DILLINGHAM. I will show that later.

Mr. CUMMINS. What was it that made Mr. White one of Mr. Browne's followers?

Mr. DILLINGHAM. That is a story which I will tell before I get through, for I intend to tell the whole story.

Mr. CUMMINS. I understand from what the Senator has just stated that the money that was paid by Mr. Browne to Mr. White was at least one of the considerations for the leadership which Mr. White recognized on the part of Mr. Browne.

Mr. DILLINGHAM. If the Senator will permit me, I will tell him just what my thought is about that and what I think the testimony tends to establish. I think that in the house of representatives of 1909 there was much antagonism between the two factions, the Browne and Tippit factions, but that each became more cohesive as a faction as time went on, until it came at last to a point where each followed, almost without question, the leader in legislative matters.

I do not find from the evidence anything tending to show any corrupt bargain between Mr. Browne and any one of those men, except that one remark of Mr. White's, where he told Browne how hard up he was and he promised that if things worked out all right he thought he would be able to make a little side money out of the session. I think it is just the way Mr. Wayman put it after he talked with these men in the grand-jury room; that they trusted their leaders without a word having been spoken between them, expecting after the legislature was over and everything had passed by that if "there was anything in it," as some of them expressed it, it would be divided fairly.

Mr. CUMMINS. That is the precise point to which I desire to call the attention of the Senate and the Senator from Vermont. Mr. Browne established a leadership. He was unable to maintain it without paying his followers, and he did pay for their implicit obedience to his wishes. Mr. Browne voted for Mr. LORIMER, and because Mr. Browne voted for him Mr. White voted for Mr. LORIMER.

Mr. DILLINGHAM. The evidence does not show that. I am coming to that in a moment, if the Senator will give me time.

Mr. CUMMINS. I was wondering whether the Senator differentiated between the vote Mr. White cast for Mr. LORIMER——

Mr. DILLINGHAM. I say that emphatically and I will make it clear.

Mr. CUMMINS. And the vote that he cast for the other measures following Mr. Browne. I never have been able to see that if he was——

Mr. DILLINGHAM. If the Senator will be patient I think I will demonstrate it to him before I get through.

Mr. CUMMINS. That if he was paid for following Browne, and if in following him he voted for Mr. LORIMER, and if enough men to change the result were like Mr. White in that respect and followed Mr. Browne for money, and following him voted for Mr. LORIMER, I never have been able to see how we could escape the conclusion that the election was secured through improper means.

Mr. DILLINGHAM. If the Senator will sit patiently by——

Mr. CUMMINS. I will.

Mr. DILLINGHAM. And my strength holds out and the weather does not overcome me, I will try to differentiate along the lines the Senator has suggested and tell just how the evidence appears to me. I am trying to help the Senate get at the truth of this matter. While I have met Mr. LORIMER a great many times since this hearing began, I have never spent 30 minutes with him in my life. I hold no brief for him; I hold no brief for the Senate; I stand here as the chairman of a committee; and I am trying to place before the Senate what I believe the truth to be in relation to this matter. I will try to treat it fairly, and when I come to that point I will try to elucidate it, so that the Senator will see at least what my thought is about it.

Mr. President, when interrupted I was speaking of the jack pot and demonstrating that the $1,000 paid White was not paid in consideration that he vote for LORIMER. He admits it over and over again. Note the following:

Senator JONES. Did Mr. Browne ever indicate to you how much he had distributed——

Mr. WHITE. No, sir.

Senator JONES. Out of the jack-pot fund, or to whom he had distributed it except yourself?

Mr. WHITE. No, sir; I stated—he might have stated——

Senator JONES. I do not want what he might have said.

Mr. WHITE. Well, as I remember it, he did state at one time that he had treated all his fellows alike—new members and old—all the fellows alike in that respect.

He had been just to the new men as well as to the old. It was the common fund that he was distributing.

Mr. White admits that he followed Mr. Browne generally. Here is his testimony on that point:

Mr. MARBLE. With whom did you affiliate and work during that session of the legislature?

Mr. WHITE. I was one of the Browne supporters. I recognized Browne as the leader. They had had trouble there in their organization. Mr. Tippit organized a body of men, of 26 or 27, in what was known as the Tippit faction. They withdrew from the leadership of Mr. Browne, and I remained with the leadership of Mr. Browne.

* * * * * * *

Mr. MARBLE. Were you governed in your vote upon any measure by his direction, or advice, or leadership?

Mr. WHITE. Well, not in every instance. I pursued Mr. Browne upon matters I was not thoroughly familiar with. I followed him along those lines somewhat, but then on other questions I did not vote with him.

Mr. MARBLE. How did you determine what your vote should be upon questions where you felt you had no knowledge of your own?

Mr. WHITE. I usually followed and voted with Mr. Browne and the other members from the rank and file of labor. Mr. Morris was the secretary-treasurer of the Illinois State Federation of Labor, and his vote came before mine.

When this combination was formed it was simply, in my judgment, a continuance of the old system, concerning which Gov. Deneen and others testified. Mr. LORIMER's candidacy at that time had not been thought of. Everyone expected that Mr. Hopkins would be elected, or, if not, that Mr. Foss would be elected. They had not at that time begun to consider the possibility of any other candidate, nor to talk about any other candidate; and Mr. LORIMER long after that, three months after that, even when it was urged upon him, was declaring that he did not want the office of Senator, as he preferred to remain in the House; in fact, Mr. LORIMER was never mentioned in connection with the senatorship so that it got into any newspaper until May 14, four months after the organization of that house, when the announcement was made in the Chicago Tribune correspondence that his name was being suggested. He testifies that it was about the 12th of May that he began to tell his friends that, if he could have the nomination without a contest, perhaps he would take it; but during that entire session not a suggestion looking to his election was made, and, however corrupt the legislature may have been, no one dreamed of attaching fraud to Mr. LORIMER's election.

It was not until he had been in the Senate a year that this man White came out with his story. The Tribune publication was based entirely upon White's story, and that having been disproved by his own statements, as well as those of his associates who, like him, received $1,900 from the jack pot, the Senate, as I said before, is left to stand on White's declaration alone that $1,000 was paid to him as bribe money for voting for Mr. LORIMER.

There is the evidence just as it would go to a jury. That man White's mind is so corrupt that he can not think straight. Although he knew that he had voted for Senator LORIMER without corruption, he was fearful that some one might have received something in which he had not shared, and the very day after the election he went to Mr. Curran, the chairman of the committee on labor, with whom he served, and the man whom he had approached corruptly, but unsuccessfully, to ascertain if anything had been paid for Lorimer votes. He explained his inquiry by the remark that he did not want to be "double-crossed." This clearly indicates that he had received nothing for voting for Mr. LORIMER the day before, and he was wondering if others had. In other words, if he had been "double-crossed."

WHITE FULLY INTENDED TO VOTE FOR LORIMER.

Now, let us go a step further. Charles A. White fully intended to vote for Mr. LORIMER. He was advised to do so. He did do so. Mr. John O'Neill, a friend of his and business agent of the Firemen's Association, who represented the Chicago Federation of Labor before the forty-sixth general assembly in 1909, and who became acquainted with White during that time,

testified that in conversation with White, about a week before the election, he expressed the wish that they might break the deadlock because all their legislation was tied up by it. White said he thought it would not last much longer and inquired:

Who do you think will be the man?

To which Mr. O'Neill replied:

I do not know; but, if you ask me, Charlie, as a Democrat, I will tell you what I think. If I was a Democrat and a member of the house, knowing Mr. LORIMER as I do, and from what I hear of Senator Hopkins, I certainly would not hesitate in voting for LORIMER, if there is not any possible chance of electing a Democrat.

White then asked him if he knew Mr. LORIMER very well, and he replied:

I have known him pretty nearly all my life.

White said:

A great many of the boys seem to think the same of him, and I would not be surprised if a great many of them will vote for him—

meaning the Democratic members.

For more than a week prior to the election of Mr. LORIMER, and before his alleged interview with Browne, it had been the intention of White to vote for Mr. LORIMER if an opportunity to do so occurred, as is shown by other evidence.

Mr. LORIMER testifies that about 8 or 10 days before he was elected he met White in the house of representatives, and White volunteered the statement that he was going to vote for him. White said to Mr. LORIMER that he understood he was going to be a candidate, and said that if he was he would vote for him. Mr. LORIMER stated, in that connection, that 95 per cent of the street car men in Chicago always voted for him, because of the fact that he had been one of them, and he received the impression that White intended to vote for him for the same reason.

We have further testimony of his purpose which is absolutely convincing. It comes from Homer E. Shaw, a Democrat, a banker at Dement, Ill. Mr. Shaw is a man of sterling character and an estimable citizen. He was chairman of an organization of Democrats in the house, which he originated for the purpose of holding their forces together in sufficient numbers to make impossible the election of Mr. LORIMER. His word can not be doubted. He did not dislike Mr. LORIMER personally. His only objection to his election was that he was of opposite political faith, and Mr. Shaw believed in standing by his own party, and considered it bad political policy not to do so.

He thought—quoting his language—

It was a very bad idea for any Democrat to vote for a Republican for Senator.

The result was that Mr. Shaw organized this committee to work just as diligently as possible to bring the Democrats together and to hold them together and to prevent the election of a Republican. He is a high-minded man, whom any Senator upon this floor would be bound to believe if he heard him testify; and he testified from the attitude of a Democrat who was opposed to the election of Senator LORIMER. What does he say?

He says that three or four days, or possibly a week, before the election of Mr. LORIMER Mr. White made to him the assertion "that he would vote for BILL LORIMER if he got a chance"; and Mr. Shaw says:

I told him that I thought it would be a very unwise thing for him to do; that he was a new man in his district and was undoubtedly well thought of there at the time; and that knowing, as I did, the character of the people in his district I thought it would be a very unwise thing for him to do. He made the remark, in substance, that he did not give a damn what the people thought about it; he was going to do it anyway. I think I told him, to the best of my recollection, that if he did do this and went back to O'Fallon his best friends would not have anything to do with him—would not speak to him.

This conversation was, it clearly appears, prior to May 24, when, White now says, he first heard of the candidacy of Mr. LORIMER, and when he was bribed.

Mr. Lee O'Neil Browne testified that the only conversation worthy of the name which he had with Mr. White relative to the matter of the candidacy of Mr. LORIMER occurred in the lobby of the St. Nicholas Hotel something in the neighborhood of a week before the election, and in this connection Mr. Browne says:

I do not just now recollect how the conversation came up, whether I asked him if he could vote for Senator LORIMER or whether he first broached the subject; but in any event he said to me that he felt very kindly toward Senator LORIMER, felt favorable to his candidacy, and that he was going to vote for him and had told Mr. LORIMER that he was going to do so—had already told him so himself. I do not think he told me where he had told him that. He further said to me, "LORIMER is a good friend of organized labor, or the labor men tell me so, and for that reason I feel very kindly toward him. I understand that he has been a street-car man and came up from a street-car man, and," he said, "I am one, too, and for these reasons I am going to vote for Senator LORIMER."

That it was his intention to vote for Mr. LORIMER is made clear by the first expression given by White after the election, explaining the reasons for his vote in the following letter, which was written before he conceived the idea of extorting money by blackmail. The letter is dated May 29, 1909, three days after the election, and is addressed to Hon. Fred J. Kern, Belleville, Ill.:

SPRINGFIELD, ILL., *May 29, 1909.*

MY DEAR MR. KERN: I received the copy of your paper, the News-Democrat, and read with great interest your editorial relative to the position of the Democratic members of the legislature taken in settling the longest drawn-out senatorial contest ever experienced in the history of the State of Illinois.

It gives me pleasure to know that there are men in public life prominent in the Democratic Party who can work upon a situation of this character with as broad and liberal views as you have expressed yourself through the editorial of your valuable paper.

Further along in the letter he says:

I felt it a public duty, after careful conference with older and more experienced workers in the Democratic ranks, to cast my vote for the Hon. William H. Lorimer for United States Senator.

I will not read the whole letter, which is lengthy. But in conclusion he says:

You may state, if you desire, the substance of my communication to you through your press, that there may be no misunderstanding as to the motive of not only myself but of the 53 loyal Democrats that voted for a Republican for United States Senator.

CHAS. A. WHITE.

WHAT INSPIRED WHITE TO BECOME A BLACKMAILER?

Having shown that all the money this man received came from some source wholly disconnected with the election of Mr. LORIMER; that it was his full intention to vote for WILLIAM LORIMER; that he did vote for him, and that after he had done so he thanked men who approved his course, it behooves us to look about and see why, through what influence, by what combination of circumstances Charles A. White came to conceive the villainous course which he has adopted to rob WILLIAM LORIMER of his reputation and of his place in the Senate and of his standing in the world. The evidence shows that it was born of greed and of avarice, and pursued with a wicked disregard to truth and honor, which stamps him as the lowest of his species.

THE INCEPTION OF WHITE'S STORY.

The legislature adjourned in June. White had a losing business proposition at East St. Louis that he was closing up. He faced the prospect of going back to work on a street railway at $65 a month, after having enjoyed all the pleasures of Springfield, not only for a season, but for two seasons. He had squandered all his money. Within two months after the legislature convened he had received $2,130 as salary, and before the 6th of May he was penniless and was borrowing money. This fact indicates the kind of life he led while in Springfield.

Immediately following the adjournment of the legislature he received from Browne the $1,000 and from Wilson the $900, making $1,900. His receipts during that period of six months were $4,030. Yet when he went up to Chicago in July, or the first of August, and entered upon a course of gross dissipation with Browne and some of his friends, out of that whole amount of money only about $500 remained unexpended. He had spent $3,500 during the winter and early spring, and much of it in ways which were not wise.

During the week spent with Browne and others dissipation of a most reckless character was indulged in. He loaned Mr. Browne $200, and he admits that in that single week he spent the remaining $300. It was "wine, women, and song," as some of the witnesses have expressed it. They took boat trips on the lake; and when at a week's end they returned to Chicago, about the 19th of August, White was obliged to borrow money to pay his hotel bill and get home.

I have before me a letter from one of his companions on the boat trips which indicates the speed at which they had been going:

Hope it will do some good, anyway. I am down at the "grind" again, working like a slave. It's sure h—l after the "music and flowers" we had for a time this summer. But when a thing has got to be done I can always shut my teeth and go to it. It's the only way. It's hell, but that's the price we pay for most of the pleasure of life. I always did, at least. Good-bye, old man, and God bless you.

White had returned physically and morally wrecked. He had squandered his means, was without employment, and having acquired expensive habits, he must invent means to gratify them. Financially, physically, and in spirit he was at the bottom of the hill. In his depression he became desperate and planned great things and how to accomplish them.

In talking with some of the men with whom he had been associating, Mr. Sturmer and Mr. Zentner, he outlined the plan which he had conceived to obtain more money. He said to them at that time, August 19, 1909, that he was going to take a big trip in the fall and winter; that he was going to his home in O'Fallon first, then down to New Orleans, then to Cuba, and up to New York; that he was going to have a big time in New York and then come back home again.

Zentner remarked that he must have a lot of money to spend. White said:

No; I have not a lot of money, but I am going to get it, and I am going to get it without working. * * * That Lorimer crowd and our old pal Browne, too, have got to "come across" good and hard when I say the word, and I am going to say it.

Mr. Zentner then asked him if he had anything on them—that is, any evidence against them. Mr. White replied:

No; I aint. I got the worst of it down there in Springfield, but that makes no difference. I voted for LORIMER, and I am a Democrat, and I can say I got money for voting for LORIMER.

There was the inception of this charge that is embodied in the Tribune story: "I am a Democrat, and I voted for LORIMER, and I can say I got money for voting for LORIMER." White continued: "Do you suppose they can stand for it a moment? I guess they will cough up when I say the word to them." Mr. Zentner said: "God, you would not treat Browne that way, would you?" To which White replied: "I am looking out for White, and, besides, Browne would not have to pay. That bunch behind him would have to, and it would not hurt him."

These men, Zentner and Sturmer, considered this an idle boast. They knew White had not fully emerged from his intoxication, and they looked upon it as the utterance of a man who had not recovered his balance. But it appears, as a matter of fact, that the idea did have foundation in White's mind, and that he saw in the circumstance that he, a Democrat, had voted for a Republican, coupled with the payment to him of $1,900 from the jack pot by Browne, a basis for fabricating the charge that he had been bribed by Browne to vote for Senator LORIMER, because immediately thereafter he began the preparation of his "jack-pot" story. White testified that he commenced to write the story the last of August, or the first of September, and as early as September 7, only three weeks after the conversation wherein he first asserted his purpose, he wrote to Doubleday, Page & Co. to make inquiries as to the manner in which they published articles of that character; and in other letters he informed them of the nature of his manuscript. He also carried on a correspondence with Everybody's Magazine, to which he wrote on the 9th of September, two days after writing Doubleday, Page & Co., and fully informed them of the nature of his manuscript. This correspondence with these companies continued from time to time down to February 11, 1910, at which date he turned over the manuscript to Doubleday, Page & Co. for examination.

While he was engaged in the preparation of this story White on two or three different occasions talked with Katherine A. Woods, the owner of a cigar stand in the Illmo Hotel, at East St. Louis. He was on friendly terms with Miss Woods, and occasionally took her out to dinner and to the theater, etc. He told her over and over again of this scheme of his, and she undertook to dissuade him.

He told her that he was writing a history of his life and of the Illinois Legislature; that he expected to make a fortune out of it; and that the Lorimer bunch would have to pay him enough money to keep him the rest of his life, and if the Lorimer bunch did not do it, he would make it hot for LORIMER; that he was going to run for Congress; that rich people of Chicago were backing him; that he had spent $3,000 and a lot of time in making the history of his life and of the Illinois Legislature, and that he was going to get it back.

Surely he had that purpose in mind. The only thought the man had was that he must rehabilitate himself financially in some way. Conscience did not oppose inclination, and he entered upon a scheme to secure money, and by blackmail if necessary. Meantime he conceived an additional plan. He wrote a letter to Hon. Roger C. Sullivan, Democratic national committeeman from Illinois. It shows another scheme on the part of White to obtain money. In it he says:

My friends by the score are urging me to enter the race in this congressional district for Congress.

Two of the leading daily newspapers have been urging me to enter the race, and want to begin booming me as a probable candidate.

What is your opinion of the matter?

But the point of the letter is in the following passage:

I realize it will take a large sum of money to put up the right kind of a fight and do not know that much money could be raised here.

I would not consent for the use of my name unless there was the proper assurance of sufficient funds to carry on a stampede campaign.

Mr. Sullivan replied to the letter very politely, but says in closing:

In reference to finances, will say the State committee has no funds whatever to give to any condidates, the treasury being completely exhausted, and I know of no place outside of your district where funds could be secured.

So that scheme for making money failed.

We come down to Thanksgiving time, when he has another interview with Miss Woods, in which White told her—

to watch the Chicago papers, for he was going to make out of the Lorimer bunch enough to live comfortably, and that when he got the trouble started he was going on a trip to Europe and to let them fight it out.

About centennial week, in St. Louis, 1909, White told Miss Woods:

I have got it in for LORIMER, Senator LORIMER and his bunch, and they will have to come across or I will make them pay dearly for it. I have spent $5,000 this session having a good time and looking up the dope on them. I have a friend in Chicago who will back me up and furnish me all the money I want.

Throughout all this, as I have said, he was looking for some chance to get money, but never by honest employment.

It was the one idea in his mind. Very soon after his talk with Miss Woods, having failed to secure from Mr. Sullivan any promise of a large sum of money to conduct his campaign, having failed also in his efforts with Everybody's Magazine and Doubleday, Page & Co., on December 4, 1909, White, pursuant to the same plan and in accordance with his avowed purpose, addressed to Senator LORIMER a letter, which has been published far and wide. I presume it is familiar to every Member of this body.

The letter referred to is as follows:

O'FALLON, ILL., *December 4, 1909.*

Hon. WILLIAM LORIMER,
Washington, D. C.

MY DEAR SIR: I am preparing to place before the people of this country an article I have written giving my true experience as a member of the Illinois Legislature. The article will appear either in book form or will be published in one of the largest magazines in the United States.

I have just completed the manuscript, which contains about 30,000 words, giving in detail my absolutely true experiences as a member of the forty-sixth assembly. As yet I have not closed a deal with any publishing house, but when my terms are acceptable will dispose of it.

I have been offered a sum sufficient to value the manuscript at about $2.50 per word.

Believing that you would be more deeply interested in the works and actions of the members of the last session of the Illinois Legislature, owing to the fact that possibly your experience with that general assembly will be one of the questions freely discussed, and assuring you that I have severed all connections with the party leaders, as well as am to be independent in the future in all my political dealings, I am,

Respectfully, yours,

CHAS. A. WHITE.

Note this passage:

I have just completed the manuscript, which contains about 30,000 words, giving in detail my absolutely true experiences as a member of the forty-sixth assembly. As yet I have not closed a deal with any publishing house, but when my terms are acceptable will dispose of it.

I have been offered a sum sufficient to value the manuscript at about $2.50 per word.

There are two lies in that statement. He now admits that he had not finished the manuscript at that time, he admits that he had not received an offer for it at that time. It was an unblushing attempt to blackmail WILLIAM LORIMER, and to extort money from him—to extort $75,000 from him.

He attempts to explain this by saying that he hoped to bring from Mr. LORIMER some admission that he could use against him. Why? Because he admits in his testimony that he had nothing against him. But all the evidence goes to show that it was not to get an admission from Mr. LORIMER. It was to extort money from Mr. LORIMER that he wrote that letter.

Mr. LORIMER with the rare understanding of human nature, which evidently he possesses, judged the man accurately, and in replying to this letter used the following language:

I am in receipt of your letter of December 4, in which you advise me that you have manuscript ready to place with the publishers, treating on your experience as a member of the Illinois Legislature. I would be very glad, indeed, to note your success as an author.

With kindest personal regards, I am,

Yours, very truly,

WM. LORIMER.

Think of that proposition! That man testifies that between the time he conceived that story and the time he attempted to blackmail WILLIAM LORIMER he remained in Chicago, trying to ferret out something that he could work into a story against Lee O'Neil Browne or Mr. LORIMER. He did not find it. He admits before the committee that at the time he undertook to blackmail WILLIAM LORIMER he had received no offer for the manuscript, but that he hoped to receive a reply from Mr. LORIMER that would be of advantage to him.

White says over and over again that he had no evidence of any character against Senator LORIMER, and had no dealings with him. He testified before the first investigating committee that if Senator LORIMER had met his demands and had paid him $75,000 he would have surrendered the manuscript to him then, and thus admitted that it was a blackmailing proposition.

The case against Mr. LORIMER stands on the testimony alone of that blackmailer. There you have a picture of the only man who claims or admits bribery in connection with the election of Mr. LORIMER, and should the Senate adopt the testimony of Charles A. White and deprive Senator LORIMER of his seat in this body, that day will mark the greatest act of injustice, in my judgment, that has ever been recorded in any parallel case.

The Senator from Indiana [Mr. KERN] in his argument the other day, in an effort to find something good to say of Mr.

White, in the kindness of heart which prompts him in everything he does, spoke of the pleasant correspondence that had passed between Lee O'Neil Browne and Mr. White during the months of July, August, and September, 1909, during which time White was secretly concocting his "jack pot story," when, it is true, he was writing Mr. Browne affectionate letters telling him that he was without funds; letters in which White represented himself to be in such dire need that he was unable to get clothes which he had ordered from the tailor; letters in which he appealed to Mr. LORIMER to intercede for him and help him to secure some sort of position in the Government Secret Service, or anything that would place him on his feet again and relieve him from his distressing situation; letters to Mr. Browne of the same character which led to efforts on the part of Mr. LORIMER to get some kind of employment for him. But all these were written while he was concocting the plot, and preparing this story against Lee O'Neil Browne and against Mr. LORIMER.

Were these the letters of a friend? Were they honest? What does he say in his testimony about them? I want the Senate to understand who and what this man White is. I want Senators to note the quality of his character and how easily he substitutes craft for conscience in all his dealings with men.

Note the following examination:

Why did you write the letters to Lee O'Neil Browne and to Senator LORIMER about those jobs?

Mr. WHITE. I thought possibly they would answer them in some way, and possibly make some admission that they were under no obligation to me. Senator LORIMER did that, in a way, by not answering my letter.

Mr. HANECY. That is, you wanted to trap or trick one or both of the parties—Lee O'Neil Browne, your friend, or Senator LORIMER—into some admission that you could use in connection with your story that you afterwards sold to the Chicago Tribune, and that you are now trying to have published. Is that right?

* * * * * * *

Mr. WHITE. Yes; I was writing the letters for the purpose of getting replies that could be used.

Again:

Mr. HANECY. So that you used the subterfuges and the lies included in those letters to trick or trap Lee O'Neil Browne and Senator LORIMER into admissions that they would not have made if it were not for the matters that you stated in your letters. Is that the fact?

Mr. WHITE. Substantially so.

* * * * * * *

Mr. HANECY. So that the statements in the letters that you wrote to Lee O'Neil Browne, asking him to try and get a Federal job or some other job for you, were falsehoods, were they?

Mr. WHITE. Yes, sir; from a——

Mr. HANECY. They were lies, pure and simple, and known to be such by you when you put them into the letters and sent them to Mr. Lee O'Neil Browne and Mr. LORIMER?

Mr. WHITE. Practically so.

* * * * * * *

Mr. HANECY. And when you wrote the letter to Mr. Lee O'Neil Browne and asked for a loan—the letter in which you said that you owed a tailor's bill of $85—that statement was a falsehood, a pure Anglo-Saxon lie, and known to be such by you at the time that you wrote it and sent it to Mr. Browne, was it not?

Mr. WHITE. It was not true; yes.

Mr. HANECY. It was a lie, was it not?

Mr. WHITE. I said it was not true.

Mr. HANECY. Did you need the money at the time that you asked Browne for it?

Mr. WHITE. Why, I do not say that I needed it at that time.

Mr. HANECY. Did you?

Mr. WHITE. I do not remember just exactly what my financial resources were at that time.

Mr. HANECY. You got the money, did you not, that you asked Browne for in that letter?

Mr. WHITE. I got the money.

Mr. HANECY. So that your letter, the statements in which you say now were pure and simple lies for the purpose of tricking or trapping Lee O'Neil Browne, your professed friend, and for whom you professed the greatest friendship, had a double purpose—both to trick Browne into an admission that you could use in the story that you sold to the Tribune, and are now about to publish, and the further purpose of getting money from Browne? Is that right?

Mr. WHITE. I will answer that "yes."

I could go on reading that class of testimony, showing that the letters White wrote to Browne professing friendship and the letters to Mr. LORIMER asking for political aid were all written either for the purpose of getting money, which he did get, or for the purpose of trying to trap them into something that he could use against them, because he admits that he had nothing against Mr. LORIMER. Yet Senators are asked on the uncorroborated testimony of that man, self-confessed perjurer and liar, to say that their fellow Member shall not have a seat in this body!

THE DISPOSITION WHITE MADE OF HIS STORY.

Now, Mr. President, we come to an interesting stage in the history of this case. We have reached the point where Mr. Charles A. White had prepared his story and had failed utterly to secure money either by its sale to Everybody's or Doubleday, Page & Co., or from Senator LORIMER through his attempted blackmail, and where he had failed in any way to accomplish his avowed purpose. The testimony shows that he conferred with labor leaders, among them Mr. Edwin R. Wright, president of the Illinois Federation of Labor and member of employers' liability commission, by appointment of Gov. Deneen, who suggested the Chicago Tribune, and as a result, eventually, White went to the Tribune office in Chicago to dispose of his jack-pot story. Up to that time that story never had been called anything but the "jack-pot" story, and it is so described in the receipt given for it by Mr. Keeley on March 11, 1910.

Why did he go to the Tribune? He was sent there by Mr. Wright, according to the testimony, and he reached the right place. The truth is—there is no denial of it in the evidence anywhere—that the policy of the Tribune for 20 years had been antagonistic to Mr. LORIMER. Mr. Keeley does not disguise the fact that if at any time he could have found anything which he could use to drive Mr. LORIMER out of the politics of Illinois he would have been very glad to do it. He looks upon anything that could be used for that purpose, like the story of White, as merchandise which he has a perfect right to purchase and a perfect right to use.

The salient features of the White story were:

First. That there had been a legislative jack pot from which he had received $900.

Second. That on May 24, 1909, two days before the election of Mr. LORIMER, Lee O'Neil Browne had bribed him to vote for Mr. LORIMER, agreeing to pay him $1,000 therefor.

When Mr. White went to him on that occasion and told him the nature of the manuscript, Keeley would not talk with him about it unless he could see it himself. As he expressed it, he was not going to buy a pig in a poke.

THE TRIBUNE AN ENEMY TO MR. LORIMER.

The attitude of the Tribune toward Mr. LORIMER, and the value of the story to the Tribune, is shown by the fact that they actually paid $3,500 for it. They later paid $700 for what is known as the "Glavis story," where they got the bad end of the bargain and secured nothing, but which they hoped would serve the same end.

They expended in and about this prosecution, to secure the unseating of Senator LORIMER, the further sum of $20,000 in round numbers, making the amount expended by the Tribune up to the time of the reopening of the case in the Senate over $24,000.

It appears that White first went to the Tribune office on the 4th of March. He did not have the manuscript with him, but on the 11th of March he returned with it and submitted it to Mr. Keeley, and Mr. Keeley took it and gave him a receipt, which provided that it should not be used except with Mr. White's consent. Mr. Keeley read the article and observed its general nature. He wanted an adviser. Gov. Deneen, as I have already pointed out, had previous to that time gone over to the "newspaper crowd"—so called—in Chicago, and he had become the close personal friend of Mr. Keeley. Mr. Keeley telephoned him at Springfield that he wanted to see him. Mr. Deneen promptly responded, and went to Chicago on the 16th of March, only five days after this article came into the possession of Mr. Keeley, and a conference was held between them at the La Salle Hotel. The relations which existed between them at that time politically were very close and intimate.

GOV. DENEEN ALSO MR. LORIMER'S POLITICAL ENEMY.

The history of Gov. Deneen, so far as his relations to Mr. LORIMER are concerned, was sketched early in this discussion, and I will only recall the fact that friendly relations having been reestablished between them early in January and Gov. Deneen having strongly urged him to become a candidate, Mr. LORIMER believed that Gov. Deneen was supporting him until the Sunday before the Wednesday upon which he was elected. But it now appears, and Gov. Deneen so testified, that he never had intended to support him, and that he did actively oppose him; that he did what he could to prevent any man voting for him for Senator when he found that his name had been suggested and he was coming prominently before that legislature. Subsequent to that time a further contention had arisen between Gov. Deneen and Senator LORIMER. I have already mentioned Senator LORIMER's efforts to secure the adoption of legislation for the establishment of a deep waterway from the Great Lakes to the Gulf of Mexico and to secure the adoption of the constitutional amendment which authorized the State of Illinois to make an appropriation of $20,000,000 for that purpose. But as soon as that was accomplished a difference of opinion arose between Senator LORIMER and Gov. Deneen as to the manner of the expenditure of that money. Gov. Deneen's testimony, briefly stated, indicates that he wanted to proceed at once without waiting for cooperation on the part of the Federal Government. Senator LORIMER believed that if

the expenditure of that $20,000,000 was begun in Illinois without a corresponding appropriation on the part of the Government the money would be wasted. And he further insisted that faith should be kept with the people, because it was distinctly stated from every platform during the campaign for the adoption of the constitutional amendment providing for the $20,000,000 bonds that not one penny of it would be expended until Federal cooperation and an appropriation had been secured, thus insuring the success of the great undertaking.

Moreover, there was still a greater reason for the position of Mr. LORIMER. It was that the water flowing into that canal from Lake Michigan was completely under the control of the Federal Government, and the State of Illinois could have nothing whatever to do with it. Every ounce of water flowing through there to-day in the drainage canal is by consent of the War Department.

Gov. Deneen proposed legislation which would allow him to build three dams, the first, to cost $5,000,000, to be in operation before the others. That was put in the form of legislation. Mr. LORIMER opposed it. He opposed independent action. He wanted a 14-foot waterway all the way through to the Gulf, something that would be of real advantage to the great central West, as well as the termini, and he urged the fact that the State had no power to divert the water from the lake, and that those operating the canal were using the water subject to a revocable permit He went so far as to try to compromise with Gov. Deneen upon the proposition, and stated to him before leaving Chicago that he was authorized to say to the members of the general assembly who held the same views that he (LORIMER) held on the subject that if he (Deneen) would agree to a provision that no money except what was necessary for plans and specifications should be expended until the Federal Government made an appropriation and adopted the plan, he would be willing to have the bill passed substantially as it was passed by the senate; that is, providing that the governor should have all the power of appointing the board and be unhampered in any sense of the word in the expenditure of the money. The governor would not agree to that. He wanted to have the bill passed without any strings tied to it. That is the way he expressed it, according to Mr. LORIMER's testimony.

I have called attention to the political enmity of the Chicago Tribune and those who control it and that of Gov. Deneen to Mr. LORIMER, because I purpose, as I proceed with the narration of events, to connect other enemies of Mr. LORIMER with them in a strong combined effort to turn the White story to the disadvantage of Mr. LORIMER and to secure his retirement from the United States Senate, and to this end to bring about the conviction of Lee O'Neil Browne under the charge of having bribed White to vote for Mr. LORIMER for United States Senator.

THE USE TO WHICH WHITE'S STORY WAS TO BE PUT.

Gov. Deneen went to Chicago at that time and consulted with Mr. Keeley about what use to make of the story which had been submitted by Charles A. White and they had their meeting at a hotel. It is a significant fact that the first question Mr. Keeley asked the governor was in which county, Cook or Sangamon, a prosecution against Browne could be had. What good would it be to him unless carried on in Chicago, where it would be of special benefit to the Tribune? He wanted that prosecution in Chicago and nowhere else, and that is the point concerning which he particularly consulted the governor. Mr. Wayman, the State's attorney for Cook County, in his testimony referring to that, says:

> He told me that he had asked Gov. Deneen where the venue lay, and what the governor's answer was I do not remember. He told me that he had had a talk with the governor about the story, its truthfulness, and the venue, and I do not recall the opinion the governor gave him as to where the venue lay.

Now, that was at the interview to which I have referred, wherein Mr. Keeley told Gov. Deneen the character of this story; he told him it was a general exposure of the jack pot, saying that it was a jack pot that was in the control of the leaders, that the men who followed the leaders never got any pay for any specific thing they did in the way of general legislation, but they trusted their leaders and got something in the end.

Now, hurrying over the progress of events, the Tribune employed Mr. Austrian, a prominent attorney in Chicago, who had copies of the White story made, and March 23, two days later, they employed Mr. McGuire, the head of a great detective agency, and began paying his expenses on that date. They put Mr. White under his direction and they furnished Mr. White money on which to live while they were investigating his story.

April 1 Mr. McGuire arranged a meeting between Mr. Wayman, the State's attorney, and Mr. Keeley, at McGuire's office, at which time Mr. Keeley told Mr. Wayman that he had White's jack-pot story; that it would require a prosecution and wanted to know where the venue would lie. Keeley was anxious about the venue. It was his first inquiry of Gov. Deneen, and his first question of Mr. Wayman. To his mind it was not as important that a prosecution should be had, as that it should be had in Cook County. Mr. Wayman told him he would have to see the witness and know details of the story before deciding, and the following morning Mr. Keeley sent to him the manuscript.

The result of that interview must convince every candid mind that the purposes entertained by Mr. Keeley at that time were to build up the Tribune through the exploitation of the White story, and at the same time, if possible, destroy Mr. LORIMER's political influence and deprive him of the possession of his seat in the Senate.

Anyone would naturally think that these patriots, learning from that story that there had been general corruption in the legislature and that jack pots had existed, would have united in a strong movement to convict every guilty man, whether a contributor to or receiver of a corrupt fund. That an effort at least would have been made to punish the offenders and drive them out of public life. Not a thing of that kind was done, and not a man has been prosecuted either in Cook County or Sangamon County for complicity in the jack-pot fund either as contributor or receiver. Not a man who confessed to receiving money from such a fund has ever been brought to trial, but, on the other hand, every man who had anything out of that jack-pot fund has been given full immunity, and all of them, although self-confessed participators, walk the streets to-day perfectly free men.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Missouri?

Mr. DILLINGHAM. I do.

Mr. REED. The Senator suggests that nobody has ever investigated the jack pot. If I recall aright one of the express directions to the Senate committee of which the Senator was chairman was to investigate the jack pot.

Mr. DILLINGHAM. If the Senator had listened a little more carefully he would have understood that I was talking about the Ilinois authorities and the Illinois courts, not the Senate.

Mr. REED. I understand that qualification, but the Senator himself, I take it, undertook to investigate the origin of the jack pot. Was he successful in ascertaining it?

Mr. DILLINGHAM. The Senator was not, but had the Senator been a State official of Illinois at that time instead of giving immunity to everyone connected with the jack-pot fund, for the sake of securing evidence against this one man, Lee O'Neil Browne, on another charge, he would have tried to discover some adequate means for dealing properly and effectively with these jack-potters, to whom immunity was granted.

Mr. REED. The purpose of my inquiry was this. If the Senate committee, in the light that was developed by the legislative committee of Illinois, by the grand jury, and by all the numerous investigations to aid the Senate committee, was unable to get at the source of the jack pot, does the Senator think it is exactly fair to criticize the officials of Illinois because they were equally unable to get at the source of the jack pot?

Mr. DILLINGHAM. I think the Senator can judge for himself whether or not it is fair for me to take the position I have. I do not care to enter into that discussion. I take the position that the authorities of Illinois did not attempt it; instead of that they prevented it by asking from the courts immunity for every man who was suspected of getting money from the jack pot and did get it; they did it in an effort to find some kind of testimony that would support Charles A White's story against Lee O'Neil Browne, which they failed to secure. And although the case was tried in the courts of Illinois—twice tried—Lee O'Neil Browne was acquitted of the charge of having bribed White to vote for WILLIAM LORIMER. Whether Browne did so bribe White is the precise question that is now before the Senate. Do not overlook the fact that it has been twice tried before a jury in Illinois, tried in a legally constituted court, and on legal evidence; and that Browne has been acquitted of the charge. Surely this Senate ought to take cognizance of that fact and be governed by it.

Mr. LORIMER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Illinois?

Mr. DILLINGHAM. I yield.

Mr. LORIMER. And does not the record further show that through the efforts of Gov. Deneen and the Chicago Tribune the

attorney general of the State of Illinois tried to prevent the State's attorney of Sangamon County from inquiring into whether or not corruption did occur in the Legislature of Illinois?

Mr. DILLINGHAM. The Senator's mind, as usual, works more rapidly than mine; but I am coming soon to that point.

When Mr. Keeley and Mr. Wayman were discussing the question whether or not there was anything in the White story, it will be seen that it was aimed at Senator LORIMER, not at corruption in the Illinois Legislature. Mr. Wayman testifies:

We went into a discussion of the entire matter. I told Mr. Keeley that I had been through one bribery case and that they were very difficult cases; that I did not want to undertake another one unless it was founded on pretty substantial evidence; that such a case as that would involve a great many people; that it was a very important matter and would have to be gone into very carefully. I told him that the prosecution of the case would call in an array against the prosecution of the resources not only of the men who were implicated in the crime, but the resources of all those who were beneficiaries of the alleged crime; that the political situation here was such—the division in opinion of people in Cook County was such—that it would be impossible to draw a jury to try such a case without having on the jury some partisans of Mr. LORIMER.

Why? Because the prosecution was directed against Mr. LORIMER.

Mr. Wayman further testified:

I called attention to the fact that Mr. LORIMER's partisans, of course, would fight the prosecution; that whether or not he knew of the bribery he would have to fight the case.

And that is the answer to the inquiry made by the Senator from Missouri [Mr. REED] this morning in relation to Mr. LORIMER lending Mr. Browne money. The State's attorney told Mr. Keeley at the outset that that would be the logical and natural result of it. How could it be otherwise when the fight was against Mr. LORIMER? Let me read that again—

and I called attention to the fact that Mr. LORIMER'S partisans, of course, would fight the prosecution; that, whether or not he knew of the bribery, he would have to fight the case.

I also called his attention to the fact that it would be a very expensive proposition to undertake to investigate. Mr. Keeley said that the Tribune would be willing to pay the expenses of the investigation, that he was going to investigate it, and he was going to print the story. I told him that Cook County was not a pauper and any investigation undertaken by my office would be paid for by Cook County in the usual way.

I am not criticizing Mr. Keeley. He was a frank witness. I liked what seemed to me sometimes to be his almost brutal frankness. He did not attempt to dodge the responsibility of the fight that he had inaugurated against Senator LORIMER; he admitted it, and he admitted that he took every means possible to get information that could be used in that direction. When he had finished his testimony I admired the man because of his frankness in stating precisely his purpose, and it was not for me to judge of his motives. When I knew his purpose from his own lips, that was sufficient. From his newspaper standpoint, he wanted a newspaper scoop, as I will show by and by; and he particularly wanted to do all that could be done in any way to carry out his declared purpose to drive Mr. LORIMER out of politics in Chicago and the State of Illinois.

THE STATE'S ATTORNEY'S VALUATION OF WHITE'S STORY.

Mr. Wayman further testified:

I said, further, "You are buying the story and that fact will impair its value worse than any other feature of the entire matter."

That is to say, in a court of law.

Why should not that judgment prevail in the Senate of the United States, as it did prevail in the courts of law in Illinois? Further, Mr. Wayman says:

I arbitrarily fixed percentages on it. I said, "His being an accomplice will discount it some 50 per cent. You buying the story will discount it 30 per cent, and a prosecution with White as a witness will put the State to the test of a 20 per cent witness."

Now, I ask Senators who are wavering in their opinions in regard to this case and who are weighing the testimony of Charles A. White, to accept the judgment of the State's attorney of Cook County, Ill., who knew White, who had studied his story, and who knew the circumstances under which it had been obtained, and who stated that they were embarking upon a prosecution with a 20 per cent witness. Even under such circumstances the Tribune was bound to push its purpose.

Mr. Wayman further testified as follows:

I said, "That being true, a careful investigation must be made. It is an expensive thing, too." He said, "The Tribune will bear the expense of the investigation." I said, "Cook County is not a pauper; not a dollar of private funds has been contributed to the office since I have been there, and I will not make an exception in this case. As soon as I exhaust the appropriation now there I will call on the county board for further appropriation."

Now, mark this:

I said to Mr. Keeley, "You must understand if I take hold of this, I am captain of the ship." He said, "Yes; but I am running a newspaper and I am going to print the news." I said, "Do you often purchase stories?" He replied, "Yes; news is merchandise." I asked him when the story was written. One other thing. I forgot this. I said, "This story coming to me through the Tribune will also affect the credibility of White." I said, "Taking the whole thing, it could not come to the State in a worse situation."

But Mr. Keeley insisted, and the agreement was entered into between the State's attorney and the editor of the Tribune.

Mr. Keeley agreed to all that, but said that the matter was in his hands and he proposed to investigate the story and print it. I told him to send the story to my office, that I would read it, take the matter under consideration, with the express understanding that if I undertook the investigation he would not print anything about it or hint at any thing about it, because if he printed it it would impair the investigation—that it would have to be carried on without any publicity.

He then made the remark, "I am running a newspaper." I said, "Yes; and I am running the State's attorney's office." I said, "If I undertake this investigation I will be willing that you have the exclusive news value of the story." He said, "That is all I want." I said, "I will give you notice of whatever my opinion is, and if I do not prosecute it I will announce that fact to you, and if I do prosecute it I will announce that fact to you before anybody else knows it." That was satisfactory. I think probably there was some other conversation there that I do not recall now.

Mr. MARBLE. What was the conclusion reached?

Mr. WAYMAN. The conclusion reached was that he was to send the story to my office. The following morning the story was sent to my office.

* * * * * * *

Mr. HANECY. You sat down together and after you had talked it over you agreed that you would give him a "scoop," after you had examined into it—that is, you would give him the right to publish it first—and he agreed that he would not publish any part of it until you had investigated it?

Mr. WAYMAN. That is practically a correct statement.

Mr. HANECY. And you kept your agreement with him and did not let anybody else have a "scoop" on the story?

Mr. WAYMAN. That is true.

These are the conditions under which this story went into the hand of the State's attorney. A criminal prosecution was commenced against Lee O'Neil Browne under this bargain between the State's attorney and the manager of the Tribune, that one should be the captain of the ship and prosecution, and that the other should have the "scoop" and use it as a newspaper sensation. The story had not been purchased at the time the bargain was made. Mr. White had been sent, accompanied by detectives and agents of the Tribune, through the State to interview Shephard, Link, Beckemeyer, and Clark, in an attempt to get them to say that they had received money from Wilson at St. Louis on the 15th day of July. In the meantime, the State's attorney had examined the question of venue, and had finally determined upon the one fact that Browne had paid $850 to White in Chicago; that he could bring the prosecution in Cook County, as Mr. Keeley desired.

THE TRIBUNE KNEW WHITE'S CHARACTER.

On the night of April 28, 1910, White was in St. Louis, and in company with two friends spent the time until after midnight in and about the buffet of the Royal Hotel, drinking heavily. Between 1 and 2 o'clock on the morning of April 29, White and these friends appeared at the European Hotel in East St. Louis very drunk and wholly without money. Being refused lodging, White was permitted the use of the telephone and he called up Detective Turner who with Mr. Phillips, a Tribune representative, was at St. Louis. He told Turner he was "broke" and wanted money, and Turner instructed the night clerk to give him accommodations, which the clerk refused to do. White was then permitted to call the Tribune office in Chicago, and held a telephonic conversation with Mr. Hammer, secretary to Manager Keeley, in which he said:

"This is Charles A. White; I am here at East St. Louis, and I am getting the wrong end of the deal, and I am not going to stand for it." That he had two friends with him and could not get a night's lodging; that he was "broke, while Turner is living on the fat of the land with Phillips at St. Louis now. I want some money, and I want it damned quick, or I won't go through for you. You need not think I am a sucker. You tell this hotel man here who I am and my connection with you, and that you will stand for anything I want and will pay for it, or else I will write a denial of the whole damn thing."

Mr. Hammer then requested the clerk, Mr. Ellerhof, to give White lodgings, saying he would pay the bill; but the clerk said he was under instructions from the proprietor of the hotel to give no one accommodations under such circumstances, and positively refused to comply with this request. The Tribune man then asked the clerk to call White back to the telephone, and renewing the conversation with Mr. Hammer, White repeated that he was "broke," and referring to the story which he had submitted to the Tribune said "he would not go through with it. If he did not get settled up by Monday morning he would not go through with it."

There is a picture of this man White less than 24 hours before the Tribune purchased his story. He was drunk. Without money, but boastful and insolently threatening the Tribune people with a denial of the whole story which he had submitted unless he was taken care of and "settled up" with by Monday morning, and this was on Friday.

It can not be denied that the Tribune manager had full knowledge of White's dissolute habits, despicable character, and evident contemptible purpose. Whether the Tribune people were influenced by this threat of White does not appear in the evidence, except by the fact, which is significant, that on the evening of this same 29th day of April, 1910, White had reached Chicago, and his contract of sale to the Tribune was signed and delivered, the consideration therefore being the payment to him of $3,500, of which $1,250 was paid at that time. The controlling influence of his greed and avarice, and the wickedness of his intention is indicated by the fact, as Manager Keeley testified, that in the first instance he demanded $50,000 for his jack-pot story, which offer was spurned as ridiculous. At the time of the signing of the contract White expressed a willingness to take $4,000, and finally, after much parleying $3,500 was agreed upon and the deal was consummated.

When the Tribune managers purchased that story from White they did so with full knowledge of the character of its author; they had been advised by State's Attorney Wayman that, for reasons stated by him, White at best would only be a 20 per cent witness, and yet the Tribune paid $3,500 for this man's uncorroborated story, upon which rests the entire weight of the movement to unseat Senator LORIMER, and in the execution of this plan to unseat Senator LORIMER the alleged bribery of White by Lee O'Neil Browne was the only ground upon which it could be successfully prosecuted. At this time the manager of the Tribune had brought into the movement Gov. Deneen, as already shown, and State's Attorney Wayman, with all the powerful machinery of the legal department of Cook County, was strongly cooperating.

Friday, July 29, 1910, was a very important day in the history of this case. On that day Mr. Wayman called the grand jury to meet in Chicago the following Monday, May 2, and notified Mr. Keeley through his attorney, Alfred Austrian, that the Tribune might go ahead and publish anything it pleased concerning the White story. Austrian lost no time in communicating with Keeley, who was at his farm at Wheaton, and the latter immediately returned to Chicago, went to the Tribune office, where he held a conference with Mr. Austrian and Detective McGuire, after which White was brought in by McGuire, and then and there the contract was entered into for the sale and purchase of the White story.

What was that contract between the Tribune and Charles A. White? It is as follows:

THE CHICAGO TRIBUNE, OFFICE OF PUBLISHER,
Chicago, Ill., April 29, 1910.

To CHARLES A. WHITE:

You offered to sell to us for publication a story written by you, which story gives your experience while a member of the House of Representatives of Illinois during 1909–10, and giving also certain information as to what transpired by reason of your voting for certain measures, etc., while a member of such house.

We refused to pay you for that story or to print the same unless such story was verified and corroborated by persons selected by the Tribune.

For more than four weeks we, with your cooperation, through different agencies, have caused your story to be fully investigated.

For the sole and exclusive right hereby granted by you to the Tribune Co. to publish this story, or a revision thereof, or excerpts therefrom, in the Chicago Tribune and copyright it either in your name or in that of the Tribune Co., but in which shall be at our election, and also in full compensation for the time already spent by you in assisting us in obtaining corroborative evidence of the facts contained in this story and in full payment for all your time which shall be devoted by you to further substantiate this story at any time, which time you hereby agree to devote to that purpose as and when called upon so to do, the Tribune Co. hereby agrees to pay you $3,250, of which said sum $1,250 shall be paid upon the printing of the said story or the first installment thereof, $1,000 30 days after said first payment, and $1,000 60 days thereafter.

You reserve to yourself all book or other rights to the story other than the exclusive newspaper rights hereinbefore referred to, which belong under the terms hereof to the Tribune Co.

J. KEELEY,
Vice President Tribune Co.

CHICAGO, ILL., *April —, 1910.*

To the Chicago Tribune and the Tribune Co.

GENTLEMEN: I have read the above and foregoing and agree to the terms thereof and to accept the sums of money as therein set forth, and I further agree to devote my time and services to substantiate the story referred to as and when requested by you so to do and in such manner as you may direct.

CHARLES A. WHITE.

Note the agreement upon the part of White:

I have read the above and foregoing, and agree to the terms thereof and to accept the sums of money as therein set forth, and I further agree to devote my time and services to substantiate the story referred to as and when requested by you so to do and in such manner as you may direct.

Another peculiar circumstance in connection with this transaction, and one worthy of consideration by the Senate, is the fact that immediately after White entered into and signed the foregoing contract and agreement, before he moved from the Tribune office, he was placed in the custody of an officer of the State's attorney's office; that he willingly submitted to this extraordinary procedure, and remained in the charge of Cook County officers, wholly under their control, for a period of eight months.

During that entire time, sleeping or waking, in court or out of court, Charles A. White never took a step or a breath except in the presence of an officer of Cook County. He testified before the Cook County grand jury; he testified in the first trial of Lee O'Neil Browne; he testified in the second trial of Lee O'Neil Browne in August and early in September, and he testified before the Burrows committee. Then it seemed that the whole work of the prosecution had ended and that he had completed his contract, but, notwithstanding that, Cook County continued to keep Charles A. White in the custody of an officer during October, November, and December, and until after the Burrows committee made its report to the Senate on December 21, 1910. Two days after that report was made to the Senate Cook county released its hold upon White, and during that eight months all of his expenses and the expenses of the officers attending him, amounting to $2,531.15, were paid by the county of Cook. There was some reason for this.

THE MOVEMENT TO UNSEAT MR. LORIMER IS LAUNCHED.

Going back to the evening of Friday, April 29, 1910, following the purchase of the White story, great excitement prevailed in the Tribune office; all the machinery of that immense plant was called into action to insure its publication the following morning, and on Saturday morning, April 30, 1910, the Tribune, under glaring headlines, printed the story, accompanied by an interview with Gov. Deneen. The governor was in Chicago that night, and in view of what has been said in Illinois and in Washington concerning bipartisanship combinations in Illinois politics, it is interesting to note in passing that Gov. Deneen testified that he had attended a political conference that evening with Roger Sullivan, Democratic national committeeman from Illinois, and others, relating to "the proposed apportionment" of the city of Chicago, in order to determine whether the Democrats and Republicans could agree. So that, if bipartisanship has flourished in Illinois politics, it has not been confined exclusively to the Illinois Legislature in the election of Senator LORIMER.

This publication was made, as I have said, in the Tribune on Saturday, April 30. Other papers took the matter up, and were filled with startling announcements. Excitement ran high throughout the State and Nation. Sunday, May 1, was a busy day. Everyone in political life in Chicago who was opposed to Mr. LORIMER was roused to action. When he was elected Senator they feared his increased influence. Now he was attacked and his downfall predicted, and they were ready to renew the old contest against him.

APPEARANCE OF INTERNATIONAL HARVESTER CO.

At this juncture of affairs the International Harvester Co., through it general manager, Clarence S. Funk, makes its appearance as a new element in the combination to drag Mr. LORIMER from his seat in the Senate.

Why did Mr. Funk inject himself into the matter on that day? Why do I say he rushed in? Why did he do so? Let us look at the situation for a moment. For years before Mr. LORIMER's election to the United States Senate the International Harvester Co. had been his political enemy. With his election to the upper House of the Congress he became a more potential power. It was then time to make peace with him. A meeting had taken place on the day following his election, May 27, 1909, at the Union League Club, Chicago, between Mr. Funk, the general manager of the International Harvester Co., and Edward Hines. They disagree as to what occurred on that occasion. Mr. Hines's version is corroborated in every particular. Three witnesses—Hall, Baker, and Carney—who were all present, corroborate Mr. Hines's statement as to the opening portion of the interview.

VERSION OF MR. HINES.

Briefly stated, Mr. Hines says that Mr. Funk approached him and said:

I am very glad to hear that Mr. LORIMER has been elected Senator.

And further said:

I would like very much indeed, at your earliest convenience, if you would arrange to introduce me to Senator LORIMER. I have never met him, and I would like to have you introduce me to him.

And as they were about to separate Mr. Funk further said:

The Senator must have been put to more or less expense in this contest for the senatorship, and he ought not to stand that. The business interests ought to take it off his hands. We would like to contribute to that expense.

Mr. Hines testified:

I said to him that I did not know anything about the matter; but I said, "I will see and let you know."

The evidence shows that Mr. Hines did call upon Mr. LORIMER at his home the following Sunday evening; that he inquired concerning his expenses; was told by Mr. LORIMER that he had incurred no expenses save his railroad fare; and Mr. Hines reported to Mr. Funk that Mr. LORIMER had been to no expense whatever. Mr. Hines testified that his impression was that Mr. Funk approached him in that way for the purpose of "currying favor," as he expressed it, with Senator LORIMER, toward whom he had been opposed, but with whom, now that he had been elevated to the senatorship, he desired to be upon better terms.

That Hines's version of that interview is correct is made evident by the surrounding circumstances. He says that at the time he had his interview with Senator LORIMER he told him that Mr. Funk was very anxious to be introduced to him, and that Mr. LORIMER replied, "Mr. Funk is one of my active enemies, Mr. Hines, and I do not care to meet him particularly." But after some discussion and Mr. Hines's statement that he had promised to present him, Senator LORIMER consented to meet Mr. Funk. The evidence shows that Mr. Hines was unable to see Mr. Funk personally after his talk with Senator LORIMER, because he left Chicago early on the Monday following, but he sent word to him through Mr. Wiehe that there was nothing to that matter—meaning Senator LORIMER's expenses in connection with his election. During that week Mr. Wiehe had occasion to communicate by long distance with Mr. Hines, at Washington, and in the course of the conversation told him that his message did not seem to suit Mr. Funk, who was anxious to meet him in Washington the following Saturday. Mr. Hines could not tell about his movements at that time, and the following Friday, June 4, 1909, he telegraphed to the Edward Hines Lumber Co. at Chicago:

Will try. Have Funk meet me, Chicago, Saturday or Sunday. Could meet him any time. Like to leave here to-day. Answer quick.

What does that telegram mean? It means that Funk desired to see him, and Hines would try to meet him.

Mr. Hines received a telegram in reply, stating:

Funk New York to-day. Leaves this afternoon, Washington. There to-morrow. You can reach him to-day, George Perkins's office, or Judge Gary, 51 Broadway.

This incident is corroborated by the testimony of Mr. Wiehe.

Without waiting to meet Mr. Funk in Washington, Mr. Hines left for Chicago that afternoon. He testified that he had no business of a personal nature pending with Mr. Funk, and that he knew of no reason why the latter desired to meet him beyond what was expressed in the message of Mr. Wiehe to the effect that Mr. Funk did not seem satisfied with what he had said to him and wanted to see Mr. Hines personally.

The statement of Mr. Hines is further corroborated by the fact that during the deep-waterways convention which was held in Washington in the fall of 1909, Mr. Funk met him in the New Willard Hotel and was taken by Mr. Hines to a room upstairs and introduced to Mr. LORIMER, as he had then and previously requested.

If the version of Mr. Hines is not true, why was Mr. Funk pursuing him the next week seeking an interview with him? Why did he want to meet him in Washington? As the evidence shows, there was no reason for it and no explanation of it except for the purpose of carrying out his determination to establish, if possible, friendly relations with Senator LORIMER. Months later why was Mr. Funk renewing his request to be introduced to Senator LORIMER, and why did he go with Edward Hines to his apartments in the Willard Hotel for the sole purpose of being presented to Senator LORIMER?

CHANGED CONDITIONS.

But now conditions have changed! A year has elapsed. With the publication of White's jack-pot story and the charge that Senator LORIMER occupied his position in the Senate as the result of bribery in the legislature all the old opposing forces in politics immediately sprung into new life; they all joined in organizing a crusade to drive this man out of the Senate of the United States, and Clarence S. Funk evidently wished to add his contribution to the swelling tide of opposition to Mr. LORIMER.

Immediately after the publication of the White story, being anxious to enter the lists of those planning the downfall of Senator LORIMER, Mr. Funk sought out his intimate friend Mr. H. H. Kohlsaat, of the Record-Herald, who for 20 years had been confessedly bitterly opposed to Mr. LORIMER politically, and to him, under a solemn pledge of secrecy, unfolded his version of the interview had with Edward Hines on May 27, 1909, the day following the election of Senator LORIMER.

VERSION OF MR. FUNK.

Mr. Funk gave to this committee his version of the interview had with Edward Hines on the day after the election of Mr. LORIMER, testifying that Mr. Hines approached him and said: "Hello! you are just the man I was looking for." That Hines seemed to be feeling exuberated, and further said, "Well, we put LORIMER over down at Springfield, but it cost us $100,000 to do it." That he "then went on to explain that they had to act quickly when the time came and did not have any time to consult anybody." And that he further said: "So we put up the money. Now we are seeing some of our friends to get the matter fixed up." That he inquired how much he was getting from different friends, and Hines said, "Well, we can only go to a few big people; but if about 10 of us would put up $10,000 apiece we would clean it up." That he asked Hines why he had come to him, and Hines said, "Because you are as much interested as anybody in having the right kind of a man in Washington." That he replied, "I told him we would not have anything to do with the matter." That he wanted to know why, and he said, "Because we are not in that kind of business."

Mr. Funk said Mr. Hines mentioned Mr. Tilden's name as the man who handled the money.

In doing this Mr. Funk fully intended, without permitting the story to reach any judicial tribunal where its truth or falsity could be determined, to have it used, as it was used, as it has been used from that hour to this, secretly but effectively to bring about the destruction of Senator LORIMER politically. And it was upon Mr. Funk's version of this interview with Edward Hines that the Senate of the United States reopened this case, and that is the sole basis for the claim that a corruption fund was raised and used to secure the election of Senator LORIMER.

MR. KOHLSAAT BECOMES A PARTY TO THE MOVEMENT.

Mr. Kohlsaat is a man of great ability; he has great interests; and he has done great newspaper work in Chicago. He is a charming man to meet. He came into this controversy just as James Keeley did; just as Gov. Deneen did; and just as other men engaged in politics did—to unseat Senator LORIMER. Their whole stock in trade was the jack-pot story of Charles A. White, unless it should appear that a corruption fund had been raised and used corruptly by Edward Hines to aid in the election of WILLIAM LORIMER. As a matter of fact, there was no such fund; there is not a shred of evidence to support the statement that such a fund ever existed. And yet this story of Funk, secretly circulated, which never until now was allowed to reach any tribunal where its truth or falsity could be tested, has, more than any other one element in this case, resulted in the great wave of public sentiment which has demanded Mr. LORIMER as a sacrifice.

This is the story which Mr. Funk told Mr. Kohlsaat at this time, when it became necessary, as he believed, to join this movement to oust Senator LORIMER from his seat; he says he had never told it to any person except Mr. McCormick and Mr. Bancroft, the president and the counsel for the company of which he was general manager. Both of these men say they never mentioned it to any person, and had not even discussed it among themselves, so that is was locked up in the mind of Mr. Funk until he told it to Mr. Kohlsaat, and Mr. Kohlsaat says that he told it to Mr. Keeley, of the Chicago Tribune, and to Mr. Lawson, of the Chicago Daily News, "in confidence," giving to the latter Funk's name.

Now mark the time: Monday morning, May 2, the very day that the grand jury convened in Chicago, the Tribune published an editorial headed, "Was it sawdust?" followed by "Who furnished the dust, to use a colloquialism, to bribe the legislature?" And Mr. Keeley testifies that he personally wrote that editorial and ordered it to be published as the leading editorial in the Chicago Tribune of May 2:

Mr. HANECY. When you published the leading editorial in the Tribune, which you say you wrote yourself——
Mr. KEELEY. Yes, sir.
Mr. HANECY. On the 2d of May—the one headed, "Who furnished the sawdust"—you meant in that editorial Edward Hines, didn't you?
Mr. KEELEY. Yes, sir.
Mr. HANECY. And you wanted the public to understand that you meant Edward Hines, didn't you?
Mr. KEELEY. They could draw that inference; yes, sir.
Mr. HANECY. You wanted them to draw that inference?
Mr. KEELEY. Why, possibly; yes, sir.
Mr. HANECY. Edward Hines is the only one that your paper mentioned as a lumberman or in connection with sawdust in any of the articles in the Tribune, is he not?
Mr. KEELEY. Yes, sir.
Mr. HANECY. Whenever you mentioned anybody as a lumberman or connected with the lumber business or who furnished the sawdust or any similar terms, connecting a prominent citizen with the lumber business, you meant Edward Hines, didn't you?
Mr. KEELEY. Yes, sir.

The manager of that great corporation knew that story, as the editorial shows, because it could not have been based on anything else. He could not have received his information from any other source than that which I have described. Until he told

Mr. Kohlsaat, Mr. Funk had told it only to Mr. McCormick and Mr. Bancroft, and they say they had not mentioned it even among themselves.

Mr. Keeley got no response from that, and on the following Sunday, May 8, within six days of the publication of that editorial, he propounded these questions:

Have you any knowledge of a syndicate that underwrote the election of Mr. LORIMER?

Putting it in the very language of Mr. Funk:

Have you any knowledge of this syndicate advancing the money and then, after the election of Senator LORIMER, sending certain members of the syndicate around and assessing corporations and friends of the Senator a certain proportion of the amount used?

Do you know anything about the identity of this syndicate?

How much did you contribute toward any fund for the election of Senator LORIMER?

Did you solicit any funds for the election of Senator LORIMER?

If you have anything further to say on the subject, Mr. Keeley, of the Tribune, will be glad to hear from you to-night.

These questions cover every feature, every phase of Mr. Funk's version of his interview with Edward Hines, which he had communicated to Mr. Kohlsaat "in confidence." Mr. Kohlsaat in turn told it immediately to Keeley and Lawson, thus bringing these strong forces into the combination that was pursuing Mr. LORIMER.

Mr. Hines told the reporter who called upon him in regard to these questions that he would call on Mr. Keeley and refused to talk with the reporter. Mr. Hines did call on Mr. Keeley at that time. He was indignant. Mr. Keeley says:

He repeated the fact that he had a reputation and a standing in the city of Chicago, and that if we printed anything about him that was libelous he would sue us for libel. I told Mr. Hines that whatever was true I would print about him, and he could sue and be hanged, under those circumstances, pointing out the fact that the Tribune Building was worth a million and a half dollars; and if we printed any lies about him or any libelous statements that he could get that building, and doubtless he could use it in the lumber business. I then asked him again if he desired to answer the questions, and he said "No"; and I ended the interview right then and there.

It turns out, however, that Mr. Hines did really answer the questions, and in response to a question of Senator FLETCHER Mr. Keeley says:

He may have said, in a general way, "I have not any answer to these questions. I do not want to answer them. There is nothing in them." Or something of that kind. I do not remember specifically what was said.

Senator JONES inquired:

Mr. Hines said to you that he considered the questions insulting?

Mr. KEELEY. First a joke, and then insulting, and then libelous.

In further substantiation of the fact that this story must have been known to Mr. Keeley at this time, and that it reached him through Mr. Kohlsaat, Mr. Keeley testifies that Mr. Kohlsaat mentioned the names of Hines, Tilden, Conway, and Roger C. Sullivan in connection with that transaction, and Mr. Mr. Keeley directed the questions to be put to Hines and Conway, and his evidence shows that these same questions were carried to Conway as well as to Hines, and that he sent Mr. Austrian to see Roger Sullivan with the same questions. So that there can be no doubt that Mr. Funk was in that combination on that very Sunday before the "sawdust" article was published Monday morning, May 2, the day the grand jury came together.

If I needed any further corroboration, I would cite the fact that on May 10, 1910, the Chicago Daily News published these same questions and answers. On that day a Tribune reporter called Mr. Hines at his home over the phone and asked if the interview published by the News was correct. Hines said he had not read it. The reporter read it to him, and Hines said, "That is correct," and that he had nothing to add to it. On May 11 the Tribune under glaring headlines reproduced the News's interview with Hines.

And yet from that day to this it has been stated that Mr. Hines never denied any of these stories. He never had a chance to deny them in court or in any investigation, because every time any of them told that story it was told "in confidence"; it must not go into court, it must not be heard in an investigation, it must not be made public. He never had a chance to meet it until he met it before this committee, and yet, as late as January, 1911, when this matter was under consideration in this body, Mr. Kohlsaat wrote a letter to the Senator from New York [Mr. ROOT], which appears in the report of the committee, in which he states that he had several times published editorially that $100,000 was raised to buy LORIMER'S election without a protest from anyone. How could it be denied? No one knew the basis for such statements. If Edward Hines saw these statements, he had no means of knowing that they referred to him; and consequently, he could make no denial. The first time the name of any man was connected with this alleged fund was when Clarence S. Funk testified before the Helm committee at Springfield in April, 1911—a month after the Senate had determined that Mr. LORIMER'S election was valid. Mr. Kohlsaat now becomes a very important figure in this movement against Mr. LORIMER. He was the custodian of that story.

ATTORNEY GENERAL STEAD IS BROUGHT INTO THE COMBINATION.

Another party to this combination enters upon the scene at this time, and that is the attorney general of the State. Senator LORIMER made a suggestion a few moments ago concerning the part he took to smother an investigation of legislative graft in Sangamon County. It must be remembered that the publication of the White story in the Tribune was on the morning of Saturday, April 30; that the publication of the Tribune's "sawdust" editorial, based upon Mr. Funk's story, was on the morning of Monday, May 2; that Funk must have communicated it to Kohlsaat as early as Sunday, May 1, and that Kohlsaat must have communicated it to Keeley on that same day.

On May 2, the same day that the Cook County grand jury met in Chicago, the Sangamon County grand jury met in Springfield. The latter is the county in Illinois in which it was charged all of the offenses had been committed. If there was bribery, it was in Springfield. If there was boodling, it was in Springfield. If there was any violation of the law in the legislature, it was committed in Springfield; and immediately after the publication in the Tribune on Saturday, the State's attorney of Sangamon County announced that he would prosecute all of those cases, and issued subpœnas for the witnesses whose names had been made public.

The attorney general of the State, Mr. Stead, promptly volunteered his assistance to the State's attorney of Sangamon County in prosecutions there. The State's attorney issued subpœnas, and published in the papers the statement that he would proceed. But some potent influence began at once to operate to prevent a prosecution in Sangamon County. Gov. Deneen had been in this movement from the 16th of March, when he had his first consultation with Mr. Keeley. He was with Mr. Keeley the morning of the publication of this story, April 30, and gave an interview which was published in the Tribune. He had returned to his home at Springfield, where the offices of Attorney General Stead are located. I have already said that Mr. Stead came forward promptly on Monday, May 2, and volunteered to support Mr. Burke, the State's attorney, in the prosecution he was to begin in Sangamon County.

Then what happened? Before that week had ended he sent his assistant, Mr. Dempsey, to advise Mr. Burke not to proceed with such investigation before the grand jury of Sangamon County. Why not? About the same time we find the governor going to Mr. Gillespie, an attorney of Springfield, concerning whom I will speak by-and-by, and telling him that he is not sure that the attorney general will prosecute those cases. He advised Mr. Gillespie not to engage in the defense, as there might be a legislative investigation, and he might be employed by the State. He asked him to keep out of the so-called bribe cases.

Now, I repeat that before the end of that week and before a single witness had appeared before the Sangamon County grand jury, Mr. Dempsey, the assistant attorney general, went to Mr. Burke and asked him not to proceed with the investigation in that county. Burke refused to comply with the request, and Mr. Dempsey threatened to invoke the aid of the courts to restrain him from doing so.

The strength of this interference to prevent an investigation of alleged offenses is evidenced by the fact that proceedings were actually begun by the attorney general in the courts of that county to legally restrain the State's attorney from doing his plain duty by investigating through the grand jury the guilt of these parties, whose offense, if committed anywhere, was committed in that county. Mr. Burke was brought in before the court and the attorney general appeared in person against him and urged the court to issue a restraining order to prevent Mr. Burke from proceeding with the investigation. The court decided in favor of Mr. Burke's right to proceed and held that the attorney general had no authority to interfere in proceedings pending before the grand jury. Mr. Burke, therefore, having the authority, proceeded.

But what produced this remarkable change of heart on the part of the attorney general and led him to invoke the aid of the courts in an attempt to stifle the investigation? Could it have been anything but the influence of Gov. Deneen? The answer is easily found in the statement of Mr. Gillespie, whom I have mentioned, and it is a significant element of the conversation that he asked Mr. Gillespie what his relations were with the attorney general, and was informed that they were friendly.

And it is still more significant that immediately after, when Attorney General Stead appeared in court to oppose Burke's investigation, he called Gillespie aside and asked if he had been employed or spoken to by anybody in connection with the defense of any of the cases. He stated to Gillespie that he did not know what his attitude would be, and asked him for the time being not to participate in the defense, and Gillespie said to him that he would not at that time. Thus it would appear that the combination already referred to operating in Cook County, acting through Gov. Deneen, had swerved the attorney general from his laudable purpose to aid State's Attorney Burke to prosecute all the alleged legislative offenses in the county where they were committed, and induced him to become their servant in attempting, through his high office, to block such proceeding.

OBSTRUCTION TO JUSTICE IN SANGAMON COUNTY.

How further did the Chicago combination seek to obstruct the orderly course of procedure in the county where alone the jurisdiction lay to investigate and punish legislative corruption?

Mr. Burke summoned White to appear before his grand jury, but he did not respond to the summons. He also summoned Link, Beckemeyer, and others. What was done? To prevent Mr. White from testifying in Sangamon County, the officers who had custody of him, under the authority and by the direction of Mr. Wayman, the State's attorney of Cook County, took him out of the State of Illinois; they went with him from place to place in Wisconsin, Minnesota, and Michigan. The first direction given by Mr. Wayman was to take White out of town, because he did not want White to be subpœnaed before the Sangamon County grand jury.

As I have already stated, immediately upon the signing of the contract with the Chicago Tribune on April 29, White was put in the custody of Officer Turner; he was taken to the Palmer House, where White had been stopping, and from there to the Grand Pacific Hotel, where they spent the balance of the night, also Friday, Saturday, and Sunday. On May 2, the day the grand jury met in Cook County, White was taken to State's Attorney Wayman's office and put in charge of an officer from that office. He does not remember exactly the places to which the officers took him, but among other places he was taken to the Del Prado Hotel, Hyde Park. Officer Kerr then took him to Milwaukee with one Otis Yarbrough, and the three spent one day at the Plankinton House. Then White, Officer Kerr, and Yarbrough went together to Madison, Wis. They were there for several days, after which they went to Minneapolis, Minn., where the three remained for two or three days. White swears:

I think Mr. Wayman called us in at that time. Mr. Wayman ordered us out of town; that is all I know. He ordered the officer to take me out. If I remember correctly, he called up the room at the hotel, and I answered the phone, and then he ordered Kerr to take us out of town.

Mr. Wayman himself testifies that he gave that order. He was asked:

That was on your direction?

Mr. WAYMAN. Yes. The towns were not selected by me, but the direction was to keep out of the jurisdiction of Sangamon County for awhile, and out of Illinois.

What is true of Mr. White in that connection is true of Mr. Beckemeyer. In order to keep him away from Sangamon County, Mr. Beckemeyer was sent to Indiana and kept there for a week. He rebelled against being kept out of the State, and returning to Chicago told Mr. Wayman that he was not going to dodge in that way, and in spite of Mr. Wayman's wishes voluntarily went to Springfield to testify.

When Mr. Link was summoned before the Sangamon County grand jury at Springfield to testify, Mr. Wayman sent an officer and a lawyer with him to prevent him from testifying there.

This is a very strange thing, Mr. President, in view of the fact that Cook County had no jurisdiction over Mr. Beckemeyer or Mr. Link or anyone connected with the legislative corruption, except Lee O'Neil Browne, and only over him because he paid a part of the $1,000 to White in Cook County. If any offense had been committed by Mr. Beckemeyer or by Mr. Link, it was in Sangamon County, and it was in that county that they should have been prosecuted, and the State's attorney for that county was not only justified in directing an investigation there, but it was his duty to do so.

What was the reason these witnesses were not allowed to go there? Is it not apparent? Charles A. White claimed that Lee O'Neil Browne had bribed him in consideration of a thousand dollars to vote for Mr. LORIMER. If the Cook County authorities could secure a witness who would state that Browne had paid him the same amount, they would claim before the jury in the Browne trial that it was paid for the same purpose. Their plan was to keep these persons in Cook County, in the custody of officers, where they could control their movements and associations, and use them in the prosecution of Browne.

The Cook County authorities did not want these men to testify in any other county. It was not their purpose to have the participants in the legislative jack pot punished. They even granted immunity for that offense to induce these witnesses to testify when the prosecution of Browne for bribery only was pending. Their sole purpose was to sustain the story of Charles A. White. In this they were not successful. These witnesses did testify in the trials where Charles A. White was a witness, but no jury convicted Browne, because neither of these witnesses ever admitted to anybody and neither ever testified that the money he received from Lee O'Neil Browne had any connection with his vote for Mr. LORIMER.

Returning to proceedings in Sangamon County, Link appeared before the Sangamon County grand jury two or three times, and on the advice of State's Attorney Wayman, of Cook County, refused to answer questions propounded to him, on the ground, as Wayman advised, that he might incriminate himself. Though Link wanted to answer the questions, still Wayman said, "Don't do it, Link; don't do it."

Mr. Link testified:

Q. Did he tell you not to answer the questions of the State's attorney or the grand jury of Sangamon County?—A. If the senatorial committee please, the question all hinged upon one answer, "No" or "Yes," to one certain question, and that question was, "Did you receive or were you offered or do you know of anybody being offered any money in Springfield for voting on any question?" That was the question, and when I finally got permission from Mr. Wayman, which I answered positively, right straight out, "No." I answered, "No." That is all there was about that. He wouldn't let me answer the question at all.

In order to induce Mr. Link to testify before the grand jury of Sangamon County the State's attorney of that county went to the court and secured an immunity order in his favor, so that if he should testify he would not incriminate himself, and even under those circumstances we find him there in the custody of an officer and accompanied by a legal adviser sent by the State's attorney of Cook County and at that county's expense.

Let me repeat, the purpose of the combination, as I call it, of all forces mentioned was to secure evidence to sustain White's claim that the $1,000 paid by Browne to White was in pursuance of an agreement with Browne to vote for Senator LORIMER. To this end every instrumentality known to the law and unknown to the law was invoked. The charge has been shown to be unfounded by the courts of Illinois, where it was fully and carefully and ably tried. This is all the more remarkable when it is remembered that in the preparation of the Browne case and in the attempt to secure evidence that would in some way connect fraud with the election of Senator LORIMER methods were adopted and means employed more censurable in their nature than can be conceived by any student of history who has respect for human freedom.

White, Beckemeyer, and Link, and without doubt others, had each received $1,900 from the "jack pot," made up of contributions from corporations in the interest of special legislation. In each instance $1,000 was paid by Browne and $900 by Wilson. In each instance it came from a common fund and must have been for a common purpose. White's claim that he had been bribed to vote for Mr. LORIMER was wholly unsupported. The purpose of this combination was to make it appear that the payments to Beckemeyer and Link were for the same purpose, and so corroborate White's story. But neither Beckemeyer nor Link ever testified to any such thing. The story of Charles A. White was not only unsupported, but was discredited, and Mr. Browne was discharged on a verdict of acquittal of the charge.

METHODS ADOPTED WITH WITNESSES IN COOK COUNTY.

Mr. President, I want to call attention to the way that witnesses were treated in Chicago when called before the grand jury in this attempt to extort from them something that would support White's story of bribery and something that would give color to the statement that the thousand dollars they had each received from Mr. Browne was for the purpose of inducing them to vote for Mr. LORIMER. It appears that all these witnesses went before the grand jury of Cook County and were asked the question whether they were in St. Louis on July 15, 1909. It is true that they had been there and that they had received $900 each from Wilson, but each of them denied being in St. Louis that day. They supposed they would be prosecuted for having received the money. What happened? They were immediately placed under arrest. Let me refer to the testimony of State's Attorney Wayman. He certainly knows why this was done.

This question was put to him by Mr. Marble:

Why did you place these witnesses in custody or under this surveillance?

Mr. WAYMAN. Well, there are different answers applying to the different witnesses. I will take them seriatim. I placed Link in custody because he had committed a crime in my presence. I placed

Beckemeyer in custody because he had committed a crime in my presence. I placed Clark and Shephard in custody believing that they had committed crimes in my presence, and I did so under the authority of the statute of this State.

The CHAIRMAN. To what statute do you refer?

Mr. WAYMAN. Section 342 of the criminal code of this State.

Mr. MARBLE. Were officers kept with these men against the will of the men and against their consent?

Mr. WAYMAN. Yes; officers were kept with Clark, Link, Shephard, and Beckemeyer on the afternoon of the 5th against their will. Of course, they were placed in custody against their will, and they were held in custody involuntarily—all those four—until they were discharged from the custody, etc.

Now, what was the authority under which the arrests were made? The statute reads like this:

Arrests without warrant. 4. An arrest may be made by an officer or by a private person without warrant for a criminal offense committed or attempted in his presence, and by an officer when a criminal offense has in fact been committed and he has reasonable ground for believing that the person to be arrested has committed it.

Mr. President, the construction placed upon that statute by the State's attorney for Cook County is that if he, sitting in the grand-jury room, is of opinion that a witness has committed perjury he can place him under arrest for a crime committed in his presence. What do the lawyers here say to that proposition? If there had been a criminal assault upon the street, of course it could be done; but think of a State's attorney sitting with the grand jury and placing men under arrest the moment he thinks they have sworn falsely, and under the authority of such a statute.

In each of these cases just as soon as the witness had ceased testifying an indictment was filed against him for perjury. These men were placed and kept under arrest; but if arrested on those indictments or arrested under a statute of the State, why were they not committed! Why were they permitted to go to hotels with an officer of and at the expense of Cook County? Why were they permitted to indulge in intoxicants by these same officers, and why were the expenses of drinks charged in the same way? Why were they permitted to do anything and everything of the character indicated before being again brought before the grand jury? Officer Keeley, in whose charge these men were placed, answers these questions. He testified that his instructions from the State's attorney's office were "to take them out and treat them right," which he understood to mean that he was to get them in a condition where they would talk more freely before the grand jury.

Why did they afterward admit their presence at St. Louis and the receipt of $900 each from Wilson? Because it was true and because Robert E. Wilson was called before that grand jury, and could not deny that he had been in St. Louis on that day, because he was registered at a hotel. He told the grand jury he was there and admitted these men were with him, giving some apparently innocent reason for the meeting. Thereupon these men went before the State's attorney and frankly admitted being in St. Louis and receiving $900 each, under conditions of which I will speak a little later. Shephard never confessed that he received any money or anything of that kind, although he admitted being in St. Louis. The same is true of Clark.

WHY LINK VOTED FOR MR. LORIMER.

Remembering that the payments to each of the three men, White, Beckemeyer, and Link, were precisely alike, $1,000 to each from Browne and $900 from Wilson, and that White is the only one who makes any claim that the first payment differed from the second in character or purpose, it is important to know just what influences did operate to induce these men severally to vote for Mr. LORIMER. Let it ever be remembered that Beckemeyer and Link have never been driven to the confession that the money paid them was from any source other than the jack-pot fund of the legislature—and even White admits that his second payment was from that source.

What did, in fact, move these men to vote for Mr. LORIMER?

Take first the case of Mr. Link. As early as March it appears that Mr. Link wanted to vote for Mr. LORIMER.

I read from his testimony:

Q. You were going to vote for him, even though you were a Democrat, by reason of his views on the deep waterway; is that correct?—A. Will you allow me to tell you when I made up my mind to vote for him?

Q. Yes, sir.—A. In March, 1909—provided we could not elect a Democrat.

Q. As early as March?—A. Yes, sir.

Q. Had you voted for any Republican after March?—A. No, sir.

Q. Now, Mr. Link, you heard Mr. LORIMER on the deep-waterway proposition when?—A. You mean prior to the——

Q. To May 26?—A. I heard him and followed him in our county when he came there.

Q. When was that?—A. In the fall of 1908, I think.

Q. 1908. It was by reason of his views on the deep-waterway proposition that you concluded, if the occasion arose, to vote for Mr. LORIMER for United States Senator, was it not?—A. Yes, sir; I was opposed to Illinois going it alone. I wanted the United States Government to give us help.

Q. It was by reason of Mr. LORIMER'S expressions on the deep waterway——A. (Interrupting.) His attitude; yes, sir.

Q. That you concluded you would vote for him for United States Senator?—A. Yes, sir; I thought he was the greatest man in Illinois.

Q. Was there any other fact that impelled you to vote for him?—A. Not any emphatic fact; no, sir.

* * * * * * *

Q. Your county, the largest county in your senatorial district, is Madison County?—A. Yes, sir. It borders on the Mississippi.

Q. And bordering on the Mississippi, it would be affected by this deep waterway?—A. Yes, sir.

Q. You stated to the counsel on the other side on the direct examination that you heard Senator LORIMER speak on the deep waterway; was that in your county or one of the counties in your senatorial district?—A. He spoke three times in the fall of 1908 in Madison County, and had charts with him explaining the plans, etc., and the practicability, and I was deeply interested. I heard him at two places, and I heard him at Granite City and also at Edwardsville.

Link makes further statements, and finally the following testimony was given:

Q. When for the first time did you vote for WILLIAM LORIMER for United States Senator?—A. The 26th of May, I believe.

Q. 1909, sir?—A. Yes, sir.

Q. In other words, the first time you ever voted for Mr. LORIMER for Senator was the day he was elected?—A. Yes, sir.

Q. What, if any, talk did you have with anyone——A. What do you refer to?

Q. ——with respect to voting for Mr. LORIMER for United States Senator prior to May 26, 1909?—A. With Mr. LORIMER himself.

Q. When?—A. Some 10 days prior to his election.

Q. What did he say to you and what did you say to him?—A. I personally promised him my vote.

Q. What else was said?—A. "How do you do," and so forth.

Q. Anything else?—A. Not to my recollection. You have got the substance of the conversation.

* * * * * * *

Q. Did you and Lee O'Neil Browne ever discuss your interview with LORIMER?—A. Yes, sir; to some extent.

Q. When?—A. Some three or four days before LORIMER was elected, to my recollection.

Now we reach his first interview with Lee O'Neil Browne, in which he says:

A. He asked me if—do you want to know what he asked me?

Q. I want the conversation.—A. The conversation was this, to my recollection: He said, "Hello, Mike," and I said, "Hello, Lee." He says, "Come here a minute, Mike, I want to see you," and I said, "All right." He says, "Mike, would you vote for a Republican for the United States Senate?" I says, "Lee, it is according to what Republican you have in view." He says, "How would Mr. LORIMER suit you, Mike?" I had the laugh on him right there, and I said, "Lee, I have got the laugh on you; I beat you to it;" that I promised Mr. LORIMER a week or 10 days ago personally. That is all the conversation that took place.

Mr. Link appeared before the grand jury of Cook County May 5, and testified that he was not in St. Louis July 15, or any other day that summer, to meet Wilson nor anyone else.

Friday, May 6, the indictment was voted against him and it was in process of preparation. Link left the grand jury room and was joined by Mr. Wayman, and a long conversation was held in which Mr. Wayman succeeded admirably in getting at the situation. He said in his testimony:

I called him to one side and said, "Mr. Link, you had better wire for your son to come to Chicago." I was under the impression that he had a son. He said, "Unfortunately, I have no son." I said, "You had better wire for your brother." He said, "No; he can not do me any good in the trouble I am in now." I said, "If there are any of your folks that you want to notify to come up here, and I think they should, we will notify them." He thought the question over—

* * * * * * *

The bond is the thing that is bothering me. If I were down in my home town and county I could get all the bond that was wanted, but I am up here a stranger and I do not know about a bond.

Then Mr. Wayman took the matter up in another light. He said:

"I will tell you what I am going to do with you, Mr. Link. You need not let the bond proposition worry you at all. I have got a plan mapped out for you that I want you to follow. You take my advice on it. I am not going to have this capias served on you at all. I am going to permit you to go back to your home, and I will order the sheriff to hold the capias. When you get down there, you consult the lawyer whom you have known the longest, or your warmest friends, and tell them the exact situation. After you have done that, then you can arrange for your bond and return here next week and give a bond." He said, "Well, that is pretty fair." He then said to me, "What lawyer would you recommend here?"

Mr. Wayman told him he could not recommend a lawyer.

Without stopping to read that testimony I will say that Mr. Wayman did everything in his power to get Link to seek the best advice obtainable and be governed by it.

Telling him that he should tell his lawyer the circumstances, and then be guided by his advice, adding:

Whether or not you should stand trial on this perjury charge and take the chance of going to the penitentiary (for that is the penalty under the statute) in defense of the gang that got you into this conspiracy and are now ditching you, or whether you should tell the truth, purge yourself of this perjury, and help the State of Illinois to retrieve itself from the outrage that you and the other conspirators have heaped upon her." I said, "Tell him or them the truth. That is all I want you to do; and then return here."

They had further conversation which, according to Mr. Wayman's testimony, was as follows. He, Mr. Link, said:

"I want you to understand one thing now. I never was promised any money to vote for LORIMER." I said, "It does not make any difference what you were promised. What I am trying to find out is, why were you at St. Louis on July 15?" He said, "I would like to

tell you, but I don't want to hurt Lee. Lee was pretty kind to me when I was in the legislature." I said, "That is not material to the issue here at all." He finally said, "How do you stand in St. Louis?" I said, "Mr. Link, the situation as I understand it is you have committed no crime in St. Louis. No testimony here shows the commission of a crime in St. Louis." He said, "How do you stand in Sangamon County?" I told him I did not know the State's attorney of Sangamon County, but that the State of Illinois was a big institution."

They had further conversation until it came to the point that Link was assured of full immunity if he would tell the truth.

Mr. Wayman testified that he said to him:

"Why don't you tell the facts?" He said, "I will tell you what I will do. I will tell you the exact facts, with the understanding that if I conclude to stand trial on the perjury charge you will not use it against me."

Mr. Wayman admits that in making his confession Link expressly denies that the payment to him had anything to do with his vote for Mr. LORIMER.

He testifies:

I agreed to that. That was Friday night. Before he left he said, "Well, I want you to understand"—and he repeated this at least half a dozen times—"that I was promised no money to vote for Senator LORIMER," and then, when he agreed to tell the facts, he said that on July 15, at St. Louis, he was there. He told who was there and said that he received $900 from Robert E. Wilson; that prior to that, on a date that he could not fix, he received a thousand dollars from Lee O'Neil Browne in St. Louis, having on each occasion received word to go to St. Louis, but that Lee O'Neil Browne did not tell him what the money was for and he did not know what it was for. He said, "Now I have told you all I know."

Thereupon he was taken before the grand jury and testified as he had stated to Mr. Wayman. Mr. Wayman said:

"Are you going before the grand jury and tell the facts?" He said he was. I at once took him before the grand jury. That was Saturday morning, the 7th. He there testified as he had stated to me. I went at once into court with him before Judge Kersten and nolled the case in open court and Mr. Link left at once for his home in Madison County.

The CHAIRMAN. Mr. Wayman, you stated what he told you about Mr. Browne, that he paid him a thousand dollars, but did not tell what it was for?

Mr. WAYMAN. Yes.

The CHAIRMAN. You did not say anything regarding Mr. Wilson. Did he tell you what Wilson said the $900 was for?

Mr. WAYMAN. No; I do not think he did. My impression is that he just got the money, and that he had no information from any of them as to what it was for, and I remember telling Mr. Link, "It will be a question for the jury as to what it was for."

Mr. Wayman said that he neglected to state one part of the conversation as to his reasons for voting for Mr. LORIMER, and he proceeds as follows:

Mr. WAYMAN. He said that Lee O'Neil Browne met him and asked him to vote for Senator LORIMER; asked him if he could vote for a Republican; that he said, "That will depend on what Republican it is." He said Browne said, "Senator LORIMER." Then he went on and told me, "I said, 'Lee, I beat you to it'; I was considerably puffed up to think I had beaten a smart man like Lee O'Neil Browne to it. Two men came and got me and took me out riding one evening, and asked me to vote for Senator LORIMER"; and I think he said after their talk they had taken him up to call on Senator LORIMER, and he had there promised Senator LORIMER that he would vote for him. That was prior to the time that Lee O'Neil Browne spoke to him, and he said that his reason for his friendliness for Mr. LORIMER was because of Mr. LORIMER'S attitude on the deep waterway; that he had heard Mr. LORIMER during the prior summer on two or three different occasions in that district, and had heard Mr. LORIMER before the legislature, in March, I think he said; that his district was a large district on the Mississippi River, and that the reason he voted for Mr. LORIMER was because of Mr. LORIMER'S attitude on the deep waterway. He always maintained that the financial transactions subsequent had nothing whatever to do with his vote. That is the general outline of it.

There we have presented the facts given to the State's attorney of Cook County by Link, upon which he received full immunity for his offense and was set at liberty. Nowhere did Link ever tell any different story, but over and over again he stated and insisted that his vote for Mr. LORIMER was free and voluntary, and that the money received by him had no connection whatever with his vote for Mr. LORIMER; State's Attorney Wayman fully understood this and explicitly says so in his testimony; and understanding it he discharged Mr. Link from custody, with an order of immunity in his pocket and promises of further protection in Sangamon County, which he undertook to carry out. And yet, led by the Chicago press, almost every newspaper in the United States has innocently aided in giving circulation to the falsehood that Link confessed that he was paid for voting for Mr. LORIMER.

The testimony on pages 5752, 5753, and 5754 of the Record shows that thereafter Link was on friendly terms with Mr. Wayman, and particularly so in regard to all matters relating to the proceedings in Sangamon County. Link refrained from responding to a subpœna requiring him to appear in Springfield until he consulted Mr. Wayman and was advised by him to go and assured that he would have a lawyer there to meet him, and Mr. Wayman did send an attorney, Mr. Reed, to Springfield to prevent Link from testifying before the grand jury of Sangamon County in the investigation which the State's attorney of that county, Mr. Burke, was attempting to make, and wherein, if anywhere, Link's testimony should have been taken. In all subsequent proceedings Link was governed by Mr. Wayman, and the relations between them were of a cordial and friendly character. Mr. Wayman thought he had done him a great favor in advising him to disclose the truth, and Link was perfectly frank and outspoken in his declaration that he did not receive the thousand dollars in consideration of voting for Mr. LORIMER.

So it was with all these witnesses—they never got beyond that point. Not one of them, save White, ever said, however pressed, that any consideration moved to them by reason of their vote for Senator LORIMER.

WHY DID BECKEMEYER VOTE FOR MR. LORIMER?

To those who have followed the history of this case I suppose the name Beckemeyer is familiar. It is very important that we examine Mr. Beckemeyer's testimony in the light of all the circumstances under which it was given, inasmuch as he is one of the men who is known to have received $1,900 from this common fund which I have before discussed, and one of the witnesses who testified before the Cook County grand jury and at both trials of Lee O'Neil Browne and before both senatorial committees.

Mr. Beckemeyer is comparatively a young man. He is the son of a prosperous banker. He is a lawyer by profession, but without a large practice; he is not a strong man, not a virile man, and under ordinary circumstances not what would be called a bad man. But in the legislature he fell into those currents which have been disclosed in evidence, and was one of the participants in the distribution of the so-called jack-pot fund of 1909. He admits it very frankly.

Mr. Beckemeyer was a follower of Lee O'Neil Browne in that legislature. It will be remembered there were two Democratic factions—one led by Browne, the other by Tippit. Beckemeyer says he followed Browne's leadership generally through that session. He testifies as follows in answer to Mr. Healy:

Was your Democratic colleague from that district a member of the Browne faction?

Mr. BECKEMEYER. No, sir; he was not.

Mr. HEALY. With which faction was he identified?

Mr. BECKEMEYER. He was of the Tippit faction—what is known as the Tippit faction?

Both of these men were Democrats and from the same district.

The reason given by Mr. Beckemeyer for voting for Mr. Browne in the caucus and allying himself with the Browne faction during that session of the legislature was given in his testimony, where he says:

When I went to Springfield that session I really had not made up my mind who I was going to support for minority leader, but when it came to the showdown between Tippit and Browne—I did not know Browne well, but I knew Tippit, and I did not like Tippit personally. That was about the only reason why I went with the Browne faction.

I read the foregoing at this time because yesterday the Senator from Iowa [Mr. CUMMINS] inquired whether it appears in evidence that Browne paid any of his followers anything in consideration of their support of him for the position of minority leader. Nothing in the evidence would warrant such a conclusion, and anything I may have said that could create such an impression must have been misconstrued. Mr. Beckemeyer's testimony shows that he supported Browne for minority leader more because he did not like Tippit than for any other reason.

As time went on these two Democratic factions became more and more opposed to each other, for some reason which it is not altogether easy to understand. In relation to that question Mr. Beckemeyer testified, in answer to a question by Senator KENYON:

Would his request to you to vote for a bill be made to you alone, or in concert with other people, or while you were with other members of the legislature?

Mr. BECKEMEYER. I could tell you about the conditions that we were in there, Senator.

Senator KENYON. That is what I am asking you.

Mr. BECKEMEYER. The Browne faction and the Tippit faction were continually at daggers' points, and there were a great many times when the Browne faction was on one side of a question and the Tippit faction on the other side, and very often on different matters. It was necessary for us to stay absolutely together, and we always did stay together through the whole session—the Browne faction in opposition to the Tippit faction, regardless sometimes of whether we really wanted to vote that way on that particular thing.

Later, explaining the lengths to which he would follow Mr. Browne as a leader, Mr. Beckemeyer testified as follows:

I understood you to say that you would have voted for any bill that he asked you to vote for.

Mr. BECKEMEYER. I would have voted for nearly every bill; I would have done anything that Lee O'Neil Browne wanted us to do, and I think that was the condition of nearly every Browne Democrat—that they would have done anything that Browne wanted; that is, if it was within reason.

Senator KENYON. Would you have voted for Gov. Deneen for Senator if he had asked you to?

Mr. BECKEMEYER. No; I do not think I would, and I do not think that there was any danger of Lee O'Neil Browne asking that at that time.

Senator KENYON. Would you have voted for Senator Hopkins if Browne had asked you to?

Mr. BECKEMEYER. No, sir; I would not.

Senator KENYON. Then, you would not have voted for anyone that he asked you to?

Mr. BECKEMEYER. I would not have voted for anyone he asked me to; no.

It appears from all the testimony of Mr. Beckemeyer that he was opposed to Mr. Hopkins from the beginning. This was true of all Democrats in that body. Beckemeyer was a seatmate of Mr. Alschuler, who represented the Hopkins district in the house of representatives, and says "that George Alschuler never stopped, from the day the legislature conveyed until Mr. LORIMER was elected, hollering for somebody to beat Hopkins." As to his own attitude on that subject, he testified:

Mr. HANECY. And you told George Alschuler and everybody else that you talked with, from very early in the session of the forty-sixth general assembly, that you would vote for anybody to defeat Senator Hopkins, did you not?

Mr. BECKEMEYER. Yes, sir; I said it often.

Mr. HANECY. And you did not care as to the name or individuality of the person who would beat Hopkins, but you would vote for anybody who could beat him?

Mr. BECKEMEYER. Well, I think my decision at that time was really to vote for Ed. Shurtleff.

Mr. HANECY. Ed. Shurtleff was speaker of the house, and a Republican?

Mr. BECKEMEYER. Yes, sir.

Mr. HANECY. And there was very general talk throughout the session of the legislature, among Democrats as well as Republicans, of electing Shurtleff Senator, was there not?

Mr. BECKEMEYER. There was quite a good deal of talk of it; yes, sir.

Mr. HANECY. And it was the general talk for a long time before the election of Mr. LORIMER that Shurtleff could get nearly the entire Democratic vote for Senator?

Mr. BECKEMEYER. I do not know about that. I was told that he could have anything. Practically all of them had voted for him for United States Senator at some time or other. I was told that.

Then the question came:

Mr. HANECY. And that was so from early in the session, was it not; that is, after it appeared that Hopkins could not be elected?

Mr. BECKEMEYER. Yes, sir; I will say that.

Mr. HANECY. There never was any hope on the part of the Democrats, so far as you know, of electing a Democratic Senator, was there?

Mr. BECKEMEYER. No; I think nobody ever dreamed of that.

But it developed that, although he was very much opposed to Mr. Hopkins and believed that he would vote for any other Republican, and do so willingly, in order to defeat his reelection, he could not vote for Gov. Deneen, and when, as the end of the session approached, he really faced the proposition of voting for a Republican, Mr. Beckemeyer wavered. He was not a strong, resolute, independent man, as were some others in that legislature. He had an eye out to his political future; he realized the power of public sentiment; and he did not know how his political supporters at home might feel and he became timid. This question was put to him:

Senator KENYON. Was it at all hard for you to vote for a Republican?

Mr. BECKEMEYER. I did not want to vote for a Republican; no.

Senator KENYON. Did it strike you as at all strange that 53 Democrats should vote for a Republican?

Mr. BECKEMEYER. It did; yes, sir; that is one reason why I protested at that time.

Senator KENYON. Did you think that was to demoralize the Republican Party?

Mr. BECKEMEYER. I will say that was one of the arguments that was generally applied around the statehouse at that time; yes, sir.

Senator KENYON. That was used, was it?

Mr. BECKEMEYER. Yes, sir.

Senator KENYON. And used in the Browne faction?

Mr. BECKEMEYER. Yes.

Senator KENYON. Was that somewhat persuasive with you, Mr. Beckemeyer?

Mr. BECKEMEYER. I can not say as to that. I thought there was some truth in that kind of an argument; that it might do that.

At that point the Senator from Washington [Mr. JONES] intervened and put this inquiry:

It was not very hard for you to vote for a Republican, was it?

Mr. BECKEMEYER. I did vote for one.

Senator JONES. You testified here that you had frequently stated you would vote for any Republican to beat Hopkins.

Mr. BECKEMEYER. I did; yes, sir.

Senator JONES. And you felt that way?

Mr. BECKEMEYER. Yes, sir.

Senator JONES. And you found a good many Democrats in the legislature who felt that way, too, did you not?

Mr. BECKEMEYER. Yes, sir.

Senator JONES. That probably accounted for the vote of a good many of the 53 Democrats?

Mr. BECKEMEYER. I think it did, Senator.

That was his judgment upon the question of what influenced many of the Democrats in that body to vote for Mr. LORIMER.

Mr. Beckemeyer testified that he first heard of the candidacy of Mr. LORIMER about 10 days prior to the election, possibly two weeks, not more than that, and that down to that time he had supported Democratic aspirants for that position, and that he had taken no public position in relation to any change, except that he had said from time to time that he would vote for anyone to defeat Mr. Hopkins.

But, as I said before, when he actually faced the proposition of supporting any particular Republican he was so much of a Democrat that he hesitated to do so. He told a number of people, two or three days before the election of Senator LORIMER, that he was not going to vote for Mr. LORIMER for Senator. He testified as follows:

Mr. HANECY. You told a number of people two or three days before the election of Senator LORIMER that you were not going to vote for Mr. LORIMER for Senator, did you not?

Mr. BECKEMEYER. You say I told several people?

Mr. HANECY. You told that to a number of people two or three days before he was elected.

Mr. BECKEMEYER. I do not remember just how many days before that, but I did say that. When it came to a show-down I said that; yes, sir.

Mr. HANECY. You told Lee O'Neil Browne two or three days before Mr. LORIMER was elected that you were not going to vote for Mr. LORIMER, did you not?

Mr. BECKEMEYER. I did; yes, sir.

Now, it is a fact which never has been denied by anyone that at least three days before he voted for Mr. LORIMER he told Lee O'Neil Browne he would not vote for Mr. LORIMER. In an interview between them Mr. Beckemeyer said he told Browne, "I did not think I could afford to do it; that it would kill anyone at home politically—a Democrat—who did that. He then insisted that it would not, and insisted that it was a proper thing to do politically.

That is the only argument, as the evidence shows, used by Lee O'Neil Browne upon Mr. Beckemeyer—that it was right to do it politically, as the situation then stood. Mr. Healy inquired of Mr. Beckemeyer as follows:

Tell us what he said, Mr. Beckemeyer, if you can remember his language. If you can not, give us the substance of his conversation with you.

Mr. BECKEMEYER. I do not remember what his language was.

Mr. HEALY. Give us the substance of the talk.

Mr. BECKEMEYER. About all I could say about the substance was that I argued for a minute or two that I could not afford to do it, and he argued the other way—that I could afford to do it.

Mr. HEALY. What reason did he assign in favor of his argument?

Mr. BECKEMEYER. I do not remember that he assigned any other reason except that practically all the Democrats were going to vote for Mr. LORIMER.

Mr. HEALY. What was said in reference to that, if anything?

Mr. BECKEMEYER. I told him that that might put a different complexion on my view, if that was the case.

In that statement will be seen the beginning of the process which led Mr. Beckemeyer to vote for Mr. LORIMER. If all the Democrats, or a substantial portion of them, in that body were to vote for him, that was enough to relieve him before his constituents at home, and in his desire to oppose and prevent the reelection of Mr. Hopkins he would be very glad then to vote for Mr. LORIMER. This put an entirely different aspect upon the situation. What follows?

Mr. HEALY. What else did you say?

Mr. BECKEMEYER. I do not remember that I said anything, particularly. I think I asked him who of the Democrats were going to vote for Mr. LORIMER.

Mr. HEALY. What did he say in answer to that question?

Mr. BECKEMEYER. He then produced a list of all of the Democrats that he said were going to vote for Mr. LORIMER.

He showed that list to Mr. Beckemeyer, read off the names, and Mr. Beckemeyer says:

I do not know that I can recall. I think he read off nearly every name that voted for Mr. LORIMER of the Democrats.

Mr. HEALY. About how many was that?

Mr. BECKEMEYER. I believe there were 53 Democrats that voted for Mr. LORIMER. There must have been forty-some-odd representatives.

And that list which was shown to him at that time indicated that substantially forty-odd from the house of representatives would vote for Mr. LORIMER. Then Mr. Healy asked him this question:

Do you remember the names of any of the Democratic members of the legislature who were going to vote for Mr. LORIMER, according to the information then given you by Mr. Browne?

Mr. Beckemeyer replied:

I was rather anxious to know how some of those that I was closely associated with were going to vote. Then I was also anxious to know whether any or a large part of the Tippit faction were going to vote for Mr. LORIMER. According to his list a majority of both factions were going to vote that way.

There it will be seen is an entirely new situation. Lee O'Neil Browne was not representing his faction in that conversation. He was telling him what Democrats were going to vote for Mr. LORIMER, and he gave him the names of those who had been his keenest rivals all during that session.

What does that indicate? That he had been bought? It is ridiculous to say that under those conditions this man had been bought to vote for Mr. LORIMER. He was saying he would not vote for him and was giving valid party reasons for his conclusion, but he was impressed by the statement that nearly all

the other Democrats were going to vote for Mr. LORIMER, and especially that the Tippit followers were to do so.

Does Beckemeyer's conduct indicate that he was controlled by Mr. Browne? Certainly not. What did he do? He went immediately to ascertain what the home sentiment would be. He found that among those names given him by Mr. Browne were Alschuler and Shephard and Luke and Gorman and McCollum from his own district and members of Tippit faction, and Tippit. He said if he could become satisfied that all those people would vote for LORIMER he would be relieved of the home criticism as a Democrat for voting for a Republican and he would be willing to join the others and vote for Mr. LORIMER. So the next day he went and had a consultation with these men and ascertained for himself that they would vote as indicated and he was correspondingly relieved and decided to do the same. Then what did he do?

Here follows an important and controlling incident in connection with Mr. Beckemeyer's action. On May 25, the day before the election came off, he sought and had a consultation with Mr. Holstlaw and Mr. McCollum, Mr. Holstlaw being the senator and Mr. McCollum being the other Democratic representative from his district. These three came to an agreement that they would vote solidly for the same candidate, and that candidate was to be Mr. LORIMER.

On the morning of May 26 Beckemeyer was again fearful of public sentiment among his Democratic supporters at home and wanted to vote for a Democrat.

He was timid and went to the capitol wavering and doubtful, not fully decided for whom he should cast his vote that day. Here is what he says he did:

Mr. HEALY. Did you make any effort or attempt to induce Mr. Holstlaw and Mr. McCollum to change their vote or to change their attitude on the senatorial situation that day?
Mr. BECKEMEYER. I did.
Mr. HEALY. What effort did you make in that respect?
Mr. BECKEMEYER. Mr. McCollum was claiming that I was under obligations to vote for Mr. LORIMER, on the talk we had the day before.
Mr. HEALY. What did he say to you about that?
Mr. BECKEMEYER. He said he was going to hold me to my word when I had said that I was not going to vote for Mr. LORIMER on that morning. I sent Mr. Murray to him, from our town, to try and get Mr. McCollum and Holstlaw to release me on that word, if there was such a word. They were going to stand on it.
Mr. HEALY. And what did Mr. Murray report to you?
Mr. BECKEMEYER. Mr. Murray reported that they told him to go and attend to his own business.
Mr. HEALY. You had had a talk with Mr. McCollum before you sent Mr. Murray to him, had you not?
Mr. BECKEMEYER. Yes. I told Mr. McCollum that morning that I did not think I was going to vote for Mr. LORIMER.
Mr. HEALY. And that was the morning of what day?
Mr. BECKEMEYER. That was immediately before the election of LORIMER, in the morning, probably 9 o'clock or such a matter.

It is just as clear as the noonday sun that when Mr. Beckemeyer that morning went to the State house he had it in his mind not to vote for Mr. LORIMER, not because he did not like him, not because there was any opposition in his heart to Mr. LORIMER, but because he did not as a Democrat want to vote for a Republican, and he was afraid of the criticism that might follow his action at home. He talked to his neighbor, the State's attorney of his county, and sent him to see Senator Holstlaw and Mr. McCollum to ask that he be released from the understanding they had reached the day before that they would join and make the vote from their district a unit for Mr. LORIMER. There is no one thing in the evidence more clearly established than the fact that what I have described is the attitude with which he approached the question of the vote that morning. When Mr. Murray came back and reported that they told him to go about his business, he was left morally bound by the agreement into which he had voluntarily entered with his own friends the day before and concerning which Mr. Browne had absolutely nothing to do, concerning which Mr. Browne had no information whatever. Even when he found that Mr. Holstlaw and Mr. McCollum thought he ought to stand by them, he was still in the same timid, anxious frame of mind.

Then what occurred Mr. Beckemeyer's testimony fully discloses.

Mr. HEALY. After Mr. Murray reported to you, whom, if anyone, did you talk with about the senatorial election?
Mr. BECKEMEYER. Really the only one that I remember that morning before the election was probably George Alschuler.
Mr. HEALY. What was your talk with Mr. Alschuler?
Mr. BECKEMEYER. It was nothing more than that I told him I was not going to vote for Mr. LORIMER. He then began to beg me to vote for him.
Mr. HEALY. What did he say?
Mr. BECKEMEYER. I do not remember anything particularly that he said, except insisting on my staying with the bunch and voting for LORIMER.

He says the time at which he had that talk with Mr. Alschuler was shortly before the house convened that morning, and he does not remember of talking with anyone else.

Mr. HEALY. Did you have a talk with Lee O'Neil Browne that day?
Mr. BECKEMEYER. During the time Mr. Alschuler and myself were discussing the matter Mr. Browne sat right in front of the seats that Mr. Alschuler and I occupied, and Alschuler called Browne's attention to the fact that I was going to quit, and Mr. Browne merely turned around and rather begged or insisted that I stay with the bunch and not quit at this time.
Mr. HEALY. By "the bunch" whom did you understand him to mean?
Mr. BECKEMEYER. I did not understand anything more than the Browne faction. That is about all I could understand about it—to stay with him, rather.

That is the only time shown by the evidence that Mr. Browne did anything to influence his action. Further along in the testimony the following occurs:

Mr. HANECY. You knew the morning that Senator LORIMER was elected that you were going to vote for him, did you not?
Mr. BECKEMEYER. No; I will say that I did not.
Mr. HANECY. You did not know that?
Mr. BECKEMEYER. No, sir.
Mr. HANECY. When did you first know that you would vote for Senator LORIMER before you did vote for him?

Here is the final utterance of Mr. Beckemeyer on that subject:

Mr. BECKEMEYER. I can say that when I first made up my mind definitely to vote for Mr. LORIMER was at the time of my last talk with Mr. Alschuler, just a very few minutes before my name was called on the roll.

But let me again remind the Senate that Mr. Alschuler was not there to favor any particular man for Senator. He is a Democrat, a man of prominence, the present leader of the Democratic Party of the Illinois House of Representatives. He was there to defeat Senator Hopkins, his neighbor, whom he disliked exceedingly, and all the testimony goes to show that during the entire session he spent his best energies in the effort to drive him from the field.

Mr. HANECY. And Mr. Alschuler never held out any inducement to you that you would or could or might get any consideration, or even any favor of any kind, afterwards, because of your vote for Mr. LORIMER, did he?
Mr. BECKEMEYER. No, sir; he did not.
Mr. HANECY. Mr. Alschuler was opposing Senator Hopkins very strenuously, and he was for Senator LORIMER because he thought Senator LORIMER was the man who could beat Mr. Hopkins?
Mr. BECKEMEYER. Yes, sir.

I have presented, I think, a fair summary of all the evidence bearing upon the influences which induced Mr. Beckemeyer to vote for Mr. LORIMER. If he had been bribed to vote for Mr. LORIMER would he have been dallying with that question all through Monday, Tuesday, and Wednesday up to the very hour of the vote? It is absolutely absurd to make such a claim, in view of all the facts disclosed in the testimony. He has insisted from that time to this that there was no previous understanding that he was to vote for Mr. LORIMER. He has insisted from that time to this that the money he received from Lee O'Neil Browne had nothing whatever to do with the question of his voting for Mr. LORIMER. He insisted to the state's attorney of Cook County when he was under indictment and under arrest, and when he was having a heart-to-heart talk with him, that it had nothing to do with his vote. He has insisted that such was not the case from beginning to the end of the controversy.

Mr. Wayman understood it when he had him testify the last time before the grand jury of Cook County, and granted him immunity. Yet it is claimed by those who are prosecuting this case against Senator LORIMER that Beckemeyer is one of the men who confessed to receiving money for voting for him, and that idea has spread until it has affected public sentiment throughout the country. This allegation has been made by the Chicago press and repeated in the public press of the Nation until it is believed by the masses, and on every hand comes the inquiry: How can you say that Mr. LORIMER is not guilty, or his friends are not guilty, when here are four men who have confessed that they got money for voting for him. No man has ever said such a thing, except Charles A. White, and he said it in consideration of $3,500 and his living "on the fat of the land" for nearly a year. It is upon his testimony, and his alone, that the Senate must stand, if it is to stand at all, on the claim that bribery was used to induce the election of WILLIAM LORIMER.

In the debates that were had in this body, when the matter was up before, we heard a great deal about Abrahams being the bellwether—that just as Abrahams voted all the rest voted. That was an expression that was taken up in the speech of a distinguished Member of this body, and carried from one end of the country to the other. Now, what did it mean? It all came out in evidence, and if you turn to page 2922 of the RECORD you will find it. Browne had insisted as a condition precedent that he would not support Mr. LORIMER, unless it became apparent there were enough votes besides his own to insure his election.

Senator LORIMER made precisely the same condition. He insisted that no vote should be taken and that his name should

not be presented to the legislature until assured of a sufficient number of votes to elect him. So, the question was, When should his name go before the legislature. Should it be on the morning of the 25th or on the morning of the 26th of May. When this matter was decided, on the morning of the 26th, Abrahams, being at the head of the alphabetical list, was the first man to vote. Abrahams was known to be for LORIMER, and it was understood by all of Mr. LORIMER's friends that when Abrahams voted for him the time had come when others might do the same. That is all there was to that circumstance. I myself asked Mr. Beckemeyer this question:

There was some question there, was there not, Mr. Beckemeyer, as to when the Democratic vote should be cast for Mr. LORIMER?

Mr. BECKEMEYER. There was; yes, sir.

The CHAIRMAN. And when was that determined?

Mr. BECKEMEYER. I do not know that it was determined, except that morning.

The CHAIRMAN. You understood when Browne made that announcement there that it had been determined that the vote should come that day?

Mr. BECKEMEYER. Yes, sir.

The CHAIRMAN. And that was the significance of the remark to you?

That is, the remark to follow Abrahams.

Mr. BECKEMEYER. Yes, sir.

That is all the significance there is to that.

METHODS PRACTICED ON BECKEMEYER.

It is admitted that Mr. Beckemeyer received $1,900—$1,000 from Browne and $900 from Wilson. Both payments were made in St. Louis, and it is admitted both payments were made from the jack-pot fund. Cook County had no jurisdiction whatever over Mr. Beckemeyer. If he had committed any offense it was in Sangamon County. When he was summoned to testify before the Cook County grand jury after the publication of May 2, he came there as a witness. He could not be indicted in Cook County for any offense that he had committed up to the time he reached there. That is perfectly evident. If he had accepted a bribe to vote for Mr. LORIMER the jurisdiction was in Sangamon County where the offense was alleged to have been committed; but he was called to Chicago for a specific purpose, as all the evidence goes to show. It was to wring from him a confession that such payments were made to him for voting for LORIMER—that is what the combination sought to show—but Beckemeyer has always stoutly denied, both then and up to the present time, that such was the fact.

Beckemeyer went before the Cook County grand jury three times; and it is important to distinguish what occurred on each of those occasions. The first time he remained only a moment or two; and denied meeting Wilson in St. Louis on July 15. That is all that occurred that morning. He was sent from the room, and immediately thereafter placed in the hands of an officer; Mr. Wayman's testimony is that he placed him under arrest because he had committed a crime in his presence. The crime he had committed for which he was summarily arrested was having committed perjury in denying he had been in St. Louis on July 15, 1909. Beckemeyer was placed immediately in custody for what? He was not lodged in jail; he was placed in the hands of an officer who was working in connection with the State's attorney's office, a sympathetic officer, and he was instructed to "treat him right."

The officer testifies that he understood by that remark that he was to cooperate with the State's attorney's office in inducing Beckemeyer to talk. The officer took him to lunch. He did not take him to jail, but he took him to a hotel. Before they reached the hotel they had visited two or three drinking places and indulged freely. Beckemeyer was nervous and anxious and alarmed. Of course he was. He knew he was guilty of accepting jack-pot money, and was in terror of what might follow as a result, and he became weak and cowardly. He craved stimulation, and the officer allowed him to go to saloons, and drank with him, and drank with him freely, but when his friend Welch, who had accompanied him from home, attempted to speak with him, he was not permitted to do so. He was just as thoroughly cut off from the outside world and as completely under the control of that officer as though he had been shut up in a prison cell.

What was the second turn? He had taken luncheon with this officer; he had not been permitted to talk with Welch; he was tormented with his guilty conscience; he had an abnormal craving for drink and had been allowed to have it; and his strength and courage were stimulated by the use of liquor. He returned to the office, and Officer Keeley, who had him in charge, reported to Mr. Arnold, assistant State's attorney:

This fellow is going to talk; he is awful anxious to tell something. So he says, "All right." Then, about 3 o'clock that afternoon, or 3.30, Arnold came out and we were stationed around the door of the grand-jury room. We were told to keep the reporters away from that door or from that room.

What occurred? Mr. Beckemeyer tells in his testimony:

Mr. BECKEMEYER. After sitting around there an hour or two I sent for Mr. Arnold and told him that if he would get Mr. Wayman I would make a complete statement of all I knew about the matter; that I was getting rather tired of keeping it myself.

Mr. HEALY. That was about how long after your talk with Arnold—that is, your second talk?

Mr. BECKEMEYER. It was getting along toward 4 o'clock by that time.

Mr. HEALY. Had anybody talked with you in the meantime and tried to induce you to tell what you knew?

Mr. BECKEMEYER. No, sir.

Mr. HEALY. Had any pressure of any sort been exerted upon you?

Mr. BECKEMEYER. There had not.

Mr. HEALY. Had you in the meantime, between the first talk with Arnold after the noon adjournment and the time when you sent that word to him, imbided any additional liquor?

Mr. BECKEMEYER. I had not.

Mr. HEALY. What did Arnold say when you sent him that message?

Mr. BECKEMEYER. We immediately went and hunted up Mr. Wayman.

Mr. HEALY. Where did you go, and what happened; what was said, and who was present?

Mr. BECKEMEYER. We discussed——

Mr. HEALY. By "we," whom do you mean?

Mr. BECKEMEYER. Mr. Wayman, Mr. Arnold, and myself.

Mr. HEALY. Was anybody else present?

Mr. BECKEMEYER. Nobody else.

Mr. HEALY. What was your talk?

Mr. BECKEMEYER. I told them that I had about made up my mind to make a complete clean breast of all I knew about the affair; and I asked them then about—I was worried some at that time about the possibility of indictments being found in St. Louis against some of us, and I asked him at that time whether he controlled that situation.

Mr. HEALY. When you say you asked "him," whom do you mean?

Mr. BECKEMEYER. Mr. Wayman; and he and I discussed that feature awhile, as to whether they had jurisdiction of any matter of that kind.

Mr. HEALY. You mean whether they had jurisdiction in St. Louis?

Mr. BECKEMEYER. Yes, sir. Then we discussed whether an immunity order in Cook County would be a bar in Sangamon County.

Mr. HEALY. A bar to what?

Mr. BECKEMEYER. A bar to a prosecution in Sangamon County. After discussing that feature—the statute expressly provides about that—we discussed whether that statute was a valid statute or not; and after discussing that, Mr. Wayman wrote out an immunity order, and I took it and threw it in the wastebasket and gave him a complete statement and told him I did not want the order at all.

That is the first interview with Wayman.

Mr. HEALY. Did the State's attorney, Mr. Wayman, indicate to you at that time that you would not be prosecuted if you appeared before the grand jury and in your testimony implicated yourself, perhaps, in some legislative corruption?

Mr. BECKEMEYER. He did; yes, sir.

Mr. HEALY. And that assurance and promise was given by the State's attorney of Cook County?

Mr. BECKEMEYER. It was; yes, sir.

I call your attention to Mr. Wayman's testimony of what occurred after that promise had been given him. Certainly no one can question that. He says in his testimony:

Beckemeyer began by saying, "I am in a hell of a fix."

Mr. MARBLE. Did you agree with him?

Mr. WAYMAN. I said, "Nobody knows that any better than I do." He said, "I got off the Illinois Central train this morning with the full intention of coming to your office and telling all about this, but my nerve failed me."

He talked about his family. He said, "I thought I could get away from this, but," he said, "the State of Illinois is a damn sight bigger than Beckemyer, of Carlyle." I said that I was glad that one man recognized that. He said, "I am a lawyer, and I know my rights. I want to know what there is to this business in St. Louis." I said, "If you are a lawyer, you know that whatever you did there, you committed no crime in St. Louis that could be punished in the State of Illinois."

He talked also about Sangamon County. He did not want to be involved in Cook County and Sangamon County both. He said, "Can I rely on you?" I said, "If you have any doubt of me, I will go before the grand jury and state what your situation is in the presence of the 23 grand jurors." I said, "You have committed perjury and you will be indicted." He said, "Is it too late to save myself from that? I have a wife and family at home." I said, "You can tell the truth before the grand jury and purge yourself of the indictment."

Then he wanted Mr. Wayman to write an order of immunity for his part of the transaction if he would testify.

Mr. Wayman asked him what the character of his evidence would be.

He said that he had received the $900 at St. Louis from Wilson, and that prior to that time, the date of which he could not fix, he received a thousand dollars from Lee O'Neil Browne in St. Louis, "but now," he said, "boys, I do not want you to double-cross me."

They had more talk about the immunity.

Mr. Wayman testified:

I said, "We are not in the business of double-crossing anybody, and I will write an order as best I can now." I sat down and tried to write an order that I would offer in court. After I had written it I told him, "This order is not worth anything. As State's attorney I have control of the matter of allowing men to turn State's witnesses, but you can take this order if you want it." He took it and tore it up. He said, "I will take your word."

They had further conversation, and Beckemeyer said:

You fellows have got it on me.

Mr. Wayman further testified:

He said another thing. That was, "After I testified that I was not in St. Louis, and Bob Wilson went in there, I asked him when he came out if he told the grand jurors that I was in St. Louis, and he said, 'Yes,' and I called him an opprobrious name—which I will

not mention here—and he said, 'I will be damned if I stand for the leaders of this gang getting away. I will tell the facts.'

"I walked him into the grand jury room, and he then testified."

The circumstances under which this came about were these: All of the men who had received money from Wilson in St. Louis were going to deny that they were there at the time named; but Wilson had registered at the Southern Hotel in St. Louis and the authorities knew he was there July 15, 1909, and he could but admit it, although he denied paying money to anyone. When Wilson disclosed the fact that they were there Mr. Beckemeyer made the remark to the State's attorney which has been quoted, and was immediately taken into the grand jury room where he told the story on the promise that he should receive immunity from punishment because of any offense that he had committed.

Mr. Wayman further testified:

Before the grand jury he testified he was at St. Louis that day and met Wilson and the other members who were there; that he got $900 from Wilson; that prior to that time he had met Browne—no; that prior to that time he had received a thousand dollars at St. Louis; had got it from the clerk of the hotel; that he received a message the day before he went to St. Louis, on Briggs House stationery, in handwriting that he thought was Browne's, but he was not sure about it, and it was signed in some anonymous way; that he went to St. Louis; that he got a package from the clerk of the hotel, and in the package was a thousand dollars, and he did not know what it was for. That was the substance of his testimony at 3 o'clock in the afternoon of the 5th.

That is the second time he went before the grand jury. He testified afterwards that the reason for making that statement about receiving the money from the clerk was that he did not want Lee O'Neil Browne's name to come into it as having paid him the money, and so he put up the subterfuge, but he admitted receiving the money.

Concerning an interview which followed in the evening in the State's attorney's office, Mr. Wayman stated:

In the evening Mr. Beckemeyer was in my office and he said, "Now, there is one thing I lied about up there again." He said, "I got that money from Browne and not the clerk of the hotel." I said, "Can you fix the date?". He said, "No; but it was after the 12th of June and before July 4."

The CHAIRMAN. That was a thousand dollars?

Mr. WAYMAN. Yes. When he went out of the office I telephoned to the district attorney's office in St. Louis and asked them to go to the Southern Hotel and get the register for June, 1909, and send an officer to my office with it; and on the morning of the 6th the officer appeared with the register, and on June 21 "L. O. Browne, Ottawa," was registered.

June 21 was the time this money was paid to Mr. Beckemeyer, and he was called before the grand jury the third time, the next afternoon, to correct his testimony, to tell the truth and let the whole matter come out.

His third appearance before the grand jury was on Friday, May 6, at 3 o'clock in the afternoon, and the statement that he had received the money from Browne at St. Louis, and not from the hotel clerk, was then made.

That is the last time that Mr. Beckemeyer ever appeared before that grand jury, and that is where the matter was left when he had completed his testimony before that body.

DISREPUTABLE TREATMENT OF BECKEMEYER.

Beckemeyer went out after testifying that afternoon a physical wreck. The man had been torn by the consciousness that he had received $1,900 from the corruption fund known as the jack pot; that his offense had been made public; that he had also been indicted for perjury; that his reputation had been blasted and his career ended. Added to this, his wife was ill in a hospital in East St. Louis and his children were being cared for among relatives. In this condition, still in the custody of an officer, he was taken from the courthouse and was permitted to drink when and as often as he would. The testimony of the officer in charge of Beckemeyer is that "when they left the criminal court building they went immediately to Cunningham's saloon, where they had a drink or two; then to another saloon, where there was more drinking, and then to the Illinois Athletic Club, where they dined, after which they went to the Union Depot, and then back to the Princess Theater. They were there only a short time when Beckemeyer wanted to leave, saying, "I am nervous and I want to get a drink"; they got the drink and returned to the theater, but Beckemeyer was so uneasy he could not remain. The officer said, "Can you not wait until the act is over?" and he said, "No; I can not stand it; I am nervous; I am all broke up." So they went out and returned a third time to the theater, remaining only about five minutes, went out and met Welch and went to the Kaiserhof, where Beckemeyer drank more whisky. The officer then took him to the Grand Pacific Hotel, where they settled down to hard drinking in the cafe. Beckemeyer seemed to have an unusual capacity to take liquor that night, calling for a drink every five minutes. At midnight the officer sent to the Briggs House for Beckemeyer's bag, because he thought it prudent to spend the night at the Grand Pacific.

But what happened? After midnight that officer, in charge of a prisoner and responsible for him, took him to a house of ill-fame, where both spent the balance of the night. That officer of the law from the State's attorney's office took that prisoner, as I say, to a disreputable place, and both of them remained there through the night, Beckemeyer in a gross state of intoxication, and the bills were all charged to Cook County and paid by Cook County. If any Senator is curious to know just what was done with this prisoner by an officer from the State's attorney's office of Cook County while in charge of him, let him read the record from pages 5691 to 5695.

Beckemeyer was a wreck the day before, and he was more of a wreck on the following morning; he was so utterly shattered that he had to have two drinks as soon as he was up to steady himself. According to the testimony of Officer Keeley, Beckemeyer could not remember to what he had testified the day before, and he wanted to see the State's attorney. He was evidently confused, but he was taken to the State's attorney's office, drinking more on the way. Before reaching there the liquor had braced him up, and he appreciated his situation; that he was in the hands of the Philistines. To all previously existing causes for mental anguish there was now added his previous night's experience and the fear that his family would be broken up as a result. What did he do before reaching the State's attorney's office? He begged the officer not to tell where he had spent the night. Is it to be supposed that that could be kept a secret? Not at all.

An interview followed between Mr. Beckemeyer and Mr. Wayman. What occurred at that meeting we know only so far as Mr. Wayman tells it. Mr. Beckemeyer says very little about it. But they both agree about one thing—that at that meeting he made this addition to his statement. He never swore to it before the grand jury. But there, when he knew that he was in the power of the State's attorney's office, an officer of which had taken him when a prisoner to a disreputable house, the knowledge of which incident, should it come to his wife, might wreck his domestic life, he made an additional statement. What was it? Referring to his interview of the day before, he testified:

Mr. HANECY. You said that one reason why you told Wayman what he wanted you to tell him—one of the large factors in that—was that your wife was very sick and at the hospital and you did not want to be indicted while she was in that condition.

Mr. BECKEMEYER. Yes; I did.

Mr. HANECY. That is right, is it?

Mr. BECKEMEYER. Yes.

Mr. HANECY. Your wife was sick, was she?

Mr. BECKEMEYER. Yes.

Mr. HANECY. She was in the hospital?

If that was true at the previous meeting, what was his reason at this meeting, with this new record against him, and the knowledge of it in the possession of the officers of the State's attorney's office? Was ever such an inducement offered a man to go to any length to secure secrecy and immunity?

What did he do? He added nothing to his previous statement except he said that when Mr. Browne handed him the package he remarked, "Here is your Lorimer money." That is what he added to it under those conditions, and he never had made that addition up to that time, either to Mr. Wayman or the grand jury. Let us look at it. Senator JONES asks Mr. Wayman:

But does he convey in his testimony anywhere that he expected to get something for his Lorimer vote when he cast it?

Mr. WAYMAN. No; I do not believe he does. The grand-jury testimony here is as clear on that as my memory.

Going along, concerning that Saturday afternoon's conversation, when Mr. Beckemeyer had been brought in under the conditions I have described, Mr. Wayman quotes Beckemeyer as saying that when Mr. Browne handed Beckemeyer the thousand dollars Browne said to him, "Here is a thousand dollars. Here is your Lorimer money, and we can not make a distribution of the balance until something happens." Mr. Wayman added:

What that was Beckemeyer would not tell or did not know.

The CHAIRMAN. Will you repeat that, please?

I want the clear, discriminating minds of the good lawyers in this body to pass upon the value of *this kind of* testimony as to a casual conversation had two or three years before, and see how a trained mind like Mr. Wayman's will fail to remember with accuracy what was said. Here is the testimony that he gave:

Here is a thousand dollars. Here is your Lorimer money, and we can not make a distribution of the balance until something happens.

If that means anything, it means he was paying him Lorimer money and there was more Lorimer money to come to him, and he could not pay it to him until something happened.

That is where the matter was left by Mr. Wayman, an experienced, strong man with a well-trained mind. No argument

was had with him about it. I had not quite understood the statement, and I simply said:

Will you repeat that, please?

Mr. WAYMAN. That Browne had said to him when he gave him the thousand dollars, "This is your Lorimer money, or for your vote for LORIMER"——

A new passage comes in there—

"or for your vote for LORIMER," and that the balance of the jack pot or the fund could not be distributed until something else was attended to; and that he had met Browne at Starved Rock—

And so forth.

How are we going to reconcile those two statements coming from a man like Wayman, with a trained mind, professing to testify as to a declaration of a prisoner before him under conditions such as have been described?

In the first statement he made the fund a Lorimer fund. In the second statement he made it a "jack-pot" fund that was going to be divided. We would call that loose testimony if it came from the ordinary witness who is brought into court. It can be interpreted only by what was brought out from this witness at a later time, to which I will call your attention.

Mr. Wayman says Mr. Beckemeyer at that time continued by saying:

That he had met Browne at Starved Rock on a trip he took down the canal prior to June 12, or just after June 12, in which Browne had made an appointment with him, and said, "I will meet you in St. Louis and hand you a package in a few days," or something like that.

A package!

Mr. MARBLE. It was after his grand-jury testimony he made these disclosures?

Mr. WAYMAN. He never made the disclosure before the grand jury that when he received the thousand dollars from Browne that Browne said it was for the Lorimer vote. He disclosed that immediately afterwards to me.

And he disclosed it under the conditions I have stated—when he had been brought into the office by Officer Keeley that morning.

Senator JONES. Did he tell you whether or not he had had an understanding with Browne before the vote that he should receive this money?

Mr. WAYMAN. No. He claimed he had not had an understanding. He claimed that both before the grand jury and to me.

Senator JONES. And he was not expecting it at all?

Mr. WAYMAN. No; but his supposition was that it was sort of understood that whatever there was in anything down there would be distributed, and they relied upon the integrity and honesty of their leader.

All referring to the jack-pot fund.

Let us look a little further and see whether this was Lorimer money or the jack-pot money. What Mr. Beckemeyer really did know was brought out by the fact that on May 2, the day the grand jury convened in Chicago, the Chicago Daily News, wanting to join the rest of the papers in getting information, wired to Mr. Beckemeyer to know if he would testify about certain things, and he answered:

No one ever talked to me about money for voting for LORIMER. I did it of my own free will and accord. I know nothing of a jack pot that was distributed, nor did I ever hear of it. I am willing to testify any place on this matter.

But when inquiry was made of Beckemeyer on the witness stand in relation to that matter, he said that the first part of the telegram was true, *that no one ever did talk to him about money for voting for* Mr. LORIMER; but in relation to the second portion, that he knew nothing of a jack pot, *he said it was a lie*, and he used this language.

The question was:

Mr. HANECY. So that one element in that telegram is true: "I know nothing of a jack pot that was distributed." Is that true?

Mr. BECKEMEYER. That at that time I knew nothing?

Mr. HANECY. You say, "I know nothing of a jack pot that was distributed."

Mr. BECKEMEYER. *No, sir; that is not true, because I did know about it at that time.*

There we have the clear-cut distinction, and there can be no manner of mistake about Mr. Beckemeyer's testimony. There is not a word in the volumes of testimony we have taken to show that he ever confessed to having received money for voting for Senator LORIMER, however much the contrary impression has been spread broadcast through the United States.

Beckemeyer told all and more than he knew and had received immunity. There was nothing now that could be brought against him in the courts. He had secured immunity for his legislative offenses before the last interview, and at that time he got immunity in regard to the deplorable incident of the preceding night when he was out with the officer, so that he went home free and relieved. Whenever his presence was needed after that all the Tribune had to do was to ask him to go to Chicago, and he responded without subpœna to testify or for the purposes of consultation. They have been on good terms since. As a witness Mr. Beckemeyer was as indifferent, as far as the interests of Senator LORIMER were concerned, as any witness I have ever seen on the stand. He had evidently recovered from his anxiety and wanted to tell the truth, and I think, as a matter of fact, he did tell the truth, except as to that one expression extorted by the circumstances of that, to him, dreadful Saturday morning.

WHITE, LINK, AND BECKEMEYER IN COURT.

Having discussed the witnesses who were used to try to bolster up Charles A. White's statement that he was bribed, and to produce some fact that would give color to the statement that he had made, we must look for a few minutes at the result that followed.

Beckemeyer, Link, and White were witnesses in the Browne trial. The one important question in that prosecution was, "Did Browne bribe Charles A. White?" They told all they knew regarding the circumstances which I have examined. The verdict of the jury was that Lee O'Neil Browne did not bribe Charles A. White, and he was discharged from custody. Since that time the Senate has tried the same issue and reached the same conclusion.

Is it any wonder that the jury did not accept the story of Charles A. White, or that a majority of the Senate did not accept it, when it is remembered that he went to the legislature with the avowed purpose of getting something from "the interests," as he termed them; that he is by his own confession participator in a corrupt fund; that he has attempted to turn that fact to his own advantage by falsely connecting it in some way with the election of Senator LORIMER for the purpose of securing, through perjury, a still larger amount of money; that he spent $4,000 in six months in rapid living; that he deliberately concocted a plan to blackmail Senator LORIMER, in which he dismally failed; that he was treacherous to the best friend he had on earth; that he attempted to get money from Roger Sullivan on the plea of running for Congress; and that his "confession," so called, when made, was made to Senator LORIMER's most persistent political opponent, the Chicago Tribune, for a consideration of $3,500, besides which he received full living expenses for the year following?

There was no hope of support for this wicked story except through Link and Beckemeyer, both friendly to Wayman at that time. But they could not help, because the truth is that they knew nothing about any money having been paid to anyone for voting for Senator LORIMER. The matter stands on State's Attorney Wayman's testimony; and Wayman's own estimate of White's story, before the Tribune ever bought that production, was that he would make only a 20 per cent witness. And with White testifying as a 20 per cent witness in the presence of a jury in Illinois, Link and Beckemeyer also being called as witnesses, Lee O'Neil Browne was acquitted of the charge of having bribed White to vote for Mr. LORIMER.

WHITE'S STORY A PURE INVENTION.

But if that were not enough, go back and take White's own story, and see how he lies about the matter in attempting to make the case. In the story that he told to the Chicago Tribune he says:

On the night of Monday, May 24, 1909, after lounging about the lobby of the hotel, possibly having a walk for a little fresh air, in company with two of my friends from O'Fallon, the town in which I reside, my friends and I retired to my room, No. 133, in that historic old hotel, the St. Nicholas.

At the time covered by that description White was on his way from Chicago to Springfield. He had only one of his friends with him, having left the other in Chicago.

He says:

We sat about in the room and conversed about various questions, having an occasional drink served us.

He says the Yarbroughs were with him; that Mr. Browne telephoned him that he would like to see him; that about 30 minutes later Mr. Browne came to his room, spoke to the Yarbrough brothers; that he went to Mr. Browne's room; and there, he says, the bargain was made by which on the following day he was to vote for Mr. LORIMER in consideration of the payment of a thousand dollars; and he says this was the first time he heard of LORIMER as a candidate.

How does this correspond with the testimony of Homer E. Shaw, that reputable Democrat, the chairman of the committee that was organized in the legislature to keep Democrats from voting for Mr. LORIMER, who says that when he went to White, a week before that time, White told him he was going to vote for "BILL LORIMER" if he ever got the chance; and when Mr. Shaw argued the matter with him, and told him how detrimental it would be to his future prospects, and what his friends at home would think of him, White said he "did not care a damn" what his friends thought, he was going to vote for him. And that was a week before the time at which he says he was bought.

How does this correspond with the testimony of Mr. LORIMER? No man has ever dared to say that Mr. LORIMER is not a man of truth. On the contrary, he has an established reputation for veracity. Mr. LORIMER said he had an interview with Mr. White about a week or 10 days before that time, when White assured him he would be glad to vote for him. Mr. Browne also denies the whole interview White claims to have had with him. But White tries to bolster himself up with the statement that the Yarbrough brothers were there and that they saw Browne come in. This is absolutely impossible.

Both Sidney C. Yarbrough and Otis V. Yarbrough were brought before the committee, and both testified that they spent the night of May 24, 1909, in the room with Charles A. White in the St. Nicholas Hotel at Springfield, and were there when Lee O'Neil Browne entered the room and invited White to go to Browne's room, where the alleged interview with Browne was held. The production of these witnesses destroys the story of White. Why? Both claimed to be there. Both tell the same story. If only one was there, then both of these men lied, did they not? Of course they did. One was absent; therefore both did lie about the matter, because they could not be mistaken concerning it.

How do I know one was absent? Why, both the Yarbroughs testify that they went to Springfeld from East St. Louis on Monday, May 24, 1909, Sidney being positive that he went up on White's pass on the Illinois Traction, and Otis claiming that he probably went that day and met Sidney in the lobby of the St. Nicholas Hotel that evening about 9 or 10 o'clock.

Now, mark that, that they both went by separate conveyances and that they met about 10 o'clock in Springfield. Also mark that White has them "lounging about the lobby," and "taking a little fresh air" with him at the time they claim to be on their way to Springfield. All the evidence in this case shows that neither one of them had been in East St. Louis that day or that evening. Not only does Browne absolutely deny this story, but the evidence clearly establishes the fact that White and both the Yarbroughs were in Chicago all day Sunday, May 23, and Monday, May 24, 1909. They went up there on the preceding Saturday on one of their periodical sprees. They were there Saturday night; they were there all day Sunday. The testimony shows they visited a disreputable house, and spent that Sunday night in it, and it shows that they were all in Chicago on Monday, and that none of them left that city until 6 o'clock Monday night. Then it was that White and Otis Yarbrough took the 6 o'clock train, which was late, so that they did not reach Springfield until 11 o'clock and 41 minutes that night.

How do these established facts comport with White's story, that he had been lounging with these two friends after dinner that evening in the lobby of the St. Nicholas Hotel, in Springfield, going out and taking a little fresh air, coming in and going to his room with them and then having a few drinks, and of Mr. Browne coming in? The evidence can not be impeached, it can not be disputed, that neither of the Yarbroughs were in Springfield at the time fixed by all of them, and Sidney Yarbrough remained in Chicago and was not in Springfield at all. He did not leave Chicago until after supper on Tuesday night, May 25. There is not a particle of evidence in this case, aside from the corrupt statements of the Yarbroughs and White, that tends to establish the presence in Springfield of these men on the evening of May 24. This tale was invented by White and was incorporated into the jack-pot story for the purpose of sale or blackmail. It was upon that story, its falsity disclosed by circumstances such as I have depicted, that the prosecution of Browne was founded in the courts of Illinois, and he was acquitted; and it was upon White's story that the election of Mr. LORIMER was investigated, and the Senate acquitted him; and now a third trial is had; and it is upon such testimony that Members of this body are asked to say that the bargain with White was made and carried out.

The money received by White, Beckemeyer, and Link during that session was from a source entirely independent of the election of Mr. LORIMER. No witness except Charles A. White has ever claimed to the contrary, and even he admits that substantially one-half of the money he received came from the common jack-pot fund.

His bitterest enemies when testifying before this committee did not attempt to impute any knowledge of corruption to Senator LORIMER. Even Gov. Deneen was most careful, and took pains at the very outset, when discussing the jack pot, to particularly state: "I do not mean to imply now that I am speaking of Senator LORIMER in this matter."

If the right to a seat in this body is to be forfeited at any time when it is claimed that some member of the legislature from which he received his election had been corrupted in some other and separate matter, how many Senators think you would be here sitting in judgment upon the election of Senator LORIMER?

DANIEL W. HOLSTLAW.

The only other man whose testimony need be examined in connection with the claim of bribery in the election of Mr. LORIMER is Daniel W. Holstlaw, who was in no way shown to be connected with the jack pot, but a man who acted in his individual capacity, evidently, in securing for himself whatever advantage a dishonest man may secure when he becomes a member of the General Assembly of Illinois.

Mr. Holstlaw is a Democrat, a banker, a merchant, and a jobber. He is wealthy, he is penurious, and he is covetous—a man who wishes to maintain a good reputation, but whose love for money is such that in securing it the end too often justifies the means.

As a senator he was unwaveringly consistent, in that he voted for Mr. Stringer, I think, 94 times; at all events, substantially on every vote until the last one. But he was weary of the deadlock. He had large business interests to which he desired to return; it was not a small matter with him that the added expense of remaining in Springfield diminished his net income as a senator, inasmuch as he received no more salary if the session was long than if it was short. A month before the election was reached, at a time when the deadlock had continued three months, he went home and talked the situation over with his friends and supporters, among them being Mr. J. J. Bell, a Democrat, and Mr. John Eddings, a Republican, and he told the latter that in order to break the deadlock he would vote for Mr. LORIMER if the opportunity came to do so. At that time he stated to several others that if a Democrat could not be elected he intended to vote for some Republican rather than remain in Springfield very much longer, and added if such an opportunity came he should vote for Mr. LORIMER. His reason for taking that position may perhaps be found in the fact that Mr. J. B. Lewis, a resident of his district, editor of the Marion Democrat, had published an editorial advocating the election of a Republican by Democratic votes to defeat Hopkins. Mr. Lewis was a friend of Mr. Holstlaw and had personally requested him to support Mr. LORIMER if the time came when he could do so, and, coming as it did from a Democratic editor, who was publicly advocating such a solution of the situation. Holstlaw assured Mr. Lewis he would do so. He returned to Springfield with this purpose in his mind, that if in the chain of events it became possible to solve that problem by the election of a Republican he would support Mr. LORIMER. That he intended to do so is also evident from the testimony of Mr. Stringer, for whom Holstlaw had voted on more than 90 different occasions, that for two weeks before Mr. LORIMER'S election it had been understood, although Mr. Stringer was the Democratic candidate for the Senatorship, that the Democrats of both houses intended to support Mr. LORIMER. Everybody, Mr. Stringer says, knew that fact.

Not only that; it is shown by the testimony I have already read from Mr. Beckemeyer that on May 25, the day preceding Mr. LORIMER'S election, Holstlaw entered into an understanding with Mr. McCollum and Mr. Beckemeyer, the three representing the same senatorial district, that they would all stand together on that matter and vote for Mr. LORIMER the next day, and though Beckemeyer was wavering on the following morning, Holstlaw and McCollum refused to be moved. There the matter rested. He voted for Mr. LORIMER in pursuance of a purpose formed at least a month before the election, provided the opportunity offered.

A year later the White story was published, and Mr. Burke, State's attorney for Sangamon County, undertook to investigate its charges. He summoned Mr. White, Mr. Beckemeyer, Mr. Link, and others to appear before the grand jury then in session, and when he was thwarted in his efforts by Mr. Wayman, the State's attorney for Cook County, Mr. Burke then turned his attention to other matters and investigated the fish fund, so called. He also heard of a furniture deal in the legislature, in which a contract to furnish the statehouse with chairs and desks was to be given to a certain firm, and that that contract was secured by a promise of a rake-off to certain members of the legislature. In probing this question a letter fell into his hands written by Mr. Holstlaw and addressed to Mr. Knox, of Chicago, and dated January 12, 1912, saying:

JANUARY 12, 1910.

Mr. KNOX, *Chicago, Ill.*

MY DEAR SIR: It has been arranged that I should see you. Will it be convenient for you to meet me in Springfield Monday evening, say, about 8 o'clock. If so, wire or write me at my home (Iuka, Ill.). Must see you not later than above date.

Yours, respectfully, D. W. HOLSTLAW.

State's Attorney Burke issued a summons for Mr. Holstlaw, who went direct to Springfield from a religious convention,

held at Baltimore, at which he was a delegate, to appear before the grand jury of Sangamon County. In his testimony he denied having written the letter. He was dismissed from the room and instantly placed under arrest, and an indictment was found against him for perjury in so swearing.

I wish that Senators might have seen Mr. Holstlaw when he testified and heard his description of his state of mind when he found himself under arrest charged with perjury. Fear got hold upon him and his strength deserted him. In his terror his memory was quickened, and he signified a desire to go back and correct his testimony, but met with no encouragement. The officer advised him to retain counsel, telling him he would need counsel, and, Mr. Holstlaw being of that opinion, the officer immediately put him in touch with the firm of Gillespie & Fitzgerald, of Springfield, whose services he retained. That night they arranged for his bail and for an interview with the State's attorney in the morning.

I think I never heard a more pitiful tale of mental anxiety than the testimony of Senator Holstlaw as he spoke of his condition during the long hours of the night that followed. He says in a plaintive way, "Of course, I could not sleep very much." He knew he had the promise of $1,500 from that furniture firm in consideration of his vote as a member of the commission having the authority to award contracts for refurnishing the statehouse. He knew that his corrupt action was to be made public and his agony was increased by the fact that he was liable to criminal prosecution for his offense. When morning came he had reached a determination to secure immunity against prosecution for his offense, and all his energies were directed to accomplish that end. Immunity was what he most desired of all things in the world. Immunity was spelled in capital letters in his mind, and he could think of nothing else. He says the first thing his counsel did that morning was to telephone to the State's attorney that he wanted an interview with him. He did not even wait until the State's attorney was in his office, but telephoned to his home and had Mr. Burke come to the office of Gillespie & Fitzgerald; there they advised the State's attorney that Holstlaw was honestly mistaken, not having remembered, in the first instance, that he had written the letter, and that they thought, in "fairness and justice," he ought to permit Holstlaw to go before the grand jury again and correct his statement and so avoid answering to the indictment. Mr. Burke's reply was that "he would not allow that; that he had the goods on this fellow, and that under no circumstances would he permit him to go before the grand jury unless he told the whole transaction; that is, the substance of it." The question was asked, "Did you tell that to Mr. Holstlaw?" and Mr. Fitzgerald answered "I did."

As I said before, Holstlaw's whole purpose at that time was to secure his own safety. He swears to this over and over again. He was impatient. He could think of only one thing, and that was to avoid prosecution. In accordance with Holstlaw's expressed wish Mr. Fitzgerald arranged with the State's attorney to prepare a statement by Holstlaw to be submitted to the State's attorney, which, if satisfactory, would be the basis for an order of immunity. Before this was prepared Mr. Fitzgerald had another interview with Mr. Burke, with whom he arranged more definitely the terms under which he was to secure that immunity for his client. He testifies:

Mr. HANECY. Was there any talk, before you presented the statement to Mr. Burke, about what Mr. Burke would do under the circumstances if the paper was satisfactory or if it was not satisfactory?

Mr. FITZGERALD. Prior to the time the statement was given to Mr. Burke I understood from him that he would grant immunity to Mr. Holstlaw from any matter that might be testified to before the grand jury and also would nolle the case that was pending.

Immunity "from any matter that might be testified to."

Mr. HANECY. The case that was pending against Holstlaw?

Mr. FITZGERALD. Yes, sir.

Mr. HANECY. Did you understand that from what Mr. Burke had told you or from what somebody else had told you?

Mr. FITZGERALD. From what Mr. Burke had told me.

Mr. HANECY. Then Mr. Burke told you that if Mr. Holstlaw would make and sign a statement of what he knew, Mr. Burke would dismiss the indictment for perjury against him and would have an order of immunity granted by the court there releasing Mr. Holstlaw from any liability to prosecution or any penalties thereafter on account of anything that he might testify to in that statement or in any other place?

Mr. FITZGERALD. No, sir; he did not say if he would sign a statement he would do that. He said that if Mr. Holstlaw would testify to the grand jury fully about any matters that he might have information upon, he would do that, and he asked that Mr. Holstlaw prepare a written statement.

Mr. HANECY. And this was the statement?

Mr. FITZGERALD. Yes, sir.

The statement was prepared by Gillespie and Fitzgerald in the form of questions and answers, and was subsequently submitted to Mr. Burke. The statement covering the furniture transaction was as follows, and according to the testimony of Mr. Fitzgerald it was all that had been required in the agreement made between him and Mr. Burke in order to secure immunity for Holstlaw. That statement to that point I ask to have printed without reading.

The matter referred to is as follows:

STATEMENT OF D. W. HOLSTLAW.

Q. What is you name?—A. D. W. Holstlaw.

Q. What is your age, residence, and occupation?—A. I am 61 years old; residence, Iuka, Ill.; my occupation is banking, farming, and shipper of live stock.

Q. You are a member of the General Assembly of Illinois?—A. Yes, sir.

Q. And senator from the forty-second district, are you?—A. Yes, sir.

Q. I understand that you want to make a statement of your connection with the purchase of furniture for the senate and house assembly rooms as a member of the committee appointed by the legislature for that purpose.—A. I do.

Q. This statement when made is to be submitted to the State's attorney, Sangamon County, as I understand?—A. That is what I understand.

Q. Who constituted the committee?—A. Secretary Rose is chairman and Representative Pierce is secretary, and Senator Pemberton and Representative J. O. S. Clark and myself were a part of the commission.

Q. You may state any conversation you may have had with your associates on the committee or any of them about whether you would get anything out of letting the contract for yourselves.—A. They both of them, Pemberton and Clark, both said that we would get something out of it.

Q. Did you afterwards have any conversation with Mr. Freyer or Mr. Johnson on the same subject; and if so, what was said between you and them on that subject?—A. Mr. Freyer first asked me what I would want. I think that was what he said. I can not hardly recall what he said to me. I do not know what I did say to that, but we never finished talking. But I ought to say—I do not know whether I told him or not; I think he asked me what I would want out of it, and I think I gave him an evasive answer, and I did not want to do anything of that kind; then when he got ready to go out he said, "You go ahead and fix it up with Mr. Johnson. Whatever he does is all right." That is all as I remember that he said.

Q. Did you afterwards agree with Mr. Johnson how much you were to have?—A. Yes.

Q. How much did Mr. Johnson agree to give you?—A. $1,500.

Q. When was it to be paid?—A. After the furniture was received.

Q. Did Mr. Johnson say anything to you on the subject of what he was paying anyone else on the committee; and if so, what did he say?—A. He said that was more than he was paying anybody else, and he said that, if I remember right, he said $1,000 was what he was going to give Clark and Pemberton.

Q. Did you have any talk with either Clark or Pemberton as to how much they were to receive?—A. I did not.

Q. Has anything ever been paid to you?—A. Not a cent.

Q. Now, is there any other fact that you can state in connection with this matter that you now recall without being questioned about it?—A. I do not think of anything else.

Yet immediately following what has already gone into the record there appeared in that statement the following, and it is upon this particular portion of the statement that it is claimed Mr. Holstlaw was guilty of receiving money for having voted for Mr. LORIMER.

I read the section referred to:

Q. You are a Democrat, are you not?—A. Yes, sir.

Q. Did you vote for LORIMER for United States Senator?—A. I did.

Q. Before the voting came off was anything said to you about paying you anything for voting for LORIMER?—A. There was.

Q. Who talked to you on that subject, and what was said?—A. Senator Broderick, of Chicago. He said to me: "Mr. LORIMER is going to be elected to-morrow"—that is, as well as I remember the date—and he said: "There is $2,500 for you if you want to vote that way"; and the next morning I voted for him.

Q. Did you tell Mr. Broderick that you would vote for Mr. LORIMER?—A. I do not know whether I did or not, but I think I did.

How was this brought about? How did this get into that statement, in view of all the evidence which I have just been reviewing in this case? It appears that in the consultation between counsel and client, when all his statements were fully protected by the law, Holtslaw had insistently and persistently stated that he had no knowledge of any legislative corruption other than the furniture deal; and that was true, because it appears from evidence that can not be controverted that long before the evening on which it is claimed he met Broderick and agreed to vote for Mr. LORIMER—a month before—he had promised the editor of the Marion Democrat, Mr. Lewis, to vote for Mr. LORIMER. The following testimony of Mr. Fitzgerald shows that from the very beginning, however alarmed he was at his own situation, Holstlaw had asserted that fact. Listen to this testimony. Senator JOHNSTON questioned Mr. Fitzgerald as follows:

Did you ever hear of Holstlaw receiving any money from Broderick or being offered any until this examination in your office?

Mr. FITZGERALD. No, sir; he had denied that he knew anything about anything else.

Senator JOHNSTON. Denied it to you?

Mr. FITZGERALD. Yes, sir; he had told me before, at the time I talked to Mr. Burke, when he said he would prepare a written statement, that he did not know anything about any legislative corruption other than the furniture transaction.

That being the case, how did this alleged confession get into the Holstlaw statement? The testimony of Mr. Fitzgerald has been quoted. But in answer to Senator FLETCHER Mr. Fitzgerald also testified as follows:

Did you also tell him, after your return to your office to prepare that statement, that it was necessary for that statement to be full and complete and to contain matter that would satisfy Mr. Burke?

Mr. FITZGERALD. I told him what Mr. Burke had stated about it; yes..

Mr. HANECY. So that after the first, second, and third interviews between you and Mr. Burke in relation to Mr. Holstlaw, and after you and Mr. Gillespie, your partner, got together with Mr. Holstlaw to prepare this paper dated May 28, 1910, and down to the time where you asked the last question relating to the furniture deal, on the bottom of the second typewritten page, you did not know of and never heard Senator LORIMER's name used in connection with the matters in any way?

Mr. FITZGERALD. I do not remember whether I had two or three interviews with Mr. Burke before this time, but I had not heard LORIMER's name mentioned in any particular by Mr. Holstlaw in connection with the legislative matters at that time except to deny generally that he knew anything about any legislative corruption.

When examined concerning this incriminating portion of the statement Mr. Gillespie testified as follows, Mr. Hanecy asking him this question:

You knew that Mr. Holstlaw had denied, whenever the question was asked or suggested, or intimation made in connection with it, that there was any bribery or corruption or improper practices connected in any way with the election of United States Senator by the forty-sixth general assembly, did you not?

Mr. GILLESPIE. I knew he had denied it; yes, sir; up to that time.

Up to the point where he was asked if he voted for Mr. LORIMER and he said he did, nothing had been said relating to any corruption aside from the furniture deal.

Mr. Gillespie testified as follows:

Mr. HANECY. Up to that time—that is, the finishing of the questions and answers—down to and including the last line at the bottom of the second page and the answer on the top of the third page of this story, Mr. Holstlaw had denied that there was any other thing or any other matter that he had any knowledge of in the way of corruption or bribery or improper practices in or before or connected with the forty-sixth general assembly, did he not?

Mr. GILLESPIE. I think that is true, Judge.

Mr. HANECY. And he denied he knew anything about any corruption, bribery, or improper practices in the election of a United States Senator, did he not?

Mr. GILLESPIE. Yes, sir.

Mr. HANECY. And you knew your partner, Mr. Fitzgerald, had had three interviews with State's Attorney Burke in relation to the Holstlaw immunity matter and the dismissal of the indictment against him?

Mr. GILLESPIE. I knew he had two up to that time.

Mr. HANECY. He said this forenoon that he had had three.

Mr. GILLESPIE. I do not remember about that. I knew what had been going on in the office anyway.

Mr. HANECY. You knew that Mr. Holstlaw had denied, whenever the question was asked or suggested, or intimation made in connection with it, that there was any bribery or corruption or improper practices connected in any way with the election of United States Senator by the forty-sixth general assembly, did you not?

Mr. GILLESPIE. I knew he had denied it; yes, sir; up to that time.

Again:

Mr. HANECY. So that the first time Senator LORIMER's name was ever connected by Holstlaw or anybody else in your office—you, or your partner, or the State's attorney—with bribery, or corruption, or improper practices in connection with the election of a Senator by the forty-sixth general assembly, was when it developed in your office when you were making this statement?

Mr. GILLESPIE. Yes, sir.

Holstlaw tried to dictate a statement but "appeared to have no capacity to do it, and Mr. Fitzgerald suggested that I ask him questions and examine him." That is Mr. Gillespie's testimony. Judge Hanecy said:

That is, Mr. Holstlaw did not in any way introduce the name of Senator LORIMER in anything that he said in the dictation, did he?

Mr. GILLESPIE. He said so very little—no; he did not do that.

CONDUCT OF HOLSTLAW'S ATTORNEY.

Now, I want to call the attention of the Senate, and I wish this Nation might know it, to the way that matter was inserted in the statement of Senator Holstlaw—the advantage that was taken by Mr. Gillespie when acting as counsel for Holstlaw.

The testimony of Mr. Gillespie himself indicates that he betrayed his client into making a statement which was not true and which he knew was not true; and at the same time he suppressed and kept out of it the statement that Holstlaw had made to him, that he intended to vote for Mr. LORIMER all the time; that the payment of money to him by Broderick was in no way an inducement for such vote; that it was his intention to vote for him in any event, which he also admits over and over again in his testimony. And yet Mr. Gillespie deliberately omitted that statement from the paper which was carried to the State's attorney and on which immunity was granted to his client. All that Mr. Gillespie could say in his testimony in justification of his action is the following:

Mr. GILLESPIE. My recollection is that I asked him if that was all he knew of legislative bribery, and he hesitated for a moment and then said, "No; it is not." And I then asked him to state anything else that he had omitted, and he proceeded then to make further statement about a transaction with Mr. Broderick, and after he had made a statement of what had occurred between him and Mr. Broderick I continued the questions and answers to the end.

Mr. HANECY. That is, just as soon as he got through telling that, you started in to ask questions?

He says that he made it just as Senator Holstlaw told him to make it. If that is true, he made Holstlaw confess that he had been bribed to vote for Senator LORIMER and was paid $2,500 for it, when he had been expressly told to the contrary by his client.

Senator JONES asked this question:

Before that, if you will allow me a moment, does not that statement indicate and almost state in terms that Mr. Holstlaw got $2,500 for voting for Senator LORIMER?

Mr. GILLESPIE. It states that he got $2,500.

Senator JONES. For voting for Senator LORIMER?

Mr. GILLESPIE. I do not remember the exact language.

Senator JONES. Mr. Holstlaw, in his statement, made these answers: "Q. Who talked to you on that subject and what was said?—A. Senator Broderick, of Chicago. He said to me, 'Mr. LORIMER is going to be elected to-morrow'—that is as well as I remember the date—and he said, 'There is $2,500 for you if you want to vote that way,' and the next morning I voted for him."

Now, did he not say to you before he had answered that question that this $2,500 was no consideration for his vote for LORIMER, and that he had decided to vote for him before Broderick said anything about money?

Mr. GILLESPIE. He said he had made up his mind to vote for LORIMER and he thought he might just as well get the money as not.

Senator JONES. He said that he had made up his mind to vote for him and he might just as well get the money?

Mr. GILLESPIE. Yes, sir.

Senator JONES. Did he say to you in that conversation that he told Broderick that he had decided to vote for LORIMER?

Mr. GILLESPIE. I do not think he told me he had said that to Broderick.

Senator JONES. Why did you not put that statement in in that way?

Mr. GILLESPIE. Because he did not answer it that way when the questions were asked him. I asked him questions and he answered them.

Senator JONES. When you heard him answer that way you did not call his attention to his former statement in reference to it?

Mr. GILLESPIE. No; I did not change his statement in one particular.

The CHAIRMAN. And still you understood from what he had previously told you that the payment of that money was not an inducement to vote for LORIMER, but he intended to vote for him in any event?

Mr. GILLESPIE. Yes, sir; he stated he had intended to vote for Mr. LORIMER and he thought he might just as well get the money as not.

Senator JONES. But he gave you the impression that the money was no inducement to him to vote for LORIMER?

Mr. GILLESPIE. Yes; just as I have stated.

Senator JONES. Well, why did you not suggest that that statement go in?

Mr. GILLESPIE. I did not undertake to control his statement in any particular.

Mr. HANECY. If you saw that he was not stating it just as he had stated it to you——

Mr. GILLESPIE. If he could have dictated the statement, we would have permitted him to dictate his own statement. When we found he could not do that, we examined him as I have stated.

Senator JONES. But acting as his attorneys there, you did not deem it of importance to suggest to him that the language he expressed did not correctly state what he had before expressed to you?

Mr. GILLESPIE. No; I did not consider it of any importance.

Think of it! In that paper was a confession, signed by Holstlaw, that he was guilty of a felony, and the counsel he had employed to protect him testifies that he did not consider it of any importance! *Yet that so-called confession in that statement is the only evidence in this case upon which can be predicated any kind of a claim that Holstlaw voted for Senator* LORIMER *because of improper influences.* He himself has testified repeatedly that he did not do so. Everyone knew for a month before that time he would vote for Mr. LORIMER. It was arranged between him and his associates from his district the day before the election, and before his talk with Broderick is claimed to have been had, that they would vote for Senator LORIMER. He testified to this in the Broderick trial; he so testified before this committee, and he told this to his counsel; yet Mr. Gillespie permitted this "confession" to go into the statement, although he had been informed by Holstlaw as to just what the facts were. Judge Hanecy put this further question:

Mr. HANECY. You knew, did you not, as a lawyer, and you know now, that that language conveys to the reader that there was a bargain between Holstlaw and Broderick—that Holstlaw was to vote for Mr. LORIMER, and that Broderick was to give Holstlaw, for voting for LORIMER, $2,500?

Mr. GILLESPIE. Yes; that is the statement.

Mr. HANECY. You knew that that is what that language would convey to anybody who did not know the fact otherwise, did you not?

Mr. GILLESPIE. Yes; of course.

This occurred at a time when public sentiment had been aroused by the publication of the White story, when investigations of every character were in progress in Chicago and in Springfield. Every man guilty of any kind of wrong-doing feared detection. Every man who could bring any evidence to bear on this question seemed anxious to do it. The public was demanding accusations against LORIMER. Immunity was the one thought filling the mind of Senator Holstlaw, and he was so mentally perturbed that morning that I think the man did not half comprehend what he was doing. Nor do I think he much cared what went into that statement, if by signing it he was sure of securing immunity from prosecution for his offense and of being discharged from arrest.

According to Mr. Gillespie's testimony, Holstlaw mentioned receiving $2,500 from Broderick, and while asserting that it had nothing to do with his vote for LORIMER, he put out that

weak story, that he thought he might as well have the money. In his evidence in the Broderick case—the Broderick case was a prosecution on an indictment against Broderick for bribing Holstlaw to vote for Senator LORIMER—he told precisely the same story that he told before this committee.

Speaking of Broderick, in his testimony he says that on the evening of May 25—

He was standing out in front of the St. Nick, and I happened to step out, and we were talking, and he said, "Senator LORIMER will be elected to-morrow." I said, "I think so, and I am going to vote for him." He said, "You are?" I said, "Yes, sir." He said, "If you want to vote that way, there is $2,500 for you."

Mr. MARBLE. What did you say?

Mr. HOLSTLAW. I did not say a word.

Referring to what he claims Broderick then said, Holstlaw further testified:

I did not think very much about that, because I intended to vote for LORIMER anyway, and that did not have any influence whatever with me—

and in response to the following question:

Mr. MARBLE. You would have voted for Senator LORIMER if John Broderick had not spoken to you the night before?

Mr. HOLSTLAW. I would, most assuredly.

It was a weak story, told doubtless to cover some transaction which has never been revealed. However that may be, it has not a corroborating circumstance in all the volumes of testimony, but is disproved by testimony which is unanswerable.

The so-called "confession" which was incorporated in the statement that went to the State's attorney of Sangamon County was the direct work of Gillespie and Fitzgerald, Holstlaw's attorneys. Gillespie had formerly been assistant to Attorney General Stead. Gov. Deneen had advised Gillespie not to take employment in the defense of any of the bribery cases, as there undoubtedly would be a legislative investigation, in which he might be employed, and had asked upon what terms he was with the attorney general.

Gillespie says:

The substance of the conversation was that there would be litigation growing out of it, and the matter would probably be inquired into by the legislature, and he suggested that I might be employed. In the conversation he asked me what my relations were with the attorney general, and I stated to him that they were friendly.

Further along Mr. Gillespie says:

On the day when Attorney General Stead made the motion in the Sangamon County Circuit Court—

That was the motion which the attorney general made to restrain Burke from investigating the White, Beckemeyer, and Link stories—

I happened to be in court, and he called me aside and asked me if I had had any connection with the defense of any of those cases or had been employed or spoken to by anybody. I stated to him that I had not. He stated to me that he did not know what his attitude would be, and asked me for the time being not to participate in the defense, and I stated to him that I would not at that time.

He held out until the Holstlaw matter came up. He then had a further conversation with the governor. Mr. Gillespie said:

I stated to the governor that Mr. Holstlaw had been indicted for perjury, and Mr. Fitzgerald had been retained to defend him, and that we were going to represent Holstlaw.

Mr. HEALY. What did the governor say about that?

Mr. GILLESPIE. He said that was all right, that he understood the attorney general was not going to participate.

It will be noted that this particular matter in no way connected itself with the jack-pot story, and that Gov. Deneen did not object to the employment of Gillespie and Fitzgerald in this matter, although he had asked them not to accept employment in the other matter. While it is denied by Gillespie that he was employed by the Chicago Tribune in the Holstlaw or any other matter growing out of the corruption, or the alleged corruption, of the legislature, it appears from the testimony of Basil D. Monroe, an attorney at Louisville, Ill., who was judge of Clay County court for eight years, and formerly connected with the attorney general's office, that Gillespie told him that he, Gillespie, got in for the Chicago Tribune through Gov. Deneen. The importance of this testimony——

Mr. BRADLEY. What is that man's name?

Mr. DILLINGHAM. Gillespie.

Mr. BRADLEY. Who is the man who said that?

Mr. DILLINGHAM. Basil D. Monroe, a man who had been eight years the judge of his county. The testimony will be found at page 4749 and other pages following, if the Senator desires to find it. That testimony was:

Mr. HANECY. Did you have a talk with Mr. G. B. Gillespie, of the firm of Gillespie & Fitzgerald, about that time, and after Holstlaw signed that paper that you say you saw in the papers?

Mr. MONROE. Yes; I think I did.

Mr. HANECY. Where was that conversation?

Mr. MONROE. The conversation was in his office.

Mr. HANECY. In Mr. Gillespie's office?

Mr. MONROE. Yes.

Mr. HANECY. In Springfield?

Mr. MONROE. Yes.

Mr. HANECY. When was it with reference to the publication of the story or the day when Holstlaw had appeared before the grand jury of Sangamon County?

Mr. MONROE. I can not give the exact time of it. My recollection is it was just a few days after this statement of Holstlaw had been published in the papers.

Mr. HANECY. The statement of Holstlaw as to——

Mr. MONROE. His confession, in other words, about the deal that he had been into as to the furniture and other bribery charges.

Mr. HANECY. During the forty-sixth general assembly?

Mr. MONROE. Yes, sir.

Mr. HANECY. Who was present at that conversation?

Mr. MONROE. There was nobody there but Mr. Gillespie and myself.

Mr. HANECY. What was that conversation?

Mr. MONROE. The conversation came about by Mr. Gillespie asking me if I was getting any business out of these bribery cases. In answer to that I told him that I was not. I said, "Are you getting any of it?" He said that he was getting into it, or something like that; that was the expression, that he was getting into the business.

Mr. HANECY. Proceed.

Mr. MONROE. I said, "How did you get in?" He said he got in for the Chicago Tribune, through Gov. Deneen. I said, "How did you come to get in that way?" He said that he had taken Mr. Holstlaw's confession, and that was about all that was said about it.

And there is another reputable witness to the same effect—Mr. William H. Dillman, a lawyer and banker, who lives at Louisville, Clay County, Ill. He is a personal and professional friend of Mr. Gillespie, and has employed Gillespie in important litigation. About two weeks after Holstlaw's story was published, Mr. Dillman called upon Mr. Gillespie in his office and his testimony as to what occurred on that occasion is as follows:

Mr. HANECY. Give us the substance of it as nearly as you can.

Mr. DILLMAN. Being friends, he said he had got in on this deal.

Mr. HANECY. What deal were you talking about?

Mr. DILLMAN. He was referring to the scandal that had come out; that he had gotten employment as a lawyer; and that Mr. Holstlaw had made his confession to him.

Mr. HANECY. Did he say anything about who wrote the paper?

Mr. DILLMAN. I do not recall that he did.

Mr. HANECY. What did he say about the person by whom, or the company by whom he was employed?

Mr. DILLMAN. What did he say about that?

Mr. HANECY. Yes.

Mr. DILLMAN. Nothing in particular that I can recall.

Mr. HANECY. What did he say in general, Mr. Dillman?

Mr. DILLMAN. He said he was just employed by this Chicago paper.

Mr. HANECY. The Chicago Tribune?

Mr. DILLMAN. Yes, sir; to get evidence along that line.

* * * * * * * *

Mr. HANECY. Was anything said by you or Mr. Gillespie about the story or the paper that was signed by Holstlaw and given to Mr. Burke, the State's attorney, of Sangamon County?

Mr. DILLMAN. I do not recall anything particular about a paper. He just simply remarked that he had gotten Senator Holstlaw to confess, or rather, had advised him to confess.

There we have the situation! It needs no comment! Any person who reads the testimony of Gillespie as to the manner in which that so-called "confession" made its way into that statement which was given to the State's attorney of Sangamon County will grasp the situation. There sat Lawyer Gillespie in conference with his terror-stricken client, who had placed his safety and interests in his keeping, arranging a most vital matter. He had full knowledge that his client, who was making that statement, claimed and had stated to him that he had not been corrupted to vote for Mr. LORIMER, asserting that he had never received money because of that act, and yet that attorney, professing to act for his client, deliberately propounded questions and permitted answers which when placed in that statement constituted a confession of a felony which he knew from Holstlaw's statement to him had no foundation.

And this so-called "confession," produced and incorporated in that statement in that way and under those circumstances, furnishes the only foundation there is for claiming that Holstlaw received money for voting for Senator LORIMER.

It is a remarkable circumstance that almost immediately after the perpetration of this great wrong by Mr. Gillespie his relations to the Chicago Tribune should have been revealed through the witness Monroe and Dillman, reputable citizens of Illinois, both lawyers and both friends——

Mr. LORIMER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Illinois?

Mr. DILLINGHAM. I yield to the Senator from Illinois.

Mr. LORIMER. I merely wish to add right there that Mr. Dillman and Judge Monroe came into my office in the Senate Office Building on the morning of the day that they testified before the committee and pleaded with me to go to you and ask you to excuse them as witnesses, because the testimony that they would give against Mr. Gillespie, who was their warm personal friend, would result in his disbarment in Illinois if they were compelled to make the statement.

Mr. DILLINGHAM. Not only that, but Mr. Gillespie admits that there were publications in some of the newspapers in Illinois to the effect that he represented the Chicago Tribune; and

he mentions, if I remember correctly, the Herald and the Springfield Record.

I have only to say that to permit a "confession" of the character of that introduced by him in Mr. Holstlaw's statement to State's Attorney Burke, in the light of what he himself confesses was said to him by Mr. Holstlaw, was an inexcusable act, and if it be true that he was at that time in the employ of the Chicago Tribune, it is all the more open to condemnation. Yet that "confession," so called, has been used by the Chicago press to blacken Mr. LORIMER's character and to drive him out of public life.

There are some other circumstances in connection with this incident which are worthy of mention. The evidence clearly shows that the sum paid by Broderick to Holstlaw was not $2,500, but that it was $3,200, paid in two installments, but for the same purpose; and I should like to have any man connected with this case, who has heard any part of the testimony, account for that $700 if the $2,500 was paid him for voting for Mr. LORIMER.

All the evidence shows that there was a corrupt deal between Broderick and Holstlaw; but all the evidence goes to show that it was in no way connected with Mr. LORIMER; that it was an independent transaction on the part of Holstlaw and Broderick, just as the $1,500 deal was an independent transaction between Holstlaw and the furniture firm that was to refurnish the Illinois capitol.

Mr. President, I call attention to the fact that while we are discussing these important questions, which the Senate sitting in a judicial capacity must determine, there are, including the presiding officer, the Senator from New Hampshire [Mr. GALLINGER], 10 Senators in their seats. I want this to go into the RECORD.

Continuing, let me say that the $3,200 was paid to Holstlaw by Mr. Broderick for some reason which neither revealed. *It has been determined by the courts of Illinois that it was not paid to Holstlaw for voting for* LORIMER. Let anybody who has heard the evidence account for the difference between $2,500 and $3,200. Mr. Holstlaw had not the nerve, liar that he was and bribe-taker that he was, to allege that it was for his vote for LORIMER. He says over and over again in his testimony that he does not know why it was given to him, and he made the weak, sickly, childish plea that he supposed it was a gift; but he felt some delicacy about it and did not like to mention it to his family.

What object could this man have in shielding LORIMER? None whatever. The evidence clearly shows that the only object in connecting LORIMER's name with this Holstlaw transaction was to satisfy the State's attorney of Sangamon County. The immunity order was secured within a few hours, and for that service this firm charged Mr. Holstlaw $500.

I shall take no further time upon this phase of the case, except to suggest one fact. We wanted to know why that money was paid to Holstlaw by Broderick? Why the latter received it? But all we found upon which to base a judgment was this: Holstlaw posed as what they call a "dry" on the liquor question. His district was composed of four counties. Marion, his home county, and Clay were dry counties, but the estimation in which he was held by his prohibition friends is demonstrated by the fact that he lost both of these counties by a majority of 5,556. He posed as a "dry" and he lived in a dry county, but he lost those counties by a majority of 5,556! In the "wet" counties of Effingham and Clinton the majorities he received were sufficiently large to overcome the loss in the other two counties and elect him to the State senate.

It is admitted by all that the liquor interests in all four counties were Mr. Holstlaw's strong supporters and succeeded in their purpose to send him to the Senate. When pressed to disclose what his election expenses amounted to, Mr. Holstlaw said, "Well, I can not tell." He was soft and sweet and plausible, but he could not tell what his expenses were. We asked him if they were $5,000. He replied, "Well, I do not think they were quite $5,000"; and when we pressed him, suggesting specific amounts, he did not think it was this or that, but when his examination ended the committee had the impression that his election expenses were from $3,000 to $3,500.

I am not attempting to account for the money paid him except, as the Quakers say, it was borne in upon us that he was reimbursed for his election expenses, the money having come through John Broderick, who for 17 or 18 years has been the proprietor of a saloon in Chicago.

As showing the influence of that Chicago combination that united in the undertaking to drive Mr. LORIMER from the Senate, I wish that Senators who are present would look at the Chicago Sunday Tribune containing a picture of Mr. Holstlaw; columns and pages are given up to this matter, a full discussion of the wonderful disclosures that had been made, and with headlines like this:

ONE MORE SAYS HE WAS BRIBED FOR LORIMER. HOLSTLAW CONFESSES HE TOOK $2,500 TO CAST THE VOTE "RIGHT"—

The word "right" being put in quotation marks—

NAMES JOHN BRODERICK.

TRUE BILL ALSO RETURNED FOR PEMBERTON, JOSEPH S. CLARK—

And so forth.

There is the use that was made of the work of Gillespie and Fitzgerald in preparing that statement.

Mr. JOHNSTON of Alabama. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Alabama?

Mr. DILLINGHAM. Gladly.

Mr. JOHNSTON of Alabama. I want to suggest another fact that is significant. Gillespie charged $500 for his valuable services in preparing that confession. He collected only $350 and never called on Holstlaw for the balance. I merely suggest that to the Senator as showing, to my mind at least, that he was receiving pay from some other source.

Mr. DILLINGHAM. And before this committee, Mr. Fitzgerald said that they "did not have sense enough to charge larger fees," and that they ought to have charged $2,500, in consideration of the value of their work.

From an examination of the evidence to which I have called attention it can not be successfully maintained that Beckemeyer, Link, or Holstlaw ever received a dollar for voting for Mr. LORIMER or that they had any knowledge or suspicion that money was paid to any other person for that purpose. The case as made before the Burrows committee rested wholly upon the testimony of Charles A. White, and the case as made before this committee rests wholly upon the testimony of Charles A. White. Unless the payment to him of $1,000 by Lee O'Neil Browne differs in character from the payment of the same amount at practically the same time by Browne to Link and Beckemeyer, there is absolutely nothing on which to base the claim that bribery was used in the election of Senator LORIMER. And I think I have demonstrated beyond all question that the only circumstance upon which can be based any claim that Holstlaw received money because of his vote for Senator LORIMER is the so-called "confession," wholly without foundation and wickedly allowed to go into his statement prepared under the direction of his counsel, Mr. Gillespie, upon which to obtain immunity in the courts of Sangamon County.

NO CORRUPTION FUND WAS RAISED TO AID MR. LORIMER'S ELECTION.

Mr. President, I had intended at this time, having disposed of the old case, to take up the question of the newly discovered evidence upon which the case was reopened and sent to this committee for investigation and to inquire whether there was in fact any fund raised by or through Edward Hines for the purpose of in any way influencing the election of WILLIAM LORIMER to the Senate of the United States. It will take considerable time to do so. The report of the committee upon that subject, which was drafted by myself, seems to me to be a clear and concise statement of the facts, and I ask permission to insert at this point as a part of my remarks the report of the committee bearing upon that subject.

The PRESIDENT pro tempore. Without objection that order will be made.

The matter referred to is as follows:

WAS SUCH A FUND RAISED?

After the most searching inquiry the committee is unable to find any evidence that any sum of money was raised or contributed by Mr. Hines, or through his suggestion, or with his knowledge, to be used corruptly in securing the election of Mr. LORIMER as a Senator of the United States from the State of Illinois, or that Mr. Hines participated in any corrupt practices of any nature in connection with such election, nor can the committee find that any such fund was raised by any person or persons to be so used. The committee goes further and reports that it finds no evidence that any such fund was ever contemplated by Mr. Hines, or suggested to him by any of the gentlemen with whom he conferred before the election of Mr. LORIMER regarding the election of a Senator of the United States from the State of Illinois, and in fact there is no proof that Mr. Hines raised or furnished or spent improperly any money to aid in the election of Mr. LORIMER.

MR. HINES'S INTEREST IN THE ELECTION.

In connection with this finding the committee thought best to incorporate at this point a statement of what the evidence discloses regarding the activities of Mr. Hines in connection with the election of Mr. LORIMER.

While Mr. Hines has had a general acquaintance with Mr. LORIMER covering about 19 years, he has never had any business relations with him, nor has Senator LORIMER been the owner of stock in any corporation in which Mr. Hines has been interested; and although Mr. Hines was a resident of Mr. LORIMER's congressional district about nine years, he never took any interest in the political fortunes of the latter, beyond voting for him, except in the year 1906, when horses and wagons of the Edward Hines Lumber Co. were loaned to the Lorimer committee for a street parade, and Mr. Hines secured the signatures of 25

or 30 business men to a circular which was sent out to voters, showing Mr. LORIMER to be a protectionist, and the value of his work in favor of deep waterways. Mr. Hines does not remember whether he paid for the printing of these circulars or not; but if so, that is the only contribution ever made by him or any of the companies with which he was connected to any campaign fund to aid Mr. LORIMER at any time.

A major portion of the winter and spring of 1909, during which the Legislature of Illinois was in deadlock over the election of a Senator, Mr. Hines spent in Washington, representing the interests of the National Lumber Manufacturers' Association, in connection with the tariff legislation then under consideration. He did not visit Springfield during the senatorial contest, and had not been in that city for at least five years prior to his appearance as a witness before the Helm committee in the spring of 1911.

Mr. Hines apparently had no interest in the senatorial contest, and according to the evidence did nothing in connection therewith until the 1st of February, 1909, when, at the request of Mr. Hibbard, of the firm of Hibbard, Spencer & Bartlett, hardware dealers in Chicago, a codirector with Mr. Hines on the Continental National Bank board, he telegraphed Mr. LORIMER, suggesting the candidacy of Mr. A. C. Bartlett, and followed this telegram by a letter, in which he said:

"Mr. Hibbard came to me this morning about the candidacy of Mr. A. C. Bartlett. * * * I feel it might be good policy to nominate a man of this kind, if you have not committed yourself elsewhere. * * * Probably you have already committed yourself along other lines."

In response to this, some time prior to the 1st of April, Mr. LORIMER told Mr. Hines that the different factions could not, apparently, unite on Mr. Bartlett.

During the next two months, from February 1 to April 1, 1909, Mr. Hines, as representative of the National Lumber Manufacturers' Association, looking after tariff legislation in Washington, was much occupied and paid no attention to the Illinois situation. In this work he was brought frequently into contact with Senators Aldrich and PENROSE, members of the Senate Committee on Finance, which was then conducting hearings in connection with the tariff schedules.

The legislative deadlock in Illinois naturally became a topic of conversation between them and was discussed first as a matter of political gossip; then as the situation developed, the probability of the deadlock being broken was often discussed. Early in the month of April Senator PENROSE sent for Mr. Hines and asked him if he knew the situation or could find out whether the legislature was liable to adjourn without electing a Senator; Mr. Hines replied that he did not know but would try to find out.

To this end Mr. Hines talked first with Congressmen Boutell and MADDEN, of Chicago, who told him they did not know the real situation, but that probably Congressman LORIMER could give him the information, whereupon he telephoned to Mr. LORIMER, who was in Chicago, and arranged to see him at his office upon his return to Washington; at the interview then had Mr. Hines told Congressman LORIMER that he was not personally interested in the matter, but that Senator PENROSE appeared to be much interested, and had asked him to make inquiries. Mr. LORIMER stated that the situation was indefinite; that he could not then say what it really was; but that he was going to Springfield the following night; would return to Washington in about a week and might then be able to speak with a better knowledge. Mr. Hines reported this conversation to Senator PENROSE.

A week or two later Mr. Hines again talked with Mr. LORIMER, who told him that the situation remained practically unchanged. Mr. Hines then inquired particularly as to the men under consideration, and Mr. LORIMER mentioned Congressmen MCKINLEY and Lowden, Judge Grosscup, and Mr. Calhoun. Mr. Hines reported this conversation, as well as what he heard from other sources regarding conditions in Illinois, to Senator PENROSE, as he met him in connection with the tariff matters.

About the last of April Senator PENROSE told Mr. Hines that Senator Aldrich would like to see him and went with him to Senator Aldrich's office, and in a conversation between them the general situation in Illinois, including the election of a Senator, was discussed, during which Mr. Hines stated that in his judgment Senator Hopkins could not be reelected, and he asked Senator Aldrich what the attitude of the President would be with reference to the matter. Senator Aldrich replied that the President was desirous that a Republican Senator should be elected in Illinois, and while he was naturally friendly to Senator Hopkins on account of the fact that the latter had received the primary nomination and perhaps for other reasons, he did not intend to take any active part in influencing the action of the legislature; that his wish was that a Republican should be elected, but that he would take no steps in furtherance of Senator Hopkins's candidacy or that of any other person.

A little later Mr. Hines had another interview with Mr. LORIMER, in which he asked him the direct question whether or not he was a candidate for the senatorship; and the latter replied that he was not, giving as the one important reason his great interest in the deep-waterway proposition which he felt he could best promote by remaining in the House. At that time Mr. LORIMER asked Mr. Hines if he had anyone to recommend for the position, and Mr. Hines suggested Congressman Boutell, which met the approval of Mr. LORIMER; but he could not tell how Mr. Boutell's name would be received. Mr. Hines told Senator PENROSE of this, who, in turn, had a talk with Mr. Boutell. About the same time Mr. Hines had an interview with Senator Aldrich regarding the attitude of the President toward the candidacy of Mr. Boutell, stating that an effort was being made to agree upon him as the successor of Senator Hopkins.

He asked Senator Aldrich if he would see the President, ascertain his attitude and advise him, and Senator Aldrich afterwards in another conversation reported to him that the President would be agreeable to Mr. Boutell's candidacy; that his anxiety was to have a Republican elected, and that he was satisfied with Mr. Boutell's Republicanism and would have no objection to his election. Mr. LORIMER'S candidacy was not suggested or discussed at that time. Mr. Hines told Mr. Boutell what he had done, and suggested to him that he see the President. Mr. Boutell did so, and also wrote letters to Chicago to ascertain how his candidacy would be regarded in Illinois; later he went to Chicago and after a careful investigation found that it would be impossible to get the different factions to unite on him; and Mr. Hines told Senator PENROSE of the failure of that undertaking.

As time passed the names of Messrs. Boutell, Lowden, and others mentioned in connection with this election, were in the progress of events eliminated, and Mr. Hines ultimately suggested to Senator PENROSE that Mr. LORIMER might be the man upon whom the different factions could unite, but because Mr. LORIMER had previously informed him that he preferred to remain in the House it was doubtful if he could be induced to enter the contest. Senator PENROSE also learned from other sources that Mr. LORIMER was the only available candidate.

Just previous to the election of Mr. LORIMER by the Legislature of the State of Illinois one or two interviews took place between Senator Aldrich and Mr. Hines regarding the candidacy of Mr. LORIMER and the attitude of the President with respect thereto. Regarding one of these, Senator Aldrich in his testimony says:

"Mr. Hines then told me that it was impossible to agree upon Mr. Boutell, and he thought there was a prospect—he said a very good prospect—of agreeing upon Mr. LORIMER; and he was anxious that I should find out the attitude of the President, the administration, toward Mr. LORIMER'S election, and tell him what it would be."

This the committee finds was at Senator Aldrich's committee room, late in the evening; that together they rode to Senator Aldrich's house, where Mr. Hines was left to await the return of Senator Aldrich from the White House, where he went to have a consultation with the President in relation to this matter. Senator Aldrich returned home from this interview about midnight, and in his testimony says:

"I told him that Mr. LORIMER'S candidacy would not be objectionable to the President. Then Mr. Hines asked me if I was willing to say that to anyone that he might suggest to inquire of me upon the subject; and I said that I was—that if I were asked in reference to the matter I should say that Mr. LORIMER'S candidacy would not be objectionable to the President."

Regarding the time of this interview, Senator Aldrich testifies:

"I know that it was prior to the election, and my impression is that Mr. Hines told me that he was to leave for Chicago either that day or the next day, or some time very near that."

And on this point Senator Aldrich's testimony is as follows:

"Senator KERN. Did you have any conversation with Mr. Hines at all about Gov. Deneen, or the part Gov. Deneen was to take in the contest?

"Senator ALDRICH. I think at this conversation Gov. Deneen's name was mentioned by Mr. Hines; not by me.

* * * * * * *

"The CHAIRMAN. What did he say about Deneen?

"Senator ALDRICH. My recollection is that Deneen was an important party to this arrangement, or agreement, upon a candidate, and that Deneen's attitude would be more or less influenced by knowing whether it would be agreeable to the President. That was my general impression with regard to that matter."

Both Senators Aldrich and PENROSE corroborate Mr. Hines in all essential features of his account of what took place leading up to and including his activities in behalf of Senator LORIMER.

Endeavoring to carry out what he understood to be the desire upon the part of Senator Aldrich and the administration, Mr. Hines went from the home of Senator Aldrich to the New Willard Hotel, from whence, sometime after midnight, he called up Congressman LORIMER on long-distance telephone at Springfield and gave him Senator Aldrich's message. Mr. LORIMER expressed some surprise at mention of the President's name, but Mr. Hines repeated the statement, telling him there was no question about it, as he had but then finished talking with Senator Aldrich, after the latter's return from a conference with the President at the White House, and that they would do all they could to assist in his election. Mr. LORIMER asked if Senator Aldrich would send him a telegram to that effect, and Mr. Hines assured him that he himself was authorized to send such a message, and Mr. LORIMER told him to send it. Mr. Hines then asked Congressman LORIMER if he would become a candidate, to which the latter replied:

"At this time I can not say; after I get the telegram I will give the matter consideration."

Mr. Hines accordingly sent the telegram. Senator LORIMER testifies that this was the first word he received from Mr. Hines concerning his candidacy, and Mr. Hines says it was the first time the subject was mentioned between them after the talk in April when Congressman LORIMER told him he would not be a candidate for the senatorship. Senator LORIMER locates the date of this telegram between the 20th and 25th of May, and Mr. Hines puts the date May 23, 1909.

Mr. Hines testifies that matters ran on for a few days, and that Senator Aldrich again sent for him and urged him to go to Springfield and see the governor personally and impress upon his mind the importance to the administration of the election of a Republican, and if Mr. LORIMER could be elected to have him assist in accomplishing it. This was on the morning of May 25, 1909, and Mr. Hines left for Springfield via Chicago that afternoon.

While the committee find some confusion in the testimony on the question whether there were two interviews between Senator Aldrich and Mr. Hines regarding the election of Mr. LORIMER and the mission of Mr. Hines in connection therewith, they are of the opinion that Mr. Hines's memory is the more accurate, and that such was the case; but if, as Senator Aldrich thinks, there was but one interview, it must have been on the night of May 24, 1909, for before leaving Washington the following day, May 25, Mr. Hines sent the following telegrams to Mr. LORIMER, who was at Springfield:

"MAY 25, 1909.

"WILLIAM LORIMER,
"St. Nicholas Hotel, Springfield, Ill.:

"Aldrich authorizes governor calling him up telephone. Confirm my message; conference last night; governor requested cooperate bring about result; can bring message to-morrow."

—

"WASHINGTON, D. C., *May 25.*

"WILLIAM LORIMER,
"St. Nicholas Hotel, Springfield, Ill.:

"Leaving for Chicago to-day; can go direct to Springfield. Bring message confirming conference held last night, showing highest authorities want you elected before legislature adjourns. Important Republican Party Illinois politics have strong, experienced man, friendly to powers here, elected immediately; needed here now. Telegraph answer quick, duplicate, care limited train, Harrisburg depot."

In both of which messages, as will be observed, he refers to a conference held the night before.

These conferences between Mr. Hines and Senators Aldrich and PENROSE impressed Mr. Hines with the importance of the matters under discussion as well as the importance of his activities in connection with them. He understood that in the investigations and reports which he made to them he was carrying out their wishes, that in the end they had reached the conclusion that Mr. LORIMER was the only person upon whom the different factions of the legislature could unite, and they were anxious that he should not only consent to become a candidate but that he should use his best efforts to be elected. In these conferences Gov. Deneen's name had been

mentioned as an important factor in the election of a Senator, and Mr. Hines understood, after his last interview with Senator Aldrich at the latter's house, that he was authorized to convey to Mr. LORIMER the wishes of the Senators named, the attitude of the President as to his candidacy, and to urge Gov. Deneen to aid in his election. The telegrams indicate his understanding of the situation and of his mission, and he understood that in carrying this message he was representing the gentlemen with whom he had been in conference, and that he was authorized to refer anyone wishing for further information as to their attitude or that of the President to Senator Aldrich.

Mr. Hines was very much impressed with the importance of his selection as the medium through whom this message was to be carried to Illinois, and he entered with zeal upon the undertaking.

The evidence indicates that Senators Aldrich and PENROSE were the only persons with whom Mr. Hines was working or cooperating in the effort to break the deadlock in the Illinois Legislature by the election of a Republican Senator; that the only real interest he had in the matter was aroused by his frequent interviews with those gentlemen; the evidence also shows that neither he nor they had any candidate whom they specially cared to have elected—any Republican would have been satisfactory, and their purpose was to discover some person upon whom the different factions in the legislature would unite, and to that end they called upon Mr. Hines for assistance. Concerning this, Senator PENROSE in his testimony says:

"If Mr. Hines had been staying at home and attending to his business in Chicago, and the tariff had not been up, and he had never seen me or a lot of people who were interested in politics night and day, I do not imagine he would ever have gotten interested in the senatorial fight."

Mr. Hines left Washington on May 25, 1909, and reached Chicago between 8 and 9 o'clock on the morning of May 26, 1909. It had been his intention to continue the journey to Springfield, in order, as he testified—

"to carry out the request made by Senator Aldrich and see the governor and see other leading Republicans, members of the legislature, to impress upon their minds the importance of trying to unite on some Republican as Senator from Illinois."

But upon reaching Chicago he was met at the station by Mr. Wiehe with a message from Mr. LORIMER to call the latter on the telephone from Chicago instead of continuing his journey to Springfield, as intended. Mr. Hines therefore proceeded at once to the Continental Commercial National Bank and from there put in a long-distance telephone call for Mr. LORIMER at Springfield. While waiting for this connection, he sent from the bank the following telegram:

CHICAGO, *May 26, 1909.*

WILLIAM LORIMER, Esq., *Springfield, Ill.:*

Just arrived; trying to get you telephone; Aldrich, PENROSE, and higher authority, as telephoned you from Washington, want you elected; authorized have governor others call Washington telephone; confirm this; can be there to-night.

EDWARD HINES.

Very soon thereafter Mr. LORIMER called him on the telephone and said:

"I would like to have you immediately call up Gov. Deneen on the long-distance telephone, and emphasize to him as strong as possible what you told me from Washington. * * * When you get through talking with Gov. Deneen, call me up on the telephone and let me know what he says."

Referring to this telephonic conversation with Mr. Hines, Senator LORIMER in his testimony says:

"I told him that the reason I did not want him to go to Springfield was that the governor was not friendly to my candidacy, and that if he came down to deliver the message it would be too late before he arrived, but probably if he delivered the message to him over the long-distance telephone it might have some influence with him. I had not any idea in the world that it would, but I feel when you are in a campaign you ought to do the last thing, and in his case it was the last thing."

Mr. Hines testified that he also called up Gov. Deneen from the bank and said, as he remembers the conversation:

"This is Mr. Edward Hines, at Chicago. I have just come in this morning on the limited train from Washington, and was on my way to Springfield to bring that message to you from Senator Aldrich and the President, urging upon you to do all you possibly can to assist in the election of a Senator at the earliest moment possible. They understand that Congressman LORIMER can be elected if you will assist."

Mr. Hines testified that the governor did not seem to recognize his voice at first, and there was some suggestion of calling Mr. Reynolds, president of the bank, to identify him, but that finally the governor appeared to recognize his voice and said that would be unnecessary, and, continuing his conversation, Mr. Hines said then to him, "How soon can you see Congressman LORIMER?" that the governor replied, "I will see him within 10 minutes;" and then Mr. Hines asked him the following question, "Can we rely on your assistance?" and understood the governor to say, "Yes."

In regard to this Gov. Deneen testified:

"Mr. Hines called me up and asked me whether I had received a message from the President—President Taft—in reference to Senator LORIMER. He stated that President Taft had sent a message to me to support Senator LORIMER, and asked me if I had received the message. I told him no. He said: "Well, President Taft has sent the message, and I intended to come down myself. I have just arrived, this morning, in Chicago;" and my best recollection is that he stated that his train was late; had a five-minutes' connection, and the Pennsylvania train had missed connections. But, in any event, he said that he had intended to come, and did not come; could not come; and he said President Taft had sent that message to me, and I would get it. I said: "Did President Taft send that message to me? Did he tell you?" He said, "No." I said, "That is a rather remarkable message to send." He said, "Well, he is to send it through Senator Aldrich." He said, "Of course, the President would not send a message to you on such a matter where it would become a public matter; but Senator Aldrich is to convey the message to you." I said, "Through whom?" He said, "Mr. George Reynolds, of the Continental Commercial Bank, will call up and deliver the message." I said, "Very well."

Gov. Deneen says he did not tell Mr. Hines that he would see Mr. LORIMER within a few minutes, or within 10 minutes, and says there was nothing in regard to calling Mr. Reynolds to identify his voice; that he was not sufficiently acquainted with him to recognize Mr. Hines's voice, and doubted personally whether Mr. Hines was telephoning.

While they differ regarding many things which it is claimed were said during this conversation, which is easily accounted for by the difficulty attending a long distance telephone conversation, they both agree that no reference whatever was made to money matters, and that Mr. Hines said nothing about going to Springfield and taking with him all the money that was necessary to bring about the election of Mr. LORIMER as testified by the witness Cook. Gov. Deneen testified that on May 26, 1909, he did not see or communicate in any way with Mr. LORIMER until after his election, when the latter called upon him about 2 o'clock.

On the contrary, Senator LORIMER testified that Gov. Deneen called him on the telephone on the morning of May 6, 1909, and said:

"That he had talked with Mr. Hines over the telephone, and that Mr. Hines had delivered a message to him to the effect that Senators PENROSE and Aldrich and the President were anxious that I should be elected."

And in answer to the question: "What response did you make," Senator LORIMER testified:

"I thanked him for it. I knew the interview Mr. Hines had had with the governor had had no influence with him."

And Senator LORIMER says in his testimony that the only reason he did not desire Mr. Hines to go to Springfield was because he could not reach there in time, he having concluded to allow his name to be presented that day, and he understood the only assistance Mr. Hines could render was to deliver the message; that the governor made no comment with reference to the message and in this respect testified. Mr. LORIMER testified:

"I thought the governor just delivered a message. I got an impression that the governor either felt that it was his duty to call me up and let me know, or that he had been requested to call me up and let me know, what had occurred."

Senator LORIMER further testified that up to the night of May 25, 1909, he had not been advised that the President or Senators Aldrich or PENROSE had authorized anyone to verify their support or their desire in regard to having a Republican elected. Senator LORIMER further testified that he got the impression from the way Gov. Deneen talked to him over the telephone on the morning of May 26, 1909, that he was—

"just doing what he regarded as a duty, or extending a courtesy to the person he had previously spoken to over the telephone.

"He did not commit himself, and I knew from the way he talked that the message had no influence over the governor."

Senator LORIMER testified to a subsequent conversation with Mr. Hines as follows:

"I talked with him over the telephone—quite a while after that—and told him the governor had told me of the message that he delivered to him. When I say 'quite a little while after that,' I mean it may have been 10 or 15 or 20 minutes."

After his telephonic conversation with Gov. Deneen from the Continental Commercial National Bank, Mr. Hines went to the Grand Pacific Hotel to meet Messrs. Cook and O'Brien upon a purely business matter, which meeting had been arranged by his subordinates, and while in Mr. Cook's room had a second conversation with Mr. LORIMER over the telephone, in which he said in substance:

"I have just talked with the governor, and he said he would see you immediately. The Congressman replied, 'He has already seen me.' I then said, 'Now, if I can do any good I will come down on the afternoon train.' He replied not to come down until he would telephone me. He said, 'If my name goes before the legislature to-day, you could not assist any in time to come here. If you could assist to-morrow, I will let you know late in the afternoon by telephone.'"

At this point the activities of Edward Hines in connection with the election of WILLIAM LORIMER ceased. He did not go to Springfield, and the only person whose action he attempted to influence was Gov. Deneen, and in doing that he simply undertook to deliver what he understood to be the message from Senators Aldrich and PENROSE.

The significant facts brought out by all the testimony upon the question of Mr. Hines's connection with Mr. LORIMER'S election are:

(a) That he had no special personal interest in the matter, and did not visit Springfield at any time during the session of the legislature.

(b) That he was not urging the candidacy of any particular person.

(c) That during the two months in which the situation in Illinois was discussed between him and Senators Aldrich and PENROSE the names of several men of reputation and character were considered and dropped, and the name of Mr. LORIMER was not mentioned between them as a candidate until three or four days before his election, and not until after his probable candidacy had been under discussion in Springfield and it was believed there that he would become a candidate. It was practically certain Hopkins could not be elected.

(d) That the only object entertained by Messrs. Aldrich and PENROSE was to have the deadlock broken and a Republican elected.

(e) That to accomplish this Mr. LORIMER was not objectionable as a candidate either to the President or to them, and various names had been tested and it was found that Mr. LORIMER could command more votes than any one considered.

(f) That Mr. Hines was authorized and requested to report these facts to Mr. LORIMER, Gov. Deneen, and other public men, and to refer to both Senators Aldrich and PENROSE as his authority.

(g) That it flattered Mr. Hines to be consulted by Senators Aldrich and PENROSE, and his sense of the importance of the matter was greatly enhanced when he knew that they had been in conference with the President, and that Mr. LORIMER'S candidacy would not be objectionable to him, and that to be intrusted with the responsibility of making known their wishes and explaining the attitude of the President to Gov. Deneen and to Mr. LORIMER was a great personal honor.

(h) That he believed when the election followed so closely these events that he had been instrumental in bringing it about and was correspondingly elated.

The only testimony before the committee that in any way connects the name of Edward Tilden with the alleged fund raised to aid in the election of WILLIAM LORIMER is incorporated in the statement reluctantly made by Mr. Funk when he says: "Mr. Hines said, 'Just send the money to Ed. Tilden.'" Not a witness has testified to any fact tending to establish the existence of such a fund or to Mr. Tilden's connection with any such fund. But the committee saw fit to summon Mr. Tilden as a witness, and in his testimony he denied with great emphasis any knowledge of the existence of such a fund, or having any connection with it, and stated that the first time he heard his name mentioned in that respect was when he read in the newspapers an account of Mr. Funk's testimony before the Helm committee at Springfield.

To further determine the question whether Mr. Hines had been a contributor to or had any part in it, and whether Mr. Tilden had

received or disbursed the same, the committee employed the firm of Barrow, Wade, Guthrie & Co., certified public accountants of New York. Mr. Ritchie of that firm made an examination of the accounts of the Edward Hines Lumber Co. and all its subsidiary branches and of the companies controlled by it, including the North Wisconsin Lumber & Manufacturing Co.; Hayward Mercantile Co.; First National Bank, Hayward, Wis.; Mason State Bank, Mason; White River Lumber Co.; Iron River Lumber Co.; Virginia & Rainy Lake Co., covering the period from April 1, 1909, to December 31, 1909, as well as the personal books of Edward Hines for the year ending December 31, 1909, and reported to the committee as follows:

"(a) That there was no evidence of the Edward Hines Lumber Co. or any of its subsidiary or controlled companies having received or disbursed any moneys in connection with the election of Mr. WILLIAM LORIMER, on May 26, 1909, to the United States Senate from the State of Illinois.

"(b) That there was no evidence of Mr. Edward Hines as an individual having received or disbursed any moneys in connection with the aforesaid election.

"In order to ascertain whether or not Mr. Hines might have negotiated a loan from one or other of the banks in Chicago with which he was connected, or with which he had business relations, I visited the following banks and trust companies: Continental National Bank, Hibernian Banking Association, Fort Dearborn National Bank, Northern Trust Co., Corn Exchange National Bank, Metropolitan Trust & Savings Bank.

"At each of these banks I examined their record of notes discounted during the last week in May, 1909, and the first part of June, 1909.

"I am able to report, therefore, that at none of these banks, in the period under review, did Mr. Hines discount any note or notes, either as drawer or as indorser."

An examination was also made of the books of Mr. Edward Tilden, and after reciting the method of the same and the theory upon which it was conducted, Mr. Ritchie reported to the committee that—

"There was no evidence that Mr. Tilden had been custodian of the fund alleged to have been raised in connection with the election of Mr. WILLIAM LORIMER to the United States Senate from the State of Illinois."

THE BURGESS-WIEHE INCIDENT.

The only other incident to which reference is made in the so-called newly discovered evidence tending to show the existence of a fund raised to aid in the election of Mr. LORIMER is that related by William M. Burgess, of Duluth, Minn., who testified that on the evening of March 8, 1911, he boarded the Winnipeg Flyer at Duluth at about 10 minutes past 7 o'clock to go to Virginia, Minn., a run of about two hours; that when he boarded the train he went to the smoking room of the sleeping car, where he remained until he reached his destination; that during that time the compartment was occupied by others as well as himself, among them Mr. C. F. Wiehe, Mr. Johnson, Mr. Cusson, Frederick J. Weyerhaeuser, Rudolph Weyerhaeuser, Mr. Harper, and Mr. McGowan, whom he described as a "young Canadian," and with whom he had some conversation. The testimony of Mr. Burgess indicates that all of these gentlemen were in the compartment "at various times during the trip," and that at some period of the ride, when only the witness, Mr. McGowan, and Mr. Wiehe were present, the conversation between himself and the latter drifted onto the subject of Mr. LORIMER'S election, concerning which the witness said:

"I remember making some remark regarding the election of Mr. LORIMER, and Mr. Wiehe asked me what I knew about Mr. LORIMER'S election, and I told him my knowledge consisted of information gained from the Duluth News-Tribune and the Duluth Evening Herald and the Chicago Examiner. And he made the remark that I did not know very damn much about it. * * * He said that Mr. LORIMER had not spent any of his own money for his election; but there was, as he called it, a jack pot raised for Mr. LORIMER'S election; and he made the remark—this remark he made at the finish of the conversation—he says: 'There was a jack pot raised for Mr. LORIMER'S election. I know what I am talking about, because I subscribed $10,000 to it myself.'"

And further:

"Mr. Wiehe said it was impossible to get anything of merit through the Illinois Legislature without the use of money."

Mr. Burgess, Mr. Wiehe, and Mr. McGowan were all absolute strangers to each other; they had never met before; had no introduction at that time, and were ignorant of each other's names. It was not until after reaching the hotel at Virginia that night that Mr. Burgess learned that the gentleman with whom he says he had this conversation was Mr. Wiehe, a brother-in-law of Edward Hines.

* * * * * * *

Mr. Wiehe denies with great positiveness that any such conversation as mentioned by Mr. Burgess was had between them, and denounced him as "an absolute liar when he makes the statement." He further testified that he had no conversation with Mr. Burgess regarding the Lorimer election, or about any jack pot or any other fund to be used in connection with such election, or concerning any contribution by him to such a fund, and that he did not have any specific conversation with Mr. Burgess.

The testimony shows that at the time of the alleged conversation Mr. Burgess sat diagonally across the compartment from Mr. Wiehe and that no conversation could have been had with him which others there would not have heard.

It is admitted that Charles McGowan did not leave the room during that ride; he testified, "I was there all the time" and heard every word that was said by everyone, and testified that nothing was said that he did not hear; he denies with positiveness the entire Burgess story, further testifying that there was no time during the entire trip when he, Mr. Wiehe, and Mr. Burgess were alone in that compartment, and that there was nothing whatever said about Mr. LORIMER'S election.

Mr. Cusson testified that he entered the smoking compartment about 20 minutes after the train left Duluth, and remained there until Virginia was reached; that Mr. Burgess, Mr. Johnson, Mr. F. E. Weyerhaeuser, Mr. Wiehe, and one or two or three strangers were in the compartment when he entered; that he sat between Mr. Wiehe and Mr. Weyerhaeuser on the leather couch; that Mr. Wiehe sat on his left and that Mr. Burgess sat in a chair directly to the right of the couch; that Mr. Wiehe remained in the smoking compartment possibly 15 minutes after his entrance, when he was called out by Mr. Hines, and that he did not again return to the compartment that night.

Mr. Cusson remembers that among other topics of conversation was the tariff and Canadian reciprocity, but that nothing was said about the election of Senator LORIMER, and he denies in detail the statements contained in the testimony of Mr. Burgess as to the LORIMER case; that smoking compartment soon after the train left Duluth; that Mr. Wiehe, and not to exceed 2 or 3 feet from Mr. Burgess.

Mr. Johnson, a most intelligent witness, testified that he entered the smoking compartment soon after the train left Duluth; that Mr Wiehe, he thinks, came in after he did; that he remained in the compartment during all the time Mr. Wiehe was there, and followed him when he went out, as he desired to discuss a matter of business with him; that during the time he was in the compartment nothing was said by either Mr. Wiehe or Mr. Burgess with respect to the election of Senator LORIMER, nor about the existence of a jack pot or any fund of $100,000 being raised for the election of Senator LORIMER, or about any other amount of money being raised to aid the election of Senator LORIMER, and that Mr. Wiehe did not say that he had contributed to any such fund; in short, he denied everything to which Mr. Burgess testified.

Mr. Price testified that upon entering the train he carried his grip to his berth and immediately went to the smoking compartment where he remained for perhaps half an hour, when he went out to look after his grip, and was gone just long enough to go to his seat in the other car and return; that he then remained in the smoking compartment until 10 or 15 minutes before the train reached Virginia; that when he went out to look after his grip Mr. Burgess, Mr. Johnson, and Mr. McGowan were in the smoking compartment, and he tells where and how they were sitting. He thinks Mr. Weyerhaeuser was sitting with Mr. Cusson immediately next to him, and that when he returned Mr. Wiehe had taken his seat, and that he was obliged to stand for some time and until Mr. Wiehe was called from the room by Mr. Hines. This is confirmed by Mr. McGowan, who testified that Mr. Wiehe was called out by Mr. Hines.

In his testimony Mr. Price tells of other subjects which were discussed, but says nothing was said by any person present regarding the election of Senator LORIMER, and denies everything that has been testified to by Mr. Burgess as having occurred on that occasion.

Mr. Harper, who was also present and observed those in the compartment, heard no such conversation.

Mr. Wiehe is not a talkative man. He appears rather cautious. It is not reasonable to suppose that he would declare to a stranger who happened to be in the same smoker on a railway train that he had contributed to a corruption fund which had been used in the election of a Senator from his State. He is not a light or foolish man, and the committee is unable to ignore his testimony and that of all the other persons in the smoker, aside from Mr. Burgess, and accept the latter as the only truthful one among them.

* * * * * * *

With the foregoing convincing array of evidence in denial of all the facts contained in Mr. Burgess's testimony, and in view of the improbability that a man of Mr. Wiehe's intelligence and business experience should, in a public place and to an utter stranger, have confessed to having part in an infamous proceeding, this committee can not do otherwise than discard the testimony of Mr. Burgess as proof of any facts alleged.

From the above it clearly appears that Edward Hines never so much as thought of raising a corruption fund to "put LORIMER over." In all that he did he was acting with the leaders of the party in Washington, with the approbation of the President of the United States, to secure the election of a Republican Senator from Illinois, and he was merely performing an errand when he communicated to Mr. LORIMER and to Gov. Deneen their thought in the matter. It is impossible to believe that Mr. Hines could have told Mr. Funk that "we put LORIMER over down at Springfield, but it cost us $100,000 to do it."

WHY THE FUNK STORY WAS NEVER USED WHERE ITS TRUTH COULD BE TESTED.

That brings us back to the Funk story and the uses to which it was put. That story, as I have said, was used as a newspaper asset, to create public sentiment, but never in any legal proceedings where its truth or falsity could be properly determined. Those who listened to the early part of my remarks will remember that I called attention to the fact that the publication of the White story was made on the morning of Saturday, April 30, 1910; that Mr. Funk rushed in with his story to Mr. Kohlsaat as early as Sunday, because on Monday morning, May 2, the Chicago Tribune had the "sawdust" editorial, which clearly showed that Mr. Kohlsaat, who is confessedly the man who conveyed that story to the editor of the Tribune, must have given it to him on that Sunday, the day following the publication of the White story.

Why has that story never been used in any legal proceedings? Simply because its custodians never have dared to submit it to a legal test. They never intended to submit it to a legal test. They never would have submitted it to a legal test had it not been that the Helm committee, a month after the Senate had finished the previous examination, compelled Mr. Kohlsaat to come before it, and insisted that he reveal the source of the information upon which he based the editorial of February 15, containing the inquiry, "Do we know all there is to be known concerning the $100,000 fund that was raised to pay for LORIMER'S votes?"

It was a most remarkable situation. What reason does Mr. Funk give for desiring to have it kept secret? Mr. Kohlsaat says it was communicated to him in confidence; he says that he communicated it to the editor of the Tribune in confidence; that he communicated it to the owner of the Daily News in confidence; that he communicated it to Col. Roosevelt in confidence; that he communicated it to Senator ROOT in confidence—everywhere in confidence. What was the reason? Simply because Clarence S. Funk would not permit it to be told publicly

with his name as the authority for the statements it contained. Why would not Clarence S. Funk permit this to be done? In his testimony he says first—

I am afraid that nobody will believe that I am animated by any high moral principles in the matter, even if I can see my way clear to do it, because of my corporation affiliations.

A very good reason.

Secondly, he says:

I explained to him (Mr. Kohlsaat) that it would incur enmities for my company—

He being the general manager of the International Harvester Co.—

which had dealings with a great many other interests; and I feared that if we projected ourselves into the situation it would create hostilities and antagonisms toward the company which would take a long time to heal; and that in my consideration of the matter pro and con I had arrived at the conclusion that my duty to protect my company and my stockholders outweighed any duty I might have as a citizen, and that I was not willing to get into the matter at all.

No one can doubt that statement, coming, as it does, from Mr. Funk; but why was there any necessity for secrecy if it was the truth? He was afraid, as he says, that it would injure the International Harvester Co., and herein lies the true reason why that should be kept secret.

What had been the attitude of the company toward Mr. LORIMER? It is a conceded fact that the harvester company had long antagonized WILLIAM LORIMER and had an earnest desire to defeat him politically. It had been disappointed when he was elected; and Mr. Funk testifies that he saw in his election an increased power given to Mr. LORIMER that might be exercised upon the International Harvester Co.

THE INTERNATIONAL HARVESTER CO. INTERESTED.

Do you understand what the International Harvester Co. is? It is a corporation organized under the laws of New Jersey with a capital of what? One hundred and forty millions of dollars. It is one of the great trusts that have recently been mentioned in the newspapers as subject to prosecution under the provisions of the Sherman act. Its president, when he was before this committee, denied it as a fact, but admitted that the company had been charged with the corruption of legislatures in several States.

That company has a large board of directors—18 in number—divided between the East and the West. But the board of directors is not burdened, because the corporation has a voting trust, consisting of its president, Cyrus H. McCormick, Charles Deering, and George W. Perkins, which trust really controls the policy of the company and represents its entire stock at the annual election of directors.

Mr. Funk, the author of this story, is the general manager of that great trust, and he undoubtedly told the truth when he said that he did not want to draw attention to his company and produce antagonisms that might prove disastrous to its interests. For years that company has been trying to have closed that branch of the Chicago River which runs in front of its works, dividing the plant and separating the works from a great area of land which it owns. If that branch of the river was closed and made nonnavigable, 4 or 5 miles of territory occupied by manufacturing interests of vast importance lying beyond the Harvester plant could not be reached by boats. I do not know how long that contest has continued. I suspect the Senator from Illinois will tell us about it when he comes to address the Senate. But the fact was developed before the committee that the feeling entertained by that company toward Senator LORIMER was one of great opposition, simply because he had, as a Member of the House of Representatives, persistently opposed the closing of that navigable stream.

It is easy to understand why, as soon as Mr. LORIMER had been declared a Senator from the State of Illinois, Mr. Funk should have seen that his favor was to be sought rather than his enmity, and that he should go to Edward Hines—and Edward Hines says he did go to him—with the proposition that LORIMER must have been put to considerable expense and that the International Harvester Co. would be glad to contribute to that expense, and, incidentally, to ask for an introduction to Mr. LORIMER, whom he had never met. It was natural that Mr. Hines should go to LORIMER and ask him as to the amount of his expenses. It was just as natural when the Chicago Tribune, a year later, opened its batteries upon WILLIAM LORIMER and urged that he should be unseated that Mr. Funk should come forward, with all the power of that great corporation behind him, secretly, without bringing to bear upon his corporation the responsibility of his actions, and join the combination to oust Mr. LORIMER from the United States Senate. Did he do it? Did he have any reason to do it? Judge Hynes asked Funk this question:

Mr. HYNES. Did you apprehend that Senator LORIMER would be a more important factor in connection with your issue as to the opening or closing of the stream at Western Avenue, where your plant is, on the Chicago River, if he became a Senator than when he was a Member of the lower House?

Mr. FUNK. Yes; I think he would, naturally.

And he would not say that his interest was not excited with respect to the election of Senator LORIMER.

Mr. Funk further testified:

I had understood Senator LORIMER was the most active man in trying to put the thing through.

That is to deepen and widen the river.

Further, that Senator LORIMER was the most active and forceful opponent of closing the river, and that he was on the opposite side of the Harvester Co. in the controversy; that he had discussed and weighed the forces for and against that proposition, including Senator LORIMER.

There you have disclosed the attitude of Clarence S. Funk.

Now, how did these people come into this controversy and why did they come into it? And why did they want to keep their action secret? These questions interest me. Gov. Deneen, in his testimony, tells about the jack-pot story being brought to him by Mr. Keeley, of the Chicago Tribune. Did it in any way connect the International Harvester Co. with legislation? He said that the chief characteristic of the story was the jack pot; that it mentioned the senatorial election, but did not mention the Senator himself.

But in that story of Charles A. White was the statement that in connection with that jack pot as it existed in the legislature of 1909 he had been told by Browne on several occasions that had it not been for the veto of a certain bill by Gov. Deneen $35,000 more would have been added to the jack pot. Gov. Deneen thought he recognized senate bill 286, the corporation bill, as the one to which this reference was made.

When we come to examine the record it would seem that the Harvester Co. was interested in that bill. It was prepared by a committee composed of distinguished lawyers of Chicago, among whom was Mr. Bancroft, the general counsel for the Harvester Co., who, according to the testimony of President McCormick, would ordinarily, with Mr. Funk, look after the company's legislative matters.

Mr. Bancroft testifies that he was a member of the committee and that he assisted in drafting the bill; but he says, not the provisions that were vetoed, because he thought those provisions were put in by amendment. But in that I think I will be able to show he was mistaken. Let us look at the bill for a moment.

I read from a copy of the bill just as it was introduced into the legislature of Illinois. Section 31, being the disputed section, reads as follows:

Any corporation organized under the laws of this State may purchase, own, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the shares of stock of any other corporation or corporations and may exercise all the rights, powers, and privileges of ownership thereof.

Now, that is just the way that section read when the bill was introduced. It was amended, but the powers given by that section were by the amendment limited rather than extended. The veto message of the governor says:

This section reverses the public policy of the State which has obtained since 1872, and in my judgment does not provide proper safeguards or define the proper limitations to the power of corporations to own stock in other corporations. It confers larger powers upon corporations in this direction than are granted to them by any other great commercial State in the United States, so far as I have been able to ascertain during the time which I have had for the consideration of the measure.

He did not go into all the merits of the case.

I have been furnished with a copy of the opinion of the attorney general of the State of Illinois which was given to the governor before that veto message was written, and it may be profitable at this time to read extracts from such opinion respecting that measure, the passage of which, had it not been vetoed, might have yielded to the jack-pot fund $35,000.

He calls attention to section 31 and to the powers under it to purchase and hold, and so forth, and says:

Section 31 of senate bill No. 286 not only empowers all corporations for profit, both domestic and foreign, to invest in, purchase, own, sell, and otherwise dispose of the shares in any other corporation or corporations engaged in the manufacture, use, or sale of property, or in the construction or operation of works, but it expressly enables the corporation so investing, in purchasing or owning such shares in other corporations, to exercise all the rights, powers, and privileges incident to such ownership. This means that the corporation so owning such shares in other corporations, whether for investment or for whatever purpose acquired, may vote such shares at stockholders' meetings of such other corporations, and thereby participate in the management of such other corporations; and if a majority of the shares of such other corporations is secured, whether for purposes of investment or other purposes, to elect its directors and dictate its policy, and by acquiring two-thirds of the shares of such other corporation or corporations, it could, under other provisions of this bill, change the name, place of business, number of directors, consolidate with other corporations, or dissolve it or them. With this power, it is not perceived how one corporation could be prevented from bringing any number of other com-

peting corporations under its control and putting them out of business, whether such other corporations be engaged in business of a private nature or in business affected with a public interest.

There is the opinion of the attorney general as to the scope of the authority given under section 31 of that act on which this veto was based.

Further on, in this opinion of the attorney general, he says:

Section 5 of the general incorporation act now in force provides:

"Corporations formed under this act * * * may own, possess, and enjoy so much real and personal estate as shall be necessary for the transaction of their business, and may sell and dispose of the same when not required for the uses of the corporation. * * * *Provided, however,* That all real estate so acquired in satisfaction of any liability or indebtedness, unless the same may be necessary and suitable for the business of such corporation, shall be offered at public auction at least once every year at the door of the courthouse of the county wherein the same be situated, or on the premises so to be sold, after giving notice thereof for at least four consecutive weeks in some newspaper of general circulation published in said county."

* * * * * * *

"Provided further, That in case such corporation shall not, within such period of five years, sell such land either at public or private sale, as aforesaid, it shall be the duty of the State's attorney to proceed by information, in the name of the people of the State of Illinois, against such corporation in the circuit court of the county within which such lands so neglected to be sold shall be situated; and such courts shall have jurisdiction to hear and determine the fact and to order the sale of such land or real estate at such time and place, subject to such rules as the court shall establish."

Then he says, speaking of the measure which the governor vetoed:

This bill contains no provision whatever compelling corporations to sell or dispose of real estate which may be acquired by them beyond what is necessary and suitable for the business of such corporation at any time. Much real estate may be acquired by a corporation from time to time in a manner incidental to the transaction of its business—acquired in satisfaction of liabilities or indebtedness. They are authorized by this bill to lease, mortgage, or sell any or all of such real estate at pleasure, out of the State as well as within it, but are not required to offer it or sell or dispose of it at all, and section 5 of the general corporation act above quoted is expressly repealed.

I discover nothing in the bill requiring corporations to sell a foot of the lands acquired during the lives thereof.

There is no authority given by this bill to the attorney general, to State's attorneys, or to any other officer of the State to take any action to compel the sale or disposition of real estate acquired and owned by corporations in this State, domestic or foreign.

To permit corporations to hold real estate in this State in perpetuity is clearly contrary to the public policy of the State. Section 5 of the general incorporation act now in force is a statute against perpetuity. Our general assemblies have from the organization of the Government manifested a clear and decided opposition to permitting corporate bodies to hold lands in perpetuity. The prejudicial effect of holding large bodies of land in perpetuity led to the enactment of the laws of mortmain in Great Britain. The war against perpetuities has been carried on in this country and there has been no relaxation of this policy so well established in this State until the adoption of this bill.

What was the object of that bill, except to allow by law the great, rich trust corporations of Illinois to swallow up smaller corporations, and, by removing those provisions of the present law which compel corporations every five years to sell and dispose of the real estate not required in the management of their business, to enable these powerful "trusts" to acquire unlimited bodies of real estate and hold the same in perpetuity?

I have given the Senate the opinion of the attorney general of the State of Illinois upon that subject. I base all I have to say upon that opinion, never having personally examined the laws of that State.

That bill had been pending in the legislature which elected Mr. LORIMER to this body. White, without naming the bill, had described it so that Gov. Deneen thought he recognized it. The governor disliked to veto the bill, because it would have brought a revenue of a million dollars annually to the State of Illinois, and the officials had counted upon that to meet the expenses of the State. Nevertheless, even at a loss of a million dollars annually in State revenues, he saw fit to veto the measure, because it would have destroyed the policy of the State which had been in existence for nearly forty years, and, as he said in his testimony, would have given power to incorporate a concern for the ostensible purpose of running a barber shop and under that incorporation run a railroad.

I do not know whether or not there was anything connected with the provisions of that bill, or with Mr. Bancroft's part in preparing it, which Mr. Funk thought might attract attention and work to the detriment of his stockholders if they were to become known. He says his motive in hiding his identity as the author of this story was that he wanted to protect his company and his stockholders; that he did not want to create antagonisms or hostilities against his company. But whatever the motive which governed his action, the fact remains that secrecy regarding the authority for the statements it contained has been maintained in every quarter where divulging it could possibly result in an honest investigation of its truth or falsity. It has been used everywhere with the same stealth that an assassin would use a dagger, to bring death to WILLIAM LORIMER's political standing and station. On the other hand, it has never been used where, under the law of the State or Nation, it could be tested as to its weight or value until it came before this committee.

The real purpose of this Chicago combination in the secret use of the Funk story was to create public sentiment, which, acting upon the Senate of the United States, would deprive WILLIAM LORIMER of his seat in this body and would drive him out of politics in the State of Illinois. To this end Mr. Kohlsaat, who says that for 20 years he also has been the political enemy of Mr. LORIMER—although he speaks very kindly and in complimentary terms of his personal character—did that to which I am about to call attention. I say this with sorrow, because of the admiration I have entertained for Mr. Kohlsaat and because of the very agreeable personal relations I have enjoyed with him and the courtesies I have received at his hands. I do not say he was acting corruptly in this matter. He was acting under what I conceive to be a false code of honor, one which he himself describes as being necessary to be observed on the part of newspaper proprietors and conductors—that they must preserve with strictness the source of information that comes to them; otherwise they never would be able to secure news. If you wish to read his justification for this attitude, it can be found on the second or third page of the report of the committee, where his testimony before the Helm committee is given.

I call attention to this because I do not like to appear to be saying unkind things of Mr. Kohlsaat; and yet I must, standing here to-day, tell how this story has been used, no matter upon whom it may reflect.

Mr. Kohlsaat told this Funk story, as he says, in confidence, to James Keeley, manager of the Chicago Tribune, and James Keeley used it the following day in what is known as the "sawdust editorial."

Mr. Kohlsaat immediately communicated the story—also in confidence, always in confidence—to Victor F. Lawson, of the Chicago Daily News, going so far as to reveal to him the name of Mr. Funk as his informant, and Mr. Kohlsaat testified that the information so conveyed to Mr. Lawson thereafter influenced his editorial policy during the entire period of the Lorimer investigation and gave him confidence to be very specific in his editorials in regard to the belief that money was used to buy the election.

This story was always given "in confidence," but in what Mr. Kohlsaat calls "newspaper confidence"—that is to say, the source of the information must not be disclosed. With that limitation the alleged facts may be sown broadcast wherever any desired purpose may be served; they may be published and the most damaging deductions may be drawn if so phrased that an action for libel will not lie.

How could Senator LORIMER protect himself under these circumstances? How could he answer publications of this character or refute base insinuations made day after day without the slightest intimation as to their source?

IT COULD NOT BE SUSTAINED.

Why all this secrecy; all this effort to keep this story out of judicial channels? Funk gives as a reason that it could not be sustained; that it would be "his word against Edward Hines's." He was right in that. The time came when it was imperatively necessary that his story should be substantiated. No one realized it more keenly than he. It was 20 months after his interview with Hines. Mr. Kohlsaat, still protecting Funk and the Harvester company, had on the 15th of February an editorial published in the Record-Herald, in which he made this inquiry: Do we know all there is to be known concerning the $100,000 fund that was raised to pay for LORIMER's votes? To bolster up his own position Funk testifies that Mr. Hines came to him in a state of agitation and said that Funk had misunderstood what Hines had said to him in that interview away back 18 or 20 months before.

Mr. Funk's testimony on this point is:

Mr. FUNK. Mr. Hines arrived at my office one morning shortly after I got there, about 9 o'clock, and he was admitted to my room. He seemed to be considerably agitated, and he immediately began to talk with me about our former conversation.

Mr. MARBLE. What did he say?

Mr. FUNK. I can not repeat it verbatim; but in substance he undertook to refresh my memory as to what our previous conversation had been.

Mr. MARBLE. As nearly as you can, give what he said.

Senator KERN. It is important that we should have the substance of that conversation if you can not remember the exact words.

Mr. FUNK. The substance of it was that he did not want me to misunderstand our talk the other day; that he had not meant to say that any money was used, but that he was only discussing with me in a general way the situation down there; and that he got to thinking about it afterwards and thought that I might not have understood it, and he was back there to clear it up for me.

* * * * * * *

Senator LEA. Did you express dissent?

Mr. FUNK. My recollection is that I told him that I thought I remembered the thing as it was. I disposed of him as quickly as I could, because, as I remember it, we were having a directors' meeting that morning, or a conference of some kind, which was of considerable importance, and they were waiting for me. And I got rid of him and left the room as soon as I could. I do not think he was in the office over three minutes.

Senator LEA. Did you part on friendly terms that day?

Mr. FUNK. Casual terms.

Senator LEA. Was he satisfied with the visit, apparently, when he left?

Mr. FUNK. I did not observe in particular as to whether he was or not. My recollection is that he was not.

Senator LEA. He was not?

Mr. FUNK. That is just an impression. I did not controvert his version of the thing. I heard him, and got out as soon as I could without making any particular comment about it.

Senator LEA. Was his manner calm or excited or agitated?

Mr. FUNK. It was rather agitated.

Edward Hines says that statement is an absolute falsehood; and not only that, but that it was a physical impossibility for him to have been there at that time. The committee considered all of the testimony, and found, by unimpeachable evidence, that Edward Hines was in the city of Washington at the time fixed by Mr. Funk. Every witness introduced (and they were numerous) testified to the fact, and telegrams, telephone receipts, hotel bills and receipts, long-distance and telephone calls, all go to show that for a week prior to the day Funk sets for that interview (and he makes the day definite in connection with the publication of the editorial) and for a month afterwards, Edward Hines never breathed the air of Chicago. He was not there.

Clarence S. Funk's story is false in its inception, and is disproved by facts and circumstances which are firmly established. His attempt to substantiate his version of the meeting with Mr. Hines on May 27, 1909, by trying to bring Edward Hines into his presence to say that he had misunderstood what the latter had said on that occasion falls to the ground.

Passing that incident, we come to a further consideration of Mr. Funk as a witness. When asked before the committee how he knew whom Mr. Hines preferred for United States Senator, he replied:

You would see his name in the paper every few days in connection with activities at Springfield, or hear it as a matter of general talk in the streets.

Bear those words in mind—"in connection with activities at Springfield." What for? Helping in the election of WILLIAM LORIMER.

On cross-examination, when his mind was specifically directed to the subject, Mr. Funk testified, among other things, as follows:

Mr. HYNES. You spoke, Mr. Funk, of Mr. Hines's activities at Springfield. What did you have reference to there?

Mr. FUNK. Why, it was a matter of common talk that he was very active down there.

Mr. HYNES. What did you understand he was doing down there?

Mr. FUNK. Pulling wires for the election of Senator LORIMER.

Mr. HYNES. What do you mean by that? What was he doing? How long was he down there in Springfield before the election?

Mr. FUNK. I do not know.

Mr. HYNES. How long before the election did you hear that?

Mr. FUNK. I heard it frequently.

* * * * * * *

Mr. HYNES. Do you remember anybody who told you that he was down at Springfield active there in pulling wires for Senator LORIMER?

Mr. FUNK. I think that was a matter of common talk.

Mr. HYNES. Can you tell me anybody that said it?

Mr. FUNK. I met a great many people that talked about it. I can not recall any particular man that made that particular statement.

These statements must be considered in connection with the fact that Mr. Hines was not in Springfield during the entire session of the legislature. He had not been in Springfield for three years prior to that session, and he did not go there during the session. He did not go to Springfield until two years after the session, when he was summoned to appear before the Helm committee.

There is the second attempt of Clarence S. Funk to bolster up his testimony—his attempt to attack Mr. Hines for his activity. Hines was here in Washington all that time, and never even talked about the senatorial election in Illinois for more than two months after the legislature met and began voting for a United States Senator.

Mr. Hines's judgment that Funk came to him the year before, on purpose to "curry favor" with Mr. LORIMER, is sustained by a multitude of circumstances. At Funk's request Hines went to see Mr. LORIMER to talk the matter over with him. Funk was trying to get in touch with Hines the following week when the latter was in Washington. Mr. Hines introduced Mr. Funk to Mr. LORIMER at Mr. Funk's request, later in the season, when both were in Washington. Mr. Hines's version of the entire matter has been confirmed by the testimony of witnesses or by the production of records. Mr. Funk sinks under the weight of the evidence brought against him; all of his contentions have failed of substantiation.

WHY NOT USED IN LEGAL CHANNELS.

Why was not this Funk story used in legal channels, where it might and should have been presented if true? The grand jury was in session in Chicago from May 2 until May 20. Nothing regarding the origin of a fund from which White could have received bribery money, except the story of the "jack pot," was ever brought to the attention of that grand jury. Think of that for a moment. Think of the importance of it!

White's story was that he had received $1,000 for voting for LORIMER, and in addition he confessed that he had received $900 from a "jack pot," the purpose of which has been described. There was notice of the "jack pot" which could not be ignored by candid men. Moreover, each of the three witnesses told the grand jury that they received $900 each from that same source, and it was not LORIMER money. It can not be denied that "jack-pot" money was shown to exist, yet no attempt was made to trace it. There was no testimony but White's, and that unsustained, of any payment in LORIMER's behalf.

But within the breast of Mr. McCormick, Mr. Bancroft, Mr. Kohlsaat, Mr. Keeley, and Mr. Lawson was knowledge of the story told by Clarence S. Funk, that Mr. Hines had told him of a fund of $100,000 raised for the specific purpose of electing Mr. LORIMER, and they never permitted it to be called to the attention of the grand jury, then in session, although all these gentlemen were vigorously pushing the fight to unseat Mr. LORIMER.

ITS USE IN CREATION OF PUBLIC SENTIMENT.

I wish Senators would look at the issue of the Chicago Sunday Tribune for May 29. See that advertisement, going across the entire seven columns of the paper:

The Chicago Tribune offers $5,000 reward for legal proof of the identity of all the members of the "syndicate" which put up the money for LORIMER'S election to the United States Senate.

That states as a fact that money was put up for the election of LORIMER; that there was a "syndicate" which put up the money for that purpose; and offers this reward for evidence that would bring about the conviction of all its members. They were mighty safe in making that offer, were they not?

"Five thousand dollars reward for legal proof of the identity of all the members of the 'syndicate'!"

And that appears right over the professed "confession" of Holstlaw, procured as I have described, with a large picture of Holstlaw, saying of him:

One more says he was bribed for LORIMER.

That is the way public sentiment was created by these gentlemen. And yet these same men had not the courage nor the fairness to carry that story before the grand jury and have it investigated. Why did not Mr. Wayman, the State's attorney for that county, do it? He had notice served upon him every morning at his breakfast table, through the Chicago Tribune, that such a fund had been raised and that its purpose was to "put LORIMER over." The Helm committee, a year afterwards, upon simply an editorial in the Record-Herald saying, "Do we know all there is to be known concerning the $100,000 fund that was raised to pay for LORIMER'S votes," summoned Mr. Kohlsaat before it and ordered him to testify; and when he refused he was confronted with the alternative of disclosing his informant or going to jail. It was only when Kohlsaat was going to jail because of his failure to comply with the mandate of that committee that Mr. Funk reluctantly came forward and confessed that he was the man, and told his story to that body.

When he was going to such lengths to get at the bottom of this matter, why did not Mr. Wayman call Mr. Keeley before that grand jury, and bring out through him, at the very commencement, precisely the information disclosed to the Helm committee a year later? He had more data before him daily through the Chicago Tribune than did the Helm committee through the Record-Herald, and it all emanated from the same fountain head—Clarence S. Funk.

No fact ever appeared more clearly in any case than the fact revealed in this investigation that there was a fixed determination on the part of those intrusted with a knowledge of the Funk story to keep it out of all legal channels where its authenticity could be tested, but to use it to poison the public mind, as it has been used, not simply to drive Mr. LORIMER from the Senate, but to drive Senators from this Chamber who have had the courage to stand here and vote according to their convictions, that upon the evidence adduced Mr. LORIMER'S election was legal and that he was entitled to his seat in this body. It has been used in an attempt to make cowards of every Member of this body.

Those advertisements were right under the eyes of Mr. Wayman day after day. I go a little further and come to June

2, when they change the form of the advertisement. Now it reads:

FIVE THOUSAND DOLLARS REWARD.

Not over half a dozen men, representing various lines of business, "put up" the money that purchased the votes to elect WILLIAM LORIMER to the United States Senate.

Now, there is a statement of alleged facts that has gone all over the United States.

These men, so the Tribune is told, were the "underwriting syndicate." After LORIMER was elected, members of the "syndicate" called on other business interests and said substantially as follows:

"We" (naming the various members of the syndicate) "put up the money to elect LORIMER. It had to be done in a hurry and we advanced the cash. We felt that you would be willing to contribute your share, and we think $10,000 (or $5,000) would be the proper amount for you to subscribe."

The Tribune will pay $5,000 for legal proof of the identity of "the syndicate."

There is the Funk story in its entirety. That advertisement contains a direct statement, an allegation as of fact, of every element of Mr. Funk's version of his interview with Mr. Hines. That was published in every issue of the Tribune from June 2 to June 7, the very day that the jury was summoned to try Lee O'Neil Browne on the charge of bribery.

What was the influence of such an advertisement as that upon the thinking people of Chicago, alleging bald facts, educating everyone to such a belief? And yet every one of these men carefully kept any information they had as to the authority upon which that story was predicated from the grand jury of Cook County. Mr. President, I want every Senator in this body to face that proposition when he considers the story of Mr. Funk and attempts to base his action upon it. In all my experience in the trial of causes I never have been connected with a case wherein I found a determination more perfectly conceived and more carefully carried out than the determination of Mr. Kohlsaat, Editor Keeley, and Clarence S. Funk to use that story secretly wherever it would injure Mr. LORIMER and wherever it would injure anyone connected with Mr. LORIMER as his friend or his supporter. Nor have I ever had knowledge of a more determined purpose than theirs to keep this story away from any legal or investigating body that might test it and ascertain its truth or falsity.

Mr. BRADLEY. Mr. President, I wish to make an inquiry of the Senator from Vermont. Was this Funk statement made to the Tribune before the first report in this case?

Mr. DILLINGHAM. Oh, yes.

Mr. BRADLEY. Was it called to the attention of the committee?

Mr. DILLINGHAM. Never in the world. It was carefully kept from the committee. Of course it never came to the committee.

The investigation by the Cook County grand jury began in May. The first trial of Lee O'Neil Browne followed in June; the second trial of Browne in August and September; the Burrows committee sat in September and October, and during that whole time Funk's story was in the possession of the gentlemen I have mentioned, was used by them wherever and whenever it would create public sentiment, but it never was brought before any tribunal of any kind anywhere. Not until a month after the Senate had decided that Mr. LORIMER was entitled to his seat was it disclosed except as indicated, and then to the Helm investigating committee.

I said these advertisements based upon the Funk story were continued in the Tribune up to June 7, when Mr. Browne was placed on trial. I have called attention to the Tribune's attitude and the manner in which these advertisements were displayed and why they attracted attention. I do not charge that they were published with a purpose to control the result of the trial which was coming on. Senators must judge for themselves what the purpose of the Tribune was in keeping such statements of alleged fact before the public eye of Chicago immediately preceding the trial of Browne, which trial was to determine the question whether Browne had in fact bribed White to vote for Mr. LORIMER.

But Funk's story was not permitted to be tested in that trial. Even though it is the only statement that has ever been made in any way suggesting that there was a fund raised for the purpose of electing Senator LORIMER, and even though it was in the possession of the avowed enemies of Mr. LORIMER, they would not allow it to be investigated either before the grand jury that indicted Browne nor in the court wherein he was tried. That is a most significant fact.

COL. ROOSEVELT'S USE OF THE STORY.

Let us go a little further. That trial resulted in a disagreement of the jury. August 4 a second trial of Lee O'Neil Browne was begun, and while that trial was in progress, about the middle of August, Col. Roosevelt visited Chicago on his way to the West. I believe he was on his way to Cheyenne.

During his short visit to Chicago, Mr. Kohlsaat says he took him for an automobile ride through the parks and had him to himself for an hour and a half, during which time he told him Funk's story, in confidence, of course, but gave him Funk's name as his informant as well as Hines's name as the man who made the statement, and Col. Roosevelt proceeded on his way to Cheyenne.

In the month of August the second trial of Lee O'Neil Browne came on and continued until September 9. Col. Roosevelt returned to Chicago on the 8th day of September, where, on the evening of that day he was to be the guest of honor at a banquet given by the Hamilton Club, of which club Senator LORIMER was a member. Col. Roosevelt was met in a neighboring city on the morning of that day by a committee of the club, including its president, to whom he announced that he would not attend the banquet if Senator LORIMER was permitted to be present, and he was so insistent in this demand that the president of the club was compelled to telegraph Senator LORIMER informing him of the situation and withdrawing his invitation for that evening.

It so happened that on this very day the presiding judge in the case against Lee O'Neil Browne was delivering his final instructions to the jury.

All the Chicago newspapers exploited the incident in a most sensational manner, devoting column after column and page after page to that purpose. The wires were crowded with messages to the principal newspapers throughout the United States, giving startling accounts of the incident, and spreading broadcast among all the people this public denunciation of Senator LORIMER by this exalted personage. It may be said in all truth that Col. Roosevelt's refusal to sit at meat with Senator LORIMER on that occasion has done more to excite a strong public sentiment against Senator LORIMER throughout the United States and to create a belief that there was some real fundamental ground for such action than any other one circumstance that could have been used or has been used to accomplish that purpose. One need only examine the newspapers published at that time and note the number of columns devoted to that occurrence, the number of public and influential men who were interviewed concerning it, and what was published editorially in connection with it to understand the profound sensation it produced, not only in Chicago where it occurred but everywhere through the country.

In view of the tremendous influence it has had, we may well inquire the reason for this action. Why could not Col. Roosevelt sit at meat with Senator LORIMER?

The answer is found in a letter addressed by Mr. Kohlsaat to Senator ROOT of this body, also "in confidence," in which he says:

When Col. Roosevelt was here on his way to Cheyenne I told him of the incident, and it was the prime motive that prompted him to decline to sit at the Hamilton Club banquet with LORIMER.

Mr. Kohlsaat's testimony before this committee shows that it was not due to any personal knowledge upon the part of Col. Roosevelt, nor to any preconceived notions he had of Senator LORIMER'S character or of the circumstances of his election, but that it was the Funk story told by Kohlsaat to him on that drive through the parks a month earlier that induced this unwarranted attack upon Senator LORIMER. Referring to Col. Roosevelt, Mr. Kohlsaat testified: "He wrote me a letter subsequently that that was the reason he declined to attend the dinner," and in order to maintain his reputation and preach the cause of righteousness Col. Roosevelt went to that banquet that night, and in his speech made a violent assault upon Senator LORIMER which was published the length and the breadth of the land.

Do not forget that it is the testimony of Mr. Kohlsaat, that the Funk story told by him "in confidence" to Col. Roosevelt, was the basis of and "prime reason" for this unwarranted attack upon Mr. LORIMER. It was used secretly but with deadly effect. Yet in that trial of Lee O'Neil Browne, then drawing to a close, no effort had been made by any of these men who were engaged in strengthening this attack on the validity of Mr. LORIMER'S election to have this story, that had so bitterly poisoned Col. Roosevelt's mind, and so madly incensed him against Mr. LORIMER, tested before the jury in that case. And do not forget that the story had never been permitted to come to the ears of Mr. LORIMER, and he was suffering these attacks in entire ignorance of their cause.

I have had brought in the Chicago Record-Herald and the Tribune and the other Chicago papers giving an account of Col. Roosevelt's return, the indignation he felt, and the address

he made, and the interviews of prominent citizens on the subject of his action. Any Senator who is interested and wants to look them over has the privilege of doing so.

STORY WITHHELD FROM FORMER SENATE COMMITTEE.

Remember, now, that that was the 8th day of September. In the meantime this Senate in response to a resolution that was offered by Senator LORIMER himself, had directed the Committee on Privileges and Elections to investigate the regularity and validity of Mr. LORIMER's election. Senator Burrows, then chairman of the committee, appointed a subcommittee to make the investigation, and went to Chicago for that purpose. The committee began its work September 20 and remained in session for three full weeks. The Chicago Tribune appeared and asked to be represented by counsel. It wanted to prosecute the charges of corruption in connection with the election of Senator LORIMER. The committee knew no better means of securing all the facts than to allow those who made the charges to conduct the prosecution. It consented to this arrangement. Mr. Austrian, one of the brightest lawyers in Chicago, appeared for the Chicago Tribune. The Tribune actually conducted the prosecution before the committee. Its attorney, Mr. Austrian, furnished the list of witnesses, and, although in full possession of the Funk story, Manager Keeley, according to his own testimony, having told it to him previously, he failed to name Edward Hines as a witness; he failed to name Mr. Kohlsaat as a witness; he failed to name Mr. Keeley as a witness. Although the hearings of that committee were held just across the street from the Harvester Co.'s office, neither Mr. Funk nor Mr. McCormick nor the attorney for that corporation, Mr. Bancroft, presented themselves with the information now claimed to have been in their possession. Neither the Tribune, the Record-Herald, nor the Daily News, although within five minutes' walk of the committee's meeting place, gave any intimation concerning the Funk story. Its existence was never even hinted at by anyone in the presence of that committee, where it might and should have been investigated, thus saving the enormous cost in time and money of this investigation.

That committee returned here and made its report to the Senate without ever having heard a suggestion of such a story, and the Senate was permitted to go on for two months, to debate this matter and to take action upon it, without any knowledge whatever of this story. Not a member of the Committee on Privileges and Elections had heard a breath of it, and only two Members of the Senate had been informed of it, and they under an obligation of secrecy, which they observed.

REFUSAL TO DISCLOSE IT TO THE SENATE.

If you will turn to page 4 of the committee's report, you will find that January 17, 1911, the very day that the Helm committee was created, Mr. H. H. Kohlsaat wrote a letter to Senator ELIHU ROOT at Washington, in which he says:

MY DEAR SENATOR: I have just received a call from some well-known people here, among them Mr. Walter L. Fisher, asking me if I would not write you and tell you of an incident in the LORIMER senatorial election. My friends thought that if you had this personal knowledge it would be of assistance to you in strengthening your belief that money was used to elect LORIMER. The information was given to me in confidence, and, as a newspaper man, I feel the same obligation to maintain secrecy that a priest does of a confession.

The information conveyed in that letter had been used to poison the public mind everywhere, as I have described. It had been used secretly, whenever and as often as opportunity offered to destroy Mr. LORIMER's reputation and deprive him of his seat in the Senate, as secretly as an assassin would use a dagger or a murderer would use poison. Now, at the last moment, when this body was sitting here as judges in a judicial proceeding, he writes a confidential letter to a leader of this body, to one of the judges, but under a pledge of secrecy, a secrecy as strong as that which would be observed by a priest when he receives a penitent's confession.

The letter continues:

Some time last June I met a friend who is general manager of a Chicago corporation with a capital of over $25,000,000. He said, "I have been intending to call on you for some days to tell you of an incident that occurred right after LORIMER's election a year ago. I had a visit from Edward Hines, the lumberman, and he told me that LORIMER's friends had had the opportunity of electing him to the Senate by putting up $100,000; that they had only a few days before the adjournment of the legislature, and could not take the time to go around and raise the money, so a half dozen of LORIMER's friends underwrote the $100,000 and gave it to the proper agent. LORIMER was elected, and we are now asking some of the corporations to pay in their share. I am taking care of the down-town district, and another man (mentioning his name) has charge of the stockyards. We figure that your share will be $10,000." My friend answered substantially as follows: "I can not give you any money for two reasons: First, we are not in that kind of business; and second, if you have gotten yourselves into a hole why should you expect us to pull you out?"

On the strength of this statement the Record-Herald has explicitly stated several times, editorially, that $100,000 was raised to buy LORIMER's election, and we have never had a protest from anybody on it. The man who gave me this information is absolutely reliable. He had no object in telling me a falsehood, and I believe him thoroughly.

When Col. Roosevelt was here on his way to Cheyenne I told him of the incident, and it was the prime motive that prompted him to decline to sit at the Hamilton Club banquet with LORIMER.

Hoping that this may be of some value to you, believe me,

Yours, sincerely,

H. H. KOHLSAAT.

Referring to Funk's story, Mr. Kohlsaat says:

On the strength of this statement the Record-Herald has explicitly stated several times, editorially, that $100,000 was raised to buy LORIMER's election, and we have never had a protest from anybody on it.

Consider the plausibility of that statement. "We have never had a protest from anybody on it." Why should they have a protest, and from whom? Who could answer to that sort of suggestion?

The story had never been told except where it could injure WILLIAM LORIMER, and then under a pledge of secrecy or completely veiled. Mr. Kohlsaat had told it at a club to Walter L. Fisher, now Secretary of the Interior. He had told it to Manager Keeley. He told it to Victor F. Lawson, his friend, who made it the basis of his editorial policy throughout the entire time. It was known within a small circle of friends, all opposed to Mr. LORIMER, and it was used whenever an opportunity offered to aid in bringing about the downfall of WILLIAM LORIMER; it was used with that object in view and used with an art and with an ability which I have never seen equaled.

Senator ROOT did not make this letter public in the Senate. He replied to it February 11, strongly urging Mr. Kohlsaat to induce his friend who had given him the information upon which his letter was based to disclose his identity. Upon the receipt of Senator ROOT's letter Mr. Kohlsaat sent for Mr. Clarence S. Funk, general manager of the International Harvester Co., the friend to whom he referred in his letter to Senator ROOT as his informant, but whose name he had not revealed, showed him the letter, and told him he was the only man who could settle that question. Mr. Funk, after full consideration, refused to allow his name to be given, and of this Mr. Kohlsaat informed Senator ROOT in the following letter, dated February 15, Chicago, Ill.:

DEAR SENATOR ROOT: Your favor of the 11th at hand. I agree with you my friend's testimony would greatly help at this time, but it would absolutely ruin him to take the stand. He was approached as an officer of the company, not as an individual, and could not come out in the open without the consent of the directors, some of whom are friendly to LORIMER—

I do not know whom—

You can imagine the situation he is, and would be, in.

I know some of the forces at work to keep LORIMER in the Senate. If they succeed, God help us; a day of reckoning will surely come to the American people.

The weakness of the anti-Lorimerites is that the Chicago Tribune is back of the fight to unseat LORIMER. That paper is rendering a great service to the people of these United States.

Your speech made a great impression throughout the West. It was a wonderful plea for the right.

Yours, faithfully,

H. H. KOHLSAAT.

To Senator ELIHU ROOT,
Washington, D. C.

On that same day, February 15, 1911, Mr. Kohlsaat published in the Record-Herald an editorial in which the following language was used:

Do we know all there is to be known concerning the $100,000 fund that was raised to pay for LORIMER's votes?

Note the dates. Think of it. February 15, 1911, Kohlsaat writes to Senator ROOT that Mr. Funk will not permit his name to be used, and yet he himself that very day used in the Record-Herald the same old poison, spreading it broadcast throughout the United States, poisoning honest minds and creating sentiment against Senator LORIMER which he was powerless to meet.

That editorial attracted wide attention everywhere. It caused inquiries to be made of Mr. Kohlsaat by Senator LA FOLLETTE and others who wanted to know the truth, who were anxious to ascertain upon what authority such a statement and inquiry was made, and what the facts were with respect to the raising of the alleged fund. Senator LA FOLLETTE telegraphed Mr. Kohlsaat asking for information regarding the allegation of the existence of a fund of $100,000 and received in reply the following telegram:

CHICAGO, *February 21, 1911.*

Senator LA FOLLETTE, *Washington, D. C.:*

If I had all the details of the raising and disposition of the $100,000, would not have asked the editorial question. * * *

Think of it—putting that out in the form of a declaration which everybody would believe, and then telegraphing Senator LA FOLLETTE that if he had the facts he should not have asked the question.

That $100,000 was raised for that purpose I have absolutely no shadow of doubt, BUT CAN NOT PROVE—

Mark the words—

BUT CAN NOT PROVE. We have made the assertion a number of times editorially. The assertion has never been challenged. You are the first person to ask for particulars.

H. H. KOHLSAAT.

Why did they not put that story where it could be proved? All they had to do was to summon Clarence S. Funk and Edward Hines, just as they were summoned before this committee; but they did not do it. Why did they not do it? They were engaged in a grand project to secure the expulsion from this body of WILLIAM LORIMER. They were educating the public mind, and that work was going on not only in the Central West, but it extended to the Pacific and to the Atlantic coasts.

Senator LA FOLLETTE was very anxious to secure information. He was so anxious that he tried to induce Mr. Kohlsaat to come to Washington, and failing to do that, he wired his friend, Charles R. Crane, to see Mr. Kohlsaat and try to induce him to come. Mr. Crane visited Mr. Kohlsaat, exhibited the telegram, and urged him to come. Mr. Kohlsaat repeated to Mr. Crane the story he had written to Senator ROOT, but refused either to visit Washington or to reveal the name of his informant. Immediately thereafter, February 22, 1911, Mr. Kohlsaat sent the following telegram to Senator LA FOLLETTE. I will read only the body of it:

Please ask Senator ROOT to show you my letters of January 17 and February 15. I gave Charles Crane this morning my reasons for not giving names. He agreed with me that it would not be just right or wise to do so.

And that is the newspaper conscience to which he testified before the Helm committee.

Throughout the long debates in the Senate neither of those Senators made public this story.

Action was taken on the 1st of March, 1911, by which Mr. LORIMER was declared to be entitled to his seat. A month later the Helm committee did that which Mr. Wayman should have done a year before. Mr. Kohlsaat was summoned before that committee and the disclosure of the authorship of that story was forced, Mr. Funk being compelled to testify in order to save his friend from jail, and upon his testimony, incorporated in the report of the Helm committee to this body, this Senate took action and the case was reopened.

RESULTS OF INVESTIGATION.

The case was reopened on the ground of newly discovered evidence. That evidence was the Funk story and to whatever it might lead. This committee has given all of the evidence adduced most careful consideration. It has found, in the first place, that Mr. Funk's story of his interview with Mr. Hines is without foundation.

Not only that, all the circumstances of Mr. Hines's life during the entire period of the Senatorial deadlock in the Illinois Legislature were examined, and the committee finds, and states, explicitly, that he had nothing to do with raising a fund of $100,000 or any other fund to be used in connection with the election of WILLIAM LORIMER, and that there is not a particle of evidence, direct or indirect, that such a fund was contemplated by anyone, or that such a fund was needed to aid in his election. There are absolutely no newly discovered facts in this case that are adverse to Senator LORIMER'S right to his seat in this body. The so-called newly discovered evidence only serves to strengthen and make clear his right to his seat.

We have opened up a new field of evidence in this case, which I discussed at an early period in these extended remarks. I refer to the political situation existing in the Illinois Legislature at the time Mr. LORIMER was elected. That is all new to the Senate, and it sheds a flood of light upon the occurrences in that body. It shows beyond doubt, when candidly studied, that he was elected by the force of natural conditions existing in the Legislature of Illinois at that time. The old case upon which Mr. LORIMER was adjudged entitled to a place in the Senate has been vastly strengthened by a study of the situation at the time of the deadlock. And in view of this fact and of the further fact that the fund of $100,000 mentioned in Funk's story is a fiction of his mind, and was never dreamed of by another person, the time has come when the Senate of the United States should apply the principle of res adjudicata and refuse further to consider the resolution. I have spoken at great length, and have, I fear, wearied the patience of the Senate, and I shall not further discuss that question. It was ably discussed this morning by the Senator from Florida [Mr. FLETCHER] and will be taken up by the Senator from Washington [Mr. JONES] before the debate closes.

Mr. President, the only apology I have to make for the great length of time which I have occupied in addressing the Senate upon this subject is that I have given a year of work to this investigation. The committee was almost constantly in session for a period of five months; and to take the vast volume of testimony gathered, sift it, digest it, reconcile discrepancies, to determine what parts of it are true and what false, and what portions of it are pertinent to the question to be decided, has been a most laborious and time-consuming undertaking, and to me it will be the happiest moment of the session when discussion ends and the questions involved are determined by the Senate.

As chairman of the committee I have felt compelled to aid any seeker after essential facts brought out in the investigation by placing in the record something like a consecutive statement of the circumstances of Mr. LORIMER'S election and of the history of subsequent developments and to bring into the light some of the salient features of the case which may help seekers after truth in this inquiry.

I would not have discussed some phases of this case as earnestly as I have were it not for the fact that I have personally felt the force of the public opinion that has been created by the combined influence of the Chicago press and the effect it has had upon the determination of this question. The criticism which I make, and I think it has good foundation, is, that no opportunity was ever given to either Senator LORIMER or Edward Hines to meet and refute the Funk story, which was in the possession of Editors Keeley, Kohlsaat, and Lawson from the beginning, and which was used by them secretly, but with terrible effect, to arouse public sentiment against Senator LORIMER'S right to retain his seat in this body. It was only when the Helm committee compelled it that Funk was revealed as the author of the story. During all the time it had been doing him such deadly injury Senator LORIMER was not afforded an opportunity to meet the secret accusations. This story, used in the manner I have described this afternoon, has led God-fearing, conscientious, honest people throughout the length and breadth of the United States to believe that a corruption fund of $100,000 was raised to elect WILLIAM LORIMER to the United States Senate, and yet the evidence not only fails to support such a contention, but absolutely disproves it. As a result of such underhanded efforts, good people can not understand how men whom they have elected to serve in this body, men who at home stand for that which is right, for that which is manly, for that which is honorable—men who have lived lives which have led people to trust them—they can not understand, I say, how such men can sit here and vote in favor of permitting Senator LORIMER to retain his seat in the Senate.

This feeling has been entertained by some of my stanchest friends in Vermont, and after my vote on the first day of March, 1911, against the resolution declaring that Senator LORIMER was not entitled to his seat, hardly a newspaper in Vermont, however friendly their attitude toward me, personally, could commend my action—they could not understand it—and while they treated me with the greatest possible consideration and with a confidence in my integrity which I never shall forget, I was conscious that they were disappointed. Because of this, and because of my unbounded respect for the opinion of my constituents I have wanted to place in the RECORD, that they may judge of my motives, some of the reasons for the position which I have felt compelled to assume in this case.

If standing for what I believe is right and true and just, for that which in my judgment is established by the evidence, must subject me to criticism, it will cause me the deepest regret, but bound by the solemn obligation of the oath I have taken I can but act upon my judgment and render my decision in accordance with the evidence before me. Sitting as a judge, I am obligated to determine my action, as I have done, upon the merits of the case in the light of all the facts disclosed and upon the evidence as a whole. It is of more importance to me to preserve a good conscience and be at peace with myself than to occupy a seat in this distinguished body.

Because of the position in which I have been placed, and because of my desire to aid the Senate by bringing to its attention the facts in the case as I view them, I must apologize for the time I have occupied, and in closing I wish to express my grateful appreciation of the patience which has been exercised by those of my associates who have done me the honor to listen to my remarks.

Mr. President, without having any knowledge which I can state with authority, I was informed that the other side of this question would proceed with this discussion. The Senator from Tennessee [Mr. LEA] and the Senator from Iowa [Mr. KENYON]

desire to be heard, and I had supposed they would follow the addresses made by the Senator from Florida [Mr. FLETCHER] and myself. I do not see either of them present this afternoon, and I do not know whether there is any Senator here who is ready to proceed with the discussion.

Mr. CULLOM. I ask for a call of the Senate.

The PRESIDENT pro tempore. The Senator from Illinois makes the point of no quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Kenyon	Reed
Borah	Cullom	Lea	Sanders
Bourne	Curtis	Lorimer	Simmons
Bradley	Dillingham	McCumber	Smith, Ariz.
Brandegee	Dixon	Martin, Va.	Smith, Ga.
Bristow	du Pont	Myers	Smith, Md.
Brown	Fletcher	O'Gorman	Smith, S. C.
Bryan	Gallinger	Overman	Smoot
Burton	Gamble	Page	Stephenson
Catron	Gronna	Penrose	Thornton
Clapp	Heyburn	Perkins	Warren
Clark, Wyo.	Johnston, Ala.	Pomerene	Williams
Clarke, Ark.	Jones	Rayner	Works

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present. The resolution submitted by the Senator from Tennessee [Mr. LEA] is before the Senate. The question is upon agreeing to the resolution.

Mr. BORAH. On that question I ask for a yea-and-nay vote.

The yeas and nays were ordered.

Mr. LORIMER. Mr. President, my understanding of the debate has been that all the members of the committee are going to discuss this question, and I have felt that I should not enter into a discussion of the subject until the members of the committee had finished expressing their views on this investigation. I understand that there are other Senators who intend to devote some time to the question, and I should prefer very much that they would go on. Because I have held that opinion and have been led to that opinion by what I have heard stated in private conversation among Senators, I have not at hand the notes I wish to use in discussing this subject, and I think on a question of such importance common fairness would suggest to the Senate that time should be given under those circumstances for gathering the minutes that I have prepared before we proceed to a vote on the matter.

RECESS.

Mr. SMOOT. Mr. President, I move that the Senate take a recess for 30 minutes.

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate take a recess for 30 minutes.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. The motion is not debatable. The question is on the motion of the Senator from Utah.

Mr. REED. Mr. President, I have been trying to get the attention of the Chair.

The PRESIDENT pro tempore. Does the Senator from Utah withdraw his motion for the present?

Mr. SMOOT. I withdraw the motion for the present.

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. REED. I move that we take a recess until to-morrow morning at 11 o'clock.

Mr. SMOOT. Mr. President, I withdrew my motion for the purpose of a statement to be made by the Senator and not for a motion to be made.

Mr. REED. I do not want to take advantage of the Senator. I was going to move that as an amendment when I tried to attract the attention of the Chair.

The PRESIDENT pro tempore. The Chair observed the Senator standing, but the Senator did not address the Chair.

Mr. REED. I did, but the Chair did not hear me.

The PRESIDENT pro tempore. The Chair did not hear the Senator.

Mr. REED. I would not take advantage of the courtesy of the Senator who made the motion in that form, but if the Senator's motion is before the Senate I will move to amend by making the hour to which the recess shall be taken to-morrow morning at 11 o'clock.

The PRESIDENT pro tempore. The Senator from Missouri moves to amend the motion of the Senator from Utah by providing that the Senate take a recess until 11 o'clock to-morrow morning. The question is on that amendment.

The amendment was rejected.

The PRESIDENT pro tempore. The question now is upon the motion of the Senator from Utah [Mr. SMOOT] that the Senate take a recess for 30 minutes.

The motion was agreed to; and (at 3 o'clock and 21 minutes p. m.) the Senate took a recess for 30 minutes.

At the expiration of the recess (at 3 o'clock and 51 minutes p. m.) the Senate reassembled.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 23. An act to authorize the extension of Underwood Street NW.; and

S. 5271. An act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases.

The message also announced that the House had passed the bill (S. 2904) to confer upon the Commissioners of the District of Columbia authority to regulate the operation and equipment of the vehicles of the Metropolitan Coach Co. with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 6083. An act to amend an act entitled "An act for the widening of Benning Road, and for other purposes," approved May 16, 1908;

H. R. 21710. An act to amend section 842 of the Code of Law for the District of Columbia;

H. R. 21712. An act to amend section 808 of the Code of Law for the District of Columbia;

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire; and

H. R. 22648. An act to authorize a change in the location of Fourteenth Street NE., in the District of Columbia, and for other purposes.

RECESS.

Mr. SMOOT. Evidently no Senator desires to speak this afternoon, and it would be manifestly unfair to compel the Senator from Illinois to proceed. I therefore move that the Senate take a recess until to-morrow at 11 o'clock.

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate take a recess until 11 o'clock to-morrow morning.

Mr. CURTIS. I move to amend by making it 10 o'clock. This case has been pending many, many weeks, and any Senator who desires to speak has had ample opportunity to prepare himself.

The PRESIDENT pro tempore. The question is not debatable. The Senator from Utah moves that the Senate take a recess until 11 o'clock to-morrow, and the Senator from Kansas moves to amend by making it 10 o'clock. The question is on agreeing to the amendment of the Senator from Kansas. [Putting the question.] The ayes appear to have it.

Mr. BACON. I make the point of order that, under the rule, the longest time is always put first, regardless of the order in which it is proposed. That is the rule.

The PRESIDENT pro tempore. Will the Senator from Georgia point the Chair to that rule?

Mr. BACON. I can do it without the slightest difficulty. It is a general rule of parliamentary law. The longest time is always put first.

The PRESIDENT pro tempore. The Chair assumes that the Senate is acting under the rule of the Senate.

Mr. BACON. There is no rule of the Senate to that effect.

The PRESIDENT pro tempore. The Chair announces the motion to amend as being carried, and the question is on agreeing to the motion of the Senator from Utah as amended.

The motion as amended was agreed to; and (at 3 o'clock and 53 minutes p. m., Tuesday, July 9) the Senate took a recess until Wednesday, July 10, 1912, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July 9, 1912.*

The House met at 12 o'clock noon.

Prayer was offered by the Rev. A. H. Thompson, of the Waugh Methodist Episcopal Church, as follows:

O Lord God, our heavenly Father, in humble recognition of our dependence upon Thee, we come to Thee this day for help and guidance. Upon these Representatives of this greatest Nation upon the earth rest grave and solemn responsibilities; the issues of the ages perhaps depend upon their decisions here. We pray Thy blessing upon them. Be consciously near to them, guide their deliberations and so direct the decisions of this great body and of the American people that government by the people, of the people, and for the people shall not perish from the earth. Graciously regard the Speaker of this House and each of its Members; bless them in their personal lives. Guard and shield and protect their loved ones, and so guide us all that finally we may be gathered into the home above through Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read.

THE JOURNAL.

Mr. CLAYTON. Mr. Speaker, I desire to call the attention of the House to an error in the proceedings of yesterday. In the RECORD, on page 8716, on the last roll call, on the ordering of the previous question, the Speaker announced that a quorum was present. Evidently the Clerk in making the calculation, as will be seen from that page, reported to the Speaker that 160 had voted in the affirmative, and so forth, whereas a count of the names as recorded shows that 152 only voted in the affirmative and that there was not a quorum present. Of course, Mr. Speaker, as you are aware, on the 26th of July, 1886, Mr. Oates, of Alabama, rising to a question similar and yet the reverse of this, called attention to an error like this, but in that case a quorum had voted, but it had not been properly entered in the RECORD.

The SPEAKER. That was this case turned around.

Mr. CLAYTON. Yes; this case reversed. Therefore I ask unanimous consent that the previous question on this rule be considered now as adopted, and that the House proceed with the three hours' debate as contemplated by the resolution, and that my request that the time be equally divided between myself and the gentleman from Illinois [Mr. STERLING] be agreed to.

Mr. MANN. Mr. Speaker, the Speaker having had his figures given to him erroneously yesterday, and the Speaker having made an erroneous announcement that a quorum was present, when the Journal and the RECORD discloses that a quorum was not present, is it not necessary that all proceedings after that be vacated as void? The House could not act without a quorum when it was disclosed that a quorum was not present until the RECORD showed that a quorum was present.

While the Speaker announced that a quorum was present, that was not the fault of the Speaker, and I do not say it was anybody's fault; it was one of those accidental occurrences which sometimes happen. A quorum was not present.

The SPEAKER. What is the suggestion of the gentleman from Illinois?

Mr. MANN. I think that all proceedings should be vacated and the question recur on the adoption of the previous question.

Mr. CLAYTON. Why not agree to the unanimous consent that I have asked?

Mr. MANN. That is another proposition.

Mr. ADAMSON. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. ADAMSON. I want to say that before that is done I want to get myself straight on the RECORD. I am erroneously recorded as having voted "aye" when I voted "present." I would like to correct that before this is vacated.

The SPEAKER. There are several gentlemen who want to correct the RECORD and the Journal in this particular, and that will be attended to after this is disposed of.

Mr. CLAYTON. I asked unanimous consent in regard to this matter—I do not suppose it is necessary to restate my request.

Mr. MANN. It seems to me that the first thing to determine is what is before the House.

The SPEAKER. The Chair has no doubt about the method of procedure; he may be entirely wrong about it, but in his own mind he thinks that the vote on the previous question and all subsequent proceedings must be vacated.

Mr. CLAYTON. Mr. Speaker, I ask that the vote as indicated by the Speaker and all subsequent proceedings be vacated.

The SPEAKER. The gentleman from Alabama asks that the vote and the announcement made by the Speaker and all subsequent proceedings under that head be vacated. Is there objection?

Mr. HENRY of Texas. If that request is granted and the previous question is again ordered, then will there be allowed 40 minutes' debate—20 minutes on each side?

The SPEAKER. That question will be decided when it comes up.

Mr. CANNON. Mr. Speaker, it seems to me that it would be a bad precedent if anybody objected. It seems to me that it is as if it never had been.

Mr. MANN. Mr. Speaker, if my colleague [Mr. CANNON] will permit, I have examined the precedents and found one that is clearly in point. I am not sure, but I think my colleague was the Speaker of the House at the time. The Speaker, in that case, stated that the proceedings subsequent to the vote were undoubtedly void and that, without objection, those proceedings would be vacated. There being no objection, they were vacated. Of course that did not decide whether objection would prevent their being vacated, but as the precedent is already made I see no objection to following it.

The SPEAKER. It is not necessary for the Chair to express an opinion about that, although he has a very clear opinion upon it.

Mr. RODDENBERY. Mr. Speaker, I object.

The SPEAKER. The Chair will entertain a motion to vacate the proceedings.

Mr. CLAYTON. Mr. Speaker, I move that the vote on the last roll call yesterday and the proceedings subsequent thereto be now vacated.

Mr. BURNETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURNETT. If that were done, then could there be a correction of the RECORD as it now stands? I desire to correct the RECORD upon my vote. After the proceedings have been vacated, could that correction be made?

The SPEAKER. Before the Chair puts the motion of the gentleman from Alabama [Mr. CLAYTON] if any gentleman desires to correct the RECORD as far as that roll call is concerned the Chair will hear him.

Mr. GARNER. Mr. Speaker, this is evidently going to be a precedent, and it occurred to me, as I think it occurs to others, that the Speaker has himself the power, after his attention has been called to the fact that there was no quorum, to declare all proceedings after the fact that no quorum has been ascertained to be null and void. While the Speaker may not at this time desire to pass upon the question, it seems to me that it ought not to go as a precedent now that a motion is necessary in order to vacate those proceedings.

The SPEAKER. If there is any authority on the subject, the Chair would be glad to hear it. This is the position of the Chair in respect to it. This House can not get into such a tangle that it can not straighten itself out.

Mr. UNDERWOOD. Mr. Speaker, if the Chair will pardon me, the first rule of this House and of the Constitution is that the House can not transact business unless a quorum is present. An error was made in announcing that a quorum was present, because of the fact that the tally clerk wrongly added the score. A quorum was not present. Therefore that roll call was void. The roll call itself disclosed that a quorum was not present, and therefore all subsequent proceedings in the day's work would be void until a quorum was found to be present. That must be clear, because the House can not do business unless a quorum is present. It seems to me, therefore, that when the question is raised, and unanimous consent can not be had to correct the error, it is in order for the Chair to declare that a quorum was not present during those proceedings, and therefore they are void, and thus, by the order and direction of the Chair, bring the House back to the point where this roll call was originally entered.

Mr. RODDENBERY. Mr. Speaker, will the gentleman yield for a question?

Mr. UNDERWOOD. It has also been suggested that the mere ascertainment of the fact that a quorum was not present is all that is necessary for the Chair to have in order to vacate the proceedings under the Constitution and the rules of the House.

Mr. RODDENBERY. Does the gentleman think that that position will hold when a question is raised after the Journal has been approved by the Speaker and made of record?

Mr. UNDERWOOD. I understand that the Journal has not been approved.

Mr. GARNER. Mr. Speaker, the Chair has already ascertained as a matter of fact that there was not a quorum present, and when the Chair has ascertained that fact without having it challenged, then there is nothing to be done except to vacate all proceedings, because there was no constitutional quorum in the House. It is not necessary, therefore, that a motion be made to do a thing which the Constitution demands shall be done.

The SPEAKER. The gentleman from Illinois [Mr. MANN] stated awhile ago that he had a precedent on the subject.

Mr. MANN. I have not the precedent before me, Mr. Speaker. I have no doubt that the Speaker has the authority to declare the proceedings vacated. On the other hand, I have no doubt that the House has the authority to do the same thing by motion. That is the proposition now pending. The Journal has been read. This is a matter of correcting the Journal. The Journal has, theoretically, been approved by the Speaker before being read, and whatever action is taken should be in connection with the approval of the Journal. If the proceedings are vacated by a motion, I assume that carries with it that the Journal shall be corrected accordingly, because the matter now comes up upon the approval of the Journal.

Mr. BURKE of South Dakota. Will the gentleman permit a question?

The SPEAKER. If the gentleman from Illinois will suspend, the Chair will read it.

On December 19, 1903, page 80, Congressional Journal:
The Speaker announced that by error a different result had been reported from the actual result on the vote on the motion for the previous

question on the resolution of the House (H. Res. 76) by the gentleman from Pennsylvania [Mr. Wanger].

The Speaker announced that, therefore, all proceedings to the erroneous announcement would fall, and that if there be no objection the Journal will be amended to show the fact.

Mr. MANN. That is the precedent to which I had reference.

Mr. BURKE of South Dakota. The question I desire to ask the gentleman is, Suppose the House declines to vacate and votes down the pending motion?

Mr. MANN. Well, the House has that power. No one can question the right of the House, and while the House might lie in its Journal, and while it frequently has provisions appear in the Journal which are not correct, if the Journal was approved with that statement in it no one could controvert it or vacate it unless by direct proceedings.

Mr. GARNER. Will the gentleman yield? Suppose the House should refuse to adopt the motion made by the gentleman from Alabama [Mr. CLAYTON] and the Journal should show on its face there was not a quorum voting at the time the previous question was ordered and the House approves the Journal? The Journal then showing that there was not a constitutional quorum present, it seems to me any court or any investigating body would have to hold the proceedings null and void.

Mr. MANN. That will stultify the House, and there is nothing anybody can do about it.

Mr. GARNER. And the reason why it is necessary in the very beginning to hold that they are null and void is that the House would not be permitted to stultify itself.

Mr. CANNON. Will the gentleman yield? I suggest the Journal as read shows that a quorum was not present, so the Journal, I take it, ought to be approved as it is.

The SPEAKER. The Journal shows exactly what the RECORD shows.

Mr. CANNON. Then there is no necessity of correcting the Journal, and if the Journal is adopted as it is, then it stands upon the motion for the previous question that the gentleman from Texas made.

Mr. McCALL. Mr. Speaker, it is admitted on all sides that the action taken yesterday as shown by the Journal is a mere nullity. Now, what is the use of the House or the Speaker attempting to vacate a nullity? As the gentleman from Illinois has just said, there is no error in the Journal. We approve the Journal and then the matter stands upon the previous question without declaration from the Speaker or without any action on the part of the House.

The SPEAKER. The Journal shows the fact, except it shows that the Speaker made an erroneous declaration. The way it came about is this: There was great confusion in the House and some of the clerks got the figures wrong and handed up the slip to the Speaker. Of course the Speaker did not count the vote on roll call and the Speaker announced the vote as handed to him.

The Chair is very much inclined to agree that the gentleman from Illinois [Mr. CANNON] and the gentleman from Massachusetts [Mr. McCALL] are right, but the Chair wants that declaration of the Chair changed. The Chair does not see very well how it can be done, either.

Mr. BURNETT. If the gentleman will permit, the Journal shows that the resolution was agreed to by the House——

Mr. GARNER. It was not agreed to; it could not be agreed to in the absence of a quorum.

The SPEAKER. The Journal shows the correct vote, and the RECORD shows the correct vote, and shows that there was no quorum present.

Mr. CLAYTON. Mr. Speaker, the Speaker thinks it is not necessary to have a motion to vacate. I am inclined to the opinion that it is not necessary to have that motion.

The SPEAKER. If the gentleman will withdraw his motion, the Speaker will declare the vote vacated.

Mr. CLAYTON. I offered the motion simply in the interest of regularity. That is the reason I offered this motion, but if it can be accomplished—and that seems to be the consensus of opinion—without a motion, I am willing to take the shorthand method and let the Speaker declare the vote vacated, and I therefore withdraw the motion.

The SPEAKER. The Chair declares the Journal agreed to and the proceedings on that roll call and the subsequent proceedings vacated.

Mr. ADAMSON. Now, Mr. Speaker, I would like to call attention to the fact, although that call of the House, as I understand it, has gone to the discard and the junk pile, that I am erroneously recorded as voting "aye," when I answered "present."

The SPEAKER. Without objection, the correction will be made.

There was no objection.

Mr. CLAYTON. Mr. Speaker, may I ask unanimous consent——

Mr. MANN. Mr. Speaker, I take it that the Journal is to be corrected accordingly?

The SPEAKER. Yes, sir.

Mr. BURKE of South Dakota. There are others who wish to make corrections in the Journal.

Mr. PICKETT. Mr. Speaker, I am recorded on the roll call on page 8716 as "not voting." I was present and voted "aye," and I desire to have the RECORD corrected accordingly.

The SPEAKER. The Journal and RECORD, without objection, will be corrected accordingly.

There was no objection.

Mr. GARDNER of Massachusetts. Mr. Speaker, I want to call attention to the fact that there are two roll calls that should be vacated instead of one because of a very unusual practice which obtained yesterday. There were two separate roll calls on the previous question owing to what seemed to me to be an incorrect ruling of the Speaker pro tempore. I call the attention of the Speaker to the fact that 10 or 12 Members voted "aye" on one roll call and voted either "present" or "no" on the other roll call on the same question. The fact is that taking the total of the Members who voted on the two roll calls which, under the ordinary practice of the House, should have been consolidated into a single roll call, a quorum was present. That is what caused the trouble.

I ask that both roll calls be vacated.

The SPEAKER. The Chair will declare both roll calls vacated.

Mr. GARDNER of Massachusetts. I ask that my own name on page 8716, be stricken out of the list of those voting "nay" on the previous question. I did not vote, as I was outside the Chamber when the vote was taken.

The SPEAKER. The change will be made, without objection.

Mr. LANGLEY. Mr. Speaker, on the two first roll calls yesterday I was absent, attending to important departmental business, and I was under the impression that my general pair with the gentleman from Kentucky, Mr. FIELDS, was to be put up in case of a record vote, and so informed the pair clerks. But the gentleman, assuming that I was present, voted. The RECORD therefore shows that he was paired with me and votes at the same time. I ask unanimous consent that the RECORD be corrected so as to show him answering "present." I do this with his concurrence.

Mr. FIELDS. That is correct, Mr. Speaker.

The SPEAKER. Without objection, the correction will be made.

There was no objection.

Mr. BURKE of South Dakota. Mr. Speaker, on page 8716 of the RECORD of July 8 the roll call shows I was absent. I was present and voted "present." I desire to have the RECORD so show.

The SPEAKER. Without objection, the correction will be made.

There was no objection.

Mr. FOWLER. Mr. Speaker, on the roll call on page 8716 I am recorded as voting "nay." I was present and voted "aye."

The SPEAKER. Without objection, the correction will be made.

Mr. BURNETT. On the last roll call on page 8716 I am recorded as voting "aye." I was paired with the gentleman from North Dakota, Mr. HELGESEN, and voted "present."

The SPEAKER. Without objection, the correction will be made. [After a pause.] The Chair hears none. Without objection, the Journal will stand approved. The vote is on the previous question on the resolution.

PROCEDURE IN CONTEMPT CASES.

Mr. CLAYTON. Mr. Speaker, I ask unanimous consent that the previous question be considered now as ordered, and the resolution adopted, and that three hours' debate be had upon the bill H. R. 22591, and that one-half of that time be controlled by myself and one-half by the gentleman from Illinois [Mr. STERLING].

Mr. MANN. Mr. Speaker, I think there is no reason why we should not vote on the previous question.

The SPEAKER. Does the gentleman from Illinois [Mr. MANN] object?

Mr. CLAYTON. I hope the gentleman will not.

Mr. MANN. We will dispose of it in less time than we will by talking about it.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects, and the vote will be taken on the previous question on the resolution.

The question was taken, and the previous question was ordered.

The SPEAKER. The question is on the adoption of the resolution.

The question was taken, and the resolution was adopted.

Mr. CLAYTON. Now, Mr. Speaker, I prefer the same request that I made last night, and that is that the three hours provided for debate on the bill H. R. 22591 be equally divided between myself and the gentleman from Illinois [Mr. STERLING], I to control one half of the time and he the other half.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks unanimous consent that the three hours be divided equally between himself and the gentleman from Illinois [Mr. STERLING]. Is there objection? [After a pause.] The Chair hears none. The gentleman from Alabama is recognized.

Mr. CLAYTON. Mr. Speaker, this bill is one of the most important measures that have been presented to the House during the present session of the Congress. It is to be regretted that the House has been somewhat addicted to the bad habit of not giving sufficient time for the consideration of very grave legal propositions. We all know that the custom of the House is to give elaborate consideration to appropriation bills, and this is proper. Sometimes bills, though of minor importance, are discussed and considered from day to day, so that the views of everybody in respect to the particular measures can be well understood. I say that in grave legal propositions the habit of the House has been too much not to accord to matters brought by the law committee before this House, involving grave questions in some instances, a sufficient time. On yesterday, Mr. Speaker, unexpectedly to the Committee on the Judiciary, to the Members on that side and on this side of the House, we were informed that the rule for the consideration of this particular bill would be brought up and considered yesterday and acted on, and that three hours, instead of five as asked for by the committee, would be given for general debate.

Of course, the Committee on the Judiciary, like the judicial branch of our Government, is largely helpless. It is helpless because it can not control any purse strings. There is not an appropriation committee in this House that can not have more consideration in the matter of ample time for debate upon measures brought from it than is accorded to your law committee, and the reason is that there is no power of patronage, there are no favors on the part of that committee to be bestowed upon anybody. It must bring to you a legal proposition; it has no favors to give to anybody, and it can not ask any favors of anybody.

But I did not intend to take up the time of the House on that matter. I come now at once to the consideration of this bill, and necessarily my time for discussion must be brief, for gentlemen on both sides have asked for more time to discuss this bill than has been accorded to me.

Mr. Speaker, the demand for this legislation has been persistent and long continuing. It has been referred to in platform after platform, in campaign after campaign, and in at least one presidential utterance. It is a matter that has attracted the attention of the country for years. It is a matter that has been before the Senate and the House several times in the past. We recall that in 1896 Senator Hill passed a contempt bill through the Senate. It passed there with practical unanimity, regulating the process of contempt and providing for jury trials in certain cases. We remember that when that bill came to this House, then a Republican House, Mr. Ray, chairman of the Committee on the Judiciary at that time, now a Federal judge in the State of New York, reported a substitute for the Hill bill providing for jury trials in certain cases. So that I may say that the judgment of the House, the judgment of the Senate, the judgment of the country, is that jury trials can be had in contempt cases, and, furthermore, that in certain classes of contempt cases jury trials ought to be had.

Now, what has riveted the attention of the Congress and the country upon this matter from time to time has been the abuse of the power to punish for contempt. No man, Mr. Speaker, yields more respect to the courts than I do. It is on account of my respect for the courts, it is on account of my desire to preserve an independent and efficient judiciary, that I favor the regulation of this process to the end that abuses may be eradicated and that the people may not have any just cause to complain against the action of any Federal judge.

I have before me the report to which I have referred, made by Judge Ray on the bill providing for jury trials in certain cases, but I have not the time more than merely to refer to it.

It seems to me if you will read the report made by the Committee on the Judiciary on the pending bill and the views filed by the minority you will see that two questions are presented, first, the power of Congress to regulate proceedings for contempt, and secondly, the policy of regulating proceedings for contempt.

The power of Congress to regulate contempt proceedings has long been settled. In ex parte Robinson (19 Wall.), cited with approval in Bessette *v.* Conkey (194 U. S., 327), the power of Congress to regulate this process was recognized and proclaimed by the highest court in our land. Let me quote from the latter case:

> The power to punish for contempts is inherent in all courts. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power, but the power has been limited and defined by the act of Congress of March 3, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and power from the Constitution, may, perhaps, be a matter of doubt; but that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases.
>
> (1) Where there has been misbehavior of a person in the presence of the courts, or so near thereto as to obstruct the administration of justice.
>
> (2) Where there has been misbehavior of any officer of the courts in his official transaction.
>
> (3) Where there has been disobedience or resistance by an officer, party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the courts. The law happily prescribes the punishment which the courts can impose for contempts. The seventeenth section of the judiciary act of 1789 (1 Stat. L., 73) declares that the court shall have power to punish of their authority in any cause or hearing before them by fine or imprisonment, at their discretion. The enactment is a limitation upon the manner in which the power shall be exercised, and must be held to be a negation of all other modes of punishment. The judgment of the court debarring the petitioner, treated as a punishment for contempt, was therefore unauthorized and void.

And, Mr. Speaker, fundamentally, if there had not been any precedents in support of the contention, these courts which are the creatures of Congress are amenable to the will of Congress. Congress can regulate their processes. It has done so in multiplied instances, and it would be a contradiction of a great principle of natural law, to say nothing of constitutional law, that the creator can not control or regulate his creature. [Applause.]

As to the policy of this measure, I think it must be conceded, for even the President of the United States and the minority in their views have admitted that the process of contempt has been abused; and the minority, following the suggestion of the President, have offered a partial remedy to mitigate that abuse.

The President has suggested that contempt cases be tried before another judge. The minority of this committee suggested that remedy in their substitute. The majority insist that in certain cases the remedy is not trial before another judge or another tribunal but that the remedy is found in trial before a jury in the court having under consideration the contempt matter in the particular case where it involves the liberty of the citizen on a criminal charge.

Much is said in the minority views, and much was said in the hearing about the impropriety or lack of power to give another court jurisdiction of a contempt case; but that argument can not be made against the pending measure, for the reason that there is no pretense in this bill that any other court except the court in which the contempt was committed shall have jurisdiction of the case and try it.

This bill is narrow in its scope. It is narrower than the Hill bill. It is narrower than the law of the State of Kansas in contempt cases. It is narrower than the law of the State of Virginia granting jury trials in certain contempt cases. It is narrower than the law of Colorado in contempt cases, and I believe in some respects even narrower than the law of other States.

I need not go into the difference between the State courts and the Federal courts. We are taught that we have a Government of three coordinate and independent departments; but the Supreme Court has said—and you will find it cited in the report—that the courts of the United States do not have, by their creation, those inherent powers that the courts of the States have or that the English courts have, and the reasons are given in the views expressed by the majority of the committee. I will not undertake to set them out at this time. However, let me make the following quotation from the report which I presented:

> Numerous State cases were cited in argument. They may all be answered as a class. The relation between Congress and Federal courts is not the same as that between State legislature and the State courts. The constitutions of the various States themselves provide for and establish the court, partition the powers of government between the legislative, executive, and judicial departments, prescribing safeguards, and defining their powers in detail; whereas the Federal Constitution has delegated full and complete control of the matter to Congress. Nor should the fact be overlooked that the State decisions on the subject are often based upon precedents of the common law, which is no

part of the Federal system. Thus, in Ex parte McCowan (139 N. Car., 95), that being typical of many such cases relied upon, it was said:

"We are satisfied that at common law the acts and conduct of the petitioner, as set out in the case, constitute a contempt of court, and if the statute does not embrace this case and in terms repeal the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void for reasons which we will now state."

In Finck *v.* O'Neill (106 U. S. Rep., 272) it appeared that Congress has taken from the court all power to enforce its judgment, and the act of Congress was upheld by the Supreme Court of the United States. In that case (p. 280) the court said:

"The United States can not enforce the collection of a debt from an unwilling debtor, except by judicial process. They must bring a suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction except as the law confers and limits it."

And in Cary *v.* Curtiss (3 How., 236, 254) the same court said:

"The courts of the United States are all limited in their nature and constitutions, and have not the powers inherent in courts existing by prescription, or by the common law."

This bill amends section 268. I first introduced at this session a bill which was similar to the Hill bill.

Mr. Speaker, the Hill bill proceeded somewhat upon a different line from this bill, but however that may be, this bill proceeds upon the line that in every case which is criminal in its nature the American citizen shall have the inalienable right of trial by jury. That is all this bill seeks to do. Let me repeat, Shall the citizen be deprived of his customary jury trial in a case criminal in its nature and have substituted for the verdict of 12 of his peers the opinion of one judge?

I want to refer as briefly as I may to some objections that were made to the bill that I introduced which followed in some fashion the Hill bill. The first criticism that was made upon that bill and upon the Hill bill, in the hearings had before the committee, was that the bill might be considered as in pari materia section 268 of the judiciary code, formerly section 725 of the Revised Statutes. I think I violate no confidence when I say that that criticism came from the Attorney General of the United States. In framing this bill which is now before the House we met that criticism and obviated it. An examination of this bill will show that section 268 stands independently, and that this bill adds to the law by providing that in cases of a criminal nature, and of a criminal nature only, shall there be a right of trial by jury.

The next objection that was made to it was that it would probably detract from the power of the courts to enforce their decrees of dissolution of combinations denounced by the anti-trust law. I violate no confidence when I say that that was the criticism of the chief legal officer of the present administration, Attorney General Wickersham. We have met that objection by providing in this bill that it shall not apply in any case where the United States is the party complainant. Every man in this House knows that in all proceedings under the Sherman anti-trust law the United States is necessarily, by the terms of the statute, the complainant. So we answered that criticism in this bill.

The next criticism was that it provided for contempt in courts where there were no jurors. We answered that by confining the operation in this bill to the circuit courts, to the courts where there are juries, and we exempt its operation in the courts of appellate jurisdiction. We met that criticism in that way. There has been none that I know of or little, if any, complaint made against abuse of the process of contempt by appellate courts. It has been in the district courts, in the circuit courts, in the courts of first instance, where this abuse has occurred, and this bill limits it in effect to the operation of those courts of the first instance where the abuses have occurred and do now occur.

Another citicism was that the Hill bill covered cases of contempt in which there ought not to be trials by jury—such cases as that in In re Nevitt, One hundred and seventeenth Federal Reporter, page 448, where I believe the facts were that certain county officers were required by the court to levy a tax to pay a judgment. They refused to do it, and they were put in jail, and rightly so, and the court held in that case, and it held in other similar cases of a civil nature, that the man who is imprisoned, that the man who is charged with contempt in such cases, "carries the keys of the prison in his own pocket," and has the power of obtaining his liberty by complying with the civil requirements of the law.

Mr. BUTLER rose.

The SPEAKER pro tempore (Mr. SABATH). Does the gentleman from Alabama yield to the gentleman from Pennsylvania?

Mr. BUTLER. Does the gentleman prefer that I should not interrupt him now?

Mr. CLAYTON. I would rather the gentleman would let me finish these criticisms. Now, in all cases under this bill where a trustee is ordered to pay over money—and I need not particularize the cases, for every lawyer in this House can at once with his mind's eye sweep the horizon of legal procedure and recognize the numerous cases where the process of contempt ought to be exercised for the enforcement of a civil remedy, and properly so. This bill does not detract from the power of the court in that particular.

Another criticism was that the bill in the nature of 13578 that I introduced, or in the nature of the Hill bill, would give a jury trial in cases of a violation of the decrees of the courts in patent cases. This bill is free from that criticism, and an eminent patent lawyer appeared before the committee in the hearings and argued with great force and effect against the bill 13578, or against the Hill bill; and this bill was amended so as not to interfere with the proper enforcement of any decree made in a patent case. I have a letter approving this bill signed by Walter F. Rogers, of this city of Washington, president of the association of patent lawyers, which I shall take occasion to print in whole or in part in the RECORD.

I want to call the attention of the House briefly to the fact that section 268 of the judicial code was section 725 of the Revised Statutes and to the act of March 2, 1831. Gentlemen will find it all set out in the report which I had the honor to make to this House on this bill.

As a part of the history of the act of 1831, which followed the Peck impeachment case, wherein Judge Peck put in jail a lawyer for making a newspaper publication criticizing him, I would state that after the failure of the impeachment Mr. Buchanan, chairman of the Committee on the Judiciary of the House, reported the act of 1831 and provided for contempts as now provided in section 268 of the code, and in the second section of that act used the language, a part of which I have just quoted. The purpose of the lawmakers at that time was to take these cases mentioned in the first part of section 268 and let them be subject to summary punishment by the court without the intervention of the jury, and they undertook to make other contempts of court which were criminal in their nature criminal offenses and subject to be proceeded against by information or indictment. The courts have ignored the wisdom of the former Congress in some instances and, instead of keeping on the line of demarcation between the two classes of contempt, the courts of chancery, the courts of the United States sitting in equity, have usurped criminal functions. Let me quote the act of 1831 in full.

Act of March 2, 1831, upon which sections 725, 5399, 5404, 5405, and 5406, Revised Statutes, above quoted, is based, was as follows:

Be it enacted, etc., That the power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

SEC. 2. *And be it further enacted*, That if any person or persons shall, corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall, corruptly, or by threats or force, obstruct, impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons so offending shall be liable to prosecution therefor by indictment, and shall, on conviction thereof, be punished by fine not exceeding $500, or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offense.

Approved, March 2, 1831.

The courts have, under the guise of contempt of court, had men arrested and tried for crimes without the intervention of a jury. That is the reason why this legislation is necessary. This bill is not intended to and does not subtract one iota from the enforcement of any civil remedy or redress that any man has through the chancery court and through its power to punish for contempt, but it says that the chancery court, which was never designed to be a court of criminal jurisdiction, which was never designed to try crimes, shall not be vested with criminal jurisdiction, except that when it does exercise jurisdiction in a criminal case the man charged with crime shall have the Anglo-Saxon, the American right, of being confronted by his accusers, to cross-examine his witnesses, and to be tried by a jury of his peers before his liberty shall be taken from him. [Applause.]

That is all this bill does. Judge Ray in his report on his bill at the second session of the Fifty-fourth Congress providing for jury trials said that it was just and right in certain cases. I need not talk to you about the industrial disputes that have arisen from time to time. I need not tell this House of the abuse of these contempt processes sometimes in cases of that kind. It is known to the country, and, Mr. Speaker, even the President in his criticism, which is cited by the minority here, could not find any objection, I believe, to this bill. Please turn

to the minority views at the bottom of page 9, and you will find the President quoted as follows:

Under such a provision—

Referring to another bill—

a recalcitrant witness who refuses to obey a subpœna may insist upon a jury trial before the court can determine that he received the subpœna.

We do not do that in the pending bill. We leave section 268 of the Judicial Code intact, and that criticism made by the President aimed at another bill has no application to the bill now before the House. Again referring to another bill he says:

A citizen summoned as a juror and refusing to obey the writ when brought into court must be tried by another jury to determine whether he got the summons.

These criticisms were leveled at another bill. They have no application to this bill, for this bill does not provide for a jury trial in such cases.

Again referring to another bill he says:

A suit may be tried in the court of first instance and carried to the court of appeals and sent to the Supreme Court and a judgment and decree entered and an order, and then if the decree involves the defendant's doing anything or not doing anything, and he disobeys it, the plaintiff, who has pursued his remedies in lawful course for years, must, to secure his rights, undergo the uncertainties and delays of a jury trial before he can enjoy that which is his right by the decision of the highest court of the land.

That is a criticism that was leveled at another bill, and this bill does not provide a jury trial in such cases, for it is by its terms limited to cases of contempt which are criminal in their nature.

Mr. STERLING. Mr. Speaker, will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. STERLING. Does the gentleman say that his bill would not apply to a case where a witness or juror in violating an order to appear in court committed a crime?

Mr. CLAYTON. I do not think it would.

Mr. STERLING. Where in the bill is there any provision that would exclude cases of that kind?

Mr. CLAYTON. I will make that perfectly plain. The bill provides:

SEC. 268 a. That any person who shall willfully disobey any lawful writ, process, order, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, *if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law* shall be proceeded against for his said contempt as hereinafter provided.

Mr. STERLING. Then it must be applicable to that kind of a case.

Mr. CLAYTON. That is the leaven of the lump.

Mr. LONGWORTH. Mr. Speaker, will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. LONGWORTH. Suppose a case like this, where there was a strike on a railroad engaged in interstate commerce, and the United States courts should enjoin interference with the free passage of trains, say, in and out of a station?

Mr. CLAYTON. The bill on its face says that in any case where the United States is the complainant it has no application. It is to prevent one party litigant in a civil suit invoking this criminal process of the court to oppress his weaker neighbor.

It does not intend to detract and does not detract one iota from the power, the majesty, and the dignity of the United States. The Government of the United States has under this bill every power, even when it becomes a law, to enforce its judgments and its demands that it has now. This bill is to prevent a man or, say, a corporation, rich and powerful, getting out a blanket injunction at midnight, broad as the canopy of heaven in its terms, and then oppressing the poor, humble laborer. The laboring man has the right to strike, and Judge Ray's report, Mr. Olney's letter in the hearings had before the Judiciary Committee in Judge Ray's time, in the Fifty-fourth Congress, set out distinctly that the laborer has a right to strike to better his condition, for his physical and moral uplift, and President after President has reiterated that right and power on the part of the laboring people. This bill is aimed to prevent these blanket midnight injunctions being issued for the purpose of framing up criminal cases, for the purpose of depriving men of the right of trial by jury, and cases gotten up by corporations sometimes to use this power of or rather to abuse the process of contempt to coerce and to threaten the helpless laboring people who have only the jewels of sweat of honest faces to oppose against the almighty dollar.

Mr. BUTLER. Will the gentleman permit one question?

Mr. CLAYTON. Surely.

Mr. BUTLER. This measure would not apply in the case of which the gentleman speaks unless some criminal offense had been committed.

Mr. CLAYTON. Surely, if I understand the gentleman's question. In no case can he have the right of trial by jury unless—

By doing any act or thing therein or thereby forbidden to be done by him if the act or thing so done by him be of such character as to constitute a criminal offense under any statute of the United States or at common law.

Mr. BUTLER. Then a violation of one of these orders of which the gentleman speaks might be punished in the old way——

Mr. CLAYTON. Yes; and that is the way the fathers intended all crimes should be punished and the fathers intended to give to every man charged with crime the right of trial by jury. It is one of your birthrights, it is one of your rights which the fathers fought for, it is one of the rights worth dying for. [Applause.]

Now, Mr. Speaker, I have consumed more time than I intended. I want to put in the RECORD an eminently respectable article in support of this bill, a letter from Mr. S. S. Gregory, president of the American Bar Association, indorsing and commending this bill. You have heard something already in this campaign, and you will hear it further, about "social justice." You have heard it. You have heard an eminent politician say it, social justice. It is but one way of voicing one part of the demands of a great part of the American people that they shall have legal justice in the courts of our country. [Applause.]

Mr. BUTLER. Mr. Speaker, will the gentleman permit me again?

Mr. CLAYTON. Certainly.

Mr. BUTLER. I learn a good deal by illustration. I have in my mind a question the answer to which may not be helpful to anybody else, but it will be helpful to me if the gentleman will answer it. If one of these injunctions is issued, often as the gentleman has stated, in the nighttime, and the process officer serves it——

Mr. CLAYTON. Will the gentleman please ask his question, as my time is already all farmed out?

Mr. BUTLER. The process server goes with his injunction and peacefully serves it. If everything subsequent to the time of service is peacefully and quietly done and no violence is committed, there is nothing in this law to apply.

Mr. CLAYTON. Not a thing on earth. There is nothing in this bill to frighten the heart of even a timid man. No man on this floor has greater respect, I say more than that, greater reverence for the courts than I have. Whenever I go into a courthouse and in the presence of a judge I feel like I am in no ordinary presence. I want the American people to forever cherish and foster that respect for the judiciary, and it is in that view that this bill is offered. If the regulation of process, if the stopping of abuse by process can be done by congressional enactment, can be secured and practiced in the courts, you will hear very much less talk about the recall of judges, you will hear very much less talk about the recall of judicial decisions. I want to say that if we will make the Federal courts conform to good practice just as we have made the State courts conform, you will build up the confidence of the American people in the great judicial department of our Government. [Applause.]

Take this bill and read it. You will find it relates to good practice. Most of this bill is the best practice pursued to-day in many respects by the best courts of the land. Let this good practice work in this wise reformation so as to prevent the abuse of the judicial process of contempt to the end that the courts of our country may live in the respect and confidence of the American people forever. [Applause.]

Mr. Speaker, I now yield 10 minutes to the gentleman from Arkansas [Mr. FLOYD].

The SPEAKER pro tempore (Mr. SABATH). The gentleman from Arkansas [Mr. FLOYD] is recognized for 10 minutes.

Mr. FLOYD of Arkansas. Mr. Speaker, I desire to speak briefly in support of this bill.

The right of trial by jury is a sacred right to every American citizen expressly preserved by the Constitution in all law cases. There is not a man in America who pretends to be imbued with the spirit of our institutions who would stand one moment for the abolishment of the right of trial by jury in cases at law. It is true the right of trial by jury in cases of equity is an innovation in practice in so far as the Federal Government is concerned, but we believe that innovation is justified by existing conditions in the United States, and for that reason the Committee on the Judiciary have brought this bill before the House, and to-day ask that it be approved by the House.

I desire to call your attention briefly to what the bill accomplishes. In the first place, it does not affect any contempts committed in the presence of the court or so near the court as to interfere with its proceedings. The law is left in respect to

that class of contempts exactly as it is now and has existed heretofore. It is also limited to proceedings in the district courts of the United States, which courts have proper machinery for juries. It does not apply to any case in which the United States is a party. So it leaves all the powers that exist in the Government at present undisturbed by its passage. The purpose of this bill is to prevent injustice in certain classes of cases which chiefly grow out of labor disputes, where great and powerful corporations, on the one hand, go into the Federal courts and seek to enforce their decrees and judgments against laboring people.

This bill provides for a trial by jury only in cases where the contempt is committed outside of the presence of the court and the issue to be tried by the jury is a question of fact. When a proceeding for contempt is instituted, when a party is charged with violating the order of the court and being in contempt by reason of acts committed at some place remote and distant from the court, the question of fact as to whether or not that man has violated such order and is guilty of contempt, if the act or thing alleged to have been done amounts to a crime under the laws of the United States, or under the common law, on the demand of the accused it is to be determined by a trial by jury.

That is precisely what this bill contemplates and is all that it accomplishes. It does not put it in the power of the jury to fix the punishment. The fixing of the punishment is left to the determination of the court, and may be either fine or imprisonment, or both, in the discretion of the court. The jury determines the naked question of fact as to the guilt or innocence of the accused.

Where, under the present practice, may injustice be done? I will give you an illustration. An injunction is issued, as has been well said by the gentleman from Alabama [Mr. CLAYTON], of the blanket kind, covering all parties litigant and a great number of other persons. A powerful corporation, with a force of detectives vigilant and active in behalf of their masters, and none too scrupulous in their methods, make a charge against an individual in some remote part of the country, far distant from the court, alleging that he has been guilty of contempt, and the alleged facts upon which such charge is based would constitute a crime either under the statute laws of the United States or under the common laws of England. In such case the accused under the present practice must be tried by the court. But under the provisions of this bill the question of fact as to whether or not this individual is guilty of the acts with which he is charged may be determined by a trial by jury. And that is all there is to it.

It is contended that to provide for a jury trial in such cases is a reflection upon the court. Why? All criminal offenses, including the graver ones, those involving life and liberty under the Constitution, must be tried by a jury. Is it any disrespect to the law court or the judges thereof that jury trials must be preserved? All persons charged with crimes must be tried by jury. Is it any disrespect to the courts to so require? No. It is an advantage and protection to the courts, because judgments that are rendered in conformity with opinions of unbiased jurors, the verdict of 12 men, are more satisfactory to the public, and hence the judgment of the courts based upon such verdicts are more satisfactory to all parties concerned than if they are rendered by the judgment of one man. For exact and unfailing justice I would rather depend on a jury, the unbiased judgment of 12 men, than on the individual opinion of any judge whoever sat in any court in Christendom.

Mr. RICHARDSON. Will the gentleman allow me to interrupt him a moment?

The SPEAKER pro tempore. Does the gentleman from Arkansas yield to the gentleman from Alabama?

Mr. FLOYD of Arkansas. I yield to the gentleman from Alabama.

Mr. RICHARDSON. What is the distinction in the bill as to the term "presence of the court"? How does the bill define that language?

Mr. FLOYD of Arkansas. I will read you that provision.

Mr. RICHARDSON. Give us your definition of it.

Mr. FLOYD of Arkansas. My definition of it would be that the provision would apply to any act committed in the immediate presence of the court or so near the courthouse as to disturb the proceedings of the court. Such contempts are not affected by this bill.

Mr. RICHARDSON. An interpretation of proceedings of that kind by a court is actively or constructively. What do you mean by constructive presence?

Mr. FLOYD of Arkansas. Well, I would construe it to mean in the immediate presence of the court, or so near the court that the acts would create a disturbance of the court or of its proceedings. That is as good a definition as I could give you of the meaning of the provision referred to. But that class of cases is not interfered with in this bill in any way whatsoever.

Now, Mr. Chairman, it is contended in the minority report that this proposed bill is unconstitutional, that its provision for trial by jury violates the Constitution. Upon that question I want to submit a few observations: The inferior courts of the United States are created by Congress. Their jurisdiction is conferred by Congress. It is within the power of Congress to abolish these courts. They exercise no jurisdiction except what the Congress confers upon them, and it is within the power and the jurisdiction of the Congress to regulate their proceedings.

Permit me to submit an extract from the first judiciary act ever adopted after the adoption of the Constitution—the judiciary act of September 24, 1789, section 17:

That all the said courts of the United States shall have power to grant new trials in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; (a) and shall have power to impose and administer all necessary oath or affirmations, and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; (b) and to make and establish all necessary rules for the orderly conducting business in the said courts, provided such rules are not repugnant to the laws of the United States.

In this first judiciary act, passed by the First Congress, composed of the men who, in large part, made the Constitution, Congress interpreted its power under the Constitution, and gave to the courts the right to make any rules and regulations for the administration of their affairs that were not repugnant to the laws of the United States, which means not repugnant to the Constitution and to the acts of Congress. Hence, I contend that we have the constitutional right to regulate in every respect the procedure of those courts of inferior jurisdiction which the Congress has created.

In 1831 Congress undertook to regulate contempts in Federal courts.

Act of March 2, 1831, upon which sections 725, 5399, 5404, 5405, and 5406, Revised Statutes, is based, was as follows:

Be it enacted, etc., That the power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

SEC. 2. *And be it further enacted*, That if any person or persons shall, corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall, corruptly, or by threats or force, obstruct, impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons so offending shall be liable to prosecution therefor by indictment, and shall, on conviction thereof, be punished by fine not exceeding $500, or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offense.

Approved, March 2, 1831.

Subsequent acts have been passed supplementing the act of 1831, and the constitutionality of these several acts has been upheld by the Supreme Court.

We close this head with the quotation from Ex parte Robinson (19 Wall., 505), cited with approval in the case of Bessette *v.* Conkey (194 U. S., 327), which is so clearly and obviously applicable and conclusive that no comment appears to be necessary:

The power to punish for contempts is inherent in all courts. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power, but the power has been limited and defined by the act of Congress of March 3, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and power from the Constitution, may, perhaps, be a matter of doubt; but that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases.

(1) Where there has been misbehavior of a person in the presence of the courts, or so near thereto as to obstruct the administration of justice.

(2) Where there has been misbehavior of any officer of the courts in his official transaction.

(3) Where there has been disobedience or resistance by an officer, party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the courts. The law happily prescribes the punishment which the courts can impose for contempts. The seventeenth section of the judiciary act of 1789 (1 Stat. L., 73), declares that the court shall have power to punish of their authority in any cause or hearing before them by fine or imprisonment, at their discretion. The enactment is a limitation upon the manner in which the power shall be exercised, and must be held to be a negation of all other modes of punishment. The judgment of the court debarring the petitioner, treated as a punishment for contempt, was therefore unauthorized and void.

Mr. Speaker, I contend that in this bill we are merely seeking to regulate procedure in cases of contempt by guaranteeing the right of trial by jury in certain cases therein named. In so doing Congress will act within the clear scope of its constitutional authority. It is also just and right and in keeping with sound policy. I hope the bill will pass.

I ask leave, Mr. Speaker, to revise and extend my remarks in the RECORD.

Mr. CLAYTON. Mr. Speaker, I ask unanimous consent that all gentlemen may have leave to extend their remarks in the RECORD for five legislative days.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. CLAYTON] requests that all gentlemen may have leave to extend their remarks in the RECORD for five legislative days.

Mr. MANN. For everybody?

Mr. WILSON of Pennsylvania. For everybody or only for those who speak?

Mr. CLAYTON. I will modify my request and confine it to those who have made remarks.

Mr. MANN. The gentleman had better withhold that request until later.

Mr. CLAYTON. Then I withdraw my request, Mr. Speaker, for the present.

Mr. FLOYD of Arkansas. I ask unanimous consent, Mr. Speaker, to extend my remarks in the RECORD, as I did not get time to get through with them.

Mr. CLAYTON. Nobody objects.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CLAYTON. Mr. Speaker, how much time has been consumed by the proponents of the bill?

The SPEAKER pro tempore. Fifty minutes.

Mr. CLAYTON. Then I will ask the gentleman from Illinois [Mr. STERLING] to consume that much time.

Mr. CANNON. Mr. Speaker, will the gentleman yield to me?

Mr. STERLING. I will.

[Mr. CANNON addressed the House. See Appendix.]

The SPEAKER pro tempore. The gentleman from Illinois [Mr. CANNON] asks unanimous consent to extend and revise his remarks on this bill. Is there objection?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, I make the same request on this bill.

The SPEAKER pro tempore. The gentleman from Kansas [Mr. CAMPBELL] makes the same request. Is there objection?

Mr. CARLIN. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. CARLIN] makes the same request. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I notice that a number of gentlemen desire to extend their remarks in the RECORD. I think some of them would prefer to be heard in the House. I ask unanimous consent that the time for debate upon the bill be extended two hours, so as to add one hour to the time controlled by the gentleman from Alabama [Mr. CLAYTON] and one hour to the time controlled by the gentleman from Illinois [Mr. STERLING], without making that a part of the request.

Mr. CLAYTON. I have no objection to that, Mr. Speaker, but I want to make this statement in connection with it before I agree to it. I suppose that means that we come to a vote on this bill to-morrow, does it?

Mr. MANN. To-morrow is Calendar Wednesday. I suppose we will come to a vote on this bill certainly Thursday, right after the reading of the Journal.

Mr. CLAYTON. Mr. Speaker, the criticism was made upon me yesterday that I was at times a little too accommodating; but I have been accommodated so often by the membership of this House, particularly on the other side of the aisle, and I have been impressed so often with the wisdom of the suggestions made by the gentleman from Illinois [Mr. MANN], that I am inclined to concur in his suggestion. I believe in many instances had his suggestions been followed the time of the House would have been economized. I think it is but just to him to say that. In view of the fact that a number of gentlemen on both sides of the House have expressed a desire to speak on the subject, and in view of the fact that I myself made some complaint in the beginning of my remarks against the limited time, and for other reasons, I am disposed to agree to the suggestion made by the minority leader [Mr. MANN] and to concur in the request that this debate be extended for two hours, one hour of that time to be controlled by myself and one hour by the gentleman from Illinois [Mr. STERLING].

I am informed that to-morrow, being Calendar Wednesday, there will be no objection on that side to the taking of the vote on this bill the first thing on Thursday. If I am incorrect about that, I would like the Chair to correct me; or if there is any dissent from it, I would like to hear it now; that on Thursday next, the first thing after the approval of the Journal and any little routine business, we shall vote on the passage of this bill. The gentleman from Illinois [Mr. STERLING] will offer his bill as a substitute for the main proposition, and if that is voted down, which I apprehend it will be largely by the votes of gentlemen on the opposite side of the aisle, then the main proposition will be in order, namely, the passage of this bill; and after the disposition of this contempt bill, then it is my purpose—and I understand it will be in order—for me to get up for further consideration the impeachment matter against Judge Archbald and ask for the action of the House upon it at that time.

Mr. WILSON of Pennsylvania. Why would it not be possible for us to get to a vote on this bill to-night, even with the additional two hours' debate? That would only take us to about 20 minutes before 6.

Mr. MANN. I will say to the gentleman that the request which I made does not interfere with the taking of the vote. That is a matter to be disposed of later; and if there should be no vote to-night, there certainly will be no objection on this side to the procedure suggested by the gentleman from Alabama on Thursday.

Mr. CLAYTON. I may say to the gentleman from Illinois [Mr. MANN], and also for the benefit of my friend from Pennsylvania [Mr. WILSON], that I do not believe two hours from now it will be possible for us to have a quorum here. I am a practical legislator whenever I can legislate at all. I am going to be here and the gentleman from Pennsylvania [Mr. WILSON] is going to be here, just as we are always here, but some gentlemen are away from the House now, as the gentleman may know, upon other business. Perhaps some of them may be engaged in Chautauqua lectures. The gentleman and I always stay here, and so does our other friend, the gentleman from Illinois [Mr. MANN]. We shall be here, as the old saying in the country is, until the cows come home.

Mr. WILSON of Pennsylvania. There is a lot of other legislation that is pressing for consideration, which ought to be considered by this House, so that it can be passed and sent to the Senate. It seems to me we ought to be able to get to a vote on this question. I have no objection to the extension of the time.

Mr. CANNON. May I make a suggestion to the gentleman from Pennsylvania [Mr. WILSON]? It is exceedingly hot weather, and in my judgment better progress will be made if we provide for a vote immediately after the approval of the Journal on Thursday. That will be in the interest both of the conservation of health and of getting a quorum and obtaining results.

Mr. CLAYTON. I agree with the suggestion of the gentleman from Illinois, not for the purpose of avoiding the heat of the afternoon, because I believe it would do us good to stay here and work and sweat instead of going down to a Turkish bath and paying $2. Let us stay here and engage in good, honest work, and a good honest sweat will do us good. I may say to my friend that I see a little suggestion made in the newspaper press that another body wants to get away from here early.

Well, there may be some decrepit old fellows somewhere else that want to get away early, but the time has come now that this Congress ought to stay here until the public business is dispatched. We have not the time next winter to attend to the business properly, and if a man can not stay here in the summer time and attend to the public business he ought to quit Congress and let some one come here who can attend to it. Now, this does not refer to our young friend from Illinois [Mr. CANNON]. [Laughter.] For about 15 years I have seen him here when the House was called to order and when the gavel fell for the last time. I have seen him here at every roll call; and, in fact, sometimes when the Republicans—then in the majority—wanted to keep a quorum here and I did not want to keep a quorum here I was sorry that he was such a close attendant. [Laughter.]

Mr. CANNON. If the gentleman will allow me in his time, I want to thank him for the compliment. I enjoyed the lecture he gave to the Democratic side with 60 majority. The minority will be here. [Laughter.]

Mr. CLAYTON. I was not lecturing the House, because the Members of the House are generally in attendance except a few who are unavoidably absent and a few others who are away on lecturing tours or other private business to the detriment of

the public business, which they are paid to attend to here at Washington.

The SPEAKER pro tempore (Mr. SABATH). The gentleman from Illinois asks unanimous consent that general debate be extended for two hours and the time to be equally divided between the gentleman from Illinois and himself. Is there objection?

There was no objection.

Mr. STERLING. Mr. Speaker, it is very important, in order to cast an intelligent vote on this bill, to know what it contains and what effect it will have on the administration of justice in the courts. If gentlemen have followed what was said to-day by the gentleman from Alabama [Mr. CLAYTON] and what was said yesterday by the gentleman from Georgia [Mr. BARTLETT] there is a very great possibility that they will be misled as to what the real purpose of the bill is.

The gentlemen say that it is to correct abuses in contempt cases. They talk of the vast number of abuses that have been committed by the courts in punishment for contempt for violations of the orders and decrees of the court. None of them so far have referred to a single instance in any court of the United States where the power to punish for contempt has been abused. They do not specify. It would seem better, if they want to carry conviction to the minds of the Members, that they point out at least some instances where the courts and judges have committed abuses in punishment for contempt. They have not done so, and they will not do so. They will not be able to point out anywhere in all the reports of all the Federal courts of the United States any very serious cases where the judges have abused the power to punish for contempt.

Both gentlemen have proceeded from a false premise. They assume that the trial of a contempt case is a trial of a criminal case. Now, that is not true. In no instance is the trial of a contempt case the trial of a criminal case. When they contend that all men charged with crime should be allowed the inalienable right of trial by jury they are contending for that which all men have and which no one would deny to any man.

Mr. CAMPBELL. Will the gentleman yield?

Mr. STERLING. Yes.

Mr. CAMPBELL. The gentleman just stated that in no case could the trial for contempt be construed to be a criminal trial. In the case of a constructive contempt, where the complaint against whom the injunction has been issued is charged with being guilty of malicious trespass, with having destroyed property, does not that raise the question of a criminal offense?

Mr. STERLING. Not at all.

Mr. CAMPBELL. I would like to hear the gentleman discuss the distinction between a case of that sort and a criminal offense.

Mr. STERLING. I will undertake to do so. If a man in a case of that kind commits a crime in violating the order of the court, he can be indicted and tried for the crime itself, and with that the court in the trial of the contempt case has nothing whatever to do.

The only thing in which the court is concerned is the violation of its order. Its duty is to enforce the order and to impose such punishment, and only such punishment, as will result in obedience to the order. That is all the court has to do in the trial and punishment for contempt. The man who committed the contempt, if in so doing he committed a crime, can be punished for the crime only by indictment and trial by jury.

Mr. CAMPBELL. Might I ask if it is not a fact that before the court imposes a fine or a sentence of imprisonment that he will have to find as a matter of fact that the defendent is guilty of the crime?

Mr. STERLING. Not at all.

Mr. CAMPBELL. He will have to find him guilty of the fact.

Mr. STERLING. Not under the law as it stands now.

Mr. CAMPBELL. How does he acquire the right to impose the fine?

Mr. STERLING. He acquires the right to impose the punishment because of the contempt, because the order of the court has been violated, and it is immaterial to the court whether the acts constituting the contempt are such as to constitute a crime or not. He is concerned only in maintaining the authority of the court. The court is bound to enforce the rights of the litigants as he has found them, and to do so may punish for contempt, even though no crime is involved in the commission of the contempt.

Mr. CAMPBELL. Is it not a question of fact as to whether or not the order of injunction has been violated?

Mr. STERLING. Certainly it is; and that is the only question. The bill provides that if in the violation of the court's order the party has committed a crime he is entitled to trial for contempt by jury; and if he has not committed a crime in violating the order he is not entitled to a trial by jury, and yet the court can try and punish him for contempt.

Mr. CANNON. If the gentleman will permit, Mr. Speaker, this bill makes an exception in the event that it is a direct contempt, committed in the presence of or near to the court. A man may take the life of another, or attempt to, and in that case it is a crime; and yet the inalienable right of a trial by jury, so eloquently declaimed by the gentleman from Alabama, avails nothing, provided the contempt be in the presence of the court.

Mr. ALEXANDER. Mr. Speaker, at that point I want to call the gentleman's attention to the fact that the man could not be tried for the assault or the attempt at murder except by jury. He might be tried for contempt in the presence of the court, but he would still be entitled to a trial by jury for the offense.

Mr. STERLING. That is true, and that answers practically all that has been said upon that side of the House in favor of the bill. It answers all arguments put forth about the right of trial by jury where a man has committed a crime. The man is entitled to a trial by jury if he commits a murder or an assault in the presence of the court or elsewhere.

Mr. CANNON. But he can be imprisoned by the court for contempt.

Mr. STERLING. For contempt of court, for disturbing the orderly procedure of the court.

Mr. KENDALL. That is a direct contempt in the presence of the court, and it is not included in this bill at all.

Mr. STERLING. It will apply to other cases just the same.

Mr. WILSON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. STERLING. I will yield.

Mr. WILSON of Pennsylvania. Why has it become necessary to provide a trial by jury in cases of assault in violation of the law? Why not leave it entirely to the judgment of the court?

Mr. STERLING. Oh, that has been the law for ages. It was the law of England centuries ago and is the law everywhere in America. It is the law because it is the outgrowth of the wisdom of mankind. We all agree that it is a salutary law. We can not take away nor add to the right or privilege of one charged with crime to be tried by a jury of his peers.

Mr. BARTLETT. It is not a privilege, it is a right.

Mr. KENDALL. A constitutional right.

Mr. STERLING. Nobody is denying the right of trial by jury when one is charged with crime. This bill does not provide for trial by jury when charged with crime. That is already the law. This bill provides for trial by jury when a man is charged with contempt of court. It is not worth while for gentlemen to undertake to inject into this argument the idea that this is giving somebody a right of trial by jury when he is charged with crime. It is not in the bill. That is the law now. It has been the law for centuries, and you are simply begging the proposition when you stand before this House and tell us that a man ought to be entitled to a trial by jury when he commits a crime.

Mr. BUCHANAN. Suppose the judge issues an order which enjoins one from committing acts which are already in violation of the law, and suppose a man does commit violence, is it not a fact that there are cases where the judge has sentenced him for contempt of court in place of giving him the right of trial by jury under the law?

Mr. STERLING. Yes; and he ought to sentence him if he is in contempt.

Mr. BUCHANAN. But he ought to be given a chance to prove whether he is guilty or not.

Mr. STERLING. He is always given the chance to purge himself of contempt, and this bill does not add to his rights in that regard.

Mr. WILSON of Pennsylvania. Mr. Speaker, will the gentleman again yield?

Mr. STERLING. Yes.

Mr. WILSON of Pennsylvania. Would not the same reasons that make it salutary to have a trial by jury in cases of assault and in other criminal cases equally apply in cases of contempt?

Mr. STERLING. No; not at all. It involves an entirely different principle. You are striking down the arm of the court, which preserves the rights of the citizen, when you take away his power to punish for contempt. That is why it is not salutary, and I shall come to that later.

Mr. CLAYTON. Does the gentleman mean to say that we take away the power to punish for contempt in this bill?

Mr. STERLING. Yes; that is what I say. I will give my reasons for saying it.

I do not want to yield further for the present; I may later. Before I take up the bill I want to refer to another matter to which the gentleman from Alabama [Mr. CLAYTON] referred. He read from the minority report, in which I quote the letter of the President when he accepted the nomination four years ago. I want to call attention to the absolute error the gentleman made in his comment on that letter. President Taft in his letter spoke with great force against legislation of this kind, and gave as an illustration this:

Under such a provision a recalcitrant witness who refuses to obey a subpœna may insist on a jury trial before the court can determine that he received the subpœna.

The gentleman says that this bill is not applicable to that kind of a case. Well, it is. Now, I will read the first section of the bill and show that it provides explicitly for just that kind of a case.

That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him shall be of such character as to constitute also a criminal offense, etc., shall be proceeded against for said contempt as hereinafter provided.

Now, if a witness is subpœnaed and he assaults the officer who serves the subpœna, he is entitled to a trial by jury for contempt of court under this bill. It expressly applies to that very case.

Mr. KENDALL. How is the man to be punished for failure to obey the subpœna?

Mr. STERLING. He is punished for contempt.

Mr. KENDALL. He is not entitled to trial by jury for that.

Mr. STERLING. He would be under this bill if he committed contempt by assaulting the officer.

Mr. MANN. He can protect himself by hitting an officer.

Mr. McCALL. Would not that give a premium by inducing him to commit a crime by assaulting the officer?

Mr. STERLING. Yes. He would have conferred on him the right of trial by jury.

Mr. McCALL. That is, he would get the right to trial by jury if he resists the officer by assaulting him, whereas if he did not he would not get that right.

Mr. STERLING. That is it, exactly.

Mr. KENDALL. Does the gentleman claim the contempt would consist of the assault upon the officer if the man obeys the subpœna of the court?

Mr. STERLING. The contempt in that case, if he obeys the subpœna, would consist in interfering with an officer and the orderly procedure of the court. Even though he obey the subpœna, he might be in contempt of the court.

Mr. STERLING. Let us see where this bill leads to. The gentleman from Texas yesterday discussed this bill in remarks on the rule. He evidently did not know which bill had been reported. He explained that it classified contempts into direct and indirect contempts. Now, it does not do anything of the kind. The original bill introduced by the gentleman from Alabama did classify contempts into direct and indirect contempts and gave the right of trial by jury in cases of indirect contempts and not where the contempt was direct. That is the kind of a bill the Democratic platform declares for. That platform does not indorse this kind of legislation. It reiterates the platform of 1896, 1904, and 1908 with reference to contempts.

Mr. CLAYTON. Will the gentleman yield?

Mr. STERLING. I yield to the gentleman.

Mr. CLAYTON. Now, I want to say to the gentleman right in this connection when he talks about the Democratic platform, the gentleman will recollect the Hoar-Grosvenor injunction Republican bill; the gentleman will recollect the Ray trial by jury for contempt bill reported to this House by a Republican committee. Now, does the gentleman think that his very, very mild substitute here for the pending bill complies either with the views expressed in the Hoar-Grosvenor or in the Ray bill heretofore approved of by the Republican Party?

Mr. STERLING. I do not see how that affects the question. Those gentlemen had no authority from the Republican Party. That party never approved any of those bills. You can not find a single Republican platform that has favored any such legislation as your anti-injunction bill or your contempt bill. Nor can you find in history where any Republican candidate has indorsed such legislation.

I want to read that plank of the Democratic platform adopted at Baltimore very recently, as follows:

We repeat our declarations of the platform of 1908 as follows:
"We reiterate the pledge of our national platform of 1896 and 1904 in favor of the measure which passed the United States Senate in 1895, relating to contempts in Federal courts and providing for trial by jury in cases of indirect contempt."

This bill is not in compliance with that platform. It does not classify contempts into direct and indirect contempts, giving privilege of trial by jury in indirect contempt. This bill provides that a man is entitled to a trial by jury if he commits a contempt of court, if in the commission thereof he commits a crime. I will agree with the gentleman that the right of trial by jury is a blessed and a sacred privilege, but I can not understand why a man who violates an order of court by committing crime should be entitled to that blessed and sacred privilege when the man who commits the lesser offense, when the man who commits the contempt of court without committing crime, is deprived of that blessed privilege.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. STERLING. I will yield once more.

Mr. WILSON of Pennsylvania. Will the gentleman state as to whether his substitute provides a trial by jury for all of those?

Mr. STERLING. The substitute does not provide for trial by jury in any kind of a case. I will come to that later.

Now, why that distinction in favor of the man who commits crime? Why give him some special privilege? Why give him that inalienable right of trial by jury, when the man who by carelessness or inadvertence violates the order of the court is denied that right?

Mr. CLAYTON. I would like to answer the gentleman.

Mr. STERLING. I will answer it myself, and I will answer it to the satisfaction of the gentleman from Alabama.

Suppose an officer goes out to serve a subpœna or a summons, and the party served commits a crime—commits contempt of court by assaulting the officer. He is entitled to trial by jury under this bill when he is brought before the judge for contempt. Another citizen is served with subpœna or summons to act as a witness or juror, and he simply neglects to appear before court to perform his duty as a juror or to testify in the case on trial. He can be punished summarily by a court under this bill, and is not entitled to a trial by jury. Now, I submit to you, gentlemen, how does that kind of a law comport with your sense of justice and with your ideas of equality between men?

But that is not the worst feature of the classification which they make in this bill. It provides that these trials for contempt shall conform as nearly as may be with practice in criminal cases; that is to say, the same rules of evidence will apply when a man is being prosecuted under this law for contempt as would apply if he were being prosecuted under an indictment for crime. You can not convict a man in this country, either in the Federal or in the State courts, of crime, unless you prove his guilt beyond a reasonable doubt. You must remove from the minds of the jury all reasonable doubt before he can be punished for crime. I agree that that is a salutary law, too. I would not change it in the prosecution of criminal cases at all, but that cloak of safety is not thrown around the man who commits a contempt of court without committing a crime. He may be deprived of his liberty on a different and lesser degree of proof. The less offender, the man who has committed no crime, the man who is simply negligent or who has carelessly violated the order of the court, can be convicted of contempt without proof beyond a reasonable doubt. Thus you give to the graver offender the benefit of all doubt, while as to the lesser offender you convict him on a mere preponderance of evidence. Is that in harmony with our ideas of justice and equality?

Now, there is another provision to which I wish to refer, and one about which the gentleman from Alabama [Mr. CLAYTON] talked with great gusto. Section 268d provides that the provisions of the bill do not apply in cases to which the United States is a party. Advocates of the measure refer to this section with just pride, as if to say: The bill may be bad—very bad—but, thank God, it is not all bad, for here in this section we have made an exception of a very large class of cases, to wit, those to which the United States is a party.

Why this exception? It simply means that they do not want to deprive the courts of their powers to enforce their orders and decrees in cases where the Government is a party. It is the only reason that they can assign for excepting that kind of cases.

Well, if a man is not entitled to a trial by jury when he violates an order of court in a case to which the United States is a party, why should he be entitled to a trial by jury in any other case? They admit, by that exception, that the bill will destroy the efficiency and authority of the courts in that kind of a case, and it answers every argument they offer in favor of the bill. It is simply an admission on their part that their bill is bad, and that they will not undertake to extend it all along the line.

Have they assigned any reason for the distinction? Have they undertaken to tell us why there should be a trial by jury

for the violation of an order of court in one kind of a case and not in another? The rights of litigants in the one are as sacred as in the other. All are equal before the law. That doctrine may seem plain and old-fashioned to some of you, but I get it from the Declaration of Independence and from the Constitution.

This exception serves one good purpose in this argument. It makes it perfectly clear that the Democratic Party wants to make it appear to one part of American citizenship that it seeks to favor it in legislation. They admit that its main application will be in suits arising out of labor disputes. It feels that this is an opportune time to show some partiality toward this great class of American voters. I have a much higher opinion of American wage earners than that. I have a deep-seated faith that of all Americans the laboring man and the farmer are the most bitterly opposed to class legislation. We should not be misled by so-called labor leaders, who sometimes urge upon us legislation of this kind in their zeal to make it appear to their constituents that they are accomplishing something for their benefit. These men—the farmers and laboring men of America—are the very foundation of our civilization, and their fundamental doctrine has been from colonial days to the present hour the equality of all men. I have thought sometimes that if Congress were only as diligent in their duty to prevent class legislation as this great part of American citizenship is in their demand against it we would appear much more respectable before the country.

I believe it is true that in the last 25 years the Democratic Party, each time it has been in power in either branch of Congress, just before a presidential election has passed an unconstitutional income-tax law, an unconstitutional anti-injunction law, and an unconstitutional contempt bill, and this is no exception to the rule. I want to say to you frankly that your hope in this case is that this bill will never reach the Supreme Court until after the coming election. It is simply a matter of political exigency on the part of the Democratic Party to make it appear that they are undertaking to do something for the laboring men of the United States. That is the reason why they bring this bill in here now. That is the reason why the Senate passed the bill in 1895 on this question.

I can not believe that good lawyers on either side of this House will undertake to say that we have a right to take away from the courts the power to punish for contempt. I can not understand, in the face of the decisions and in the commonsense view of the proposition, how one can seriously contend that Congress may take away from the courts any of their judicial powers. Now, what is judicial power? Congress did not confer judicial power on the courts and we can not take it away. The Constitution conferred that power. I will read you the clause in the Constitution which expressly provides where the judicial power shall be placed:

> The judicial power of the United States shall be vested in one supreme court and in such inferior courts as the Congress may from time to time ordain and establish.

That Constitution confers the judicial power on the Supreme Court and on the district courts alike, because that is one of the courts which Congress did in the course of time ordain and establish. We have no right to confer such power, and we have no power to take it away.

Mr. BARTLETT. May I ask the gentleman a question right there?

Mr. STERLING. Yes.

Mr. BARTLETT. Does the gentleman contend that Congress has not the power, in creating the subordinate courts other than the Supreme Court of the United States, to limit their jurisdiction and power and prescribe what power the inferior courts can have, or even abolish all inferior courts if it sees fit?

Mr. STERLING. Well, we will see about that. The trouble with the gentleman is that he does not distinguish between jurisdiction and judicial power. We have got a right to establish and ordain courts and prescribe their jurisdiction. We can say over what territory, persons, property, and subjects their power shall extend. We can say to what class of cases their power shall go. But we can not take away from them any judicial power which the Constitution gave them to decide cases and to enforce their decrees within the jurisdiction which we did give them.

Mr. BARTLETT. I do not want to interfere with the gentleman's argument, but will the gentleman permit me to ask him a question?

Mr. STERLING. Yes.

Mr. BARTLETT. Take the matter of the Commerce Court, for instance, recently investigated, where the question was decided by the Supreme Court of the United States. That is an inferior court, created by Congress, and yet Congress did limit its power and its judicial power, and the Supreme Court held that Congress could do so.

Mr. STERLING. I do not agree with the gentleman on that. Congress limited the jurisdiction of that court. Congress can limit the jurisdiction of any court that it creates; but the Constitution confers judicial power on the courts that we do create. The instant that we create them, the instant that Congress has spoken, then the Constitution clothes them with the power to decide cases that are submitted to them of a judicial character, and to enforce the decrees which they render in those cases. That is judicial power, and that is all that judicial power is.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. STERLING. Yes.

Mr. WILSON of Pennsylvania. Does not the Constitution also define the cases to which that power shall extend?

Mr. STERLING. It says that power shall extend to all cases at law and in equity.

Mr. WILSON of Pennsylvania. Arising under the Constitution and laws?

Mr. STERLING. Yes.

Mr. WILSON of Pennsylvania. Then, does it not specify further the cases that arise under the Constitution, leaving the remainder to arise under the laws?

Mr. STERLING. What is the difference how they arise, whether under the Constitution, under laws, or under treaties? We could not even interfere with jurisdiction where the Constitution confers jurisdiction. The judicial power is a well-defined power. It is the power to decide cases and to enforce the decisions. That is all it is.

Mr. CLAYTON. I would like to cite two cases that would correct the error under which the gentleman labors.

Mr. STERLING. The gentleman from Alabama may cite cases where Congress has regulated the judicial power, as the opinions state. The Supreme Court has said this: That when a court exercises the judicial power beyond the point necessary to maintain its efficiency and dignity, then Congress can prohibit such exercise of judicial power. That is as far as the Supreme Court has gone. It has said that legislatures and Congress could regulate the judicial power, to the extent that the court could not exercise that power beyond the point necessary to maintain its authority and its dignity. That is all the courts have held on that point, and I think I will be able to read from some decisions that will satisfy every fair-minded man as to just what the law is on that point.

Imagine a court that has the power to decide a case and no power to enforce its decrees. Imagine a court that has the power to enter orders and make decrees, and yet when those orders and decrees are violated—orders and decrees for the preservation of the peace of society, for the protection of life and property and the comfort and welfare of mankind—can not enforce those orders and decrees. Suppose you say to a court, "You may enter an order or a decree, but if that order or decree is violated then another tribunal must intervene to determine whether or not you may punish the violation of that order."

The gentleman from Alabama [Mr. CLAYTON] asked me if I considered that this was taking away from the courts the power to punish for contempt? Yes; it is taking away from the courts the power to punish for contempt, and leaving it in the hands of a jury of laymen, who, although they may rank among the most intelligent and best class of citizens in the country, yet are not qualified to determine, very often, whether or not an intricate order of the court or an injunction or a decree has been violated. It impairs the power of the court by allowing a jury to intervene to determine whether or not a contempt has been committed, and to that extent destroys its efficiency.

Observe, gentlemen, this bill does not provide that the jury shall simply determine the fact as to whether or not a certain act has been committed. An American jury is always qualified to determine the facts in a case, but the judge should determine the law.

It does not stop there. It provides that a jury shall not only determine whether certain acts have been committed but provides that the jury shall determine whether or not these acts are a violation of the order of the court. It involves questions of law to be submitted to the jury, and the court would be absolutely helpless to protect the rights and property of American citizens if he happens to get an adverse jury.

Under this bill prosecution for contempt would be subject to the delays and uncertainties incident to jury trials. This would be true in a measure even in law courts, of which the jury is a component part. Much of the time even these courts have no jury at hand. Under such conditions a jury must be drawn from the whole body of the people of the district, which would result in delay. The bill takes no account of a disagreement of the jury or a failure to reach a verdict, and this would require the impaneling of another jury; and thus it will be

seen that the authority of the court will be greatly weakened by delay and uncertainty and the administration of justice greatly impeded by reason thereof.

It is very clear, however, that this bill is not intended, in its application, for contempt cases in the law courts. It aims at the courts of equity and seeks to impair their judicial power, by the intervention of a jury, to enforce their orders and decrees. This intervention of a jury in courts of equity, to determine questions of law and fact, is an innovation in practice unknown in the whole history of equity jurisprudence, and he who espouses it assumes the burden of showing it is a real reform and not a mere political exigency. Courts of equity have no jury nor the means of securing one. These courts grew up by reason of the very fact that they apply principles of justice and equity to the affairs of men which may be better administered by the chancellor than by a jury. They came as a necessity, to do justice in those cases where the rigid rules of law either wrought or permitted a hardship. This bill proposes to strip these courts of their true character as courts of equity and thus tie the hands of the chancellor in the administration of justice by the introduction of rules of practice which belong only to the courts of law.

It does violence to the experience of the centuries that equity principles are best administered through the conscience of the chancellor. It is inconsistent, indeed it is folly, to confer upon courts of equity the judicial power to try and determine causes in equity and to then intervene between that court and the enforcement of its decrees another tribunal unknown to equity practice.

Mr. MANN. Will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Illinois yield to his colleague?

Mr. STERLING. I will.

Mr. MANN. If my colleague will yield, I would like to ask him one question about section 1. That section provides that certain contempts shall be tried by a jury when the character of the act is such as to constitute a criminal offense. How and when will that be determined? Here an alleged contempt has been committed. Is the court first to hear the facts and determine whether the offense is a criminal offense, and thereupon abandon proceedings before the judge and turn it over to the jury, or, on the other hand, must every case be first submitted to the jury, and if the jury finds it was not a criminal offense thereupon the court itself determines the offense? In other words, in every case submitted to a jury, if the jury finds that the man is not guilty the judge can proceed to punish the man. [Laughter.]

Mr. STERLING. I will say that I can not answer that question. It is one of the inconsistencies of this bill. The bill makes no provision for determining whether the contempt involves a crime or not. I do not know how the court would proceed. I think the court might proceed just as the gentleman suggests, and might either call a jury, and if the jury finds that no crime was committed, then the court can punish for contempt. Or he might try the case first and decide himself whether a crime was committed, and if he finds that a crime was committed he can try it again and let the jury determine the case. It is a very serious criticism of the bill, and I think the point that the gentleman from Illinois makes is worthy of consideration.

Mr. BERGER. Will the gentleman yield?

Mr. STERLING. Certainly.

Mr. BERGER. Does the gentleman from Illinois mean to say that in a case where there has been no crime committed, if there is no criminal contempt, the man may be punished anyway?

Mr. STERLING. Yes; for a contempt without a trial by jury.

Mr. BERGER. Without a trial by jury?

Mr. STERLING. Yes.

Mr. BERGER. Then, Mr. Speaker, this bill is a gold brick. [Laughter.]

Mr. STERLING. I want to say to the gentleman from Wisconsin that it is worse than a gold brick. I do not believe gentlemen will be able to deceive the people of this country by legislation of this kind, passed at this time on the eve of a presidential election, with the hope, the certain hope, that it will not reach the courts for consideration of its constitutionality until after the presidential election.

Mr. LONGWORTH. Will the gentleman yield?

Mr. STERLING. Certainly.

Mr. LONGWORTH. I want to ask the gentleman how he interprets the language on page 4, which reads:

SEC. 268d. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States.

Mr. STERLING. That simply means this: That in a case that is brought in the name of the United States, or is prosecuted in behalf of the United States, where the court would enter an order or a decree and it should be violated, that the man who violates it, the man thus guilty of contempt, is not entitled to a trial by jury. Now, I can not tell the gentleman why they make that distinction except that they want to make it appear to certain classes of American citizens that they are doing something for their benefit alone. If they made it apply to all cases, they would do so much harm and their bill would be so utterly indefensible that it would be condemned by every American citizen. So, although they were willing to do some harm for the benefit of the Democratic campaign, they really do not want to do any more harm than is necessary to meet the exigencies of the political situation. [Laughter on the Republican side.]

Mr. LONGWORTH. Mr. Speaker, the gentleman will recall that I asked the chairman of the committee a short time ago whether this bill would apply in the case of an injunction issued by a United States court to prevent interference with the transmission of mail, and he replied that this bill would not apply in a case of this nature.

Mr. STERLING. That would depend entirely on whether the Government was a party to the suit.

Mr. LONGWORTH. But suppose the United States court issues an injunction to prevent interference with the free transportation of mail, does that not make the United States Government a party?

Mr. STERLING. Assuming that the bill for the injunction was filed by the railroad company that carried the mail, this exception would not apply, because the Government would not be a party to the suit.

Mr. LONGWORTH. The gentleman means that if the railroad company applied for the injunction it would not apply?

Mr. STERLING. Yes; that is correct.

Mr. LONGWORTH. Does the gentleman from Alabama [Mr. CLAYTON] agree to that?

Mr. CLAYTON. Mr. Speaker, except by permission of the gentleman from Illinois I could not undertake to answer the question.

Mr. STERLING. Oh, I will yield briefly to the gentleman.

Mr. CLAYTON. I would like to know whether or not he would want me to give a categorical answer to the proposition?

Mr. STERLING. I do not want the gentleman to take up too much of my time.

Mr. CLAYTON. I will state, what I said in the beginning, that this bill, wherever the Government of the United States is a party to it, does not have any application, and I adhere to that position. But I say that wherever it is a question between private persons, be they corporations or individuals, this bill has application. I do not know how I can make it any plainer than that.

Mr. LONGWORTH. What I am trying to ascertain is when the Government becomes a party.

Mr. CLAYTON. Oh, I will state to the gentleman from Wisconsin that I have not the floor and I could not answer a question which he may desire to put. He seems to have some very acute ideas upon this proposition, and I would like to answer the gentleman if I have the time. In my own time I shall be glad to yield to him.

Mr. STERLING. Mr. Speaker, I am sure that in the case the gentleman from Ohio refers to it would not come within the exception.

Mr. CANNON. In the Debs case the Government did not bring the action.

Mr. STERLING. No; the so-called Debs case was an ex parte proceeding brought by Debs by way of habeas corpus to be discharged from a commitment for contempt.

Mr. MANN. Did the Government not bring the action in that case?

Mr. STERLING. It did.

Mr. MANN. I think the Government filed a suit at Chicago to prevent interference with the mails.

Mr. STERLING. It did; and it was for violation of the injunction in that case that Debs was committed for contempt.

Mr. LONGWORTH. But suppose the railroad had originally made the application for the injunction?

Mr. MANN. Then it would not.

Mr. LONGWORTH. And the courts thereafter granted the injunction.

Mr. MANN. It would not come within the exception in the case of an order where the railroad was the complainant, but where the Government of the United States appeared as the complainant, then this would not affect the existing right to trial before the judge.

Mr. LONGWORTH. What I am trying to get at is this: If the order issues enjoining interference with the free transportation of mail, does that not of itself make the Government a party to the suit?

Mr. MANN. I think not.

Mr. LONGWORTH. No matter by whom it is brought.

Mr. MANN. Not at all. It is not a case where the Government is a party to the suit. It is a case where the suit is to be prosecuted by the Government.

Mr. LONGWORTH. "Brought or prosecuted in the name of or in behalf of."

Mr. MANN. It does not affect a case where the Government is a party defendant.

Mr. STERLING. It does not affect any case where the Government is a party. If the railroad should file the bill, it would not come within this exception.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. STERLING. Certainly.

Mr. MOORE of Pennsylvania. The common people who are forced to go to law have a right to have litigation determined as rapidly as possible, have they not?

Mr. STERLING. Certainly.

Mr. MOORE of Pennsylvania. Is not this a circumlocution bill?

Mr. STERLING. I think this bill would delay the court very seriously, and I will just say a word about that. Of course, the main purpose of the bill is to apply to chancery courts with reference to injunction suits. The advocates of the bill, if there are any outside of the House, care nothing about contempts in law courts. It is contempts in injunction cases or contempts that arise in cases of equity. Now, courts of equity have no jury. Our law and the English law provided for no jury. They have no means of getting a jury. Suppose they should resort to a jury to determine a question of contempt. They devise a plan to get a jury and try the case. The jury may disagree, and then it would go over to another term of court or be very greatly delayed. Or suppose the court should set aside the verdict of the jury and it goes on and on with all those interminable delays of court procedure. All of this time the question of whether or not the court's decree has been violated is held in abeyance, and it would absolutely destroy the effect of the injunction and the orders of the court. Those rights, to protect which the injunction had issued, may be lost forever.

Mr. MOORE of Pennsylvania. What becomes of the poor man forced to go to law who has to pay the lawyers' fees and wait all of that time?

Mr. STERLING. As a matter of fact, the bill could be taken advantage of by the man who has means, the man who could employ able lawyers to mislead juries, and work delays in the court. That is the man who would really obtain advantage by the bill and at the expense of another. The President referred to that in his letter of acceptance four years ago.

Mr. MOORE of Pennsylvania. The gentleman from Alabama [Mr. CLAYTON] referred to the grinding corporations which would crush down the poor workingman without this bill. I want to ask the gentleman whether the poor workingman would not suffer more at the hands of the grinding corporations in the event this bill should become the law?

Mr. STERLING. In my judgment, he would. This legislation might be made an engine for the destruction of human rights.

Mr. MOORE of Pennsylvania. I desire to ask the gentleman one more question. On the fourth page of the bill it is specifically provided that if a conviction follows any action under this bill, then a fine shall be imposed not to exceed $1,000. Suppose the president of the Standard Oil Co. were to violate the provisions of this bill in an action brought against him by a workingman, a member of a labor union. Would that $1,000 limitation fixed by this bill be a punishment sufficient to meet the crime?

Mr. STERLING. The substitute bill which I have offered has the same provision in it. Personally I wish it were not there. I do not believe there ought to be any limitation of punishment for contempt except the wise discretion of the court, which, under the substitute bill, would be subject to review.

Mr. UTTER. Of course this law or any criminal law will not affect a man who intends to be honest. Can the gentleman tell us what advantage this law will give to the man who wants to do an improper thing, if he wants, perhaps, to do a criminal act?

Mr. STERLING. In case he wants to do an improper thing or a criminal act in the violation of the court's order, it will give him the right of trial by jury.

Mr. HARRIS. Might not there be a sad result following from this bill in case of an order, for instance, restraining from interfering with workmen in the case of a strike where there was some violation of the order going to the extent of a crime by some but not an actual assault by others, so some would have the right of trial by jury and others would be punished under the ordinary contempt process?

Mr. STERLING. The gentleman's question illustrates the inconsistency of the bill. Suppose some workman should undertake to interfere with other workmen in the performance of their employment. The man who interferes in violation of a restraining order and commits an assault in so doing is entitled to a trial by jury, while the man who interferes and violates the order of the court by other than criminal means is not entitled to a trial by jury.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. STERLING. I yield to the gentleman from Pennsylvania.

Mr. WILSON of Pennsylvania. I understood from the gentleman's reply to the question of the gentleman from Pennsylvania [Mr. MOORE] that he considers that this bill will give corporations greater power to grind employees than now exists. Now will the gentleman point out the provision in the bill that gives that additional power to corporations?

Mr. STERLING. Well, I will only state to you what I think the gentleman from Pennsylvania meant, and that is that the corporation which violates an injunction and commits a crime in so doing, would be more likely to escape than the poor man, because it can hire able counsel to appear before the jury and defend it. I think that is what he meant.

Mr. MOORE of Pennsylvania. Will the gentleman yield for a question?

Mr. STERLING. I yield.

Mr. MOORE of Pennsylvania. I am very glad that the gentlemen from Pennsylvania [Mr. WILSON] put that question. As I read this bill—and I want the gentleman from Illinois [Mr. STERLING] to answer, if he will—it means in a contest between a poor man and a rich man, the game being to play the witnesses as long as possible and to resort to every legal procedure known to skillful lawyers, that under the provisions of this bill the poor man will go down.

Mr. WILSON of Pennsylvania. Is it not true that the court has a larger control under this provision?

Mr. MOORE of Pennsylvania. I think not. Under this bill the contumacious rich man will play the case along by demanding every right the bill affords him.

Mr. CLAYTON. What would be the rights?

Mr. STERLING. Permit me to read the plank in the Republican platform adopted within a few weeks at Chicago to see how it comports with your idea of proper legislation and proper respect for the dignity and the power of the American courts. It says:

> The Republican Party reaffirms its intention to uphold at all times the authority and integrity of the courts, both State and Federal, and it will ever insist that their power to enforce their processes and to protect life, liberty, and property shall be preserved inviolate.

How do you like that doctrine, gentlemen? That is a declaration against legislation of this kind. You will find nowhere in the Republican platform any fake promises of sham legislation. That plank sounds good to me. It has the ring of genuineness and sincerity. I want the country to understand if possible—and I hope that every man in this broad land will know where the Republican Party stands in its attitude toward American courts. It says it is opposed to taking away from these courts any of the judicial powers which the Constitution placed with them.

Now, further, the Democrats have a plank in their platform that sounds wonderfully good, too. I want to call their attention to that:

> The courts of justice are the bulwarks of our liberties, and we yield to no one in our purpose to maintain their dignity. Our party has given to the bench a long line of distinguished justices who have added to the respect and confidence in which this department must be jealously maintained.

That is true. The last statement is absolutely true. There have been just as able and just as righteous men from the Democratic Party on the bench as from any other party, and I propose now to read to you utterances of one of those same distinguished justices on this very question, and it is the latest utterance of the Supreme Court on the question of contempt. This decision was rendered by Justice Lamar, a distinguished judge, furnished to the country by the Democratic Party, and the case is that of the Bucks Stove & Range Co. against Mr. Gompers and others:

> For while it is sparingly to be used, yet the power of courts to punish for contempts is a necessary and integral part of the independence of the judiciary, and is absolutely essential to the performance of the duties imposed on them by law. Without it they are mere boards of arbitration, whose judgments and decrees would be only advisory.
>
> If a party can make himself a judge of the validity of orders which have been issued, and by his own act of disobedience set them aside, then are the courts impotent, and what the Constitution now fittingly calls "judicial power of the United States" would be a mere mockery,

This power "has been uniformly held to be necessary to the protection of the court from insults and oppression while in the ordinary exercise of its duty, and to enable it to enforce its judgments and orders necessary to the due administration of law and the protection of the rights of citizens." (Bessette *v.* W. B. Conkey Co., 194 U. S., 333, 48 L. ed., 1004; 24 Sup. Ct. Rep., 665.)

There has been general recognition of the fact that the courts are clothed with this power, and must be authorized to exercise it without referring the issues of fact or law to another tribunal or to a jury in the same tribunal. For, if there was no such authority in the first instance, there would be no power to enforce its orders if they were disregarded in such independent investigation. Without authority to act promptly and independently the courts could not administer public justice or enforce the rights of private litigants. (Bessette *v.* W. B. Conkey Co., 194 U. S., 337, 48 L. ed., 1005; 24 Sup. Ct. Rep., 665.)

I am justified, gentlemen, after reading that decision in saying to you that these eminent and distinguished judges, furnished to the country by the Democratic Party, will proceed to tear down legislation of this kind just as fast as eminent and distinguished statesmen on the other side of this House build it up. [Applause on the Republican side.]

Mr. BARTLETT. May I ask the gentleman a question, Mr. Speaker?

The SPEAKER pro tempore. Does the gentleman yield to the gentleman from Georgia?

Mr. STERLING. I yield.

Mr. BARTLETT. And yet the court in that very case did reverse the judgment of the court below in finding a man guilty of contempt in that proceeding, and sent the case back for trial.

Mr. STERLING. Yes; what of it? That does not affect the doctrine laid down by Justice Lamar——

Mr. BARTLETT. No.

Mr. STERLING (continuing). And which is in strict harmony with a long line of decisions in this country and in England.

Mr. BARTLETT. I do not want my friend, the gentleman from Illinois——

Mr. STERLING. The reason I referred to that case was to show to gentlemen on that side the true doctrine as it has been recognized by these distinguished Democratic jurists of whom they boast in their platform, and in whom I, too, feel a patriotic pride.

Mr. BARTLETT. And it is to prevent the repetition of what occurred the other day in the retrial of that case that I want to pass a bill like this.

Mr. STERLING. Then get up a bill to that effect. Do not offer this bill for any such purpose as that, because it does not reach that point at all.

Now, I want to read from a few more cases very briefly. I agree with gentlemen that they can produce cases on the other side which say that Congress has the right to regulate the administration of the power to punish for contempt, and I think you will find in every case to which they refer that Congress can curb the judicial power only when it goes beyond the point where it is necessary to enforce orders and decrees and to preserve the efficiency and the dignity of the court. But gentlemen will not find any cases, in my judgment, at least no well-considered case, that says the legislature of a State or the Congress of the United States can either take away from the courts the power to decide justiciable questions or take away from the courts the power to enforce their decisions in such cases. The views of the minority, signed by the six Republican members of the Committee on the Judiciary, cite a number of cases, some Federal and some State cases, to some of which I call special attention.

This is a decision rendered by Justice Brewer, and he discriminates between the legislative power and the judicial power of the Government. I think some gentlemen are likely to make the error of thinking that this is a Government of delegated powers, relating to the judiciary, but that is not true. It is a Government of delegated powers so far as Congress is concerned. Everything that is not specified in the Constitution was reserved by the States, so far as relates to the legislative power, but not so with the judicial power. The Constitution simply speaks of "the judicial power of the United States"—that means all of the judicial power. It does not designate certain powers that are given to the courts of the United States, but it confers "all judicial power." And by "all judicial power" is meant that power which was recognized in England and America as belonging essentially and inherently in the courts before the Constitution was adopted.

Mr. COOPER. Mr. Speaker, will the gentleman permit an interruption right there?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. STERLING. I yield.

Mr. COOPER. Do I understand the gentleman to say that the courts of the United States had, at the time the Constitution of the United States was adopted, all the powers inherent in the courts of England? That is what the gentleman just said.

Mr. STERLING. I did not say it just that way, but I will repeat what I said.

Mr. COOPER. That is the substance of it.

Mr. STERLING. I say that all the judicial power of the United States was reposed by the Constitution in the Supreme Court and in such inferior courts as the Congress might establish, and that by "judicial powers" was meant such power as was recognized in England and America as necessary and inherent in the courts before the adoption of the Constitution.

Mr. COOPER. Now will the gentleman permit me to read just three or four lines?

Mr. STERLING. No; I regret I can not.

Mr. COOPER. It is a question. I want to ask the gentleman to construe this language.

Mr. STERLING. If it is not lengthy I will yield.

Mr. COOPER. It is found in the case of Finck against O'Neil, in the Supreme Court of the United States, volume 106, page 280:

"For," as was said by Mr. Justice Daniel, in Cary *v.* Curtiss (3 How., 236, 245), "the courts of the United States are all limited in their nature and constitution, and have not the powers inherent in courts existing by prescription or by the common law."

Is not that in exact contradiction of the gentleman's statement?

Mr. STERLING. Not at all.

Mr. COOPER. I mean his statement that the Federal courts have the powers inherent in the courts of England by common law?

Mr. STERLING. Not at all. If the gentleman will read that decision he will find that the court had reference purely to jurisdiction, and not to the judicial power. Up to the time of the adoption of the Constitution the courts of the United States were substantially the same in character and in constitution as the English courts. And, so far as the judicial power went, the Constitution meant it should remain the same and should rest in the courts, as before.

Mr. CLAYTON. I wanted to put in another case in support of the one cited by the gentleman from Wisconsin [Mr. COOPER]. In Cary *v.* Curtiss (3 How., 236, 254) the same court said:

The courts of the United States are all limited in their nature and constitutions, and have not the powers inherent in courts existing by prescription or by the common law.

Mr. STERLING. This is a decision rendered by Justice Brewer. I want to read from the opinion in Kansas *v.* Colorado (206 U. S., 31):

In the Constitution are provisions in separate articles for the three great departments of Government—legislative, executive, and judicial. But there is this significant difference in the grants of powers to these departments: The first article, treating of legislative powers, does not make a general grant of legislative power. It reads:

"All legislative powers herein granted shall be vested in a Congress," etc.

On the other hand, in Article III, which treats of the judicial department—and this is important for our present consideration—we find that section 1 heads that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." By this is granted the entire judicial power of the Nation. Section 2, which provides that "the judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States," etc., is not a limitation nor an enumeration. It is a definite declaration, a provision that the judicial power shall extend to—that is, shall include—the several matters particularly mentioned, leaving unrestricted the general grant of the entire judicial power. There may be, of course, limitations on that grant of power, but, if there are any, they must be expressed, for otherwise the general grant would vest in the courts all the judicial power which the new Nation was capable of exercising.

Then it says further:

Speaking generally, it may be observed that the judicial powers of a nation extend to all controversies justiciable in the nature, and the parties to which or the property involved in which may be reached by judicial process, and when the judicial power of the United States was vested in the Supreme and other courts, all the judicial power which the Nation was capable of exercising was vested in those tribunals; and unless there be some limitations expressed in the Constitution it must be held to embrace all controversies of a justiciable nature arising within the territorial limits of the Nation, no matter who may be the parties thereto.

Now, I do not know of any other definition of judicial power under the English law or under the American law except that laid down by Mr. Justice Brewer—that it is the power to decide justiciable questions submitted to it and to enforce its decrees. That is the power that was conferred by the Constitution on the courts, and that, I say, we have not the right to take away. We not only have not the right to take it away, but we have not the right so to curtail it as to destroy the effectiveness of the court in enforcing its decrees.

The Legislature of Virginia passed a law giving one charged with contempt the right of trial by jury, and in that case, known as the Carter case, in Ninety-sixth Virginia, the court says:

Being of opinion that the defendant was guilty of contempt, we shall not attempt any classification of it as a direct or indirect contempt. If it were a direct contempt, then its punishment was without doubt to be ascertained and fixed by the court without the intervention of a jury by the terms of the law.

It is incumbent upon us to consider whether it was within the power of the legislature to deprive the court of jurisdiction to punish it without the intervention of a jury.

In the courts created by the Constitution there is an inherent power of self-defense and self-preservation; that this power can be regulated, but can not be destroyed, or so far diminished as to be rendered ineffectual by legislative enactment; that it is a power necessarily resident in and to be exercised by the court itself, and that the vice of an act which seeks to deprive the court of this inherent power is not cured by providing for its exercise by a jury.

Mr. SAUNDERS. May I ask the gentleman a question?

Mr. STERLING. In just a moment. Let us not forget, gentlemen, that this legislation relates to a coordinate branch of this Government, and if we undertake to take from that coordinate branch any of the powers conferred on it by the Constitution, we are going beyond the limits of power prescribed to us by that same Constitution, and anything that tends in that direction is dangerous legislation, and will lead ultimately, if pursued, to anarchy in the United States.

Mr. SAUNDERS. Will the gentleman yield?

Mr. STERLING. Yes.

Mr. SAUNDERS. The gentleman refers to a case that I argued in our Supreme Court and our court drew this distinction, that the court which in that particular case tried that party charged with contempt and inflicted punishment was the court mentioned in our Constitution, and therefore our court held that by virtue of the fact that it was mentioned in the Constitution, was a constitutional court, and had the power which could not be taken away from it, and that that situation does not apply to the inferior courts of the United States.

Mr. STERLING. I will concede that the gentleman's statement of facts is correct simply for the sake of the argument. Is not the district court of the United States a constitutional court?

Mr. SAUNDERS. No; not in the sense in which the Supreme Court in the decision referred to in the Virginia case understands it. It drew the distinction in that case of this character, that our court eo nomine was mentioned in our constitution, and that therefore it made it as compared with the Federal courts not mentioned in the Constitution a constitutional court. That distinction is made in the case the gentleman referred to.

Mr. STERLING. Let us see how tenable that distinction is.

Mr. SAUNDERS. That is the distinction drawn in that case; I do not contend that it is tenable.

Mr. STERLING. The Constitution of the United States says that the judicial power shall be vested in the Supreme Court and in such inferior courts as Congress may ordain and establish. We did not have any Supreme Court until Congress acted. Suppose Congress had not acted as to a Supreme Court; there could never have been any Supreme Court to which this power delegated by the Constitution could attach. It is the same with reference to the district courts and the circuit courts. It does not make any difference what you call them; Congress had to proceed to organize a Supreme Court just as well as inferior courts, which the Constitution says in the same terms and in just as plain language that Congress may establish and ordain as it did the Supreme Court.

It makes no difference whether it is the Supreme Court or the inferior court. When Congress acts this judicial power attaches, and we can not take it away. It must remain there so long as the court exists.

Mr. SAUNDERS. The argument that the gentleman makes as to the sufficiency is exactly the argument that I made, that there was no distinction, but the court overruled the contention and established the distinction between our inferior courts, and stated that because our court eo nomine was mentioned in the Constitution, that therefore it stood on a different basis when you come to legislate with reference to their power of contempt, and they overruled my contention and the contention the gentleman is making. I hold that it is perfectly sound myself.

Mr. STERLING. It is true that the Virginia court held that the legislation could not require a trial of a contempt case by a jury?

Mr. SAUNDERS. As the result of our Constitution.

Mr. STERLING. Yes.

Mr. MANN. Because it was a constitutional court.

Mr. STERLING. Just as our district courts are constitutional courts.

Mr. SAUNDERS. Not at all; they made that specific distinction.

Mr. MANN. But they were not deciding as to our courts.

Mr. SAUNDERS. I cited the Federal authorities allowing Congress to limit the Federal courts, but they held that that did not apply.

Mr. STERLING. The gentleman from Virginia was one of the lawyers in that case, and I undertake to say that the gentleman did not agree as a lawyer with the holding of the court.

Mr. SAUNDERS. I have just so stated. It only shows the refinement that courts will proceed to to sustain their authority.

Mr. STERLING. The gentleman was exactly right in his contention; but I will go further and say that it makes no difference whether it is a constitutional court or not. Think of the very nature of the case. I know of no case where it is held that by reason of the fact that the court is not a constitutional court that it is bound to submit the trial of contempt cases to a jury. Think of the nature of the case! You establish a court and what does it mean? A tribunal that will exercise judicial power. What is judicial power? It is the power to decide cases and enforce the decision. That is all there is to it. If you take away either one of the elements of the power you have no court, you have simply a board of arbitration to pass on a proposition without the power to enforce it. That does not constitute a court.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. STERLING. Certainly.

Mr. COOPER. Here is some language of the Supreme Court in that same case——

Mr. STERLING. Oh, I do not yield for that kind of an interruption.

Mr. COOPER. I simply wanted to ask the gentleman, after I have cited the language of the Supreme Court, how he can reconcile that language with his statement that where a United States court has entered a judgment it then and there has the inherent power to enforce it by execution or otherwise, and that Congress can not prevent such enforcement. That is what the gentleman just said. How does the gentleman reconcile that statement of his with this language of the Supreme Court in the case of Finck *v.* O'Neil (106 U. S., 280):

The United States can not enforce the collection of a debt from an unwilling debtor except by judicial process. They must bring a suit and obtain a judgment. To reap the fruits of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps—

And that means power, of course.

Mr. STERLING. No; it means jurisdiction.

Mr. COOPER. As here used there is no difference at all.

Mr. STERLING. Oh, if the gentleman is not going to distinguish between jurisdiction and judicial power, I do not want to discuss the question with him at all.

Mr. COOPER. Let me finish the sentence—

The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction—

Mr. STERLING. Yes; that case is cited here in the report of the majority.

Mr. COOPER. To continue—

For they can exercise no jurisdiction, except as the law confers and limits it.

The gentleman awhile ago gave one definition of the word "jurisdiction" as being the right to exercise authority within certain geographical limits, but, in my judgment, no man who wants to interpret language as it ought to be interpreted can understand that jurisdiction to issue an execution means anything else than authority to issue an execution.

Mr. STERLING. Mr. Speaker, let me say to the gentleman that I am perfectly familiar with the case that he has just cited. It is cited in the majority report, and it has not a single thing to do with the case that I was discussing nor a single thing to do with this bill. It is true that legislatures and Congress provide the means through which the courts may operate and exercise this judicial power. Executions and attachments are simply instruments provided for by legislation through which the court may exercise the power. Suppose the legislature said that a court could not issue an execution or an attachment or a warrant or anything of that kind. Then you have destroyed the court. The legislature has the power to destroy any court which it creates. It has only to repeal the act which created the court. If it does so, the court is destroyed. The legislature might also destroy a court by taking away its judicial power if the court would submit to it. But so long as Congress provides by law for a court and its organization, the Constitution will impart to that court the judicial power to decide and enforce its decisions within the jurisdiction prescribed by Congress. I hope I have made that plain to the gentleman from Wisconsin.

Mr. MANN. Mr. Speaker, will my colleague yield for a question?

Mr. STERLING. Certainly.

Mr. MANN. I am inquiring whether he has considered the proposition that the same act may be punished as a crime and as a contempt at the present time. This bill provides that certain contempts must be tried by a jury if a crime has been committed in connection with them, which requires the ascertainment of the crime—in other words, practically a trial, in a contempt case, of the commission of the crime. Can the man then be tried for the crime?

Mr. STERLING. I would say certainly he could. The court has nothing to do with the punishment for the crime. It is only punishment for contempt with which the court deals in the contempt proceedings.

Mr. MANN. But under this bill the court is required to take that into consideration, because for the punishment of contempt you must first find that the man has committed a crime.

Mr. STERLING. I mean by that this: That the court has nothing to do with reference to trying the man for the crime. It is true under this bill the court must determine whether or not the man has committed a crime, but that is only for the purpose of determining whether the one charged with contempt shall have a trial by jury.

Mr. MANN. How can you find out whether the man has committed a crime without in some way trying him for the crime?

Mr. STERLING. You could not under this bill, but I did not prepare the bill, and I will have to leave the answer of that question to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, will the gentleman permit me to answer it now?

Mr. STERLING. Not now.

Mr. MANN. My question is whether or not, after you have determined that a man has committed a crime, you can then under the Constitution turn around and try him again for the same crime, after having found first the same offense in order to determine that it is a contempt.

Mr. STERLING. I do not think the fact that the court found first that he committed a crime would bar prosecution of the crime by indictment. That does not imply that the court could punish for the crime in the contempt proceedings. The court has nothing to do whatever with the punishment for crime. It is only the court's duty to impose such punishment as will enforce respect for and enforce obedience to its orders. That is why the court punishes for contempt.

Mr. COOPER. Will the gentleman permit another question?

Mr. STERLING. I will yield to one further question.

Mr. COOPER. It is true, I believe, that Congress by statute has adopted the exemption laws of the various States as far as enforcing judgment by execution is concerned. Now, is not that, in effect, the legislative department preventing under certain circumstances the United States district courts from enforcing their judgments, depriving them of the power possessed by common-law courts to enforce their judgments? For instance, we have said a homestead——

Mr. STERLING. Let me submit to the gentleman that does not go to the judicial power of the court.

Mr. COOPER. Why, it goes to the power of the court to enforce its judgment.

Mr. STERLING. It goes to the jurisdiction of the court. The legislature can prescribe the property over which the court shall have jurisdiction, but it does not go to the judicial power of the court. For example, in Illinois the legislature has provided exemptions against execution. One is entitled to a homestead of $1,000 and personal property to the amount of $400, exempt from execution. By doing so the legislature limited the property over which the court should have jurisdiction. It limited the jurisdiction, not the judicial power.

Mr. COOPER. Then the legislative department has the power by statute to prevent a court from enforcing its judgment, and the gentleman from Illinois said that the common-law courts of England had the inherent power to enforce their judgment by execution.

Mr. STERLING. And so have the American courts that power within their jurisdiction. And the gentleman from Wisconsin can not take it away.

Mr. COOPER. But the common law obtained in many of the different States, but the United States district courts have not inherent common-law power. Their power has been limited and regulated frequently by Federal statute ever since these courts were first organized.

Mr. STERLING. Exemption laws do not go to the judicial power of the court at all, but simply go to the question of property over which the court has jurisdiction. It would be more convincing if the gentleman would produce the case.

I want to read now from another decision. The supreme court of Michigan held as follows in Nichols *v.* Judge (130 Mich., 192):

> The question, therefore, is again presented to this court, Have the circuit courts of this State the inherent power to punish for contempts, or are they subject to the control of the legislature? The question is an important one in the administration of the law. If the legislature can determine what acts shall constitute contempts in the circuit courts, it can abolish the power of such courts to punish for the contempts. There is no middle ground; either the courts have the absolute control, under the constitution, over contempt proceedings, or they have only such as the legislature may see fit to confer.

Again, in the State of Ohio is another case in point. In Hale *v.* The State (55 Ohio State Repts.), the court say:

> In this case the inherent power to punish contempts and enforce orders of court by summary proceedings is fully sustained, and it is said of sections 6906 and 6907 of the Revised Statutes, which make certain acts formerly punishable as contempts now punishable by indictment as offenses against public justice, that if it is to be interpreted to take away from a constitutional court its inherent right to punish offenses of this character when they are contempts of court, the statute will be invalidated.

The State of Oklahoma passed a law providing for trial of contempt cases by jury, and the supreme court in that State used this language in Smith *v.* Speed (11 Okla., 95):

> If it now should be found that the judge had no power to enforce his order at all or to punish for contempt, and that the court had no power to punish beyond a fine of $50 and imprisonment not exceeding a longer period than 10 days in the county jail, and that a change of judge may be had and a change of venue from the county, and that a trial by jury may be had to determine whether the recalcitrant party is in contempt at all or not, it will be admitted by the bar, acquainted with the law's delays, that the power to punish for contempt, either direct or indirect, being destroyed in the judge, will be to a great extent destroyed also in the court and rendered valueless.
>
> If the contention now sought for by the plaintiff in error should be sustained, it would go to the extent that the court, in equitable proceedings, after a full hearing and a final determination and judgment upon the merits, is without the power to enforce its judgments by the imposition of a pecuniary penalty or imprisonment, and that in the endeavor to enforce its judgment by proceedings in contempt it would be subject to have its final judgment brought into review in the contempt proceedings upon a change of judge, or of venue, to a completely new jurisdiction and to a trial by jury, in which the merits of the final order, which has been made by the court, in the proceeding, should again be reviewed, including the question whether there was any merit, right, or authority of the court in the equitable proceedings in which the judgment had been rendered or the order made, and the equitable jurisdiction of the district court upon matters finally determined would thus be subject to be again brought in question by another judge in another venture and by a jury, a thing unheard of in the chancery jurisdiction. If such a state of things could be, it could but result in the degradation of courts and to make them truly the subjects of contempt.

It seems to me that there is great wisdom in that language, and that the judge who wrote it had studied and considered the extent to which a law of this kind might lead the country and the people. Now, gentlemen, I shall not take time to further read from decisions; there are many of them all holding the same thing. I think none of them hold to the contrary.

I do want to call attention to the bill which I offer as a substitute for this. The essential difference between the two is this, that the one provides for the trial of contempt cases by jury and the other provides that where the defendant in a contempt case feels that he can not get justice at the hands of the particular judge who issued the order or made the decree he may make application to have some other judge designated to hear the contempt. It does not provide for a trial by jury, it does not provide for a change of venue, it does not provide for a change of tribunal or a change of court, but it simply provides that if a defendant makes affidavit that he can not get a fair trial, then that judge shall call some other judge into that same court to hear and determine the contempt.

Some objection has been raised to our present practice in contempt cases. It has been said that a judge who issues an order or renders a decree ought not to be the judge who decides whether or not the order or the decree has been violated. They give as a reason that the judge might be prejudiced; that he might be partial to the enforcement of his own order or decree.

It is the only criticism that any man, so far as I know, or any litigant anywhere in the United States, has ever raised against the trial of a contempt by the judge who renders the decree that has been violated. He, having rendered the decree or the judgment, might be partial to the enforcement of it and might be led to do injustice to the defendant who is charged with the violation of it. This bill meets that criticism; whether justified or not, it is unfortunate that it exists, and this will dispose of it and allow the defendant to have another judge called in to try the case.

I desire to read what the President said on this question, so as to get it into the RECORD. In his letter of acceptance four years ago he discussed the Democratic platform, which is the same as the platform of this year, relating to contempt and injunctions.

He says:

DANGEROUS ATTACK ON POWER OF COURTS.

> This provision in the [Democratic] platform of 1896 was regarded then as a most dangerous attack upon the power of the courts to enforce their orders and decrees, and it was one of the chief reasons for the defeat of the Democratic Party in that contest, as it ought to have been. The extended operation of such a provision to weaken the power of the courts in the enforcement of their lawful orders can hardly be overstated.

EFFECT OF JURY TRIAL.

> Under such a provision a recalcitrant witness who refuses to obey a subpœna may insist on a jury trial before the court can determine that

he received the subpœna. A citizen summoned as a juror and refusing to obey the writ, when brought into court must be tried by another jury to determine whether he got the summons. Such a provision applies not alone to injunctions, but to every order which the court issues against persons. A suit may be tried in the court of first instance and carried to the court of appeals and thence to the Supreme Court, and a judgment and decree entered and an order issued, and then if the decree involves the defendants' doing anything or not doing anything, and he disobeys it, the plaintiff, who has pursued his remedies in lawful course for years, must, to secure his rights, undergo the uncertainties and delays of a jury trial before he can enjoy that which is his right by the decision of the highest court of the land. I say without hesitation that such a change would greatly impair the indispensable power and authority of the courts. In securing to the public the benefits of the new statutes enacted in the present administration the ultimate instrumentality to be resorted to is the courts of the United States. If now their authority is to be weakened in a manner never known in the history of the jurisprudence of England or America, except in the constitution of Oklahoma, how can we expect that such statutes will have efficient enforcement? Those who advocate this intervention of a jury in such cases seem to suppose that this change in some way will inure only to the benefit of the poor workingman. As a matter of fact, the person who will secure chief advantage from it is the wealthy and unscrupulous defendant, able to employ astute and cunning counsel and anxious to avoid justice.

I have been willing, in order to avoid a popular but unfounded impression that a judge, in punishing for contempt of his own order, may be affected by personal feeling, to approve a law which should enable the contemnor upon his application to have another judge sit to hear the charge of contempt, but this, with so many judges as there are available in the Federal courts would not constitute a delay in the enforcement of the process. The character and efficiency of the trial would be the same. It is the nature and the delay of a jury trial in such cases that those who would wish to defy the order of the court would rely upon as a reason for doing so.

MAINTENANCE OF FULL POWER OF COURTS NECESSARY TO AVOID ANARCHY.

The administration of justice lies at the foundation of government. The maintenance of the authority of the courts is essential unless we are prepared to embrace anarchy. Never in the history of the country has there been such an insidious attack upon the judicial system as the proposal to interject a jury trial between all orders of the court made after full hearing and the enforcement of such orders.

It seems to me, gentlemen, that the President of the United States uttered the true and sane doctrine in that letter. I say to you we ought to hesitate before we set aside the advice laid down by that great jurist. He believes that such legislation as this, that would deprive the courts of part of their judicial power, might lead to anarchy in the United States.

What good can come from this legislation? What evils will be remedied and what rights will be more secure? If you can point to nothing it will accomplish in the way of enlightened progress then this bill should be defeated. If our present system of punishing contempts has worked well is it the part of wisdom for Congress, even if it has the power, to change it? Is it wise public policy to do so?

In this day of carping critics we hear much of criticism of our American institutions and especially of our courts. Criticism of some of the courts may be just, but that does not justify a radical change in the method of procedure that will hinder and embarrass our whole judiciary in the administration of justice. If in some instances, yet none have been cited, the judges have abused the power to punish for contempt, is it a wise policy to take from or seriously impair the power of all the judges to administer justice and maintain the dignity and authority of the courts of the land?

It has been urged that this legislation is needed to relieve the courts of the criticism that the judges are biased in their decisions as to whether their own orders have been violated and their authority defied.

They say that whether this criticism be just or not, they should be removed from the possibility of this charge. Even if this amounts to an argument it is not necessary to impair the power of the courts in the performance of their judicial functions to reach that end. If one accused of contempt feels that he can not have a fair trial before the judge "whose authority he has defied," it is not necessary to resort to the slow, uncertain, and cumbersome plan provided by this bill to remedy that evil, if it were possible under the Constitution to do so. The possibility of prejudice on the part of the judge may be eliminated by another plan much surer and more expeditious than this, and a plan that does no violence to the Constitution. Let the accused have the right to have another judge designated to try and determine whether he is guilty of the charge. A judge is qualified to know and understand the force and purpose of a decree and the importance to the litigants and to the people, of having it duly observed. This would avoid all the uncertainties and delays incident to the jury system. It would wholly remove the possibility of the accused being the victim of bias or prejudice and fully answers the charge that judges should be protected from the criticism that prejudice influences their decisions in such cases.

Mr. Speaker, I have offered a substitute for the pending bill. This substitute will answer all criticism, just or unjust, of the present practice, and at the same time leave inviolate the prerogatives of that other and coordinate branch of the Government which has shed glory on the founders of American institutions.

The fundamental distinction between the bill and the substitute is that the former provides a trial by jury in cases where the acts constituting the contempt also constitute a criminal offense, while the substitute provides that in indirect contempts the accused may have another judge to try the contempt.

We believe that it meets every criticism and avoids every evil that may be charged against the present practice.

It divides contempts into two classes, direct and indirect, and gives to each class the usual and natural definition.

It defines direct contempts as those committed in the presence of the court or of a judge at chambers. Under it these contempts shall be punished summarily by the court. No one would change the practice in that regard, and neither of the bills would deprive the court of the power to deal with such contempts in that way. It further provides that the judgment in such case shall be entered of record and that the judgment shall contain a statement of the acts and a statement, if any, of the accused, relied on as a defense or as an extenuation of the offense.

It provides a specific plan of procedure in all cases which charge an indirect contempt of court. The accused may in such case, upon his own affidavit that the judge is prejudiced against him and that on account thereof he believes that he can not have a fair trial, have another judge designated to hear and determine his case.

The bill also provides for a review by the higher courts on appeal or by writ of error.

We repeat that the only charge made against the present practice is that judges who have issued orders or rendered judgments and decrees should not be permitted to pass upon the question as to whether a person has violated such order or decree or has defied or assailed the authority of the court over which that judge presides. It is said that a judge under such circumstances is prone to bias and that his decision might be tainted with prejudice against the accused. This bill eliminates such a possibility, and it does it more effectually than does the bill reported by the majority. Under that bill the judge conducts the trial of the case before the jury, he passes upon the admissibility of the evidence, and delivers the charge to the jury, so that under the system provided by that bill there is still a possibility of the same criticism against him as in the present practice. The accused might still feel that he was the victim of judicial bias.

Such is not the case in the bill offered by the minority. Under its provisions the judge whose decree has been violated or whose authority has been defied is eliminated from the case, and it is submitted to another judge who could have no possible prejudice against the accused, because he has no connection with the case. This bill meets all objection to the present practice without doing violence to the long-established principles of equity which forbid the intervention of a jury in equity proceedings. It accomplishes the desired end without taking away or impairing the judicial power of the court conferred upon it by the Constitution.

Mr. Speaker, in conclusion, this bill offered by the majority is a serious step in the wrong direction. It is an attempt on the part of one branch of the Government to invade the constitutional powers of another branch. As the legislative branch of a great Government we ought to guard with jealous care those prerogatives conferred upon us by the Constitution; we should watch with equal zeal that we do not impair the powers and the usefulness of the other coordinate branches. [Applause on the Republican side.]

Mr. STERLING. I would like to know how much time I have consumed, Mr. Speaker.

The SPEAKER pro tempore. The gentleman has consumed 1 hour and 48 minutes.

Mr. CLAYTON. May I ask the Speaker how much time has been consumed on this side and how much has been consumed by the gentleman from Illinois?

The SPEAKER pro tempore. There have been 50 minutes consumed on the gentleman's side and 1 hour and 48 minutes on the side of the gentleman from Illinois [Mr. STERLING].

Mr. CLAYTON. How much time is there remaining to the gentleman on the opposite side?

The SPEAKER pro tempore. There would be 42 minutes remaining.

Mr. CLAYTON. And I have how much time, Mr. Speaker?

The SPEAKER pro tempore. One hour and 40 minutes.

Mr. CLAYTON. Thank you.

Now, I yield five minutes to the gentleman from Iowa [Mr. GREEN].

The SPEAKER pro tempore. The gentleman from Iowa [Mr. GREEN] is recognized for five minutes.

Mr. GREEN of Iowa. Mr. Speaker, with all deference to the learning and acumen of the distinguished gentleman from Illinois who has just spoken in opposition to the bill, I shall undertake in the few minutes which are allotted to me to show that he has utterly misconstrued the first provision of the act in question.

The gentleman from Illinois [Mr. STERLING] has stated that if a witness were subpœnaed to appear in court and he simply failed to appear, then under the provisions of this act he could be tried for contempt without a trial by jury; but if he should assault the marshal who served the process upon him he would be entitled to a trial by jury. A close analysis and reading of section 268a shows that this bill provides for nothing of the kind. It says:

SEC. 268a. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him be of such a character as to constitute also a criminal offense under any statute of the United States or at common law, shall be proceeded against for his said contempt as hereinafter provided.

Now, if a subpœna is served upon any witness or intended witness, the only thing that therein or thereby is commanded is his appearance in court. If he assaults the marshal he does not in any way violate the commands of the subpœna.

He is, of course, subject to contempt of court under general rules, and may be punished therefor without having the provisions of this bill apply to him in any way whatever, but the rule would be just the same if some other person assaulted the marshal instead of the person on whom the subpœna was served. In either case this proposed statute has no application whatever, because there is nothing in the subpœna with reference to his doing any act against the marshal or resisting the process of the court. In fact, that is wholly unnecessary, for any resistance to any process of the court would constitute a contempt.

Mr. STERLING. Does not the gentleman think the assault on the officer serving the subpœna would be resisting the process of the court?

Mr. GREEN of Iowa. Certainly; it would be contempt of court to assault the officer while he was engaged in serving its process.

Mr. CLAYTON. Mr. Speaker, I rise to a question of order. The gentleman from Illinois [Mr. STERLING] did not rise and address the Chair.

Mr. GREEN of Iowa. But as it was not forbidden or referred to in the subpœna, it is not covered by the provisions of this act, and he would be tried by a summary proceeding for the assault. This, as I stated, can be easily seen from the fact that if he eventually came into court in response to the service of the subpœna, he could say that he had obeyed in every particular the order of the court, notwithstanding the fact that he had assaulted the marshal; and if he was to be tried for contempt in relation to the assault upon the marshal he would have to be tried on another charge—not for disobeying any order of court, but because he had obstructed its process by assaulting an officer engaged in serving its writ.

Now, the gentleman from Pennsylvania [Mr. MOORE] has intimated that the act might interfere with the court in its process in getting witnesses before it. Actually it would have no application of that kind whatever. If a witness refused to answer and obey a subpœna, the court could issue a bench warrant and bring the party before it instanter, and he would not be tried under the provisions of this act because such a case is expressly excluded. No criminal act would be done in simply violating the subpœna, and therefore it would not come under the provisions of this statute.

This act is intended to strike at the abuse which is created by endeavoring to punish criminal acts through the courts of equity, without the intervention of trial by jury. It is now too late, of course, to question the authority of courts of equity to issue writs which may forbid the commission of a crime, but I wish to say in this connection that criminal acts are practically the only kind or class which are reached by this statute; that is, the only cases included are where the injunction itself or the order of the court forbids some act which constitutes a crime.

Such being the case, I am in favor of this bill, because I believe in criminal cases being tried by courts which are constituted for the purpose; where the parties charged with having committed some criminal act are tried in the regular and ordinary way instead of being brought before a judge whose orders they are accused of violating. I have the greatest respect for the bench and know that every judge worthy of the name endeavors to act impartially and without bias or prejudice, but judges are human and share in human frailties. It would be only natural when a judge is required to try a case involving an alleged violation of his own orders that his inclination would be, and his rulings tend, in the direction of upholding what he deems the dignity and rightful power of his court. For this reason he might in some instances unwittingly fail to assume and preserve that absolute impartiality which ought to prevail in all court proceedings.

There is, however, an even more important reason for the passage of this bill. Ordinarily the highest and most serious crimes—even murder itself—are tried before a jury. This right and privilege of being so tried is deemed one of the most sacred guaranteed by our Constitution. No reason has been given, and none can be given why this right of trial should be given in one case and not in another. Some intimations have been made that parties violating the orders of the court and so tried might escape punishment if tried by a jury, but this is an attack on the whole jury system, and, if the argument be valid, then juries ought to be abolished entirely and even criminal cases tried through the court alone. If there should be found anyone who was willing to advocate such a proposition, it is hardly to be believed that he would sanction a trial before a judge who was at least indirectly interested in the result. It is urged that delay would be caused by these jury trials and thus the rich be enabled to take advantage of the poor. Those who make this argument forget that the trials referred to in this statute have nothing whatever to do with the parties who are litigating the main case, and that the judgment which has, or may be, rendered therein is not in any way affected thereby. The case does not wait for the proceeding provided for in this bill, nor will it be affected thereby. No one has undertaken to furnish a reason why a wealthy person could take advantage of a poor man under this statute, and, from a long experience on the bench, I say without hesitancy, that such an opportunity could not arise.

It is said also that there is no way of determining whether the alleged contempt is of such a character as to constitute a crime. This difficulty is entirely imaginary. Contempts not committed in the presence of the court must necessarily be brought before the court by some written charge. If the person accused of contempt claims to be entitled to a trial by jury under this act—should it become a law—then the court, from an examination of the charges, will determine whether the act described is of such a character as to constitute a criminal offense.

Mr. Speaker, it has well been said by a great lawyer that the great and special advantage afforded by a jury was that on the trial of matters before it it was able to mitigate the strict letter of the law and apply it according to the circumstances of the case in a manner in which a judge would not feel that he could act, even though he so desired. Thus, no matter by what vituperative or vicious language some scoundrel may give an unprovoked insult, if it is resented by a blow, a judge must say that an assault has been committed, but a jury, as a rule, leaves the offending party to his just deserts if that is what he has received. Scarcely a case arises in which the jury is not influenced by circumstances which the judge can not take into consideration. Sometimes it may be that this influence is wrongfully exerted, and I am inclined to think that our procedure ought to be so reformed as to prevent the pettifogger and the shyster from influencing juries by improper means, and that in our State courts the judges should have such powers that they might correct in the minds of the jurors by appropriate instructions any abuse of the privilege of a counsel when such abuse occurs. But all this pertains merely to whether reforms are needed in our jury system and not to whether a citizen accused of a crime ought to be denied the right to have a trial before a jury simply because the crime of which he is accused also involves an alleged violation of an order of the court. If it should be found that any persons who had thus violated the order were indeed escaping just punishment, then the reforms of which I have spoken will the quicker be brought forward, and in my judgment the consequences of such a failure, if there was any, would be less serious than the deprivation of a citizen's most important right.

It is said by the distinguished gentleman from Illinois [Mr. STERLING] that this act practically takes away the power of the courts to punish for contempt. It seems to me it does nothing of the kind. It simply prescribes the procedure that shall be used in cases of contempt, and the gentleman himself has furnished a sufficient answer when he says that the Congress has no power to regulate the procedure of courts in cases of this kind by the substitute which he has introduced to change the procedure and provide that a change of venue may be taken—something that never before has been granted in any case of this kind, and a proceeding that is utterly unknown at common law in cases of this class.

Mr. STERLING. The gentleman ought to quote me fairly. I said it did not provide for a change of venue, and it does not provide for a change of venue. It simply provides for another

judge to come into the same court. It does not change the venue at all.

Mr. GREEN of Iowa. It makes no difference, so far as the application of the argument goes. It changes the procedure in the case. The very introduction of the substitute implies a claim of the power of Congress to change the procedure—something that the gentleman has denied and insisted could not be done.

I have no time to review the decisions which have been recited by the gentleman from Illinois [Mr. STERLING], but the Oklahoma case, upon which he lays especial stress, is not, in my judgment, entitled to any credit before a body of lawyers. Judging from the extract which the gentleman from Illinois read, that court seems to have thought that if a change of venue was granted in contempt cases and a trial had before another judge the whole merits could be determined upon such trial, and which, in effect, is the statement contained in the opinion. A court that was not aware that in such a proceeding the only thing which could be heard and determined would be the question of whether or not the order had been violated is not entitled to any consideration before this or any other body.

Mr. Speaker, I hope this bill will pass. Instead of enabling the rich to take advantage of the poor, as charged, instead of being a "gold brick" for the workingman, as claimed, it will prevent wealthy corporations from making criminal accusations through a court of equity against laborers and having the accused summarily tried without the intervention of a jury. In the prevailing conditions of our jury practice I recognize there may be some cases tried under this statute if it becomes a law in which justice may not be effected, but there will be no more than in any other class of jury cases. The bill will prevent many abuses, grant protection to the weak, and make all persons equal before the law, which should be the aim of our jurisprudence.

Mr. CLAYTON. Mr. Speaker, I now yield 10 minutes to the gentleman from Virginia [Mr. SAUNDERS].

Mr. SAUNDERS. Mr. Speaker, I have followed the argument of the gentleman from Illinois [Mr. STERLING] with a great deal of interest; but he could not have been more unfortunate, than in his reference to the Virginia case of Carter against Commonwealth as an authority for the proposition that the district and circuit courts of the United States, are constitutional courts. I fully agree with him that the courts which are constitutional creations have an authority which can not be reached by legislative action. He seeks to bring the inferior courts of the United States within the operation of that principle. I admit that if this can be done, the present matter of argument between us is concluded.

What is the language of the Constitution of the United States relating to the inferior courts? In this connection I will read it for the purposes of comment.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

When the case of Carter against the Commonwealth arose in Virginia, a new statute relating to contempts had just been enacted. That statute was practically the one Senator Hill fathered in the Senate of the United States. The authority of the Legislature of Virginia to legislate against the contempt powers of the inferior courts of Virginia rested upon the proposition that those courts, like the inferior courts of the United States, are not of constitutional creation.

The distinction that was drawn by our Supreme Court between the present circuit courts of Virginia, and the circuit courts of the United States in respect of their constitutional character rested upon the difference in the language used by the instruments relating to these respective courts. The Virginia court construed two constitutions. In the first, the following language is found which is in all material respects the language of the Constitution of the United States in Article III, section 1:

The judicial power shall be vested in a supreme court of appeals, and in such superior courts as the legislature may from time to time ordain and establish.

I take it there is no lawyer on this floor who can draw any distinction in effect between that language, and the language of the organic law of the United States, upon which the gentleman from Illinois relies to show that the inferior Federal courts are of constitutional creation.

Mr. STERLING. Will the gentleman submit to an inquiry?

Mr. SAUNDERS. Certainly.

Mr. STERLING. The gentleman will remember that I took the position that the United States district courts were constitutional courts.

Mr. SAUNDERS. I understand that the gentleman took that position.

Mr. STERLING. If I am right on that point, the gentleman will concede that the Virginia case sustains my position, will he not?

Mr. SAUNDERS. Without reference to the Virginia case I concede that if the courts referred to are constitutional courts, there is no issue between the gentleman and myself; but I intend to satisfy my friend that the language of the Constitution of the United States heretofore cited was in substance construed by the Supreme Court of Virginia, and the conclusion reached was that the subordinate Federal courts are not constitutional courts.

Mr. STERLING. The gentleman will also agree that anything the court may have said about the district courts of the United States in that decision would be pure obiter dicta.

Mr. SAUNDERS. Certainly, but the gentleman cited a case from my State as authority, and I am going to hoist the gentleman with his own petard. The Virginia court decided precisely the contrary proposition from the one advanced by the gentleman from Illinois, that the language used by the Federal Constitution makes the courts to which it refers, constitutional creations.

Mr. CLAYTON. In other words, the gentleman from Illinois quoted the Virginia case as an authority to sustain his contention.

Mr. SAUNDERS. Certainly. Now, as I have said, the language of the constitution of Virginia that was first construed by the Supreme Court, in the Carter case reads as follows:

The judicial power—

Of Virginia—

shall be vested in a supreme court of appeals and in such superior courts as the legislature may from time to time ordain and establish.

I renew the assertion that the gentleman from Illinois can draw no distinction between the effect of that language, and the language found in the Federal Constitution. What did the Supreme Court hold when it came to interpret that language? It held in terms that the constitution of Virginia then under consideration did not create these subordinate courts, nor clothe them with jurisdiction, but that the courts were established by the legislature; in other words that court when interpreting language to all effects the same as the language of Article III, section 1 of the Constitution of the United States, concluded that the courts created by that constitution were not constitutional courts, but were legislative courts and therefore subject to legislative authority.

A step further.

The second constitution of Virginia construed in the Carter case contained the following language relating to the courts:

There shall be a supreme court of appeals, district courts, and circuit courts.

I agree with the gentleman from Illinois that in the forum of reason, there is no distinction in effect between that language, and the language, of the prior constitution. Before the supreme court I argued that something more was necessary to make a court a constitutional creation, than the mere mention of its title in the organic act—that this act should afford the court some jurisdiction, and thereby raise it to the dignity of a constitutional court superior to legislative control in the exercise of that jurisdiction. But the court did not agree to that view. Passing on the language that "there shall be a supreme court of appeals, district courts and circuit courts," the court held that the courts referred to, do not derive their existence from the legislature—"that they are called into being by the constitution itself, by the same authority which creates the legislature, and the whole framework of the State government."

So that while the Carter case held that the Legislature of Virginia did not possess the power to control the exercise of the power to punish for contempts by the inferior courts of that State, that conclusion was based upon the fact that the "circuit court" was mentioned eo nomine in the then constitution, and was therefore a constitutional court. Under the antecedent constitution the circuit courts of Virginia were related to the constitution of Virginia, precisely as the circuit courts of the United States are related to the Constitution of the Federal Government. Can anything be plainer, or more manifest than that?

Mr. STERLING. The gentleman did not think that the court was right?

Mr. SAUNDERS. No, I did not, in its last conclusion.

Mr. STERLING. And the gentleman does not now think that the court was right?

Mr. SAUNDERS. No, I do not.

Mr. STERLING. Well, I would rather have the opinion of the gentleman from Virginia [Mr. SAUNDERS] than the decision of the court.

Mr. SAUNDERS. I thank the gentleman for the compliment, but I call his attention to the fact that it was the ruling of the court on the language of the second constitution, and not on that of the first, that was in my judgment erroneous.

Mr. COOPER rose.

The SPEAKER pro tempore. Does the gentleman from Virginia yield to the gentleman from Wisconsin?

Mr. SAUNDERS. I will.

Mr. COOPER. I wished to ask the gentleman from Illinois a question, but I will now ask it of the gentleman from Virginia. Does the gentleman think that so worthy a gentleman as the gentleman from Illinois, who is so earnest in his defense of the courts and the sanctity of the judicial ermine, should presume to say to the gentleman from Virginia that he thought more of his opinion than of the opinion of the court of appellate jurisdiction?

Mr. STERLING. The gentleman from Wisconsin ought to have asked me that question and I would have answered it.

Mr. COOPER. But the gentleman sat down too quick.

Mr. STERLING. If the gentleman from Virginia will allow, I will answer it. The opinion expressed by the gentleman from Virginia is supported by practically all the courts in the United States, State and Federal, and therefore I think it is worth more on that particular point than the decision of the court of Virginia, which was purely obiter dictum. Perhaps if it had been presented directly to the court the decision of the court might have been different.

Mr. SAUNDERS. Permit me to go a step further. Having seen that the Supreme Court of Virginia held that courts mentioned eo nomine in the organic act are constitutional courts, and courts established under legislative act pursuant to authority given by such language as is found in the Federal Constitution, are legislative courts, we will now inquire into the rulings of the Federal courts, on the latter proposition. Looking to these authorities, it is manifest that they are clearly against the contention of the gentleman from Illinois that the subordinate courts of the United States possess inherent powers of contempt beyond the reach of the Congress of the United States.

Before I cite a case of two, let me say to my friend that he has cited some State authorities which refer to the common law. State decisions are often based on precedents of the common law which is no part of the Federal system. Such decisions are not helpful in the determination of the proposition in issue.

If I correctly understood another proposition of the gentleman he made the following statement relating to judicial power, that when jurisdiction is once given to the Federal courts they all possess the authority to enforce that jurisdiction, and that authority under the judicial power, can not be taken away by legislative act. In other words this power of enforcement is inherent and fundamental, and is derived from the organic law. I deny that proposition absolutely. Whenever the inherent powers of a court are mentioned in an English decision, whether a contempt or other power bear in mind that those courts did not have in contemplation any power which could not be reached by legislative authority. There is no court in Great Britain which possesses powers that are beyond the reach of the Parliament of that country.

Hence when you speak of the inherent authority of the courts, if you are citing an English decision, do not forget that this language does not mean in the contemplation of those decisions an authority that is superior to the power of legislative control.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

Mr. SAUNDERS. Mr. Speaker, can the gentleman from Alabama yield me a few minutes more?

Mr. CLAYTON. Mr. Speaker, I would like very much to, but I warned the gentleman not to be interrupted, and my time is parceled out. I regret exceedingly that I can not do it.

Mr. STERLING. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. CLAYTON. Mr. Speaker, this is not to come out of my time.

Mr. STERLING. No; it will come out of my own time. I want to say to the gentleman that I yielded more time to the gentleman and to Members on his side of the House than I devoted to my own purpose. The gentleman from Virginia was courteous to me, and I will give him two minutes out of my time.

Mr. SAUNDERS. Mr. Speaker, I thank the gentleman. I will now refer to certain authorities in this connection. In Finck *v.* O'Neill (106 U. S., 272) the court said:

> The United States can not enforce the collection of a debt from an unwilling debtor, except by judicial process. They must bring a suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction except as the law confers and limits it.

This is a decision of a Federal court, and is full authority for the proposition that the subordinate Federal courts do not possess a paramount inherent power to enforce jurisdiction, but that the power which they exercise is derived from the legislative department.

Again, in Cary *v.* Curtis (3 How., 236, 254), the court said:

> The courts of the United States are all limited in their nature and constitution, and have not the powers inherent in courts existing by prescription, or by the common law.

A word further. I wish I had time to discuss these decisions a little more at length, because this question of legislative authority, is an interesting one. One more case, a basic one, will be cited. In ex parte Robinson, the Supreme Court used the following language:

> The power to punish for contempts is inherent in all courts. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power, but the power has been limited and defined by the act of Congress of March 3, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and power from the Constitution, may, perhaps, be a matter of doubt; but that it applies to the circuit and district courts there can be no question.

These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending, or limiting their jurisdiction. The act of 1831 is therefore to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases. This authority is beyond attack.

So that the supreme court of my own State, and the Supreme Court of the United States, concur in the proposition that when the organic law provides that the judicial power shall be vested in such courts, as the legislature shall ordain, and establish, these courts are not constitutional courts, but derive their jurisdiction and authority from the legislative grant.

The SPEAKER pro tempore. The time of the gentleman from Virginia has again expired.

Mr. CLAYTON. Mr. Speaker, I will ask the gentleman from Illinois if he will occupy some of his time.

Mr. STERLING. Mr. Speaker, I think not now. The gentleman has not occupied nearly so much time as I have. The gentleman from Illinois [Mr. MANN] who desires to speak next upon this side is not here at the present time, and I can not use any time now. The gentleman ought not to ask it under the circumstances.

Mr. CLAYTON. The gentleman from Alabama thinks that he ought to ask it. The gentleman has had several speeches more upon this side than has the gentleman from Illinois.

Mr. STERLING. But the gentleman has not occupied nearly as much time.

Mr. CLAYTON. And he asks the gentleman on that side to consume some of his time at this point. It is fair and right. We have just had a speech upon this side.

Mr. CANNON. Mr. Speaker, what is the status in respect to the time?

The SPEAKER pro tempore. The gentleman from Alabama has 81 minutes remaining, and the gentleman from Illinois has 40 minutes remaining.

Mr. STERLING. Mr. Speaker, I must decline to use it now. I can not say that I would not do so to accommodate the gentleman if the next speaker were here, but he is not in the Chamber, and I will have to decline to use the time now.

Mr. CLAYTON. I am very sorry, Mr. Speaker, that the cause of the gentleman is so lacking in advocates that he has no one to espouse it at this time.

Mr. CAMPBELL. Mr. Speaker, it will be impossible in 10 minutes to take up the range of discussion on this bill that has been outlined here to-day. It would be very interesting to comment upon the line of argument that has been indulged in, to discuss the inherent powers and authority of courts with respect to contempts, whether created by Constitution, by prescription, or by statute. I shall confine what I am able to say in the few brief moments I have by referring to the courts that are created by the Congress of the United States, whose proceedings are affected by this bill. We gave these courts their being, we provide them with the machinery with which they operate, we define their jurisdiction, we give them their powers, we tell them what they may or may not do, and we may prescribe how they shall proceed. They have no inherent powers that they derive outside of their creator—the Congress of the United States. This question has been so repeatedly settled that it seems useless to take

up the time of the House on an afternoon when the temperature of the Chamber seems to be in the neighborhood of 102.

Mr. SULZER. Oh, it is far from that; nobody looks cooler than the gentleman does.

Mr. CAMPBELL. Well, I am between the gentleman from Alabama [Mr. CLAYTON] and the gentleman from Illinois [Mr. STERLING], two apparently heated bodies. But to proceed—in the case of Cary against Curtis, in Forty-fourth United States, Third Howard, page 236, the court uses this language:

> The courts of the United States are limited in their nature and constitution and have not the powers inherent in courts existing by prescription or by the common law.

We have created the district courts of the United States. It is the intention of this law to prescribe the manner in which these courts shall proceed in ascertaining the guilt of a party charged with a contempt of the court. This is clearly within our rights under the Constitution. The only question that the Congress has to decide is whether or not this bill is sound public policy; whether or not it is in the furtherance of justice, in the promotion of the common welfare to provide that a man shall not be convicted and punished for a contempt committed out of the presence of the court, without a jury passing on the question of fact involving the guilt or innocence of the accused. I believe the provisions of the bill sound and that they provide for better procedure in contempt cases.

Mr. Speaker, we have already defined what the courts may do regarding a contempt. The act of 1831 limits the powers of United States courts in contempts to three classes of cases:

(1) Where there has been misbehavior of a person in the presence of the courts or so near thereto as to obstruct the administration of justice.

(2) Where there has been misbehavior of any officer of the courts in his official transaction.

(3) Where there has been disobedience or resistance by an officer, party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the courts. The law happily prescribes the punishment which the courts can impose for contempts. The seventeenth section of the judiciary act of 1789 (1 Stat. L., 73) declares that the court shall have power to punish contempt of their authority in any cause or hearing before them by fine or imprisonment at their discretion. The enactment is a limitation upon the manner in which the power shall be exercised and must be held to be a negation of all other modes of punishment.

I think no one will deny we could have gone further. We were not required to go as far as we did; it was merely a question of policy. It was a question of public policy that appealed to the wisdom of Congress when the act of 1831 was passed, which defined and limited the authority of the court with regard to contempts.

No one, I take it, who has had experience with contempt cases will deny the wisdom of proceeding in a more orderly way to ascertain the guilt or innocence of the accused when one is charged with having violated an order of the court alleging him guilty of a constructive contempt or misbehavior out of the presence of the court. A man has a right under the Constitution of the United States to ask that a question of fact affecting his guilt or innocence of an offense, subjecting him to fine or imprisonment, shall be ascertained by a jury. No one has ever questioned the wisdom of that provision of our fundamental law. It is urged that the courts of the United States, the creation of the Congress, shall be permitted to exercise this authority and ascertain the question of fact, and having ascertained that fact against the accused, may then proceed to impose a fine or imprisonment. And why this extraordinary power?

The answer is made by those who oppose this legislation that such a law as is proposed takes away from the court an inherent power. The courts have no such inherent powers. All the powers they have, I repeat, have been given to them by Congress, and the Congress therefore has the right in its wisdom to prescribe the cases in which an order may be made, the kind of writs that may be issued, the circumstances under which writs or orders may be issued—defining them. Then, having that right, it has the right to prescribe the manner in which a violation of any of the orders of the court may be ascertained. A man charged with an offense subjecting him to fine or imprisonment, whether by complaint or by indictment, is as inherently entitled under the Constitution of the United States to a trial by jury in one case as in the other. The courts have exercised a powerful discretion, not by inherent rights, not by authority of the Constitution or of statutes, but by growth of power exercised by the courts, until they have made some of their processes and the manner in which they have punished for violation of their orders open to criticism. I have never gone to a court at chambers and secured an order without notice against a party to an action that I did not feel that I was getting an advantage. Such a practice was never authorized by the statutes of the United States. It was a growth of exercise of power by the court or judge. It weakens the courts in the exercise of their rightful processes to issue orders without notice and to find those against whom such orders are issued guilty of violating them without the intervention of a jury and imposing punishment by fine or imprisonment. Such exercise of power is against sound public policy and has led to abuse. This law is to correct that abuse. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Kansas has expired.

Mr. CLAYTON. Mr. Speaker, in order to answer the interrogations of a good many gentlemen, I desire to call attention to a statement I made in the beginning of this discussion which some gentlemen present did not hear. I said at that time:

> I am informed that to-morrow being Calendar Wednesday there will be no objection on that side to the taking of the vote on this bill the first thing on Thursday. If I am incorrect about that I would like the Chair to correct me, or if there is any dissent from it I would like to hear it now; that on Thursday next the first thing after the approval of the Journal and any little routine business we shall vote on the passage of this bill. The gentleman from Illinois [Mr. STERLING] will offer his bill as a substitute for the main proposition, and if that is voted down, which I apprehend it will be largely by the votes of gentlemen on the opposite side of the aisle, then the main proposition will be in order, namely, the passage of this bill, and after the disposition of this contempt bill, then it is my purpose, and I understand it will be in order, for me to get up for further consideration the impeachment matter against Judge Archbald, and ask for the action of the House upon it at that time.

I desire to say to the membership present that it is not my purpose to ask for a vote on this bill, but in accordance with this public statement made to the House in the beginning of this discussion I expect the vote to be had on Thursday after the approval of the Journal. This was assented to by the gentleman from Illinois [Mr. MANN].

Now, Mr. Speaker, I hope the gentleman from Illinois [Mr. STERLING] will use a little of his time.

Mr. STERLING. The gentleman from Illinois [Mr. MANN] is not present, so I can not do it.

Mr. CLAYTON. I am sorry that your whole cause depends upon the gentleman from Illinois [Mr. MANN].

Mr. STERLING. There is no need to worry about that.

Mr. CLAYTON. I am not worrying. I am rather felicitating myself that the gentleman's cause is so weak. I now yield 10 minutes to the gentleman from Illinois [Mr. FOWLER].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. FOWLER] is recognized for 10 minutes.

[Mr. FOWLER addressed the House. See Appendix.]

Mr. CLAYTON. Now, I ask that the gentleman from Illinois [Mr. STERLING] use some of his time.

Mr. STERLING. Mr. Speaker, I yield to my colleague from Illinois [Mr. MANN] such time as he desires.

The SPEAKER pro tempore. How much time does the gentleman yield?

Mr. MANN. As much as I may desire. Article III of the Constitution provides:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

It seems to be conceded by gentlemen who favor the bill that the judicial power vested by the Constitution in the Supreme Court of the United States can not be interfered with by Congress, but it is claimed that because Congress itself by law provides for the district courts of the United States and the courts of appeal therefore Congress has the authority to limit and control their judicial power. It seems to me that all of the courts are upon the same plane, whatever the control of Congress over them may be.

The Supreme Court of the United States, while expressly named in the Constitution, is not created by the Constitution. It is created by an act of Congress. Its membership in number has been changed from time to time by Congress, and it is no more mentioned in the Constitution than are the inferior courts which come within the terms of this provision of the Constitution.

There has been a clear distinction drawn between the constitutional courts of the United States and those which are not constitutional. The constitutional courts are those in which the judges under the Constitution are appointed for life or good behavior. No one denies that the district court judges and the circuit court judges are appointed for life or good behavior.

We have provided for those courts under this article in the Constitution. Those are constitutional courts as much as the Supreme Court.

On the other hand we have created district and Territorial courts, and provided for the tenure of office of the judges and fixed the term at four years. The question long ago arose whether those were constitutional courts, and it was held by the Supreme Court that the Territorial courts which are created by Congress, not under Article III of the Constitution concerning the judiciary, were not constitutional courts. Whether we have a different control over them I do not propose to argue, but by those who concede that the power of Congress over the Supreme Court is limited it must, it seems to me, be also conceded that the same limitation of power, if any exists, applies to the district and circuit courts created under Article III of the Constitution.

Mr. Speaker, it seems to me that the provisions in the bill now before us are not very plain. The first section provides in effect that the law which would be made by its passage shall only apply to contempt cases which also constitute a criminal offense under any statute of the United States or at common law. I asked a while ago how it would be determined in advance whether a criminal offense had been committed. There is an order issued by a court. It is violated. The violation of the order is an act of contempt. How will it be punished? If the acts done by the person who has violated the order constitute a criminal offense, then it must be punished under the terms of this act. If they do not constitute a criminal offense, then the contempt can not be punished under this act, but must be punished in accordance with the practice now in existence. Who can tell in advance whether a crime has been committed? Who undertakes to know in advance whether the contempt shall be punished by the judge, or by an order entered by him after a hearing before him, or by an order following a trial by jury?

But that is not all. How is the jurisdiction under this act invoked? Let us assume that an order has been violated. If the act is to be tried under this provision, then it must first be shown by the return of a proper officer on a lawful process that a crime has been committed, or it must be shown by an information filed by the district attorney that a crime has been committed in connection with the contempt, or it must be upon the affidavit of some credible person. Of course, the return of the officer ordinarily can not determine or state whether a crime has been committed. Nor will the district attorney ordinarily file an information. Some person in behalf of the complainant, if it is an order in behalf of a complainant against defendants, will file an affidavit before the judge alleging that a contempt has been committed. Suppose he asks for a punishment of the contempt under the existing practice and says nothing about a crime having been committed. The judge has the power to proceed and hear the case. Will it be necessary, under this act, for the person brought up for contempt, if he desires to avail himself of the provisions of this act, to prove that he has committed a crime? There is no other way of getting at it. The complainant represents to the court that the defendant, or some other person, has violated an order and hence is in contempt of court. He asks for a punishment of that contempt. If the person desires to avail himself of the privileges of this act, he must prove to the court first that he has committed a crime.

Mr. KENDALL. I want to inquire of the gentleman from Illinois, in whose judgment I have very great confidence, if the character of the contempt is not to be ascertained by the showing made to the court, as described in section 268 B:

That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting—

By the method suggested by the gentleman from Illinois—

that there is reasonable ground to believe that such contempt—

What contempt? Contempt involving criminality—

has been committed—

Then he is to issue his process, and so on.

Mr. MANN. But suppose nobody files that affidavit?

Mr. KENDALL. Suppose the man never is proceeded against in contempt?

Mr. MANN. I know, but you can proceed against a person for contempt under the present practice. How, then, can that person avail himself of his right to trial by jury?

Mr. KENDALL. Simply by demanding a trial by jury if he is proceeded against, if there is criminality involved in the contempt.

Mr. MANN. The gentleman means, then, that if you ask the court to proceed under the existing practice, which seeks to punish simply by the court, that the person proceeded against shall avail himself of the privilege conferred by this act, by showing that he has been guilty of a crime.

Mr. KENDALL. Oh, no.

Mr. MANN. Take the case pointed out. Nobody files an affidavit. Under the provisions of this act the defendant will not file an affidavit. The complainant files an affidavit before the judge under the existing practice, not alleging that a crime has been committed, but alleging that a contempt has been committed, and asking for a rule to show cause why the contempt should not be punished. Now, you represent the man who is brought before the court and you want a trial by jury. How do you get it?

Mr. SULZER. By asking for it.

Mr. MANN. Not at all. You are not entitled to it unless you prove, first, that your man has committed a crime; because this bill expressly provides that if no crime has been committed, then the court shall try the contempt. No trial by jury is authorized. Now, in order to get the man off on contempt you have got to prove that he has committed a crime for which he has been indicted.

Mr. SULZER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. SULZER. As I construe this provision in the bill, it gives the respondent the right to a jury trial if he demands it.

Mr. MANN. The gentleman has not examined the bill as carefully as I have.

Mr. SULZER. I have read it very carefully.

Mr. MANN. The bill expressly provides that the trial by jury, as stated by the gentleman from Alabama, is only authorized when the contempt is of such a character as to constitute also a criminal offense. If the contempt does not constitute a criminal offense, then no trial by jury is authorized. Now, a man is brought before the court for contempt. Under the existing provisions and the bill itself, while it does not undertake to govern these contempts, it expressly provides that all other cases of contempt not specifically embraced in the first section of the bill may be punished in conformity to the usages of law and equity now prevailing, and those are not tried by a jury.

Mr. CAMPBELL. Will the gentleman yield?

Mr. MANN. Yes.

Mr. CAMPBELL. Would not the complainant be required to set out the facts in his complaint or affidavit upon which he would ask a ruling against the man charged with violating the order of the court?

Mr. MANN. He is required to set out certain facts. He is required to show that a man has committed a contempt, he is required to show that the man has violated the order, but he is not required to show that the man has entered into a conspiracy.

Mr. CAMPBELL. Is he not required to set out the facts constituting the contempt? He could not set out conclusions of law, but he would set out those facts which constitute the contempt, and that would show whether it was criminal or not.

Mr. MANN. I have had practice enough with contempt cases to know that the facts will not disclose anything of the sort.

Mr. CAMPBELL. I have been required to set out facts extensively in these cases, and if that is done, then the judge will determine whether it is criminal or not.

Mr. MANN. The judge determines whether the order has been violated, but he does not determine whether these facts constitute a crime, nor is the complainant or the complaining witness required to disclose that a crime has been committed. The only way the respondent under this bill can avail himself of the provisions of it, unless on the complaint the witness has disclosed that a crime has been committed, is for the respondent himself to prove that a crime has been committed, and when he proves that he is guilty of the crime for which he can be indicted that ousts the jurisdiction of the judge to try him without a jury, and no further proceedings can be had until the proper jurisdiction is conferred by filing the proper papers in accordance with the second section of the bill.

Mr. KENDALL. Will the gentleman yield?

Mr. MANN. Yes.

Mr. KENDALL. Will the gentleman contend that if the accused should assert to the court that what was charged against him amounted to the allegation of a crime, that he would not then be entitled to a trial by jury?

Mr. MANN. Certainly.

Mr. KENDALL. That is not the establishment of his guilt. The fact that the crime is charged is not a confession of guilt.

Mr. MANN. Of course if the mere assertion of the lawyer in a case would oust the jurisdiction, there would be no other jurisdiction. I never understood yet that the claim made by somebody—lawyer or otherwise—in court would decide the jurisdiction when jurisdiction depends on facts. This bill

clearly defines the difference between jurisdiction in the one case and the other. You are making a departure here.

The law provides for the power of courts for punishing contempt and you are seeking to provide that in certain cases, and in certain cases only, a trial by jury shall be granted, and you expressly provide that that trial shall not extend to any case that you do not explicitly provide for in this bill.

Mr. CAMPBELL. Must not the jurisdiction be set out in the pleadings in this case as in others; must not the complainant show that the court has jurisdiction?

Mr. MANN. Certainly, if you file a complaint or an affidavit under this bill you have got to do it as I say, by filing the affidavit having the return of an officer, or having information filed by the court. But suppose you do not proceed under this bill, but in accordance with the present practice, as you may, and obtain punishment for contempt. How does the man get a chance to avail himself of the provisions of this bill?

Mr. FOWLER. Will the gentleman yield?

Mr. MANN. I will.

Mr. FOWLER. In ordinary contempt cases now where the contempt is charged if the facts are not set out by some one sufficiently to show on the face whether a contempt has been committed or not—for instance, if John Jones——

Mr. MANN. Oh, there is no doubt about the proposition.

Mr. FOWLER. In the statement of these facts, would they not show of themselves whether a crime had been committed in connection with the contempt under this bill?

Mr. MANN. Not at all.

Mr. FOWLER. I can not see why it would not.

Mr. MANN. Not at all. It is quite unnecessary to charge a crime in charging a violation of an order of court, which amounts to contempt—entirely unnecessary. It would not be done one time in a thousand.

Mr. FOWLER. For instance, a lawyer is charged with having purloined papers which belong to the court. When the matter is brought before the court, the court would make an order for the return of the papers, would it not?

Mr. MANN. Under this bill the lawyer could not be punished except by trial by jury, the gentleman says?

Mr. FOWLER. Then the fact itself would reveal that the purloining of the papers would be criminal in itself, and for that reason he would have a right to trial by jury under this bill.

Mr. MANN. Not at all. You ask to have a lawyer return papers, stating that he has them. That is no sign of criminality. Every lawyer has papers in a case and is subject to an order to return them. He does not return them. There is no crime in refusing to return the papers; not the slightest. He does not return them, and you enter an order on him to show cause why he should not be punished for contempt. Under this bill he could not be punished unless he proves that he has committed a crime. There is absolutely no escape from it. Vote for the bill if you want to. It is a pure political proposition to bunko people.

I yield back the balance of my time.

Mr. STERLING. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] has consumed 19 minutes, so the gentleman has remaining 21 minutes.

Mr. CLAYTON. And how much time have I remaining?

The SPEAKER pro tempore. Fifty-eight minutes.

Mr. CLAYTON. I suppose the gentleman from Illinois will want at least one more speech?

Mr. STERLING. If the gentleman from Alabama has more than one speech, I think he ought to have them made at this time and then close with one speech.

Mr. CLAYTON. We could have a hundred in support of this meritorious measure if I had the time.

I now yield 10 minutes to the gentleman from Pennsylvania [Mr. WILSON], who will speak in behalf of the laboring man referred to by his colleague from Pennsylvania [Mr. MOORE].

Mr. WILSON of Pennsylvania. Mr. Speaker, the only criticism that I have to make of this bill is that it does not go far enough, and yet this bill ought to be considered not by itself alone, but in conjunction with the anti-injunction bill passed by this House some time ago. It is the natural complement of the anti-injunction bill in so far as it applies to cases arising in trades disputes. Under the anti-injunction bill equity courts are prohibited from issuing restraining orders or injunctions to prevent peaceable assembling, recommending, advising, or persuading others by peaceful means to place their patronage where they please, or from personally persuading any person to work or to abstain from work, and so on. It follows that if this bill becomes a law, and I hope it will——

Mr. CLAYTON. It will if the Republican Senate will permit.

Mr. WILSON of Pennsylvania. That the equity courts will still have the power in trades disputes to issue injunctions restraining unlawful assembling. An unlawful assembly is in itself of a criminal nature. The equity court would still have the power to issue injunctions restraining men from persuading others by unpeaceful means not to patronize somebody, which is of a criminal character itself, and so on throughout the different phases of the anti-injunction bill. So that the power to issue injunctions in labor disputes would still exist in those cases where it was alleged that criminal means were being used for the purpose of carrying on any trades dispute. This bill, then, acts as a complement to that bill, and provides that when contempt proceedings arise out of those injunctions and the allegation upon which the contempt proceeding is based sets forth acts that are of a criminal character in themselves, then the party alleged to have committed the criminal acts will have the protection of a trial by jury. My contention is that every citizen of the United States is entitled to that kind of protection. The wageworkers of this country are not asking for any special legislation at the hands of Congress. They are not asking for any immunity from the law that is not granted to others, but they are insisting that they shall have the same rights, the same privileges, and the same protection that is given to other men under the law. There is no other class of our citizens as to whom the writ of injunction is issued in the same manner and for the same purpose as it is against the wageworkers of the country. It is issued en bloc, enjoining men from all kinds of things, and out of these injunctions grow these contempt proceedings.

And when these contempt proceedings come up for consideration, as the practice is to-day, the judge who has issued the restraining order whose order is alleged to have been held in contempt is the man who sits in judgment upon the case and determines whether or not the party shall be held in contempt. Whenever any measure of this character is up for consideration in this House men who are learned in the law and are opposed to the measure invariably inject the assertion that the measure is unconstitutional, and yet there can be no question whatever that in other cases where labor was not particularly affected any more than any other part of our citizens the Congress has limited the jurisdiction of courts, and the courts themselves have sustained the limited jurisdiction. If the contention is made that the judicial power of the United States is conveyed to every court that is created by the Congress of the United States, then when you created the Court of Claims all of the judicial power of the United States would have been conveyed to that Court of Claims when you created it, unless the Congress had the power to limit the jurisdiction or the power of the court it had created. When we created the Commerce Court, unless Congress had the power to limit the power and jurisdiction of the court, all of the judicial power of the United States would have been conveyed to the Commerce Court when you created the Commerce Court, and yet each of those courts have their power limited, limited by the very act which created the courts themselves, and limited, in my judgment, in accordance with the Constitution itself. Article III, section 1, of the Constitution says:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

Section 2 says:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority, etc.

In the same section, in paragraph 2, it says:

> In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exception and under such regulations as the Congress shall make.

Now, then, the only constitutional power that is completely vested in the Supreme Court or in the courts of the United States is found in the last paragraph in cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party. In those cases the Supreme Court has original jurisdiction.

In all other cases it has such appellate jurisdiction as Congress may give it, and if Congress fails to give it appellate jurisdiction then both the jurisdiction and power of the Supreme Court ends with cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party. Those are the only powers specifically and clearly granted to the Supreme Court by the Constitution, and all other powers exercised by it are either assumed or granted to it by law.

All courts inferior to the Supreme Court are created by Congress and their powers and jurisdiction defined by Congress.

For example, the Commerce Court has its jurisdiction confined to matters of Interstate Commerce, and neither its jurisdiction or power extends beyond that.

The Court of Claims has its power limited to claims against the United States, and neither its jurisdiction or power extend beyond questions of that character. It follows then, as an inevitable sequence, that Congress has the power to prescribe the methods with which United States courts shall proceed in cases of alleged contempt, with the possible exception of those cases in which ambassadors, other public ministers, and consuls, and those in which a State shall be a party.

The proposed law is completely within the constitutional powers of Congress to enact.

It will extend the right of trial by jury to indirect contempt cases where the acts alleged to have been committed are of a criminal character, and removes the suspicion that bias on the part of some judge does injustice to innocent parties.

There is no contention by those in favor of this bill that judges as a rule are biased or unfair; on the other hand, no one will for a moment contend that all judges are absolutely perfect. If that were true, we would need no law. We could then leave the adjudication of all disputes to the perfect man—the judge. But judges, like other people, have their limitations and their imperfections. No man is big enough to contain the sum of human knowledge, and without the sum of that knowledge he can not be the embodiment of all human wisdom.

Hence, the necessity for legislation which will so regulate the exercise of judicial power as to protect the people generally in the exercise of their rights to life, liberty, and the pursuit of happiness.

This bill is a step in that direction.

Mr. SABATH. Mr. Speaker, I yield to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Speaker, this bill, reported from the Committee on the Judiciary by my friend from Alabama [Mr. CLAYTON], relating to procedure in contempt cases, is a meritorious measure and commands my favorable support. As a lawyer, no one in this country has greater respect for the dignity, the integrity, and the judicial powers of our courts than myself. However, for many years I have been a firm believer in the necessity of altering the practice and a constant advocate of the expediency of making a definite change in the procedure regarding contempts of court.

Long ago, in the Fifty-fourth Congress, the then senior Senator from the State of New York, the honorable David B. Hill—and there was no better lawyer in this country than that distinguished Senator—after careful consideration and much deliberation introduced a bill in the Senate to divide contempts of court into two classes, namely, direct contempts and indirect contempts. At the request of Senator Hill I introduced at that time the same bill in this House.

Mr. CLAYTON. I may say to the gentleman that Senator Hill and Judge Parker—both eminent lawyers—prepared that bill in cooperation, so Judge Parker has informed me.

Mr. SULZER. Quite so. That is my understanding. That bill provided that direct contempts—that is, contempts committed in the presence of the court—should be punished summarily as at present, and that indirect contempts—that is, contempts not committed in the presence of the court—should be tried by jury. The bill was favorably reported to the Senate in that Congress, carefully considered, and passed without a dissenting vote. It was pigeonholed in the House. For years I did all I could to pass it through this branch of Congress, but never succeeded. I now refer to that record, which speaks for itself, and it is a high tribute to the wisdom and the sagacity of my friend, the late Senator Hill, one of the most eminent legislators and one of the most distinguished Democrats of his time.

It has long been my opinion that the law and the practice regarding contempts of court should be changed and a distinction made between a contempt committed in the presence of the court that disturbs or obstructs the administration of justice and a contempt of court committed beyond the presence of the court—perhaps a hundred miles away or more—that would have no effect, directly or indirectly, whatever upon the due administration of justice. To that end I have introduced and reintroduced the so-called Hill contempt bill in every Congress from that day practically to this, and I declare without fear of successful contradiction that there is not a lawyer of standing who is familiar with the jurisdiction of the Federal courts and the Constitution of the United States who will challenge its constitutionality. So much for that.

The bill now under consideration differs somewhat from the bill formerly introduced and advocated by Senator Hill and myself, but its ultimate effect is the same substantially.

I quote from the report of the Committee on the Judiciary, presented by the gentleman from Alabama [Mr. CLAYTON], as follows:

Most of the important provisions of the bill are contained in section 268b. Before action by the court, except in the cases excepted from the operation of the bill, there must be presented a formal charge showing reasonable ground; and before the party is put upon trial he must be afforded an opportunity to purge himself of any actual or technical contempt which he may have committed. He can not be arrested until he has opportunity to either purge himself or make answer and has refused to do either. If arrested, or in case the matter can not be disposed of on the return day, he may be required to give bail.

The trial is by the court (1) in case no jury be demanded by the accused, (2) if the contempt be in the presence of the court or so near thereto as to obstruct the administration of justice, or (3) if the contempt be charged to be in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name or on behalf of the United States. In other cases the trial is to be by jury.

Section 268c provides for the preservation of bills of exception, for review upon writ of error, for stay of execution pending proceeding, for review, and for bail in case the accused shall have been sentenced to imprisonment.

Section 268d excepts from the operation of the act contempts in the presence of the court, or so near thereto as to obstruct the administration of justice, and contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, and provides that in the excepted cases, as well as in all other cases not specifically embraced within section 268a, the punishment shall be in conformity to the usages at law and in equity now prevailing.

Section 268e bars proceedings for contempt unless begun within one year from the date of the act complained of, and preserves the right of criminal prosecution, notwithstanding any proceeding and punishment for the contempts covered by the bill. It also excepts from the provisions of the bill any proceedings for contempt pending at the time of its passage.

Thus it is seen that the bill applies and gives a jury trial, with the exception noted, in all proceedings for contempt wherein the acts alleged to have been committed constitute a criminal offense, either under any Federal statute or at common law. The trial where a jury is had is governed (sec. 268b), as near as is practicable, by the practice in criminal cases prosecuted by indictment or upon information.

Before calling further attention to the provisions of the bill now reported it is appropriate to review some of the contentions of those who have opposed every form of legislation whatever on this subject.

OBJECTIONS ANSWERED.

All the grounds of objection are reducible to two heads:

First. That any legislation whatever materially limiting or curtailing the power of the courts in the trial of contempts is unconstitutional.

Second. That any interference with the full and complete dominion or discretion of the judge in contempt cases tends to disorganization and a weakening of judicial efficiency.

Let us consider first the constitutional objections.

It is said that although the courts inferior to the Supreme Court owe their existence and jurisdiction to congressional action, yet a distinction should be made between the jurisdiction and judicial power, for instance, in the citation, trial, and punishment of a party charged with contempt of court.

The controversy goes back over 60 years. In 1831 Congress passed an act limiting the power of the courts subjectively; that is to say, it lopped off some of the jurisdiction which the court had assumed and exercised—a jurisdiction, or power, if the latter term be preferred, which Congress believed, and by its legislation asserted, was a usurpation. Never, until within a very recent period, was the authority of Congress to do that questioned, either by the courts or by any respectable authority. The particular circumstance or event, instigating the act of 1831, was the punishment by Judge Peck in Missouri, as for a contempt of court, of a party who had criticized one of his decisions in the columns of a newspaper.

The law before the act of 1831 read thus:

"The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority."

The act of 1831 consisted in the addition of a proviso, reading as follows:

"*Provided*, That such power to punish contempt shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said court in their official transactions, and the disobedience or resistance by any officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said court."

The extensive scope of this amendatory statute has been generally overlooked. The Federal courts were assuming and exercising the unlimited and unchecked powers resorted to by common-law courts, of deciding for themselves not only the mode of procedure and degree and amount of punishment, but of selecting for themselves particular acts of alleged misconduct which should be placed in the category of contempts. Congress treated the term "power" as synonymous with "jurisdiction," circumscribed the field of jurisdiction, specified the acts which should constitute contempts, and said that such power or jurisdiction shall not extend beyond these specified acts.

It has been suggested that Congress might have refused to create the inferior courts, or even the Supreme Court, and have thus caused the failure of the Government.

But it is said that when Congress has acted and established a Federal court the common-law and equity powers of the courts immediately flow into these judicial receptacles out of the Constitution. It is only necessary to examine this new doctrine to know to what absurdities it would lead. The common-law courts of England, with the King's bench at their head, in addition to administering statutory law and the common law proper, exercised certain parliamentary powers. In the English system the legislative and judicial departments were, and are, entirely independent of each other. It is true that the courts were bound by acts of Parliament as construed by them, but outside the statutes their powers were as free from limitation as those of Parliament itself. They were the exponents and final arbiters of public policy for the Kingdom.

Though it is often said that the three departments of our Government are separate and independent, which is true in a sense that they must not invade each other's constitutional domain and thus destroy each other, yet it is also true that arbitrary unchecked power does not abide with either of them. As the Supreme Court has well expressed it in Yick Wo *v.* Hopkins (118 U. S. Rep., 369):

"When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power."

To concede that the courts might, even within the limits fixed in the act of 1831, exclusively decide when a contempt has been committed and the amount or degree of punishment, with no power in Congress to set a limit thereto, would be to concede to the courts the power to annul every act of Congress, to paralyze the executive arm, to confiscate all property, and destroy all liberty. Of course few, if any, believe that the courts would ever proceed to such extremes, but it is sufficient to say that, according to our interpretation, the framers of the Constitution took care to safeguard the people against the possibilities of all such calamitous tendencies.

Referring to this bill, and comparing its provisions with the proviso added in 1831, it is seen that the bill only changes the procedure in contempt cases, while, as before stated, that proviso limited the jurisdiction subjectively.

The opposition was represented before the committee by able counsel, and many authorities were cited, few of which, however, in our opinion had any direct bearing on the question from a constitutional point of view. In fact, the power of Congress, as exhibited in the act of 1831, was so generally and uniformly conceded that not a single case has been found which ever questioned or doubted it. A few cases which, though not directly bearing upon the point of constitutionality, yet shed more or less light upon it will now be noticed.

It is argued that Congress can not require a court of equity to try issues of fact by jury. That is unquestionably sound doctrine, and the case of Brown *v.* Kalamazoo, circuit judge (87 Mich., 274), is sound law. But it is wholly inapplicable here. No one has thus far ever insisted that contempt is of equitable cognizance, or other than what the textbooks designated, namely, a special proceeding, criminal in its nature, not necessarily connected with any particular suit or action pending in the court.

Numerous State cases were cited in argument. They may all be answered as a class. The relation between Congress and Federal courts is not the same as that between State legislature and the State courts. The constitutions of the various States themselves provide for and establish the court, partition the powers of government between the legislative, executive, and judicial departments, prescribing safeguards, and defining their powers in detail; whereas the Federal Constitution has delegated full and complete control of the matter to Congress. Nor should the fact be overlooked that the State decisions on the subject are often based upon precedents of the common law, which is no part of the Federal system. Thus, in Ex parte McCowan (139 N. C., 95), that being typical of many such cases relied upon, it was said:

"We are satisfied that at common law the acts and conduct of the petitioner as set out in the case constitute a contempt of court, and if the statute does not embrace this case and in terms repeal the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void for reasons which we will now state."

In Finck *v.* O'Neill (106 U. S. Rep., 272) it appeared that Congress has taken from the court all power to enforce its judgment, and the act of Congress was upheld by the Supreme Court of the United States. In that case (p. 280) the court said:

"The United States can not enforce the collection of a debt from an unwilling debtor except by judicial process. They must bring a suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department, for they can exercise no jurisdiction except as the law confers and limits it."

And in Cary *v.* Curtiss (3 How., 236, 254) the same court said:

"The courts of the United States are all limited in their nature and constitutions and have not the powers inherent in courts existing by prescription or by the common law."

But in section 720 of the Revised Statutes we have a statute of Congress prohibiting the Federal courts from issuing injunctions in certain cases, and the constitutional validity of that statute was declared in Sharon *v.* Terry (36 Fed. R., 365). Now, the writ of injunction is the arm of the Federal courts in the exercise of their equitable powers, which it has been urged enjoy complete immunity from congressional action. And here a Federal circuit court sustained an act of Congress which subtracted an important part of equitable jurisdiction. Anyone taking the trouble to examine the judiciary act of 1789, with or without subsequent additions and amendments, will observe that it consists, in large part, of regulations of and limitations upon jurisdiction.

We close this head with the quotation from Ex parte Robinson (19 Wall., 505), cited with approval in the case of Bessette *v.* Conkey (194 U. S., 327), which is so clearly and obviously applicable and *conclusive that no* comment appears to be necessary:

"The power to punish for contempts is inherent in all courts. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power, but the power has been limited and defined by the act of Congress of March 3, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and power from the Constitution, may, perhaps, be a matter of doubt; but that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases—

"(1) Where there has been misbehavior of a person in the presence of the courts or so near thereto as to obstruct the administration of justice.

"(2) Where there has been misbehavior of any officer of the courts in his official transaction.

"(3) Where there has been disobedience or resistance by an officer, party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the courts. The law happily prescribes the punishment which the courts can impose for contempts. The seventeenth section of the judiciary act of 1789 (1 Stat. L., 73) declares that the court shall have power to punish defiance of their authority in any cause or hearing before them by fine or imprisonment, at their discretion. The enactment is a limitation upon the manner in which the power shall be exercised and must be held to be a negation of all other modes of punishment. The judgment of the court debarring the petitioner, treated as a punishment for contempt, was therefore unauthorized and void."

As to the other ground of objection urged—that is, that any interference with the full and complete dominion and discretion of the courts tends to disorganization and to the weakening of judicial authority—judging by the course of previous discussion on this measure, it is not anticipated that the policy of the provision placing a limitation upon the punishment which can be inflicted will be strenuously criticized, and, therefore, we will make no further comment on that.

TRIAL BY JURY.

The feature of the bill against which the most strenuous argument has been directed is that providing for jury trials. But no one has shown that such provision amounts to anything more than a change of procedure. So that the question comes down to this, Has Congress or not the power to prescribe procedure? The courts will still, if this bill passes, have all the substantive power left in their hands by the act of 1831. Not one of the acts there catalogued will have been eliminated. The method of ascertaining the facts in certain cases is changed, but their ascertainment is still under supervision of the court, and ample safeguards are provided against evasions and miscarriages of justice.

A contemnor, from the moment the facts are judicially ascertained, is, by uniform practice, either placed in durance or required to give bail. The result of an adverse judgment is always penal, both in form and effect, though the fine be sometimes turned over to a private litigant.

The manner of disposing of the fine does not alter, in any respect, the form and effect of the procedure or change it from criminal to civil.

SUCH LEGISLATION LONG DEMANDED.

The bill is an evolution from prolonged and varied discussion, by no means limited to a recent date or to the present Congress. Every feature and provision of it has been subjected to attack and defense, but the whole controversy appears to have at length converged upon the issue of whether or not the policy and practice of jury trial in contempt cases shall be admitted in the Federal jurisprudence at all.

That complaints have been made and irritation has arisen out of the trial of persons charged with contempt in the Federal courts is a matter of general and common knowledge. The charge most commonly made is that the courts, under the equity power, have invaded the criminal domain, and under the guise of trials for contempt have really convicted persons of substantive crimes for which, if indicted, they would have had a constitutional right to be tried by jury. It has been the purpose of your committee in this bill to meet this complaint, believing it to be a sound public policy so to adjust the processes of the courts as to disarm any legitimate criticism; and your committee confidently believes that, so far from weakening the power and effectiveness of Federal courts, this bill will remove a cause of just complaint and promote that popular affection and respect which is in the last resolve the true support of every form of governmental activity.

Mr. CLAYTON. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, the demand on the Democratic side of this House for time is so great that it is absolutely impossible for the gentleman from Alabama—the chairman of the Committee on the Judiciary—who has charge of this bill, to grant to the different Members on this side who desire to speak in favor of this measure as much time as they desire, and therefore I must be satisfied with the few minutes allotted me, which precludes me from speaking at length on the abuses that now exist and which the pending bill seeks to eliminate.

I am in favor of this bill, Mr. Speaker, but am of the opinion that it is not as broad as it should be. I would desire also to have it include those contempt proceedings that arise from suits or actions wherein the United States is a party, or where suits or actions are brought or prosecuted in the name of or on behalf of the United States. The bill is, however, a step forward in the right direction, and I am of the opinion that it will bring about a great deal of good and put a stop to the injunction abuses.

Mr. Speaker, within three minutes after I was sworn in as a Member of the Sixtieth Congress, namely, on December 2, 1907, I introduced a bill known as H. R. 148, which provided for trial by jury in all contempt proceedings. During the same session—on January 29, 1908—I introduced another bill known as H. R. 15647, which provided:

That any person or persons accused of violating or disobeying any preliminary, interlocutory, or final order of injunction of any nature, not committed in the actual presence of any court or judge, which injunction issued out of or was entered by any court or judge of any court of the United States, shall, before any penalty, fine, or imprisonment is imposed, be entitled to a trial by jury as to the guilt or innocence of such person or persons or for such offense; that is to say, in no case shall a penalty, fine, or imprisonment be imposed in such courts, or by any judge thereof, for any contempt or alleged contempt (except as hereinbefore provided) until an opportunity has been given said person or persons to be heard by jury: *Provided also*, That the judge who has issued said preliminary writ of injunction or any order or rule to show cause why a preliminary writ of injunction or any order in the nature of an injunction shall thereafter be disqualified from hearing or disposing of or from sitting in the trial of the matter so arising.

Mr. Speaker, you will observe that long before the then President of the United States, Hon. Theodore Roosevelt, made William H. Taft President, therefore long before he communicated his view on this subject to this House, I had been advocating and endeavoring to have legislation passed which

would disqualify any judge issuing an injunction from hearing, or disposing of, or from sitting in the trial of the matter arising under the proceedings.

Bills of similar character were introduced by me in both the Sixty-first and Sixty-second Congresses. Every one of the bills introduced by me provided for a trial by jury in contempt proceedings and also provided for a change of venue. In the Sixtieth Congress, as well as in the Sixty-first Congress, Mr. Speaker, I made repeated demands and requests upon the then chairman of the Judiciary Committee for hearings upon my bills, and during those four years I did everything in my power to have the chairman of that committee grant me a hearing, but without avail. I regret exceedingly that the Republican Party, then in power, refused to listen to the demands made for this needful and just legislation. It therefore affords me much pleasure that we to-day, being in the majority, are ready to comply with the demands of the American people and also to know that within a very short time we will pass this bill, which I am sure will eliminate a great many of the abuses in our courts, and a bill for which I have incessantly worked ever since I became a Member of this body.

The main object of this bill is to prevent judges from abusing the injunctive powers of the courts. It will secure to all men when held in contempt a trial by jury—a right given them by the Constitution. Mr. Speaker, there is no other right for which the people the world over have contended with greater zeal than the right of trial by jury in all cases where alleged violations of the law have taken place and where the life, liberty, or property of any citizen has been involved. In this great and glorious country of ours the Constitution of the United States and of the several States guarantees that right. Many bloody wars have been waged; innumerable laws have been enacted; judges have been impeached and deposed in order to maintain that sacred right which has long been recognized as one of the pillars in the structure of human liberty.

This course has been made necessary because experience has demonstrated that judges are human and prone to human errors, and while many of them hear and determine such cases as come before them with conscientious care there are many who do not hesitate to stretch or break the law in their eagerness and desire to promote the interest of those who were instrumental in securing their appointment, and then again there are others who have hopes of additional honors and rewards.

Mr. Speaker, I regret to say that these classes not only exist in the United States courts, but they also exist in some of the State courts. Frequently we hear of judges being nominated and elected by the influences of special interests or political bosses and who will do their bidding by carrying out their wishes and orders. Only a few weeks ago one of the State judges in my county, on a Sunday night, to keep the boss in power, issued at the request of said boss and his attorney an injunction against the county judge, the sheriff, the chief of police, and election commissioners restraining them from the performance of their duties, from carrying out and executing a legal order protecting delegates duly elected under a direct primary law, in the performance of their duty; and because these duly elected and appointed officials did obey the mandate of the county judge by according protection to these duly elected delegates in a convention assembled he not only held all the peace officers, including the county judge, in contempt, but also imposed a fine of $500 upon them. All this was done to please the boss who dictated and forced his nomination. If such a law as we are now considering had been on our statute books and could have been made applicable to injunctions issued by State judges, I doubt if a single Member present believes such shameful procedure would have taken place.

For the reasons I have stated I am heartily in favor of this bill, and my only regret is that is does not apply to all contempts not committed in the presence of the court or judge.

Mr. Speaker, in conclusion I want to say that this is not the first beneficial measure which the Republicans have refused to consider. Invariably when a measure which has a tendency to be of benefit to the people at large is introduced and considered in this House we always find some one on that side of the House interposing an objection. Therefore I was not surprised to-day when my colleague [Mr. STERLING] argued for over an hour and a half endeavoring to show that the bill was unconstitutional. It is the same old story, the same old plea whenever the Republican Party desires to defeat meritorious measures and they have no just or reasonable grounds upon which to attack it.

Mr. Speaker, this bill is not only demanded by the American Federation of Labor and all other organized labor, but it is demanded by every right-thinking and honest man who believes in equal justice to all and special oppression and persecution to none.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Alabama [Mr. CLAYTON] has 38 minutes and the gentleman from Illinois [Mr. STERLING] 21 minutes.

Mr. CLAYTON. Does the gentleman from Illinois desire to occupy a part of his time now?

Mr. STERLING. If the gentleman has but one more speech, I will consume the balance of my time.

Mr. CLAYTON. I believe, Mr. Speaker, that you said I had 38 minutes?

The SPEAKER. The gentleman from Alabama has 38 minutes and the gentleman from Illinois [Mr. STERLING] 21 minutes.

Mr. CLAYTON. I want to say to the gentleman from Illinois [Mr. STERLING] in all candor, that of the 38 minutes I expect to give to the gentleman from North Carolina [Mr. WEBB] 30 minutes, and I desire to use 8 minutes myself in conclusion. Therefore I ask him to use his time now.

Mr. STERLING. It is consistent with practice, of course, for you on that side to close this debate, but you ought not to have the close in two speeches, but in one speech. However, if the gentleman insists on it, I will not object.

Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. MORGAN].

The SPEAKER. The gentleman from Oklahoma [Mr. MORGAN] is recognized for 21 minutes.

Mr. MORGAN. Mr. Speaker, during the discussion of this bill or resolution the gentleman from Iowa [Mr. GREEN], among other things, made some remarks concerning a certain decision that had been referred to in the minority report from the Oklahoma Supreme Court. I could not understand distinctly all that the gentleman said, but I heard sufficient to know that the remarks he made were not complimentary to the Supreme Court of Oklahoma. I, of course, recognize the fact that the gentleman from Iowa did not intend any serious reflection on the courts of Oklahoma, and yet I do not like to hear such remarks without in a measure responding to them.

I presume that those who are familiar with the men who have occupied the Territorial supreme bench of Oklahoma, as well as the men who at present constitute the supreme court of our State, would recognize the fact that our courts have been of a very high grade and character, and that our judges, the men who have occupied those positions, have likewise been men eminently competent in every way, honorable men, men of high grade and character. I do not think that it is a very appropriate place here in this House for one to make remarks that reflect upon the courts or the institutions of another State. I think the gentleman from Iowa must have forgotten himself.

However, the decision referred to was a decision which was rendered while Oklahoma was a Territory, and not since statehood. It is true that during the period of our Territorial life we had a most excellent supreme court. Part of it was under a Democratic administration, with Democratic judges, and part of it was under a Republican administration. The judges were appointed by the President of the United States for their fitness and character for the high positions they occupied. But if there is anything wrong about that decision I think I understand the trouble. Those judges who served in Territorial days all came from some of the other States. I recall one that came from Indiana, and one that came from Missouri, and one that came from Nebraska, and another came from Iowa, educated in the schools and in the courts of Iowa—which may explain anything wrong in the decision referred to.

Mr. MORGAN. Mr. Speaker, the bill under consideration proposes to amend the act approved March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary." The act referred to is amended by inserting after section 268 five new sections. The propositions in controversy rise largely out of the proposed new sections 268a, 268b, and 268d. That we may have this matter before us clearly, I quote from the bill as follows.

Section 268a provides as follows:

SEC. 268a. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law, shall be proceeded against for his said contempt as hereinafter provided.

Section 268b in part provides as follows:

In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient

number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

Section 268d in full provides:

SEC. 268d. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 268a of this act may be punished in conformity to the usages at law and in equity now prevailing.

These provisions indicate the changes which this bill proposes to make in the procedure in our Federal courts in certain contempt cases. The provisions of the bill apply only to proceedings in contempt when the act complained of be of such a character as to constitute a criminal offense under a statute of the United States or at common law, and in no case shall the provisions of the act apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to cases brought or prosecuted in the name of or on behalf of the United States.

QUESTIONS INVOLVED.

There seems to be two main questions involved in the provisions of this bill.

First. Are the provisions of the bill constitutional?

Second. Is the proposed legislation wise and proper?

I have not examined the authorities carefully with a view to determining the power of Congress to enact the proposed legislation. I have listened to the discussion of the question here to-day. I have concluded from this discussion that the provisions of this bill are constitutional and that the Congress, under the Constitution, may enact this legislation. The able and distinguished gentleman from Illinois [Mr. STERLING] has delivered a most able address in which he stoutly contends that the proposed legislation is not within the power of Congress. The gentleman reasons with great force and clearness, and presents his views in a way that shows that he has given great study and research to the question, and we all recognize that he is honest and conscientious in his conclusions. I can not, however, agree with him that the legislation proposed in this act is unconstitutional, and I believe that if this bill shall become a law the courts will hold that Congress has not exceeded its power.

Believing that Congress has the constitutional power to enact the provisions of this bill, the next question to be considered is the character of the legislation. Is it wise? Is it proper? Will it contribute to the well-being of society? Will it strengthen the fabric of our Government? Will the results flowing from this legislation prove helpful to the people of this country? Or, on the other hand, is this dangerous legislation? Will it prove harmful? Will it weaken popular government? Will it tend to degrade our courts and bring them into disrepute among the people? Will such legislation encourage disorder, violence, and crime?

I have given some thought to these and similar questions. I have great respect for both our Federal and State courts. I believe as a rule our judges are honest, sincere, patriotic public officials. Our courts rank with the best in the world and are worthy the highest respect and confidence. The great respect which our people generally have for our courts is not because of the great power and authority which the law confers upon the courts or the judges. The people respect our judges and have confidence in our courts because as a rule the judges and our courts are entitled to respect and confidence.

After all, public sentiment is the highest law of the land. Our courts can not endure with a continued hostile and adverse public sentiment. Unless supported by public sentiment our courts must go down. Because in the end public sentiment will change precedents, overrule decisions, repeal laws, and amend constitutions.

Our Constitution carefully guards personal liberty and guarantees the right of trial by jury when one's life or liberty is involved. To confer upon judges in indirect contempt cases the power to punish by long imprisonments—by depriving a man of his liberty—would seem to be out of harmony with the provisions of the Constitution, which guarantees jury trial in criminal cases. Of course, we can not have courts unless the judges can preserve order, maintain the dignity of the court, and enforce their decrees. But the provisions of this bill do not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice. The object of this bill is not to destroy or weaken our courts, but to throw around our citizens an additional safeguard for the protection of liberty. This bill does not permit violations of the orders of our courts; it does not excuse such violations, but simply provides that in certain cases a person charged with contempt can not be punished until a jury has passed upon the facts.

I see no danger in such legislation, and I shall vote for the bill. I do not believe such legislation will encourage violence, disorder, or crime. It may be said that this proposed legislation comes before this House in response to the demands of organized labor. This should not prevent its passage. Organized labor is certainly entitled to be heard. It is labor that produces all our wealth. The welfare of our wage earners is the welfare of the Republic. Whatever contributes to the well-being of the men who do the work of the Nation adds to the strength and greatness of the Nation.

Labor organizations are not perfect, and the men who compose such organizations are human beings like the rest of us, and, of course, do not profess perfection. But labor unions have much to their credit for the good which they have accomplished. With organized capital now supreme in the land, labor unions are essential. Such organizations have done much to shorten the hours of labor, increase wages, improve conditions under which labor is performed, and to educate public sentiment to understand the rights of labor. We hear much of the conflict between capital and labor. In a sense there is such a conflict. But in the broadest sense there is no conflict between capital and labor. Employer and employees are interested in the prosperity and welfare of each other. I am for industrial peace. But if occasional conflicts come, let us not dispair. I believe the great body of American workmen are patriotic American citizens, firmly attached to our free institutions, and devoted to the principles of free government. I trust it may always be so. I believe we may contribute to this end by shaping our national legislation so as to recognize any reasonable demand of labor and make those who create the wealth of the Nation feel that their rights and interests are fully recognized and that they reap a reward commensurate with the labor performed.

REGULATION OF INJUNCTIONS.

We have, during this session of Congress, passed a bill which may be regarded as a companion of the measure now under consideration. I refer to H. R. 23635. It relates to the issuing of injunctions by the Federal courts. One of the important provisions of this bill is as follows:

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

I voted for the above law, as contained in the bill passed by this House May 14, 1912. In my judgment we should see that such laws are passed that will prevent judges from abusing the power of issuing injunctions and abusing the power to punish for contempt. It has been asserted that judges seldom abuse this power. I believe this is true. But we should, if possible, enact such laws as will prevent any abuse of this power. Such laws, I believe, will tend to increase respect for our courts and judges. Whenever power is lodged in a public official, we should throw around him wise restrictions to prevent, if possible, any abuse or misuse of this power. This, as I understand, is the very object of this proposed legislation relating to contempt and injunction proceedings. And so looking at this proposed legislation, I give the same my support and my vote.

We have in this country about 35,000,000 persons over 10 years of age engaged in gainful occupations. Eleven million of these are on the farm; 7,000,000 are engaged in domestic and personal service, including common laborers; 7,000,000 are engaged in trade and transportation; and 9,000,000 are engaged in manufacturing and mechanical pursuits. It is this army of toilers that gives our country its wealth, its prosperity, its prestige abroad, and its real strength at home. In all our legislation we should keep in view the physical, intellectual, social, and moral uplift of this grand army of workers. Their advancement, their welfare, their happiness should at all times be paramount. Organized labor in numbers, it is true, constitutes but a small per cent of the total number of people engaged in gainful occupations. But all our wage earners reap advantages, benefits, and blessings from battles fought and won by organized labor. My hope is that the great body of our laboring men will continue as they are now—law-abiding, liberty-loving, loyal-

hearted, patriotic American citizens. And so long as I shall be intrusted with legislative power in our National Legislative Assembly I shall vote for all measures which I believe will contribute to the welfare of labor, for I believe this is the best way to add strength to our Nation and insure the prosperity and happiness of all our 90,000,000 of people.

Mr. CLAYTON. Mr. Speaker, I desire now to yield to the distinguished statesman from Iowa, who has introduced a bill seeking to accomplish the purpose that this bill seeks to accomplish. I refer to that gallant young Iowan, Mr. KENDALL. [Applause.]

Mr. KENDALL. Mr. Speaker, I should have been very much more gratified if the distinguished chairman of the Committee on the Judiciary could have found it convenient to give me additional time in lieu of the compliment which he has tendered me, although I am, of course, profoundly grateful for that.

Mr. CLAYTON. If I had had it, it would have been yielded to the gentleman and he would have edified the House. [Applause.]

Mr. KENDALL. I am sure the first half of the gentleman's proposition is correct. In the limited time available to me I want to elaborate somewhat the excellent argument advanced by my esteemed friend from Pennsylvania, Mr. WILSON, when he addressed the House this afternoon.

On the 14th day of last May this House, by a vote of 243 yeas to 31 nays, passed a bill, H. R. 23635, intended to regulate the issuance of injunctions, and I read that measure here because I want to refer to its provisions in connection with the legislation we are now considering:

Be it enacted, etc., That section 263 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and the same is hereby, amended so as to read as follows, and that said act be further amended by inserting after section 266 thereof three new sections, to be numbered, respectively, 266a, 266b, and 266c, reading as follows:

"SEC. 263. That no injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an opportunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined a reasonable time in advance of such application. But if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury is likely to ensue to the complainant, and that the giving of notice of the application or the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

"SEC. 266a. That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

"SEC. 266b. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

"SEC. 266c. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto."

Mr. Speaker, the protest against the abuse of the injunctive process has become national in its character. It is too respectable to be denounced as unreasoning clamor and it is too insistent to be ignored as temporary discontent. Throughout the country there is a confirmed conviction that the equity powers of the Federal judiciary have been employed not exclusively to preserve property from destruction, but frequently to compel the settlement of industrial disputes. [Applause.] In his annual message to Congress, submitted December 3, 1906, the President recognized the situation in the following language:

> There must be no hesitation in dealing with disorder. But there must likewise be no such abuse of the injunctive power as is implied in forbidding laboring men to strive for their own betterment in peaceful and lawful ways; nor must the injunction be used merely to aid some big corporation to carry out schemes for its own aggrandizement. It must be remembered that a preliminary injunction in a labor case, if granted without adequate proof—even when authority can be found to support the conclusions of law upon which it is founded—may often settle the dispute between the parties, and therefore if improperly granted may do irreparable wrong.

Again, on January 31, 1908, the same high authority declared in a communication to Congress:

> It is all wrong to use the injunction to prevent the entirely proper and legitimate actions of labor organizations in their struggle for industrial betterment, or under the guise of protecting property rights unwarrantably to invade the fundamental rights of the individual. It is futile to concede, as we all do, the right and necessity of organized effort on the part of the wage earners, and yet by injunctive process to forbid peaceable action to accomplish the lawful objects for which they are organized and upon which their success depends.

While the recommendations of the Executive are not, as matter of course, to be adopted by the Congress, they may be accepted in this instance as establishing a widespread dissatisfaction with the practice obtaining in the United States courts. This body, in House bill 23635, which I have just read, undertook to enact legislation to remedy the evils complained of. That measure, if it shall become effective, will make impossible the issuance of injunctions (a) without reasonable notice to all concerned, (b) without including the names of all persons affected, (c) without abundant indemnity against damage that may be sustained, (d) without specific detail of acts and conduct enjoined by the order. These provisions are of general application and encountered but little opposition when they were under discussion in the House. But the concluding section, 266c, relates particularly to the interference of equity courts in labor controversies, and provoked elaborate discussion. It provides that in such disputes no injunction shall issue unless necessary to prevent irreparable injury to property or property rights, and that these rights must be specifically defined by verified application; and it crystallizes into the law the most intelligent opinions of the most authoritative tribunals concerning those things which, in the enlightened judgment of this age, are permissible to be done by workingmen in a labor disagreement. Mr. Speaker, I have the honor to represent on this floor many thousands of wage earners. They are as intelligent, as industrious, as peaceable, as law-abiding as any citizenship beneath the flag. [Applause.] But they do not understand that the obligations of patriotism require them to believe in government by injunction or to surrender the right of trial by jury. [Applause.]

Now, the pending bill is as follows:

Be it enacted, etc., That the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and the same is hereby, amended by inserting after section 268 thereof five new sections, to be numbered, respectively, 268a, 268b, 268c, 268d, and 268e, reading as follows:

"SEC. 268 a. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law, shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 268 b. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

"If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them, as the court may direct; but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

"SEC. 268 c. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States.

"SEC. 268 d. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 268 a of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 268 e. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

This measure, which is designed to regulate the procedure in prosecutions for contempt must be considered as complementary to H. R. 23635, to which I have just referred, controlling the issuance of injunctions. If they are both finally incorporated into our system of law, it will not be possible in the future for the process of injunction to be invoked and abused in labor controversies as it has been in the past. [Applause.] No court then will be authorized to entertain an application for the restraint of men in the adoption of all lawful and peaceable methods to secure a redress of grievances against their employers. They may assemble, they may engage in discussion, they may strike, they may persuade their associates to unite with them, they may refuse to patronize any party to a disagreement, they may provide for strike benefits—in short, they may do any and all things to promote the success of their struggle so long as no statute is violated. [Applause.]

All these rights are guaranteed to workingmen by H. R. 23635, and no equity court may interpose its power to deny them. The bill now under consideration extends the measure of their protection, although by omitting to render all indirect contempts triable by jury it is not as comprehensive as the friends of the reform desire. In some respects, however, it is an improvement over the bill I introduced seeking to effectuate the same purpose, and for that reason it commands my earnest support. It simply provides that if the violation of the injunction be alleged and the act constituting the violation be criminal in its character, then the defendant shall be entitled to trial by a jury of his countrymen. The authorities which have been cited by the eminent lawyer who presides over the committee reporting the bill remove all doubt that Congress possesses the constitutional power to enact this legislation. The remaining question is one of expediency. Is it necessary? Is it wise? Is it approved by high considerations of public policy?

The practice which we seek to correct is of modern development, and the abuse which we hope to remedy is of recent origin. As was said by Judge Henry Clay Caldwell, one of the ablest of the many able jurists produced by my own State:

> The modern writ of injunction is used for purposes which bear no more resemblance to the uses of the ancient writ of that name than the milky way bears to the sun. Formerly it was used to conserve the property in dispute between private litigants, but in modern times it has taken the place of the police powers of the State. With it the judge not only restrains in punishing the commission of crimes defined by statute, but he proceeds to frame a criminal code of his own as extended as he sees proper, by which various acts in a suit of law and morals are made criminal, such as standing, walking, or marching on the public highway, or talking, speaking, or preaching and other like acts. In proceedings for contempt for an alleged violation of the injunction the judge is the lawmaker, the injured party, the prosecutor, the court, and the jury. It is not surprising that, uniting in himself all these characters, he is commonly able to obtain a conviction.

The conditions described by Judge Caldwell are admitted to exist, and it is to terminate them that this legislation is necessary.

I am sure we were all much diverted by the discussion indulged in by the gentleman from Illinois [Mr. MANN] and by the supposititious case which he conjured up out of his fertile imagination. He advanced the novel notion that no defendant accused of contempt could avail himself of the provisions of this bill unless he first establish his own guilt of a criminal offense. I was surprised that a lawyer of his reputation and a legislator of his experience should submit a proposition so essentially unsound and insist upon it with apparent seriousness. Mr. Speaker, no difficulty whatever will be encountered in the administration of this measure if it shall be enacted into law. Where an injunction has issued and a complaint is presented that the order of the court has been violated, the complaint itself will of necessity disclose the character of the act constituting the alleged contempt.

If it is not criminal in its nature, the court will proceed to adjudicate the issue; if it is criminal in its nature, the defendant will be entitled to trial by jury precisely as if he were indicted for the offense. [Applause.] And this because his liberty is jeopardized in the result of the proceeding. [Applause.]

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. CLAYTON. Mr. Speaker, I will yield the gentleman two minutes more if he desires it.

Mr. KENDALL. I thank my friend from Alabama. The fundamental principle involved is one of the utmost importance to every citizen. The fathers who established this Government were so devoted to the conviction that no man should be deprived of his liberty, except upon the verdict of his peers after impartial trial, that they anchored that proposition in the Constitution itself when that charter of democracy was ordained. [Applause.] It is not a privilege, as some gentlemen in this debate have designated it; it is a right invaluable and inalienable. [Applause.]

Mr. Speaker, this bill contemplates no assault upon the courts. I have practiced law all my adult years, and when I have finished my labors here I expect to resume my pursuit of that noblest of professions. I allow none of my associates on this floor to surpass me in proper respect for the judiciary, but I do not acknowledge the unquestioning reverence for that institution which some of them appear to experience. It is profitable for us to remember that, after all, a judge is only a lawyer transferred to the bench—no different in temperament or character than before his elevation to the judicial office.

The system under which we have been operating can no longer be successfully defended. [Applause.] A chancellor, appointed for life and responsible to nobody, issues an injunction invading the natural rights of men and then, when a violation is alleged, he appropriates to himself the functions of prosecutor, court, and executioner. [Applause.] This situation is intolerable, and it is to correct it that this legislation is universally demanded. I am gratified that Congress is finally about to respond to the overwhelming sentiment of the country. [Applause.]

Mr. CLAYTON. Mr. Speaker, I now yield 30 minutes to my colleague on the committee, the gentleman from North Carolina [Mr. WEBB].

Mr. WEBB. Mr. Speaker, there is a widespread demand among lawyers and laymen throughout the United States for some curbing or limitations upon the power of the Federal court judges who both try and punish for contempt. As to the policy of this bill, I shall not discuss it at great length. As to the constitutionality of it, I want to devote a few minutes, and, of course, I must necessarily abbreviate my argument in order to bring it within the limit of time assigned to me.

In the first place, I want to get into the RECORD a brief synopsis of the bill.

Section 1, 268a, provides that anyone who willfully violates the writ of any district court by doing anything forbidden to be done by him, if the thing constituted also a criminal offense against the United States law or the common law, shall be proceeded against in the following manner, to wit, section 2: When shown by the return of the officer or by the affidavit of some credible person or by information filed by the district attorney that there is reasonable ground to believe that any person has been guilty of contempt, as set forth in section 1, or 268a, any judge sitting may issue a rule to show cause why such person shall not be punished. If upon return or answer the contempt be not sufficiently purged, in the opinion of the court, the court shall direct a trial at a certain time and place, and if the accused fail or refuse to answer he may be compelled by the court to give bond for his appearance and for his submission to final judgment of the court.

In all cases covered by this act, such trial may be by the court, or, upon the demand of the accused, by a jury; and the jury may be impaneled from those in attendance, or the judge at chambers may cause a sufficient number to be selected and summoned, as provided by law, and the jury shall be impaneled as upon a trial for misdemeanor, and the trial shall conform as near as may be to the practice of criminal cases.

If the accused is found guilty, the judge shall prescribe the punishment, either by fine or imprisonment, or both, in his discretion, and the fine shall be paid to the United States or to the party or parties injured, as the court may direct; provided that in no case shall the fine paid to the United States

exceed $1,000, if the accused is a natural person, and the imprisonment shall not exceed six months in jail.

Section 3, or 266c, provides that the evidence taken at this trial may be preserved by bill of exceptions, and any judgment may be reviewed upon writ of error as now provided by law in criminal cases, and upon granting such writ of error execution of judgment shall be stayed, and the accused, if sentenced to imprisonment, shall be admitted to bail in such sum as the court or any justice or any judge of the district court may deem proper.

Section 4, or 268d, provides that this act shall not apply to contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice, nor to contempts growing out of the disobedience of any order in any suit brought or prosecuted in the name of or on behalf of the United States.

Section 5, or 268e, makes the statute of limitations in such contempt cases and in all contempt cases one year from the act complained of. Nor shall any such proceeding bar a criminal prosecution for the same act or acts. Nothing in this act shall affect any proceeding for contempt pending at the time of the passage of this act.

Mr. Speaker, it is needless to tell this House that the Judiciary Committee worked long, patiently, and faithfully upon this measure. It is a delicate question, and we realized it. We tried to avoid Scylla and at the same time we did not want to run into Charybdis, and we believe, and sincerely believe, that we have a good bill. It does not go as far as some Members would have it go, because many Members believe in the trial of all indirect contempts by jury. Finally we have evolved this bill, which, to me, seems to be the fairest and subject to least objection, and I am really surprised that my friends on the other side should oppose it at all. Their objection which they urge against it indirectly is that it does not go far enough after all. I believe the time will come when possibly all indirect contempts will be tried by jury, and that this bill may be only a step in that direction.

Having read the bill and its provisions, I want to read an excerpt from the pen of that great judge, Henry Clay Caldwell, who was appointed a Federal judge in 1864 by Abraham Lincoln, and who served as a Federal judge for 39 years:

> The modern writ of injunction is used for purposes which bear no more resemblance to the uses of the ancient writ of that name than the milky way bears to the sun. Formerly it was used to conserve the property in dispute between private litigants, but in modern times it has taken the place of the police powers of the State and Nation. It enforces and restrains with equal facility the criminal laws of the State and Nation. * * * In proceedings for contempt for an alleged violation of the injunction the judge is the lawmaker, the injured party, the prosecutor, the judge, and the jury. It is not surprising that uniting in himself all these characters he is commonly able to obtain a conviction. While the penalty which the judge can inflict by direct sentence for a violation of his code is fine or imprisonment, limited only by his discretion, capital punishment may be inflicted by indirection. All that seems to be necessary to this end is to issue a writ to the marshal or sheriff commanding him to prevent a violation of the judge's code, and then the men, with injunction nooses around their necks, may be quickly dispatched if they attempt to march across this injunction deadline. It is said the judge does not punish for a violation of the statutory offense but only for a violation of his order prohibiting the commission of the statutory offense. Such reasoning as this is what Carlyle calls "logical cobwebbery." The web is not strong enough to deprive the smallest insect of its liberty, much less an American citizen * * *. A jurisdiction that is not required to stop somewhere will stop nowhere.
>
> Prof. Baird says fish have no maturity, but continue to grow until they die. This curious characteristic of fish is present in a very intensified form in the equitable octopus called injunction, for that has no maturity and never dies, and its jurisdiction grows and extends perpetually and unceasingly.

Mr. BUCHANAN. Mr. Speaker, will the gentleman state what volume and page he is reading from?

Mr. WEBB. I am reading from the American Federationist of 1910, from what purports to be an address by this distinguished jurist, published in that magazine.

I want to address myself now for a few minutes to the proposition that has been so stubbornly fought here this afternoon, that the Congress has the power to limit the judge's power to try and punish for contempts. To begin with, the point has been made that the Congress has no right to deprive a judge of the power to punish for contempt, and in answer I want to say that this bill does not do that. This bill does not deprive the judge of the power to punish for contempt. He has the power to punish disobedience of his orders, provided the defendant is found guilty by a tribunal of 12 men. The bill of the gentleman from Illinois [Mr. STERLING], which he will offer as a substitute, itself is an argument against his own position here this afternoon, because section 2 of his bill provides that if any man accused of contempt of a judge's order shall file a written statement alleging that in his opinion the judge whose order he has violated is biased, right then and there, eo instanti, the tribunal is changed and a new judge is to try the issue of guilt and inflict the punishment.

Now, pray tell me if you have the power to transfer the trial of a contempt case from one judge to another and new judge, tell me why you can not transfer the question of guilt or innocence of the accused to a jury to ascertain whether or not the offense has been committed. It is a question of fact to be determined first by a proper tribunal, and most of these arguments on the other side this afternoon have been an indirect assault upon the entire jury system, the most perfect system ever devised by man up to the present hour to determine controversies between man and man. The star chamber in England tried to abolish it and brought revolution in its effort to do so, but this country's jurisprudence will never decline and our country will always remain strong and great so long as the jury system is preserved inviolate and incorrupt. [Applause.] Now, Mr. Speaker, I want to state here that in the early history of this country this very point was practically raised as to whether or not these inferior courts established by Congress could have their powers limited by Congress. The Constitution does say the judicial power of the United States shall be vested or shall rest in one supreme court and in such inferior courts as Congress shall from time to time establish. I take it that if you run down the decisions from 1799 to the present time you will not find a decision of any court but what says that these inferior courts are absolutely and entirely the creatures of Congress, and surely the power that can create can also limit the power of the creature. Inherent powers! There are no inherent powers in any inferior court. The only power that the district court possesses is that prescribed by Congress—the body that creates it—otherwise we could bring into being a power that would be superior to the creator. The power to punish for contempt, according to my friend's [Mr. STERLING's] own bill, is shown not to be inherent in inferior courts. If such power is inherent, you have no right to provide, as you do in your bill, a limit to the punishment.

If the power to punish were inherent in all inferior courts, there would be no limitation upon such power except the constitutional provision that there shall be no cruel or unusual punishment, and yet my friend from Illinois, good lawyer that he is, provides in his bill that the fine shall not be over $1,000 and the imprisonment be not more than six months. You take away from the court the inherent power, if it have such power, to punish for contempt when you undertake to limit that power. If you can make a limitation of that power to six months' imprisonment, you can make it 30 days; and if you can make it 30 days you can make it 30 minutes, and if you can limit it to 30 minutes you can bring it to nothing and abolish the power altogether. Has every inferior court the power to try a case between man and man or between a State and State? Take the court in New York, the Customs Court, or take the Court of Commerce, and they are inferior courts, but their powers are strictly limited by Congress, which created them.

Mr. CLAYTON. Mr. Speaker, may I interrupt the gentleman from North Carolina to say that the present occupant of the White House, in his letter of acceptance some three or four years ago, conceded the power of Congress to designate another judge to try a contempt case? Then if Congress has the power to designate another judge to pass upon the question of facts in a contempt proceeding, can not Congress with equal propriety and with equal effect provide that a jury shall pass upon the facts as provided for in this bill?

Mr. WEBB. That is the argument I am trying to make, Mr. Speaker, and the first authority I wish to cite in this connection was written in 1799 in the case of Turner against The Bank of North America, and in that case the very argument was made that has been made here this afternoon by gentlemen on the other side, to wit, Mr. Ellsworth——

Mr. STERLING. What page?

Mr. WEBB. Page 9; and you will find it in Fourth Dallas.

> It is, then, to be remarked that the judicial power is the grant of the Constitution, and Congress can no more limit than enlarge the constitutional grant.

Then Judge Ellsworth, Chief Justice at that time, interrupted this argument and said:

> How far is it meant to carry this argument? Will it be affirmed that in every case to which the judicial power of the United States extends the Federal courts may exercise the jurisdiction, without the intervention of the legislature, to distribute and regulate the power?

Justice Chase said:

> The notion has frequently been entertained that the Federal courts derive their judicial power immediately from the Constitution, but the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us or to any other court, it still remains at the

legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the Federal courts to every subject in every form which the Constitution might warrant.

That was in 1799, and, gentlemen, from that good hour to this the suggestions of Chief Justice Chase and Judge Ellsworth have been followed.

Mr. STERLING. Will the gentleman yield for a question?

Mr. WEBB. I would like very much to yield to the gentleman from Illinois [Mr. STERLING], but I have only 14 minutes remaining, and I can not discuss this question in that time. If I had the time I would gladly yield to the gentleman.

Mr. STERLING. It is only a question, not a statement.

Mr. WEBB. I would not be discourteous to the gentleman for the world, and he knows that.

Mr. STERLING. I have yielded very generally this afternoon.

Mr. WEBB. The gentleman will remember that I did not ask him a single question or interrupt him once. I understand the gentleman means it was a question of jurisdiction the court passed upon. The question of jurisdiction is a power which inheres in the court. If it has no jurisdiction, it is no court and has no power, and with equal force my friend could argue that we can not deprive an inferior court of jurisdiction, though we create such court.

Now, in The United States against Hudson, page 31, in Seventh Cranch, we find this expression:

Of all the courts which the United States may, under their general powers, constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution, and of which the legislative power can not deprive it. All other courts created by the General Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the General Government will authorize them to confer. * * * For the power which Congress possess to create courts of inferior jurisdiction necessarily implies the power to limit the jurisdiction of those courts to particular objects; and when a court is created and its operations confined to certain specific objects, with what propriety can it assume to itself a jurisdiction much more extended, in its very nature very indefinite, applicable to a great variety of subjects, varying in every State in the Union, and with regard to which there exists no definite criterion of distribution between the district and circuit courts of the same district?

Now, next we come to Third Howard, on page 245, Cary against Curtis—and I may say that this decision was affirmed in Fink against O'Neil, in One hundred and sixth United States. Says the court:

Secondly, in the doctrine so often ruled in this court, that the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) for the exercise of the judicial power and of investing them with jurisdiction, either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good. To deny this position would be to elevate the judicial over the legislative branch of the Government and to give to the former powers limited by its own discretion merely. It follows, then, that the courts created by statute must look to the statute as the warrant for their authority; certainly they can not go beyond the statute and assert an authority with which they may not be invested by it or which may be clearly denied to them. * * * The existence of the judicial act itself, with its several supplements, furnishes proof unanswerable on this point. The courts of the United States are all limited in their nature and constitution, and have not the powers inherent in courts existing by prescription or by the common law.

What can be stronger, gentlemen, than that decision rendered in Third Howard and reaffirmed in One hundred and sixth United States in the case of Fink against O'Neil, at page 280?

Now, here is still another authority to which I wish to call the attention of the Members of the House, found in Forty-ninth United States, or Eighth Howard:

Courts created by statute can have no jurisdiction but such as the statute confers.

It is absurd, it seems to me, to hold that the creator can create a thing which after it is created becomes bigger and more powerful than its creator. It was never so intended by the founders of the Government, and it is opposed to the genius of our institutions to suppose a thing created can become more powerful than the people who created it. Now, in this decision, Judge Grier, rendering it, says:

It must be admitted that if the Constitution had ordained or established the inferior courts, and distributed to them their respective powers, they could not be restricted or divested by Congress.

Nobody undertakes to say that we can restrict or divest the power of the Supreme Court of the United States, because that court was created by the Constitution and that is the distinction this judge draws here:

But as it has made no such distribution, one of two consequences must result—either that each inferior court created by Congress must exercise all the judicial powers not given to the Supreme Court, or that Congress, having the power to establish the courts, must define their respective jurisdictions. The first of these inferences has never been asserted, and could not be defended with any show of reason, and if not, the latter would seem to follow as a necessary consequence, and it would seem to follow also that, having a right to prescribe, Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers. No one of them can assert a just claim to jurisdiction exclusively conferred on another or withheld from all.

The Constitution has defined the limits of the judicial power of the United States, but has not prescribed how much of it shall be exercised by the circuit court; consequently the statute which does prescribe the limits of their jurisdiction can not be in conflict with the Constitution, unless it confers powers not enumerated therein.

Such has been the doctrine held by this court since its first establishment. To enumerate all the cases in which it has been either directly advanced or tacitly assumed would be tedious and unnecessary.

I cite still another authority, Mr. Speaker. It is in Eighteenth Wallace, page 577, and is known as the case of the Sewing Machine Companies. It bears out the decision which I have just read. It is as follows:

Circuit courts do not derive their judicial power immediately from the Constitution, as appears with sufficient explicitness from the Constitution itself, as the first section of the third article provides that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." Consequently the jurisdiction of the circuit court in every case must depend upon some act of Congress, as it is clear that Congress, inasmuch as it possesses the power to ordain and establish all courts inferior to the Supreme Court, may also define their jurisdiction. Courts created by statute can have no jurisdiction in controversies between party and party but such as the statute confers. Congress, it may be conceded, may confer such jurisdiction upon the circuit courts as it may see fit within the scope of the judicial power of the Constitution not vested in the Supreme Court, but as such tribunals are neither created by the Constitution nor is their jurisdiction defined by that instrument, it follows that inasmuch as they are created by an act of Congress it is necessary in every attempt to define their power, to look to that source as the means of accomplishing that end. Federal judicial power, beyond all doubt, has its origin in the Constitution, but the organization of the system and the distribution of the subjects of jurisdiction among such inferior courts as Congress may from time to time ordain and establish, within the scope of the judicial power, always have been and of right must be the work of the Congress.

Now, Mr. Speaker, in Nineteenth Wallace, at pages 510 and 511, we have a contempt case. The syllabus says:

The act of March 2, 1831, entitled "An act declaratory of the law concerning contempts of court," provides in its first section:

"That the power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts or so near thereto as to obstruct the administration of justice, the misbehavior of any officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts."

Mr. CLAYTON. That is Ex parte Robinson?

Mr. WEBB. Yes; that is Ex parte Robinson. Mr. Justice Field, in that case, after stating the facts of the case, delivered the opinion of the court, as follows:

The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power. But the power has been limited and defined by the act of Congress of March 2, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and powers from the Constitution, may perhaps be a matter of doubt. But that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases: First, where there has been misbehavior of a person in the presence of the courts or so near thereto as to obstruct the administration of justice; second, where there has been misbehavior of any officer of the courts in his official transactions; and, third, where there has been disobedience or resistance by any officer, party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the courts.

There are three classes of cases. There is no inherent power suggested there, because the Supreme Court says that Congress has the right to limit the power of the courts of this country to punish for contempt to three classes of cases. Now, if Congress can reduce them to three, it can reduce them to one, and if they reduce them to one, Congress can destroy contempt cases altogether, and if Congress destroys them altogether, why can not it say that in certain cases a jury must intervene and determine whether or not the party is guilty before the judge shall inflict punishment?

Mr. STERLING. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. WEBB. I regret that I can not. I want to conclude this argument.

But, says the court, the power is limited. What power? The power to punish for contempt. By whom is it limited? Nobody

but the lawmaking power can do it, and the court says it can do it in this case, and the power has been limited and defined by act of Congress of March 2, 1831. Justice Field says:

> The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and powers from the Constitution, may perhaps be a matter of doubt.

We find in this case in Nineteenth Wallace, 86 United States—

> That we can limit the power over contempt in the circuit and district courts. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in three classes of cases.

This is a direct decision in point, gentlemen of the House, which declares that the Congress has the power to limit the punishment to three classes of cases, and if it has the power to limit the punishment to three classes of cases, we can limit that power to one class of cases, or abolish it altogether. I contend that if Congress desires to take away from the inferior courts all power to punish for contempt it can do it.

Mr. CLAYTON. And Congress has the power to abolish inferior courts?

Mr. WEBB. Yes. We could abolish the circuit courts of the United States, which we have done, and the Commerce Court, the district courts, and all the courts, except the Supreme Court, and therefore it is absurd to argue that while we have the power to destroy we have not the power to regulate the thing we create.

Now, Mr. Speaker, in One hundred and forty-seven United States we find this decision:

> The Constitution has defined the limits of the judicial power of the United States, but has not prescribed how much of it shall be exercised by the circuit court, consequently the statute which does prescribe the limits of their jurisdiction can not be in conflict with the Constitution, unless it confers powers not enumerated therein.

Gentlemen, I realize that this presentation has been very imperfect, because I have had to make it very hurriedly. In conclusion I refer again to this great Judge Caldwell, who was on the bench for 39 years, who says, after 39 years' experience as an inferior court judge, first as a district judge and then as a presiding member of the circuit court for 13 years, that the people need not fear the tyrannical power of inferior court judges, because the power and the right rests in the people through their Representatives in Congress to prescribe the bounds and to set the limits to which those courts may go.

My friend from Illinois [Mr. STERLING] and I look at this question from different points of view, but I can not see how any lawyer can read all these authorities, from 1799 to the present, and then contend that the people who create these courts through their Representatives in Congress have no right to provide that before a man shall be convicted of crime by a judge there shall be flung between him and the judge's arbitrary power a jury of 12 men, one of the most sacred institutions in all the world, and especially to the people of the United States, simply to pass upon the facts and say whether he is guilty. If the man is guilty, the judge has all the power he needs to punish, provided it does not exceed six months' imprisonment or a fine of $1,000. [Applause.]

Mr. STERLING. I ask unanimous consent to extend my remarks in the RECORD.

Mr. CLAYTON. I ask that the gentleman from Illinois include in his request all gentlemen who have spoken on this bill.

Mr. STERLING. I will include them in my request. Mr. Speaker, I ask unanimous consent that all Members who have spoken on this bill be given five legislative days in which to extend their remarks on the bill in the RECORD.

Mr. CLAYTON. I join in that request, Mr. Speaker.

The SPEAKER. The gentleman from Illinois [Mr. STERLING] and the gentleman from Alabama [Mr. CLAYTON] ask unanimous consent that all Members who have spoken on this bill shall have five legislative days in which to extend their remarks on the bill. Is there objection?

There was no objection.

Mr. CLAYTON. Mr. Speaker, I believe I have four minutes remaining.

The SPEAKER. That is correct.

Mr. CLAYTON. In that short time I can not hope to answer the many captious objections that have been urged against this bill. I now ask unanimous consent to print as a part of my remarks Report No. 613 on this pending bill.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks unanimous consent to extend his remarks by printing Report No. 613 on this bill. Is there objection?

There was no objection.

The report is as follows:

[House Report No. 613, Sixty-second Congress, second session.]

PROCEDURE IN CONTEMPT CASES.

Mr. CLAYTON, from the Committee on the Judiciary, submitted the following report, to accompany H. R. 22591:

The Committee on the Judiciary, having had under consideration H. R. 22591, to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, report the same back with the recommendation that the bill do pass.

The bill leaves section 268 of the judicial code, formerly section 725 of the Revised Statutes, in full force and inserts five new sections, none of whose provisions conflict with said section 268.

ANALYSIS OF BILL.

By section 268a, in such cases of contempt specified in section 268 as constitute a criminal offense under any statute of the United States or at common law, the proceedings against the accused party shall be "as hereinafter provided"; that is, in the subsequent section of the bill.

Most of the important provisions of the bill are contained in section 268b. Before action by the court, except in the cases excepted from the operation of the bill, there must be presented a formal charge showing reasonable ground; and before the party is put upon trial he must be afforded an opportunity to purge himself of any actual or technical contempt which he may have committed. He can not be arrested until he has opportunity to either purge himself or make answer and has refused to do either. If arrested, or in case the matter can not be disposed of on the return day, he may be required to give bail.

The trial is by the court (1) in case no jury be demanded by the accused, (2) if the contempt be in the presence of the court or so near thereto as to obstruct the administration of justice, or (3) if the contempt be charged to be in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name or on behalf of the United States. In other cases the trial is to be by jury.

Section 268c provides for the preservation of bills of exception, for review upon writ of error, for stay of execution pending proceeding, for review, and for bail in case the accused shall have been sentenced to imprisonment.

Section 268d excepts from the operation of the act contempts in the presence of the court, or so near thereto as to obstruct the administration of justice, and contempts committeed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, and provides that in the excepted cases, as well as in all other cases not specifically embraced within section 268a, the punishment shall be in conformity to the usages at law and in equity now prevailing.

Section 268e bars proceedings for contempt unless begun within one year from the date of the act complained of, and preserves the right of criminal prosecution, notwithstanding any proceeding and punishment for the contempts covered by the bill. It also excepts from the provisions of the bill any proceedings for contempt pending at the time of its passage.

Thus it is seen that the bill applies and gives a jury trial, with the exception noted, in all proceedings for contempt wherein the acts alleged to have been committed constitute a criminal offense, either under any Federal statute or at common law. The trial where a jury is had is governed (sec. 268b) as near as is practicable by the practice in criminal cases prosecuted by indictment or upon information.

Before calling further attention to the provisions of the bill now reported it is apropriate to review some of the contentions of those who have opposed every form of legislation whatever on this subject.

OBJECTIONS ANSWERED.

All the grounds of objection are reducible to two heads:

First. That any legislation whatever materially limiting or curtailing the power of the courts in the trial of contempts is unconstitutional.

Second. That any interference with the full and complete domination or discretion of the judge in contempt cases tends to disorganization and a weakening of judicial efficiency.

Let us consider first the constitutional objections.

It is said that although the courts inferior to the Supreme Court owe their existence and jurisdiction to congressional action, yet a distinction should be made between the jurisdiction and judicial power, for instance, in the citation, trial, and punishment of a party charged with contempt of court.

The controversy goes back over 60 years. In 1831 Congress passed an act limiting the power of the courts subjectively; that is to say, it lopped off some of the jurisdiction which the court had assumed and exercised—a jurisdiction, or power, if the latter term be preferred, which Congress believed, and by its legislation asserted, was a usurpation. Never, until within a very recent period, was the authority of Congress to do that questioned, either by the courts or by any respectable authority. The particular circumstance or event instigating the act of 1831 was the punishment by Judge Peck in Missouri, as for a contempt of court, of a party who had criticized one of his decisions in the columns of a newspaper.

The law before the act of 1831 read thus:

> The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority.

The act of 1831 consisted in the addition of a proviso, reading as follows:

> *Provided*, That such power to punish contempt shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said court in their official transactions, and the disobedience or resistance by any officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said court.

The extensive scope of this amendatory statute has been generally overlooked. The Federal courts were assuming and exercising the unlimited and unchecked powers resorted to by common-law courts, of deciding for themselves, not only the mode of procedure and degree and amount of punishment, but of selecting for themselves particular acts of alleged misconduct which should be placed in the category of contempts. Congress treated the term "power" as synonymous with "jurisdiction," circumscribed the field of jurisdiction, specified the acts which should constitute contempts, and said that such power or jurisdiction shall not extend beyond these specified acts.

It has been suggested that Congress might have refused to create the inferior courts, or even the Supreme Court, and have thus caused the failure of the Government.

But it is said that when Congress has acted and established a Federal court the common-law and equity powers of the courts immediately flow into these judicial receptacles out of the Constitution. It is only necessary to examine this new doctrine to know to what absurdities it would lead. The common-law courts of England, with the King's bench at their head, in addition to administering statutory law and the common law proper, exercised certain parliamentary powers. In the English system the legislative and judicial departments were, and are, entirely independent of each other. It is true that the courts were bound by acts of Parliament as construed by them, but outside the statutes their powers were as free from limitation as those of Parliament itself. They were the exponents and final arbiters of public policy for the Kingdom.

Though it is often said that the three departments of our Government are separate and independent, which is true in the sense that they must not invade each other's constitutional domain, and thus destroy each other, yet it is also true that arbitrary unchecked power does not abide with either of them. As the Supreme Court has well expressed it, in Yick Wo *v.* Hopkins (118 U. S. Rep., 369):

> When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.

To concede that the courts might, even with the limits fixed in the act of 1831, exclusively decide when a contempt has been committed, and the amount or degree of punishment, with no power in Congress to set a limit thereto, would be to concede to the courts the power to annul every act of Congress, to paralyze the Executive arm, to confiscate all property, and destroy all liberty. Of course, few, if any, believe that the courts would ever proceed to such extremes, but it is sufficient to say that, according to our interpretation, the framers of the Constitution took care to safeguard the people against the possibilities of all such calamitous tendencies.

Referring to this bill, and comparing its provisions with the proviso added in 1831, it is seen that the bill only changes the procedure in contempt cases, while, as before stated, that proviso limited the jurisdiction subjectively.

The opposition was represented before the committee by able counsel and many authorities were cited, few of which, however, in our opinion, had any direct bearing on the question from a constitutional point of view. In fact, the power of Congress, as exhibited in the act of 1831, was so generally and uniformly conceded that not a single case has been found which ever questioned or doubted it. A few cases which, though not directly bearing upon the point of constitutionality, yet shed more or less light upon it will now be noticed.

It is argued that Congress can not require a court of equity to try issues of fact by jury. That is unquestionably sound doctrine, and the case of Brown *v.* Kalamazoo, circuit judge (87 Mich., 274), is sound law. But it is wholly inapplicable here. No one has thus far ever insisted that contempt is of equitable cognizance, or other than what the textbooks designated, namely, a special proceeding, criminal in its nature, not necessarily connected with any particular suit or action pending in the court.

Numerous State cases were cited in argument. They may all be answered as a class. The relation between Congress and Federal courts is not the same as that between State legislature and the State courts. The constitutions of the various States themselves provide for and establish the court, partition the powers of government between the legislative, executive, and judicial departments, prescribing safeguards, and defining their powers in detail; whereas the Federal Constitution has delegated full and complete control of the matter to Congress. Nor should the fact be overlooked that the State decisions on the subject are often based upon precedents of the common law, which is no part of the Federal system. Thus, in Ex parte McCowan (139 N. Car., 95), that being typical of many such cases relied upon, it was said:

> We are satisfied that at common law the acts and conduct of the petitioner, as set out in the case, constitute a contempt of court, and if the statute does not embrace this case and in terms repeal the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void for reasons which we will now state.

In Finck *v.* O'Neill (106 U. S. Rept., 272) it appeared that Congress has taken from the court all power to enforce its judgment, and the act of Congress was upheld by the Supreme Court of the United States. In that case (p. 280) the court said:

> The United States can not enforce the collection of a debt from an unwilling debtor, except by judicial process. They must bring a suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction except as the law confers and limits it.

And in Cary *v.* Curtiss (3 How., 236, 254) the same court said:

> The courts of the United States are all limited in their nature and constitutions, and have not the powers inherent in courts existing by prescription, or by the common law.

But in section 720 of the Revised Statutes we have a statute of Congress prohibiting the Federal courts from issuing injunctions in certain cases, and the constitutional validity of that statute was declared in Sharon *v.* Terry (36 Fed. R., 365). Now, the writ of injunction is the arm of the Federal courts in the exercise of their equitable powers, which it has been urged enjoy complete immunity from congressional action. And here a Federal circuit court sustained an act of Congress which subtracted an important part of equitable jurisdiction. Anyone taking the trouble to examine the judiciary act of 1789, with or without subsequent additions and amendments, will observe that it consists, in large part, of regulations of and limitations upon jurisdiction.

We close this head with the quotation from Ex parte Robinson (19 Wall., 505), cited with approval in the case of Bessette *v.* Conkey (194 U. S., 327), which is so clearly and obviously applicable and conclusive that no comment appears to be necessary:

> The power to punish for contempts is inherent in all courts. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power, but the power has been limited and defined by the act of Congress of March 3, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and power from the Constitution, may, perhaps, be a matter of doubt; but that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases.
>
> (1) Where there has been misbehavior of a person in the presence of the courts, or so near thereto as to obstruct the administration of justice.
>
> (2) Where there has been misbehavior of any officer of the courts in his official transaction.
>
> (3) Where there has been disobedience or resistance by an officer, party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the courts. The law happily prescribes the punishment which the courts can impose for contempts. The seventeenth section of the judiciary act of 1789 (1 Stat. L., 73) declares that the court shall have power to punish of their authority in any cause or hearing before them by fine or imprisonment, at their discretion. The enactment is a limitation upon the manner in which the

power shall be exercised, and must be held to be a negation of all other modes of punishment. The judgment of the court debarring the petitioner, treated as a punishment for contempt, was therefore unauthorized and void.

As to the other ground of objection urged—that is, that any interference with the full and complete dominion and discretion of the courts tends to disorganization and to the weakening of judicial authority—judging by the course of previous discussion on this measure, it is not anticipated that the policy of the provision placing a limitation upon the punishment which can be inflicted will be strenuously criticized, and therefore we will make no further comment on that.

TRIAL BY JURY.

The feature of the bill against which the most strenuous argument has been directed is that providing for jury trials. But no one has shown that such provision amounts to anything more than a change of procedure. So that the question comes down to this: Has Congress, or not, the power to prescribe procedure? The courts will still, if this bill passes, have all the substantive power left in their hands by the act of 1831. Not one of the acts there catalogued will have been eliminated. The method of ascertaining the facts in certain cases is changed, but their ascertainment is still under supervision of the court, and ample safeguards are provided against evasions and miscarriages of justice.

A contemnor, from the moment the facts are judicially ascertained, is, by uniform practice, either placed in durance or required to give bail. The result of an adverse judgment is always penal, both in form and effect, though the fine be sometimes turned over to a private litigant.

The manner of disposing of the fine does not alter in any respect the form and effect of the procedure or change it from criminal to civil.

SUCH LEGISLATION LONG DEMANDED.

The bill is an evolution from prolonged and varied discussion, by no means limited to a recent date or to the present Congress. Every feature and provision of it has been subjected to attack and defense, but the whole controversy appears to have at length converged upon the issue of whether or not the policy and practice of jury trial in contempt cases shall be admitted in the Federal jurisprudence at all.

That complaints have been made and irritation has arisen out of the trial of persons charged with contempt in the Federal courts is a matter of general and common knowledge. The charge most commonly made is that the courts, under the equity power, have invaded the criminal domain, and under the guise of trials for contempt have really convicted persons of substantive crimes for which, if indicted, they would have had a constitutional right to be tried by jury. It has been the purpose of your committee in this bill to meet this complaint, believing it to be a sound public policy so to adjust the processes of the courts as to disarm any legitimate criticism; and your committee confidently believes that, so far from weakening the power and effectiveness of Federal courts, this bill will remove a cause of just complaint and promote that popular affection and respect which is in the last resolve the true support of every form of governmental activity.

ACTS OF CONGRESS RELATING TO CONTEMPTS.

Statutes at Large, volume 1, First Congress, first session, chapter 20:

An act to establish the judicial courts of the United States, approved September 24, 1789.

SEC. 17. *And be it further enacted*, That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; (*a*) and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; (*b*) and to make and establish all necessary rules for the orderly conducting of business in the said courts, provided such rules are not repugnant to the laws of the United States. (This section at p. 83; letters in parentheses refer to notes at the bottom of the page.)

Act of March 2, 1831, upon which sections 725, 5399, 5404, 5405, and 5406, Revised Statutes, above quoted, is based, was as follows:

Be it enacted, etc., That the power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

SEC. 2. *And be it further enacted*, That if any person or persons shall, corruptly or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States in the discharge of his duty, or shall, corruptly or by threats or force, obstruct, impede, or endeavor to obstruct or impede the due administration of justice therein, every person or persons so offending shall be liable to prosecution therefor by indictment and shall, on conviction thereof, be punished by fine not exceeding $500 or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offense.

Approved March 2, 1831.

Section 725, Revised Statutes United States (1878):

SEC. 725. The said courts shall have power to impose and administer all necessary oaths and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any case except the misbehavior of any person in their presence or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any such officer or by any party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of said courts. (Stat. L., vol. 4, p. 487, 21st Cong., 2d sess., chap. 99, "An act declaratory of the law concerning contempts of court," approved Mar. 2, 1831.)

NOTE.—Section 725 of the Revised Statutes is reenacted by section 268 of the Judicial Code, effective January 1, 1912, and section 725 is repealed by section 297 of the same code.

Section 268 of the Judicial Code (1912):

SEC. 268. The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts, in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the said courts. (Rev. Stats., sec. 725, 1878.)

Section 5399, Revised Statutes United States (1878):

SEC. 5399. Every person who corruptly, or by threats or force, endeavors to influence, intimidate, or impede any witness, or officer, in any court of the United States, in the discharge of his duty, or corruptly, or by threats or force, obstructs or impedes, or endeavors to obstruct or impede, the due administration of justice therein, shall be punished by a fine of not more than $500, or by imprisonment not more than three months, or both. (Stat. L., vol. 4, p. 488; act approved Mar. 2, 1831.)

Section 5404, Revised Statutes United States (1878):

SEC. 5404. Every person who corruptly, or by threats or force, or by threatening letters, or any threatening communications, endeavors to influence, intimidate, or impede any grand or petit juror of any court of the United States in the discharge of his duty, or who corruptly, or by threats or force, or by threatening letters, or any threatening communications, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice therein, shall be punishable by a fine of not more than $1,000, or by imprisonment not more than one year, or by both such fine and imprisonment. (Stat. L., chap. 420, vol. 17, p. 378; act of June 10, 1872.)

Section 5405, Revised Statutes United States (1878):

SEC. 5405. Every person who attempts to influence the action or decision of any grand or petit juror upon any issue or matter pending before such juror or before the jury of which he is a member, or pertaining to his duties, by writing or sending to him any letter or any communication in print or writing in relation to such issue or matter, without the order previously obtained of the court before which the juror is summoned, shall be punishable by a fine of not more than $1,000 or by imprisonment not more than six months, or by both such fine and imprisonment. (Stat. L., vol. 17, p. 378, chap. 420, act of June 10, 1872.)

Section 5406, Revised Statutes United States (1878):

SEC. 5406. If two or more persons in any State or Territory conspire to deter by force, intimidation, or threat any party or witness in any court of the United States from attending such court or from testifying to any matter pending therein freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror, each of such persons shall be punished by a fine of not less than $500, nor more than $5,000, or by imprisonment with or without hard labor not less than six months nor more than six years, or by both such fine and imprisonment. (Stat. L., vol. 17, p. 13, Apr. 20, 1871.)

NOTE.—Sections 5399, 5404, 5405, and 5406 of the Revised Statutes are repealed by section 341 and reenacted by sections 135, 136, and 137 of the Criminal Code, effective January 1, 1910.

Section 135, Criminal Code (1910):

SEC. 135. Whoever corruptly, or by threats or force, or by any threatening letter or communication, shall endeavor to influence, intimidate, or impede any witness in any court of the United States, or before any United States commissioner or officer acting as such commissioner, or any grand or petit juror or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States commissioner or officer acting as such commissioner, in the discharge of his duty, or who corruptly or by threats or force, or by any threatening letter or threatening communication, shall influence, obstruct, or impede, or endeavor to influence, obstruct, or impede the due administration of justice therein, shall be fined not more than $1,000 or imprisoned not more than one year, or both. (Rev. Stats., secs. 5399, 5404.)

Section 136, Criminal Code (1910):

SEC. 136. If two or more persons conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States, or in any examination before a United States commissioner or officer acting as such commissioner, from attending such court or examination, or from testifying to any matter pending therein, freely, fully, and truthfully, or injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or

property on account of any verdict, presentment, or indictment lawfully assented to by him, or on account of his being or having been such juror, each of such persons shall be fined not more than $5,000 or imprisoned not more than six years, or both. (Rev. Stats., sec. 5406.)

Section 137, Criminal Code (1910):

SEC. 137. Whoever shall attempt to influence the action or decision of any grand or petit juror of any court of the United States, upon any issue or matter pending before such juror, or before the jury of which he is a member, or pertaining to his duties, by writing or sending to him any letter or any communication, in print or writing, in relation to such issue or matter, shall be fined not more than $1,000 or imprisoned not more than six months, or both. (Rev. Stats., sec. 5405.)

THE BILL.

[H. R. 22591, Sixty-second Congress, second session.]

IN THE HOUSE OF REPRESENTATIVES, *March 29, 1912.*

Mr. CLAYTON introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A bill (H. R. 22591) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

Be it enacted, etc., That the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and the same is hereby, amended by inserting after section 268 thereof five new sections, to be numbered, respectively, 268a, 268b, 268c, 268d, and 268e, reading as follows:

"SEC. 268a. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 268b. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however,* That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

"If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them, as the court may direct; but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

"SEC. 268c. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States.

"SEC. 268d. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 268a of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 268e. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

Mr. CLAYTON. Mr. Speaker, every argument which has been made in support of this bill can be referred to the report above printed. It is argued that Congress can not require a court of equity to try issues of fact by a jury. It is unquestionably a sound doctrine in the case of Brown against Kalamazoo, but that is wholly inapplicable here. No one thus far has ever insisted that contempt is an equitable cognizance, or other than what the textbooks designate it, namely, a special proceeding, criminal in its nature, not necessarily connected with any particular suit or action pending in court.

Numerous State cases were cited in argument. They may all be answered as a class. The relation between Congress and Federal courts is not the same as that between State legislature and the State courts. The constitutions of the various States themselves provide for and establish the court, partition the powers of government between the legislative, executive, and judicial departments, prescribing safeguards, and defining their powers in detail; whereas the Federal Constitution has delegated full and complete control of the matter to Congress. Nor should the fact be overlooked that the State decisions on the subject are often based upon precedents of the common law, which is no part of the Federal system. Thus, in Ex parte McCowan (139 N. Car., 95), that being typical of many such cases relied upon, it was said:

We are satisfied that at common law the acts and conduct of the petitioner as set out in the case, constitute a contempt of court, and if the statute does not embrace this case and in terms repeal the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void for reasons which we will now state.

In Finck *v.* O'Neill (106 U. S. Rep., 272) it appeared that Congress has taken from the court all power to enforce its judgment, and the act of Congress was upheld by the Supreme Court of the United States. In that case (p. 280) the court said:

The United States can not enforce the collection of a debt from an unwilling debtor, except by judicial process. They must bring a suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction except as the law confers and limits it.

I ask the membership of this House to read the report made by the committee in full between this time and the time upon which there will be a vote. [Applause.]

I herewith print the letter of Mr. Rogers, which I have before referred to, in which he expresses the opinion that H. R. 21100, which is the pending bill, with verbal inaccuracies corrected, will in no wise conflict with any rights of any person under our patent laws:

WASHINGTON, D. C., *March 5, 1912.*

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: With reference to House bill 21100. We have not had time to have a full conference of committee or association, but I have gone over this bill carefully with Mr. William W. Dodge, chairman of our committee, and it is our personal opinion that the bill, as worded, does not conflict with patent interests. We take it that the distinction of the Buck Stove *v.* Gompers case between private litigation and public prosecution has been observed in this bill. In an action at law in a patent cause remedy is by trespass on the case. Either at law or in equity infringement of a patent is a tort. Any failure to obey the decree of a court is brought to the attention of the court by the complainant, and we are unable to see that any such case could "constitute also a criminal offense under any statute of the United States or at common law."

When this and other matters are more fully discussed if anything should develop requiring any change in this opinion we will at once advise you.

We are, of course, very much interested in the progress of bills H. R. 11380, 11381, and 15926, and are carefully studying all these propositions.

Very truly, yours, WALTER F. ROGERS.

Mr. Speaker, I now give to the House the letter of Hon. S. S. Gregory, president of the American Bar Association, dated February 2, 1912:

LAW OFFICES OF GREGORY, POPPENHUSEN & MCNAB,
Chicago, February 2, 1912.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: I have been recently addressed, as president of the American Bar Association, by the president of an association of manufacturers to see whether I would not use every possible effort to secure from the Judiciary Committee in the House adverse action upon your bill, House No. 13578, to define and punish contempt of court.

As I am quite in sympathy with the general purpose of this, I have replied that, of course, I could not in any way lend any aid in an effort to defeat it. I did say, however, to that gentleman that I saw no reason why it might not be amended so as to secure a jury trial only in cases where the contempt alleged charged conduct punishable by law as criminal at the time it occurred.

It has seemed to me, however, after having given some attention to this matter, that the great injustice of which the defendants in injunctions, particularly in strike cases, have a right to complain is that when prosecuted, as, for instance, for criminal assault, upon a charge of contempt for violating an injunction against interference with an employer's workingmen, they have really been put upon trial for a breach of the peace, essentially a criminal offense, but without trial by jury. It is quite immaterial what the form of procedure is, as it is not the less a criminal prosecution in which, under the Constitution, the defendant is entitled, at least in Federal courts, to trial by jury.

Therefore this has seemed to me to be an evasion of the Constitution, and I am still of that opinion, although perhaps it may be said that the Supreme Court has countenanced the contrary view. It has occurred to me that if, commencing after the word "behalf," line 14, page 3, of your bill, the language were changed so that the balance of section 4 should read as follows, it would really be an improvement: "Such trial shall be by the court, unless the charge is of conduct punishable by law as criminal at the time it was committed, and unless the accused person shall demand a trial by jury. In case of such demand, where the charge is of such criminal conduct, a trial by jury shall be

had, as in a criminal case. If the accused shall be convicted, judgment shall be entered accordingly, prescribing the punishment, not in excess, however, of the punishment provided by law for such offense."

I think this would be a desirable form to put the bill in, because there is no particular hardship, I think, nor no great complaint of the method of punishing for contempt in ordinary civil causes where the court in a suit between individuals is enforcing obedience to its orders. Possibly, however, there may have been abuses in this field which have escaped my attention. I have no objection whatever to the bill as it stands, except that it occurs to me it might possibly, if adopted, to some extent limit the power of Federal courts where such limitation is not really necessary. If amended as I have suggested, it would certainly meet the point that has been so often urged against what has been called government by injunction, and I really think such a statute would do more to promote industrial peace than any measure that has been recently proposed.

Yours, truly, S. S. GREGORY.

I herewith give to the House the letter of Hon. S. S. Gregory, president of the American Bar Association, dated March 23, 1912, approving the bill H. R. 21100, which is the pending bill, with slight verbal inaccuracies corrected:

LAW OFFICES OF GREGORY, POPPENHUSEN, & MCNAB,
Chicago, March 23, 1912.

Hon. HENRY D. CLAYTON,
Chairman Judiciary Committee, House of Representatives,
Washington, D. C.

DEAR JUDGE: I duly received your favor of the 11th, with copy of House bill 21100 relating to procedure to punish for contempt in the district courts of the United States. The subject is one of great importance.

I have long felt that the practice obtaining in the Federal courts of enjoining against that which was virtually criminal conduct, and then upon alleged breach of such an injunction putting persons on trial virtually for crime without a jury, was in effect an evasion of the Federal Constitution.

It seemed to me that this practice, directed, as it was so largely, against the members of labor organizations, was well calculated to make those organizations feel a deep sense of injustice, to stimulate class feeling, and to suggest to a large part of our population doubts of the impartiality of the national courts. This is very much to be deprecated.

Like you, I believe in our judicial system, and am anxious to do everything possible to uphold it in all its integrity and perfection. I heartily agree that the recall of judges by popular vote is entirely inadmissible in our governmental system; but I would say as to the exercise of the power thus to punish criminal conduct without jury what was said by Sidney Breese, one of the great judges of my own State at an early period in our judicial history, referring to the power to punish for constructive contempts:

"It does not seem to me necessary for the protection of courts in the exercise of their legitimate powers that this one, so liable to abuse, should also be conceded to them. It may be so frequently exercised as to destroy that moral influence which is their best possession, until finally the administration of justice is brought into disrepute. Respect to courts can not be compelled; it is the voluntary tribute of the public to worth, virtue, and intelligence, and whilst they are found upon the judgment seat, so long and no longer will they retain the public confidence.

"If a judge be libeled by the public press he and his assailant should be placed on equal grounds, and their common arbiter should be a jury of the country, and if he has received an injury, ample remuneration will be made. In restricting the power to punish for contempts to the cases specified, more benefits will result than by enlarging it. It is at best an arbitrary power, and should only be exercised on the preservative and not on the vindictive principle." (Stuart *v.* People, 3 Scam., 395–406.)

I have read your bill carefully, and it seems to me that it is a moderate, just, and expedient measure, and one that ought to be agreed to by all sensible persons.

Of course it may be that should it pass some question might arise in practice which would require to be settled by further legislation. None such now occurs to me, unless there should be a kind of general attempt to enforce the penal code of the United States by suit in equity brought by the Government. This, however, is so remote a contingency that I think it ought to be disregarded.

I may say that while your letter may have been, as you suggest, hurriedly written, I have never seen the general subject treated more intelligently and concisely than it is in your communication.

I sincerely hope that the bill will pass, and if it does, I am satisfied that in its practical operation it will do more to allay the bitterness between capital and labor than any legislation within the power of Congress. It would, I think, also be followed by similar legislation or practice in the several States, and thus have a far-reaching and most salutary effect.

I ought to apologize for not answering your letter more promptly, but ever since its receipt I have been so much crowded with professional engagements, admitting of no delay, that I have been unable to write sooner.

Yours, truly, S. S. GREGORY.

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing some remarks on the Taylor system of scientific shop management.

The SPEAKER. The gentleman from Illinois asks unanimous consent to print some remarks on the Taylor system of scientific shop management. Is there objection?

There was no objection.

Mr. HILL. Mr. Speaker, I ask unanimous consent to print as a House document a speech by the Hon. Woodrow Wilson before the Tariff Commission on the 22d day of September, 1882. It is only three pages long and will involve but very little expense.

The SPEAKER. The gentleman from Connecticut asks unanimous consent to print a tariff speech by Gov. Woodrow Wilson delivered at Atlanta.

Mr. CLAYTON. Mr. Speaker, I think the gentleman ought to inform the House what the purport of it is.

Mr. HILL. I will. A tariff commission went around the country holding public hearings, in order to frame a tariff bill, and a meeting of that commission was held at Atlanta, Ga. Gov. Wilson appeared before the committee and, in a prepared address, delivered his views on the tariff question.

Mr. MURDOCK. That was in 1882?

Mr. HILL. Yes. I think the country wants to know what the views of Gov. Wilson were and are to-day, as still confirmed by him.

Mr. CLAYTON. I have no doubt that Gov. Wilson has sounder views and better economic views generally than the gentleman from Connecticut.

Mr. HILL. And it is for that purpose that I want them printed—to improve my education.

Mr. CLAYTON. And therefore, for the purpose of enlightening the gentleman from Connecticut and his constituents as to sound economical views, I shall not interpose an objection.

Mr. RODDENBERY. Mr. Speaker, I am opposed to conducting a national political campaign at the expense of the people of the United States by from time to time publishing the utterances, policies, and desires of sundry candidates in the form of House documents, so that Members of Congress may disseminate them free of charge. I think the various parties should pay their own campaign expenses, including the printing bills and the like of that, and I object.

The SPEAKER. The gentleman from Georgia objects.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 17937. An act authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance Department for improvements or economy in manufacturing processes or plant.

ADJOURNMENT.

Mr. CLAYTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 7 minutes p. m.) the House adjourned until to-morrow, Wednesday, July 10, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bill and resolution were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 226) for the appointment of three members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, reported the same with amendment, accompanied by a report (No. 947), which said bill and report were referred to the House Calendar.

Mr. FERGUSSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 6735) to authorize the exchange with the Coconino Cattle Co. of lands within the Coconino National Forest, reported the same with amendment, accompanied by a report (No. 948), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. SPEER, from the Committee on the Public Lands, to which was referred the bill (S. 2014) for the relief of George Owens, John J. Bradley, William M. Godfrey, Rudolph G. Ebert, Herschel Tupes, William H. Sage, Charles L. Tostevin, Alta B. Spaulding, Grace E. Lewis, and Dolly Neely, reported the same with amendment, accompanied by a report (No. 949), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WICKERSHAM: A bill (H. R. 25662) to amend an act entitled "An act to encourage the development of coal deposits in the Territory of Alaska," approved May 28, 1908, and for other purposes; to the Committee on the Territories.

By Mr. STEPHENS of Texas: A bill (H. R. 25663) conferring upon tribes or bands of Indians the right of nomination of their agent or superintendent, to inspire them to interest

themselves in their own affairs, and for other purposes; to the Committee on Indian Affairs.

By Mr. BARCHFELD: A bill (H. R. 25664) to provide for voluntary admissions to the Government Hospital for the Insane, and for other purposes; to the Committee on the District of Columbia.

By Mr. McKELLAR: A bill (H. R. 25678) to provide for 1-cent postage; to the Committee on the Post Office and Post Roads.

By Mr. WEEKS: Concurrent resolution (H. Con. Res. 58) authorizing Herman Walthauser to make a cast of the head of statue of John Hancock now located in Senate wing of the Capitol; to the Committee on the Library.

By Mr. SULZER: Joint resolution (H. J. Res. 335) to authorize a joint assembly of the national legislative bodies of the nations of the world to be held in the United States, and to extend an invitation to said national legislative bodies; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEALL of Texas: A bill (H. R. 25665) for the relief of James Walling; to the Committee on Claims.

By Mr. DONOHOE: A bill (H. R. 25666) granting a pension to Michael Arnold; to the Committee on Pensions.

By Mr. FARR: A bill (H. R. 25667) granting an increase of pension to Oliver Bronson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25668) granting an increase of pension to Marshall H. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25669) granting an increase of pension to Robert M. House; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 25670) granting an increase of pension to William D. Boyd; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 25671) for the relief of Nancy Moore; to the Committee on War Claims.

By Mr. LEVER: A bill (H. R. 25672) granting a pension to Micah J. Jenkins; to the Committee on Pensions.

By Mr. McKENZIE: A bill (H. R. 25673) granting an increase of pension to Mary A. Depuy; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 25674) granting an increase of pension to William T. Edgemon; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 25675) granting an increase of pension to Julia Welch; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 25676) granting an increase of pension to William Booth; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: A bill (H. R. 25677) granting a pension to George F. Flinn; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of Kbauken & Stubbekasse, New York, N. Y., protesting against passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of N. H. Mears & Sons, of Mineral City, Ohio, protesting against the passage of a parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. BEALL of Texas: Petition of citizens of Texas, favoring passage of the old-age pension bill, pensioning deserving men and women over 60 years of age; to the Committee on Pensions.

Also, petition of citizens of Texas, protesting against the passage of the Owen bill creating a national health bureau; to the Committee on Interstate and Foreign Commerce.

By Mr. BOWMAN: Petitions of the Hebrew Veterans of the Spanish War and Polish Societies of the State of Pennsylvania, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Tom C. Hill, of the State of Pennsylvania, against passage of the Oldfield bill proposing change in the patent laws; to the Committee on Patents.

Also, petition of the Brotherhood of Locomotive Engineers, of Cleveland, Ohio, favoring passage of the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Fiftieth Anniversary of the Battle of Gettysburg Commission, at Philadelphia, Pa., favoring passage of Senate bill 6964; to the Committee on Military Affairs.

By Mr. COOPER: Petition of citizens of Janesville, Beloit, Clinton, and Evansville, Wis., protesting against the passage of any parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. DANFORTH: Memorial of the Rochester Florists' Association, of Rochester, N. Y., against congressional distribution of seeds; to the Committee on Agriculture.

By Mr. DAUGHERTY: Petition of citizens of Carterville, Jasper County, Mo., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. FERGUSSON: Petition of citizens of Aztec, N. Mex., against passage of the Oldfield bill, protesting change in patent laws; to the Committee on Patents.

By Mr. FORNES: Petition of the National Guard Association of New York State, favoring passage of the militia pay bill; to the Committee on Military Affairs.

Also, petition of the Chinese Consolidated Benevolent Association, San Francisco, Cal., protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Hebrew Veterans of the War with Spain, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the Hebrew Veterans of the War with Spain, of New York City, against the enactment of certain proposed legislation to amend the immigration law; to the Committee on Immigration and Naturalization.

By Mr. GOLDFOGLE: Memorial of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of master New York State Grange, of Watertown, N. Y., against passage of House bill 24927, relative to shipment of unweaned calves; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Imperial Chemical Manufacturing Co., of New York, against passage of the Richardson bill (H. R. 14040), relative to pure drugs; to the Committee on Interstate and Foreign Commerce.

Also, petition of the United Spanish War Veterans of New York City, favoring passage of House bill 17470, for pensions for widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, petition of the Committee of Wholesale Grocers of New York City, favoring reduction of duty on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of the department of health of the city of New York, division of hospitals, favoring passage of Senate bill 4792, relative to authorizing Public Health and Marine-Hospital Service to make descriptive matter relative to hospitals, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. HENSLEY: Petition of the Liquor Dealers' Benevolent Association of St. Louis, Mo., against passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. HENRY of Connecticut: Memorial of Hartford and Rockville (Conn.) Branch, No. 52, Workingmen's Sick and Death Benefit Fund of the United States of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. HUGHES of New Jersey: Petition of the Workmen's Sick and Death Benefit Fund of America, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. KINKEAD of New Jersey: Petition of William C. Hoffman and K. C. Greenleaf, of Jersey City, N. J., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LOBECK: Memorial of the Hebrew Veterans of the War with Spain, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. MARTIN of South Dakota: Petition of the Order of Railway Conductors and Employees of the Dakota Division of the Chicago & North Western Railway Co., against passage of the employers' compensation act; to the Committee on the Judiciary.

By Mr. RAKER: Petition of the Chamber of Commerce of Los Angeles, Cal., favoring passage of Senate bill 122, creating a board of river regulation; to the Committee on Rivers and Harbors.

Also, petition of the California Fruit Growers' Association, favoring passage of a national quarantine bill; to the Committee on Agriculture.

Also, memorial of Cooks and Waiters' Union, Local No. 220, of Eureka, Cal., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. SCULLY: Petition of the Daughters of Liberty of New Jersey, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SIMMONS: Petition of the National Guard Association of New York State, favoring passage of the militia pay bill; to the Committee on Military Affairs.

By Mr. SULZER: Petition of the National Guard Association of the State of New York, relative to pay for the Organized Militia; to the Committee on Military Affairs.

By Mr. TALCOTT of New York: Petition of the Workmen's Sick and Death Benefit Fund of America, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of National Guard Association of the State of New York, favoring passage of the militia pay bill; to the Committee on Military Affairs.

By Mr. TILSON: Petition of the New Haven Trades Council, of New Haven, Conn., favoring passage of House bill 23673; to the Committee on the Merchant Marine and Fisheries.

By Mr. WILLIS: Petition of the Woman's Auxiliary of the Board of Missions of the Protestant Episcopal Church, in favor of the passage of House bill 21773, for the relief of natives of Alaska; to the Committee on the Territories.

Also, petition of the commander and other members of U. B. Pearsall Post, No. 500, Grand Army of the Republic, National Military Home, Kans., protesting against the interstate shipment of intoxicating liquor into States having prohibitory laws; to the Committee on the Judiciary.

SENATE.

WEDNESDAY, *July 10, 1912.*

(Continuation of legislative day of Saturday, July 6, 1912.)

At 10 o'clock a. m., on the expiration of the recess, the Senate reassembled.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Crane	Kern	Rayner
Borah	Crawford	Lea	Shively
Bradley	Culberson	Lorimer	Smith, S. C.
Brandegee	Cullom	McCumber	Smoot
Bristow	Curtis	Martin, Va.	Stephenson
Brown	Dillingham	Martine, N. J.	Sutherland
Bryan	Fletcher	Nelson	Thornton
Burnham	Gallinger	O'Gorman	Tillman
Burton	Gronna	Overman	Warren
Catron	Johnson, Me.	Page	Works
Chamberlain	Johnston, Ala.	Perkins	
Clapp	Jones	Pomerene	

Mr. TILLMAN. I ask unanimous consent to introduce a resolution and to have it read.

The PRESIDENT pro tempore. The Senator will withhold that for a moment. A quorum has not yet been obtained. Forty-six Senators have answered to their names, not a quorum.

Mr. SMOOT. I ask that the names of the absentees be called.

The PRESIDENT pro tempore. The Senator from Utah asks that the names of those who have not responded be called. The Secretary will call the names of absent Senators.

The Secretary called the names of the absent Senators, and Mr. SMITH of Georgia and Mr. WETMORE answered to their names when called.

The PRESIDENT pro tempore. Forty-eight Senators have answered to their names. A quorum of the Senate is present.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. Mr. President, I report back House bill 25069, the sundry civil appropriation bill, so that it may be printed as proposed to be amended by the committee.

Mr. SMOOT. I doubt very much whether that is in order under the unanimous-consent agreement. An agreement was made, "That on Saturday, July 6, 1912, immediately after the conclusion of the routine morning business, the Senate proceed to the consideration of Senate resolution No. 315, declaring that corrupt practices were employed in the election of WILLIAM LORIMER as a Senator from Illinois, and that his election was invalid, and that before adjournment on that legislative day a vote be taken upon said resolution and all amendments to and substitutes therefor."

I understand that unanimous-consent agreements, such as the one above stated, have never been set aside for the introduction of any kind of business.

Mr. WARREN. Will the Senator allow me right there? I wish to say, first, that this is in the nature of a privileged report; second, that I gave notice before the unanimous-consent agreement was made, gave it in the open Senate, gave it as chairman of the Committee on Appropriations, that I could not consent to further unanimous-consent agreements that did not provide for or except business regarding appropriation bills, such as a report like the one I now offer, which would take no time, except to pass it across the table to the printer. Unless I can make this report and have it printed, Senators can not have the opportunity of properly examining this large and very important sundry civil appropriation bill without a very considerable delay. So I do not consider that there is any "unanimous-consent" agreement which ought to shut this out, for I had given notice beforehand that I would not consent to such a proposition.

Mr. President, it is not a large matter nor of great importance, only I am liable to have to answer an urgent call to leave the city at any moment, and I desire that the report may be received and printed, so that the appropriation bill may be taken up at an early day. I believe I am entirely within the agreement, first, because I had given notice that such a report should be excepted, and, second, because the agreement itself does not say that other business shall not be done.

Mr. SMOOT. I believe that always in the past where a unanimous-consent agreement has been reached, it has at least been understood that it would exclude all business in the Senate until that particular business being considered under the unanimous agreement was disposed of. I feel, Mr. President, that this is a matter of enough importance to have a ruling of the Chair upon it, and I shall make the point of order that the report is not in order at this time.

The PRESIDENT pro tempore. The present occupant of the Chair has read the rule with great care, and while he fails to find any absolute inhibition for the consideration of other business, the Chair is of the opinion that the spirit of the rule, at least, would indicate that the Senate did not intend to do any other business until the matter in hand was disposed of.

Yet the Chair finds that there is a wide difference of opinion on the part of Senators on that point, and the Chair has been appealed to to permit various small matters to be presented to the Senate, such as laying down messages from the House of Representatives. The Chair has not felt at liberty to do so until the matter was at least discussed to some extent. In view of the situation, the Chair feels compelled to submit the matter to the Senate for its judgment.

Mr. WARREN. Will the presiding officer, before doing that, rule upon this point: When a Senator, in the due course of his business and under his duties, gives notice that he can not consent to a unanimous-consent agreement, unless it excepts privileged questions, is that any protection or not?

The PRESIDENT pro tempore. The Chair would on that point suggest that, unless the exception had been noted in the agreement itself, the Chair would not feel like ruling that that brought the matter within the exception.

Mr. WARREN. Of course that leaves a Senator powerless. He puts the notice in the RECORD and does not happen to be present when the agreement is made. No one knows better than the Chair that those who have to prepare the appropriation bills can not always be in the Chamber, and if such a notice can not avail it would leave a Senator without the protection that it seems to me is due.

Mr. SMOOT. This notice was given June 8, 1912, and if an exception had occurred to the Senator it seems to me it ought to have been brought to the attention of the Senate before the subject matter of the agreement was reached in the Senate for discussion, and then if the Senate wanted to modify the agreement it could have done so.

Mr. WARREN. I do not understand what the Senator means by that. This is the first notice I have had that my notice, given before the agreement, had not been observed.

Mr. SMOOT. The Senator must have known that it was not included in the unanimous-consent agreement.

Mr. WARREN. There is nothing that will bar out receiving this report in the proper construction of the unanimous-consent agreement, as the Chair has indicated.

Mr. BACON. Mr. President, I should like to suggest to the Senator from Wyoming that if any such rule as he now seeks to secure recognition for would be recognized, it would go still further and a Senator could say, "I give notice that I am not going to consent to any unanimous-consent agreement," and then absent himself, and the Senate could be thereafter precluded from the possibility of making a unanimous-consent agreement because one Senator had given notice that he would not consent, and while he was not present to make good that expression he would have the Senate be governed by a notice of that kind.

Mr. WARREN. If the Senator will allow me, I shall withdraw the request for permission to report the bill. I have no desire to push the consideration of appropriation bills if the Senate does not so desire; but I certainly wish to acquit myself of being one who is delaying the proper business of the Senate and its early adjournment. I withdraw the request.

Mr. BACON. Senators have not any such special necessity for adjournment that they can not proceed in regular order under the terms of a unanimous-consent agreement, which is one of the most important methods of procedure of the Senate. There should not in any manner be any doubt cast upon the fact that the Senate will not only in letter but in spirit always observe a unanimous-consent agreement.

Mr. CLAPP. Mr. President, I can not let the statement of the Senator from Georgia go unchallenged. A notice which a Senator gives and which is entered in the RECORD is just as much notice to the Senate as though it were printed on the calendar; and if one Senator can object to a request for unanimoust consent—and of course one Senator can—he clearly has the right to announce that he will not consent to unanimous consent as to a given proposition; and if he is unavoidably absent on committee work or otherwise, he certainly would not be bound by action that was taken against his protest entered in the RECORD.

Mr. MARTIN of Virginia. Mr. President, I merely desire to say a few words to dissent from the proposition laid down by the Senator from Minnesota. Senators can not leave notice with this body as to what they will do. When unanimous consent is asked, unless objection is made from the floor of the Senate by a Senator who is present, he can not leave his vote here to be recorded against it. The Senate can not do business by proxy in that way. I am startled at the suggestion made by the Senator from Minnesota that the business of the Senate may be controlled by absent Senators.

Mr. CLAPP. Mr. President, that proposition of mine does not propose to control the business of the Senate; it simply prevents the Senate, in the necessary absence of a Senator, from controlling his action and binding him by an agreement to which he is not a party and against which he has entered his protest. The making of unanimous-consent agreements is a very peculiar and a very drastic proposition, and the idea that a Senator, who may be properly absent because of sickness or from any other cause, can be bound here by an agreement to which he is not a party, and against which one single protest would prevent its consummation, I for one can not consent to, and never will.

Mr. MARTIN of Virginia. When a Senator is absent, whether it be because of sickness or other cause, he can not participate in the business of the Senate.

The PRESIDENT pro tempore. The Chair understands that the Senator from Wyoming has withdrawn the report.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolution:

On July 6, 1912:

S. J. Res. 111. Joint resolution to convey the thanks of Congress to Capt. Arthur Henry Rostron, and through him to the officers and crew of the steamship *Carpathia* of the Cunard Line, for the prompt and heroic service rendered by them in rescuing 704 lives from the wreck of the steamship *Titanic* in the North Atlantic Ocean;

S. 897. An act for the relief of Alfred L. Dutton;

S. 1293. An act for the relief of Herbert Thompson;

S. 1754. An act for the relief of William F. McKim;

S. 5176. An act granting a pension to Elizabeth B. Preston;

S. 5198. An act to authorize the issuance of patent to James W. Chrisman for the southeast quarter of the northeast quarter, to southeast quarter of the southwest quarter, of section 13, and the north half of the northeast quarter of section 24, township 29 north, range 113 west of the sixth principal meridian;

S. 5776. An act authorizing the Secretary of the Interior to adjust and settle the claims of the attorney of record involving certain Indian allotments, and for other purposes;

S. 6153. An act for the relief of Charley Clark, a homestead settler on certain lands therein described;

S. 6977. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 6646. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

On July 9, 1912:

S. 458. An act for the relief of the Turner Hardware Co.;

S. 4445. An act concerning unrigged vessels;

S. 5141. An act to correct an error in the record of the supplemental treaty of September 28, 1830, made with the Choctaw Indians, and for other purposes;

S. 5287. An act for the relief of Kate Ferrell;

S. 5935. An act to fix terms of the district court for the western district of Michigan;

S. 6252. An act to relinquish the title of the United States to certain property in the city and county of San Francisco, Cal.; and

S. 6925. An act to authorize the Chicago, Burlington & Quincy Railroad Co. to construct a bridge across the Mississippi River near the city of St. Louis, in the State of Missouri.

SENATOR FROM ILLINOIS.

Mr. CULLOM. Regular order, Mr. President.

The PRESIDENT pro tempore. The resolution submitted by the Senator from Tennessee [Mr. LEA] is before the Senate.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

The PRESIDENT pro tempore. The question is on agreeing to the resolution, on which the yeas and nays were ordered on yesterday.

Mr. JOHNSTON of Alabama. Mr. President, the consideration of this case has doubtless carried it beyond the stage where the conclusion of any Member of this body can be changed by recounting the statements of witnesses. My own conclusions are embodied in the report of the committee, and I shall not attempt to rehearse, in the debate upon this question, what has been carefully and definitively presented in that report.

I was designated as one of the subcommittee originally selected to hear the charges affecting the seat of WILLIAM LORIMER, and upon the reopening of the case upon the suggestion of new evidence it again became my duty to sit with the committee charged with the hearing of the evidence. These two assignments, together with the time required to consider the evidence and report our conclusions to the Senate, have occupied much of my time for over 160 days, and I can not but feel that I have not discharged the full burden of the duty involved without adding to the formal report of the committee a brief reference to my personal conclusions and my personal impressions of the atmosphere created by the hearings, in addition to the paralyzing conclusiveness of the bare facts.

Mr. President, I shall assume that every Senator who intends to vote to unseat WILLIAM LORIMER is familiar with the printed evidence and has carefully considered the report of the committee selected by the Senate to ascertain the facts. Corruption is often less infamous and uniformly less cruel than injustice, and a judgment of ouster against the Senator from Illinois rendered without a patient and full consideration of the evidence would be opposed to a fundamental maxim of humanity and of Anglo-Saxon liberty—the presumption of innocence.

This proceeding, Mr. President, is a criminal trial in which it is conceded that there is no evidence tending to show complicity on the part of the defendant with the crime charged, and in which those charged with the actual corruption, and whose guilt is necessary to a judgment of ouster, have been discharged after trial by their peers. Even those Senators upon the committee reporting in favor of unseating Senator LORIMER failed to oppose the finding of the majority "that there was nothing in the testimony to show that LORIMER himself had engaged in corrupt practices or that he personally knew of any such corrupt means being employed by others."

Nine thousand pages of evidence failed to discover any basis for the charges against his personal character. On the contrary, the evidence demonstrates a common injustice of the day. The Chicago press assailed LORIMER with such venom that the country was led to believe him a monster unfit to live, much less to sit in the Senate. A rare record of the degree of his personal unpopularity was shown when Col. Theodore Roosevelt, the Rough Rider of gusty politics, yielding to the storm, declined to sit as a guest at the board of a Republican club if LORIMER, a member of the club and a Senator in Congress, holding his

commission from the sovereign people, was to attend. It is unimportant that the premise on which Col. Roosevelt acted—the hearsay evidence of Funk—has been exploded by the testimony, for there is no question of following that prophet of political expediency when Senators are under their oaths.

The essential thing is that LORIMER, the defendant in this case, is conceded by his bitterest opponents to be a man whose personal reputation repudiates, prima facie, any possibility of complicity in the corrupt purchase of a seat in this body. His implacable enemy, the editor of the Chicago Tribune, swore that "LORIMER was more dangerous because of his irreproachable qualities of a personal sort." Mr. Kohlsaat, of the Record-Herald, who, it seems, whispers rumors to judges upon the bench, an inveterate foe, testifies: "His home life, his family life is ideal." The present governor of Illinois testifies to his favorable impression of LORIMER's character; the Republican nominee whom he defeated for the Senate and his Democratic opponent join in statements as to LORIMER which would gratify any man in this Senate. So universal was this testimony as to his integrity, his frankness, his fidelity to his word, that the distinguished Senator from Indiana [Mr. KERN], who opened this debate against him, was led to say:

> My duty here is particularly painful because the man whose right to a seat here is a fellow Senator, a man of pleasing personality, whose private life, as I understand it, has been pure and whose home life is ideal.

These conclusions from the evidence, Mr. President, do not present the weightiest reason for resolving any doubt arising from it in favor of Senator LORIMER. The undisputed narrative of his life, his earliest struggles, and his success, culminating in a seat in this body, furnish a page that will compare favorably with the best American traditions if it is not to be tarnished by a judgment of conviction on this hearing.

Eliminating sentiment and reviewing his homely efforts with that consideration of the facts which bases its conclusion as to character upon experience, we find that the vital facts of LORIMER's life point against a sudden surrender of integrity to ambition. The eldest of six children, he assumed at the age of 10, on the death of his father, a Presbyterian minister, the courageous support of his mother and the education of his brother and sisters. As newsboy, cash boy, common laborer, house painter, and street-car conductor, he maintained the respectability of his family and the dignity of labor. His brave struggle to overcome his lack of education testifies to the universal gentility of intellect. Time was when the patient fulfillment of these duties counted for more than a grudging prima facie certificate of character. It is certain that the people amongst whom he lived found no just ground for discrediting his motives or his integrity, for they elected him six times to represent his district in Congress.

This, Mr. President, is the defendant we are to try. Can any member of this body, in the light of these undisputed facts, approach a consideration of the evidence bearing on the charges without a determination that the presumption of regularity must be affirmatively overcome before the established character of Senator LORIMER is repudiated and blackened by expulsion as the beneficiary of fraud?

It is, moreover, worthy of your consideration that WILLIAM LORIMER, though conceded to be innocent of complicity in any wrongdoing, is now sought to be damned for all time, whereas the agents of the alleged fraud have been exonerated by juries representing the very people whose honor is at stake; and those miserable beings who have confessed to perjury and legislative bribery have been given immunity. The people of Illinois acquit those charged with voting corruptly, the prosecuting attorneys of Illinois release those who confessed to perjury and bribery, and the Senate is now asked to square the jail delivery by crucifying the man who is shown by the overwhelming evidence to have had no knowledge or part in any wrongdoing.

In order to reach this result, Mr. President, the evidence must show that others employed corrupt means without his knowledge or consent, to an extent that resulted in his election by corrupt votes.

On the final vote, when Senator LORIMER was elected, he received 108 votes; Hopkins, 70; and Stringer, 24. The total vote against his election was 94; and it was necessary to show, in order to unseat him, that at least 14 men were corruptly influenced to vote for LORIMER which would have reduced his honest and unassailed vote to 94, the total number received by Hopkins and Stringer. Strange to say, this is exactly the number of votes the minority report alleges to have been thus corrupted.

The chief witness to this fact is White, a man so corrupt, according to his own testimony, as to challenge the thought as to whether he could swear the truth if he tried, and to carry the conviction that he never tried. No voice has been heard, nor even a suggestion from a partisan press, in defense of the character of this debauchee. He is impeached by numerous witnesses for the prosecution, and admitted under oath that his own statements were false in material points, and were plain Anglo-Saxon lies.

The evidence given by Holstlaw, Beckemeyer, and Link is relied on to show that, after the election, money was paid them, and yet each one of them repeatedly swore that he voted for LORIMER without any reward or the hope thereof. But one man, appropriately named White, because his character is so black, is the only man who the record shows to have claimed to do this.

The State was scoured by newspaper men and by detectives paid to secure evidence. Every member of the legislature who exhibited money about that time, and practically every member who voted for LORIMER, including the speaker of the house, was put under suspicion and forced to explain. Out of the mass of testimony thus produced the minority have found, in the face of formidable and creditable testimony at every point, only 14 men, the magic and essential number, out of 108, whom they suggest were corrupted. I say the magic number, because, under the well-established principles controlling the decision of this matter, the corrupt and illegal vote, where the member himself does not know of or engage in the wrong, must be first excluded, and if it appears that a majority of honest legal votes remain he is still entitled to his seat.

Another singular argument appears in this case. LORIMER received on the final ballot the votes of 55 Republicans and 53 Democrats—108. Not a single Republican vote is challenged by the minority. I want the Democrats here to observe that fact—not a single Republican vote is challenged by the minority. Each one of the 14 alleged corrupt voters is a Democrat. Yet wholesale corruption is alleged to have prevailed—a corruption confined to Democrats, a sort of Democratic leprosy, which demonstrates in a startling manner the hitherto unsuspected sanctity and honesty of the Republicans of Illinois. It is inconceivable that if this carnival of corruption existed an agent going the rounds to buy votes would not find one Republican out of 127 in the legislature that would sell his vote.

I am reluctantly constrained to the opinion that certain Senators upon this side of the Chamber, my Democratic colleagues, are disposed to base their conclusions upon this matter upon a general conviction, in contradiction of the theory to which I have just referred, that the Republican Party in Illinois is a reproach upon public morals and that in some way WILLIAM LORIMER, as a prominent Republican in the State, is tarred with the reproach of the general system and should be rebuked. No member of the Senate has more painful personal recollection of the abuses of the Republican Party than I. In its age of youth, if not of its purity, it sent its renegades and scalawags to rule my people, and to further this purpose manufactured a vast black and illiterate electorate in a night. The evil that they did has survived only to the own undoing of their creators. Their national convention trembles at the racial instability of the negro delegate and proud leaders cringe before him. The Senator from Indiana, intent in his loyalty to Democratic traditions and justly suspicious of the good faith of a political organization which persistently breaks faith with the people and ignores its just obligations, has not the reason for crying out against that organization that I have; but that prejudice, Mr. President, confirmed by the general idea that municipal politics of the present day is a menace to political freedom, should not count for a jot or a tittle in considering the question of the regularity and legality of the election of WILLIAM LORIMER.

Some Senators of the minority of the committee in this case seem to have conceived the idea that every Democrat who voted for LORIMER did so corruptly, although the evidence distinctly shows that there were 127 Republicans in the legislature and only 77 Democrats. This conclusion is doubtless based upon the idea that I have suggested—that no honest Democrat could vote for any Republican of Illinois. But it is certain the Democrats were hopeless of electing one of their own party after the vain effort to elect had continued for months. As a matter of fact, the fact that these Democrats, or a majority of them, voted for LORIMER to defeat the nominee of a Republican primary is less a matter of surprise than the vote cast by the Republicans contrary to the recommendation of that primary. Every Democrat on this floor knows that, as between LORIMER and Hopkins, the majority of Democrats, hopeless of success in their own ranks, would have voted for LORIMER. If it be prima facie evidence of corruption when a Democrat under any circumstances votes for a Republican, it would cast suspicion upon every Democrat who, under like circumstances, has obtained Republican votes. A Democratic Senator in this body from the

State of Tennessee, whose seat is uncontested, was elected by the votes of 32 Republicans and 34 Democrats, and he had a majority of 2, I believe, to elect him; and my good friend the junior Senator from Vermont [Mr. PAGE] would be tarred with this suspicion, as he received every Democratic vote in the legislature.

The charges of corruption in the election of WILLIAM LORIMER were examined, exhaustively argued, and acted upon by the Senate in the Sixty-first Congress. The contention that a Member's right to a seat in this body can be tried, judicially determined, and subsequently reopened on the same facts for consideration at a subsequent session of the Senate, when it is hoped that a change in the membership will result differently, is, upon the bare statement of the proposition, a shock to the conscience. The uniform precedents established by the practice of the Senate in such matters sustain the dignity and conclusiveness of its former judgment. It is to the interest of the public business that successive sessions should not be monopolized by the consideration of contests most frequently involving partisan questions. The pending matter demonstrates the wisdom of the rule. It is conceivable that where public indignation has been aroused concerning a Member of this body, whose right to a seat is contested, candidates for the Senate in the various States, who base their appeal upon issues which they fancy will stir the popular pulse rather than upon their character, their intellectual independence, and their record of patient service, might try the contests on the hustings and come into this body committed to reopen and condemn, without having had the opportunity, or of having been under the sworn duty, of reaching a conclusion upon the facts. Retrial under such circumstances would be a disgrace to justice. Mr. President, it would humiliate me, as a Member of this body, if I were forced to the conclusion that the instance that I have just supposed is not altogether remote.

In the case of Fitch and Bright, Senators from Indiana, who were seated by the Senate on hearing the contest, in May, 1858, the case was subsequently reopened by the Senate in 1859, upon the request of the Legislature of Indiana. After consideration, it was solemnly decided by the Senate that the decision made in 1858 established finally and irrevocably their right to seats and that the judgment was final.

The same conclusion was reached by the Senate in the case of Sykes against Spencer, from Alabama; the committee reported in that case that—

> The question on the former trial was whether the courthouse legislature was the lawful legislature; and that having been definitely settled, it was considered by the committee that it was not competent for the committee or the Senate to reopen it, and that it must be treated as res adjudicata—

and no minority report was presented by the committee, though such illustrious Democrats as Saulsbury of Delaware, Merrimon of North Carolina, and Cooper of Tennessee were members of the committee; so also was this followed in the case of Corbin against Butler, from the State of South Carolina.

In the case of Senator DU PONT of Delaware, the Republican majority of the committee reported that he was entitled to his seat in November, 1895. Senators Turpie of Indiana, Pugh of Alabama, Gray of Delaware, and Palmer of Illinois, Democrats, dissented, and their minority report was adopted as the judgment of the Senate by a majority of 1, and DU PONT was denied his seat. The case was reopened by the Senate, and upon consideration the committee reported without a single dissenting voice that the Senate having decided the case, it was final and conclusive. Senator Hoar was chairman of the committee, and Senator Edmunds and all the Democratic and Republican members joined in this report, save one, who withheld his judgment. Senator Hoar said on the floor that "he believed DU PONT had been lawfully elected and he desired him to be seated; but that no newly discovered evidence was found or mistake suggested, and that the case having been decided, nothing remained but to declare it final."

The basest assassin and most hardened criminal can not, after acquittal, be tried again for the same offense in any Anglo-Saxon country in the world. If the right of a Senator to a seat in the Senate can be tried over and over again, it is at the whim of a changing majority. His right is not merely his right to a seat, which may be of small consequence, but it involves his reputation, his honor, and the future peace and happiness of his wife and children, and, more than all, as I have said, the right of a sovereign State to have its chosen representative in this body, however ill fitted he may be to serve.

The Senator from Indiana attempts to defeat the plea of res adjudicata by the argument that it should have been made at the outset against a reopening of the case.

When that matter was before the Senate, the chairman of the committee, Mr. DILLINGHAM, said very wisely:

> We do not doubt that the Senate, like other courts, may review its own judgments where new evidence has been discovered, or where by reason of fraud or accident it appears that the judgment ought to be reviewed. The remedy which in other courts may be given by writs of review or errors or bills of review may doubtless be given here by a simple vote reversing the first adjudication. We have no doubt that a legal doctrine involved in a former judgment of the Senate may be overruled in later cases. But there is no case known in other judicial tribunals in which a final judgment in the same case can be rescinded or reversed merely because the composition of the court has changed or because the members of the court who originally decided it have changed their minds as to the law or facts which are involved.

We were agreed that if newly discovered evidence had been found showing that $100,000, or any other sum, had been raised and used to secure the election of Senator LORIMER by Mr. Hines or any other person, he should be unseated, but we could not tell in advance of the investigation whether such were the facts. We were willing to reopen the case for the purpose of giving the widest latitude to prove this alleged fact, but the majority after hearing all the evidence has found that such was not the fact and, accordingly, that the Senate should not recede from its former judgment.

The testimony of Funk is relied on. I shall not burden the Senate with a review of the facts, which, in my opinion, refute Funk's statement beyond defense. Even had it been established beyond dispute that Hines had told him that they had used $100,000 to elect LORIMER, that would not prove the fact that one cent was used in electing LORIMER. The evidence is overwhelming that Hines did not raise or expend any money in connection with securing votes for LORIMER.

For these reasons and upon the evidence it is my solemn conclusion that no new evidence has been adduced showing that the judgment of the Senate rendered at the Sixty-first Congress should be reviewed, and that, upon the whole evidence, the charges of corruption have not been sustained.

I am not induced to this conclusion by any friendship or sympathy for WILLIAM LORIMER. Had it been established to my reasonable satisfaction that a single vote had been corruptly influenced in his favor and to his knowledge or that his majority was due to fraudulent votes, I should unhesitatingly vote to unseat him. Senator LORIMER'S political convictions are not mine. My first political battles were spent in the effort to free my State from the baleful influence of his party, and I should be glad to do my part in directing the Nation's attention to so signal a crime as the purchase of a seat in this body by a Republican of long service if the evidence justified it. In my opinion, the evidence fails.

Mr. President, I have heard it whispered around this Chamber that my conclusion is opposed to the conclusion of the majority of the Senate; that the recent campaign for the Republican nomination, in which the leading candidates, neither of whom was or is charged with the sworn duty of reaching a conclusion upon the evidence, vied with each other in decrying LORIMER, and thereby revived the unpopularity of WILLIAM LORIMER; that this has lost his cause, and I have been advised to "drop LORIMER" and save myself.

Mr. President, I entered the Confederate Army in April, 1861, because the State of Alabama had seceded from the Union, and I believed their cause was righteous, and that it was my duty so to do. For four long, bloody years I followed the flag of Dixie; sometimes in defeat and often to victory. I became convinced before the surrender that we could not succeed, because we could not replace the brave men who fell on the field of battle. We were shut out from the world and could only draw recruits from the cradle. The idea never came into my mind that, because we must inevitably fail, I should desert to the enemy. I stood by my colors facing death and defeat until Lee and Johnston surrendered the fragments of glorious armies whose fame will never die. The span of my years may be shortened by the shot stopped by my breast in that failing cause, but, all in all, my keenest satisfaction in the past rests not upon those moments when I swam with the tide, but when I bared my breast, with Ajax, and took the lightning. Mr. President, I refuse to save myself at the sacrifice of my convictions and my honor.

A great deal is being said these days, Mr. President, about the people's rule—about restoring the people to rule, which I had not observed they had lost nor they either, I imagine. I am forced to concede that during the generation of Republican administrations, which are now passing, the interests of the plain people seems not to have been the inspiration of our national legislation. As I have remarked, I have no doubt that the popular impression upon this question is that LORIMER should be unseated, but I do not conceive it to be aiding the restora-

tion of popular government to substitute popular impression for the solemnity of my oath as Senator. The difficulty of inviting direct action of the people upon measures, under our system of Government, is the physical difficulty of presenting the facts fully and fairly, and of securing a general expression from the people, rather than any distrust of their deliberate conclusions. When they know the facts their judgment can be relied on.

Montesquieu, the prophet of the American Constitution, says (Book II, 2)—

that the people under a republican form of government are extremely well qualified for choosing those whom they are to intrust with part of their authority, but are not capable of conducting an intricate affair; that the great fault in the ancient republics was that the people exercised the right of active resolutions, whereas they were more peculiarly fitted to choose representatives for that function.

Again (Book XI, 6)—

that democracies are subverted when the people deprive "the senate, the magistrates, the judges of their functions"; and when the people "want to manage everything for themselves—to debate for the senate, to execute for the magistrate, and to decide for the judges."

Clear-cut issues, such as the tariff, the Republican idea of revision downward, extravagance in national affairs, the election of Senators by the people, and other constitutional amendments—these, and yet other matters, are all issues which the people can and should decide, but no man can contend that the people of the United States have absorbed an accurate statement of this investigation from the public press, or that they desire to sit as judges upon this voluminous record, or that if they were to pass judgment, they had opportunity or time to read this mass of evidence.

Mr. President, day before yesterday I sent up to the document room to inquire how many copies of the hearings had been taken out, and I was informed that but 41 had been removed from the document room—not enough to supply half the Members of the Senate; and so far as I am advised not a single copy had been sent to any citizen in private life.

No Senator can evade his responsibility for a consideration of the evidence and an independent conclusion upon the facts; and for the consolation of any Senator whose conviction may tremble before the superstitious suggestion which has been made that every Senator who voted for LORIMER has been defeated for reelection I desire to call attention to the reverse of that suggestion. When I look around the Senate I am unable to find the brilliant Beveridge of Indiana in this Chamber—the first of the so-called anti-Lorimer Senators to "bite the dust." And where is the late vibrant Senator from Nebraska, Mr. Burkett? Where is my good friend Frazier of Tennessee? And how fares it with the worthy and respected Senator from Oregon [Mr. BOURNE], and my good friend the Senator from Nebraska [Mr. BROWN], and the chivalrous PERCY of Mississippi, and that splendid old newspaper man from Iowa, Mr. Young? All these opposed LORIMER on the former hearing.

In this case the Senate is both prosecutor and judge, a dual relation that demands the greater care and hesitancy in resolving the burden of proof for a judgment of conviction. The duties of the prosecutor are done; you now sit as judges. And in that connection it may have occurred to some minds that the present tendency to criticize this body would be in some degree relieved by the expulsion of Mr. LORIMER, that your pride and the dignity of membership in this body would be protected or augmented by the expulsion of a Member enjoying popular disfavor. The merit of the Senate must be inconsiderable if it labors under such a necessity. There is enough and more of Pharisaism in public life. Col. Roosevelt declines to break bread at a public banquet with an American citizen, convicted of no crime and proven guilty of no personal act of moral turpitude, and chosen by the legislature of his State to sit in this body. He has not heretofore been so choice in his table mates. Un-American, undemocratic, and un-Christian charlatanry of this kind produces scoffers, not converts, to the cause of progress and reform. The same gentleman charges a large number of the leaders of his party with being accessories before or after the fact to grand larceny.

There is another fact in this case that should have weight. I do not suppose that as many as 20 Senators have read all the evidence in this case. Seven Senators were assigned as a subcommittee to hear it on the first trial, and a special committee of 8 Senators to hear it on this trial. Of these 15 Senators, composed of 8 Republicans and 7 Democrats, 11 have agreed in their findings in favor of Senator LORIMER and 4 only to the contrary. In the first trial the members of the committee, with the exception of Senator Frazier of Tennessee, were unanimous, and on this trial they stand 5 to 3 for acquittal, and of the 5, one Senator—one of the ablest and truest in this body (the senior Senator from Washington, Mr. JONES)—voted against LORIMER on the first trial and has entirely changed his mind after a patient and impartial hearing of the evidence in a long and protracted sitting.

This is the judgment of the men who have heard the witnesses, observed their aspect and bearing, and were better able to weigh their credibility. I have not the slightest pride of opinion that makes me desire that my conclusion on the facts, or the conclusion of the committee, be sustained by the Senate. I merely suggest that the repudiation of the majority report by the Senate would constitute a substitution by the Senate of the conclusion of Senators who have not heard the witnesses, and who have not been charged with the specific duty of considering it exhaustively, for that of your committee which has proceeded upon the unpleasant duty assigned them with the utmost patience and deliberation, and with that opportunity for weighing the testimony which is regarded as indispensable to a judgment upon the facts by every civilized system of law.

I heard all the evidence in both trials, the last covering about 9,000 pages of printed testimony; observed the witnesses, their demeanor, and manner of testifying; and I was not convinced, or reasonably satisfied, that LORIMER's election was secured by corrupt methods. I know that many people who have neither heard the evidence nor read it believe that LORIMER is guilty. I am sitting under my oath as a judge, and if I knew that every man in the United States believed LORIMER not entitled to his seat, I should decide the case according to my conclusions upon the law and evidence, whatever the result. Should I decide against my judgment and conscience, I would be unworthy to sit in the Senate. I would lose my own self-respect and be unfit to associate with honorable men. For a judge or juror to decide a case in accordance with what he believes would be pleasing or displeasing to the general public would show him unworthy to sit on the bench or the jury. Can any man, however honest and able, who has neither heard nor read the evidence, or who does not know the law applicable to it, be competent to decide such a question? Should any man who has not even read the evidence justly condemn those who have? If so, our entire administration of justice is wrong; our political convictions erroneous, and all functions of government should be left to a vote of the people. Until the people, in the exercise of their plenary power, assume the duty and right to pass upon solemn matters pending before this body it behooves the Senate to give effect to our ancient institutions. Among them is a system of justice which is deaf to popular clamor, entertains no presumption of guilt, and acquits in the absence of a definite and conscientious conviction to the contrary.

The people have not heard the evidence as I have. They have not taken an oath to do impartial justice according to the Constitution and the laws. I have. I can not render judgment upon their convictions, nor can they transfer to themselves my punishment if I violate my own. I would be unworthy of my place, if, for any fears of public retribution or disapproval, or for the sake of securing popular favor, I should disregard the convictions of my judgment and conscience. If every member of the Legislature of Alabama and every citizen of the State should demand that I should yield to the popular clamor for the conviction of anyone, upon their belief about the facts, contrary to my judgment, my convictions, and my oath as a Senator, I should promptly resign my commission and permit them to choose a successor who might be more willing than I to sacrifice his honor and self-respect for a seat in the Senate. I have taken no oath and made no promise to cast my vote according to the edict of the press. I ran before the wind of no popular temporary issue; I rode into this Chamber upon no hobby selected for political effect. I believe that the dignity of a Senator is not consistent with catch-penny platforms, patent issues, or maudlin generalities, and that my presence here is based upon the conviction of my people that upon all public questions my experience, and my record of service in the past, justified them in relying upon me to consider patiently each question in the light of the public welfare and vote my convictions. I am not convinced from the evidence that WILLIAM LORIMER had any knowledge or notice whatever that corrupt means were used to secure his election, or that his election was actually secured by corrupt methods or practices. I shall therefore vote against a judgment of ouster and leave the matter to the people of the State of Illinois, which, through her legislature, formally selected Mr. LORIMER to represent her in this body.

Mr. JONES. Mr. President, in view of the discussion that has been had on this case, thorough and complete as it has been in the Senate, I would not take the time of the Senate to dis-

cuss it at all were it not for the fact that on the former hearing I voted against Mr. LORIMER, and on this hearing I expect to vote to sustain his right to a seat in this body.

I do not think that it is necessary for me to say that my action on the former hearing was based on a conviction made up from the record in that case as to what a Senator ought to do, nor do I think it necessary for me to say that in this case my change of opinion has been forced upon me by reason of the testimony and the record made in this hearing.

I have been impressed as never before with the importance of seeing witnesses on the stand, hearing them testify, and considering their characters as they appeared upon the witness stand in determining the force and effect that shall be given to their evidence, and that has had much to do with my change of opinion with reference to this case.

There seems to be abroad in the land the opinion among the people that a vote for Mr. LORIMER is a vote to sustain bribery and corruption, and that the man who casts it approves bribery and corruption, and that a vote against Mr. LORIMER is a vote against bribery and corruption in elections, and that the man who casts it is the special enemy of such bribery and corruption. I judge this by remarks that I hear and by letters that I receive. I regret that there is such a sentiment throughout the country. It is not true. The men who vote for LORIMER are just as strongly opposed to bribery and corruption as those who vote for him. It is the duty of every Member of the Senate to so vote and so express himself as to show to the country that this Senate is independent, so far as a matter on which it acts as judges is concerned, of political clamor and political passion and prejudice, and that every man here votes his honest conviction based upon the law and the evidence, and to prove to the people of the country that this Senate is worthy of the Senates that have preceded it. We should do all in our power to eradicate the feeling throughout the country of distrust of public officials, of distrust of men in authority and in high place, that seems to influence the masses. It seems to me that this feeling in the country has had more to do with the situation with reference to this case than almost anything else.

Mr. SMITH of Michigan. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Michigan?

Mr. JONES. Certainly.

Mr. SMITH of Michigan. Mr. President, it is my respect, my very high respect, for the Senator from Washington which prompts me to interrupt him at this point. I know that he is thorough and honest and fearless and that his investigation into this case has satisfied him that the course he intends to pursue is the appropriate and proper one, but I must confess to a sense of irritation over the covert and insinuating intimation that has run through every speech that I have listened to in this Chamber on this case since it was reopened, challenging either the honesty or the integrity or the fairness or the courage of those who disagree with the Senator from Washington and his colleagues.

I have read this case through from top to bottom. I know the evidence and have satisfied myself as to the course I ought to pursue, and it is not in obedience to any public clamor. I hold my seat here as highly honorable as the seat of any Member. But if I am convinced, I will say to the Senator from Washington, that around the election of Senator LORIMER there is more bribery and perjury, more dishonor and infamy, than ever surrounded the election of a Senator to this body, it is my duty to say so. Clamor outside or inside of this Chamber has no influence whatever with me, and the rule of men here who arrogate to themselves superiority and control of the deliberations has no terror for me either.

I suggest to the Senator from Washington that it is worth a man's political life in this Chamber if he opposes certain elements who pretend to control our course. I have encountered that spirit from the time I entered here, and, undismayed by it, I propose to do my duty as I have the light to see it. The intimation of lack of courage is false, and I resent it both in the name of my colleagues who have reached a conclusion similar to my own and myself.

Mr. JONES. Mr. President, I was unfortunate in my expression if I gave the Senator just cause to conclude that I was referring to Members of the Senate. I was referring to the state of the public mind outside of the Senate, and I was just going to proceed to say what the Senator from Michigan has said much better than I can say, that however there may be those who may intimate that Members of the Senate will be controlled in their action by anything other than their honest convictions upon this case, I myself do not believe it. I am willing and glad to concede to every Member of this body the same honest conviction, the same conscientious devotion to duty, the same courage to carry out his convictions that I claim for myself. I want the declaration that he has so well made to go to the country that the Senators who are voting to sustain the right of Senator LORIMER to his seat in this body are just as much the enemies of corruption and of bribery as are the Senators who vote to exclude Senator LORIMER from this body. I am glad he made that declaration. I would like every Senator to make it because it is absolutely true, but those outside of this Chamber opposing Senator LORIMER seek to give the opposite impression. This is not fair, it is not just, and those of this body who know it is not true should say so in no uncertain tone.

I desire to say that so far as I am concerned after hearing the testimony in this case, after weighing it from every standpoint possible, after spending days and weeks and months in regard to it, after attending, I think, every day of the hearing except two and hearing practically all of the witnesses, I was convinced that Senator LORIMER's election was not secured by corruption, and being convinced of that fact I can not do other than vote to sustain his right to a seat in this body.

In saying that I want to repeat that I do not impugn the motives or the courage or the honest conviction of any Senator on this floor, and much less the courage and honesty of the Senator from Michigan and his colleague, for whom I have the greatest respect and in whose courage and honesty I have the greatest confidence.

There are many outside this Chamber who seem to think that those of us who do not believe Senator LORIMER's election was secured by corruption should disregard that belief and vote to exclude him. None in this Senate believe that, and they should so declare to the country.

Mr. President, this committee was appointed to investigate the charges of corruption in connection with the election of Senator LORIMER, at the request of the Legislature of the State of Illinois and upon allegations of the existence of new and material evidence that was not brought out on the former investigation. The former judgment of the Senate was not vacated, has not been vacated, and is not now vacated, and was not affected by the action of the Senate in the appointment of this committee, nor was the question of its vacation given any special consideration, although it was stated by some when the resolution to appoint this committee was pending that they would not vote for the resolution except because of the allegations of new evidence.

This committee was appointed, and more than 8,000 pages of testimony have been taken. In my judgment, not a scintilla of competent and credible evidence has been produced showing corruption in the election of Senator LORIMER.

The Senator from Michigan refers to perjury and declarations of corruption, and all that sort of thing, surrounding this case. There is no question but that there is perjury in this case. Perjury? Perjury? Perjury? Yes; but it is perjury on behalf of those and on the part of those who attack the seat of Senator LORIMER. I do not say that there is no perjury on the part of some who have been brought, as it were, to the support of the contention of Senator LORIMER. I think there has been. There is perjury on both sides of this case; but, to my mind, the question is, Was there corruption in the election of Senator LORIMER, and was his election secured by corruption?

Mr. SMITH of Michigan. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield further to the Senator from Michigan?

Mr. JONES. Certainly.

Mr. SMITH of Michigan. When I referred particularly to perjury I referred to the testimony of Link, which the Senator from North Dakota [Mr. MCCUMBER] referred to the other day.

Mr. JONES. I will say to the Senator it is my intention to refer to these particular witnesses a little later and give my view of their testimony.

Mr. SMITH of Michigan. They have been referred to. For fear that my statement might seem to be amiss, I simply wanted to say, if the Senator from Washington will permit me, that Mr. Link, before whom the alternative of the penitentiary or his home was held up before his eyes, committed perjury twice—first when he said he was not at St. Louis, and reaffirmed it on his oath when the district attorney told him not to add perjury to his crime. "I am not adding perjury." The district attorney reached down under his chair, took out the register of the hotel, handed it to Link, and said, "Is that your name? Did you write it? Were you there that day?" "Yes." "And why do you say you were not?" "I lied." That is his language, "I lied." He had perjured himself before this dreadful picture was held before his eyes, and it was time to hold this picture before his eyes and at least attempt to deter him from further crime.

I can go through the case and cite instance after instance of perjury. Far be it from my purpose to put this on the shoulders of the Senator from Illinois. I know that he has not perjured himself. If he had risen in his place in this Chamber when the charges were first made against him and made the statement that he made at the close of the last hearing, instead of inviting this investigation I would have accepted his statement as absolutely true. But it passed that point, and the details before us and can not be ignored. The attempt of men who had not been true to cover up their tracks, scurrying from place to place to avoid the officers of the law, shielding themselves behind flimsy privileges, was sufficient to attract my attention, and I have given it very careful study.

The conclusion that I have been forced to reach I reached reluctantly, because 10 years of service with the Senator from Illinois, in which our personal relations were most cordial and pleasant and honorable, admonished me that I ought to have some deep, substantial, solid reason for impugning his title. I think that exists in this testimony and shall govern myself accordingly.

Mr. JONES. Mr. President, I am glad the Senator brought this point up, although I expected to touch on it later. Yes; Link committed perjury, and yet he is one of the witnesses relied upon to show that LORIMER should be excluded. The Senator seems to conclude that because Link denied he was at St. Louis, when in fact he was, is proof that he was bribed to vote for LORIMER. I do not question the fact that Mr. Link had a reason for denying that he was at St. Louis. It was not, however, the fact that he had gotten money for voting for Senator LORIMER. It was the fact that he got money, and he knew it, out of a "jack pot," or fund for retarding or advancing certain legislation in the Legislature of Illinois. He knew he got it at St. Louis. He was afraid he would be arrested for this, and that is the reason he denied being in St. Louis. There is not one line of evidence from the beginning of this case to the end of it that shows that Mr. Link ever received, ever was promised, or ever expected to receive a single dollar for his vote for Senator LORIMER, and the Senator from Michigan can not find one word in the testimony that tends to show that he got that money for voting for LORIMER, except as he may infer it from the statement of White, that he got money for voting for LORIMER and that Link was there when he got his money. Nowhere in all of Link's testimony and in all of his statements to the prosecuting attorney of Cook County does he say that he expected a single dollar. Upon the contrary, he swears repeatedly and states to Wayman, and Wayman swears to it, that Link always contended he was never promised and never received a single cent for voting for WILLIAM LORIMER for Senator. When it is conceded that Link got some money for some other reason, is it fair or just or reasonable to conclude that he got other money for voting for LORIMER when there is no proof to show that he did so?

Mr. SMITH of Michigan. From whom did he get his money?

Mr. JONES. He got his money, if he got any, from Lee O'Neil Browne.

Mr. SMITH of Michigan. The leader of the Lorimer forces in the legislature—the acknowledged leader.

Mr. JONES. No.

Mr. SMITH of Michigan. The bellwether.

Mr. JONES. No.

Mr. SMITH of Michigan. The man whose name was to attract all other Democrats to his support.

Mr. JONES. No. I fear the Senator has not read this testimony.

Mr. SMITH of Michigan. Do not be so sure.

Mr. JONES. When he says he has, I accept his statement.

Mr. SMITH of Michigan. Do not be so sure.

The PRESIDENT pro tempore. Senators should address the Chair before interrupting other Senators on the floor. Does the Senator from Washington yield to the Senator from Michigan?

Mr. JONES. Oh, certainly.

Mr. SMITH of Michigan. I guess the Senator from Washington spoke hastily when he said I had not read this testimony.

Mr. JONES. I did not say the Senator had not read it.

Mr. SMITH of Michigan. I am very familiar with the testimony, and I spoke particularly of the perjury charge, because perjury attempts to cover up something wrong.

Mr. JONES. I admit that; and I admit that it was intended to cover up something wrong in this case, but it was not connected with the election of LORIMER, and there is no proof to show that it was connected with the election of LORIMER. Even with a perjury charge pending against or over him and with the promise of immunity and the assurance of immunity if he would connect LORIMER with this money, Link never connected him with it in any way, shape, or form, but continually said that it had nothing to do with his vote for the Senator. That is what he said to the last. If it was for his vote for Senator, why did not he say so? Why should he conceal it when he admitted that he got it improperly? When he admitted getting money at St. Louis from Browne there is no earthly reason why, if it was money for his vote for LORIMER, he should not say so; and when he persistently denies it it is the strongest possible proof that he did not get it for that reason.

I should like to have the Senator—and I will yield to him for that purpose—point out anywhere in the record some testimony that with reasonable directness shows that Link got the money for voting for LORIMER. I do not deny that he got it from Browne, who represented certain interests in the legislature. I want to say that there is just as much, yes, there is more, evidence in this record that the money that was distributed at St. Louis came from other sources than there is that it was in connection with the election of Senator.

Mr. SMITH of Michigan. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Michigan?

Mr. JONES. Certainly.

Mr. SMITH of Michigan. I have gathered the impression from a careful reading of the case that the moment the inquiry into the title of Mr. LORIMER's seat was begun the scurrying among the jack-pot crowd began; and if those two things were not related, why did they all disappear from their homes, gather at out-of-the-way places under suspicious conditions, and then lie about having been there?

Mr. JONES. Mr. President, this scurrying to and fro, and so forth, began when the jack-pot story was published. This story involved the jack pot as well as the senatorial election, and that is what these men would naturally do when they knew that they had gotten money out of that legislature improperly. When this matter was brought out it was brought out under the title of the jack pot. White's story was about and connected with the jack pot, as well as the senatorial election, and they knew very well that this matter would be investigated.

I submit to the Senate—of course, if the Senator draws other conclusions from it I know that he draws them honestly—if it was not the natural thing, the reasonable thing to expect these men to scurry about and deny their presence at St. Louis, and so forth, because of their connection with the jack-pot fund, regardless of any senatorial election. I want to ask whether or not it is fair to disregard their connection with the jack pot in connection with these conferences and in connection with these denials, and to conclude absolutely that Senator LORIMER's election was the cause of it? The Senator from Michigan honestly looks at it that way, while I do not, and I am just as honest in my viewpoint as he.

Mr. SMITH of Michigan. Mr. President, I want to say one word more if I may without intrusion.

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Michigan?

Mr. JONES. Certainly.

Mr. SMITH of Michigan. I tried very hard to dissociate the jack pot and all that followed it from the case of Senator LORIMER, and I was unable to do so. I think the jack pot was formed before the senatorial election took place; I think it was formed for other purposes than the election of a Senator; but it was the most convenient whip imaginable for Lee O'Neil Browne to use on the heads and shoulders of members of that unholy band to bring about the election of a Senator, and I connect the two. I do not believe that they can be truthfully separated one from the other. I even go so far as to connect this evil attempt to besmirch the character of Mr. Funk with the circumstances surrounding the election of a Senator, and yesterday a jury sitting in a Chicago court dismissed it——

Mr. JONES. Oh, Mr. President, I do not think——

Mr. SMITH of Michigan (continuing). Because of lack of every element of honesty, although it was intended to blacken the character of a witness who had collaterally come into the Lorimer case.

Mr. JONES. Mr. President, I want to ask the Senator from Michigan if he believes that the fact that proceedings of that character were brought had any effect upon any member of this committee in the consideration of this case?

Mr. SMITH of Michigan. I think it was intended to terrorize a witness who thought he knew something leading up to the bribery in this case.

Mr. JONES. It was brought long after he testified before the committee.

Mr. SMITH of Michigan. I know it was; but it was to blacken his character.

Mr. JONES. Does the Senator think that that had any effect upon the committee or any member of the committee in considering this evidence?

Mr. SMITH of Michigan. It is the case of Henning——

Mr. JONES. Yes.

Mr. SMITH of Michigan. I think it was intended to influence public opinion against Mr. Funk and destroy his testimony against Hines.

Mr. JONES. There is nothing in the record to indicate or show anything of that kind, and I hope the Senator does not think this case influenced them in any way.

Mr. SMITH of Michigan. I have a very high opinion of them; but the committee did not know the character of the Hennings; the committee did not know but that Funk had alienated the affections of Mrs. Henning from her husband—the committee did not know their character—but somebody knew that it was not true, and the facts came out this morning, to the eternal damnation of those who instigated that false charge in order to bring crime upon crime and protect men who were close to the fire.

Mr. JONES. I do not know that I really ought to say to the Senator from Michigan that I gave no attention whatever, and that in my judgment not a single member of the committee give any attention whatever to the case against Mr. Funk. We made no inquiries as to those charges or the character of those making them. I gave no thought to the charges. We ought not to have to say this to him or this Senate. There is nothing in the record about the case to which he refers, and it is absolutely unjust and unfair to Senator LORIMER to connect him with it.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from South Dakota?

Mr. JONES. Certainly.

Mr. CRAWFORD. I think the Senator from Washington knows that, so far as I am personally concerned, the fact that the Senator, after the second hearing, changed his views has not in any way lessened my estimation of the Senator from Washington or my confidence in him.

Mr. JONES. I know that.

Mr. CRAWFORD. I have been somewhat puzzled, however, to know how the Senator from Washington reconciled the position that he takes that the jack-pot fund and the payment of the money to Link and others is entirely dissociated from the election of Senator—the Senator may fully cover it in his speech—but I wanted simply to call attention to this situation, which impresses me very strongly.

It seems to be admitted by the Senator from Washington, and was admitted by the Senator from Vermont [Mr. DILLINGHAM], whose discussion of this testimony was certainly judicial and impartial from his standpoint, that the charges of a corrupt use of money by Lee O'Neil Browne and of the corrupt payment of money by Lee O'Neil Browne to these people at St. Louis did actually occur. How does the Senator explain the significant fact that the men who received this money were Democrats who voted for a Republican, Senator LORIMER, and that the man who paid the money assumed to conduct a campaign in behalf of Senator LORIMER in the direction of securing these votes for him? There certainly can be no question about the fact that Lee O'Neil Browne, after his conferences with Mr. LORIMER and with Speaker Shurtleff, started out and undertook to gather together these votes for Mr. LORIMER.

Here is the man who handled this corrupt fund and paid it. These men have never explained where it came from. Link said he would not do it, because it would involve in trouble men whom he did not want to so involve; but the man who got the money from some source and was guilty of these corrupt actions and the men who received the money were the men who were voting for this Senator, and Browne undertook the job of getting them to vote for this Senator.

Mr. JONES. I think I will explain that as I get along a little bit further, although I will say this: I do not take a position with reference to the jack pot quite so broadly as do some of the other members of the committee. I do not believe there is any proof here of the existence of what has been generally known as a corruption fund, or a jack-pot fund, with reference to the Illinois Legislature. I do not believe that it was "reeking" with corruption and bribery, as some assume, and there is no proof that such was the case. I have collected nearly all of the testimony in the record with reference to a jack-pot fund or a corruption fund, which is understood to have been a fund contributed by different interests in the Illinois Legislature for the purpose of distributing it after the legislature had adjourned; and you can not find any testimony throughout this record, other than rumors and gossip and such, as I venture to say, you hear in connection with almost any legislature throughout the country, proving the existence of such a fund. I intended to submit this so-called testimony to the Senate, but I will not take the time to do so. It consists wholly of rumor, gossip, joking remarks, beliefs, and current newspaper reports, as an examination of the record will show. The specific instances referred to during the last 10 or 12 years to show the existence of such a fund really demonstrate to the contrary. There is one instance given with reference to an offer of $200,000 to the speaker of the Illinois Legislature for his influence in connection with a certain bill. That was a specific offer to the speaker of a specific amount, to be paid at that time, if you please, and not to go into a fund to be distributed at the close of the legislature. The only other instance, as I remember, was in connection with a traction bill. That was a charge of an attempt to corrupt the legislature with reference to that particular measure by the bribery of members, and not the contribution to a common fund that was to be distributed afterwards.

I am satisfied from the testimony in this case that there was no general corruption fund in the forty-sixth general assembly. The testimony goes to show that before the meeting of that legislature steps were taken to prevent what were called "hold-up" bills and "regulator" measures, which it was denied had been introduced in previous legislatures. Some of the railroad companies, which had been held up or claimed that they had been held up before, called Gov. Deneen to a meeting before the legislative session began and asked him to cooperate with them in resisting this class of corrupt practices and the introduction of this class of legislation. Speaker Shurtleff also testifies to the fact that, at the invitation of some of the transportation interests, he went to a dinner with them, where they discussed these matters, and asked him to help them to relieve the legislature from such a condition as that. So that when the Forty-sixth General Assembly of the Legislature of the State of Illinois met, it met apparently under different conditions from those under which previous legislatures had met. It met under conditions that the interests that had been contributing, if they had been contributing, to a corruption fund theretofore, had, as I think some one has expressed it, signed a declaration of independence, and they did not intend to be held up any more. There is no proof other than that of the existence of such a fund, and most of the witnesses said that all they ever heard of a corruption fund was from the newspaper reports.

I want to say that if the people of this country are going to accept as conclusive newspaper suggestions of corruption, there is not a legislative body in this country which, according to their reports or suggestions or insinuations, will be free from a corruption fund. There will be no great political gathering throughout the country, if these newspaper suggestions are taken as correct, that will be free from corruption.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Indiana?

Mr. JONES. Certainly.

Mr. KERN. Does the Senator from Washington agree with the statement of the Senator from Vermont [Mr. DILLINGHAM], expressed in a colloquy with the Senator from Missouri [Mr. REED] the other day, that Lee O'Neil Browne distributed some kind of a fund at St. Louis to certain boodling members of the legislature in June following the term of the legislature?

Mr. JONES. Oh, yes; I will agree to that.

Mr. KERN. And if the Senator agrees to that, has the Senator's mind come to that conclusion from the evidence in the case?

Mr. JONES. Yes, sir.

Mr. KERN. From what evidence—from the evidence of the men who received the money?

Mr. JONES. Well, upon the suggestions that have been made, some by the Senator from Michigan.

Mr. KERN. From the circumstances of the case as developed by the evidence—is not that true?

Mr. JONES. Certainly.

Mr. KERN. Then, does the Senator from Washington believe that Robert E. Wilson distributed another fund or some other money in St. Louis in July?

Mr. JONES. I do not think he distributed any other fund.

Mr. KERN. Did he distribute money there?

Mr. JONES. Possibly so; but it came from the same fund.

Mr. KERN. Very well. Then, is it not true that that evidence of the distribution of money by Lee O'Neil Browne in June and by Robert E. Wilson in July and the payment by Broderick of money to Holstlaw is entirely new evidence that

was not conceded at all by the friends of Senator LORIMER in the previous investigation?

Mr. JONES. Certainly not. That evidence was all brought out in the other investigation and was all considered by the Senate.

Mr. KERN. But did not the friends of Senator LORIMER here in the former investigation utterly discredit that testimony as to the distribution of money by Lee O'Neil Browne and Robert E. Wilson?

Mr. JONES. I am not here to say what the friends of Senator LORIMER did. I do not know just what relevancy the Senator attaches to that matter at this point. I expected to consider it just a little bit later in connection with the res adjudicata proposition. The Senate, however, passed on all this evidence when it made its decision.

Mr. KERN. I wanted to get the views of the Senator on that question, as to what is and what is not conceded by the majority of the committee.

Mr. JONES. Some of the friends of Senator LORIMER, according to my recollection, admitted the payment of this money, but denied that it was paid in connection with the election. But it is immaterial, so far as I am concerned, what the friends of Senator LORIMER admitted or conceded. I do not recognize that I am here as a friend of Senator LORIMER or as an opponent of Senator LORIMER. I am here to try to reach a correct judgment as one of the judges in this case, upon all of the evidence as I see it and as I view it, and not as some one else looks at it, whether friendly or unfriendly to Mr. LORIMER.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator further yield to the Senator from Indiana?

Mr. JONES. Certainly.

Mr. KERN. I will ask the Senator if the Burrows committee, in its report, did not utterly discredit the testimony that sought to fasten upon Lee O'Neil Browne and Robert E. Wilson the distribution of these sums of money in June and July?

Mr. JONES. That may be true.

Mr. KERN. I am asking if it is not true.

Mr. JONES. That may be true, but it has no weight with me in connection with this case. I am not going to decide this case upon the testimony in the Burrows investigation, except as it may have to come in here because some of the witnesses then examined are dead. I am deciding this case upon the testimony in this investigation.

Mr. KERN. I want to ask the Senator whether or not part of the same testimony which fixes upon Lee O'Neil Browne the payment of this money and which fixes upon Broderick the payment of the money does not show that part of the money was paid to Beckemeyer as Lorimer money and whether or not the testimony——

Mr. JONES. No; I can not admit that.

Mr. KERN. Wait a minute.

Mr. JONES. But wait. The Senator has put one question and suggested that the testimony shows that money was paid to Beckemeyer as Lorimer money. I want to say that in my judgment the testimony does not show that a single dollar of the money paid to Beckemeyer was Lorimer money.

Mr. KERN. Did not Mr. Beckemeyer so declare?

Mr. JONES. He did not. After repeated attempts to get Mr. Beckemeyer to testify that he got money for voting for LORIMER he told Wayman that when Browne handed him the money he said it was Lorimer money. That is the testimony, and he denied to the last that he expected or was promised a dollar for his vote for LORIMER.

Mr. KERN. I will ask the Senator whether or not Mr. Holstlaw, whose testimony must be received as true if Broderick's testimony is false, did not explicitly declare that Mr. Broderick told him when he paid him the $2,50 that that was the Lorimer money?

Mr. JONES. He did not.

Mr. KERN. Did he not testify that when he was solicited to vote for LORIMER, after he said he intended to vote for him, whoever solicited him said, "There is $2,500 in it for you"?

Mr. JONES. I think that is the language Holstlaw testified to—that after he had told Broderick he was going to vote for LORIMER Broderick said, "There is $2,500 in it for you."

Mr. KERN. Are we not now discussing the question of whether or not there was Lorimer money there to be paid out? And if Holstlaw told the truth when he testified to that, does not that indicate that there was Lorimer money there to be paid out? And does not——

Mr. JONES. Just wait right there. I want to say to the Senator that I do not believe Holstlaw told the truth when he said Broderick said to him, "There is $2,500 in it for you." I will take up that matter a little bit later.

Mr. KERN. Will the Senator explain why he accepts Holstlaw's testimony as true on the main point and discredits it on this point?

Mr. JONES. I will give my views of Holstlaw's testimony a little later on. You can not find any important witness in this case whom you will not have to discredit on one point if you believe his testimony on some other point, and that is especially true as to those upon whom the case against Mr. LORIMER rests.

Those who are opposed to Senator LORIMER can not sustain their position without discrediting the witnesses upon whom they rely to exclude him from this body. When they say Beckemeyer cast his vote for Lorimer money, they say Beckemeyer lies when he says he did not do it. When they say Link accepted money for his vote for LORIMER, they say Link lies when he says he did not do it. When they contend that Holstlaw voted for LORIMER because of Lorimer money, they say Holstlaw lies, because he swore to the end he did not, and that it had no influence upon his vote. And so it is with all the witnesses, except White, upon whom they rely to exclude Senator LORIMER.

Mr. KERN. I had understood the Senator to say that there was no testimony here, save that of White, connecting Senator LORIMER's election with the distribution of the money. Does the Senator forget the testimony of George W. Meyers, who testifies that Lee O'Neil Browne, who was active in Senator LORIMER's interest, said to him, when soliciting his vote, that there was "plenty of the ready necessary" if he would vote for Mr. LORIMER? Does he consider that as of no value, or does he disregard Mr. Meyers's testimony altogether?

Mr. JONES. I hope the Senator does not think I have overlooked Mr. Meyers's testimony, because I have not. I may say right here that I think, under the circumstances, Mr. Meyers's testimony is very improbable. It does not seem reasonable to me that one member would go to another on the floor of a legislative body, without any caution or secrecy or anything of the sort, and offer him a bribe and go away without asking him to say nothing about it—and that, too, just before the vote was to be taken, nor does it look reasonable that Mr. Meyers would have kept quiet at that time if such a suggestion had been made to him. I do not know what Mr. Browne suggested to Mr. Meyers. I do not believe he made the suggestion Mr. Meyers says he made, because Mr. Meyers himself testifies that at the close of that conversation, when he told Browne he could not vote for LORIMER, Browne suggested to him that he go and see Speaker Shurtleff; and he said he went and saw the speaker, and the speaker asked him if he could not vote for LORIMER, and he said "no." Nothing more.

That was the end of the conversation. There was no suggestion of corrupt influence, no suggestion of money, no suggestion of place or profit, or anything of that sort. Mr. Meyers did not attach any special importance to whatever Browne did suggest. He was not offended; I do not believe he thought any attempt was being made to bribe him, and I do not believe any such suggestion was made.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator further yield to the Senator from Indiana?

Mr. JONES. I do.

Mr. KERN. One more question, and I will not disturb the Senator further.

If the Senator believes that Lee O'Neil Browne did distribute the money in June, 1909, then he must believe that Lee O'Neil Browne committed perjury when he testified before the committee that he did not distribute it. That being true, does not the Senator think the testimony of Mr. Meyers, whose character has not been impeached at all, ought to be given equal credence with the testimony of a man who the committee concede has committed perjury?

Mr. JONES. Nobody has impeached the character of any witness in the hearing, except as the witnesses may be contradicted by each other.

Mr. KERN. No; but there has been such testimony adduced before the committee that the majority of the committee are now compelled to admit that Lee O'Neil Browne committed perjury when he testified that he did not distribute money in St. Louis in June, 1909.

Mr. JONES. He is not the only one who has committed perjury in this case.

Mr. KERN. That is true.

Mr. JONES. The case of those against Senator LORIMER is based and buttressed on perjury, and nothing else. White is a perjurer time and again, and the Senator must admit it. Beckemeyer was a perjurer time and again; everyone must admit it. Link was a perjurer, and all must admit it. Holstlaw perjured

himself before the committee time and again, and no one will deny it.

So it is with practically all of these important witnesses. They are not entitled to belief to any extent. Therefore, when men like these were confronted with indictments and threatened with prosecutions for perjury, and they were told, or it was suggested to them, "If you will connect LORIMER with this case, we will dismiss these indictments," it would be expected that every one of them would jump at that bait to save himself.

These are the men upon whose testimony we are to exclude Senator LORIMER from this body. These are the methods pursued to get their testimony. They have confessed to bribery in one form or another. They have admitted perjury, but none have been prosecuted for any of these confessed crimes.

Think of it, Members of the Senate—and I hope the country will consider it when it thinks calmly of this case. Link admits that he got money in connection with corrupt practices in the legislature. He admits perjury. He never has been prosecuted. White admits that he got money in connection with corrupt practices. He says he was bribed to vote for LORIMER. He says he was to get money from the "jack pot" and he says he got it. He never has been prosecuted. He has never even been indicted. Beckemeyer admits that he got money for corrupt practices in connection with the legislature. He admits perjury. He never has been prosecuted. It is claimed that Luke got money for corrupt practices and for bribery, but he was never prosecuted. It is claimed that Shephard got money in the same corrupt way. He goes scot-free. It is claimed that Clark got money corruptly. He never was prosecuted. It is claimed that Holstlaw admits he got money. He admitted it under the pressure of an indictment for perjury and under insinuations and intimations that if he would connect LORIMER with the matter he would get an immunity bath, and he got it. He never has been prosecuted from that day to this, either in connection with the deal in which he admits he was corruptly engaged or in connection with the Lorimer matter or for admitted perjury. No one was prosecuted and brought to trial but Lee O'Neil Browne. All these men went scot-free in order to get evidence against Browne; because it was felt that Browne's conviction insured LORIMER's exclusion from this body. Browne was acquitted by a jury of 12 American citizens sworn to try the case on the law and the evidence. That counts for nothing, however, and, according to some, our jury system is a farce. Really, is it any wonder that a jury, believing in a "square deal," as all Americans do, should refuse to convict a man on the evidence of such men as White and Beckemeyer?

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator further yield to the Senator from Indiana?

Mr. JONES. Yes.

Mr. KERN. If the Senator believes that all these men who were in St. Louis in June and July were perjurers, and their testimony before the committee was perjured testimony, utterly unreliable and unworthy of belief, where is the testimony upon which the Senator from Washington and the Senator from Vermont base their asseveration to the Senate that Lee O'Neil Browne did distribute money in June, 1909, and that Robert E. Wilson distributed money? The Senator says the testimony to that effect is false; that it is the testimony of perjurers. Yet two members of the committee come here and state before the Senate that they have no doubt Lee O'Neil Browne did distribute that money.

Mr. JONES. Mr. President, I did not say their testimony in that respect was false and I did not say I had no doubt about it.

Mr. KERN. Oh!

Mr. JONES. I did not say that. I am willing to concede it for the purposes of this case. I will say frankly to the Senate that I have some doubt about it, but I am willing to concede it for the purposes of this case for the reason that, in my judgment, there is no testimony anywhere in this record that connects Senator LORIMER or his election with that transaction. On the contrary, I think it clearly appears throughout the testimony that these men connected Senator LORIMER with it in order to secure immunity from prosecution for their own crimes. There were some of them, whatever else may be said about them, who were brave enough and honest enough not to go so far as to connect Senator LORIMER with it. Beckemeyer and Holstlaw are the only two men aside from White who connect Senator LORIMER with this matter at all; and right here I will point out how I think it happened that Beckemeyer connected LORIMER with it.

On the former hearing of this case I did not attach any importance whatever to the contention that these witnesses had been forced to testify as they did by what are known as "third-degree" methods on the part of the prosecuting attorney of Cook County. I assumed that they were men of ability, men of courage, men of more than ordinary sense and judgment, and that they would not be influenced or browbeaten by any prosecuting attorney. I have changed my mind in that respect. I saw Beckemeyer on the stand—a weak, vacillating, nervous, fearful, easily controlled and easily frightened man—he is the very kind of man that the methods pursued by the prosecuting attorney of Cook County would influence and affect wrongly.

I do not condemn the prosecuting attorney of Cook County. I suppose he did not do any more than any other prosecuting attorney with his ability and energy would have done under the circumstances. He was endeavoring to convict somebody. He was endeavoring to convict Lee O'Neil Browne. I do not question his motives at all. Charges against Lee O'Neil Browne had been brought to his attention in connection with LORIMER's election and he was trying to prove them and convict Browne as the most effective way to discredit LORIMER. He was doing his duty as he saw it.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from South Dakota?

Mr. JONES. I do.

Mr. CRAWFORD. Does the Senator indorse the statement which, as I recall, was practically made by the Senator from North Dakota [Mr. MCCUMBER], that Mr. Wayman practically put words into the mouths of Link and these other witnesses, told them that they must swear to them, and undertook to dictate to them the things they must say in order to secure the immunity that was granted to them? Is there anything in the record that sustains any such charge?

Mr. JONES. I do not know that I would go quite that far, although the record will very nearly sustain such a charge. We do not all view these things alike. We do not all attach the same importance to a suggestion or a statement in the testimony. The Senator from North Dakota may be satisfied in his mind that that is a correct statement. I would hardly go that far myself. But I do say that the prosecuting attorney of Cook County, who is a very forceful man, a very strong man, a man of domineering manner that would affect a man like Beckemeyer in that way, pressed Beckemeyer and Luke and Link very strongly, and, I think, made it plain to them what he wanted and what statements from them would bring them immunity. I do not say he wanted them to lie, but he wanted them to tell what he thought was the truth, and if they said that they would get immunity. That Beckemeyer lied to get immunity, I have no doubt.

Mr. CRAWFORD. Mr. President, it has always seemed to me that that was a very serious charge to make against a prosecuting attorney—that he was going so far to make a case in this matter that he was compelling these men to swear to falsehoods in order to secure immunity, and was practically putting in their mouths the words which he insisted they should utter in order to secure immunity.

I must say that I examined with care the testimony in the former record and in this record with a view to ascertaining whether or not such a charge was well founded. I read Wayman's testimony and all the testimony, and it does seem to me that the charge is without foundation. It seems to me that the utmost the record shows the State's attorney insisted on was that they should tell the truth; not, as the Senator from North Dakota seems to assert, that they should tell only part of the truth and withhold part of it, except as there was involved a conflict of jurisdiction between Sangamon County and Cook County.

I should like to know where the testimony is upon which the charge is made that the State's attorney of Cook County imposed as a condition that these men should testify to falsehoods in order to secure immunity.

Mr. JONES. I do not make that charge myself, and I do not propose to go into the record here with reference to all the testimony in this respect. I want to say, as I said before, Mr. Wayman is a very forceful man and would, no doubt, be considered by a weak man like Beckemeyer as very domineering. I have no doubt that he went after Beckemeyer hard and strong, and Beckemeyer was what we term browbeaten or "third degreed." This is the situation with reference to Beckemeyer. Beckemeyer had denied that he was at St. Louis, as I remember it.

Mr. MCCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from North Dakota?

Mr. JONES. Certainly.

Mr. MCCUMBER. In reply to the suggestion made by the Senator from South Dakota [Mr. CRAWFORD] that he saw

nothing in the testimony that would show any attempt upon the part of the State's attorney to secure less than full evidence, let me ask the Senator from Washington if time and again the State's attorney did not request Mr. Link not to answer certain questions before the grand jury because they would incriminate him?

Mr. JONES. Oh, yes.

Mr. McCUMBER. And the basis was not because of lack of jurisdiction but because if he went beyond a certain matter it would incriminate him, and that, as a matter of fact, he should not be incriminated any more than he was.

Mr. JONES. There is no question about that. The Senator from South Dakota, I think, concedes that.

Now, as to Beckemeyer, I am going to point out right here why I think Beckemeyer connected LORIMER with this money. Beckemeyer was at St. Louis. He denied that. He was indicted for perjury. That was the point. He was brought up to Chicago. He was taken before the grand jury, and he denied that he was at St. Louis. An indictment was brought against him. Then it was suggested that he could tell something else. He went before the grand jury again, and he told a little bit more. Finally, after he had been before the grand jury about three times, he told the grand jury that he was at St. Louis; that he had received a thousand dollars from Browne and $900 from Wilson. But this did not relieve him. This did not take away the indictment. This was not enough. Apparently the prosecuting attorney did not give him any hope of immunity. He had not gone far enough. He had not yet connected LORIMER with either transaction. His sick wife was held up before him, and the result that would come to him in his family relation in case this indictment was made public and he was prosecuted under it weighed upon his mind.

I am not going to tell the Senate how he was taken to saloons and other houses, how he was taken by the officers and all sorts of influences brought to bear upon him; but he could not get immunity for what he had said thus far. He no doubt had heard and knew that they were trying to convict Browne of bribery, not in connection with corrupt purposes in the legislature, but in connection with the election of LORIMER. He was a lawyer. He knew what was wanted. So he no doubt said to himself: "If I will connect LORIMER with this matter, then I think that will get me release." He then went into Mr. Wayman's office and told Mr. Wayman that when Browne gave him a thousand dollars he said, "This is Lorimer money"; and that secured him immunity. He was permitted to go home immediately. That was what was wanted.

I want to say that from his manner on the stand, and judging of him as the man he appeared to be, and from all the circumstances, I have no doubt in my mind that Beckemeyer connected LORIMER with that thousand dollars for the sole purpose and in the hope of securing immunity, and for no other reason whatever.

Mr. KERN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Indiana?

Mr. JONES. Certainly.

Mr. KERN. Was not that proposition expressly negatived by Mr. Wayman and his assistants in the office?

Mr. JONES. Mr. Wayman testifies that Mr. Beckemeyer did not say at any of the three times he appeared before the grand jury that anything was said about LORIMER when this money was handed to him by Browne, but that he told it to him in his office after he had been before the grand jury three times, and then he let him go home.

Mr. KERN. No; Mr. President, that was not my question. My question is whether or not Mr. Wayman and his assistants did not expressly and explicitly negative the idea that this man had been coerced by any word or promise on their part.

Mr. JONES. Oh, Mr. President, I have a right to form my judgment as to the testimony in this case and the effect of it. It is not denied by Mr. Wayman that what I have said is the truth. Of course, Mr. Wayman would deny that he coerced Mr. Beckemeyer; but I want to say that, taking Mr. Beckemeyer as he is and Mr. Wayman as he is, the circumstances that I have related were the very strongest possible coercion that could be brought upon Beckemeyer.

I do not question the honest judgment of other Senators who do not look at this matter as I do, but I will state my conclusion. From all the evidence and circumstances I am firmly convinced that Beckemeyer connected LORIMER with that thousand dollars simply and solely for the purpose of getting immunity.

Take Link. He was dead before this committee started its investigation, and we had to take the testimony on the other hearing. My recollection is that he first denied he was at St. Louis. Then he was threatened with an indictment. I believe he was not indicted for perjury, but he was threatened with an indictment. The Senator from North Dakota [Mr. McCUMBER] read the testimony in regard to the matter. But with all the suggestions that were made to him, with all the inducements that were held out to him, he did not connect LORIMER in any way, shape, or form with this money, but he denied it time and again.

From the beginning to the end he denied that anything was said by Browne when he handed him this money in regard to LORIMER. He expressly denied that LORIMER's name was mentioned. If Browne had said to Beckemeyer, "Here is your Lorimer money," would he not very likely have said the same thing to Link? Yet Link denied over and over again, with a threat of perjury held before him, that Browne said anything about LORIMER. Wayman, in his testimony, corroborates Link to the extent of saying that Link contended with him, as well as before the grand jury, that Lorimer money had nothing to do with his vote and that Browne said nothing about LORIMER when he handed the money to him. It is said, and the country believes, that Link confessed to getting money for his vote for LORIMER. This is not true. On the contrary, he swears time and again that he did not get any money for voting for LORIMER, was never promised any, and never expected any.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Missouri?

Mr. JONES. Certainly.

Mr. REED. I do not desire to interrupt the Senator, but I want to get his view. This same man denied, did he not, that he got any money at all?

Mr. JONES. Oh, yes. I have not touched on that, I will say.

Mr. REED. There was some coercion, the Senator claims, brought to bear upon him. He then admitted he did get money.

Now, is it the view of the Senator that that coercion resulted in him telling what was not true, admitting there was coercion, or did the coercion result in nothing more than getting the truth?

Mr. JONES. I am admitting that the coercion got him to tell the truth. I am contending that when he said that, it in no way connected LORIMER with it. I expressed the opinion awhile ago that I had some doubt upon the distribution of the money, but I am willing to admit it for the purposes of this case, and to concede that Link was paid money at St. Louis.

Mr. REED. I am trying simply—not to interrupt the Senator——

Mr. JONES. That is all right. I am not objecting to the interruption.

Mr. REED. It appears that there has been great complaint made by several Senators about harsh methods being used with these gentlemen.

Mr. JONES. If the Senator will permit me, I have not accused the prosecuting attorney of Cook County of using harsh methods. I have simply told the Senate what he did, and from that I make up my mind as to its effect on these men after seeing them on the stand. Other Senators, of course, can make up their own minds from the information they have.

Mr. REED. Those harsh methods or those methods, whether harsh or otherwise, did get this man to admit certain facts which you now concede were the truth, so that the result of the pressure, whatever it was, was not to get a falsehood from him but to get the truth from him. It therefore appears to be admitted that these gentlemen did get money. Now, from what source does the Senator understand that money came?

Mr. JONES. I will come to that a little later on.

Mr. REED. I wish the Senator would discuss it for my benefit.

Mr. JONES. Very well. I will say now, because I am simply trying to bring out the facts and reasons for my conclusion in this case, I believe if money was paid to these men by Browne it came from the liquor interests of the State of Illinois. That is where I believe it came from. It was admitted in the record that Lee O'Neil Browne represented the liquor interests in the legislature. All these men—White, Luke, and so forth—were liquor men. It is shown in this record that the liquor people were active in the forty-sixth general assembly, and they were about the only interests the record shows which were active, especially with reference to legislation. My theory is that Lee O'Neil Browne, as the representative of the liquor interests, had placed in his hand money to do with practically as he saw fit, and that he distributed this money to these men, for what purpose or for what reason I am not going to go into especially, but probably to keep their good will and support in the future. As some of them testify, there was a "bunch of good fellows" in the legislature, and who would be more likely classed as a "bunch of good fellows" than these liquor men?

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield further to the Senator from Missouri?

Mr. JONES. Certainly.

Mr. REED. The Senator says that it is his theory mainly that this was liquor money. He, of course, is more familiar with the record than I am. He heard the testimony, and I did not. Is there any evidence whatever in the record that the money was furnished by the liquor men, or is that a mere inference and theory outside of the record?

Mr. JONES. I will say that it is based very much as I see it upon the same theory and upon the same basis that our friends connect Senator LORIMER with this money. I think other Senators may not look at it as I do, but I have almost a conviction, so far as I am concerned, taking all this record into consideration, that that was the source of that money.

Mr. REED. But the Senator says that there is utterly no evidence whatever to connect Senator LORIMER with the furnishing or the expenditure of any money.

Mr. JONES. Except White.

Mr. REED. Now having contended there is no evidence to connect LORIMER with the furnishing of any money, the Senator declares that he believes the money came from the liquor interests upon the same theory that it is claimed LORIMER furnished the money, by which I take it he insists that as there is no evidence in his view that LORIMER furnished the money there is therefore no evidence that the liquor men furnished the money. Consequently he concludes that the liquor men did furnish the money. That does not seem to be a logical position.

Mr. JONES. No; the Senator does not state the position of the Senator from Washington correctly. The Senator simply stated that from the record in this case his theory or opinion is that that is the most probable source of this money. There is no direct evidence in this case. There is no evidence that would be admissible in a court of law showing that the money was furnished by the liquor interests of the State of Illinois. Neither, as I said, is there evidence that would be admissible in a court of law showing that Senator LORIMER raised any of this money. I take it that in a case like this, the proper rule to apply is that if there is any theory inconsistent with the theory that attacks Senator LORIMER'S seat upon which these alleged bribery charges can be sustained that theory must be accepted; that is, the presumptions will all be in favor of the sitting Member and his right to a seat in this body; and if my mind is as strongly convinced—and it is more strongly convinced in this case, that the money came from some other source as from the senatorial source, then I must find for the Senator.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from South Dakota?

Mr. JONES. Certainly.

Mr. CRAWFORD. I ask the Senator if there was any specific legislation pending in the Illinois Legislature in relation to the liquor interests?

Mr. JONES. There was.

Mr. CRAWFORD. What was it.

Mr. JONES. A local option measure.

Mr. CRAWFORD. Was it voted on at that session?

Mr. JONES. The bill was referred to the committee of the house that had charge of that character of legislation, and the committee reported the bill to the house—my recollection is unanimously—and when it came up for passage a few amendments were put in, and it was defeated.

Mr. CRAWFORD. Was there a roll call?

Mr. JONES. I am not sure, but I think there was a roll call.

Mr. DILLINGHAM. I think I can explain that. It was in the testimony of Mr. Hull.

Mr. JONES. Yes.

Mr. DILLINGHAM. His testimony was that it was a bill that forbade brewers to have any interest in the local saloons. My recollection is that the bill was of this nature; that it forbade the brewers and distillers to have any interest in saloons in any part of the county or in any part of the State, and that bill was reported favorably by the whole committee unanimously. It went up to a second reading and was vigorously urged at the time of the second reading, and it looked as though it was going to pass. It came to a second reading in the afternoon. When evening came and it passed to the third reading nobody had any interest in it.

Mr. CRAWFORD. That was in the house?

Mr. DILLINGHAM. That was in the house. Mr. Hull testified that he then took it up and tried to get the bill to the third reading, and out of the committee of 24 that had reported it favorably 14 voted against it, only 2 for it, and 8 did not vote.

Mr. CRAWFORD. That was in committee?

Mr. DILLINGHAM. No; that was in the house of representatives, showing that of the committee which had reported it favorably 14 of them voted against it when it came to a third reading, 8 did not vote at all, and only 2 voted for it.

Mr. JONES. Browne was really considered as the representative of the liquor interests in the legislature.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield further to the Senator from Missouri?

Mr. JONES. Certainly.

Mr. CRAWFORD. I wish to ask a question.

Mr. REED. I beg pardon.

Mr. CRAWFORD. Was this bill considered in the senate?

Mr. DILLINGHAM. I do not think the evidence shows that it was.

Mr. CRAWFORD. Was any temperance legislation considered in the senate?

Mr. DILLINGHAM. I think there was general legislation, but I do not recall any specific legislation. The legislature was very sharply divided between what were called the "wets" and "drys." That was the issue.

Mr. CRAWFORD. It would require some legislation to create that issue, and as to whether any pending bill was there and voted on——

Mr. DILLINGHAM. I do not recall.

Mr. CRAWFORD. The legislation referred to a moment ago by the Senator——

Mr. JONES. I think the bill was pending but I do not think it came to a vote in the Senate. I yield to the Senator from Missouri.

Mr. REED. I understand the Senator's position to be that in his opinion Browne represented the liquor interests and corruptly used money in their behalf. The Senator also concedes, I take it, that Browne represented Senator LORIMER and was his principal champion in the legislature. Does the Senator have any idea that the liquor money was also used so as to assist Mr. Browne to gain control and influence over the votes in the Lorimer election?

Mr. JONES. I do not think so. At least I do not think it necessarily follows, and there is no proof of it at all, nor do I concede that Browne specially represented Senator LORIMER or that he was his special champion.

Mr. REED. The Senator said it was a band of good fellows who were being paid, and Browne was handling the corruption fund as manager for the liquor interests and also for LORIMER. This money was used to make these men good fellows. Browne then made these good fellows vote, or induced them to vote, for Senator LORIMER. Can the Senator draw the line where that money ceased to be potential in favor of LORIMER and where it began to be potential in favor of the liquor business?

Mr. JONES. The Senator has put a great many things in his question that I have not in mind and that I do not concede can be shown by the testimony here. I do not believe that these men expected any money at the close of the legislature. I do not believe that Beckemeyer expected to get any money. I do not think that Link expected to get any money. My idea is——

Mr. REED rose.

Mr. JONES. Of course there is no use for us to argue over my theory because it is just simply a theory. My idea is that Browne representing those people as their attorney, and so on, had the money. They turned it over to him to use as he saw fit. He was under no obligation to turn any of it over to these people and had no agreement with them to turn anything over. They did not know that he had any money. They were not expecting any money. But for reasons probably known only to himself, that I can surmise, he gave them something. He may not have given them anything like the amount he had; he may have given them all of it; I do not know. I am simply giving the Senator my theory, which I think is supported just as much by facts, if not more, than the theory of those who contend that this money was used in connectoin with the election of Senator LORIMER. I can conceive how Mr. Browne might have a fund of money to be used for certain legislation yet not be intrusted with any money to be used in connection with the election of Senator.

Mr. REED. Do I understand the Senator to contend——

Mr. JONES. I expected to get to the matter of Senator LORIMER'S title a little bit later on.

Mr. REED. Just one moment and I think I shall not interrupt the Senator again. I have been trying to get his view. Do I understand the Senator to contend now that Browne had this liquor money, given by direction or indirection, and promised none of it to any of these men in the legislature; that they did not expect to receive any of it, but that when the legislature had adjourned he then generously donated them some money? Is that the Senator's theory?

Mr. JONES. I will say that upon the testimony of those who testified against Senator LORIMER here that same question might be asked with reference to them. It is contended here that Holstlaw got money for voting for LORIMER, and yet, according to his testimony, he told the people that he was going to vote for LORIMER before any suggestion of money. On the same theory, Broderick could have kept the money and kept it in his pocket. So, with reference to assuming that this money was senatorial money, these men did not expect anything. They had not been promised anything. They had not talked with anybody to hold out any inducement to them. Therefore, even if it was senatorial money, he could have kept it all.

Mr. REED. But the Senator, Mr. President, is not a Yankee, and therefore he ought not to answer a direct question by shifting the ground to some other place and asking another question, in effect. I want to get really the Senator's viewpoint.

Mr. JONES. Does not the Senator think that he has got my viewpoint in regard to that?

Mr. REED. I wish to know whether the Senator really means to tell us that a lot of scoundrels got together in the legislature——

Mr. JONES. Oh, no; I did not suggest anything of that kind.

Mr. REED. Well, a lot of gentlemen got together.

Mr. JONES. No; I did not suggest anything of that kind. I did not suggest that any of them were getting together in the legislature.

Mr. REED. Well, there were a lot of gentlemen in the legislature.

Mr. JONES. I have no doubt there were. Some seem to think there were not.

Mr. REED. And Browne went down to East St. Louis and then and there divided up some money; and these gentlemen did not know what they were getting it for; there had been no prior arrangement that they should get it, no hint that any money should come to them, and they had become Browne's adherents, friends, and followers without any expectation or hope of reward, and Browne, meeting them down there, simply handed them this gratuity. Does the Senator really think now that that ever happened in the whole course of the world's history?

Mr. JONES. I am inclined to think so.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Ohio?

Mr. JONES. Certainly.

Mr. POMERENE. I understand the Senator from Washington concedes from the evidence in the record that there was a jack pot.

Mr. JONES. I will say to the Senator that I said a while ago I did not take quite the same view that some of the other members of the committee did with reference to the existence of a jack pot in the legislature, using that term in the sense that it is used throughout the record, in that there was a fund contributed from various sources which it was understood would be distributed at the close of the legislature. I said my judgment was that that condition did not exist in the forty-sixth general assembly, and gave my reasons for it.

Mr. POMERENE. In any event it seems to be the opinion of some of the members of the committee that there was a corruption fund of some sort. I think it can be reasonably inferred from what has been said in the course of this discussion that some of those legislators were corrupted, without now having reference to the purpose of the corruption, and that Mr. Browne——

Mr. JONES. I want to say to the Senator that I will not concede that myself; that is, there is nothing in the record here to show that any member of the legislature aside from White ever expected anything for any action that he took in the legislature.

Mr. POMERENE. I will then assume that it has been conceded by others that there was this corrupt fund, that members of the legislature were in fact corrupted, and that Mr. Browne played a part in this corruption. Now, assuming that to be the fact, as I understand, the Senator was elected on May 26. The legislature adjourned on June 1.

Mr. JONES. On June 4, I think.

Mr. POMERENE. Early in June, in any event.

Mr. JONES. Yes.

Mr. POMERENE. And this fund was distributed partly on June 21 and partly in July. Now, that being the case, is it not just as reasonable to suppose that this money was used for the purpose of corrupt methods in the election of a United States Senator as it is to suppose that it was used with reference to legislative matters?

Mr. JONES. I do not think so. I will tell the Senator why, and I will do it right here. I intended to cover it later on. If there was a fund for the purpose of influencing legislation, it was collected along as the legislature progressed from time to time. The question of Senator LORIMER's candidacy did not become a question before that legislature until about 10 days before the election. He did not definitely decide to be a candidate until, I think, four or five days before his election, and there is no suggestion anywhere which is entitled to any credit that anybody or any agency or any interest contributed to raise a fund or took any interest in the collection of a fund to promote Senator LORIMER's candidacy.

Nobody appeared at the legislature in his behalf; no special interest of any kind in the State of Illinois was represented there urging his election; nor was there any suggestion that they had contributed to his election or to any fund. So it seems to be a far-fetched suggestion to conclude that necessarily, because there may have been a fund in reference to legislation collected during the entire session of the legislature and because Senator LORIMER was elected, a contribution was made from that fund to assist in his election. It was a legislative fund anyway, if there was any fund at all, and I do not believe that the senatorial matter was connected with it in any way, shape, or form, and there is nothing in the record upon which I myself could base a belief in such a proposition as that.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington further yield?

Mr. JONES. Certainly.

Mr. POMERENE. It seems to me the work of the legislature had been completed——

Mr. JONES. Oh, no. The Senator is mistaken in that. Practically all the legislative work of the session was right there at the close, almost like every other legislative body.

Mr. POMERENE. The Senator from Washington did not wait until I had concluded.

Mr. JONES. I beg the Senator's pardon.

Mr. POMERENE. The work of the legislature was completed before there was any distribution of this fund. The Senator from Washington has just stated that there was no interest there represented in the election of Senator. It seems to me as I have read this record—and I have read most of it—that there were certain very powerful interests that were at work.

Mr. JONES. What interests?

Mr. POMERENE. The tariff question was connected with this proposition. A leading lumberman, not to mention the name now——

Mr. JONES. I wish the Senator would mention the name.

Mr. POMERENE. Mr. Hines was there, and took an extremely active interest in this matter.

Mr. JONES. The Senator is mistaken about that. Mr. Hines was not at Springfield at all.

Mr. POMERENE. Possibly that is correct. When I said "there" I meant having some connection with this election.

Mr. JONES. I do not want the Senator to understand me to say that nobody that was connected with the interests was not interested in Senator LORIMER's election. I did not say that. I said there was nobody at Springfield and no interest represented there and no agents of those interests. I am going to take up the Hines matter in a very short time; and possibly right now, if the Senator will allow me.

Mr. POMERENE. I think perhaps the Senator made his statement a little too broad when he said that there were no interests connected with this matter.

Mr. JONES. I wanted to confine it to the legislature and before the legislature.

Mr. POMERENE. But it seems to me that the Senator has not yet made clear why this fund should be distributed with reference to legislative work, rather than with reference to the election of a Senator. I do not mean to say, so far as the discussion has gone, that it had reference to one rather than reference to the other; but it seems to me that it is just as reasonable to suppose, assuming for the sake of the argument that there was a corruption fund, that it was distributed, and that it was distributed by Mr. Browne; but we have the same right to draw the conclusion that it was distributed with reference to the election of a United States Senator as we have to say that it was used with reference to legislative work.

Mr. JONES. I want the Senate to understand that I am not conceding that the testimony shows that there had existed in the Illinois Legislature this so-called corruption and jack-pot fund; I know that there were rumors and gossip and newspaper reports about it, as I have already said; and that is the sole testimony upon which it is based; yet conceding that there was a corruption fund, it has always been contended that that corruption fund was raised in connection with legislative matters, in which certain people or corporations or individuals or associations were interested. Therefore, if the fund was contributed

for that purpose, it would be expected to be handled with reference to legislation, and it would be the reasonable inference that it would be used in that way.

The election of a Senator is certainly distinct from legislative matters. A corporation would be interested in a bill affecting corporation interests, and yet it might not take any interest whatever in the election of a United States Senator and would not be connected in any way, shape, or form with it. So it seems to me that any jack-pot or corruption fund, in the sense usually used in connection with the Illinois Legislature, was and must have been understood to be a fund in connection with legislative matters and not in connection with the senatorial matter. We have no right to assume and there is certainly nothing in the record showing that Senator LORIMER knew anything about such a corruption fund or that those who were promoting his election, other than Lee O'Neil Browne, may have known about it; and yet Lee O'Neil Browne was not supporting Mr. LORIMER because of a special interest in his election, other than for reasons that we shall take up later on, but for the purpose of ending the deadlock, for the purpose of defeating Hopkins, for the purpose of getting rid of this question, he gave him his support; and while it is said here that Lee O'Neil Browne led his followers, the record does not show it; the record does not establish it. We called almost every member of the legislature, especially the Democrats who voted for Senator LORIMER, and they gave good and valid and reasonable reasons for doing so, independent of Browne. So I can very naturally see how they might have had a corruption fund in connection with legislation and yet it have had no connection whatever with the election of a Senator. I do not know whether I have made my view clear in regard to that or not, but there is nothing in the record that I see which impels me toward the conclusion that the legislative jack pot, if there was a legislative jack pot, was connected with the senatorial election in any way whatever.

Mr. POMERENE. Then it seems to be the Senator's opinion that, assuming that there was a corruption fund in the possession of Mr. Browne as trustee, he was such an honest trustee that he would use that fund only for the purpose of corrupting legislative matters and not use it for corruption in other directions.

Mr. JONES. I see no reason why he should use it for corruption purposes in connection with the senatorial election. There was nothing special that Browne hoped to receive out of it, except what any other Democrat might get for voting for Senator LORIMER, which is the reason given by some people that they thought possibly it would be well to have a friend here; they recognized Senator LORIMER's human nature, and that he would probably pay some attention to those who had befriended him, just like every man would pay some attention to those who had helped or assisted him. Some thought it a good thing from a party standpoint, and others wanted to end the contest and get home, and many were personally very friendly to LORIMER, and all were against Hopkins. There is nothing in this record to show that Browne expected to get anything out of the election of a United States Senator, or that any such expectation influenced him in his support of LORIMER, and nothing to warrant him in diverting any legislative fund which he may have had to secure the election of a Senator. He was to gain nothing by it.

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Vermont?

Mr. JONES. I do.

Mr. DILLINGHAM. I want to make the suggestion that the Senator from Washington has been speaking about an hour and a half, and I observe that he has got through only three pages of his manuscript. The whole time has been taken up with interrogatories on first one question and then on another, and he has had no opportunity whatever to deliver the address which he has prepared and in which he gives his reason for his action. After yielding an hour and thirty minues to interruptions of that kind, I think that, in fairness to him, he should be permitted to proceed with his speech.

Mr. JONES. Mr. President, I appreciate the friendly interest of the chairman of the committee, but I will say that in these interruptions I have covered a whole lot of my speech further on, which will therefore not have to be taken up, so that the Senate is probably losing no time and I am enjoying the interruptions very much.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Missouri?

Mr. JONES. Certainly.

Mr. REED. I have taken the liberty of asking the Senator from Washington a few questions, and, therefore, am one of the parties guilty of the interruptions.

Mr. JONES. The Senator is not guilty of anything wrong.

Mr. REED. I rather dislike the idea that interruptions are regarded by any Senator as mere interruptions. I have been trying to get the Senator's view for my own benefit. I have to vote on this case, and I have a good deal of respect for the Senator's opinions. He sat on this investigating committee, and he has announced that he intends to vote differently from the way he voted before. Therefore, it seems to me that whatever light he can shed, and is willing to shed, upon these matters will help some of us who more desire to get at the truth than to listen to a very excellent speech.

Mr. JONES. The Senator will give me credit for not objecting to interruptions at all.

Mr. REED. The Senator has been very courteous and very kind; and I desire to get a little more light.

Mr. JONES. I appreciate the suggestion that possibly I have given the Senator some light.

Mr. REED. At least the Senator has elucidated his own opinions; and it is a very different thing for a man sometimes to listen to the opinions of another than to listen to his reasons for the opinions. There is a matter that troubles me some, that I should like to get the Senator's view upon. I will have to take a moment to state it. It seems to be conceded by everybody that Lee O'Neil Browne was the agent of Mr. LORIMER.

Mr. JONES. Mr. President, I do not concede that he was an agent of Mr. LORIMER; I contend that he was a friend of Mr. LORIMER, and was simply doing what he could as one individual member of the legislature to secure Democratic votes for Mr. LORIMER when Mr. LORIMER became a candidate. In the matter of his being an agent in the way of binding Senator LORIMER by a promise or by the distribution of money or anything of that kind, I do not think there is anything that shows that at all. He was no more the agent of Mr. LORIMER than were several other Democratic members there of possibly not quite so much prominence as Mr. Browne, but who interested themselves in Mr. LORIMER's behalf.

Mr. REED. Well, I will try to get language that is unobjectionable. It seems to be conceded that Mr. Browne was very active in securing the election of Mr. LORIMER; it seems to be conceded by the Senator who has the floor that Browne was the agent of the liquor interests; that he had a fund derived from the liquor interests or elsewhere for distribution; and that he did distribute that fund to certain members of the legislature.

Mr. JONES. Well, they all swear that they did not expect anything for voting for LORIMER excepting White, and there is nothing in the record that, to my mind, impels me to believe that they did expect anything for their vote for him.

Mr. REED. Then, can the Senator explain whether he really thinks that money or the expectation of money in the Illinois Legislature influenced the votes of any of those men now charged with corruption or whether he thinks that their votes were simply votes cast in accordance with conscience and principle?

Mr. JONES. That is, you mean in connection with the election of Senator?

Mr. REED. I mean in connection with anything.

Mr. JONES. I will say to the Senator that there is nothing in the record here that shows or even indicates that any of those people except White voted upon any measure hoping to get any compensation or pay for it, and they all swear to the contrary.

Mr. REED. And the Senator's view, then, is that neither money nor the expectation nor hope of money had any influence in tying these men to the fortunes or to the dictation of Mr. Browne?

Mr. JONES. I think not; that is, there is nothing shown in the record to that effect, and there is nothing to show that they were tied to the fortunes or dictation of Browne. They recognized him as the leader of their faction, because he had received a majority vote for minority leader, and that is all.

Mr. REED. Well, the Senator means direct. Does the Senator——

Mr. JONES. Well, I want to say to the Senator——

Mr. REED. Does the Senator mean to say that it is his judgment, after hearing all this evidence, that there has not been some kind of understanding that the men who had adhered to the fortunes and followed the dictation of Mr. Browne would receive compensation?

Mr. JONES. I will say to the Senator that I think this case is to be decided, of course, upon the record, and there is nothing

in the record which, to my mind, indicates that any of these people expected anything for their votes upon any of these measures or that they to any extent followed the dictation of Browne. I might have an opinion, of course, in trying to explain their action in view of what happened after the legislature adjourned, and I might think that possibly they did expect something of that kind, although I have no special reason to think so unless it is with reference to the man Holstlaw. I have a theory—there is no direct evidence to support it—with reference to Holstlaw in connection with his evidence in regard to his campaign, in connection with the source from which he got his money, and in connection with his disposition and the character of the man that he either had an understanding or that he expected in some way to be reimbursed for his campaign expenses. As I have said, there is no real direct evidence to support a theory of that kind.

Mr. REED. I do not want to be importunate about this matter, but I have a very grave reason in my own mind for wanting to get the Senator's real opinion. The Senator, of course, says there is no evidence, and I take it he means direct evidence.

Mr. JONES. Well, neither direct nor really indirect.

Mr. REED. But taking into consideration the fact that these men rallied to the standard of Browne; that they obeyed his will and followed his dictation——

Mr. JONES. Now, Mr. President, I do not think the Senator ought to state it in that way. There is no evidence here that they obeyed Browne's will or his dictation on legislation or other matters either.

Mr. REED. Well, they voted with him.

Mr. JONES. Oh, yes; sometimes and sometimes not.

Mr. REED. And they went to him for advice; they selected him as leader; he became in fact their leader; afterwards they went to St. Louis where this money was divided up, and certain sums of money were indubitably paid to Mr. White by Mr. Browne, as shown by Mr. White's letters. Now, what I am trying to get from the Senator is this: Does he not believe he is warranted in the conclusion from this record that these men expected to get money from or through the hands of Mr. Browne in consideration of their services and friendly offices in the legislature?

Mr. JONES. I will say frankly to the Senator that I do not think so.

Mr. REED. That is the answer I had thought the Senator would make. Then, the Senator thinks that, without any agreement, express or implied, without any understanding whatsoever, Mr. Browne sent for or had these members of the legislature assembled at St. Louis; that he paid them this money or caused it to be paid, and that without any understanding, express or implied, in advance he wrote these letters to Mr. White asking him to meet him, and paid him various sums of money which he has admitted receiving.

Mr. JONES. I have no reason to think otherwise.

Mr. REED. I thank the Senator for his courtesy.

Mr. JONES. I desire to say with reference to the suggestion of the Senator in regard to Mr. Browne being the leader and these people following him, and so on, that I assume that the Legislature of Illinois is very much like other legislative bodies. I have noticed from my service in the Senate and in the other branch of Congress that men usually follow those who have been selected as leaders, and some one is usually selected as a leader by the minority as well as the majority. I have never thought that there was anything wrong about that. I can remember how in the House of Representatives when we came in to vote on a proposition we usually asked how so and so was voting, and then we voted that way; and I have noticed that our Democratic friends in this body usually vote together upon every important proposition, and I see nothing wrong about that.

Mr REED But Mr. President——

Mr. JONES. And I would like to see the Members on this side of the Senate follow that course a little bit more than they do.

Mr. REED. Will the Senator pardon me another question?

The PRESIDENT pro tempore. Does the Senator from Washington yield further to the Senator from Missouri?

Mr. JONES. Certainly.

Mr. REED. The Senator says that it is customary to follow leaders and vote as a unit and that that is done in the Senate. Does he know of any instance where in this body or in any other honest legislative body the members have afterwards gone out and cut up a lot of money among themselves?

Mr. JONES. Oh, the Senator does not mean to ask a question like that seriously with the suggestion it implies. Of course the Senator from Washington intimated nothing of that sort.

Mr. REED. No; but I am trying——

Mr. JONES. But there is no reason to assume simply because men got some money after the Illinois Legislature had adjourned that all the members or any considerable number of them or any of them who were in what was known as the Browne faction supported Browne or followed Browne in the hope or expectation of getting money. The Democrats of the House of Representatives of the Illinois Legislature had a very active contest over the minority leadership. Leadership there means something, just as it means something in the National House of Representatives. There were two candidates in the minority for speaker. Browne received a majority of the Democratic votes, and he received practically all the Democratic votes when it came to voting for speaker. After two ballots practically all of them voted for a Republican. After the speaker was elected Browne was recognized as the leader of one faction, just as another gentleman was recognized as the leader of another faction. The members of each faction did not vote together upon all propositions. They frequently divided, but they recognized him as leader, just as all legislative bodies recognize men as leaders. There is nothing in this record to show that the men who followed Browne or took him as their leader did so in the hope or expectation that they would receive anything during the legislature or after the legislature. If we are to infer that because many of the men who followed Browne and voted for Senator LORIMER were corrupt, we could with equal justice draw the same conclusion with reference to other legislative bodies.

Browne's faction was not the only faction that supported Senator LORIMER when it came to a vote. A large number of what was known as the Tippitt faction of the Democratic Party voted for Senator LORIMER. While it is suggested that possibly one or two members of the legislature received pay from Tippitt, I submit that there is no proof in this record to show anything of the kind, and that it is an absolute injustice to a man who was elected six times to the Illinois Legislature and who was honored and respected by all of his neighbors and his people to infer and insinuate that, simply because some poor drunken member of the legislature who had followed Tippitt was flourishing a little money, he got that money from Mr. Tippitt. I think such an inference is unjust, unreasonable, and unfair, and if it is to be followed, then no recognized leader in any legislative body is safe from suspicion and infamous suggestion. Others may not agree with me in regard to that, but that is the way I look at it.

I might just as well now refer to these other members of the legislature and give my reasons for thinking that they did not receive money for voting for Senator LORIMER. This whole case is buttressed about Charles A. White. It is not necessary for me to go through and analyze his testimony. That has already been done most completely by the Senator from Vermont. I simply want to call the attention of the Senate and the attention of the people who are insisting that this was a corrupt election to the fact that it must be determined primarily upon White's testimony. While I will admit that a man without character, a man without any moral conception of what is right and just, while I will admit that a perjurer and a blackmailer—not a man merely charged with blackmailing, but a self-confessed perjurer and a self-confessed blackmailer, a man who confesses that he lied time and again for the purpose of securing something from one of his best friends, a man who is contradicted, whose testimony is impeached time and again in this record, and impeached conclusively upon material propositions—while I will admit that such a man can tell the truth sometimes, I do think that his testimony ought to be scanned very closely; I do think that he ought to be supported by strong and conclusive corroborative evidence before we should believe him and overturn the testimony of a man with a record, with a character, and with a reputation like that of WILLIAM LORIMER, and especially so when not one Senator who heard the testimony on this hearing or the other one contends that WILLIAM LORIMER was personally guilty of improper conduct in connection with his election or that he was cognizant of any such on the part of any of his supporters. I will admit, with the Senator from Indiana [Mr. KERN], that the character, the record, and the reputation of WILLIAM LORIMER should not overturn convincing proof of corrupt practices in connection with his election; but, gentlemen of the Senate, I want to say that I do not believe we ought to overturn a character like that and a reputation like that and repudiate the testimony of such a man upon the testimony of a man like White, unless it is corrobo-

rated so as to prove almost conclusively that White's testimony where it involves Mr. LORIMER is true and correct.

What kind of a man is WILLIAM LORIMER? His personal character is above reproach. He is temperate in his habits, chaste in his conversation, honest in his dealings, and of unquestioned veracity. His word is as good as his bond in private life, in business dealings, and in politics. He is gentle in manner and considerate in action. He is sympathetic, tender, conciliatory, frank but firm in his opinions and convictions. A good neighbor, a faithful friend, a fair foe, a model husband and father with an ideal home life. That is the kind of a man WILLIAM LORIMER is personally. If he differs from other men in Illinois politics, it is in this: He is honest, true, and courageous in politics as in private dealings. His word given is never broken. A promise made is always kept. He never deceives. If he is for you, you have no doubt of it; if he is against you, you know it. Slow in promising, he is faithful in performance. He is true to his friends and followers in defeat, and never forgetful of them in victory. Always ready to help when in his power the humblest citizen regardless of politics. These, with great executive ability, are the elements of his success. Whatever the people may think from the reports they have read, this is the kind of a man WILLIAM LORIMER is—in character, home, business, and politics. If we are to condemn a man like this on the evidence of a man like White unless clearly and conclusively corroborated, then why should the people expect a man to live an honorable and upright life either in his private life, his business dealings, or in his political activities? How can anyone hope to escape the perjurers and blackmailers if an upright life counts for nothing against perjury and avarice?

I will admit that White a few years ago had a good reputation. While he was at work down at St. Louis he received some nice recommendations from his employers, and I have no doubt that those recommendations were given in good faith and were deserved at that time. Here is the way I look at it: The highest wages White had ever received, I think, were about $2 or $2.25 a day. In the forty-fifth general assembly of Illinois he was selected as a representative of the labor interests, and he was paid $6 a day and his expenses. He left his work, went to Springfield, and fell in the way of high living and dissipation and riotous associates. When the legislature was through he had to go back to work at $2 or $2.25 a day, and he found he could not maintain his high living. He saw somewhere that some labor man had obtained $5,000 as a bribe from some interest to induce him to use his influence in its behalf, and he took the money without doing the work for which it was given and used it for himself; he heard also of another labor man who got $20,000 for doing the same thing, and he used the money for his own benefit; and I have no doubt but that he said to himself, "That is a good way to get money; I can not live on this wage of $2 or $2.25 a day, as I have been living; I do not like this kind of life; and I am going to the legislature. I have heard there have been rumors of corruption up there and chances of getting money, and I am going there. I will make some money in that way. I will get better wages than I am getting now and not have this hard work. The pay is $2,000 for a session, and I can get much more on the side."

So, he got himself nominated for the legislature; he was elected, and went to the legislature; and he tells this committee and the country that he went there for the purpose of disclosing and exposing corruption. He went to the legislature; he continued his riotous living; he became worse and worse. The dissipation shown in this record on the part of White is really appalling. He got his $2,000, but it was all used up in two or three months. He made trips to Chicago; took his friends there, and they went to all sorts of disreputable resorts and places, and his money did not last long. If he got money from Browne, it was soon spent. After his return from his trip with Browne in August, it entered his mind and heart that he could extort money from LORIMER, and he told Zentner and Sturmer that he voted for LORIMER and he could say he got money for it and LORIMER would have to put up. Then, apparently, he conceived the idea that he would get money by connecting LORIMER with some part of his ill-gotten money. He must concoct a bribery story, so he says that Browne came to his room in Springfield on the night of May 24 and took him to his (Browne's) room and there entered into a deal with him by which Browne was to pay him money for the election of Senator LORIMER.

Mark you, he says that that was the first time any man had spoken to him in regard to voting for Senator LORIMER—May 24. Is that true? If it is not true his whole story relating to LORIMER is stamped as a pure fabrication. Homer Shaw came before our committee and he impressed me, like he impressed all the other members of the committee, as being one of the most honorable, high-class men who came before the committee. He was a Democrat. He did not vote for LORIMER. He tried to maintain the Democratic organization, and yet he testifies unequivocally in substance that White told him a week or 10 days before that he expected to vote for LORIMER. White denies it. But I do not believe there is a member of our committee who will not say that Shaw must be believed with reference to that proposition. Shaw had no incentive to lie. He did not lie. He told the truth. Senator LORIMER also swears that White told him several days before the election that he would vote for him. So White lied when he said that May 24 was the first time he had been spoken to in regard to the election of Senator LORIMER.

Further, Shaw testifies to White's dejected appearance in the subsequent session of the legislature, and of his telling Shaw that he regretted his vote, and that his people would not have very much to do with him. White denies this, but there can be no doubt in the mind of anyone who saw the two men as to which told the truth. White lied in this also.

Again, with reference to the night of May 24, White, in order to bolster up his story, said that Otis and Sidney Yarbrough were there; that they were in his room when Browne came there. At the former hearing one of these Yarbroughs was not called. I remember that I wondered why he was not called. Both the Yarbroughs were called before this committee. They both testified in support of White's contention that they were in Springfield the night of May 24; that they were in that room when Browne came there; and yet, mark you, the testimony in this record shows, and it shows it conclusively, that one of the Yarbroughs, at any rate, was not in Springfield that night. It shows that White and the two Yarbroughs were in Chicago on Sunday, May 23; that they stayed there that night, and that one of them remained there while White and the other one went to Springfield, arriving there about 11.41 the night of May 24.

I will not go into and analyze the testimony, but I assert, and no member of this committee will contend otherwise, that White perjured himself when he said the two Yarbroughs were in his room in Springfield on the night of May 24, and that the Yarbroughs perjured themselves when they swore they were there. They lied when they said they saw Browne that night, and White lied when he said Browne promised him money for his vote for LORIMER. The minority of the committee have nothing to say in their report or in their speeches about the Yarbroughs. Their perjury was too plain, not only from the contradictory evidence produced, but from their own testimony and their manner on the stand. If White lied in stating that the two Yarbroughs were present, and he did, why should we believe him at all? Can anyone believe him? This is a material part of his story. It is clearly false, and the whole Lorimer story should fall with it. Why did the Yarbroughs swear to it? They were close friends of White. One had been given a place by him. They seemed to be willing to go any length for him. One of them admitted, in the Browne trial in Chicago, of writing a letter saying, in substance, this: "I will go to hell for White, and in his interest," and he was perjuring himself to sustain White's story, because White wanted it corroborated. There is no question but that White's story as to the 24th of May is absolutely false. He had told Shaw and LORIMER before this that he would vote for LORIMER. The Yarbroughs were not in his room that night. Browne did not come to his room and did not promise him a thousand dollars for voting for LORIMER. This story is simply a part of his blackmailing scheme.

White has made no confession in this case. He has simply written a story of corruption in which he was an actor to sell and sold it. Under the claim that he was going to the legislature to expose corruption he got money corruptly, according to his own story. He did not expose the corruption. He used the money. He had a good time. His funds were out. He must raise some money or his good time would end. How could he do it? He conceived the idea, as I said before, that he would make Browne and LORIMER put up. After he and Browne had returned from a trip in August, after the legislature adjourned, he was at the Briggs House in Chicago; he was drinking. He was there with two men, named Zentner and Sturmer, and they testified to this statement on the part of White.

White said that he was going to take a trip in the fall; that he was going down to O'Fallon; he was going down to visit his people, and then go down to New Orleans, then to Cuba, then come up to New York and have a good time. These men suggested to him that he must have considerable money. White said, "No; I have not a lot of money, but I am going to get it, and I am going to get it without working." Then Zentner asked him how he was going to get it. White said,

"That Lorimer crowd, and our old pal Browne, too, have got to come across good and hard when I say the word, and I am going to say it." Sturmer then asked White whether he had anything on them, and White said, "No; I ain't. I got the worst of it down there in Springfield, but that makes no difference. I voted for LORIMER, and I am a Democrat, and I can say I got money for voting for LORIMER. Do you suppose that they can stand for it a moment? I guess they will cough up when I say the word to them."

We are asked to exclude a man from this Chamber upon the testimony of a man of that character, a man who in his drunken condition gave up possibly the inner thoughts of his mind and who said, "I voted for LORIMER; I did not expect anything, but I can say I got money for it, and they will have to cough up." This is corroborated by Zentner in every particular. This was the first conception of the plan to extort money from LORIMER and the beginning of the White story.

Now, what sort of a man is White? James W. Doyle, an honest laboring man, a machinist, of Springfield, was about the legislature representing labor, and he testifies to a conversation with White, as follows:

He said to me, "How is railroad legislation coming on?" I said, "All right." He said, "You fellows are the damnedest, cheapest bunch I ever saw. How do you expect us fellows to live around here on wind?" I said, "I do not know. I have not got a dollar to give you or to cite you as to where you can get any. I am surprised at your making that statement, elected as you were." Somebody stepped up, and the conversation ended there.

Doyle is not impeached. Doyle is a man of reputation and character. There is no reason in this record why we should conclude that he was stating anything that was not true. It simply illustrates the character of White as demonstrated all the way through this record.

Then Officer O'Keefe, with whom White was placed in Chicago, testified to a conversation he had with White after White had been on the stand in the Browne trial. White stated to O'Keefe, in substance, that he had lied in his testimony.

Officer O'Keefe testifies that White, in substance, admitted that he testified falsely, referring to his testimony in the Browne trial.

Senator KENYON. That he lied on the witness stand?
Mr. O'KEEFE. Yes, sir.
Senator KENYON. At the time he told you he lied on the witness stand you knew another case was coming up—that the jury would discredit?
Mr. O'KEEFE. Why, the case was still on, sir. This was the first trial when I knew that he lied.
Senator KENYON. Oh, it was during the first trial?
Mr. O'KEEFE. Yes, sir.
Senator KENYON. But the case was complete?
Mr. O'KEEFE. Yes, sir.
Senator KENYON. He told you then that he had lied?
Mr. O'KEEFE. Yes, sir.
Senator KENYON. That he had lied under oath?
Mr. O'KEEFE. He was sworn, anyhow; yes, sir.

Then in pursuance of this plan that he had conceived White went to writing a story. He did not call it the Lorimer scandal; he did not call it the Lorimer election; he did not call it the Lorimer bribe. He called it "The jack pot." That was the title of his story. And what did he do? While he was writing his story he wrote a letter to Senator LORIMER, which appears in the record—a pitiful sort of letter—setting forth his bad condition, and asking for some help, a letter that would appeal to any man of the disposition and character of Senator LORIMER, and would appeal to any man who had been favored by the writer. Yet White on the stand said that in that letter he lied. I do not say he lied. He says he lied.

He wanted something from LORIMER he could use against him in his story. He says so. That letter did not bring anything. So he finally concluded that he would make a straight blackmailing proposition to Senator LORIMER, and he wrote and told him that he had written a story of the legislative proceedings of the Illinois General Assembly, and suggested to him that he had been offered $2.50 a word for that story, and that there were about 30,000 words in the story. In other words, he suggested to Senator LORIMER that he ought to put up $75,000 for that story.

White says on the witness stand that his statements in that letter were lies and that he had not received any offer, but he hoped to get something from Senator LORIMER that he would be able to use against him. He did not get it. In the meantime he was also writing to Browne. The record contains letters from White to Browne and from Browne to White—letters from White to Browne telling Browne that he did not know where the next meal would come from; telling Browne that he was in dire distress, asking to borrow some money, and he inclosed a note in one letter for money, which he trusted Browne would send him. Browne sent him some money and gave him some good advice. And yet on the witness stand he testified that his statements in those letters were lies; that they were untrue; that he wrote in that way in the hope that he would get something from his friend Browne that he could use against him. He got money on these misrepresentations, and he used it for his own purposes.

But finding he could not get anything from LORIMER, he wrote to Everybody's and several other magazines, and, getting nothing from them, he says that some one suggested—Mr. Wright—that the Chicago Tribune would buy his story. He went to the Tribune people and made a proposition to them. Asked them what? Keeley, of the Chicago Tribune, says that White asked him $50,000 for his story. White says Keeley is a liar. I do not believe it. I think White lied when he said he did not ask him $50,000. He did ask him $50,000 for that story. Keeley would not pay it.

Finally he came down to $4,000. The Tribune people said they would give him $3,500 for the story if he would agree to corroborate and sustain it, and he agreed to do it. The sale was made. He started out to corroborate his story.

It is very significant as showing White's character that about the 28th or 29th of April, a day or two before this story was to be printed, he threatened not to go through with his story. White had been down in southern Illinois with a man by the name of Turner or Tierney trying to corroborate his story, talking with the different members whom he had implicated. He had gotten away from Turner. Turner was over in St. Louis. White was in East St. Louis with a couple of friends. He had been carousing around and did not have any money. He went to a hotel to get a room. He told the night clerk he had no money, and the night clerk said, "I can not let you have a room; it is contrary to the orders of the proprietor." White asked for the proprietor; but he had gone to bed and he could not get him. So White said, "Call up Turner, over in St. Louis, at the St. James Hotel." The night clerk sent the message and they got Turner. White wanted Turner to "put up" for him; and this is what Mr. Ellerhof says White said:

Mr. White said that he was down there broke; had no money; that Turner was across the river having a good time, and he was over there broke and could not get any lodging for himself and his friends.

* * * * * * *

Mr. HANECY. Did White say anything to you as to what he would do if the Tribune did not do something for him?
Mr. ELLERHOF. Yes. He said he would not go through with it. If he did not get settled up by Monday morning he would not go through with it.

Through with what? Through with the story that he had turned over to the Tribune for $3,500 and that he is now trying to sustain and corroborate? If they did not put up money for him, he would not go through with it.

Mr. HANECY. Did he say anything about wanting money and wanting it damned quick?
Mr. ELLERHOF. Yes, sir. He said, "I want money and I want it damned quick."

He then had them telephone to Chicago, to the Tribune office, and they got a Mr. Hammer, who was said to be the editor of the Tribune. Mr. Hammer told Mr. Ellerhof to let White have a room, saying the Tribune would settle for it. Ellerhof said he could not do it, because it was against his orders. Then Ellerhof said White started out of the door and said, "I will show you what influence I have got, from the governor down."

This shows that White was ready to "throw down" even the Tribune if he could not get a little money for his expenses there.

Soon after he had written or while he was writing his story he talked to Mr. Webb, his attorney at East St. Louis, and asked him about the matter. He talked to him about the "jack pot." He did not say anything about the election of LORIMER. He did not say anything about having gotten money for that, but talked about the "jack-pot" money. Webb advised White not to publish his story, saying that it would very likely get him in the penitentiary. What did White say?

Mr. HANECY. What did he say in reply to that?
Mr. WEBB. He said he did not care; that he had been deceived; he had been promised more money than he had received, and he intended to have what had been promised him; that if he did not he would drag down those involved with him, and they would all go down together.
Mr. HANECY. What was his language—"I do not care a damn"?
Mr. WEBB. Yes, sir; he used that term.

I think Mr. Webb impressed the committee as a man of reputation and a man of truth. There is no doubt that White made those statements to him and he was evidently referring to the "jack-pot" or legislative money. If the senatorial election had been connected with it he would surely have said something of it to Webb.

I could take from the record the statements of other witnesses showing White's avaricious nature and his blackmailing character; but it is not necessary. I have given enough to show his character. I have given enough to show the character

of the man and the purpose for which he prepared his story. If it be true that he got money from the "jack-pot" fund, that he understood he would get money from the "jack-pot" fund, it is not unreasonable to conclude that White conceived the idea that he could make money by connecting LORIMER with the matter, and from his statements and actions this conclusion is irresistible.

In my judgment, Shaw's story is correct that White told him 10 days before the election that he expected to vote for LORIMER. I have no doubt that White voted for LORIMER without any expectation or hope at the time of getting any money. I have no doubt that he voted for LORIMER without any promise of any money. I have no doubt that he afterwards conceived the idea that by connecting LORIMER with the matter he could make money out of it, and he did it; and he took his story to the worst enemy Senator LORIMER has in this country and sold his story to them.

I do not charge the Tribune with using the story corruptly; but they were glad to get it. The Tribune's policy had been for years to drive LORIMER out of Illinois politics. It would employ any means to do it. The character of the Tribune's opposition to Senator LORIMER and its desire to get something to use against him are well exemplified in the story Mr. Keeley told on the stand of a man named Glavis coming to him and telling him he knew of some books that would implicate Senator LORIMER while a Member of the House, and saying that if Keeley would pay him $750 he would get those books for him. Keeley paid the $750. No books were secured. He admitted that he had been buncoed, and that the books never were produced. Nobody seemed to know anything about them. The chances are, the probabilities are, the indications are, that Mr. Glavis, simply presuming upon the intense hostility of the Tribune to Senator LORIMER, concocted his story and got from them $750, which they paid with the hope that they would find something they could use against LORIMER.

This is White's story, and he is the only man that says anywhere in this record that he was promised anything for voting for LORIMER or that he hoped to get anything for voting for LORIMER. I do not believe he ever was promised a cent. I do not believe he expected a cent. There is absolutely no corroborative evidence that he got his money for voting for LORIMER. It is so plainly a blackmailing scheme and is so full of perjury that it is entitled to no credit. It is said he confessed. The country believes he confessed. He did not confess. He wanted money. He wrote his story. He sold it. He was never arrested. He was never indicted. He was never prosecuted, and is scot-free to this day.

The country thinks—and those who know better keep on saying—that Beckemeyer, Holstlaw, and Link have confessed to receiving money for their votes for LORIMER, and upon these continued false statements the people have largely formed their opinion of this case. These men have not so confessed. Upon the contrary, every one of them has denied from the beginning to the end that he was promised anything for voting for LORIMER, that he expected anything for voting for him, or that he voted in the expectation or hope of getting anything. Not one of them connects LORIMER with this matter except Beckemeyer, and he does not do it until he is threatened with the penitentiary upon an indictment for perjury; and then he simply goes so far as to say that Browne said when he handed him the thousand dollars that it was "Lorimer money." But he contends after that, and until the very close, and contends now, that he did not hope for, did not expect, and was not promised a single dollar. And Mr. Wayman, the prosecuting attorney of Cook County, who had him indicted, and who talked with him privately and otherwise, says Beckemeyer contended the same thing to him all through his conversations with him.

I have no doubt, as I said awhile ago, that Beckemeyer connected LORIMER in this way only and solely to secure immunity, to be relieved from this indictment. He went before the grand jury three times and never mentioned LORIMER's name. This brought no immunity, and then in a private conversation with Wayman he used LORIMER's name, as above stated, and he was at once released. He simply lied to get immunity.

We hear a good deal about Holstlaw. He was a member of the State senate. In my estimation, even White is a better man and more entitled to our respect and pity than this man Holstlaw. Words can not express my opinion of or contempt for Holstlaw. There is some excuse for White, if you can excuse anybody for such a thing, as swearing falsely, trying to get money corruptly, in order to live high. But there is absolutely no excuse whatever for Holstlaw. He was a man worth from $100,000 to $200,000, respected in his community, of great profession of piety; and yet he is a man always looking out for and trying to get money for nothing. He is avaricious beyond expression. He will take a dollar at any time and from any source and ask no questions, and thinks it all right. He has no perception of immorality in connection with the receipt of money. In a furniture deal he was on a committee to purchase for the State, and suggested to the representative of the furniture people that there "ought to be something in it." He wanted about $2,000. Finally they promised him $1,500. He did not think there was anything wrong about that. On the stand before the investigating committee he said he did not think there was anything wrong about it. He said it did not come out of the State; that the agent of the company simply took it out of his commission, and he thought he might just as well have it as anybody; and he regretted very much that he finally did not get it, and expressed that regret on the stand before this committee.

That is the kind of man Holstlaw is. The prosecuting attorney's office at Springfield found out about this furniture deal. They found a letter that he had written to one of the representatives of the furniture company. When Holstlaw came back from a church convention in Baltimore, to which he was a delegate, he was called before the grand jury and asked if he had written a certain letter, and he said "No." Then he was allowed to go out of the grand jury room, and they indicted him for perjury. They then advised him of his indictment.

As soon as Holstlaw learned of the indictment for perjury he remembered that he had written the letter, and wanted to go back and explain the matter. He requested of Mr. Burke, the prosecuting attorney, possibly through one of the deputy sheriffs, to be allowed to come back before the grand jury and explain. Burke sent word to him that he would not be permitted to come back unless he told all he knew about the Lorimer deal.

My recollection is that the Senator from Vermont [Mr. DILLINGHAM] yesterday gave the impression that LORIMER was not mentioned until the time a statement was being prepared in the office of his attorneys. But he overlooked the testimony of Mr. Holstlaw in which he said that one of the deputy sheriffs came to him and told him that Burke would not let him come back until he told all about the Lorimer deal. That was repeated, and he told that to his attorneys. Then his attorneys talked with Burke, and they brought back the same word.

What about Holstlaw? Is he a brave man? Is he a courageous man? No! He is more cowardly in his nature than White himself; more cowardly than Beckemeyer; more cowardly than Link. Holstlaw was ready to swear to anything in order to get immunity. He passed an almost sleepless night, he says, thinking over this matter. He had also put up a cash bail of $5,000; and I have an idea that the possible loss of that $5,000 worried him more than almost anything else. He was ready to swear to anything the next morning in order to get immunity, and to get back his $5,000.

Then Holstlaw told his attorneys this Lorimer story. First Burke sent word that he would not let him off until he told all about the Lorimer deal. I do not contend that Burke was in any conspiracy in regard to the matter. I think probably Burke had sized up Holstlaw. He knew his connection with corruption in connection with the furniture deal, and he probably thought he would "take a chance" on getting something out of him in connection with LORIMER.

Holstlaw, with his cowardly nature, with his avaricious disposition, was looking for any opportunity to get rid of that indictment. He was willing to say anything, and he knew that connecting LORIMER with corruption would get him immunity. Burke insisted on a written statement. So he told his attorneys who had been recommended to him by the sheriff's or prosecuting attorney's office of the furniture deal, and then that Broderick came to him the day before the election, I believe it was, and said, "We will elect Senator LORIMER to-morrow," and he said, "Yes; I am going to vote for him." Then Broderick said, "There is $2,500 in it for you." He told his attorneys that Broderick's statement had nothing to do with his vote; that he intended to vote for LORIMER anyhow; and that he did not expect anything for his vote. They prepared a statement, and prepared it in the way that they knew would bring immunity to this man. They prepared that statement, not as Holstlaw had given it to them, not as Holstlaw intended, but prepared it so as to make Holstlaw say that Broderick had said he would give him $2,500 if he voted for LORIMER. That was the idea. In other words, that statement was prepared in the way of a direct confession that he had received $2,500 in consideration of his vote for LORIMER.

He read it over, probably, in a hurry. He said himself he did not pay much attention to it. No; he did not care. He wanted to get immunity. He was ready to sign anything that would get it for him. And it is significant that his attorneys

would prepare a statement of that character for their client, a statement that made him confess that he had voted for a United States Senator for a consideration, when he had told them that there was no consideration for his vote; that he had intended to vote for LORIMER before; that he would have voted for him anyhow; and that he did not expect anything for his vote, and that the $2,500 was not paid him for his vote. Notwithstanding he had told his attorneys that, they did not put anything of that kind in this statement. Not only that, they wrote the statement, as I said, in such a way as to make him confess he received $2,500 for his vote. That would be hard to understand if the record did not show by a number of reputable and reliable witnesses that at the very time these men were preparing this statement for Holstlaw, as his attorneys, they were employed by the Chicago Tribune in connection with the White story. Senators, what do you think of such action? What do you think of attorneys acting for their client preparing a statement for him contrary to his statement to them, and acting at the same time for the political opponents of Senator LORIMER, and framing that statement so as to support their contention in regard to his election? What do you think about their preparing a statement for their client to sign making him confess to bribery, when he had told them the contrary? I am not surprised that he signed it. Many a man signs an affidavit prepared by his attorneys. It often does not state exactly what he intended. He does it innocently. Holstlaw did not intend what was put in that statement. He probably paid little attention to it when he signed it. He wanted immunity. He was willing to sign almost anything to get it and the return of his $5,000. Holstlaw swears now, and swore from the beginning, and swore repeatedly, that the statement in that declaration was not correct, and that he had not been promised and he did not expect a single dollar for his vote for LORIMER. What reason was there for him not to tell the truth in regard to this matter before this investigating committee? He was not under indictment then. An order of immunity had been entered in the court. There had been a judgment of the court giving him immunity for the furniture deal and for the Lorimer matter. There was no earthly reason why he should not tell the truth, and, in my judgment, he did tell the truth when he said he did not expect and did not get a dollar for his vote for LORIMER, and his vote for LORIMER was just as honest a vote, so far as any corruption in connection with it was concerned, as the vote of any man in that legislature.

Why, Holstlaw had told his neighbors, days before the election, that he was going to vote for LORIMER; he had told quite a number, and he named quite a number of men whom he told he was going to vote for LORIMER. It was known about the legislature that he expected to vote for LORIMER if he was a candidate. And what reason would there be for his asking for something for his vote, or expecting something for his vote?

But the suggestion comes—and it has already been suggested by some of the Senators—why did Broderick pay him $2,500 if he had not promised to do it? Broderick did not pay Holstlaw $2,500. He paid him $3,200; that is what he paid him, if he paid him anything. He paid him $2,500 at one time and then $700 at another time—$3,200 altogether. No one contends that he got more than $2,500 for voting for LORIMER, and yet he says that when Broderick paid him the $2,500 he said there would be $700 more, or some more soon, showing that it all came from the same source. You can take Holstlaw's story from any angle, and there is nothing in it that supports the theory or the contention that he voted for LORIMER with the hope or expectation, or under a promise, of receiving money. He never had the talk with Broderick that he relates. He may have told him he would vote for LORIMER, but Broderick never told him he would get $2,500 for it. It is incredible that he would do so when he knew Holstlaw was going to vote for LORIMER. He would not do it so openly and boldly as related by Holstlaw, and there is absolutely nothing in the record showing that Broderick was taking any special interest in LORIMER's election or that he expected anything from his election or that he had received any money from any source to assist in LORIMER's election. No; that $3,200 came from some other source, and was paid to Holstlaw for some other reason; what, I do not know.

This committee has been unable to find where that money came from. I have my opinion, based upon certain facts appearing in the record and pointed out by the Senator from Vermont in his remarkably able and exhaustive speech. Holstlaw knew before he entered into his campaign for his election that he would be reimbursed for his expenses, and that was the purpose of the $3,200. This is the character of the men and the character of the testimony upon which it is expected to deny Senator LORIMER his seat. I can not analyze it all. It is easy for anyone to find something in the several thousand pages of the record to sustain any contention he may desire to make. If he simply wants to find something in the record pointing to a given theory, he can find it. I have tried to weight all the evidence from every standpoint, and I concede that other Senators have done the same thing. I am firmly convinced that these men did not get any money for voting for LORIMER.

I am firmly convinced that they did not vote for him in the hope or expectation of getting any money; and, believing that as strongly as I do, I can not vote otherwise than to sustain his right to a seat here.

It is suggested in the minority report that there were other men who got some money for voting for LORIMER, and they mention Representative Wheelan. What is the basis for charging that Wheelan got money for voting for LORIMER? Absolutely nothing, except that he voted for him and that, I think in October of that year, he paid $1,900 for a home, paying $1,000 down, I believe, and giving a mortgage for the balance, and that there were some hundred-dollar bills in this payment. That is all they have got in the record to connect Wheelan with the election of LORIMER corruptly. He voted for him. Several months afterwards he bought him a home. I want to submit, Senators, that if you are going to convict men on testimony like that, there is no man elected to the United States Senate but that somebody can bring something against him, bring up the fact that some man who voted for him had a little money a short time afterwards, and say that he should be excluded from this body.

What did the committee do with reference to Wheelan? Why, we called Wheelan before us. He gave his testimony. He told about the money he had paid for that home. He told about the $100 bills that he had, and told where he got them. What did we do then? We did not stop there. We called the men that he said he got the money from, and inquired of them with reference to their private affairs and their business relations, and had them explain where this money came from. One of these men had been prosecuting attorney of his county, a man of reputation, standing, and ability. He loaned Wheelan some money; $700 I think it was. He told where he got the money and explained all about it. We called the other man, from whom Wheelan got $300, a hard-working man, a stonecutter I think he was. He had saved up a little money. He loaned Wheelan $300. He had three $100 bills. He told how he got them. He said that he had had money in one bank and took it out and put it in another bank, and he had saved up some money in small bills, and he put that in and took it out in $100 bills. But it is contended that Wheelan sold his vote for LORIMER and that these facts prove it. I can not accept such proof as showing corruption, but I find no fault with other Senators who may see in those transactions evidence conclusive of corruption. If they do prove corruption, however, it seems to me it will not be very difficult to show corruption in connection with any election. No man is safe, however innocent he may be.

Then they say Tippit, the other Democratic leader, or, rather, the leader of the other Democratic faction of the legislature, was corrupt. They said he paid money to Blair for his vote for LORIMER, and therefore Tippit's vote is corrupt. Senators, I agree with the contention that the bribe giver is just as corrupt as the bribe taker. I do not know but he is worse, if there is any difference in degree. And if Mr. Tippit was corrupt, if Mr. Tippit did pay this money to Blair for his vote for LORIMER, then his vote was corrupt and should be excluded.

But what is the proof that Tippit furnished Blair money? Poor Blair! I feel sorry for him, wrecked body and mind by drink, a man who had had considerable practice as a lawyer and of good native ability. The testimony shows that while he was in the legislature he was drunk pretty nearly all the time. The poor fellow was drunk, also, when he came before our committee, and he told a rambling, inconsistent story. Yet I am not surprised at that. He could not have told a consistent story in the condition that he was in. The testimony shows that he probably was in Olney on a certain day, and the next day he was up at Centralia, where they had a ball game. Somebody saw him with some money. Tippit says that he did not see Blair in Olney, which was his home. Some one unfriendly to Tippit swears that he did see Tippit and Blair together in Olney; and from this they contend that Tippit bribed Blair, or, rather, paid Blair for his vote for LORIMER. Tippit had been elected six times for 12 years, to the legislature of his State. Nobody attacks his reputation for truth and veracity—a man of high character, of high standing in the community and the Democratic Party. Yet on this testimony they conclude that he paid Blair this money and that he paid it to him for his vote for LORIMER. Blair denies that he accepted money for his vote; that he was ever promised any money for his vote; that he ever got any money for his vote, or that he

ever expected any money for his vote. He tried to explain where the 100 dollar bills came from. He said that he had saved up some at home, that his wife was keeping it, that he went down there before the ball game and got the money, and so on. We can not harmonize the statements in Blair's testimony with each other, but I submit that there is absolutely no proof that is to be regarded and considered as competent proof that shows that Blair received a dollar for his vote for LORIMER, or that it shows that Thomas Tippit ever paid him a dollar or ever promised him a dollar for his vote. So it is with the other members that they suggest must have been corrupt in connection with the election of LORIMER.

My judgment of the testimony in regard to it is that it is just as lacking in force, just as lacking in evidential relevancy, as that with reference to Tippit or Blair or Wheelan. They voted for LORIMER and they afterwards participated in some business transactions, which they explained fully and clearly, and all of which appeared to be perfectly honest and legitimate.

Now, I desire to notice the new testimony, the testimony upon which the Senate ordered a reinvestigation of this case.

First, I think I will say that the political situation, as I look at it—the political situation in Illinois—resulted inevitably in the election of WILLIAM LORIMER as United States Senator. As I look as those conditions I can not see why WILLIAM LORIMER should pay one dollar, even if he was disposed to do so, in order to secure his election. There was no earthly reason why he should do it. All the political conditions pointed to his election when his candidacy was brought up or suggested to the legislature. The Senator from Indiana [Mr. KERN] the other day spoke of the stage setting with reference to the political conditions as surrounding the election of Senator LORIMER, and he said that the Nation was divided into two great political parties differing on the tariff, and that that issue was before the country and being talked about everywhere. He said we were in extra session here trying to revise the tariff downward, and that the people of Illinois were sharply divided on this great question, and that it is inconceivable that so many Democrats would vote for Senator LORIMER—a Republican, a stalwart Republican, a man disagreeing with them upon all the fundamental principles of their party—unless they were corruptly influenced.

Mr. President, that was not the proper setting to give this question. The stage setting should not be in the National Capitol, should not be in national politics, but the stage setting for this senatorial election should be in the State of Illinois, where factional differences rent each party, and especially the Republican Party. Local divisions affected the people more than anything else. They were not looking at the national issues; they were looking at the State situation; they were looking at the State issues, at the State conditions, and we went at great length into these conditions in this hearing, as the record shows. That the Republican Party in Illinois was divided into factions; that the great political leaders of each faction were suspicious of each other; that they were charging each other with deception, with treachery, and all that sort of thing, is clearly shown. One thing, however, stands out prominently throughout this record and throughout the history of Illinois politics, as brought out by the testimony before us, and that is that with all their criminations and recriminations, with all their charges of treachery and violated promises, no suggestion is made that WILLIAM LORIMER has ever been untrue or unfaithful to a friend; that he ever had made a promise that he had not kept; that he ever violated his plighted word. I want to say that when a man can go through the politics in Illinois without some charge of that kind being brought against him it speaks more eloquently than anything that I can say for his truthfulness, manliness, and uprightness not only in his private or personal life but also in his political conduct.

Then they had had a great contest, rather a great agitation, over the deep-waterway proposition. Senator LORIMER had taken a very prominent stand with reference to this matter. He had gone up and down the State talking about the proposition. He had gone down the canal, down the Illinois River, down the Mississippi River, taking some of his colleagues with him in order to create a sentiment in favor of this great proposition. It was one in which Illinois and her people were vitally and specially interested. LORIMER had for years been the leader in the movement, not only in the State but in Congress.

Two divergent opinions were advanced in connection with it as to the best way to accomplish the result desired by all. One indorsed by the governor of the State, which was opposed by LORIMER; the other, indorsed by Senator LORIMER, was opposed by Gov. Deneen. This divided the forces in the legislature, irrespective of party affiliation. The Democratic Party was apparently in the minority, and largely favored LORIMER's idea. The Republicans were divided into political factions, and upon the canal issue. Senator Hopkins had secured the plurality vote in the primaries, but it was charged, apparently with some foundation, that he had not expected to abide by the primaries if it did not go his way, and therefore there were many in the legislature who did not consider the result of the primaries binding on them. He appeared to have no real, earnest, sincere friends in his own party and he was especially unpopular with the Democrats of the State. LORIMER was especially popular with the Democrats and with the members of his own party, regardless of factions.

I have taken from the record some statements made with reference to Senator LORIMER and Senator Hopkins and their relations to the Democrats that I want to submit as showing the political conditions not in the Nation, but in Illinois and at the State legislature. In my judgment, the members of the Illinois Legislature in considering the election of a Senator did not consider very much whether he was for a high tariff or a low tariff; whether he was a standpatter or a progressive. They were influenced almostly solely by local conditions, local differences, and the local effect. Many Republicans wanted to defeat Hopkins, and practically all the Democrats wanted to defeat him. With them it was anything to defeat Hopkins, there being no hope of electing a Democrat. That was the sole proposition with some of them. Thomas Tippit, the leader of one faction, said:

> At one week's end adjournment when I went to my home my wife suggested to me that Mr. Wilson, ex-Democratic State treasurer of Illinois, wanted to see me when I came home.

I want to say Mr. Wilson was the only Democrat elected to a State office in Illinois since the war up to that time. He was elected State treasurer.

> She stepped to the telephone and called him and told him I had come. He said he was indisposed; that he wanted to see me. I went over to his house, which joins my property, and he said, "What I wanted to see you about was this: Can not you Democrats get together and unite on some liberal Republican and beat that man Hopkins?" I said, "Yes; but what will become of us?" He said, "It will not hurt you; it will not hurt you."
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> Mr. HANECY. When you quoted what you said, "What will become of us?" you touched your breast—you meant yourself?
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> Mr. TIPPIT. Yes, sir. I meant what would become of us if we voted for a Republican for United States Senator, you understand. He said, "It will not hurt you; you can not elect a Democrat"—which we all knew. After further conversation I said to him, "Whom would you suggest?" "Well," he said, "I would say Shurtleff."
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> Senator KENYON. Was this before the legislature met?
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> Mr. TIPPIT. That was probably in February or March; I do not believe it was later than March.
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> Senator KENYON. Was it after the legislature had met?
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> Mr. TIPPIT. Oh, yes.
>
> Mr. HANECY. He said it was at the end of a week's session; at a week-end adjournment.
>
> Mr. TIPPIT. Yes; during the deadlock. He said, "I would suggest Shurtleff." I said, "Well, we have talked about that very thing; we have talked about Shurtleff; we do not think we could get enough votes for Mr. Shurtleff." I said, "What do you think of Mr. LORIMER?" I am referring to Mr. Wilson, you understand, who was not a member of the house. He is the first Democrat that has carried Illinois, I think, since the war. He said, "I do not like Mr. LORIMER so well, but anybody to beat Hopkins."

And he advised him to vote for LORIMER.

Now, that is from a prominent Democrat outside of the legislature. He was conferring with the leading Democrats of the legislature, and he gave his opinion as to what was wise for them to do. Anything to beat Hopkins was his advice, and there is no suggestion that he was acting corruptly. Mr. Tippit also stated:

> I could state further that it was my information, has been my information, and is now, that the election of Mr. LORIMER to the United States Senate was favored by Adlai E. Stevenson, late candidate for governor.

And you all remember that Mr. Stevenson was Vice President of the United States, and yet the Senator from Indiana would have us to believe that the bipartisan support given to Senator LORIMER was corrupt and that the support given him by Mr. Stevenson is to be condemned. Is there any Democrat in this Senate who believes that Adlai Stevenson would countenance corruption or a corrupt alliance, or that he was acting corruptly when he urged Democrats to vote for LORIMER? While it is true that many Republicans supported Adlai E. Stevenson for governor, there is nothing in the testimony showing that Mr. LORIMER supported him. They said LORIMER's friends supported him, and that Stevenson got a whole lot of Republican votes. That is true. Was it wrong for Democratic candidates to seek Republican votes? Was it proof of corruption that they got them? It was the natural result of the condition in Illinois. Some of the Republican witnesses said there were Republicans who voted for Stevenson not because they were Lorimer people, not because they liked Stevenson, but because they did not like Deneen; they did not like the Republican State administration. There was State-wide opposition to Gov. Deneen and the State administration regardless of Mr. LORIMER, and

the attempt to hold LORIMER responsible for Deneen's small majority is unjustifiable.

Mr. Tippit said that he was informed that Mr. LORIMER had met with the Democratic committee and agreed to support Stevenson for governor. Mr. LORIMER emphatically denied this. Mr. Tippit said that he had been told this by somebody. He did not know it of his own knowledge, but he had been told that Senator LORIMER met with the Democratic State committee and agreed to support Stevenson; but Mr. LORIMER denies that. He said that he was not present with the committee, made no agreement of the kind, and no member of the committee testified to anything of that character. I think I have a statement from the National Democratic committeeman, showing just the contrary, which I will read a little later on.

Homer E. Shaw also testified as to the Democratic sentiment toward LORIMER. He, as I said, was one of the strongest men, and impressed me as being one of the most reliable men that came before our committee. Senator KERN was asking him as to the various reasons given by the members of the legislature for voting for LORIMER, and he said:

Mr. SHAW. They gave various reasons, Senator. I do not know that any of them said they were going to vote for Senator LORIMER, but there was a large number of Chicago Democrats who were extremely friendly to LORIMER, and we simply made no headway whatever in talking party politics to them.

Mr. Shaw tried to organize the Democrats of the legislature, and hold them from voting for any Republican. He got about 25, I think it was, to go into his organization; but that was all he could get, beause of the personal friendly feeling toward LORIMER.

Senator KERN. They seemed to have personal friendship for him?
Mr. SHAW. Personal friendship; yes.
Senator KERN. And they based their friendly feeling toward him on that?
Mr. SHAW. Yes.
Senator KERN. When you formed this organization first, was it understood that LORIMER would be a candidate for the Senate?
Mr. SHAW. Yes; I think it was rumored. I think that was the reason this organization was formed.
Senator KERN. You felt that he was the most formidable Republican?
Mr. SHAW. I knew that from the start. I knew that if any Republican could be elected on Democratic votes in the State of Illinois it would be WILLIAM LORIMER.
Senator KERN. You thought he was the one Republican who could probably get more Democratic votes than anyone else?
Mr. SHAW. Yes.
Senator KERN. You say that was your impression from the start. You mean from the beginning of the senatorial——
Mr. SHAW. From the day he was first voted for.

Senator LORIMER got 1 vote, I think, from about the 13th of May.

Senator KERN. From the day he was first voted for?
Mr. SHAW. Yes. He was voted for a great many days before he was elected, receiving just a few votes.
Senator KERN. And that was what you had to fight more than anything else—to get members of your organization?
Mr. SHAW. That seemed to be the principal trouble.
Senator KERN. The feeling toward LORIMER?
Mr. SHAW. The feeling toward LORIMER; yes. In fact, we made no headway with the Chicago people at all.

Mr. Lantz, a Democratic member of the legislature from Cook County, had a talk with Senator LORIMER possibly two weeks before he was elected, and says, as he recollected it:

The house had adjourned and Mr. LORIMER called me over and we sat and talked about the general condition of things, and he asked me what I thought about his being a candidate for United States Senator. I said that nothing would please me any better than to see him elected United States Senator. He wanted to know what I thought about the Democratic end of it supporting him, and I said, "Mr. LORIMER, I know that there is a very strong sentiment among the Democrats here that if the opportunity is ever offered to them they will vote for you for Senator. As to the extent of that sentiment I have no definite knowledge, but I know that it is extremely strong in your favor. If you can get votes enough by a combination of Democrats and Republicans, I would advise you to be a candidate."

Mr. Lantz voted for Gov. Deneen on one ballot and was affiliated with the Tippitt faction more than any other.

Democratic Senator Isley, who voted for Mr. Stringer to the end, said:

Mr. HANECY. That is not what I asked you, Senator. There was no Republican that you knew who stood as high with the Democrats because of the waterway fight Mr. LORIMER had made as Mr. LORIMER?
Mr. ISLEY. That is probably true.

And he goes on to say that Mr. LORIMER had a great many friends among the Democrats in the general assembly, having also stated that the Democrats had more knowledge of Senator LORIMER than any other Republican in the State.

Representative Espy, Democratic representative, said that he liked Senator LORIMER personally, and "I voted my own judgment, which was that I thought I was doing the best thing for the Democratic Party when I voted for Senator LORIMER."

There were some suggestions throughout the record here by some of the witnesses that they advised the Democrats to vote for LORIMER because they thought it would divide the Republican Party, and I submit that from a partisan standpoint that was a valid reason and a good reason, and the events have certainly justified this contention.

Representative Espy also says that while they were calling the roll on the final ballot he went into the speaker's room and Senator LORIMER asked him to vote for him, and "I told him I would, and went back and did it in 10 minutes. They were calling the roll then."

Mr. Browne's reason for supporting Senator LORIMER and the arguments that he used with his colleagues to secure their support—and they are good ones—are found on page 4922. (Vol. 4.) And on page 4925 he states that in all the conferences he had with Senator LORIMER there were no suggestions made as to the kind of arguments he should use with his colleagues.

Mr. Campbell, a Republican representative who voted for Hopkins, said this, as showing the views of some of the Republicans in regard to this matter, and those who were not friendly to Mr. LORIMER:

Mr. HANECY. You heard it generally talked of by Republicans and Democrats in Springfield before Mr. LORIMER was elected, that Mr. LORIMER was the most popular Republican with Democrats in Springfield or in the State, did you not?
Mr. CAMPBELL. Oh, yes.
Mr. HANECY. That was common talk there, was it not?
Mr. CAMPBELL. Yes.
Mr. HANECY. And that was largely because of Senator LORIMER'S campaign in the interest of the deep waterways measure, and because of what they claimed was his pleasing personality in coming in contact with people. Will you not please speak and not nod in answer?
Mr. CAMPBELL. I did not know whether you wanted me to answer that. Yes; I will say yes, sir, to that.
Mr. HANECY. The reporter might not get the nod.
It was the common talk in Springfield, before Senator LORIMER was elected, and all through that session, that Mr. LORIMER could get more votes from the Democratic members than any other Republican in the State, was it not?
Mr. CAMPBELL. Yes, sir.
Mr. HANECY. And those talks and those rumors were in no way coupled or connected, directly or indirectly, with any improper influences, were they?
Mr. CAMPBELL. Not to my knowledge.
Mr. HANECY. It was general talk, early in that session of the legislature and down to within a few weeks before Mr. LORIMER'S election, that Mr. LORIMER was not a candidate and did not want the Senatorship, but wanted to remain in the House, was it not?
Mr. CAMPBELL. I do not know whether I heard that or not. Possibly that is true; yes, sir.

I want to call this to the attention of the Senate as a significant circumstance, that from the beginning, when Senator LORIMER was approached by his friends in regard to being a candidate for the Senate, he absolutely refused, and said he did not want to leave the House of Representatives; that he occupied a position there upon the committee having charge of the waterway matters that he did not want to give up. Gov. Deneen himself testifies that he urged Senator LORIMER to be a candidate for the Senate, and that Senator LORIMER said no, he would not be. Senator LORIMER suggested to Deneen that they ought to get together and elect Shurtleff. Deneen said that he thought probably he could do it, but he urged him not to do it. He said, "If you have the power to elect Shurtleff, you have the power to elect yourself, and you ought to use it in a way that would increase your power and influence. You ought to be a candidate yourself." LORIMER told him no, and it was not until about 10 days before the election that Mr. LORIMER consented to be a candidate for the Senate.

I submit that the record shows that Mr. LORIMER was acting in perfect good faith in telling his friends that he did not want to be a candidate, and that he would not be a candidate for the Senate. Senator LORIMER did not consent to be a candidate until it appeared that no other Republican could be elected. Some of the Democrats feared that the Republicans might get together just before adjournment and elect Hopkins. The Democrats were afraid of that; they were afraid the Republicans would elect Hopkins; and hence they wanted to vote for LORIMER. Judge Cantrell, State committeeman from the southern part of the State, a man of high reputation and great influence in his party, not a member of the legislature, was asked by many Democrats for his advice as to voting for LORIMER, and he stated that he did not give his advice as a member of the State committee, but said:

"If I were a member of this general assembly I could tell you what I think I would do. In my judgment, it is good politics to vote for Senator LORIMER, for this reason: It is absolutely impossible to elect a Democrat. They had been in session there all those months, and the people throughout the country were getting tired of their doing nothing, and I said, 'I think it is good politics. Of course, if you could elect Mr. Stringer, you ought to vote for a Democrat.' But it had gotten to the point where they were voting complimentary votes for everybody around and were really making a farce of it on our side, as I thought. I said that, in my judgment, it was good

politics to vote for Mr. LORIMER; and I gave as a reason for it—if that is proper for me to state."

Mr. HANECY. Yes; go on and tell what you said.

Mr. CANTRELL. That at that time there was a breach in the Republican Party—I had been somewhat familiar with the Republican conditions in my State for some time and I knew the two factions very well, the Lorimer faction and the Deneen faction, and I knew there was a break, and I said, "It will do more to widen that breach than anything we can do if you can elect LORIMER. It is either LORIMER or Hopkins, and of the two men personally I prefer LORIMER."

He says that he made these statements publicly and that everybody knew his position. My recollection is that he also states that 10 or 15 members of the legislature talked to him in regard to the matter. Mr. Donahue came before the committee. He was one of the strong men who testified and impressed the committee with his integrity, with his devotion to principle, and with his intelligence. He voted for Stringer all the way through, and this is what he said:

Mr. HANECY. You never knew or heard of any money being used to induce anybody to vote for Senator LORIMER, did you, before the Charlie White story that was published in the Tribune?

Mr. DONAHUE. No; I did not.

Mr. HANECY. It was common talk in Springfield at that time that Senator LORIMER was more popular with more Democrats than any other Republican in Illinois, was it not?

Mr. DONAHUE. That was the talk, and I guess that was true to a certain extent.

Mr. HANECY. And that was largely true, not merely because of Senator LORIMER'S personality, but because of his activity in the deep-waterway matters, was it not?

Mr. DONAHUE. Well, I do not know now. The reasons, I think, that we assigned for it were that there was a strong feeling against the present administration and LORIMER was never a very ardent supporter of the administration; at least that impression went out. I mean the present State administration.

You will note that they were not thinking about national affairs, about the tariff proposition, or anything of that sort, but it was the State administration; it was the State condition that was influencing the members of the legislature.

That may have made him popular to a certain extent among Democrats.

Mr. HANECY. That is, a great many Democrats were for Shurtleff, because Gov. Deneen was against him?

Mr. DONAHUE. That is right.

Mr. HANECY. And there were a great many Democrats for Senator LORIMER for Senator because Gov. Deneen was against him?

Mr. DONAHUE. That is right; yes. That is the way they were up and down my country. I felt that way to a certain extent myself. I did not believe very much in the present State administration, and of course that feeling was pretty general among the Democrats.

The Democratic national committeeman from Illinois, Mr. Roger Sullivan, came before the committee, and he throws considerable light upon the conditions there. It has been suggested by some that Senator LORIMER and Mr. Sullivan had a sort of a bipartisan alliance under which they worked together for mutual benefit. Mr. Sullivan was asked in regard to that.

Mr. HANECY. Did you tell Mr. Marble—

Mr. Marble was one of the committee's attorneys—

that Mr. LORIMER had more political friends among Democrats in Illinois than any other Republican whom you knew of in the State?

Mr. SULLIVAN. I told him that he had a great many friends among the Democrats, and that he always had affiliated with the Democrats to a great extent, and that he was constantly boring into the Democrats by doing favors and things that would naturally get some of them; and I think I told Mr. Marble that I thought he was a very dangerous man from our point of view.

That suggests a statement contained in an address by one of the Senators—I think by the Senator from Indiana [Mr. KERN]—that Senator LORIMER, by reason of his connection with politics in Illinois, had done a great many favors to Democrats, and that the record shows that he had secured positions for thousands of men, and this is held up against him. Is a man to be condemned for standing by his friends or doing a favor for a man when he comes to him and asks him to do it, whether in office in Cook County or whether as a Member of the House of Representatives? I venture to say that there is not a Senator in this body who, when a man comes and asks him to do something within the range of his official duties, does not do it without asking him his politics; and I venture to say that, if it comes to securing a position in an honest sort of way, an honorable position, there is not a man here who would ask whether the man applying for it is a Democrat or a Republican, unless he had somebody whom he wanted especially to favor in connection with that place. To me, instead of a matter of condemnation it is a matter of commendation that Senator LORIMER has stood by his friends and has stood by those who have helped him; and that in his official life, when men have applied to him for assistance, he has given it without asking whether they were Democrats or Republicans.

Again, Mr. Sullivan said:

I think that possibly in the past he has been able to do more with the Democrats than any other Republican I know of.

Mr. HANECY. And when you say because of favors he did for Democrats, you mean that whenever anybody went to Mr. LORIMER for favors Mr. LORIMER never stopped to ask him whether he was a Republican or a Democrat or a supporter of his or his enemy. That is a fact, is it not?

Mr. SULLIVAN. I do not think he ever stopped because the man was a Democrat. He generally helped them if he could. That is his reputation, anyway.

That may not be a good reputation for a man to have in Indiana, but it is in my State.

Mr. HANECY. It is a fact, is it not, that there is not anybody whom you know of in the State of Illinois who could get more Democratic votes, without regard to the Democratic leaders or the Democratic organization, than Mr. LORIMER?

Mr. SULLIVAN. Any Republican?

Mr. HANECY. Any Republican.

Mr. SULLIVAN. I should say that was so. Now, you know there has been a little sentiment created against Mr. LORIMER, and whether it would be so to-day or not I would not say.

Then pages 4412 and 4413 give Mr. Sullivan's ideas with reference to Republicans supporting Stevenson, and also give a very good idea as to the changing character of Illinois political affiliations, and show that a man might be a friend of Mr. LORIMER one year and working for him, while the next year he might be opposed to him and working for somebody else, and that Republican votes for Stevenson were cast for Stevenson, not because they were friendly to LORIMER, but because they were unfriendly to Deneen. Those who desire to get a pretty fair idea as to political conditions in Illinois can get it by reading Mr. Sullivan's testimony.

Mr. Sullivan also states that he has sufficient knowledge to affirm that no compact or agreement was made by the Democratic executive committee, or with any committee representing them, for Republican support of Stevenson, but they took advantage of the factional differences in the Republican Party to help Stevenson. This answers Tippit's statement to which I have heretofore referred.

George Alschuler was a Democrat, elected from Senator Hopkins's own county. He became a candidate for the legislature largely by reason of his antipathy to Hopkins and his desire to have him beaten for reelection to the Senate. He says this:

It made no difference to me who the man was, whether Mr. LORIMER or any other Republican of standing in the State, because I was there to do what I could to accomplish the defeat of Mr. Hopkins. The first day I went down there I commenced working against him as much as I could. I think it was three or four days previous to his election that Mr. LORIMER became an avowed candidate, although I think Senator McElvain voted for him a week before, gave him a vote, if I am not mistaken.

Bear in mind that George Alschuler was elected unanimously as the leader of the minority of the Democratic members of the legislature in the forty-seventh general assembly, following the election of Senator LORIMER and after he had voted for LORIMER for Senator.

It seems that the Democrats before the legislature was organized had some idea that they, being so much in the minority, might decide to vote for some Republican. Alschuler had that in mind, and he was so much opposed to Hopkins that he wanted to be sure that anything he might do might not tend to result in the election of Hopkins; and it seems that Browne, in seeking to be minority leader, was taking a paper around to every Democrat to sign who wanted to support him. He brought this paper to Alschuler, and Alschuler said:

When it came to signing up I said, "Mr. Browne, I do not believe in this signing up. I am for you and I will vote for you." He said, "There are several here who will not sign up unless you do." I remember very plainly that I said to Browne at that time, "All right; I will sign up under one condition." He wanted to know what that was, and I said under the condition that if the time ever arose that Mr. Hopkins—no; I do not think I put it in that way—that I wanted him to pledge me that he would never be for Hopkins; knowing, as I said before, that there were a number of Republicans who were antagonistic to Hopkins and who would not vote for him. Then I signed up, and from that time on, of course, Mr. Browne and I consulted, off and on, at different times.

That illustrates the intense opposition, especially on the part of the Democrats to Mr. Hopkins, and generally their desire to elect some one other than he, and that they were willing to vote for any Republican in order to defeat Hopkins. Then Alschuler stated that some argument was made that to elect LORIMER would have a tendency to break up the machine in Illinois. I submit that in view of the sentiment throughout the country now against machines that ought to have been considered a very laudable purpose. The cry now is "anything to crush the machine" or "to break the machine," even if a new one must take its place; and one of the purposes of the election of LORIMER, according to Alschuler, was to break up the machine in Illinois.

Senator KERN. Which machine were you referring to?

Mr. ALSCHULER. The Hopkins machine. And with others I used the argument that Hopkins in all his career as Congressman and Senator never had had a kind word to speak of a Democrat; that in his addresses he had vilified them; and that any of them who had heard him speak would bear me out in the statement I made. A great many of them were very anxious to defeat him. They had nearly all heard him deliver speeches. There is such a thing as having decency among

political enemies, but Hopkins was vicious toward the Democratic Party at all times, unreasonably so, and was very unpopular, and I honestly felt——

There he was interrupted by the Senator from Indiana [Mr. KERN] who was very persistent in his inquiry of the Democratic members in regard to Senator LORIMER'S attitude on national questions and his adherence to national policies. The answers almost invariably show that they did not consider those things at all; that it was the local and State conditions that moved them. For instance, Senator KERN asked:

Senator KERN. And so far as you knew, they were both strictly loyal Republicans?

Referring to Hopkins and LORIMER—

Mr. ALSCHULER. Yes, sir. It made no difference to me who it was. I was there to try to defeat Hopkins, right from the start.

Senator KERN. Even if you had to vote for a stronger Republican than Hopkins in order to do so?

Mr. ALSCHULER. Yes.

I am not going to take the time to read some additional statements that I have here from Senator Donahue in regard to these matters; but they carry out exactly the same idea that the great result the Democrats wanted to bring about at that session of the legislature, so far as the Senatorship was concerned, knowing that they could not elect their own man, was to beat Hopkins, and they would vote for any Republican to do it.

Right at this point, because I have the memorandum here, I am going to refer to a little matter that I do not think really amounts to anything; yet something was attempted to be made out of it during the hearing, and I think some suggestions regarding it were made by the Senator from Indiana in his speech. That was in regard to the large number of janitors employed in the forty-sixth general assembly. The impression was given that many persons were given positions where they had nothing to do, and that those positions were given to them from improper motives, or something of that sort. A great many questions were asked as we went along during the testimony in regard to those janitors. Some men said, "Oh, yes; there were 150 janitors, and some of them had nothing to do"; and they never saw any of them doing anything, and it seemed to be taken for granted that there was a loose way of filling places that were not necessary. Yet there was one witness who came before the committee who did not take mere gossip and mere suggestion in regard to this matter, and that was Mr. Donahue. Mr. Donahue was asked about this:

Senator KENYON. We have had testimony before us that there were 150 janitors in that session. Is that correct?

Mr. DONAHUE. I do not think it is correct.

Mr. Donahue was asked to give the reasons why he made this answer. He was not speaking carelessly; he was not speaking loosely; he was not speaking from mere rumor or suggestion or newspaper report; but he had actually investigated the matter, and this is what he said of it:

I know there was a statement of that kind made, and I called at the auditor's office to get a report. The auditor is required by the constitution of the State to publish a detailed report of the number of employees during the session of the legislature.

Senator KENYON. Have you that report with you?

Mr. DONAHUE. No; I have not. I looked the matter up and found out that was not true.

Senator KENYON. That was after the testimony given in this committee?

Mr. DONAHUE. I think the committee of seven wrote it up a year ago last summer. They were some reformers that were reforming the State, and I think they made a statement that there were 300 or 400 employees, and I had business down at Springfield, and I called at the auditor's office. I knew he was required to have a list of the employees, and to publish it, because no money can be taken out of the State treasury except by warrant of the State auditor and cashed by the treasurer. You can get the list there. He had a published statement of it, and the other statement was not true.

Senator KENYON. How many janitors were there?

Mr. DONAHUE. If I recollect correctly, if I averaged them all up during the time of the employment, some men were only employed a day and some would be employed probably 4 days, and some 10 days, and I think they averaged probably 50 or 60 all told.

Mr. President, this shows the political conditions in the State of Illinois; it shows that the conditions in the Republican Party pointed toward Senator LORIMER and that the conditions in the Democratic Party pointed almost irresistibly to Senator LORIMER as the only man who could defeat Senator Hopkins. His election was the logical and almost inevitable outcome of the political conditions and the expenditure of a single dollar was wholly unnecessary, even if there had been any inclination to resort to bribery or corruption.

The testimony shows that at one time during the session of the legislature there was a serious proposition made to elect Gov. Deneen, and Senator LORIMER favored it. He was not a candidate; he did not want to be elected; he was ready to elect Gov. Deneen; but Gov. Deneen decided that he would not take the office. Then it was suggested that Shurtleff, having received a large vote for speaker among the Democrats, could probably secure the Democratic support; but it was found that he could not secure enough of the Republican votes to elect him. So it went on through that legislature, until finally, when they were getting near the time of adjournment, when everybody was tired and the Democrats fearful that the Republicans would get together and elect Hopkins, were ready almost to a man to support Senator LORIMER, and a great many of Gov. Deneen's friends, outside of the legislature and in the legislature, voted for Senator LORIMER; and he was elected. "But," it is said, "charges of corruption were made the day of the election and subsequently."

There was some talk, or rather hints, of corruption like you will find in or at the close of every political contest. I do not believe I have ever been familiar with any hard political contest where the defeated candidate or his friends did not charge that corruption was used to defeat him; and not long since the papers were filled with charges that corruption was being used in behalf of candidates for the highest office in the gift of the people. If we are to believe newspaper reports, if we are to take rumors and suggestions as conclusive, if we are to take the statements of those disappointed by defeat or their friends as absolutely true, then we will have to conclude that there is no purity in our political contests and in our political institutions.

If I believed this, I would despair of the Republic. I do not believe it. There were some suggestions made and opinions expressed that men had been corrupted; that members of the legislature had been improperly influenced; and it was suggested—and this was the principal reason given in the record for the suspicion that members voted corruptly—that it could not be explained why 53 Democrats should vote for a Republican except on the theory that there was something wrong about it. That suggestion was made on the floor of the Senate the other day.

I wish the Senator from Montana [Mr. MYERS] were here, because I desire to refer to a suggestion that he made in his address. He said this:

But I say, in a legislature where there is a close and a serious contest and a Democrat votes for any Republican for the position of United States Senator it is a strong presumption, to my mind, that there is something wrong either with his head or his morals, or both, and probably both.

And he goes on further and comments along this same line as follows:

I have heard and read long, entertaining, and learned explanations of why those 53 Democrats in the Illinois Legislature voted for Mr. LORIMER, a Republican.

Mr. MYERS entered the Chamber.

Mr. JONES. I see the Senator from Montana is now present. I am referring to a statement he made in his address the other day in regard to 53 Democrats voting for a Republican, in which he said:

I meet those arguments with the simple declaration that whenever there is a serious contest in a legislature over the election of a United States Senator, and when under those circumstances a Democrat who is a member of that legislature votes for a Republican for United States Senator there is something the matter either with his head or his morals, or both.

I should like to ask the Senator from Montana whether or not he would make the same statement with reference to a large number of Republicans voting for a Democrat?

Mr. MYERS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. JONES. Certainly.

Mr. MYERS. I am not now arguing that kind of a case. When we get to that kind of a case I may have something to say about it. But, nevertheless, I will waive that and answer the Senator's question now, and say yes; that in a closely contested election, where a few votes may turn it one way or another, and there is a chance for the Republicans to defeat a Democratic candidate for United States Senator, if the Republican members of the legislature are sincere and honest in their convictions, and vote for a Democratic candidate for United States Senator, when there would be a chance otherwise to defeat him, there is something the matter either with their heads or their morals, probably; generally both.

Mr. JONES. Of course, the Senator from Montana did not intend to reflect upon any Member of this body who has secured his election in this sort of a way and against whom no question has been raised and against whom, in my judgment, no question can be raised or ought to be raised; but it did seem to me that the statement by the Senator from Montana, that the simple fact that 53 Democrats voted for a Republican was proof almost conclusive that they were wrong in their heads and in their morals, was something which the Senator really did not intend to say, because one of the honorable Senators in this body, one of the honorable Senators on this investigating committee, was elected to this body after a contest, a serious contest, by the vote of 32

Republicans and 34 Democrats, and his majority on that ballot was only 2.

Yet, as to that Senator, no man will charge that because he, a Democrat, got those Republican votes they were corrupt or that he was guilty of corruption; and though some people were to charge it on this floor, I would not believe it. I am satisfied that the political conditions in the State of Tennessee when my honored colleague, the Senator from Tennessee, was elected reasonably explain the Republican vote being cast for him, and I will say that for one I am glad they cast it, and I am glad they sent him to this body.

Mr. LEA. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Tennessee?

Mr. JONES. With pleasure.

Mr. LEA. A statement referring to my election having been made, I desire that all the facts in the case be known.

It is true I received 32 Republican votes when I was elected, but the contest that day was between Democrats; and those Republicans who had voted for me had previously, by cooperation with one faction of the Democrats in Tennessee politics growing out of a condition occasioned by the murder of a former Senator, elected 10 members of the two highest courts in Tennessee, a governor, a railroad commissioner, three members of the election commission, and the speaker of the house, and had cast their votes for other Democrats who were candidates for the Senate before they voted for me; and on the ballot on which I was voted for the real contest, as far as the Republicans were concerned, was between two Democrats.

Mr. JONES. The Senator did not need to make that explanation so far as I am concerned. I simply wanted to meet the statement of the Senator from Montana, that the mere fact that 53 Democrats had voted for a Republican was evidence that they were wrong in their heads and in their morals, with the showing that Republicans had voted for a Democrat in proportionately the same number, and no suspicion, even, had arisen of corruption.

Mr. MYERS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. JONES. Certainly.

Mr. MYERS. The Senator from Washington has not given my full statement on that occasion. I went further and said that it was sufficient to challenge suspicion, and to my mind was a presumption that there was something the matter under such circumstances with the head or the morals of the legislators. I did not say it was a conclusive presumption or that it was proof.

I did not have in mind, however, the instance of the Senator from Tennessee, which the Senator from Washington has referred to. In that case there being no charge of anything being wrong with the morals of those Republican legislators, it is possible that from a political standpoint there was something the matter with their heads. I believe that Republicans generally render the greatest service of their lives to the country when there is nothing the matter with their heads under such circumstances.

Mr. JONES. Of course I understand the Senator from Montana did not have the case of Tennessee in mind when he made the declaration. If he had, I do not think he would have made it at all. It is peculiar, to say the least, that Democrats are believed corrupt when they vote for a Republican, but Republicans are not corrupt when they vote for a Democrat.

In order that I may do no injustice at all, I will read again the exact language the Senator used in his address the other day:

It is a strong presumption, to my mind, that there is something wrong either with his head or his morals or both, and probably both.

Mr. MYERS. Under such circumstances they have to show me that the election was right.

Mr. JONES. Mr. President, so much for the political conditions in Illinois, which to my mind, as I have said, pointed inevitably to the election of Senator LORIMER by that legislature, and that too without the necessity of the expenditure of a single dollar corruptly. The political situation disclosed in this record, in my judgment, would of itself justify my vote in this case in favor of Senator LORIMER instead of against him as it was before.

Mr. President, I desire to notice for a short while the allegations of new evidence upon which this reinvestigation was ordered by the Senate. It was charged in the Senate that there was some evidence available which was not available when we had the other hearing and when the Senate rendered its verdict. It was alleged that one Clarence S. Funk had stated that Edward Hines had told him that a hundred thousand dollar fund had been raised for the election of Senator LORIMER, and that Mr. Funk was asked that his company contribute to that fund.

This was investigated by the Illinois Legislature. They passed a resolution asking the Senate to reinvestigate this matter. The Senate passed a resolution appointing a committee to do it, and we looked into it. We investigated it thoroughly and fully, and we reached the conclusion that not only had Mr. Hines not made this statement to Mr. Funk, but that even if he had made it to Mr. Funk, there is absolutely no proof in this record that any such fund was raised, or that any such fund was raised by Mr. Hines or contributed to by him, or that any such fund or any part of it was expended by Mr. Hines in assisting in the election of Mr. LORIMER. Now, I am not going into the testimony in detail, but I am going to notice it just in a general way.

Clarence S. Funk says that Mr. Hines made a certain statement. Edward Hines says he did not make it. Now, of course, anyone who believes Mr. Funk, regardless of Mr. Hines, regardless of the witnesses corroborating Mr. Hines, will conclude that the $100,000 fund was raised. But I submit that according to this record Mr. Hines is just as reputable a man in business, in private life, in personal character and standing in his community as Mr. Funk is; and in saying that I do not disparage Mr. Funk's character in any way, shape, or form. Mr. Funk says that he met Mr. Hines in the Union League Club in Chicago, and that Mr. Hines said to him: "You are just the man I am looking for. Several of us raised a hundred thousand dollar fund to elect Mr. LORIMER. I am going out now getting some of our friends to put up to take care of it. We had to act quickly;" and that he thought Mr. Funk or his company should put up about $10,000. That is the substance of what occurred, Mr. Funk says.

Mr. Hines denied this story absolutely, and I want to call the attention of the Senate to the discrepancies that appear in Mr. Funk's story as related by Mr. Kohlsaat and as related by Mr. Funk himself.

Mr. Kohlsaat is the man who brought these matters to the attention of the Illinois Legislature. He had written letters to Members of the Senate while we were considering this proposition. He wrote a letter to the Senator from New York [Mr. ROOT], in which he stated this:

Sometime last June—

By the way, the testimony shows here that this conversation occurred in May instead of June.

Some time last June I met a friend who is general manager of a Chicago corporation with a capital of over $25,000,000. He said, "I have been intending to call on you for some days to tell you of an incident that occurred right after LORIMER's election a year ago. I had a visit from Edward Hines, the lumberman, and he told me that LORIMER's friends had had the opportunity of electing him to the Senate by putting up $100,000; that they had only a few days before the adjournment of the legislature and could not take the time to go around and raise the money, so a half dozen of LORIMER's friends—

Now, Mr. Funk in his version of this story of Mr. Hines does not mention any number of men that Mr. Hines had suggested—

"So a half dozen of LORIMER's friends underwrote the $100,000 and gave it to the proper agent"—

Mr. Funk does not say in his narration of the conversation that Mr. Hines said that they had raised this money and given it to an agent—

"LORIMER was elected and we are now asking some of the corporations to pay in their share. I am taking care of the down-town district, and another man (mentioning his name) has charge of the stock yards"—

Mr. Funk in his relation of the conversation as stated by Mr. Hines does not say anything about Mr. Hines saying he had taken the down-town district and that another man had taken the stockyard district, mentioning his name—

"We figure that your share will be $10,000." My friend answered substantially as follows: "I can not give you any money, for two reasons: First, we are not in that kind of business; and, second, if you have gotten yourselves into a hole, why should you expect us to pull you out?"

Yet Mr. Funk says nothing about anything of that sort in his relation of the conversation had with Mr. Hines, although Kohlsaat got his story from Funk. To accept Funk's statements as true is to declare not only Mr. Hines a perjurer, but also Mr. Baker, Mr. Carney, and Mr. Tilden, because Mr. Funk says that Mr. Hines said, "You send this money to Ed Tilden."

Of course if Hines said that to Funk, Hines had had some prior conversation with Tilden, and had some understanding with him about receiving this money. Yet Mr. Tilden swears positively that nothing of the kind had occurred; that he never received any such money, knew nothing of any such fund, and had nothing whatever to do with it, and neither Mr. Hines nor anyone else had ever said anything to him about it.

It is said that Mr. Funk is a man of high character and of great business attainment. So far as the record shows, the same can be truthfully said of Mr. Hines. His character is unimpeached, and his business standing unexcelled. So it is with Baker, Carney, and Tilden. Against Baker and Carney no charges whatever are made in connection with the election of Senator LORIMER. They have no interest in the matter one way or the other, and their testimony is as impartial as testimony could be. The record shows that Carney and Baker were with Hines at the time the alleged conversation took place. They swear they were present and they all substantially corroborate Hines and contradict Funk. Upon what theory or in accordance with what rules of evidence can we say that Funk's uncorroborated word shall be held to outweigh that of Hines, Baker, Carney, and Tilden? You can do it only by wanting to believe Funk and by wanting to disbelieve Hines, Baker, Carney, and Tilden.

That Hines would have the good sense and the cunning to absolutely conceal his activity in the raising and distribution of such a fund, and then have no more caution than to openly and boldly state to a casual acquaintance in a public place that he had done that which would send him to the penitentiary for years, is incredible. It seems to me it is a most significant circumstance that while nobody can trace any of this money to Hines, while nobody can find where he drew out any money for this fund, while nobody can find that he had anything to do, through agency or otherwise, with matters at Springfield, while he was so cunning as to conceal all this, yet it is claimed that he was so incautious and so foolish as to openly and publicly make this statement to a casual acquaintance. It is too incredible for me to believe.

Hines may have thought he had done much to secure Senator LORIMER's election. He was no doubt impressed with what he considered the confidence placed in him by men of power and influence in the Republican Party, and he may have magnified his own efforts and boasted of them. But I am convinced that he never made the statement attributed to him.

It was suggested by the Senator from Indiana [Mr. KERN] that it is a suspicious circumstance that Mr. Hines went to his bank upon his arrival in Chicago on the morning of the election; and it is suggested by inference that he went there to get money to be used in connection with Mr. LORIMER's election.

If Mr. Hines had money at that bank and drew it out, he could draw it out only by check, and there would be a record made of it. The experts of the committee examined the records of the Continental Bank and found no evidence of such a transaction. They examined the books of Edward Hines and of the Edward Hines Lumber Co. and its subsidiary companies and of the banks in which they had deposits. They found no trace of any corrupt fund or corrupt payments.

This would be the only theory upon which Mr. Hines's visit to the bank would be suspicious. We are not told, however, that the experts of the committee examined the accounts of that bank and found no trace of any suspicious transaction. Yet this is a fact; and if Mr. Hines had gone to the bank to secure money for this purpose, that fact would have appeared. If he had drawn out a large sum then or near that time it would have given rise to suspicion, but he did not.

No one except Funk has been found to say that he was approached by Hines and asked to contribute to this fund. Yet Funk's statement of what he claims Hines said to him would indicate that Hines had been seeing others, or expected to see others, and ask them to contribute to this fund. If any other persons had been approached in a similar way they very likely would have said something about it. If Hines openly approached a casual acquaintance like Funk on a matter of this kind, he would have appproached others, and we would have heard more of it; but we are asked to believe that Hines, a friend of LORIMER, went to Funk, an enemy of LORIMER, and openly and brazenly told him that LORIMER's election was bought and asked him to contribute to the corruption fund.

There appears to have been no suggestion that Funk should say nothing about the matter, that he should keep it quiet, or that he should treat the suggestion in confidence. The story is so improbable and so incredible upon its face that it deserves no consideration whatever; and in view of the fact that Hines is corroborated by absolutely disinterested witnesses, as well as by the testimony of those who may be said to have an interest, and yet who are of just as high character as Funk, no credence at all is to be placed in Funk's story.

It is not necessary to notice Hines's version of this conversation. But I submit that his version of the conversation which he testifies took place between him and Funk is entirely reasonable, in no wise improbable, and a very natural one. It is clearly shown that there was a conversation at the Union League Club between Mr. Hines and Mr. Funk on, I think, the 27th day of May. Mr. Hines states that Mr. Funk congratulated him upon the election of Senator LORIMER. This was natural. There was nothing improper about that. He then made the suggestion to Mr. Hines that Mr. LORIMER had no doubt been put to considerable expense. That was a very natural suggestion. There was nothing unreasonable about that, and nothing improper about it. He then suggested that the Senator should not have to bear all of this expense, and that his people would be glad to contribute it.

While I do not believe in contributions by corporations to candidates for office, whether successful or not, there is nothing especially improper in a suggestion after the election that they will bear some of the expense, although I am satisfied that if this suggestion had been made to Mr. LORIMER—as it probably was made, through Mr. Hines—he would not have accepted it. No special complaint seems to be made of great interests openly contributing to the expenses of candidates for nomination to the highest office in the Republic. I think it a shame that it is done, and I hope the time will soon come when public opinion and statute law will not tolerate it.

This did not suggest an unusual course. It was a very natural suggestion. In view of the fact that Mr. Funk and his people had not been very friendly to Senator LORIMER, and in view of the fact that as a Member of the House Mr. LORIMER had opposed some matters in which they were interested, it was natural that Mr. Funk should desire to get on friendly terms with Mr. LORIMER, and he no doubt thought this was a good way to accomplish that result. Personally I have no doubt that this suggestion was made to Mr. Hines by Mr. Funk.

To a certain extent Senator LORIMER corroborates Mr. Hines. He testifies to a conversation, a few days after his election, in which Mr. Hines told him that Funk wanted to meet him. Mr. Hines testifies that Funk said he would like to meet the Senator. Mr. Hines said he told him he would do what he could toward having him meet the Senator, and he testifies to a conversation on the following Sunday, when he mentioned the matter to Senator LORIMER. Senator LORIMER at first did not care to meet Mr. Funk, because he considered him one of his strong enemies; but when Mr. Hines told him of his anxiety to meet him, he said he would do it. Mr. LORIMER says he does not remember whether or not Mr. Hines suggested to him that Mr. Funk might pay some of his expenses, but that if Mr. Hines did suggest anything of this kind he told him that his expenses did not amount to anything; that he neither smoked nor drank, and that all the expense he was put to was for his trips to Springfield and return, which he would have had to incur anyway on account of the controversy over the waterway proposition.

According to all the rules of evidence and according to human experience, Funk's story is unbelievable. There is no truth in it, and it should be given no consideration by this body. What his motives were in giving it out, I do not propose to discuss.

In an attempt to bolster up his story, Funk relates another conversation which he says occurred sometime after this first conversation. He testifies before the committee that after the 15th of February, after an editorial had appeared in one of the Chicago papers charging the raising of a $100,000 fund, Mr. Hines came to his office, greatly agitated, and tried to explain to him that their conversation of a few days before—note it had, in fact, been almost a year before—had been misconstrued, or that Funk had misunderstood it, or something of that sort. Mr. Funk passed it off, and Hines went away.

Before the Senate committee, and before the Helm committee, Mr. Funk said that this second conversation occurred after the appearance of the editorial of February 15, 1911. Mr. Hines, however, came before the committee and proved by his own evidence, by the evidence of his employees, and by the records that he has kept for 20 years that he was not in Chicago from the 15th of February until some time in March, thus showing conclusively that the alleged second conversation could not have occurred as Mr. Funk said it occurred. Then, at another hearing, in another place, when Mr. Funk realized the situation he was in, he changed his testimony and swore that the second conversation occurred in January. He never advised the Senate committee or suggested to it that any such mistake had been made. Yet I have here the record of the testimony taken before the Union League Club, of Chicago, wherein Mr. Funk now says that the second conversation occurred after the appearance of the editorial in January.

Senators, I wonder if any other testimony is being concealed in this case, in order that in case the Senate shall now vote to seat Mr. LORIMER it may be used as the basis of a demand for another investigation?

I call the attention of the Senate to this testimony, which was not suggested to the Senate committee by Mr. Funk, as showing that when the record before our committee had demonstrated the impossibility of the truth of Mr. Funk's story as to this second meeting, at another hearing he testified that it was in January.

Why did not Mr. Funk come before our committee and say that, unless it was for the reason that after Funk had given this further testimony, Mr. Hines also showed conclusively by the records of his office and by the employees of his office that Funk could not be correct in his amended statement, because Hines was not in Chicago within the dates stated by Mr. Funk for the second visit, as fixed by the January editorial.

Mr. LEA. Mr. President——

The PRESIDENT pro tempore. Will the Senator from Washington yield to the Senator from Tennessee?

Mr. JONES. Yes.

Mr. LEA. If the Senator will yield to me a minute, I think he unconsciously does Mr. Funk an injustice.

Mr. JONES. I do not want to do that.

Mr. LEA. My recollection of Mr. Funk's testimony is that on the first occasion he stated that he could not testify positively as to the date; that Judge Hynes, Mr. Hines's lawyer, then said that the date of the editorial in the Record-Herald referring to the $100,000 fund was February 15; whereupon Mr. Funk said, "If that editorial was on February 15, the conversation with Mr. Hines was after that."

In point of fact, Judge Hynes was in error. The editorial in the Record-Herald did not appear on February 15; it appeared in January. On page 599 of the record of the investigation Mr. Hynes asked this question:

Mr. HYNES. Now, with respect to the visit you say Hines paid you along about the time of the editorial in the Record-Herald, referring to $100,000, give us the time of that as near as you can recollect it.
Mr. FUNK. I can not fix the time definitely.
Mr. HYNES. Well, the date of the editorial was the 15th of February, 1911. In your testimony before the Helm committee you stated, "Mr. Hines came to my office in a day or two or a short time, it may have been more than a day or two, but a short time after the editorial appeared." Is that your best recollection then?
Mr. FUNK. Yes; that is my recollection then.
Mr. HYNES. Is that your best recollection now?
Mr. FUNK. I am inclined to think I am mistaken about that now. I think it was later than that now, later than a few days after.

Meaning a few days after the editorial referred to. So it was Judge Hynes and not Mr. Funk who fixed the date as February 15.

Mr. JONES. The editorial referring to the $100,000 fund was an editorial of February 15. That editorial was called to Mr. Funk's attention before the Helm committee at Springfield; and it was after that, he said, that this second conversation occurred. I think there was another editorial in January also referring in some way to this matter. So that may account for the difference. But I simply state the fact that at this other hearing Mr. Funk changed his testimony; and then Mr. Hines showed conclusively by his records that such a conversation could not have occurred between the dates then placed and named by Mr. Funk, just as conclusively as he showed it with reference to the editorial of February 15.

That is all I care to say with reference to the testimony of Mr. Funk. I do not say Mr. Funk intentionally misrepresented that conversation. There was some misunderstanding, some misconstruction, of it. Weighing the matter according to the rules of evidence, what do we find? Mr. Hines contradicts Mr. Funk. Mr. Funk has nobody to substantiate his story. Mr. Hines has the testimony of two or three disinterested witnesses who were present, and who verify his version of the conversation.

Therefore I say that from this record, which shows Mr. Funk and Mr. Hines to be men of equal reputation and equal business standing, the Senate can not say, in my judgment, in accordance with the rules of weighing evidence, that it is shown here that Mr. Hines did make this statement. But whether Mr. Hines made it or not, there is not one line of evidence in the record or anywhere else that shows that Mr. Hines contributed a single dollar to a fund for the election of Senator LORIMER, or that he helped to raise or expended a single dollar for that purpose, except as it may have been for telephone or telegraph messages from Washington City, and there is not a word of evidence that any such fund was raised by anyone, to be used in the election of Mr. LORIMER. Mr. Hines was not in Springfield during the session of the legislature, and had not been there for years, and was not there afterwards until the Helm investigation.

As showing the real recklessness with which Mr. Funk testifies, I want to call the attention of the Senate to this testimony given by Mr. Funk. When asked how he knew that Mr. Hines preferred LORIMER for Senator, he said: "Why, you would see his name in the papers every day in connection with activities at Springfield, and hear it as a matter of general talk in the streets." Then Mr. Hynes, the attorney, asked him:

You spoke, Mr. Funk, of Mr. Hines's activities at Springfield. What did you have reference to there?
Mr. FUNK. Why, it was a matter of common talk that he was very active down there.
Mr. HYNES. What did you understand he was doing down there?
Mr. FUNK. Pulling wires for the election of Senator LORIMER.
Mr. HYNES. What do you mean by that? What was he doing? How long was he down there in Springfield before the election?
Mr. FUNK. I do not know.
Mr. HYNES. How long before the election did you hear that?
Mr. FUNK. I heard it frequently.
Mr. HYNES. How long before?
Mr. FUNK. Just about the time the matter came to a head.
Mr. HYNES. How long had he been down there?
Mr. FUNK. I don't know.
Mr. HYNES. How long had you been hearing that?
Mr. FUNK. I do not know how long he had been there.
Mr. HYNES. Give me your recollection.
Mr. FUNK. I have no recollection as to when he was there.
Mr. HYNES. Have you any recollection as to anybody saying that he was in Springfield active about the election of LORIMER?
Mr. FUNK. I have a very distinct recollection that he was down there, and he was very busy there, and also in Washington. That was a matter of common talk.
Mr. HYNES. How long did you understand he was down in Springfield?
Mr. FUNK. I do not know, Senator, anything about the length of time.
Mr. HYNES. Do you remember anybody who told you that he was down at Springfield active there in pulling wires for Senator LORIMER?
Mr. FUNK. I think that was a matter of common talk.
Mr. HYNES. Can you tell me anybody that said it?
Mr. FUNK. I met a great many people that talked about it. I can not recall any particular man that made that particular statement.

Mr. Funk testifies to those things as facts, but the fact is that Mr. Hines was not in Springfield at all during the session of the legislature, had not been there for years, and was not there for a long time after Senator LORIMER's election. Yet Mr. Funk stated that he heard frequently about his activities at Springfield in behalf of Senator LORIMER. He surely did not hear of Hines's activities at Springfield, because he was not there. Does this not discredit his version of his conversation with Hines? Was he not as likely to be mistaken in this as he was of Hines's activities at Springfield?

Mr. GORE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Oklahoma?

Mr. JONES. Certainly.

Mr. GORE. I would like to ask the Senator from Washington if the issue of veracity between Mr. Funk and Mr. Hines was passed on by the Union League Club?

Mr. JONES. I suppose so; but that cuts no figure here.

Mr. GORE. Did they sustain the veracity of Mr. Funk or did they sustain the veracity of Mr. Hines?

Mr. JONES. They probably sustained Mr. Funk on the same ground upon which a great many people outside of that club have sustained Mr. Funk.

Mr. GORE. Mr. President——

Mr. JONES. I can not yield for anything of that kind here.

Mr. GORE. Just one more question. Both those gentlemen were members of that club?

Mr. JONES. Yes.

Mr. GORE. And Mr. Hines was expelled from the club?

Mr. JONES. I do not know. If so, it has no weight with me in this case, and has no place here. Those who did it were not under oath and simply expressed their own individual opinions and prejudices.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Missouri?

Mr. JONES. Certainly.

Mr. REED. I understand the effect of the Senator's argument now to be that Mr. Funk was not telling the truth, because he stated that Hines had been active at Springfield, when in fact Hines was not there, and that from that the Senator draws the inference that Funk is an untrustworthy or forgetful witness.

Mr. JONES. I made the statement that he was rather reckless in his testimony.

Mr. REED. I want to ask the Senator if it is not true that Mr. Hines himself testified that he actively interested himself in the election of Senator LORIMER?

Mr. JONES. No; he did not——

Mr. REED. And that he went to the State of Illinois bearing a message from the President of the United States and from Mr. Aldrich, and that he had conversations with Mr. LORIMER in the State of Illinois concerning his candidacy and urging him to become a candidate?

Mr. JONES. But Senator LORIMER refused.

Mr. REED. And that he further testified that he communicated at Springfield, Ill., with Gov. Deneen with regard to

this subject matter; and if that does not constitute activities at Springfield?

Mr. JONES. Mr. President, of course if the Senator would construe that as "activities at Springfield," I do not question his construction of it; but I want to suggest to him that all that occurred practically on the day of or the day before the election.

Mr. REED. Oh, no.

Mr. JONES. Mr. Hines telephoned and telegraphed Senator LORIMER a day or two before the election, and he arrived in Chicago the morning before the election, and there he telephoned Gov. Deneen. Now, if that constituted activities at Springfield which would justify Mr. Funk in testifying in the way he did, of course the Senator is entitled to that construction of it. I can not so construe it, and I am sure Mr. Funk did not mean it that way.

Mr. REED. If the Senator will pardon me further, I would like to know how the Senator himself construes this testimony.

Mr. JONES. Just a moment. The Senator puts a great many suggestions into one question or statement. He suggested that Mr. Hines was very active in Illinois supporting Senator LORIMER's candidacy, and conferred with him about it, and so on. All that the record shows is that Mr. Hines talked with Senator LORIMER once in April, and suggested that he be a candidate for the Senate, and Senator LORIMER told him that he would not be, that he did not want to be, that he did not want to leave the House, and that that ended it with Mr. Hines. He did not take any further interest in Senator LORIMER's election until two or four days before, when LORIMER's name was mentioned, and he talked with Aldrich and PENROSE, and telephoned and wired LORIMER, as I have already explained. Instead of urging LORIMER, he suggested others for the place. So activity shown by Mr. Hines in behalf of Senator LORIMER at Springfield no more shown by him in Washington than one friend would naturally show for another.

Mr. REED. If it would not interrupt the Senator, and I do not desire to add anything that would be regarded as unpleasant, I would like——

Mr. JONES. The Senator could not do that.

Mr. REED. Not with my personal feeling toward the Senator; I could not do it intentionally. I hold him in the highest regard. But I would like, as the Senator and I differ so widely in regard to this matter, to read now from the record the testimony of Mr. Hines himself on this matter. I think the Senator has overlooked or forgotten a great many statements Mr. Hines made with regard to his activities.

Mr. JONES. I desire to say to the Senator that I have simply summed up my conclusions. I do not intend to go into the details in connection with the testimony of Mr. Hines. They have been gone into pretty fully in the report of the committee. They have been gone into by the Senator from Vermont and by other Senators here, and I have taken up much more time now than I expected, and I do not intend to go into details with respect to Mr. Hines's testimony. I do not intend to attempt to harmonize any apparent inconsistencies that there may be in it. I have summed up my conclusions from the whole testimony and have given them to the Senate. I am convinced that Mr. Hines did not make these statements as Mr. Funk says they were made. I am convinced that Mr. Hines did not do any more in behalf of Senator LORIMER than any other friend would do for a friend in a legitimate way, and probably not nearly so much. There is nothing to show that he contributed a single dollar or helped to raise a fund or to expend a dollar or distribute a fund in aid of Senator LORIMER's election. Those are my firm convictions and conclusions from all the evidence after allowing for all inconsistencies that may appear and any action on Mr. Hines's part that may be construed against him. The Senator can weigh the testimony just as well as I. I can not go into it in detail, and the Senator will hold his conclusions and I can hold mine.

Mr. REED. In view of that, I will not insist on further taking the Senator's time.

Mr. JONES. A witness, Cook, was also called to testify as to the alleged statements by Hines, in order to bolster up Funk's story. Cook's unfriendly feeling toward Hines was plainly shown during the testimony. He seemed to have an intense desire to say something that would reflect upon Hines and show an improper connection with Senator LORIMER's election. It appeared that he was talking about Hines on almost every occasion and at every opportunity. I have no doubt but that many things which he had read had been thought about by him so much and repeated by him so much that he came to believe that they had actually occurred within his own knowledge. I am convinced that he misconstrued statements, innocent in themselves, and then testified to them as construed by him rather than as they were uttered.

Mr. Cook testified as to a conversation with Mr. Hines in the Grand Pacific Hotel in Chicago. He was asked to state the exact language of this conversation as nearly as he could. (Vol. 1, p. 626.)

Mr. COOK. Mr. Hines replied, saying that he was having a hell of a time. He said: "For instance, there is old STEPHENSON. After I went to work and elected him, he goes down to Washington and starts working for free lumber." He says, "What do you think of him, and in the lumber business, too!" "Then," he says, "those southern Democrats," he says: "There is the worst bunch I ever tackled." [Laughter.] Then he says: "You get them all fixed up to-day and to-morrow they flop." [Laughter.] "Then I have to go and fix them all over again." [Laughter.]

Mr. HEALY. Was anything else said, Mr. Cook, on that occasion?

Mr. COOK. Why, Mr. Turrish then asked Mr. Hines how they were getting along in the senatorial deadlock in Illinois. Mr. Hines replied by saying: "I will tell you, confidentially, LORIMER will be the next Senator from this State." He says: "We had Boutell fixed for the Senatorship. He had promised to work to keep the $2 duty, the present duty, on lumber; but when the lumber schedule came out before the Ways and Means Committee, Boutell was working for free lumber." He said, "I immediately took the matter up with Senator Aldrich, and it was decided that I have a talk with LORIMER. I went and saw LORIMER. He will stand pat. He will listen to reason. He will do as he agrees to do." He says, "I have got it all fixed. LORIMER will be the next Senator from Illinois."

Now, Mr. Hines denies this conversation and this version of it by Mr. Cook; but even if he had admitted it, there is nothing especially in this conversation to indicate that Mr. Hines had been interesting himself in the election of a Senator in improper ways, but that he thought he had found a man who could be elected and would vote satisfactorily on the tariff. But we do not have to take the testimony of Mr. Hines alone for this conversation. We can exclude his testimony entirely and take the testimony of a disinterested witness. Mr. Turrish was present at this conversation also, and Mr. Turrish testified in regard to this matter as follows:

Mr. MARBLE. What did he say?

Mr. TURRISH. He did not seem to be very hopeful.

Mr. MARBLE. What did he say? Do you recall what he said?

Mr. TURRISH. The substance of his conversation was that human nature asserted itself in different places when it came to the tariff question.

Now, that is not a very unreasonable statement for a man to make. I do not think there is a Senator here but will indorse that statement as a very good suggestion from Mr. Hines.

That everybody wanted their individual stuff protected, but they wanted their neighbors' on the free list, or words to that effect; and that human nature asserted itself when it came to that. In the course of the conversation I said to Mr. Hines: "Mr. STEPHENSON, being a lumberman, is all right, isn't he?" He said, "No; STEPHENSON is an uncertain quantity."

Now, to that extent, or to a certain extent, that corroborates Mr. Cook, although it does not refer to Mr. STEPHENSON in that connection; and anybody who has ever seen Cook or heard him testify would understand why he stated it in that way.

That he had done business for him for 20 years or more, and that he really did not know where he stood on the lumber question; he was undecided.

Mr. MARBLE. Was there anything further said about Mr. STEPHENSON?

Mr. TURRISH. No; nothing. That was the substance of what was said.

Mr. MARBLE. All right; what next?

Mr. TURRISH. Then there was some reference made to a Member of Congress who had made a very good argument, who understood the situation pretty well, by the name of FORDNEY.

Now, Members of the Senate who know about the contest over the tariff in another branch of this Congress will see in that a very reasonable statement as it refers to Mr. FORDNEY.

Mr. MARBLE. Who made that reference to Mr. FORDNEY?

Mr. TURRISH. I do not remember whether I did—whether I spoke to Mr. Hines about FORDNEY's argument or what I had read in the papers about what he had been saying—or whether Mr. Hines mentioned it.

Mr. MARBLE. Very well. What next?

Mr. TURRISH. That is about all that was said.

Mr. MARBLE. Was there any reference to Congressman LORIMER or Senator LORIMER in that conversation?

Mr. TURRISH. Senator LORIMER's name was mentioned.

Mr. MARBLE. By whom?

Mr. TURRISH. It was mentioned by Mr. Hines; and I do not remember whether he said he was a candidate or whether he would be elected or what. My memory is hazy on what was said about it.

I suggest that if Mr. Hines had said that Mr. LORIMER would be elected, that he had it all fixed, Turrish would have remembered it.

Mr. MARBLE. Did he say a candidate for what?

Mr. TURRISH. For the Senate.

Mr. MARBLE. Is your memory clear that he was mentioned in connection with the Senate?

Mr. TURRISH. His name was mentioned, but I can not just place it in that way. Either that he was a candidate, or, I think, he said he would be a candidate.

Mr. MARBLE. You think he said that he would be a candidate?

Mr. TURRISH. Yes.

Mr. MARBLE. Are you clear that he was mentioned in connection with the Senate at all?

Mr. TURRISH. Yes, sir; I think so. I think that I spoke about the Illinois deadlock at that time, and I think that is how it came up.

That is, Turrish spoke about the Illinois deadlock himself. Then it would be very natural that Mr. Hines might mention those who were spoken of in connection with it.

Mr. MARBLE. Then Mr. Hines told you that?
Mr. TURRISH. Well, in the conversation, as I remember it, Mr. Hines said Mr. LORIMER would be a candidate, or was a candidate, or words to that effect.
Mr. MARBLE. Do you remember any reference to Senator STEPHENSON as "old STEPHENSON" in that conversation?
Mr. TURRISH. No, sir.
Mr. MARBLE. Do you remember any reference to the southern Democrats or their attitude toward the lumber schedule?
Mr. TURRISH. No, sir.
Mr. MARBLE. Would you say that there was no reference to the southern Democrats and their attitude toward the lumber schedule?
Mr. TURRISH. I did not hear any.
Mr. MARBLE. You did not hear any?
Mr. TURRISH. No.
Mr. MARBLE. You did not hear Senator STEPHENSON referred to as "old STEPHENSON"?
Mr. TURRISH. No, sir.
Mr. MARBLE. You are sure of that?
Mr. TURRISH. I am sure.
Mr. MARBLE. Did you hear any reference to Congressman Boutell, of Illinois?
Mr. TURRISH. It seems to me that Congressman Boutell's name was mentioned, but I can not recall in what particular. I think in the course of the conversation his name was mentioned, but I can not recall in what way.
Mr. MARBLE. Do you recall whether or not it was mentioned in connection with the Illinois senatorship?
Mr. TURRISH. I could not tell.
Mr. MARBLE. Do you remember Senator Aldrich's name being mentioned?
Mr. TURRISH. No, sir.
Mr. MARBLE. Would you say that it was not mentioned?
Mr. TURRISH. I did not hear it.
Mr. MARBLE. You will say that you did not hear it?
Mr. TURRISH. I did not hear it.

Mr. Cook then gave an account of a telephone talk that Mr. Hines had from his room in the hotel at Chicago with, as he says, Gov. Deneen. This alleged conversation is so contrary to human experience and human action that it is incredible and would need no contradiction. It is, however, shown to be false in every essential particular and in every suspicious circumstance, and shows to what length Cook would go against Mr. Hines. Mr. Cook says that after he had been in the room four or five minutes the phone rang and he answered it; that the operator asked, "Is Mr. Hines there?" to which he said "Yes." The operator then said, "Here is Springfield; here is Gov. Deneen," and that he called Mr. Hines to the phone. He then heard this conversation (p. 628, vol. 1):

Mr. COOK. He said, "Hello, hello, hello, is this you, Governor? Is this Gov. Deneen? How are you this morning, Governor? Now, I just left President Taft and Senator Aldrich in Washington last night. They tell me that under no consideration do they want Hopkins returned. Now, LORIMER must be elected. I will be down on the next train, prepared to furnish all the money that is required. Now, don't stop at anything. LORIMER must be elected."

Now, there is the conversation that Cook alleges was had by Mr. Hines in his room over the telephone with Gov. Deneen.

It is significant that when Cook testified before the Helm committee he said that the telephone operator said "Here is the governor," but he is very positive in his testimony before this committee that the operator said "Here is Gov. Deneen."

Mr. Hines shows very conclusively that this talk he had over the telephone from Mr. Cook's room at the hotel was with Senator LORIMER and not with Gov. Deneen.

Mr. Hines had had a talk with Gov. Deneen a short while before this when he arrived in Chicago.

Senator LORIMER had left a message there for him to call him up and not to come on to Springfield. Mr. Hines called up Senator LORIMER and told him of this message, and it was suggested that he talk with Gov. Deneen. He called up Gov. Deneen and told him the message, and the governor said, "All right," or something of that kind. LORIMER had told Hines, "When you talk with Gov. Deneen then call me up and let hear what he says."

Therefore it is clear that, when Mr. Hines telegraphed from Cook's room at the hotel, he was telephoning to Senator LORIMER and not to Gov. Deneen; that Mr. Cook's version of that story is simply made up out of probable suggestions that he saw in newspapers or by reason of the fact that he thought by connecting Gov. Deneen with this conversation it would injure Mr. Hines in some way. Gov. Deneen testified with reference to the interview that he had with Mr. Hines; and his testimony does not corroborate Mr. Cook in any particular whatever. The statement made by Cook that Mr. Hines said, "Meet me at Springfield with all the money that is necessary," is not only incredible, but it is denied by Mr. Hines, and it is denied by Gov. Deneen that anything whatever was said between him and Mr. Hines with reference to Hines coming down with the money that was necessary or with reference to money at all. Mr. LORIMER also testified with reference to his conversation with Mr. Hines, and he denied that anything was said in regard to money. I have no doubt but that Mr. Cook heard Mr. Hines mention the word "governor" in his talk, because Mr. Hines no doubt told Mr. LORIMER that he had talked with Gov. Deneen, and probably Cook heard him say "Gov. Deneen," and connected that with the telephone operator, and so on. This whole conversation alleged by Cook to have taken place in his room is not only incredible, but is it contrary to all human experience, and it is absolutely contradicted and refuted by the testimony of Mr. Hines, of Gov. Deneen, of Senator LORIMER, of Mr. Wiehe, and also of Mr. O'Brien, who was Mr. Cook's friend, who were in the room at the time and heard no conversation of the character testified to by Cook. I submit to the Senate that Cook's story is not entitled to any credit whatever.

In connection with this alleged new testimony I desire to notice some statements made in the speech of the senior Senator from Wisconsin [Mr. LA FOLLETTE], when he urged the appointment of a new committee to investigate the charges against Mr. LORIMER. He had some affidavits, and upon these affidavits he urged the appointment of this committee. It seems that the Helm committee, the committee of the Illinois Legislature, had employed a Mr. Coan as an investigator, and Mr. Coan made affidavits as to what certain persons had told him and would testify to if they were called before the committee.

Mr. President, I had prepared extracts from this testimony, which I intended to read into the RECORD, but I am not going to take the time to do it. I am simply going to say that Senators will probably remember the statements that the Senator from Wisconsin [Mr. LA FOLLETTE] submitted and the affidavits which were made by this man Coan as to statements made by Shelley B. Jones, by Mr. Culver, and by others. The committee called the persons referred to by Mr. Coan, and, without exception, every one of those persons denied absolutely and unqualifiedly the statements made by Coan, which the Senator from Wisconsin submitted to the Senate in behalf of the resolution to appoint this committee. Senators who may be interested in the matter, if they will refer to the testimony of those individuals, will find that they contradict Coan in every essential particular. So impressed was the committee with reference to the unreliability of Coan that not one member of the committee asked that he should be called before the committee. Coan gave the impression that many witnesses had refused to go before the Helm committee because they lived outside of the State of Illinois. When those witnesses were asked whether they were requested to come and testify they said, no; they were not asked to do so. Some of them were asked to sign affidavits, which, when they looked over them, they refused to make. Those affidavits of Coan purported to give conversations that Hines had with those people in regard to Senator LORIMER's election. They are absolutely disproven by the witnesses who appeared before the committee, and it was shown that there seemed to be a concerted attempt on the part of somebody to show in some way that Mr. Hines had made statements with reference to the raising of this hundred-thousand-dollar fund, and that he had raised it or contributed to it, and, as in every other case of this kind, the proof has absolutely failed.

Mr. President, after trying to weigh all the testimony fairly and impartially, I am firmly convinced that Edward Hines did not raise any fund to be used to secure Mr. LORIMER's election and that he did not spend a dollar improperly to bring it about. All that he did to assist Mr. LORIMER was confined to his talks with leading Republicans here in Washington and advising Senator LORIMER of their views and of his talk with Gov. Deneen. All this was done as a friend and is to be commended rather than condemned.

William M. Burgess, a witness before our committee, swears to a conversation he had on a train with Mr. Wiehe in which he alleges that Wiehe said there was a jack pot for the election of Senator LORIMER and that he had contributed $10,000 to it. Wiehe denies unqualifiedly making any such statement. Take his testimony against that of Burgess and consider the improbability of any man in his right mind openly in a smoking compartment of a Pullman car stating that he had contributed $10,000 to a fund to be used in the election of a Senator. It is incredible to me how a fair and unbiased mind can accept such a statement as true. Wiehe's positive denial is supported by the testimony of four or five other witnesses so conclusively that not only does the evidence preponderate against the Burgess story, but it absolutely overwhelms it.

Unless we disregard all the rules for weighing testimony and considering the credibility of witnesses the allegations upon which this reinvestigation was ordered are not substantiated. Competent testimony of their truth is utterly lacking, and if the Senate is to vacate its former judgment in favor of Senator LORIMER's right to a seat in this body it must do it on testi-

mony submitted on the same points brought out and considered when the former judgment was rendered.

I have already considered this evidence and I have already given the reasons why I think that it is not only not as strong as it was before, but that it has been clearly and conclusively shown that the former evidence is so discredited as to make it appear conclusively that corruption was not necessary and was not used or practiced in the election of Senator LORIMER.

At any rate there has been an utter failure to secure any new material evidence proving corruption in the election of Senator LORIMER, and if he is excluded it must be done on evidence adduced or available when the Senate rendered its former judgment.

Senator LORIMER, through his attorney, at the close of the hearing interposed a plea of res adjudicata. It is urged that this plea should have been interposed sooner. In my judgment it was not necessary to interpose it before the committee at all. The proper time to raise this issue was when the committee had made its report and a resolution was introduced attacking Senator LORIMER's right to his seat. He put in this plea as soon as all the evidence was in. This investigation was ordered because of alleged new evidence, and it was not until the hearing was closed that the new evidence was complete. It is suggested that the committee should have raised this question sooner and not taken the testimony that it did take. It was not for the committee to pass upon this question. That is a proposition to be decided by the Senate itself. Senator LORIMER surely loses no rights because the committee did not present this question to the Senate sooner. The plea is made and the Senate must act upon it. It must act as a court, fairly and judicially. The Senate is by the Constitution made the sole "judge of the elections, returns, and qualifications of its own members." In this case no question of policy is involved. We are to pass not upon the advisability of the election of Senator LORIMER, not upon his fitness for the place, but upon the legality of his election. Was his election legal or illegal? That is the question, and it does not require any legal knowledge to tell us that it is question for judicial decision and not a matter of legislation. In acting upon it we act as judges and not as legislators. This is in accordance with reason, law, and precedent. Senator Edmunds, of Vermont, said, in the case of Henry W. Blair, on March 10, 1885:

> The Senate in sitting upon such a question sits as judges. The Constitution says so. We are not defining policies; we are not setting up expediencies; we are not carrying on party warfare; we are sitting as the solemn judges sworn to try and determine the election and qualifications of a gentleman who presents himself to be a member of this body.

Justice Folger, in People against Hall (80 N. Y., 117), said:

> When it is said, on such occasion, to either house of the legislature, "You are to be the judge of the election of the members of your body," there is a specific conferment of this particular power.
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> * * * * * * *
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> The power thus given to the houses of the legislature is a judicial power, and each house acts in a judicial capacity when it exerts it.

In People against Mahaney (13 Mich., 481) Justice Cooley, than whom there is no higher authority, said:

> While the constitution has conferred the general judicial power of the State upon the courts and officers specified, there are certain powers of a judicial nature which, by the same instrument, are expressly conferred upon other bodies or officers; and among them is the power to judge of the qualifications, elections, and returns of members of the legislature. The terms employed clearly show that each house, in deciding, acts in a judicial capacity.

When the right of Mr. James Harlan to a seat in this body as a Senator from the State of Iowa was under consideration, Senator Pugh of Ohio said:

> What does our decision amount to. The Constitution does not make our decision upon the question of elections a legislative act. The legislative powers of the Senate are to be exercised coordinately with the House of Representatives, but the power which we exercise in deciding upon the election of a Senator is our power. It is judicial in its character. The Constitution uses the very word that constitutes it a judicial act—"Each house shall be the judge of the elections, returns, and qualifications of its own members"—and our act in deciding upon an election is as completely a judicial act as is the action of the House of Peers in Great Britain when they hear a writ of error to an inferior court.

When this case was heretofore pending in the Senate, Senator CUMMINS said:

> If we are judges, as I believe we are * * * and speaking for myself alone, I intend to be governed by the evidence we have before us and the law as it has been established.

It is useless, however, to multiply authorities upon a proposition that is so plain and self-evident under the language of the Constitution itself—"The Senate is the judge of the elections, returns, and qualifications of its Members"—that any man who reads can understand its import without any legal knowledge; and I am glad to say that during this discussion, at any rate thus far, I have heard no Senator take any different position, but all have taken the position that this is a judicial act and that we act as judges.

Sitting as a court and as judges, we should act without bias, passion, or prejudice, and in accordance with the well-known and well-settled principles of judicial procedure. Such principles have been evolved in the progress of the ages from the experiences of men to insure justice, preserve liberty, and perpetuate good government. To disregard them is reactionary; to follow them is progression. To violate them is tyranny; to adhere to them is liberty. To ignore them is to undermine the safeguards of justice, liberty, law, and government; to respect them is to repel anarchy, preserve liberty, and perpetuate the Republic.

Chancellor Kent, referred to the provision making each House the sole judge of the elections of its Members, says:

> And, as each House acts in these cases in a judicial character—

And I call attention to this not for the purpose of showing that we act as judges, but that we should follow judicial principles and precedents—

> its decisions, like the decisions of any other court of justice, ought to be regulated by known principles of law, and strictly adhered to for the sake of uniformity and certainty.

Justice Cooley also said:

> In determining questions concerning contested seats the House will exercise judicial power, but generally in accordance with a course of practice which has sprung from precedents in similar cases.

It is urged that if the Senate is the only body that can act on this question it can do as it pleases. The Senate has exclusive jurisdiction of this question and it has the power to act to-day one way and to-morrow the other, but has it the right to do so? It is the universal holding of the courts, unless there is an express statutory provision to the contrary, that a judgment becomes final and can not be reopened by the court after the term at which it was rendered unless steps are taken for that purpose before the close of the term.

I desire to call the attention of the Senate to that proposition, that it is a universal holding of the courts that, while they may have the power to do it, they have not the right to open or vacate a judgment after the term at which it was rendered unless steps were taken during that term to reopen it.

In Bronson *v.* Schulten (104 U. S., 410) Justice Miller said:

> In this country all courts have terms and vacations. The time of the commencement of every term, if there be half a dozen a year, is fixed by statute, and the end of it by the final adjournment of the court for that term. This is the case with regard to all the courts of the United States, and if there be exceptions in the State courts they are unimportant. It is a general rule of the law that all the judgments, decrees, or other orders of the courts, however conclusive in their character, are under the control of the court which pronounces them during the term at which they are rendered or entered of record, and may then be set aside, vacated, modified, or annulled by that court.
>
> But it is a rule equally well established that after the term has ended all final judgments and decrees of the court pass beyond its control unless steps be taken during that term, by motion or otherwise, to set aside, modify, or correct them, and if errors exist they can only be corrected by such proceeding by a writ of error or appeal as may be allowed in a court which, by law, can review the decision.

Now listen:

> So strongly has this principle been upheld by this court—

That is, the United States Supreme Court—

> So strongly has this principle been upheld by this court that, while realizing that there is no court which can review its decisions, it has invariably refused all applications for rehearing made after the adjournment of the court for the term at which the judgment was rendered. And this is placed upon the ground that the case has passed beyond the control of the court.

The Supreme Court of the United States has the power to vacate a judgment after the term at which it is rendered, but it says it has not the right to do so; and that it has uniformly refused so to do.

Shall the Senate sitting as a court, shall we acting as judges, disregard this well-settled rule of judicial action and procedure, sanctioned not only by the highest courts of the various States of the Union, but by the United States Supreme Court itself?

This case went to final judgment after a full hearing and argument. The session closed. No steps were taken to reopen the case, although there were those in the Senate who knew of the alleged facts that might be brought to the attention of the Senate and upon which this reinvestigation was finally ordered. Not only did the session close, but the Sixty-first Congress closed. The Sixty-second Congress is now asked to set aside a judgment solemnly given by the Sixty-first Congress. The membership of the Senate has been greatly changed. One-third of its Members have been elected since that judgment was rendered. We have the power to set aside the judgment already rendered. Will we exercise that power? This involves more than the seat of Senator LORIMER. It means a violation of orderly procedure, a reversal of Senate precedents, and a disre-

gard of the judicial decisions of the highest courts of the country. It furnishes a precedent for party action which may threaten the very life of the Republic. If done, it will be done in the name of progress, but it will be progress back to the days when might made right and justice rested in the strong arm. Such action on our part will set an example that will lead to disrespect for law and undermine the Constitution itself. Acting as a court, sitting as judges, and following universally established judicial procedure, what is our duty upon a plea of res adjudicata?

On March 1, 1911, the following resolution came to a vote in the Senate:

Resolved, That WILLIAM LORIMER was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Illinois.

On the call of the roll this resolution was determined in the negative by a vote of yeas 40, nays 46, and the judgment of the Senate in the Sixty-first Congress was that Senator LORIMER was legally elected to the Senate of the United States by the Legislature of the State of Illinois. This was a final judgment after a full investigation by a court of exclusive jurisdiction. The Sixty-second Congress is now asked to vacate that judgment. According to the law of the courts we have lost the right to take such action, and to do so is to fly in the face of the decisions of all of the courts of Christendom. The doctrine of res adjudicata has been recognized by the Senate itself, and to refuse to act upon it in this case would be to go contrary to the precedents of the Senate.

In the first session of the Thirty-fifth Congress Graham N. Fitch and Jesse D. Bright were declared entitled to their seats as Senators from the State of Indiana. At the second session of the Thirty-fifth Congress a memorial was presented, representing that it was the wish and desire of the State that Lane and McCarty be admitted to the Senate as the legally chosen Senators from the State of Indiana. This was referred to a committee, which submitted a report reviewing the history of the case and of the resolution adopted at the first session, and which said:

The resolution was under consideration in the Senate and fully debated at several subsequent times, and was finally, after the rejection of several proposed amendments, passed by the Senate without amendment or alteration. In the opinion of the committee this resolution (no motion having been made to reconsider it)—

I desire to say right here that of course everybody concedes that there was no motion made to reconsider the decision rendered with reference to WILLIAM LORIMER in the Sixty-first Congress.

In the opinion of the committee this resolution (no motion having been made to reconsider it) finally disposed of all questions presented to the Senate involving the respective rights of the Hon. Graham N. Fitch and the Hon. Jesse D. Bright to their seats in the Senate as Senators from the State of Indiana for the terms stated in the resolution. It appears by the memorial that the Legislature of Indiana, at its recent session in December last, assumed the power of revising the final decision thus made by the Senate of the United States under its unquestioned and undoubted constitutional authority to "be the judge of the qualifications of its own Members." Under this assumption it also appears by the journals of the senate and house of representatives of the State of Indiana, the Legislature of Indiana, treating the seats of the Senators from that State as vacant, proceeded, subsequently, by a concurrent vote of the senate and house of representatives of the State, to elect the Hon. Henry S. Lane as a Senator of the United States for the State of Indiana, to serve as such until the 4th of March, 1863, and the Hon. William Monroe McCarty as a Senator for the same State, to serve as such until the 4th of March, A. D. 1861. Under this action of the Legislature of Indiana those gentlemen now claim their seats in the Senate of the United States.

It may be conceded that the election would have been valid and the claimants entitled to their seats had the Legislature of Indiana possessed the authority to revise the decision of the Senate of the United States that Messrs. Fitch and Bright had been duly elected Senators from Indiana, the former until the 4th of March, 1861, and the latter until the 4th of March, 1863.

In the opinion of the committee, however, no such authority existed in the Legislature of Indiana. There was no vacancy in the representation of that State in the Senate; and the decision of the Senate, made on the 12th of June 1858, established finally and (in the absence of a motion to reconsider) irreversibly the right of the Hon. Graham N. Fitch as a Senator of the State of Indiana until the 4th of March, 1861, and the right of the Hon. Jesse D. Bright as a Senator from the same State until the 4th of March, A. D. 1863.

The decision was made by an authority having exclusive jurisdiction of the subject, was judicial in its nature, and, being made on a contest in which all the facts and questions of law involving the validity of the election of Messrs. Fitch and Bright, and their respective rights to their seats, were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana, the judgment of the Senate then rendered is final and precludes further inquiry into the subject to which it relates.

A brief was submitted by McCarty and Lane urging that the doctrine of res adjudicata did not apply. After much discussion the following resolution was adopted by a vote of 30 to 15:

Resolved, That the committee be discharged from the further consideration of the memorial of the State of Indiana, and that the resolution of the Senate adopted June 12, 1858, affirming the right of Graham N. Fitch and Jesse D. Bright as Senators elected from the State of Indiana, the former until the 4th day of March, 1861, and the latter until the 4th day of March, 1863, was a final decision of all the premises then in controversy, as conclusive, as well upon the Legislature of Indiana and all persons claiming under its authority, as upon the Senators named in the resolution.

In the first session of the Fifty-fourth Congress the question of the right of HENRY A. DU PONT to a seat in the Senate as a Senator from the State of Delaware was raised, and it was finally decided by a vote of 31 yeas to 30 nays that he was not entitled to his seat. In the second session of the Fifty-fourth Congress a memorial was presented from Mr. DU PONT, alleging that he was justly entitled to his seat and asking that the question of the validity of his election should again be investigated and acted upon. This was referred to the Committee on Privileges and Elections. The committee submitted its report, and held that the doctrine of res adjudicata applied to that case.

The Senator from Montana [Mr. MYERS], in his address the other day, referred to this case and suggested that it was not in point. He suggested that a new Senator had been elected from Delaware, and that the rights of a third party had intervened, and therefore that case was not in point as compared with this case.

The new Senator from Delaware had not been elected when the second memorial was presented to the Senate and referred to the committee, and the committee in its report does not refer to the claims of any other person to a right to a seat in this body. It does not consider any third person in connection with this matter. Its decision is based squarely upon the doctrine of res adjudicata and upon any intervening rights. The committee said:

New Senators have entered the Chamber since the resolution just cited was adopted. Nothing else has changed. The case then stated and acted upon is the case now stated.

In my view the present case is exactly like the du Pont case. I do not consider the alleged new evidence as amounting to anything; and conceding even that the facts as brought out in the former hearing and brought out in this hearing have the same strength and weight—which I do not concede—then the two cases are the same, so far as the doctrine of res adjudicata is concerned. This case, in my view of it, is upon exactly the same basis as the du Pont case:

The simple question is: Whether the Senate, notwithstanding its decision of May 15, 1896, will now admit Mr. DU PONT to a seat?

The majority of your committee now, as then, are of the opinion that this decision of the Senate was wrong.

Note that, that the majority of the committee were of the opinion that the decision in the du Pont case originally was wrong, and the decision in that case was rendered by a vote of 31 to 30—only 1 majority.

But the Senate is made by the Constitution the judge of the elections, qualifications, and returns of its Members, and its judgment is just as binding in law, in all constitutional vigor and potency when it is rendered by one majority as when it is unanimous.

It is clear that the word "judge" in the Constitution was used advisedly. The Senate in the case provided for is to declare a result depending upon the application of law to existing facts, and is not to be affected in its action by the desire of its Members or by their opinions as to public policies or public interest. Its action determines great constitutional rights—the title of an individual citizen to a high office and the title of a sovereign State to be represented in the Senate by the person of its choice. We can not doubt that this declaration of the Senate is a judgment in the sense in which that word is used by judicial tribunals. We can conceive of no case which can arise in human affairs where it is more important that a judgment of any court should be respected and should stand unaffected by caprice or anything likely to excite passion or to tempt virtue. When the Senate decided the question it was sitting as a high constitutional court. In its action we think it ought to respect the principles, in giving effect to its own decision, which have been established in other judicial tribunals in like cases and which the experience of mankind has found safe and salutary.

In conclusion, the committee said:

But there is no case known in other judicial tribunals in which a final judgment in the same case can be rescinded or reversed merely because the composition of the court has changed or because the members of the court who originally decided it have changed their mind as to the law or fact which is involved.

It seems to us very important to the preservation of constitutional government, very important to the dignity and authority of the Senate, very important to the peace of the country, that we should abide by this principle. There are few greater temptations which affect the conduct of men than the temptation to seize upon political power without regard to the obligation of law. To act upon the doctrine upon which this petition rests would expose the Senate to the temptation to reverse its own judgments and to vacate or to award seats in this Chamber according as the changing majorities should make possible. If such practice should be admitted it would, in our opinion, go far to weaken the respect due to this body and the respect due to constitutional authority.

In my judgment, this case is on all fours with the du Pont case. The facts in this case are no stronger against the right of Mr. LORIMER to a seat in the Senate on this investigation than they were on the former investigation. There is no new testimony. Therefore, the same proposition exactly is put up

to the Senate now that was before the Senate in the du Pont case.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Idaho?

Mr. JONES. Certainly.

Mr. BORAH. Suppose there had been newly discovered evidence?

Mr. JONES. I will say to the Senator that I will touch upon that matter just a little later on.

It is said that the plea of res adjudicata is a technical one, and that the people of the country would not be satisfied to have this case decided upon this theory. It is urged that the people of the country would not understand what is meant by it. It is urged that the people will be puzzled to know why the Senate confirmed the title of Mr. LORIMER to a seat in this body when the answer is given that it was res adjudicata, and it is suggested that they will not be satisfied with such an answer or with such action by the Senate. I have more confidence in the judgment and intelligence of the people of the country than that. They know that when a man has been tried once upon a charge and acquitted that he can not be tried again, and that such a rule is in the interest of justice and not to shield crime. They know that when a matter has been litigated and final judgment rendered in the court of last resort that such a case can not be reopened and that such a rule is founded upon justice, and that such a rule is absolutely necessary to protect the weak from the strong, and they understand that the application of this doctrine rests not so much upon the interest of Mr. LORIMER himself, but that it rests upon the welfare of the country itself.

In the report of the committee on the du Pont case this language is used, and it is well for us to consider it here:

> But there is no case known in other judicial tribunals in which a final judgment in the same case can be rescinded or reversed merely because the composition of the court has changed or because the members of the court who originally decided it have changed their mind as to the law or fact which is involved.
>
> It seems to us very important to the preservation of constitutional government, very important to the dignity and authority of the Senate, very important to the peace of the country, that we should abide by this principle. There are few greater temptations which effect the conduct of men than the temptation to seize upon political power without regard to the obligation of law. To act upon the doctrine upon which this petition rests would expose the Senate to the temptation to reverse its own judgments and to vacate or to award seats in this Chamber according as the changing majorities should make possible. If such practice should be admitted it would, in our opinion, go far to weaken the respect due to this body and the respect due to constitutional authority.

Senator Hoar, whose honesty, integrity, patriotism, and devotion to the interests of the people will not be questioned, said in connection with the du Pont case:

> Although parliamentary proceedings differ in form from those of courts, the great rule on which the safety of all human property and transactions depend, established in courts of justice, ought in substance to govern us here.
>
> There has been an application on the part of Mr. DU PONT—whom I respect personally, whom I eagerly desire should have a seat in this body, and who I think ought to have had one on the merits of his case—to reopen that case. No newly discovered evidence is suggested; no fraud or mistake is suggested. The reopening of the case would be merely a reconsideration of a question of constitutional law which this great constitutional court has decided once. That is all he asks, and that is all he would obtain if his prayer for a reopening of the case were granted.
>
> That petition was referred to the Committee on Privileges and Elections, and after a very able and interesting argument in favor of Mr. DU PONT by Mr. Garland, late Attorney General—and it is not necessary to say that any argument that gentleman makes will be able and interesting—the committee unanimously decided this morning that there had been an adjudication by the Senate and that nothing further remained to be done. It was unanimously decided with the exception of one member, who was not prepared to determine what was his duty at the particular time.
>
> Mr. President, I propose to act upon that doctrine. I think it is very important for constitutional government, very important to the dignity and authority of the Senate, very important for the peace of the country that we should stand by these principles.
>
> It is a very unpleasant thing to me that Mr. DU PONT is not to take his seat, and that some one else is to take it. But it would be a very bad thing for every citizen of this country unless the Senate of the United States could act and could be known to act upon great questions where right and righteousness are involved in pursuance of a law other and higher than its own desire.

The question as to the effect of a judgment of the Senate is not a party one and has never been a party one. Democrats and Republicans alike have agreed as to its finality.

Senator Pugh, in discussing a judgment of the Senate, said:

> What was the object of all that, if it decided nothing, if the same question can be mooted again and at any future time? I have not said that that decision is absolutely infallible, but I have said that it is an end of that case as to all matters then alleged. If any new causes of disqualification can be shown as to either of the present Senators, that is open; but the judgment is conclusive of all the premises then before the tribunal.

Senator Green said:

> Where a question is decided in the affirmative or negative neither side can bring it up again. It is a matter adjudicated; it is a matter settled; there is no power to supervise.

Senator Bayard, of Delaware, said:

> It is perfectly immaterial whether the judgment is right or wrong, the rule of finality is founded on the great principle that it is the interest of the Republic that there shall be an end to litigation. There is no other ground upon which it can be sustained. There must be an end to all strife at some time, and courts of justice have adopted it and adhered to it invariably, that a final judgment can not be reheard, but with certain exceptions, one of which the honorable Senator from Vermont has pointed out. You may impeach it on the ground of fraud committed upon the ccurt by the original proceedings—

There can be no contention made here that there has been any fraud committed upon the Senate, unless it be that fraud has been committed in behalf of the Senate, not in behalf of Senator LORIMER, but against Senator LORIMER.

> But you can not undertake to reargue it after the term of the court has expired in which the judgment was pronounced, on the ground that the court committed an error in judgment. No such case can be found, and it is on that great principle that there must be an end at some time to decisions in the nature of judicial proceedings. Sir, if I read the Constitution of the United States rightly, the power to judge of the election of its own members, their qualifications, and their returns, is given for the protection of the body, not for the personal rights of the parties. No matter in what mode the question arises in which the body has formally decided that the party is entitled to his seat, the judgment is conclusive unless a motion for reconsideration is made within the rules and orders of the Senate, and it can not afterwards be reversed.

Senator Edmunds, one of the greatest lawyers that ever occupied a seat in this body, said:

> This question was fairly debated when the gentlemen on the other side were in a majority in this Chamber. Without a party division, gentlemen on both sides, voting according to the light they had and not dividing upon party lines, settled this identical question. The Senate in sitting upon such a question sits as judges. The Constitution says so. We are not defining policies; we are not setting up expediencies; we are not carrying on party warfare; we are sitting as the solemn judges sworn to try and determine the election and qualification of a gentleman who presents himself to be a Member of this body. We have come to a decision, just as the Supreme Court of the United States sitting 200 feet from us comes to a decision in a great variety of cases where the judges differ—five one way, four another, or whatever it may be, a difference of opinion. The decision of the court is announced. What would become of that court if the next time a similar question came up the whole thing was opened again and the contest was gone over repeatedly from year to year and time to time in order to see which should get in the ascendency upon all questions? Nothing would be settled, and the court would be destroyed, and justice, too, for that matter.
>
> How is it different here? When we have come to a decision, even in a case of doubt, having come to it fairly, not in a time of party heat, or by a party vote, when we, after full deliberation, have come to a decision which carries out confessedly the objects of the Constitution to keep the representation of a State full, should we not stick to it; or are we, every time a similar question comes up about elections, to reverse our decisions, retry them, hold them of no force, and thus keep this body continually in a turmoil over questions of representations in it that come from the States? However doubtful it might have been—it did not seem to me so, to be sure, but however doubtful it might appear to the minds of gentlemen who voted in the minority—it appears to me that, once decided and decided in favor of representation, it would be better to follow that as an established precedent which carries out the objects the Constitution has in view.

Of course, this language was uttered with reference to a case that might be considered a technical one, and decided purely upon questions of law. Yet it coincides with the decisions of the courts, that when a question is settled by the court of final jurisdiction that decision stands.

Every element essential to the doctrine of res adjudicata is present in this case. The Senator from Montana declares that the former judgment of the Senate has been vacated by the action directing a further or new investigation. This is not correct. Senator LORIMER is still a Member of this body. The verdict of the Senate that he was legally elected has not been reversed. The appointment of this committee was not the vacation of that judgment. If it had been Senator LORIMER would not be a Member of this body now and further action by the Senate would be unnecessary. All that was done by the Senate was to appoint a committee without vacating its former judgment to make a further investigation and report to the Senate. The committee has acted, its report is submitted, and now the Senate is considering the question whether or not it will vacate its former judgment and declare Senator LORIMER not entitled to a seat in this body. This is the proper time to interpose the plea of res adjudicata. It is not a technical plea, as I have already said, but it is a substantial right that every party to litigation possesses, not alone in his own interest but in the interest of the Government itself. There should be an end to litigation, and this rule has been in the interest of justice invoked more strongly against the sovereign than against the individual. As a general rule, the State has no right of appeal from a judgment or verdict against it, while the defendant has almost uniformly a right of appeal. In this

case the Senate of the United States stands in the place of the State as complainant. The judgment has been against it and in favor of the individual. There is no appeal to either party, because the Senate is the sole and supreme judge in the case. It can now overrule the plea of res adjudicata only by asserting its supreme power over the question at issue. It can exercise the power of an absolute despotism if a majority of its Members see fit to do it, but in doing it it will violate and trample under foot every principle of legal procedure that the courts respect and that have been found necessary to preserve life, liberty, property, and happiness.

All the elements of res adjudicata are present in this case. A competent tribunal, invested with complete jurisdiction to try the issue, has rendered a final judgment. The parties to the former judgment are the same parties now interested in this controversy. The issues and causes of the action now are precisely the same as they were when the judgment, which is sought to be vacated, was rendered. Under all judicial rules under these circumstances the former judgment is an absolute bar not only as to what was actually litigated but to all matters that might have been litigated under the issues in the case, and the issue in the case was the right of Senator LORIMER to a seat in this body. That involved the determination of every proposition that could be presented on one side or the other of it.

Suppose the judgment which the Senate rendered had been against Senator LORIMER. Is there anyone who would contend that the Sixty-second Congress would give him a rehearing upon any ground that he might allege? I do not think so. If we exclude him now, would we hear him next session or next Congress if he should ask for a rehearing on newly discovered evidence? I venture to say we would not, under any circumstances. Shall we apply one rule to him and another to the Senate? We should not and we can not, except by the arbitrary exercise of the power we possess. Under the doctrine of res adjudicata it is uniformly held by the courts that where the issues are the same the bar of former judgment exists to the points actually decided, and also to all the points and questions which might have been litigated under the issues in the former proceeding. This rule has gone unchallenged for more than half a century, and has the approval of an unbroken line of cases in the highest courts in the land. In the case of Cromwell *v.* County of Sac (94 U. S., p. 352), the United States Supreme Court says:

> In considering the operation of this judgment it should be borne in mind, as stated by counsel, that there is a difference between the effect of a judgment as a bar or estoppel against the prosecution of a second action upon the same claim or demand and its effect as an estoppel in another action between the same parties upon a different claim or cause of action. In the former case the judgment, if rendered upon the merits, constitutes an absolute bar to a subsequent action. It is a finality as to the claim or demand in controversy, concluding parties and those in privity with them not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose. Thus, for example, a judgment rendered upon a promissory note is conclusive as to the validity of the instrument and the amount due upon it, although it be subsequently alleged that perfect defenses actually existed of which no proof was offered, such as forgery, want of consideration, or payment. If such defenses were not presented in the action and established by competent evidence, the subsequent allegation of their existence is of no legal consequence. The judgment is as conclusive, so far as future proceedings at law are concerned, as though the defenses never existed. The language, therefore, which is so often used, that a judgment estops not only as to every ground of recovery or defense actually presented in the action, but also as to every ground which might have been presented, is strictly accurate when applied to the demand or claim in controversy. Such demand or claim, having passed into judgment, can not again be brought into litigation between the parties in proceedings at law upon any ground whatever.

The courts go so far as to hold almost uniformly that newly discovered evidence furnishes no ground for avoiding the bar of a former judgment on the same issues and between the same parties or their privies. There are some cases in which verdicts will be set aside and new trials granted for newly discovered evidence, but in such cases there are certain well-defined limitations upon granting such new trial. The granting of a new trial on the ground of newly discovered evidence is cautiously exercised by the courts, and the strictest rules are applied in considering an application on such a ground. The evidence newly discovered must be "of such a character and strength that it is reasonably certain that it would have produced an opposite result if produced at the trial," and must be incontrovertible and conclusive.

Mr. BORAH. Mr. President——

Mr. JONES. I think I will cover the point that the Senator has in mind in a moment. If I do not, interrupt me.

> The evidence must not be merely cumulative or corroborative or merely intended to impeach some of the witnesses in the former trial.

The alleged new evidence upon which the new investigation was ordered is not only not incontrovertible and not conclusive, but it does not to any degree impeach the judgment of the Senate or furnish a basis for impeaching that verdict. Whatever new evidence has been produced that is admissible and relevant is merely cumulative or corroborative, and, in fact, impairs the testimony against Mr. LORIMER and further sustains and confirms the justice of the judgment already rendered by the Senate.

It is another almost universal rule that the alleged newly discovered evidence must have been actually discovered after the time of the former trial, and the party seeking the new trial must excuse his failure to produce the new evidence by showing that he failed to discover it notwithstanding the exercise of due diligence. If the party knows of new evidence at the time of the former trial, such knowledge is a complete bar to the granting of a new trial on this ground.

In this case the alleged new evidence was known to those who had actual charge of what might be called the prosecution which resulted in the verdict of the Senate, and the circumstances of it were actually known to some of the Senators who participated in the rendition of that judgment. Even if such evidence were relevant and conclusive, it is a species of tyranny to vacate our judgment by reason of this evidence. If such a rule is to be followed, no man's seat here is safe. Trial after trial may be had at the instance of the Senate until by changing membership and factional or party tyranny a minority may become a majority and a verdict of exclusion rendered in violation of precedents, law, right, or justice.

Mr. BORAH rose.

Mr. JONES. I think I will get to the point which the Senator has in mind in a moment.

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Idaho?

Mr. JONES. Yes.

Mr. BORAH. What I wanted to say was that the doctrine of res adjudicata never can apply so long as a right to move for a new trial on the ground of newly discovered evidence exists. So long as the judgment is not final, so long as the right to move for a new trial still exists, so long as the statute provides for a rehearing the principle of res adjudicata does not adhere in the case at all.

Mr. JONES. Certainly. I have stated that. But what I contend now is that the time has passed, under the decision of the Supreme Court of the United States and all the courts of last resort in the country. The Supreme Court of the United States says that it will not reopen a case after the term unless proceedings are taken before the term expires looking toward the reopening; and I take it that in this case the decision was rendered in the Sixty-first Congress, and that if it was intended to reopen it a motion to reconsider, or something of that sort, should have been taken in that session; but that now we are in a new Congress, and, while we have the power, it is, under all legal principles, beyond our right to do it.

Mr. BORAH. Mr. President, in connection with that I want to call attention to a single sentence from the report of Senator Hoar and others in the du Pont case, because, if I understand the doctrine of res adjudicata, this sentence refutes the argument which they have previously presented. It says:

> We do not doubt that the Senate, like other courts, can review its own judgments where new evidence has been discovered.

And so forth.

That is not true with reference to the princple of res adjudicata in courts at all. The doctrine of res adjudicata applies when the judgment becomes final. So long as you have the power to hear newly discovered evidence the principle of res adjudicata does not obtain.

If it be true that you can review it here by reason of newly discovered evidence at any time, then it is never a final judgment. If it be true that it is never a final judgment, the doctrine of res adjudicata does not apply.

Mr. JONES. But I contend that it has passed beyond our right to review it, and that the judgment rendered by the Sixty-first Congress was a final judgment; and as no steps were taken before the expiration of that Congress, it became absolutely conclusive upon the Senate. I thought that I had presented some pretty strong authorities upon that proposition. I do not disagree with the contention of the Senator. My contention is that the right to review this judgment had expired by the expiration of the Sixty-first Congress.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Texas?

Mr. JONES. Certainly.

Mr. BAILEY. Mr. President, I agree largely with what the Senator from Washington has said, but I can not agree that the term of the Senate ever expires. The Senate is a continuing body. If it were a case in the House of Representatives,

then surely the Sixty-third Congress would have no power to review the judgment of the Sixty-second Congress. But this body does not terminate in that way.

The Senator from Washington has made one suggestion which appeals to me very strongly, and that is that the Senate must be able to grant a new trial either way or it can not grant a new trial at all. Suppose the judgment of the Senate had been adverse and the seat of the Senator from Illinois had been vacated, and the governor, in the absence of a legislative session, had appointed his successor; could he, if he had procured new evidence, have come to the Senate and obtained a new trial, and could the Senate have reversed its judgment and put his successor out of the body?

Mr. JONES. I do not think the——

Mr. BAILEY. That is one of the difficulties which undoubtedly must address itself to every Senator when we come to have a reopening, although that I concede ought to have controlled us, if it controlled us at all, when we granted the motion for a rehearing.

Mr. BORAH. Mr. President, of course if there ever comes a time in the Senate when its action shall have become final, so that the Senate has no power to review it, then, whether we call it res adjudicata or simply apply it by the doctrine of analogy, the argument which the Senator is making would be conclusive upon my mind. But I do not understand how it can be said that the judgment of this Senate is ever final with reference to anything which pertains to legislation, or incidental to our power as a legislative body.

We can review it next year or five years from now just as well as we can to-day or within a year.

Mr. BAILEY. No; we can not. We can repeal what we have done, but that is not a review of it. I think the Senator would find it necessary to make that distinction. Of course, what the Senate does is not forever done and may be undone; but the Senate must repeal any order or resolution or vote; it can not reconsider it at any subsequent session.

Mr. BORAH. When I use the word "repeal," of course I mean to do that which amounts to a review of our previous action. We may recall it or set it aside, one way or the other. But it all results in what we would say in court amounts to a review of the action, or it amounts to a repeal or cancellation of the order, or whatever you may call it.

Mr. BAILEY. But the Senate takes no judicial action, except when it comes to judge of the return, election, and qualification of its own Members, and when it sits as a court of impeachment. In all other cases it is purely legislative, and I take it that the rules which apply to courts will generally apply to us in our judicial capacity; and I think that while the Senate would have the power to grant a new trial upon a motion accompanied with an allegation that new and material evidence had been discovered, it ought to be careful even there; and yet I can not escape the difficulty mentioned by the Senator from Washington, and the power to grant a new trial must exist, if it exists at all, in the granting body upon the application of either side.

Mr. BORAH. If the Senate should render a decision here to the effect that a man was not entitled to a seat and should discover that there was fraud in the presentation of it and that he was, as a matter of fact, entitled to the seat, why has it not the power to cancel that action and set it aside?

Mr. BAILEY. For the very sufficient reason that two bodies can not occupy the same place at the same time, and if the Senate vacated that seat, and that seat was filled by the legislative authority of the State or in the recess of the legislature by the governor's appointment, the Senate certainly would have no power to turn the appointee or the man elected from its door. It would be an incurable mistake.

Mr. BORAH. I have no doubt that the Senate would have that exact power. So far as the subsequently elected Senator is concerned, if his predecessor was legally elected, which the reversal of the Senate's former action would establish, then the last man was never elected in contemplation if there was no vacancy. In the case of Gholson against Claiborne the House seated two Members.

Mr. BAILEY. Oh, no; it did not seat them. It declared no election.

Mr. BORAH. I beg pardon; it did seat them.

Mr. BAILEY. It did not.

Mr. BORAH. I beg the Senator's pardon.

Mr. BAILEY. The Senator is mistaken. That was the case of Prentiss and Word against Claiborne and Gholson, and it was decided that there was no election by the casting vote of James K. Polk, who was then the Speaker of the House.

Mr. BORAH. If I am not mistaken—and I have the facts here, and I do not think that I am mistaken—Gholson and Claiborne appeared in the House of Representatives for seats in the House upon this state of facts. The President had called an extra session of Congress. The governor of Mississippi had issued a call for an election, and had confined the call to the term covered by the special session.

Mr. BAILEY. That is true.

Mr. BORAH. Gholson and Claiborne appeared, and they were seated for the special session. Afterwards the other parties who had been elected in the general election appeared, and the House reversed its former decision against the specific plea of res adjudicata, and unseated Gholson and Claiborne, and it also unseated the other two men and declared that there was no election. After these men had participated for one Congress, the House reversed its decision against the specific plea of res adjudicata and unseated them and also seated the other men.

Mr. BAILEY. It did not exactly do that. Of course there is no such proceeding known to our Constitution and laws as an election for a special session. A man is elected to Congress for a full term or for an unexpired term, but there is no such proceeding known as an election for a special session. Claiborne and Gholson, under the call of the governor of Mississippi, were elected to that special session. At the regular election Prentiss and Word were elected, and they appeared at the first regular session of the Congress to take the oath. The question arose on that state of facts, and finally the House decided against Claiborne and Gholson, and also decided against Prentiss and Word. That is largely political, and the decision, as I recall—I have not examined it in 25 years, probably, but the decision as I recall was made by the casting vote of the Speaker of the House, who was James K. Polk, and who, by the way, though roundly denounced for that decision, was afterwards, very shortly afterwards, elected President of the United States.

Mr. BORAH. When Gholson and Claiborne were challenged, after having been in the House for several months, they made this claim—Gholson or Claiborne, one of them—for both:

> I consider this whole case settled and concluded by virtue of the judgment of the House, a judgment founded upon a full knowledge of the law and the facts, a judgment that prevented us from entering upon a canvass that subsequently took place and restrained the majority of our friends from the exercise on this occasion of their elective franchise; a judgment which the House had the express constitutional power to pronounce and which once pronounced can not be reviewed or reversed without injustice to the parties and disparagement to its own dignity.

The question was specifically and clearly raised in that hearing, because their right to the seat had been challenged when they first appeared.

Mr. BAILEY. I think if it was so——

Mr. BORAH. The House heard it and determined that they had a right to a seat. When they appeared the second time they said, "You have determined this once; this same question was adjudicated before; it is final." But the House reversed its decision and unseated them and also unseated the other party.

Mr. BAILEY. Mr. President, if there was any serious controversy as to their right to sit in the special session it had escaped my memory. I do not recall it. I have no doubt the Senator is right about it, because he seems to have recently reviewed the controversy; but the House practically decided that question both ways, and consequently I would not regard the decision in that case as controlling, because it decided that neither Claiborne and Gholson nor Prentiss and Word were entitled to sit for the balance of the term. Obviously one or the other decision is wrong. It is one of those unfortunate political decisions which have too often discredited the proceedings of the other House. I mean historically; I do not mean that that is done now. I am glad to say it is very much less frequent just now than formerly. I am afraid that they have transferred to the Senate of the United States the habit of deciding these questions upon other considerations than the law and the evidence.

Mr. JONES. Mr. President, I desire to suggest to the Senator from Texas that I did not intend to convey the impression that the Senate ends with the Sixty-first Congress. My contention is that it is just exactly like the Supreme Court. The Supreme Court is a continuing body, but it has its regular terms, and it has held that while there is no power to review its decision it will not vacate a judgment after the term expires in which that judgment was rendered unless some steps were taken during that term to vacate it. So I contend that the Senate itself, a continuing body, it is true, has its regular terms, even more clearly defined than the terms of the Supreme Court. At the end of the Sixty-first Congress all bills died. If we had a bill then pending, we would have to reintroduce it in the Sixty-second Congress. In that sense the term ended in which that judgment was rendered, and in analogy with the Supreme Court decision, unless some steps were taken to reopen that

judgment before the Sixty-first Congress expired, I contend that we have no right to attempt to reopen it in this Congress. We have the power to do it; we can decide for Senator LORIMER to-day and reopen the case to-morrow and decide against him to-morrow. If we decided it in his favor in this Congress, in the Sixty-third Congress, before his term expires, we could reopen the case, vacate the judgment, and say that he is not entitled to a seat; but my contention is that we ought not to do that; that, under the decisions of the Supreme Court and following the rules of the Supreme Court, we have no right to do it. This seems to me to be too clear even for argument.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Idaho?

Mr. JONES. I do.

Mr. BORAH. If the Senator from Washington means to say nothing more than that, as a matter of policy, it is unwise to reopen such cases except upon an extraordinary showing, and that ordinarily the policy of permitting that which has been settled to remain settled, and only in exceptional and extraordinary circumstances should we violate that rule, I would agree with him perfectly; but I utterly reject the doctrine that the principle of res adjudicata applies in this body at all, except where we are created by the Constitution of the United States to be a court. The right to pass upon the title to a seat in this body is merely incidental to our legislative power; the legislative power is paramount to that; and the incidental power takes on the quality of the paramount power and follows the quality of our legislative business.

Mr. BAILEY. If the Senator from Washington will permit me, the Senator from Idaho does not mean to say that our power to judge of the elections, returns, and qualifications of our own Members is a legislative power.

Mr. BORAH. No; I do not mean to say that it is legislative. I say it is a quasi judicial power, but incidental to our existence as a legislative body. Therefore our legislative capacity fixes the quality of this incidental power, and we are no more bound by it than we are bound by legislative action. That is my position.

Mr. BAILEY. Well, if the Senator were to take that view, he would find himself confronted by the incontrovertible proposition that the Senate itself by undertaking to repeal a law passed last year could not do it; it could not undertake to review it; it could not move, Mr. President, that the proceedings upon bill so-and-so be reopened or that a new hearing be granted. You would have to introduce your bill to repeal that law; it would have to go to a committee; and then, if it passed this body, it would have to go to the other body, and it would have to receive the approval of the President before it could become effective. After we lose the right to make a motion for the reconsideration of a matter, there is no proceeding known to this or to any other legislative assembly to undo what has been done except by a repeal.

Mr. BORAH. Precisely; but of course the other House would never have anything to do with the question of proceeding with reference to a title to a seat here. That question is always open to this body to consider, and the body is not bound by its previous action any more than it is bound by its previous action with reference to allowing a claim here.

Mr. BAILEY. But what I was responding to was the Senator's suggestion that this, by any sort of analogy, could be likened to our legislative power. I think this is as distinct from our legislative power as it is from our right to vote upon articles of impeachment. I think, probably, it is more separate and apart from it than our specific right to adopt our own rules. As to electing our officers, I think if we elected an officer, we would have a right at any time to supersede him by the election of another officer. That is not a judicial proceeding; it does not bear any analogy to a judicial proceeding; but I think in a case of this kind we must follow the rules of the court as closely as possible, and I think we could not reopen this matter, except upon the allegation of new and material evidence.

I voted to reopen this case upon that allegation, solemnly made here by resolution adopted by the Senate of the State of Illinois and transmitted to us under the seal of that great State. If they had not alleged new and material evidence, I should not have voted to reopen the case, and I so stated to the Senate at the time. If, however, I had been impressed with the view that, upon the adjournment of the Senate, that was the end of the term, I could not have voted even then to have reopened the case, because as a judge of a court, except in a case where there was a special statute that provided for it in certain cases, I never would at the beginning of the next term of my court hear any disappointed or unsuccessful suitor to move for a new trial. If I had taken the view that the adjournment of the Senate was the end of the term, much as I would have regretted to have differed with everybody in the Senate—for everybody was in favor of the motion just as I was—I still would have voted against it; but I felt that upon the allegation of newly discovered and material evidence the Senate was entitled to reopen that case for the purpose of doing justice to itself, to the State of Illinois, and to the country. That was what moved me to interpose the suggestion I made to the Senator from Washington a moment ago, that the Senate could hardly be considered to have adjourned its term in this sense.

Mr. BORAH and Mr. FLETCHER addressed the Chair.

The PRESIDENT pro tempore. To whom does the Senator from Washington yield?

Mr. JONES. I yield to the Senator from Idaho, who, I believe, wishes to reply to the Senator from Texas.

Mr. BORAH. Mr. President, I only want to say a word in answer to the statement of the Senator from Texas. Of course when the Senator from Texas voted to reopen this case he did it precisely the same as a judge would do who made an order for a new trial in a case. That being true, if he had the power to vote for the reopening of the case, it would have the same effect as when the judge granted the new trial. Thereafter the doctrine of res adjudicata passes from the consideration of the tribunal entirely, because the moment the new trial is granted that principle is destroyed. It only applies when the judgment is final and when there is no longer any power to grant a rehearing on the ground of newly discovered evidence. Therefore I do not think the Senator from Texas and myself disagree at all, for when he voted for that he simply exercised the power which a Senator has, and which the Senate as a whole has, to reopen such a case whenever, in the judgment of the Senate——

Mr. BAILEY. And grant a new trial.

Mr. BORAH. Yes; and grant a new trial. Whether we should grant a new trial or not is a matter which appeals to our judgment and our conscience at the time the presentation is made; but that we have the power to do it in 1 week or in 10 weeks or in 10 years thereafter I have not a particle of doubt.

Mr. BAILEY. Oh, no; not 10 years. The term of a Senator is only 6 years, and after that time you would lose your jurisdiction.

Mr. BORAH. Unless we lengthen the term of a Senator, like we are proposing to lengthen the term of the President.

Mr. BAILEY. I hope the Senator will get up that proposed amendment to the Constitution immediately after we dispose of this matter.

Mr. BORAH. I will be glad to see it come up; but I am going to vote against it when it does come up.

Mr. BAILEY. I hate to see the Senator wrong upon that question.

Mr. BORAH. I am erring these days very rapidly. Mr. President, I want to read here a single paragraph from the minority report of Senator Collamer and Senator Trumbull in the Fitch, Bright, Lane, and McCarty case, which has been referred to, because it takes the view that I maintain:

> The power of the Senate to judge of the election and qualification of its own Members is unlimited and abiding—
>
> Whether it be for 6 years or 10 years—
>
> It is not exhausted in any particular case by once adjudicating the same, as the power of reexamination and the correction of error or mistake incident to all judicial tribunals and proceedings remains with the Senate in this respect, as well to do justice to itself as to the States represented or to the persons claiming or holding seats. Such an abiding power must exist to purge the body from intruders; otherwise anyone might retain his seat who had once wrongly procured a decision of the Senate in his favor by fraud or falsehood, or even by papers forged or fabricated.

That position was sustained by Mr. Collamer, by Mr. Trumbull, by Mr. Seward, by Mr. Fessenden, and a number of the most distinguished Members of the Senate at that time. When the second case was presented—I have forgotten now who the claimants were—the doctrine of res adjudicata was repudiated by such men as Allison and Anthony and Blaine——

Mr. BAILEY. Mr. Blaine was not a lawyer.

Mr. BORAH (continuing). And Conkling and Senator Hoar, who was then a member of the Elections Committee, although afterwards he signed the du Pont report. It was repudiated by that class of men who were then in the Senate; and I think that I am not without company and not without authority when I say that the right of the Senate to pass upon this matter is an abiding one, and is not exhausted by once exercising that power.

Senator Collamer opposed the doctrine of res adjudicata, saying:

> I can not regard it as true that a decision made by either House of Congress in relation to a Member's right to a seat is conclusive. The power of the Senate to judge of the elections and qualifications of its Members is not exhausted by once resolving upon the subject. It is an abiding and continuing power. * * * Now, Mr. President, the ques-

tion is, Has the Senate the right and power and is it their duty, when respectfully applied to, to reexamine their decisions in relation to seats of Senators? I think they have the power. I think they should perform it.

Senator Trumbull, of Illinois, said:

"But," says the Senator from Ohio, "this is a judicial decision, and the Senate acts in a judicial capacity." He then proceeded to argue at length in answer to this, and contended that the doctrine of res adjudicata did not apply and that no Senator should "shield himself under the plea of res adjudicata."

I desire also to refer to the case of Corbin against Butler, South Carolina, in the Forty-fifth Congress.

On February 13, 1877, David T. Corbin presented his credentials for the term of six years commencing March 4, 1877. March 2, 1877, M. C. Butler presented his credentials for the same term commencing at the same date. The credentials of both parties were sent to the Committee on Privileges and Elections. On November 26, by a vote of the Senate, the committee was discharged from the consideration of the Butler credentials. Upon November 30, upon motion of Senator Thurman, and by a vote of 29 to 28, Butler was sworn in. No motion was made to reconsider, no reservation looking to any further contest. On the 26th of March, 1878, Corbin presented his petition, asking for further inquiry. There was no issue of fact practically in the matter. It was all a question of law as to which one was elected by the legislature of the State. A majority of the Committee on Privileges and Elections reported in favor of seating Senator Corbin. The minority filed its views, raising specifically the question of res adjudicata, saying:

The petition now before us is a mere, sheer, naked proposition that the Senate at a subsequent session shall revote on the identical question, facts, and issues on which the Senate voted and decided at a former session.

So this question of res adjudicata was specifically before the Senate, discussed, and considered. The matter was finally decided in favor of Butler and as against Corbin by a vote of 25 to 36. So it may be said that this vote of the Senate sustained the plea of res adjudicata.

Among those who voted against the plea of res adjudicata were Senators Allison, Anthony, Blaine, Chandler, Conkling, Edmunds, Hoar, Ingalls, Morrill, Oglesby, and Windom. These are some of the more conspicuous names. It is particularly important to remember that Senator Hoar was a member of the Committee on Privileges and Elections and that he voted against the plea of res adjudicata.

Mr. FLETCHER. May I interrupt the Senator from Washington long enough——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Florida?

Mr. JONES. Yes.

Mr. FLETCHER. To continue a little further, reading from that interesting report by the committee in the case to which the Senator from Idaho has referred. He will find that the committee went on further to say:

The decision was made by an authority having exclusive jurisdiction of the subject; was judicial in its nature; and, being made on a contest in which all the facts and questions of law involving the validity of the election of Messrs. Fitch and Bright, and their respective rights to their seats, were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana, the judgment of the Senate then rendered is final and precludes further inquiry into the subject to which it relates.

Mr. BORAH. Mr. President, from what is the Senator reading?

Mr. FLETCHER. I am reading from that report.

Mr. BORAH. The Senator is not reading from the report from which I read.

Mr. FLETCHER. I am reading from the report of June 12, 1858, rendered in the Thirty-fifth Congress.

Mr. BORAH. The Senator is reading from the majority report, and I was reading from the minority report.

Mr. FLETCHER. I was reading from the report of the committee.

Mr. BORAH. Well, I said I was reading from the report of Senator Collamer and Senator Trumbull, and I stated who supported them in that minority view. I did not, of course, state that it was a majority report.

Mr. FLETCHER. The suggestion, Mr. President, that this is a legislative or a quasi legislative proceeding, I think is also erroneous on the part of the Senator. The Constitution of the United States vests legislative power in the Congress as an entity, which includes both Houses. This proceeding has nothing to do with the other House; it is confined alone to the Senate; it is a judicial proceeding, as mentioned in the report from which I have read, and as decided in the case of the New York Indians against the United States, in One hundred and seventieth United States Reports, at page 23. In that case the Supreme Court of the United States said of a resolution adopted by the Senate alone:

It can not be considered as a legislative act, since the power to legislate is vested in the President, Senate, and the House of Representatives.

It not being a legislative act, it is purely a judicial act. I would say further, in connection with the decision once rendered by the Senate in this case, that if that decision had been adverse to the Senator from Illinois and he had been ousted, he could not have appeared here again and insisted upon a reexamination. It would have been absolutely final and conclusive as to him. The very essence and underlying principle of the doctrine of res adjudicata and the doctrine of estoppel is the principle and essence of mutuality. That decision, which is final as to him, must be final as to everybody else. If that decision is final as to him, it is final as to the Senate, because otherwise it could not be mutual.

Mr. BORAH. Mr. President, I want to trespass just a moment to read an excerpt from a decision of the Supreme Court of the United States wherein it says:

In some cases it is difficult to draw a line that shall show with precision the limitation of powers under our form of government. The executive in acting upon claims for service rendered may be said to exercise, if not in form in substance, judicial power. And so a court, in the use of the function essential to its existence, by the adoption of rules or otherwise, may be said to legislate. A legislature, too, in providing for the payment of claims exercises a power in its nature judicial, but this is coupled with the paramount and remedial power.

So the court holds that, while these bodies may exercise, either as a whole or separately, that which is quasi judicial in its nature, it does not take on the qualities of a judgment as rendered by a court, and that the body may go back and review it. I quote another paragraph from a late decision:

The nature of the final act determines the nature of the previous inquiry. As the judge is bound to declare the law he must know or discover the facts that establish the law. So when the final act is legislative the decision which induces it can not be judicial in the practical sense, although the questions considered might be the same that would arise in the trial of a case. If a State constitution should provide for a hearing before any law should be passed, and should declare that it should be a judicial proceeding in rem and the decision binding upon all the world, it hardly is to be supposed that the simple device could make the constitutionality of the law res adjudicata, if it subsequently should be drawn in question before a court of the United States. And all that we have said would be equally true if an appeal had been taken to the supreme court of appeals and it had confirmed the rate. Its action in doing so would not have been judicial, although the questions debated by it might have been the same that might come before it as a court, and would have been discussed and passed upon by it in the same way that it would deal with them if they arose afterwards in a case properly so called.

The mere fact that a legislative body exercises at times a final judgment, as in passing upon claims or in passing upon the title to a seat, the mere fact that these incidental powers necessary and indispensable to its existence as a legislative body are in their nature judicial does not give them the character of a judicial procedure such as we know it when it is had in a court of competent jurisdiction. The very object and the purpose of a court are to terminate a case, to have an end to it, to set people at peace, and the very object and the very nature of a legisaltive body are to have open at all times the question of reviewing its procedure whenever it feels proper to do so.

Mr. JONES. I can not agree with the Senator from Idaho that the Senate is not acting as a court in this matter. The sole issue is, "Was there such corruption in the election of Senator LORIMER as to vitiate his election?" The decision of that question ought to be made entirely on the evidence, and we can not sit other than as judges, and no consideration other than the evidence adduced should weigh in rendering our decision.

When it comes to practical results I imagine the Senator from Idaho and I will not be far apart, as I shall show later on. Of course he, taking the position that this is not really a court or a judicial matter, will not agree with me on my argument based on that proposition. But I have very decided opinions on this question, and I have tried to present them plainly this afternoon. I believe they are fully sustained by authority of the decisions of the courts and by the precedents in the Senate itself.

I have already pointed out that it is the general rule of the courts that no court has a right to vacate its judgment after the expiration of the term at which it was rendered, and that such a rule is adhered to by the Supreme Court of the United States, though there is no power in the Government to overrule this court if it should see fit to take a different course.

In other words, the power of the Supreme Court over its decisions is absolute, just the same as the power of the Senate over its decisions is absolute. The Senate may decide this case to-morrow in favor of LORIMER, and the governor of the State may send a Senator here, and yet the Senate has it in its power—the next Congress, even—to bring up the question and say the man appointed by the governor is not entitled to his

seat and that Senator LORIMER is entitled to it. But I venture to say the Senate would never exercise any such power. It would not have the right to exercise it, although it had the power to do so.

I have already quoted from Bronson *v.* Schulten (104 U. S., 410), showing the rule followed by the United States Supreme Court in reference to opening a case after the term closed. As I said a moment ago, I use the word "term" in connection with the Senate in the same sense as we use the term "the expiration of the term" as applied to a court. The Supreme Court is a continuing body, just as the Senate is a continuing body, but it has its regular term, like the Senate of the United States has its term.

The Senate of the United States should show proper respect to its own judgment. If it does not, how can it expect others to do so? If it vacates a judgment in one case simply because it has the power to do so, why may it not act that way in other cases? What is to prevent a partisan majority from unseating any Member of the opposite party? Anyone can see the dire condition that such a rule might bring about. The reasons which called for the enforcement of the doctrine of res adjudicata by the courts apply even more strongly to the Senate. In the case of the Northern Pacific Railway Co. *v.* United States (168 U. S., 49), the court said:

> This general rule is demanded by the very object for which civil courts have been established, which is to secure the peace and repose of society by the settlement of matters capable of a judicial determination. Its enforcement is essential to the maintenance of social order, for the aid of judicial tribunals would not be invoked for the vindication of the rights of person and property if, as between parties and their privies, conclusiveness did not attend the judgments of such tribunals in respect of all matters properly put in issue and actually determined by them.

The enforcement of this rule by the United States Senate is essential to the very stability and perpetuity of our form of government. Under the foregoing rule and principles this Senate would not question the right of Mr. LORIMER to his seat even though new evidence had been produced to impeach him, his right having been determined by the Sixty-first Congress.

Now, I will answer the question the Senator from Idaho presented some time ago, and in answering him I think I will place myself on about the same basis that he takes in this matter, so far as its decision is concerned. In my view of this case it is not necessary to express an opinion as to what the Senate should do in case new evidence was produced showing corruption in the election of Senator LORIMER, because no such evidence has been produced; but I will say for myself that if new and substantial evidence had been discovered, showing conclusively that he had secured his election by corruption, I would not feel bound to follow these principles to the limit, but I would feel that the Senate would be justified in the maintenance of its own integrity and honor in vacating its judgment and denying to Mr. LORIMER a seat in this body.

In making that statement I realize that I am going contrary to what I believe to be the rule laid down by the courts, but if I were convinced beyond a reasonable doubt—I think I would have to be convinced that far upon a rehearing—by the evidence produced that the election was secured by corruption, I think I would vote to exclude the Member in order that the integrity of the Senate might be preserved and in accordance with my belief in fair and honest elections.

Mr. BORAH. How would the Senator, sitting as a judge, get the newly discovered evidence before him if he holds to the doctrine of res adjudicata in reference to a judgment?

Mr. JONES. I think I can explain that by stating that my position is a little different from that of the Senator. I do not understand and I do not believe that the Senate has yet vacated its former judgment. I do not believe that the passage of the resolution appointing the committee was a vacation of that judgment. I did not vote for it with that idea. I voted for it simply for the purpose of reinvestigating the facts, so that they might be properly presented to the Senate, and the Senate then could determine whether it would vacate its judgment. That judgment still stands as the judgment of the Senate, and will so stand until we finally act on the resolution now pending.

Mr. BORAH. What would be the position of a judge sitting upon a bench in reference to a matter which was claimed to have been closed by a final judgment, who should say, "Notwithstanding this matter was closed, notwithstanding the fact that I have no power to review it, I will hear the evidence to see if you have any newly discovered evidence, and if I find that you have I will ignore this doctrine of res adjudicata"?

Mr. JONES. Under the rule which I have read from the courts—I recognize the force of the Senator's suggestion—I am willing to admit the difference between this body and a regularly constituted court, and will lay down the proposition to that extent, differing from the inflexible rule in the court. I recognize the fact that if I am to adhere in accordance with the rule laid down absolutely, then I will not make this exception. But I am willing to make it, and I think I have a right to make it. I do not believe that we have granted a new trial in this case as a court grants a new trial. We simply appointed a committee to go out and investigate and report the facts to the Senate, and then the Senate is to decide whether or not the judgment is to be vacated.

Of course, a new trial in the Senate differs from one in a court. When a court orders a new trial it vacates its judgment. The Senate does not do it. The Senate, after it vacates its judgment, is concluded. It does not go any further. We make the investigation beforehand and present the facts to the Senate, upon which the Senate determines whether or not it will vacate the judgment, and then, it seems to me, is the proper time for the rule of res adjudicata to be applied.

As I said, I am willing to apply it absolutely, except in cases where on a new investigation evidence is produced which shows almost conclusively that the election was corrupt. Then, when the Senate comes to take final action, I would vote in favor of the purity of the election.

This matter is just like almost any other legal proposition. While we are all presumed to know the law, almost all of us look at it in a different way, and none differ so much as to what the law actually is as the lawyers.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from South Dakota?

Mr. JONES. Certainly.

Mr. CRAWFORD. I do not want to detain the Senator, but I simply call attention to this thought: The mere fact that in passing upon this case and similar cases the Senate exercises a judicial power, or a quasi-judicial power, does not mean that in exercising that judicial power, or quasi-judicial power, the Senate is bound to follow the rules that courts have adopted for the exercise of the judicial powers vested in them. The Senate can exercise this judicial power, or quasi-judicial power, in any way it sees fit. So that in no sense, except by a rather far-fetched analogy, are these rules that the courts have adopted binding upon the Senate. The Senate has fixed no rule for procedure, except that in the very few cases that have been cited it has declared its attitude, and in those cases there have been minority reports.

So, I fail to see the force of quoting in extenso from the rules of courts when, as the Senate, we simply possess a judicial power that we can exercise in any way we see fit.

Mr. JONES. I have been very unfortunate, Mr. President, if I have not made clear my position in that regard. I have said, time and again, that the Senate has absolute power to do exactly as it pleases with reference to this matter. It is bound by no rule in this respect. It is not even bound by the Constitution. The Constitution leaves its powers absolute and despotic.

As I have said before, we could decide in favor of Senator LORIMER to-day, and we could decide against him to-morrow, and at the next session we could again decide in his favor, and at the following session we could decide against him, and 10 years from now we could pass a resolution declaring that Senator LORIMER was entitled to his seat at a time when we said he was not. But I venture to say we would not do that.

We have absolute power over this matter, and it is simply a question of how we should exercise it. It is simply a question whether we will act in accordance with well-settled rules and principles, or whether we will act arbitrarily according to the whim or opinion of the majority. I have been contending that we should exercise the power in line with the precedents in the Senate itself and in accord with similar rules adopted by the courts, and especially by the Supreme Court of the United States, which is not bound by the action of any other tribunal, whose decisions can not be reviewed by any other tribunal, and which has held that when it has rendered a judgment and the term has expired and no steps are taken to reopen it, it will not do so; that while it has the power, it has not the right to do it. That is all. That is simply my position.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Missouri?

Mr. JONES. I will yield, though I would like to get along.

Mr. REED. Is not that the very distinction between the courts and the Senate? Of course, the courts have repeatedly refused to inquire into a judgment after the term of court has expired, unless some motion is filed to carry the case over; and invariably the refusal of the court has been upon the single ground that under the law they have no jurisdiction or power after the term has expired.

The Senator has conceded that this body does have the power that is under discussion. When he makes that admission, he admits that the rule adopted by the courts has no potency here. The courts refuse to interfere from lack of power, whereas the Senator concedes that we do possess the power. I think when he concedes that he concedes the entire argument.

To conclude what I started to say, there are a number of States that have changed the law and have provided for review upon petition filed a year after the term has expired. In one State that I have in mind I think the limit is three years. In the States where the law has been so changed that the court does possess the power it is frequently exercised.

So we come back to this: The courts refuse to interfere because of lack of power under the law, and only for that reason. We possessing the power under the law have full right to exercise it if conscience and right demand such exercise.

It seems to me the Senator concedes the whole question when he concedes that we do possess the power.

Mr. JONES. Mr. President, I did not concede that the courts refused to exercise this power because they did not have the power to do it. I contend that the Supreme Court of the United States has the power, but that of its own volition it refuses to exercise it, for the reasons given.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator further yield to the Senator from Missouri?

Mr. JONES. I do not believe it is necessary to pursue that phase of the matter, but I yield.

Mr. REED. While the Supreme Court might brutally do a thing, the Supreme Court is bound by the Constitution and the law. The law is so written that if it did exercise the power it would violate the law. Therefore, it does not possess the power, except as it may exercise arbitrary force. When we are speaking of a power we are speaking of a legal power and a legal right. The Supreme Court did not possess it; hence it refused to exercise any other power than a legal power. But here we do have the legal power. That is the distinction.

Mr. JONES. The Supreme Court of the United States has the legal power, Mr. President. There is no constitutional or statutory provision prohibiting the Supreme Court of the United States from opening a judgment after the expiration of the term. But while it has the power to do it, it has refused to do it, not because of legal or constitutional restrictions, but simply because it does not think it is the proper rule to follow.

However, that is not this case. No new evidence has been discovered impeaching Senator LORIMER's title, or showing clearly or at all that his election was secured by corruption. On the contrary, I am absolutely convinced that he was honestly elected and that his right to a seat in this body should not be questioned. For this Senate to vacate the judgment rendered at the preceding Congress is to violate the unbroken precedents of the Senate itself and to invoke the rule of might instead of the rule of right.

I believe it my duty to decide this case as a judge and not as a partisan or a factionalist. I have endeavored to weigh the evidence in its entirety and to reach a verdict in accordance with the law and judicial procedure that has been evolved in the progress of civilization for the purpose of insuring justice to the individual and protection to the State. In saying this I do not intend to suggest even that any of my colleagues are acting differently. I do know, however, that many people in this country would have us act differently. There are great and powerful newspapers who would have me voting against Senator LORIMER regardless of my conviction of his innocence, and they advocate this under the guise of progress and good government. Many seem to think the question has become a public or national one, and a vote on this matter is taken as an evidence of progress or reaction, as an evidence of devotion to the interests of the people or as an evidence of enmity to honest elections, as an evidence of hatred of bribery, or as an evidence of its approval.

There are those in the country who will say that those who vote for Senator LORIMER approve bribery and corrupt election. There are those in the country who will say that a vote cast against Senator LORIMER is a vote cast against corruption and bribery. I know Members of the Senate do not look at the matter in that way. I know Members of the Senate do not look upon those who vote for Senator LORIMER as approving corruption and as approving bribery. I think every Senator ought to make it plain to the people of the country that this case must be decided upon its merits, and that those who vote for or against Senator LORIMER are each just as patriotic and just as devoted to the principle of purity in elections as any others.

There is a spirit of intolerance abroad in the land that is to be deplored. This is not a political question and it ought not to be made one. It ought not to be decided in any factional spirit. It ought not to be decided on impressions or beliefs, but upon conviction based upon the law and the evidence.

Is it possible that when a man is charged with dishonesty and corruption he is to be convicted and condemned because he does not agree with the popular idea upon some political question? Has it come to this, that the people prefer representatives who will subordinate their honest convictions to popular clamor not only upon legislative matters but upon judicial issues as well? Is there any fair man who, if charged with a crime, would like to have the jury pass on his case according to public opinion instead of according to the evidence? Is there a fair, honest man who, serving on a jury and convinced that the man he is trying is innocent, would disregard the law and the evidence and bring in a verdict of guilty because the popular impression is that he is guilty? And yet there are thousands who have not read the testimony, or much less heard it, who can see nothing but corruption in a vote for Mr. LORIMER by those who have seen the witnesses on the stand, heard their testimony, and are convinced of his innocence.

Some say the people have read the evidence. I deny it. The people have read biased, garbled, partisan extracts of the evidence, but there is no paper in the land that has printed all of the evidence or any considerable part of it. Those who have printed the most have printed that part of the evidence which supports their views. Papers favorable to Senator LORIMER have printed that part of the evidence favorable to him. Papers unfriendly to him have printed parts of the evidence that are unfavorable. The papers taking a special interest in the matter are those unfriendly to Senator LORIMER. This is natural. Our enemies are always more active against us than our friends are for us, and when we consider that most of the great daily papers of Chicago are against Senator LORIMER and have in season and out of season presented this case in a biased and unfriendly way, while practically all of the papers outside of Chicago have said but little one way or the other, we can fully understand why the people have honestly obtained the impression that there is no doubt but that his election was secured corruptly. Added to this, the so-called progressive papers have espoused the reactionary spirit of presuming a man guilty until he proves his innocence, and have even gone so far as to disregard and ignore all the principles of justice that have come to us through the ages and propose to decide this question by the rule of might rather than by the rule of right.

Some Democrats believe Senator LORIMER innocent; some believe him guilty. Some Republicans believe him innocent; some Republicans believe him guilty. All progressives know he is guilty. Is it possible that it is progression to assume a man guilty because he is charged by some one with an improper act? That is not my idea of progress. Is it progress to hold a man dishonest and corrupt who does not agree with us? I do not believe in that sort of progress. Is it progress to refuse a man a seat in this body because he does not believe in one political faction or follow certain political dogmas? That may be progress for awhile, but the American people will not adhere to it long. Our people are, on the whole, fair and just. They will not long admire or approve the judge who makes his decision to suit their view and will rather than his honest convictions; and, fully appreciating the public impression regarding this case, I shall cast my vote trusting in the justice and fairness of the people to approve adherence to honest convictions of duty, even though they may not agree with one's judgment. Men are threatened with political oblivion if they do not act in a certain way, and it is peculiar that self-styled progressive newspapers and individuals who are opposed to domination and tyranny in politics seem to exert their utmost to compel men to vote in accordance with their views. This is a confession of the weakness of their cause and would be ridiculous if it were not so serious.

The distinguished Senator from Indiana said that it is suggested that the people are not interested in this question. I have never heard such a suggestion made. The people are interested in this question. They are interested, however, in having it decided justly and honestly. If Senator LORIMER was elected corruptly, they are interested in the verdict accordingly, but, Mr. President, if he did not secure his election by corruption they are even more interested in having us so declare. The people are interested in this question not as a matter of legislation, but they are interested in having the Senate acting within its rights and acting as a court in doing justice to Senator LORIMER according to its honest convictions of the evidence which it has taken and with which it ought to be more familiar than they. The people expect us to do our duty regardless of public clamor and prejudice.

The Senator from Montana said:

I do not care what public opinion is.

Of course, he did not mean it exactly that way. We do care for public opinion. I care for public opinion. I like to please my people by my course here. It is far easier to act in accordance with the opinion of the people than against it, but, like the Senator from Montana, I purpose casting my vote pursuant to my convictions of duty under the law and the evidence as I see it in this case. Some may condemn me for it and applaud him for his vote, and yet he and I vote on exactly the same sense of duty and responsibility.

He says that public opinion "has nothing to do with the trial of this case. Public opinion is not a part of the record in this action."

That is my position exactly.

The enemies of Senator LORIMER, however, the newspapers that have been filling their columns with opinions, editorials, and statements as to what Senators should do here and what the effect will be upon them if they do not vote in a certain way, do not act on this theory. They seem to think that it is their place to create a public sentiment that will dash against the doors of this Senate and overcome the convictions and judgments of its Members and compel them against their will to disregard the evidence, pay no attention to the justice and merits of this case, but to deprive Senator LORIMER of the seat which the solemn verdict of the Senate has confirmed to him.

I do not want to believe that there is a Senator here who will do it; and it would seem important to declare, so that the public may read, that this Senate proposes, no matter what its verdict may be, to cast its verdict not in pursuance of public clamor and public demand, but in pursuance of what it believes to be the law and the evidence and the merits of the case. This has gone so far that strong men, fair-minded men, who desire to do what is right, have given up, as it were, in disgust, and said, "Let us end this matter, put LORIMER out, and close the case." A great newspaper in my State has practically taken this position. A very good friend of mine, running a newspaper in my home town, has said "LORIMER should go on general principles." Has justice fled to brutish beasts? Have we lost all sense of fair play? Have we, as a Nation and as a people, embraced the principles of lynch law? It looks like it. We believe in fair play. We have heard much of the square deal, and the people believe in it. Has Senator LORIMER had a square deal? Is he having a square deal now? When the people of this country come to consider the methods pursued in this case and the tremendous influences that have been brought to compel and coerce the Senate against him, they will revolt at what has been done.

When these charges were made testimony was taken, and the trial was begun in the Senate. While we were sitting as a court and acting as judges the President of the United States attempted to influence some of the judges against Mr. LORIMER and enlisted the powerful influence of an ex-President of the United States against him. I have a great admiration for President Taft. I believe in his ability, his statesmanship, his honesty, his integrity, and his courage. When the people understand him, when they realize what he has accomplished in the line of real progress and for the good of the people, they will appreciate how greatly he has been maligned and misrepresented; but this yielding on his part to popular clamor in this case is one blot on his record that never will be effaced. Letters from men representing powerful newspapers and powerful influences were written to the Members of the Senate in confidence, stating alleged facts of which the writers had no knowledge but which had been given to them in confidence and the truth of which they vouched for. If this is to be tolerated, is there any Member of this Senate who is safe from such insidious attack?

An ex-President of the United States, both loved and trusted by the people as no President in the history of the Republic, was sought out by a bitter enemy of Senator LORIMER, and was told by him of statements made by another enemy of LORIMER, but as a friend of the ex-President Mr. Kohlsaat assured him that statements of which he had no knowledge were true, and on this assurance and while a committee of the Senate was making its investigation the ex-President denounced Mr. LORIMER with the apparent purpose of inflaming public opinion against him. Even though the first Senate committee was in session these alleged facts were not called to its attention. The Senate was allowed to pass judgment. That judgment was in favor of LORIMER, and then and not till then these secret statements were made public and this new investigation had, and these statements upon which the ex-President acted are shown to be untrue and unfounded.

Will the American people stand for a deal like this? Is that the square deal of which we are so boastful? Then, after the Senate had deliberately voted in favor of Senator LORIMER, this whole power was enlisted against him. Allegations of new evidence were made. The evidence which had been brought to the attention of some of the Senators before the former judgment was rendered and which fairness to the Senate and fairness to Senator LORIMER required should have been presented before the verdict was rendered and a new Senate, a Senate one-third of whose membership had been elected since that verdict, was asked to reinvestigate this question. A further investigation was ordered. While it has been pending threats have been made that Senators would be defeated because of their votes. A former President of the United States, as a candidate for nomination to the Presidency, made this question an issue in his campaign, and, with no opportunity for defense, Mr. LORIMER has been held up to scorn and obloquy before partisan audiences, and we in this Chamber are told that unless we deprive him of his seat we will lose our own. Is there a man with real American blood in his veins who with a calm judgment and in the presence of his own conscience will say that this is a square deal?

Mr. President, I have heard the testimony in this case; I have seen the witnesses testify; I have tried to measure and weigh all of the testimony. I am convinced that the testimony does not show that there were any corrupt practices exercised in the election of Senator LORIMER. I am satisfied that his election was the natural outcome and the inevitable outcome of the political situation in Illinois. I am satisfied that the new evidence upon which this Senate was asked to reopen this case has absolutely failed to materialize. I am satisfied that Senator LORIMER holds his seat in this Senate by just as perfect a title as any Member here. My conscience and my judgment coincide with that view. Believing that, I can not vote otherwise. I would not vote otherwise if every man, woman, and child in my State asked me to do it. I want to please them, but I must please my conscience first. If I go to political oblivion in the future by reason of my vote on this case, I will go at peace with my own conscience and with the satisfaction of having done what is just and fair and right as I see it. I would rather retire from this honorable body with the approval of my own conscience and judgment than to retain a place here indefinitely by disregarding my convictions as to my duty. No, Mr. President; I will not seek place and power and honor at the sacrifice of an approving conscience.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. The Senator from Utah.

Mr. SMOOT. The Senate has been in session now for over seven hours.

Mr. BORAH. Will the Senator yield for just a moment?

Mr. SMOOT. Certainly.

Mr. BORAH. I desire to have permission to put into the RECORD, in connection with some remarks I made awhile ago, some excerpts from the CONGRESSIONAL RECORD on this subject which we were discussing.

The PRESIDENT pro tempore. Without objection, consent will be granted.

The matter referred to is as follows:

[From the Congressional Globe, February 11, 1859, pages 957 and 958, part 1, second session Thirty-fifth Congress.]

INDIANA ELECTION QUESTION.

Mr. SEWARD.

* * * * * * *

It is answered to this proposition which I have submitted; that the Senate has already decided the question as to the title of these seats; that the decision is a judicial one; final, absolute, irreversible; and so one which can not admit of reconsideration. This seems to me an extraordinary proposition. I can not conceive upon what ground it can be claimed that any decision which has ever been made by this body is incapable of reconsideration. I can conceive of a mistaken theory of the constitution of the Senate which leads to this extraordinary conclusion. I imagine that Senators coming from a different forum, coming from the bar, coming from courts of justice, and familiar with their proceedings and practices, suppose that when the Senate decides upon a question of elections or of privilege like this it pronounces a judgment and similar to the judgment of a court; and then they invoke the principle that the deliberate judgment of a court from which there is no appeal and which has no power of reconsideration is final. I take issue with the whole of this theory, from beginning to end. It is true the Constitution does say that each House of Congress shall be the judge of the qualifications of its own Members; but it uses the word judge in the sense of considering and determining a legislative question, not in a sense which converts this legislative body into a tribunal or court of justice. It is of the very essence of the constitution of the Senate that it is not in any case judicial except when it sits as a court for the trial of impeachments, and then it is called no longer a Senate, but is called a court, and expressly constituted a court by the organic law. In all other cases it is a legislative body.

The order which has been adopted with regard to this Indiana question is but a resolution, a legislative act, a gathering of the sense of a majority of the Senate, conclusive and final until reconsidered or repealed or abolished or legislated away by another resolution or by another law. Suppose a seat should be granted here, on due consideration of credentials, which should afterwards be ascertained to be forged. Must the guilty incumbent nevertheless retain a place among us and unite in deciding on the interests and policy of this great

Nation? Must he do so, even excluding a legal and true representative of the State misrepresented?

This is the very essence of a legislative body in this country, that it is bound by no precedents, that it is governed by no paramount law except the Constitution of the State or of the United States. Where the Constitution of the United States does not restrain its action, it is at liberty to act upon its discretion, upon its sense of justice, to-day, and to reverse to-morrow what it did to-day, and to reverse 50 years hence what it did 50 years ago. All legislative bodies—the Parliament of England and parliaments everywhere—have always been governed by this principle. Even in those semijudicial transactions, those acts which assume something of a judicial character, affecting personal and individual rights and estates, acts of confiscation and of attainder, in the British Parliament they are perpetually reconsidered; sometimes the next day, even before the sentence of deprivation is executed; sometimes the next year, sometimes 10 years, sometimes 50 years, after they have been executed, and they are reversed at pleasure.

Mr. SEWARD. Mr. President, the constitution of a court is entirely different from the constitution of a legislative body. It is of the very nature of a court of justice that it is directed by laws written and prescribed by a superior power, and to which it must conform its judgment. It must, moreover, proceed upon the evidence or testimony received. It can and must exclude all knowledge of the subject matter of the merits of any case which it examines, except what is submitted to it by parties litigating before it; it must conform to laws and precedents which have been established by itself or by higher tribunals or legislatures. Now, how different is this from the form in which questions are heard, tried, and determined here? We take no testimony; that is to say, we need to take none. We act upon information communicated to us, no matter by whom received, no matter in what way, even on information existing in our own breasts, which we may, if we choose, suppress. We act not necessarily in obedience or conformity to any precedents, but upon our own sense of right, necessity, and expediency with regard to the public welfare. Insomuch as we have no guidance except the Constitution, which is silent in regard to the great mass of matters which come before us, as we have no formal testimony submitted to us, it follows that we may err; that we do often err; and it is because we can and may and must err so often that we are made responsible to the people to answer for the manner in which we discharge our great duty, at the expiration of limited terms of service, that the people may judge whether we decided in all cases rightly, whether we decided wisely, whether we decided justly. But insomuch as we may err so often and must err so often, we also have always a right to review and correct our errors; legislative errors are not corrected by hired tribunals, but only by themselves. We can only correct our errors by reconsidering our judgments ourselves. If we neglect or refuse to do so, the people will dismiss us and call into our places those who can, and, if need be, will, revise all our doings and correct all our errors.

I protest, therefore, sir, in the outset against the doctrine which, by fanciful analogy, transfers from the law books of the courts to this Senate Chamber the principle of res adjudicata. I deny that any decision which the Senate can make, any law which it can pass, is final and is not always and forever a subject of reconsideration.

[From the Appendix to the Congressional Globe, pt. 2, Feb. 14, 1859, pp. 135, 136, 137, 35th Cong., 2d sess.]

INDIANA ELECTION QUESTION.

Mr. FESSENDEN. If the Senator will allow me, I desire merely to ask him a question of law on the point which he is arguing. Suppose the charter of a city gives to the board of common council, or the board of aldermen, as they all do, to decide upon the elections of their own members. Suppose either body, the aldermen or the common council, decides on a certain day that a certain person whose seat is contested is legally elected. On a subsequent day the board reverses that decision by a vote and decides that he is not legally elected. He files his petition for a mandamus in the court having jurisdiction to compel the council to admit him to a seat. Would the court, in view of those two decisions, feel bound to issue the mandamus without compelling him to show, in addition, that he was actually elected? Would they say that the first decision was binding, that they could not reverse it, and that they would not ask who was elected?

Mr. SEWARD.

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Why, sir, we have sat here hour after hour, and learned gentlemen of the law discuss the question of the effect of a resolution of the Senate by analogies derived from the practice and proceedings of courts of the common law. We have had analogies between the proceedings of the Senate and the process of mandamus in the State courts, together with parallels between our own resolutions and judgments, final and interlocutory, in the tribunals of other countries. We have had the decision of the Senate, made in the form of resolutions, pronounced by worthy lawyers to be in effect identical with judgments in rem, borrowed from the civil law. Because a judgment of mandamus, or some other final judgment, entered upon a record, instead of an interlocutory order, is, without some provision made for its review, held final in the courts, it is alleged, most illogically, that the resolutions of this body are final and irreversible.

Sir, when you have declared that the Senate has ever made a decision which was final and irrevocable, then you have ascertained one decision of this Senate that was infallible; and the body that has power to make one infallible judgment has the power to make more. So each Senate may anticipate and usurp the functions of its successor. The principle, then, for which our assent is demanded is that the resolutions and orders of this Senate upon the subject of elections are infallible. Gentlemen tell us we must acquiesce out of respect to the Senate; that we must submit, though we think they are wrong; we must not question them.

* * * * * * *

I am claiming only the vindication of the principle for which I contend, namely, that its decisions are always open to review, and that the Senate never pronounces a final judgment upon anything.

RECESS.

Mr. SMOOT. Mr. President, the Senate has now been in session for over seven hours, and I understand that there is no Senator who desires to proceed this afternoon. I therefore move that the Senate take a recess until 10 o'clock to-morrow.

The motion was agreed to; and (at 5 o'clock and 14 minutes p. m., Wednesday, July 10) the Senate took a recess until Thursday, July 11, 1912, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July 10, 1912.*

The House met at 12 o'clock noon.

Rev. John Compton Ball, of the Metropolitan Baptist Church, Washington, D. C., offered the following prayer:

Our heavenly Father, in the opening moments of this day's proceedings, we stand in reverence before Thee, thanking Thee for past mercies and pleading that Thou wilt continue the same unto us. Let Thy benediction, we pray Thee, rest upon our land and every citizen thereof, and especially do we pray that Thy blessing rest upon this House of Representatives as its Members plan for the present and future betterment of the people.

We pray, O God, that the power of Thy spirit may be with us as a country and that we may ever stand before the nations of the earth as the exponent of the things that are right and pure and good. In the name of Christ our Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

COTTON STATISTICS.

Mr. HOUSTON. Mr. Speaker, I ask unanimous consent that the Committee on the Census be discharged from the further consideration of the bill (H. R. 19403) authorizing the Director of the Census to collect and publish cotton statistics, with Senate amendments, to the end that I may move that the House disagree to the Senate amendments thereto and ask for a conference.

The SPEAKER. Of course the House understands that this is Calendar Wednesday, but it seems to the Chair that little conference matters like this might be gotten out of the way. The Chair is not ruling upon it, but is making a suggestion.

Mr. MANN. What is the purpose of this, Mr. Speaker?

Mr. HOUSTON. Mr. Speaker, I am asking that the Committee on the Census be discharged from the further consideration of this bill in order that I may move to disagree to the Senate amendments and ask for a conference. I will say that this is quite an urgent matter, in view of the fact that the special agents who go out to gather this information are due to start out on the 1st of August, and it is very necessary that the laws on that subject be codified, which this bill does, that they may know just under what rules they are to collect these statistics.

Mr. MANN. I would suggest to the gentleman that where a bill with Senate amendments is referred to a committee in this way, if he wishes to discharge the committee by unanimous consent, it is only fair to the minority that we have notice of that in advance, so that we may examine the amendments.

Mr. HOUSTON. Mr. Speaker, I will state that this matter was brought before the Committee on the Census, and it was the unanimous view of the committee, both majority and minority, that this course be taken, and the committee recommended it.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I will ask the gentleman to let it go over for the present, so that we may look into it.

The SPEAKER. The gentleman from Illinois objects.

NAVAL APPROPRIATION BILL.

Mr. PADGETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, with Senate amendments thereto, disagree to all of the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to take from the Speaker's table the naval appropriation bill, disagree to the Senate amendments, and ask for a conference. Is there objection?

There was no objection.

The SPEAKER appointed the following conferees on the part of the House: Mr. PADGETT, Mr. GREGG of Texas, and Mr. FOSS.

COTTON STATISTICS.

Mr. HOUSTON. Mr. Speaker, I now renew my request for unanimous consent to discharge the Committee on the Census from the further consideration of the bill (H. R. 19403) authorizing the Director of the Census to collect and publish cotton statistics, with Senate amendments thereto, and to disagree to the Senate amendments and ask for a conference.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The SPEAKER announced the following conferees on the part of the House: Mr. HOUSTON, Mr. SMALL, and Mr. CRUMPACKER.

MRS. C. N. GRAVES—CHANGE OF REFERENCE.

Mr. TURNBULL. Mr. Speaker, I ask unanimous consent to change the reference of the bill (S. 1302) for the relief of Mrs. C. N. Graves, widow of R. F. Graves, jr., from the Committee on Claims to the Committee on War Claims.

The SPEAKER. Is there objection?

Mr. MANN. What is the bill?

Mr. TURNBULL. It is a private claim. The bill has passed the Senate and was referred to the Committee on Claims in the House, whereas it should have been referred to the Committee on War Claims.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

DEPARTMENT OF LABOR.

The SPEAKER. This is Calendar Wednesday and the call rests with the Committee on Labor. The bill under consideration is H. R. 22913, to create a department of labor.

This bill is on the Union Calendar, and the House automatically resolves itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, and the gentleman from Missouri [Mr. RUSSELL] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 22913, a bill to create a department of labor, with Mr. RUSSELL in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 22913) to create a department of labor.

Mr. WILSON of Pennsylvania. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to dispense with the first reading of the bill. Is there objection? [After a pause.] The Chair hears none.

Mr. WILSON of Pennsylvania. Mr. Chairman, this bill proposes to establish a department of labor and to change the present Department of Commerce and Labor to a department of commerce. It provides a secretary of labor, who shall be a member of the President's Cabinet; three assistant secretaries, a Solicitor of the Department of Justice for the department of labor, a chief clerk, a disbursing clerk, and such other clerks, inspectors, and special agents as may be provided for by Congress. It transfers the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration, the Immigration Service at large, the Bureau of Labor, and the Commissioner of Labor from the Department of Commerce and Labor to the department of labor. It changes the title of the Bureau of Labor to the bureau of labor statistics, and the Commissioner of Labor to the commissioner of labor statistics, and transfers the duties of the Commissioner of Labor to the commissioner of labor statistics, including those imposed by the Erdman Act. It authorizes the collection and publication of statistics relative to the conditions of labor and the products and distribution of the products of the same, and authorizes the secretary of labor to call upon other departments of the Government for such statistical data as they may have wished would be valuable for that purpose. It authorizes the secretary of labor to act as mediator and to appoint commissioners of conciliation in labor disputes, thereby giving the influence of the Government toward industrial peace. It directs the secretary of labor to investigate and report to Congress a plan of coordination of the activities of his office with the activities of the present bureaus, commissions, and departments, in order to harmonize and unify such activities, with a view to further legislation to further define the duties and powers of the department of labor.

Mr. Chairman, for many years there has been a great demand for the establishment of a department of labor in which the great labor interests of the country might be represented in the President's Cabinet. There are in the neighborhood of 30,000,000 of workmen employed in the United States, and notwithstanding that fact, notwithstanding the fact that the great bulk of our people are wageworkers or farmers, there has been no representative of labor in the President's Cabinet up until this time. One of the beneficial features, one of the most important features, there is in this bill is the feature in the section which gives to the secretary of labor the power to act as mediator or to appoint commissions of conciliation in trade disputes. Those who have had experience in trade disputes know that in their early stages when the tension is not great, when both sides to the controversy are in a receptive frame of mind, that some one who has the confidence of both parties, acting as a mediator, would be in a position to bring the contending parties together and thereby avoid industrial disputes to a great extent. It is not to be expected, it can not be hoped, that giving this power to the secretary of labor would entirely avoid industrial disputes, but it would tend to reduce them to the minimum.

When a trade dispute is inaugurated or begun is the time to act as a conciliator or as a mediator. When it goes on until the workmen have reached the point that they consider that the employer is a bloodthirsty oppressor of labor, and the employer has reached the point when he considers that the workmen are anarchists and lawbreakers, then there is little hope or little chance to avoid a settlement of the difficulty until some one of the parties to the contest has been exhausted; but if we reach the controversy before it has reached that stage, then you are in a position to bring the contending parties together and allow them to work out the solution of their own problem. It is not intended to give to the department of labor or the secretary of labor powers of arbitration or in any manner convey to him powers that would be of an arbitrary nature. Personally, I do not believe that compulsory arbitration is possible. With compulsory arbitration, if it were possible, two things might occur, one of which would be that the workmen might be compelled to accept conditions and to work under conditions that they feel to be onerous, that they feel to be unjust, that they do not want to work under yet are compelled to work whether they want to or not, and a condition of that kind is slavery. On the other hand, if it is compulsory arbitration then the employer of labor might be compelled to employ men and continue operations at a loss until his entire property had been swept away. Both conditions are wrong. And in addition to that compulsory arbitration is unfair to the wageworkers. There has been a great deal said throughout the country with regard to compulsory arbitration, and that it ought to be placed in our laws in order to protect the general public. But with compulsory arbitration there is a clean-cut dividing line between profit and loss that protects the employer of labor against any unfair or unjust decision on the part of arbitrators in rendering their decisions.

There is a direct and clean dividing line to guide them in rendering their decision that would protect the employer against any injustice or unfair decision, but with the employee, on the other hand, it is different. There is no distinct dividing line there. The standard of living is a flexible proposition that may be enhanced or lowered and the workman still live. He has no distinct dividing line to protect him, and hence compulsory arbitration entered into under those circumstances would be unfair and unjust to the workingmen, and the only condition under which arbitration can be entered into that would be fair and just to the wageworker is when arbitration has been determined upon and the necessary safeguards have been agreed upon in advance to protect the wageworker in the results of the arbitration.

Mr. HOBSON. Will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. HOBSON. Does this bill contemplate the determination by the bureau of the conditions of arbitration?

Mr. WILSON of Pennsylvania. No.

Mr. HOBSON. Or do not the contending parties have to agree themselves mutually to the arbitration?

Mr. WILSON of Pennsylvania. I am simply stating that this bill does not go so far as to provide for arbitration. It goes to the extent of providing for mediation. It provides for conciliation; it provides for the officer of the Government having that standing which comes with being an officer of the Government and having the influence of the Government behind him, acting as a mediator between the contending parties, acting at the very inception of it before feeling has become strong between the contending parties.

Mr. HOBSON. I was just bringing it up because I did not understand the gentleman to mean that arbitration could not be properly guaranteed for both parties in advance.

Mr. WILSON of Pennsylvania. The only way in which arbitration can be entered into between employer and employee, in which the rights of both parties can be properly protected, is by both parties getting together and agreeing upon the basis upon which arbitration shall be entered into.

Mr. HARDY. Will the gentleman yield just a moment?

Mr. HOBSON. Certainly.

Mr. HARDY. I would like to ask if the gentleman has made somewhat of a complete study of the Canadian system, which seems to be very much on the line of the provisions of this bill—a mere system of persuasion or mediation?

Mr. WILSON of Pennsylvania. This bill does not go so far as the Canadian system goes.

Mr. HARDY. The Canadian system, as I understand it, has one provision that no lockout or strike shall be declared until an effort has been made through the medium of the board of conciliation provided by their law.

Mr. WILSON of Pennsylvania. This law does not provide for keeping workmen at work, either of their own volition or otherwise, pending negotiations. The Canadian law provides that the workmen can not be locked out in a body and the workmen can not strike in a body until after the commissioner has made an investigation.

Mr. HARDY. This law does not so provide?

Mr. WILSON of Pennsylvania. This law does not so provide.

Mr. HARDY. And is not that the main difference between this and the Canadian system?

Mr. WILSON of Pennsylvania. That is the principal difference between the Canadian law, which does not work satisfactorily to the wageworkers, I may say to the gentleman, and the provision in this law providing for mediation and conciliation.

Mr. HARDY. Is the gentleman prepared to give the House the information as to how many disputes have been under consideration by the Canadian commission and how many have been adjusted satisfactorily to both parties?

Mr. WILSON of Pennsylvania. No; I am not in a position to give the gentleman that information.

Mr. HARDY. I just wanted to say that my reading on that subject has led me to the conclusion that that measure in Canada probably has worked with remarkable success, though not perfectly, however, and it may be that the omission of that provision in this bill is a wise one, but it seems to me it is well worth considering.

Mr. WILSON of Pennsylvania. In my judgment, no law should be enacted in the United States that would prohibit the workingmen from ceasing to work either individually or collectively whenever, in their judgment, the conditions were not satisfactory to work under.

Mr. HARDY. I wanted to make this suggestion, that it seems to me it was a little like peace propositions adopted on the resolution of Bryan prohibiting nations from going to war until after an effort at adjustment and arrangement as to peace; that labor and capital both might be benefited by a temporary delay before resort to last measures. That is the only compulsory feature of the Canadian law, and that might be a wise provision in this bill.

Mr. WILSON of Pennsylvania. In my judgment, it would not be a wise measure. I do not believe we should introduce into our laws the idea that any workman, no matter who he is, should be required to labor against his will except for punishment for crime.

Mr. LONGWORTH. Mr. Chairman, does the gentleman yield to me for a question?

Mr. WILSON of Pennsylvania. Certainly.

Mr. LONGWORTH. Does this bill come with a unanimous report from the committee?

Mr. WILSON of Pennsylvania. This bill comes with a unanimous report from the Committee on Labor.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Pennsylvania yield to his colleague?

Mr. WILSON of Pennsylvania. Yes.

Mr. MOORE of Pennsylvania. On the question of arbitration, which seems to be referred to only in section 9, it is provided—

That the secretary of labor shall have power to act as mediator and to appoint commissioners of conciliation in labor disputes.

And so forth.

The authority given by this paragraph to the secretary of labor goes no further than the employment of commissioners of mediation?

Mr. WILSON of Pennsylvania. That is all. The only power that he has is to act himself as a mediator or to appoint commissioners of conciliation. That is as far as his power goes in an effort to bring the contending parties together and to let them, when brought together in the proper frame of mind, work out the solution of their own problems.

Mr. MOORE of Pennsylvania. If a department like this is to be created I should like to see it made effective, and I should like to see it do some good to those whom it is intended to benefit. I would like to know, therefore, whether in the event the secretary of labor, acting as mediator, determining a question, or arriving at a judgment in some dispute as between employer and employee, would have any power whatever to enforce his judgment?

Mr. WILSON of Pennsylvania. Absolutely none.

Mr. MOORE of Pennsylvania. Then what would be the advantage in having this legislation?

Mr. WILSON of Pennsylvania. The great advantage lies in the fact that you would have a great official of the Government who can go to both parties engaged in the dispute and endeavor to bring them together, just as the Erdman Act operates in interstate commerce at the present time.

Mr. MOORE of Pennsylvania. Suppose the mediators appointed by the secretary should, after hearing both parties or making such investigation as they deemed necessary, report that the employers were wrong, and the employers should then refuse to abide by their judgment?

Mr. WILSON of Pennsylvania. This bill does not provide for any report on the part of the secretary while acting as a mediator, or any report on the part of the commissioners of conciliation. Their sole duties are to endeavor to bring the contending parties together and to allow them, when brought together, to work out the solution of the problem before them.

Mr. MOORE of Pennsylvania. And then leave the whole question to public opinion?

Mr. WILSON of Pennsylvania. Yes; then leave the whole question to public opinion and to the judgment of the contending parties.

Mr. MOORE of Pennsylvania. Then, in the event of the workingmen or employers asking for arbitration or mediation, contending that the judgment is not fair to them, and declaring that they will not abide by it, we get no further under this bill than we were before.

Mr. WILSON of Pennsylvania. This bill provides for the rendering of no judgment whatever in a particular dispute. It provides for a person in authority endeavoring to bring the two parties together, so that they may solve the problem themselves in their own way, using the force of public opinion, as a matter of course, in the effort to adjust the difficulty.

Mr. MOORE of Pennsylvania. Suppose there should be a contractual relation between the employer and the employee? That is to say, an employing bricklayer should have an agreement with the bricklayers employed by him, and there should be a difference of opinion as to the meaning and terms of an agreement or a contract and a dispute should arise over that difference of opinion. Would there be any power vested in the department of labor that would permit the secretary to enforce the terms of the agreement so ascertained?

Mr. WILSON of Pennsylvania. There is nothing in this bill that would permit the department of labor to intervene in a case of that kind, except in a friendly way. Unless the contract itself provided the means of adjustment, the two contending parties would either have to adjust the difference themselves or take it into the courts for adjustment.

Mr. MOORE of Pennsylvania. To the courts?

Mr. WILSON of Pennsylvania. That is the only recourse they have now, and this does not change that.

Mr. MOORE of Pennsylvania. Then the gentleman admits, so far as the creation of this department is concerned, that in matters of dispute between employer and employee the department would simply accentuate the differences?

Mr. WILSON of Pennsylvania. Not at all. It would simply do as the Commissioner of Labor does now, and as the chairman of the Interstate Commerce Commission does now, under the Erdman Act. It would simply give to the secretary of labor the power not only in disputes relative to interstate commerce but in other disputes, to go in and act as a mediator, as a friend of both parties, in an effort to bring the two parties together so that they could solve the problem themselves.

Mr. MOORE of Pennsylvania. That is done now, so far as it is possible to do it, through the Commissioner of Labor?

Mr. WILSON of Pennsylvania. That applies only in interstate commerce, and does not apply in anything else.

Mr. MOORE of Pennsylvania. But in the event of a railroad dispute the Commissioner of Labor would step in, if conditions warranted it, and would offer his services as mediator?

Mr. WILSON of Pennsylvania. That is true in that instance, and that instance only; but under the Erdman Act he has no power to compel either side to accept arbitration or to compel either side to accept his views in connection with the controversy. This does not propose to give to the secretary of this department any power other than to use his friendly offices in an effort to adjust disputes.

Mr. MOORE of Pennsylvania. I am as anxious as the gentleman is, of course, to alleviate the condition of labor and to improve that condition wherever possible; but in view of the fact that the Bureau of Labor now does the work that is provided for in this bill, upon the admission of the gentleman, I am wondering whether the bill goes any further except in the creation of a department and in providing places for those to be employed in the department, and whether it does anything that is not now done by the Bureau of Labor.

Mr. WILSON of Pennsylvania. The bureau has only limited authority. Its authority is limited to cases arising in transportation and interstate commerce. This does not limit the

secretary of the department of labor to any one particular line of commerce or industry, but gives him the authority to exercise his good offices in any case where a trade dispute arises in an effort to bring the contending parties together.

Mr. MOORE of Pennsylvania. The gentleman has made a study of this question. He is aware that there was no department of commerce or of labor, with a seat at the Cabinet table of the Nation, prior to the creation of the present Department of Commerce and Labor in 1903.

Mr. WILSON of Pennsylvania. That is true. There never has been a department of labor the head of which had a seat in the Cabinet. There was a Department of Labor, but the head of that department was a Commissioner of Labor, who did not have a seat in the President's Cabinet. When the present Department of Commerce and Labor was created the Department of Labor was made a Bureau of Labor and made a part of the Department of Commerce and Labor.

Mr. MOORE of Pennsylvania. In one of the subdivisions of the earlier part of the bill, where it is proposed to separate the work of the assistant secretaries, provision is made for the agricultural industry. Does not the gentleman think he would run afoul of the Department of Agriculture in that respect?

Mr. WILSON of Pennsylvania. No. There are in this country in the neighborhood of 5,000,000 agricultural laborers, not farmers in the sense of being owners or lessors of their farms, but laborers who work for wages; and the purpose of this bill is in connection with the 5,000,000 agricultural laborers who work for wages.

Mr. MOORE of Pennsylvania. I think the gentleman will admit that those agricultural laborers have received an incidental benefit, as the farmer himself has received a direct benefit, for many years from the creation and operation of the Department of Agriculture.

Mr. WILSON of Pennsylvania. There is no question in my mind that every citizen in the United States, no matter what position in life he occupies, has received benefit as a result of the creation and conduct of the Department of Agriculture.

Mr. MOORE of Pennsylvania. The gentleman also knows that the Department of Commerce and Labor was created after the Department of Agriculture, and that the purpose of the establishment of the Department of Commerce and Labor was to foster, promote, and encourage the industries and the commerce of the United States; that is to say, the interest of the employer and the interest of the employed not engaged in agricultural industries.

Mr. WILSON of Pennsylvania. Yes; and the principal purpose of it was to promote commerce.

Mr. MOORE of Pennsylvania. Upon which industry depends.

Mr. WILSON of Pennsylvania. No. The reverse is the case; commerce depends upon industry.

Mr. MOORE of Pennsylvania. Each depends upon the other.

Mr. WILSON of Pennsylvania. This proposes to establish a department of labor.

Mr. MOORE of Pennsylvania. I think the gentleman would not utterly withdraw capital from industry, would he?

Mr. WILSON of Pennsylvania. I would not withdraw capital from industry. In fact, I would assist industry as far as I possibly could assist it without injuring other interests.

Mr. MOORE of Pennsylvania. And the gentleman would not withdraw the employer from the employed, but would have them work together, would he not?

Mr. WILSON of Pennsylvania. I think that a lifetime of work in the line of endeavoring to bring employer and employee together for the purpose of making wage contracts satisfactory to both parties, without resorting to the strike—a lifetime of work along that line is a sufficient answer to the gentleman's question.

Mr. MOORE of Pennsylvania. I understand the gentleman's intense interest on that subject, and I have followed it as closely as I could. The Department of Commerce and Labor, however, was created in response to a demand that had existed for nearly 100 years for the recognition of commerce. Those who were in favor of the creation of a department of labor entered into the discussion, which resulted in the creation of the Department of Commerce and Labor.

Mr. WILSON of Pennsylvania. There had been a demand for a department of labor and there had been a demand for a department of commerce prior to the enactment of the law creating the Department of Commerce and Labor, and there was great disappointment in the minds of the wageworkers of this country when, instead of having a department of labor, with a representative of labor in the President's Cabinet, there was this compromise measure providing for a Department of Commerce and Labor.

Mr. MOORE of Pennsylvania. Now, then, I want to ask the gentleman another question. The Department of Commerce and Labor as created in 1903 having been a compromise between those who sought a department of commerce separate from a department of labor and those who sought a department of labor as a separate department, is the gentleman dissatisfied with the Department of Commerce and Labor as it exists to-day so far as results in promoting the industrial and commercial interests of this country are concerned?

Mr. WILSON of Pennsylvania. Mr. Chairman, the purpose and intent and manner in which the Department of Commerce and Labor is constructed make it impossible for that department as constructed to give the same attention and the same care and bring the same experience to the consideration of labor matters that would be the case if the department of labor was constructed as proposed in this bill, and consequently we ask for the establishment of a department of labor.

Mr. MOORE of Pennsylvania. Then the time has come, in the opinion of the gentleman from Pennsylvania [Mr. WILSON] and his committee for a separation of commerce and labor into two parts; that is to say, that commerce shall be looked after by a department of commerce and labor shall have a separate place at the Cabinet table.

Mr. WILSON of Pennsylvania. That is my opinion and the opinion of the committee whose bill I am presenting at this time.

Mr. KENDALL. Will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. KENDALL. I do not want to encroach on the gentleman's time, but I desire to suggest in response to what was said by the gentleman from Pennsylvania [Mr. MOORE] that at the time the proposition was pending in the Congress for the establishment of a Department of Commerce and Labor, it was suggested by the gentleman from Illinois [Mr. MANN], who wrote the report on the bill establishing that department, that one of the reasons which has been urged why the labor department should not be included in the new department is that there ought to be created a secretary of the labor department with a seat in the Cabinet.

Mr. MANN said:

> Whether this is likely to be done in view of the conservative action in creating new Cabinet officers in the past, it is not for your committee to judge at this time. But it will be as easy to create a secretary of labor if the Department of Labor is, for the present, included in the new department as it would be if the Labor Department is left out by itself. In fact, it seems much more likely that the Labor Department will grow in the scope of its work, and hence be more likely to warrant the creation of a new Cabinet officer to represent labor interests if the proposed action is taken than would be the case if the Labor Department is left as it now is.

So it was contemplated at that time that the contingency would arise in the development of the labor of the country when and where a separate department ought to be established.

Mr. WILSON of Pennsylvania. That seems to be the judgment of the committee that reported the bill at that time, and of the gentleman from Illinois [Mr. MANN], who wrote the report. My judgment is that the time has now come when there should be a separate department of labor, and when there should be a representative of the great labor interests of the country in the President's Cabinet.

Mr. KINDRED. Will the gentleman yield?

Mr. WILSON of Pennsylvania. I will yield to the gentleman from New York.

Mr. KINDRED. I have followed the gentleman's remarks with interest. Do I understand from what he has said that it is quite clear there is no provision in this bill which compels arbitration in labor disputes through statutory agencies and agencies of the courts?

Mr. WILSON of Pennsylvania. There is nothing in this bill that provides for arbitration in any form in labor disputes, except in so far as the Secretary of the department, or the conciliators selected by him, may be able to bring parties to an agreement to submit their dispute to arbitration.

Mr. KINDRED. Which is entirely voluntary.

Mr. WILSON of Pennsylvania. Which is entirely voluntary.

Mr. KINDRED. May I ask the gentleman one more question? To what extent will this bill increase the expense to the Government for carrying out the purposes similar to those which are now being carried out by other departments of the Government?

Mr. WILSON of Pennsylvania. The increased expenditure I have not figured up.

Mr. SULZER. It will be very little more.

Mr. WILSON of Pennsylvania. It provides for a Secretary at $12,000 a year.

Mr. SULZER. And three assistant secretaries and a solicitor.

Mr. KINDRED. The idea is that a great deal more will be accomplished in this direction at a very little more expense.

Mr. SULZER. That is true.

Mr. ESCH. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. ESCH. I notice this bill if enacted would provide machinery for conciliation in labor disputes looking to industrial peace. I would like to know whether this would be supplemental to the Erdman Act in case of railroad disputes, or would it supplant that act?

Mr. WILSON of Pennsylvania. The Erdman Act would still remain in existence, and the powers that are conferred on the Commissioner of Labor relative to the Erdman Act are still retained by the Commissioner of Labor. All of the powers and duties that are now held by the Commissioner of Labor are transferred to the commissioner of labor statistics, which is made a part of the department of labor.

Mr. ESCH. But the Commissioner of Labor under the Erdman Act is only one of the conciliators, the other being the chairman of the Interstate Commerce Commission.

Mr. WILSON of Pennsylvania. Yes; and this bill does not affect that part of it whatever. This bill does not change the Erdman Act. It does not remove any of the powers that are conferred by the Erdman Act. On the contrary, it still retains in the hands of the commissioner of labor statistics the power now held by the Commissioner of Labor.

Mr. ESCH. And would it be possible under this act to have a proceeding under the secretary of labor in a labor dispute occurring on interstate carriers that would be outside of the Erdman Act?

Mr. WILSON of Pennsylvania. That would be possible.

Mr. ESCH. Might not that lead to some conflict?

Mr. WILSON of Pennsylvania. I think not.

Mr. ESCH. The Erdman Act, as the gentleman well knows, worked very successfully.

Mr. WILSON of Pennsylvania. That is true. It has worked very satisfactorily so far, and undoubtedly will continue to work satisfactorily as long as it is in the hands of men who understand how to administer it. It is a great deal a matter of administration, and the success of the provisions of this bill will in a great measure depend upon the administration. There is no question of that in my mind, but it does not seem to me that there is any conflict whatsoever between the provisions of this act and the provisions of the Erdman Act, and the committee, for the purpose of preserving the Erdman Act intact, so that there will be no interference with it whatever, was careful to retain in the hands of the commissioner of labor statistics the power that now rests in the hands of the Commissioner of Labor.

Mr. ESCH. That would be true if the Commissioner of Labor was the sole conciliator under the Erdman Act, but he is not. He is only one of two. Does the bill preserve the power given, for instance, to the chairman of the Interstate Commerce Commission, admitting that the same power is reserved to the Commissioner of Labor?

Mr. WILSON of Pennsylvania. We do not disturb the power in the hands of the Interstate Commerce Commission. We do not disturb that power in any shape or form; but what we do is to transfer that part of the power which rests in the hands of the Commissioner of Labor to the hands of the commissioner of labor statistics. We change the name of the Bureau of Labor to the bureau of labor statistics and change the title of the chief of that bureau to the commissioner of labor statistics. We transfer the powers now held by the Commissioner of Labor to the commissioner of labor statistics, and do not in any manner change the powers conferred by the Erdman Act.

Mr. ESCH. Will it not be necessary to amend the Erdman Act by changing the title of the Commissioner of Labor?

Mr. WILSON of Pennsylvania. No; this does that.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. WILSON of Pennsylvania. Yes.

Mr. HOBSON. Mr. Chairman, I am in complete accord with the gentleman's ideas and give my hearty support to this measure, but I am anxious to find out just how far this authority extends in connection with conciliation, whether there is the essence of compulsory arbitration. To make a concrete case, suppose that neither the employer nor the employee requested mediation on behalf of the proposed secretary of labor? Would there be any authority under this act for him to intervene in the interest of the public?

Mr. WILSON of Pennsylvania. There would be authority for him just the same as if either one or both had asked for his interference. The power, however, itself is limited. Even though neither party may ask for his interference, it is his duty and right under this bill to act as a mediator, or, in other words, to go to the contending parties and endeavor to bring them together. Having used all his influence and powers in that direction then his power ends. He has no power to compel either side to accept any decision arrived at by him or to compel them to enter into arbitration to settle these disputes.

I may say to the gentleman that if this bill contained any element of compulsory arbitration or anything which, in my judgment, led to compulsory arbitration I would be opposed to it myself. I am opposed to compulsory arbitration.

Mr. COOPER. May I ask the gentleman a question?

Mr. WILSON of Pennsylvania. I yield to the gentleman.

Mr. COOPER. Have not we had in actual practice an illustration of what would be the course of procedure if this bill be enacted into law? I refer to what took place during the great anthracite coal strike and the ensuing trouble when delegations from various parts of the country came to this city and insisted that there was not coal enough in many parts of the Nation to supply the people's needs, and that the Government must take action or the people would resort to force. Thereupon President Roosevelt intervened and appointed a board without any power whatever to render a judgment, but simply authorized by him to hear both sides and make what the board might think would be equitable suggestions, and to do what it could to bring about an amicable adjustment of the difficulty.

Mr. WILSON of Pennsylvania. That was an instance in which the influence of the President of the United States was used for the purpose of getting both parties to the controversy to agree to submit their contentions to a commission, and they further agreed to abide by the decisions of that commission.

Mr. COOPER. It was voluntary on their part, not compulsory at all.

Mr. WILSON of Pennsylvania. It was voluntary on their part. There are from time to time examples in the work under the Erdman Act that practically operates in the same way. It is the means by which the influence of public sentiment may be centered through the secretary of labor for the purpose of bringing the contending parties together.

Mr. TRIBBLE. May I ask the gentleman a question?

Mr. WILSON of Pennsylvania. I yield to the gentleman.

Mr. TRIBBLE. The Department of Commerce and Labor has such authority and power. What is the reason you can not enlarge upon the power of the department of labor and avoid the establishment of another department and save the expense of the department which you propose?

Mr. WILSON of Pennsylvania. The principal reason is this: That the Department of Commerce and Labor as constituted at the present time would undoubtedly attract the attention of the head of that department to the subject of commerce to the exclusion of the question of labor, and that the head of the department, having his attention focused upon commerce, when he comes to the counsels of the President there is where his sympathies would be and there is where his information would lie, whereas if you have a department of labor, the head of which has his attention centered exclusively upon great labor problems, then when he goes into the President's Cabinet he goes in with the influences surrounding him, with the information in his possession relative to that, and it makes a great difference in his counsels with the President.

Mr. TRIBBLE. Well, if you provide by law what the department should do and hold it down to the rules that should govern that department, I do not see why that would not be sufficient.

Mr. WILSON of Pennsylvania. There is no way in which you can enact by law any method that will guide a man's sentiments except to surround him with a work that will guide his sentiments.

Mr. TRIBBLE. You can put that work on the Commerce and Labor Department.

Mr. MANN. Will the gentleman yield for a question?

Mr. WILSON of Pennsylvania. I yield to the gentleman.

Mr. MANN. Is the gentleman familiar with the so-called Lee bill?

Mr. WILSON of Pennsylvania. I have read the bill, but I have not given it close study.

Mr. MANN. The Lee bill is reported and is on the Calendar of the House. It proposes to revise the Erdman law and proposes to authorize the appointment of a commissioner of mediation and conciliation and a board of mediation and conciliation. If this bill is passed, would there be any necessity to pass that bill, or if that bill should pass would there be any necessity to pass this bill?

Mr. WILSON of Pennsylvania. In my judgment, if this bill is passed, the scope of conciliation and mediation would be as wide as the country itself, and consequently any other measure dealing solely with conciliation and mediation would not be necessary.

Mr. MANN. Now, may I ask the gentleman further? The Erdman Act refers to labor disputes upon railroads—transpor-

tation companies—and authorizes the Commissioner of Labor, members of the Interstate Commerce Commission or Commerce Court to be authorized to act as mediators. That applies only to railroad labor, to railroad disputes.

Mr. WILSON of Pennsylvania. Yes.

Mr. MANN. The Lee bill proposes to revise that and proposes to make it applicable to railroad labor and labor engaged in coal mining, where the coal enters into interstate commerce.

Mr. WILSON of Pennsylvania. Yes.

Mr. MANN. Now, this bill, as I understand it, proposes to make no limitation of labor disputes in which interstate commerce is not involved——

Mr. WILSON of Pennsylvania. There is no dividing line in this bill.

Mr. MANN. In other words, under this bill if there is a strike or a threatened strike between the owners of a local street car company and street car employees wholly within the limits not only of the State, but municipality, the Secretary of Labor is authorized to interfere.

Mr. WILSON of Pennsylvania. He is authorized to act as mediator or appoint commissioners of conciliation if, in his judgment, it is wise or necessary.

Mr. MANN. I know the gentleman has not a very high opinion of those gentlemen in the House who ask what constitutional authority there is for these things.

A MEMBER. Yes; he has.

Mr. MANN. The gentleman said yesterday he did not have, and said it very plainly. I would be glad to ask the gentleman's opinion how far the General Government should go in connection with the manufacturing industries into those industries which are purely local and which involve in no way whatever interstate and foreign commerce?

Mr. WILSON of Pennsylvania. If this bill gave to the Secretary of Labor the power to interfere in any manner so as to compel the acceptance of his opinions or his views by any employer or employee engaged purely in local work, I would not be in favor of it, because of the fact that under those circumstances the power would belong purely to the States. But this does not give to the Secretary any power to say to any man engaged in any kind of work, either interstate or otherwise, that "you must accept these things; you must accept this condition; you must arbitrate; you must settle your dispute." In fact, it only gives him the power to act in a friendly way to bring the parties together. And I know nothing in the Constitution that would prevent any officer of the Government using his friendly offices toward bringing contending parties together in that manner.

Mr. MANN. If the gentleman will permit, I think he and I will agree that the subject of compulsory arbitration is impracticable. Does the gentleman remember the Townsend bill——

Mr. WILSON of Pennsylvania. I do.

Mr. MANN (continuing). Which I think the gentleman was not in favor of?

Mr. WILSON of Pennsylvania. I opposed the attempt to bring it up for consideration.

Mr. MANN. It did not go as far as this case.

Mr. WILSON of Pennsylvania. It went a little further in some respects.

Mr. MANN. No. The Townsend bill attempted to confine itself to disputes which might involve interstate commerce and only authorized the collection of information in making recommendations.

Mr. WILSON of Pennsylvania. Yes.

Mr. MANN. This would authorize the Secretary to appoint a board of conciliation in a labor dispute of any kind anywhere. Of course, neither one can put their recommendation——

Mr. WILSON of Pennsylvania. This does not provide for making any recommendations of any kind whatever.

Mr. MANN. It does not provide you shall make a recommendation, but, of course, it contemplates making recommendations and permits making recommendations. What else is it for unless it is to make recommendations? How can you get men together unless you recommend something to them? Now, does not the gentleman believe——

Mr. WILSON of Pennsylvania. There is a great deal of difference, if the gentleman will permit, in making recommendations to the parties to the dispute and making recommendations to the public at large relative to how the dispute should be settled. They are entirely different propositions.

Mr. MANN. Does not the gentleman believe it is inevitable that if this provision goes into the law authorizing the Secretary to appoint commissioners of conciliation in labor disputes, that he must then enlarge or extend the law so that those commissioners shall have authority to take evidence?

Mr. WILSON of Pennsylvania. No.

Mr. MANN. I do not know what they will do. If they have not any authority to take evidence, swear witnesses, and take testimony, what else can they do?

Mr. WILSON of Pennsylvania. There is an immense field for them to work in, the one I mentioned when I began my remarks on this subject, and that is the field of getting the two parties to a dispute together before they have reached that point where they are at each other's throat; before they have reached the point, as I said before, where the employer looks upon the employee as an anarchist and a lawbreaker, and the employee looks upon the employer as a bloodthirsty tyrant and oppressor of labor.

If you can get them together before they reach that point, then you can accomplish some good. If you can not get them together before they reach that point, the contention will go on until one or the other of the parties will be exhausted.

Mr. HARDY. Will the gentleman permit an interruption? It is right at that point, it seems to me, that the wisdom of the provision preventing a strike or a lockout for a reasonable time and until after this effort to get together had failed might well be worthy of consideration.

Mr. WILSON of Pennsylvania. I may say to the gentleman I am unalterably opposed to any act of that kind that will restrain workingmen from ceasing their employment whenever in their judgment it is advisable to do so.

Mr. HARDY. Just one moment. It was to that part of the gentleman's former remarks that I wished to make one suggestion. I do not believe we ought to undertake by law to interfere and force the individual to remain at work.

But let us suppose there is an organization that proposes to call a strike and force the individuals to quit work, or, on the other hand, an employers' organization that would want to make a lockout, to close everything; not that the individual laborer should be compelled to work for 1 day, 2 days, or 10 days, but the Canadian system provides that, as an organization, there should be no strike called until after the effort at mediation has been made, not interfering with the individual liberty of the single citizen; but something should be done that would be an effective effort to compose differences, and the question with me is whether your bill will have the effect you intend—that is, to conciliate—if the parties begin by ordering a lockout or a strike and get into the very condition of irritation that you speak of before the effort at conciliation is made.

Mr. WILSON of Pennsylvania. Whether it is right to call a strike, for the rank and file to order a strike, or not is a matter for the workingmen themselves to determine. As to their right to do so I would be opposed to the passage of any measure that would interfere with their rights.

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has about six minutes remaining.

Mr. WILSON of Pennsylvania. I reserve the balance of my time.

Mr. SULZER. Mr. Chairman, this bill introduced by me provides for the creation of a department of labor, with a secretary of labor, who shall be a member of the President's Cabinet; three assistant secretaries; a solicitor of the Department of Justice for the department of labor; a chief clerk; a disbursing clerk; and such other clerks, inspectors, and special agents as may be provided for by Congress. It transfers the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration, the Immigration Service at large, the Bureau of Labor, and the Commissioner of Labor from the Department of Commerce to the new department of labor. It changes the title of the Bureau of Labor to the bureau of labor statistics and the Commissioner of Labor to the commissioner of labor statistics, and transfers the duties of the Commissioner of Labor to the commissioner of labor statistics, including those imposed by the Erdman Act.

It further authorizes the collection and publication of statistics relative to the condition of labor and the products and distribution of the products of the same, and directs the secretary of labor to call upon other departments of the Government for such statistical data as they may have which would be valuable for that purpose. It authorizes the secretary of labor to act as mediator and to appoint commissioners of conciliation in labor disputes, thereby lending the influence of the Government toward commercial concord and industrial peace. It directs the secretary of labor to investigate and report to Congress a plan of coordination of the activities of his office with the activities of the present bureaus, commissioners, and departments in order to harmonize and unify such activities, with a

view to additional legislation to further define the duties and powers of the department of labor.

It is a matter of much congratulation to all concerned that this bill is now before the House of Representatives for its consideration. For a long time I have been advocating this measure. It has been pending in Congress for the past 10 years, but never before were the advocates of the bill able to get a favorable report from the committee.

However, the Democrats in this Congress have done their duty to the people, and this bill now comes before the House with a favorable report from the Committee on Labor.

The measure, in my opinion, rises above party lines and superior to partisan considerations to the high plane of pure patriotism. This bill is constructive legislation essentially demanded by the country. Labor is entitled to justice, to consideration, and to recognition. It has recognition in the legislative and the judicial branches of the Government, and it is entitled, in my opinion, to recognition in the executive branch of the Government. I know of no measure before Congress to-day that will be more beneficial to the people and more far-reaching in its practical results, as the years come and go, than this bill of mine to create a department of labor.

This bill to create a department of labor is a meritorious measure, and it should meet with the favorable consideration of the membership of this House regardless of party affiliations or partisan considerations. It is the first attempt ever made to systematically classify labor in an intelligent way, and its enactment into law will evidence a disposition on the part of the Government to see to it that labor gets full recognition, the dignity of having a voice in the councils of state, and the opportunity to have its claims dispassionately discussed. Give labor this boon and the labor question will be reduced to the minimum.

The expense of the maintenance of the department of labor will be practically but little more than that of the maintenance of the various bureaus at the present time. These bureaus will all be in the department of labor. I do not think anyone will take exception to the bill on the ground that it is going to increase the expenses of the Government. A little additional expense in a matter of so much public moment as this will be of small consequence to the taxpayers of this country.

I believe that if this bill were on the statute books to-day it would be a long step toward better social, economic, and commercial conditions; a progressive advance along the avenues of industrial peace; that it will go far to allay jealousy, establish harmony, promote the general welfare, make the employer and the employee better friends; prevent strikes, lockouts, blacklists, boycotts, and business paralysis; and every year save millions and millions of dollars of losses which necessarily result therefrom.

If you will look at the statistics you will be startled to realize the tremendous loss to the people of the country entailed by every strike, be the same big or little. Capital as well as labor favors this new department. During the entire time that the bill has been pending before Congress, a period of 10 years, I have never known of a single agency that opposed this bill or sent an objection to Congress against its enactment.

I speak advisedly when I say that capital as well as labor favors this bill, because they both realize that it will go far to solve what is called "the labor problem" and bring about industrial peace; and any agency that will do that is a boon that should be welcomed by every intelligent citizen and every patriotic legislator.

For years this legislation has been advocated by the wage earners of the country. The bill meets with their approbation, and has the approval of the best thought in the land. It has been indorsed by the ablest thinkers in America; by some of the wisest political economists; by professors in our universities; and by the leading newspapers of the country. The time is therefore ripe, it seems to me, for the creation of this department of labor, with a secretary having a seat in the Cabinet, with all the rights and all the powers conferred by this bill.

Many of you remember that when the measure was before Congress to create the Department of Commerce, this bill, substantially as it is before the House now, was offered as a substitute, and was only lost by a very few votes, as the records of that day will show. There was a demand at that time for the creation of a department of labor in preference to the creation of a department of commerce. That demand has grown more insistent every year since. Looking back over the intervening time, I stand here and say that, in my judgment, the creation of the Department of Commerce was wise legislation, but we would have been wiser in that day if we had also created, as a companion department to the Department of Commerce, this department of labor.

The department of labor was not then created. I am not here to find fault with what was then done, but from that day to this I have been voicing through this bill the demand of the industrial workers of America to give them the same recognition in the executive branch of the Government that we then gave to commerce. They are entitled to it, they ought to have it, and no man who realizes that all that we are, and all that we hope to be, is the result of the creative force of labor, in my judgment will object to the enactment of this bill now; and I indulge the hope, and I speak for 20,000,000 honest toilers in America, when I say that this bill will be a law before this session of Congress adjourns.

I am not in sympathy with those who say it may put a little patronage in the hands of the President. I care nothing about that now, nor have I for the past 10 years. That phase of the question dwindles into insignificance when we consider the beneficent results of putting upon the statute books of our country a great constructive act which will do substantial justice to the people who create all the wealth and go far to inaugurate a long reign of industrial peace.

It seems to me the time is now propitious for the creation of this department of labor. It will bring labor and capital closer together, and one is dependent on the other. They should be friends, not enemies, and walk hand in hand along the paths of mutual prosperity.

If this bill becomes a law, it will go far to prevent serious labor troubles in the future. It will do much to solve existing labor problems, and every friend of industrial peace should aid in its enactment. The employers of labor, as well as the employees themselves, whether they belong to trade-unions or not, are all, so far as I have been able to ascertain—and I am well advised—in accord with the principles of this progressive legislation and heartily approve of this constructive bill.

I am a friend of the toilers, and I shall continue to fight for their just rights and for the enactment of this bill until it becomes a law. It is just and right, and sooner or later it must be the law of this country.

I am not provincial. I stand for the rights of man. I believe in justice to all. I am opposed to special privilege. If I am anything, I am an individualist, and I believe in keeping open the door of opportunity for every individual in all this broad land. That is my democracy, and it is true democracy; and I use the word "democracy" not in its political but in its generic sense. Let us be just to all is a fundamental principle of genuine democracy.

There is nothing narrow minded about me. I am no demagogue. I believe in fair play to all. I am opposed to anything that will estrange employer and employee, or cause a breach between capital and labor, and I am a friend of both. I want to give all an equal chance. I want to do all I can while I live to make the world better and happier and more prosperous.

I believe in the dignity of the toiler, the greatness of labor, and I want to do everything I can in Congress and out of Congress to protect its inherent rights and promote its general welfare for the lasting benefit of all the people. I want labor to have as much standing as capital in the Halls of Congress and at the seat of government. We have a department to represent finance; we have a department to represent war; we have a department to represent diplomacy; we have a department to represent our internal affairs; we have a department to represent commerce; we have a department to represent justice—all supported by the wage earners—and in the name of common sense why should we not have a department to represent industrial peace as exemplified by labor, the most important in its last analysis of them all?

The creation of this department of labor will be a long step in the right direction in the commendable movement for industrial peace; and through its agency, in my judgment, the perplexing problems of labor and capital can be quickly solved in a way that will do substantial justice to all concerned.

In my opinion, all labor wants is a fair show, an equal chance, and a square deal—in Congress and out of Congress. Labor is indefatigable and unselfish, sympathetic and consistent. It does not ask for more than its just rights. We hear much about equality before the law. That is all labor wants. It seeks no special privileges and wants none.

Labor makes no war on vested rights. It does not rail at honestly acquired wealth. It is not antagonistic to legitimate capital. It would close no door to opportunity. It would darken no star of hope. It would not palsy initiation. It would strike no blow to paralyze ambition. Its motto is onward with hope; forward without fear. It stands for the rights of man; for the greatness of the individual; for equality before the law; for concord and peace; for equal rights to all and special privileges to none. Capital and labor must be friends, not

enemies. They should act in harmony, not antipathy. Their interests should be mutual, not antagonistic. In our complex civilization each is essential to the other, and they should walk hand in hand. To prosper they must be at peace, not at war. Each is necessary to the other. Both have their rights and both have their limitations. The inherent rights of labor, to say the least, are as sacred as the vested rights of capital.

Labor makes capital, creates all wealth, and should have equal opportunities and as much consideration, but the trouble seems to be that labor does not receive a fair share of what it produces. It is the duty of the just and sagacious legislator, in the interest of our civilization, to see to it that there is less centralization of wealth and a more equitable distribution of the fruits of toil.

Labor should be represented in every branch of the Government. Labor is not of to-day, or of yesterday, or of to-morrow. It is eternal. Dynasties come and go, governments rise and fall, centuries succeed centuries, but labor creates and goes on forever. Labor is the law of life.

No man, in my opinion, can pay too high a tribute to "labor." It is the creative force of the world, the genius of the brawn of man; the spirit of all progress, and the milestones marking the forward movement of every age. Civilization owes everything to labor—to the constructive toiler of the world. Labor owes very little to civilization. Mother Earth is labor's best friend. From her forests and her fields, from her rocks and her rivers, the toiler has wrought all and brought forth the wonders of mankind.

Tear down your temples and labor will rebuild them; close every avenue of trade and labor will reopen them; destroy your towns and labor will replace them greater and grander than they were; but destroy labor, and famine will stalk the land, and pestilence will decimate the human race. If every laborer in the world should cease work for six months, it would cause the greatest catastrophe that ever befell humanity—a tragedy to the human race impossible to depict and too frightful to contemplate.

I stand now where I always have stood, and where I always will stand—for the rights of the toilers, for justice to the workingmen of our country, whose labor creates all wealth—and I will continue in the future, as I have in the past, to do all in my power to advance their prosperity and to promote their material welfare.

Capital must recognize the rights of labor. Capital should be just. Labor has as much right to organize as capital. The right of a man to labor is inalienable, and the right of a man to quit work is just as undeniable. Neither capital nor labor has the right to take the law in its own hands. If capital does wrong that is no reason why labor should do wrong. Two wrongs never did and never will make a right. In a government such as ours, the reign of law will not give way to the reign of force.

The best advice that the most ardent sympathizer can give labor, organized or otherwise, in its struggle for its just rights, for better conditions, for greater progress, and for a more equitable distibution of its fruits, is obey the law. Labor's only hope is here. The law is the shield of the toiler—the sheet anchor of the wage earner. This is a land of liberty, but it is now, ever was, and always will be, liberty under law.

My friends, that is substantially all now that I want to say. I am familiar with the provisions of this bill. There is nothing in this bill to which legitimate exception can be taken. This bill has been carefuly considered by those who are in charge of the legislation. It has been carefully considered by officials of the Government. It is unanimously reported, and, so far as I know, there is not a single objection to it. I hope it will pass the House as unanimously as it comes to the House from the committee, and in order that this bill may pass the House to-day before we adjourn I now ask unanimous consent that all debate on this bill close at 3 o'clock p. m.

Mr. MOORE of Pennsylvania. Will the gentleman yield now?

Mr. MANN. Notwithstanding the generosity of the gentleman from New York, who has just finished a long speech, I think I shall have to object.

Mr. SULZER. Will the gentleman from Illinois now agree to fix a time to take a vote?

Mr. MANN. Debate may not run as long as 3 o'clock.

Mr. SULZER. Very well, Mr. Chairman, I will take the matter up later with the gentleman from Illinois. I will now be glad to answer the questions of the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Has the gentleman withdrawn his request for unanimous consent?

Mr. SULZER. The gentleman from Illinois objected.

Mr. MOORE of Pennsylvania. Mr. Chairman, the gentleman from New York [Mr. SULZER] has paid an eloquent tribute to labor. I think that will be admitted on both sides of the House, but the gentleman has not addressed himself very carefully to the details of the bill. That is what I want to ask him about. Some of us had not seen the bill before to-day, and it is only fair that we should have a better understanding with regard to it before we come to a vote. Labor, as the gentleman said, is the creator of all wealth. There can be no dispute about that. Labor has been knocking at the door of Congress for more than a hundred years for recognition at the Cabinet table. There is no dispute about that. Labor did not get that full recognition which it asked for when the Department of Commerce and Labor was created. There can be no dispute about that. But I think the gentleman will agree with me that if the time has come, as the gentleman from Pennsylvania [Mr. WILSON] indicates in his speech it has, when we should separate commerce from labor and create a separate department of labor, we should do it right. I think the gentleman from New York will agree to that.

Mr. SULZER. This bill does that, I will say to my friend.

Mr. MOORE of Pennsylvania. Then I want to ask the gentleman about the bill. Assuming that we want to do what is right in creating this department of labor, let me ask the gentleman if the purpose of the act is anywhere stated in the bill?

Mr. SULZER. It is.

Mr. MOORE of Pennsylvania. Where?

Mr. SULZER. Mr. Chairman, if the gentleman will read the bill, he will find its purposes stated in every section of the bill.

Mr. MOORE of Pennsylvania. I think the gentleman will find that in the bill creating the Department of Agriculture it is provided that the purpose of the department is to promote agriculture. I think in the bill creating the Department of Commerce and Labor the gentleman will find that the purpose of the act is set out to be to foster, promote, and develop commerce and industry.

Mr. SULZER. If the gentleman will read this bill, he will find that it substantially follows all other acts for the creation of departments, and its purpose, as set forth in almost every provision of the bill, is to recognize the rights of labor and promote industrial peace.

Mr. MOORE of Pennsylvania. No; the bill differs essentially from all other bills creating departments in this: One of the first paragraphs provides not only for the creation of a secretary at $12,000 per annum, but for the creation of three assistant secretaries at $5,000 each per annum, whose duties are not defined, except to "supervise" certain information. That is an unusual condition that does not prevail in any other organic law creating a department of which I have knowledge.

Mr. SULZER. The gentleman, I think, is in error about that. At all events, he is too technical. If he will compare this bill with the other acts, he will find that this bill substantially follows the other acts creating the departments.

Mr. MOORE of Pennsylvania. Section 1 of this act simply provides for the creation of an executive department, which shall have a secretary at $12,000 a year. The duties of that secretary are not set forth. Is he to sit there merely as an ornament, as a compliment to labor?

Mr. SULZER. The gentleman is inclined to be supercritical.

Mr. MOORE of Pennsylvania. Not at all.

Mr. SULZER. And his reasoning is very far-fetched. He could say the same about the acts now upon the statute books creating every other department of the Government.

Mr. MOORE of Pennsylvania. No; the duties of those secretaries are defined.

Mr. SULZER. And so they are, as well as they can be, in this bill. Let us not split hairs.

Mr. MOORE of Pennsylvania. Does the gentleman know of any organic act which provides, as section 2 of this act does, for the creation of a first assistant secretary and a second assistant and a third assistant secretary?

Mr. SULZER. Yes.

Mr. MOORE of Pennsylvania. What act?

Mr. SULZER. I think you will find that in the acts creating several departments.

Mr. MOORE of Pennsylvania. Oh, I think there is no provision for the creation of three assistant secretaries. My point is this: If we are to do this thing right in the interest of the common laborer of the land, the man for whom we ought to legislate, the real creator of the wealth of the country, would it not be better to show good faith in this bill, and rather than create expensive offices for those who may be lead-

ers of thought rather than leaders of action, had we not better tell the workingman himself that we are creating this department for his advantage and benefit and that the purpose of it is to foster, promote, and develop and encourage the interests of labor? Do we say that?

Mr. SULZER. Mr. Chairman, in reply let me say to the gentleman that if he is sincere, and I doubt not that he is——

Mr. MOORE of Pennsylvania. I am absolutely sincere in my desire to promote the interests of labor.

Mr. SULZER. Very well. Then he should be willing to take the judgment, so far as this measure is concerned, of the labor leaders of America; and every one of them is in favor of this bill just as it comes from the committee.

Mr. MOORE of Pennsylvania. Is it not true that there is no directive labor clause in this bill, save one which is in section 9, providing for conciliation and mediation, which the gentleman from Pennsylvania [Mr. WILSON] has explained goes no further than to tell this gentleman who sits as secretary over this department that he may bring people together in a friendly way and leave it there, no power, no authority, just to sit there and tell them to get together and do the best they can and leave them to themselves.

Mr. SULZER. My friend, it seems to me, fails to realize that the powers of these various bureaus which will go into this department of labor are all set forth in the various laws creating them. It is not necessary to restate them in this bill.

Mr. MOORE of Pennsylvania. I call to the attention of the gentleman the fact that the purpose is not defined in this bill, and as one who desires to see something substantial accomplished I think it should be set forth, and in good faith.

Mr. SULZER. Mr. Chairman, the bill is not subject to that criticism. I reserve the balance of my time.

Mr. HILL. Mr. Chairman, I represent a district with many labor-union organizations in it. I am for this legislation. I am for it emphatically, and I am for it because I believe it is essential to the welfare of all the working people in Connecticut. I presume this legislation comes under the range of legislation referred to in the letter written by the gentleman from Alabama [Mr. UNDERWOOD] to the new Democratic candidate for the Presidency, in which he states as follows:

As floor leader of the party in the House of Representatives, I wish to say to you that our action between now and the time of adjournment may affect the campaign, and I hope you will not hesitate to advise me freely as to any matters transpiring in Washington which you may consider essential for the good of the cause. With kindest regards,

I am, very truly, yours,

OSCAR UNDERWOOD.

Mr. Chairman, I had supposed that the Senate and House of Representatives were legislating for the people of the United States and not in the interest of any political campaign. I am for this bill for the general good of the United States, and I was exceedingly glad this morning to read in the paper where I saw Mr. Gompers and Mr. Morrison and a number of other gentlemen were at Seagirt consulting with the candidate for the Presidency on the Democratic ticket, and I sincerely hope that they asked him to explain some remarks made by him on this great subject in 1909 in a baccalaureate sermon delivered at Princeton University, contained in the Trenton True American, June 14, 1909. It was delivered on Sunday, the day preceding. The text was from the seventeenth chapter of Luke, tenth verse, which, he says, reads as follows:

We are unprofitable servants. We have not done that which was our duty to do.

Dr. Wilson treated that subject in this way:

You know what the usual standard of the employee is in our day. It is to give as little as he may for his wages. Labor is standardized by the trades-union, and this is the standard to which it is made to conform. No one is suffered to do more than the average workman can do. In some trades and handicrafts no one is suffered to do more than the least skillful of his fellows can do within the hours allotted to a day's labor, and no one may work out of hours at all or volunteer anything beyond the minimum.

And, gentlemen on the other side, this is your candidate for the Presidency.

I need not point out how economically disastrous such a regulation of labor is—

Let me inject: Last night I rose in my place and asked unanimous consent to publish a tariff address of Dr. Wilson, delivered before a tariff commission holding a public hearing for that purpose, held in Atlanta, Ga., in which he aimed to give the official authorities of the United States his views on the tariff. To be sure, that was 30 years old; but he has not changed them since, for he said only a few days ago, or a few weeks ago, in New York that the whole Republican position and platform was "ignorant and preposterous." He appeared in Atlanta as a free trader, and, in my judgment, he is a free trader to-day, and yet a Democrat refused to allow me to publish the remarks of his own candidate for the Presidency on the tariff question. I am giving you now not an opinion 30 years old, but I am giving you a baccalaureate sermon delivered in Princeton three years ago, and it is directly pertinent to this bill.

I need not point out how economically disastrous such a regulation of labor is.

I commend that to my friend from Pennsylvania [Mr. WILSON] and to my friend from Illinois [Mr. BUCHANAN].

It is so unprofitable to the employer that in some trades it will presently not be worth his while to attempt anything at all. He had better stop altogether than operate at an inevitable and invariable loss. The labor of America is rapidly becoming unprofitable under its present regulation by those who have determined to reduce it to a minimum.

Now, I do not believe that, gentlemen. I do not believe my friend from Illinois [Mr. BUCHANAN] or my friend from Pennsylvania [Mr. WILSON] are "unprofitable servants" in this country. I know that the men who live in my district, and who are honest, straightforward workingmen, members of labor unions, are as reputable, as high-toned, as responsible, as industrious, and as faithful as any citizen [applause on the Republican side] in it, whether they be lawyers, doctors, presidents of universities, or men working as "unprofitable servants," as he designates, simply because they belong to a trade-union.

Mr. MOORE of Pennsylvania. Do you believe that Mr. Gompers believes that?

Mr. HILL. No; I do not. And I think it was high time for him as a Democrat to go to Seagirt yesterday and try to reach a working compromise with the candidate of his party.

Let me close this up.

Our economic supremacy may be lost because the country grows more and more full of unprofitable servants.

I am for this bill. I am for doing everything and anything in the way of lifting up, if it needs it, and ennobling labor.

Why, gentlemen, you men from the South do not understand the situation of labor. You are living in the traditions of slavery. Go into the town in which I live, and you will find a working town of working people. We all work. Go to the church which I attend. But for the working people there would be no church there. It is they who contribute, it is they who pay the bills. They are the people that we associate with, one with another, never raising the distinction as to whether a man works or not. You do not live in that kind of a society. But you start your platform with the fundamental doctrine that it is wrong to do anything to encourage such conditions. Let me give it to you. I want you to understand the first plank of your platform in this campaign. It reads as follows:

We declare it to be a fundamental principle of the Democratic Party that the Federal Government under the Constitution has no right or power to impose or collect tariff taxes except for the purposes of revenue.

Where did you get it from? I hold in my hand a little campaign textbook that I prepared for last year. I will tell you where you got it from—that is, where you got it from the last time.

Mr. FOCHT. That was originally in the Confederate Constitution, was it not?

Mr. HILL. That was the last time. The Constitution of the Confederate States of America, 1861, Article I, just as it is Article I of your platform, section 6, says:

The Congress shall have the power to lay and collect taxes, duties, imposts, and excises for revenues necessary to pay the debts, provide for the common defense, and carry on the government of the Confederate States, but no bounties shall be granted from the Treasury nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry, and all duties, imposts, and excises shall be uniform throughout the Confederate States.

Now, does your candidate agree to that? No. You have got it in your platform. He did years and years ago, but in reading one of his books this morning I found another expression of opinion, and it is not 30 years old either. It is a new book, splendidly written, as all his works are. Here is what he says about the fundamental theory of the tariff, on page 175 of Woodrow Wilson's "Constitutional Government in the United States: A series of lectures delivered to the students of Columbia University in 1908." He will have to compromise his views. He has intellectual versatility unequaled by any man of whom I know. I should perhaps call it intellectual elasticity. I like to see a man with mental elasticity that will enable him to change his views within two or three years two or three times.

But here is what he says about this first plank of the Democratic platform, on page 175:

The opponents of the tariff of 1824 objected to the tariff system which Congress was so rapidly building up that it went much beyond the simple and quite legitimate object of providing the Federal Government with revenue.

So that if you gentlemen on the other side want to find arguments in behalf of the first plank of your platform go back to John C. Calhoun. If you want to find arguments in opposition to them, go back to Andrew Jackson, because he refused to allow his legislation and his taxation system to be nullified. You have got this whole thing in extenso away back from the beginning of the Government. This first plank lies at the very fundamentals of State rights—that the Government has no right to lay a tax for the encouragement of industry. It can only lay it for the purpose of raising revenue.

Now, here is what Mr. Wilson says——

Mr. MOORE of Pennsylvania. When?

Mr. HILL. Four years ago. He says:

The opponents of the tariff of 1824 objected to the tariff system which Congress was rapidly building up—that it went much beyond the legitimate and constitutional object of providing the Federal Government with revenue in such a way as to stimulate without too much disturbing the natural development of the industries of the country and was unmistakably intended—

Of course it was—

to guide and determine the whole trend of the Nation's economic evolution—

That is what your platform says we have no right to do in this country—

preferring the industries of one section of the country to those of another in its bestowal of protection and encouragement, and so depriving the States as self-governing communities of all free economic choice in the development of their resources.

In other words, the South said then, "We raise cotton. Because we raise cotton, you in Pennsylvania shall not be protected in your industries. Each State must settle that question for itself and the Government has no right to encourage any industry." And the Democratic Party to-day has harked back a hundred and twenty-five years in the first plank of its platform to the doctrine of John C. Calhoun and his predecessors. I read further:

Congress persisted—

Says Mr. Wilson—

in its course. Nullification failed, as even so much as an effectual protest against the power of a Government of which Gen. Jackson was at the head, never so sure he was right as when he was opposed, and a critical matter of lasting importance was decided—

Says Dr. Wilson—

was decided.

Let me read you the platform again. I will read some more of Dr. Wilson in a minute. I just want to read that platform so that you can see the pertinence of the doctor's suggestion.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. HILL. Not now. Pretty soon I will. I know that these are not the sentiments of the gentleman from Texas [Mr. GARNER]. I know these are not the sentiments of a large portion of the Democratic Party. But you will find also in Mr. Wilson's writings a statement to this effect, that "It is not possible to compound a successful constitutional government out of antagonisms." Now, I know you do not agree. I know that there were 47 of you that stood for a duty on wool, and that a majority of you stood against it, and that you did back down, and that you did compound legislation at least on antagonisms. You can not do it successfully. You have got to stand out for principle and not for compromise in fundamental governmental action. Let me read you from your own platform again. Mr. Wilson says it was decided—"a matter of lasting importance was decided"—and you have harked back to the old doctrine:

We declare it to be a fundamental principle of the Democratic Party that the Federal Government under the Constitution has no right or power to impose or collect tariff duties except for the purpose of revenue.

Andrew Jackson discarded the question of right, as he thought, and exercised the power, and "it was decided," as Gov. Wilson said, at this critical time. The Federal Government was conceded the power. You say that it has no power. He says:

The Federal Government was conceded the power to determine the economic opportunities of the States. It was suffered to become a general providence, to which each part of the country must look for its chance to make lucrative use of its material resources.

Mr. Chairman, I will go into that matter more fully at some other time. I will now make a part of my remarks the short address delivered by Prof. Woodrow Wilson before the Tariff Board in 1882, showing his views then on the question of the tariff and the distinct announcement of his position as a free trader, opposed to all tariffs except merely for the purpose of raising revenue.

I take it there will be no objection, Mr. Chairman, to my printing as a part of my remarks the short address of Prof. Woodrow Wilson, which I will not trouble the House to read now.

The CHAIRMAN. Does the gentleman ask unanimous consent?

Mr. HILL. I will do it now. It is very short, only three pages long.

The CHAIRMAN. The gentleman asks unanimous consent to extend his remarks by incorporating the address to which he refers. Is there objection?

There was no objection.

The matter referred to is as follows:

Mr. Woodrow Wilson, of Atlanta, said:

"It is not my purpose to represent or advocate any particular interest, but only to say a few words upon the general issues before you on the subject of protection or free trade. This question of the tariff is one which has been under consideration in Congress for ninety-odd years. Early in the century protection was introduced for the purpose of fostering new manufacture in this country. That system was continued down to the time of the war; but since the war it has been upheld professedly for the purpose of raising revenue, and to enable the Government to recover from the indebtedness caused by the war. Free trade, therefore, has been a slumbering question, but it will soon become one of the leading questions in all political discussions, because, now that peace has come, the people of the South will insist upon having the fruits of peace, and not being kept down under the burdens of war.

"As you have already been told, there is a great deal of ignorance and indifference in regard to these questions in the South. The people here have been content to let things remain as they were. Probably this has resulted from the fact that the tariff is an indirect way of placing taxes upon the people, and they do not feel the immediate effects of it. But when the farmers and others begin to investigate these matters, they soon discover that they are, after all, paying these duties for the benefit of a few manufacturing classes. When a farmer discovers that he can buy a jackknife of English manufacture for $1.30, while he has to pay $2 for a knife of American manufacture of the same quality, in order that the American manufacturer of cutlery may compete on equal terms with the British, then he feels that he has a personal interest in these subjects.

"In thinking of this matter of indirect taxation, I am reminded of one of the few playful passages which illumine the utterances of Mr. Gladstone. In introducing his 'budget' in 1861, he referred to direct and indirect taxation, and called them two sisters, the daughters of necessity and invention, one indeed more open and direct than the other, her sister more shy and insinuating; but he said that, as chancellor of the exchequer, he felt bound to pay his addresses to both. We have these two charming sisters in America, but they can not be said to be the daughters of necessity and invention; they are rather the daughters of invention and monopoly. The necessities of our Government are the necessities of the revenue; and it is well known that our Government is not embarrassed from any necessities of revenue; on the contrary, it has an immense surplus. It is undoubtedly a part of true wisdom that the taxes laid by the General Government should be indirect taxes. The province of direct taxation should be left to the States, and in order that the two systems may not clash and overburden the people, it is a part of wise policy that the National Government shall make the most of its taxation indirect.

"No man with his senses about him would recommend perfect freedom of trade in the sense that there should be no duties whatever laid on imports. The only thing that free traders contend for is, that there shall be only so much duty laid as will be necessary to defray the expenses of the Government, reduce the public debt, and leave a small surplus for accumulation. But that surplus should be so small that it will not lead to jobbery and corruption of the worst sort.

"We often hear the question asked by the advocates of protection whether it is a wise and consistent public policy for us to be dependent for supplies upon foreign governments. That was asked in reference to cotton ties. It was said that the cotton tie was manufactured almost wholly in England, and the question was put to the witness, 'Is it a part of wise policy that we should be dependent on England for our cotton ties?' In other words, we fear dependence on foreign manufacturers. Now, gentlemen, what does that mean? There is no danger in time of peace in being dependent on foreign manufacturers, because, if they raise their prices, the inevitable result will be

that Americans will go into the manufacture and undersell them, and their prices must come down again. Therefore we are in no danger in time of peace. So that the argument of the protectionist must be a war argument. Of course, if a war should occur between this country and Great Britain, it would be greatly to the disadvantage of our southern cotton balers to be dependent entirely on the English manufacturer for their cotton ties. So that the protectionist advocates a system which prepares for war, while it has not any consideration for the requirements of the country in time of peace. I ask, is it worth while during 50 years of peace to provide by taxation for one year of war? Is it wise and just to tax the people for a contingency so that millions may be accumulated in the Treasury from the tax on these cotton ties in order that war at some distant period, which no man sees, may be provided for? War will cost a great deal when it comes; let it not be costing us in the meantime.

"Another stronghold of the protectionists is the question of wages. They say, 'How can we compete with the foreigners when the remuneration of labor is so much lower in foreign countries than in our own country?' Well, we can compete with them just as we do in regard to agricultural products. Of course every gentleman knows that our principal agricultural products have no duty imposed upon them. English wheat and other produce may come into our markets free of duty, and there is a freedom of trade in that regard, so far as the farmer is concerned.

"By Commissioner GARLAND:

"Q. Do I understand you to say that there is no duty on wheat?—A. So I understand by looking at the last returns.

"Commissioner GARLAND. Such is not my understanding.

"Commissioner OLIVER. Wheat pays 20 cents a bushel, and the farmers have been asking us to keep that duty on, because they say otherwise it would be imported from Manitoba.

"The WITNESS. Then I was misinformed. But it is a well-known fact that there is a greater disparity in the wages paid for agricultural labor in this country and in England than there is between wages paid in other industries, and although the duties on these agricultural products are lower, our competition with foreigners in this regard is more successful. In other words, we make up for the high price of our wages by the fertility of our land. There is no land in the world that can compare in fertility with the land of the West, and the consequence is, we have an immense advantage in that regard. We have advantages also in other industries, such as in mining and in cotton productions. These are compensations which are provided, and which no human laws can take away.

"There are positive grounds, however, upon which protection can be objected to. It is understood that the protective-tariff policy was adopted in this country in the beginning on the idea advocated by John Stuart Mill and one or two other eminent writers on the subject in England, who said that a new country might with advantage protect its infant industries, provided the tariff which was laid for that purpose was merely a temporary expedient for building up those industries. It was upon that idea that America first established this protective system. What has been the result? These infant industries at first were protected by very small duties, but, instead of growing into manhood and strength, they have gone into weaker decrepitude. They have needed more and more protection as years have gone on, until the climax has been reached at the present time. That ought to overthrow the whole doctrine in itself. But the danger in imposing protective duties is that when the policy is once embarked upon it can not be easily receded from. Protection is nothing more than a bounty, and when we offer bounties to manufacturers they will enter into industries and build up interests, and when at a later day we seek to overthrow this protective tariff we must hurt somebody, and of course there is objection. They will say, 'Thousands of men will be thrown out of employment, and hundreds of people will lose their capital.' This seems very plausible; but I maintain that manufacturers are made better manufacturers whenever they are thrown upon their own resources and left to the natural competition of trade rather than when they are told, 'You shall be held in the lap of the Government, and you need not stand upon your feet.' Such theories discourage skill, because it puts all industries upon an artificial basis. The basis that they rest upon is not that of the skill of the manufacturer; it is because the bounty of the Government is put on his trade which enables him to get more for an inferior article than a foreigner could get for a better article.

"Protection also hinders commerce immensely. The English people do not send as many goods to this country as they would if the duties were not so much, and in that way there is a restriction of commerce, and we are building up manufactories here at the expense of commerce. We are holding ourselves aloof from foreign countries in effect, and saying, 'We are sufficient to ourselves; we wish to trade, not with England, but with each other.' I maintain that it is not only a pernicious system, but a corrupt system.

"By Commissioner GARLAND:

"Q. Are you advocating the repeal of all tariff laws?—A. Of all protective-tariff laws; of establishing a tariff for revenue merely. It seems to me very absurd to maintain that we shall have free trade between different portions of this country, and at the same time shut ourselves out from free communication with other producing countries of the world. If it is necessary to impose restrictive duties on goods brought from abroad, it would seem to me, as a matter of logic, necessary to impose similar restrictions on goods taken from one State of this Union to another. That follows as a necessary consequence; there is no escape from it."

Mr. HARDY. Does not the gentleman realize a very distinct difference between the power of the Government to pass a certain law and the right or the policy of passing it?

Mr. HILL. Oh, I do; and I have just read where your candidate says that the "power" was absolutely conceded at that time and definitely settled.

Mr. HARDY. Will the gentleman permit another question?

Mr. HILL. Certainly.

Mr. HARDY. Has anybody ever denied the power of the Government to pass protective tariffs?

Mr. HILL. Why, yes; the first sentence of your platform adopted at Baltimore denies it right now.

Mr. HARDY. Denies the right of it; but have we not all conceded the effective force of those laws when passed?

Mr. HILL. The gentleman ought to read the platform of his own party. I will read it for him now.

Mr. HARDY. Has any Democrat ever attempted to enjoin the enforcement of any of the tariff laws passed by Congress?

Mr. HILL. Yes, they did; and Andrew Jackson told them that by the Almighty he would hang them on the highest gallows in the country if they did not back down.

Mr. HARDY. The gentleman refers to the nullification proceedings in South Carolina.

Mr. HILL. Yes; that is precisely the thing about which I have been reading to you the language of Dr. Wilson.

Mr. HARDY. But the gentleman realizes that that was decided on the ground that the right to resist the enforcement of a Federal law did not exist in the States.

Mr. HILL. I recognize that, but the gentleman says nobody denies the power of the Government to enforce tariff taxes. Now, let me read to the gentleman, while we are here close together, so that he will never forget it again during this campaign:

We declare it to be a fundamental principle of the Democratic Party——

The gentleman belongs to the Democratic Party, does he not?

Mr. HARDY. I always have.

Mr. HILL. I will read to the gentleman the first plank in his platform.

We declare it to be a fundamental principle of the Democratic Party that the Federal Government under the Constitution has no right or power——

Mr. HARDY. Now, will the gentleman permit me to interrupt him there?

Mr. HILL. Why, certainly.

Mr. HARDY. Under the Constitution they had no right or power, but they violated the Constitution.

Mr. HILL. What are you living under, if not under the Constitution?

Mr. HARDY. But your party has violated it.

Mr. HILL. Are we not living under the Constitution?

Mr. HARDY. Yes; and your party has violated it in passing tariff legislation not for revenue, but for protection.

Mr. HILL. And the people this fall are going to commission us to do it again.

Mr. HARDY. Whenever you announce the purpose of your legislation, if you will entitle your bill for the purpose of protection and not for revenue, your own courts will declare it unconstitutional.

Mr. HILL. The first tariff act that was ever passed in this country, in 1789, an act the effect of which, I think, was misconstrued by Chairman Parker in the Democratic convention, announced its object to be for the purpose of "encouraging the industries of the United States."

Mr. HARDY. And I want to say to the gentleman that if he will show me a law that says its purpose is solely for pro-

tection and not for raising revenue I will show him one that is not constitutional.

Mr. HILL. The gentleman can make that speech in his own time. Mr. Chairman, I rose for the purpose, as our honest Speaker said some weeks ago, to speak for the truth of history. He referred to certain matters that occurred in regard to the tariff act. I refer to statements that have been made since 1909 and brought down to now concerning the Payne tariff bill.*

Let me say that on the passage of the Payne tariff bill the gentleman rose from his seat when the bill was about to be passed, came down in front here, and said that the bill was a violation of the pledges of the Republican Party. The Democratic platform says so now, and he said then it would raise the duties 1.71 per cent. I will ask the gentleman from New York [Mr. PAYNE] if I am not right in my figures.

Mr. PAYNE. I do not recollect the exact figures, but I know it was very high.

Mr. HILL. He said that they would raise the Dingley duties 1.71 per cent. Now, no man can take a tariff bill based on specific duties and figure out what the rate will be when it goes into operation, because he does not know what articles will be imported and what the valuation of those articles will be. Therefore that statement made by the now Speaker of the House, while it was honest from his standpoint—as everything he does is honest, whether it is in a Democratic convention or anywhere else [applause]—nevertheless it was a mistake, because it was impossible for him to figure out what the rate would be.

But from that day to this, notwithstanding the mistake, Democratic speakers have gone on and made these statements, and Democratic conventions have gone on and made these statements, and Democratic platforms have gone on and made these statements, all in utter violation of the fact, as most Democratic political statements—I do not refer to Democrats individually, but most Democratic political statements are in utter ignorance of the facts.

Now, we had a Democratic convention a little while ago. The permanent presiding officer was a distinguished honored, and loved Member of this House. He did not have quite as radical a view on this subject as did the temporary presiding officer. He said that the rate of the Payne tariff bill was 47 per cent, and the temporary officer said it was 50 per cent. Now, I am not going to attempt to reconcile the disagreement between two Democrats. It is hard enough to have to reconcile the disagreements between a Republican and a Democrat, but I am going to give you some facts now in regard to that matter.

Mr. FIELDS. Will the gentleman yield?

Mr. HILL. Of course I will.

Mr. FIELDS. Since the gentleman has drifted into a political speech——

Mr. HILL. Unintentionally.

Mr. FIELDS. Without knowing where the attack comes from, may I ask which one of the Republican parties he is affiliated with?

Mr. HILL. Oh, that is absolute nonsense. I am surprised that the gentleman from Kentucky should ask that question. I am a Republican. I will ask him, Are you a Bryan man or a Tammany man?

Mr. FOCHT. Answer; stand up.

Mr. FIELDS. I am a Democrat.

Mr. HILL. Mr. Chairman, at the Democratic convention a few days ago the temporary presiding officer made this statement:

* The average duties under the tariff of 1789 was 8½ per cent; now the average is 50 per cent.

Both were mistakes. There is no record of the average rate of duty under the act of 1789. The first publication, and the only one, is in the American State papers, volume 1, page 140. The first statement is from October 1, 1790, to September 30, 1791, and the average—and this is the important point, showing how easy it is for eminent gentlemen unwittingly to fall into a mistake—the average for the 34 months' receipts was 8.48, and he says that it is 50 now.

Then it was on all imports, free and dutiable. Now his 50 per cent is on dutiable only. Is it fair? He was wrong in both, but was his statement as he intended to have it fair? The first statement published by the Government is for 1791, where the rate on free and dutiable both is given as 22.24 per cent. It is only 20.1 per cent now, instead of being 22.24, as in 1790, on all free and dutiable as shown by the official records of the Government. To-day, after 34 months of operation of the Payne tariff bill, running through the whole of it, from the day of its passage down to the 1st day of June, it is only 20.1 per cent. Two per cent less than it was in 1790, and not 50 per cent, the rate which the judge indicated by his comparison, mistakenly, to be the rate on all importations. Is it fair?

I am not going to waste much more time on it, except this: He says in 1830 the rate was 32 per cent. It was not. It was only 24 on the dutiable and 17 on the free and dutiable. There were only 26 per cent of the importations that came in free. All through that period of time you have what is a fit illustration of your revenue tariff, a tax on everything, practically, with no free list, or very little, if any.

Do you know, gentlemen, that priding yourselves as you do on the legislation of this session, you have passed but one tariff bill in this Congress that complies with your own platform? That is the chemical schedule. On that you scaled the duties on finished products below the protective points, and you put a revenue tax on $47,000,000 of raw materials which had come in free the previous year under the Payne bill and added directly to the cost of every one of them. That is a fit illustration of a revenue tariff bill, and that is the only one you have passed in accordance with your platform.

Judge Parker said that in 1842 the rate was 32 per cent. It was not; it was 24. He said in 1846 it was 25 per cent. It was not; it was 31 per cent. He said in 1857 it was 20 per cent. It was not; it was 22.45 per cent, and the percentage of free importations was only 14.

I desire now to have the Clerk read from page 420 of Senate reports, second session Fifty-third Congress, volume 13, 1894, a note appearing at the foot of the table of receipts from all sources.

The Clerk read as follows:

NOTE.—In the table of receipts from all sources, published annually in the Finance Report, the column headed "Customs" shows the total annual customs collections from all sources covered by warrant into the Treasury, after deducting expenses of collection. From 1791 to 1850 collectors paid from customs receipts all expenses of their offices and turned the net amount remaining into the Treasury, but from 1850 to the present time they have been compelled by law to turn into the Treasury all amounts collected, while the expenses of their offices are paid by warrants on the Treasury of the United States.

Mr. HILL. Mr. Chairman, I will ask the Clerk to stop right there. When you go back to 1850 it will be seen that you are dealing with a different proposition, as the note states. The collectors prior to that time paid the expenses of collecting the tax and turned in the net amount to the Treasury, whereas now they turn in the whole amount to the Treasury, and the expense of collection is paid by warrants drawn on the Treasury, so that the comparison is not worth a cent. I will ask the Clerk to continue the reading.

The Clerk read as follows:

The figures in the column of the above table headed "Amounts of duty collected" from 1791 to 1866, inclusive, show the annual amounts of duty collected on merchandise only, without any deductions for expenses of collection, and omitting the collections from tonnage, lighthouses, fines, penalties, forfeitures, etc. (Explanation given by Register of Treasury.)

For these reasons the figures of "Duties collected" prior to 1851 in the above table largely exceed in many cases the amount of receipts from customs as shown in the Finance Report, inasmuch as the expenses of collection were of considerable magnitude during the years when the net receipts only were covered into the Treasury. From 1850 to 1866 the receipts in the table in the Finance Report should exceed the duties collected in the above table by amounts of collections from sources other than duties on merchandise, such as tonnage dues, fines, penalties and forfeitures, hospital dues, etc. Since 1866 the duties collected, as shown by the above table, are taken from the accounts of this office. While these data, showing the duties collected on merchandise from 1791 to present time, are somewhat diverse in character, they are the best attainable.

Mr. HILL. As I say, Mr. Chairman, taking the figures back of that date, and basing a comparison upon them, that comparison is not worth a cent, and when the gentleman from Kentucky [Mr. JAMES] and the gentleman from New York, Judge Parker, stated that the Payne tariff bill showed an average rate of duty of 47 per cent according to Mr. JAMES and 50 per cent according to Judge Parker, and Judge Parker comparing it with the rate on the first tariff bill, which covered both free and dutiable, knowing that his 50 per cent referred only to the dutiable, it will be seen that each of them made a mistake.

They sin not against knowledge but against mistaken information. Perhaps that is a little harsh to say, because they could have had the figures of the Payne tariff bill; and I am going to put in the RECORD to-day the complete figures certified to by the Department of Commerce and Labor of every importation made since the 5th of August, 1909—since the Payne bill was enacted—to the 1st day of June, and in two or three days I will put in the figures up to the 1st day of July. I have not got them now, as they are not ready yet, but they will be, and you will get all of this kind of figures you want in this campaign before you get through, gentlemen on the other side of the House:

Imports of merchandise into the United States, showing percentage thereof free of duty, customs receipts, and average ad valorem rate of duty during the 34 months' operation of the Payne tariff law, Aug. 5, 1909, to May 31, 1912, compared with like results under the entire operation of the Wilson and Dingley tariffs, respectively.

Entire period of—	Imports.			Free.	Customs receipts.	Average ad valorem on—	
	Free.	Dutiable.	Total.			Dutiable.	Total imports.
	Millions.	*Millions.*	*Millions.*	*Per cent.*	*Millions.*	*Per cent.*	*Per cent.*
Wilson law:							
35 months[1]	$1,080.4	$1,132.7	$2,213.1	48.8	$485.0	42.8	21.9
Monthly average	30.9	32.4	63.3		13.9		
Dingley law:							
144 months[2]	5,428.5	6,821.5	12,250.0	44.3	3,121.8	45.8	25.5
Monthly average	37.7	47.4	85.1		21.7		
Payne law:							
34 months[3]	2,301.4	2,132.4	4,493.8	51.2	902.6	41.2	20.1
Monthly average	67.7	64.5	132.2		26.5		

[1] Excludes last 4 days of August, 1894, included under McKinley law, and includes July 24-31, 1897, under act of 1897.
[2] Excludes last 8 days of July, 1897, included under Wilson law; excludes Aug. 1-5, 1909, included under Payne law.
[3] Includes Aug. 1-5, 1909, under act of 1897.

NOTE.—A reduction of about $55,000,000 was caused in customs receipts under the McKinley Act, due to reduced imports in the closing months under that act in anticipation of the passage of the Wilson tariff, whose revenues were correspondingly increased. Likewise a reduction of about $45,000,000 was caused in customs receipts under the Dingley Act, due to heavy imports in the closing months under the Wilson law, whose revenues were correspondingly increased.

I will just give a temporary alleviating dose now, and I will go back to the beginning of the Wilson bill, which ran 35 months. The entire dutiable rate of the Wilson bill for 35 months was 42.8 per cent. The whole average for its entire duration was 42.8 per cent on the dutiable articles alone. On the whole bill it was 21.9 per cent. It had a free list of 48.8 per cent. In other words, 48.8 per cent of all the importations under the Wilson tariff law came in free. Now, about the Dingley law. It was in operation 144 months. For that entire period the rate of duty on the dutiable articles was 45.8 per cent, 3 per cent higher than the Wilson bill. The rate on all importations for the entire 144 months was 25.5 per cent. Now you have got the Wilson bill and you have got the Dingley bill—the Dingley bill 25.5, the Wilson bill 21.9. Now, were we faithful to the trust reposed in us by the country? I do not stand here and say that there were no mistakes in the Payne bill. There were, and I was opposed to some of them, but the advantages of that bill, with reference to other matters than mere rates of duty, far outweighed any possible mistakes which were in it. Why? It gave us the customs court, the maximum and minimum system of duties, and, best of all, authorized the tariff board. I will give you the rate of the Payne bill. That bill has been in operation 34 months up to the 1st of June and the average ad valorem for the whole bill for the entire time has been 20.1 per cent. The Wilson bill was 21.9, the Dingley bill was 25.5, and the Payne bill 20.1. Were we faithful to the obligations imposed upon us? The ad valorem on the dutiable list only under the Wilson bill was 42.8; under the Dingley bill, 45.8; under the Payne bill, 41.2. Now, I want to say to you gentlemen when you stand before your constituents, tell them the truth. [Applause on the Republican side.] It will not hurt you; it will not hurt you. If you do tell them the truth, tell them this: Tell them that never in the history of the United States, from 1789 down to now, have there ever been but four years when there was as large a free list—I do not mean aggregate importations, for the country has grown in size, but I mean percentage of all importations—that never in the history of this country from its beginning down to now have there been but four years when the percentage of free importations has been as much as under the Payne tariff bill, and that was when sugar was free under the McKinley bill. [Applause on the Republican side.]

There have been but 14 years since 1820 when the free and dutiable importations put together have had as low a percentage of taxation as they have borne under the Payne tariff law. Now, be honest about it. Tell them these things, make a fair comparison; tell them frankly you do not want protection; tell them you are opposed to all tariffs, as Dr. Wilson said when Commissioner Garland asked him if he was in favor of the abolition of tariffs, and he said, "All protective tariffs." [Applause on the Republican side.] Tell them that. If you believe it, tell them that. If you do not believe it, come out fair and square and say that half of the South today is for a protective tariff, notwithstanding your platforms.

Mr. RUCKER of Colorado. Will the gentleman yield?

Mr. HILL. Certainly I will yield.

Mr. RUCKER of Colorado. I do not think the gentleman is fair in giving that degree of intelligence to his audience on the Republican side, because he has made this speech to my certain knowledge so many times since I have been in Congress that I do not think he is fair to his Republican colleagues. Now, so far as the speech is concerned as it falls upon Democratic ears it is entirely deaf and has always been——

Mr. HILL. I know that, and always will be; the truth never had any effect upon Democracy.

Mr. RUCKER of Colorado. I thank the gentleman very much as designating me as possibly being one of those who have listened to him attentively. Now, by the way, let me just suggest this. I do not envy the man who is going to try to answer the gentleman from Connecticut [Mr. HILL], because he has traveled all over the earth and back again, but what struck me when he got up first and when he acknowledged he was in favor of the bill——

Mr. HILL. I am.

Mr. RUCKER of Colorado (continuing). He went off and was damning this bill with faint praise in that he spoke about the labor organizations having met the recent Democratic candidate for President.

Mr. HILL. Does the gentleman mean to say that the language of Dr. Wilson, which I read, was "damning the labor organizations with faint praise?"

Mr. RUCKER of Colorado. But the language refers to the labor organizations meeting the nominee for the Presidency. Does not the gentleman know that the labor organizations went before the resolutions committee in Chicago when the convention nominated President Taft, as well as before the resolutions committee at Baltimore?

Mr. HILL. I will just answer the first. I would rather the gentleman would make his speech in his own time. I am for the labor legislation that does the laboring man good, that fills his dinner pail, that makes him a respectable man, and enables him to live like a man and pay his taxes, live in his own cottage, have his day's work for his family, raise his children, and become a good, independent American citizen.

Mr. AKIN of New York. Is that the 1896 dinner pail or the 1912 dinner pail?

The CHAIRMAN. Will the gentleman yield?

Mr. HILL. As soon as I get through with this. There is one other set of figures that I want to refer to. Under the Wilson bill the free list for 34 months was 48.8 per cent, under the Dingley bill 44.8 per cent, and on the 1st day of June it is 51.2 per cent for the entire life of the Payne tariff bill. And I will say to you gentlemen who talk about the cost of living, that during this past year the American people under the Payne tariff law have had a foreign commerce of $4,000,000,000 [applause on the Republican side] with the balance of trade in our favor of $550,000,000. I am told that $1,000,000,000 of foreign products have come into the United States without paying one single cent of duty under the Payne bill during the last fiscal year. You never had a Democratic tariff bill, you never will have under any legislation that is possible for you to frame under the terms of your platform, that will show such a magnificent result as that. And this year, unless the importations of June indicate worse at the end than they did at the beginning of the month, the free list under the Payne tariff bill will be 55 per cent of all the importations. Go home and tell those things to your constituents and William Howard Taft will be elected. [Applause on the Republican side.]

Mr. BUCHANAN. Will the gentleman yield for a question?

Mr. HILL. Certainly I will, if I have time.

Mr. BUCHANAN. Just a question. Did not the Republican convention at Chicago declare for a revision of the present tariff law?

Mr. HILL. Certainly it did.

Mr. BUCHANAN. Why did they do so if we have such a splendid and perfect law now?

Mr. HILL. For the correction of some high duties, and in accordance with the findings of a permanent, independent, nonpartisan Tariff Board on every schedule, and I am for it. Are you? I am for correcting mistakes, whether they are Democratic or Republican.

Mr. GARNER. Will the gentleman yield?

Mr. HILL. I yield to my friend from Texas with pleasure.

Mr. GARNER. I realize the gentleman from Connecticut is undoubtedly the ablest man on his side of the House in presenting the paramount issue——

Mr. HILL. Oh, leave that out.

Mr. GARNER. And I want to ask him if this is the opening gun as outlined at the White House by the committee the other night?

Mr. HILL. The gentleman from Texas [Mr. GARNER] is too high-toned a man to ask such a question. If it was true, I would keep silent. It is not true, and I will say there is nothing to it.

Mr. GARNER. Then the gentleman is not taking advantage of the fact to make a tariff speech, other than to connect the two together?

Mr. HILL. Not in the slightest degree. I did not expect to make this informal talk when I came in here. I will tell you exactly how it came about. I was given certain statements last night. I do not like to make a statement unless I verify it. I was told of a certain baccalaureate sermon of Dr. Wilson three years ago. I went to the Library last night and got the Trenton paper, and have been copying from it this morning. I did not know what was up, and I did not expect to make any remarks at all. I came on the floor of the House and found a bill which was up last Wednesday and which I was for then and which I am for now. The whole trouble about the thing is how you are going to reconcile your advocacy of this bill with the views propounded by your candidate.

Mr. GARNER. It appears from the gentleman's argument that he is trying to show that the Democratic platform and the utterances of Dr. Wilson do not coincide and that they are not together upon the subject of the tariff.

Mr. HILL. Of course they are not.

Mr. GARNER. And I wish to ask the gentleman whether Dr. Wilson is stronger than the platform or the platform is stronger than Dr. Wilson.

Mr. HILL. I do not think either one of them is strong enough to win. [Laughter and applause on the Republican side.]

Mr. GARNER. Does the gentleman honestly believe, under present conditions, that his prophecy that William H. Taft will be the next President will come true in next November?

Mr. HILL. I will ask you a question.

Mr. GARNER. Answer mine.

Mr. HILL. Do you not know that for the last six months I have said, and said, and said repeatedly, that your mistake here in this extra session on tariff legislation would force the issue before the American people next fall to be the tariff, the tariff, and nothing but the tariff, and that William Howard Taft would win because the people of this country, no matter how much they love you or distrust you, are a protective-tariff people, and you can not force free trade down their throats? [Applause on the Republican side.]

Mr. GARNER. Now, then, I realize——

Mr. HILL. I believe, as much as I believe I am standing here, what I have said all the way through, that Mr. Taft would not only be nominated, but that he would be elected. [Applause on the Republican side.] Why, I remember——

Mr. GARNER. I ask the gentleman now——

Mr. HILL. I will tell the gentleman something else.

Mr. GARNER. Let me ask the gentleman this question. I asked it of the gentleman a little while ago. There is not a man in this House, whether on the Republican side or on the Democratic side, who does not believe in the mental honesty of the gentleman from Connecticut. I ask the gentleman this honest question: Does he tell this House to-day that he honestly is of the belief that William Howard Taft will be elected President?

Mr. HILL. I do, and I will tell you why. I have been through this experience once before—probably before the gentleman was born. I was a Liberal Republican in 1872. I trusted the promises of Democrats. I voted for Horace Greeley. The New York Tribune had been the political Bible of my father and my family. I was brought up on it, and when Horace Greeley was nominated by the Liberal Republicans and indorsed, as I thought honestly, by your people—I learned better since [laughter]—I thought that he was right, and I stood with him. And we swept this country up to the first Monday in October, and on the first Tuesday in November we were thrashed out of sight. You people stayed at home, and did not vote according to your agreement. You will do it again. Tammany will sell you out. You know it just as well as I do. [Applause on the Republican side.]

Mr. SULZER. They can not do it. [Applause on the Democratic side.]

Mr. HILL. I have seen them do it over and over again. They want New York City, and they are going to have it.

Mr. AKIN of New York. Will not Bill Barnes sell out?

Mr. HILL. Oh, you are beaten. [Applause on the Republican side.]

Mr. AKIN of New York. Where is Bill Barnes? [Laughter.]

Mr. HILL. You will be at home. You need not worry about it.

Mr. AKIN of New York. Well, and you need not worry about that.

Mr. HILL. You are beaten. You were beaten from the day that it appeared in the convention that the hand was the hand of Esau——

Mr. GARNER. Who is going to buy us? That is what I want to know. [Laughter.]

Mr. HILL. From the day that it appeared that the hand was the hand of Esau, but the voice was the voice of Jacob. [Applause on the Republican side.]

Mr. GARNER. You say Tammany is going to sell. Who is going to buy them?

Mr. HILL. I say you stayed at home. You indorsed Horace Greeley. You went back on your pledges, and you did not vote at all, and the regular Republican nominee was elected. I do not care how many third tickets or fourth tickets or fifth tickets you put up. William Howard Taft will be elected President of the United States on the issue of a protective tariff and against Democratic free trade. [Applause on the Republican side.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. ADAMSON having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House that the President had approved and signed bills and joint resolution of the following titles:

On July 5, 1912:

H. R. 22006. An act authorizing the Choctawhatchee River Light & Power Co. to erect a dam across the Choctawhatchee River in Dale County, Ala.;

H. R. 18712. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 22194. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 22867. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 23765. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

On July 8, 1912:

H. J. Res. 332. Joint resolution appropriating $1,350,000 for encampment and maneuvers for the Organized Militia.

On July 6, 1912:

H. R. 20628. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

H. R. 20738. An act for the transfer of the so-called Olmstead lands, in the State of North Carolina, from the Solicitor of the Treasury to the Secretary of Agriculture.

On July 10, 1912:

H. R. 24227. An act to amend section 11 of an act entitled "An act to grant additional authority to the Secretary of the Treasury to carry out certain provisions of the public acts, and for other purposes," approved March 4, 1909.

DEPARTMENT OF LABOR.

The committee resumed its session.

Mr. SULZER. Mr. Chairman, I want to say just a few words. I have some time left. First I will yield to the gentleman from Connecticut [Mr. REILLY].

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] is recognized.

Mr. REILLY. Mr. Chairman, I do not attempt to measure swords with my older and more experienced colleague from Connecticut [Mr. HILL] in making a protective tariff speech, but I am impressed by the fact that this afternoon in this House the gentleman is much more confident of the election of William Howard Taft than he was at a recent meeting of Connecticut postmasters. [Laughter and applause on the Democratic side.]

Only this morning—and it seems as if it was rather providential—I received a letter, a part of which I hold in my hand, and in view of the political discussion having developed here, and in view further of the great confidence expressed in the election of the Republican nominee by my colleague, I want to read something that the gentleman from Connecticut said at a recent meeting of Connecticut Republican postmasters along this same line of confidence. I read from the letter in question:

I will retail to you a part of a speech that I heard at the annual banquet of the Connecticut Postmasters' Association, at which I was a guest.

Hon. EBENEZER J. HILL was the speaker, and he prefaced his remarks by asking if there were any reporters in the room, and upon being assured that there were not, he resumed his speech, which he evidently considered of a confidential nature. He began by saying that he was pleased to see all the old familiar faces, but he feared that some of those faces would be missing at the next annual banquet if they did not do better work in the next election than they did in the last.

[Laughter.]

Mr. HILL rose.

Mr. REILLY. I will not yield now.

The CHAIRMAN. The gentleman declines to yield.

Mr. REILLY (reading):

He said further, "You are all creatures of the present administration, and as such are expected to be in harmony with and part of that administration, and, furthermore, notwithstanding orders and statements to the contrary, you are expected to take off your coats and openly work for the continuation of that administration."

[Laughter and applause on the Democratic side.]

The letter continues:

But the part of his speech which will interest you most is that in which he alluded to you. He said, "Behold the man you have sent to Washington to represent this district. Do you know what he is doing? He is voting with the southern Democrats to destroy the manufacturers of Connecticut."

I deny that absolutely. I voted on tariff measures in this House with the majority of this House, and also with a large minority on the other side of the House who are honest in their convictions. [Applause on the Democratic side.]

I voted for tariff legislation that was promised the people of the country by the Democrats in 1910, after they had been deceived by the promises made by the gentleman from Connecticut [Mr. HILL] and other Republicans in 1908. [Applause on the Democratic side.] I deny that I voted to ruin the manufacturers of Connecticut, and I deny that my southern colleagues have voted to do that either. [Applause on the Democratic side.] I am sick and tired of hearing the gentleman from Connecticut, the know-all of tariff legislation, compared to whom the distinguished gentleman from New York [Mr. PAYNE] is a mere piker; no one knows anything but the gentleman from the fourth district of Connecticut—I say I am sick and tired of hearing him, under the guise of protecting the American workingman, getting up here and feeding them with speeches on the tariff. [Applause on the Democratic side.] I say that the Democracy of this House has redeemed its pledges made in 1910 so far as an adverse Senate and a hostile President would permit them; and if the House legislation had been passed by the Senate and approved by the President the people of this country would have been far better off to-day, far better than they will be in listening to this buncombe every few days, under every pretext, that the gentleman from Connecticut [Mr. HILL] can inject into the discussion of bills in this House. [Applause on the Democratic side.]

Mr. SULZER. Mr. Chairman——

Mr. HILL. Mr. Chairman, I rise to a question of personal privilege. I desire to ask the gentleman from Connecticut [Mr. REILLY] if he states on his honor as a Representative that he has quoted my language correctly.

Mr. REILLY. Mr. Chairman, I will state on my honor as a Representative that this is a bona fide letter, received only to-day from a friend——

Mr. HILL. I ask the gentleman fairly and squarely as a Representative from Connecticut if he is responsible for the correctness of the language which he has read on this floor?

Mr. REILLY. I will ask the gentleman from Connecticut if he denies having said that. [Applause on the Democratic side.]

Mr. HILL. I want to ask the gentleman if he states on his honor as a Representative that the language which he has attributed to me was ever uttered by me; not because somebody tells him so, but will he be responsible for the correctness of it?

Mr. REILLY. I will not believe the language I quoted if the gentleman from Connecticut denies it; but until he does deny it I do believe it.

Mr. HILL. Oh!

Mr. SULZER. Mr. Chairman, I believe I have the floor.

Mr. HILL. Mr. Chairman, I emphatically deny the correctness of the language which has been read here by the gentleman from Connecticut [Mr. REILLY]. I have the right to know whether he knows himself that he has read language that he says he attributes to me.

Now, Mr. Chairman, the reason I deny it. I have kept silent in the past on attacks of this kind. I came into this Hall some time last winter when the gentleman from Connecticut was reading a prepared speech in which he accused me of having prepared a woolen schedule while president of a woolen mill and while my son was treasurer of a woolen mill. He did it deliberately. He might have known that it was false if he had wished to have known it. My son had died three years before that time. I had resigned from the vice presidency of the woolen mill prior to assisting in preparing the Payne tariff bill more than three years before. The gentleman from Connecticut knew it and he suppressed the facts on this floor. I say that statements of that kind coming from any man, Republican or Democrat, are not only not worth the paper they are written on, but they make the man unworthy of any credence whatever, either now or in the future. [Applause on the Republican side.]

Mr. SULZER. I have the floor, Mr. Chairman, and I will yield to the gentleman from Connecticut.

Mr. REILLY. Mr. Chairman, the attempt of the gentleman from Connecticut to sidetrack this present proposition by the introduction of another will not succeed. I want to correct the statement which the gentleman made here a moment ago. He said that I knew that he had resigned as the vice president of that Norwalk company. When I made the remarks in the House some time ago I did know he had resigned as vice president, and I said in that speech that he had resigned as vice president. I said also in that speech that he was still a stockholder and still a director in that company. I said that to him in public and privately, and I repeat it now. I said that he had resigned some time before as vice president, so he can not put that up to me as an accusation of being unfair.

I did not know that his son was dead. If I had, I would not have brought his name into the discussion; but the fact remains that his son had been treasurer of the company. The fact that the gentleman from Connecticut had resigned as vice president I stated on the floor, but he is still a stockholder and a director and the controlling interest in that company to-day, and I have nothing to take back in that speech. He can not sidetrack attention from what I quoted here to-day, and they will stand as true until he denies them.

Mr. HILL. Would the gentleman like to have me deny them now? There is no such company now and there was not when the gentleman made his speech. The stock had already been voted as a free gift to others at that time and the concern was out of existence.

Mr. REILLY. When that speech was made, within a month of making it, the annual report of the company was on file in the town clerk's office in Norwalk, the gentleman's home town. There is where my information came from; there was no hearsay, and the town clerk's records were the source of information. [Applause on the Democratic side.]

Mr. SULZER. Mr. Chairman, this is a hot day. [Laughter.] Let us keep cool. [Laughter.] I say this advisedly because I regret that gentlemen get unduly excited now about a matter which is not before the House and which will no doubt be thoroughly discussed on the stump in the cooler days of the autumn. [Laughter.] In view, however, of what the gentleman from Connecticut [Mr. HILL] has said to befog the issue and to direct attention from the bill which we are now considering to something else which will be considered in due time, I want to say that, in my judgment, the people of our country are tired of hearing the gentleman from Connecticut expatiate on the tariff—threadbare subject to him—and they care nothing about his opinion to-day on that topic, but they do care a great deal about what Gov. Woodrow Wilson will say on the subject when he comes to speak. [Applause on the Democratic side.] The people of the country are waiting to hear the speech which Gov. Woodrow Wilson will make to the committee which will

soon officially notify him of his nomination for President by the Democratic Party. I indulge in no prophecy as I look into the sad faces of the gentlemen on the other side of the aisle and read there what they really think and what they truly know, that just as sure as the sun will rise to-morrow morning Woodrow Wilson will be the next President of the United States. [Loud applause on the Democratic side.]

Mr. FOCHT. Will the gentleman yield?

Mr. SULZER. Is it for a question?

Mr. FOCHT. It is for an observation altogether germane.

Mr. SULZER. Never mind the observation. Ask the question.

Mr. FOCHT. I have here a book sold by the millions giving the speeches of a gentleman from New York named SULZER.

Mr. SULZER. Good. Has the gentleman read that book?

Mr. FOCHT. Read it and was glorified in the reading of it.

Mr. SULZER. Then the gentleman knows more now than he did before he read it. [Laughter and applause.]

Mr. FOCHT. Quite true, but we are informed in that book that the said gentleman has carried a Republican district some 20 or 30 times. Why should he do any hurt to the Republicans upon whom he depends for his majority?

Mr. SULZER. That is fine. I am not hurting the Republicans. I am just telling the truth. If that hurts, make the most of it.

Mr. FOCHT. I know that the whole world might sit at the feet of the gentleman and gather wisdom. Anyone who reads the book could not fail to do so.

Mr. SULZER. My friend is too complimentary. However, I do not want to get into a tariff discussion at this time, because I am too anxious to pass this bill to create a department of labor.

In all seriousness I trust we shall not get awry on extraneous matters, but stick to the subject matter which is before the House, to wit, the bill to create a department of labor. Nay, I hope that from now on until we take a vote on this bill Members will confine themselves to the subject under discussion and not discuss other matters wholly irrelevant. For one I am always glad to hear the gentleman from Connecticut [Mr. HILL], and I was gratified to hear him say that he was heartily in favor of the bill before the House. I do not believe there is a Member present here who is opposed to this bill, and if that be so let us pass the bill and then, so far as I am concerned, I will stay here until the cows come home and listen to Members discuss the tariff.

I know something about the tariff myself. [Laughter.] The tariff subject is a good deal like a fiddle. If you understand it you can play any tune on it, but if you do not understand it you can not play on it at all. The gentleman from Connecticut [Mr. HILL] understands the tariff question, and to-day he is playing his old-time tune on it. He has been playing the same tune on it for many, many years, but wait until you hear Woodrow Wilson, the next President of the United States, who understands the instrument, too, play the tune of the people on it. That is what the country it waiting for. Then you will hear the true response from the voters on election day.

But a truce to the tariff to-day. Let us consider this bill for a department of labor, and let us see if we can not pass it before we adjourn. It is a very important measure. It is a nonpartisan measure. It comes to us with a unanimous report, and I would like to see it pass the House before 4 o'clock by a unanimous vote, and to test the sentiment of the committee in that regard, I now ask, Mr. Chairman, unanimous consent that the House vote upon the bill at 4 o'clock.

SEVERAL MEMBERS. Let us vote now.

Mr. SULZER. Mr. Chairman, I ask unanimous consent to close debate on the pending bill at 4 o'clock.

Mr. MANN. Mr. Chairman, reserving the right to object, the gentleman from New York is very generous. The debate on this bill was opened by the gentleman from Pennsylvania [Mr. WILSON], and the gentleman from New York [Mr. SULZER] took the floor and made a political speech which had no relation whatever to the bill. He has now made another political speech which has no relation whatever to the bill, and having made two political speeches, he proposes, without any further consideration of the measure at all, to cut off debate. I object.

Mr. SULZER. Mr. Chairman, I am sorry the gentleman objects. I will ask the gentleman from Illinois how much time he desires.

Mr. MANN. I would like to have about two hours myself. I suppose I will not get that.

Mr. SULZER. Let us be fair. How much time does the gentleman really desire?

Mr. MANN. I am not proposing to make any arrangement whatever with the gentleman. I will make this proposition to the gentleman if he is in charge of the bill. I do not know whether or not he is in charge of the bill—I will make this agreement, that as far as I am personally concerned we run the debate on the bill and close at 5 o'clock and vote next Wednesday on the bill the first thing.

Mr. SULZER. Why put off the passage of the bill until a week from to-day? I will agree to close debate at half past 4 or 5 o'clock and vote on the bill to-day. Why wait another week?

Mr. MANN. Well, not because of any reason that affects this side of the House.

Mr. SULZER. Then let us close debate at half past 4 and pass the bill to-day.

Mr. MANN. We may close at half past 4 if we are ready when half past 4 comes.

Mr. SULZER. The gentleman is seeking delay. Is the gentleman opposed to the bill?

Mr. MANN. That is none of the gentleman's business at this time.

Mr. SULZER. I am seeking information.

Mr. MANN. Oh, the gentleman is not seeking information at all. Give us a chance to discuss the bill and he will find out where I stand on it.

Mr. SULZER. The motives of the gentleman are apparent.

Mr. KENDALL. Let us go on with the discussion of the bill.

Mr. SULZER. Mr. Chairman, very well. I reserve the balance of my time. I want to pass the bill to-day if it can be done, and it can be done if there be no filibustering on the other side.

Mr. MANN. Mr. Chairman, this is a bill to create a new executive department of the Government—a department of labor. It provides for a secretary of labor and three assistant secretaries of labor. It provides for a transfer to the new department of labor of the Immigration Service and the present Bureau of the Department of Labor. It adds in no way whatever to the duties to be performed by the existing bureaus of the Government, except in the one particular where it proposes that the secretary of labor shall have the right to interfere in every labor dispute, regardless of whether it involves interstate commerce or not.

Mr. GARNER. Will the gentleman yield?

Mr. MANN. I yield.

Mr. GARNER. It occurred to me a while ago, while the gentleman from Pennsylvania was reading the provisions of this bill with reference to providing for offices, whether or not the language in the bill is broad enough to add agents and employees of various characters by appropriation committees without being subject to a point of order. I would like to get the gentleman's opinion on that, because I think his opinion on that subject at this time would be worth something.

Mr. MANN. I have no doubt——

Mr. GARNER. If the Appropriation Committee could add such employees and add such salaries as they would deem proper without a point of order being made against them.

Mr. MANN. I would not like to say you could change the class of the persons employed, so far as the point of order is concerned. The language in this bill is quite similar to language in other laws, and the gentleman knows the ruling has been consistent up to the present session of Congress, since when some Chairmen have been in the chair who have had no familiarity with the rules and precedents and have brought about a conflict of rulings. Heretofore they have been consistent. You could add to employees in a class where it was according to existing law. Some Chairmen have held you could do that and some have held you could not do it. I do not attempt to reconcile the rulings. When the gentleman from Texas asks me what the rulings of the Chair will be on a bill which is not yet a law it is a gambling chance.

Mr. GARNER. I was undertaking to put in the RECORD now the opinion of the gentleman from Illinois, who is looked upon as more or less familiar with the rules of the House. I want to get his opinion as to what the rule ought to be with reference to this bill in adding employees.

Mr. MANN. I am not going to express an opinion on the subject for future quotation. My opinions for or against points of order are too numerous now as printed in the RECORD, and anything I might say now would not add to anything which I have said.

Mr. GARNER. If Congress wants to control the matter, now is the proper time to control it in this bill, and therefore it is necessary to have the information by each Member of Congress as to what power it offers the appropriation bill and what the bill ought to be.

Mr. MANN. This bill authorizes the appointment of such other clerical assistants, besides the chief clerk and disbursing clerk, as may from time to time be authorized by Congress. That authorization is sufficient if carried in an appropriation bill, and also authorizes such number of inspectors and special agents as may be provided for by Congress. Whether that authorizes an appropriation bill to provide for them is a question which is not settled in my own mind.

Mr. Chairman, this bill not only provides for a secretary of labor, but it provides for three assistant secretaries of labor. The distinguished gentleman from New York [Mr. SULZER], who introduced the bill, is now the chairman of the Committee on Foreign Affairs of the House. It is true that the Department of State has three Assistant Secretaries. In my judgment, the Department of State would be more efficient if it had only one Assistant Secretary. The Treasury Department has three Assistant Secretaries. But it has a very large field of work, and work which may properly be divided up among Assistant Secretaries, although, if we may judge from some statements which have been made in the papers recently, the result of having three Assistant Secretaries is that you can not get always the proper action from the real chief, the Secretary.

No other department of the Government has three assistant secretaries. The Department of Agriculture has one Assistant Secretary. The new Department of Commerce and Labor, which we created a few years ago, has one Assistant Secretary, and this House in the last Congress, with the Democratic side of the House voting that way, declined to provide a second assistant secretary for the Department of Commerce and Labor.

Now, there is much more reason for having two Assistant Secretaries in the Department of Commerce and Labor than there is in having two in the new department of labor, because the functions of the Department of Commerce and Labor cover a great many more bureaus and different classes of work than are proposed to be covered by the department of labor. There is absolutely, in my judgment, no justification or excuse for proposing three assistant secretaries in this new department. The Post Office Department has four Assistant Postmasters General, each with a certain class of work to perform, and covering an appropriation now of $250,000,000.

At the proper time I shall offer an amendment to provide that there shall be but one assistant secretary, and in the same connection to provide for the auditing of the accounts of the new department, which is not provided for in this bill and is not covered by any existing law. To that, I suppose, there will be no objection.

Mr. Chairman, there are nine Cabinet officers. We call them "secretaries of departments," except in the case of the Postmaster General and the Attorney General. Those nine Cabinet officers now stand at the head of nine executive departments. I believe they are all considered and classified now as executive departments of the Government. The only provision in the Constitution in regard to the executive departments of the Government is found in section 2 of Article II, where it is provided that the President—

> may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices.

And, again, that—

> Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

Just what constitutes an executive department or the head of a department has never been fully determined. It is quite certain, however, that the head of such a department shall not necessarily be called into the President's Cabinet nor constitute the head of an executive department within the meaning of the Constitution. The President's Cabinet is not a constitutional office. The President's Cabinet is determined by the President, although now I suppose it is largely determined by the force of custom and possibly influenced to a certain extent by a recent provision in one of the appropriation bills. The President's Cabinet is not created by law. It exists voluntarily and only by force of custom. It has become the custom, however, that when a new department is created and an official at the head of it is called the "secretary of the department" to consider him as a Cabinet officer.

There is nothing, of course, to prevent the President from requesting the head of any other department to attend the meetings of what is called the "Cabinet." This bill, creating a new secretary of labor, should not of itself provide that the secretary should be a member of the Cabinet. There has been a Department of Labor for many years. First, years ago, there was a Commissioner of Labor. Afterwards that was made a Department of Labor, still with a commissioner at the head of it.

Mr. Chairman, only three new additional members of the Cabinet have been provided for more than 100 years. The Departments of State, War, Treasury, Navy, the Attorney General, and the Postmaster General were established during the eighteenth century, and during the first 10 years of the existence of our Government under the present Constitution.

The State Department was the first executive department created, and was established under the title of the "Department of Foreign Affairs" by the act of July 27, 1789, the title of the department being changed to the "Department of State." by act of September 15, 1789.

The Department of War was created by the act of Congress of August 7, 1789. The Department of the Treasury was created by act of September 2, 1789. The salary for an Attorney General, which presumably carried the office, and which I believe was $1,500, was provided for in the act of September 23, 1789, and the office of Attorney General was created in the last section of the act of September 24, 1789. The Attorney General has always been one of the President's family and advisers and known as a Cabinet officer, though he was not always called in at the meetings of the three Secretaries at the beginning of the Government, and although the office of Attorney General was not in terms referred to as an executive office until the act of June 22, 1870, establishing the Department of Justice. A temporary Postmaster General was provided for by the act of September 27, 1789; and by the act of May 8, 1794, a general post office was established at the seat of government, with a Postmaster General in charge. The Postmaster General became undoubtedly the head of one of the executive departments of the Government, but the law did not so refer to him until the act of June 8, 1872, establishing an executive department to be known as the Post Office Department; and although the post office was established, and the Postmaster General, or a person in charge of the post office was provided at the beginning of the Government, the head of the office was not considered a Cabinet officer, nor was the Postmaster General called into consultation in the Cabinet until the administration of Andrew Jackson.

Jackson considered that the Postmaster General was so important in the distribution of offices and jobs that it was considered advisable that the head of that office should meet with the other gentlemen in the Cabinet when it came to the dividing up of the dope.

The act creating the War Department carried with it a provision for control of the Navy. It was originally contemplated that the Navy should be under the control of the War Department; but when war seemed imminent with a European power during the administration of Washington it was finally provided that there should be a Department of the Navy, and that was created by the act of April 30, 1798.

The six departments to which I have referred were all established practically at the commencement of the Government under the existing Constitution. There have been many requests for the creation of new executive departments of the Government in behalf of various interests. Since that time Congress has been very conservative about granting those requests. There are several bills pending now in the two Houses of Congress proposing additional departments of the Government. There is no special interest not already specially provided for, and some which are specially provided for, that do not seek to be specially represented in the President's Cabinet, upon the theory that an interest which has special representation in the Cabinet receives special advantage and special attention. It is quite within the bounds of reason to say that with the increase in number of the members of the Cabinet there comes a decrease in power and influence of the Cabinet itself.

Mr. Chairman, I had charge in this House of the bill creating the last new executive department of the Government, the Department of Commerce and Labor, and I have many times questioned since the enactment of that legislation whether after all it was to the interest of the Government to increase the number of Cabinet officers. I believe the Cabinet in the old days, when there were only six or seven members of it, had far greater influence in shaping the unity of purpose of the country than it has now or than it will have in the future when the number is increased.

It is easy to say that labor ought to have a representative in the Cabinet. It is just as easy to say that the people interested in health matters should have a representative in the Cabinet. It was for many years contended that the immense interests engaged in mines and mining should have a representative in the Cabinet, and it took a long time before the people engaged in the mining industry were willing even to accept a Bureau of Mines and Mining instead of a new executive department of the government of mines, to be represented by

a Cabinet officer. It is undoubtedly true that from the start there was a desire to have some department of the Government which went beyond the mere matter of official control of official governmental activities. The Department of State is necessary in our relations with foreign countries. The Treasury Department is a mere instrument in connection with the collection and expenditure of the revenues of the Government. It relates to governmental activities. The War Department is a matter for control of one of our means of defense and offense. So is the Navy Department.

The Post Office Department results solely from the governmental activities of the Government in handling the postal matters of the country. The Attorney General's Office, or the Department of Justice, relates solely to matters arising out of advice in legal matters, which the Attorney General must give, and the activities which he represents in prosecuting cases or offenses in behalf of the Government.

There was a time when it was desired to increase the activities of the Government, especially in regard to the public domain, and for many years there was advocated a home department. Congress finally created the Department of the Interior, the title to which law is "An act creating a home department," although the words "home department" are not found in the act and the word "Interior" is not found in the title. There was transferred to that department various governmental activities, such as control of the the subject of patents and control more or less of the public domain.

In the course of time that great body of substantial yeomanry of the country known as the agriculturists demanded representation. For many years there existed a national body, voluntary in its character, representing the agriculturists of the country, who proposed a new department or a new bureau or some new governmental agency which would add a new department of agriculture. One of the first things which was done under the administration of President Lincoln, outside of the preparations and activities of war, was the passage of a law providing for a department of agriculture, which was to be presided over and was presided over not by a secretary but by a commission. That was really the first time that the Congress had entirely departed from the theory of having a Cabinet officer carry on purely government functions, and now provides for a new department entirely unrelated to governmental functions of the Government.

The Department of Agriculture, I think, has more than justified its creation. Some one asked a while ago about the expense that this department might reach. I suppose no one can tell what the expense of any department will be in the course of time. My recollection is that the first appropriation in behalf of agriculture was $5,500. When the new department was created it cost $64,000 a year. I forget just what appropriation is carried by the current agricultural bill, but the appropriation for 1912 is nearly $17,000,000. It is quite an increase from the original $5,500 or the $64,000 under the first act creating the department.

In 1889 the Department of Agriculture, which theretofore had been presided over by the Commissioner of Agriculture, was changed so that its head should be a Secretary of Agriculture. Thereupon the Secretary of Agriculture was called into the Cabinet. Congress has never provided that any of its officers should be placed in the Cabinet. But a few years ago when the salaries of the Cabinet officers were raised from $8,000 to $12,000 it was done by a provision upon an appropriation bill providing that the salaries of Cabinet officers should be increased to $12,000. I believe that is the only recognition of what a Cabinet officer is.

Mr. WILSON of Pennsylvania. Will the gentleman permit me?

Mr. MANN. I will yield to the gentleman.

Mr. WILSON of Pennsylvania. In the bill creating the Department of Commerce and Labor, is not the Secretary made a member of the Cabinet?

Mr. MANN. Not at all.

Mr. WILSON of Pennsylvania. I have in my hand a copy of the act, and it reads:

> There shall be at the seat of government an executive department to be known as the Department of Commerce and Labor, and a Secretary of Commerce and Labor who shall be the head thereof, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive a salary of $8,000 per annum, and whose term and tenure of office shall be like that of the heads of other executive departments.

I see that I am in error in the matter. I supposed that it provided for his being a member of the Cabinet.

Mr. MANN. The gentleman, perhaps, confused the act with the report which I made upon it. There is no doubt that it was intended to make him a member of the Cabinet, and that statement was made in the report. Of course there is no doubt but that it is intended to make the Secretary of Labor a member of the Cabinet, and I take it that if the bill becomes a law the President will call the Secretary of the new department into his Cabinet. If there was any place where it could stop I would, perhaps, have no objection to increasing the number one more. But in the end we may make the Cabinet so large that it will no longer be a Cabinet. Even now, with nine members, it has come so that instead of waiting upon the Cabinet meeting and consulting, the President will send more often for the individual heads of the Cabinet and consult concerning the matters relating to their department, and not confine it to sending for the heads of the departments who are Cabinet officers but sending for other officials. There is such a thing as making the family of advisors of the President too large.

Now, what is the reason offered for this bill? We added the Department of Labor to the new Department of Commerce and Labor. Gentlemen say that that department is for commerce. It is no more for commerce than it is for labor. They may say that no laboring man has been Secretary of the new department, and they may equally and truthfully say that nobody who knew anything about commerce—that is, no one who is an expert, has been appointed as the head of that department.

No one knows whom the President will call; the moment you make an office political in character the appointment is more likely to be political in character than it is expert in character. The gentleman who is now at the head of what they call the Bureau of Labor, although the law denominates it as the Department of Labor, remained there for many years. It was not a political appointment, I take it. I think he has the confidence very largely of both labor and capital. In my judgment, it is better for both parties to have some one there who is not put in purely as a political proposition, and who can remain for a time, than it is to appoint a new man the head of a new department every presidential term, and if you can judge by the experience of the last 20 or 30 years, sometimes three or four times during a presidential term.

The gentleman from Pennsylvania [Mr. WILSON] says that one of the purposes of the bill is to permit the secretary of labor to appoint commissioners of mediation or conciliation, whatever they may be termed, in labor disputes. Is it not a wiser proposition to let the head of the department which represents both capital and labor, both commerce and labor, appoint this commission than it is a man who simply represents labor? What greater reason can be given for having the Department of Labor appoint the commissioners of conciliation than there is for having a department representing both commerce and industry appoint the commissioners of conciliation? I am perfectly willing for the passage of any bill into a law which may aid in settling contemplated and existing labor disputes. Organized labor is not always, it seems to me, quite fair on that subject.

A few years ago, while I was chairman of the Committee on Interstate and Foreign Commerce, we reported into the House a bill known as the Townsend bill which proposed to authorize the President in case of labor disputes which might involve interstate commerce to appoint in each case a board—I do not remember the title of it—which might investigate and endeavor to bring the parties together. That had no power to enforce anything. Organized labor was afraid of it. I am not criticizing them for being afraid of it. Perhaps it would have gone too far; I do not know. I do not see, however, but that the present bill in effect goes quite as far or perhaps farther. It does not offend my constitutional sense quite as much, I think, as it would that of some gentlemen on the Democratic side of the aisle to have a serious proposition here that the President of the United States, or one of his executive officers, can interfere in any threatened or existing labor dispute local in character purely which has no relation to any power of the General Government.

Under the terms of the existing bill, while that power would not be exercised because it would be too extreme, they might appoint a commission to investigate a quarrel between a farmer and a single farm hand as to the wages or other conditions under which the labor was to be performed. And it goes from that up. And yet I am not prepared to say that it may not work good. We have had a number of propositions of this sort before. One is this bill; another is another bill, I believe, reported from the Committee on Labor providing for a board of conciliation. I think the gentleman has a bill of that kind on the calendar.

Mr. WILSON of Pennsylvania. Providing for the appointment of an industrial commission.

Mr. MANN. That bill is a bill providing for the appointment of a commission to be called a commission on industrial relations, a commission to be composed of nine persons to be appointed by the President, three of whom shall be employers

of labor and three representatives of organizations of labor. May I ask the gentleman from Pennsylvania whether if the pending bill is passed he desires to have the other bill passed?

Mr. WILSON of Pennsylvania. Yes.

Mr. MANN. That is on the theory that one might not become a law?

Mr. WILSON of Pennsylvania. Not only on the theory one might not become a law, but on the additional theory that the industrial commission bill directs an investigation into the entire industrial situation. The bill under consideration does not direct any such investigation, but it gives to the Secretary the power of mediation and conciliation when in his judgment it is wise to exercise it.

Mr. MANN. Well, if you are to have a new department of labor for the purpose, in part, of collecting information, what is the department to do? I will be glad to know. We have had a Department of Labor for years, originally provided that there should be so many clerks and providing specifically for a force to be in the Department of Labor, and for years the department could not find enough to do, unless an accommodating Member of Congress would offer a resolution, which regularly came in once in a while, directing the Labor Department to make an investigation of some special case; otherwise there was no reason for continuing to pay the men, because they would have nothing to do.

Mr. MOORE of Pennsylvania. Has the gentleman given consideration to section 4 of this bill, which includes a number of bureaus of the Government?

Mr. MANN. Yes.

Mr. MOORE of Pennsylvania. The Bureau of Immigration is included, and all immigration questions appear to be taken over into the proposed department of labor.

Mr. MANN. Well, I do not think it makes any difference whether the Immigration Service is in the Department of Commerce and Labor or whether it is in the department of labor. This is simply to give some excuse for the creation of this department. It will be no more effective and probably less effective in one department than the other.

Mr. MOORE of Pennsylvania. The gentleman, in some of his preceding remarks, intimated it might not be well always to have a specialist at the head of a department——

Mr. MANN. I did not intimate it might not always be well, but intimated it is seldom done.

Mr. MOORE of Pennsylvania. The gentleman perhaps would not favor putting in charge of a Tariff Board, which has to do business for all the people and gather information from all the people, one who is a specialist on the free-trade side of the question or one who is a specialist on the protective side of the question?

Mr. MANN. Of course I was referring to the heads of departments, such as Cabinet officers, who are political appointments.

Mr. MOORE of Pennsylvania. I bring the question of immigration to the notice of the gentleman, with a view to calling his attention to the fact that there is a wide difference of opinion in labor circles whether there should or should not be a continuation of immigration to this country. Certain labor leaders are very much opposed to immigration and are greatly in favor of restriction.

Now, then, if immigration, which was provided for in the Constitution of the United States and which has given substantial basis to the prosperity of the country, is to be put in the hands of those who are diametrically opposed to it, it raises the question whether immigration should be relegated to a department of this kind.

Mr. MANN. Well, I will say to my friend from Pennsylvania that I think so long as I now remember in my service in the Government the head of the Immigration Service has been a labor leader and is now, a very competent and efficient official, and I believe he has the confidence of organized labor as well. Is not that so in the main?

Mr. WILSON of Pennsylvania. He has the confidence of the men who have been selected as officials of labor organizations.

Mr. MANN. I think so.

Mr. MOORE of Pennsylvania. He was himself an official of a labor organization.

Mr. MANN. He was a very efficient, so I am told, official of the labor organization, and I believe he has made a very efficient Commissioner of Immigration.

Mr. MOORE of Pennsylvania. Would the gentleman think it was entirely proper to put at the head of the Bureau of Immigration a man who was an absolute restrictionist?

Mr. MANN. Oh, it is for Congress to determine the restrictions upon which immigrants may come into this country. Of course, I aired my views on that subject in the House here not long ago, briefly. I do not believe myself in the literacy test of immigration.

On the other hand I do believe that if there is some way of discouraging immigration to some extent it might be a wise thing to do—temporarily at least. I do not believe in making the test on a man as to whether he can read or write.

Mr. CONNELL. Does the gentleman believe the establishment of this new bureau would have anything to do with that test? Could they bring it about in any way?

Mr. SULZER. Certainly not.

Mr. MANN. That was the suggestion made by the gentleman from Pennsylvania.

Mr. CONNELL. I wanted it explained; that is all.

Mr. MANN. That is a matter for Congress to determine. There is no doubt that the officials in charge of the Immigration Service, who apply any law that we pass, have quite a degree of latitude in the application of the law. And the same is true of the Customs Service.

Mr. SULZER. Will the gentleman yield for a question? I wish to ask the gentleman from Pennsylvania [Mr. MOORE] if he bases his criticism on the assumption that public officials do not do their duty.

Mr. MOORE of Pennsylvania. Not at all. But I would say that a man placed in control of a Government bureau or in charge of a department of the Government of the United States represents all classes of citizens, whether they are Democrats or Republicans or Prohibitionists, or whether they are aliens, or whether they are native born; and I would not like to see at the head of any department of this Government a man so prejudiced in his views on one side or the other side of a question affecting human rights as to be unable to fairly decide whether a man should come into this country or whether he should be kept out.

Mr. MANN. Mr. Chairman, I have noticed, with a good deal of pleasure, all my life, and I think it is the redeeming feature of popular government, that, as a rule, whatever views a man might express concerning a law or a proposition before he went into office, when he took the oath of office to administer the law as he found it, he attempted to fulfill the duties of his office and to carry out the law regardless of personal predilection or former personal prejudice. [Applause.] I think that is the case. I just as lief, so far as I am concerned, as a rule, take a man who might have been even a labor agitator opposed to immigration and put him in charge of the execution of the law, and I believe he would execute the law as he found it. If we ever reach the time in this country when people generally will not do that, we have reached the end of successful popular government.

Mr. MOORE of Pennsylvania. The gentleman surely would not consider that the labor interests of this country would be satisfied if John Kirby, the president of the National Association of Manufacturers, would be placed at the head of the Department of Labor?

Mr. MANN. They would not be satisfied, because the head of the Bureau of Labor, in addition to enforcing the law, has something to do with formulating the policy of the Government by the report which he makes to Congress. I am not so sure but that Mr. Kirby would be—I do not know what his attitude is—more self-opinionated than the average labor leader, and probably is more opposed to immigration.

Mr. MOORE of Pennsylvania. Has the gentleman observed that in this section 4 no provision is made for that Division of Information which now undertakes to see that incoming aliens are properly distributed throughout the country and places of employment are pointed out to them? I would like to know, if the gentleman can not answer, from the chairman of the Committee on Labor, whether it was intentionally left out.

Mr. MANN. I think the gentleman will find that the language of this bill on that subject is taken from the language of the law creating the Department of Commerce and Labor. I drew the language in the law creating the Department of Labor. The language in the bill reads—

> The Commissioner General of Immigration, the Commissioner of Immigration, and the Bureau of Immigration, and the Immigration Service at large.

Mr. MOORE of Pennsylvania. What does that mean?

Mr. MANN. If that does not cover the whole subject, then I do not know anything.

Mr. MOORE of Pennsylvania. There is a bureau specifically named, for which appropriation is made this year, that is not designated here in section 4.

Mr. MANN. But it is covered by the "Immigration Service at large." I found in preparing the language which went into the act creating the Department of Commerce and Labor things like these: Take, for instance, the Department of Commerce

and Labor, and we passed a law creating that department. We refer to it in the appropriation bills as the Bureau of Labor. I think the chief of it calls himself the Chief of the Bureau of Labor. The act of Congress says the Department of Labor. I sent over in connection with that to the Bureau of Fisheries and asked by what authority they were using the title they were using over there? They could not give me any, although their office had two or three titles in different laws of Congress, and not one of them had the title which the bureau was using. When I prepared that bill I used all titles that affected everything, for the purpose of covering the whole subject.

Mr. MADDEN. I would like to inquire of the gentleman whether section 9, as drawn, proposes to give to the secretary of labor the right to enforce compulsory arbitration?

Mr. MANN. Well, I do not think so. I do not think that section 9 gives the secretary of labor the authority to enforce anything. As I understand the situation, the so-called Erdman Act provided that the Commissioner of Labor and a member of the Interstate Commerce Commission might, under certain circumstances, use their offices to bring about the end of labor disputes. I believe it is fair to this bill to say that I think that board under the Erdman Act has never followed the act itself; that they have always offered their services voluntarily, as is proposed to be done by this bill, and they have sought to bring the parties together, having some authority to do something—not very much—but using that authority not to do the thing that was provided by law, but to excuse themselves from "butting in." Of course, ordinarily in a labor dispute there are a great many men who would like to rush in and help settle it. I sometimes notice that Members of Congress would be quite willing to get in and settle a labor dispute if they thought they could settle it, and sometimes they are listened to. I take it that that section of the bill is simply for the purpose of giving some one an excuse or authority to say to people, "We want to see if we can not get you together." Am I right?

Mr. WILSON of Pennsylvania. That is practically the purpose of that section of the bill. It does not give any authority further than authority to go to the different parties in the contention and endeavor to bring them together. That is all there is in that authority.

Mr. MANN. Of course, necessarily it goes beyond that before it has been working long. If we are to endeavor to settle the labor disputes—and everyone hopes that he can settle them, or prevent them—we will have, in the end, to confer some authority upon people to obtain information; and I quite agree with those people who believe in approaching that subject carefully and by degrees, not stepping beyond where one can plainly see the ground ahead of him. I have no objection to that provision of the bill, except that I think it would be desirable to have it apply only where there was a pretense that interstate commerce was affected.

Mr. Chairman, I had intended to call to the attention of the House more fully the history of the development of the Cabinet and the creation of the offices. I regret to say that the time has been running very rapidly, and I fear I will not have the time. I hold in my hand a book, which every Member of Congress ought to be required to read, entitled "The President's Cabinet," by Henry Barrett Larner; a recent publication which gives a history of the creation of the different departments. The author was kind enough—I am giving a compliment back—to refer in complimentary language to the Member now addressing you in connection with the creation of the Department of Commerce and Labor. [Applause.]

Mr. FOWLER. Is that the reason why every Member of Congress ought to be compelled to read that?

Mr. LONGWORTH. One of them.

Mr. MANN. I will excuse them from reading that part of it, because, like my colleague from Illinois [Mr. FOWLER], I am heard from often enough from the floor without its being required that I be read elsewhere. [Laughter.] Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has one more minute remaining. The gentleman has had 59 minutes.

Mr. MANN. Then, I shall reserve the balance of my time.

Mr. WILSON of Pennsylvania. Mr. Chairman, I would like to know if we can not proceed with the reading of the bill now?

The CHAIRMAN. The bill can be read if no one desires to address the committee.

Mr. MADDEN. Mr. Chairman, I would like to ask the gentleman from Pennsylvania [Mr. WILSON] if the terms of section 9 give the secretary of labor the power to appoint conciliators in labor disputes in cases not affected by interstate commerce?

Mr. WILSON of Pennsylvania. Mr. Chairman, it gives the secretary power to exercise his judgment in that respect whether the dispute affects interstate commerce or not. The matter is placed entirely in the hands of the secretary, to use his own judgment as to whether he shall attempt to act as mediator or not, or whether he shall appoint conciliators or not.

Mr. MADDEN. There is no power that can be given to any Federal officer, is there, that would give him jurisdiction over cases that were purely intrastate?

Mr. WILSON of Pennsylvania. So far as giving him power to compel any employer or any employee to accept his opinion or his decision or his viewpoint, no such power is given nor can be given.

Mr. MADDEN. Most of the States of the Union have labor commissioners and a labor board that do take up cases purely within the States, have they not?

Mr. WILSON of Pennsylvania. Some of them have and some of them have not. This, however, does not compel the Secretary to interfere or to offer to act as mediator, but gives him that power, which he can exercise upon his own judgment. It gives him no power to enforce his opinion or decision.

Mr. MADDEN. Of course he could not compel either an employee or an employer to accept any suggestion that he might make?

Mr. WILSON of Pennsylvania. No. There is no power of that character conveyed.

Mr. MADDEN. There might be cases where a question of principle was involved, either on the side of labor or on the side of capital, and neither side would agree to yield as a matter of compulsory arbitration.

Mr. WILSON of Pennsylvania. Under those circumstances they would be as free to act as they are now.

Mr. MADDEN. There is not anything, then, the gentleman from Pennsylvania thinks, that would lead to any compulsory settlement of any labor dispute?

Mr. WILSON of Pennsylvania. Nothing whatever. I may say to the gentleman, as I said in response to a similar question some time ago, that if it gave any power of compulsory arbitration I would be opposed to the bill.

Mr. MADDEN. I will say to the gentleman very frankly that if there is any such intention in the bill I would be opposed to granting any such power.

Mr. WILSON of Pennsylvania. If there was any suspicion in my mind of such a proposition I would be opposed to it.

[Mr. FARR addressed the committee. See Appendix.]

Mr. BUCHANAN. Mr. Chairman, I do not want to take up the time of the House at this late hour to discuss this bill in detail.

This is a bill of great importance, and, in my judgment, it should have been passed without unnecessary delay. One sometimes begins to surmise that there is some influence somewhere which undertakes to defeat measures of this kind, not by opposing them openly but by delay, which may result in their defeat. We had the spectacle here last Wednesday of my colleague [Mr. MANN], leader of the Republican side of the House, calling for a quorum and stopping action at that time. We had the same thing, I believe, during the special session, which would make it apparent to me that if it is not done for the purpose of defeating this bill, it is for the purpose of delay, to defeat some other labor measures that are on the calendar.

On this question of legislation for labor I can not harmonize myself with the idea that there is any distinction between the interest of labor and the interest of honest commercialism.

Mr. CANNON. Will the gentleman yield for a question?

Mr. BUCHANAN. Yes.

Mr. CANNON. There is a majority of 60 on the Democratic side. Something was said about a point of no quorum made a week ago; I am not sure by whom, probably by my colleague [Mr. MANN]. If there was no quorum, that was the fault of the majority. Does not my friend think that while important legislation like this is being considered, it is the privilege, if not the duty, of some Member of the House to insist upon a quorum being present?

Mr. BUCHANAN. I would say it is the duty of every Member to be present when important legislation is being considered.

Mr. FOWLER. There is always important legislation being considered.

Mr. BUCHANAN. I feel it my duty to be here all the time. I felt that when I accepted the responsibility of an election.

Mr. CANNON. Primarily the responsibility rests upon the majority of the House.

Mr. MANN. Of whom there are now 25 present. I will give them a roast in a moment.

Mr. BUCHANAN. It would not be the first one the gentleman has given us.

Mr. MANN. No; nor the first one that was deserved.

Mr. BUCHANAN. I was going to say it was a matter of regret that the question of politics was brought up here, and that the gentleman from Connecticut [Mr. HILL] began it by making a speech for campaign purposes, declaring himself in favor of this measure. Yet he and others who have been in control of this House through the Republican Party for the last 16 years have let this bill lie in the committee without any action at all, at least for the last 10 years. And while I believe that a great many members of the Republican minority are in favor of this bill, and are just as much in earnest in pushing labor legislation as I am, yet there seems to be a cause somewhere which indicates that they want to delay action on labor legislation.

I started to say that I can not harmonize myself with the views of those who make a distinction between the interests of labor and the interests of honest, legitimate business and commercialism of this country. Every interest is concerned in the welfare of labor. Anything that results to the benefit of labor must result to the benefit of the whole people and the business interests of this country. No distinction can be made with regard to these things. If we consider the conditions that exist not only in this country, but throughout the world, we must admit that if there ever was a time when sincere, earnest men, both in public and private life, began to see what is threatening this country, this is the time. We have now in Europe business tied up by strikes. We have strikes here and there in this country, which show the unrest that is existing among the working people.

Bureaus of this kind ought to be able to do something to eliminate whatever it is which is creating that unrest. Possibly if such a bureau had been in existence we would not have had the spectacle that we had here in the investigation of the Lawrence strike, a strike which occurred in one of the most highly protected industries that we have heard so much about, as to the protective tariff which protects labor. Probably a bureau of this kind would throw light on questions of this character and avoid these costly strikes, which cost everybody so much. It is not a question of labor alone. Suppose, for instance, the anthracite-coal strike could have been avoided through some instrumentality of this kind. What would have been the value in dollars and cents? If you do not want to look at the question from a humane point of view, take into consideration the loss of time to the strikers, the excessive prices of coal which the people of this country have had to pay as a consequence of that strike, as well as the prostration of business in other lines.

It is my opinion that it is very rare indeed that a strike affects only local conditions, because the business of this country has become very much concentrated. In the building industry contracting corporations are putting up buildings from one end of the country to the other, and in almost any line of industry you will find that similar conditions exist. Therefore, in my judgment, it is almost impossible for a strike to develop that does not concern the whole country, and certainly every strike goes very much further than the men who are immediately concerned in it. If it is true that strikes do affect the whole business interests of the country, then this question is one which affects all the people of the country, no matter whether they be in business or engaged in professions or are themselves working people. For that reason these subjects are of the most importance. The greatest problems to be solved in this country to-day are found in the industrial world, and if you will do something which will tend to stop these industrial wars, if you will do something to educate the employer and employee to understand that their interests lie together in so far as industrial peace is concerned, you will benefit the whole country. It has been said that labor creates capital, therefore why should labor and capital be antagonistic to each other? Is it not due to some misunderstanding? Is it not due to something wrong which affects the interests of this country? If that is true, is it not worth our while to provide by law for the investigation of these matters, to throw light on the question as to the proper way to settle these things, and maintain peace and prosperity in the industries of the country?

Now, I was interested in having this legislation expedited, for the reason that there are other measures on the calendar which I hope to reach. One is an industrial commission, an important measure from my point of view. Also the eight-hour a day for drudge workers, and a bill to protect the working people against the vicious features of the Taylor system. All these, it seems to me, are worthy of consideration. It seems to me the working masses of the country are worthy of consideration, and it seems to me that an important bill of this character, when there is no apparent opposition to it, ought to be passed without bringing in the arguments that have been brought in, which is evidence to my mind more for the purpose of delay than anything else. Mr. Chairman, I reserve the balance of my time.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to say something on this bill. But first I will yield to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, my colleague from Chicago has undertaken to read me a lecture because I made a point of no quorum a year ago. It seems to me that my colleague has considerable nerve and gall. Here is a Democratic majority in the House with 60 majority, and 25 of them are here doing business. Twenty-five! They have the responsibility. There have been three bills, three laws, passed creating new departments of the Government in 114 years. The gentleman says that it involves grave responsibilities, and yet he wants to pass it with a Democratic membership in the House of 25—less than 10 per cent of the membership on the Democratic side of the House. If he wants to place the blame, let him blame his own side of the House. He has no right to criticize me because I asked that on an important measure the Democratic membership of the House attend to the duties for which they are elected and for which they are paid. I am doubly glad this day, on this occasion, to see that my colleague himself happens to be here.

Mr. BUCHANAN. Mr. Chairman, I think when the RECORD is looked over that my attendance will be found to be about as good as that of my colleague. If it is not, I will answer to my constituents in regard to that. I do not have to answer to him. It is a fact that he created a filibuster during the special session for the purpose of delaying the investigation on one of the most vicious systems ever installed in this country. He did it, either consciously or unconsciously, for the purpose of assisting the big employers of this country.

The CHAIRMAN. The gentleman from Pennsylvania has the floor.

Mr. MOORE of Pennsylvania. I have no objection to the gentleman from Illinois going on. I have the floor, but I am willing to listen to him.

Mr. MANN. Will the gentleman yield to me?

Mr. MOORE of Pennsylvania. I yield to the gentleman from Illinois.

Mr. MANN. The statement of the gentleman from Illinois is erroneous. I helped to pass a bill providing for the appointment of a fair commission. The gentleman from Illinois did not desire a fair commission; he wanted a packed commission, of which he would be one of the leading lights.

Mr. MOORE of Pennsylvania. Does the gentleman from Illinois [Mr. BUCHANAN] want time?

Mr. BUCHANAN. No; I have time of my own; I reserved my time, and I am willing to give some to my colleague, if he wants it.

Mr. MOORE of Pennsylvania. Mr. Chairman, I accept for a text the desire of the gentleman from Illinois [Mr. BUCHANAN] that capital and labor shall work together. I am glad such a thought emanated from such a man, because he is a spokesman for organized labor of the country. Labor and capital ought to work together. One of the great difficulties is that they too frequently misunderstand each other because of false teaching on both sides. There is no use to mince words about it. Labor is as easily misled as some manufacturers may be misled. Perhaps it is due to the fact that labor is not always able to see through unprejudiced glasses. There is not a man in this House, Democrat or Republican, that does not wish labor well; but what is the distinction between a laboring man and any other human being? We are all laborers. If we listen to the clarion notes that come so frequently from the other side of the House, we would believe that every one of the majority drawing salaries as Congressmen were laborers. They claim that right, and why not concede it to those who work on this side of the House? Why make this class distinction?

In the days when the gentleman from Illinois was active in the ranks of organized labor of this country, and when the gentleman from Pennsylvania [Mr. WILSON] was delving in the mines, I was in close association with the labor interests of the United States, working with them hand and glove for seven years. I have studied these labor problems, and have wrought and worked with labor to see that its rights were maintained. I have never encouraged a labor leader to draw the line between himself and some one else.

Class distinction is made by those who preach it, not by those who work. The old soldiers of the war of 1861–1865 are not the men to wave the bloody shirt to-day. They are the men who greet each other with earnest and hearty handclasps, because they know now that there were brave men on either side; they are not doing the kicking about the North and the South. Some other men who shout so vociferously come from a younger generation. It is the younger generation that does not know the perils and privations through which the men of 1861–1865

labored and wrought. The men who preach discontent and dissatisfaction to-day, the men who are constantly harping on the "rights of labor," the men who are persistently preaching of the downtrodden, and who always have in their vision the "grinding corporations" are the men who do not remember the difficulties through which honest labor has passed, and they do not recall the days when labor went to the soup houses.

I want labor to have its rights, because I labor and I do not limit my labor by any eight-hour law. I concede eight hours to others, but work beyond that period of time myself, within my own right.

Mr. SULZER. I understand the gentleman from Pennsylvania is in favor of the bill.

Mr. MOORE of Pennsylvania. I am in favor of the bill as it should be amended; yes.

Mr. SULZER. If the gentleman desires to offer any amendments——

Mr. MOORE of Pennsylvania. I will when the time comes; the gentleman does not want to cut off debate now?

Mr. SULZER. I do not want to, but——

Mr. MOORE of Pennsylvania. The gentleman from Illinois has just intimated that the majority vote is with the other side. Yesterday we were told we must act upon a bill limiting the powers of the courts to do justice as between man and man, within three hours. The other day we were told that we must vote upon a measure which determined the rights of workingmen before the courts within a limit of time.

If you want an excuse for cutting off debate upon a bill which creates new offices, which fixes places for men who are to be paid by the workmen of the country, and you want us to do all this in a few moments, without a full and frank discussion, I would like to know it.

I know it is easy for a man to stand in the calcium light of labor and keep constantly preaching the doctrine of labor and pleading its cause, but I notice the men who do that sometimes ride in automobiles and dine at great hotels, and that labor pays for it. There is no use mincing words when we are dealing with a subject that affects the rights of the workingmen. If $3 a day is not enough for workingmen, I am ready to vote him $4, $5, or $6, but I do not want you to be constantly preaching the rights of labor for political purposes nor to obtain partisan victory or advantage.

You are going to create a department of labor. Very well. As I said a moment ago, I am going to join with you if you do it right. If you are going to make this a general labor bill that will be in the interest of all the laboring men, the fellow who pays his dues into a union and who supports the leaders of labor as well as others—if you are going to make this bill in the interest of those who start out at 6 o'clock in the morning and quit at 5 or 6 at night, I am with you—but if you are going to pass a bill that means a sinecure for those who preach labor and do not practice it, then I am not with you on the passage of that kind of a bill. I will talk to the workmen on this line any time the question is raised. I am for labor, Mr. Chairman; I am for the real and genuine labor that works, not for the labor that talks and preaches and goes about upon the street corners ringing its sleeves in hypocritical agony. If you are going to do this for labor, to meet the demands and requirements of honest labor, very well. Then let us have that comity of interest that the gentleman from Illinois referred to a moment ago, when he said that capital and labor should walk hand in hand. That is good, Brother BUCHANAN, of Illinois. Let labor and capital walk hand in hand, and we will have a prosperous country, regardless of Democrats and Republicans.

And while you are creating a Department of Labor, you who have the power to do it and who do it now with a taunt on this side of the House that it has not been done before, let me ask you why, with this thought of capital and labor walking hand in hand, you destroyed the Bureau of Manufactures in the Department of Commerce and Labor when you considered your legislative, executive, and judicial bill two or three weeks ago? That bureau had a purpose. That bureau was to promote, foster, and develop the commerce and trade of the United States, to advance the industries of the United States. You never gave it a fair show, and the other day, in the interest of Democratic economy, you took it out of the Government and said it should not be. If capital and labor are to walk hand in hand, if you are to give an equal chance to the man who employs labor with the man who is employed, if you want him to prosper so that he may pay the better wage that labor demands and earns, then give him "a show for his white alley," too. Why take away the Bureau of Manufactures in the Department of Commerce and Labor that was created to promote, foster, and develop trade, that gives an opportunity for the employment of labor, and then come in and tell us that we were derelict in not providing for labor heretofore? You took away the volume of employment that it would give; you destroyed the influence by which it was proposed to build up the trade and commerce of the country and to give a fair chance to those who are employed to obtain a higher wage. I want a department of labor if it will be effective, but the distinguished gentleman from Pennsylvania [Mr. WILSON], whose long interest in the labor cause is well known by all of us, admitted frankly and squarely upon the floor of the House in the presentation of the bill that there was no power in it to enforce any measure the secretary of labor may recommend. And he said, more than that, that if it should be a question of forcing the employer and the employee to get together to dispense with these industrial troubles that the gentleman from Illinois [Mr. BUCHANAN] so deplores, that he would then be against the bill itself. Well, if we can not have compulsory arbitration, and I am not advocating it, why can not we have a labor bill that means something in the settlement of labor controversies and in the adjustment of those questions which will lead to the goal suggested by the gentleman from Illinois, that labor and capital shall at last walk hand in hand. There is no purpose to the bill in any one of its paragraphs. It proposes simply to create a department of labor. For what purpose? The gentleman from New York [Mr. SULZER] says the purpose is written in every line of the bill. Will you show me the purpose indicated? Purpose No. 1 proposes the creation of a secretary of labor at $12,000 a year; purpose No. 2, the creation of the office of first assistant secretary of labor at $5,000 a year; purpose No. 3, the creation of the office of second assistant secretary of labor, at $5,000 a year; purpose No. 4, the creation of the office of third assistant secretary of labor, at $5,000 a year; purpose No. 5, the appointment of special agents to obtain information, and a solicitor general, at figures indicated in the bill. What is the purpose of the bill? Merely to create these offices? Is it merely to seek out men to occupy these places and to hold them down? Or is it to take hold of labor of the United States in an intelligent way and lead it onward and upward in the manner indicated by the gentleman from Illinois, who would have industrial peace and who would like capital and labor to walk hand in hand? When the proper time comes—and I am not going to talk any longer lest the charge be made that I am endeavoring to delay action on this bill—I shall introduce an amendment stating the purpose of the bill, and when the proper time comes again I shall offer another amendment inquiring why the Division of Information in the Department of Commerce and Labor, which proposes a distribution of the labor of the country, is omitted from the provisions of this bill. I want a labor bill that will be a labor bill that will be of advantage and benefit to the labor of the country. I want a bill that will mean that capital and labor shall walk hand in hand; that the industries of the country shall not be stricken down, but that they shall be encouraged and reared; that the actual wage earners, men and women, will be enabled to earn that stipend which is the reward of honest labor, and that, if possible, through a department like this intelligently directed.

Mr. FOWLER. Will the gentleman yield?

Mr. MOORE of Pennsylvania. I will yield.

Mr. FOWLER. Do you know of anything that would more fittingly dignify labor than to create a department of labor?

Mr. MOORE of Pennsylvania. If the gentleman is seeking dignity for labor, I am inclined to think labor would reply it would rather see the wage. It has had enough dignity for a great many years.

Mr. FOWLER. The gentleman does not answer the question.

Mr. MOORE of Pennsylvania. If the purpose of the department is stated, and that purpose is to intelligently protect the labor of the country in order that it may improve its condition and obtain a higher wage, I say, yes.

Mr. FOWLER. If you give it that prominence that this bill proposes to give it, do you not place it then on a nearer equality before the law than it ever has had before?

Mr. MOORE of Pennsylvania. Has not the gentleman been giving labor prominence enough for years? Have the gentleman and his party given even the postal clerks, who labor, the opportunity to obtain that higher wage which was promised in the post office and post roads bill? They held it off until next year. Why not give it now?

Mr. FOWLER. The gentleman has criticized this bill in a way. I am putting a fair question to him. If we pass this bill creating a department of labor, will it not enable labor then to stand upon a higher plane before the law than ever before?

Mr. MOORE of Pennsylvania. That will depend very largely upon whether or not those put in charge of the Labor Department are ornamental or useful.

Mr. FOWLER. Well, it is presumed that the officer will discharge the duties of the office, is it not?

Mr. MOORE of Pennsylvania. If he is properly directed by law.

Mr. FOWLER. Everything else being equal, then will it not give labor a better opportunity to maintain itself before the law than it ever has had heretofore?

Mr. MOORE of Pennsylvania. Not as the law is written, because the law provides for nothing except that certain statistics shall be gathered, which are now gathered by the Bureau of Labor. The secretary has power to invite men to settle their troubles, but if they do not settle them, they can go on troubling themselves just the same.

Mr. FOWLER. Is not that connected with another department of the Government—with that of the Department of Commerce?

Mr. MOORE of Pennsylvania. The gentleman can no more separate labor from commerce, and have one or the other——

Mr. FOWLER. You might just as well say you can not separate agriculture from commerce as to say you can not separate labor from commerce.

Mr. MOORE of Pennsylvania. Agriculture is labor. The Department of Agriculture is already provided for, to improve conditions among the farmers.

Mr. FOWLER. And for the same reason there ought to be a department of labor, in order to give labor that prominence to which it is justly entitled and of which it has been deprived in all the years of the history of America.

Mr. MOORE of Pennsylvania. Will the gentleman read the bill after he finishes his address?

Mr. FOWLER. I have read the bill.

Mr. MOORE of Pennsylvania. Will the gentleman tell me what it proposes to do?

Mr. FOWLER. It proposes to give to labor that prominence it ought to have.

Mr. MOORE of Pennsylvania. In what way?

Mr. FOWLER. By a department of the Government of the United States, and putting a secretary of labor in the Cabinet of the President of the United States.

Mr. MOORE of Pennsylvania. At how much per year?

Mr. FOWLER. It proposes then to give labor that opportunity of having a man at the head of labor to study the interests of labor of this country, and to seek out the best way to give labor an opportunity to be prosperous and happy and decent in this country.

Mr. MOORE of Pennsylvania. No one disputes——

Mr. SULZER. Read!

Mr. MOORE of Pennsylvania. Just one moment. If you are going to do that, I will hold the floor. I do not propose to have "read" rung out on me when I am discussing the question with the gentleman from Illinois.

The gentleman from Illinois [Mr. FOWLER] waxes eloquent on this question. He is as friendly to the black man as he is to the white man; he is a friend of the farmer as well as of the man who works in the mill. But the gentleman from Illinois can not point out to this House wherein this bill indicates the duties that are assigned to the secretary of labor.

I should like also to know, so long as the gentleman from Illinois has raised the question, whether he means to stand upon the term "decency" that he applied a moment ago to one set of laborers as against others who honestly labor? The gentleman from Illinois is so busy that he does not take time to notice a question that may be vital to him in his own district. I assume that he has no desire to raise a question with regard to classes of labor that may be employed in the district in which he lives.

The CHAIRMAN. The Clerk will read.

Mr. MOORE of Pennsylvania. Mr. Chairman, I said a moment ago that if this matter were to be rushed I would occupy all the time I am entitled to occupy. I now say voluntarily that I do not rise for the purpose of delaying the consideration of this bill. I want that to be understood, and I do not care to have suggestions made to the House that that was the purpose for which I rose. I desire to say that in my own right and of my own volition. I am now through until the time comes for offering amendments. I do not desire any more time, and I do not reserve any time.

The Clerk read as follows:

Be it enacted, etc., That there is hereby created an executive department in the Government to be called the department of labor, with a secretary of labor, who shall be the head thereof and a member of the Cabinet, to be appointed by the President, by and with the advice and consent of the Senate; and who shall receive a salary of $12,000 per annum, and whose tenure of office shall be like that of the heads of the other executive departments; and section 158 of the Revised Statutes is hereby amended to include such department, and the provisions of title 4 of the Revised Statutes, including all amendments thereto, are hereby made applicable to said department; and the Department of Commerce and Labor shall hereafter be called the department of commerce, and the secretary thereof shall be called the secretary of commerce, and the act creating the said Department of Commerce and Labor is hereby amended accordingly.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, line 7, after the word "accordingly," by adding the following: "The purpose of the department of labor shall be to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."

Mr. MOORE of Pennsylvania. Mr. Chairman, this amendment speaks for itself. I do not desire to argue it or to occupy any time in discussing it. The purpose of this bill is not stated anywhere in the bill. I suggest the purpose, which is clearly to elevate and exalt labor.

I ask that this amendment be fairly considered by my friends on the other side. It gives an effective status to the bill.

Mr. WILSON of Pennsylvania. Mr. Chairman, I am willing to accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

Amend, page 2, line 7, by inserting after the amendment just adopted, as a new sentence, the following: "The said secretary shall cause a seal of office to be made for the said department of such device as the President shall approve, and judicial notice shall be taken of the said seal."

Mr. WILSON of Pennsylvania. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That there shall be in said department three assistant secretaries, to be appointed by the President, by and with the advice and consent of the Senate, to wit:

A first assistant secretary, whose duty it shall be to supervise all matters within the department relating to labor engaged in manufacturing and the transportation industries.

A second assistant secretary, whose duties shall be to supervise all matters within the department relating to labor employed in mining, fisheries, and agricultural industries.

A third assistant secretary, whose duties shall be to supervise all matters within the department relating to labor engaged in building and the mercantile industries.

Mr. MANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

Amend by striking out section 2 and inserting in lieu thereof the following:

"That there shall be in said department an assistant secretary of labor, to be appointed by the President, who shall receive a salary of $5,000. He shall perform such duties as shall be prescribed by the secretary or required by law. There shall also be one chief clerk and a disbursing clerk, and such other clerical assistants, inspectors, and special agents as may from time to time be provided for by Congress. The Auditor for the State and Other Departments shall receive and examine all accounts of salaries and incidental expenses of the office of the secretary of labor, and of all bureaus and offices under his direction, and all accounts relative to all other business within the jurisdiction of the department of labor, and certify the balances arising thereon to the Division of Bookkeeping and Warrants, and send forthwith a copy of each certificate to the secretary of labor."

Mr. MANN. Mr. Chairman, the amendment which I have offered is to take the place of both sections 2 and 3 of the bill, and in addition makes provision for auditing the accounts of the new department and certifying balances to the Treasury—a provision which is not now made in the bill and which is not now in any law.

It is necessary to provide in some way for the auditing of accounts. Various of the departments have auditors, but there is one general auditor called "the Auditor for the State and Other Departments," who audits the accounts of all the departments now except those few like the Treasury, War, and Post Office which have special auditors.

The amendment which I have offered provides for the appointment of an assistant secretary of labor, to be appointed by the President, in lieu of the three assistants provided by the bill, to be appointed by the President by and with the advice of the Senate.

The amendment which I offered carries the provision in section 3 as well, because they might as well all be in together, and it comes in harmoniously. I can see no justification for provid-

ing for three assistant secretaries of labor. The new department will be the smallest department in the Government at the outset. It will be less in size than the State Department is. It will not be one-tenth as large as the Treasury Department, and nothing like as large as the Agricultural Department, or the department of commerce, which will be less, so far as the duties are concerned.

If after its organization it is found necessary to have additional assistant secretaries, it will be time enough then to provide for them. There is no occasion for them, to begin with, in my judgment.

Mr. WILSON of Pennsylvania. Mr. Chairman, in my judgment, there is need for these three assistant secretaries, particularly because of the work mapped out for the department in section 9 of the bill. However, I shall not seriously object to the amendment offered by the gentleman from Illionis [Mr. MANN] because I realize that if the bill passes with one assistant secretary provided for, as the work of the department develops and it is seen that there is necessity for additional secretaries, they can be provided by Congress. So I have no desire to offer any serious opposition to the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. COOPER. Will the gentleman permit an interruption?

Mr. WILSON of Pennsylvania. Certainly.

Mr. COOPER. As I understood the amendment of the gentleman from Illinois, it provided for the appointment of the assistant secretary without confirmation by the Senate.

Mr. MANN. That is the case now with the Assistant Secretary of Commerce and Labor.

Mr. COOPER. But the Secretary is appointed by the President with the advice and consent of the Senate.

Mr. WILSON of Pennsylvania. Personally I prefer, and the committee prefer, this section of the bill in its present form; but I have no serious objection to the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. RAKER. Mr. Chairman, I should like to ask the gentleman from Illinois what is the purpose of omitting from his amendment the provision that the appointment of the assistant secretary shall be with the advice and consent of the Senate?

Mr. MANN. I am frank to say that I think the Senate, through the confirmation of officers who are not constitutionally required to be confirmed by the Senate, has outgrown the power that it ought to have as compared with the House. When we passed the law providing for the Department of Commerce and Labor provision for confirmation of the assistant secretary by the Senate was left out. I think that the assistant secretaries of the various departments ought not to be political jobs.

Mr. RAKER. The gentleman is undoubtedly right about that.

Mr. MANN. The head of the department is necessarily a political appointment, but the assistant secretary ought to be kept in his office regardless of the political inclinations of the administration. That can not be done as long as he is confirmed by the Senate.

Mr. RAKER. In other words, when the President appoints a competent man to be assistant secretary his appointment will not have to go to the Senate and a question of political expediency be discussed by the Senate.

Mr. MANN. He ought to remain in the position.

Mr. RAKER. And take the oath of office and take hold of the business of that department. I am in favor of this bill. It should be passed by the House. The people generally for many years have desired this legislation. There is a general demand for it. The labor question is one of the great problems of the day. Labor and capital should walk hand in hand and work together. Both should be given fair and equal treatment. This will give labor an equal chance. Place it on a high basis, where it should be put. It will have a Cabinet officer at the councils at the White House with the other great Cabinet departments.

The Democratic platform of 1908 declares:

> That we pledge the Democratic Party to the enactment of a law creating a department of labor, represented by a secretary in the President's Cabinet.

Again, the late Democratic convention held at Baltimore on June 20, 1912, in its platform declares:

> We pledge the Democratic Party to the enactment of a law creating a department of labor, represented separately in the President's Cabinet, in which department shall be included the subject of mines and mining.

These pledges should be carried out. Now is the time to do it. It will be done.

Mr. COOPER. I should like to ask the gentleman from Illinois if he thinks the secretary himself ought to be a political appointment.

Mr. MANN. It is inevitable that the head of the department shall be a political appointee. When the President selects his official household the selection is political.

Mr. COOPER. Does the gentleman think the Postmaster General ought to be a political appointment?

Mr. MANN. I think the Postmaster General ought to be a political appointment. I agree with the gentleman that there ought to be some officer in the Post Office Department who would remain permanently in charge in the main of the conduct of the business, who should not be a political appointment.

Mr. NORRIS. Mr. Chairman, I know that there is a general idea that the Postmaster General or any other Cabinet officer ought to be a political appointee. I have labored under that impression, and when I was trying to devise some bill that I thought would take the Post Office Department, for instance, out of politics, I came up against that very proposition. Everybody seems to say, "Oh, a member of the Cabinet ought to be a political appointee." I myself do not see why. I have never been able to see why the Postmaster General, for instance, or this secretary mentioned here——

Mr. FOWLER. Or the Secretary of Agriculture.

Mr. NORRIS (continuing). Or the Secretary of Agriculture, should be a political appointee. If I had my way, I would still further change the bill, and I would change the law controlling the Post Office Department particularly, so that the Cabinet officers in those instances would not be political appointees. So far as I have been able to determine, there is no legal definition or authorization of the Cabinet. It has grown up without any law. Its members are called the President's advisers, and we in this bill follow along in the same old rut and provide that this new member of the Cabinet shall be a political appointee, when his duties are nonpolitical and ought to be absolutely divorced from politics. It is the same with the Postmaster General. The President does not need to take political advice from a member of his Cabinet if he does not desire to do so. There is no law that makes a member of the Cabinet the President's political adviser. When the country reaches the point where the people fully realize that we should take some of these departments out of politics and make them business corporations or institutions, they will do it by taking the head of the department out of politics. I wish that the Postmaster General could be appointed for a term of 10 years, so that his term would not expire with that of the President, so that he would be divorced entirely from partisan politics and partisan considerations, and would devote his attention and ability to the management of the great Post Office Department, which comes to the homes and firesides of all the people of this land. It ought to be a great business institution, operated entirely and solely upon business principles and business considerations, instead of being, as it is and always has been, the greatest political machine on earth.

Mr. RAKER. Will the gentleman yield right there?

Mr. NORRIS. Yes.

Mr. RAKER. I move to strike out the last word. I want to ask the gentleman a question. In this bill you have a chance to bring about and consummate the very purpose you have in mind by striking out the provisions in section 1 of the bill, in lines 6 and 7, and providing that the President shall appoint the Secretary of Commerce and Labor without the advice and consent of the Senate.

Mr. NORRIS. I am in favor of it.

Mr. MANN. Will the gentleman allow me to make a suggestion? Under the Constitution the heads of the departments must be confirmed by the Senate.

Mr. RAKER. The gentleman from Nebraska was making a presentation of the matter, and I made that suggestion to him.

Mr. NORRIS. Will the gentleman yield?

Mr. RAKER. Certainly.

Mr. NORRIS. The Constitution provides that the official—I can not quote the exact language, but I looked it up—that the public officials of the United States must be appointed by the President and that the Congress has the power to designate that these officials can be appointed by the heads of departments. I think, technically speaking, the head of a department, which would be a Cabinet officer, must be confirmed by the Senate under the Constitution. But because they must be confirmed under the Constitution is no more reason why they should not be taken out of politics than it would be with reference to the Supreme Court judge, who must be confirmed by the Senate, and he is understood to be and ought to be and is outside of partisan politics.

Mr. MADDEN. Will the gentleman from Nebraska permit me to ask him a question?

Mr. NORRIS. I have not the floor. The gentleman from California has the floor.

Mr. RAKER. I will yield.

Mr. MADDEN. In order to do what the gentleman from Nebraska suggests, would not you have to take the President and the Senate out of politics?

Mr. NORRIS. I think not. The members of the United States courts are not in politics, and yet the Senate confirms them. The members of the Interstate Commerce Commission are confirmed by the Senate. They are not in politics; they do not represent a political machine. But if you would make the term of office of a Cabinet officer, like the Postmaster General or this officer that you are providing for here, make their term of office 10 years, not to be removed until the expiration of that time except for cause, you would take him out of politics. I think the Senate is patriotic enough so that it would have no disposition to put it back into politics. I do not think the fact that the Senate having the confirmation has anything to do with its being politics.

Mr. MANN. Mr. Chairman, in connection with what has been said by the gentleman from Nebraska, it is interesting to recall that the Post Office Department was not made an executive department of the Government until 1872, and that the Postmaster General, or official in charge of the Post Office, was not called into the Cabinet until, I think, 1827 or 1829, by President Jackson. I do not understand how it is possible to have the President's advisers, called around the Cabinet table to determine political policies of the administration, nonpolitical.

Mr. NORRIS. Will the gentleman yield?

Mr. MANN. Yes.

Mr. NORRIS. If the gentleman will permit a suggestion, I think it will answer his question. Take the Postmaster General, for instance. I suppose his particular duty is to advise the President in regard to the Post Office Department, its doings and operations, but he does not have to be a politician.

Mr. MANN. No; but I take it the Cabinet as a cabinet goes beyond the advice concerning the particular duties of the department.

Mr. NORRIS. There is no law for that.

Mr. MANN. There is no law for it. From the start, when Washington first asked that matters should be submitted in his absence to the Secretary of State, Secretary of War, and the Secretary of the Treasury—he did not include the Attorney General—up to the present time, the Cabinet, while it is extra legal as far as statute law is concerned and is only recognized in one law, has been considered as the political advisers of the President as well as his business advisers.

Mr. COOPER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. COOPER. If Washington considered the Cabinet position purely political, how did he happen to take Hamilton and Jefferson into the Cabinet at one and the same time?

Mr. MANN. I did not say he considered them as purely political offices.

Mr. CONNELL. And why did Cleveland take Gresham into his Cabinet?

Mr. NORRIS. My own theory and my idea is that the President ought to be perfectly free to secure his political advisers anywhere, and there is no intention of circumventing him by any law or rule to get his advisers wherever he may seek them.

But the country's interests, for instance, in the Post Office Department, is to have an efficient service, and it ought to have the best possible service, and if to do that it is necessary to deprive the President—which I do not think would necessarily follow—of a political adviser, it certainly would not interfere with the President's political plans if he did not want to have a Postmaster General advise him, for he could go outside of the Post Office Department and would not be required to ask the Postmaster General for political advice.

Mr. MANN. I think the gentleman from Nebraska and myself in the main agree. It is not necessary for the President to ask advice of these gentlemen. I do not know what the effect would be, although it would be a refreshing change, if any President would really make his Cabinet of political advisers and select men who were competent to give political advice and then would follow it. [Applause.]

Mr. CANNON. Mr. Chairman, I move to strike out the last word, not, perhaps, to say anything of importance on the bill, but I am moved to submit an observation or two.

Mr. MOORE of Pennsylvania. Make it two.

Mr. CANNON. Perhaps I will make it three if I have time. There are governments and governments. Ours is a government by the people, or, as some express it, the plain people, and I can prove it by two or three candidates for the Presidency. [Laughter.] We are all tolerably plain. Lincoln said he thought God must have loved the plain people, because he made so many of us. This is a government by majorities. Sovereignty rests in each citizen, but they can not all have their way all the time touching the policy under which the Government shall be conducted. Therefore, we have got to have the election, and the majority says what the policy shall be.

Now, I am quite willing to say as to the mere clerical positions, where the policies of the Government are not affected, I see no necessity for their being politicians. For instance, clerks in the departments, clerks in the post offices, although they might be an asset for activity under conditions just before and at the elections. But when a majority is chargeable it ought to have full power with the responsibility.

The President ought to call about him in his Cabinet men in sympathy with the policies of the majority that made the President, because they helped to establish the policy. Well, you may say the Cabinet need not take an interest in politics. Well, I fancy they should. Even if the President were elected for six years and had Cabinet officers for six years, he would be responsible and they would be responsible with him and ought to be in sympathy with him and the majority that made them. Oh, gentlemen have said about the judges of the Supreme Court and the inferior Federal judges that they constitute a coordinate branch of the Government without being politicians. That is true, but the judges have a life tenure or during good behavior, and the Federal judiciary do not participate in partisan contests.

The President and the Congress are chosen by a majority of the people and should, by administration and legislation in conformity with the policy of the party majority which elected them, perform their function, at the same time preserving all the constitutional and legal rights of all the people. Now, there is one way we could keep the President and the Cabinet officials—and for that matter all legislative officials—out of partisan contests, and that is to select them for life or during good behavior.

That would take them out of politics, and yet you and myself and the people would not assent to it, because from time to time the people become dissatisfied with the policies of one party and try another, and some people desire a change without good reason therefor. Why, the lifetime of a generation is only 36 years. The men who voted in 1896, more than half of them, are dead, and the 5-year-old boys then, from that up to 21, will control the policy of the country for the next four years when they vote in November next. Some of them do not know whether the policies of this party or that party are correct, and it is possible that they will not know until they run up against the buzz saw and get information through experience.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CANNON. I guess we had better go along and keep house in the same old place and in the same old way, and if you Democrats come into power, if I may be indulged for just one sentence more, in November next, I want you to come into full power [applause on the Democratic side], and then quit playing to the galleries, because with full power there will be full responsibility, and if you do not do well the people will turn you out under the leadership of that Republican Party, as they did in 1896. [Laughter and applause.]

Mr. MADDEN. Mr. Chairman, I move to strike out the last two words. It is a very interesting study to see the various attitudes assumed by gentlemen who believe in one case that we ought not to have any politics mixed with the Government and in the other case that it ought to be all politics. Just now most of the Democrats believe that we ought not to have any politics, and some Republicans agree with them; but I notice when the Democrats reported the legislative bill they provided that all clerks in the departments should go out of politics, or go into politics, because they did not want them to hold office for longer than five years, and that is intended, of course, not to have them out of politics, but to put them into politics. Is that not true? The Republicans have been getting so virtuous on the question of politics lately that if anybody in the party talks about politics he is subject to ostracism, and the Democrats have been preaching the doctrine of political interference in governmental affairs for the last 20 years, and just as soon as they begin to smell an opportunity to get into power they support a bill to put everybody who is in office out of office so that they can reappoint fellows who will go into politics and keep the Democrats in power the rest of their natural lives. [Applause on the Republican side.] We think we ought not to appoint a Postmaster General or a Secretary of the Department of Commerce and Labor who has ever smelled politics anywhere. We think the President of the United States ought not to mix in politics. A good many people believe he has not mixed much in it in the last three or four years. [Laughter and applause on the Republican side.] And they say that a

Cabinet officer, the President's political adviser—if I were President I would appoint some one who knew how to advise me politically. Why, the people of the United States are all in politics. It is one of the greatest honors that a man can have conferred upon him to be recognized as a politician, and it should be. What is a politician and what is politics? Is it not a question of policy? We are all interested in the Government, the Government is ours, and we are the Government, and we ought to put men into office who know something about politics or the policies of the people and who agree with the policies of the people, and I believe that every man below the real managing man in the various departments ought to be out of politics, but that every man who is appointed to that great place and who has the direction of the department over which he is appointed ought not only to know politics, but to engage, to indulge in it, and possibly advise the man who is at the head of the Nation about the politics and policies he ought to pursue.

I get very tired of listening to these Democratic reformers prating on keeping out of politics and then witnessing the spectacle of their reporting bills to put every present incumbent out of office when they think they are going to get in. If they get in after next November, watch them. There will be no apology for politics; every fellow who does not smell like a Democrat will go out of office. I am in favor of their throwing the Republicans out because it makes them better Republicans. I am not in favor of keeping Republicans under a Democratic administration, but I believe in going out on the street and carrying the banner of Republicanism to the people everywhere and showing the iniquity of the Democratic Party wherever they have control of things. [Applause on the Republican side.]

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment.

The question was taken, and the amendment was adopted.

The Clerk read as follows:

SEC. 3. That the salary of each of the assistant secretaries of labor shall be $5,000 per annum, and that there shall be one chief clerk, a disbursing clerk, and such other clerical assistants as may be from time to time authorized by Congress, and such number of inspectors and special agents as may be provided for by Congress.

Mr. WILSON of Pennsylvania. Mr. Chairman, as the subject matter of this section is covered by the amendment just adopted, I move to strike out the entire section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, by striking out all of section 3.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the following-named offices, bureaus, divisions, and branches of the public service now and heretofore under the jurisdiction of the Department of Commerce and Labor, and all that pertains to the same, known as the Commissioner General of Immigration, the Commissioners of Immigration, the Bureau of Immigration and the Immigration Service at Large, the Bureau of Labor, and the Commissioner of Labor, be, and the same hereby are, transferred from the Department of Commerce and Labor to the Department of Labor, and the same shall hereafter remain under the jurisdiction and supervision of the last-named department. The Bureau of Labor shall hereafter be known as the bureau of labor statistics, and the Commissioner of the Bureau of Labor shall hereafter be known as the commissioner of labor statistics; and al the powers and duties heretofore possessed by the Commissioner of Labor shall be retained and exercised by the commissioner of labor statistics.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 3, line 6, after the words "Bureau of Immigration," by adding "the division of information."

Mr. MOORE of Pennsylvania. Mr. Chairman, I hope the gentleman from Pennsylvania [Mr. WILSON] will accept that amendment, because it does his bill no harm, unless there is some reason for leaving this division out.

Mr. WILSON of Pennsylvania. So far as the committee is concerned they supposed and believed they were taking over to the Bureau of Labor all of the Immigration Service, and so far as I know there is no law creating the division the gentleman has reference to. If the adoption of the amendment gives a legal status to that division which it does not now have, then there might be some doubt as to whether it ought to be accepted or not. If it does not give any more legal status to it than it has now, I have no objection to the amendment.

Mr. MANN. Mr. Chairman, I think there will be no harm done. That is a division that was created, by the way, since the Immigration Service was covered into the Department of Commerce.

Mr. WILSON of Pennsylvania. I have no objection to the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 5. That the bureau of labor statistics, under the direction of the secretary of labor, shall collect, collate, and report at least once each year, or oftener if necessary, full and complete statistics of the conditions of labor and the products and distribution of the products of the same in each of the different industries herein mentioned, and to this end said secretary shall have power to employ any or either of the bureaus provided for his department and to rearrange such statistical work and to distribute or consolidate the same as may be deemed desirable in the public interests; and said Secretary shall also have authority to call upon other departments of the Government for statistical data and results obtained by them; and said secretary of labor may collate, arrange, and publish such statistical information so obtained in such manner as to him may seem wise.

Also the following committee amendment was read:

Amend, page 3, line 21, by striking out the word "one" and insert in lieu thereof the word "once."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman in charge of the bill whether this contemplates that the bureau of labor statistics shall collect the same information which is collected by the Bureau of the Census?

Mr. WILSON of Pennsylvania. I did not quite catch the gentleman's question.

Mr. MANN. This section requires the commissioner of labor to collect at least once a year—

full and complete statistics of the conditions of labor and the products and distribution of the products of the same in each of the different industries herein mentioned.

I do not know whether any industries are mentioned herein or not. Does this contemplate that the Commissioner of Labor is to collect industrial and labor statistics every year, some of which, at least, are collected twice every 10 years by the Census Bureau? I take it that there was no intention, in the first place, of having a duplication of work?

Mr. WILSON of Pennsylvania. There is no desire for that kind of duplication.

Mr. MANN. I call it to the gentleman's attention, because I believe that under the language of this bill it necessarily requires a duplication of work. Certainly the Bureau of Labor ought to be permitted to obtain from the Census Bureau any information that it can without being required to collect it originally itself. I simply make the suggestion to the gentleman for further consideration in the bill.

Mr. WILSON of Pennsylvania. The power is granted to the secretary to call upon other departments for such information and statistics as they may have in their possession in order to accomplish this purpose.

Mr. MANN. I know; but this section requires the Commissioner of Labor to collect labor statistics.

Mr. WILSON of Pennsylvania. It does not say where he shall collect them, but it states he may collect them from the other departments.

Mr. CANNON. Mr. Chairman, I move to strike out the last word. Before I ask the question, I want to make a statement as to what experience I have had in this matter. There is the Bureau of Statistics, statistics gathered by the State Department, statistics gathered in the Agricultural Department. I do not know, and I doubt whether or no the majority of the Members of this House, if they start out to get full information, will know where they can go to get it. But when they get it they will find much duplication.

I believe that if intelligently administered and organized, the employees in the department being efficient, they might well be diminished by one-third. I do not say they will be, and I do not know exactly who can intelligently organize them. But I have read the bill, and I have had a fear that if the employees of this department gathered their information from the other departments, and the other departments, including the Census, published that information we would have other publications duplicating again that which had already been duplicated in some instances before.

Take, for example, the Statistical Abstract, which is of as much use to me perhaps as any other publication. Every once in a while I am jerked up by somebody asking, "Where is your authority?" I answer, "The Statistical Abstract." Then the question arises, "Where is its authority?" Then I have to go wandering about to find out.

I am not antagonizing the bill or seeking to embarrass the gentleman, but am speaking in good faith and suggesting to the gentleman if it may not be well enough to wipe out that matter.

Mr. WILSON of Pennsylvania. If the gentleman will permit, I may say that the committee took into consideration that very phase of the subject, As the bill originally came to the committee what is now section 11 was not in the bill. There was a disposition to add onto the bill certain bureaus and divisions, and so on, which would have made the department very much larger than is proposed by this bill. Now, the committee came to the conclusion that it was a very difficult matter to build up a department under existing circumstances without more or less of duplication, and so they proposed to transfer to this department existing bureaus, with practically the same rights and powers and privileges that those bureaus now have, and then provide:

That the secretary of labor shall investigate and report to Congress a plan of coordination of the activities, duties, and powers of the office of the secretary of labor with the activities, duties, and powers of the present bureaus, commissions, and departments, so far as they relate to labor and its conditions, in order to harmonize and unify such activities, duties, and powers, with a view to further legislation to further define the duties and powers of such department of labor.

That language was placed there for the purpose of avoiding, so far as possible, that duplication.

Mr. CANNON. If the gentleman will allow me, I should think that provision is a wise one; but when I say that, I want to call attention to the fact that, according to my observation, when you once get work started "all the king's horses and all the king's men" can not stop it and get rid of it. It is easy to create places and beget duplication and difficult to get rid of them.

If you call this man "commissioner of statistics"—if that be his title—he has got something to do, and he becomes active. My experience, after 25 years' service upon the Committee on Appropriations, a portion of that time when that committee had all the money bills except the river and harbor bill has been that you do not get rid of offices when you once create them.

The CHAIRMAN. The pro forma amendment of the gentleman from Illinois [Mr. CANNON] will be considered withdrawn.

Mr. COOPER. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman from Illinois [Mr. MANN] and the gentleman from Pennsylvania [Mr. WILSON], if the amendment offered by the gentleman from Illinois and adopted as a substitute to section 2, that section being stricken out, enumerated the different industries which are mentioned in section 2. If that did not reenumerate the different industries, then I call attention to line 24, on page 3, wherein it is required that complete statistics of the different industries therein mentioned shall be compiled. If section 2 be stricken out, where is there any enumeration of industries?

Mr. WILSON of Pennsylvania. There is not now in the bill.

Mr. COOPER. Then the words "different industries" should be stricken out, and there should be inserted after the words "of the" as they appear in line 24, "products," and so forth, "of the manufacturing, transportation, mining, fisheries, agriculture, building, and mercantile industries."

Mr. WILSON of Pennsylvania. Mr. Chairman, the gentleman is correct in his criticism.

Mr. MANN. If the gentleman will permit, the gathering of statistics relating to the mining industries is now committed to the Bureau of Mines and Mining. The gathering of information relating to the fisheries industries is now committed to the Bureau of Fisheries. The gathering of statistics relating to the agricultural industries is now committed to the Department of Agriculture. The gathering of statistics relating to the transportation industries is now committed to the Interstate Commerce Commission. All of these bureaus or departments of the Government collect complete statistics relating to the industries.

Mr. WILSON of Pennsylvania. The Bureau of Labor to-day is more of a statistical bureau than anything else.

Mr. MANN. As to labor.

Mr. WILSON of Pennsylvania. As to labor.

Mr. COOPER. Will the gentleman permit an inquiry whether the bureaus as now constituted in other departments of the Government are required to give complete statistics of the conditions of labor?

Mr. MANN. No; I think not.

Mr. COOPER. This requires "of the conditions of labor." That is a very important thing.

Mr. MANN. I did not think that the words "the different industries herein mentioned" were a limitation.

Mr. COOPER. The conditions of labor in different industries.

Mr. KENDALL. With relation to the distribution of the products of labor.

Mr. WILSON of Pennsylvania. Mr. Chairman, I move to amend, page 3, line 23, by striking out after the word "same" the words "in each of the different industries herein mentioned."

Mr. MANN. That will cover it.

Mr. KENDALL. Without any insertion.

Mr. WILSON of Pennsylvania. Yes.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 23, by striking out after the word "same" the words "in each of the different industries herein mentioned."

The amendment was agreed to.

The Clerk read as follows:

SEC. 8. That there shall be a solicitor of the Department of Justice for the department of labor, whose salary shall be $5,000 per annum.

Mr. MOORE of Pennsylvania. Has the chairman of the committee compared this salary of $5,000 with the salaries of the solicitors in other departments?

Mr. WILSON of Pennsylvania. It is the same as the salaries of solicitors in other departments.

Mr. MOORE of Pennsylvania. Does the Solicitor of the Navy Department receive $5,000?

Mr. WILSON of Pennsylvania. I could not say offhand. I know at the time the matter was under consideration this salary was compared with the others.

Mr. MOORE of Pennsylvania. I am under the impression that it is higher than is paid in other departments.

Mr. WILSON of Pennsylvania. I think not. There was no intention of doing so.

Mr. MOORE of Pennsylvania. If the gentleman feels sure he has not raised the amount, I shall not offer an amendment.

Mr. WILSON of Pennsylvania. I am satisfied it is the same as that provided for other solicitors.

Mr. MOORE of Pennsylvania. Very well.

The Clerk read as follows:

SEC. 9. That the secretary of labor shall have power to act as mediator and to appoint commissioners of conciliation in labor disputes whenever in his judgment the interests of industrial peace may require it to be done; and that all power and authority heretofore possessed or exercised by the head of any executive department over any bureau, office, branch, or division of the public service by this act transferred to the department of labor, or any business arising therefrom or pertaining thereto, whether of appellate or revisory character or otherwise, shall hereafter be vested in and exercised by the head of the said department of labor.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend page 5, line 25, by inserting after the word "done" the following:

"And the secretary of labor, or through him the mediators or commissioners of conciliation appointed by him, shall report to the President their findings, with conclusions and recommendations thereon."

Mr. MOORE of Pennsylvania. Mr. Chairman, I do not believe this interferes with what is in the mind of the chairman of the committee. He has indicated a number of times in reply to questions that he does not stand for compulsory arbitration and that he will not do so; but there is no good effect to be derived from this paragraph, no benefit to capital or labor, unless some such amendment as this is made.

You have not even instructed the secretary or any one of the mediators or conciliators for whom you provide, to report any finding whatever. I am not asking in this amendment that you even give the secretary power to enforce any judgment that may be arrived at, but I do believe that if we bear the expense of a great department like this and of the machinery that will be attached to it, that the common people, the public, the wage earners all over the land, should know the result of the investigation that may be undertaken. As this paragraph stands, it provides:

SEC. 9. That the secretary of labor shall have power to act as mediator and to appoint commissioners of conciliation in labor disputes whenever in his judgment the interests of industrial peace may require it to be done.

Not a word more, not another thing, no information to the public as to the result of the investigation or the conclusion. The secretary of the department may spend weeks in an endeavor to settle a dispute arising in Chicago; his mediators may go to Boston or Philadelphia and investigate for weeks and months, and that is the end of it; you have no condition that they shall report even to the secretary. Why not let the public know? If you do not care to enforce the decree, why not let us know what the conclusion of the investigators may be? Why not let the public know what they did? We have paid them for that purpose.

Mr. FOSTER. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Certainly.

Mr. FOSTER. Under this provision of the bill, does not the gentleman think the commissioners appointed by the head of the department would naturally make a report to him?

Mr. MOORE of Pennsylvania. There is not an obligation in this paragraph, or in this bill, upon the part of the secretary

or anyone appointed by him to tell the public anything about what they do.

Mr. FOSTER. You do not do that when you report to the President, do you?

Mr. MOORE of Pennsylvania. Yes; it becomes public information.

Mr. FOSTER. Not all the reports made to the President are public property.

Mr. MOORE of Pennsylvania. If trouble arises and the secretary appoints conciliators to go and settle the dispute, which will be of advantage to all the people, we ought to know about it. Take such a trouble as occurred at Lawrence.

Mr. FOSTER. Have not they made that report?

Mr. MOORE of Pennsylvania. I do not recall.

Mr. FOSTER. I think they have, and it is in the hands of the printer and will be out soon as a Senate document.

Mr. MOORE of Pennsylvania. If they have done it in the Lawrence case, it is under some existing law. This law which takes over all this business makes no provision for report or publication, and leaves the public in the dark as to what these men do. I am not asking the committee to go to the length that I thought perhaps we might go to enforce a decree.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Pennsylvania asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. I will now yield to the gentleman from Pennsylvania [Mr. WILSON].

Mr. WILSON. I did not want to ask the gentleman a question; I wanted to speak in my own time.

Mr. MOORE of Pennsylvania. Then I will continue my statement. Here is the Congress of the United States providing for a new department which gives recognition to a vast body of the people at the Cabinet table of the Nation. We are appointing a secretary, at a large salary, and an assistant secretary, giving them authority to appoint investigators to attempt to settle labor disputes, to attempt to conciliate those who are at variance in industrial circles.

Yet we are attaching no string to them whatever. We are telling them to go ahead, if there is an outbreak, if there is an industrial disturbance, and do what they can to settle it; but they need not tell us anything about it. How is Congress to know what effect the work of the department of labor is having? How is the public to know whether it is a good thing or a bad thing? The secretary is to have the power to appoint, ad libitum, inspectors, investigators, mediators, conciliators; pay them whatever wage he sees fit; keep them employed as long as he desires; and then convey no word to Congress or to the people. It seems to me that if you were not desirous of hiding the conclusions of the men who undertake to do this work for the Government, if you desire that some good shall result from the department you undertake to create, you will at least let the public know what the judgment of the Secretary is in regard to the merits of the controversy, and let the public know what the mediators find as the result of their investigation; that you will at least give an opportunity to the public to understand whether the money spent in this manner was properly spent. How do we know how long the men were employed in efforts at conciliation or mediation? How do we know with whom they have dealt, whether they have treated with only one side or with both sides? Give us a chance to learn what they have done. Let their findings see the bright daylight. It seems to me there can be no objection to a provision of this kind. I am not trespassing on the precincts which the chairman of the committee seems to regard as sacred. I have attempted to bring back to the people who created the office the right to know what their servants have done and the right to understand what conclusions they have reached.

Mr. WILSON of Pennsylvania. Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORE] apparently has an entirely wrong conception of what is sought to be accomplished by section 9 of this bill. It does not propose to give to the secretary of the department of labor any power to arrive at any conclusion of any kind whatever concerning a trade dispute. It does not give to him or to the conciliators any power to arrive at any conclusion or any determination of the facts in the case, and thus it seems to me to be useless to provide that the secretary shall make a report on conclusions that he is not authorized to make to the President of the United States.

The amendment proposed by the gentleman embodies the distinctive difference that there is between the power conveyed by this bill and the power as proposed in the Townsend bill and gives to the secretary of labor the power that he should not have—the power to organize, direct, and concentrate public opinion so as to compel the employer to give conditions he does not want to give or the employee to accept conditions he does not want to accept. Both of them are wrong and should never be incorporated in the laws of the United States. I ask for a vote.

The question was taken, and the Chairman announced the noes seemed to have it.

Upon a division (demanded by Mr. MOORE of Pennsylvania) there were—ayes 6, noes 62.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend page 5 by striking out all of section 9, after the word "done," in line 25, and inserting in lieu thereof the following:

"And all duties performed and all power and authority now possessed and exercised by the head of any executive department in and over any bureau, office, officer, board, branch, or division of the public service by this act transferred to the department of labor, or any business arising therefrom or pertaining thereto, or in relation to the duties performed by and authority conferred by law upon such bureau officer, office, board, branch, or division of the public service, whether of an appellate or revisory character or otherwise, shall hereafter be vested in and exercised by the head of the said department of labor."

Mr. MANN. Mr. Chairman, the amendment which I have offered does not, in fact, strike out any provision that is in the bill. The language as it now reads is, "and that all power and authority heretofore possessed and exercised," and so forth, and the amendment I have offered reads, "and all duties performed and all power and authority now possessed or exercised." Of course it might not very well be heretofore exercised, because that might have been changed since, but my amendment adds the words "duties performed" and adds "officer" and "board." When we created the Department of Commerce and Labor, and there was a transfer from other departments to that department, the amendment which I have now offered was agreed to in reference to that. It was very carefully examined and approved by the Comptroller of the Treasury, who has to pass upon accounts, and is more complete in language and more certain to be fully effective than the language included in the bill.

Mr. WILSON of Pennsylvania. Mr. Chairman, I have no objection to the amendment presented by the gentleman from Illinois; but, so far as I am able to discern, it is simply a case of tweedle dum and tweedle dee. There is not a snap of a finger's difference——

Mr. MANN. There is no difference in the intention, but it is quite a difference when the matter comes to be construed by a court.

Mr. WILSON of Pennsylvania. I have no objection to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 11. That the secretary of labor shall investigate and report to Congress a plan of coordination of the activities, duties, and powers of the office of the secretary of labor with the activities, duties, and powers of the present bureaus, commissions, and departments, so far as they relate to labor and its conditions, in order to harmonize and unify such activities, duties, and powers, with a view to further legislation to further define the duties and powers of such department of labor.

Mr. MANN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, after line 23, insert as new sections:

SECTION —. That a commission is hereby created to be called the commission on industrial relations. Said commission shall be composed of nine persons, to be appointed by the President of the United States, not less than two of whom shall be employers of labor and not less than two of whom shall be representatives of organized labor. The Department of Commerce and Labor is authorized to cooperate with said commission in any manner and to whatever extent the Secretary of Commerce and Labor may approve.

SEC. —. That the members of this commission shall be paid actual traveling and other necessary expenses and in addition a compensation of $10 per diem while actually engaged on the work of the commission and while going to or returning from such work. The commission is authorized as a whole, or by subcommittees of the commission, duly appointed, to hold sittings and public hearings anywhere in the United States, to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses and to compel testimony, and to employ such secretaries, experts, stenographers, and other assistants as shall be necessary to carry out the purposes for which such commission is created, and to authorize its members or its employees to travel in or outside the United States on the business of the commission.

SEC. —. That said commission may report to the Congress its findings and recommendations from time to time, and shall make a final report not later than three years after the date of the approval of this act, at which time the term of this commission shall expire, unless it shall previously have made final report, and in the latter case the term of the commission shall expire with the making of its final report; and the commission shall make at least one report to the Congress within the first year of its appointment and a second report within the second year of its appointment.

SEC. —. That the commission shall inquire into the general condition of labor, especially in the principal industries of the United States, and especially in those which are carried on in corporate forms; into existing relations between employers and employees; into the effect of industrial conditions on public welfare and into the rights and powers of the community to deal therewith; into the growth of associations of employers and of wage earners and the effect of such associations upon the relations between employers and employees; into the extent and results of methods of collective bargaining; into any methods which have been tried in any State or in foreign countries for maintaining mutually satisfactory relations between employees and employers; into methods for avoiding or adjusting labor disputes through peaceful and conciliatory mediation and negotiations; and into the scope, and methods and resources of existing bureaus of labor and into possible ways of increasing their usefulness. The commission shall seek to discover and to point out the underlying causes of dissatisfaction in the industrial situation.

Mr. WILSON of Pennsylvania. Mr. Chairman, I make the point of order that the amendment is not germane.

Mr. MANN. Well, I am willing to be heard on the point of order, Mr. Chairman. This bill creates a department of labor, throws open everything which can go in it into a department of labor. I have offered an amendment to cooperate with the Department of Labor in collecting information and a report to Congress, and I do not think that the gentleman desires to make the point of order when he understands what the amendment is.

Mr. WILSON of Pennsylvania. I understand what the amendment is. The amendment is the industrial commission bill as reported from the Committee on Labor, with the exception of the last section of that bill as reported. That is what the measure is, and if included in this bill it would simply load down the bill with the impossibility of either becoming a law. I do not think I would raise the point of order but for the fact that if we include it in this bill it simply means the death of both of these bills, and I have no desire to have that brought about.

Mr. MANN. I do not think it means the death of either one, and the gentleman has no cause for stating that where he expects to pass two bills separately he can not pass the two bills together. That is queer reasoning to me. The gentleman expects that this bill will become a law. He wants the other bill to become a law. Complaint was made here to-day that the other bill could not be called up.

Now, I have offered the provisions of the other bill as an amendment to this bill. If the gentleman from Pennsylvania [Mr. WILSON] wants to take the responsibility of killing the bill, that is his responsibility and he has the right to assume it, and I know he is not afraid of assuming any responsibility which comes upon him; but it will be his responsibility. I do not think, however, that the amendment is subject to a point of order. In creating a new department of the Government we have a right to put in anything that belongs in that department, and make any amendment which can in any way relate to labor. I have offered an amendment providing for a temporary industrial commission to cooperate with the new department of labor in obtaining information and for the purpose of making recommendations to the President and to Congress for future legislation. Now, is that not germane to a bill to create a department of labor, just as much germane as the Bureau of Labor Statistics is germane, and much more germane to the bill than the Immigration Service is germane? The commission proposes to deal directly with the same question of conciliation in labor disputes that is dealt with by section 9 of the original bill.

Mr. UNDERWOOD. Mr. Chairman, I rise to support the point of order made by the gentleman from Pennsylvania [Mr. WILSON], and I agree with him that both of these bills are of too much importance to jeopardize either of them by attempting to combine the two in one bill. It seems to me that the bill which is offered as an amendment to this bill is not germane to the subject matter of the bill.

The primary purpose of the bill that is pending before the House is to create a department of labor. It is the organization of a new and great department. The bill that is offered as an amendment is to create a temporary commission that deals with the investigations of certain subjects, some of which are germane to a department of labor, but many of which have no relevancy to this bill whatever. It is to go into the broad question of the cost of living, and that investigation will probably be germane in some of its particulars to every department of this Government. Could the Chair hold that on an appropriation bill that was making appropriations for the Department of Commerce and Labor that that amendment would be in order because some of the provisions in it related to the Department of Commerce and Labor? It is true that there are provisions in there that might relate and correlate to this bill, but there are many provisions that do not. This bill is intended solely for the purpose of creating an executive department of the Government. The purpose of that bill is an industrial investigation, and it seems to me clearly one is not germane to the other.

The CHAIRMAN. The Chair has had but little opportunity to investigate this matter and has no precedent at all, but the Chair is of the opinion that this bill offered as an amendment by the gentleman from Illinois [Mr. MANN], while upon the same subject, is an independent bill, for a different purpose, and some of its provisions are inconsistent with the purposes of the original bill. The Chair therefore sustains the point of order.

Mr. MANN. Mr. Chairman, I respectfully appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. BUCHANAN. Mr. Chairman, I move that the appeal do lie on the table.

Mr. MANN. Mr. Chairman, I desire to be heard. The bill expressly provides——

Mr. BUCHANAN. Mr. Chairman, is my motion in order?

The CHAIRMAN. There is an appeal pending now from the decision of the Chair.

Mr. BUCHANAN. I move to lay the appeal on the table.

Mr. MANN. I make the point of order that the motion is not allowable in Committee of the Whole.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized.

Mr. MANN. Mr. Chairman, section 9 of the bill provides that the secretary of labor shall have power to act as mediator and to appoint commissioners of conciliation in labor disputes whenever, in his judgment, the interests of industrial peace may require it to be done; and the provisions of the amendment which I have offered authorizes a commission to inquire into the existing relations between employers and employees, into the effect of industrial conditions on public welfare and the rights and powers of the communities, and so forth, exactly in line with the purpose of the bill in section 9 and certainly germane to a bill creating a department of labor. If the gentleman from Pennsylvania had offered the amendment as a committee amendment, the Chair would have overruled a point of order made by me that it was not germane.

Mr. HOBSON. Mr. Chairman, I make a point of order against the gentleman.

The CHAIRMAN. The gentleman will state the point of order.

Mr. HOBSON. I make the point of order to the statement that the Chair would rule differently as between two different Members.

The CHAIRMAN. The Chair thinks it is an undue reflection upon the Chair. The gentleman, however, will proceed.

Mr. MANN. The Chair knows perfectly well that I was making no reflection upon the Chair. The gentleman from Alabama [Mr. HOBSON] has a peculiar cast of mind, and that is sufficient. [Laughter.]

Mr. HOBSON. Will the gentleman please repeat that? I did not catch it.

Mr. MANN. I said the gentleman had a peculiar cast of mind.

Mr. HOBSON. Oh! [Laughter.]

Mr. MANN. Now, I maintain that if the Chair had held that a committee amendment offered in precisely the same language that I have offered in this was in order, he would have been right. I think the Chair, suddenly called upon to rule upon an amendment of this sort, has been misled in his belief that the amendment is not germane. Any amendment which relates to the subject of labor is germane to a bill to create a department of labor, and any amendment which proposes a new form of activity on the part of the Government relating to labor is germane to a bill creating a department of labor.

No one would claim that if I had proposed an amendment to create a new bureau to deal with labor in some way it would not have been germane. I insist that the amendment which I have offered is germane, and I offered it because—it seeming to have met in words the approval of both sides of the House heretofore—I wanted to give an opportunity to the House really to act upon the amendment, and if that side of the House is sincere—which I doubt—in its advocacy of the measure, it will take a chance to hold it in order and vote it into the bill. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. CANNON. Mr. Chairman, just a moment. With high respect for the Chair, I agree with my colleague [Mr. MANN] that, as he stated, the Chair ruled hastily. My recollection is, touching the germaneness of an amendment, that the wisdom or unwisdom of the amendment does not determine, if it be touching the same or a similar matter. The province of the

Chair is—whether the amendment is wise or unwise—to let the House dispose of it. To my mind, my colleague from Illinois [Mr. MANN] is right in his contention.

I did not address myself to the point of order because it seemed to me so patent that it was in order that I did not think it was worth while. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the Chairman announced that the "ayes" seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 70, noes 29.

So the decision of the Chair was sustained.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 12. That this act shall take effect July 1, 1912, and all acts or parts of acts inconsistent with this act are hereby repealed.

Mr. WILSON of Pennsylvania. Mr. Chairman——

Mr. BUCHANAN. Mr. Chairman, I move to strike out the last word. A few moments ago, when my colleague from Illinois, Mr. MANN, and myself were in a colloquy, he made a statement which I did not understand at the time.

The CHAIRMAN. The chairman of the Committee on Labor desires to be recognized.

Mr. BUCHANAN. I want only a minute. He made a statement that I desired a packed committee to make the investigation of the Taylor system. I think it is only due to the Committee on Labor, as well as to myself, to state to this House that that statement is absolutely unfounded in fact. I believe the chairman of the Committee on Labor will probably bear me out in the statement that I told him I did not want to be on any of the special investigating committees and that I had enough to do without that.

Such a statement as that made by my colleague from Illinois is untrue, and it seems to me my colleague ought to admit that the statement is not correct, or else he wants to take the position of separating himself from the truth, as he sometimes does in this House. [Laughter.]

I think it is only fair that I should make this statement. I do not know what my colleague cares to do about it, but I claim that his statement is a reflection upon the Committee on Labor. That resolution, which the gentleman filibustered against at the time, provided that the Committee on Labor should make the investigation. Therefore, if it is believed that I favored the making of the investigation by a packed committee, this House ought to make an investigation and find out whether it was so or not.

This report was recommended unanimously by the Labor Committee, and no one apparently objected to it that night except my colleague, the gentleman from Illinois [Mr. MANN].

The investigation was made. I have no criticisms of the investigation, and the matter is past; but I can not let go unchallenged a statement of that kind. If the gentleman wants to make a statement that reflects on me personally, well and good. It does not amount to much anyway, probably, in his view, and I care little about his opinion in regard to it as far as I am concerned; but he should not make such an erroneous statement reflecting on the Labor Committee.

Mr. WILSON of Pennsylvania. I move to amend page 6, line 24, after the word "that," by striking out the words "this act shall take effect July 1, 1912," so that the section will read:

All acts and parts of acts inconsistent with this act are hereby repealed.

Mr. MANN. Mr. Chairman, I suggest to the gentleman that there ought to be a time fixed when this act shall take effect.

Mr. WILSON of Pennsylvania. I am perfectly willing to change the date, and make it October 1.

Mr. MANN. I suggest that instead of making it a definite date the gentleman make it 90 days or 60 days after the passage of the act. There ought to be a certain time fixed, because certain officers exercise authority every day, and they ought to know the day when the transfer is made. If it is to be the day the bill is passed, it will scarcely give time for the transfer.

Mr. WILSON of Pennsylvania. Mr. Chairman, I desire to modify my amendment so as to strike out the word "July" and insert the word "October." If the bill is going to pass at this session, that will give ample time. If not, then the Senate can correct the time later.

Mr. MANN. That is all right.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 24, strike out "July" and insert "October."

The amendment was agreed to.

Mr. WILSON of Pennsylvania. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments and with the recommendation that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 23913) to create a department of labor, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

By unanimous consent Mr. REILLY was given leave to extend his remarks in the RECORD.

Mr. WILSON of Pennsylvania. Mr. Speaker, I move the previous question on the bill and amendments to the final passage.

The motion was agreed to.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put the amendments in gross.

No separate vote was demanded.

The amendments were agreed to.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present. I do not make the point in connection with the passage of the amendments.

The SPEAKER. One hundred and twenty-nine Members present, not a quorum.

Mr. WILSON of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILSON of Pennsylvania. The previous question having been ordered on this bill and amendments to final passage, will this go over until to-morrow as unfinished business, if adjournment is had now?

Mr. MANN. The Speaker ruled recently on a case exactly similar to this that it would go over until the next Calendar Wednesday.

The SPEAKER. It would go over until the next Calendar Wednesday.

Mr. SULZER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. SULZER. Mr. Speaker, I ask unanimous consent to take a vote on this bill to-morrow immediately after the reading of the Journal.

Mr. MANN. I would not make objection, Mr. Speaker, but as the Chair has already declared that there is no quorum present, of course the House is without power to enter into any such an order.

The SPEAKER. That is true, and there is no quorum present.

Mr. WILSON of Pennsylvania. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from Pennsylvania moves a call of the House.

The question was taken, and a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll. Members whose names are called will answer "present."

Mr. CLAYTON. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. CLAYTON. I desire to make an inquiry of the Chair.

The SPEAKER. The gentleman will state it.

Mr. CLAYTON. Did I understand the Chair to say that the vote of Members on this roll call will be "present," or is it on the passage of the bill?

The SPEAKER It is not on the passage of the bill; the Chair has not put that question yet.

Mr. CLAYTON. I did not understand the remark of the Chair.

The SPEAKER. There was considerable confusion the other day about the vote and the Chair made this statement merely to explain to Members what the situation was, and that they were to merely answer "present."

Mr. CLAYTON. I did not quite catch the remarks of the Speaker at the time, and I wanted to be sure that this was not a vote on the passage of the bill.

The SPEAKER. There was nothing being voted on at the time the point of no quorum was made. The Clerk will call the roll.

The Clerk called the roll and the following Members failed to answer to their names:

Adair	Ayres	Bradley	Byrnes, S. C.
Ames	Barchfeld	Brantley	Callaway
Anderson, Ohio	Bartholdt	Broussard	Cantrill
Andrus	Bartlett	Brown	Carlin
Ansberry	Bates	Burgess	Carter
Anthony	Blackmon	Burke, Pa.	Cary
Ashbrook	Boehne	Burke, S. Dak.	Catlin

Clark, Fla.	Hamilton, W. Va.	McCreary	Roddenbery
Claypool	Hammond	McGuire, Okla.	Rucker, Mo.
Copley	Hanna	McHenry	Scully
Cox, Ind.	Hardwick	McKenzie	Sells
Cox, Ohio	Harris	McLaughlin	Shackleford
Crago	Harrison, Miss.	McMorran	Sharp
Currier	Harrison, N. Y.	Macon	Sheppard
Dalzell	Hay	Maher	Sherley
Danforth	Heald	Martin, S. Dak.	Simmons
Daugherty	Heflin	Mays	Sisson
Davenport	Helm	Miller	Slayden
Davidson	Henry, Conn.	Mondell	Slemp
Davis, W. Va.	Higgins	Moon, Pa.	Smith, Saml. W.
De Forest	Hinds	Moore, Tex.	Smith, Cal.
Denver	Houston	Morse, Wis.	Smith, N. Y.
Dies	Howard	Murdock	Smith, Tex.
Doremus	Hughes, Ga.	Needham	Stack
Draper	Hughes, N. J.	Nelson	Stanley
Driscoll, D. A.	Hughes, W. Va.	Nye	Steenerson
Driscoll, M. E.	Humphrey, Wash.	Oldfield	Stephens, Nebr.
Dyer	Humphreys, Miss.	Olmsted	Sweet
Ellerbe	Jackson	O'Shaunessy	Talbott, Md.
Estopinal	Johnson, S. C.	Palmer	Taylor, Ala.
Evans	Kahn	Parran	Taylor, Ohio
Fairchild	Kent	Patten, N. Y.	Thayer
Ferris	Kinkead, N. J.	Payne	Thomas
Finley	Knowland	Pepper	Townsend
Fitzgerald	Kopp	Plumley	Turnbull
Focht	Lafean	Porter	Vare
Fordney	Langley	Post	Volstead
Fornes	Lawrence	Pou	Vreeland
Fuller	Lee, Ga.	Powers	Webb
Garrett	Legare	Prince	Wilder
Gillett	Lenroot	Prouty	Wilson, Ill.
Glass	Lever	Pujo	Wood, N. J.
Goeke	Levy	Randell, Tex.	Woods, Iowa
Goldfogle	Lindsay	Ransdell, La.	Young, Kans.
Gould	Littleton	Rauch	Young, Mich.
Graham	Lobeck	Redfield	Young, Tex.
Green, Iowa	Loud	Reyburn	
Guernsey	McCall	Riordan	
Hamilton, Mich.	McCoy	Roberts, Mass.	

The SPEAKER. One hundred and ninety-four Members are present; it lacks two of a quorum. Call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

Mr. WILSON of Pennsylvania. Mr. Speaker, I move that the Sergeant at Arms be directed to bring in absentees.

The SPEAKER. The gentleman from Pennsylvania moves that the Sergeant at Arms be authorized to arrest and bring in absentees.

The question was taken, and the motion was agreed to.

Subsequently—

Mr. WILSON of Pennsylvania. I move that further proceedings under the call be dispensed with.

The SPEAKER. One hundred and ninety-six Members are present, a quorum.

Mr. MANN. The Chair is quite sure this time?

The SPEAKER. The Chair takes what the Clerk says; that is the only guide he has to go by. The gentleman from Pennsylvania moves to dispense with further proceedings under the call.

The question was taken, and the Speaker announced the ayes seemed to have it.

On a division (demanded by Mr. MANN) there were—ayes 159, noes 3.

So the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The question was taken, and the Chair announced the noes seemed to have it.

On a division (demanded by Mr. MANN) there were—ayes 9, noes 170.

So the House refused to adjourn.

The SPEAKER. The question is on the engrossment and third reading of the amended bill.

The bill was ordered to be engrossed and read a third time.

Mr. MANN. Mr. Speaker, I ask for a reading of the engrossed bill.

The SPEAKER. The Clerk will read the engrossed bill. The engrossed bill is not at the Clerk's desk.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5271. An act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases; and

S. 23. An act to authorize the extension of Underwood Street NW.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BARTLETT, for two weeks, on account of important business.

To Mr. JACKSON, for one month, on account of serious illness in his family.

RETURN OF BILL H. R. 23515 (H. DOC. NO. 867).

The SPEAKER laid before the House the following message from the President of the United States, which was referred to the Committee on Pensions and ordered printed.

The Clerk read as follows:

To the House of Representatives:

In compliance with the resolution of the House of Representatives (the Senate concurring) of July 3, 1912, I return herewith House bill No. 23515, entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors."

WM. H. TAFT.

THE WHITE HOUSE, *July 10, 1912.*

Mr. WILSON of Pennsylvania. Mr. Speaker, I move that the House recess until 11 o'clock to-morrow morning.

The SPEAKER. That is one thing the Speaker is forbidden to do; that is, to entertain a motion on Calendar Wednesday to recess.

Mr. WILSON of Pennsylvania. Mr. Speaker, I ask unanimous consent to take a recess until to-morrow morning at 11 o'clock.

Mr. MANN. Mr. Speaker, we made an agreement in the House to do certain things to-morrow, and I object.

The SPEAKER. The rule reads as follows:

It shall not be in order for the Speaker to entertain a motion to recess on any Wednesday, except during the last two weeks of the session.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 38 minutes p. m.) the House adjourned to meet to-morrow, Thursday, July 11, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BURNETT, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 6688) to repeal section 13 of the act approved March 2, 1907, entitled "An act amending an act entitled 'An act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes,'" reported the same without amendment, accompanied by a report (No. 976), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill (H. R. 21524) to correct the military record of Frederick H. Ferris, reported the same without amendment, accompanied by a report (No. 950), which said bill and report were referred to the Private Calendar.

Mr. FIELDS, from the Committee on Military Affairs, to which was referred the bill (H. R. 21315) for the relief of Robert Ross, reported the same with amendment, accompanied by a report (No. 951), which said bill and report were referred to the Private Calendar.

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 25636, reported in lieu thereof a resolution (H. Res. 598) referring to the Court of Claims the papers in the case of John Wilson, accompanied by a report (No. 952), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 25274, reported in lieu thereof a resolution (H. Res. 599) referring to the Court of Claims the papers in the case of the heirs of John G. Holloway, deceased, accompanied by a report (No. 953), which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill H. R. 25277, reported in lieu thereof a resolution (H. Res. 600) referring to the Court of Claims the papers in the case of Alvis A. Perry, accompanied by a report (No.

954), which said resolution and report were referred to the Private Calendar.

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 25247, reported in lieu thereof a resolution (H. Res. 601) referring to the Court of Claims the papers in the case of the heirs of Nancy Wilson, deceased, accompanied by a report (No. 955), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 25246, reported in lieu thereof a resolution (H. Res. 602) referring to the Court of Claims the papers in the case of Cornelius P. Vankirk, accompanied by a report (No. 956), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 25052, reported in lieu thereof a resolution (H. Res. 603) referring to the Court of Claims the papers in the case of the three loyal heirs of Charles M. Butler and Elizabeth Francis Butler, accompanied by a report (No. 957), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 24933, reported in lieu thereof a resolution (H. Res. 604) referring to the Court of Claims the papers in the case of Eli A. Helmick, major, United States Army, accompanied by a report (No. 958), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 25534, reported in lieu thereof a resolution (H. Res. 605) referring to the Court of Claims the papers in the case of *the estate of* Martin G. Spruel, accompanied by a report (No. 959), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 24809, reported in lieu thereof a resolution (H. Res. 606) referring to the Court of Claims the papers in the case of Yandell Wood and the estate of J. L. Wood, accompanied by a report (No. 960), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 24538, reported in lieu thereof a resolution (H. Res. 607) referring to the Court of Claims the papers in the case of James S. Garrison, accompanied by a report (No. 961), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 24773, reported in lieu thereof a resolution (H. Res. 608) referring to the Court of Claims the papers in the case of Eric Bergland, accompanied by a report (No. 962), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 24467, reported in lieu thereof a resolution (H. Res. 609) referring to the Court of Claims the papers in the case of the estate of James P. Kennelly, accompanied by a report (No. 963), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 24466, reported in lieu thereof a resolution (H. Res. 610) referring to the Court of Claims the papers in the case of the estate of D. T. Hatch, accompanied by a report (No. 964), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 19664, reported in lieu thereof a resolution (H. Res. 611) referring to the Court of Claims the papers in the case of Henry P. Lee, John M. Lee, and the heirs of Nathaniel W. Lee, accompanied by a report (No. 965), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 19091, reported in lieu thereof a resolution (H. Res. 612) referring to the Court of Claims the papers in the case of the heirs of John A. Miller, accompanied by a report (No. 966), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 18168, reported in lieu thereof a resolution (H. Res. 613) referring to the Court of Claims the papers in the case of the estate of Robert M. Crenshaw, accompanied by a report (No. 967), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 14953, reported in lieu thereof a resolution (H. Res. 614) referring to the Court of Claims the papers in the case of the heirs of Horace King, deceased, accompanied by a report (No. 968), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 14762, reported in lieu thereof a resolution (H. Res. 615) referring to the Court of Claims the papers in the case of the estate of J. W. Devers, deceased, accompanied by a report (No. 969), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 10757, reported in lieu thereof a resolution (H. Res. 616) referring to the Court of Claims the papers in the case of William Wells, accompanied by a report (No. 970), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 7432, reported in lieu thereof a resolution (H. Res. 617) referring to the Court of Claims the papers in the case of S. Ellen Boyd, administratrix of the estate of Mary Dean, deceased, accompanied by a report (No. 971), which said resolution and report were referred to the Private Calendar.

Mr. DANFORTH, from the Committee on War Claims, to which was referred the bill (H. R. 18565) for the relief of David C. McGee, reported the same without amendment, accompanied by a report (No. 972), which said bill and report were referred to the Private Calendar.

Mr. DENT, from the Committee on the Public Lands, to which was referred the bill (H. R. 23604) for the relief of Frank D. Courtade, reported the same with amendment, accompanied by a report (No. 975), which said bill and report were referred to the Private Calendar.

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 25644, reported in lieu thereof a resolution (H. Res. 620) referring to the Court of Claims the papers in the case of Peter Goodman, accompanied by a report (No. 977), which said resolution and report were referred to the Private Calendar.

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 20339) for the relief of Joseph W. McCall, reported the same without amendment, accompanied by a report (No. 978), which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table, as follows:

Mr. DANFORTH, from the Committee on War Claims, to which was referred the bill (H. R. 23374) for the relief of Emma P. Barbour, reported the same adversely, accompanied by a report (No. 973), which said bill and report were laid on the table.

He also, from the same committee, to which was referred the bill (H. R. 12701) for the relief of Margaret Underhill and Mary Clark, reported the same adversely, accompanied by a report (No. 974), which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 24589) granting an increase of pension to Peter N. Hardman; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 21645) granting an increase of pension to Robert Lewis; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11100) granting a pension to Peter Reno; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 10797) granting a pension to William F. Slack; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 14369) granting a pension to Amanda M. Sheeran; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 14387) granting a pension to Sophia D. Scholl; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15508) granting a pension to Antony Folee; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 14388) granting a pension to Edward Aldrich; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25385) granting a pension to Mary E. Sweeney; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 13360) granting an increase of pension to Joseph D. Beaubien; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25459) granting a pension to Frank Gravins; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KINDRED: A bill (H. R. 25679) to provide that petty officers, noncommissioned officers, and enlisted men on the retired list who had creditable Civil War service shall receive the rank or rating of the next higher enlisted grade; to the Committee on Military Affairs.

By Mr. BERGER: A bill (H. R. 25680) to provide for the employment of all willing workers, and for other purposes; to the Committee on Labor.

By Mr. LANGLEY: A bill (H. R. 25681) authorizing the Secretary of War to grant leases or licenses to the highest responsible bidder or bidders for the use of the water power created by the Government dams on Kentucky River; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWARD: A bill (H. R. 25682) to punish violations of the Lord's day in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. CARY: A bill (H. R. 25683) to amend House bill 1339; to the Committee on Invalid Pensions.

By Mr. CURLEY: A bill (H. R. 25684) providing overtime compensation for storekeepers and other customs officers; to the Committee on Ways and Means.

By Mr. MURDOCK: A bill (H. R. 25685) providing for the labeling and tagging of all fabrics and articles of clothing intended for sale which enter into interstate commerce and providing penalties for misbranding; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Colorado: A bill (H. R. 25686) to amend an act entitled "An act to provide for an enlarged homestead"; to the Committee on the Public Lands.

By Mr. LAFFERTY: A bill (H. R. 25687) to amend section 1 of the act approved March 26, 1908, providing for repayment of certain commissions, excess payments, and purchase moneys paid under public-land laws; to the Committee on the Public Lands.

By Mr. COOPER (by request): A bill (H. R. 25688) to set aside not less than 1,000 acres of the public land for use by the Order of Owls as camping grounds for its sick members; to the Committee on the Public Lands.

By Mr. McKELLAR: A bill (H. R. 25689) declaring that persons, firms, or corporations in any manner engaged in interstate-commerce business who shall become engaged or concerned in the fixing of prices of any foodstuffs contrary to the rules of competition shall be guilty of a felony, and providing for their punishment; to the Committee on Agriculture.

By Mr. TRIBBLE: A bill (H. R. 25712) to repeal section 9 of an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899; to the Committee on Naval Affairs.

By Mr. DICKINSON: Joint resolution (H. J. Res. 336) proposing an amendment to section 1 of Article III of the Constitution of the United States of America; to the Committee on the Judiciary.

By Mr. AKIN of New York: Resolution (H. Res. 618) requesting certain information from the Secretary of Agriculture; to the Committee on Agriculture.

By Mr. FAISON: Resolution (H. Res. 619) to investigate delayed schedules and improper refrigeration of fruit and vegetable trains; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Memorial of the State Legislature of New Mexico, favoring specific duty on wool on the scoured-shrinkage basis; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CARY: A bill (H. R. 25690) granting a pension to Jennie Haas; to the Committee on Invalid Pensions.

By Mr. CURLEY: A bill (H. R. 25691) authorizing payment to Francis M. Fogarty, clerk of court of appeals, first circuit, Massachusetts; to the Committee on Claims.

By Mr. FERGUSSON: A bill (H. R. 25692) to correct the military record of Juan Paiz; to the Committee on Military Affairs.

Also, a bill (H. R. 25693) granting a pension to Anna Pearce; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 25694) for the relief of Ben P. Nicholson; to the Committee on War Claims.

By Mr. FOWLER: A bill (H. R. 25695) granting a pension to Hannah M. Baitey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25696) granting a pension to Edward Younger; to the Committee on Pensions.

Also, a bill (H. R. 25697) granting an increase of pension to Francis M. Bynum; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 25698) granting a pension to Diana R. Pierce; to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 25699) to correct the military record of George W. Oiler; to the Committee on Military Affairs.

By Mr. LINTHICUM: A bill (H. R. 25700) granting a pension to Thomas J. Kurtz; to the Committee on Pensions.

Also, a bill (H. R. 25701) granting a pension to Thomas Foreman; to the Committee on Invalid Pensions.

By Mr. NEELEY: A bill (H. R. 25702) to remove the charge of desertion from the record of Oliver S. Coffin; to the Committee on Military Affairs.

Also, a bill (H. R. 25703) to remove the charge of desertion from the record of William Walters, alias Joshua Brown; to the Committee on Military Affairs.

By Mr. OLDFIELD: A bill (H. R. 25704) granting pensions to Matilda K. Trett and Ira Ambrose Trett; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 25705) granting a pension to W. F. Eaton; to the Committee on Invalid Pensions.

By Mr. PRAY: A bill (H. R. 25706) granting an increase of pension to William E. Davies; to the Committee on Pensions.

By Mr. PUJO: A bill (H. R. 25707) for the relief of heirs of Joseph Block, deceased; to the Committee on War Claims.

By Mr. TAYLOR of Colorado: A bill (H. R. 25708) granting an increase of pension to Irene L. B. Fitch; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 25709) granting an increase of pension to Thomas J. Brewer; to the Committee on Invalid Pensions.

By Mr. MARTIN of Colorado: A bill (H. R. 25710) for the relief of Freda A. Lane; to the Committee on the Public Lands.

Also, a bill (H. R. 25711) for the relief of George W. Lane; to the Committee on the Public Lands.

PETITIONS ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the Polish societies of the States of Indiana and Illinois, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of J. E. Helwick and 9 others, of Boliver, Ohio, against passage of parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Memorial of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. BARNHART: Memorial of St. Vincent de Paul Society, of South Bend, Ind., against bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. BUCHANAN: Petition of St. Clara's Society, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Liquor Dealers' Protective Association of Illinois against passage of the Kenyon-Sheppard interstate liquor law; to the Committee on the Judiciary.

By Mr. BULKLEY: Memorial of the Woman's Auxiliary of Southern Ohio St. Luke's Branch of the Protestant Episcopal Board of Missions, favoring legislation for the betterment of the natives of Alaska; to the Committee on the Territories.

By Mr. BURNETT: Memorial of the Eugenia Lyon Memorial Branch of the Woman's Auxiliary of Trinity Church, Demopolis, Ala., favoring legislation for the betterment of the natives of Alaska; to the Committee on the Territories.

By Mr. CALDER: Petition of the Brotherhood of Locomotive Engineers of Cleveland, Ohio, favoring passage of workmen's compensation act, etc.; to the Committee on the Judiciary.

Also, petition of Brooklyn Chapter, American Institute of Architects, against the repeal of the Tarsney Act by the sundry civil bill; to the Committee on Appropriations.

Also, petition of the Presbyterian Hospital in Philadelphia, Pa., favoring passage of Senate bill 4972, to empower the Public Health and Marine-Hospital Service to collect statistics, etc., relating to hospitals; to the Committee on Interstate and Foreign Commerce.

Also, petition of M. C. Dow, of Cincinnati, Ohio, against passage of the Richardson bill relative to pure drugs; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Daughters of Liberty of Brooklyn, N. Y., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Brooklyn Club, of Brooklyn, N. Y., favoring passage of House bill 23676, relative to making ocean travel more safe; to the Committee on the Merchant Marine and Fisheries.

By Mr. CATLIN: Memorial of Branch No. 71 of the Workmen's Sick and Death Benefit Society of America, of St. Louis, Mo., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Liquor Dealers' Benevolent Association of Missouri, against passage of the Kenyon-Webb-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. LAFEAN: Petition of Branch No. 223 of the Workmen's Sick and Death Benefit Fund of the United States of America, York, Pa., against bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LEE of Pennsylvania: Petition of the Daughters of Liberty, of Pottsville, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Petition of the Polish Roman Catholic Church of Oswego, N. Y., and the Hebrew Veterans of the War with Spain, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. PRAY: Memorial of the Scottish Rite Bodies, of Helena, Mont., favoring passage of House joint resolution 271, relative to inscriptions, etc., on slabs and tombstones in national cemeteries; to the Committee on Military Affairs.

By Mr. PUJO: Evidence in support of bill for relief of estate of Joseph Block, of St. Landry, La.; to the Committee on War Claims.

By Mr. SULZER: Petition of the Committee of Wholesale Grocers, of New York City, favoring reduction of duty on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of the Civil Service Reform Association of Pennsylvania, against five-year tenure of office clause for Government employees in House bill 24023; to the Committee on Appropriations.

By Mr. UNDERHILL: Petition of the National Guard Association of the State of New York, at Albany, N. Y., favoring passage of the militia pay bill; to the Committee on Military Affairs.

Also, petition of 4,000 Spanish War veterans of New York City, favoring passage of House bill 17470, for pension for widows and minor children of Spanish War veterans; to the Committee on Pensions.

Also, memorial of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. WEEKS: Petition of Rev. Leonard Mitchell, Woods Hole, Mass., favoring the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. YOUNG of Michigan: Papers to accompany House bill 25165, for pension for Charles H. Haring, late of Company K, First Colored Infantry, United States Volunteers; to the Committee on Pensions.

SENATE.

THURSDAY, *July 11, 1912.*

(*Continuation of legislative day of Saturday, July 6, 1912.*)

At 10 o'clock a. m., on the expiration of the recess, the Senate reassembled.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Dillingham	Martine, N. J.	Smith, S. C.
Bailey	Fletcher	Myers	Smoot
Bourne	Gallinger	Nelson	Stephenson
Bristow	Gronna	Newlands	Stone
Brown	Guggenheim	Oliver	Sutherland
Bryan	Johnston, Ala.	Overman	Thornton
Chamberlain	Jones	Page	Tillman
Clapp	Kenyon	Perkins	Watson
Crane	Kern	Pomerene	Works
Culberson	Lea	Rayner	
Curtis	Lorimer	Shively	

The PRESIDENT pro tempore. Forty-two Senators have answered to their names—not a quorum. In the absence of objection, the names of Senators not answering on the roll call will be called.

The Secretary called the names of the absent Senators, and Mr. CULLOM answered to his name when called.

Mr. THORNTON. I wish to announce that my colleague [Mr. FOSTER] has been unwell for more than two weeks. He was here yesterday, but as he is not here this morning I imagine that he is not well enough to attend the session.

Mr. BORAH, Mr. CUMMINS, Mr. SIMMONS, Mr. CRAWFORD, and Mr. REED entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Forty-eight Senators have answered to their names. A quorum of the Senate is present. The resolution submitted by the Senator from Tennessee [Mr. LEA] is before the Senate for consideration.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HOUSTON, Mr. SMALL, and Mr. CRUMPACKER managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. PADGETT, Mr. GREGG of Texas, and Mr. FOSS managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills:

S. 23. An act to authorize the extension of Underwood Street NW.;

S. 5271. An act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases; and

H. R. 17937. An act authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance Department for improvements or economy in manufacturing processes or plant.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

Mr. THORNTON. Mr. President, owing to the general interest in this case I deem it my duty to myself and to the people of my State to explain my vote, which was cast on the first trial without explanation.

When the resolution for the new investigation was offered in this body, it was a foregone conclusion, to my mind, that on account of the subtractions from and additions to the Senate since the first trial, a majority of this body was ready to vote for the conviction of LORIMER that day without any new evidence, and so believing, I did not think it fair to him that the case should be reopened, and if I had been given the opportunity to vote against the new investigation I would have done so, but there was no opposition to it.

But when the new trial was ordered I determined that I would decide the question in the light of the new testimony and reverse my first vote if I thought the evidence justified it; and the only comment I have made was that while I reserved my judgment, unless the prosecution made a better showing than it did before, I would vote again as I did then. My position from the beginning has been that in order to justify myself in voting for the expulsion of Mr. LORIMER, it was necessary that I should believe either that a sufficient number of votes to change the result had been corruptly cast in his favor with or without his connivance or knowledge; or that even a single vote had been corruptly cast for him with his connivance or knowledge; and in either case I should have voted against him. But neither proposition was proved to my satisfaction beyond a reasonable doubt or by the preponderance of evidence. I thought then it was extremely probable that bribery was resorted to in that legislature, but it was not at all clear to me that it was done with Lorimer money or to secure LORIMER'S election, and much less clear to me that it prevailed to a sufficient extent to have changed the result of the election, or that

LORIMER had any participation in it directly or through an agent.

And so viewing the evidence, I could not vote otherwise than I did.

Under this new trial I can not say I have read all the voluminous evidence, for that would have been impossible under the circumstances, nor have I read a line of the brief of LORIMER's attorney sent to me as to all other Senators, but I have carefully read the majority and minority reports and have given close attention to the arguments, though following more particularly those directed against Senator LORIMER than those in his favor.

And I can see no reason to change my former verdict, but think the case against him has been weakened rather than strengthened by the new trial, a conclusion which seems to be shared by the senior Senator from Washington [Mr. JONES], whose personal integrity, independence of thought, and intellectual ability is not questioned by any Member of this body, who voted against LORIMER before, but who this time was a member of the committee that took the testimony, thus giving him every opportunity to form a correct judgment, and this fact, combined with his openness of mind, has forced him to change his former opinion in consequence of the new evidence.

The minority report virtually concedes that the evidence does not show Senator LORIMER'S connection with or guilty knowledge of any corruption in the election and does not show the source of any corruption fund, when it says, at the bottom of page 110, that it is not necessary to do so, because, in their opinion, the facts show that a sufficient number of votes were corrupted; but of course they would have shown a guilty knowledge of LORIMER or traced the source of the corruption fund to him if they could possibly have done so under the evidence, as indeed it would have been their duty to do if they could. I do not claim that it is necessary to show by the testimony of eyewitnesses that Senator LORIMER paid money personally to bribed members of that legislature or to agents to be used in bribing them, for my judgment can be influenced by circumstantial as well as by direct evidence, and I have sometimes in the trial of cases considered that circumstantial outweighed direct evidence.

But I do consider that the evidence against the validity of this election, whether it be direct or circumstantial, must be sufficient to convince my mind beyond a reasonable doubt or at least by a preponderance of testimony that enough votes were bribed to change the result or that LORIMER was contributing to or cognizant of any bribery. I feel justified in assuming from the new evidence what was generally believed before, that a corruption fund, called "the jack pot," had been for many years put up by interested parties to influence the votes of members of the Legislature of Illinois to support or oppose certain measures brought before that body, to be divided at the close of the session, and I think now, as I thought before, that it is highly probable that some of that body were paid from that fund before or after the adjournment; but it is not shown that LORIMER is even remotely connected with the raising or distribution of that fund.

And as it is not proved to my mind beyond a reasonable doubt or by a preponderance of the testimony, either that enough votes were corrupted to change the result or that Senator LORIMER was contributing directly or through an agent to any bribery or was cognizant of any, I can not vote otherwise than I did at first. Much has been said during this discussion about public opinion being in favor of LORIMER's conviction, and there can be no doubt about the correctness of the statement, and it can not be denied that it takes more moral courage to vote for than against him.

I feel a due respect for the opinion of any large number of the American people, especially on any proposition of general policy that they have had the opportunity of studying, even though I may differ from their conclusion; but that does not apply to a case like this, of which on account of its nature the great body of the people can know nothing or next to nothing of the evidence except what they have gained from newspaper editorials or comments, written by parties who in turn know nothing or next to nothing of the evidence.

It is not unnatural that the sentiment of the people on a question should be more or less influenced by newspapers, and I know that I came to this body with an undefined feeling of prejudice against Mr. LORIMER, due to statements I had read in the public press, a feeling that I tried to suppress, knowing that I must sit as a judge in his case.

A fair general sample of public opinion as to how Senators should vote on the question is found in an anonymous communication addressed to a north Louisiana paper during the early part of 1911, which a friend cut out for me, and which I still have, abusing me for not taking sides against LORIMER, and from which I make the following quotation:

> It is the consensus of opinion that LORIMER was cognizant of the graft and bribery perpetrated in the Illinois Legislature, and the best men on the Democratic side are opposing him, as well as the clean Republicans.

But I was sitting then, as I am sitting now, as a judge in the case, bound by my oath of office to decide it according to the law and the evidence as it appears to me and not according "to the consensus of opinion" or the views of a majority of the American people.

Of course the members of this body who are opposed to Senator LORIMER on this question know that those Senators who will vote for him are fully their equals morally and have quite as much intellectual ability as themselves to analyze the evidence in the case, but outsiders do not know this so well as the Senators themselves.

Last winter I read with much interest and, I hope, with much profit to myself also the recent publication of the venerable and esteemed Senator from Illinois [Mr. CULLOM], entitled "Fifty Years of Public Service," and, among other things, I was particularly struck by this remark:

> It would inure to the advantage of the country if there was a more general disposition on the part of public men to adhere to their own convictions, regardless of what current opinion might be.

It would have been to his political interest if in his vote on the Lorimer case he had not put his precept into practice, for it was his action in that matter that caused his defeat for reelection in the primary of this year.

I was told on the high seas last fall by a very intelligent Republican of Illinois that the enemies of LORIMER in that State were determined to beat Senator CULLOM for that vote regardless of how much money it would cost to do it, and that just as surely as he ran they would beat him.

To the credit of that gentleman I wish to say that he supplemented the statement by adding that, although he had for years trained with the anti-Lorimer side in Illinois politics, he would not lend himself to assist in the defeat of Senator CULLOM, because he voted his honest conviction in that matter.

And his prophecy was true, and the venerable statesman, who had served Illinois with honor and fidelity for 50 years as a member of her legislature, Congressman, governor, and Senator, with never a breath of suspicion against his integrity in all that time, was repudiated by her, because he was true to himself in this Lorimer election case.

Yet, unless I misjudge him, he would rather have received this unmerited blow than have been untrue to his convictions; and I wish to go on record here as saying that in my opinion the State of Illinois dishonored herself by her action in this matter, but not him at whom the blow was aimed, he who had honored her by a half century of honorable public service.

Yes I feel an appreciation for public opinion, being very differently constituted in that respect from the Senator from Montana [Mr. MYERS], who in his anti-Lorimer speech on this floor last Saturday said that he did not care what the people of the United States or the people of Montana or the other Members of the Senate thought about his course in this matter.

I do care what the people of the United States and the people of Louisiana and my brother Senators think of my course in this matter or in any other matter of general interest; and I would wish to have the approbation of all three of these classes if I could receive it without acting contrary to the dictates of my conscience; but, while I prize their approbation, over and beyond that I prize my own self-respect, and that would be forfeited if I now voted for the conviction of Senator LORIMER.

I believed when I voted before that I was voting with the majority and I believe when voting now that I am voting with the minority, but, of course, as the opinion that I was with the majority of the Senate could have no influence on my vote then, so the opinion that I am with the minority can have no influence on my vote now. With one thing I have been greatly struck, and that is that despite all the efforts of his political enemies in Illinois against him, his private and personal character has never been heretofore besmirched nor his word questioned; and, as was beautifully expressed by the Senator from Indiana [Mr. KERN] in the opening speech against him, he is "A man of pleasing personality, whose private life, as I understand, has been pure and whose home life is ideal."

A Member of the House of Representatives of an opposite political faith from Mr. LORIMER, a close friend of mine for practically a lifetime, and himself a man of high integrity as well as ability, said to me when I first took my seat in this body: "I understand that Senator LORIMER's title to his seat is to be tested on the charge that he obtained it by corrupt

methods. I know, of course, that you will vote on the matter according to your conception of duty, according to the law and the evidence submitted to you, but I wish to say that Mr. LORIMER served eight years in Congress with me, and I have had the best opportunities to discover his character, working together as we did on important committees. I know his public life, and I know his private life both here and in his own home, which I have visited, and it would take the most direct and incontrovertible proof to make me believe he had been guilty of corruption himself or that he would be willing to receive the benefit of corruption."

This is the reputation of the man whom we are now called on to say we think guilty of procuring his election to this body by bribery, for that is exactly what a verdict against him means.

Yet I heard this man, standing on the floor of this Chamber last year, declare to his brother Senators on his honor as a man and as a Senator that he was not guilty of any bribery in the procurement of his election, and had no knowledge in the remotest degrée that bribery and corruption were practiced in securing his election, nor did he believe that votes were bought by anybody to secure his election.

The reputation of this man for truth and personal integrity in all his past career entitles his word to credence with me in this particular matter unless the proof to the contrary is evident or the presumption strong.

And in case of doubt I would feel compelled to give the benefit of it to a man of that stamp, who is also a brother Senator, as the law requires me to give it to the meanest and lowest criminal of the land. Feeling as I do about this matter, I can not vote to degrade this man; for if I did, as I told my home people last year, my conscience would give me no peace hereafter.

Mr. LEA. Mr. President, it is a disagreeable duty to attack the right of any man to a seat in this Chamber, and especially is it a disagreeable duty to perform in this case. Speaking for the members of the special committee presenting the minority view, it would have been far pleasanter for them had they been able to join in the majority report exonerating Senator LORIMER. This was impossible upon the record in this case.

Voluminous as this record is it involves but two questions, and they need now but brief discussion. The first is a question of law and the second a question of fact.

The question of law presented is whether the Senate has a right now to consider this case, since, on March 1, 1911, by a vote of 46 to 40, a resolution was adopted declaring the election of Senator LORIMER valid. The second question, one of fact, is whether this record now before the Senate establishes the election of Senator LORIMER to have been obtained by corrupt methods and practices.

Considering the question of law first, the plea of res adjudicata was pleaded after the conclusion of all the testimony and immediately prior to the conclusion of the hearings by the special investigating committee. It presents to the Senate the question of whether the plea of res adjudicata, as known to court practice, can prevent a reconsideration by the Senate of this case upon its merits.

The majority of the committee, after the filing of this plea and briefs in support thereof by the attorneys for Senator LORIMER, took the position that the plea of res adjudicata prevented the Senate now from holding the election of Senator LORIMER as invalid. This position is absolutely inconsistent when considered with the attitude of several of the majority members of the committee when the question of reopening the case was presented to the Senate in May of last year. At that time it was the attitude of several Senators, who subsequently composed a majority of the special committee making this investigation, that not only should the case be reopened, but that the case should be referred again to the Committee on Privileges and Elections, and furthermore, that it would be not only discourteous but a serious reflection upon the members of the Privileges and Elections Committee who had made the previous investigation if the resolution requiring a new investigation was not referred again to the same committee. It is inconceivable that these Senators would have clamored for the right to take jurisdiction of this question if they had known or believed at that time that the Senate, and therefore any committee or subcommittee of the Senate, was without authority to take jurisdiction of the matter. It would have been unfair to the Senate for them to have asked for a jurisdiction which they believed they had neither the power nor the right to exercise. The views of these Senators prevailed, and the resolution calling for a new investigation of this case was referred to the Committee on Privileges and Elections, which promptly reported the resolution, which, when adopted, ordered the second investigation and raised the special committee of eight that made the investigation. This resolution, approved and reported by the Senators who subsequently constituted the majority of this committee, ordered an investigation de novo, not merely an investigation to determine whether there was new and material evidence upon which the former judgment of the Senate might be reversed. Were these Senators asking the Senate to permit them to try a case over which they knew they had no jurisdiction, or did they not believe at that time that they had jurisdiction of this case and that they were competent to try it?

The position of the majority members of the special committee upon the question of law is absolutely inconsistent. They first insist that the Senate's position upon this case is identical with the position of a court that has rendered a final judgment in a case; and, second, after making the analogy between the Senate and a court complete, they quote the uniform rule of courts that a case once finally decided can never be reopened, even where there is newly discovered evidence.

On page 50 of the majority report it says:

> As an application of the principle established by the authorities last referred to, the law is clearly to the effect that newly discovered evidence furnishes no ground for avoiding the bar of a former judgment. Some of the laity may have the impression that a former judgment can be nullified by bringing forth at the second hearing newly discovered evidence, but no law author and no court recognizes any such exception to the doctrine of res adjudicata.

Again the majority of the committee, on the same page, said:

> The authorities make it plain that the Senate is barred by the rule of res adjudicata from reopening and rehearing this case on the ground of newly discovered evidence.

Arguing from this premise, the conclusion of the committee would logically have to be that the Senate, being a court, when it considers the election or qualification of its Members could not reopen a case even upon the ground of newly discovered evidence, and such would seem to be the conclusion drawn by the committee in the majority report, for on page 48 of its report the following is found:

> Your committee therefore concludes that both on principle and by authority the action of the Senate of March 1, 1911, deciding that the election of WILLIAM LORIMER was valid and legal constitutes res adjudicata as against any subsequent attempt to have the Senate decide that the election was invalid and illegal.

After drawing the analogy between the Senate considering the election or qualification of its Members and that of a court, and announcing the sound principle of law governing courts in reconsidering cases that have gone to final judgment, and after drawing a similar conclusion in regard to the Senate based upon this analogy, the majority of the committee then did not have sufficient confidence to apply the principle which it had announced and pursue the logical conclusion which it had drawn from its premises.

On page 54 the committee said:

> Under the principle laid down by the highest judicial tribunals of the land, the Senate of the Sixty-second Congress would not question the right of Mr. LORIMER to his seat, the right to which was determined in the Sixty-first Congress, even though new evidence had been produced to impeach him. This committee, however, would not feel inclined to follow this rule implicitly, and if new and substantial evidence had been discovered, showing clearly that he had secured his election by corruption, we would recommend a reconsideration in order that the honor and integrity of the Senate may be maintained.

This illogical and inconsistent view of the majority means either that the Senate was not properly likened to a court in considering such a plea or the authorities cited by the majority as sustaining the plea of res adjudicata are incorrect and unsound.

The final position of the majority, however, lies between these views, and is that the plea of res ajudicata does not prevent a reopening and reconsideration of the case where there is newly discovered and material evidence which, if true, would warrant a reversal of the former verdict. As soon as the majority concede this much they concede that the case is before the Senate for reconsideration, and the only difference between the majority of the committee and those who take the opposite view is whether the case is before the Senate only to consider newly discovered evidence, or whether the entire case is before the Senate. There can be no doubt that the authorities are uniform in holding that whenever a new trial is granted on whatsoever ground the case is then considered de novo upon its merits, and the tribunal having jurisdiction of the reopened case is not bound to consider only newly discovered evidence.

Even the inconsistent reasoning of the majority, as announced by it, brings this case before the Senate for consideration, and the question it presents is not whether there is newly discovered evidence which is true or false, but whether the whole record of the reopened case discloses that corrupt methods and practices were employed in the election of WILLIAM LORIMER.

The majority of the committee are now facing a condition and not a theory. Theoretically they insist that the case should not now be reopened and be before the Senate for consideration,

but they fail to remember that it was with their vote that the case was ordered unanimously to be reopened, and, having been reopened, it is now before the Senate for consideration. Their action in voting, first, that this resolution should be referred to the Committee on Privileges and Elections to consider whether a second investigation was necessary; second, their votes in the Committee on Privileges and Elections in ordering this resolution reported by the chairman; third, their votes in having this resolution adopted by the Senate and the investigation begun; fourth, their votes and actions, upon the special committee raised by their votes in summoning all the old witnesses as well as the witnesses to new facts show that it was the belief and desire of the majority of this committee at the beginning and during the continuance of this investigation that the entire record should be reopened and all the facts, both old and new, again presented to the Senate for consideration. The action of the majority upon any other hypothesis is untenable and inexplicable. The majority of the committee is now in the position of a court, to use their own analogy, that having ordered a new trial, and after the new trial has been ordered and the evidence upon the new trial presented, is unwilling to pass thereon or to permit the record made on the new trial to be presented to the appellate court.

The views expressed by the minority members of the committee upon the question of res adjudicata can be considered in a dual light. One view is that when an election case has been decided by the Senate that it can be reopened upon new and material evidence being presented; and when reopened the case is before the Senate again upon its merits; and that, as in the case of Spofford and Kellogg, so in this case a resolution was adopted by the Senate of the State of Illinois setting forth new and material evidence; that this resolution, together with the resolution of the Senate was referred to the Committee on Privileges and Elections to report whether a second investigation was proper and necessary, and that the Committee on Privileges and Elections unanimously reported that a second investigation was necessary and proper, and, in accordance with this report, introduced a resolution ordering a second investigation upon the whole case, which was unanimously adopted by the Senate, and that thereupon the entire question involved in this case is before the Senate for consideration. The reasoning in support of such a view necessarily means that unless there was new and material evidence there could be no reopening of the case, as was decided in the case of HENRY A. DU PONT, of Delaware. (Buck's Senate Election Cases, pp. 818–874.) There is also a broader view of this question which has my full approbation, and that is that the Senate is a continuing body and the judicial powers vested in it relative to judging the election and qualifications of its Members are merely incidental and subsidiary to its main powers, which are purely legislative. The Supreme Court of the United States has held that where a body was created, like a railroad or corporation commission, vested with judicial, executive, and legislative powers, and where it exercised judicial powers, but exercised them as incidental to its legislative powers, the plea of res adjudicata could never be invoked.

The Supreme Court, speaking through Mr. Justice Holmes, in the case of Prentiss against The Atlantic Coast Line, said:

> Proceedings legislative in nature are not proceedings in a court within the meaning of Revised Statutes, section 720, no matter what may be the general or dominant character of the body in which they may take place. * * * That question depends not upon the character of the body, but upon the character of the proceedings. * * * The decision upon them can not be res judicata when a suit is brought. And it does not matter what inquiries may have been made as a preliminary to the legislative act. Most legislation is preceded by hearings and investigations. But the effect of the inquiry, and of the decision upon it, is determined by the nature of the act to which the inquiry and decision lead up. * * * The nature of the final act determines the nature of the previous inquiry. As the judge is bound to declare the law, he must know or discover the facts that establish the law. So when the final act is legislative the decision which induces it can not be judicial in the practical sense, although the questions considered might be the same that would arise in the trial of a case. If a State constitution should provide for a hearing before any law should be passed, and should declare that it should be a judicial proceeding in rem and the decision binding upon all the world, it hardly is to be supposed that the simple device could make the constitutionality of the law res judicata if it subsequently should be drawn in question before a court of the United States.

If the decision be sound that a body expressly vested with judicial as well as legislative powers can not be estopped from further action upon the same subject by the plea of res adjudicata where the judicial powers are exercised as incidental to its legislative powers, then it necessarily follows that where a body like the Senate, whose primary functions are legislative and whose judicial powers are purely incidental to the legislative powers and conferred for the purpose of preserving its legislative powers free from corruption and fraud, as is the case of the judicial powers of the Senate to judge the election and qualifications of its own Members, can not have its deliberations concluded and circumscribed by the technical judicial plea of res adjudicata.

The judicial functions of the Senate in passing upon the election and qualifications of its members are purely incidental and subsidiary to its principal functions, which are legislative. The distinction between the functions of a legislative body and a judicial tribunal is that those of the legislative body are necessarily never final, while those of the judicial tribunal must necessarily be final. It is conceded that the plea of res adjudicata can never be properly invoked in court until there is a final judgment, and as there never can be a final judgment in a legislative body, whose judicial functions are merely incidental to its legislative functions, the plea of res adjudicata can never be properly plead.

The true doctrine is that the Senate should never reopen an election case for the purpose of permitting a changed political complexion to reverse a former verdict, but that the Members of the Senate should never hide behind a technical plea to avoid correcting a former erroneous decision; that an election case is never finally decided until it is decided right upon the fullest and fairest investigation and consideration of all the facts that can possibly be obtained. The reason for such a rule is apparent. If a changed political complexion would justify the reversal of the former verdict, then election cases would be decided, not according to their merits or justice to the parties, but according to the dominant political opinion of the Senate. On the other hand, the reason is equally strong that the Senate should reopen an election case wherever there is new or material evidence or where, on the whole record, from an equitable standpoint, it should reconsider its former verdict either for or against the Member whose seat is contested. According to this view, had Senator LORIMER been deprived of his seat in this body by the vote of March 1, 1911, and had he afterwards been able to present to the Senate uncontradicted evidence that the former judgment of the Senate was wrong, he should, by all rules of equity, be allowed to present that evidence, and upon it he should be entitled to his seat in this body. This reasoning would hold good whether a successor after the first verdict had been elected or appointed to take a seat in this body, for the appointment or election of a successor would necessarily be grounded upon the condition precedent that the election of Senator LORIMER had been invalid, and as soon as that judgment was reversed and the election of Senator LORIMER held valid, there would be no vacancy to be filled either by appointment of the governor or election by the legislature.

Upon either view of the minority, relative to the plea of res adjudicata, it can not be invoked in this case, and this case is now before the Senate upon its merits for consideration.

And the second question, the question of fact—whether corrupt methods and practices were employed—is now presented to the Senate for its determination.

Let us consider the facts now presented to the Senate from the standpoint of the majority's view of the law. On page 54 the majority said:

> This committee, however, would not feel inclined to follow this rule implicitly, and if new and substantial evidence had been discovered showing clearly that he had secured his election by corruption we would recommend a reconsideration in order that the honor and integrity of the Senate may be maintained.

We insist that according to this view we can show that there was new and substantial evidence that the election of Senator LORIMER was obtained by corrupt methods. This record discloses the fact that Edward Hines raised a fund for the purpose of corrupting the legislature in Springfield. This fact was established by the testimony of Clarence Funk and William Burgess, Funk testifying that he was asked by Hines to contribute the sum of $10,000 to a fund of $100,000 that had to be raised to reimburse those who had elected LORIMER, and Burgess testifying that C. F. Wiehe, brother-in-law and confidential representative of Edward Hines, stated in his presence that he, Wiehe, had contributed $10,000—the same amount asked of Funk—toward the election of WILLIAM LORIMER.

Either Hines or Funk committed perjury—Funk solemnly swearing that he was asked to make this contribution by Hines, and Hines denying he ever requested such a contribution from Funk. The two statements are irreconcilable. It is admitted by both that there were no witnesses to the actual conversation that took place on the day at the Union League Club in Chicago that Funk alleged this contribution was requested of him, and on which Hines admits that Funk came to him and asked him to step aside and speak to him for a moment. Therefore the Senate is forced to choose between the testimony of Funk and the testimony of Hines. Funk's testimony was reluctantly given; it was only given in the first instance before the investigation of the Illinois Senate for the purpose of preventing a friend, to whom he had confidentially communicated the infor-

mation, from being imprisoned for contempt. It was given at a long period of time after it occurred and after the first investigation by the Senate had been concluded by the vote of the Senate, thus showing that Funk had no motive or desire to injure either Hines or LORIMER. This record does not disclose any facts which would warrant any member of this committee in believing that there was any motive or self-interest which could have influenced Funk to commit the crime of perjury by manufacturing this story of the request by Hines for the $10,000 contribution to the Lorimer election fund. This story is either true or it is manufactured evidence and Funk has committed willful and deliberate perjury. On the other hand, there is the instinct of self-preservation and the escape from punishment for the crime of bribery which would induce Hines to contradict Funk and to commit perjury. The absence of any interest or motive on the part of Funk and the presence of the strongest incentive in the world—self-preservation—on the part of Hines to commit perjury should be sufficient to convince any fair-minded, unbiased person that Funk's story is true and that Hines's denial is absolutely false. But, in addition to this reason, there are circumstantial evidences which go to brand Hines as a perjurer and unworthy of belief.

It is established that he attempted to influence Cook and O'Brien—two men who heard his telephone conversation from a room in the hotel at Chicago to Springfield on the day on which LORIMER was elected—to leave Chicago and to get out of the jurisdiction of the grand jury of Cook County when it was investigating this case. These reasons, and the additional reasons disclosed by the attitude of Hines on the stand and before the committee during its sessions, warrant the Senate in absolutely accepting the story of Funk and in refusing to believe Hines's denial, even though supported by self-serving declarations to employees and business associates. The story of Burgess, though admitted to be partially contradicted by several people associated with Hines in business and by one Charles P. McGowan, should be accepted as true. There is established no motive or self-interest on the part of Burgess that would prompt him to manufacture the evidence and commit the perjury that his statement would be unless true. On the other hand, Hines's and Wiehe's denials are prompted by the strongest of self-interest.

If they were guilty of raising this corruption fund and of the crime of bribery, it follows as the night follows the day that they would be willing to commit perjury to avoid punishment for the crime of bribery. If Burgess had been planning to manufacture evidence and commit perjury for any purpose, it is inconceivable he would have placed the scene of the occurrence in the smoking room of a car, accessible to all the occupants on the car, rather than to some other place where he could have held the manufactured conversation without the danger of witnesses being present. The fact that Burgess relates that the conversation occurred in the smoking car where the weight of numbers are against him is one of the marks that stamp it as the truth. Again the denial of the statement by Burgess by the employee and business associate witnesses of Hines are of such a character as not to contradict the truth of Burgess's statement, for, according to my recollection of their testimony, not one of them swore that he was in the smoking room from the beginning of the journey of Wiehe on that occasion to the end of it; so that their testimony may be regarded as nothing further than testimony to the effect that they were not present if such statements were made. The only man swearing that he was in the smoking room from the time when Wiehe entered the train to the time he left was poor Charles P. McGowan, whose character was ruined and whose testimony was rendered unworthy of belief by his admissions that he received money from C. F. Wiehe, Hines's brother-in-law, other than his expenses to Washington, where he went to testify. McGowan's guilt and infamy were so brazen that he set them forth in a letter, the authenticity of which is not denied, and which is as follows:

ELORA, ONTARIO, *November 19, 1911.*

A. C. BAILEY, Esq.,
1607 Fifth Avenue, Pittsburgh, Pa.

MY DEAR ART: Your very kind letter received some days ago, and I note you say you are all business. For myself, eating, sleeping, and smoking comprise my daily duties at present. A day or so after my return home the Hines people sent me a telegram asking me to meet one of them in Toronto. I presume they wanted some more affidavits or something, so I wired them they had better come to Elora. By God, they would have been shown what forced hospitality was. The old shotgun would have been loaded with a couple of Peters No. 2. I made them come across at that—not all I expected, though—and I had a hell of a time getting it, too. Had to threaten him with all kinds of exposure.

I was sorry I did not see you the afternoon I left, but hope we will meet again in the near future. I do not know just now what my plans will be for next year. Father is talking very seriously of buying a flour mill for my brother and myself. What kind of a miller would I make, do you think?

Let me hear from you as often as you can spare the time to write, and if you are in this vicinity any time, run up; I will always be glad to see you.

Yours, etc., CHAS. MCGOWAN.

P. S.—Give my best to your brother.

MCG.

The testimony of Funk and Burgess is absolutely true to the best of their recollection, and, being true, it establishes that a corruption fund was raised for the purpose of electing WILLIAM LORIMER to the Senate; and the fact that even an egotist like Hines had sufficient discretion not to embalm the evidence of this crime upon his personal books or those of his company should not have the slightest weight in discrediting this testimony.

The majority elected not to believe Funk. If they had, according to their own statement of the law, this evidence not being in the former record, they would be forced to vote that the election of WILLIAM LORIMER was invalid. They say that it is not probable that Hines, a successful business man, would make this statement to Funk, a casual acquaintance; yet, in its report, the majority elects to believe that Funk, a successful business man, would not hesitate to ask Hines, a casual acquaintance, to let him become an accessory to the crime of corruption by contributing to the campaign expenses of Senator LORIMER. The difference between Funk and Hines upon this record is that Funk would have to lie to commit the crime of perjury, while Hines would have to lie to escape the crime of bribery.

This record also discloses new evidence, in that on this investigation Wayman and Burke, district attorneys for Cook and Sangamon Counties, are called, and enter emphatic denials of any third-degree methods or improper influences being used upon witnesses before the grand juries of those counties that induced those witnesses to make false confessions. Much was made in the argument on the former case of these improper methods having been employed by these district attorneys, although these men had been subject to the jurisdiction of a former investigating committee and had never been called.

In the third place, there is new evidence in this record that makes the deposit of $2,500 by Holstlaw in the State Bank in Chicago, on the day of his visit to John Broderick, a fellow member of the State Senate of Illinois, who, according to Holstlaw, had promised him money if he voted for LORIMER, so clear that not a single member of the committee dares to question the fact that Holstlaw did on that day make a deposit of $2,500 in currency, a fact that was absolutely challenged upon the former argument of this case, it being insisted that the duplicate deposit slip was a forgery.

In the fourth place, the testimony on the former investigation showed that among other members of the legislature going to St. Louis to meet Browne on June 21, 1909, and Wilson on July 15, 1909, was one Henry A. Shephard. The former evidence showed that Shephard visited his bank box upon that day, but that the visit to this bank box was before the visit to Wilson's room. The evidence now establishes that the visit of Shephard to his bank box upon the day of his visit to Wilson in his room at the Southern Hotel, in St. Louis, was after his visit to Wilson, and was made upon the records of the bank owning the vaults in the name of his brother, both his brother and himself having access to the bank box. The issue in this case as to Shephard being whether Shephard received money or not from Wilson, it is of the greatest importance and most material to establish that Shephard visited his bank box immediately after his conference with Wilson, who admittedly distributed money on that day in St. Louis to other members of the Illinois Legislature who had voted for LORIMER. The importance of this testimony is increased when it is recalled that one of the members confessing to having received money from Wilson on that day testified that a $500 bill was given to Shephard, and by the fact that Shephard for some reason, which is now disclosed to be that of escaping detection, made a false entry upon the record of the bank owning the vaults, showing that it was his brother and not he who entered the bank vault upon that occasion.

In the fifth place, the testimony of William C. Blair upon this record establishes him as a member of the legislature who received money for his vote for LORIMER.

According to the testimony of Allan C. Tanner, Blair made a statement to him before the vote for LORIMER relative to it meaning a great deal to him if he voted for Senator LORIMER. According to Blair's own testimony, and out of the mass of contradiction and perjury which he uttered while on the stand, the facts are established that before he voted for LORIMER he was in debt and had no money; that after he voted for LORIMER and after his visit to Thomas Tippit, in July, 1909, the leader of one of the factions who brought his following to LORIMER, a

visit which he denied and which he made every effort to conceal by stating he was in a different place on that day, and which he admitted only after having been confronted with the hotel register showing he was in Olney instead of Mt. Vernon on that day, Blair displayed a large sum of money in currency, varying, according to witnesses, from twelve to fourteen hundred dollars, and admitted by Blair to be between eight hundred and one thousand dollars. Then there is the testimony of Moore that Blair stated to him, in June, 1909, that he would have been very foolish to have voted for Stringer and to let all the Lorimer money get by him and not get his part of it. Blair's testimony may be resolved into the following syllogism:

(a) There is money in it for me if I do a certain act, i. e., vote for LORIMER.

(b) I have no money.

(c) I did the act, i. e., voted for LORIMER.

(d) I now have money.

The conclusion, therefore, is that he obtained the money for doing the act, namely, voting for LORIMER.

These instances might be multiplied in a longer speech, showing that new and material evidence was established in this record, but it is useless, as the majority of this committee apparently fail to give credit to the oath of any man swearing in opposition to the validity of the election of WILLIAM LORIMER.

The instance of their treatment of Holstlaw's testimony is a fair example of their attitude toward all the witnesses. It is acknowledged by the majority of this committee that Holstlaw received money from Broderick. This acknowledgment could not be withheld, for the record shows, by the testimony of the president and other officials of the State Bank, that upon two occasions Holstlaw deposited money in currency in that bank—on one occasion $2,500 and on the other $700—and both of the dates given by these bank officials are the same as the dates on which Holstlaw testified that he made his deposits and on the days that Holstlaw testified he was summoned by Broderick to meet him in Chicago; and one of these deposits was on the day after the date of the letter introduced in evidence from Broderick to Holstlaw asking Holstlaw to meet him (Broderick) in Chicago, although Broderick denied at first, and until confronted by this letter, that he had ever requested Holstlaw to meet him in Chicago for any purpose. But the majority refuse to believe Holstlaw when he said he was promised money by John Broderick before he (Holstlaw) voted for LORIMER, because they say Holstlaw was a bribe taker, although Holstlaw's evidence is corroborated by other evidence. Yet the majority of the committee readily believed Broderick when he said that he did not promise Holstlaw money for voting for LORIMER before Holstlaw voted for LORIMER, although Broderick stands on the same footing as Holstlaw, being, according to the admissions of all, a bribe giver.

Confronted by the fact that Holstlaw received $2,500 in currency on one occassion from John Broderick and $700 on another; that Holstlaw went to Chicago for the purpose of seeing Broderick on both these occasions and in response to Broderick's invitation, although Holstlaw had never visited Broderick before, the majority of the committee was forced into the realm of imagination and compelled to conjecture that Broderick paid Holstlaw these sums of money, not for the purpose which Holstlaw swears they were paid, but for the purpose which even Broderick does not swear they were paid, of corrupting Holstlaw to vote against the local option or temperance measures in the Illinois Legislature.

Why should the majority of the committee refuse to accept Holstlaw's statement that this money was received by him after he voted for LORIMER, knowing he would receive $2,500 if he voted for LORIMER, and instead conjecture and imagine that it was received for Holstlaw's vote upon the liquor question when no one, not even Broderick, suggested that explanation? Why not conjecture or imagine any one of a thousand other possible explanations?

The majority of the committee treats the testimony of White, Beckemeyer, and Link in the same forced and far-fetched way.

It is not seriously questioned by even the majority of this committee that Browne and Wilson, on the occasions of their visits to St. Louis on June 21 and July 15, 1909, respectively, distributed money to the members of the legislature who met them there at their invitation, and that these members of the legislature had voted for LORIMER. Corroborating evidence strengthens the confession of each of the men who confessed to having received money from Browne and Wilson upon these occasions. The majority members of the committee know that the record shows that Wilson left the country under an assumed name while the former investigation was being held in Chicago, and returned to testify before the former committee some two or three months afterwards, when the investigation had been found to be innocuous and harmless; that the record shows that Beckemeyer and Wilson manufactured an antedated letter nearly a year after the visit to St. Louis for the purpose of giving a reasonable excuse for that visit; that this record shows that White was in debt before he visited Browne in Chicago and Wilson in St. Louis, and that thereafter he deposited a large amount of money with a department store in St. Louis. There is evidence, likewise, of Beckemeyer and Link having money in large bills in their possession after their St. Louis visit. Yet the majority of this committee is willing to brush aside these confessions, strengthened by corroborating evidence, and hold LORIMER's election valid, although in so doing they attempt to erase from the statute books all laws relative to bribery, for they make the proof of the crime of bribery impossible. If bribery can not be proved to the satisfaction of the United States Senate by the confession of one of the guilty parties and by corroborating evidence, then it is impossible to prove bribery in the Senate of the United States. Even should both the bribe taker and the bribe giver confess, according to the reasoning of the majority of this committee the evidence would then be doubly untrustworthy and incredible.

In the course of his discussion of the case the Senator from Washington [Mr. JONES] has greatly narrowed the issue of fact between the majority and minority of the committee.

The Senator from Washington admits that Lee O'Neil Browne, Wilson, and Broderick had a corruption fund and that they distributed this fund to certain members of that legislature. To this point the majority views, as expressed by Senator JONES, and the minority views coincide. Senator JONES then insists as his theory that this corruption fund was distributed in payment for votes or support against the local-option measures though there is not a single witness testifying to this effect or a scintilla of evidence in the entire record to support such a theory.

The minority insists that this admitted corruption fund was distributed in payment of votes for LORIMER, and cites witnesses and corroborating evidence to support its contention. The fact that Browne, Wilson, and Broderick contradict these witnesses and the corroborating evidence that this corruption fund was Lorimer money can have no weight, for as soon as Senator JONES admits that Browne, Wilson, and Broderick distributed any corruption fund he brands each of them as a perjurer, as each denies, under oath, such disbursement, and all of their testimony must be viewed and weighed as that of perjurers.

There is no need in discussing at length the entire record in this case from the standpoint of the minority. It can be stated in a few words. Four members of the General Assembly of the State of Illinois who voted for Senator LORIMER have testified that they received money therefor, known as Lorimer money, after they had voted for Senator LORIMER; they testified that they received it from certain men, naming them, at certain places and at certain times, and the record shows that these men confessing to have received this money were at the places named at the time named and met the men named; and the corroborating evidence also shows that they had in their possession thereafter money in large amounts and in large denominations, and that before that time, in some instances, they were without money. The bribe giver being equally guilty with the bribe taker, and these four men confessing—White, Beckemeyer, Link, and Holstlaw—testifying that they received this money from certain other members of the legislature, to wit, Browne, Wilson, and Broderick, then the votes of the bribe givers are to be considered as corrupted with those of the self-confessed bribe takers. This makes a total of seven corrupted votes cast for Senator LORIMER. Without discussing the fact that some of the 108 votes he received changed to him after he had received more than a majority, it is sufficient to say that deducting 7 votes from 108 leaves 101 votes which Senator LORIMER received, or less than a majority, which view of the case renders it unnecessary to discuss the other votes which circumstantial and other evidence establishes were also corrupted.

The minority can summarize or state their conclusions in regard to the corruption of these seven votes in no clearer, more concise, or more forcible language than by quoting the lucid statement on this subject made by the Senator from Washington in the course of his discussion of this case on February 7, 1911, which is as follows, according to page 2065 of volume 46, part 3, of the CONGRESSIONAL RECORD:

> The testimony seems to be clear that White had considerable sums of money at the times he testifies to have received it from Browne and Wilson. It is shown that after he received the money in Chicago he took a package to the Grand Leader store at St. Louis and left it there, marking on it "$700" or "$800." Mr. Kirkpatrick, who is entirely disinterested, corroborates White in this particular. It is shown that he paid off a great many bills of varying amounts, made a trip to Tennessee, gave a $50 bill to his mother, one to his father, and other various sums to different persons. After he received the money at St. Louis

he went to Chicago and spent some time carousing with Browne, and Browne himself claims that he took a couple of hundred dollars from his person while he was in a condition not to look after himself and kept it for him.

I have gone into the testimony more than I should, in view of the many exhaustive reviews that have been made of it. I am convinced that White, Link, Beckemeyer, and Holstlaw were corruptly influenced to vote for Mr. LORIMER. I also am convinced that Browne, Wilson, and Broderick corruptly influenced them. The bribe giver is just as corrupt, if not more so, as the bribe taker. These seven votes were corrupt votes and should be deducted from the vote cast for Mr. LORIMER. These may not be all the corrupt votes cast; I do not think they are. I believe the evidence shows clearly and definitely other corrupt votes. I also am convinced that the tainting of Browne's vote under the circumstances tainted every vote among his faction that followed him, unless such vote is shown clearly not to be corrupted. Under my view of the law, seven tainted votes are sufficient to invalidate the election, but if more were necessary they could easily be pointed out.

There is certainly no evidence in this new record that contradicts or renders less effective, according to the minority view, this able summary of the evidence upon this subject in the old record.

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to the Senator from Vermont?

Mr. LEA. Certainly.

Mr. DILLINGHAM. I do not wish to interrupt the course of the Senator's argument, but in the absence of the Senator from Washington [Mr. JONES] from the Chamber I presume that the Senator will be willing to have it appear here that that Senator in his exhaustive speech yesterday stated substantially what has been read now from his former speech, but that by reason of hearing all the evidence taken before the present committee he had been compelled to change his views on the question and his judgment upon the finding of facts.

Mr. LEA. I am very glad to have the statement made. I did not know that the Senator from Washington was not in the Chamber. He was in the Chamber when I began.

These confessions, made by men under circumstances that ruined their standing in their communities, drove them in exile from political life, and pilloried them in public shame, can not be thrust lightly aside. They bear the earmarks of truth, and would not stand, as they do to-day, uncontradicted, after the fear of punishment has been banished by the expiration of time, unless they were the truth, which can not be destroyed.

The whole record must be considered. It can not be read without convincing the unbiased that there was a wholesale scheme of corruption during the Legislature of Illinois of 1909 that turned about the senatorial election as a pivot, and that the recipient and beneficiary of that corruption was WILLIAM LORIMER.

The one vote of Senator LORIMER in the Senate may not be able to change the legislative course of this Nation, and it may not, from that point of view, be of much importance whether he continues to serve the remainder of the term which he insists is his. But it is of the utmost importance in preserving the integrity and perpetuity of our institutions that an innocent man be not driven in disgrace from this Chamber, or that a guilty man be not permitted to remain here as a monument to the power of money and to the callousness of this Senate to corruption.

In discussing this question it seems impossible for some of the Senators favoring the validity of Senator LORIMER's election to conclude their remarks without a tribute to their own inherent and superb courage and political bravery; without picturing themselves as patriotic heroes and political martyrs.

It is not the desire of the minority to snatch from any Senator the laurels with which he has crowned his own political brow or destroy the impression that he is other than the dauntless hero he has pictured himself to be; but the minority can not permit the issue in this case to be presented as one of courage on one side and cowardice on the other.

It is entirely a question of judgment upon the law and facts presented by the record. On the one hand, it is insisted that the facts do not warrant holding the election of Senator LORIMER invalid, though in so doing such insistence would establish a principle that will prevent the Senate from protecting itself from fraud and corruption. While on the other hand, it is insisted that the facts here presented warrant the decision that the election of Senator LORIMER was invalid if the Senate is ever to be able to protect its purity and preserve its integrity from the corroding influences of fraud and corruption. The Senate must, in this case, establish no unsound precedent that will prevent it from meriting and deserving the confidence that it will enact legislation only by the votes of Senators honestly elected.

Mr. REED. Mr. President, in view of the length of this discussion, the extreme heat of the day, the small number of Senators present, as well as in view of the exhaustive discussion already had, I do not intend to undertake to go into an argument of this case or to do more than to take up a few scattered points, which, it appears to me, have been obscured by statements which have been made by some who have preceded me.

I join with the Senator from Tennessee [Mr. LEA] in protest against all those who have here defended Senator LORIMER's title to a seat, insisting upon picturing themselves as heroes ready to perish in the cause of justice as martyrs who are approaching the stake with the spirit of the old Christians who went with songs of praise upon their lips to death. I insist that none of these gentlemen are warranted in wearing home-manufactured, handmade halos. It appears to me that they possibly might be allowed to indulge in this sort of self-laudation if their very laudation of themselves did not imply that those who see fit to vote against LORIMER are controlled by sordid, selfish, or cowardly motives.

Throughout this discussion the impression has been sought to be made that the great newspapers of the city of Chicago have entered into a foul conspiracy to destroy the rights of the sovereign State of Illinois and to crush an individual, and that every man who votes to exclude LORIMER does so in obedience to that conspiracy rather than in response to the demands of justice and the plain facts of the record. The impression is sought to be made that all who vote against LORIMER are fleeing before the wrath and power of these newspapers. One Senator has gone so far as to read into the RECORD an editorial telling the sad fate of Senators who heretofore have voted for the seating of Senator LORIMER. His evident purpose was to at once picture himself as a man of extraordinary courage and those who differed from him as poltroons without the boldness to perform a sworn duty.

Mr. President, I consider that kind of argument as a reflection upon the honor of those Senators who are going to cast their votes in favor of unseating Senator LORIMER. It is as unjustifiable as would be the charge that all who are going to vote in his favor are acting from corrupt and improper motives. There is as much evidence in the one case as there is in the other; yet I would not by implication, by so much as the shadow of an implication, attribute an improper motive to any Senator who shall see fit to vote for the retention of Senator LORIMER. On the other hand, I do not intend that the innuendo that I and other Senators who intend to vote for the vacation of this seat are impelled by improper motives shall go unanswered or unrebuked.

So far as newspapers are concerned, and so far as their connection with this case is concerned, I have this to say: I have known newspapers upon inaccurate information to begin attacks and to maintain attacks which were wholly unjustifiable; I have known them to act upon suspicion; I have known them to make warfare upon men which was a wrongful and unjust warfare; we all have known such cases. These newspapers are run by human beings who make mistakes; they are controlled by human beings who have the "bodies, parts, and passions" of men. Sometimes they are not run with a true regard for the highest ethics. But, notwithstanding, I say this: That I have never known of great newspapers, edited by great newspaper men, deliberately entering into a conspiracy to fasten a foul crime upon another man and deliberately seeking to suborn perjury in order to destroy the character of any man. If it be true that the editors of these great Chicago papers have entered into such a conspiracy, then the press of that great city is in the hands of arrant knaves and consummate criminals, who ought to be in the penitentiary.

But, sir, I shall require some other proof of their villainy than the evidence that has been produced in this case. On the contrary, so far as this evidence goes, it appears they have done nothing more than to endeavor to bring sworn testimony to the bar of the courts and to the bar of legislative assemblies, and to there lay bare the naked truth for the honest judgment of disinterested tribunals. When a man is driven in his defense to a charge that men of the highest character and standing have deliberately entered into a foul and vicious conspiracy of this kind, it seems to me that the very hardships of the case which drive a man to that sort of plea indicate strongly that he has no just defense.

Mr. President, there are two or three crucial things in this case. One of them is the relation of one Edward Hines to this transaction. I do not mean, sir, that this record shall be slummed over, as it has been, without a word of protest. It was stated here yesterday that Edward Hines was only a friend of Mr. LORIMER and that he did no more than a friend might do in order to secure the election of a friend. That, sir, is in the face of the record; it is in the face of the boastful testimony of Edward Hines himself. He does not pretend that merely as a Republican and as a friend of Senator LORIMER he left Washington and went to assist in his election and that he took the

interest which a common man takes in the election of another. Ah, no; that is not the position of Edward Hines. Let me give you the position of this man. He parades himself as a sort of guardian ad litem for the United States of America, as a man whose business it is to look after legislation, whose guiding hand and whose genius control in the Senate of the United States and in the House of Representatives.

Here is a letter sent out by Mr. Hines, one sentence of which will show the intellectual attitude of this man, and also will throw a little light possibly upon his interest in senatorial elections. It is dated March 17, 1911. It is on the letterhead of the National Lumber and Manufacturers' Association, and at the head is "Edward Hines, president, Chicago, Ill." It is addressed to "the members of the affiliated associations." It is signed by the general manager, and contains this sentence, in speaking of the reciprocity bill and the attempt to pass legislation affecting the tariff upon lumber:

> The agreement which, chiefly because of our efforts, failed to become a law at the last session of Congress, will, of course, be presented at the opening of the extra session, April 4.

Thus these gentlemen proclaim themselves as able to have stopped this important legislation and declare again their intention to control the same character of legislation in the extra session of Congress then about to be convened.

Mr. President, there is a little light here upon the character of Mr. Hines. There are bribe givers and there are bribe takers, who go about like the thief in the night; their ways are silent and their lips are seldom opened; when they do speak it is in parables and by inuendo. There is another class that grow bold in their iniquity, who are proud of their influence and ability to control legislation. This man Hines shows he belongs to the latter class when he puts his name, or the name of his manager, to a paper proclaiming to "the affiliated associations" that they have already controlled the legislation of Congress and boast their ability to further control.

I have spent more time on that than I should; indeed, I think I have spent more time on Edward Hines than this egotistical bribe monger deserves at the hands of this body; but I intend to spend a little more time, not because of the importance of Hines, but because I am replying to the remarks of a Senator who painted Mr. Hines as merely the disinterested friend of Senator LORIMER, working only as a Republican friend and neighbor for his success. It is not thus Hines paints himself.

I call attention, sir, to his testimony. In it Mr. Hines declared, not that he engaged in this matter as a common Republican, a rank-and-file party man, but that he was sent from Washington to Chicago and to Springfield as the envoy extraordinary and minister plenipotentiary of the President of the United States and of Nelson W. Aldrich. Over and over again he tells how the President sent him messages through Mr. Aldrich, and how, on the behest of the President of the United States, he set forth to secure LORIMER's election and to secure it quick, and to get LORIMER here as early as possible.

Now, just a word with reference to the truthfulness of this distinguished gentleman. I think he did talk with Nelson W. Aldrich. I can understand why, out of a consultation between Edward Hines and Nelson W. Aldrich, the scheme for the election of Senator LORIMER should have been brought forth. From that sort of meeting I can imagine there would be that kind of result.

But, sir, the President of the United States has stated in the public press that he did not send Edward Hines. So I take it the first witness we can call against the truth and veracity of Edward Hines, against his pretensions, against his false claims, is the word of William H. Taft himself.

Of course, I am and always have been in political opposition to William H. Taft and his party, and I have but little regard for the political views of William H. Taft. Yet, notwithstanding certificate as to his character ofttimes furnished by one Theodore Roosevelt, I still believe William H. Taft to be a man of the highest veracity; and I would require more than Hines's or Roosevelt's statement to the contrary before I would change my opinion.

Let us follow Mr. Hines briefly. He goes from Mr. Aldrich's office to Chicago. What for? Why was this wealthy lumberman in this fight—this man who represented, directly and indirectly, some dozen or more associations of lumbermen? Why was this millionaire lumberman going down into Illinois to interest himself in this election of a Senator? Why was the first place he went to a great bank? Why did he conduct his operations more or less from places where capital was centered? What was his interest? He was not ordinarily in politics. His conduct and his appearance at this time and under these circumstances indicate to my mind that "big money" had become interested, and that cash had been put into the senatorial controversy.

Having given this brief sketch of Mr. Hines's primary connection with this matter, I pass from Hines to another character, Mr. Lee O'Neil Browne.

There is no candid man who gives to Senator LORIMER the credit for that intelligence which we know he possesses, or that political acumen and shrewdness which is attributed to him, who can read this testimony and arrive at any other conclusion than that Senator LORIMER must have known that Mr. Browne was engaged in very peculiar practices.

It was said here that Mr. Browne was not especially intimate with Mr. LORIMER. When I asked or started to ask Senator JONES a question, and used the term, "Browne, the agent or representative of Senator LORIMER," he repudiated my statement at once. He would not accept the term "representative or agent." He said, in effect, that Browne had very little to do with Senator LORIMER.

Upon that question, let us see what the testimony was.

I say that if this were an ordinary civil case, involving property which a man had acquired and taken to himself through the acts of Browne, he could no more repudiate his acts and keep the property than he could do any other impossible and illegal thing. This record proves to a demonstration that Mr. Browne was Mr. LORIMER's confidential agent and friend. No man can accept the benefits and fruits of another's acts and at the same time repudiate the agency of that man.

Let us see whether Browne and LORIMER were intimate. Senator KERN asked Senator LORIMER these questions when he was on the stand, Senator KERN was in his questions quoting from the testimony of Lee O'Neil Browne:

> Senator KERN. I want to ask you something about the activities of Lee O'Neil Browne in your behalf, and the conferences you had with him. I call your attention to Mr. Browne's testimony, on page 4894, where he testified to a promise which he says he exacted from Mr. Shurtleff and yourself concerning the roll call, which I imagine was that there should not be a roll call for you until you had enough votes to elect:
>
> "Senator KENYON. Then, when did you exact it from Mr. LORIMER?
>
> "Mr. BROWNE. Just as soon as I had any conversation with him in regard to the matter, which was shortly after I saw Mr. Shurtleff—very shortly, because the conferences relative to that campaign commenced to take place in those rooms very shortly after my telling Mr. Shurtleff what I would do.
>
> "Senator KENYON. Did you frequently meet Mr. LORIMER there?
>
> "Mr. BROWNE. Oh, yes; every night, and sometimes there would be half a dozen conferences in the night, the same as there are in any campaign.
>
> "The CHAIRMAN. In the speaker's rooms in the hotel?
>
> "Mr. BROWNE. Yes, sir."

A little farther on—and I am omitting, now, part of the testimony, but reading still from Browne's evidence—Senator KERN asks:

> "What would be the purpose of a dozen conferences in one evening; how would that contingency arise?
>
> "Mr. BROWNE. An endeavor to ascertain accurately how some one member or members stood about whom there would be some doubt.
>
> "Senator KERN. Yes. That is to say, when a question would come up about a member, you or some one would go and see the man?
>
> "Mr. BROWNE. Or have some one else go; some one who would see the member.
>
> "Senator KERN. And then you would have another meeting to find out the result of that effort?
>
> "Mr. BROWNE. He would come back and report; yes.
>
> "Senator KERN. You told Mr. LORIMER, during this period, as to just what you were doing toward furthering his canvass?
>
> "Mr. BROWNE. Yes; in a general way.
>
> "Senator KERN. And you went over the list with him?
>
> "Mr. BROWNE. Oh, as I have told you, I probably did frequently, in part. I do not think I ever went over the entire list."

After reading all of that testimony this question was asked Senator LORIMER:

> I want to ask you if that accords with your recollection as to what Mr. Browne and other members were doing?
>
> Senator LORIMER. I should say, substantially, yes.

There, then, is the admission of Senator LORIMER under oath that night after night, not once but a dozen and more times a night, they consorted and consulted together; that they compared notes; that they sent out agents; that they gathered in votes; and that Senator LORIMER was party and privy to all Browne did. Yet Senators have the temerity to stand in this body and say that there is no connection shown between Senator LORIMER and Mr. Browne!

Ah, sir, they can not say that in the face of the admission of Senator LORIMER under oath.

Let us now go a step further. It is admitted here upon all hands that Browne is a bribe giver, a distributor of corruption funds. It is admitted now that he corrupted White. It is admitted that he corrupted or paid money corruptly to some six or seven other men. It is admitted that he was the distributor of the whisky slush fund in that legislature, and possibly of other funds. He stands here before this body, by the admission of every man, a knave, a scoundrel, a bribe giver. Yet,

after all this had been dragged into the public light, after the blazing glare of the sun of publicity had been poured upon it, after the conscience of the American people had been shocked, we do not find Senator LORIMER saying, as a just man would say, "This man has trampled upon the law; this man has dragged my name and honor in the dust; this man is now at the bar of justice; let him suffer for his sins." On the contrary, we find LORIMER contributing $10,000 that this almost self-confessed and certainly guilty wretch should go unwhipped of justice—$10,000 that the lash of the law should not be laid upon him!

Why, sir, there was conspiracy before the act; there was coordination and intellectual cohabitation and ratification after the act. They stood together before the act, they stood together during the act, and, like good friends and fellow soldiers in a bad cause, they stood together in the last act of the drama; and they stand together as friends now.

Let us analyze this a minute. We are told that Senator LORIMER'S mind was pure, his heart was stainless, he had not lifted up his hand to do iniquity; that he stood there as an honest man seeking a high and honorable position; that without his knowledge, without his consent, without his privity, a scoundrel proceeded to distribute money corruptly among members of the legislature; that finally all the villainy came to light; that when it did the face of every man was set against Senator LORIMER. That although innocent of any wrong the acts of Browne caused suspicion, distrust, and disgrace to fall upon LORIMER.

What then, sir? If that were true, Browne had been his greatest enemy. In the guise of pretended friendship he had done that which would destroy his good name. He had entered his council chamber ostensibly an honest man and driven the dagger of death into his reputation and good name.

What would an honest man do under such circumstances? Would he go to the rescue of the man who had thus dragged him to obloquy and disgrace? Or would he, upon the other hand, turn upon that man and say, "You are the scoundrel who has brought this upon me and I shall now turn my power to the vindication of the law and I shall purge my own hands by assisting in your punishment"?

LORIMER did not do so. He stayed by his false friend. That fact speaks volumes. Tell me he did this to defend his own name in the courts? Ah, what a pitiable excuse is that! Was it necessary for him to defend this man against the charge of distributing bribes in order to defend himself? On the contrary, what ought he to have done? He should have gone to the authorities of the State and said, "I have been wronged. Here are all the facts. Here is every circumstance in my possession. If you need assistant counsel, I am willing to bring him forward. Let us find out if bribe money was paid and punish the bribe giver and the bribe taker. All I ask is that in fairness you shall find out who the actual wrongdoers were."

But LORIMER did not do that. He went to the complete defense of Browne. He stood with the man who they are now forced to admit is a bribe giver, a distributor of corruption funds.

LORIMER, the injured, innocent, goes to the defense of the man who had injured him.

Mr. President, the two positions can not be reconciled. No amount of logic, no amount of sophistry, will reconcile them.

Let us return to Edward Hines. Edward Hines had a conversation with a man named Funk. He denies Funk's statement. He now says he did not use any money for LORIMER; he did not raise any money for LORIMER; he had nothing to do with raising any money for him. Yet I can take before any jury in the land, that hears the evidence and looks the witnesses in the eyes, the statement of Funk and the statement of Hines, and I can make the statement of Funk an impregnable thing which must be believed, by adding to it the statement of Hines. It frequently happens that in trying to defend against a crime you strengthen the evidence of the State. The position of Mr. Hines is that he never talked about money; that he never thought about money; that he had nothing to do with money; that Mr. LORIMER had used no money; he had not heard money discussed; and yet upon the first talk he had with Mr. Funk money was discussed. Funk, he says, wanted to contribute to LORIMER'S campaign fund, and he went from Funk to LORIMER to see how much money LORIMER had expended and how much money ought to be contributed. What was he doing that for if no money had been spent? Why was he inquiring? What business was it of his? How did he come to be thinking about it? Why did he bear that sort of a message? Why did he go to the principal in the case and say, "How much did you spend, and do you need some of it back?"

Why, sir, it is as plain as the noonday that instead of Funk saying to Hines, "How much money did Mr. LORIMER spend? we want to contribute," Hines told Funk that money had been spent, and they wanted Funk to contribute. Why did Hines go to LORIMER, the pure man, the man of spotless life, the man of stainless escutcheon, and ask him if he did not want some money from Funk's concern? The story is unbelievable. It simply amounts to this much in this case: That it is an admission that he was discussing money matters with Funk and with LORIMER. It is unbelievable that Funk came to Hines and volunteered the payment of money. It is only believable that Hines came to Funk for money.

But that is not all, sir. There are two or three telegrams in this case. The most unfortunate thing that ever happens to a man who has a bad case and is trying to bolster it up by false stories is to have something in writing. An old Irish verse runs:

Billets-doux less dangerous are
When held unto a burning taper;
Much may be whispered in the ear
That is not safe to say on paper.

Let us lay these telegrams down beside Hines's story. Hines says he had a conversation with Funk; that Funk was trying to get to contribute money. It certainly did not make much difference to Funk whether he paid out money, great or small, in this matter. Surely if Funk was once assured that LORIMER had spent no money and did not desire any contribution he would have been content. Yet Mr. Hines, the agent of Mr. LORIMER, then went from Chicago to the city of Washington, and so important did this matter appear to Hines that he made it the subject of a conversation over the long-distance telephone from Washington to Chicago, telling his confidential man, Mr. Wiehe, to be sure to see Mr. Funk and tell him "there was nothing in that matter." Why that ambiguous language? Why was he wanting to communicate with Mr. Funk?

Mr. DILLINGHAM. I think the Senator would like to be corrected. That conversation was in Chicago, before he went to Washington.

Mr. REED. My recollection is that there was a long-distance telephone message in regard to this matter from Washington to Chicago.

Mr. DILLINGHAM. I do not want to interrupt the Senator at all——

Mr. REED. The Senator is at perfect liberty to interrupt me.

Mr. DILLINGHAM. But I know he wishes to be correct. As I remember that incident, it was held before leaving for Washington. Having consulted with Senator LORIMER and finding that he had no campaign expenses, he told Mr. Wiehe to tell Mr. Funk there was nothing in that matter; and afterwards, in a long-distance telephone message from Chicago to Washington, Mr. Hines said that Mr. Funk did not seem to be satisfied with that and wanted to see it, or something of that kind.

Mr. REED. Very well; let us have it that way. He took pains in Chicago to send his agent to Mr. Funk, and it was the subject of a long-distance telephone conversation afterwards. They were assuring Mr. Funk there "was nothing in it." Nothing in what? In the desire to pay money? Is that why it was so important that this message should go back to Mr. Funk? I think not. Then, why was it necessary to have these telegrams passed which are written into the record here?

WASHINGTON, D. C., *June 4, 1909.*

E. H. L. Co., *Chicago:*

Have Funk meet me Chicago Saturday or Sunday. Could meet him any time. Like to leave here to-day. Answer quick.

EDW. HINES.

Put your brain to work on this now and answer the question, those of you who can, Why was that telegram sent; why was Hines wanting to meet Mr. Funk; and why did he want a quick answer? Why, I say, if all Hines wanted to do was to assure Mr. Funk that LORIMER had expended nothing and hence no contribution was desired? Why the telegram asking for a meeting with Funk in Chicago to tell him that there was no necessity to contribute when he had already been told by Wiehe and Wiehe had telephoned the fact to Hines from Chicago to Washington? Does any sane man believe Hines gave the true reason for his anxiety? Here is the second telegram from Hines's concern to him, as follows:

JUNE 4, 1909.

EDWARD HINES,
New Willard Hotel, Washington, D. C.:

Funk New York to-day. Leaves this afternoon, Washington. There to-morrow. You can reach him to-day, George Perkins's office or Judge Gary, 51 Broadway.

E. H. L. Co.

If I remember aright, there was another telegram, or two telegrams. It was not in regard to ordinary business Hines wanted to meet Funk. He was not seeking him for that purpose. It was in regard to this matter, to get the news to him that had already been once conveyed to him, that sad, cruel,

brutal fate had decreed that he could not contribute to LORIMER's campaign fund, because LORIMER did not have any expenses. Does anybody believe that?

I will tell you what those telegrams mean. They mean that Mr. Hines had gone to Mr. Funk and had asked him for this money; that Mr. Funk had indignantly rejected the proposition; that Mr. Hines had told it to him in a somewhat veiled way, and that Hines then became nervous about what Mr. Funk might say, so he sent his agent to Funk to tell him there was nothing in it; to say it was all a mistake; "there was not any money paid out." "I did not really want any money." "I was just in error about it."

After arriving in Washington Hines was still nervous, so he had his long-distance talk with Wiehe at Chicago. He wanted to know from his confidential man, Wiehe, whether he had seen Mr. Funk and given him the assurance that it was all an innocent and idle dream and that there was nothing to it. Hines, even after talking with Wiehe, was not satisfied; he wanted to assure himself by a personal talk with Funk that everything was safe. So he sent a second message to find where in the world Funk was, so he could have a personal interview with him; and then came the second message that Funk was in New York and could come to Washington. Hines was simply trying to cover his tracks.

There is not a man living who can furnish a lucid or reasonable explanation of those telegrams except that they were inspired by fear by a desire to hide the truth and, if possible, remove suspicion and at least insure silence. Beyond doubt Hines hoped to convince Funk that his words should be given an innocent construction, hence the message "there is nothing to it." If Hines could not convince Funk, at least he hoped to induce him to keep still.

Men may be so peculiarly constituted intellectually that they can see these telegrams and facts in some other light. Some brains may conceive that they refer to the music of the spheres, the procession of the equinoxes, or to some declaration of the decalogue, but so far as I am concerned they indicate to me that fear was in the heart of Edward Hines that he had gone too far; that he had made the mistake of expressing a corrupt transaction to an honest man; and hence he wanted to try to convince Mr. Funk there was "nothing to it all."

Now, Mr. President, I am going to discuss just one matter more. There has been a good deal said about White. The declaration is frequently made that this case hangs on White's testimony. It does not. What about Holstlaw's testimony? What about the defense formerly made to Holstlaw's testimony? It is a rule of law that wherever a man by perjury seeks to avoid responsibility the fact that he caused perjury to be committed is a circumstance strongly to be taken against him. It is like flight in the presence of a charge. It is like the destruction of papers, of instruments, of documents of an evidential character; the presumption at once arises against the man who is guilty of the destruction.

On the former hearing Holstlaw testified that Broderick, who had been active in the cause of LORIMER, had said to him that if he voted for LORIMER there was $2,500 in it; that he afterwards went to Broderick's saloon and got the $2,500; that a letter had been written to him telling him to come to Broderick's at that time, and that he went, expecting to receive the money. That is the testimony as it stood before. But Holstlaw could not produce the letter. Accordingly LORIMER put on witness after witness to show that Holstlaw's statement was a fabrication, a lie out of the whole cloth, a piece of black and damned perjury. That was the defense made in the Senate in LORIMER's presence. But in this case at this time the letter is produced, and it demonstrates that Holstlaw told the truth, and told it from the first. Those who testified to the contrary wrote the crime of perjury against their souls, and those who stood in the Senate and argued that Holstlaw gave false evidence, with the knowledge of the facts or without the knowledge, stood upon that perjury either wittingly or unwittingly. I exonerate Senators from any intentional wrong. But LORIMER and his attorneys must have known what Broderick knew. He was in their council and sat with them. Now, it transpires that they are forced to admit that the $2,500 was paid, that the letter was written, and that Holstlaw told the truth. So we need not rest the case on White's testimony; we have White's testimony and also Holstlaw's testimony.

There is another man who received a thousand dollars, and when he received the thousand dollars the statement was made "There is your Lorimer money." Is there anybody now who will say that the case stands or falls with White?

But suppose, sir, it does rest upon White. They tell us he is a black and an infamous character. When did he become a black and an infamous character? Up to the time that he began to come under the influence of Browne he could have proven as good a private character as is admitted for the Senator from Illinois. Nobody said anything against the character of Charles A. White up to that time. I grant that character ought to be taken into consideration in this case. It is not conclusive, but it is always in a man's favor. But, on the other hand, seldom men fill a high office who are not able to prove a good character. Indeed, the very election is a certificate at least that in the public opinion they possess a good character.

But now, Charles A. White, an inexperienced youth, comes down to the Legislature of Illinois, and whom does he meet? He meets Mr. Browne, who afterwards becomes the agent, as I have shown, and representative of Mr. LORIMER. There is no question about that. The first thing Mr. Browne does is to commit those acts which the professional lobbyist, the professional political freebooter, always adopts with the young and the unwary. What does he tell him? "Have you got your transportation yet?" And he gives him a list of attorneys of railroads to whom he can write and get train and Pullman passes, I believe telegraph passes also. Thus he brings this boy up to that form of indirect bribery which is by many regarded as not really corrupt at all. He gives him a taste of that emolument which comes with office, but does not go as the salary of the office or honestly with the office, the perquisites that come from power and the ability to bestow favors.

Thus, poor Charlie White comes under Browne's influence little by little. Little by little Browne begins paying him money. Finally, to use the old Biblical expression, Browne made him "twofold more the child of hell than himself." But that overstates it. This boy did take bribes and was guilty of admitting his guilt. I am going a little over the ground that was covered by others, yet I can not refrain from contrasting the fate of this outcast with the fate of those who took bribes and did not tell it at all or for a long time. These men were put into office by that same machine Mr. LORIMER is credited with controlling, all of them honorable men holding honorable positions. They did not tell. Browne himself, the bribe giver, is still at large and back in office, but the man who did tell is an outcast and his name is anathema and maranatha upon the lips of men.

What is the distinction between the two classes? One of them was impelled by conscience and the cry of outraged nature, and gave the truth to the law, or else impelled by sordid motives gave it. If it was the former, then we ought to draw the mantle of charity and forgiveness over him and give him credit for repentance. If it was the latter, he was only resorting to the vile impulses and to the inordinate and damnable appetite that had been created in his soul by Mr. Browne, the accredited agent of Senator LORIMER. Nobody says White ever took a dishonest dollar in the world until LORIMER's agent got hold of him.

To my mind, instead of condemning poor Charles A. White and heaping upon him all the terms of reproach known to our language we had better reserve a few for the man who destroyed him. I hold it to be true, sir, that between the bribe giver and the bribe taker there is a gulf as wide as separated Dives in perdition from Lazarus reclining upon the bosom of the Master in the celestial court of heaven, and that the bribe giver is a thousand times the baser villain. I will tell you why I say that.

The bribe giver is almost invariably a man in affluent circumstances; he is not driven on by want. He is a man generally of mature age, a man of experience, a man of skill, a man who possesses money, a man who knows the power of money. On the other hand the bribe taker is nearly always a man impecunious, a man whose necessities and whose desires are tempting him. He has to resist both the cry of want and the temptation of gold. He has to fight against necessity unarmed and alone, to stand up against the cupidity that is in his soul, against the tempting gold that is laid before him, and make the fight alone. Generally he is by nature a weak creature. Ordinarily these temptations are laid before a youth, a man whose mind is only half formed and whose character has not yet taken on the stability of age.

And so the seducer comes with his gold. He whispers in his ear that it is all right; that nobody will know it; nobody will find it out; that others take the money; that everybody takes the money; that it is the custom to take the money; until at last the trembling hand is reached out and the bribe touches the palm. And when it does, manhood departs and the soul is destroyed. Hell laughs at such a scene as that. Who is worse—the bribe giver or the bribe taker; the man who coldly destroys a soul by temptation or the creature who yields to temptation?

I say, sir, that if a father is warranted in striking down the creature who shall debauch his daughter, then surely is a man justified in destroying the villain who murders the soul of his son by making him a bribe taker. The real villain in every tragedy of this sort is a bribe giver.

And here is Lee O'Neil Browne covered all over with the leprosy of corruption. He is now plainly branded as a bribe giver. It is admitted that he is loathsome with the sores and ulcers of villainy. But he is still the boon companion and friend of the Senator from Illinois, who puts up $10,000 to defend this wretch against crimes of which he is indubitably guilty, and admitted here to be guilty. Of course, LORIMER says the money was paid to shield himself, but the money was nevertheless paid in Browne's defense.

Mr. President, this is not a criminal trial. This is not a lawsuit. This is an inquisition conducted by this body to determine whether a certain individual should sit here to represent a State. The parties to this transaction, and the only parties whose interest are to be considered, are the sovereign State of Illinois and the people of the United States.

If there was an honest election then is Illinois represented, and so will the people of the United States, under their Constitution be represented, well or ill. If there was not an honest election, then the people of Illinois are not represented, and the man who sits here with a dishonest title is merely an obtruder who has no right in this Chamber. That is the issue, and this body at any time has the right to investigate and inquire into the facts relative to the election.

We are told, sir, that for 30 years a jack pot has been known to exist in the Illinois Legislature; that in the State of Abraham Lincoln and the State of Logan, the State of many illustrious names, for 30 years an organized scheme of corruption has existed. For 30 years they have met there and conspired, and the bribe givers and bribe takers have parted the raiment of the people among them, and upon the vestments of the public they have cast lots. From that body this certificate comes.

If it be true that a body of men gain control of a legislature and are able to dominate its policies, that those men have for their ammunition of war corrupt money and they do control by corrupt means, then no man should be allowed to be sent by such a body here, because he does not represent the conscience of the people, because he does not represent the Commonwealth. He represents in truth nothing more nor less than a crowd of criminal conspirators who have subverted the government.

If all that has been said is true of the Legislature of Illinois, I question whether it would be capable of electing a Senator. But I do not place my argument upon that ground. The corruption here has been traced to men who voted for LORIMER. Taking the evidence in the best sense you can for the defense, for I will use that term, out of a common fund, and that common fund was used to control votes, and the men who submitted to that control took their pay out of that fund after the legislature adjourned. That is all that is necessary to be proven.

Mr. President, to my mind the day has struck in this country when money and corrupt influences are no longer going to be able to send their representatives to the United States Senate. There has been a prevalent impression in this country for some years that a senatorial office can be purchased by the highest bidder. That as a diamond necklace in a sales window may be acquired by the harlot's hire as well as the lady's dower, so can men with money, shamefully acquired, buy a seat in this body.

That day is past in this country. I unhesitatingly say that it ought to be the rule of the Senate that every man who comes here shall be able to show, if his right is challenged, that he comes in response to the will of a sovereign people, unbought, unpolluted, and untarnished. The people of the country are going to demand that. The people of the United States are going to have that. The day is here now when men can not assume to represent the 100,000,000 freemen of this country unless they come with clean hands and with an unspotted title to their office.

Mr. LORIMER obtained the floor.

Mr. THORNTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Louisiana suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Bristow	Clark, Wyo.	Cullom
Bacon	Brown	Clarke, Ark.	Cummins
Bailey	Burnham	Crane	Curtis
Borah	Burton	Crawford	Dillingham
Briggs	Chamberlain	Culberson	du Pont
Fall	Lea	Rayner	Sutherland
Foster	Lippitt	Reed	Swanson
Gallinger	Lodge	Root	Thornton
Gamble	Lorimer	Sanders	Tillman
Gronna	Martine, N. J.	Shively	Townsend
Guggenheim	Myers	Simmons	Watson
Hitchcock	O'Gorman	Smith, Ariz.	Wetmore
Johnson, Me.	Overman	Smith, Ga.	Williams
Johnston, Ala.	Page	Smith, Md.	Works
Jones	Penrose	Smith, S. C.	
Kenyon	Perkins	Smoot	
Kern	Pomerene	Stephenson	

The PRESIDENT pro tempore. Sixty-five Senators have answered to their names. A quorum of the Senate is present.

Mr. LORIMER. Mr. President, I shall not attempt to discuss the question of res adjudicata at any great length, but shall content myself with stating what I believe is the view of the average American citizen.

Before taking up a discussion of the case I desire to give the Senate an insight into the character of the men who organized the conspiracy against me and who are responsible for the continuance of the agitation which has for its object my ruin, politically and financially, and who are the same men who humbugged the Senate into ordering a further investigation into my election through the shameless performance at Springfield, Ill., under the direction of Charles S. Deneen, John J. Healy, and the newspaper trust of Chicago, and which is usually referred to as the investigation by the Helm committee.

When I review the views of the minority members of the committee I shall point out many misstatements of the record and many unwarranted insinuations and inuendos which have the appearance of a deliberate attempt to mislead Senators who, in the performance of their many and arduous duties in this body, may not have had the time to make a careful analysis of the testimony given, and who must, therefore, depend to a large extent upon information furnished by the committee or by its members upon this floor.

It is a fact that the Senate has the power, which is subject to review by no authority under heaven, to deny me a seat in this body on the most trivial pretext or without offering a pretext for such action. I shall show, and it is the solemn fact established by the record in this case, if Senators will be guided by the testimony, that not one single vote was corruptly cast for me.

Senator KERN, in his remarks on this case, used the following language:

> If the Senate was without power to act, and the committee, its creature, was under the law to be sent forth to combat imaginary windmills and be compelled to report, after seven long, weary months of effort, that its work according to law and precedent was a joke, why did not these gentlemen of the majority declare their views of the law and spare the country the expense of the investigation and spare the members of the committee that very arduous and trying experience during the heated and sultry days of last July and August while this investigation was grinding its weary way along? (KERN'S speech, pamphlet form, middle of p. 10.)

This is no joke. It is a solemn, serious matter, and if the Senate shall adopt the recommendation submitted with the views of the minority of the committee it will be a travesty on civilized jurisprudence and a mockery of justice; it will be a declaration that the Senate of the United States has decided to follow the red flag and that it has adopted the doctrine of anarchy, the recall of judicial decisions, so recently advocated by the archchampion of the destruction of American institutions. There never was a more solemn or deliberate judgment handed down in any court in Christendom than that rendered by the Senate in the third session of the Sixty-first Congress on the validity of my election.

The Senator from Indiana argues that the doctrine of res adjudicata is a technical defense which does not apply in this case, and that the people would not understand it. (KERN'S speech, pamphlet form, last paragraph on p. 10.) The rule of law that a former adjudication is a bar to continued litigation on the same question is understood by the most humble citizen of this country as a guaranty to him against repeated assaults upon his liberty, his property, or his rights.

Mr. President, if the Senate had decided on the 1st day of March, 1911, by a majority vote that I was not entitled to a seat in this body, the result would have been that the Illinois Legislature, then in session, would have elected my successor, and before the term of that Congress expired he would have been here and been sworn in as a Member of this body. Then, suppose that Charles A. White, James Keeley, of the Chicago Tribune, and Gov. Deneen, of Illinois, had submitted affidavits to the Senate that they were parties to a conspiracy, and that there was no truth in the statement made by Charles A. White, does anybody suppose that the Senate would have reopened the case after the testimony in a new hearing had shown that and would have seated LORIMER and turned out a man who had been honestly elected to succeed him by the Legislature of Illi-

nois? If that is to be the rule in this country for the future, then God help the country. I shall not discuss the law features of this case further, Mr. President, than to say that I am entitled to the same protection to which my successor would have been entitled, and that if the former adjudication was a bar to continued assaults upon his title, then it is a bar to continued assaults upon mine. Surely I am entitled to equal protection under the law.

The Senator from Missouri [Mr. REED], who has just taken his seat, made this statement:

> If it be true that the editors of these great Chicago papers have entered into such a conspiracy, then the press of that great city is in the hands of arrant knaves and consummate criminals who ought to be in the penitentiary.

I shall show before I finish this discussion that if we had a law officer in Cook County who would see to it that those who are criminals were prosecuted for violating the law the owners of the Chicago newspapers the Senator had in mind would today be in the penitentiary.

Mr. President, in order that the Senator from Missouri, who evidently knows nothing about the newspaper owners of Chicago, may know something of the character of those men, and in order that the Senate of the United States may know something of the character of all the men back of this conspiracy, I propose to relate a few circumstances and give some information as to conditions in the city of Chicago.

The Chicago Tribune Building is located on school property, belonging to a school fund for the education of the children of the city of Chicago. That property can not be sold. Up to 1895 the leases provided for a revaluation every five years. Victor Lawson, who owns the Daily News and the Chicago Record-Herald, and the owners of the Chicago Tribune got together and decided to loot the school fund. The Tribune sent word to one of the members of the school board that they wanted the revaluation clause stricken from the lease. I happen to know the circumstances, because the man to whom they sent word sent a friend to me to ask what I thought about striking out that clause. I answered him that any man who would vote to strike out the revaluation clause of the lease would live to see the day that the people of Chicago would rise in their might and drive him out of public life. This friend came back and said the member was glad that I held those views; that he intended to oppose taking the revaluation clause out of the lease.

The editor of the Tribune afterwards sent for the man who called on me and told him to go to this member of the school board and tell him that the Tribune would be his friend if he would stand by the Tribune. He sent back word that he could not do it. Then the messenger was sent back to him again with these orders: "Tell him to take his hands off, and if he does not we will drive him out of public life." The member to whom this command was sent thereupon withdrew his opposition and then the revaluation clause was stricken from the leases of the Chicago Tribune and the Daily News.

I want to call the attention of the Senate to the effect of that act upon the school fund of the city of Chicago. I have here a chart showing the corner of Dearborn and Madison Streets. This lot, 120 feet by 144 feet [indicating on chart], is school property leased to the Chicago Tribune.



The Tribune Building stands on ground leased from the board of education. Their lease, secured in the manner peculiar to the newspaper crowd, places a valuation on the ground at $792,706.40, or $15.88 per square foot. They pay 6 per cent on this valuation for rental, which equals $47,562.38 per year, or $2.75 per square foot per year.

The corner lot just across the street [indicating], occupied by the Hartford Building, is assessed for taxation at $946,251, or at the rate of $103 per square foot.

The difference in the value of the two corners is in favor of the Tribune site, but if the Tribune paid at the same rate as the Hartford Building, it would be paying—

A rental of 5 per cent on $1,779,840, which would be	$88,992
Add to this the taxes	29,901
The total which they should pay for the site	118,893
They are paying under their corrupt lease	47,562
They steal annually from the school and tax fund under this lease	71,331

At the present rate of value of the property, the lease would cover a steal by the Tribune Co. in 90 years of $6,500,000.

Let us see something about the value of the Chicago Tribune. When over two years ago I discussed in this Chamber the value of the Tribune I said, to be conservative, I would place it at $3,000,000. Since that time they have refused six and a half million dollars. The editor of the Tribune stated under oath that it has been estimated that it is worth from seven and a half to ten million dollars.

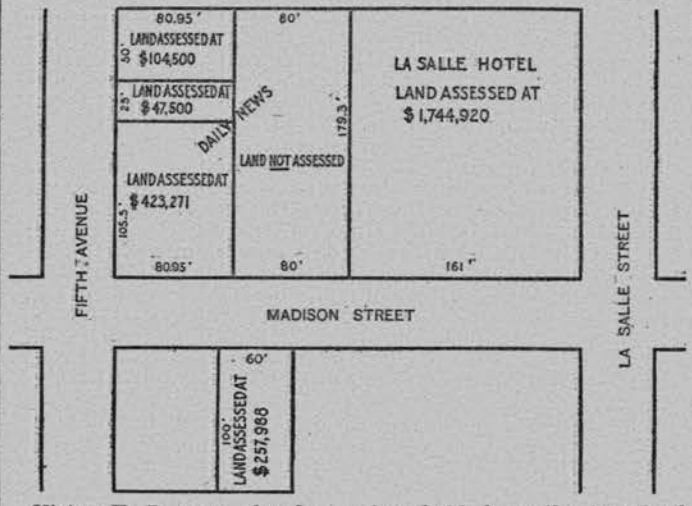
The annual earnings of the Tribune, $800,000, capitalized at 8 per cent, would be $10,000,000. The tax rate, $5.04 on each $100 value, levied on one-third of $10,000,000, would yield $168,000. The Tribune property is assessed at $432,000, which yields $7,257.60, which, deducted from what it should pay, shows a steal of $160,743.40 each year.

As stated in speech of May 28, 1910, the Tribune Co. is levying tribute on the board of education by charging $17,500 per year more rent for quarters in the Tribune Building than the board paid for quarters better suited to its purpose in the building from which the Tribune Co. moved them.

SUMMARY OF TRIBUNE ANNUAL LOOT.

The steal in taxes on the Tribune Co.	$160,743.40
The steal in rent charged the board	17,500.00
The steal on ground rent under corrupt lease	71,331.00
Total annual loot of this company	249,574.40

Let me call your attention to another chart:



Victor F. Lawson also has a leasehold from the board of education of a very valuable site, just west of the new La Salle Hotel [indicating], on Madison Street. The lot is 80 by 180 feet, and the rental was fixed at $3,000 per front foot, to run 85 years from 1900. The revaluation clause which was written into the lease in the beginning was eliminated by the process which has uniformly marked the dealings of the Chicago plunderbund in school property.

Three thousand dollars multiplied by 80 equals $240,000, the valuation of the property fixed by the Lawson-school board lease, which is at the rate of $16.67 per square foot.

This valuation, with the more valuable franchise produced by striking out the revaluation clause, was coolly and impudently made in the face of a valuation of the property by the Chicago real estate board showing its value in 1895 to be 50 per cent more than the amount fixed in the Lawson lease for a period of 85 years.

I submit a copy of a statement addressed by the valuation committee of the Chicago real estate board to William H. Col-

vin, a citizen of Chicago, concerning the value of school property occupied by the Chicago Daily News Publishing Co.:

Valuation, $360,000. No. 447.

CHICAGO REAL ESTATE BOARD,
Chicago, April 15, 1895.

WILLIAM H. COLVIN.

DEAR SIR: We, the undersigned members of the valuation committee of the Chicago real estate board, having carefully considered the application made by you for a valuation of the following described property, situated in the County of Cook and State of Illinois, described as follows, to wit:

Description of land—Lot 6, block 55, original town of Chicago, sec. 9, 39, 14; size, 80 by 179.3 feet.

Description of improvements not valued.

Do hereby certify that we have personally examined said property; that we have no personal interest in the same; and that, in our judgment, the present value is as follows:

Value of improvements	
Value of ground, forty-five hundred dollars per front foot	$360,000
Total value	360,000

HENRY A. KNOLL,
JOHN B. KNIGHT,
B. A. FESSENDEN,
ROBERT F. WALKER,
Valuation Committee.

The latest real-estate transaction in that neighborhood on which I have been able to secure the figures is a lease just recently made on a piece of property, 60 by 100 feet, directly across the street from the property leased from the school board by Victor Lawson. A graduated, long-term lease was made in this case, in which the average rental for a period similar to the Lawson lease is at the rate of $70.17 per square foot per year, and in addition to this, the lessees will at the expiration of the lease turn over to the lessor valuable improvements which the lessees agree to make.

The value per square foot of the school property leased by Victor F. Lawson is $70.17; the value on which Lawson pays is fixed at $16.67; he cheats the taxpayers on every square foot out of a valuation of $53.50; the property just across the street from the school property yields its owner in rental per square foot every year $3.50; the school-board property leased to Victor F. Lawson, more valuable than the other, will yield to the school children of Chicago per square foot every year $1; which will put in the pocket of Mr. Lawson every year on every foot of school ground he occupies $2.50; and will deprive the school fund every year and place in the pocket of Victor F. Lawson $36,000; adding taxes at the same rate (83 cents per square foot) which Mr. Lawson pays on a piece of adjoining property owned by him, $11,852; making a total annual theft from the school fund and public treasury, which is done under cover of his corrupt lease, $47,852. This robbery, during the life of his lease, would enrich him and those who succeed to his filthy riches, on the basis of present values, $4,067,420.

I am informed that the books of the board of assessors for Cook County show that Victor F. Lawson returns for taxation $124,000 worth of personal property. The rate of $5.19 per $100 of valuation levied upon one-third of $124,000 would yield in taxes $2,145.18, the contribution of this multimillionaire toward the government which protects him and which he in turn robs.

No one familiar with wealth in Chicago will estimate the personal fortune of Victor Lawson below $20,000,000. To be conservative and to allow for overestimates let us say he should be put down at $10,000,000. The rate of $5.19 per $100 of valuation levied on one-third of $10,000,000 would yield in taxes $172,999.83.

Victor Lawson should pay a personal-property tax of $172,999.83. Victor Lawson does pay a personal-property tax of $2,145.18. He filches from the public treasury in this way each year $170,854.65.

The Chicago Daily News is known to be the best newspaper property in the Middle West with a circulation greater than any other two papers in the city combined, making more money than the Tribune. Sure I am that it could not be purchased for $15,000,000.

The net annual income of the Chicago Daily News Publishing Co. is conservatively estimated at $1,000,000, which, capitalized at 5 per cent, would represent a valuation of $20,000,000. In order to be conservative and entirely within reason, let us cut that in two and say that the property is worth $10,000,000, although it is known that it could not be purchased at that price.

In 1911 the rate of taxation in the district in which the Chicago Daily News is located was $5.04 on each $100 of valuation. The value for purposes of taxation is fixed at one-third the actual or real value of the property to be taxed. That rate levied on one-third of $10,000,000 would have yielded in taxes $167,999.98. The board of assessors placed a valuation on the Chicago Daily News for 1911 at $893,105. The rate of $5.04 for each $100 of valuation levied on one-third of $893,105 yielded $15,004.16. It will readily be seen that the difference between what the Chicago Daily News should have paid in taxes and what it did pay in taxes is $151,995.82, which had to be made up by the small and humble taxpayers of our community. This year the board of assessors raised the valuation of most of the property in what is known as the Loop District of Chicago, in which the Chicago Daily News is situated.

I have here an article from the second page of the Chicago Daily News for Wednesday, June 26, 1912, under the headings:

Big firm values rise. Personal-property assessment of most of Loop concerns advance. Total gain is $40,000,000.

It can be seen by a reference to this compilation that the valuation of the Chicago Tribune property remains at the figures $432,000, which it carried in 1911, while the valuation of the Chicago Daily News Co. is fixed at $610,801, or $282,304 less than the previous year, although, as a matter of fact, its value had increased in the meantime.

The rate of $5.04 on each $100 of valuation levied on one-third of $610,801 will yield to the tax fund $10,261.45, which is a reduction of $4,724.71 from the amount it paid last year, made in the face of an increased value of the property and in the face of increased assessment, according to the Daily News itself, on other property in the Loop district. Figured on the same basis on which the man of small or modest means is assessed in that community, it represents a theft from the tax funds on the part of Victor F. Lawson, the owner of the Chicago Daily News, of a sum of $157,738.53 each year, which must be furnished by others who are not fortunate enough to own a powerful and corrupt newspaper through which tax officials can be browbeaten and intimidated. The method by which these daring daylight holdups are conducted is shown in the facts surrounding the taxation of the palatial home of Victor F. Lawson on the Lake Shore Drive, Chicago's most exclusive and aristocratic residence district. I have here a photograph [exhibiting photograph] showing the four-story mansion, said to be constructed from material imported from abroad, and worth, as it stands, not less than $1,000,000. Charles Fay, the managing editor of the Daily News and Lawson's right-hand man, boasts all over Chicago that Victor Lawson's mansion on the Lake Shore Drive is worth $1,500,000. In 1909, while the building was in course of construction, the property was assessed by the board of assessors at $203,185, being the sum of the assessment of $128,185 on the lot alone and $75,000 on the partially constructed building. When the assessment was made in 1910, the building had been finished, and the assessment levied for that year was $128,185 on the lot and $293,000 on the finished building. The rate of taxation for that year in the district in which the residence is located was $4.88 on each $100 of valuation. That rate levied on one-third of $421,185 yielded $6,851.27 in taxes, which, it appears, was paid by Mr. Lawson that year. In 1911 there was a readjustment of the rates of taxation for the city of Chicago, under which the rate for that district was increased to $5.19 on every $100 of valuation. At the increased rate this property should have yielded $7,286.50 in taxes. Imagine, if you can, the consternation and surprise which was occasioned when it was found upon investigation that this magnificent property had been assessed for last year by the board of assessors at $1,000, which yielded the munificent sum of $17.32 in taxes! In order that it could not be said that this is manifestly an error, I have here on exhibit a photographic copy of the receipt issued by the county collector for the payment of these taxes and in which is a description of the property.

Now, let me give you an idea of the power of these men, the control they have over public officials, and the reason for their determination that no man shall hold office anywhere in Illinois except those who are the subservient tools of the trust press of the city of Chicago. When this outrage was uncovered and brought to the attention of the citizens of Chicago, Mr. Lawson and the tax officials owned by him through his paper offered an explanation in the columns of the Daily News, to which was attached the signatures of Walter E. Schmidt, president, and W. H. Weber, secretary, of the board of assessors of Cook County, stating that in 1909 the land and buildings were assessed at $203,185, and that for 1910 the same property was increased to $421,185 through an error and without any notice to the owner.

I have already shown that the assessment on the land was the same for the years 1909 and 1910, and that in 1909 the assessment of the building was placed at $75,000 because it was only partially constructed, and that in 1910 the building had been finished and was assessed at $293,000. On looking over the records in the office of the board of assessors the original estimate of the value of the improvements, made by the architect expert of the board of assessors, was found, and I have here a

photographic copy of it [exhibiting photograph]. This shows the value of the completed building, at 50 cents per cubic foot, to be $237,278; the barn, at 20 cents a cubic foot, to be $26,400; and the iron and granite fence is valued at $30,000, the sum of the improvements being $293,678. Down in the left-hand corner in large figures is the sum of $293,000, with the initials of "S. P. Norman, architect expert," immediately below, and below his initials is the initial "K." At the bottom of the sheet appear the letters and figures "O K, 1910, C. H. K.," showing that Charles Krutchkoff, the chief clerk of the board of assessors, approved the assessment of the improvements at $293,000 for the year 1910.

In the statement which Mr. Victor F. Lawson required the president and secretary of the board of assessors to issue it was stated, "No improvements have been made to justify the increase." This statement was made in the face of the fact that had been brought to the attention of these officials by their architect expert and had been approved by the chief clerk of the board of assessors as correct, that a residence had been built on that lot which, at the nominal price of 50 cents per cubic foot, was worth nearly a quarter of a million dollars.

It was further stated by these sworn officials that Mr. Lawson had paid the 1910 assessment "on the condition that the assessment would be reduced by an amount equal to the increase made in 1910 through error." Everybody knows that if Mr. Lawson had a valid claim against the board of assessors of Cook County for overtaxation, his remedy would have been to apply to the courts for an order reimbursing him for the excess paid. Mr. Lawson knew that the assessment of $421,185 did not represent one-half of the value of his residence. He also knew that if he went into court he would have to raise his right hand to his God and state under oath the true value of the property or be liable to the pains and penalties of perjury. So he took a course involving less danger to himself in having the tax officials violate their oaths of office and become liable with him to a term of imprisonment for 12 months in the county jail for their unlawful acts. The laws of Illinois provide:

On or before the 1st day of June in each year, other than the year of the quadrennial assessment, the assessor shall determine the amount, in his opinion, of any change in the value of any tracts or lots of land by reason of any injury to, alteration in, or addition to the improvements thereon since the 1st of April in the preceding year and prior to the 1st of April in the current year, and add to or deduct from the assessment accordingly, setting down the amount of such change in a proper column in the assessment books. The value of lands and improvements shall be separately fixed and shall in any assessment made hereafter be set down in separate columns in said assessor's books. The assessors shall not in any year, except the year of the quadrennial assessment, change the valuation of any real estate or improvements or the division thereof except as above provided in this section: *Provided, however*, That if at any time before judgment or order of sale therefor, the said assessors shall discover an error or mistake (other than errors of judgment as to the valuation of any real or personal property) in any assessment of any property belonging to any person or corporation, they shall issue to the person or corporation erroneously assessed a certificate setting forth the nature of such error and the cause or causes which operated to produce the same, which said certificate, when properly indorsed by the majority of the board of review, showing their concurrence therein and not otherwise, may be used in evidence in any court of competent jurisdiction; and when so introduced in evidence such certificate shall become a part of the court record and shall not be removed from the files except on an order of the court. (Sec. 308, ch. 120, Revenue Laws of Illinois.)

If two or more persons conspire either to commit any offense against the State of Illinois, or any county, incorporated city, village, town, or township thereof, or to defraud the State of Illinois, or any county, incorporated city, village, town, or township thereof, in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, all parties to such conspiracy shall be liable to a penalty of not less than $100 and not more than $5,000, and to be imprisoned either in the penitentiary or county jail for any period not exceeding two years * * *. (Sec. 46a, ch. 28, Criminal Code of Illinois.)

Did he secure the affidavits? Did he go to the board of review? Did he go into any court of record? No; he went to the assessor's office. He went to the place where were the men whom he owned. Then what was the result? That which was more than $6,800 the previous year—and I have a photograph of the receipt—the next year was $17.32. That was the sum of the taxes on the palatial home of Victor Lawson. Would any man think just by one glance at that photograph [exhibiting photograph] that that property is worth only $1,000? Will Senators observe this mansion on which the tax assessors, in violation of the law, changed the records so as to make the taxes not $7,200, but $17.32?

Now, let us follow them just one step further. The Daily News property is worth no less to-day than it was a year ago. Then it was assessed at $893,105. They report in their own paper this year that it has been reduced nearly $283,000, which will save Victor Lawson in cash, when he pays his taxes next year, $4,700. In other words, when they make him pay taxes on his home they take it off his newspaper, and as he is the sole owner of both properties, by that juggling of figures and manipulation of books he will have a saving this year of $1,400 over last year, even though he paid only $17.32 on his residence.

For a number of years Victor F. Lawson, through his Daily News, before each primary and general election has issued instructions to voters a day or two before elections how they should mark their ballots and for whom they should vote. These instructions are given with an air of disinterestedness and a noisy proclamation that the Daily News is acting in behalf of the people. Among other recommendations previous to the primary of April 9, 1912, a reference is found in the issue of April 6 to the candidacy of Charles Krutchkoff and Walter E. Schmidt for nomination as members of the board of assessors for Cook County. Victor F. Lawson gave these instructions in the columns of the Daily News:

Their good services in the assessor's office entitle Charles Krutchkoff and Walter E. Schmidt to the confidence of the Republican voters.

Good services in the assessors office! Victor F. Lawson knew whereof he spoke when he had that recommendation printed in his newspaper. Through the "good services" of these officials he knew that he was confirmed in the possession of $157,738.53 every year they could be kept in office which he should rightfully pay into the public treasury as taxes on the very institution through which he controlled and corrupted these officials.

He also knew that if his Lake Shore residence was assessed at anything like a fair valuation it would go on the assessor's books at not less than $1,000,000 and would, at the rate of $5.19 on the $100 valuation assesssed on property in that district, levied on one-third of $1,000,000, yield $17,299.98 instead of $3,514.08 per year, unlawfully secured through his conspiracy with officials of the board of assessors to defraud the people and loot the public treasury. He also knew that these officials were aiding him to withhold from the tax fund $170,854.65 each year that would be paid into the fund on his personal property if Victor Lawson should be assessed as the humble citizen of ordinary means is assessed in Chicago. A total of $342,379.08 in the pocket of Victor Lawson through the "good services" of his trusted officials on the board of assessors. Why should he not recommend them to the dear people, so they might be kept in office to protect his loot and pelf?

VICTOR F. LAWSON.

According to his own estimate a philanthropist and public-spirited citizen whose slogan is "Common decency."

According to the black record on the tax books of Cook County, a hypocrite and a thief.

He cheats the taxpayers each year in dodging taxes on his Daily News $157,738.53. He filches each year on his home $13,785.90. He withholds from the tax funds each year out of what he should pay on his personal property $170,854.65. He will take from the school children and from his much-talked-about "little red schoolhouse" during the life of his corrupt lease, each year, $47,852. With a sanctimonious air and with hypocritical phrases in his newspaper about good citizenship he is corrupting public officials and stealing annually $390,231.08.

Victor F. Lawson, the little red schoolhouse man, the man who preaches morals and virtue and wants to drive corrupt men out of public life!

And what would be the net result of all this? John Wayman is the State's attorney of Cook County, and if he did his duty as he would do if WILLIAM LORIMER was the transgressor, Krutckoff, the chief clerk in the assessor's office, and Victor Lawson would be—and I want the Senator from Missouri [Mr. REED] to hear this—if John Wayman, the State's attorney in the city of Chicago would treat Victor Lawson as he would treat WILLIAM LORIMER if the latter were the transgressor, Victor Lawson and Krutckoff, the chief clerk in the assessor's office, would be in the penitentiary to-day for conspiracy to commit fraud, and so that man should be where the Senator from Missouri suggests, and he would be if we had a State's attorney who was not owned by the trust press of the city of Chicago.

It may be said that this is an indictment against a public official in my own home town. But it is not idle talk. This is not reckless language. The records are here, and I have photographs of them.

But Victor F. Lawson knows that he is not in danger as long as John E. W. Wayman is State's attorney of Cook County. The newspaper trust of Chicago has owned the State's attorney of our county for the past 20 years, and as long as it continues in this ownership they may continue plundering the public treasury indefinitely and with impunity.

These men are not alone in this conspiracy. We have a governor in our great State who had a hand in this from the beginning. But it is not fair to charge men with entering into a conspiracy of this kind unless it can be shown, and shown by

the records, that they are so constituted morally that they are capable of such deeds.

Gov. Deneen was the prosecuting attorney in Cook County from 1896 until 1904. The salary of that office is $7,000 a year; in the full two terms, $56,000. In addition to this he was entitled to $5 for each conviction for a misdemeanor and $20 for each conviction for a felony. The fees should have been turned into the school fund except where they were used to pay for the convictions secured in the office. The law provides that the State's attorney shall render an account annually. Deneen did not render his account until the end of the eight years. At the end of the eight years he notified the school board that all together he had collected in fines and forfeitures $243,775.82, and that he had retained every dollar of it. And how?

When a man was indicted, he was indicted for as many counts as the law would permit; and when he was tried and convicted, the school fund was charged up with a conviction on every count in the indictment. In other words, the counts were 20; the conviction 1; he was entitled to $5, and he took $100.

I will give you a few samples of this, with the numbers of the cases, which can be found in the records of Cook County, in the county clerk's office.

Under general No. 49969 four men jointly indicted pleaded guilty to bookmaking. They were fined for so doing. Charles S. Deneen, in making his report to the county court, had that number appear 80 times in his report of that year and collected $400 for that plea of guilty for four men so jointly indicted. The number should have appeared four times; he should have collected $20—a steal of $380.

Under general No. 49970 six persons were jointly indicted and one had his prosecution abandoned. The others pleaded guilty to bookmaking and were fined. That number appears 100 times in the report of Charles S. Deneen for the year 1897, and he took out of the funds in his hands $500 to pay himself for those five convictions. The number should have been reported five times and collected $25—a steal of $475.

Under general No. 56315 twelve persons pleaded guilty to a conspiracy to throw a concern into the hands of trustees. Deneen, himself, through his assistants, had the case stricken off without judgment ever being entered or punishment inflicted. In his report of the year 1899 that number appears 119 times, and he took out of the funds in his hands $595 to pay himself for that case in which no conviction was had. He should not have taken one dollar in these cases.

Under general No. 56151 several persons were charged with keeping a bucket shop. All of them were let go, but two pleaded guilty, and that number appears in his report 62 times and he collected $310 for those 2 convictions. The number should have been reported only twice and he should have collected $10—a steal of $300.

On these four cases he collected in fees	$1,805
On these four cases he was entitled to	55
On these four cases he robbed the school fund of	1,750

How does this money get into the school fund? The law of our State provides that when a man is convicted of gambling for the first offense he shall be fined, for the second offense he shall be sent to jail, and for the third offense he shall be sent to the penitentiary.

Let me tell you how he worked it. One man was tried on the 2d of April, 1903. The number of his case was 62481. Again, on September 16, 1903, he was tried in case No. 70047. The first time there was a $100 fine. The second time, when he should have gone to jail, there was a $100 fine. Again, on September 22, 1903, he was tried for the same offense, the number of the case being 70379. That time he should have gone to the penitentiary, but again there was a $100 fine. Then there are two other cases against the same individual on two separate occasions, or in all five convictions. After the second conviction he should have served a term in the penitentiary.

Example of two cases against gamblers.

	Plea.	Number.	Fine.	Convictions charged.
Apr. 2, 1903	Nolle	62481	$100	3
Sept. 16, 1903	do	70047	100	12
Sept. 22, 1903	do	70379	100	4
Sept. 20, 1904	do	73958	100	2
Sept. 20, 1904	do	74153	100	2
Apr. 10, 1903	do	66244	100	7
Sept. 16, 1903	do	70084	100	4
Sept. 22, 1903	do	70391	100	4
Sept. 20, 1904	do	73851	100	2
Sept. 20, 1904	do	74160	100	2

This money goes into the school fund, so that in the cases where boys and men are sent to the reformatory at Pontiac and to the penitentiary in Joliet and no costs are paid into court, Mr. Deneen had in his strong box this $500 that belonged to the school fund, and he applied against those convictions as much of each of those $100 fines as was necessary to consume all of the $243,000 at the expiration of his term.

It has been said in our State that the supreme court has passed upon the case, and that the court said he was entitled to the fees. But the question of the fees of Gov. Deneen and his right to retain them has never been questioned in any court in the State of Illinois. No court in the State, no officer in the State, has ever examined into that question, and nobody can truthfully state that under the law he is entitled to that money. If the question is ever taken to the supreme court of my State it will say that he is entitled to $5 for every conviction for a misdemeanor and $20 for a conviction for a felony, and the balance should go to the school fund of Cook County. So that if Gov. Deneen had not padded his reports and had them accepted—and they are now in the vaults of the county clerk's office, never having been examined by anybody except the lawyers who made this investigation for me—and had only his fair share, he would have had less than $40,000 and the school fund would have had more than $200,000.

When will the day come that it will be paid in? I can not tell, and it may never be paid in; but I hope some day the people of my State will come to know the truth. When they do, they will rise up in their might and put a man in the county clerk's office who will go through those records and make Gov. Deneen pay into the school fund $200,000 that he now has, which no more belongs to him than this building belongs to me.

In order that he who runs may read, I present herewith a tabulated statement showing the work of—

THE CHICAGO PLUNDERBUND.

The Tribune—	
Steals out of just tax on capital	$160,743.40
Steals out of overcharge on rent to board of education	17,500.00
Steals out of just payment on ground rent	71,331.00
The Daily News (Victor F. Lawson)—	
Steals out of just tax on capital	157,738.53
Steals out of just tax on his mansion	13,785.90
Steals out of just tax on personal property	170,854.65
Steals out of just payment on ground rent	47,852.00
Total annual loot of Plunderbund	639,805.48
School fund and taxes on school land—	
Robbery by Tribune under corrupt lease	6,500,000.00
Robbery by Daily News under corrupt lease	4,067,420.00
Robbery by Charles S. Deneen, withheld fees	200,000.00
Total of toll levied by Plunderbund on school system of Chicago	10,767,420.00

Ordinarily I should not have taken up the time of the Senate in discussing these men. It is not a part of this case; that is, it is not evidence as to whether or not I am entitled to a seat in this body. As such evidence it is not worth the snap of a finger; but I felt that the Senate should know something about the character of these men and the motives moving Gov. Deneen, Mr. Lawson, and the McCormicks and the Pattersons of the Tribune, so that you might judge whether men of that type would stoop to destroy a man and drive him out of public life as they have tried to drive men whom they never have succeeded in controlling. These men have controlled every important public office in Cook County and every man in Cook County who held an important public office during the last 25 years except only one. Only one man has dared to stand against them, the late Carter H. Harrison. They followed him as relentlessly as they have followed me until men came to look at him and upon him as one of the vilest characters in the city of Chicago, which resulted ultimately in his assassination by an insane man. They have these public officials as servants.

There is Herman H. Kohlsaat, editor of the Record-Herald. I wish I could feel toward all my fellow men and about them as does the Senator from Vermont [Mr. DILLINGHAM] toward H. H. Kohlsaat. He was never more mistaken in a character in his life. The only difference between Kohlsaat and the balance of them is that he does not always own the power that he wields, so we have occasional intermissions between the periods in which he may assassinate public characters.

But we now have H. H. Kohlsaat, manager of the Record-Herald. He once managed the Chicago Inter Ocean. At that time he came to Washington and delivered the delegation of the State of Illinois in the Republican national convention to Benjamin Harrison. The people of my State in a large majority were in favor of Blaine. I went to the convention as a delegate and proceeded to work to secure votes for Blaine, whom I had never seen in my life and who did not know who I was. Because Kohlsaat had delivered us body and soul and found me

working for Blaine, he sent his messenger, a reporter on the paper, to me with this instruction: "Vote for Blaine if you will yourself, but if you do not stop working for him, when we go back home I will drive you out of public life in the State of Illinois."

That was a little over 20 years ago. When we returned he proceeded to carry out his threat. He sent his men into the neighborhood in which I lived, and they went to the grocers, the butchers, the bakers, and the landlords to find out whether LORIMER cheated anybody out of anything. From that day until this he has never failed to grasp every single opportunity afforded him to destroy LORIMER.

It is this combination of men who from the beginning have been behind this prosecution. This combination of men complain only because they can not own LORIMER. Long, long ago could I have been the white-haired boy if I had climbed the steps of the offices of the Newspaper Trust editors and bent my knee at their bidding, become their subservient tool, and helped them to plunder the public treasury in the State of Illinois.

Their power does not stop there. These are the old partners of Victor Lawson, Melville E. Stone, the manager of the Associated Press, and Frank Noyes, of this city, president of the Associated Press, who once managed the Record-Herald in Chicago for Victor Lawson. This combination of trust newspaper editors, working to destroy and controlling absolutely the fountains of information, have sent broadcast to the world distorted statements even more misleading than have been uttered upon the floor of the Senate, and failed to send out the truth when the truth was learned, in order that they might poison the public mind. In Illinois? Oh, no; not in Illinois. In Illinois whenever the question of the integrity of LORIMER has been raised and fought out among the people they have been vanquished; but from Maine to California, where Senators live, they have been creating an impression that the most vile creature God ever placed upon the face of the earth holds by bribery a seat in the Senate.

These men have not only poisoned the fountain of truth but the minds of the people of the country, and even of Senators of the United States, Senators to-day sitting in this body. One Senator just a few days ago asked the question, Have not the people had an opportunity to know? Have they not read it in the columns of the newspapers? Do they not know the facts? Oh, how much is the Senator in error! How much he is in error is attested by his own speech on the floor of the Senate. I call his attention to his own words, and I place no construction upon them. He said:

I am reminded, too, of the case of Mr. C. F. Wiehe, who I believe the evidence shows was advised by Mr. Edward Hines to get out of the State of Illinois because the grand jury was in session.

Then he said:

The wicked generally flee when the grand jury is in session. There is nothing that hurries them up like a grand jury.

I do not believe the Senator intended to misstate the record, but it is a fact that there is not one line in the record, there is not one word in the record, there is not one syllable in the record which justifies that statement. There is something in the record in which Mr. Wiehe is connected, telling others to go out of the State, but not of Edward Hines instructing Mr. Wiehe to go out of the State. I charge the Senator with nothing except that he secured his information from a source that was not reliable. If that can be stated about a Senator of the United States, a Member of this body to-day, who thinks he knows enough about the case to make a speech on the subject, what can be the opinion of the people of the country?

That is only a sample. But we have another sample of it here, an utterance of the Senator who took his seat just before I rose. Let me read that to you. He said:

I call attention, sir, to his testimony—

Referring to Edward Hines—

In it Mr. Hines declared not that he engaged in this matter as a common Republican, a rank-and-file party man, but that he went from Washington—

Now, mark this—

he went from Washington to Chicago and to Springfield as the envoy extraordinary and minister plenipotentiary of the President of the United States and of Nelson W. Aldrich.

The effort of the men prosecuting this case has been for months to prove that Edward Hines had been in Springfield. But every member of the committee, those of the minority as well as those of the majority, will agree that the testimony in the record or that the testimony given before the committee demonstrated the fact that Edward Hines never was in Springfield during the senatorial election. He had not been there for three years prior nor until two years subsequent, when he was subpœnaed as a witness before the Helm committee.

Oh, how far-reaching is this trust press! Oh, how did it poison the minds of Senators—Senators who did not hear the testimony!

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Missouri?

Mr. LORIMER. Very gladly.

Mr. REED. I do not want to interrupt the Senator, but it is a question of the record, and I do it in the kindliest manner. I want the Senator to know my authority for my statement. I am reading a copy of the transcript of the testimony of Mr. Hines, and I will be glad to cite the Senator to the page:

That was some time in April. He left in a day or two for Springfield. Then Senator Aldrich came to me and told me that President Taft was very anxious to have Congressman LORIMER become a candidate and do all he could to be elected at the earliest date possible; that the tariff bill—so-called Payne-Aldrich tariff bill—was then up in the Senate, and that it was very necessary to have a Senator from Illinois elected at the earliest possible date. He asked me if I would not immediately get into communication with Congressman LORIMER over the long-distance telephone and impress upon his mind that the President was anxious to have him become a candidate and do all he could to be elected.

He then tells about telephoning to the Senator. Then he adds, further on—I am not reading all the testimony—

I think just a very short time prior to his election Senator Aldrich came to me and stated that the President was very nervous about the situation in Illinois; that he had been notified or had been advised that the legislature would adjourn without electing a United States Senator; that they were very anxious to have a Republican elected from Illinois and wanted me to see Congressman LORIMER and see if he could be elected Senator from the State before the legislature adjourned. They asked me to take the train and go to Springfield and meet him.

A little further on he states:

Then, as I stated, I telegraphed Congressman LORIMER that I was leaving Washington for Springfield or Chicago. I arrived in Chicago in the morning that he was elected. I got off the train and went over to the bank and telephoned him on the long-distance telephone and told him I was going down to Springfield to see him and to carry the message to him from the President to impress upon those in Springfield that the administration wanted him to be elected United States Senator at the earliest possible moment. He told me I could save time and accomplish the same purpose if I would call up Gov. Deneen on the long-distance telephone and acquaint him with the message I had from the President.

Now, it was from that transcript, together with other evidence, that I made the statement that he did not claim to go as an ordinary citizen, but that he went as a special representative to Chicago, and I believe I did use the term "and Springfield." If there was any inaccuracy in saying "and Springfield" I withdraw it, but I want to disabuse the Senator's mind of the idea that I got this from the newspapers. I think on reading that one would naturally infer that Mr. Hines was just what I said he was.

Mr. LORIMER. That is what they have tried to show during this whole controversy, that Hines went to Springfield, and that when he went there he went with a bag of money. I did not charge the Senator with knowingly misstating the record. Even if the record is as the Senator has stated it, the members of the committee will bear out the statement I made that all the testimony goes to show that Edward Hines was not in Springfield.

But that, Mr. President, is not the worst result of the lies printed by these newspapers. Here I have the testimony of a Senator of the United States, one who sat as a judge on the committee. Here is the testimony of his opinion of LORIMER before he came to the United States Senate. This is from the Register and Leader, of Des Moines, Iowa, in its edition of Sunday morning, April 16, 1911. It quotes Senator KENYON under the headline "Would Oust LORIMER." This was after Senator KENYON was elected. At home, in his own town, on April 15, 1911, at a reception given him by his constituents, in addressing them he spoke as follows:

I want to take you into my confidence further on one proposition. I have studied to some extent the record in the investigation of Senator LORIMER. It is my conviction that the investigation shows a general scheme of fraud and corruption sufficient to vitiate his election. Nothing is more essential to the perpetuity of our national life than purity in elections. I say to you that I shall vote, if ever given an opportunity—and it is my judgment that the case should be reopened—to oust from the Senate the gentleman who seems to have profited, whether knowingly or not, by such general scheme of fraud and corruption, and if the people of Iowa do not indorse my vote on the subject I will be glad to resign my position and settle down upon my farm.

A Senator elect of the United States, soon to be a Member of the Senate, announces to the people of his State that if given an opportunity he will drive a Senator from the Chamber! He said he had studied the record to some extent. I blame no Senator for holding that opinion if he has not studied the record, but I do say to Senator KENYON that when he thought the case should be reopened, when he was convinced that he should vote to oust the Senator from Illinois, the part of decency at least should have impelled him to keep his already

settled purpose to himself, knowing that he would ultimately occupy the solemn position of a judge.

The Senator from Montana [Mr. MYERS] says that the people are well informed. Was the Senator from Iowa well informed? Nobody will charge Senator KENYON with illiteracy; no man will say that his mind is not keen enough to distinguish right from wrong; but it appears that he has not yet discovered that it was wrong to make that statement before he walked into this Chamber as a Member of the body.

Mr. President, I desire to invite the attention of the Senate to a miserable lie resorted to on the part of these newspaper owners to destroy LORIMER; and, if it is in order, I will ask the Secretary to read an editorial published a few days ago in the Chicago Inter Ocean, which I send to the desk.

The PRESIDENT pro tempore. In the absence of objection, the Secretary will read, as requested.

The Secretary read as follows:

[Editorial printed in the Chicago Inter Ocean Saturday, July 6, 1912.]

A STATEMENT.

PROGRESSIVE HEADQUARTERS,
CLUBROOM 6, CONGRESS HOTEL,
Chicago, June 27, 1912.

EDITOR.

DEAR SIR: You will note that since the Republican national convention only one Chicago newspaper—Senator LORIMER'S Inter Ocean—has come out in support of Taft. The inclosed clippings indicate the attitude of the press in this city.

Yours, truly, MEDILL MCCORMICK.

Because the foregoing communication has been sent out broadcast for the threefold purpose of depreciating the Inter Ocean, President Taft, and Senator LORIMER, we herewith state that the majority of stock in this newspaper is owned and possessed by George W. Hinman, and George W. Hinman alone, and that Senator LORIMER does not now own and never has owned, directly or indirectly, a single dollar's worth of interest in the Inter Ocean.

We apologize to our readers for dignifying the falsehood in question by this editorial reference, but we take it that some recipients of Medill McCormick's letter might otherwise believe it, not realizing that it came from an alcoholic little cad who haunts sanitariums between debauches and whose pus-fed face for months turned men in disgust from his lunch table and caused them to avoid even the tableware which touched his lips.

The name of a degenerate looks as respectable on paper as that of a gentleman, and therefore we are compelled in this case to treat it, not as it is, but as it appears to be.

Mr. LORIMER. Mr. President, that is a sample of the stories of my ownership of the Chicago Inter-Ocean circulated by the McCormick family. Circulated among whom? Circulated among the very men who are to vote on my case, and for no other purpose than to convey to Senators in this Chamber the impression that the news items and the editorials of that newspaper criticizing their public actions were inspired by LORIMER. A Senator sits in this Chamber who years ago was a warm friend of mine, but who of recent years, and especially since he arrived in the Senate, has been as cold toward me as marble. For a year or two I have realized what was running through his mind.

The Inter-Ocean is a stalwart Republican newspaper; it is a constitutional, representative, anti initiative, referendum, and recall Republican newspaper. In the Central West much sentiment has been built up in favor of destroying the institutions of our country, and that paper has opposed not only those socialistic theories of government but the men who advocate them, and has treated them, to some extent, as other newspapers have treated public men; and Members of this body have held the opinion that I was the owner of that paper and that I was trying in season and out of season to destroy their political influence. This is just a sample of it.

Let me say to you, Senators, that if you think you are protected by the friendliness of the editors of the trust press in driving me from this Chamber and that they will in turn aid you in achieving your political ambitions—you may have my name stricken from yonder roll, you may instruct the door tenders that LORIMER may no longer enter here, but you never can change the solemn judgment of the Senate of the Sixty-first Congress in its decision of my right to a seat in this Chamber—but when you have driven me hence and I am forgotten, and the case of LORIMER is no more talked about, oh, beware, the guillotine will be there for you as it is here for me now, whenever you fail to bend your knees to the trust press of this country. It will not stop with LORIMER, but will go on and on until no man dare say that his life is his own. Drive me hence, and in future years take the consequences of putting absolutely in control of this Government the vile, vicious, venal trust press of the country.

The Senator from Indiana [Mr. KERN], in his statement of his views of the case a few days ago, referred to an incident that occurred in Illinois a few years ago, and he used this language:

I want to call attention to an incident related in Gov. Yates's testimony, which I think is really pathetic. I will not take the time to read it. I think I can state the substance of it. I have it here. He testifies that the speaker of the Illinois Legislature, whose name was Miller, who was his personal friend, came to him in 1903 and told him he had been offered a bribe of $200,000 to expedite the passage of the notorious Mueller bill; that on the governor's advice he publicly exposed the offer to the legislature, whereupon the house appointed an investigating committee and put Miller on trial and censured him for offending the dignity of that body. (Kern's speech, pamphlet form, p. 17.)

And he held that up as an offense which should be abhorred and denounced by all decent men; but the driving of Miller from the speaker's chair, persecuting him, and driving him to his grave was the result of the effort of the newspaper trust of Chicago to pass the Mueller bill in the General Assembly of the State of Illinois, granting a perpetual franchise to the street railway companies. The Senator from Indiana probably did not know the truth; he did not know the facts. There was a riot in the house that day; the speaker was driven from his chair, and Gov. Deneen was among the men who led the riot.

Senator KERN, it would be well when, in an attempt by inference to cast additional suspicion on the right of LORIMER to a seat in this body, you make statements affecting the reputation of the Illinois Legislature, to look well to the truth before you state your suspicions.

To give you an idea as to how far these trust-press editors have gone, I shall read a letter that I received a few days ago from a friend in Chicago, referring to a conversation he had with Andrew Lawrence, editor of the Chicago Examiner, the Hearst morning paper of that town:

CHICAGO, ILL., *July 5, 1912.*

Hon. WM. LORIMER,
United States Senator from Illinois, Washington, D. C.

MY DEAR SENATOR: It occurred to me that at this time I should again repeat to you a conversation which was had between Andrew Lawrence, editor of the Chicago Examiner in Chicago, and myself, aboard the Pennsylvania train en route to Washington, just prior to the time when the Senate passed the resolution ordering a reinvestigation of your election. As you will no doubt remember, when I first repeated this conversation to you, you were impressed with the fact that Mr. Lawrence's remarks clearly showed the attitude of the press toward you.

Mr. Lawrence told me that there was absolutely no hope of your retention of your seat in the Senate; that the newspapers were in absolute control, so far as the vote on your case was concerned, and that they would surely have you thrown out of your seat. He said, further, that Senators would be compelled to vote against you regardless of the evidence or merits of the case, because of the fact that their actions would be controlled by the newspapers. He tried especially to impress me with the fact that, although many Senators personally might believe in the integrity of your election and would therefore naturally desire to vote for you, still on account of the control of the newspapers they would not dare to do so.

When I expressed to him my doubt as to the probability of a second investigation of your election being voted by the Senate, he said that the second investigation was already assured, as the newspapers had enough votes to force it through. I can assure you—

And then he goes on to say what the people of Illinois think about this matter. It is signed David L. Frank.

William Hearst's American and Examiner of Chicago, with all the influence of those papers over this land, declared before the resolution was passed to appoint a new committee that it would be passed and that LORIMER would be driven from the Senate of the United States. For what reason? On the merits of the case? Because Senators understood the testimony? No; the papers said because they themselves had the power to make them vote the way they wanted them to vote. Hearst, Lawrence, Lawson, the Pattersons and McCormicks of the Tribune, Herman Kohlsaat, the hired man of Victor Lawson and the editor of the Record-Herald—these are the men who are responsible for the sentiment in this country to-day, and it is with that sort of prosecution this investigation was approached.

Oh, if it be true, as stated in that letter, what man can escape? If it be true, as stated in that letter, of what consequence is it to prove that LORIMER is not here as a result of corrupt methods and practices?

The Senator from Michigan [Mr. SMITH] said the other day that that was not so; that the men in this Chamber would vote on their convictions; but in the last Senate a Senator-elect from a great State approached an outgoing Senator and pleaded with him to vote against LORIMER. The Senator asked, "Have you ever read the record?" He said, "No; I have never read the record, but the public sentiment of my State and your State demands it." That Senator will vote to turn me out.

Another Senator elect was here in this Chamber at that time. He expressed a wish that he might be here to vote on the case in order to turn LORIMER out, and he admitted that he had never read the record.

Mr. President, I think that if the case were properly understood, Senators would not vote to turn me out, or at least, not all of them, because of their fear of the trust press, or because they have read the lies daily published in the trust press of the country for the last two and a quarter years. They have not read the record, but they will vote as their constituents

back home believe they should. I do not blame the constituents for so believing; but I can justly criticize a Senator for not knowing the record. I can justly criticize a Senator for not knowing the record, but not his constituents; I do not blame them for demanding that LORIMER shall be driven out of this body; but I have a right, as a Senator from a sovereign State, with a title to my seat as clear as the title held by any other Senator in this body to have Senators know the record from a careful study of it before they pass judgment in this case.

I have another letter here—and this is the last one I shall read—adding to the statements I have just read about these newspaper editors. This was written by a man who is secretary of the Illinois Tax Reform Association, Maxwell Edgar. Let me tell you before I read the letter who Maxwell Edgar is. The International Harvester people in Chicago, like the Tribune and the other newspapers to which I have referred, were also robbing the public treasury, and Maxwell Edgar organized an association to see to it that tax dodgers should pay their fair share of the taxes. Among the first against whom he started prosecution was the International Harvester Co.; and at the end of a long drawn-out fight, they were compelled to pay into the public treasury of Cook County $500,000 in back taxes and their taxes for the future were raised from $15,000 a year to $75,000 a year. That is the man whose letter I now intend to read as a portion of my remarks:

CHICAGO, *July 1, 1912.*

Hon. WILLIAM LORIMER,
Senate Office Building, Washington, D. C.

DEAR SIR: Replying to your inquiry of the 27th ultimo, relative to the evasion of the payment of capital-stock taxes by certain newspaper corporations of Chicago, the situation in brief is this:

In 1879 the newspapers of Chicago and other corporations induced the legislature to exempt them from the capital-stock tax levied on all other corporations. This was of course unconstitutional and illegal as everyone knew, but no public official had the moral courage to attack it, since the newspapers were among the chief beneficiaries.

In Hub *v.* Hanberg (211 Ill., 43) the Supreme Court decided against this exemption and caused the newspapers to repair to the legislature of 1905 for another illegal exemption. This new exemption was allowed to become a law—

Yes; it became a law, he says—

by Gov. Deneen and included six classes of corporations. It would be childish on our part to suppose that tax exemptions worth millions of dollars were given by the governor and the legislature without a valuable consideration.

This unlawful exemption has also been knocked out by the Supreme Court in Consolidated Coal Co. *v.* Miller (236 Ill., 149), People *v.* National Box Co. (248 Ill., 141), People *v.* Lewy Bros. Co. (250 id., 613), et al.

In spite of these decisions no newspaper of Chicago has ever paid a capital-stock tax. These corporations are above the laws, and it has hitherto proven impossible to enforce the tax laws against them. The Supreme Court has done its full duty and has honestly and fearlessly laid down the law, but as long as the newspaper and other corporations own all the executive officials, from the governor down, they care little for the opinion of the Supreme Court.

The Chicago Daily News, the Tribune, and the Hearst papers are the main beneficiaries of this tax graft. It is doubtful if any other of the Chicago newspapers have any capital-stock value.

The News has a capital stock of $150,000 (par value), is credited with annual profits averaging $700,000—

In that I am informed the gentleman is mistaken to the extent of about $300,000 a year—

and pays taxes on a personal-property assessment—

That was last year—

and pays taxes on a personal-property assessment of $893,105 for 1911. In the so-called Teachers' case Judge Grosscup capitalized the net earnings of the traction companies for taxing purposes at 6 per cent to determine the capital-stock value; but even on a 10 per cent basis this property would be worth $7,000,000, and should be assessed on this amount less its real and personal tangible property. In round figures this property is evading taxes to the amount of $75,000 per annum, and has evaded such taxes pro rata since 1879, and even the supreme court can not prevail against it.

The Tribune Co. is capitalized at $200,000, 200 shares of $1,000 par. Its personal-property assessment of 1911 was $432,000. Its capital-stock value is from $7,500,000 to $10,000,000, and it should be assessed on this basis less its tangible property.

For three years this association has been pushing these tax suits in the courts, but the writs of mandamus of the circuit court and the mandate of the supreme court secured by us are powerless against these powerful organizations of newspapers, who can—

"Who can," he says, and then he says they "do"—

who can and do corrupt legislatures, bulldoze public officials, and terrorize judges and courts.

The Chicago Herald Co., with $3,000,000 capital stock, is understood to have no capital-stock value over and above its tangible property.

Some light on the capital-stock values of these papers might be had by consulting the "net annual income" reports, under the new corporation-tax law, if the Treasury officials will permit it.

One thing is certain: These newspapers have taken advantage of their power to compel the legislature to grant them unlawful tax exemptions and have successfully coerced the taxing officials of Cook County so that they never have been assessed on their capital stock and have paid taxes only on a part of their tangible property.

In addition, the Tribune and the News have their cheap leases from the school fund, and it is a melancholy fact that on the only occasion when the community of Chicago by a lucky chance fell heir to a piece of so-called unearned increment in the shape of school lands the said increment was juggled away from the community to enrich these newspaper proprietors.

The story of Chicago newspaper greed and graft is a long and involved one and can not be told in a letter, but the above may give you some idea of its main outlines as applied to the tax situation.

Respectfully, yours,

MAXWELL EDGAR, *Secretary.*

There is a letter from a man who has no interest in political parties, and the only interest he takes in public affairs is to see to it that each man pays his just share of the taxes. Maxwell Edgar is his name. He wants the people to know. Therefore he sends the information here, because he knows that no newspaper will publish these facts and he hopes that through the CONGRESSIONAL RECORD the people of the country may come to know and turn on these men and compel them to do as they would insist that others shall do—obey the law.

More public sentiment, more manufactured public sentiment, more spurious public sentiment, manufactured out of whole cloth; unadulterated falsehoods. I read from an address of the President:

I submit to the people of Massachusetts that, with his intimate knowledge of the facts, Mr. Roosevelt's linking my name with LORIMER'S for the purpose of inducing the people of Illinois to vote against me on account of their feeling against Senator LORIMER was not giving me a square deal.

So spoke the President, and then he went on a little further and stated:

The issues arising out of this contest have colored in every way the politics of Illinois and aroused a strong feeling against Senator LORIMER among the Republicans of the State. In Illinois Mr. LORIMER was conducting a campaign of his own, with his own nominees. * * * Any influence he may have given in my favor was not because he liked me, but because he felt more bitter toward Mr. Roosevelt.

It is not the fact. Never have I announced publicly, so that it might go to the ears of the President, my feeling toward him or toward Theodore Roosevelt; and I did not support the President because I was more bitter toward Theodore Roosevelt.

I shall not discuss whether or not I was bitter toward either of them or felt any animosity toward either. The reason I supported the President was because I believe, as he believes, in constitutional and representative government. I believe, as he believes, that the courts of the land and their decisions should not be subject to review by the mob. It was because he wrote on that subject and submitted to the Senate a message the equal of which, in my opinion, never has been written in the history of this country, not even excepting the Federalist papers; it was because he stands for the perpetuity of the institutions of this Government that I chose him as against Theodore Roosevelt. If he had held the same opinions that Col. Roosevelt does I should not have voted for either of them, nor would I lend what little influence I have to either of them.

But when the President took that letter into Massachusetts and read it, unless I have been misinformed, he was misstating the facts in the case. I hope I have been misinformed. Word came to me that the President had been told that if a law providing for a preferential vote on nominations for President were passed by the Legislature of Illinois, and the people of the State had an opportunity to vote on the question, the only delegates he would get out of the 58 would be those that came from the territory where LORIMER'S friends live. The only delegates he did get were from the district in which I was reared and have lived since I was 10 years old.

Why make that statement to the people of Massachusetts? If he did not know the facts and if I have been misinformed, why did the men who told him, or who told me that they informed him, permit him to go into the State of Massachusetts and misstate the condition in Illinois?

It was known to the men from Illinois who were conducting the campaign; and they permitted the President to go over the country creating false sentiment by misstating facts, again drawing down upon the head of LORIMER the wrath of the people of the Nation in order that he might prove to the people that he is more reckless and more unjust than Col. Roosevelt.

I do not believe the fact that LORIMER supported Taft cost Taft one vote in the primary election in Illinois, much less a delegate in the convention. As a rule, Illinois is a Republican State. We are protectionists. We are a manufacturing State, and we are one of the great agricultural States of the Union. The Canadian reciprocity was not acceptable either to the farmers or to the industrial people of our State, and they did not feel kindly to the President on account of it. They voted for Theodore Roosevelt 2 to 1, but it was not a vote for Roosevelt the man, and I will say it was not a vote against President Taft as a man. It was a vote against Canadian reciprocity or free trade in any form. If Roosevelt had not been a candidate, Senator LA FOLLETTE, who received only a few thousand votes, would have carried the State against President Taft.

If the men with whom I am associated in politics in Illinois, who believe in representative and constitutional government and who would vote for the most violent enemy they have in the world to aid in perpetuating this Government, had not voted for the President, he would not have received many more votes in Illinois than he received in the primary in South Dakota.

That is how the sentiment grows. That is how the sentiment is built up. For who will disbelieve the President of the United States? He is here on the ground. The people of the Nation believe that he would not willfully misstate any case, and they are justified in accepting what he says on account of their opinion and their high appreciation of a man of any political party who can attain that high office. So is it any wonder that not only the people of the country, but the people of the world, believe that LORIMER should be driven from the Senate?

I am not going to read the whole letter, but I will ask permission to have it inserted as part of my remarks:

[Personal.]

THE WHITE HOUSE,
Washington, January 6, 1911.

Hon. THEODORE ROOSEVELT,
The Outlook, 287 Fourth Avenue, New York, N. Y.

MY DEAR THEODORE: It comes to me, perhaps without foundation, that you are going to write a strong article on the Lorimer case and publish it in The Outlook. I have been doing everything I could legitimately to have the closest examination made into the Lorimer case. I have read as much of the evidence as I could get at *and am convinced that there was a mess and mass of corruption upon which his election was founded that ought to be stamped* with the disapproval of the Senate. *But I want the movement to oust him to succeed.* I have urged different Senators to read the record carefully, and after a talk with ROOT, and BURTON, and KNUTE NELSON, and CRAWFORD, and some others, I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

It has leaked out that I have been taking some interest in the matter, and I fear that it has not helped the situation generally, because of that strong feeling of clubdom in the Senate and that resentment against outside interference which nobody who is not intimately acquainted with the situation can understand the weight of. I was talking with BORAH this morning. I have consulted a good deal with him on the subject, and he and I agree that it would be unwise either for you or for me to come out now against LORIMER and in favor of his being ousted; that it would enable those who are determined to keep him in, especially, among the Democrats, BAILEY and others, to use an argument against outside interference that would hold a number of Democrats and would deprive us of the strength we should get by a quiet presentation of the full facts on the floor of the Senate, from the Senate itself. ROOT *is* going to make a speech. *So is* BURTON, and I believe that LODGE will do the same thing. Now, nothing would have stronger weight than speeches from them; whereas, if either you or I came out with an attack it would enable the friends of LORIMER to shift the subject from the tainted character of his seat to the independence of the Senate in acting as the judge of the qualifications of its own Members.

I suggest, therefore, that if you have an article on this subject, you hold it until after the issues are more plainly made by speeches on the floor of the body in which the contest is to be won. *I want to win. So do you.* This is my excuse for writing you.

Sincerely, yours,

WILLIAM H. TAFT.

P. S.—Of course, I may be misinformed as to your purpose in this matter.

Since dictating the above I have had the telephone conversation with you, but I let it go.

As to the desirability of decency and honesty in politics, I agree with the President. But before I vote to settle the question of decency and honesty I will not, as a judge, read merely "all the testimony I can get." I will either read it all, or I will give the benefit of the doubt to the accused.

I challenge no Senator for casting his vote against me in the last Congress. I complain about no Senator, nor have I any ill will or bitterness in my heart toward any Senator who cast his vote against me in the last Congress. But it does seem to me that when I was on trial I should have been tried by the Senate and not by President Taft and ex-President Roosevelt.

A little further along he said:

I have talked with BORAH this morning. He thinks it would be unwise for ex-President Roosevelt to write the letter.

He said:

ROOT is to make a speech. So is BURTON, and I believe that LODGE will do the same.

I had no objection to their making speeches. Senator BURTON knew more about this case before I came to the Senate than any other man in the Senate. I served upon the Committee on Rivers and Harbors in the House with him. Every week I visited Washington during that session of Congress I discussed the Illinois conditions with him, and he knows, because I told him, that Gov. Deneen would not be a candidate; that I would try to induce my friends to join with other men to elect Shurtleff to the United States Senate, and had the Senator from South Dakota [Mr. CRAWFORD] been informed by Members of the Senate who know the facts he never would have stated that LORIMER organized the legislature for the purpose of electing himself to the United States Senate.

I object not to Senator LODGE's vote against me; but surely when a Democrat votes for me for the same reason and for the same consideration that another Democrat votes for Senator LODGE, I am entitled to the same consideration of opinion as to that vote or that class of votes as people give to him. There was a fight in Massachusetts. There were belligerent Republican members of the general assembly. LODGE's friends feared that some of them might vote against him. There were Democrats in that State who believed in Senator LODGE and in the things he stood for. They believed in his ideas concerning the foreign policy of this country, and rather than have another Republican, if it became necessary, enough of them would have voted for him to assure his election to this body.

In the Illinois General Assembly there were 26 Democrats who held the same view toward LORIMER. They knew that LORIMER's ideas of the proper American foreign policy were similar to those of the Senator from Massachusetts, and, if anything, that he would go a little further in the matter of making treaties with foreign governments. Twenty-three of those Democrats voted for me. Two more would have voted for me if we had had a second roll call. One Democrat voted in Massachusetts. That was notice to the belligerent Republicans that the Democrats were not afraid to vote for a Republican who had the courage to stand for what they regarded the historic doctrine of this Government, "no entangling alliance" with any foreign Government upon the face of the earth.

There was no complaint of Senator LODGE or with Senator LODGE. If to-morrow I were a member of the Massachusetts Legislature and a Democrat and he a candidate and his success threatened, though he cast his vote against me, because of what I know of his opinions on our form of government I would cast my vote to retain him in this body.

"ROOT is going to make a speech," said President Taft.

I have no complaint with Senator ROOT's action. I do not criticize him on account of his vote. He had a right to vote that way if in his opinion I was not entitled to a seat in this body.

Senator ROOT, I have only one criticism of your action, and that was when Kohlsaat brought to you the information that they had found the source of the corruption fund, even though you believed I was guilty, even though you believed I should be put out, you should have given me an opportunity to answer the charge. That, I hope, had no influence in making up your opinion; but it was likely to influence any human being.

I should have had an opportunity in the last Congress to answer these charges, and if so I would not be here to-day discussing this subject, taking up the time of Senators, depriving them of the opportunity to go on with the business of the country. I either would have been turned out and the case closed forever or I would have been here with my title to a seat unquestioned.

I will not condemn Senator ROOT even for that action. No man can tell what he will do in a given case until he is put to the test. It may be that I am too harsh when I say that I think he should have given me a hearing, and that the charges should not have been used against me without my knowledge. Surely, I never would have allowed any man to give me information on which I fear I might have based some of my opinion in making up my judgment on the case unless he gave me the privilege of divulging it to the man against whom the charges were alleged.

Mr. Kohlsaat, the man who started the Funk story, said that it was given to him in confidence and he held it as sacred as a Catholic priest would a confession. Then he proceeded to give it to Theodore Roosevelt, to whom he told the name of the man who told the story.

Mr. Roosevelt attended a dinner in Chicago. I will not discuss it except to say that Mr. Roosevelt said that LORIMER was elected by corruption; that a man in whom he had the most implicit confidence told him; and to a large extent the people who believe in Roosevelt believed that story. He said that LORIMER should be turned out of the Senate, and that he intended to do all he could to oust him. *He had never read a line of the record in his life.*

Roosevelt says that he wants to get rid of the bosses; he wants to get rid of men who are corrupting politics. Oh, yes; he wants to get rid of the corrupt men in politics. He does not want them on his side. No; because it is not right to have corrupt men on his side, and especially is that so if the people know it.

I am a little fatigued, and if there be no objection I will ask the Secretary to read the affidavits I send to the desk.

The PRESIDENT pro tempore. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

[Affidavits of three delegates from Mississippi to the Republican national convention charging an attempt on the part of Charles Banks to buy their votes in the convention for Col. Roosevelt.]

THREE DELEGATES ON OATH CHARGE BRIBE ATTEMPT—NEGRO REPRESENTATIVES OF MISSISSIPPI SWEAR THAT CHARLES BANKS, THE RECENT ROOSEVELT RECRUIT, OFFERED THEM MONEY TO SUPPORT COLONEL.

SHUMPERT'S AFFIDAVIT.

The following is the affidavit of J. W. Shumpert, D. D., presiding elder in the Meridian (Miss.) Methodist Episcopal Church conference and a delegate to the national Republican convention from the first district of Mississippi:

STATE OF ILLINOIS, *city of Chicago, ss:*

On Thursday, June 13, 1912, at the Coliseum, in the city of Chicago, Ill., I was met by Charles Banks, of Mississippi, and a delegate from that State to the national Republican convention, who asked me to call at his house, 2959 Wabash Avenue, Chicago. I went to his house at 5 o'clock the same afternoon, and when I entered his room he asked everybody to leave except me. He began the conversation by asking me if I had ever seen a thousand-dollar bill. I replied that I had not. He then put his hand in his pocket and brought out a big roll of bills. The outside bill was one of the denomination of $1,000. It was the first I had ever seen. The roll of bills was nearly all gold certificates.

He then wanted to know how much I would ask to go with him and support Mr. Roosevelt. I told him that I would not be bought; that I had not come to Chicago to sell myself. He then said that all or a majority of the delegates were going to Roosevelt, who would be nominated, and that Mr. Roosevelt would make him the referee in Mississippi in connection with all the Federal offices. I repeated that I would not be a party to such a transaction and then excused myself. There was no further conversation between us.

Dated this 17th day of June, 1912.

J. M. SHUMPERT,
Presiding Elder Meridian Conference, M. E. Church.

Subscribed and sworn to before me, a notary public, June 17, 1912.

M. BELLE CARNAHAN, *Notary Public.*

Witnesseth:
ANDREW GEDDES,
J. T. MONTGOMERY.

BUCKLEY'S AFFIDAVIT.

The affidavit of A. Buckley, of Enterprise, Miss., and a delegate from the fifth congressional district of Mississippi, follows:

STATE OF ILLINOIS, *County of Cook, City of Chicago, ss:*

A. Buckley, being first duly sworn, makes oath and says that he lives in Enterprise, Miss., in the fifth congressional district, and that he is a delegate to the Republican convention at Chicago, and that he was instructed, both by the congressional convention and by the State convention, for Taft. On Saturday, June 15, 1912, that Dr. S. D. Redman, of Jackson, Miss., at the Coliseum, asked me whether I would go with him for Roosevelt; that he would surely win, and "you want to be on the winning side," and that if I would go for Roosevelt he would make me and Dr. E. E. Howard referees for the fifth congressional district, which means the distribution of patronage, and help me out with $300 or $400. I told him I could not be with him. Then on to-day (Monday) S. D. Redman wanted to know if I was going with him or hold out for Taft, and I told him I could not go with him under any circumstances.

Then, on Friday, June 14, Charles Banks, of Mound Bayou, Miss., who is a delegate at large from Mississippi and who was instructed by the State convention to vote for Taft, told me Mr. Roosevelt would sure win and he did not like the way things were carried on in Mississippi, and if I would go with Roosevelt he would give me $100 cash and $100 on first day of convention and $100 second day of convention. At the same time Mr. Banks pulled out a roll of greenbacks and said: "I have the money and I will give you $100 now." I saw the $100 bill on the outside of the roll. I make this of my own free will, believing in a square deal.

A. BUCKLEY.

Subscribed and sworn to before me, a notary public, this 17th day of June, 1912.

M. BELLE CARNAHAN, *Notary Public.*

Witnesses:
ANDREW GEDDES,
J. T. MONTGOMERY.

DR. SHERROD'S STATEMENT.

Dr. D. W. Sherrod, a practicing physician of Meridian, Miss., last night made the following affidavit. Dr. Sherrod is an alternate from the fifth congressional district of Mississippi to the Chicago convention.

STATE OF ILLINOIS,
County of Cook, City of Chicago, ss:

I, D. W. Sherrod, being duly sworn, do say:

I met Dr. S. D. Redmond, from Jackson, Miss., to-day in front of the Coliseum and he said he knew I had the influence with A. Buckley, the delegate from my district, the fifth, and to bring A. Buckley over to the Roosevelt side, and that he would make Dr. E. E. Howard, A. Buckley, and me, referees of the fifth congressional district and any other consideration I might desire. I said, Mr. Buckley is instructed for President Taft by our congressional and State conventions, and I can't ask him to do this. Mr. Ed Bond, of Canton, Miss., saw me last Sunday, and wanted me to use my influence to bring the Taft delegates over to the Roosevelt side; that they have arranged to get any amount of money necessary, from $700 to $2,000, or any amount required; that Roosevelt's managers had sent for me; and that Mr. DIXON was out, but would be back in a few moments, but I excused myself when I found out what they wanted, as I wanted the delegates who were instructed for President Taft to stay with him.

D. W. SHERROD.

Subscribed and sworn to before me, a notary public in and for Cook county, Ill., this 17th day of June, A. D. 1912.

JOSEPH B. BURTT, *Notary Public.*

Witnesses:
GEORGE H. JEFFRIES,
FRED MORE.
[SEAL.]

Mr. LORIMER. Mr. President, I have two affidavits and a letter of more recent date. It can not be charged that they are used for convention purposes; and, if there be no objection, I will ask the Secretary to read them.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

STATE OF GEORGIA, *County of Henry, ss:*

On this 27th day of June, 1912, before me, J. A. Fouche, clerk superior court, appeared R. A. Holland, who, after being duly sworn, deposes and says that he was a delegate to the national Republican convention from the State of Georgia; that on the 21st day of June, 1912, while in attendance at said convention in the city of Chicago, he was approached by Dr. L. Brinson at Chicago, Ill., who carried him to the Roosevelt headquarters, where he was met by Senator DIXON, McHarg, and Kincaid. DIXON went out. McHarg introduced Kincaid as a millionaire, who said:

"We are here to represent Mr. Roosevelt; are ready to do business; and whatever you boys want we are ready to give it to you. If you will vote with us to-morrow for the nomination of Mr. Roosevelt, whatever you want I will see that you get it."

I refused to name any amount or to accept one cent from him.

Further this deponent saith not.

R. A. HOLLAND.

Subscribed and sworn to before me this 27th day of June, 1912.

[SEAL.] J. A. FOUCHE,
Clerk Superior Court.

STATE OF GEORGIA, *County of Meriwether, ss:*

On this 27th day of June, 1912, before me, T. J. Culpepper, deputy clerk superior court, appeared R. B. Butts, who, after being duly sworn, deposes and says he was a delegate to the national Republican convention from the State of Georgia; that on the 19th day of June, 1912, while in attendance at said convention in the city of Chicago, he was sent for by Dr. L. Brinson, and went to his room at Chicago, Ill., who said to him, "We want you to vote with us to-day, to-morrow, and the next day, and if you will there will be $500 in it for you for each day, and if the convention lasts another day there will be another $500 for you." Deponent further says that he spurned the offer and turned and left the room, when he was accosted by Mr. Clark Grier, who said to him, "You are a damnder fool than I thought you were."

Further this deponent saith not.

R. H. BUTTS.

Subscribed and sworn to before me this 27th day of June, 1912.

[SEAL.] T. J. CULPEPPER,
Deputy Clerk Superior Court.

STATESBORO INDUSTRIAL HIGH SCHOOL
FOR THE TRAINING OF THE COLORED YOUTH,
Statesboro, Bulloch County, Ga., July 4, 1912.

I was a delegate to the Republican national convention from the first district of Georgia, and that I was approached and requested to bolt my instruction and vote for certain proposition with the Roosevelt faction, for which I was offered money.

WM. JAMES.

Mr. LORIMER. Mr. President, I do not introduce those affidavits as proof that I am in any way entitled to a seat in the Senate. They have no bearing at all on this case, and should have no influence on anybody's mind; they should have no controlling influence over any United States Senator; but I merely introduce them so that the people of the country may have an opportunity to observe the hypocrisy which is running rampant throughout this land. The man who will have no political boss around him, the man who would destroy every political corruptionist, has naught on which to base anything that he may say regarding my case one-hundredth part as much as those affidavits tend to show that he would have won a Republican presidential nomination if his friends could have secured it by the corrupt use of money.

RECESS.

Mr. SMOOT. The Senator from Illinois has been speaking now for about three hours in this heated Chamber. He is almost exhausted, and it is impossible for him to conclude his remarks to-day. It is for that reason that I move that the Senate take a recess until 10 o'clock to-morrow morning.

Mr. BAILEY. Make it 11 o'clock. We will get through anyway to-morrow.

Mr. MARTINE of New Jersey. Ten o'clock is too early.

Mr. SMOOT. The only reason for fixing the hour of 10 o'clock is that there are a number of Senators who desire to leave the city to-morrow, and they want to remain here to vote. They are afraid they may not have an opportunity to do so unless an early hour is fixed for meeting to-morrow.

Mr. BACON. I suggest that the hour be fixed to suit the convenience of the Senator from Illinois.

Mr. SMOOT. The Senator from Illinois was perfectly willing that the hour should be at 10 o'clock, but if he desires to change it——

Mr. LORIMER. My preference would be to suit the convenience of Senators who have to leave the city to-morrow.

Mr. SMOOT. Then I move that the Senate take a recess until 10 o'clock to-morrow.

The motion was agreed to; and (at 3 o'clock and 28 minutes p. m., Thursday, July 11) the Senate took a recess until Friday, July 12, 1912, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July 11, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite and eternal Spirit, above all, through all, and in us all, make us susceptible to Thy holy influence that under the trying weather conditions and untoward circumstances which may arise, we may subdue our passions, control our will, and exercise all patience and forbearance; that we may do our work with credit to ourselves and reflect glory and honor upon our Maker. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

STEAMER "DAMARA."

Mr. POST. Mr. Speaker, I ask that the Speaker lay before the House the bill (S. 7015) to provide American registry for the steamer *Damara*.

The SPEAKER. The gentleman from Ohio asks to take from the Speaker's table the bill S. 7015, which the Clerk will report.

The Clerk read as follows:

A bill (S. 7015) to provide American registry for the steamer Damara.

The SPEAKER. Is it a Senate bill?

Mr. POST. It is a Senate bill which has passed the Senate, and a like bill has been reported by the Committee on the Merchant Marine and Fisheries of the House.

The SPEAKER. The gentleman from Ohio [Mr. POST] states that this is a Senate bill, and that a bill exactly like it has been reported from the Committee on the Merchant Marine and Fisheries of the House. The Chair makes that statement so that the Members can understand. What motion has the gentleman to make?

Mr. POST. Mr. Speaker, I ask unanimous consent for the present consideration of the bill.

The SPEAKER. The gentleman from Ohio asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. MANN. Under the rule, of course, it is laid before the House for consideration and does not require unanimous consent.

The SPEAKER. The bill is laid before the House for consideration.

Mr. MANN. I suppose it will have to be read.

The SPEAKER. The Clerk will report the bill.

Mr. CLAYTON. Mr. Speaker, I suppose this will not displace the bill that was to be considered at this time to-day.

The SPEAKER. Oh, no. The gentleman from Ohio [Mr. POST] is ill, and has been ill, and he wanted to get the matter disposed of.

Mr. CLAYTON. I have no disposition to object.

The SPEAKER. The Chair understands. The Clerk will report the bill.

The Clerk read as follows:

A bill (S. 7015) to provide American registry for the steamer Damara.

Be it enacted, etc., That the Commissioner of Navigation is hereby authorized and directed to cause the steamer Damara, rebuilt at San Francisco, Cal., from the wreck of the British steamer Damara, wrecked in the harbor of San Francisco and abandoned by her owners as a total wreck, to be registered as a vessel of the United States, whenever it shall be shown to the Commissioner of Navigation that the cost of rebuilding said vessel in the United States amounted to three times the actual cost of said wreck and that the vessel is wholly owned by citizens of the United States.

Mr. MANN. Mr. Speaker, I do not desire to consume the time of the House with this bill owing to the other matters that are coming up. Personally, I favor the passage of the bill. I telephoned to the gentleman from Washington [Mr. HUMPHREY] and the gentleman from Massachusetts [Mr. GREENE], who have heretofore objected to unanimous consent for the consideration of the House bill, but forgot to telephone to the gentleman from California [Mr. KAHN], who favors the passage of the bill. As none of them is present, I do not see what I can do except to call the attention of the House to that situation.

The SPEAKER. The question is on the third reading of the bill.

The bill was read a third time.

Mr. MANN. I see the gentleman from Massachusetts [Mr. GREENE] is here, and I would like to call his attention to the fact that the Speaker has placed before the House for consideration, in accordance with the rules of the House, Senate bill 7015, to provide American registry for the steamer *Damara*, being the same as the bill H. R. 22907, now on the House Calendar and pending before the House. If the gentleman desires to be heard on it, doubtless he can be heard now.

Mr. GREENE of Massachusetts. Mr. Speaker, I objected to the bill when it came up for unanimous consent, because I thought there ought to be some consideration of the bill.

The SPEAKER. The Chair will state to the gentleman from Massachusetts that it had passed the stage of objection, and the next thing to do with the bill is to vote on it.

Mr. GREENE of Massachusetts. Very well.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

Mr. POST. Mr. Speaker, I move to lay the bill H. R. 22907, of similar import, on the table.

The motion was agreed to.

On motion of Mr. UNDERWOOD, a motion to reconsider the vote by which the bill was passed was laid on the table.

PROCEDURE IN CONTEMPT CASES.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] is recognized. The Clerk will report by title the bill in relation to procedure in contempt cases.

The Clerk read as follows:

A bill (H. R. 22591) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

The SPEAKER. The Chair will state that when the bill was under consideration on Tuesday a substitute was pending under the rule.

Mr. CLAYTON. That is correct. The gentleman from Illinois [Mr. STERLING], my associate on the committee, had a substitute.

The SPEAKER. Does the gentleman from Illinois desire to offer the substitute?

Mr. STERLING. Yes. I think I offered it the other day. I offer a substitute.

The SPEAKER. Has it already been read?

Mr. STERLING. Yes; it has been read.

The SPEAKER. The question is on the adoption of the substitute.

The question was taken, and the substitute was rejected.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The question was taken, and the bill was ordered to be engrossed and read a third time.

The SPEAKER. The question now is on the passage of the bill.

The question was taken.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] One hundred and twenty-three Members are present—not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. On this roll call those in favor of passing this bill will answer "yea" and those opposed "nay."

The question was taken; and there were—yeas 234, nays 18, answered "present" 10, not voting 127, as follows:

YEAS—234.

Aiken, S. C.	Collier	Garner	Kinkaid, Nebr.
Ainey	Connell	George	Kitchin
Akin, N. Y.	Conry	Godwin, N. C.	Konig
Alexander	Cooper	Good	Konop
Allen	Copley	Goodwin, Ark.	Korbly
Anderson, Minn.	Covington	Gould	Lafferty
Anderson, Ohio	Cox, Ind.	Gray	La Follette
Ansberry	Cravens	Green, Iowa	Lamb
Austin	Crumpacker	Greene, Mass.	Langley
Ayres	Cullop	Gregg, Pa.	Lawrence
Barchfeld	Curley	Gregg, Tex.	Lee, Ga.
Barnhart	Curry	Gudger	Lee, Pa.
Bartholdt	Davenport	Hamill	Lenroot
Bathrick	Davis, Minn.	Hamilton, W. Va.	Lever
Beall, Tex.	Dent	Hamlin	Levy
Bell, Ga.	Denver	Hammond	Lewis
Berger	Dickinson	Hardy	Linthicum
Blackmon	Dickson, Miss.	Harrison, Miss.	Littlepage
Booher	Difenderfer	Hartman	Lloyd
Borland	Dixon, Ind.	Hawley	Lobeck
Bowman	Donohoe	Hay	Longworth
Brantley	Doughton	Hayden	McDermott
Brown	Driscoll, D. A.	Heflin	McGillicuddy
Buchanan	Dupré	Helgesen	McKellar
Bulkley	Edwards	Henry, Tex.	McKenzie
Burgess	Esch	Hensley	McKinley
Burke, S. Dak.	Estopinal	Hobson	McKinney
Burke, Wis.	Faison	Holland	Maguire, Nebr.
Burleson	Farr	Houston	Martin, Colo.
Burnett	Fergusson	Howard	Matthews
Butler	Fields	Hughes, Ga.	Mays
Byrns, Tenn.	Floyd, Ark.	Hughes, N. J.	Miller
Calder	Foss	Hull	Mondell
Campbell	Foster	Jacoway	Moon, Tenn.
Candler	Fowler	James	Morgan
Carlin	Francis	Johnson, Ky.	Morrison
Catlin	French	Jones	Moss, Ind.
Clark, Fla.	Fuller	Kendall	Mott
Clayton	Gallagher	Kennedy	Murray
Cline	Gardner, Mass.	Kent	Neeley

Norris	Reilly	Smith, J. M. C.	Tuttle
Oldfield	Richardson	Smith, Saml. W.	Underhill
Padgett	Roberts, Mass.	Smith, Tex.	Underwood
Page	Robinson	Speer	Warburton
Parran	Roddenbery	Stanley	Watkins
Patton, Pa.	Rodenberg	Stedman	Webb
Pepper	Rothermel	Stephens, Cal.	Wedemeyer
Peters	Rouse	Stephens, Miss.	Whitacre
Pickett	Rubey	Stone	White
Post	Rucker, Colo.	Sulloway	Willis
Pou	Sabath	Sulzer	Wilson, Ill.
Pray	Saunders	Sweet	Wilson, N. Y.
Prince	Sells	Switzer	Wilson, Pa.
Prouty	Sherwood	Taggart	Witherspoon
Rainey	Sims	Talbott, Md.	Wood, N. J.
Raker	Sisson	Talcott, N. Y.	Woods, Iowa
Ransdell, La.	Slayden	Taylor, Colo.	Young, Kans.
Rauch	Sloan	Tribble	
Redfield	Small	Turnbull	

NAYS—18.

Cannon	Harris	Madden	Tilson
Dalzell	Howell	Mann	Utter
Danforth	Howland	Moore, Pa.	Weeks
Dodds	Langham	Payne	
Griest	McCreary	Sterling	

ANSWERED "PRESENT"—10.

Adamson	Fairchild	Kahn	Sparkman
Browning	Hill	Rucker, Mo.	
Dwight	Johnson, S. C.	Slemp	

NOT VOTING—127.

Adair	Finley	Kopp	Rees
Ames	Fitzgerald	Lafean	Reyburn
Andrus	Flood, Va.	Legare	Riordan
Anthony	Focht	Lindbergh	Roberts, Nev.
Ashbrook	Fordney	Lindsay	Russell
Bartlett	Fornes	Littleton	Scully
Bates	Gardner, N. J.	Loud	Shackleford
Boehne	Garrett	McCall	Sharp
Bradley	Gillett	McCoy	Sheppard
Broussard	Glass	McGuire, Okla.	Sherley
Burke, Pa.	Goeke	McHenry	Simmons
Byrnes, S. C.	Goldfogle	McLaughlin	Smith, Cal.
Callaway	Graham	McMorran	Smith, N. Y.
Cantrill	Guernsey	Macon	Stack
Carter	Hamilton, Mich.	Maher	Steenerson
Cary	Hanna	Martin, S. Dak.	Stephens, Nebr.
Claypool	Hardwick	Moon, Pa.	Stephens, Tex.
Cox, Ohio	Harrison, N. Y.	Moore, Tex.	Stevens, Minn.
Crago	Haugen	Morse, Wis.	Taylor, Ala.
Currier	Hayes	Murdock	Taylor, Ohio
Daugherty	Heald	Needham	Thayer
Davidson	Helm	Nelson	Thistlewood
Davis, W. Va.	Henry, Conn.	Nye	Thomas
De Forest	Higgins	Olmsted	Towner
Dies	Hinds	O'Shaunessy	Townsend
Doremus	Hughes, W. Va.	Palmer	Vare
Draper	Humphrey, Wash.	Patten, N. Y.	Volstead
Driscoll, M. E.	Humphreys, Miss.	Plumley	Vreeland
Dyer	Jackson	Porter	Wilder
Ellerbe	Kindred	Powers	Young, Mich.
Evans	Kinkead, N. J.	Pujo	Young, Tex.
Ferris	Knowland	Randell, Tex.	

So the bill was passed.

The Clerk announced the following pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. RIORDAN with Mr. ANDRUS.

Mr. GLASS with Mr. SLEMP.

Mr. FORNES with Mr. BRADLEY.

Until further notice:

Mr. HUMPHREYS of Mississippi with Mr. ROBERTS of Nevada.

Mr. CLAYPOOL with Mr. REYBURN.

Mr. YOUNG of Texas with Mr. PORTER.

Mr. TOWNSEND with Mr. MCCALL.

Mr. DAVIS of West Virginia with Mr. OLMSTED.

Mr. STEPHENS of Texas with Mr. MOON of Pennsylvania.

Mr. SMITH of New York with Mr. MARTIN of South Dakota.

Mr. SHERLEY with Mr. MCLAUGHLIN.

Mr. RUSSELL with Mr. MCGUIRE of Oklahoma.

Mr. GOLDFOGLE with Mr. HENRY of Connecticut.

Mr. MOORE of Texas with Mr. HANNA.

Mr. KINDRED with Mr. GUERNSEY.

Mr. HARRISON of New York with Mr. HAMILTON of Michigan.

Mr. FITZGERALD with Mr. FOCHT.

Mr. O'SHAUNESSY with Mr. DE FOREST.

Mr. MCCOY with Mr. KOPP.

Mr. RUCKER of Missouri with Mr. DYER.

Mr. GOEKE with Mr. HEALD.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. PATTEN of New York with Mr. SIMMONS.

Mr. CARTER with Mr. KAHN.

Mr. SHEPPARD with Mr. BATES.

Mr. GARRETT with Mr. FORDNEY.

Mr. PUJO with Mr. MCMORRAN.

Mr. HARDWICK with Mr. CAMPBELL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. LEGARE with Mr. LOUD.

Mr. FINLEY with Mr. CURRIER.

Mr. JOHNSON of South Carolina with Mr. GILLETT.

Mr. SCULLY with Mr. BROWNING.

Mr. FLOOD of Virginia with Mr. LAFEAN.

Mr. ELLERBE with Mr. CRAGO.

Mr. RANDELL of Texas with Mr. SMITH of California.

Mr. GRAHAM with Mr. VARE.

Mr. DIES with Mr. FAIRCHILD.

Mr. BOEHNE with Mr. GARDNER of New Jersey.

Mr. CALLAWAY with Mr. WILDER.

Mr. DAUGHERTY with Mr. DRAPER.

Mr. ADAIR with Mr. HINDS.

Mr. TAYLOR of Alabama with Mr. NEEDHAM.

Mr. PALMER with Mr. HILL (with mutual privilege of transfer).

Until August 1:

Mr. Cox of Ohio with Mr. ANTHONY.

From June 28 for two weeks:

Mr. BYRNES of South Carolina with Mr. PLUMLEY.

Mr. ADAMSON. Mr. Speaker, I voted aye, but I find that the gentleman from Minnesota, Mr. STEVENS, with whom I am paired, has not voted, and I desire therefore to withdraw my vote and to be recorded present.

Mr. RUCKER of Missouri. Mr. Speaker, did the gentleman from Missouri, Mr. DYER, vote?

The SPEAKER. He did not.

Mr. RUCKER of Missouri. I am paired with my colleague, Mr. DYER, and therefore I desire to withdraw my affirmative vote and to vote present.

Mr. BUTLER. Mr. Speaker, I have a general pair with the gentleman from Georgia, Mr. BARTLETT, which I always keep faithfully, but the gentleman has instructed me on this vote and therefore I have voted. If the gentleman from Georgia [Mr. BARTLETT] were here he would have voted for this bill, as I do.

Mr. CAMPBELL. Mr. Speaker, I have a general pair with the gentleman from Georgia, Mr. HARDWICK. He informs me that upon this bill he would vote aye. I therefore will permit my affirmative vote to stand, knowing that the gentleman from Georgia [Mr. HARDWICK] would also have voted in the affirmative if he were here.

The SPEAKER. The Chair will take occasion to state to the House that the Speaker has nothing to do with the pairs. They are private arrangements between Members.

On this vote the yeas are 234, nays 18, present 10. The bill is passed. A quorum is present. The Doorkeeper will open the doors.

LEAVE TO EXTEND REMARKS.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the contempt bill.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

LEAVE TO PRINT.

Mr. CLAYTON. Mr. Speaker, I ask unanimous consent that the members of the Committee on the Judiciary may be allowed to extend their remarks on the contempt bill, and also I include in that request such Members as made speeches on the bill, as well as the members of the committee who did not make speeches on the bill.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the members of the Judiciary Committee, as well as all gentlemen who spoke on the contempt bill, be permitted to extend remarks in the RECORD on that bill.

Mr. MANN. For five days.

The SPEAKER. For five legislative days. Is there objection?

There was no objection.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I call attention to the concurrent resolution which I send to the Clerk's desk, and ask that it be read.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House concurrent resolution.

Resolved by the House of Representatives (the Senate concurring), That the Clerk be directed, in the enrollment of the bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors," to strike out the word "of," where it first appears in the fourth line of the title to said bill, and insert in lieu thereof the word "and."

Mr. MANN. Mr. Speaker, I know what this case is. This is the bill we recalled from the President the other day. Has the

signature of the Speaker to the enrolled bill been canceled or has there been any authorization to that effect?

The SPEAKER. The Chair will state that the signature of the Speaker and the signature of the President pro tempore of the Senate have not been canceled on that bill, and the Chair knows of no authorization to do it.

Mr. MANN. My recollection is that in a case of that sort there is a resolution authorizing the cancellation of the signatures and the enrollment.

Mr. RICHARDSON. It is to allow the Clerk to insert the word "and" instead of the word "of."

Mr. MANN. I understand the purpose, but the bill has already been enrolled and that enrollment ought to be canceled, I think.

The SPEAKER. The Chair thinks so, too, and after this resolution is passed the Chair will entertain a motion.

Mr. MANN. I do not know whether it would require a resolution or not.

The SPEAKER. The Chair will ask the gentleman from Illinois if he remembers whether or not the resolution recalling this bill authorized the Speaker and the President pro tempore of the Senate to cancel their signatures?

Mr. MANN. My recollection is that it does not.

Mr. RICHARDSON. It does not.

The SPEAKER. If it does not, it will take a concurrent resolution to do it, in the judgment of the Chair.

Mr. MANN. I think perhaps the gentleman from Alabama had better withhold his resolution until the engrossing clerk can look the matter up.

Mr. RICHARDSON. I will do so, Mr. Speaker.

The SPEAKER. If the old bill stands with the signature of the Speaker and the President pro tempore of the Senate, and the President of the United States does not sign it, and there is nothing done about it, it becomes a law within 10 days.

PHILIPPINE ISLANDS.

Mr. QUEZON. Mr. Speaker, I ask unanimous consent to print in the RECORD the preface of a book on the Philippine Islands, written by Judge Blount.

The SPEAKER. The gentleman from the Philippine Islands asks unanimous consent to print in the RECORD the document to which he refers.

Mr. MANN. How long is it?

Mr. QUEZON. About 2,000 words.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

CHANGE OF REFERENCE.

Mr. LAMB. Mr. Speaker, I ask unanimous consent that the reference of the bill H. R. 25689, a bill declaring that persons, firms, or corporations in any manner engaged in the interstate-commerce business who shall become engaged or concerned in the fixing of prices of any foodstuffs contrary to the rules of competition shall be guilty of a felony, and providing for their punishment, may be changed from the Committee on Agriculture to the Committee on Interstate and Foreign Commerce.

The SPEAKER. The gentleman from Virginia asks unanimous consent to change the reference of the bill H. R. 25689 from the Committee on Agriculture to the Committee on Interstate and Foreign Commerce.

Mr. CLAYTON. Mr. Speaker, I did not catch the reading of the full title of the bill, but only partially. It seems to me that it ought to go to the Committee on the Judiciary.

The SPEAKER. The Clerk will report the title to the bill.

The Clerk reported the title to the bill.

The SPEAKER. On what ground does the gentleman from Alabama base his claim?

Mr. CLAYTON. It seems to me to be in the nature of an amendment of statutory law.

Mr. LAMB. I examined it pretty carefully this morning, and I thought it ought to go to the Committee on Interstate and Foreign Commerce.

Mr. STERLING. Mr. Speaker, it relates to the Sherman antitrust law that the House has already sent to the Committee on the Judiciary.

The SPEAKER. The gentleman from Alabama objects to the request.

Mr. LAMB. Then, Mr. Speaker, I renew my request to transfer it from the Committee on Agriculture to the Committee on the Judiciary. All I want to do is to get rid of it. [Laughter.]

The SPEAKER. The gentleman from Virginia asks unanimous consent to change the reference of this bill from the Committee on Agriculture to the Committee on the Judiciary. Is there objection?

Mr. SMITH of Texas. Mr. Speaker, I object. I believe that it ought to go to the Committee on Interstate and Foreign Commerce.

Mr. ADAMSON. Mr. Speaker, the gentleman from Virginia proposed to have it changed from the Committee on Agriculture to the committee where it belongs, the Committee on Interstate and Foreign Commerce.

The SPEAKER. But the gentleman from Alabama objected.

Mr. LAMB. Very well, Mr. Speaker, I will send it some where else.

Mr. CLAYTON. I am willing for the Speaker to decide the question, now or hereafter, and let it go where he may determine.

The SPEAKER. The Chair will state to the House for its own guidance that sometimes there is a bill that looks like it might be referred to two committees, and in this case and a few other cases it looks as if it might be referred to any one of three committees. The Chair will determine the matter hereafter.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. RUSSELL, indefinitely, on account of illness.

IMPEACHMENT OF JUDGE ROBERT W. ARCHBALD.

Mr. CLAYTON. Mr. Speaker, I call up for consideration the resolution referred to in the privileged report, No. 946, in the matter of the impeachment of Robert W. Archbald, judge of the United States Commerce Court, and ask that it be read.

The Clerk read as follows:

House resolution 622.

Resolved, That Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stat. L., vol. 36, 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve for four years in the Commerce Court, be impeached for misbehavior and for high crimes and misdemeanors; and that the evidence heretofore taken by the Committee on the Judiciary under House resolution 524 sustains 13 articles of impeachment which are hereinafter set out; and that said articles be, and they are hereby, adopted by the House of Representatives, and that the same shall be exhibited to the Senate in the following words and figures, to wit:

Articles of impeachment of the House of Representatives of the United States of America in the name of themselves and of all of the people of the United States of America against Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stat. L., vol. 36, 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve for four years in the Commerce Court:

ARTICLE 1.

That the said Robert W. Archbald, at Scranton, in the State of Pennsylvania, being a United States circuit judge, and having been duly designated as one of the judges of the United States Commerce Court, and being then and there a judge of the said court, on March 31, 1911, entered into an agreement with one Edward J. Williams whereby the said Robert W. Archbald and the said Edward J. Williams agreed to become partners in the purchase of a certain culm dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson, for the purpose of disposing of said property at a profit. That pursuant to said agreement, and in furtherance thereof, the said Robert W. Archbald, on the 31st day of March, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise, to induce and influence, and did induce and influence, the officers of the said Hillside Coal & Iron Co. and of the Erie Railroad Co., a corporation, which owned all of the stock of said coal company, to enter into an agreement with the said Robert W. Archbald and the said Edward J. Williams to sell the interest of the said Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500. That during the period covering the several negotiations and transactions leading up to the aforesaid agreement the said Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting as such judge; and at the time aforesaid and during the time the aforesaid negotiations were in progress the said Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co et al. *v.* The Interstate Commerce Commission, No. 39, then pending in the United States Commerce Court; and the said Robert W. Archbald, judge as aforesaid, well knowing these facts, willfully, unlawfully, and corruptly took advantage of his official position as such judge to induce and influence the officials of the said Erie Railroad Co. and the said Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and the said Edward J. Williams as aforesaid, for profit to themselves, and that the said Robert W. Archbald, then and there, through the influence exerted by reason of his position as such judge, willfully, unlawfully, and corruptly did induce the officers of said Erie Railroad Co. and of the said Hillside Coal & Iron Co. to enter into said contract for the consideration aforesaid.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

ARTICLE 2.

That the said Robert W. Archbald, on the 1st day of August, 1911, was a United States circuit judge, and, having been duly designated as one of the judges of the United States Commerce Court, was then and there a judge of said court.

That at the time aforesaid the Marian Coal Co., a corporation, was the owner of a certain culm bank at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies as defendants, charging said defendants with discrimination in rates and with excessive charges for the transportation of coal shipped by the said

Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce. That the decision of the said case by the Interstate Commerce Commission at the instance of either party thereto was subject to a review, under the law, by the United States Commerce Court; that one Christopher G. Boland and one William P. Boland were then the principal stockholders of the said Marian Coal Co. and controlled the operation of the same, and they, the said Christopher G. Boland and the said William P. Boland, employed one George M. Watson as an attorney to settle the case then pending as aforesaid in the Interstate Commerce Commission and to sell to the Delaware, Lackawanna & Western Railroad Co. two-thirds of the stock of the said Marian Coal Co.; and at the time aforesaid there was pending in the United States Commerce Court a certain suit entitled "The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38," to which suit the said Delaware, Lackawanna & Western Railroad Co. was a party litigant.

That the said Robert W. Archbald, being judge as aforesaid and well knowing these facts, did then and there engage for a consideration to assist the said George M. Watson to settle the aforesaid case then pending before the Interstate Commerce Commission and to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the said Marian Coal Co., and in pursuance of said engagement the said Robert W. Archbald, on or about the 10th day of August, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise, to induce and influence the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with the said George M. Watson for the settlement of the aforesaid case and the sale of said stock of the Marian Coal Co.; and the said Robert W. Archbald thereby willfully, unlawfully, and corruptly did use his influence as such judge in the attempt to settle said case and to sell said stock of the said Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

ARTICLE 3.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about October 1, 1911, did secure from the Lehigh Valley Coal Co., a corporation, which coal company was then and there owned by the Lehigh Valley Railroad Co., a common carrier engaged in interstate commerce, and which railroad company was at that time a party litigant in certain suits then pending in the United States Commerce Court, to wit, The Baltimore & Ohio Railroad Co. et al. *v.* Interstate Commerce Commission et al., No. 38, and The Lehigh Valley Railroad Co. *v.* Interstate Commerce Commission et al., No. 49, all of which was well known to said Robert W. Archbald, an agreement which permitted said Robert W. Archbald and his associates to lease a culm dump, known as Packer No. 3, near Shenandoah, in the State of Pennsylvania, which said culm dump contained a large amount of coal, to wit, 472,670 tons, and which said culm dump the said Robert W. Archbald and his associates agreed to operate and to ship the product of the same exclusively over the lines of the Lehigh Valley Railroad Co.; and that the said Robert W. Archbald unlawfully and corruptly did use his official position and influence as such judge to secure from the said coal company the said agreement.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a misdemeanor in such office.

ARTICLE 4.

That the said Robert W. Archbald, while holding the office of United States circuit judge and being a member of the United States Commerce Court, was and is guilty of gross and improper conduct, and was and is guilty of a misdemeanor as said circuit judge and as a member of said Commerce Court in manner and form as follows, to wit: Prior to and on the 4th day of April, 1911, there was pending in said United States Commerce Court the suit of Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission. Said suit was argued and submitted to said United States Commerce Court on the 4th day of April, 1911; that afterwards, to wit, on the 22d day of August, 1911, while said suit was still pending in said court, and before the same had been decided, the said Robert W. Archbald, as a member of said United States Commerce Court, secretly, wrongfully, and unlawfully did write a letter to the attorney for the said Louisville & Nashville Railroad Co. requesting said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that the said witness had given in said suit, and communicate the same to the said Robert W. Archbald, which request was complied with by said attorney; that afterwards, to wit, on the 10th day of January, 1912, while said suit was still pending, and before the same had been decided by said court, the said Robert W. Archbald, as judge of said court, secretly, wrongfully, and unlawfully again did write to the said attorney that other members of said United States Commerce Court had discovered evidence on file in said suit detrimental to the said railroad company and contrary to the statements and contentions made by the said attorney, and the said Robert W. Archbald, judge of said United States Commerce Court as aforesaid, in said letter requested the said attorney to make to him, the said Robert W. Archbald, an explanation and an answer thereto; and he, the said Robert W. Archbald, as a member of said United States Commerce Court aforesaid, did then and there request and solicit the said attorney for the said railroad company to make and deliver to the said Robert W. Archbald a further argument in support of the contentions of the said attorney so representing the said railroad company, which request was complied with by said attorney, all of which on the part of said Robert W. Archbald was done secretly, wrongfully, and unlawfully, and which was without the knowledge or consent of the said Interstate Commerce Commission or its attorneys.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 5.

That in the year 1904 one Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by the Philadelphia & Reading Coal & Iron Co., located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated a culm dump located on said property for several years thereafter; that operations were carried on at a loss; that said Frederick Warnke thereupon applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the said land covered by the said lease, and was informed that the lease under which he claimed had been forfeited two years before it was assigned to him, and his application for said maps was therefore denied; that said Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under the said lease, provided that the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what was known as the Lincoln culm bank located near Lorberry; that said George F. Baer referred said proposition to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that the general policy of the said coal company being adverse to the lease of any of its culm banks, the said George F. Baer and the said W. J. Richards declined to make the lease, and the said Frederick Warnke was so advised; that the said Frederick Warnke then made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; that on or about November 1, 1911, the said Frederick Warnke called upon Robert W. Archbald, who was then and now is a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court, and asked him, the said Robert W. Archbald, to intercede in his behalf with the said W. J. Richards; that on November 24, 1911, the said Robert W. Archbald, judge as aforesaid, pursuant to said request, did write a letter to the said W. J. Richards requesting an appointment with the said W. J. Richards; that several days thereafter the said Robert W. Archbald called at the office of the said W. J. Richards to intercede for the said Frederick Warnke; that the said W. J. Richards then and there informed the said Robert W. Archbald that the decision which he had given to the said Warnke must be considered as final, and the said Archbald so informed the said Warnke; that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which also owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a common carrier engaged in interstate commerce.

That the said Robert W. Archbald, judge as aforesaid, well knowing all the aforesaid facts, did wrongfully attempt to use his influence as such judge to aid and assist the said Frederick Warnke to secure an operating lease of the said Lincoln culm dump owned by the Philadelphia & Reading Coal & Iron Co., as aforesaid, which lease the officials of the said Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to the said Robert W. Archbald.

That the said Robert W. Archbald, judge as aforesaid, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co., aforesaid, in behalf of the said Frederick Warnke, and on or about the 31st day of March, 1912, willfully, unlawfully, and corruptly did accept, as a gift, reward, or present, from the said Frederick Warnke, tendered in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and the said coal company, and for other favors shown by said judge to the said Frederick Warnke, a certain promissory note for $500 executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as a judge and high crimes and misdemeanor in office.

ARTICLE 6.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about the 1st day of December, 1911, did unlawfully, improperly, and corruptly attempt to use his influence as such judge with the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to induce the officers of said companies to purchase a certain interest in a tract of coal land containing 800 acres, which interest at said time belonged to certain persons known as the Everhardt heirs.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 7.

That during the months of October and November, A. D. 1908, there was pending in the United States district court, in the city of Scranton, State of Pennsylvania, over which court Robert W. Archbald was then presiding as the duly appointed judge thereof, a suit or action at law, wherein the old Plymouth Coal Co. was plaintiff and the Equitable Fire & Marine Insurance Co. was defendant. That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit; that in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented, the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsuit, and after extended argument by attorneys for both plaintiff and defendant, the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,129.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused and which was later discounted by a bank and has never been paid.

All of which acts on the part of the said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

ARTICLE 8.

That during the summer and fall of the year 1909 there was pending in the United States District Court for the Middle District of Pennsylvania, in the city of Scranton, over which court the said Robert W. Archbald was then and there presiding as the duly appointed judge thereof, a civil action wherein the Marian Coal Co. was defendant, which action involved a large sum of money, and which defendant coal company was principally owned and controlled by one Christopher G.

Boland and one William P. Boland, all of which was well known to said Robert W. Archbald; and while said suit was so pending the said Robert W. Archbald drew a note for $500, payable to himself, and which note was signed by one John Henry Jones and indorsed by the said Robert W. Archbald, and then and there during the pendency of said suit as aforesaid the said Robert W. Archbald wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland, or one of them, for the purpose of having the said note discounted, corruptly intending that his name on said note would coerce and induce the said Christopher G. Boland and the said William P. Boland, or one of them, to discount the same because of the said Robert W. Archbald's position as judge and because the said Bolands were at that time litigants in his said court.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his office as judge, and was and is guilty of a misdemeanor in his said office as judge.

ARTICLE 9.

That the said Robert W. Archbald, of the city of Scranton and State of Pennsylvania, on or about November 1, 1909, being then and there a United States district judge in and for the middle district of Pennsylvania, in the city of Scranton and State aforesaid, did draw a note in his own proper handwriting, payable to himself, in the sum of $500, which said note was signed by one John Henry Jones, which said note the said Robert W. Archbald indorsed for the purpose of securing the sum of $500, and the said Robert W. Archbald, well knowing that his indorsement would not secure money in the usual commercial channels, then and there wrongfully did permit the said John Henry Jones to present said note for discount, at his law office, to one C. H. Von Storch, attorney at law and practitioner in said district court, which said Von Storch, a short time prior thereto, was a party defendant in a suit in the said district court presided over by the said Robert W. Archbald, which said suit was decided in favor of the said Von Storch upon a ruling by the said Robert W. Archbald; and when the said note was presented to the said Von Storch for discount, as aforesaid, the said Robert W. Archbald wrongfully and improperly used his influence as such judge to induce the said Von Storch to discount same; that the said note was then and there discounted by the said Von Storch, and the same has never been paid, but is still due and owing.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his said office, and was and is guilty of a misdemeanor in his said office as judge.

ARTICLE 1.

That the said Robert W. Archbald, while holding the office of United States district judge, in and for the middle district of the State of Pennsylvania, on or about the 1st day of May, 1910, wrongfully and unlawfully did accept and receive a large sum of money, the exact amount of which is unknown to the House of Representatives, from one Henry W. Cannon; that said money so given by the said Henry W. Cannon and so unlawfully and wrongfully received and accepted by the said Robert W. Archbald, judge as aforesaid, was for the purpose of defraying the expenses of a pleasure trip of the said Robert W. Archbald to Europe; that the said Henry W. Cannon, at the time of the giving of said money and the receipt thereof by the said Robert W. Archbald, was a stockholder and officer in various and divers interstate railway corporations, to wit: A director in the Great Northern Railway, a director in the Lake Erie & Western Railroad Co., and a director in the Fort Wayne, Cincinnati & Louisville Railroad Co.; that the said Henry W. Cannon was president and chairman of the board of directors of the Pacific Coast Co., a corporation which owned the entire capital stock of the Columbia & Puget Sound Railroad Co., the Pacific Coast Railway Co., the Pacific Coast Steamship Co., and various other corporations engaged in the mining of coal and in the development of agricultural and timber land in various parts of the United States; that the acceptance by the said Robert W. Archbald, while holding said office of United States district judge, of said favors from an officer and official of the said corporations, any of which in the due course of business was liable to be interested in litigation pending in the said court over which he presided as such judge, was improper and had a tendency to and did bring his said office of district judge into disrepute.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 11.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, did, on or about the 1st day of May, 1910, wrongfully and unlawfully accept and receive a sum of money in excess of $500, which sum of money was contributed and given to the said Robert W. Archbald by various attorneys who were practitioners in the said court presided over by the said Robert W. Archbald; that said money was raised by subscription and solicitation from said attorneys by two of the officers of said court, to wit, Edward R. W. Searle, clerk of said court, and J. B. Woodward, jury commissioner of said court, both the said Edward R. W. Searle and the said J. B. Woodward having been appointed to the said positions by the said Robert W. Archbald, judge aforesaid.

Wherefore said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 12.

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district, and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United States district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 13.

That Robert W. Archbald, on the 29th day of March, 1901, was duly appointed United States district judge for the middle district of Pennsylvania and held such office until the 31st day of January, 1911, on which last-named date he was duly appointed a United States circuit judge and designated as a judge of the United States Commerce Court. That during the time in which the said Robert W. Archbald has acted as such United States district judge and judge of the United States Commerce Court he, the said Robert W. Archbald, at divers times and places, has sought wrongfully to obtain credit from and through certain persons who were interested in the result of suits then pending and suits that had been pending in the court over which he presided as judge of the district court, and in suits pending in the United States Commerce Court, of which the said Robert W. Archbald is a member.

That the said Robert W. Archbald, being United States circuit judge and being then and there a judge of the United States Commerce Court, at Scranton, in the State of Pennsylvania, on the 31st day of March, 1911, and at divers other times and places, did undertake to carry on a general business for speculation and profit in the purchase and sale of culm dumps, coal lands, and other coal properties, and for a valuable consideration to compromise litigation pending before the Interstate Commerce Commission, and in the furtherance of his efforts to compromise such litigation and of his speculations in coal properties, willfully, unlawfully, and corruptly did use his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., the Lackawanna & Wyoming Valley Railroad Co., and other railroad companies engaged in interstate commerce, respectively, to enter into various and divers contracts and agreements in which he was then and there financially interested with divers persons, to wit, Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, and others, without disclosing his said interest therein on the face of the contract, but which interest was well known to the officers and agents of said railroad companies.

That the said Robert W. Archbald did not invest any money or other thing of value in consideration of any interest acquired or sought to be acquired by him in securing or in attempting to secure such contracts or agreements or properties as aforesaid, but used his influence as such judge with the contracting parties thereto, and received an interest in said contracts, agreements, and properties in consideration of such influence in aiding and assisting in securing same.

That the said several railroad companies were and are engaged in interstate commerce, and at the time of the execution of the several contracts and agreements aforesaid and of entering into negotiations looking to such agreements had divers suits pending in the United States Commerce Court, and that the conduct and efforts of the said Robert W. Archbald in endeavoring to secure and in securing such contracts and agreements from said railroad companies was continuous and persistent from the said 31st day of March, 1911, to about the 15th day of April, 1912.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office.

Mr. MANN. Mr. Speaker, when the report was made by the gentleman from Alabama [Mr. CLAYTON], it was stated by him, and properly so, that the resolution would be printed separately as any other resolution. The Clerk has read the resolution from the report. The resolution was not printed separately, through some misunderstanding, probably, on the part of the clerk in charge, and I ask unanimous consent that the resolution may be numbered and printed and reported from the committee as of July 8, 1912, in the ordinary form. It seems to me that that is due to the proper procedure in the House.

The SPEAKER. The gentleman from Illinois asks unanimous consent that this resolution be printed in the usual form, as in the nature of nunc pro tunc proceeding.

Mr. CLAYTON. Mr. Speaker, the gentleman from Illinois, as I understand it, does not contemplate in that request that this matter shall be postponed for another day?

Mr. MANN. Oh, no. It is a privileged matter, and this would not postpone it.

The SPEAKER. The gentleman from Illinois asks unanimous consent that this resolution be printed as the House ordered it to be printed, separately from the report, and that it be numbered properly, as of date July 8, 1912. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. CLAYTON. Mr. Speaker, it is not my purpose—certainly not at this time—to make any argument or any extended remarks upon the subject matter of the impeachment of Judge Archbald. The committee gave this question the most careful and fullest consideration.

Mr. MANN. Mr. Speaker, before the gentleman proceeds with his statement, will he permit me to interrupt him a moment?

Mr. CLAYTON. Certainly.

Mr. MANN. Is the gentleman able to make a guess as to how long it will be before the resolution comes to a vote in the House?

Mr. CLAYTON. Mr. Speaker, I think I can. I am sometimes a pretty good guesser, and I might make a fair guess in this case. It is my purpose to consume at this time a few minutes only, unless I shall be interrupted by questions which I may feel compelled to answer. Then it is my purpose to yield to the gentleman from Illinois, my associate on the committee, Mr. STERLING, to make such statement as he may wish—probably an hour. It may be after that that the gentleman from North Carolina [Mr. WEBB], a member of the committee; then the gentleman from Arkansas [Mr. FLOYD], another member; and then the gentleman from Ohio [Mr. HOWLAND], another member, may want to speak for 5 or 10 minutes each. I think that none of them, except possibly the gentleman from North Carolina [Mr. WEBB], will want to speak over 10 minutes.

Mr. MANN. Mr. Speaker, I think it is desirable that a reasonable statement be made to the House, and I asked the question, because I think, when the resolution comes to a vote, it is due to the dignity of the House that there be a roll call on the resolution.

Mr. CLAYTON. I agree with the gentleman upon that. In a proceeding of this sort I think we ought to have a roll call.

Mr. FARR. Does not the gentleman from Alabama think that we ought to have a quorum present now, to hear the discussion of so important a case as this?

Mr. CLAYTON. Mr. Speaker, if the gentleman stays in the House as long as I have, he will find that even with his eloquent tongue he can not always persuade a quorum to remain here when that quorum understands the question before the House and has pretty well made up their minds as to how they are going to vote. Of course I will feel gratified if there shall remain a full attendance here to listen to what my associates on the committee have to say, but I am sure that whatever may be lacking in the number of this audience will be compensated for by the intelligence of the gentleman from Pennsylvania and others who may be present.

Mr. FARR. Mr. Speaker, the gentleman is very fulsome with his compliments, but I want to ask him fairly, with a man's life at stake, such as is the case now with Judge Archbald before this Congress, if we ought not to have a quorum present?

Mr. CLAYTON. Mr. Speaker, if the gentleman will tell me how to have that quorum present I will be very glad to aid him. It was disclosed by roll call a few minutes ago that there is a quorum present, and I may say to the gentleman that the attendance in the House at this time, I think, averages larger than it has when many other important matters have been discussed.

The important point will be the presence of a quorum when the matter is voted upon. And, lest the gentleman intends by what he has said to let the newspaper press convey a wrong impression, I will say that on the 8th day of this month the report in full and the conclusions of the committee, together with a brief statement by the chairman of the committee, were presented to the House, printed in the RECORD, and every Member of the House who has cared to inform himself on this important matter has all the necessary information from the RECORD, and the gentleman, I believe, ought to get from that report and from what has heretofore been said, all the necessary information, if he has not already obtained it. Now, there has been no disposition on the part of the committee, there has been no disposition on the part of the House to do anything with any indecent haste. The committee gave the amplest time for the examination into the facts and into the law involved in the case. The committee gave ample time for this House to consider this report and this matter before asking the House to act upon it. Seventy-two hours, I believe, or longer, have intervened since this matter was printed and made accessible to every Member of the House, and I think that the House quite well understands the subject.

Now, Mr. Speaker, the conduct of this impeachment proceeding has conformed to the conduct of impeachment proceedings in other cases as near as practicable and has conformed in its details to the precedents in like cases in every essential particular. The evidence taken by the committee was printed, all of it, more than a month ago, and has been accessible to every Member of this House, as the gentleman from Pennsylvania well knows. The committee was clothed by the House with authority to subpœna witnesses and to administer oaths to those witnesses and to examine them. This was done. Every witness that the committee was informed who knew about these various transactions was required to attend the sessions of the committee, was put under oath, and subjected to examination by the committee and to cross-examination by counsel for Judge Archbald. In the very beginning of this investigation, Mr. Speaker, before a witness was examined, the committee agreed to the following, and I now quote from the minutes of the committee:

That for the present the committee will hold public hearings, under the authority given by House resolution 524, for the purposes of examining the witnesses in regard to the matters and things mentioned in House resolution 511, which involve the conduct of Hon. Robert W. Archbald, and that in these public hearings where witnesses are examined Judge Archbald may be represented by counsel, if he desires, and that after the chairman of the committee shall have conducted the principal examination of witnesses and asked the members of the committee to ask such questions as their judgment may dictate to be proper, then, with the permission of the committee, counsel for Judge Archbald, if Judge Archbald is desirous to have counsel present, may ask such questions of the witnesses as the committee may deem proper to be asked of the witnesses in such investigation.

That was May 8 when that action was had, and the examination of witnesses was begun afterwards.

Mr. MOORE of Pennsylvania. Mr. Speaker——

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Pennsylvania?

Mr. CLAYTON. Certainly.

Mr. MOORE of Pennsylvania. The gentleman has read the resolution under which the committee proceeded to make this inquiry?

Mr. CLAYTON. No; the gentleman is mistaken. The resolution under which the committee acted in making the investigation is made part of the report which was read into the RECORD on July 8. What I have just read to the House is a part of the proceedings of the committee, being in its nature an invitation to Judge Archbald to be present at the hearings of the committee, and to have counsel present and to cross-examine the witnesses.

Mr. MOORE of Pennsylvania. That is the very point——

Mr. CLAYTON. That is what I read.

Mr. MOORE of Pennsylvania. I want to have that very point clearly understood at this time.

Mr. CLAYTON. I was proceeding to make it clear, and if the gentleman will indulge me a few minutes more I think I will make it perfectly clear.

Mr. MOORE of Pennsylvania. The point I had in mind, if the gentleman will answer as I am sure he will, is to have it known publicly that thus far the proceedings before the committee have been ex parte; that is to say, but one side has been heard, with the exception that Judge Archbald was invited to be present in person, and he was represented by counsel; but no witnesses were called on behalf of Judge Archbald, nor has any testimony been taken in his behalf or in denial of the charges made.

Mr. CLAYTON. I prefer, Mr. Speaker, with the permission of the gentleman, to state just exactly what occurred. The gentleman, in his statement, which seems to be in the nature of a question, has said some things to which I assent and other things to which I can not give a categorical answer, and therefore I must proceed with my statement and give a full account of what did occur, and I think that will satisfy the gentleman and afford him the information which he desires.

Mr. MOORE of Pennsylvania. I know the gentleman wants to be fair, and I shall be content by asking that in his statement the gentleman from Alabama tell the House and the country whether any witnesses were called in behalf of Judge Archbald?

Mr. CLAYTON. I will answer that in the progress of the statement which I am going to make. I might say right here that the proceedings were ex parte; that no witnesses were subpœnaed on the part of Judge Archbald; and I will state the reason for it, and state it was the customary procedure to follow the line of conduct which the committee pursued.

Mr. MOORE of Pennsylvania. That will be entirely fair. The facts should be known.

Mr. CLAYTON. That is what I was going to do, and I think I can make my statement certainly more satisfactory to myself and perhaps more satisfactory to the House if I be allowed to complete it. I could have made this statement, I think, perfectly luminous within the time I intended to consume, but with these interruptions it may be, Mr. Speaker, that I will have to occupy more time than I intended.

Now, Mr. Speaker, I was proceeding to give the history of this matter, and if I may do so, I will give it to you briefly.

The gentleman from Nebraska [Mr. NORRIS] introduced a resolution calling on the President for papers and information in regard to the conduct of Judge Archbald. In other words, that resolution asked the President, in substance, if he had had the conduct of Judge Archbald investigated, and what was the result of such investigation, and called for any report that may have been made under the order of the President in respect to the conduct of Judge Archbald. That resolution was reported to the House favorably and was adopted here, calling upon the President for that report, and then, following that, resolution No. 524 was introduced, empowering the Committee on the Judiciary to subpœna, and to swear, and to examine witnesses. And after the adoption of that empowering resolution, to which I have referred, the committee did proceed to subpœna and examine witnesses just as has been the custom in cases of this kind heretofore in the like proceedings of the House. There was no departure from the practice of the House and nothing unusual in this case which differentiated it in its method of procedure from other impeachment cases. Now, the gentleman from Pennsylvania, my good friend Mr. MOORE, must know that an impeachment proceeding in the House is in its nature an ex parte proceeding. The gentleman knows that, does he not?

Mr. MOORE of Pennsylvania. I know that. But the country does not always know it, and I thought it fair only to make the statement.

Mr. CLAYTON. I felt sure that the gentleman was too intelligent himself not to know that.

Mr. MOORE of Pennsylvania. I did know it, but I wanted the country to know it.

Mr. CLAYTON. Now, Mr. Speaker, this matter has come before the House in the way which I have told you. Of course, the gentleman from Pennsylvania [Mr. MOORE] knows, and other gentlemen here know, that there are various ways of inaugurating an impeachment trial. A Member can rise on the floor, as was done in the Swayne case and as was done by the gentleman from Wisconsin [Mr. BERGER] at this session of Congress in the Hanford case, and impeach a judge from the floor and offer the appropriate resolution. But in this case a resolution calling for information from the President in regard to the official conduct of Judge Archbald was the genesis of the impeachment, and following that was the resolution authorizing the committee to make the investigation, and following that authority the committee had its meetings from time to time and examined the witnesses touching the matters affecting the conduct of Judge Archbald.

Now, following the precedent of the Swayne case and perhaps other cases, the committee accorded to Judge Archbald the right to be present and to be represented by counsel. On May 8, before any witness had been examined, the printed proceedings will show that Judge Archbald was present and Hon. A. S. Worthington, his counsel, was present. The chairman at that time said:

The committee will be in order.

And then, further:

At a meeting this morning the committee took a recess until this hour, and, pursuant to the determination of the committee had at that time, the witness, Mr. Williams, will be examined. Before proceeding with the examination of Mr. Williams, however, I will ask the clerk to read the proceedings of the committee had on yesterday.

And I have just quoted that, which was in the nature of an invitation to Judge Archbald to be present and to be represented by counsel, and authorizing the judge and his counsel to cross-examine witnesses if they so desired.

Then the chairman said:

Call Mr. Williams.

Mr. WORTHINGTON. Mr. Chairman, while the witness is coming may I make a statement?

The CHAIRMAN. Mr. Worthington.

Mr. WORTHINGTON. I would like to have the committee advised that Judge Archbald is present, and that he has asked me to appear with him as his counsel, which I do. I would like to state in his behalf that in the investigation that has just been referred to in the papers that have been read by the clerk, Judge Archbald was not given any opportunity, as I understand, to answer or meet any of the charges against him. He retained me this morning to advise him in regard to this matter, and I suggested to him that he ask the opportunity of being represented here, and of being afforded an opportunity, by his counsel, of cross-examining witnesses, if he chose so to do. I communicated with the chairman on the telephone in regard to that, not having time for correspondence, and was advised by the chairman a little while ago that the opportunity asked would be afforded us; and we are here pursuant to that suggestion.

The CHAIRMAN. Perhaps the clerk should have read the minutes of the meeting had this morning respecting a part of the statement which you have just made, and I will ask him to read the minutes of this morning showing that fact.

And here the clerk read that part of the proceedings of the committee which I have read this afternoon, and which was in the nature of an invitation to Judge Archbald to be present and to be represented by counsel, and authorizing him to cross-examine witnesses.

Now, Mr. Chairman, that is the way this investigation was begun, and at each and every meeting of that committee during that entire examination of witnesses Judge Archbald was present in his own proper person, and was represented by Mr. Worthington, one of the ablest lawyers of the bar of the District of Columbia, and he was also represented and had in constant attendance upon the sessions of the committee not only Mr. Worthington, but his son, R. W. Archbald, jr., as counsel; also M. J. Martin as counsel and Samuel B. Price as counsel. And, Mr. Speaker, the testimony taken in this case will show that the witnesses were examined and then cross-examined fully by the counsel for Judge Archbald.

And, more than that, the counsel for Judge Archbald were not restricted in the cross-examination to inquiries of the witnesses about matters which had been brought out on the direct examination. They were frequently allowed, and always allowed when they so desired, to go outside of the matters brought out in the direct examination and to question witnesses on collateral matters favorable to the judge.

The judge was furnished with a transcript daily, made by the stenographers, of the testimony and the proceedings of the committee. It was furnished to him at the Government's expense, for his counsel suggested that to have the stenographer make at the judge's expense from day to day and from time to time a transcript of the testimony of the witnesses would, on account of the volume of that testimony, entail a very heavy expense upon the judge. The committee directed the stenographer to furnish to the judge and his counsel each and every day the typewritten report founded on the stenographic report made of the proceedings of the committee and the examination of the witnesses. The committee did this in order that the judge and his counsel might at each step in the proceedings know what the witnesses said and have an opportunity to cross-examine the witnesses. On several occasions the counsel for the judge suggested to the committee that he would like the committee not to proceed with the conclusion of the examination of a particular witness on that particular day, but to allow the cross-examination of the witness to go over until another day, to suit the convenience of the judge and his counsel, in order to give them an opportunity the better to cross-examine the witnesses. No such request was ever denied by the committee, but was always with alacrity and cheerfulness accorded.

Mr. Speaker, before the conclusion of the examination of the witnesses the chairman of the committee was approached by one of the counsel of Judge Archbald, Mr. Martin, and asked the question in the committee room if the judge would be allowed to testify in his own behalf. The chairman replied to him, in substance, that the judge would be accorded the opportunity to testify if he wished it; that the committee in the Swayne case had given Judge Swayne permission to testify in his own behalf; and that there was no doubt that this committee would grant that same privilege or right to Judge Archbald; but the chairman of the committee said to this counsel, in substance, it would, however, subject Judge Archbald to cross-examination, and that if he made a witness of himself of course he must expect to be cross-examined like any other witness.

These learned lawyers, knowing that the precedent which had been followed in the Swayne case to give the judge an opportunity to speak in his own behalf and having obtained this definite information from the chairman of the committee, made no other suggestion on the subject; and although Judge Archbald was there when the last sentence was pronounced by the last witness in the case, neither he nor his counsel ever asked that he go upon the stand to testify in his own behalf. The committee would not have denied him the right to do so, but when the suggestion was made that the judge would be subjected to cross-examination he was not put upon the stand to tell about these matters.

I have endeavored and the committee have endeavored, so far as we could, to keep this matter from being tried in the newspapers. The committee could not deny a public hearing, did not undertake to do so, and everything about the matter has been public and open to the world except that when we came to consider what our report should be, then, like a petit jury, like a grand jury, like every committee of this House or of any other body, we went into executive session and considered as to what our conclusion should be. Other than that everything has been open.

On June 5 one of the counsel for Judge Archbald, Mr. A. S. Worthington, of this city, addressed to me a letter on behalf of Judge Archbald. And I may say that Mr. Worthington conducted himself before the committee at all times as an able, upright, and conscientious lawyer and gentleman. I knew him before and had the highest respect for him, and those of the committee who did not know him before formed the same opinion of him.

On June 5 Mr. Worthington addressed to me the following letter:

Hon. HENRY D. CLAYTON,
Chairman Judiciary Committee,
House of Representatives, City.

DEAR SIR: On behalf of Judge Archbald and his counsel, Messrs. Martin, Price, and myself, I wish to thank you and the committee of which you are chairman for giving us the privilege of being present during the examination of witnesses in Judge Archbald's case and cross-examining the witnesses.

In view of the fact that the testimony taken in the case covers some 1,400 printed pages, it occurs to us that we might aid the committee in its consideration of the evidence by submitting to the committee a short statement of the testimony on the various charges, with such suggestions in regard thereto as may seem to be pertinent.

If this meets with the approval of the committee we will begin the preparation of such a paper at once and place printed copies of it in the hands of the members of the committee within a very few days.

Very respectfully,

A. S. WORTHINGTON.

The committee waited until this printed brief, argument, paper, or whatever counsel deemed proper to call it, was placed in our hands. We did not go into executive session and reach a conclusion or even to consider as to what our report should be

until we had received that argument in behalf of the judge, and had read and considered it.

In reply to the letter which I have just read I, as chairman of the committee, addressed to Mr. Worthington a letter on June 5, the same day I received his, saying:

I have yours of June 5. I have no doubt that the committee will be very glad to have such a paper as that mentioned in your letter.

On June 12 Mr. Worthington addressed the chairman this letter:

I send herewith, for the use of the committee, 35 copies of a printed memorandum submitted by the counsel for Judge Archbald on his behalf. If there should be any special point or points in the case upon which the committee would like to have a fuller digest or reference to the evidence, we shall be very glad to give the committee further aid in that regard.

Now, I do not understand the gentleman from Pennsylvania [Mr. FARR] to have questioned the propriety of what the committee has done in the matter of proceeding. I do not understand him to have pronounced any criticism on the conduct had by the committee in this case.

Mr. FARR. I certainly have not intended to cast any reflection on the committee. The committee has used the fullest courtesy toward Judge Archbald.

Mr. CLAYTON. Yes; and to everybody interested in his behalf, including the gentleman himself.

Mr. FARR. Yes; I desire to say in every instance.

Mr. CLAYTON. Now, Mr. Speaker, the committee heard these gentlemen and reached the conclusions embodied in the resolution which has just been read; and the facts upon which these articles of impeachment are predicated are stated in a brief form in the report which was printed in the RECORD on day before yesterday. The facts in full upon which this report and resolution are predicated are printed in extenso in the committee hearings, which have been, as I have said, available to every Member of this House for more than a month.

Now, Mr. Speaker, I am sorry that I have had to consume more time than I intended, and I now yield to the gentleman from Illinois [Mr. STERLING]. [Applause.]

Mr. STERLING. Mr. Speaker, it is with a sense of deep responsibility that I undertake to do my part in the presentation of this case to the House. There is no power conferred upon Congress by the Constitution that carries with it graver responsibility than the power of impeachment. There is no power that should be exercised with greater fidelity to duty than that power. When this matter was referred to the Judiciary Committee, I am sure that I entered upon the task of investigation with a fair and open mind. I believe that every member of the Judiciary Committee occupied the same attitude toward Judge Archbald on the one side and the interests of the people on the other.

If I did entertain any feeling, one way or the other, which I am not willing to admit, it was a suspicion that perhaps the rumors and the newspaper articles that had been published with reference to Judge Archbald might have originated with dissatisfied litigants or disappointed lawyers.

Every attorney who has been engaged in the active practice of the law knows that a judge is liable to be criticized unjustly. Defeated parties in lawsuits and lawyers who have been disappointed in the rulings of the court are very liable to say unkind and harsh things about the judge. I may have felt when we approached the hearings in the case that something of that sort might constitute the foundation of the charges that had been made. But as the hearings progressed and as the evidence developed the facts connected with the various charges which are set forth in the resolution, I was impelled to the conviction that Judge Archbald was not a proper person to serve as judge in the Federal courts.

In this case Members of the House, and, if it goes to the Senate, I think, Senators will have no intricate questions of law to determine. We are all familiar with what the Constitution provides with reference to the impeachment of officers of the United States. This body has the sole power of impeachment. The Constitution provides that officers of the United States may be impeached for treason, bribery, and high crimes and misdemeanors. It also provides that Federal judges, judges of those courts provided for in the Constitution, shall be appointed and serve during good behavior.

There may be a question in the minds of some whether some of these charges are tenable, for the reason that the acts constituting the offense were committed before Judge Archbald was appointed to the circuit court and designated as a judge of the United States Commerce Court. But none of them were committed prior to the time that he was appointed United States district judge.

Some of the acts relate back to the time when he was serving on the district bench of the middle district of Pennsylvania. Some of them relate to the time since he was appointed to the circuit bench and designated as a judge of the United States Court of Commerce. The only other question that may arise is whether the offenses in the resolution are impeachable offenses. There was a time when it was a mooted question as to what constituted impeachable offenses.

It was contended, on the one hand, that a judge or other officer could be impeached only for offenses that were indictable, while it was maintained on the other side that many offenses not of an indictable nature were impeachable offenses. I shall not burden the House with reading what I deem to be the well-settled law on that question. I would refer Members who have any question in their minds as to whether or not any or all of these charges in this resolution are impeachable to Hinds' Precedents, where he devotes almost one whole volume to the question of impeachment. In that volume gentlemen will find a discussion of the question of what constitutes impeachable offenses. As recently as the Swayne case, tried only a few years ago, that question was discussed by Judge De Armond, then a Member of the House; by Mr. OLMSTED, now a Member of the House; by Mr. CLAYTON, the present chairman of the Committee on the Judiciary; and by Mr. Perkins, a Member from New York at that time, and I am sure that all will find in that discussion by those gentlemen entirely satisfactory reasons for holding that the charges made against Judge Archbald in this resolution are each and all impeachable cases.

Mr. CLAYTON. Mr. Speaker, will the gentleman yield?

Mr. STERLING. Certainly.

Mr. CLAYTON. For the purpose of having the statement of the gentleman complete, I would remind him that Judge Henry W. Palmer, of Pennsylvania, former attorney general of that State, prepared the articles of impeachment in the Swayne case and was the principal manager in the case. He wrote the brief in the case and made several very able arguments. Everything that he said on the subject was a real contribution to the discussion of the law of impeachment.

Mr. STERLING. That is true; and Hinds' Precedents also quotes from the argument of Judge Palmer at that time. In fact, in the discussion in the Swayne case all of the law, I think, is set forth, so that Members who are interested in determining the question for themselves can find the law there in very brief space.

I call the attention of the House to the brief that was prepared by the chairman of the Committee on the Judiciary, which constitutes a part of the report which the committee made to the House. This brief quotes, I think, from all of the prominent writers on constitutional law relating to impeachment. To give the House some idea as to what these writers say, I desire to quote very briefly from that report. Foster, in his work on the Constitution, section 93, among other things, says:

An impeachable offense may consist of treason, bribery, or a breach of official duty by malfeasance or misfeasance, including conduct such as drunkenness, when habitual or in the performance of official duties, gross indecency, and profanity, obscenity, or other language, used in the discharge of an official function, which tends to bring the office into disrepute, or an abuse or reckless exercise of a discretionary power, as well as a breach or omission of an official duty imposed by statute or common law; or a public speech when off duty which encourages insurrection. It does not consist in an error in judgment made in good faith in the decision of a doubtful question of law, except perhaps in the case of a violation of the Constitution.

I think the doctrine as laid down by Foster there and as it is quoted in the report which the committee presents to the House is the doctrine held by practically all of the constitutional writers in this country upon that subject. I will read, however, from one other. I read from the American and English Encyclopedia of Law, volume 15, which has a résumé of all of the law on the subject. Among other things it says:

In one case, however, counsel for the defendant insisted that impeachment would not lie for any but an indictable offense; but after exhaustive argument on both sides this defense was practically abandoned. The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of indictable crimes; that the phrase "high crimes and misdemeanors" is to be taken not in its common-law but in its broader parliamentary sense, and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, and even gross improprieties, by judges and high officers of State, although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute. Additional weight is added to this interpretation of the Constitution by the opinions of eminent writers on constitutional and parliamentary law and by the fact that some of the most distinguished members of the convention that framed it have thus interpreted it.

I am sure that I am justified in saying that the House is not limited to indictable offenses when they come to determine whether a judge or other official has committed offenses for which he may be impeached.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. STERLING. Certainly.

Mr. BUTLER. I have read carefully all of the articles presented against this judge. There is no indictable offense charged against the judge, is there?

Mr. STERLING. I think that some of these counts charge indictable offenses. I will not say that they charge indictable offenses under the Federal statute, but I believe if they had been committed by a judge of a State some of them would constitute maladministration in office, for which he could be indicted. The gentleman will remember that if we are limited to indictable offenses under the Federal statutes there would be very few cases for which a judge or other officer could be impeached. There are no common-law offenses against the Federal Government, and all the offenses against the Federal Government that can be punished must come under some Federal statute. Our criminal code covers but few offenses.

Mr. BUTLER. Mr. Speaker, I think in the presentation of the Swayne case it is well settled here, and well agreed by all, that it was not necessary to charge the judge with an indictable offense in order to prefer articles of impeachment against him.

Mr. STERLING. I think that is so well settled that I shall not devote any further time to it. I have said what I have simply to remove from the mind of any Member who had not given the matter consideration, any doubt he might entertain on that subject.

I presume that the important matter and the thing in which the Members of the House are mostly interested in at this time is to know something of the facts which go to constitute the charges which the committee present in this resolution. I assume that no Member wants to vote blindly on the proposition, and that they would like to know at least some of the facts which go to prove the offenses with which we charge him. I shall not undertake to give to the House the facts on which all of these charges are predicated. I shall limit myself to three or four. Other gentlemen, members of the Committee on the Judiciary, are better qualified to state to the House the facts and the evidence of the other charges than I am.

I ask the attention of the House to the first case in article 1 of the resolution. Without reading the resolution I will state briefly the facts charged in that article. At that time Robert W. Archbald was a United States circuit judge.

He was appointed United States district judge in March, 1901, for the middle district of Pennsylvania. He served as district judge from that time until the 31st day of January, 1911, when he was appointed United States circuit judge under the act passed by Congress establishing the United States Commerce Court, and at the same time and in the same commission was designated a judge of the United States Commerce Court. So that at the time of events alleged in article 1 he was an active member of the United States Commerce Court.

In March of last year he and one Edward J. Williams, of Scranton, Pa., entered into an agreement to buy together or in partnership what was known as the Katydid culm dump; that their purpose was to buy it and sell again for profit. It is charged further that the Katydid culm dump belonged to the Hillside Coal & Iron Co., a corporation of the State of Pennsylvania. We charge that the Hillside Coal & Iron Co. was a subsidiary corporation of the Erie Railroad Co. and that that railroad company owned all the stock of the Hillside Coal & Iron Co. Also that at the time this transaction took place the Erie Railroad Co. had pending in the United States Commerce Court two suits involving questions of rates with the United States Commerce Commission; and we charge further in the count that Judge Archbald, as a partner of Williams, undertook to influence the officers and officials of the Hillside Coal & Iron Co. and the Erie Railroad Co. by the fact that he was a judge, to sell to him and Williams this coal dump, and that he succeeded by reason of the fact that he was judge and by reason of the fact that this railroad company had litigation pending in his court in buying this dump from the Erie Railroad Co. or from the Hillside Coal & Iron Co. A coal dump is the refuse——

Mr. FARR. Will the gentleman yield?

Mr. STERLING. Yes.

Mr. FARR. Would the gentleman object to citing the cases in the evidence to prove the statements he has made?

Mr. BUTLER. When he gets beyond this step I presume he will do so.

Mr. STERLING. I am going to do that. Of course I will not undertake to refer to the page in all instances, but I will refer to the material evidence which, in my opinion, proves the charge that is contained in the article.

A coal dump or culm dump is the refuse or waste that has been thrown out in the operation of an anthracite coal mine. They were at one time considered to be pure waste. They are made up of the finer particles of coal that comes from the mine and mixed with that is a certain amount of dirt and slack, and perhaps slate and other refuse that is found in the mine. Of recent years these culm banks have proved of considerable value by reason of the high price of coal and by reason of the fact they have been able to use machinery for the purpose of washing this refuse from the coal and separating the dirt and clay from it, and they have been able to handle the coal in these dumps at a very considerable profit. The Katydid culm dump was formed by the operation of an anthracite coal mine. That coal mine was owned and operated by a firm known as Robertson & Law. Some of the land under which the coal lay was owned by some persons and some by other persons, some by the Erie Railroad or the Hillside Coal & Iron Co., and some by the heirs of the Everhart estate. In March of last year a gentleman by the name of Boland said to this man Williams that he knew where there was a pretty good culm dump that he might buy. This man Williams is an important witness in this case, and a very unwilling witness—one who seems to be decidedly in favor of Judge Archbald—and I will say to the House now that we are not dependent to any great extent upon the testimony of Mr. Williams to sustain the charge contained in the first article. Some of the things he testified to I believe are true, because he testified to them unwillingly for the reason that they were adverse to the interests of Judge Archbald. Other things that he testified to were corroborated by correspondence and perhaps by oral testimony of other witnesses.

Williams went to see this culm dump and ascertained that it belonged to Robertson & Law and the Hillside Coal & Iron Co. Capt. May was the manager of the Hillside Coal & Iron Co. He lived at Scranton. Immediately after Williams's attention had been called to this dump he called upon Judge Archbald and told him he was thinking of buying that dump, and that he wanted a letter of recommendation to Capt. May. He said he knew Capt. May only casually, but he knew that Capt. May was not acquainted with him. He said also that he proposed to Judge Archbald at that time that he would give him a half interest in the profits of this culm dump if he would help him to get it. Judge Archbald did not give him a letter of recommendation, but gave him a letter which indicates on its face, although it does not say it in so many words, that Judge Archbald himself was to be interested in this property if they bought it. I want to call the committee's attention to that letter. It is dated March 31, 1911, and is found on page 8, Serial No. 3, of the hearings.

It is as follows:

> I write to inquire whether your company will dispose of your interest in the Katydid culm dump belonging to the old Robertson & Law operation at Brownsville? And if so, will you kindly put a price upon it.
>
> Yours, very truly, R. W. ARCHBALD.

Mr. MOORE of Pennsylvania. Was that written on private paper?

Mr. STERLING. I think I am right in saying that it was written on Commerce Court paper. If I am mistaken about that some member of the committee will correct me. I will say now that nearly all the letters which Archbald wrote in reference to nearly all the transactions set out in the resolution were written on the paper of the United States Commerce Court, and I believe this one was.

He gave this letter to this man Williams and he took it personally to Capt. May. Capt. May did not give Williams any encouragement. By his action, and probably by his language, he indicated to Williams that he did not want to have anything to do with the proposition. And it is true, and I think abundantly proven, that at that time it was not the policy of the Erie Railroad Co. to sell any of its coal dumps or sell any of its coal property as coal property.

Williams thereupon went back to see Judge Archbald and told him that May had refused to consider the proposition at all, and indicated to Judge Archbald that May had not treated him very courteously. Archbald said, "I will see Mr. Brownell." Now, Mr. Brownell was general counsel for the Erie Railroad Co., which owned the stock of the Hillside Coal & Iron Co., the owner of this culm dump, or owner of a part interest in it. He said, "I will see Mr. Brownell. I have some cases on my desk here now for that railroad company," and he called Williams's attention to the brief in two cases known as the "lighterage cases" that were then pending in the United States Commerce Court, and evidently, from what Williams says, Judge Archbald then, as a judge of that court, had the briefs and arguments of attorneys in those cases on his desk for his consideration as a judge of the court.

Mr. BUTLER. That fact was proven by Williams?

Mr. STERLING. Yes.

Mr. BUTLER. And he was the unwilling witness of whom the gentleman spoke?

Mr. STERLING. Yes. Williams testified that Archbald said, "I have some cases here now for the Erie Railroad Co.," and he explained to him what these lighterage cases were, and Williams said that he saw the briefs himself on the desk and the judge directed his attention to them. That was only a few days after the 31st day of March, and the matter dragged along for some time. In July Judge Archbald was in New York. I do not think he went there for the sole purpose of seeing Brownell. He had been designated by the Chief Justice to go there and try some cases as circuit judge.

And when he was there he dropped Brownell a note. It seems that Brownell was the only person high in rank connected with the Erie Railroad Co. in New York with whom he was acquainted. He knew Brownell in this way. He, as a member of the Commerce Court, had been sitting in that court on a hearing of some cases in which the Erie Railroad Co. was interested and in which Mr. Brownell appeared as counsel for the railroad company. He knew at that time and in that way that Brownell was the general counsel of this company, and, of course, Brownell knew when he got this letter from R. W. Archbald that the latter was the judge of the Commerce Court who had under consideration these cases that he had argued. He wrote a letter to Brownell asking him if he could fix the date when he could call upon him.

Mr. BOWMAN. The gentleman from Pennsylvania [Mr. FARR] has called my attention to the statement that you have just made, that he had just become acquainted with Brownell at that time.

Mr. STERLING. A short time previous to that.

Mr. BOWMAN. I think I am safe in saying they had been acquainted for many years.

Mr. STERLING. The point is, he did know Brownell, and Brownell was the only officer of high rank connected with that railroad company in New York with whom he was acquainted.

Mr. BOWMAN. I can say further that he was well acquainted with most of the principal officials of the Erie Railroad.

Mr. STERLING. I am satisfied that the gentleman is mistaken about that, and, if he will wait a bit, I will show from the evidence that he certainly did not know the vice president of the Erie Railroad Co. at that time.

I think some of these gentlemen themselves testified that they had no personal acquaintance with Archbald prior to that time. Anyway, while he was trying these cases in New York he dropped a letter to Mr. Brownell asking him to fix a time when he could see him. Brownell replied that he could see him on the 4th of August, and Archbald went to Brownell's office at that time. He stated to Brownell briefly that he was there to inquire about the Katydid culm dump, and Brownell said—and Brownell's testimony is all we have of what occurred at that meeting—that he replied to Archbald that he did not know very much about that, and he would have to introduce him to Mr. Richardson, the vice president of the railroad company.

He took him into Mr. Richardson's office and there introduced him to Mr. Richardson, the vice president of the company, and they talked over the matter of the Katydid culm dump at that time. Richardson says he does not remember whether Archbald told him he wanted to buy the culm dump for himself or whether he was there in the interest of some other party, but he knows that Archbald was there at that time to purchase the Katydid culm bank, and he told him that he would take the matter up with Capt. May and let him know a little later.

Now, that was on the 4th day of August. Richardson did take the matter up with Capt. May. He went to Scranton and had some conversation with Capt. May about it, and wrote some letters in connection with it, and a few days later May met Archbald on the streets of Scranton and told him to tell Williams to come up and he would let him have the Katydid culm dump, and Capt. May also told Williams he could have it. He also wrote a letter to Williams, and stated the terms on which he could have it.

If I can find it without too much trouble, I will read that letter to the House. You will find the letter in Serial No. 1 of the hearings, page 26. It reads as follows:

[Pennsylvania Coal Co. Hillside Coal & Iron Co. New York, Susquehanna & Western Coal Co. Northwestern Mining & Exchange Co. Blossburg Coal Co. Office of the general manager.]

SCRANTON, PA., *August 30, 1911.*

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day, verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY, *General Manager.*

That was signed by W. A. May, general manager, and was written on the 30th day of August, after the 4th day of August, when Archbald had had this conversation with Richardson and Brownell.

Mr. FARR. Mr. Chairman, may I interrupt the gentleman?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. STERLING. Yes.

Mr. FARR. Was the lighterage case determined before or after Judge Archbald's visit to Mr. Brownell?

Mr. STERLING. I would not say with reference to that, but the cases were not determined at the time that Williams reported back to Archbald that May had refused to consider the proposition to sell the Katydid culm dump.

Mr. FARR. Will the gentleman permit me to say that the evidence shows that it was before that?

Mr. STERLING. That may be. I do not know what the evidence discloses as to that.

Mr. FARR. I do not think it is important.

Mr. STERLING. I think it is. They say they proposed to sell this coal dump to Williams for less than what it was worth, but I do not consider that question of importance.

Mr. BOWMAN. Mr. Chairman, will the gentleman yield right there to a question as to the value of that coal dump?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. STERLING. Yes.

Mr. BOWMAN. I know something about the value of that bank, and also about the value of some other banks in that section. It is a very problematical matter, the value of any bank, and, I say, basing my statement on the opinion of Capt. May in comparison with others, that his opinion was that it was of very much less value than that stated by another engineer who was brought there. I believe his opinion is to be depended upon. It is stated here that his opinion might be prejudiced, but I know him very well, and I do not think you could get from him in any case an opinion that he did not think was based on the facts.

Mr. STERLING. Well, that is as far as I care to yield to the gentleman. He can make a further statement in his own time, if he so desires.

Mr. FARR. Mr. Chairman, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. FARR. Will the gentleman permit me to inject something here in regard to Mr. Brownell and the consideration of the lighterage cases?

Mr. STERLING. I can not yield for any statement. If the gentleman has any question to ask, I will yield.

Mr. FARR. I will ask the gentleman when were the proceedings in the lighterage cases begun?

Mr. STERLING. They were begun long before this deal was considered by Williams and Archbald, and the briefs were on Judge Archbald's desk on the very day that Williams went to May and on the very day that he returned to see Judge Archbald.

Mr. FARR. Does the gentleman think, after hearing the testimony and after having viewed Mr. Williams, that he had knowledge enough to know what a brief was?

Mr. STERLING. If he did not know, then the very fact of his ignorance as to what a brief is is the most convincing evidence, to my mind, that Judge Archbald then and there said to him just what he says Judge Archbald said—that is, "I have got some cases now on my desk for the Erie Railroad Co." And I believe that Williams was telling the truth then, because he would not have known what they were otherwise.

Mr. FARR. I will ask the gentleman what was the inference he drew from this remark?

Mr. STERLING. The usual inference that would be drawn.

Mr. FARR. Now, when was the case argued?

Mr. STERLING. I do not know when it was argued. I know that the printed brief had been made at the time of this visit by Williams to May. I think all that is material is the evidence which connects Judge Archbald with this transaction at the particular time when these cases were pending in his court.

It makes no difference whether Judge Archbald was influenced in his decisions or not by those transactions with the Hillside Coal & Iron Co. and the officers of the Erie Railroad. His conduct in those transactions with people who had litigations in his court at the time condemns him as a judge, and he ought to be impeached for such impropriety. This question of influencing a judge's mind is one that we can not deter-

mine from direct proof. There is none. We have to draw our conclusions from the circumstances surrounding these transactions, and no judge ought to bring his office into disrepute and into public scandal by dealing in that way with persons who have litigation in his court.

Mr. FARR. The gentleman stated that when Judge Archbald visited Mr. Brownell he sought to use his judicial influence in favor of getting this option on the Katydid culm bank when the Erie people had litigation before him.

Mr. STERLING. That is what the charge says.

Mr. FARR. That is what the charge says, but the facts do not sustain that.

Mr. STERLING. The gentleman will have to draw his own conclusions from the record.

Mr. FARR. I think this is a very important matter, and this ought to be cleared up at this time.

Mr. CLAYTON. Let me suggest to the gentleman from Illinois——

Mr. FARR. I think the gentleman from Illinois is capable of taking care of himself.

Mr. CLAYTON. I know he is quite well able, but the gentleman from Illinois [Mr. STERLING] has not observed one fact, and that is that the gentleman from Pennsylvania [Mr. FARR] is not reading from the testimony, but is reading from the brief furnished to the committee which was prepared either by Judge Archbald or by his counsel.

Mr. FARR. Referring to the pages in the record, I want to ask the gentleman when that lighterage case was determined?

Mr. STERLING. I told the gentleman I did not know.

Mr. MANN. Does not the brief show?

Mr. FARR. May I read for the gentleman's benefit——

Mr. STERLING. I can not yield for the gentleman to read.

Mr. FARR. I do not think the gentleman ought to decline on a point so vital as that.

Mr. STERLING. If there is any pertinent question the gentleman wishes to ask, I will answer it if I can.

The SPEAKER pro tempore. The gentleman has declined to yield.

Mr. FARR. The gentleman said he would answer any pertinent question.

The SPEAKER pro tempore. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. STERLING. I will yield for a question, but not to let the gentleman read.

Mr. FARR. When was this lighterage case determined?

Mr. STERLING. I have said I did not know.

Mr. FARR. When did Judge Archbald visit Brownell?

Mr. STERLING. On August 4, 1911.

Mr. FARR. And the appeal to the Supreme Court was taken June 13, 1911, in that very case.

Mr. STERLING. I can not see the materiality of that. My position is that it had not been appealed to the Supreme Court, but was still in the Commerce Court, and was then and there being considered personally by Judge Archbald at the time he sent Williams to May to buy this dump.

Mr. FOCHT. Will the gentleman yield?

Mr. STERLING. Yes.

Mr. FOCHT. The gentleman, of course, heard the testimony of Mr. Williams throughout?

Mr. STERLING. Yes.

Mr. FOCHT. I also heard considerable of it. Would the gentleman undertake to say that he would be influenced by a man in the mental condition of Mr. Williams in voting on this bill? Does the gentleman think Williams was mentally competent to give any testimony that should influence any intelligent, sane man?

Mr. STERLING. I will say to the gentleman frankly that I do not consider Mr. Williams a very reliable witness.

Mr. FOCHT. Does the gentleman think Williams is sane?

Mr. STERLING. I think he is sane.

Mr. FOCHT. Does the gentleman think Williams is mentally competent?

Mr. STERLING. Yes; I think he is mentally competent.

Mr. FOCHT. Does the gentleman think Williams was sober all the time?

Mr. STERLING. I think he was sober before the committee.

Mr. FOCHT. I do not think so.

Mr. STERLING. That is your opinion. I will say frankly that I do not regard Mr. Williams as a high type of man, but I do say he was the kind of man that Judge Archbald seems to have used as his rounder to hunt up these transactions and was Judge Archbald's associate in that transaction for the Katydid culm. Judge Archbald selected his associates and not the Judiciary Committee, and he was the kind of man, and the only man, the committee could go to to get the facts. We did get some facts from Mr. Williams, as I said, and I think we are justified in relying on everything Mr. Williams testified to that was adverse to Judge Archbald, for the reason that he was an unfriendly witness to the prosecution, if I may call it so, but was a very friendly witness to Judge Archbald.

Mr. COOPER. Will the gentleman yield?

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from Wisconsin?

Mr. STERLING. Yes.

Mr. COOPER. Does the testimony disclose how long Judge Archbald had been acquainted with Mr. Williams prior to these transactions?

Mr. STERLING. I do not think it does, but I think he had known him for many years.

Mr. NORRIS. Oh, yes; long before he went on the Federal bench.

Mr. COOPER. At any rate, for many years.

Mr. NORRIS. Yes.

Mr. COOPER. Had they been intimate?

Mr. STERLING. I think they had had transactions together before—perhaps not as partners, but I think Judge Archbald had assisted Williams in other transactions before. Anyhow, they were thoroughly well acquainted, and had been for a long time.

Mr. COOPER. It occurred to me, on the question of Williams's mental capacity, that if the judge, knowing him for many years, selected him as his agent, engaged in many important business transactions, that he regarded him as mentally competent.

Mr. STERLING. Oh, he was mentally competent. The chairman, Mr. CLAYTON, suggests that the evidence disclosed that Williams testified that he had been a long time acquainted with Judge Archbald.

Mr. CLAYTON. And had been his political supporter long before he had been on the bench.

Mr. COOPER. Then the judge knew him well, and thought him mentally competent?

Mr. CLAYTON. Undoubtedly.

Mr. MANN. I would like to ask the gentleman from Illinois one question.

Mr. STERLING. I yield to my colleague.

Mr. MANN. I notice the resolution says that Mr. Williams and Judge Archbald agreed to become partners. Is there any controversy about that?

Mr. STERLING. There is no testimony to the contrary.

Mr. MANN. If Judge Archbald agreed to go into a partnership with Williams, either without knowing him or knowing him, and Williams was an imbecile, as suggested by the gentleman from Pennsylvania——

Mr. FARR. Which gentleman from Pennsylvania?

Mr. MANN. All three.

Mr. FARR. Oh, no.

Mr. MANN. Well, the gentleman from Pennsylvania, Mr. FOCHT. As I say, if Judge Archbald went into partnership with Williams, either without knowing him or knowing him, and Williams was an imbecile, is not that almost a sufficient reason for removing him from the bench on the ground of imbecility himself?

Mr. FOCHT. He was indiscreet; that is all.

Mr. STERLING. If he was an imbecile, it is no defense to Judge Archbald.

Now, I have read the letter that May wrote to Williams after Archbald had been to New York and seen the general counsel and the vice president of the railroad company. You remember in the letter he says that articles will be drawn up. Judge Archbald and Williams never put a dollar into the transaction. It was not their intention to do so. They were simply buying an option, and they took the chances of selling it at a profit. After they got the letter from May, Williams proceeded to find a purchaser for the culm dump. He first went to a gentleman named Conn, the manager of the Laurel Electric Railroad Co., which railroad company was the most nearly located to this culm dump, except the Erie. He made a deal to sell it for $20,000.

To go back a minute, before Williams and Archbald had succeeded in buying the interest of the Hillside Coal & Iron Co. in this dump, Williams went to Robertson and got an oral agreement to purchase their interest for $3,500, and then after getting the letter he went back to Robertson and he gave a written agreement whereby he was to give him an option on Robertson's interest in the culm dump for $3,500. Then the letter of May to Williams fixes their price on their interest in the dump at $4,500, making a total of $8,000 that they were to pay for the dump. They were to pay for it only in case they sold it; then they were to pay these parties the several sums,

and whatever they sold it for above $8,000 was their profit in the transaction.

He made an agreement with Mr. Conn to sell for the sum of $20,000, subject to approval of title. A little later it turned out that Mr. Conn's lawyers advised him there was some doubt about the title. I think the doubt rose from the fact that the Eberhart heirs were claiming an interest in it, as Mr. Mays suggests in his letter to Mr. Williams, where he says that they have an interest there and the purchaser must pay Eberhart the royalty which comes from the dump the same as the royalty which came from the original mine when the dump was being formed. So Mr. Conn refused to take it. Then Mr. Williams went to Mr. Bradley. Mr. Williams had an agreement with Mr. Bradley to sell it, I think, at 27½ cents per ton—that is, per ton of all the matter that was contained in the dump, amounting, as differently estimated, to from $27,000 to $35,000. As the gentleman indicated a few moments ago, there was some difference of opinion as to the value of this culm dump.

Mr. FARR. Mr. Speaker, will the gentleman yield?

Mr. STERLING. Certainly.

Mr. FARR. Does the gentleman not confound the price in the Bradley case with that of the Conn or Laurel Line case? The Bradley price is $20,000. It did not go through.

Mr. STERLING. It did not go through because the whole thing was exposed before it was closed up.

Mr. FARR. And the price with which Mr. Conn was to pay was not $20,000, but $12,943.60.

Mr. STERLING. No; there is no such evidence as that. If the gentleman will read the testimony, he will find that it was not offered for any such price.

As to the value of the dump, it is immaterial whether Archbald and Williams were getting the culm dump for less than it was worth, for what it was worth, or for more than it was worth. It was their purpose in buying the dump to make money out of it, and when they bought it for $8,000 they thought they got it at a price at which they could make money. The essence of the charge in this article is simply this, that Judge Archbald used his influence as a judge to induce these litigants in his court to sell this dump at that price. He hoped to make a profit. Personally I think the dump was worth a great deal more money than that, and I desire to call the attention of the House to what I consider the most reliable testimony on the subject. There were different estimates. My recollection of the testimony is that the engineers of the Erie Railroad estimated that there were 42,000 tons of pure coal; but, not relying on that, I will call the attention of the House to the testimony of Mr. Rittenhouse, who seemed to be a very fair witness, who very recently measured this dump at the request of Mr. Brown, of the Department of Justice, and who testified before the committee on that point. His testimony begins on page 176 of Serial No. 2, and on the second page of that testimony the acting chairman, Mr. WEBB, at that time said [reads from record]:

I wish you would state the amount of coal of various sizes which you estimate this bank contains, based on your test.

Mr. RITTENHOUSE. Yes; I will give it in percentages.

Then he gives in percentages the coal of chestnut size, pea coal, No. 1 buck, No. 2 buck, and No. 3 buck, making a total of 51.893 per cent of the entire dump as coal made up of those various sizes. He testified that the total culm dump contained 90,000 tons.

Mr. STERLING. That is, 51 per cent of the culm bank was coal.

Mr. RITTENHOUSE. Fifty-one per cent was coal; yes. Forty-eight and one-tenth per cent was waste. Taking the bank as containing 90,000 tons, round numbers—its exact figure is 90,186 tons—but taking it at 90,000 tons, we have the various sizes according to the above percentages.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. CLAYTON. Mr. Speaker, does the gentleman want more time?

Mr. STERLING. I would like to have more time.

The SPEAKER. Each gentleman who gets recognition is entitled to an hour in his own right.

Mr. STERLING. Then, Mr. Speaker, I will take the floor in my own right.

The SPEAKER. The gentleman has had an hour in his own right.

Mr. CLAYTON. How much time did I consume?

The SPEAKER. The gentleman has 20 minutes left.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the time of my colleague may be extended for 25 minutes.

Mr. NORRIS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. NORRIS. Is it not a fact that the gentleman from Illinois [Mr. STERLING] has simply used up the balance of the hour that the gentleman from Alabama had?

The SPEAKER. Oh, no; the situation is very simple. Each gentleman who gets recognition is entitled to an hour. The gentleman from Alabama obtained recognition for an hour and he used 40 minutes of his time. Then the gentleman from Illinois was recognized for an hour in his own right. The request of the gentleman from Illinois [Mr. MANN] straightens the matter out.

Mr. CLAYTON. Mr. Speaker, I hope that there will be no objection to that request.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. MANN] that his colleague [Mr. STERLING] may have 30 minutes more?

There was no objection.

Mr. STERLING. Taking up the testimony of Mr. Rittenhouse again, he says:

Chestnut and above, 5,477 tons, at $3.25 a ton, average price, $17,800.25.
Pea coal, 937 tons, at $1.78 a ton, $1,667.86.
No. 1 buck, 11,177 tons, at $1.41, makes $15,759.57.
No. 2 buck, 8,904 tons, at $0.70 a ton, $6,232.80.
No. 3 buck, 20,209 tons, at $0.30 a ton, $6,062.70.
Making a total of 46,704 tons, or a value of $47,533.18. If the line price were obtained instead of the 65 per cent basis, then the amount would be increased to some little extent. If what passes through a three thirty-seconds inch mesh and over a one-sixteenth is saved, or 12,678 tons at 30 cents, an increment of $3,803.40 would be added to the above, making a total of $51,336.51.

A little later on in the examination, Mr. WEBB, then chairman, asked him what would be the net profit on this coal on the estimated amount on his estimated price after paying for the washing of it, after preparing it for market there at the bank, and he testified that the net profit would be about $35,000, but that in his opinion the Erie Railroad Co. could handle it and realize that profit. Now, gentlemen, that culm bank was evidently worth, according to this testimony, a great deal more than $8,000; so even if they were willing to give Williams and Archbald a decent and a respectable profit, they could have had a great deal more money for it than the amount for which they sold it. They had a bid from some one of $20,000 in one case and more, I think, in another case within a very short time after this proposition had been made to them, which indicates conclusively that they got this culm bank much below a fair market value.

Mr. BUTLER. Would it annoy the gentleman if I interrupted him there?

Mr. STERLING. I will yield in a moment. But we insist now that no Member ought to be misled by any argument as to the value of this culm dump. I care not, so far as my personal convictions go, whether they were buying it for less or whether they were paying more for it than it was worth, the same offense exists in this case, that Judge Archbald undertook to use his influence as a judge to induce the sale of this property to him and his associate for the purpose of making money, and the question of what it is worth simply goes to the matter of judgment between the parties connected with the transaction. Now I yield to the gentleman from Pennsylvania.

Mr. BUTLER. Appreciating, as I do most thoroughly, the position the gentleman has taken, I will be very much pleased if he will answer me just this one question: Is there any evidence to show any relation of any kind which this Federal judge had with the other persons interested in this culm dump, one-half of the interest was owned by the railroad company? I recall all the gentleman said relative to the Federal judge's association with the company, but did he have any association with the other owners, the owners of one-half of this coal?

Mr. STERLING. I am glad the gentleman asked me that question, for if he had not I would have omitted one element of the testimony in this case which I think is important. Robertson was quite willing to sell. He wanted to sell his interest in the dump, and Williams did not need any influence from any source to get that interest, but it was against the policy of the Erie Railroad Co. and the Hillside Coal & Iron Co. to sell coal properties. They were not willing to sell their interest. They did not want to sell. Hence Williams needed assistance, needed influence from some source greater than himself, to prevail on them to part with the property.

Mr. BUTLER. What is the explanation why Robertson should sell for $3,500?

Mr. STERLING. The interest in this dump was not each a half share. I do not think they claimed a half interest in it. He sold just such interest as he had.

Mr. BUTLER. And it was not fully ascertained, was it?

Mr. STERLING. Not fully ascertained; and the railroad company, I think, claimed it owned a greater interest than Robertson——

Mr. FARR. Was not Mr. Robertson able to purchase an interest of the Hillside Coal & Iron Co. for $2,000 a year previous to that?

Mr. STERLING. There was some evidence that it was offered some time before this for $2,000. That is in the record. It is only within a very recent time that these culm dumps have become valuable.

Mr. FARR. May I ask if the Bradley testimony does not show it could be bought for $20,000?

Mr. STERLING. Yes; and that is a profit of $12,000; and if the gentleman is going to rely on that as an essential part of the proof of guilt in this case, it seems to me a profit of $12,000 to these gentlemen, $6,000 to each of them, without having invested a single cent in the transaction, is fairly good.

Mr. FARR. Will the gentleman permit me to say that he said this dump was worth $50,000 or more?

Mr. STERLING. No.

Mr. FARR. Yes; you did.

Mr. STERLING. I stated what this record states right here, and I say I believe that testimony is reliable, and that puts it at $47,000.

Mr. FARR. That is ridiculous.

Mr. STERLING. To show that Judge Archbald considered he had an interest in this culm dump when they came to sell it Mr. Williams wanted a letter of introduction to Mr. Conn, superintendent of the Laurel Lines, and he wrote this letter on September 20, 1911. It is written on the letterhead of the United States Commerce Court, Washington, and reads as follows:

[R. W. Archbald, judge, United States Commerce Court, Washington.]

SCRANTON, PA., *September 20, 1911.*

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but as I understand it this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it if there is anything which you want to know.

Yours, very truly,

R. W. ARCHBALD.

You will note the letter says, "Mr. Edward Williams, who is interested with me."

Now, that transaction failed, as I have said, because Conn's attorney expressed some doubt as to the title.

Then, you will find, according to the record, that a little later May prepares articles of agreement and sends them to Mr. Bradley with a letter, asking him to examine them, submit them to Mr. Williams, and, if Mr. Williams is satisfied, to return the articles, and he will submit them to the company for approval, and if satisfactory, they will sign up.

That was sent to Bradley on one day, and the next day Archbald sees Bradley at the depot and asks him to call that off, that some complications have arisen, and they had better stop the negotiations, and also writes him a letter to the same effect, in which he tells him the transaction will be withdrawn on account of certain complications. No one knows what complications were referred to, excepting there had appeared in the newspapers in the meantime this scandal about Judge Archbald's relations with persons who had litigation in his court. And I think it was concluded by the committee that the reason the transaction was withdrawn was because it had become public.

Mr. FARR. Was the gentleman basing that statement on the evidence of Capt. May?

Mr. STERLING. I stated I concluded from the evidence that it was withdrawn because the scandal had become public. Now, that is my conclusion. There is not anything in the record stating that was why it was withdrawn.

Mr. FARR. Is there not a statement in opposition to that by Capt. May himself?

Mr. STERLING. I think there is, but I do not believe it. No complications had arisen in the meantime at all. The only reason was that the scandal had become public.

I want to call attention briefly to article 2. That charges that Judge Archbald for a consideration joined with George M. Watson, an attorney at Scranton, Pa., to settle certain litigation that was then pending in the Interstate Commerce Commission, and to also sell the stock of a certain washery at Scranton to the Delaware, Lackawanna & Western Railroad Co. The Marian Coal Co. was a corporation operating a washery near Scranton. They had become involved in litigation, and they desired to sell their property. They had also, previous to that time, filed a suit in the Interstate Commerce Commission, claiming a large sum of money from the Delaware, Lackawanna & Western Railroad Co. for overcharges in rates. That litigation, as I have said, was pending in the Interstate Commerce Commission. They desired to settle it with the railroad company and wanted to sell out their washery, or their two-thirds interest in the stock of the corporation, and get out of the business. One day this same Williams came to William Boland, who was the man who had charge of the washery, and said to him, "George Watson can settle your lawsuit and sell your property." William Boland is a brother of Christy Boland, who was a banker and real estate man. Williams talked it over with him also. The conversation resulted in Christy Boland going to see George M. Watson and talking the matter over with him.

Watson said, and Boland also said, that he stated to Watson that he would take $100,000 for their claim in the court and for their two-thirds interest in the stock of the Marian Coal Co. They also talked of the fee they were to pay Watson, and it was agreed that Watson was to have $5,000. Christy Boland said to Watson, "I will go and see my brother, and, if satisfactory to him, I will agree that you shall have $5,000." The Bolands agreed between them that Christy should go back and make a definite arrangement with Watson that they would pay him $5,000 if he would settle that suit and sell the property to the Delaware, Lackawanna & Western Railroad Co. for $100,000.

But they said further to Watson, "We will take less, but you can put the price at $100,000." Watson said he would undertake it. The very next day Christy Boland received a call from Judge Archbald's office by telephone.

He went immediately to the office of Judge Archbald in the Government building. Archbald and Watson were there together. They talked over the arrangement the Bolands had made with Watson. Archbald said to Boland, "Now, I understand you have agreed to pay Watson $5,000?" and Boland said he had. He says, "There ought to be some evidence of that agreement in writing. It would be better now if you would give Mr. Watson an agreement in writing to the effect that he is to have $5,000 for his services in making this settlement and selling this property." Christie went to see his brother and got an agreement to pay $5,000 and took it back and delivered it to Watson.

Now, I conclude, and I believe every member of the committee concludes, from the evidence in this case and the circumstances surrounding the transaction and from events that followed that meeting in the judge's office, that Watson and Judge Archbald had agreed then and there to take it upon themselves to settle this case, and that Judge Archbald was to have a share in the fees. Of course the absolute truth of that is in the bosoms of Watson and Archbald and nowhere else. But I will cite the circumstances surrounding the case, and I believe you will conclude from all the evidence that Judge Archbald, just as ardent, just as earnest, even more eager, apparently, to produce results in this proposed deal with the railroad company than Watson, was, in consideration of such services, to have at least some of the pay that it was agreed should go to Watson.

Within a week—I believe sooner than that—Judge Archbald met Mr. Loomis on the streets of Scranton. Mr. Loomis is the vice president of the Delaware, Lackawanna & Western Railroad Co., and Mr. Reese A. Phillips is the superintendent of the coal-mining department of that company. Mr. Truesdale is the president. Archbald met Loomis on the street and had a talk with him about this matter and told him he ought to settle; that "now is a good time to settle with the Bolands that lawsuit that was pending in the Interstate Commerce Commission" and to buy the controlling interest in the Marian Coal Co.

Now, mark, gentlemen; at that time the Delaware, Lackawanna & Western Railroad Co. had suits pending in the Commerce Court, of which Judge Archbald was one of the judges. This Boland case that had been brought against that railroad company was then pending in the Interstate Commerce Commission. However it was decided, it had not been decided at that time; but whatever the result in the Interstate Commerce Commission, it was almost certain to go to the United States Commerce Court. This railroad company knew it. This railroad company and these officials knew that they had litigation pending at that time in the Commerce Court, and they knew that they would probably very soon have another, the Boland suit for excessive rate charges, in that same court, of which Judge Archbald was a judge.

Judge Archbald, knowing all those facts and circumstances, proceeds ardently and eagerly to see Mr. Loomis, the vice president of the company, and urges the company to settle the case. That is not all. He telephones for Mr. Phillips, the superintendent of the coal mining department of the railroad company, to come to his house. Phillips forgets to come at the appointed time and Archbald calls him up again, and then Phillips goes over to his house and they talk over a settlement of this case and the sale of this stock to that railroad company.

But that is not all. I want to refer you to some of the letters. Before doing that I will state that Loomis, after he had a talk with Archbald, went to the headquarters of the coal mining department of the railroad company, at Scranton, to see Mr. Phillips, who was not there; but he left word for Phillips to take the matter up with Watson. You see, Archbald had told Loomis, when he met him on the street, that Watson had the matter in charge.

In a few days Phillips came back, and the man in charge of the office in his absence told Phillips that Mr. Loomis, the vice president, had left orders there for them to take the matter up with Watson, and Mr. Phillips did so, and then wrote to Loomis.

The report of Phillips was adverse. That is, in his estimate the property was not worth nearly $100,000.

But let me not overlook another fact. This man Watson did not price the property to the railroad company at $100,000. He priced it at $160,000, although the Bolands had told him to price it at $100,000, and told him they would take even less than that.

I want to call attention to another sort of testimony, on which I myself do not rely and on which I do not ask anybody in this House to rely. Christy Boland testified that when he found out that Watson had asked $161,000 for the property he asked Watson why he had priced it at that high sum, and Watson said to him "There are some other gentlemen who will have to be taken care of. I have got to divide this surplus up among four persons." He said, "Who are they?" Watson reluctantly told him, and he said Judge Archbald, Mr. Loomis, Mr. Phillips, and himself. Now, Christy Boland testified that Watson told him that. I believe that Watson told it, but I have not very much faith in the testimony of this man Watson, and I myself do not base any conviction that I have on that fact, and I would not ask any Member of the House to base any conviction on that. It only illustrates the kind of a man Watson is.

Mr. BUTLER. He wanted to divide his crime with some one else.

Mr. STERLING. Although I am sure this man—Christy Boland—was telling the exact truth when he testified to the conversation which he had had with Watson.

Now, let me call your attention to the letter which Judge Archbald wrote. Loomis's home was in New York. Phillips's report to Loomis was adverse, and after they had had some correspondence, which you will find on page 1134 of series 9, Mr. Loomis writes this letter to Judge Archbald:

SEPTEMBER 27, 1911.

MY DEAR JUDGE: As per our recent interview, I instructed our people to call on Attorney Watson in connection with the Boland case, and I find there is little, if any, prospect of our reaching any settlement of this case, owing to the very great difference of opinion as to the merits of Mr. Boland's claims and the value of his properties.

Thanking you, however, for your good efforts in this direction, I am,

Very truly, yours,

———— ————.

That was signed "E. E. Loomis" and addressed to "R. W. Archbald, Scranton, Pa."

Judge Archbald and Watson were not to be put down by that proposition, and so Judge Archbald on September 28 replied to Loomis in this way:

SCRANTON, PA., *September 28, 1911.*

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment I would offer my direct services. I have no interest except to try and do away with an unpleasant situation for both parties, and I hope that this still may be possible.

Yours, very truly, R. W. ARCHBALD.

That was written on paper of the United States Commerce Court.

Now, evidently after Archbald had received the letter of the 27th from Loomis, Watson and Archbald had a conference, because Watson on October 2, 1911, writes this letter to Loomis, in which he says:

OCTOBER 2, 1911.

Mr. E. E. LOOMIS,
Vice President Delaware, Lackawanna & Western Railroad Co.,
90 West Street, New York City.

DEAR SIR: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road which I have had under consideration here and with which I presume you are more or less familiar, I decided after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear to meet me either in New York or Scranton. If you will kindly advise me either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours, G. M. WATSON.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. BUTLER. How much time would the gentleman from Illinois like to have?

Mr. STERLING. I think I could finish in 15 minutes.

Mr. BUTLER. I ask that the gentleman's time be extended 15 minutes.

The SPEAKER. The gentleman from Pennsylvania asks that the time of the gentleman from Illinois be extended 15 minutes, is there objection?

There was no objection.

Mr. STERLING. Mr. Speaker, after these letters were written by Watson and Archbald to Loomis, they succeeded in arranging an interview with the president and vice president of this railroad company. Watson was to meet them at Scranton and lay his proposition before them and state to them the basis of their claim. Watson says in anticipation of that meeting he wired Judge Archbald here at Washington to know when and where he could meet him, and he says that the only purpose he had in coming to Washington was to get certain papers in what was known as the Meeker case, and which had been decided by the Interstate Commerce Commission a short time before. Watson evidently is not telling the truth about that. We know that from the date of a telegram which he sent to Judge Archbald on the 6th. This conference with Truesdale, Loomis, Phillips, and Watson was on the 5th of October at Scranton. I believe that is true because Mr. Loomis produces a letter in which he has a memorandum saying "Met Watson at Scranton, October 5." This telegram which Watson sent to Archbald is dated on the 6th. So that as a matter of fact Watson met these gentleman there as they agreed on and he proceeded to lay his case before them. He did not get any encouragement or any indication that they were going to accept his exorbitant price. Then the next day desiring another conference with his associate in the transaction, Judge Archbald, he sent the telegram. He wanted to come down and tell him what had occurred, and advise with him as to the next step. Anyhow, that is the order of events as we get it from the evidence, and as I believe all the committee understand it.

Now, let us see about this visit of Judge Archbald coming to Washington. I think he testified falsely when he said he came down here to get these papers to have them present at the conference so that he would be fortified in his claim about overcharges for rates. The conference had occurred before that and he wired Judge Archbald the next day, and then on his way down here he wired again asking him to meet him at the Raleigh Hotel.

He came down here, I think getting here on the 7th. When he got to the Raleigh Hotel, Judge Archbald was waiting for him on the outside. They went together up to the rooms of the Commerce Court and talked the matter over there for some time. Mr. Watson says he simply was here to get the papers, which was not true, because he had had the conference the day before. He gives no reason, except this false reason, why he made that hasty trip here to see Archbald. Watson is worthy of belief in those instances where he testified adversely to Judge Archbald, because he is an adverse witness. Evidently from his testimony and his manner he did all that he could in favor of Judge Archbald, and said just as little as he could against him.

With these telegrams and this correspondence fortifying certain things that Mr. Watson said—he is an important witness, although I say frankly that I believe he was not altogether a truthful witness—taking into consideration the fact that Mr. Watson when he got in this deal went to Judge Archbald's office and called Christy Boland in to confer with him about it, Archbald being the man who insisted upon the contract for fees being in writing, and then taking into consideration the fact that he took it up and urgently pursued the settlement and sale day after day and week after week by correspondence and personal interviews with the officers of the railroad company, who then at that time had litigation in his court, who then at that time had litigation before the Interstate Commerce Commission which was almost certain to come to his court, we concluded that Judge Archbald used the influence which accompanies him by virtue of being a judge of that court in which these cases were pending to induce this railroad company to settle this suit and to buy this stock.

Mr. FARR. Did the railroad company buy it?

Mr. STERLING. No; it did not buy it; and it makes no difference whether it bought it or not. That simply proved, not that he did not use his influence, but that his influence was futile. That is all.

Mr. BOWMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. STERLING. Yes.

Mr. BOWMAN. The gentleman has heard all of the testimony. Does he think that this man was the guilty party, using these others or that they were using him? I have a purpose in the question. This man has borne a good reputation and he comes from one of the very best families in that district. I

have always thought well of him, and I have had no time to examine the matter until now. I ask the gentleman's opinion as a lawyer and judge.

Mr. STERLING. My opinion is indicated by the fact that I agree with this report which the committee made in this case. I want to say frankly to the gentleman that it is no more of a task for him to vote Judge Archbald guilty than it is for me. It is no more of a task to the gentleman from Pennsylvania [Mr. FARR], who represents Judge Archbald as one of his constituents in this House, than it is for me. As I said to him in the beginning, I was impelled by the force of the testimony in this case to find that he ought to be impeached, and I believe that this House would be derelict in its duty if it did not impeach. Bear in mind that even though some of these transactions, or all of them, were transactions that you and I as private citizens or any person as a private citizen could have carried out with perfect propriety, yet, when done by a judge, by a high judge of a high court, who had at the time litigation pending in his court over which he had control and power to decide, even though these things did not influence his judgment, I say to you that it was such impropriety, such an utter disregard for judicial ethics and the duties of the position which he occupies, that he is not fit to be a judge.

Mr. Speaker, there are other counts equally important with these. The gentleman from Arkansas [Mr. FLOYD], and the gentleman from North Carolina [Mr. WEBB], and the gentleman from Ohio [Mr. HOWLAND], and other gentlemen of the committee are better qualified to detail the facts than I am. The thirteenth article, the last one, is a general omnibus count in which we have sought to cover by a general statement all of the facts, all of the charges, contained in the other 12 counts. It is a general statement of all these transactions which extend over the whole history of this man's life since he went on the bench. His desire to mingle with the class of men with whom he did mingle, to take as his associates the rounders of Scranton, who seem to have no fixed business, and who were simply looking here and there for easy money wherever they could find it, take into consideration the fact that he took into partnership with him that class of men and carried on business with them, thus permitting them to use his high office and the influences which go with it for commercial purposes, and you will agree with me that it disqualifies him for the high office which he holds.

Mr. MOORE of Pennsylvania. I desire to ask the gentleman as to the procedure under which the House now acts? The resolution which we are considering is House resolution 524, which provides that the Committee on the Judiciary shall have power to send for witnesses and papers, and so forth. Do I understand——

Mr. MANN. That is not the resolution that we are considering. We passed that a long time ago. That is one of the unfortunate errors of the clerk.

Mr. MOORE of Pennsylvania. I want to know as a layman whether we vote now upon the guilt or innocence of Judge Archbald, or whether we vote to send him to trial.

Mr. STERLING. We do not determine the innocence or guilt of Judge Archbald. We determine whether or not there is a reasonable ground to believe he is guilty of these charges. It requires the degree of proof that justifies an indictment before a grand jury. This is simply a proceeding to determine whether or not Judge Archbald should be committed to trial to determine the question of his innocence or guilt. Whatever this House may do, if it votes to carry this resolution, it does not prove at all that Judge Archbald is guilty. It just says that the House is of the opinion that he ought to be tried, and that the evidence is sufficient to justify such trial.

Mr. BUTLER. In other words, presents him for trial.

Mr. MOORE of Pennsylvania. Then we are in this position, that charges have been made against a member of the judiciary and witnesses against him have been heard by the Committee on the Judiciary and that committee now reports that he ought to be tried for the offenses charged against him.

Mr. STERLING. That is what it amounts to.

Mr. MOORE of Pennsylvania. Then a vote to-day in favor of the resolution now before the House means that we do not determine his guilt or innocence, but merely send him to the Senate for trial.

Mr. STERLING. That is true.

Mr. MOORE of Pennsylvania. And that one side having been heard an opportunity is now given to the judge to be heard, so a defense may be entered if he desires to be so heard?

Mr. STERLING. Yes.

Mr. Speaker, in conclusion permit me to say that the course which Judge Archbald pursued disqualifies him from holding that high office. He has repeatedly used his influence as a judge to induce litigants in his court to enter into business transactions for profit to himself. He has sought to commercialize that power which came to him by virtue of his high office. He has obtained credit and made profits from those who have received favorable consideration in his court and from those who hoped, in pending suits, to obtain favorable consideration at his hands. He has brought the office of judge into disrepute and public scandal. The best safeguard to governmental institutions is a wholesome and well-deserved public confidence in men in high places. If that can not be maintained, then those institutions must fail. No other office is held in such reverence in the public mind as that of the judiciary. It is the fountain source of justice. If it be polluted, it will sooner or later be destroyed. It is made the duty of this House to impeach and the duty of the Senate to convict a judge who has brought disrepute upon the office he holds. There is no other means provided by the Constitution by which the people can be relieved from an unjust or a corrupt judge. The people have no other recourse for relief but through this House. I submit it is our duty to vote this resolution. We do not ask you to measure Judge Archbald by the standard of your highest ideals. Measure him only by the average judge and you will find that he falls far short of the requirement. He seems to have lost a proper sense of the duties and responsibilities of the office which he holds. He has failed to appreciate the proprieties which attach to his position and has brought discredit on and destroyed confidence in himself as a judge.

Mr. CLAYTON. Mr. Speaker, I ask the gentleman from North Carolina [Mr. WEBB] to occupy some time.

Mr. WEBB. Mr. Speaker, some complaint has been made, at least by one Member, that the Judiciary Committee and the House itself have not acted quite fairly toward this judge in that an effort has been made to press and carry through rapidly these proceedings and not give the judge a chance to be heard. In all fairness I want to say that is not a just criticism. The Judiciary Commiftee for five or six——

Mr. MOORE of Pennsylvania. Mr. Speaker, if the gentleman will allow me—of course I am unable to determine to whom the gentleman refers—I have listened with very great care to everything that has been said up to date and have certainly not heard any Member of the Pennsylvania delegation offer any criticism whatever in regard to the action of the Committee on the Judiciary. We understand that a full and fair hearing of one side of the case was had. There has been no criticism either as to the fairness or courtesy of the Committee on the Judiciary, and I would like to disabuse the gentleman's mind of that thought.

Mr. WEBB. In answer to my friend, Mr. Speaker, I want to say that a part of his statement is not correct. A full and fair opportunity was given to Judge Archbald by our committee to present his side of the case, and, in addition to that, Mr. Speaker, the Committee on the Judiciary examined every friend as a witness that the judge had in these transactions. In fact, in my opinion, every witness that we examined during six long, patient weeks was biased in favor of the judge, except one or two, who were more or less immaterial. We had to go into the camp of the judge's friends to get the testimony in this proceeding, and every person whom we heard who might know something to throw material light upon these charges we subpœnaed regardless of his biased feelings toward the judge. We also gave the judge himself the privilege of being present at all the hearings, with four lawyers, to cross-examine to the fullest extent every witness who was put upon the stand. At the conclusion of the testimony the judge himself was offered the opportunity to go upon the stand and explain, if he saw fit, these transactions and these charges that were made against him, but for some reason best known to himself he declined to go upon the stand in his own behalf and be examined and cross-examined.

I want to say to the House that there never has been, in my opinion, in the history of judicial investigations a fairer and, I might say, a more kindly investigation than this investigation of these charges against this judge. More, we felt sympathy for him. I do myself, and regret that charges have been preferred, and regret that I had to be one of the examiners in the case. We did not enter into the investigation as prosecutors; we went into it as investigators determined not to seek one iota of testimony that was unfair to this judge, but anxious that all the facts, from whatever source they might come, should be put in the record, and that this House might have them and the committee might get the advantage of them. This is what the House instructed us to do, and we have performed our task fairly, impartially, and as fully as possible under all the circumstances.

Mr. KENDALL. Mr Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from North Carolina [Mr. WEBB] yield to the gentleman from Iowa [Mr. KENDALL]?

Mr. WEBB. I do.

Mr. KENDALL. Did the gentleman make the statement to the House that the committee invited Judge Archbald to appear before it and he declined to do so?

Mr. WEBB. Judge Archbald, by courtesy of the committee, did appear before the committee from the first taking of testimony to the last; and at the conclusion of all testimony, which testimony was heard by the judge and the four lawyers representing him, the judge was given an opportunity to become a witness in his own behalf, which invitation he declined. So, I say again there has been absolutely no unfairness toward Judge Archbald. We have tried to take no advantage of this judge in his judicial position, but sought to do him justice at every step in the case. We have gone into the case as investigators and not as prosecutors.

Now, as to the law upon the question, I shall discuss it but briefly. Some one has suggested that there are no crimes punishable under the criminal law alleged in these 13 articles. For my part I believe that is correct. I think the gentleman from Pennsylvania [Mr. BUTLER] asked the question. I doubt very much if you could sustain a criminal indictment under the common law or under the law of the United States against this judge on the charges set out in these articles. But gentlemen well know that that is not necessary in an impeachment trial. It has been held over and over again that it is not necessary to charge an officer with a criminal offense in order to impeach him. Impeachment is in the nature of a political trial and covers all those acts of improper conduct or misdemeanor not covered by the criminal law as well as those offenses denounced by the criminal law. If that were so, if we had to charge a man with a crime punishable under the criminal law of State or Nation, it would be very rare that the Senate of the United States would impeach an officer.

Mr. TRIBBLE. Have you any authority on that question?

Mr. WEBB. I will say to the gentleman that every constitutional writer from Blackstone down to Tucker states that.

Mr. TRIBBLE. Are you going to read from them?

Mr. WEBB. I am not going to take the time to read the authorities fully, but will cite two or three briefly, viz:

Woodlesson in 1777 said:

It is certain that magistrates and officers intrusted with the administration of public affairs may abuse their delegated powers to the extensive detriment of the community and at the same time in a manner not properly cognizable before the ordinary tribunals. On this policy is founded the origin of impeachments, which began soon after the Constitution assumed its present form (p. 355).

Rawle, in his work on the Constitution, said:

The fondness frequently felt for the inordinate extension of power, the influence of party and of prejudice, the seductions of foreign States, or the baser appetite for illegitimate emoluments, are sometimes productions of what are not unaptly termed "political offenses" (Federalist, No. 65), which is would be difficult to take cognizance of in the ordinary course of judicial proceeding.

The involutions and varieties of vice are too many and too artful to be anticipated by positive law.

Judge Story says on this subject:

In examining the parliamentary history of impeachments, it will be found that many offenses not easily definable by law and many of a purely political character have been deemed high crimes and misdemeanors worthy of this extraordinary remedy.

Tucker says:

These two cases, therefore, show that the words "high crimes and misdemeanors" can not be confined to crimes created and defined by a statute of the United States.

In a footnote to Fourth Blackstone (p. 5, Lewis's Ed.), Christian says:

The word "crime" has no technical meaning in the law of England. It seems, when it has a reference to positive law, to comprehend those acts which subject the offender to punishment. When the words "high crimes and misdemeanors" are used in prosecutions by impeachment, the words "high crimes" have no definite signification, but are used merely to give greater solemnity to the charge.

In Cooley's Principles of Constitutional Law it is said (p. 178):

The offenses for which the President or any other officer may be impeached are any such as in the opinion of the House are deserving of punishment under that process. They are not necessarily offenses against the general laws.

In his work on the Constitutional History of the United States, George Ticknor Curtis says (vol. 1, pp. 481–482):

But a cause for removal from office may exist where no offense against positive law has been committed, as where the individual has, from immorality or imbecility or maladministration, become unfit to exercise the office. The rules by which an impeachment is to be determined are therefore peculiar and are not fully embraced by those principles or provisions of law which courts of ordinary jurisdiction are required to administer.

In Watson on the Constitution (vol. 2, p. 1034) it is said:

Congress has unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct. In the few cases of impeachment which have hitherto been tried, no one of the charges has rested upon any statutable misdemeanors. An examination of the English precedents will show that, although private citizens as well as public officers have been impeached, no article has been presented or sustained which did not charge either misconduct in office or some offense which was injurious to the welfare of the State at large.

The American and English Encyclopedia of Law says:

In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses not indictable either at common law or under any Federal statute, and in almost every case brought offenses were charged in the articles of impeachment which were not indictable under any Federal statute and in several cases they were such as constituted neither a statutory nor a common-law crime. The impeachability of the offense charged in the articles was in most of the cases not denied.

Mr. CLAYTON. If the gentleman from North Carolina [Mr. WEBB] will pardon me, the gentleman from Georgia will find, beginning at page 17 of the report No. 946 in this case, printed in the RECORD of July 8, 1912, a comprehensive review of the law on the subject of impeachment, quoting from every commentator on this subject and from other law writers. I think it will give him all the information he desires.

Mr. TRIBBLE. I will ask the chairman of the committee if he agrees with the gentleman from North Carolina [Mr. WEBB] that there was no criminal offense committed by Judge Archbald?

Mr. CLAYTON. I think it is not necessary to determine.

Mr. TRIBBLE. I did not ask you that question; but do you agree with him on that point?

Mr. CLAYTON. I do not, if I understand the question. I think an impeachable offense is such conduct on the part of the judge as to be the antithesis of good behavior.

Mr. TRIBBLE. I agree with you on that proposition, and I expect to vote for the impeachment trial. I want to be sure I am right in so doing, and I want to bring out all the facts.

Mr. CLAYTON. Will the gentleman let me answer his question?

Mr. TRIBBLE. But you are not answering mine.

Mr. CLAYTON. Then I misunderstood you. I think an impeachable offense, on the part of a judge, is bad behavior, for the tenure of the office of a Federal judge is fixed at "during good behavior," and I think the judge need not necessarily be guilty of either a criminal offense by statute or under common law, and there are no common-law offenses against the United States. If he is guilty of such misbehavior as constitutes the antithesis of good behavior, he may be impeached, and if you will read Watson on the Constitution, and all these authorities I have cited, you will find that he and others say that high crimes and misdemeanors mean misbehavior and the like in office. Watson says:

Synonymous with the term "misdemeanor" are the terms "misdeed," "misconduct," "misbehavior," "fault," "transgression."

Mr. WEBB. Mr. Speaker, I repeat that it is absolutely not necessary that we should allege that a civil officer of the United States has been guilty of a violation of the criminal law before he can be impeached. If we should hold such view, what criminal law do you mean? High crimes and misdemeanors against what sovereignty, what Commonwealth, what nation? In some States public drunkenness would be a misdemeanor, punishable by imprisonment or fine; in other States it would not be. In one State an act might be a crime or a misdemeanor; in another State it might not be so. So you would get into a maze of legal questions from which we could never extricate ourselves if you were to hold that before you could impeach a civil officer of the United States he must be guilty of a crime, punishable by the criminal law of a State or nation. The House and Senate are the sole judges of the sufficiency of impeachment charges, whatever may be the nature of such charges.

Every impeachment trial from the beginning of the Government to the present involved acts on the part of the officer impeached which were not violations of any criminal law, and no man has ever been impeached except upon charges which did not involve a violation of the criminal laws of the country. So that I shall not give further time to the discussion of that phase of the question.

Some gentlemen think that we have alleged in these 13 articles facts which make this judge guilty of a criminal offense, if those facts are proven. But that is not an important consideration with respect to this case so far as the legal side is concerned. What I want to discuss is the charges in three or four of these articles. The report of the committee covers the ground generally and pretty thoroughly. Judge STERLING has argued two or three of the articles carefully and in detail, and I will take up three or four that he has not mentioned.

In the first place, gentlemen of the House, this judge, with his other human frailties, seems to have been consumed as soon as he went on the bench with a desire to make money. To start with, he is insolvent. He has nothing but his salary. The evidence shows that he has a home in Scranton, Pa., but it is

mortgaged to its full value, and therefore he has nothing but the salary which he draws, and he has a large and, I suspect, expensive family. The evidence in this case, if you will read it carefully, convinces any fair-minded man that the judge, through all of his official career, from the time he was put on the district court bench in 1901 until now, has used, not openly and not with that purpose written on his requests, but has used his position from all the evidence and all the facts, as judge both of the district court and of the Commerce Court, in order to drive good bargains and to make money.

It is true that he has not made much. He had many wires set, but he was "flushed" by this investigation just before the money began to come in. These charges were investigated by the Department of Justice last spring, and many of his well-laid schemes were frustrated when he and his associates got wind of the quiet investigation. I say this because the conclusion is irresistible from the testimony that the judge has used his official position as a judge to aid him in his efforts to make money. All through this testimony you will find that every letter that he wrote, trying to make these bargains with the railroads that had at the time cases in his court and which were at his mercy, was always written on the official paper of the United States Commerce Court.

Mr. BOWMAN. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from North Carolina yield to the gentleman from Pennsylvania?

Mr. WEBB. I will yield for a question.

Mr. BOWMAN. I had not seen the evidence until this morning, but I notice the communications run for over eight years. Is not the gentleman satisfied from the evidence that really the judge was imposed upon by these men, rather than that he was using them as his servants?

Mr. WEBB. Now, the gentleman has asked me a frank question, and I am going to answer him frankly. If Judge Archbald can be imposed upon by an old man who came from Wales and has lived in this country for only 20 years, a veritable handmaid and go-between for the judge; if he can be imposed upon by another witness by the name of John Henry Jones, a man of the most meager ability and also from Wales; if the judge can be imposed upon by two such characters as that, he is not fit to sit on the Commerce Court bench.

If my friend had been present at the trial, and had taken a careful look at these two star witnesses, both of them close personal and business associates of the judge, he never would have believed for a moment that these two financial adventurers could have decoyed the judge into any such unbecoming and ugly situations as shown by the evidence.

The contrary is true. The judge used these two handy men, putty in his hand, to do his—I started to say skullduggery work, but I will not use that word exactly—to carry out his schemes by which he expected to make much money for himself by use of his high position.

To illustrate: The gentleman says that these transactions cover eight or nine years. They do. This judge was put upon the district court bench, probably the last appointment which that great man, Mr. McKinley, ever made, in the spring of 1901. It was a recess appointment. Between the time the appointment was made in recess and the following meeting of Congress Mr. McKinley was assassinated and Mr. Roosevelt became President. In December, 1901, Mr. Roosevelt reappointed Judge Archbald.

We have not gone further back than 1908. From 1908 to the present we have shown that he has been acting improperly and violating good judicial ethics by prostituting his official position for personal profit and otherwise.

Remember that the Constitution does not require that we must find this man guilty of crimes and misdemeanors. Our forefathers knew what they were doing when they framed this great instrument, and they used this language:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

The word "misdemeanors" there, as you will find from the authorities, has not the meaning of criminal offense. "Misdemeanor" is none other than misbehavior, misconduct; and for any misbehavior, any misconduct, the House may impeach and the Senate may remove any judge from office, because a little further on in the Constitution, section 1 of Article III says:

> The judges, both of the Supreme and inferior courts, shall hold their offices during *good behavior*.

Good demeanor. And if the Senate and House think this judge's conduct has violated the injunction that he shall hold his office during *good behavior* and good demeanor, then he is removable from office, and should be removed.

I take up now the impeachment Articles VIII and IX. In 1908 a man by the name of Peale sued the Marian Coal Co. in Judge Archbald's court at Scranton, Pa. During the pendency of that case before this particular judge, John Henry Jones and Edward J. Williams called upon the judge to make with him a deal. Now, mark you, Jones and Williams told the judge that they were interested in the purchase of a large tract of timberland down in Venezuela and that it looked like a very good proposition. The judge eventually went into the deal with John Henry Jones and Edward J. Williams, two very ordinary men, who I know Judge Archbald would not permit to go into his house on social terms. I doubt if they ever went into Judge Archbald's house, either socially or otherwise. In December, 1908, he drew a note for his part of the stock in this scheme in Venezuela, a note for $500. Drawing notes by Judge Archbald did not mean at that time—and does not mean at this time—that he could get the money on them, because I assert again that the judge is insolvent, in my opinion, and I formed this opinion from the evidence.

The evidence shows that if you sued him to-day your judgment could not be collected from him in the courts of Pennsylvania.

Mr. KENDALL. How much stock was he to get for this $500 note?

Mr. WEBB. He was to get $500 worth of stock in the scheme, Mr. Williams testified. Jones testified that he made the note as an accommodation for him and as a friendly act. At that time the judge's note was valueless in the common commercial channels. I mean by that that if the judge's note went to any bank whose business it was to loan money the bank would turn it down and would not regard it as good commercial paper.

So on the very day that the note was drawn by Judge Archbald, made payable to himself, signed by John Henry Jones, also an insolvent, and indorsed by Jones and Williams and Judge Archbald, all three being insolvent, they started out to get the money on it. Whom did they go to? Old man E. J. Williams says that he knew the Bolands owned the Marian Coal Co., which was at that time a defendant in Judge Archbald's court. John W. Peale was plaintiff and the Marian Coal Co., owned by the Bolands, was defendant. Williams says that he knew the Bolands were defendants in Judge Archbald's court the day that he went to them to get the money on the note. He says that he never went to the Bolands before in his life to get them to cash or discount a note. At any rate, he went to them knowing they were defendants in Judge Archbald's court. More than that, the very day the note was drawn in the judge's chambers in the Federal Building in Scranton, Pa., old man Williams said to the judge, "I am going to take this note to the Bolands." Mark you, this man Williams, if there ever was a biased witness in favor of a man it was he in favor of Judge Archbald. He said everything upon the stand to shield this judge. Why, the judge paid his expenses here to Washington when he came to testify, supposedly, against the judge.

Mr. FARR. He did that out of the kindness of his heart.

Mr. WEBB. Ah, I do not know whether it was out of the kindness of his heart or not. Williams could have asked the marshal who subpœnaed him to pay his fare. On the very morning after he was subpœnaed we find Williams sitting in the judge's office at his chambers in the Federal building at Scranton, Pa., discussing this investigation, and in less than two hours after that the judge starts to Washington and meets Williams at the depot and buys Williams's ticket to Washington. Is not that right?

Mr. FARR. Will the gentleman permit me to answer?

Mr. WEBB. Certainly.

Mr. FARR. Mr. Williams had no means to get to Washington and Judge Archbald gave him money out of his pocket that he could not afford to give him and paid his fare to Washington.

Mr. WEBB. Old man Williams is smart. If he had not made that excuse his conduct and the Judge's would have smacked of bribery. He had to make some excuse, and that was it.

Mr. FARR. One of the great troubles in this case is that you gentlemen do not know Judge Archbald and that the personal element can not be recognized and put in this case. If it were, the findings would have been entirely different.

Mr. WEBB. If the gentleman from Pennsylvania had proposed to make himself a witness, we would have heard him patiently as to what he knew of the judge and these transactions. We heard for five weeks the character of the man from the witnesses we had before us, and if the gentleman thought differently he could have come before the committee and given his side of the case. I do not know what manner of man Judge Archbald is, except from the testimony before the committee.

I have absolutely no unkind feeling against him. I do not profess to be any better than anybody else, but I know that if I had been indicted before a high committee of the Congress of the United States and knew that certain witnesses with whom I had been in close relations were coming to testify against me, I would have sacrificed my right arm before I would have bought the witness's railroad ticket on which he was to come to my trial. The judge was in conference with old man Williams and with John Henry Jones on the day after they were subpœnaed to come here; the judge paid old man Williams's fare here; and old man Williams was the most partial witness for the judge you ever heard on the stand. I therefore affirm again what I said in the beginning, that we examined anybody and everybody connected with these charges, and all were the judge's friends.

Getting back to the $500 note which was drawn by Judge Archbald in the judge's chambers in Scranton, Pa., the judge knew that the Bolands were defendants in the suit at that time and old man Williams knew it, too. The judge had made some preliminary orders in the case prior thereto.

Mr. FARR. Does the gentleman say that the judge drew up the note or signed the note?

Mr. WEBB. I assert that the judge drew the note.

Mr. FARR. But he was not the signer.

Mr. WEBB. No; the note was signed by John Henry Jones, payable to Archbald, but the judge drew the note in his own handwriting. After it was drawn the judge indorsed it, and so did Williams, and so did John Henry Jones, and then the note started out on its doubtful course to become discounted.

Mr. FARR. Is there anything in the evidence to indicate that Judge Archbald did that for other than a kindly feeling?

Mr. WEBB. Yes; old man Williams swore that he put $500 into this Venezuelan transaction, hoping it would yield him big returns upon his speculation.

Mr. FARR. Is it not the evidence that it was to pay John Henry Jones's expenses on his trip to England in connection with the Venezuela proposition?

Mr. WEBB. I asserted in the beginning that John Henry Jones said that he signed the note, fixed it up as an accommodation, but it makes no difference what was his object. He was going to use his influence as a judge to get it cashed, because he had no financial standing which would have secured the discount. So we have a note indorsed by three insolvent men upon which they expect to get $500 in cash. Who was the first man the note was carried to? Old man Williams said to the judge, "I am going to take this note to the Bolands." The judge knew that he had the Bolands in his power and old man Williams knew that also. What did the judge say? He said to take it to whomsoever he pleased. That is as far as we can get Williams to go, but he did go that far. He said that the judge said to take it to whomsoever he pleased. Straightway old man Williams went to see C. G. Boland and W. P. Boland on the very day the note was made, because the offices of the Bolands are very close to the judge's office. W. P. Boland said no, that he could not discount the note, because he had a case in the judge's court. His ideas of judicial ethics were higher than the judge's. Although this man Boland had made his living digging coal I assert that he had higher ideas of judicial ethics than did Judge Archbald when the judge permitted this old man Williams, a mere handmaid, a henchman, to go to a defendant in his court and ask him to cash a note which was worthless. It was worthless. This note was made four years ago, and it has never yet been paid. It is now in one of the banks in Scranton, and I will tell you soon how they did get it cashed. I have a right to argue that the judge is insolvent, because there is a note for $500 which has been outstanding for nearly four years, upon which payment has been demanded.

The judge has simply asked to be allowed to renew it, and it has been renewed every three months for four years and has not been paid. Yes; Mr. Boland declined to discount it. Both of the Bolands did. Then where did it go? Williams went to a bank to get it cashed. The bank said no; they did not want the paper, and they would not cash it. That is one reason why I tell you that it was worthless commercial paper. All three of them were insolvent. There is no other possible reason why that note would ever be cashed, except through the influence of this United States judge. Old man Williams took it to a bank, and they turned it down. Then he turns it over to this other star witness, John Henry Jones, the signer of the note. John Henry Jones goes wandering around in Scranton from bank to bank, I presume, and finally he is directed to a man named Von Storch, who happened to be the vice president of the Merchants & Mechanics' Bank, a little bank in the suburbs of Scranton, who had no active connection with the bank, whose law office was probably 2 miles from the bank, and who rarely ever visited the bank. Somehow or other this man John Henry Jones gets mysterious wind of the possibility of getting this man C. H. Von Storch to discount this worthless paper. He called on him at his law office, for he was a lawyer. He presented the note, but Von Storch did not know Jones and Williams, and Jones did not know Von Storch. Von Storch did know Judge Archbald, and I will tell you how and why. He swears that he had had cases in the judge's court; and not only that, just a few months before that he had been a defendant in the judge's court, in a case wherein he was sued for $10,000.

The judge, on a question of law, ruled that Von Storch was not liable, and put the case out of court, and in less than a year, I believe it was, we find this worthless note turning up in the presence of Von Storch, begging to be discounted.

John Henry Jones was asked, "Why did you go to von Storch?" He replied, "I do not know." "Who told you to go there?" "I do not know." Well, he did know. Taking all the circumstances and observing the conduct of the man on the stand, you will conclude that he found out some way or other—most likely from the judge himself—that this man von Storch felt that he was under obligation to the judge, and that he, in payment for past favors and possible future ones as attorney, would be willing to discount this worthless piece of paper signed by Judge Archbald; so John Henry Jones immediately rushes into von Storch's office and presents it for discount. Von Storch picked up the telephone when Jones left his office and called the judge and said to him, "Judge Archbald, I have a note indorsed by you and a man named Williams and a man named Jones. What about it?" The judge replied, "You will do me a great favor if you will cash it." Williams, Jones, and Archbald had never had a piece of paper discounted before in this little bank, had never had an account there before, and von Storch said it was a violation of their custom to discount paper of any kind for men who did not have accounts in their bank. Von Storch felt that he was under obligation to the judge or feared to incur his displeasure by turning down his note. He was a lawyer who appeared in the judge's court, and so he told him that he would discount it. Then von Storch phoned down to the bank to the cashier and told him to cash the note. Von Storch swore that he only did it on account of the judge. Williams went down to get the money, and the cashier of the bank swore he paid the money to E. J. Williams. And ever since, nearly four years, that note has been renewed every three months; and we asked the bank why they did not collect it, and the reply was that it was generally understood in the bank that it would be paid some time. Gentlemen, if you will take the testimony of the witnesses you can not resist the conclusion that the judge had no power in the world to use except his official position to get money on this worthless paper, and he knew it and so used it. Now, there is another transaction—and I am talking too long; I realize that.

SEVERAL MEMBERS. Go ahead.

Mr. WEBB. There is another transaction right in line with this one. That is Article VIII. In 1908 an insurance company was sued by the Old Plymouth Coal Co., which company was owned entrely by one W. W. Rissinger. There were several suits involving $28,000, transferred from the State courts to Judge Archbald's court; and in November, 1908, the cases were ready for trial. Some time during this month—we never could get Rissinger to testify just what time, because he was another very partial witness in favor of the judge—but some time during the month of November, 1908, right while this suit was pending involving the payment of $28,000 to Rissinger who had sued the insurance company, right while that suit was pending in Scranton before Judge Archbald, Rissinger concludes he can make a good deal with and for Judge Archbald. Now, Rissinger is a man of ordinary character; he is not a man whom you would think the judge would take in his family to associate with socially—and I doubt if Rissinger ever called upon the judge's home, certainly not socially. He is a man of ordinary intelligence, but pretty smart and shrewd. He goes down to the judge's office and says, "Judge, I have a fine scheme down in Honduras, Central America. I have some papers which give me an option on both sides of a little river for about a mile, and I am informed that gold can be picked up and mined just as you mine coal in these culm dumps here. Now, if you want to get in on this deal I will let you in." Now, the judge knew Rissinger was plaintiff in these $28,000 suits before his court. Rissinger wanted to testify, because it was material, he thought, and came near testifying, that the very first time he presented the matter to the judge he "bit," because Rissinger wanted to put the transaction after the 23d day of November, because on the 23d day of November the suits were terminated and judgment was entered providing that the whole amount should be paid if it was not paid in 15 days, but only a certain

amount should be paid if it was paid within 15 days. So Rissinger was anxious to put the transaction beyond the date of the final judgment so as to show that the negotiations were not going on during the actual trial of the case. Either Rissinger told something that was not so or the judge was a simpleton and ought not to stay upon the bench. Here is a man of ordinary intelligence going into a judge's office and wanting him to sign a note to get $2,500 in payment for stock in a scheme way off in Honduras, and he says he thinks the judge "bit" the first time the thing was presented to him.

Now, that is what Rissinger says, substantially. He says the judge entered into the scheme, a pure venture, the very first time it was presented to him. The facts are, and you can deduce them from the testimony, that during the pendency of this trial this negotiation was going on with this judge. In the open he is sitting on the bench as an impartial arbiter between Rissinger and the insurance company, while in his private chambers he is secretly making a deal for gold-mining stock with this man Rissinger, a plaintiff in his court. Anyway, on the 28th day of November, 1908, the judge dated a note payable to himself and this man Rissinger's mother-in-law, signed by Rissinger himself, and on the back of it R. W. Archbald's, W. W. Rissinger's, and Sophia J. Hutchinson's names appear as indorsers. Now, they start that note out to have it cashed somewhere or anywhere. There is another piece of insolvent paper. And, by the way, I want to say that Mr. Von Storch testified that the only man whose name he considered in cashing the $500 note was Judge Archbald's, and on his account and nobody's else. During the pendency of this trial we have the judge privately negotiating with the plaintiff in the case in a scheme down in Honduras, Central America. And Rissinger very generously offered him, if he would come in on the deal, to give him one-third, saying: "You make the note to yourself and my mother-in-law, and I will go out and get the $2,500, and you shall have a third of this amount in gold-mine stock." It turned out to be a gold brick. So they fix up the note while the case was pending, and when the case comes on for trial, and after Rissinger's evidence was put up, the insurance company demurred, saying that a case had not been made out, and they had arguments by counsel on both sides, and thereupon the judge promptly ruled that Rissinger, his copartner in the deal, had made out a good case and overruled the demurrer. Thereupon the insurance company introduced some testimony.

Mr. FARR. The insurance case referred to had been decided by the court before the Rissinger note was negotiated. Is not that true?

Mr. WEBB. Is the gentleman going to testify?

Mr. FARR. I am asking a question.

Mr. WEBB. No; it was not. I suppose you are reading from counsel's brief in the case and not from the evidence. There are 2,000 pages of evidence. The evidence shows that Rissinger knew the crux of this charge. He wanted to get this transaction beyond the 23d of November, 1908. But it is certain that the negotiations were going on between Rissinger and the judge days or weeks before the note was dated. The note was dated five days after the judgment was entered. Still, it was pending to a degree, because the judgment provided that unless $2,500 was paid within 15 days, which carried it beyond the 1st of December, then the full amount of the judgments should be paid.

Now, they start out with this note to get cash on it. I do not know how many banks it went to. I know this, that Rissinger himself knew the power of the judge's influence, and after he had tried numerous banks in Scranton, Pa., which declined to take the note, before John T. Lenehan came to Washington—and he came before the 1st of December, 1908, and the note was made the 28th of November, 1908—Rissinger presented the note to Lenehan, who had been his successful counsel in his case, and Lenehan promptly declined to cash it. Finally they ran across a bank in Scranton that, after thoroughly investigating the value of Mrs. Sophia J. Hutchinson's property—and she lived up at Pottsville, 25 miles away—and found it was worth $25,000, discounted the note. But before they did it they took a judgment against Mrs. Hutchinson, showing that they did not rely on the responsibility of Judge Archbald in discounting the note; and that note, too, is still unpaid, signed by a United States judge who now sits upon the Commerce Court of the United States. There his note lies in the Bank of Scranton for $2,500, executed nearly four years ago, and not a dollar of it has ever been paid. Rissinger says that he pays $37.50 interest every quarter on the note, and the judge has his stock in the Honduras venture, although he has never paid a dollar for it, though he drew and signed the note for it himself. Now, these are the salient facts on which these three articles are based.

Just one more. In 1911, I believe it was—the 31st of January—Judge Archbald became a judge of the Commerce Court of the United States.

The Commerce Court, as you gentlemen know, passes upon the rights of the people on the one hand and the railroads and their freight rates and passenger rates on the other. That is where railroad cases are tried; and, my friends, it was not 60 days after the judge became a member of this powerful Commerce Court, which has been overriding the Interstate Commerce Commission so often—it was not 60 days after he was appointed upon that bench before he began to dicker for good deals in coal mines and culm banks with railroad litigants in his court.

One of these dickers and deals was an effort to lease from the Lehigh Railroad Packer No. 3, in Schuylkill County, near Shenandoah. Judge STERLING has spoken of some of these deals, and I shall speak of this one. The Girard estate, about which you gentlemen probably know, is an estate controlled by a board of trustees in Philadelphia, and is now worth something like $30,000,000.

That estate owns vast coal fields in Schuylkill County, Pa., and about 13 years ago, or a little over, the Girard estate leased to the Lehigh Valley Railroad Co. most of its coal land holdings in Schuylkill County. The truth of it is that the railroad company had been mining this property for 30 or 40 years under shorter-term leases from this estate. At one time they renewed the leases every 5 years, but by an act of the Pennsylvania Legislature they subsequently were allowed to be renewed every 15 years. A lease was made by the Girard estate to the Lehigh Valley Railroad Co. or Coal Co. about 13 years ago. In this lease was included culm bank or Packer No. 3, containing 472,000 tons of coal.

Judge Archbald, as you will see from the testimony, has been making deals and dickers for other coal banks and coal pits. This deal was only one among many. Now, in this Packer No. 3 deal he had two parties to reckon with. He had first to get the consent of the Lehigh Valley Railroad Co. The Lehigh Valley Railroad Co. owned the Lehigh Valley Coal Co., and the Lehigh Valley Coal Co. made Packer No. 3 bank. I think Judge STERLING has explained what a culm bank is, and therefore I do not care to go into that. Suffice it to say that these banks are very, very valuable. These culm banks contain small pieces of anthracite coal, and, as you know, the anthracite coal supply in the United States is limited, and consequently these banks are becoming more and more valuable every day.

So, the judge's eye coveted Packer No. 3, containing 472,000 tons of valuable coal. He wanted to get hold of it in some way or other, and he knew that the Lehigh Valley Coal Co. had it leased, and he knew also that the Lehigh Valley Railroad Co. was a party defendant in his court at that very hour in what is known as the Lighterage case and the Joint Rate cases.

And I may say this to my friend who wants to know about the Lighterage case, that the Lighterage case was appealed or taken from the Interstate Commerce Commission to the Commerce Court on the 12th day of April, 1911, and the Commerce Court, in which the judge sat, issued an injunction restraining the Interstate Commerce Commission from putting into effect its orders with reference to these lighterage charges in New York Harbor.

On the 26th day of May, 1911, the Commerce Court adjourned until the following October. In the meantime, to wit, June, 1911, the United States and the Interstate Commerce Commission appealed the Lighterage case to the Supreme Court of the United States purely on the question as to whether or not the Commerce Court had the right and power arbitrarily to upset and restrain the operation of the Interstate Commerce Commission's order.

The case did not go to the Supreme Court on its merits, because, if you will take the stenographer's notes, you will find that during the interegnum a motion was made before Judge Archbald and the rest of the members of the court, some time in October or November, asking that testimony be taken in the case, and all through the proceedings Judge Archbald made suggestions that testimony ought to be taken, that they must hear it on the merits, showing that he understood that the case was still before his court on the merits and had only gone to the Supreme Court on a question of law, and none other.

To show you that the judge was right and that he was not "reckoning without his host," the Supreme Court in the last few months decided that very thing, and it went off on a point of law, or was remanded by the Supreme Court of the United States to the Commerce Court to take testimony and hear the case on its merits, and the case is now pending in the Commerce Court, and the Lehigh Valley Railroad Co. is a party to that suit.

Judge Archbald had been present when the case was heard, and he knew that the Lehigh Co. was intimately and closely interested financially in this lighterage case, which was then pending before his court and numbered 39 on the docket of that

court, entitled "The B. & O. R. R. *v.* The Interstate Commerce Commission."

Now, while all those things were fresh in the mind of the judge, while he knew that he had this railroad company in his court, he called on their vice president and general manager, one S. V. Warriner, and said: "Mr. Warriner, you have a culm bank out here that I want to lease from your railroad company."

Mark you, my friends, it has never been the policy of railroad companies owning coal lands to give them up or lease them to anybody, because they who are engaged in that kind of business can make more profit out of them, because they are equipped for working them, and because they ship the coal over their own roads, and one-half or one-third of the profit in coal is in the freight rates.

But what do we find? For the first time in the history of the Lehigh Valley Railroad, so far as we know, and certainly for the first time in its dealings with the Girard estate, Mr. Warriner said, "All right, you can have it."

Mr. Warriner knew that his coal company and railroad company were parties defendant in the judge's court in Washington.

Warriner received letters from Judge Archbald, some written in Washington, some in Scranton, but always written on United States Commerce Court paper, a perpetual reminder to every railroad employee and official who received one of those letters that "I am your master, and your road is now a party defendant in my court, and I have the power to decide one way or another in your case."

So Mr. Warriner, without demur, agreed to lease this valuable bank to the judge. The judge stated in his application to the Girard estate that he was going to form a corporation to be called the Jones Coal Co. We find a man by the name of Thomas Hart Jones, who swore that, although these papers were prepared by the judge and presented to the Girard estate with his name signed to them, he never did know what became of this proposition to incorporate the Jones Coal Co. Jones and the other names attached to the application were mere dummies. Neither of them could have secured the consent of the railroad.

Judge Archbald wrote to the Girard estate and to Warriner that they wanted to incorporate with a capital of $25,000, the corporation to be known as the Jones Coal Co. Thomas Hart Jones is sometimes called Thomas "Star" Jones, because he at one time owned a drug store in Scranton, and they called it the "Star" drug store.

The judge made application in his own name, R. W. Archbald, in company with James F. Bell, V. L. Petersen, and T. H. Jones, for this sublease from the Girard estate, and in that application he says:

> We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co., which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested.

Now, the terms were these: Judge Archbald agreed that all the coal taken out of this culm bank—472,000 tons—should be shipped exclusively over the Lehigh Valley Railroad, and that he would give them 2 cents a ton extra royalty. He says, further, in his statement to the Girard estate that "care has been taken to make this such a combination as will insure success."

Mark you, the royalty on this kind of coal has nearly doubled in 13 years, yet the railway company agreed to let this powerful Commerce Court judge have this huge dump at only 2 cents a ton extra royalty above the royalty they agreed to pay 13 years ago.

The judge in his letter says that the names of all the parties interested do not appear in the application. He says one of them, Mr. Howell Harris, is a well-known coal man in Scranton, and Mr. Hulbet, of New York, is associated with the coal men there who are going to take the product, and that Mr. T. M. Farrell, a retail coal dealer of New York City, is going to put up the money, and that care has been exercised in these selections so as to make a combination that will insure success. The judge never puts up money; he puts up influence instead.

In all these transactions you will find that Judge Archbald has never invested one dollar in money. All his investments have been made by reason of his powerful name as a judge of the United States district court and of the Commerce Court.

Now, the Girard estate did not happen to have any case in Judge Archbald's court nor is it engaged in interstate commerce. After some talk with the president of the Lehigh Valley Railroad, the Girard estate very promptly turned the proposition down. My opinion is that the president of the railroad company put it into the ear of Mr. Smith, who is a director of the estate and also a director of the Lehigh Co., that, while the railroad company had agreed to make the lease, they did not care anything about it and had rather not make it, but they could not resist the Archbald proposition, coming from a judge in their case, and therefore agreed to let him have the 472,000 tons of coal, but hoping the Girard estate would not sanction the lease, and so it was killed by the Girard trustees, and the deal did not go through.

Now, if you read the testimony you will find the judge used all his personal and all his official influence with the railroad officials in order to make this unusual deal. Mr. Kirkpatrick, the superintendent of the Girard estate, swore that never before during his 30 years of experience with the estate had the Lehigh Railroad Co. agreed to such a proposition as that, and I tell you that the only reason why they did it in this case—and the judge knew the reason—was that he was a United States judge of the Commerce Court and had in his power the defendant—the Lehigh Valley Railroad Co.—with whom he was contracting.

Now, Mr. Speaker, I have talked much longer than I intended. I thank the Members of the House, and I am obliged to them for their splendid attention on this hot day. [Applause.]

Mr. FARR. Mr. Speaker, I desire to ask the gentleman from North Carolina if he will now answer a question.

Mr. WEBB. Yes.

Mr. FARR. The gentleman made the statement that the Rissinger note was negotiated before the settlement of the insurance case before Judge Archbald.

Mr. WEBB. No; I said negotiations were in progress between Rissinger and Judge Archbald while the case was pending.

Mr. FARR. Was it not dated after the judge had held that Rissinger had made out his case, and if that is so, how could that influence Judge Archbald wrongfully?

Mr. WEBB. Whether it influenced him wrongfully or not, it was bad judicial ethics and gross misconduct for a United States judge to sit on the bench, in a public judicial office, an arbiter between two litigants, and in private during such time to enter into a speculative deal with one of the parties, as he did.

Mr. FARR. The gentleman has said that the Rissinger note was negotiated afterwards.

Mr. WEBB. What does the gentleman call "negotiating"? It was dated the 28th of November, 1908, but the speculative deal and agreements were all made while this case was pending and before the date of the note.

Mr. FARR. The unfortunate thing about this case is that there are numerous little things like that injected into it to create prejudice against Judge Archbald.

Mr. WEBB. Will the gentleman let me ask him a question?

Mr. FARR. Yes.

Mr. WEBB. If the gentleman were a United States judge passing on the rights of plaintiff and defendant in a case involving $25,000, would he during the trial of that case go off into his private chambers and enter into a speculative deal with the plaintiff in the case, letting the plaintiff give him stock in a gold-mine scheme, just for the use of his name on a $2,500 note, when his name on the note did not add a farthing in value to the note, for the judge was insolvent and could not borrow money in the usual channels on his commercial paper?

Mr. FARR. He did not do any such thing.

Mr. WEBB. I charge that he did do it, and the evidence bears out the charge.

Mr. FARR. There is no evidence to prove such a thing.

Mr. WEBB. I heard the 2,000 pages of testimony from beginning to end, and my friend does not know the evidence, because he has not read it. He says he has not. He has only read the partisan brief of the judge's lawyer, and is reading from it now.

Mr. Speaker, the people of the United States are now demanding, as they never demanded before, the strictest official rectitude on the part of their public officials, and especially of their judges. No district or State would elect Judge Archbald to his present position with the testimony against him before them. The judges belong to the people and are their servants, and the people have a right to demand the recall or removal from office of a judge who is guilty of all the acts charged in these 13 articles. His reputation for impartiality is gone and therefore his usefulness as a judge is at an end. Hence we, the Representatives of the people, for them and in their name, demand his removal from office.

Mr. FARR. I have read the evidence and the conclusions of the committee. Judge Archbald is in a most unfortunate position in this case.

Mr. CLAYTON. I agree to that.

Mr. FARR. A most unfortunate position, and he was unfortunate in some of the witnesses. The suggestion that these gentlemen were trying to shield Judge Archbald has some truth in it, but the very fact that they were shielding him added to the suspicion that surrounded this poor judge, and he did not

have an opportunity to show his connection with it. I regret very much that the judge did not take the witness stand.

Mr. NORRIS. Mr. Speaker, will the gentleman yield?

Mr. FARR. Certainly.

Mr. NORRIS. The gentleman says that the judge did not have an opportunity?

Mr. FARR. I will explain that. His attorneys did not put him in the witness chair to testify.

Mr. NORRIS. The committee could not do that.

Mr. FARR. I realize that. If the gentleman will permit me, I have said repeatedly here that this committee was courteous and kind and fair in its investigation of this case.

Mr. ROBINSON. The gentleman stated a moment ago that the statement made that these witnesses were trying to shield Judge Archbald had some truth in it.

Mr. FARR. That is, it had the appearance of it.

Mr. ROBINSON. But the gentleman made the statement that it had some truth in it.

Mr. FARR. Had the appearance of it, because I talked with Judge Archbald's son at that time and he said—

I wish to God that these men would talk frankly before this committee. There is nothing to conceal. My father does not want anything covered up and the more frankly they talk about this the better it will be for him.

Mr. CLAYTON. The first culm contract introduced into this case had the judge concealed, and it was afterwards disclosed that Judge Archbald was the third party.

Mr. FARR. The evidence does not show that Judge Archbald was a party to that concealment. I have known Judge Archbald for many years, and the reputation that he has in my county is as good as that of the best man in that county. He is a poor man to-day. If he were the dishonest, mercenary man that he is charged with being he would have a great deal more to show for it. Ten years was his first term on the common-pleas bench. He was reelected to a second term and he served a number of years since in other courts. I regard him as an honest, faithful, and capable judge, unfortunate, it is true, in some of his associations, and these associations made through the kindliness of his heart and his desire to help other people.

Mr. CLAYTON. And to make money.

Mr. FARR. Not a dollar has he made, and the evidence does not indicate where he made one dollar.

Mr. WEBB. Yes; he got $250 from this note.

Mr. FARR. I am going to present Judge Archbald's side of this from a statement his attorney published within a day or two, in which he vigorously denies every one of these charges. Judge Archbald, through his counsel, states that he emphatically denies that in any of the transactions referred to in the report of the Committee on the Judiciary which are embraced in the articles of impeachment which the committee submitted to the House he used or attempted to use his influence as a judge improperly.

Conscious of his own integrity, it never occurred to him in any of the transactions referred to that others might suspect that he was acting otherwise than uprightly.

When the original charges against him were presented to the President and the Attorney General he was given no notice and had no hearing. In the proceedings before the House Judiciary Committee he was permitted to cross-examine witnesses, but it was explicitly stated by the chairman that the proceeding was a hearing and not a trial. In the hearings before the committee the principal charges which had led the President and the Attorney General to take action were shown to be utterly unfounded. When the evidence was closed what charges the committee might make could not be known to Judge Archbald or his counsel until they were presented to the House.

Judge Archbald therefore will have no opportunity to present his defense until he is summoned before the Senate, and until he has a hearing there he asks that public opinion in his case may be suspended.

Mr. WEBB. May I ask the gentleman what he is reading from? Is it Col. Worthington's statement as counsel?

Mr. FARR. Yes. I believe it to be true that he has not used his influence improperly in any of these cases, and in the case of this poor man Watson who, because of his physical condition, did not make a strong showing before the committee, I think the committee showed a lack of consideration for a broken-down man. Judge Archbald wanted to help him because of his financial condition and the physical weaknesses that had followed a most pathetic bereavement in Mr. Watson's home. It was out of the kindness of his heart, and his hope that he could help the Bolands as well as Mr. Watson, that he tried to bring about a settlement with the Delaware, Lackawanna & Western Co. There is not a bit of evidence that Judge Archbald succeeded in getting any option or interest in any property through his official position. The fact that he used his official letterhead is an indication that he felt that he was acting openly on these questions. It was not necessary for him to use the letterhead to let the people in the community know that he was a member of the Commerce Court.

Mr. NORRIS. Mr. Speaker——

The SPEAKER. Does the gentleman yield to the gentleman from Nebraska?

Mr. FARR. Yes.

Mr. NORRIS. I would like to ask the gentleman, if he is going to explain the Watson deal, to tell the House why Watson came to Washington to see Judge Archbald. If the gentleman wants to make an explanation of Watson's conduct and the judge's relation to Watson in that deal, why did Watson come to Washington to see Judge Archbald?

Mr. FARR. I do not know the particulars to which the gentleman refers, but I know Watson and I know Judge Archbald, and I know that there was not a thought in Judge Archbald's mind of doing anything improperly, and all he did in the case was to help both the Bolands and Watson.

Mr. NORRIS. Has the gentleman read Watson's testimony, where he stated he came down here to see Judge Archbald to find out what the record was in a certain case pending before the Interstate Commerce Commission that had been appealed to the Commerce Court? Has the gentleman read the telegrams that passed back and forth, the telegram that came from Judge Archbald to him, and has he read the testimony to show that the attorney absolutely from the record was mistaken, and that is a mild word to use, and that his trip down here to see him in regard to that matter is absolutely unexplained to-day from the evidence?

Mr. FARR. I think both of them can explain it.

Mr. NORRIS. I would like to have it explained.

Mr. FARR. To think Judge Archbald was influenced in the matter by a thought of profit or to intimate that men of the reputation and standing of E. E. Loomis, vice president, and R. A. Phillips, a near neighbor of mine, general manager of the mining department of the Delaware, Lackawanna & Western Railroad Co., both high-salaried men, in a deal against the interests of their company is absurd.

Now, I want to refer to a little matter which prejudiced me possibly more than anything else against the views of this committee is the reference to the sum of money raised by a friend of Judge Archbald, knowing he was going to take advantage of an invitation to visit the home of a relative of his wife in a foreign country. The clerk of the court knowing Judge Archbald was poor, feeling that a few extra dollars in his pockets would serve an excellent purpose, took advantage of that to send out to the different attorneys practicing before the court and asking them, without the judge's knowledge, to make contributions for a purse for Judge Archbald, and on the day Judge Archbald was on the boat he handed this purse unexpectedly to him, and the committee makes that an excuse for saying that this was an offense because of Mr. Cannon's corporate connections, saying Mr. Cannon is a remote relative of Mrs. Archbald, whereas the fact is that he is a first cousin of Mrs. Archbald, and so this $500 presentation is brought in and made part of these charges against the judge and one of the facts on which they want him impeached.

I shall continue this statement because I want it in the RECORD:

First. That in a suit brought by John W. Peale against the Marian Coal Co., in which the Bolands were largely interested, Judge Archbald had overruled a demurrer to the complaint filed by the counsel for the Marian Coal Co., because the Bolands had refused to discount a certain $500 note which Judge Archbald had indorsed.

Second. That in the same suit Judge Archbald, at the instigation of the Lackawanna Railroad officials, ordered the Marian Coal Co. to close its testimony in 30 days.

Third. That after Judge Archbald had become a member of the Commerce Court he, at the request of an official of the Lackawanna Railroad Co., induced District Judge Witmer, before whom the case of Peale v. Marian Coal Co. was then pending, to decide that case in favor of Peale.

Fourth. That through Judge Archbald Mr. Seager, one of the counsel of the Lackawanna Railroad Co., was given advance information that the Peale case would be decided against the Marian Coal Co.

All these charges, except the third, related to Judge Archbald's official acts. By the evidence before the Judiciary Committee of the House every one of these charges was so completely disproved that no reference is made to any one of them in the report of the committee or in the articles of impeachment.

The committee, however, has recommended the impeachment of Judge Archbald on 13 other charges, only 2 of which relate to the performance by him of any judicial act, and in neither of the 2 excepted cases is it charged that he acted corruptly.

CULM-DUMP DEALS.

The principal charge by the committee relates to Judge Archbald's connection with the attempted purchase from the Hillside Coal & Iron Co., a subsidiary of the Erie Railroad Co., of its interest in the Katydid culm dump. That Judge Archbald was interested in the proposed purchase is not denied. It is not claimed by the committee, and we assume it will not be claimed by anyone, that the mere fact that a Federal judge is interested in the attempted purchase of property from one who is or may be a litigant in his court is a criminal offense or is even in itself evidence of a corrupt mind.

Mr. CLAYTON. Mr. Speaker——

The SPEAKER. Does the gentleman yield to the gentleman from Alabama?

Mr. FARR. Not at this time.

Mr. CLAYTON. I would like to know from what the gentleman is reading.

Mr. FARR (continuing reading):

In its report the sole ground upon which the committee relies in reaching its conclusion that in this particular case Judge Archbald acted corruptly is the evidence as to the value of the Katydid culm dump. The committee assumes that the interest of the Hillside Co. in the dump was worth a great deal more than Judge Archbald and his associates were to pay for it.

When, in fact, the interest of that company was offered some years before that for nearly one-half of what Judge Archbald agreed to pay for it, though the fact is that the deal was never consummated.

The statement then quoted the testimony of Capt. May, manager of the Erie Railroad's coal properties, and that of other witnesses to show that Judge Archbald's profit in the Katydid culm bank, had he been able to sell it, would have been comparatively small, about $4,000, and that a portion of that would have belonged to Williams, his partner in the deal. The statement continued:

"Only two other culm bank transactions are referred to by the committee. One of them had no connection whatever with any railroad company. As to the other, there is no evidence of favor asked or favors given and no evidence that the transaction, if it had been carried through, would have been profitable. . As to these, as also with respect to the proposed purchase of coal properties from the Lehigh Valley Coal Co., the case against Judge Archbald rests upon the naked proposition that it is an impeachable misdemeanor for a Federal judge to have business transactions with litigants or possible litigants in his court.

"In another article of impeachment it is charged that Judge Archbald 'for a consideration' used his influence to bring about a settlement of litigation which the Bolands, in various forms, were engaged in with the Lackawanna Railroad Co. It is not claimed in the report of the committee that there was any direct evidence tending to prove that for what he did in attempting to bring about this settlement Judge Archbald was to receive compensation or was to be benefited in any way. The committee simply assumes it to be incredible that Judge Archbald would help a friend to settle a litigation or help a lawyer to earn a fee unless he was paid for it. Mr. Watson testified positively before the committee that Judge Archbald was not to receive any part of the compensation which was to come to him (Watson).

"Judge Archbald's participation in the attempted settlement of this litigation was, in fact, due to long friendship for the Bolands and friendship for and a desire to help Mr. Watson, and there is no foundation for the charge that he was to receive any money or anything else of value.

"Another article of impeachment is based upon the charge that Judge Archbald 'agreed and consented' that the $500 note above referred to, indorsed by him, should be presented to the Bolands for discount at a time when they were interested in litigation in his court. When this note was offered for discount, Judge Archbald had had no connection with the case of Peale *v.* Marian Coal Co., except in overruling a demurrer which had been filed by that company to the complaint, and in appointing an examiner to take the testimony. There is nothing in the evidence to justify the inference that Judge Archbald authorized the note to be presented to the Bolands for discount because they were interested, as stockholders in the Marian Coal Co., in the case in which that company was defendant.

"Judge Archbald's petition was that of an accommodation indorser. The inference of the committee that Judge Archbald received or was to receive the proceeds of this note or any part of such proceeds is not justified by anything in the evidence and is not true in fact.

"In discussing the charge relative to the correspondence by Judge Archbald with the attorney of the Louisville & Nashville Railroad Co., the committee report entirely ignores the fact that the attorney's letter correcting the testimony of a witness in the case was pasted into the record (obviously by Judge Archbald) for all the world to see, and the written opinion afterward rendered by Judge Archbald assumes that the testimony was correct as it originally stood.

"New charges appear in the articles of impeachment which were not developed by the testimony before the committee. For example, it is made the ground of impeachment that Judge Archbald took a trip to Europe at the expense of Mr. Henry W. Cannon, who had large corporate connections. The committee say, 'it is claimed that Mr. Cannon is a distant relative of Judge Archbald's wife.'

"The slightest investigation would have shown that, in fact, Mr. Cannon is Mrs. Archbald's first cousin, and that the occasion and object of the trip was for the purpose of making a visit, at Mr. Cannon's request, at his residence in Florence, Italy."

Mr. Speaker, I desire, without reading it to the House, to add some additional remarks to go in the RECORD, and I desire also to repeat what I said at the beginning, that I regard Judge Archbald as an honest and a good man, his morals of the highest type and his habits the very best, and that in this case he is unfortunate, and I firmly believe that when this matter comes before the Senate and all the hearsay evidence and other evidence that does not properly belong in these hearings is removed, that he will be acquitted of this charge.

MEMORANDUM SUBMITTED ON BEHALF OF JUDGE ARCHBALD.

In order to present more fully Judge Archbald's defense in this case, I desire to submit the following statement made by his attorneys to the Judiciary Committee:

The original charges made by W. P. Boland to the Interstate Commerce Commission, and by Commissioner Meyer transmitted to the President and by him to the Attorney General, were prepared by Mr. A. V. Cockrell, the confidential clerk of the Interstate Commerce Commission, and are found on page 152 of Serial II of the printed record. In substance these charges are:

1. That Judge Archbald sent Williams to Boland to procure the discount of a note for $500, to which Judge Archbald was a party, and that after Boland refused to discount the note Judge Archbald overruled the demurrer in the case of Peale *v.* The Marian Coal Co. because of such refusal.

2. That the letter of Mr. Seager to the Interstate Commerce Commission (Serial IV, p. 85) was based on advance information of a decision of the court in the Peale case, which was not rendered until some two months later.

3. That Judge Archbald's influence with the Erie Railroad Co. procured the sale to him of the Katydid culm dump, owned by the railroad, at a low figure, whereas it was worth a large sum.

4. That Judge Archbald was about to close the purchase of another culm bank through the influence of Mr. Darling, a railroad attorney.

Boland's motive in seeking the Interstate Commerce Commission was evidently to use his story of railroad oppression to influence the commission (C. G. Boland, Serial IV, p. 86). Mr. Cockrell, of the commission, says (Serial II, p. 154): "Mr. Boland was so full of his 10 years or more fight, I think, as he described it, for his rights, that his narrative took, I should say, and hour or two to tell."

Various members of the commission [Mr. Meyer, Mr. Cockrell, Mr. Clements] heard with great care Mr. Boland's story, and it was that part of it which related to Judge Archbald, a member of the Commerce Court, but did not relate to the suit before the commission, that was noted and transmitted to the President, as Mr. Commissioner Meyer says (Serial II, p. 90), "if for no other reason than that the commission was supposed to be charged with a certain attitude toward the Commerce Court."

When the charges got to the Attorney General, before whom the representative of the commission attended and examined W. P. Boland, there were made by Boland certain additional charges, coupled with the repetition of the complaints of railroad oppression (Serial II, p. 158). These were:

5. That the suit of Peale *v.* The Marian Coal Co. was started into activity by the making of an order by Judge Archbald upon the coal company to conclude its testimony in 30 days, after the suit had laid idle for 26 months, and that this action was taken because of the bringing of proceedings by the coal company against certain railroad companies before the Interstate Commerce Commission.

6. That the final decision in the Peale case was brought about by Mr. Loomis asking Judge Archbald to ask Judge Witmer to decide the case forthwith against the Marian Coal Co.

7. That Judge Archbald was to participate in the fees or profits to be made by settling the difficulties of the Marian Coal Co. with the Delaware, Lackawanna & Western Railroad Co.

There also was presented to the commission just before this visit to the Attorney General a charge by Boland against Judge Witmer, supported by affidavit, like the other charges. This was not laid before the Attorney General, because "Commissioner Meyer said that that matter had better not be included in his story, that it had no relation whatever on its face to Judge Archbald." (Cockrell, Serial II, p. 175.)

Every one of these seven charges has been proved by the investigation to be untrue, and nearly all of them clearly appear to be absurd. This we proceed to show.

1.—THE FIVE-HUNDRED-DOLLAR NOTE.

This note was dated December 3, 1909, discounted December 13, 1909. It was made by John Henry Jones to the order of R. W. Archbald, indorsed by R. W. Archbald and Edward J. Williams. [Testimony of Cashier Rollin D. Carr, of the Providence Bank, where the note was discounted (Serial II, p. 109); testimony of C. H. Von Storch, president of the bank (Serial II, p. 102); testimony of John Henry Jones (Serial II, p. 119); testimony of Edward J. Williams (Serial I, p. 22; Serial II, p. 41); testimony of C. G. Boland (Serial IV, p. 80, and as to date, p. 90). See also Williams's statement of July 31, 1911, which was prepared in Boland's office, and in which the date of the note is stated to have been December, 1910, a mistake, as all now agree, in the year (Serial I, p. 19).] According to both C. G. Boland and W. P. Boland, the note was presented to both of them at or about the same time, and no other note of a similar character was ever presented to either of them, and the note presented related to the Venezuela deal of Jones (C. G. Boland, Serial IV, p. 80; W. P. Boland, Serial VI, p. 792). There is no escape from the fact that but one note was offered for discount, and that that note was so presented in December, 1909, while the date of the ruling on the demurrer was September 25, 1909 (Serial IV, p. 91)—over two months before the note was made.

There is no evidence whatever to show that Judge Archbald suggested the presentation of this note to either of the Bolands. C. G. Boland never spoke to him about it (Serial IV, p. 93); neither did W. P. Boland (Serial VI, p. 729). Williams says that he suggested to Judge Archbald that he would take it to C. G. Boland, because the latter owed him money, and that Judge Archbald said, "All right, you can take it where you like" (Serial I, p. 9). And at that time C. G. Boland was the president of a bank near Buffalo which occasionally did Scranton business (Serial I, p. 16; Serial V, p. 546).

Jones says Judge Archbald had nothing to do with this (Serial II, p. 150).

The note was an accommodation by Judge Archbald to John Henry Jones. Jones received all the proceeds, used them to pay his expenses to England with reference to the Venezuela proposition (Jones's Serial II, pp. 118 and 126); Jones pays the discount on renewals, and has paid a sum in reduction of the note (Jones's Serial II, p. 124; Carr, Serial II, p. 111). It was Jones who, of his own motion, took the note to Mr. Von Storch, president of the Providence Bank, who finally discounted it, Jones having no knowledge that the Bolands were litigants in Judge Archbald's court (Jones's Serial II, pp. 122, 124).

Williams does not testify before this committee that Judge Archbald ever suggested that this note had any influence on his decision of the Peale case (Serial I, pp. 10, 13, and 14) or that he ever showed any feeling about Boland's refusal to discount it or said or did anything to show that he had been affected by it (Serial I, p. 17). Whatever Williams said on the subject to anyone was—he testifies—his own thought and not based on anything that Judge Archbald said or did (Serial II, p. 38). As a matter of fact, the dates demonstrate that Judge Archbald never could have said or done anything to give anybody any ground for believing that the matter of the note entered into his decision, and whatever Williams may have said about it on any previous occasion—which is not evidence before this committee—must necessarily have come from his own imagination or speculation, he himself not knowing or forgetting that the demurrer was overruled before the note was offered for discount and before it was in existence.

2.—SEAGER'S LETTER OF DECEMBER 6, 1911.

On December 6, 1911, Mr. Seager, who represented the Lackawanna Railroad in the suit of the Marian Coal Co. against it, upon being pressed by the Interstate Commerce Commission to furnish certain statistical tables, gave as an excuse for not doing so that (Serial IV, p. 85) "very soon thereafter we were informed, from a reliable source, that because of the loss of the property of the Marian Coal Co. as a result of litigation with other parties," and because of other relief obtained, Boland did not care to proceed. There is no evidence by anybody that Judge Archbald or anybody connected with him was the

"reliable source" referred to. Mr. Seager (Serial VII, p. 930) has explained that his superior, Mr. W. S. Jenney, general counsel for the Lackawanna Railroad, was his informant, and Mr. Jenney (Serial IX, p. 1165) has explained that his information was derived from newspaper reports of the decree of Judge Witmer in the Peale case, which was entered August 24, 1911; the conversations with his Scranton associate, Mr. D. R. Reese, with reference to that decision conveying the information that at least $16,000 damages was admitted by the Marian Coal Co., and by conversation with Mr. Reynolds, attorney for the Central Railroad Co. of New Jersey, who reported that W. P. Boland had told him of the adverse result in the Peale case. Seager (Serial VII, pp. 960, 972) and Jenney (Serial IX, p. 1175) deny any other knowledge of or connection with the Peale case. The subject might well be dropped here.

It may not inappropriately be added, however, that Boland's present complaint that this letter of Seager's showed foreknowledge of the report of the special examiner filed in the Peale case January 30, 1912 (Serial IV, p. 91), could not have entered his mind until after he had taken offense at the letter, it being on January 6, 1912, that he made his first visit to the Interstate Commerce Commission to state his grievances (Serial II, p. 90). As a matter of fact, the decision of Judge Witmer, rendered August 24, 1911, effectually disposed of the whole case on the merits (Serial VII, p. 969; 190 Fed. Rep., p. 376) by perpetually enjoining the Marian Coal Co. from delivering its coal to anyone except Peale, directing an accounting for all moneys advanced by the plaintiff and for damages suffered by the plaintiff and appointing a master to state the account. This was final as to everything except figures, and its effect upon the Marian Coal Co. may be judged from the statement of W. P. Boland (Serial VI, p. 796).

"Mr. BOLAND. We were served with notice, and the property has been shut down ever since, and practically ruined—a loss of $10,000.

"Mr. WORTHINGTON. That was by this injunction that Judge Witmer granted on the 24th of August?

"Mr. BOLAND. That injunction has destroyed the property of the Marian Coal Co. Preventing the operation of the plant has destroyed the plant."

It is absurd, of course, to suggest that a letter written on December 6 showed foreknowledge of a final decree which had been rendered and published over three months before that date. And even as to the master's report, which was filed long after December 6, there is not a word of evidence in the record tending to prove that Mr. Seager or Mr. Janney knew anything about it till it was filed in court, or indeed till it was brought out in this hearing.

3.—KATYDID DUMP.

The facts taken from the testimony of those people who really knew and who gave accurate details, with the production of papers, dates, etc., are as follows:

(A) NEGOTIATIONS FOR PURCHASE.

Williams's attention was called to this dump by W. P. Boland (testimony W. P. Boland, Serial VI, pp. 755, 770), and Williams got a verbal option from John M. Robertson, the owner of one of the interests, for $3,500. He fixes the date as April 5, 1911, by a memorandum book. (Williams, Serial II, p. 77.)

At W. P. Boland's further suggestion (made for the purpose of getting Judge Archbald into relations with the Erie Railroad Co., Serial VI, p. 755), Williams went to Judge Archbald and got a letter from him to Capt. W. A. May, the superintendent of the Hillside Coal & Iron Co., the owner of what was supposed to be the other interest. This is spoken of as a letter of introduction in many places, but when actually produced (Serial II, p. 83) it is a letter from Judge Archbald to Capt. May, inquiring whether his company will dispose of the dump, and, if so, what the price will be, without mentioning Williams.

This letter Williams evidently took to Capt. May, who thereupon (Serial II, p. 83) gave directions for an investigation and report to him upon the character and size of the dump. Capt. May later, probably in June, 1911, discussed the proposed sale with his superior officer, Mr. Richardson, the vice president of the company, when Mr. Richardson happened to be in Scranton, on which occasion they visited the dump (May, Serial III, pp. 15, 16; Richardson, Serial VIII, p. 1004). At this time Judge Archbald's letter was mentioned to Mr. Richardson as the basis of the negotiations which were to be conducted (May, Serial III, p. 16).

There was no discussion of price between May and Richardson at that time or at any time. (Serial VIII, p. 1006.)

May also says (Serial III, p. 60) that at this time he favored making a sale, and that Mr. Richardson opposed it because of the complications as to the title. Mr. Richardson says, however (Serial VIII, pp. 1005, 1013, and 1027), that Capt. May merely entered into the question and showed him the bank, with a view to taking it up at some future time when the investigation and negotiation would be complete and the question of finally making the sale would come up before Mr. Richardson for determination.

On August 4, 1911, Judge Archbald (who was then in New York holding a circuit court) called upon George F. Brownell, the general counsel of the Erie Railroad Co. and the Hillside Coal & Iron Co., a subsidiary of the railroad company (Brownell, Serial III, p. 106), and stated that he wanted to clear up the title to this property; that he had been in negotiation with Capt. May, "but that no final answer had been received and that he understood the matter had been referred to the New York office. He stated, in substance, and I think in words, that he knew no other officer of the Erie Co. except myself, and so had taken the liberty of calling to ask if I could tell him who in the organization would be the person having the matter in charge (Serial III, p. 107).

Mr. Brownell took Judge Archbald to Mr. Richardson, introduced him, and soon left. Mr. Brownell never had any other communication with Judge Archbald at any other time or place with regard to the matter (p. 107). He had met Judge Archbald in Washington at hearings before the Commerce Court (p. 108). Nor did Mr. Brownell talk with Mr. Richardson about the matter at any other time until these proceedings appeared in the papers. (Serial III, p. 112.)

No complaint of Capt. May was made. "The only conversation was a request for information, not asking for favors, or a discussion of business details at the time I was there." (Serial III, p. 118.)

Mr. Richardson (Serial VIII, p. 1003) recalls Mr. Brownell's part in the interview in the same way, and then says: "The judge opened the matter of business on which he called by stating that he was either interested for himself or other parties in the Katydid culm bank. I told him I had had some conversation with Capt. May in regard to it several months prior to that time; that just what it was I could not recall, but that the next time Mr. May was in New York, or I was in Scranton, I would make it a point to ask him what the situation was, and to see if some determination could not be arrived at."

On August 25, 1911 (Serial IV, p. 6), Richardson talked with May in New York about this and other matters, and according to Richardson told May to "go ahead and see if he could not close it up in some manner" (Serial VIII, p. 1014), and since that time Richardson has had no communication from May about it (Serial VIII, p. 1007).

May proceed to close the matter up by giving what is known as the "May option" of August 30, 1911, agreeing to "recommend" the sale of the Hillside interest, such as it was, for $4,500.

It is important to remember the length of time which these negotiations consumed, in view of the fact that Williams mistakenly crowds the events at some places into two weeks (Serial I, p. 25; Serial II, p. 48), giving the impression that his failure to get a favorable answer from May was followed immediately by threats against May by Judge Archbald, a visit by the latter to Brownell, and an instant giving of the option.

No witness testifies to any threats made to the Erie officials, or anything even approaching it.

Williams' attitude as to these alleged threats is best illustrated by the following quotation from the testimony, referring to the statements made by him to Mr. Wrisley Brown (Serial II, p. 15):

"Mr. WILLIAMS. He [Judge Archbald] said 'I have some cases here for them now.' That is all he said.

"The CHAIRMAN. Did you not tell Mr. Brown, and do you not now say, that you thought that the judge meant that he had a chance to do something for them or against them; for May or for the railroad company, or against May or against the railroad company?

"Mr. WILLIAMS. He did not say so.

"The CHAIRMAN. What was the inference you drew from his remark?

"Mr. WILLIAMS. That would be mine; it would not be his."

The dates are also important for the purpose of comparison with the dates of the so-called Lighterage case. This was begun April 12, 1911, and was argued May 17, 1911, and preliminary injunction granted May 22, 1911, and appeal to the Supreme Court taken June 13, 1911. (Brownell, Serial III, p. 111.) It could hardly have come to Judge Archbald's attention until it was argued, and it was decided long before the visit to Brownell. Seager says that the appeal to the Supreme Court will dispose of the whole case. (Serial VII, pp. 947, 955.)

When the complainant moved for the appointment of an examiner to take testimony, Mr. Esterline for the Government resisted, saying (Serial X, p. 1208):

"The case has gone to the Supreme Court of the United States on the old record * * * not a word of which is disputed * * * and the Supreme Court's decision * * * will dispose of that case. * * * It is the contention of the Government that there is no testimony to be taken, and the decision of the Supreme Court will be final."

Though the examiner was appointed, no testimony has in fact been taken in the eight months which have elapsed (Serial X, p. 1212).

The dates show also how absurd is such an invention—by somebody—as that which appears in Miss Mary Boland's notes, that Williams said, on September 18 and 28, 1911, that Judge Archbald was then preparing a "brief" for the Erie Railroad in the Lighterage case (Serial V, pp. 610, 611).

(B) MIXED STATE OF THE TITLE AS TO KATYDID DUMP.

This best appears from the evidence of Capt. May (Serial III, pp. 10, 49) and of Robertson (Serial III, p. 119). The dump rested on a tract of land known as lot 46, owned one-half by the Hillside Coal & Iron Co. and one-half by a number of people with quite minutely subdivided interests known collectively as the "Everhart estate." The Hillside Co. had a license to mine from the Everharts, contained in a letter (which had been lost), by which it was agreed to pay them 20 cents a ton upon sizes larger than pea coal, and the Hillside had collected on that basis for the Everharts in the past. The Hillside Co. had mined the tract at one time, but most of the dump was produced by Robertson & Law, under a lease from the Hillside Co., at certain royalties stated by May (Serial III, pp. 11 and 22). The Everhart license was revocable at any time (Serial II, p. 11). Robertson had succeeded to all the rights of his firm, and had maintained his possession of the dump, taking coal from it from time to time (Robertson, Serial III, pp. 119, 140).

Judge Archbald and Williams had evidently supposed that the Hillside's agreement with the Everharts, their coowners, would permit them to dispose of the Everhart interest as well as their own; but when it appeared that the Hillside would only give a quitclaim, and the title was looked into by the attorneys for the Laurel Line, to whom a resale was proposed (Serial III, p. 74), the Everhart rights were brought up, and not only stopped that sale, but compelled the negotiators to try to purchase that interest through the intervention of Dainty, who was supposed to have influence with them (Williams, Serial II, p. 9).

These efforts, however, to the contrary, evidently stirred the Everharts into activity and they flooded Capt. May and Robertson with notices forbidding them to sell (Serial III, p. 42; Serial II, p. 135; Serial III, p. 173), so that Capt. May, under advice of his attorneys, eventually refused to go on with the sale at all.

These notices were dated April 11, 13, and 19. Capt. May says that he had no knowledge of any investigation by the Government into these transactions until he saw it in the newspaper of April 21, 1912 (Serial III, pp. 168, 170, 187); and there is no evidence to contradict this, so that his reason must be taken to be true.

(C) VALUE OF THE DUMP.

To support the suspicion that undue influence was exerted by Judge Archbald, it is intimated, rather than charged, that he was afforded an opportunity to make a large profit by giving him favorable terms.

The interests of Robertson and the Hillside were not one-half each, as has sometimes been assumed. If they were, Robertson's price made to Williams without Judge Archbald's interference ($3,500) would be a good standard by which to judge the Hillside's price ($4,500). The most accurate way of determining the value of the Hillside interest, however, is that adopted by Capt. May, who takes the Hillside interest at exactly what it was, to wit, a royalty interest, and by multiplying the number of tons in the dump, as estimated by Rittenhouse, the engineer employed both by the Government investigator and by the Laurel Line, and multiplying it by the royalties arrives (Serial III, p. 22) at the figure of $2,752.71. The purchasers, in addition, would have to pay the Everhart royalty of 20 cents per ton for sizes larger than pea coal (May option, Serial I, p. 26). Of this Rittenhouse estimated (Serial II, p. 21) 5,477 tons. The resulting royalty is $1,095.40.

The value of the dump is also shown by the terms of the resale to the Laurel Line. The very careful and detailed estimate of Mr. Rittenhouse, the engineer employed by the Government, showed the total contents of the bank to be 90,186 tons, and applying his percentages of the various sizes of coal down to the smallest size in use we get 46,704 tons of coal of all sizes (Serial II, p. 198), or 41,227 tons, excluding chestnut (Serial II, p. 190).

The survey of the Erie engineers showed 42,500 tons of merchantable coal (May, Serial III, p. 25). These estimates are probably much more accurate than those made by the eye merely of other people. At any rate, they are the estimates upon which the parties acted.

Mr. Conn, for the Laurel Line, agreed to give "a royalty of 27½ cents per gross ton for all coal shipped, with a minimum of 20,000 tons per year, and if you agree to accept this proposition will arrange to pay $10,000 as advanced royalties."

This appears by his letter of November 29, 1911 (Serial III, p. 77), and it is important to note it, as many of the witnesses, by misunderstanding, refer to the price as a flat rate of 27½ cents per ton; that is to say, for every ton of material, whether merchantable coal or waste. Mr. Conn says (Serial III, p. 81) that he based his figures on a total tonnage of 50,000 (the word "thousand" is omitted in the printed report). The Rittenhouse tonnage of 46,704 tons, at 27½ cents a ton, amounts all together to $12,943.60, which is the price Conn was thus in effect to pay for the dump.

The Bradley price of $20,000 was made in April, 1912 (Serial III, p. 148), at a time when the coal strike had caused a great advance in the value of dumps (Serial VI, p. 707; Serial II, p. 54), and as to the Bradley negotiations there is no evidence that Judge Archbald was in any way a party to them.

The Thomas Star Jones option for $25,000 came to nothing as soon as Jones had looked at the bank and estimated the quantity of coal in it. (Serial VIII, p. 979.)

A year or two before this transaction Robertson had proposed to sell the dump to the Du Pont Powder Co. for $10,000, and at that time Capt. May had tentatively agreed to sell the Hillside interest to Robertson (out of which he was to take care of the Everharts) for $2,000. (May, Serial III, pp. 36, 38, 39, and 50; Robertson, Serial III, pp. 120, 121, 122, 138.)

Rittenhouse, however, has a calculation of the large profits which the Erie or Hillside gave up to do this "favor." As to the profits of the railroad on the transportation of the coal, we find that Capt. May, in his option, reserved the right to approve of the purchaser, and proposed to draw further articles of agreement. (Serial I, p. 26.) Accordingly, when he did come to draw the only definite agreement to which he committed himself—the Bradley contract (Serial III, p. 171)—the lessee was obligated to ship over the Erie Railroad, and on failure to do so the agreement was to be revocable.

The profit to the Erie from transfer, etc., of the coal was thus expressly saved to it and drops out of the account. Whatever it amounted to it would still be made.

As to the profits on washing the bank itself to be made by the Hillside, this is all based on a conveying of the coal to the Consolidated Washery of the Hillside, which was some distance away. That the committee did not place any confidence in this theory of Mr. Rittenhouse is shown by the fact that when Capt. May undertook to explain why the Consolidated Washery of the Hillside could not handle this bank the chairman admonished him (Serial III, p. 24):

"Mr. May, the Chair does not desire to say how you shall answer any question, but the Chair submits to you that it would be well to omit from the record things that have no bearing upon this inquiry. I leave that to you?"

Whereupon he desisted.

The most important thing, however, is that the Hillside Co. did not own the bank. Robertson owned it, subject to the payment of a royalty to the Hillside; and while he had been wanting to sell to them and had been negotiating to that end for over a year, the bank was not of sufficient value to get as far as the mention of terms. (Serial III, p. 120.) If it was of such enormous value to the Hillside, they could and would unquestionably have bought out Robertson long before.

Rittenhouse figures out (Serial II, p. 199) that the Laurel Line would about break even at a "flat" rate of 30 cents a ton and that any other operator must lose money.

This absolutely proves that no favor was granted and that the whole matter was treated on a business basis.

Through all Judge Archbald's part in these negotiations there is not the slightest thing which has been connected by competent evidence with him to show that he tried to conceal his interest or deal in any other than an ordinary business way. The letter to Capt. May was in form a direct inquiry by him (Serial II, p. 83), and it was known to six or seven people in Capt. May's office. (Serial III, pp. 46, 69.) The Conn letter (Serial I, p. 33) was also in Judge Archbald's own name, and in it he stated explicitly that he was interested with Williams in the matter. W. P. Boland says (Serial VI, p. 759) that the agreement drafted with Conn was in Judge Archbald's name only. The talk with Robertson was that Judge Archbald was to have an interest (Serial III, p. 123), and Robertson says that everybody concerned knew of it. (Serial III, p. 127.) The Robertson option was in Judge Archbald's handwriting, witnessed by him, and ran in the name of Williams doubtless because Capt. May had first given his option in that form.

The only suggested concealment is in the papers concocted by W. P. Boland as part of the so-called "proofs" which he was getting up. These are the "silent party" paper of September 5, and the absurd veiled reference to a party not named in the letter of Williams to Conn of March 13. Boland admits that he helped to prepare both of these papers (W. P. Boland, Serial VI, pp. 756, 805), although his niece and stenographer remembers with great positiveness, and repeats twice (Mary F. Boland, Serial V, p. 616; Serial VI, p. 632) that both W. P. Boland and C. G. Boland were in Wilkes-Barre on the day the March 13 paper was prepared, and that Williams alone told her what to say in that letter. Boland says (Serial VI, p. 805) that he thinks that Dainty, Williams, and himself "participated in the formation of this letter" of March 13; that the dictation of the letter was the suggestion of all three of them. Williams certainly intends to be understood as saying that Judge Archbald knew nothing of the "silent party" paper (Serial I, pp. 44, 45; Serial II, pp. 43, 69), and nowhere contradicts his repeated assertion that Judge Archbald did not ask to be referred to as a "silent party." (Serial I, p. 46; Serial II, pp. 43, 56, 61, 63.) The letter of March 13, W. P. Boland says, was inspired by a desire to see Williams take his profits. (Serial VI, p. 760.) This is a novel motive for his acts. It was much more likely an effort to close the deal in order to get more convincing "proofs," as was also his suggestion of Bradley as a purchaser. (W. P. Boland, Serial VI, p. 760.)

4.—Darling Letter.

This was one of the most startling of the original charges. In the Cockrell memorandum of January 6, 1912, Boland is stated to have said that this sale was about to be closed (Serial II, p. 153). The letter from Judge Archbald to Darling was dated August 3, nearly seven months before (Serial III, p. 141).

It appeared that Williams asked Judge Archbald for a letter of introduction to Mr. Darling, an attorney, that Williams might inquire about the purchase of a culm dump. This was evidently instigated by W. P. Boland as part of his trap, for he promptly photographed the letter. Indeed, W. P. Boland admitted before the Attorney General that he put Williams up to getting this letter from Judge Archbald to Darling (Serial III, p. 165).

Williams was immediately informed that the dump was leased to another party, so that there were really no negotiations. No railroad or other litigant had any connection with the Hollenbach Coal Co., which owned the dump (Darling, Serial III, p. 142; Williams, Serial II, p. 30).

5.—Thirty-Day Order to Close Testimony in Peale Case.

The most obvious thing about this charge is that it is based on W. P. Boland's interpretation of oral remarks made by Judge Archbald upon the hearing in chambers of the application for the order, easily misunderstood by a layman, and most certainly misunderstood by a man of Mr. Boland's prepossessions (Serial VII, p. 817). A copy of the order (Serial VII, p. 817) shows as follows:

"Now, 27th day of January, A. D. 1911, it is ordered that the hearing before the special examiner in the above-entitled action be continued from 30th day of January, A. D. 1911, to 27th day of February, A. D. 1911, at the city of New York, State of New York, and that the defendant resume the taking of testimony on said 27th day of February, 1911, and continue the same until the defendant rests."

No more extensions were asked for (Serial VI, p. 743), although Judge Archbald meanwhile had gone on the Commerce Court bench, and the new judge might have been applied to. The order gave the defendant an indefinite time after February 27 in which to take its testimony and, as a matter of fact, there is no evidence as to when the testimony was closed. W. P. Boland's recollection is indefinite, and he does not assert that they ceased taking testimony after February (Serial VI, p. 787). The docket entries (Serial IV, p. 91) show that an amendment was applied for by the defendant on June 30, 1911, and that the evidence of both plaintiff and defendant, including rebuttal evidence of the plaintiff and surrebuttal of the defendant, were filed July 18, 1911. The case had been pending before the examiner for over 14 months—since November 17, 1910. The Supreme Court equity rules (rule 69) require the testimony in every case to be completed within three months. Mr. Frank E. Donnelly, the attorney for the Marian Coal Co., was not called to give the effect of the order upon the defendant's case, which he would naturally understand better than his client. In fact, Boland's complaint is not so much of the "30-day" order, as of what he alleges was the refusal of Judge Archbald to order the plaintiff to furnish a statement of the customers with whom he dealt, so as to enable Boland to investigate the facts. As brought out by Mr. Sterling in the examination of W. P. Boland (Serial VI, p. 743) and Mr. Graham (Serial VI, p. 733), there was no real application for such an order except so far as appears by the indefinite and easily misled recollection of W. P. Boland himself. There is no record evidence of it. In fact the Bolands did find what they wanted in the books of Peale, Peacock & Kerr (Mr. Graham's examination of W. P. Boland, Serial VI, p. 787).

It is hardly supposed that the granting of this order in the ordinary exercise of judicial discretion is sought to be made into an impeachable offense. Doubtless it has an important bearing on W. P. Boland's actions, because he says it is that which started his real suspicions of Judge Archbald's integrity, and started him on his plan to entrap Judge Archbald. In fact, he says that the $500-note incident would have been forgotten but for this order (Serial VI, pp. 768, 793; Serial VII, p. 816).

6.—Judge Witmer's Decision in the Peale Case and Judge Archbald's Connection With It.

The absurd story heard by W. P. Boland—or believed by him to have been heard—that Mr. Loomis, the vice president of the Lackawanna Railroad, got Judge Archbald to influence Judge Witmer to render this decision was the next act of oppression which actuated W. P. Boland, and he speaks of it in the same connection as his complaint about the "30-day" decision (Serial VI, p. 793; Serial VII, p. 816).

It is sufficient to say of this that neither W. P. Boland (Serial VI, pp. 783, 784, 765) nor C. G. Boland (Serial IV, p. 100) pretends to have any first-hand knowledge, but claim to have derived their story from Watson and Searle. Loomis (Serial IX, p. 1153) denies the story, and no inquiry was made of Watson or Searle, although attention was called to it by counsel for Judge Archbald when Searle was on the stand. (Serial X, p. 1253.) Phillips says that Boland told him that Searle told him that Loomis told Judge Witmer to render the decision. (Serial VII, p. 841.) There is nothing further to discuss with regard to it.

7.—Attempted Settlement of Marian Coal Co. Litigation.

Judge Archbald had nothing to do with the employment of Watson by the Bolands. They employed him on the recommendation of Williams as a man who had influence with the railroads. The inference is strong that the Bolands believed that Williams had in mind that Watson would interest Judge Archbald, because the whole incident is brought in in connection with Williams's alleged relations with Judge Archbald. (W. P. Boland, Serial VI, p. 734; C. G. Boland, Serial IV, p. 82; Reynolds, Serial V, p. 580.) Watson says that C. G. Boland first came to him about the matter—he does not know why—and that Boland suggested that Watson bring in Judge Archbald. (Serial VII, p. 844).

Whether the Boland motive was to trap Judge Archbald or to profit by the undue influence which they believed he could exert, their story is incongruous with the present assertion that they resented his interference (W. P. Boland, Serial VI, p. 784; C. G. Boland, Serial V, p. 541), though they never actually protested even when (as they allege) they were told that wholesale bribery was to be practiced in their behalf. Still more incongruous is the assertion that Judge Archbald's acts were in the interest of the railroad in order to delay the rate case until the Peale case should put them out of business (W. P. Boland, Serial VI, p. 737), which is evidently inspired by Boland's attorney, Mr. Reynolds. (Reynolds, Serial V, pp. 585, 594.) The Bolands themselves sought Watson and started these negotiations. They negotiated themselves with the railroad company, both before and after. (Serial VII, pp. 937, 938, 943.) The active work of the negotiation occurred in September, after the Peale decision. (Loomis, Serial IX, p. 1134 et seq.) And if designed for delay the negotiation would not have been broken so decisively by the railroads after only one interview with the railroad heads and with no suggestion of any further conference. (Serial IX, p. 1145; Serial X, p. 1188.)

Here again there is nothing but incompetent hearsay evidence that Judge Archbald was to participate in the fees or profits to be made by the settlement of this case. W. P. Boland does not pretend to have talked to Judge Archbald about it on any occasion (Serial VI, p. 729). C. G. Boland only goes so far as to say that he met Watson in Judge

Archbald's office, that Judge Archbald said he would be glad to help in the settlement, and called Loomis on the telephone while C. G. Boland was there, and, further, that Judge Archbald wanted an assurance of a fee of $5,000 to Watson, and that pursuant to this assurance C. G. Boland got a paper from W. P. Boland promising this fee, and gave it to Watson (Serial IV, pp. 82 and 83). All that C. G. Boland had to say about a division, either of the $5,000 fee or of the difference between $100,000 and $160,000 to be divided with Judge Archbald and the officials of the Lackawanna Railroad, he does not pretend to know of his own knowledge, but only by relation from Watson (Serial IV, pp. 88, 97, and 102). Indeed, C. B. Boland does not claim that Watson said that Judge Archbald asked for money, but merely that Watson said, "The judge was certainly an important factor," and "he felt the judge ought to be compensated." Although C. G. Boland talked to Judge Archbald about this settlement (Serial V, p. 541), and had a letter from him as late as November 13 (Serial V, p. 554), and talked to Loomis and Phillips, the officials of the Lackawanna Railroad, who, he says he thought, were to participate in the excess price asked by Watson (Serial V, pp. 537, 538, and 539), he never mentioned the matter to Judge Archbald or Mr. Loomis, and when he spoke of it to Phillips the latter (p. 538) vigorously denied it.

Phillips (Serial VII, p. 842), Watson (Serial VII, p. 901), and Loomis (Serial IX, pp. 1153 and 1157) all emphatically denied this story.

Although the above covers only a very small part of the charge made and the testimony taken on this transaction, it does cover all that could by any possibility be made an impeachable offense. That Judge Archbald interested himself as a mediator between the Marian Coal Co. and the Lackawanna Railroad, whether out of friendliness to the Bolands or to Watson or to the railroad, is not an offense of that character, unless he was either to profit by it or was to use an improper influence to bring it about. There is no evidence of either.

Criticisms upon Watson's testimony, and variation of his dates with the dates fixed by other witnesses, will not create evidence that Judge Archbald exercised any improper influence over the railroad, or attempted to do so, or that Watson asked him to do so, or, indeed, at the time of his Washington visit, asked him to interfere further at all in the case.

The reason for Judge Archbald's interest, in the entire absence of competent evidence of a corrupt motive, is evidently that given by several witnesses, as follows:

C. G. Boland (Serial IV, p. 89): "When I was called over to his office I was led to believe that he was acting as a friend of Mr. Watson; and I might say that the judge and myself have been neighbors for more than 40 years. We were friends."

Truesdale (Serial IX, p. 1113): "They were all, I took it, acquaintances and friends of long standing of Judge Archbald's."

Loomis (Serial IX, p. 1142): "Mr. Archbald being a friend of the Bolands and being friendly to us, was simply acting as a mediator to adjust the differences that were existing between our companies."

Jenney (Serial IX, p. 1168) says that on asking Maj. Warren, his associate attorney in Scranton, what Judge Archbald's motive was, he received the answer that Watson was influential in getting the United States court located at Scranton, drew the bill, and expected to be the judge, and that Judge Archbald, having been appointed in his stead, felt kindly toward him and wanted to help him, and was therefore drawn in by Watson.

That Watson raised the price he asked of the Lackawanna Railroad from the figure of $100,000, authorized by the Bolands, to $160,000, without authority, would, if true, affect only his relations with his client and would not tend to prove that Judge Archbald or anybody else was to participate in the excess sum. It is interesting, however, to notice that as early as September 1, 1911, the claim made in behalf of the Marian Coal Co. for reparation against the Lackawanna Railroad was for an average of 43 cents excess rate per ton upon 376,000 tons of coal shipped, amounting to $161,680 (letter of Phillips to Loomis of Sept. 1, 1911, Serial VII, p. 942). This is the sum which figured as Watson's demand. And from the date of this letter it evidently figured in the negotiations long before Watson's interview with Phillips, Loomis, and Truesdale on October 5, 1911. In fact, independently of Watson, the Bolands were seeking a settlement by interviews with Mr. Reese, the Lackawanna's attorney in Scranton. (Reese to Seager, July 31, 1911; Reese to Phillips, July 29, 1911, speaking of interview with W. P. Boland; Reese to Seager, Aug. 11, 1911, Serial VII, pp. 937 and 938.) Boland also continued negotiations after Watson's intervention. (Letter, Reese to Seager, Jan. 12, 1912, speaking of conference with Boland about settlement of all claims, Serial VII, p. 943.) And, as is already noted, C. G. Boland himself interviewed Loomis and Phillips after Watson had dropped out. (Serial V, p. 537.) The manner in which this claim of $161,680 is made up precludes the possibility of its being invented by Watson, as asserted by the Bolands. Although Boland's clerk, Pryor, prepared some figures about freight rates and tonnage to show the coal company's damages and took them to Watson (Serial IV, pp. 50, 72), who returned all his papers to the Bolands (Serial VII, p. 844), and although Judge Archbald evidently had some papers which he returned with the "Dear Christy" letter (Serial V, p. 554), no papers whatever are produced by the Bolands which were used in the Watson negotiations, and their absence is not accounted for. It is highly probable that they showed these very figures.

Nor is there a word of testimony to connect Judge Archbald with Watson's intention to collect an excess of over $60,000 if it existed.

This closes the discussion of all the charges that were preferred against Judge Archbald either in the Cockrell memorandum or the hearing before the Attorney General.

Other charges which have been indicated in the taking of testimony before the committee will next be considered.

8.—RISSINGER NOTE.

As to this note the intimation seems to be that Judge Archbald sat as trial judge in a case in which one Rissinger was interested as plaintiff against insurance companies at a time when he was indorser on Rissinger's note for $2,500.

This is disposed of by the fact that Mr. Reynolds (Serial VI, p. 636) and Mr. Lenahan (Serial VIII, p. 1051) assert that Judge Archbald's rulings could not possibly have been different from what they were. They both participated in the trial and settlement as counsel for the plaintiff.

The record dates also prove that the suit was tried and settled November 23, 1908 (Docket entries, Serial VI, p. 657), and that the note which was in form an accommodation and discounted for Rissinger, the maker, was dated November 28, 1908, and discounted December 12, 1908. (Wallace M. Ruth, cashier of the bank, Serial VI, p. 665).

9.—AS TO THE SUM OF $250 RECEIVED FROM SALE OF GRAVITY FILL.

Here the charge appears to be that Judge Archbald received the sum of $250 for using his influence with railroads in connection with a culm dump known as the Gravity fill.

It is apparent that Judge Archbald really received this money for services in negotiating with Mr. Berry (who represented the owners of the dump), as testified by Berry (Serial VIII, p. 1055). Neither Berry nor his principals, nor any of the other parties to the transaction, had any affiliations with any of the railroads or any parties litigant in Judge Archbald's court. The coal from this dump is all shipped over the "Laurel Line," which is not an interstate line, and can therefore have no cases in the Commerce Court (Serial VI, p. 706). There is nothing improper in this transaction, unless it be an offense on the part of a judge to engage in any business transactions whatever. This is the only money, or profit of any kind, which anybody testifies Judge Archbald actually realized from any transaction.

10.—INTERVIEW WITH RICHARDS ON BEHALF OF WARNKE.

Both Mr. Richards (Serial VI, p. 668) and Mr. Warnke (Serial VI, p. 675), say that the only thing that was done was that Judge Archbald requested Mr. Richards, an official of the Philadelphia & Reading Coal & Iron Co., to give Warnke another hearing on an old controversy, but that this was politely but firmly refused. The matter ended there. Nobody says that Judge Archbald acted in any other capacity than as a friend of Warnke or suggested the granting of any other favor than a rehearing.

11.—SALE OF INTEREST IN EVERHART LAND TO LEHIGH VALLEY COAL CO.

Mr. Warriner testifies (Serial VI, p. 710) that his company, the Lehigh Valley Coal Co., had been buying up the title of the lessors in a certain tract of which the company was lessee, and that the interest owned by a Mrs. Llewellyn, one of the Everhart heirs, was still outstanding, as she would not sell. Judge Archbald said to him that a man named Dainty had influence with Mrs. Llewellyn and could persuade her to sell, and Mr. Warriner thereupon gave to Judge Archbald the price at which they would buy, which was the same proportionate price as they had given to the other interest, saying that they absolutely would pay nothing more. He supposed that Judge Archbald was acting as a friend of the owner, because the people originally came from Scranton, and he heard nothing further from it after that (Serial VI, p. 710, et seq.).

Williams testifies (Serial II, p. 22) that "Judge Archbald had no interest in it"; that he (Williams) introduced Dainty as a friend of the Everharts to Judge Archbald, because he (Williams) "thought" Judge Archbald could get the Lehigh Valley Coal Co. to pay the price Mrs. Llewellyn, one of them, wanted; that Judge Archbald communicated with Mr. Warriner. Further than that he knows nothing.

Even W. P. Boland says of this transaction (Serial VI, p. 779): "I do not think there was to be a cent divided on the Everhart deal by any of them."

12.—MORRIS & ESSEX TRACT, OWNED BY THE LEHIGH VALLEY COAL CO.

This tract was sought to be leased by Dainty from the Lehigh Valley Coal Co. There is nothing to show that the negotiation got so far as to mention terms. It is linked with the previous transaction (No. 11, above), although not otherwise than that Judge Archbald said to Mr. Warriner, at the time of his interviews about that matter, that Dainty would like to have a lease of this tract. The two matters had no connection in Mr. Warriner's mind (Serial VI, p. 714), and Judge Archbald was not to have any interest in the matter (Serial VI, p. 720).

Mr. Wrisley Brown (Serial X, p. 1291) testifies that Dainty said to him that Judge Archbald had no interest in this Morris & Essex tract.

Williams testifies (Serial II, p. 27) that he knows of this only from Dainty; that he knows of no interest of Judge Archbald in it, and he does not appear to know of any terms.

W. P. Boland knows of this only from Dainty (Serial VI, p. 772), and has a most remarkable story twice repeated (Serial VI, pp. 772 and 779); that it was a reward to Judge Archbald for services to the Lehigh Valley in the "segregation" or "commodity-clause" suit. This, no doubt, refers to the litigation which resulted in the decision of the Supreme Court rendered May 3, 1909, before the Commerce Court was created, in United States *v.* Delaware & Hudson Co. (213 U. S., 366), a litigation with which Judge Archbald was never connected in any way.

The interest of Judge Archbald in this matter doubtless grew out of the fact that Dainty was to help clear up the Everhart interest in the Katydid culm dump, which, while outstanding, stood in the way of a sale to Mr. Conn (W. P. Boland, Serial VI, p. 774; Williams, Serial II, p. 9).

13.—PACKER NO. 3 DUMP.

As to this the intimation seems to be that Judge Archbald's influence with the Lehigh Valley Railroad was used in an attempt to procure a lease of a valuable culm dump.

Judge Archbald's attention was evidently brought to this dump by the fact that he had been approached about purchasing a neighboring washery known as the "Oxford," and on finding that this was not a good proposition had been drawn off to what seemed a better one near by (Archbald letter to Warriner, Serial X, p. 1229).

This dump was produced by the Lehigh Valley Coal Co. in mining operations under a lease from the Girard estate, which expires December 31, 1913. Notwithstanding it had run several years, the company was making no use of the dump (Serial IX, p. 1099), although they were doing a little toward working an adjoining dump of better quality (Serial IX, pp. 1106 and 1109; Serial X, p. 1231).

One of the dumps applied for the company had tried to work and found too full of ashes. (Serial IX, p. 1106.) The dumps, in fact, were of poor quality (Serial IX, p. 1105), and the company did not make a practice of working their dirt banks. (Serial IX, p. 1109.)

Judge Archbald and his associates apparently secured from Mr. Warriner a tentative agreement that they might get from the Girard estate a lease on this dump, the terms of which arrangement are shown by letter of Judge Archbald to Col. James Archbald (Serial IX, p. 1086), which provided for shipping over the Lehigh Valley Railroad, and for a royalty to the coal company added to the royalty that was to be paid to the Girard estate, and included an arrangement for keeping the stream clear of slush. Mr. Thomas, the president of the company, said that he had never agreed to this and that his consent was necessary. (Serial X, p. 1214.)

Madeira Hill & Co., of the Oxford washery, had previously obtained Warriner's consent to a lease of this bank to them, but the matter had fallen through. (Serial IX, p. 1109.)

The whole matter fell through because the Girard estate thought such a sublease would interfere with negotiations for a new leasing of the mines operated by the Lehigh Valley, and might deter other applicants which were in sight. (Serial IX, p. 1090.) Doubtless, however, the Lehigh Valley would not have objected to an arrangement which would have done this, as it would have helped them in their application for renewal.

14.—HELM BRUCE CORRESPONDENCE.

The letter of Mr. Helm Bruce relating to the testimony of Mr. Compton, elicited by Judge Archbald, was pasted into the record, evidently put there by Judge Archbald (Serial VIII, pp. 1066, 1079), so that all parties had the benefit of it, whatever it was. As stated by Mr. Bruce, the matter was not important, and the subsequent decision of the case the testimony of Mr. Compton was taken as it originally stood. "A colloquy occurred in the course of Mr. Compton's examination," the opinion says, "in which he seems to have admitted that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments," which proves that the testimony was not regarded as changed. The same is substantially true with regard to the other inquiries answered by Mr. Bruce. The opinion assumed that there had been departures from the "Cooley adjustment" with respect to commodity rates, and that commodity rates were possibly what the commission, in speaking of these departures, had in mind, and the opinion then proceeded to show that this did not affect the stability of the "Cooley adjustment," it being class and not commodity rates that were involved. With this conclusion reached, the importance of the inquiries disappeared.

15.—WIRE TRUST SENTENCES.

It is submitted that these sentences involved the exercise of judicial discretion, and that nothing appears to indicate that that discretion was not wisely exercised. District Attorney Wise, in conference with the Attorney General, prefigured the result, calling attention to the fact that these Wire Trust pools had been discontinued for some considerable time, and expressing the opinion, in view of this and the doubtful construction of the Sherman law prior to the Standard Oil decision in the Supreme Court, that a jail sentence was not necessary, and not likely by any judge to be imposed. (Serial X, p. 1200.) He also distinctly said that he had not asked for more than a fine in any of the cases (p. 1200), except that of Jackson, on whom the maximum fine of $5,000 in each of the nine cases in which he was indicted was imposed. Nor would he deny that in discussing beforehand in chambers with Judge Archbald and counsel for the other defendants the question of the fine to be imposed on them, $2,000 was all that he had asked (p. 1202). The observations of Judge Archbald, at the time the sentences were imposed, disclose the considerations by which he was moved and justify the result (pp. 1205 and 1298).

16.—PURSE CONTRIBUTED BY MEMBERS OF THE BAR.

This money was not put into Judge Archbald's hands until the steamer was just ready to start, and Judge Archbald had no knowledge of it until that time. (Serial X, pp. 1242 and 1249.) It was intended as spending money to relieve Judge Archbald when called upon to go outside the expenses of the trip, which was made as the guest of a relative. (Serial X, pp. 1243, 1250.)

However embarrassing it might be to receive the money, it was impossible to refuse it in good taste and without reflecting on the givers. Nobody pretends that any of the gentlemen who contributed to this fund or Judge Archbald himself connected this transaction with any litigation then pending or liable to arise in the future.

THE LAW.

A corrupt decision is of course an impeachable offense.

The charges with regard to the Boland and Rissinger notes are the only ones which even approach to this character, and they are disposed of by the evidence.

An unwise decision will hardly constitute an impeachable offense, and even those who disagree with the penalties inflicted in the Wire Trust cases can not characterize them further than that.

All the other charges, which do not fail utterly on the testimony, relate not at all to corrupt or improper, or unwise, or even erroneous judicial action. Except for the Helm Bruce correspondence, they do not bear any relation to any specified litigation. Even the Litherage case on the statements made by Williams to Mr. Wrisley Brown bears only a remote relation to the Katydid dump; and when he dates are examined it appears that the business transaction which occurred months afterwards could not by any possibility have influenced the decision there. Indeed, nobody claims that it did.

No crime of any grade or under any law is alleged in these other charges, nor do they include any immoral act short of a crime.

Whether, therefore, impeachable offenses be those which have a criminal character, but may have no relation to the office of the person charged, and those which, falling short of positive crime, amount to improper conduct in the exercise of the office (as contended by the managers for the House in the Swayne case), or only acts which are criminal and performed in connection with official duty (as contended for the respondent in that case)—there is no impeachable offense shown here. Aside from the charges just mentioned, the acts of Judge Archbald consist solely of engaging in business dealings with those who were or might be litigants before him. Of course this in itself is not a crime of any grade whatever, and there is no suggestion even arising from the evidence before the committee that in any case such dealings were with an evil intent on the part of Judge Archbald.

It is not deemed necessary, in view of the weakness of the evidence in this case, to enter into any elaborate discussion of the authority as to what constitutes an impeachable offense. It is sufficient now to refer to what was said on this subject in the Swayne case.

The contention for the respondent in that case is shown by the following quotation from the brief of respondent's counsel (S. Doc. No. 194, 58th Cong., 3d sess., p. 393):

"In English and American parliamentary and constitutional law the judicial misconduct which rises to the dignity of a high crime and misdemeanor must consist of judicial acts performed with an evil or wicked intent by a judge while administering justice in a court, either between private persons or between a private person and the government of the State. All personal misconduct of a judge occurring during his tenure of office and not coming within that category must be classed among the offenses for which a judge may be removed by address, a method of removal which the framers of our Federal Constitution refused to embody therein."

And the contention on the other side appears well from the argument and citations of Mr. Manager Clayton for the House. (Id., p. 617.) He cites the following passage from the history of the Constitution of the United States, by George Ticknor Curtis, in volume 2, page 260:

"The purposes of an impeachment lie wholly beyond the penalties of the statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist when no offense against positive law has been committed, as when the individual has from immorality or imbecility or maladministration become unfit to exercise the office."

He quotes also from Foster on the Constitution (Id., pp. 619, 620), including the following paragraph:

"Some advocates have gone so far as to maintain by a misapplication of a term of the common law that the proceedings on an impeachment are not a trial, but a so-called inquest of office, and that the House and Senate may thus remove an officer for any reason that they approve. That Congress has the power to do so may be admitted, for it is not likely that any court would hold void collaterally a judgment on an impeachment where the Senate had jurisdiction over the person of the condemned. And undoubtedly a court of impeachment has the jurisdiction to determine what constitutes an impeachable offense. But the judgments of the Senate of the United States in the cases of Chase and Peck, as well as those of the State senates in the different cases which have been before them, have established the rule that no officer should be impeached for any act that does not have at least the characteristics of a crime, and public opinion must be irremediably debauched by party spirit before it will sanction any other course.

"Impeachable offenses are those which were the subject of impeachment by the practice in Parliament before the Declaration of Independence, except in so far as that practice is repugnant to the language of the Constitution and the spirit of American institutions. An examination of the English precedents will show that, although private citizens as well as public officers have been impeached, no article has been presented or sustained which did not charge either misconduct in office or some offense which was injurious to the welfare of the State at large.

"In this class of cases, which rests so much in the discretion of the Senate, the writer would be rash who were to attempt to prescribe the limits of its jurisdiction in this respect.

"An impeachable offense may consist of treason, bribery, or a breach of official duty, by malfeasance or misfeasance, including conduct such as drunkenness when habitual or in the performance of official duties, gross indecency, and profanity, obscenity, or other language used in the discharge of an official function which tends to bring the office into disrepute, or an abuse or reckless exercise of a discretionary power as well as a breach or omission of an official duty imposed by statute or common law, or a public speech when off duty which encourages insurrection. It does not consist in an error in judgment made in good faith in the decision of a doubtful question of law, except, perhaps, in the violation of the Constitution."

In the brief of respondent's counsel (Id., p. 396) occurs the following:

"On the other hand an equally untenable attempt has been made to widen unreasonably the jurisdiction of the Senate sitting as a court of impeachment by the claim that, under the general principles of right, it can declare that an impeachable high crime or misdemeanor is one in its nature or consequence subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or without violating a positive law, by the abuse of discretionary powers for improper motives or for an improper purpose."

In all these definitions there is either the element of crime or of breach of official duty. No contention appears ever to have been made that an act not criminal and not official is an impeachable offense. In the case of Judge Archbald nothing approaching any previous definition of impeachable conduct has been shown. To make such relations between a judge and others as appear here impeachable we must assume a law to be in force which makes it a crime for a judge to purchase property from any person or corporation who has, or is likely to have, litigation in his court. There is no such law, and it is hardly conceivable that Congress would enact such a statute to govern future cases.

In conclusion it is respectfully submitted to the committee that its jurisdiction is only to inquire and report to the House whether there is ground for an impeachment of Judge Archbald. If the committee shall find that no such ground exists, it should not, in fairness to Judge Archbald, inquire or report whether as to any of the matters referred to in the evidence he has been indiscreet.

One who is impeached is tried by a court where the rules of evidence govern the investigation of the facts and where he has the right to summon witnesses and to object to hearsay and other incompetent evidence. While this committee has permitted Judge Archbald to be present with his counsel during its hearings and to cross-examine such witnesses as were called by the committee, this has been done as a courtesy (which is greatly appreciated) and not accorded as a right. As suggested by the chairman during the hearings, the proceedings in this case have been in the nature of an inquiry, not a trial. This is eminently proper and in accordance with usage if the question to be determined is solely whether impeachment shall be advised. But if such a proceeding, where only one side is heard, should result in a report to the House that Judge Archbald's conduct has been merely indiscreet or censurable, a great injustice would be done to him, for in such a case there would be no opportunity afforded him to present his defense. It would be the equivalent of an indictment by a grand jury out of court.

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The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. CLAYTON. Let it apply to all gentlemen who have spoken or will speak.

The SPEAKER. The gentleman from Alabama asks to amend the request of the gentleman from Pennsylvania that all gentle-

men who have spoken on this subject have leave to extend their remarks in the RECORD on this subject.

Mr. CLAYTON. Or may hereafter speak.

The SPEAKER. Or may hereafter speak on it.

Mr. MANN. I think we had better first only have it apply to those who have spoken; however, I have no objection.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. HOWLAND. Mr. Speaker, in the history of the judiciary of our country we find very few cases of impeachment of Federal judges. That in and of itself is the highest compliment that could possibly be paid to the integrity of the Federal judiciary. And I shall always do everything in my power to maintain that high standard and keep the judiciary forum free from every suspicion of sinister influence or taint of corruption. When this matter was first referred to the Judiciary Committee I was prejudiced in favor of Judge Archbald, first, because I thought that probably the complaint was the work of disappointed litigants, and, second, because I did not like the motive of influential witnesses who had all too evidently tried to trap the judge, and I hesitated to set in motion the machinery of the Government in an impeachment proceeding, taking the time of this House and the time of the Senate, on biased, malicious, or doubtful testimony. But, Mr. Speaker, as the evidence kept piling up motives became immaterial and facts—bare, bold facts—stared us in the face, and I could not but feel that it was my duty to support this resolution in the committee and report it to the House.

I do not hesitate to say that here to-day we are facing a crisis in the judicial history of this country, and by this resolution we are raising the question here and now whether or not the machinery provided by the fathers in the Constitution of our country is sufficient to meet the issue raised at this time under these counts. If the facts alleged are substantiated and the established machinery for dealing with conditions therein set forth fails, the demand for radical changes in our organic law on this subject will have to be satisfied. Such conditions can not exist and confidence in the integrity of the judiciary be maintained. We owe a responsibility at this time to the people of this country who demand a pure and incorruptible judiciary, and we owe, if you please, a grave responsibility to the judge who is brought before this House. We occupy not the position of petit jurors, but in a certain sense each Member of this House now is sitting as a member of a grand jury, and the only question before us is the question of probable cause, a question of probable guilt, and not a finality.

The proceedings thus far have been ex parte, and every friend of Judge Archbald on this floor owes it to him at this stage of this proceeding to vote in favor of this resolution to-day, in order that he may have a full and free opportunity before the bar of the Senate to prove, if he can—and I trust in good faith and in all sincerity that he can—that he is absolutely innocent of the prima facie case which is made in this resolution.

Mr. Speaker, in my judgment your committee would have been derelict in the premises if, in the face of the testimony presented to that committee, we had failed to bring in this resolution. If it shall ultimately transpire that the evidence which we believe sufficient to warrant us in our action is sufficient to substantiate before the bar of the Senate the accusations which we bring, then under those circumstances Judge Archbald ought not to sit in judgment on the Federal bench. But if he is not guilty, then he will have an opportunity to establish that fact forever to the satisfaction of the entire country.

Mr. Speaker, I shall only call attention to one count in the resolution which seems to me, while it does not charge the judge with a crime under any Federal statute, to be one of the most serious charges brought against the judge, and that is article 12, which reads as follows:

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district; and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United States district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Mr. BOWMAN. Will the gentleman yield at that point just for a question?

The SPEAKER. Will the gentleman yield?

Mr. HOWLAND. I do not care to yield.

Mr. BOWMAN. Just one minute. Mr. Woodward is a constituent of mine.

Mr. HOWLAND. I yield, inasmuch as he is a constituent of the gentleman from Pennsylvania.

Mr. BOWMAN. Yes; and one of the most honorable gentlemen that resides in that district. He was the State Democratic delegate to the last convention. The difficulty was in that county that we had improper jury commissioners, and by a special request that gentleman was appointed to that office, and no objection was ever made to any juryman upon account of his selection.

Mr. HOWLAND. Mr. Speaker, I am raising no question as to the integrity or character of any man. All we have presented to us are the facts as developed by the testimony. I do not appear here as a prosecutor in any way, shape, or manner; but the fact that the attorney for a railroad company should be appointed by a judge as a jury commissioner to select the jury to try the cases of the railroad company in the judge's court and continues to act as such attorney and commissioner at one and the same time strikes me as the most severe indictment and arraignment of a judge that could possibly be presented. Justice may be blind, but we are not. [Applause.]

Mr. Speaker, I have heretofore on the floor of this House taken strong ground in favor of an independent judiciary, speaking particularly with reference to the recall of judges by popular vote. I speak just as strongly to-day for an independent judiciary as against the sinister influence of private interests. They must not and shall not creep into the court room by the back stairs.

While on the one hand we insist that political influences shall not reach the ear of the judge, we must just as strenuously insist that the ear of the judge shall not be secretly at the service of private interests in the selection of jurors or in any other manner. [Applause.]

Mr. FLOYD of Arkansas. Mr. Speaker, it is not my purpose to detain the House very long. I am anxious that this resolution shall be passed now, and will therefore avail myself of the opportunity of submitting a short statement of some of the more salient facts in the case.

I want to say that I heard every word of this testimony, as detailed by the witnesses, and after reading it as it has been printed in the hearings it is my judgment that the evidence before your Committee on the Judiciary sustains each and all of the 13 specifications or articles of impeachment against Judge Archbald. [Applause.]

Permit me to state briefly the testimony in support of article No. 1, which I regard as one of the most important charges embraced in the resolution.

Judge Robert W. Archbald was appointed a United States district judge for the middle district of Pennsylvania on the 29th day of March, 1901. He continued to serve as a United States district judge until the 31st day of January, 1911, on which date he was duly appointed as an additional United States circuit judge and designated as one of the judges of the United States Commerce Court, and entered at once upon the discharge of his duties as a judge of said United States Commerce Court. Judge Archbald, on or about the 31st day of March, 1911, became interested with one Edward J. Williams in an effort to purchase or secure an option on a certain culm dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson. Previous to this time, however, Edward J. Williams had applied to W. J. May, vice president and general manager of the Hillside Coal & Iron Co., for an option on the said culm dump, and May had refused to consider his application for such option. Edward J. Williams lives at Scranton, Pa., where Judge Archbald also resides. Edward J. Williams is a coal miner and coal operator, but in recent years has been engaged chiefly in buying and selling culm dumps under options secured from the owners thereof.

The evidence discloses that Edward J. Williams is not regarded in and about Scranton, where he has resided for about 20 years, as a man of financial responsibility, reliability, or of high character for truthfulness, and his testimony before your committee is so conflicting and vascillating in its character as to be abundantly convincing that any lack of confidence among his neighbors and fellow townsmen in his veracity is well founded. The evidence, however, discloses that Judge Archbald was well acquainted with Edward J. Williams and had ample opportunity to know his character and standing in said community.

On March 31, 1911, after Edward J. Williams had been refused an option on the Katydid culm dump, Judge Archbald entered into an agreement with the said Edward J. Williams whereby he and Williams agreed to become equal partners in the purchase of the Katydid culm dump with the view and for the purpose of disposing of said property under such option

in such a way as to be of financial profit to themselves. Pursuant to said agreement and understanding, and in furtherance thereof, Judge Archbald, on the date mentioned, addressed a letter to William A. May, vice president and general manager of the Hillside Coal & Iron Co., making an inquiry as to whether or not the said coal company would dispose of its interest in the Katydid culm dump, and if so, upon what terms, which letter was delivered in person by Edward J. Williams to William A. May, who thereupon directed an investigation and estimate to be made of the amount and value of the coal in said culm dump with the view of disposing of the dump to Judge Archbald and his associate, Edward J. Williams.

On or about the 15th day of June, 1911, William A. May brought the matter of the option of this property to the attention of his immediate superior in office, G. A. Richardson, vice president of the Hillside Coal & Iron Co., and also vice president of the Erie Railroad Co., and G. A. Richardson, disapproved of the proposal to sell or otherwise dispose of the property. Edward J. Williams, being fully advised as to the action of G. A. Richardson in refusing to approve or recommend the sale of or the giving of an option on Katydid property, reported the facts to his associate and partner, Judge Archbald, and thereafter, namely, on the 4th day of August, 1911, Judge Archbald, pursuant to an engagement previously made, met in the city of New York George F. Brownell, vice president and general solicitor of the Erie Railroad Co., and requested Mr. Brownell to put him in touch with that department or official of the said Erie Railroad Co. in control of the sale and disposition of the coal property belonging to the railroad company or its subsidiary corporations. And thereupon Mr. Brownell personally introduced Judge Archbald to G. A. Richardson, vice president of said Hillside Coal & Iron Co., and of the Erie Railroad Co., who was in charge of its coal department, and then and there Judge Archbald took up with G. A. Richardson the proposition for the purchase and option of the Katydid culm dump for himself and Edward J. Williams. At this conference G. A. Richardson at the instance of and by the influence of Judge Archbald changed his position and policy in regard to the sale and disposition of this property; and thereafter, on the 29th day of August, 1911, in a personal conference with William A. May, vice president and general manager of the Hillside Coal & Iron Co., directed the said William A. May to reopen negotiations with Judge Archbald and Edward J. Williams for the purchase of said Katydid culm dump; and on the 30th day of August, 1911, the day immediately following this conference, William A. May, in behalf of the Hillside Coal & Iron Co., executed a certain writing or option to Edward J. Williams for the use and benefit of himself and Judge Archbald for the consideration of $4,500, to be paid to the Hillside Coal & Iron Co. for its undivided one-half interest in the property.

At the time of these several transactions and negotiations the Erie Railroad Co. owned all of the stock of the Hillside Coal & Iron Co., and George F. Brownell was then and there vice president and general solicitor of the Erie Railroad Co., and G. A. Richardson was then and there vice president and general manager of the Hillside Coal & Iron Co. and was also a director of and vice president of the Erie Railroad Co. and was the immediate superior in office of the said William A. May. During the period covering the several negotiations mentioned Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting, and the Erie Railroad Co. was a common carrier engaged in interstate commerce and had divers and sundry suits pending in the United States Commerce Court for hearing and determination, and George F. Brownell was counsel of record in such cases. It is clear to my mind and it was clear to your committee that Judge Archbald well knew these facts and took advantage of his official position as judge of the United States Commerce Court to wrongfully induce and influence the officials of the railroad company to direct the officers of the Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and his associate, Edward J. Williams, for financial profit to themselves. It is also equally clear that Judge Archbald, through the influence exerted by reason of his position as judge of the United States Commerce Court, willfully and corruptly did induce and cause the officers of the Erie Railroad Co. to permit, direct, and influence the officers of the Hillside Coal & Iron Co. to enter into such contract contrary to the general policy of said company and for a grossly inadequate consideration.

After securing this agreement or option, Judge Archbald having also acquired from one John M. Robertson an option for the purchase of the remainder of Katydid culm dump in the name of his associate and partner, Edward J. Williams, on the 20th day of September, 1911, and at different times thereafter undertook in person to negotiate a sale of said culm dump to the Lackawanna, Wyoming & Valley Railroad Co. through Charles F. Conn, president and general manager of said railroad company, said railroad being an electric railroad engaged in intrastate business, but also in connection with other railroad companies crossing its line was engaged in handling traffic moving in interstate commerce. At the time aforesaid the Lackawanna, Wyoming & Valley Railroad Co. was a patron of the Hillside Coal & Iron Co. in the purchase of large quantities of coal for use in operating its line of railroad; at the time aforesaid an agreement was entered into by and between Charles F. Conn, president, as aforesaid, in behalf of his railroad company, and Judge Archbald and Edward J. Williams for the purchase of all the coal in said Katydid culm dump for 27½ cents per ton for the entire tonnage and material therein, amounting, according to the estimates of the engineers of the Erie Railroad Co. and also of the Lackawanna, Wyoming & Valley Railroad Co., to between 85,000 and 95,000 tons, which agreement was made subject to approval of title to said property by the attorneys of the Lackawanna, Wyoming & Valley Railroad Co., the title to which was not approved by the attorneys of said railroad company, and by reason of their failure to approve title the deal was not consummated. Under the terms of this agreement, based on the estimates of the engineers as aforesaid who examined the property, Judge Archbald and Edward J. Williams would have received under said contract a gross sum of from thirty-five to forty thousand dollars for said coal dump, and would have realized a net profit to themselves of from twenty to twenty-five thousand dollars.

After their failure to consummate the above-described deal with the Lackawanna, Wyoming & Valley Railroad Co., Judge Archbald and Edward J. Williams on or about the 11th day of April, 1912, entered into a contract with one Richard Bradley for the sale of the Katydid culm dump for the consideration of $20,000, which agreement was approved in writing by William A. May, vice president and general manager of the Hillside Coal & Iron Co., and by direction of the said William A. May the attorneys of the Erie Railroad Co. prepared a deed of conveyance conveying all of the rights and title of said coal company in the Katydid culm dump to Edward J. Williams for the use and benefit of himself and of Judge Archbald. This agreement and conveyance was submitted to the several parties in interest for their approval on or about the 11th day of April, 1912, and the matter is still pending, subject to the approval of the superior officers of the Hillside Coal & Iron Co. and of the Erie Railroad Co., and the execution of deeds and conveyances to the property aforesaid.

It is not denied that Judge Archbald was financially interested in each of the foregoing contracts and agreements mentioned and described, but he carefully avoided placing his name in the face of any of such contracts or agreements as one of the contracting parties, so that the fact of his having or owning an interest therein was concealed from the public, but the evidence fully discloses that Judge Archbald's interest in the several contracts and agreements made and sought to be made was well known to the officers and agents of said coal company and of the several railroad companies named.

I wish now to call your attention to another questionable transaction, namely, to the evidence of Judge Archbald's accepting as a gift or present a certain promissory note for $500, or an interest therein. Article No. 5 relates to the matter to which I wish now to direct your attention.

The testimony in regard to this transaction and to circumstances leading up to it is somewhat conflicting, but there is no view of this testimony which does not tend to the discredit of Judge Archbald. Edward J. Williams, the same Williams that was associated with the judge in Katydid culm dump deals, testifies that about December, 1909, he and one John Henry Jones became partners in an option on 1,000,000 acres of land in Venezuela and that Judge Archbald expressed a desire to become interested in the deal. The testimony shows that on December 3, 1909, John Henry Jones executed a promissory note for $500 payable to Judge R. W. Archbald, due three months after date, and that same was afterwards indorsed by Edward J. Williams and R. W. Archbald and discounted by a bank, Jones receiving the cash thereon. This note has never been paid, but has been renewed from time to time every three months since its execution. According to the testimony of Edward J. Williams, this money was secured by and for Judge Archbald and was paid to Jones in consideration of an interest in the Venezuela deal. John Henry Jones gives a different version of this transaction. According to his testimony this $500 note was executed by him on December 3, 1909, and made payable to Judge Archbald and

was thereupon indorsed by Judge Archbald and afterwards by Edward J. Williams and delivered to him (Jones) and was discounted by a bank, and that he (Jones) received the entire proceeds of the same. He testifies that the note was not executed in consideration of any interest in the Venezuelan land deal, and states that Judge Archbald at no time had any interest in said deal and that the note was simply accommodation paper to enable him to secure a loan of $500 by reason of the judge's indorsement that he could not secure on his own indorsement.

The testimony shows that afterwards, about December, 1911, John Henry Jones obtained knowledge of a culm fill near Scranton, Pa., owned by Lacoe & Shiffer. Jones communicated his knowledge of this culm fill to Frederick Warnke, who desired to purchase same. According to the testimony of John Henry Jones, who held or claimed to hold an option on same, his commission in case a deal was made for this property was fixed at $500. The testimony shows that Jones brought the parties together and introduced them, but took no part further in the negotiations for or the sale of the property. Jones testifies that the deal was made, and the firm of Warnke & Co., of which Frederick Warnke was a member, became the purchasers of the same. Jones further testifies that he demanded his commission of Warnke & Co., and received same in the form of a note for $500. He further testifies that he gave one-half of the amount of this note, or $250, to Judge Archbald as a gift or present in consideration of the favor rendered by him in indorsing for discount the $500 note of date December 3, 1909, already referred to, and that the judge accepted the same as a gift or present. Frederick Warnke gives a different version of this transaction. Warnke testifies that John Henry Jones showed him the property and introduced him to Lacoe & Shiffer, the owners thereof. He also testifies that Jones told him that Judge Archbald knew about the title to the property. He testifies that he made the deal directly with the owners, and was compelled to pay $1,000 more for the property than the price given to him by Jones. Jones had priced the property at $6,500, and the price paid by the firm of Warnke & Co. was $7,500. Warnke testifies that after the purchase was made Jones called on him for a commission of $500, and he refused to pay him any commission, and denied that he was entitled to any commission whatsoever. Warnke testifies that he had on Jones's recommendation consulted Judge Archbald about the title to the property in question, and that he told Jones he intended to make Judge Archbald a present of $500 if the judge would accept it. Warnke testifies that when he called on Judge Archbald to see about the title that the judge seemed to know all about the title and pronounced it good. Warnke testifies that when he first went to Judge Archbald to consult him about the title the judge told him he could not represent him as an attorney, but that he would cheerfully give him any information he possessed in regard to the title, and proceeded to do so to the full satisfaction of Warnke.

The testimony shows that the conversation between Warnke and Judge Archbald in reference to the title lasted for 10 or 15 minutes, and that afterwards he again called on the judge and asked him some further questions relative to title, and that this second conversation lasted about 5 or 10 minutes. Warnke further testifies that after the judge had explained the title to him and assured him that the title was all right, he offered to compensate the judge, and the judge said: "No; you need not do that at all." He then told the judge that if the deal went through he intended to make him a present of $500.

Warnke further testifies that after the deal was made Judge Archbald called at the office of Warnke & Co. to see about the $500 that Frederick Warnke had promised him. Frederick Warnke was not in the office at that time, and on his return to the office his attention was called to Judge Archbald's visit, and he then executed a company note for $500, payable to the individual members of said firm, who in turn indorsed the note and turned it over to Judge Archbald who accepted the same as a present or gift.

In order to get a clearer insight into and a better understanding of the real motive that prompted Frederick Warnke to tender to Judge Archbald such an unusual gift and that influenced the judge to accept it, it will be necessary to consider another matter in which Judge Archbald had rendered or attempted to render Mr. Warnke a service in connection with a controversy between Warnke and the Philadelphia & Reading Railroad Co. by interceding in Mr. Warnke's behalf.

In the year 1904 Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by the Philadelphia & Reading Coal & Iron Co. located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated the culm dump on said property for several years. Operations, however, were carried on at a loss, due to the action of the elements. Frederick Warnke then applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the land covered by his lease. He was informed that the lease under which he claimed had been forfeited two years before it was assigned to him and his application for said maps was therefore denied. Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under his said lease, provided the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what is known as the Lincoln culm bank, located near Lorberry; that George F. Baer referred the matter to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that Richards and Baer later concluded that there was no reason why they should make an exception to the general rule of the coal company not to lease any of its culm banks, and Warnke was so advised; that Warnke then made several attempts through his attorneys and friends to have George F. Baer, president of the said railroad company, and Richards, vice president of said coal company, reconsider their decision in the premises, but without avail; that some time during the month of October or November, 1911, Warnke stated his version of the matter to Judge Archbald, who was then and there and now is a United States circuit judge and having been duly designated as one of the judges of the United States Commerce Court, and asked him to intercede in his behalf with the said Richards; that on November 24, 1911, Judge Archbald wrote a letter to Richards, vice president of the coal company, who lives at Pottsville, Pa., requesting an appointment with the said Richards; that several days thereafter Judge Archbald called at the office of the said Richards to discuss with him the proposition of the said Frederick Warnke; that the said Richards then and there informed Judge Archbald that the decision which he had given to the said Warnke must be considered as final, and Judge Archbald so informed Mr. Warnke.

The testimony shows that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which, as a holding company, owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a corporation engaged in interstate commerce.

In view of this testimony, it seems clear that Judge Archbald, being then and there a judge of the United States Commerce Court, and well knowing all of the facts, did attempt to use his influence as a member of said court to aid and assist the said Frederick Warnke to secure an operating lease on a certain culm dump owned by the Philadelphia & Reading Coal & Iron Co., which lease the officials of the Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to Judge Archbald.

The testimony shows that Judge Archbald, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co. in behalf of Frederick Warnke, and on or about the 31st day of March, 1912, did accept as a gift, reward, or present from Frederick Warnke in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and coal company and for other favors shown by the judge to the said Frederick Warnke, a certain promissory note for $500, executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

I have given you a brief but, I believe, faithful statement of the evidence in regard to only two of the charges preferred against Judge Archbald. Statements concerning other similar transactions have been given by the gentleman from Alabama, the chairman of the committee [Mr. CLAYTON], the gentleman from Illinois [Mr. STERLING], and the gentleman from North Carolina [Mr. WEBB], and what does the testimony disclose in each case? We find a judge of the United States circuit court, and duly assigned as a member of the United States Commerce Court, interesting himself with individuals in culm dumps and coal properties and then seeking to make trades and settlements, obtain credit, secure contracts and agreements with officers and agents of railroad companies or coal companies owned by railroad companies, which were common carriers engaged in interstate commerce and which had at the time cases pending before the United States Commerce Court. Nor were such transactions occasional or isolated, but they were numerous. The judge's activity in endeavoring to bring about some of these deals was persistent. I here submit an extract from the report of the committee in

support of article 13 of the pending resolution, which sets forth a summary of the evidence in reference to Judge Archbald's general conduct in regard to these several deals and speculations, as follows:

GENERAL MISBEHAVIOR OF JUDGE ARCHBALD.

(See article 13.)

The testimony in the whole case tends to support this general specification. Judge Archbald was appointed a United States district judge for the middle district of Pennsylvania on the 29th day of March, 1901, and held such office until January 31, 1911, on which last-named date he was appointed an additional United States circuit judge and on the same day was duly designated as one of the judges of the United States Commerce Court, which position he has since held and now holds.

The testimony shows that at different times while Judge Archbald was a judge of the United States district court he sought and obtained credit and in other instances sought to obtain credit from persons who had litigation pending in his said court or who had had litigation pending in his said court.

The testimony shows that after Judge Archbald had been promoted to the position of a United States circuit judge and had been duly designated as one of the judges of the United States Commerce Court, he in connection with different persons sought to obtain options on culm dumps and other coal properties from officers and agents of coal companies which were owned and controlled by railroad companies.

The testimony further shows that in order to influence the officers of the coal companies, which were subsidiary to and owned by the railroad companies, Judge Archbald repeatedly sought to influence the officials of the railroads to enter into contracts with his associates for the financial benefit of himself and his said associates. In most instances the contracts were executed in the name of the person associated with the judge in the particular transaction or trade, and the judge's name was not disclosed on the face of the contract. The testimony shows, however, that he was, as a matter of fact, pecuniarily interested in such contracts, and that while his interest was not known to the public it was known to the officials of the railroad companies and of the coal companies, subsidiary corporations thereof. The evidence discloses that while the judge's several associates or partners would locate properties the judge would take up the matter of the purchase or sale of said properties with the officials of the coal companies and of the railroad companies which, as already stated, in most instances owned and controlled the coal companies. The testimony shows that while these negotiations were being conducted, and agreements were made and sought to be made, the railroad companies with whose officers Judge Archbald was making contracts and agreements, and seeking to make contracts and agreements, were common carriers engaged in interstate commerce and had litigation pending in the United States Commerce Court.

The testimony shows that such options, contracts, and agreements were sought and obtained and sought to be obtained by Judge Archbald to such an extent that the exposure of the judge's several transactions through the press gave rise to a public scandal.

The testimony fails to disclose any case in which Judge Archbald invested any actual money of his own in any of these several trades or deals, but shows that he used his personal influence as a judge, in consideration of which he received or was to receive his share or interest in the property or his profits in the deal.

Your committee finds that Judge Archbald by his conduct in carrying on traffic in culm dumps and coal properties owned directly or indirectly by railroads, and in using his influence to secure such contracts from coal companies which were owned and controlled by railroad companies as aforesaid, and in using his influence with high officials of said railroads to induce them to permit or direct the said coal companies to enter into contracts with him or his associates which resulted in financial profit to himself and those associated with him, grossly abused the proprieties of his said office of judge, was guilty of misbehavior and of a misdemeanor in office.

THE LAW.

CONSTITUTIONAL PROVISIONS RELATING TO JUDICIAL IMPEACHMENTS.

The provisions of the Constitution of the United States bearing upon the impeachment of judges are as follows:

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment. (Art. I, sec. 2.)

"Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law. (Art. I, sec. 3.)

"The President * * * shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. (Art. II, sec. 2.)

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. (Art. II, sec. 4.)

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. (Art. III, sec. 1.)

"The trial of all crimes, except in cases of impeachment, shall be by jury." (Art. III, sec. 2.)

Mr. Speaker, in view of the law governing the impeachment of officers of the United States which has already been ably presented and discussed by the chairman [Mr. CLAYTON] and other members of the committee, and to which I do not purpose to advert further than to say I fully agree with them as to the law, and in view of the vast volume of testimony tending to show, and in many instances positively showing, misbehavior and reprehensible conduct on the part of Judge Archbald, I feel it to be the solemn duty of this House to pass the resolution now under consideration.

Mr. MANN. Mr. Speaker, I have not read the record. I did not follow the taking of the testimony by the Committee on the Judiciary, but I have read the report and the resolution which is now pending. If the charges in the resolution are true, then this judge ought to be removed from the bench; and, as those charges are made in this manner, if they be not true, he is entitled to a trial which will acquit him of the charges.

I assume that the Committee on the Judiciary have the evidence before them on which the charges are based. I believe that every judge ought to respect the duties and responsibilities of his office and consider his office as of such a high character as to permit him under no condition to follow the course which is stated to have been followed by this judge, regardless of whether he did it for profit or for personal considerations to other men. No judge has the right to prostitute his office, as is charged to have been done by this judge. [Applause.]

Mr. Speaker, while it is not necessary under the Constitution to have a roll call upon this resolution, it seems to me that, in presenting articles of impeachment to the Senate, the House ought to do it by a yea-and-nay vote; and if no one else does it, at the proper time, while the House is quite full, in order to have a yea-and-nay vote, I shall make a point of no quorum, because that expedites the voting.

Mr. NORRIS. Mr. Speaker, I do not intend at this time to take up the time of the House in discussing this resolution. I am a member of the committee that made the investigation. I believe I have heard all of the evidence presented, and was present at the different hearings to as great an extent as any other member of the Committee on the Judiciary.

I have some ideas and some views that I intended to speak upon this afternoon, but inasmuch as so much time has already been taken in the discussion of the question by various other Members, I shall not detain the House now by attempting to make any remarks.

I want only to say that after a careful and conscientious hearing of all the evidence, and I believe with a full knowledge of the responsibility resting upon the committee in investigating these serious charges and weighing the evidence—sometimes unsatisfactory, and often, in fact in a majority of cases, brought out of witnesses who were unwilling and who showed by their actions that they were extremely friendly to Judge Archbald—I say, after a fair and, I think, honest consideration of all the evidence by all the members of the committee, they have come to the conclusion unanimously that this evidence warrants every charge and every indictment that we have brought before the House for consideration.

I thought I could not let the opportunity pass, having been a member of the committee that brought in the indictment, without saying this much, even though the hour is late, and even though the Members are already weary.

[Mr. LINTHICUM addressed the House. See Appendix.]

Mr. AINEY. Mr. Speaker, I am deeply pained that the proceedings had before this House to-day involve one with whom I have lifelong personal and professional associations and for whom I have high regard.

The committee having the investigation in charge has, with judicial poise and manner, given full and careful consideration to the case, and I can not but commend the members that their report and presentment is freed from evidences of bias or partisanship and that it is based upon their deep sense of responsibility and duty. Nevertheless, the proceedings before this committee were necessarily ex parte, with Judge Archbald's witnesses not present, and where he and his attorneys were permitted only by the courteous sufferance of the committee.

Incomplete and inadequate statements of this ex parte evidence have found their way through the press to the public, and it is only by a trial before the Senate that Judge Archbald can clear away there inferences and insinuations. I am sure that he craves the opportunity to meet and fully answer the presentment of the House this day made, whereby the country may be apprised of his side and explanation, as it has been furnished with the statements against him. Judge Archbald has stood high in all the circles in which he has moved.

In voting to-day I do so upon the ground frequently expressed here in debate, that this vote is not upon the guilt or innocence of the accused, but I cast it in the sympathetic hope and belief that in the tribunal provided by the Constitution, under the fullest investigation which will there be had, his name will be cleared and his fame shine forth as brightly and as unsullied as in the days of yore.

Mr. CLAYTON. Mr. Speaker, some animadversion has been made by some gentleman during this debate—I believe by the gentleman from Pennsylvania [Mr. FOCHT]—on the witness Williams. Whatever else may be said of Williams, I will read some of the documents put in evidence before the committee to show Judge Archbald's business associations with Williams, and inferentially his good opinion of him. The judge held him

out to other people as worthy of trust and confidence. Williams carried the following letter from Judge Archbald to W. A. May:

[United States Commerce Court, Washington.]

SCRANTON, PA., *March 31, 1911.*

W. A. MAY, Esq.,
Superintendent Hillside Coal & Iron Co.

DEAR SIR: I write to inquire whether your company will dispose of your interest in the Katydid culm dump, belonging to the old Robertson & Law operation, at Brownsville; and if so, will you kindly put a price upon it?

Yours, very truly,

R. W. ARCHBALD.

After much hesitation on the part of the Erie Railroad officers and considerable negotiations on the part of Judge Archbald with those officers, May delivered the following letter to Williams on August 30, 1911:

[Pennsylvania Coal Co. Hillside Coal & Iron Co. New York, Susquehanna & Western Coal Co. Northwestern Mining & Exchange Co. Blossburg Coal Co. Office of the general manager.]

SCRANTON, PA., *August 30, 1911.*

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day, verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. MAY, *General Manager.*

Judge Archbald afterwards drew and witnessed the following contract or option:

This agreement made and concluded the 4th day of September, A. D. 1911, by and between John M. Robertson, of Moosic, Pa., of the one part, and Edward J. Williams, of Scranton, Pa., of the other part, witnesseth:

Whereas the said party of the first part is the owner of that certain culm dump in the vicinity of Moosic, made in the operation of the firm of Robertson & Law of the so-called Katydid mine or colliery; and whereas the said party of the second part is desirous of purchasing the same.

Now this agreement witnesseth that for and in consideration of $1, to him in hand paid, the receipt of which is hereby acknowledged, the said party of the first part hereby grants and conveys unto the said party of the second part, his heirs, executors, administrators, and assigns, the right or option to purchase his interest in and to the said culm dump for the price or sum of $3,500, which said option is to be exercised within 60 days from this date, the terms to be cash within 5 days after the exercise of said option. It is understood that this option is intended to cover and include all the interest of the said party of the first part and of the said late firm of Robertson & Law.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year aforesaid.

[SEAL.] JNO. M. ROBERTSON.
[SEAL.] E. J. WILLIAMS.
Witness:
R. W. ARCHBALD.

STATE OF PENNSYLVANIA,
County of Lackawanna, ss:

On this 12th day of September, A. D. 1911, personally appeared before me, a notary public in and for said State and county duly commissioned, residing in the city of Scranton, county aforesaid, the above-mentioned E. J. Williams, who, in due form of law, acknowledged the foregoing indenture to be his act and deed and desired the same might be recorded as such.

Witnessed my hand and official seal the day and year aforesaid.

[SEAL.] GEO. W. BENEDICT, Jr.,
Notary Public.

My commission expires March 10, 1913.

After these options had been secured Williams executed the following assignment:

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, county of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank, known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., $3,500 and $4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors, or assigns, and this shall be their voucher for same.

[SEAL.] E. J. WILLIAMS.
W. L. PRYOR.

The testimony shows that Judge Archbald was the "silent party" referred to in the assignment.

Afterwards Judge Archbald and Williams attempted to sell at a large profit this option to Mr. Conn, vice president and general manager of the railroad known as the Laurel Line, and Judge Archbald wrote the following letter in furtherance of this attempt:

[R. W. Archbald, judge United States Commerce Court, Washington.]

SCRANTON, PA., *September 20, 1911.*

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but as I understand it this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it if there is anything which you want to know.

Yours, very truly,

R. W. ARCHBALD.

For the purpose of making another deal, Judge Archbald wrote the following letter to Thomas Darling, one of the attorneys for the Lehigh Valley Railroad Co.:

UNITED STATES COMMERCE COURT,
Scranton, August 3.

MY DEAR DARLING: This will introduce Mr. Edward Williams, of this city, who wishes to talk with you about the purchase of a culm dump which you control. Mr. Williams is a coal man of experience and is in touch with parties who are able to handle the dump if you are inclined to dispose of it.

Yours, very truly,

R. W. ARCHBALD.

THOMAS DARLING, Esq.

This letter is used for the purpose of showing the esteem in which Judge Archbald held the witness, E. J. Williams.

Mr. Speaker, I was asked by the gentleman from Pennsylvania if witnesses had been subpœnaed to appear before the committee in behalf of Judge Archbald. My answer is no, and that in no impeachment case was such ever done. No grand jury and no body sitting as a grand inquest, as your committee has sat and as this House is now sitting, ever called witnesses for a defendant. The duty of the House when an impeachment charge is brought is to make such thorough and fair examination as may be necessary to convince the impeaching body of the reasonable probability of the guilt of the accused judge or civil officer. I may say, however, that in this case nearly all—indeed every one of the witnesses except one—was the friend of Judge Archbald or friendly to him. Most of the witnesses were his neighbors and associates.

The committee examined every witness that the committee was informed could possibly know anything about the conduct of Judge Archbald in the various transactions involved except one, and that was the judge's friend, one James R. Dainty, whom the committee could not find or could not have served with process, although every diligent effort known to the law was used to subpœna the witness. Undoubtedly this man Dainty absconded to avoid testifying. In fact, nearly all of the witnesses who testified appeared to be so desirous of shielding the judge that it was with the greatest difficulty that the committee was able to develop the facts in the case.

Mr. Speaker, I do not think it necessary to quote at length from the printed testimony taken by the committee, which testimony is now before the House, nor do I deem it necessary to repeat the findings of facts embraced in the report of the committee, which was printed in the RECORD on the 8th instant. However, let me call attention to a few indisputable features of this case. After Judge Archbald became judge of the Commerce Court he evidently became seized with an abnormal and unjudgelike desire to make money by trading through others and himself out of railroads and their subsidiary corporations, which concerns had business or were very likely to have business or litigation in his court. He abused his potentiality as judge to further these trades and placed himself, or sought to place himself, under obligations to these corporate concerns and their officials.

In practically all of his correspondence with these officials of these corporations and their subsidiaries he used the official stationery—that is, the letterheads—of the United States Commerce Court, Washington, D. C., thereby keeping constantly before the minds of these officials the fact that he was a member of the tribunal charged with the duty of passing upon the rights of common carriers engaged in interstate commerce in dealing with shippers of the country and the general public.

He had personal interviews and communications otherwise with these railroad officials at Scranton, in New York, and elsewhere, in which he sought to secure or to promote these trades to make money for himself out of these corporate interests which had litigation in his court or were most likely to have such litigation frequently before him.

On the very day upon which he pronounced mild sentences on numerous violators of the antitrust law, a number of whom were directly or indirectly connected with large railroad interests, he approached the vice president of the Erie Railroad Co. in his offices in New York City in furtherance of his negotiations to purchase a certain coal property from a subsidiary of that railroad with a view to consummating a transaction which would net him a large personal profit.

This incident illustrates the remarkable facility with which the judge used his official position for personal profit. This also illustrates his utter lack of any just appreciation of the

proprieties of his judicial position. It is needless to say that judges ought not to use their official power to promote gainful bargains.

Perhaps, Mr. Speaker, if this judge had been guilty of only one or two of some of the things established against him, there might be generated a doubt in his favor. But the evidence shows that his dealings with the officials of these railroads and their subsidiaries constitute the rule of his conduct rather than the exception and seem to constitute a well-planned system to acquire wealth by means of the influence and power which he wields as a member of the Commerce Court.

In pursuance of his plan to make money out of his various financial adventures, he capitalized his power and influence as judge and never invested so much as one dollar of his own money in any of these enterprises or speculations. This judge thus converted himself into an opportunist and embraced every chance to secure property concessions or business advantages from corporations subject to the jurisdiction of his court.

Mr. Speaker, without dwelling further upon the facts of this case, let me invite the attention of the House to the law of impeachment, as stated in the report of the committee, which I presented to the House on Monday last.

The Constitution provides:

The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors. (Art. II, sec. 4.)

And the Constitution further provides:

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office. (Art. III, sec. 1.)

The trial of all crimes, except in cases of impeachment, shall be by jury. (Art. III, sec. 2.)

Of course, the House knows that under paragraph 6 of section 3 of Article I the Senate has the sole power to try impeachments.

It is the function of the House to indict or charge, and the duty of the Senate to try the cases.

George Ticknor Curtis says, in his Constitutional History of the United States:

Although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime, nor is there any necessity, in the case of crimes committed by public officers, for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offenses against positive law. The purposes of an impeachment lie wholly beyond the penalties of the statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed, as where the individual has, from immorality or imbecility or maladministration, become unfit to exercise the office.

In Watson on the Constitution (vol. 2, p. 1034, published in 1910) it is said:

A misdemeanor comprehends all indictable offenses which do not amount to a felony, as perjury, battery, libels, conspiracies, attempts and solicitations to commit felonies, etc. These seem to be the definitions of these terms at common law, but it would be strange if a civil officer could be impeached for only such offenses as are embraced within the common-law definition of "other high crimes and misdemeanors." There is a parliamentary definition of the term "misdemeanor," and a modern writer on the Constitution has said: "The term 'high crimes and misdemeanors' has no significance in the common law concerning crimes subject to indictment. It can only be found in the law of Parliament and is the technical term which was used by the Commons at the Bar of the Lords for centuries before the existence of the United States." Synonymous with the term "misdemeanor" are the terms "misdeed," "misconduct," misbehavior," "fault," "transgression."

* * * * * * *

Volume 2, pages 1036–1037:

A civil officer may so behave in public as to bring disgrace upon himself and shame upon his country, and he may continue to do this until his name would become a national stench, and yet he would not be subject to indictment by any law of the United States, but he certainly could be impeached. What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges, which says, "Judges, both of the supreme and inferior courts, shall hold their offices during good behavior"? This means that as long as they behave themselves their tenure of office is fixed, and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says "a judge shall hold his office during good behavior," it means that he shall not hold it when he ceases to be good. Suppose he should refuse to sit upon the bench and discharge the duties which the Constitution and the law enjoin upon him, or should become a notoriously corrupt character and live a notoriously corrupt and debauched life? He could not be indicted for such conduct, and he could not be removed except by impeachment. Would it be claimed that impeachment would not be the proper remedy in such a case?

In the American and English Enclycopedia of Law, second edition (vol. 15, pp. 1066–1068), it is said:

The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of indictable crimes; that the phrase "high crimes and misdemeanors" is to be taken not in its common-law but in its broader parliamentary sense and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, and even gross improprieties by judges and high officers of state, although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute.

This view of the law of impeachment is supported by the elementary writers and commentators on our Constitution, by the usage in cases of impeachment, by the opinions of the framers of the Constitution, by contemporaneous construction, and stands uncontradicted by any recognized authority, case, or jurist of note. This view of the law is supported by reason and by principle, as well as by the great weight of authority.

Mr. Speaker, the law is so fully stated in the committee report that I shall not now cite further authorities.

Mr. Speaker, no man who has read the testimony in this case would believe that in the face of such testimony Robert W. Archbald would now be appointed to the office of judge by the President. No man would believe the Senate would now confirm him as judge. No fair-minded man can doubt that he ought to be removed from office. I have an abiding conviction that this House will do its duty, and a firm belief that the Senate will remove from office this judge whose behavior has been bad, and who has forfeited the conditions upon which he holds his high commission of trust, responsibility, and power.

The SPEAKER. The question is on agreeing to the resolution.

Mr. CLAYTON. Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 223, nays 1, answered "present" 10, not voting 155, as follows:

YEAS—223.

Adamson	Driscoll, D. A.	Korbly	Reilly
Aiken, S. C.	Dupré	Lafferty	Richardson
Ainey	Edwards	La Follette	Roberts, Mass.
Akin, N. Y.	Esch	Langham	Roberts, Nev.
Alexander	Fergusson	Langley	Robinson
Allen	Fields	Lawrence	Roddenbery
Anderson, Minn.	Floyd, Ark.	Lee, Ga.	Rodenberg
Anderson, Ohio	Foss	Lee, Pa.	Rothermel
Ansberry	Foster	Lenroot	Rouse
Austin	Fowler	Lever	Rubey
Ayres	Francis	Levy	Rucker, Colo.
Barchfeld	French	Lewis	Sabath
Barnhart	Fuller	Lindbergh	Saunders
Bathrick	Gallagher	Linthicum	Sims
Beall, Tex.	Gardner, N. J.	Littlepage	Sisson
Bell, Ga.	Garner	Lloyd	Slayden
Berger	George	Lobeck	Sloan
Blackmon	Godwin, N. C.	McCreary	Smith, J. M. C.
Booher	Good	McGillicuddy	Smith, Saml. W.
Borland	Goodwin, Ark.	McKellar	Smith, N. Y.
Bowman	Gray	McKenzie	Smith, Tex.
Buchanan	Greene, Mass.	McKinney	Speer
Bulkley	Gregg, Pa.	Madden	Stedman
Burke, S. Dak.	Gregg, Tex.	Maguire, Nebr.	Stephens, Miss.
Burleson	Gudger	Maher	Stephens, Tex.
Burnett	Hamilton, W. Va.	Mann	Sterling
Butler	Hamlin	Martin, Colo.	Stevens, Minn.
Byrns, Tenn.	Hammond	Matthews	Stone
Candler	Hardy	Mays	Sulloway
Carlin	Hartman	Miller	Sulzer
Catlin	Haugen	Mondell	Switzer
Clark, Fla.	Hawley	Moon, Tenn.	Taggart
Clayton	Hayden	Moore, Pa.	Talcott, N. Y.
Cline	Hayes	Morgan	Taylor, Colo.
Collier	Heflin	Morrison	Taylor, Ohio.
Connell	Helgesen	Moss, Ind.	Thistlewood
Conry	Henry, Tex.	Mott	Tilson
Cooper	Hensley	Murray	Towner
Copley	Hobson	Neeley	Tribble
Covington	Holland	Norris	Turnbull
Cox, Ind.	Houston	Oldfield	Tuttle
Crumpacker	Howard	Padgett	Underhill
Cullop	Howell	Page	Underwood
Curley	Howland	Patton, Pa.	Utter
Curry	Hull	Peters	Watkins
Danforth	Humphrey, Wash.	Pickett	Webb
Davenport	Jacoway	Pou	Wedemeyer
Davis, Minn.	James	Pray	Whitacre
Dent	Johnson, Ky.	Prince	White
Denver	Jones	Prouty	Willis
Dickinson	Kendall	Rainey	Wilson, Ill.
Dickson, Miss.	Kennedy	Raker	Wilson, Pa.
Difenderfer	Kent	Ransdell, La.	Witherspoon
Dixon, Ind.	Kinkaid, Nebr.	Rauch	Woods, Iowa
Dodds	Kitchin	Redfield	Young, Kans.
Doughton	Konop	Rees	

NAY—1.

Farr

ANSWERED "PRESENT"—10.

Browning	Dalzell	Olmsted	Sparkman
Burgess	Dwight	Parran	
Cannon	Johnson, S. C.	Rucker, Mo.	

NOT VOTING—155.

Adair	Ashbrook	Boehne	Brown
Ames	Bartholdt	Bradley	Burke, Pa.
Andrus	Bartlett	Brantley	Burke, Wis.
Anthony	Bates	Broussard	Byrnes, S. C.

Calder	Gillett	Lamb	Riordan
Callaway	Glass	Legare	Russell
Campbell	Goeke	Lindsay	Scully
Cantrill	Goldfogle	Littleton	Sells
Carter	Gould	Longworth	Shackleford
Cary	Graham	Loud	Sharp
Claypool	Green, Iowa	McCall	Sheppard
Cox, Ohio	Griest	McCoy	Sherley
Crago	Guernsey	McDermott	Sherwood
Cravens	Hamill	McGuire, Okla.	Simmons
Currier	Hamilton, Mich.	McHenry	Slemp
Daugherty	Hanna	McKinley	Small
Davidson	Hardwick	McLaughlin	Smith, Cal.
Davis, W. Va.	Harris	McMorran	Stack
De Forest	Harrison, Miss.	Macon	Stanley
Dies	Harrison, N. Y.	Martin, S. Dak.	Steenerson
Donohoe	Hay	Moon, Pa.	Stephens, Cal.
Doremus	Heald	Moore, Tex.	Stephens, Nebr.
Draper	Helm	Morse, Wis.	Sweet
Driscoll, M. E.	Henry, Conn.	Murdock	Talbott, Md.
Dyer	Higgins	Needham	Taylor, Ala.
Ellerbe	Hill	Nelson	Thayer
Estopinal	Hinds	Nye	Thomas
Evans	Hughes, Ga.	O'Shaunessy	Townsend
Fairchild	Hughes, N. J.	Palmer	Vare
Faison	Hughes, W. Va.	Patten, N. Y.	Volstead
Ferris	Humphreys, Miss.	Payne	Vreeland
Finley	Jackson	Pepper	Warburton
Fitzgerald	Kahn	Plumley	Weeks
Flood, Va.	Kindred	Porter	Wilder
Focht	Kinkead, N. J.	Post	Wilson, N. Y.
Fordney	Knowland	Powers	Wood, N. J.
Fornes	Konig	Pujo	Young, Mich.
Gardner, Mass.	Kopp	Randell, Tex.	Young, Tex.
Garrett	Lafean	Reyburn	

So the resolution was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. FAISON with Mr. GUERNSEY.

Mr. HUGHES of Georgia with Mr. HANNA.

Mr. DONOHOE with Mr. CANNON.

Mr. HAY with Mr. MARTIN of South Dakota.

Mr. HARRISON of Mississippi with Mr. DE FOREST.

Mr. KINDRED with Mr. GRIEST.

Until July 15:

Mr. BURGESS with Mr. WEEKS.

From to-day until Monday noon, July 15:

Mr. SMALL with Mr. CALDER.

Mr. BROWNING. Mr. Speaker, I voted "aye." I am paired with the gentleman from New Jersey, Mr. SCULLY. I believe if he were present he would vote aye, but under the circumstances I wish to withdraw my vote and answer present.

The result of the vote was then announced as above recorded.

Mr. CARLIN. Mr. Speaker, by direction of the Committee on the Judiciary, I offer the following resolution in connection with the resolution just passed, and ask for its adoption.

The Clerk read as follows:

House resolution 626.

Resolved, That HENRY D. CLAYTON, of Alabama; EDWIN Y. WEBB, of North Carolina; JOHN C. FLOYD, of Arkansas; JOHN W. DAVIS, of West Virginia; JOHN A. STERLING, of Illinois; PAUL HOWLAND, of Ohio; and GEORGE W. NORRIS, of Nebraska, Members of this House, be, and they are hereby, appointed managers to conduct the impeachment against Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court; that said managers are hereby instructed to appear before the Senate of the United States and at the bar thereof in the name of the House of Representatives and of all the people of the United States to impeach the said Robert W. Archbald of high crimes and misdemeanors in office and to exhibit to the Senate of the United States the articles of impeachment against said judge which have been agreed upon by this House; and that the said managers do demand that the Senate take order for the appearance of said Robert W. Archbald to answer said impeachment, and demand his impeachment, conviction, and removal from office.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. FLOYD of Arkansas. Mr. Speaker, by direction of the Committee on the Judiciary, I offer the following resolution and move its adoption.

The Clerk read as follows:

House resolution 627.

Resolved, That the managers on the part of the House in the matter of the impeachment of Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court, be, and they are hereby, authorized to employ legal, clerical, and other necessary assistants and to incur such expenses as may be necessary in the preparation and conduct of the case, to be paid out of the contingent fund of the House on vouchers approved by the managers, and the managers have power to send for persons and papers.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

Mr. CARLIN. Mr. Speaker, by direction of the Committee on the Judiciary, I present the following resolution and ask for its adoption.

The Clerk read as follows:

House resolution 628.

Resolved, That a message be sent to the Senate to inform them that this House has impeached Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court, and that the House adopted articles of impeachment against said Robert W. Archbald, judge as aforesaid, which the managers on the part of the House have been directed to carry to the Senate, and that HENRY D. CLAYTON, of Alabama; EDWIN Y. WEBB, of North Carolina; JOHN C. FLOYD, of Arkansas; JOHN W. DAVIS, of West Virginia; JOHN A. STERLING, of Illinois; PAUL HOWLAND, of Ohio; and GEORGE W. NORRIS, of Nebraska, Members of this House, have been appointed such managers.

Mr. CLAYTON. Mr. Speaker, in the beginning of the resolution, where it recites that the House has impeached Robert W. Archbald, I ask leave to amend by inserting the words "for high crimes and misdemeanors," so that it may follow the customary language.

The SPEAKER. The gentleman from Alabama asks unanimous consent to insert the words "for high crimes and misdemeanors" in the proper place, which the Clerk will report.

The Clerk read as follows:

Amend so as to read:

"*Resolved*, That a message be sent to the Senate to inform them that this House has impeached for high crimes and misdemeanors Robert W. Archbald, circuit judge," etc.

Mr. MANN. Mr. Speaker, I had supposed that these resolutions which were now being offered were in the exact form of the resolutions heretofore agreed to by the House when proceedings in impeachment were had on former occasions. The last resolution it is now proposed to amend.

Mr. CLAYTON. I can explain that, I think, to the satisfaction of the gentleman. I had prepared each one of these resolutions—the first one, that the gentleman from Virginia [Mr. CARLIN] introduced, the one that the gentleman from Arkansas [Mr. FLOYD] introduced—similar to the resolutions in like cases. I had prepared one similar to the last one, but it has been misplaced. So I turned to the record of the Swayne case and had copied the resolution as near as was suitable. In drawing the resolution the words which I ask to insert here were omitted. I hope that is satisfactory to the gentleman.

Mr. MANN. I knew that the gentleman from Alabama would in advance prepare the necessary papers, but I noticed that when the Clerk read this last resolution he read it with some difficulty. So I was satisfied that it was not a typewritten resolution made in advance, and therefore I asked the question.

Mr. CLAYTON. A resolution similar to that, as I said before, had been prepared.

The SPEAKER. Is there objection to inserting the words "for high crimes and misdemeanors" in this resolution at the place suggested? [After a pause.] The Chair hears none, and it is so ordered. The question is on agreeing to the resolution.

The resolution was agreed to.

ADJOURNMENT.

Mr. CLAYTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 6 o'clock p. m.) the House adjourned until to-morrow, Friday, July 12, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior, submitting estimate of deficiency in the appropriation for purchase and transportation of Indian supplies for the fiscal year 1912 (H. Doc. No. 870), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 25437) to make uniform charges for furnishing copies of records of the Department of the Interior and of its several bureaus, reported the same without amendment, accompanied by a report (No. 980), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (S. 7163) authorizing the State of Arizona to select lands within the former Fort Grant Military Reservation and outside of the Crook National Forest in partial satisfaction of its grant for State charitable, penal, and reformatory institutions, reported the same without amendment, accompanied by a report (No. 982), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 22650)

to replace sections 4214 and 4218 of the Revised Statutes, reported the same with amendment, accompanied by a report (No. 983), which said bill and report were referred to the House Calendar.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead," reported the same with amendment, accompanied by a report (No. 984), which said bill and report were referred to the House Calendar.

Mr. TILSON, from the Committee on Military Affairs, to which was referred the bill (H. R. 24365) providing for the taking over by the United States Government of the Confederate cemetery at Little Rock, Ark., reported the same without amendment, accompanied by a report (No. 986), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. AIKEN of South Carolina, from the Committee on Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 25713) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, accompanied by a report (No. 979), which said bill and report were referred to the Private Calendar.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 25515) for the relief of Joshua H. Hutchinson, reported the same without amendment, accompanied by a report (No. 981), which said bill and report were referred to the Private Calendar.

Mr. KAHN, from the Committee on Military Affairs, to which was referred the bill (H. R. 5763) for the relief of William K. Harvey, alias William K. Hall, reported the same without amendment, accompanied by a report (No. 985), which said bill and report were referred to the Private Calendar.

Mr. BURKE of Wisconsin, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 25598) granting a pension to Cornelia Bragg, reported the same with amendment, accompanied by a report (No. 987), which said bill and report were referred to the Private Calendar.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 19276) authorizing the Secretary of War to convey by deed to D. B. Loveman, or D. B. Loveman, president of Bragg Hill Land Co., of Hamilton County, a certain strip or parcel of land in Hamilton County, Tenn., reported the same with amendment, accompanied by a report (No. 988), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 19618) granting a pension to Edward E. Carrol, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. STEDMAN: A bill (H. R. 25714) to amend "An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes"; to the Committee on Public Buildings and Grounds.

By Mr. HOBSON: A bill (H. R. 25715) providing that officers of the Navy be allowed pay from the dates they take rank; to the Committee on Naval Affairs.

By Mr. LINDBERGH: A bill (H. R. 25716) for the erection of a public building in the city of Little Falls, Minn., for the accommodation of the United States post office and other Government offices; to the Committee on Public Buildings and Grounds.

By Mr. MONDELL: A bill (H. R. 25735) providing for patents on reclamation entries; to the Committee on Irrigation of Arid Lands.

By Mr. AKIN of New York: Resolution (H. Res. 621) requesting certain investigations in the Department of Agriculture regarding the meat-inspection law and the efficiency of certain employees in the department; to the Committee on Agriculture.

By Mr. HOBSON: Resolution (H. Res. 623) to make Senate bill 5461 privileged; to the Committee on Rules.

By Mr. FAISON: Resolution (H. Res. 624) to investigate delayed schedules and improper refrigeration of fruit and vegetable trains; to the Committee on Rules.

By Mr. POU: Resolution (H. Res. 625) providing for consideration and vote on House resolution 624; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AIKEN of South Carolina: A bill (H. R. 25713) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; to the Committee of the Whole House.

By Mr. AUSTIN: A bill (H. R. 25717) granting a pension to James C. Lynch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25718) for the relief of the heirs of Joseph A. Mabry; to the Committee on War Claims.

Also, a bill (H. R. 25719) for the relief of estate of Moses Camak, deceased; to the Committee on War Claims.

By Mr. COPLEY: A bill (H. R. 25720) for the relief of James E. C. Covel; to the Committee on Military Affairs.

By Mr. CURLEY: A bill (H. R. 25721) to remove the charge of desertion against John Gabriel Carlin; to the Committee on Military Affairs.

Also, a bill (H. R. 25722) to remove the charge of desertion against Stephen Brown; to the Committee on Military Affairs.

By Mr. DANIEL A. DRISCOLL: A bill (H. R. 25723) granting a pension to Frederick Rattke; to the Committee on Pensions.

By Mr. DYER: A bill (H. R. 25724) granting a pension to Oscar Grear; to the Committee on Invalid Pensions.

By Mr. GRAY: A bill (H. R. 25725) granting a pension to Sarah C. Kensley; to the Committee on Invalid Pensions.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 25726) granting a pension to Isaac Dodrill; to the Committee on Pensions.

By Mr. MORGAN: A bill (H. R. 25727) granting a pension to Rufus H. Hickey; to the Committee on Pensions.

Also, a bill (H. R. 25728) granting a pension to Marilia A. Castle; to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 25729) granting a pension to Helen F. Hoffman; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 25730) granting an increase of pension to Rose Martin; to the Committee on Invalid Pensions.

By Mr. SLOAN: A bill (H. R. 25731) for the relief of James M. Brown; to the Committee on Military Affairs.

By Mr. SMALL: A bill (H. R. 25732) granting a pension to Clayton W. Jones; to the Committee on Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 25733) granting an increase of pension to Lemuel Lewis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25734) granting a pension to William Feaster; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 25736) granting an increase of pension to Mary E. Bullard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25737) granting a pension to John H. Tague; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANTHONY: Petition of A. H. Speer and others, of Horton, favoring passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. ASHBROOK: Petition of Joseph Fried and 10 others, of Canal Dover, Ohio, against the passage of the parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. CALDER: Petition of the Daughters of Liberty of Brooklyn, N. Y., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Association of American Advertisers, New York, N. Y., protesting against the passage of the Richardson bill (H. R. 14060); to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Papers to accompany bill for pension for Mrs. Catharine Hudson, of St. Louis, Mo., widow of the late John J. Hudson, who had served in the Marine Corps of the United States Navy; to the Committee on Pensions.

Also, memorial of the Workingmen's Sick and Death Benefit Association of America, Branch No. 71, of St. Louis, Mo., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Slate and Tile Roofers Local No. 1, of the International Association of America, favoring passage of the Clayton injunction limitation bill (H. R. 23635); to the Committee on the Judiciary.

Also, petition of the Brotherhood of Locomotive Engineers, favoring passage of the workmen's compensation act, etc.; to the Committee on the Judiciary.

Also, memorial of the house of delegates of the city of St. Louis, Mo., favoring resolution introduced in the United States Senate asking forfeiture to the United States Government of the Merchants' Bridge across the Mississippi River at St. Louis; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the American Embassy Association, favoring passage of the Sulzer bill (H. R. 22589) for the construction of embassy, legation, and consular buildings, etc.; to the Committee on Foreign Affairs.

By Mr. GRIEST: Memorial of the Aero Club of Pennsylvania, favoring national regulation and control of the navigation of the air by all forms of air craft; to the Committee on Interstate and Foreign Commerce.

By Mr. GUERNSEY: Petition of the Yarmouth Board of Trade, Yarmouth, Me., favoring the passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. MAGUIRE of Nebraska: Petition of citizens of first congressional district of the State of Nebraska, favoring passage of bill regulating express rates, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Memorial of the Aero Club of Pennsylvania, favoring regulating control of navigation of the air by all forms of air craft and the issuance of licenses by the Government to competent aviators; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBINSON: Papers to accompany House bill 25431, granting an increase of pension to Henry E. Everts; to the Committee on Invalid Pensions.

By Mr. RODENBERG: Memorial of 74 workers of Collinsville, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. RUCKER of Colorado: Petition of the Knights of St. Cassimer's Society of Denver, Colo., protesting against the passage of House bill 22527 for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SABATH: Petition of Rowmanian Lodge, No. 117, and Star Lodge, No. 59, Chicago, Ill., protesting against the passage of House bill 22527 for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SLOAN: Memorial of citizens of Deshler, Nebr., favoring prohibiting of denominational garb in Indian schools; to the Committee on Indian Affairs.

By Mr. TILSON: Memorial of citizens of Bridgeport, Conn., against passage of the Burton-Littleton bill for celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

Also, petition of the Hebrew Veterans of the War with Spain, protesting against the passage of House bill 22527 for restriction of immigration; to the Committee on Immigration and Naturalization.

SENATE.

FRIDAY, *July 12, 1912.*

(Continuation of legislative day of Saturday, July 6, 1912.)

At 10 o'clock a. m., on the expiration of the recess, the Senate reassembled.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Brown	Culberson	Gamble
Bacon	Bryan	Cullom	Gardner
Bailey	Burnham	Curtis	Gronna
Borah	Burton	Dillingham	Johnston, Ala.
Bourne	Clapp	Dixon	Jones
Bradley	Clarke, Ark.	Fletcher	Lea
Brandegee	Crane	Foster	Lorimer
Bristow	Crawford	Gallinger	McCumber
Martine, N. J.	Perkins	Smith, S. C.	Townsend
Myers	Pomerene	Smoot	Watson
Nelson	Rayner	Stephenson	Wetmore
Overman	Sanders	Sutherland	Works
Page	Simmons	Swanson	
Paynter	Smith, Md.	Thornton	

The PRESIDENT pro tempore. Fifty-four Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

Mr. LORIMER. Mr. President, at the close of my remarks yesterday I was discussing the attitude of the custodian of all the morals of the country, both public and private, he who would not have contributions from those who possess predatory wealth. The malefactors of great wealth could not contribute to any campaign for his benefit. But I find in an account in this morning's paper that the chairman of the committee in his campaign testified that $1,900,000 was contributed for his campaign in 1904. Of course, that came from the common people, of whom this man is the great champion. No malefactors contributed in that campaign, no trusts, no combinations of great wealth, only the common people, of whom he is the guardian.

In concluding his letter to Col. Roosevelt, President Taft said what I shall read. By the way, may I not state here that this letter was written on the 6th of January, 1911? The record in this case, I am informed, was delivered to the document room on the seventh day of that month, a day after the letter was written, which to my mind would be evidence that any information which the President may have received on this subject was from those who are supporting this prosecution. In concluding his letter to the Colonel he said:

I want to win. So do you.

Win what? Win a contest? What sort of a contest? In the open? A free field and a fair fight? Was the sword and shield handed to me, and was I then notified to defend myself, that a battle was on? Oh, no; there was no opportunity, no knowledge of what was coming, they were going to win, win, win. How? Sneak up like a thief in the dark, strike from behind with a club in the back of the head, and destroy with no opportunity to defend himself. And why, why all this? Why, for fear, said President Taft, that Senator BAILEY with his unbounded logic and his matchless eloquence might plead the dignity of the Senate of the United States.

Oh, Mr. President, was mortal ever more completely surrounded by conspirators and intrigue? The President of the United States, William H. Taft; Theodore Roosevelt, the ex-President of the United States; and the candidate of the Democratic Party for President of the United States, William Jennings Bryan, the trust press of this country, all combined and joining in the conspiracy to misstate the facts, because they could not have known them unless they read the record—*and not one of these men ever read it.* They joined with the trust press of this country to poison the mind of the citizenship of this Union in order that one man might be destroyed to satisfy the malice of the most corrupt set of newspaper owners known to the history of this country.

Mr. President, I do not claim that anything I have said on this subject is evidence of anything. It does not prove that my seat was not corruptly secured, but surely it shows that the men who are prosecuting this case are capable of conspiring to do anything against anybody they want to destroy, even to taking a life. It is because I know these things, and because when the attention of the Senate is called to them they are all beyond any question of doubt proven, not by my word, not by what I say, but in the documents, in the photographs, in the letters, in the affidavits that I have presented in this discussion, and with that I think I have said enough about those who are back of and aiding in this prosecution.

Now, we will come to the Helm committee. Who is the Helm committee? What is the Helm committee? Senators of the State of Illinois, think you? Oh, no. They were creatures of Gov. Deneen and the newspaper trust of Chicago. The Helm Committee. Were they senators, dignified gentlemen, men who had opinions of their own, who acted as their consciences dictated? Oh, no. The Helm committee was Herman Kohlsaat and the Record-Herald, representing Victor Lawson, the Tribune, Gov. Deneen, and John J. Healy. John J. Healy was one of the counsel representing your committee in this case. I do not want to be understood as criticizing the committee for employing Mr. Healy, because if there be a man in Illinois who knows aught about the politics of our State and could

ferret out any corruption John J. Healy is the man. In addition to that he would be inspired with his own personal malice toward LORIMER, because he is one of the most violent and bitter enemies that I have in the State. If the committee failed to produce evidence on which an honest judgment could be rendered recommending the removal of LORIMER from the Senate, he could not be blamed, for surely they had the man that could find the proof if it was to be found. There was every reason in the world for it. He had first of all the ability. He had the motive and the knowledge of the situation in Illinois. His partner was the partner of Gov. Deneen before he was elected governor. He and the governor and Keeley and Kohlsaat met when? On the 17th day of January, when the resolution was adopted appointing the committee to investigate as to whether or not corruption had been practiced in the Illinois Senate? No. In February, the next month? Oh, no. The 1st day of March? Oh, no; not until the Senate of the United States had defeated the resolution declaring that LORIMER was not entitled to his seat in this body. These were the reorganizers of the conspiracy which had been partially dissolved by the action of the Senate declaring my election valid.

They had been defeated; the Senate had spoken; it had put the stamp of approval on LORIMER'S certificate of election and something else must be done. "What are we to do?" was the question. "How are we to get LORIMER out? If we could only start another investigation; there has been a change in the Senate; 30 new Members are there. Probably enough of the new men, enough of the new judges, may be influenced to take our view of the case. If we can only have another investigation and try the case over again, we will take our chances on turning LORIMER out."

Then the Helm committee took up the investigation, not of the senators of the Senate of the State of Illinois, not of the members of the General Assembly of the State of Illinois, but whether or not LORIMER was corruptly elected to the United States Senate—a question that had been settled.

How are they going to do it? They must have new evidence; they must have something that has been recently discovered. Then began the shameless hippodrome; the convening of the Helm committee; the calling of Edward Hines and the formality of asking him questions. The first witness of importance, not knowing that Funk was to be called, not knowing that Kohlsaat was to be called, they asked of Hines questions calling for answers which might be impeached by the witnesses which the prosecuting attorney of that committee knew would follow and would tell the Funk story.

Then comes Kohlsaat; oh, this priestly Kohlsaat, as he calls himself; this "honorable man," who never violated a confidence in his life! He appeared before the committee and they asked him about the editorial of the 15th day of February. He said, "Yes; I dictated that editorial and I knew whereof I wrote." "Well, who was your informant?" "Oh"—and here is the beginning of the hippodrome—"I will not tell you; it was given to me in confidence, and, as a newspaper man, I hold the confidence as sacred as would a Catholic priest hold a confession. I would prefer to go to jail rather than tell you." Then the whole country had a view of this most righteous and most loyal man who had received the statement in confidence; and from the testimony that was adduced before the committee they must have concluded that he violated that confidence to not less than 20 or probably more persons, and gave the name of his informant to 3 persons. The country was aroused; they wondered if this loyal man would tell the story; they wondered if he would ever give the name; they were looking on to see whether or not he would go to jail rather than violate the confidence. So the public attention was again called; and then we have it in the testimony that Funk—this "honorable man," as the Senator from Indiana [Mr. KERN] called him—said: "I can stand it no longer; I can no longer see my friends prosecuted, and so I will tell the story; I will go before the Helm committee." He went before the Helm committee; he told the story, and he told it in a different way than he would have told it if he had been permitted to tell it before the investigating committee of this Senate.

Then witnesses were called in from other places. Edward Hines, on the advice of his lawyers, waited in Chicago to go before the Helm committee again and testify as to the Funk story. Did they again call Hines? No. They sent the reporters of the Hearst papers over this country to interview men and ask them if they knew anything about this $100,000 jack pot, and the men interviewed, every individual, said they did not. The reporters returned and made affidavits to the Helm committee that they had invited these men before the committee to testify; that they said they would not come; and because they lived in other States, of course, the Helm committee could not compel their attendance. Their own representative, Mr. Coan, reported that to the committee. These men were called before your investigating committee and every one of them testified that Coan had never asked him to go before the Helm committee, and that he had never refused to go before the Helm committee. Yet, the Hearst representatives, who by that time had come into this conspiracy, made an affidavit to the Helm committee that these men had refused to come into the State of Illinois.

Then they reported to the State senate and stated that they could not secure these important witnesses, and that the only body that could get them was the Senate of the United States. So they passed a resolution calling on the Senate to undertake another investigation because of their inability, after a most strenuous effort, to secure the witnesses who were outside of the State of Illinois.

Was the attention of the people of the country called to this? Oh, yes. Every man all over the country, including myself, said that if there was a corruption fund of $100,000 the country ought to know of it, and the Senate—while I believe they violated a fundamental rule of law of this land in so doing—appointed another committee. Thus have we before us the action not of the Helm committee, but of Gov. Deneen, of the Tribune crowd, of Herman Kohlsaat, of Victor Lawson, of John J. Healy; and, hence, we are here to-day. That is why and how we happen to be discussing this question here this morning, because it was necessary to have some official creature, such as the Helm committee, call on the Senate of the United States to act.

And then the second investigating committee was appointed. I merely want to say, in concluding that statement, that no witness was summoned before the Helm committee, which was appointed on the 17th day of January, until after the 1st day of March, when my case had been disposed of. These conspirators had humbugged this Senate into appointing a committee. With the hope of finding new evidence in their mind? Oh, Senators, no; there was no such thought in their mind; but to try the case on the old testimony, because there were new judges, and they hoped to be able to get a verdict for that reason.

Now, Mr. President, I propose to discuss for just a few moments the views of the minority of the committee and to point out to the Senate the misstatements they have made of the record and the insinuations and innuendoes that were resorted to, in my opinion, with no other purpose than to poison the minds of Members of this body.

Before going into that, however, I want to call attention to their report in which they state that they conclude that Joseph Clark must have received money and therefore was corrupted and that his vote should not be counted for LORIMER.

But before proceeding further with that, I want to state that I heard, after the last investigation, that many Senators were opposed to LORIMER because he did not take the stand in his own behalf. When I testified before the committee, Senator JONES asked me at the conclusion why I had not taken the stand before. If my memory serves me right, I responded that it had been admitted in the prior investigation by the counsel for the Chicago Tribune that they did not expect and would not claim that they would connect LORIMER with any corrupt act, and that I thought it was beneath the dignity of a Senator of the United States to take the stand when any sort of insinuation was made and swear that he was not guilty. But I did make a statement upon this floor, and I have sworn to every word that I stated here, and not one single word has been contradicted.

In this connection I should like to call the attention of the Senator from South Dakota [Mr. CRAWFORD] to a statement that he made. He sent to Gov. Deneen to find out whether LORIMER was lying or not. He asked the governor if Shurtleff had been one of a committee that worked in favor of Senator Hopkins—I stated that he had been, in Senator Hopkins's previous election—and the governor did not answer my statement. The governor said if it were so, it would be news to the people of the State of Illinois. The governor evaded in his answers the important inquiries just as he evaded that one.

My attention is called to the further fact that the Senator from South Dakota asked if Gov. Deneen's friends had aided in defeating Senator Hopkins; and that was because I had stated upon this floor that Gov. Deneen was responsible for the defeat of Senator Hopkins, and that if his friends had voted for Hopkins on the first ballot in the separate houses, or on the first five joint ballots, Senator Hopkins would have been elected. The governor evaded that question, Senator CRAWFORD. But on the stand, under oath, when the question was deliberately put to him, he swore that he and his friends had a conference, and they decided to defer the election of Senator

Hopkins, and that they did defer it until after the governor's contest was settled, which occurred on the 18th day of the following March. That is what he testified to, Senator CRAWFORD. I was taught, from the earliest time I can remember, when I sat beside my mother, that to act a lie was more heinous than to tell one. While he did not deny my statement, he acted in such a way and he framed his response in such a manner as to give the impression to any man who read the telegram that LORIMER had lied when he made that statement upon the floor of the Senate. That can be found in the remarks of the Senator from South Dakota in the RECORD, made on the night he made his famous filibustering all-night speech, talking about everything under the sun except, for a short time, the question that was really at issue in the Senate.

Senators also complain because I did not discuss the record. May I not call the attention of Senators to the fact that there was no investigation open in the Senate, no investigation called for, until I myself introduced a resolution, at least within three days of a month after the charges had been made in the newspapers and after Lee O'Neil Browne had been indicted. Will not Senators recall that from the day I introduced the resolution until the Senate acted I never as much as raised my finger to convince any Senator that any testimony which was given before the committee was not the truth? I concluded when that resolution was introduced that I would sit here and await the deliberate judgment of the Senate and let them decide it without any discussion of the facts from me; and that is why I did not discuss the testimony.

But I feel now that my case is settled. Do what you may, you can not set aside the judgment that is written in the record of this body and can never be stricken out. I believe that because I have a title not only of a certificate presented and accepted, but a title that has been challenged and declared valid by this body, I am now justified in discussing this testimony.

Now, it is stated that Joseph Clark must have received money, and, therefore, his vote was corrupt and should not be counted for LORIMER. I received a letter from John A. Bingham, of Vandalia, Ill., on the second day of June, 1911, and I shall read only the parts that are important. Referring to Joseph Clark, he says:

At the request of Joseph Clark, I am writing this letter. I have just come from his bedside, where I went at the request of Joe over the phone.

As I told you in Chicago when I last saw you, Joe is not long for this world unless he improves rapidly. He has been confined to his bed for two weeks steadily, and in bed more than half of the time since spring.

Now to the question. To-day's Tribune contains the statement that Senator OWEN yesterday read three affidavits in the Senate made by three citizens of Vandalia that Joseph Clark stated in their presence "that he said he voted for LORIMER on condition of controlling the post-office appointment at that place," and that he, OWEN, did not want them to go into the CONGRESSIONAL RECORD.

Mr. Clark wants you to give him the names of the "Vandalia citizens" who made the affidavits that he may know who they are.

Also copies of the affidavits, if you can get them. Mr. Clark informs me he never made such a statement in the presence of anyone; that he had no promise of any kind from you or anyone for his vote for you, or any other consideration of any kind or character; that he never had a conversation with you for months before the vote was taken, and about six hours afterwards, and then in the presence of a room full of your friends. And he is ready to so state, and in his testimony before the senatorial committee in Chicago did swear to these facts where same can be found.

Now, this part of my letter is confidential. If you want the testimony of Joseph Clark for use on this or any other question, you better serve notice and have it taken soon, as my judgment is Mr. Clark can not live long, and will not unless a change in his condition comes soon.

On the 19th of June the same gentleman sent me the following letter:

FRIEND LORIMER: On behalf of Joseph S. Clark, of this city, I again write you. June 3d last I wrote you—at Mr. Clark's request—asking you to furnish him the names of the citizens and copies of the three affidavits read by Senator OWEN to the Senate on the day previous, charging that Mr. Clark voted for you in consideration of naming the Vandalia (Ill.) postmaster.

Mr. Clark is in a very dangerous condition at the present, with little hope of his recovery, and wants to know before he dies who these citizens are who made such affidavits.

Can not you gratify the wishes of this poor dying man? He also wants to aid you in any way in his power, and if it is possible that he may have the opportunity to record his affidavit or evidence absolutely denying the facts in those affidavits, he wants it done.

It would relieve his mind greatly to be given the opportunity. Certainly your tormentors are not so calloused as to deny the request of a dying man.

Then I sent him a telegram in which I stated that I had forwarded copies of the affidavits.

Mr. President, it can be seen from those letters that they were not secured for me; that they did not come as a result of any effort that I put forth to bring them here. They are requests from a dying man who wanted to leave a record before he passed to the kingdom come that his traducers lied about him; and he made a dying declaration, and that is what I want especially to call to the attention of the Senate. I will ask permission to have printed in the RECORD all the portions that I will not take up the time of the Senate in reading, and I will only read the vital elements of his dying declaration.

The PRESIDENT pro tempore. Without objection, permission is granted to the Senator from Illinois.

Mr. LORIMER. I read from Joseph Clark's affidavit:

I am now a sick man, having been confined to my bed for the past 48 days, and may soon be called to the judgment bar of my God.

* * * * * * *

And I desire to state further, as a further explanation, and as I now feel this will be the last opportunity I may have, and want this statement to be a part of my affidavit:

* * * * * * *

I desire to further state, and make it a part of this affidavit, there was no consideration of any kind from Mr. LORIMER or anyone else on his behalf or for him made to me directly or indirectly, or any hope of reward held out to me or anyone for me, that moved me to cast my vote for Senator LORIMER for United States Senator—no promise of post office or anything else—and I did not do this until I was convinced we, as Democrats, could not elect a Democrat; and I want to say further, I consulted with my Democratic friends and was advised by them, if we could not elect a Democrat, to defeat Hopkins at all hazards, and when the opportunity came, and being convinced we could not elect a Democrat and that we could defeat Senator Hopkins, so cast my vote, and these considerations, and these only, moved me and prompted my vote.

* * * * * * *

As matters of this life stand now with me it matters but little to me whether the enemies of Senator LORIMER succeed in ousting him from his seat in the United States Senate or not, or what becomes of the post-office fight in Vandalia, Ill. I feel that I have discharged my duty in both matters and it is for this purpose and that the truth in both matters may be known I have caused this affidavit to be made. I want to add further that this affidavit is made at my own request, and none other.

That is the dying declaration of Joseph Clark. How he received the affidavits I have just stated. No man will ever convince me that any man on his deathbed, knowing as Joseph Clark knew that his days would soon be numbered, would plead with anybody for an opportunity to perjure his soul and sink it into damnation to help a man who had not requested his help.

No, Mr. President, before I believe that I must understand Christian people, and I must understand the Christian doctrine different than it was taught to me. All the suspicion that all the committees or parts of committees might cast upon the vote of any man who had made in the closing moments of his life a statement of that kind would not make me believe that when he was going before his Maker he had perjured his soul.

Joseph Clark in a few days after passed away. So much for the views of the minority with reference to Joseph Clark.

Now, for the insinuation; now for the innuendo. Luke has been referred to as one of the men who received money, and all through the discussion of the Senator from Indiana [Mr. KERN] you will find Luke's name running. He uttered this sentence:

I do not know that I shall refer to Luke's testimony again—

Now remember, "Luke's testimony again"—

and therefore I will add here that Charles Luke is the man who has since died.

Since when? Since he testified? What other impression can you have, because he states that he will not refer to Luke's testimony again and that Charles Luke is the man who has since died. I read from page 35 of Senator KERN's speech.

Now, what is the evident purpose of making a statement of that kind? I can find no other reason except to smear and slime the record and create suspicion in the minds of Senators that Luke testified and that he did not believe him. He classed him among those, therefore, who had received a bribe.

Now, Senators, what are the facts? The first resolution that was introduced in the Senate was on the 28th day of May, 1910, and I introduced it myself. Before the resolution was introduced Luke had gone to his Maker and he never testified before this committee or any other committee. I challenge here and now in the presence of the men who are to decide this case Senator LEA, Senator KERN, Senator KENYON, the men who signed the minority views, to point out in any part of this record or the previous record or any of the records that Luke ever testified in this case.

Mrs. Luke, the widow of Charles Luke, did testify. She testified in Chicago. She testified before both committees. She was asked if she had seen any money in the possession of her husband. She said she had. She was asked the question how much, or was it $950? She answered that it was. She was asked the character and the denomination of the bills. She said she thought they were $20 bills. She was asked if he received it or if she saw it after he came back from St. Louis after he had received a telegram from Robert E. Wilson. She testified, no; it was before. She was asked if he had been to

St. Louis or Chicago before he received the money. She said, no; he had not.

That is what she testified to before the committee in Chicago in the previous investigation. In this investigation she answered—and she was a poor, weak, sickly woman—that she forgot whether it was before he went to St. Louis or not. But on cross-examination her testimony was read to her on the previous examination, and the question was asked, "Was your memory better then than it is now?" and she said it was. She was asked did she tell the truth at Chicago the first time, and she said she did.

There is the testimony—and the only testimony we have—as to the money that she saw with her husband before he had gone to St. Louis to meet Robert Wilson, and that he had neither been in Chicago nor St. Louis before she saw the $950.

Now, how does that tally with the insinuation of the Senator that Luke testified, and that he would not talk about his testimony any more, the inference being that it was so unbelievable that it was not worth talking about?

Jandus, the man who was in Broderick's saloon the day that Holstlaw called, also it was shown was buying property soon after the election of Senator LORIMER and paying out considerable sums of money, and that he had a large sum of money in his vault at his office. Jandus testified that he bought property in connection with other people; that he made from seven to eight thousand dollars every year; that he was either secretary or attorney, I have forgotten which, of somewhere from 10 to 12 building associations. I have known Jandus since he was a boy. He is an industrious man. Jandus has been in the real-estate business as an active 18-hour-a-day toiler all his life, and he has been buying and selling and trading real estate all his life. And because he joined with other people to buy farm land, that is evidence that he was corrupted! There is no evidence in the record here, there is no statement by anybody, charging Jandus with having been purchased to vote for LORIMER.

Then there is a lot more of what is termed to be circumstantial testimony, that Henry Shephard had a safety-deposit box in the city of St. Louis, and that he was a banker, and because he was a banker he ought to keep his papers in his own vault at home in Jerseyville.

I started out to be a banker when these conspirators started out to destroy me. I have been a poor sort of a banker since. We have a vault in our bank. Inside of that vault I have a little box. Nobody has the combination but my sons and myself. I have papers there. In the same building downstairs in the safety-deposit vault I have a box. The vault we have is good enough and secure enough to defy all the burglars in the world; but I also have a safety-deposit box in the safety-deposit vault downstairs. One of the largest banks in the city of Chicago occupied the space that we occupy now, and they, too, had a safety-deposit box in which to store their valuables.

It is pointed out as a suspicious circumstance that Thomas Tippitt, the leader of the minority Democrats, had a safety-deposit box. The evidence here shows that Thomas Tippitt had had the box since 1902. If you go through the list of the members of the general assembly, the average man in Chicago and in Illinois—not the man of affairs, but the average man—you will find that he has a safety-deposit box. In Chicago we rent them by the hundreds of thousands, and we are not millionaires in that town by the hundreds of thousands. That insinuation is to poison the minds of the Senate and create a suspicion that they rented these boxes to store away the corrupt money which they received as a result of LORIMER's election.

Then De Wolfe and Wheelan and Blair, the latter seen at the ball park with hundred-dollar bills; it was said that one bought a house and paid for it, and the other had money in the Bible at home. That is taken as an evidence that they were corrupted to vote for LORIMER.

Why, Mr. President, if they had called in all the members of the Illinois General Assembly and put them on the stand, I have no doubt that they all would have testified—those who voted for me and those who did not—that at some time, at some place they had money—twenty-dollar bills, fifty-dollar bills, hundred-dollar bills—and it is just as reasonable to assume or to insinuate that the men who testified that they had money who did not vote for LORIMER received it corruptly because they did not vote for LORIMER as to assume that those who had money, who did vote for LORIMER, because they had money were corrupted to vote for LORIMER.

These are all men; they are all of age; they all have families; they all have to work for a living. Will anybody suppose that that was the only time in their history that they had had money? Is it not just as fair to presume that the money they had 10 years ago was money they got on a promise to vote for LORIMER 10 years hence? I believe, if it was necessary to make that argument, Senators who do not seem to care for the facts would have made such a statement. So I will not go into the details as to those members of the general assembly.

Mr. President, as to the four so-called confessors, the four men who are said to have been bribed to vote for LORIMER, the first is Charles A. White. If you have any case here it must stand or fall on the statements of Charles A. White. I am not going into the impeaching testimony of all the witnesses to prove the character of White and the many things that he said and that he threatened to do to extort money from persons; but I am going to call your attention to facts that, if true and not disproven beyond any question of doubt, you may feel that you have a right to disbelieve White, even though everybody here, no matter how he came here, must admit, because it is in the record, that Charles A. White is a perjurer and that he admitted under oath that he was a perjurer.

What are the facts? When Lee O'Neil Browne was on trial in Cook County, what was the charge? He was charged with bribing Charles A. White to vote for WILLIAM LORIMER for United States Senator. He was not charged with paying money, except as he paid a thousand dollars in three payments to Charles A. White for his vote for WILLIAM LORIMER. The State's attorney of Cook County centered all his energy around that statement to prove that Lee O'Neil Browne had bribed Charles A. White to vote for LORIMER. After the first trial they realized that they must prove that. To prove it they put the Yarbroughs on the stand—the two brothers. Let me call your attention to this:

White had testified that Browne called him on the phone in his room between 11 or 12 o'clock, or some such hour, on the night of the 24th of May, and told him that he wanted to come to White's room; that he wanted to talk to him; and that he did go there. When he arrived there it is claimed White was there, Otis Yarbrough was there, and Sidney Yarbrough was there; and that Browne made some jocular remark about three sleeping in a bed. So well did they recall the details that there was no mistake about it. White said that Browne invited him (White) to his room; that he went there; that Browne asked him to vote for LORIMER; and without White asking him anything about what he would get, Browne said, "It will not be any chicken feed either."

The whole case in that trial depended upon whether or not White told the truth. White stated that no other man previous to that moment had asked him to vote for LORIMER; that he had never told a soul that he intended to vote for LORIMER; and that he had never discussed it with anybody on the face of the earth. The only person who ever talked to him about the matter, according to his statement, was Lee O'Neil Browne. Both of the Yarbroughs testified that they were there when Lee O'Neil Browne called.

Now, eliminate White, eliminate Browne—eliminate their testimony altogether—and what do we find? First of all, we find Representative Shaw, a Democrat, a constant supporter of Senator Stringer and chairman of the committee of Democrats organized for the purpose of persuading Democrats not to vote for LORIMER; he did not himself vote for LORIMER; it was his duty, as chairman of the committee, earnestly to work to defeat LORIMER, to talk to every Democrat, and he testified—now mark you—Shaw testified, that he talked to White. He had reason to talk to him; it was his duty to talk to him; and he has reason to remember his talk with him. He says, three or four days or a week before LORIMER was elected White told him that if he got a chance to vote for BILL LORIMER he would vote for him. Shaw tried to persuade him not to do so, but White insisted that he would do so if he got a chance. That was prior to the 24th day of May, about a week before LORIMER was elected.

John O'Neill, a labor leader from Chicago, known personally to White, a friend of White's, testified that he talked with White a week or more before the election of LORIMER, and White told him—now mark you; remember that White said that nobody ever talked to him; that the matter never was mentioned by anybody—but John O'Neill said that he talked with White; and that White told him that he, as a Democrat, would vote for LORIMER; that he was a member of the legislature; and his language was that "a good many of the boys"—meaning the Democrats—"felt the same way about it." On Sunday morning, the 23d of May, in the city of Chicago, he told a street-car motorman named Gloss with whom he had worked in East St. Louis and in O'Fallon that BILL LORIMER was going to be elected, and that he was going to vote for him.

There is no reason why these men should tell falsehoods. Nobody will challenge the statement of Representative Shaw. I think every member of the committee, minority and majority, believed every word that Shaw said; I believe every member of

the committee believed every word that O'Neill said; and I believe that every member believed what Gloss stated.

Now, remember this, that the whole question turned on whether or not White told the truth when he stated that Lee O'Neil Browne was the only man who ever talked with him about voting for LORIMER, and that Lee O'Neil Browne was the only man whom he ever told he was going to vote for LORIMER. The men to whom I have referred stated otherwise. In addition to that, I stated on the stand that Charles White, a week or 10 days before I was elected, walked up to me in the House of Representatives of Illinois and volunteered this statement: "If your name is presented to the general assembly I will cast my vote for you."

But I am an interested party. I do not ask you to consider my testimony, but I am justified in assuming that you will consider the testimony of men whom no one impeaches and whom no member of the committee doubts.

Now, I go a step further. These three men testified that the Yarbroughs—the two of them—were in the room on the night of the 24th of May, when Lee O'Neil Browne called. That is a circumstance through which they expected to prove that White was telling the truth; and it had no other purpose, because they gave no other testimony with reference to that proposition.

Now, what does the record show? The record shows that Sidney Yarbrough was not there, but that he was in the city of Chicago on the night of the 24th of May. I will not go into the details of that. But if any Senator doubts the statement, I will do so, and prove it beyond any question of doubt, as this testimony does, that Sidney Yarbrough was in Chicago, in the motorman's house, in bed, the night of the 24th of May. Does any Senator misunderstand? He was in Chicago, not in Springfield in Charley White's room. He went to Springfield on the night of the 25th on the Illinois Central Railroad, and rode on Charles A. White's pass. That was testified to by the man and the woman in whose home he slept that night. Nobody doubts that. There is not the remotest doubt in the mind of anyone who heard that testimony that Sidney Yarbrough was not in Springfield. The register in the hotel shows that only Otis Yarbrough and Charles A. White registered on that night at the St. Nicholas Hotel.

How do we know that he went on the Illinois Central Railroad? Gloss, who had been Sidney Yarbrough's motorman, testified that he knew Sidney Yarbrough's handwriting. Sidney Yarbrough had to sign the coupon on which he rode to Springfield. Browne's lawyers sent to the railroad office, and there were produced Charles A. White's coupons, 45 or 46 of them—these were coupon passes—bearing on one side the date on which they were used; bearing the name of the person to whom issued on the other side. The 45 or 46 coupons were turned face down, leaving the signatures on the coupons exposed, and Gloss, who had been Yarbrough's motorman, was called to pick out, before he had previously had an opportunity to see them, those coupons which bore the signature of Charles A. White written by Sidney Yarbrough; and he picked them out. I have forgotten how many he picked out, but more than one; and when they were turned up it was found that one of them bore the date of May 25, 1909, used 24 hours after Sidney Yarbrough had sworn that he was in Charley White's room in Springfield when Lee O'Neil Browne called on the night of the 24th of May.

Now, are we to believe White, who swore that Sidney Yarbrough was there? Are we to believe Otis Yarbrough, who swore Sidney Yarbrough was there as circumstantial testimony to prove White was telling the truth? Are we to believe White against Representative Shaw's testimony, John O'Neill's testimony, the testimony of Gloss, who picked out the signature of White that was written by Sidney Yarbrough? Are we to take White's testimony as the truth and consider that these men are perjurers, or will we believe these men whom nobody attempts to impeach?

Now, as to the question of the Senator from Missouri [Mr. REED], why did I loan or contribute—put it in any way you choose; put it in the most offensive terms that you can conjure up; make it carry with it all the suspicion that innuendo and insinuation are capable of—why did I furnish money to aid Lee O'Neil Browne in his defense?

Does it take a man of superhuman intellect to understand? No. I think anybody who wanted to understand could understand without an explanation. What was Lee O'Neil Browne on trial for? Corrupting Charles White? Oh, no. Giving money to Charles White? Oh, no; except as it was a circumstance. He was tried for giving money to Charley White and bribing him to vote for LORIMER. That was the charge. And if it is true, LORIMER has no place in the Senate.

I know that Lee O'Neil Browne never paid out $1 for a vote for LORIMER. I know that the State's attorney and the Tribune and the governor were in a conspiracy to destroy LORIMER, and I know, and every Senator here knows, that if Lee O'Neil Browne could have been convicted it would have been hard to make anybody believe that LORIMER had not bought his seat or that somebody had not bought it for him, and with the conviction of Browne, that conviction would have been brought here to the Senate as evidence that LORIMER was here by corrupt methods and practices. That is on what they intended to base the prosecution. They thought they had it closed up; they thought it was a closed book; that there was no doubt that Lee O'Neil Browne would be convicted; that he could not escape. All the power of the third degree they knew would be brought to bear by State's Attorney Wayman; all the power of the governor's office would be brought to bear by the governor.

Lee O'Neil Browne was to be convicted. Where? Where the venue lay? Oh, no. He did not bribe White in Chicago. If he bribed him to vote for LORIMER he bribed him in Springfield. Yet they say he paid him money in Chicago. I answer, then, it is stated that they paid him $100 in Springfield, and the venue was in Springfield, Ill., where, if there was a corrupt act, it was performed. But what was the effort of the State's attorney of Chicago, and of the governor of Illinois, and of the attorney general? They were all lawyers. I am not. They knew where the venue was, but they were afraid of the State's attorney at Springfield, Ill. They knew, or at least they thought at that time, that they could not depend upon him to apply the third degree, and Wayman sent White and Beckemeyer out of the State in order that they might not be subpœnaed by the State's attorney of Sangamon County to go there and testify, and on their testimony an indictment be brought and the State's attorney of that county might prosecute Lee O'Neil Browne and take him out of the hands of Wayman and the Tribune.

How far did they go in their effort? They called in the attorney general of the State. They got him to commence proceedings in Sangamon County, in the circuit court, to prohibit the State's attorney of Sangamon County from subpœnaing anybody before the grand jury to testify on matters affecting this case. The circuit court of Sangamon County refused to interfere.

These men were taken out of the State and kept out until when? Until the Record-Herald and the Hearst papers made Burke believe that the newspapers would make a great man of him. He went to Chicago and visited all the newspapers in town. His picture was taken and put in the papers—but I will tell that story a little later on.

But, now, if Lee O'Neil Browne had been convicted in Cook County, no lawyer will believe that he ever would have gone to the penitentiary. At the end of the fight in Illinois, in the appellate court or in the supreme court, or, if not there, here, where all men's liberty is secure—in the Supreme Court of the United States—it would have been decided that the venue was not in Cook County but in Sangamon County; that even if Lee O'Neil Browne was guilty the court had no jurisdiction, and he would have been dismissed. But meanwhile time would have been consumed and the conviction of Browne would have been placed before the Senate and would have been cited as strong proof that LORIMER's seat was purchased and that Lee O'Neil Browne was a party to the purchase.

Does the Senator from Missouri think that any man who has the slightest respect for his own honor would stand by and permit these conspirators, through perjury and without right of law, to send a man to the penitentiary because he was not able to employ counsel on account of his financial condition? It would not only convict him unlawfully, but, in the minds of the people, convict LORIMER of securing a seat here by bribery and corruption.

That is all there is to the White story; there is the evidence, all centered around the night of the 24th of May. If that be true, you have a right to believe it, and I say you have just as much right to believe White as Browne, if you want to. But no man has a right in deciding a case, either as judge or juror, to take the testimony of a self-confessed, time after time, perjurer—a man who would sell his soul for money—against the three other witnesses, Shaw, O'Neill, and Gloss.

Take the testimony of Sidney Yarbrough offered as circumstantial proof—and, standing alone, it is convincing—against the statement of Mr. and Mrs. George Gloss that he was in their home on the night of the 24th day of May. You must believe that all these men, Shaw, O'Neill, and Gloss, and this good woman, Mrs. Gloss, are perjurers and that Charles White tells the truth as against them, if you are to believe there is anything in this case. That is all there is to the case. Settle that question in your own mind and you have settled it all. You do not need to go to Link; you do not need to go to Beckemeyer; you do not need to go to Holstlaw, when you have settled in your mind that Charles White was not telling the truth about that incident; then you must conclude that he was not bribed to vote for LORIMER; that he did not receive any part of the $1,000 to

cast his vote for LORIMER. I am not asking Senators to consider, in connection with his testimony, that I testified that 10 days or a week before he voted for me he voluntarily rose from his seat in the house of representatives and pledged me his vote.

Yes; the views of the minority are that in this case there are the confessions of four men that their votes were secured by bribery, and that their confessions are corroborated by strong circumstantial evidence; that four men testified that their votes were secured by bribery. Stop there. That is what they say that the four confessed. Senator KERN signed that report. Senator KENYON signed that report. Senator LEA signed that report. They signed it in the face of the testimony in the record of Michael Link, corroborated by the State's attorney of Cook County, who was the prosecutor, that he never said that he received a dollar or was promised a dollar or ever got a dollar for casting his vote for WILLIAM LORIMER. Yet there is that statement. It is not insinuation, it is not innuendo, but it is the views of the minority.

But in this case there are confessions by four men that their votes were secured by bribery.

That is what they said; nothing more, nothing less. I have just stated to the Senate that that is in the face of the fact; that the record shows that Link never made any such statement, but always persisted that he voted for LORIMER because he had promised to vote for him a considerable time before he was elected if he would be a candidate, because he liked him and because the people of his district were for LORIMER, and they were for him because they live on the Mississippi River and LORIMER was the champion of the deep waterway from the Lakes to the Gulf, and his constituents were more interested in that than they were in anything else, and that they favored him, and that, therefore, he favored him.

The further fact is shown in this record that only one man, Charley White, testified that he was bribed to vote for LORIMER, and that he received and was promised money to vote for LORIMER. Link denied it in every way that the English language can cover it that he never thought of being rewarded, that he never was rewarded, that he would not have accepted a reward for casting his vote for LORIMER.

Senators, that is the testimony, and the record shows it. I do not ask you to take my view or my opinion of it. Read the record. It tells the truth. Link said—now mark this—Link said that he was put through the third degree. I will not rehearse it all, but he said finally they put the proposition up to him, "Say you got the money and go home to your family; and if you do not you are on the road to the penitentiary." Now, what is Link's testimony? His testimony is that he said, "If I have to lie to save my wife and to keep out of the penitentiary I will lie before the grand jury."

Where did he testify to that? Before the committee? Yes; before the previous committee. Since that time Mike Link has passed away. Was that the only place where he testified? No; he testified in the criminal court in Cook County. He testified to that twice in the jurisdiction of Wayman. If it was not true, Senators, it was perjury, and it was perjury in Cook County, where the venue lay. It was testified to twice in the presence of Wayman that he told Wayman if he must lie to save his wife and his family and to keep out of the penitentiary he would lie.

Was he ever indicted for perjury? No; Wayman never brought him to the bar of justice for perjuring himself, if it was perjury. They never disproved it on the stand. Nobody ever appeared before any committee to contradict it until Michael Link was dead and in his grave, and then they brought the assistant State's attorneys before this committee, after three times during his lifetime he had sworn to it, and then they testified that Michael Link was not telling the truth. If they were looking for perjurers, if they were looking for men guilty of corruption—and what more awful crime is there than perjury—why did they not prosecute Michael Link for testifying that the man who was prosecuting was told, before Link went before the grand jury, "if I must lie to save my wife and my family, and to keep out of the penitentiary, I will do it"?

Suppose we were not trying this case in the newspapers, suppose we were not trying a case by the newspapers, what would we do with such testimony as that of Link? Who would accept it as circumstantial or corroborative proof of anything? Nobody, nowhere. No man who has followed the record can accept it as testimony or evidence even worthy of the slightest consideration in this case.

Another statement, White testified immediately after the adjournment of the legislature June, 1909, that he wrote asking Browne for the balance of his Lorimer money. We have no letter of that kind in the record. I searched the records for a letter of that sort.

It is suggested to me by a Senator to state that Link said that he got a thousand dollars, but he repeated time after time and time after time that he did not get it for his vote for LORIMER. Whom are we to believe? Will you believe these men only when their testimony will destroy LORIMER and disbelieve them when it tends to aid LORIMER? Is there only one time that we can believe a perjurer, and that time when his testimony aids the newspaper trust in destroying the man they have never controlled and, with God's help, never will control? But while I live and am given the strength, regardless of the action of this Senate, this fight will go on, and on, and on, until all the people of the world will come to know the case.

The five Senators of the committee who reported to you that the testimony taken before them clearly established that my election was valid heard almost every line of testimony. I sat with the committee except on a few days when I was called away on business. I do not condemn the Senators for it, but the record will show that of the minority one Senator was there less than 25 per cent of the time, another Senator not to exceed 50 per cent of the time, another Senator not to exceed 80 per cent of the time. That is what the record shows. And he of the three who has the best record was not actually present in the room more than 50 per cent of the time when witnesses were on the stand.

White's testimony is corroborated by the following facts—

This is in the views of the minority—

(4) By the threats of White to blackmail Browne and LORIMER, which were made in August, 1909—

Mark you, August—

to friends of Browne, and which were doubtless communicated to Browne, and by the thinly veiled threats of exposure by White in a letter to Browne of October 20, 1909, in which he stated, according to his testimony—

I would have the attention of Senators to this—

he knew LORIMER and Browne were under no obligations to him, since he had received his part of the Lorimer and jack-pot money, and the fact that thereafter Browne and Senator LORIMER both tried to secure positions paying satisfactory salaries to White. For if White had had no knowledge that would be injurious to LORIMER or Browne, he could not have blackmailed them successfully, and there would have been no reason to obtain the position that was secured for him by Senator LORIMER, through Lee O'Neil Browne, after these threats, or no reason to try to placate White. On the contrary, innocent men would indignantly have refused to have anything else to do with such a blackmailer.

There is not a scintilla of evidence in this record to prove the insinuation that LORIMER ever tried to placate White. There is not a scintilla of testimony to prove that in August White tried to blackmail LORIMER. I will tell the Senate. It was not necessary to testify, because nobody insinuated anything of that sort while the committee was in session.

Browne came to me after my return from Europe. I landed in New York on the 19th day of October, 1909, after an investigation of the waterways in Europe. I went to my office in Chicago, I think, on the 22d day of October. There I found a letter from White pleading for help, for some sort of a situation. He said he was $500 in debt, and that he wanted me, if I would, to help him to secure a position. I told Browne, who told me this story: "White is poor. He has no employment. The street car company will not take him back. He is a troublesome labor leader. Can you not get him a job?" He never had a place that paid him over $65 or $70 a month. I secured him a job in Cook County, at $75 a month. There was no sign of blackmail, not a word of intimidation. It was a plea to help a man that helped me. When a man who has helped you to climb the ladder in the world asks you for assistance, if you are an honest man, if you are true to yourself, in accordance with the theory of the minority of the committee you will turn that friend down. All right, Senator KENYON, Senator KERN, Senator LEA, you may live up to that rule if you will; but all my life I have tried to make a reputation for never having gone back on or turned down a friend. God willing, I will continue in that course until my death; and if it shall be a sign of vicious habits, bribery, and corruption, I will still go on, and let Him judge, who, after all, shall be the final judge, whether or not it is correct to do unto others as you would have them do by you. By that rule have I lived, and by that rule will I die, if all the world, including the Senate, shall condemn me.

It is evident from the views of the minority, if the statement of the minority be true, that LORIMER was a man of great force, with no equal to be found anywhere in Illinois. They say:

Senator LORIMER's hand was the guiding force in shaping the action of the Legislature of Illinois in 1909, from soon after its organization—

There is not a word, not a syllable in the record which justifies that statement—

and that he was in close consultation with Speaker Shurtleff—

Yes—

and minority leader Lee O'Neil Browne.

To read this one would infer that from the beginning, or soon after the organization of the legislature, LORIMER was guiding the acts of the legislature and that he was in close consultation with the speaker and Lee O'Neil Browne. It naturally carries the impression that LORIMER and Browne were constantly in consultation during the whole winter; but the record shows that LORIMER and Browne were not. There is no evidence even to create the slightest suspicion that Browne and LORIMER were in close consultation until some time in the neighborhood of two weeks before the election. That LORIMER and Shurtleff were in consultation, close consultation, all winter is true. LORIMER was at Springfield every week after the 12th day of January. For what? Take the testimony of the governor of the State. He testified that almost every time he and LORIMER talked they talked about the deep waterway proposition. I testified that I was there every week in the interest of the deep waterway project. The Senator from Indiana pooh-poohs that and passes it over. He says there is nothing in that. Oh, no; there is nothing in LORIMER'S interest in the deep waterway; he never had been interested enough in the deep waterway to take him to Springfield; and yet the record shows that LORIMER for three years had attended every session of the legislature in the interest of the deep waterway, first, to have the $20,000,000 constitutional amendment passed, and, after it was passed, to go there, as he went there that year, to make it effective by legislation.

Probably the Senator from Indiana has the idea that all public men devote their time to pulling down people and things and that none of them devote their time to building up. For 17 years I have devoted my time to the deep waterway project, not alone to speak at meetings, not alone to urge other people to join, but to organize, and to pay out of my own pocket the expenses of creating the organization, in 17 years amounting, in round figures, to more than $30,000, of which I hold receipts for more than $20,000—not aided by others, not contributed by others, but out of my own pocket. If a man will spend on an average $2.000 a year out of his own money to create a sentiment in the interest of a great project, out of which he can not hope to receive the slightest reward, is it not at least evidence to justify the statement that I made that I had an interest in the deep waterway project, and that it was important to me? If I had not been compelled to follow for two and a quarter years this awful, bitter, vicious prosecution the deep waterway from the Great Lakes to the Gulf of Mexico, I am sure, would have been legislated for for completion from the Lakes to the Gulf.

I may not be able to aid further in constructing that mighty highway of commerce, but the work has not been in vain; the expenditure of personal funds has not been without reward, because, through the efforts of the Lakes to the Gulf Deep Waterways Association, a sentiment in the country has been created which has caused Congress thus far, before this year's river and harbor bill was passed, to appropriate, and the Government has expended $7,000,000 to regulate and control the Mississippi River, which can be done beyond the slightest question of doubt with the proper appropriations and with the known scientific methods. In that way the Mississippi can be controlled. I may not be here, as I had hoped to be when I began to make an effort in favor of this project, to see the final completion and the deep-draft boats of Lake Michigan traversing the Chicago Drainage Canal down into the Illinois River and off into the Mississippi to the Gulf of Mexico; but the work has been done. The people now realize the feasibility and the importance of it to the commerce, not alone of the Mississippi Valley, but, with the completion of the Panama Canal, to the commerce and industries of the entire country. Whether LORIMER shall ever be heard of again, whether LORIMER shall live to see the final completion, or to have aught more to do with bringing it about, I have faith that the organization that was started will continue the work, and that this proposed great highway of commerce will one day be a highway in fact. When the Senator from Indiana, in the language chosen by himself, attempts to make the Senate believe that that was not of sufficient importance to LORIMER to cause him to go to Springfield and stay there all winter, as he had stayed there many days before for the same reason, he indicates that he does not realize the length and breadth and magnitude and importance of the project, or that that is not his rule of labor.

In the same connection the minority further say:

> And that he was in such close consultation with Speaker Shurtleff and minority leader Lee O'Neil Browne as to justify the belief that these men were his agents and to warrant our holding him bound by their actions.

"His agents!" What is an agent? Every lawyer knows what "agent" means. We laymen do not fully appreciate the importance of the word, but you lawyers know what it means. It means somebody authorized to act, somebody selected to speak for LORIMER, to carry out a bargain for LORIMER. That is what lawyers tell me it means. If that be so, then the evident purpose of putting that term into this statement would be to confuse and to create suspicion; but there is no evidence in the testimony which justifies that insinuation.

> The agency of these men is so thoroughly established that Senator LORIMER could reap no reward by virtue of their wrongful action without being equally guilty and responsible for their wrongdoing. (Views of the minority, p. 111.)

Not his wrongdoing; not the singular, but the plural; not one, but both. There is not one scintilla of evidence, not the slightest charge in this record that Edward Shurtleff is guilty of wrongdoing. "Their wrongdoing." If there were one mistake, one insinuation, one innuendo in the minority views, I would be willing to say that I believe it was an error in language; but when the record is deliberately misstated, when wrongdoing is pointed to on the part of some man without a line in the record to justify it, then I am compelled to believe that it had no other purpose than to prejudice the judges sitting in this case.

Here is another statement—and oh, Senators, this is a vile insinuation, because it involves a man who is in no way connected with the case:

> Mr. Hines went directly to his bank, the Continental Commercial National Bank, and after a conference with the president of the bank—

Listen to this language—

> after a conference with the president of the bank, telephoned to Mr. LORIMER, and later telephoned again, to either Mr. LORIMER or some one else—

"Some one else"—mind that—"some one else"—

> in Springfield interested in LORIMER'S election. * * *
>
> It is at least a remarkable coincidence that the election of Senator LORIMER, which had been doubtful up to that time, followed almost immediately after Hines's visit to his bank and his telephone message to Springfield.

Now, what is the purpose of that? Hines went to the bank, talked with the president, telephoned to Springfield, and LORIMER was elected immediately after that. What is the natural inference? That he went there, talked with the president, arranged for the money, called LORIMER, and later some one else, and then LORIMER was elected after the telephone message. What a vile thing that is. The president of that bank, the largest bank in Chicago, with the largest deposits of any bank in the United States, a man of the highest reputation, who was offered under this administration the position of Secretary of the Treasury and refused it, respected by every man in Chicago, not my friend, but always on the opposite side in politics, and yet it is insinuated that the bank president and Hines talked it over; the money was arranged for; he telephoned to Springfield to LORIMER and somebody else. It does not say who the "somebody else" was, but the testimony shows that the "somebody else" was Gov. Deneen. Gov. Deneen testified that he talked to Mr. Hines over the telephone that morning, and that Mr. Hines delivered a message to him that I asked him to stop off at Chicago and deliver to the governor, because, if he did not deliver it to him there, it would have been too late when he got to Springfield, for I would either be elected or defeated by that time.

Why was not the governor's name used. The expression "somebody else" was more suspicious. They knew the governor was not friendly to me on that day; they knew the governor's testimony in the record; and they knew that if they used his name his testimony would impeach the innuendo; and that is why it is put in that way in the views of the minority. There is no other explanation for it, and you are expected, Senators, to decide this case on that sort of information. You must depend upon these eight men constituting the committee. I know the general opinion of the people of the country is that every Senator and every Member of the House of Representatives examines thoroughly into every question that is brought up for disposal, but service here has demonstrated to me that that is absolutely impossible. We can not know all about everything, and there never was a question submitted to the Senate that involved so many different kinds of propositions and so voluminous a record as this. No man can understand the record unless he has devoted all of his time to an examination of it; and therefore you must depend upon the report of the committee and their statement as to the facts to guide your action and to make up your judgment in this case. If Senators on the committee will misstate the record, will deliberately insinuate that things have occurred that have not occurred, what hope, what chance have you to know the truth in this case?

The Senator from Indiana in his speech said that before he began to discuss the record he must set the stage—

> Before introducing the actors in this drama, we should attend to the proper setting of the scenery and the arrangements of the stage.

The stage, as everybody knows, is the realm of fancy, not of fact. He must show the condition in the country; show that

we had an election; show that the Republicans had a small majority to pass Republican tariff bills; that the people of the country were all excited, and their eyes were on the Illinois Legislature, wondering whether they would send a protectionist, or at least what sort of man he would be and what sort of views he would have, coming from Illinois. When he got the stage all beautifully set, full of all sorts of scenery, when the observers set their eyes upon it after the curtain was raised, there were so many things to look at that did not affect the case that the audience did not see the act. I would not think of putting the construction that I do on that sort of statement but for the fact that the Senator's remarks are so full of that kind of matter.

Go to Illinois. The Senator said the Democrats wanted a Democrat or they wanted an "insurgent" Republican, because they were for Democratic or the "insurgent" Republican views.

The Senator does not know the Democrats in Illinois, and he does not know their views on the tariff question. There is probably no man in Illinois better acquainted with the people in all parts of the State than I am myself. Surely, no man in my time has ever been so close and so conversant with the Democrats of that State as I have been, and I make this statement, that if you put the question of tariff for revenue only or a protective tariff up to the Democrats in the State of Illinois, the third State in industry in the country, and a great agricultural State—if you put up to the Democrats a question involving nothing except a decision on the part of the Democrats in Illinois, whether they are for a tariff for revenue only or a protective tariff, I venture the statement that the majority of the men that never voted for anything but the Democrat ticket all their lives, down to and including William Jennings Bryan, will vote for a protective tariff. That is Illinois. It may not be the case in other States, but it is in Illinois.

But the main purpose of stating this case as it was stated, the so-called setting the stage, was the fear that somebody might call attention to the fact that one member of the minority, Senator LEA, was elected by Republican votes—32 Republicans and 34 Democrats—while LORIMER was elected by 53 Democrats and 55 Republicans, to try to make a reason for challenging the Illinois Democrats, and to make it impossible to charge that there was anything going on in the country that would impel Republicans to persist in voting for a Republican in Tennessee, when they knew that there was no possibility of electing a Republican, and knew that they could elect a Democrat that had helped them to disrupt the Democratic Party.

That is all there is to it—the setting of the stage—to cover up the LEA Republican votes, to cover up the Tennessee bipartisan combination, to make Senators forget it.

What are the facts in this case? Almost every Democrat that voted for LORIMER was LORIMER'S warm, close, personal friend. Almost every Republican that voted for Senator LEA was delivered to him by the leaders of the Republican organization of that State and did not vote for him for reasons of personal friendship, as was the case in my election. That is the record in the case. It can be the only purpose of putting the case in that way.

I quote from Senator KERN'S speech:

> There is direct evidence to the effect that John Broderick had told Holstlaw, "If you vote for LORIMER, there is $2,500 in it." There is evidence, further, that the $2,500 was Lorimer money.

Senators, there is not one word in the record that justifies this statement. It can not and it will not be shown that "there is evidence, further," that it "was Lorimer money."

What are you going to believe? How are you going to make up your minds? How are you to know how to vote on this question, if this is the statement made by a member of the committee and it is not true?

A little further on, Senator KERN says:

> I might observe here that this boy McCann, who was then perhaps 16 years old, and probably 18 years old when he testified—though I am not sure as to that—has been provided for. He has been given a place in the sheriff's office in Sangamon County, Ill., just as Robert E. Wilson, that notorious member who paid cut the jack-pot money at St. Louis, was, after his infamy was disclosed, given a lucrative position in the county clerk's office of Cook County, which he now holds. And Senator Jandus, the man who corroborated Broderick's testimony, which testimony is now conceded to be false, has been given a lucrative place in a county office in Cook County, which he now holds.

This is the point:

> It is the same method that was proposed, as I shall show later on, by Lee O'Neil Browne with Charles A. White in order to quiet him when he began to show signs of recalcitrancy.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. LODGE in the chair). Does the Senator from Illinois yield to the Senator from Utah?

Mr. LORIMER. Certainly.

RECESS.

Mr. SMOOT. I move that the Senate take a recess until 2 o'clock this afternoon.

The motion was agreed to; and (at 1 o'clock and 10 minutes p. m.) the Senate took a recess until 2 o'clock p. m.

At 2 o'clock p. m., on the expiration of the recess, the Senate reassembled.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	La Follette	Shively
Bacon	Cullom	Lea	Simmons
Bailey	Cummins	Lippitt	Smith, Ariz.
Borah	Curtis	Lodge	Smith, Ga.
Bourne	Dillingham	Lorimer	Smith, Mich.
Bradley	Dixon	McCumber	Smith, S. C.
Brandegee	Fall	Martine, N. J.	Smoot
Briggs	Fletcher	Nelson	Stephenson
Bristow	Foster	Newlands	Sutherland
Bryan	Gallinger	Oliver	Swanson
Burnham	Gamble	Overman	Thornton
Burton	Gore	Page	Tillman
Catron	Gronna	Paynter	Townsend
Chamberlain	Guggenheim	Penrose	Watson
Clapp	Johnson, Me.	Perkins	Williams
Clark, Wyo.	Johnston, Ala.	Richardson	
Clarke, Ark.	Jones	Root	
Crane	Kenyon	Sanders	

The PRESIDENT pro tempore. Sixty-nine Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

> *Resolved*, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

Mr. LORIMER. Mr. President, I wish to thank the Senate for the courtesy of the recess, as I was very much exhausted at the time it was taken and I now feel very much refreshed.

When I suspended my remarks I was just about to discuss a portion of the speech of the Senator from Indiana [Mr. KERN] and to call the attention of the Senate to this further insinuation, and probably—oh, yes; I will say—it is the most vile insinuation that has been made:

> I might observe here that this boy McCann, who was then perhaps 16 years old, and probably 18 when he testified—though I am not sure as to that—has been provided for. He has been given a place in the sheriff's office in Sangamon County, Ill., just as Robert E. Wilson, that notorious member who paid out the jack-pot money at St. Louis, was, after his infamy was disclosed, given a lucrative position in the county clerk's office of Cook County, which he now holds. And Senator Jandus, the man who corroborated Broderick's testimony, which testimony is now conceded to be false, has been given a lucrative place in a county office in Cook County, which he now holds. It shows a method in taking care of witnesses here. It is the same method that was proposed, as I shall show later on, by Lee O'Neil Browne with Charles A. White in order to quiet him when he began to show signs of recalcitrancy.

Mr. President, if the above statement means anything in connection with this case, it means that I have been suborning perjury. If that is the intent of the Senator from Indiana, I desire to characterize this statement in the only manner in which it can properly be characterized—a deliberately false statement. Suborning perjury is the insinuation; LORIMER the guilty man.

What are the facts? In the election of 1910 all the county officers—the sheriff, the county treasurer, the clerk of the probate court, the clerk of the criminal court, and the county commissioners—were elected, and every single one of them a Democrat, by all the way from 10,000 to 50,000 Democratic majority. Who were the men occupying the positions in those offices prior to that time? Many of them the best friends that LORIMER had, Republicans, had been employed in those offices all the way from 10 to 20 years. They were turned out almost to a man—I have no complaint as to that—and Democrats who were capable of filling the positions were put in their places. Jandus, a Bohemian, was appointed chief clerk of the probate clerk's office, a place that pays him $3,000 a year. The elected official is a Bohemian, and he wanted a man who was conversant with the law, and so he appointed Jandus chief clerk of the office. Bob Wilson was appointed to the county clerk's office on the recommendation of the Democratic organization of his own ward, and the testimony in this record proves it. Every one of those men was appointed to those offices because Democrats were elected; and they put their men in and put the Republicans out. What does that mean? That the Democrats who were elected to office were Lorimer men? Oh, no. If they were Lorimer men, surely the Lorimer Republicans would have stayed in the offices; but they walked the plank, and they have no complaint to make about it. Paul McCann

lives in Springfield. I did not know he was employed in the sheriff's office of Sangamon County until he was called before the committee.

But that is a deliberate attempt by the Senator from Indiana to convey the impression to the Senate that LORIMER was suborning perjury, getting places for Democrats so as to close their mouths. Without any reference to this case at all, no matter how this case goes—and surely so if it goes in favor of LORIMER—that should be inquired into, because if he is capable of doing an act of that kind, he is not fit to sit in the Senate. I challenge the Senator from Indiana [Mr. KERN] now or at any other time, to-day or to-morrow, to produce any sort of testimony anywhere that will justify that statement. Yet you are asked to form your opinions from the report of the minority and from such statements as to the facts in the case upon the floor of the Senate!

In this connection, let me call your attention to a further misstatement of the record and a further vile insinuation by the Senator from Indiana. Now, mark you, he said:

It is well enough in this connection, Mr. President, in dealing with the credibility of the testimony here to state that when Lee O'Neil Browne testified he gave the committee to understand that the amount of this contribution—

Referring to the money that LORIMER loaned Lee O'Neil Browne—

was in the neighborhood of only about $1,500.

And then:

I am not going to comment on that testimony or the testimony of Senator LORIMER on that subject.

That statement, in effect, is that LORIMER said it was $10,000, or about that, and that Lee O'Neil Browne said it was $1,500, and it does not make any difference which way you take it, one of them was lying about it. He is not going to comment on the credibility of the testimony of men of that sort. That is the impression that it was evidently intended to make on the minds of Senators.

Now, let us see what the record shows with reference to that proposition:

Senator JONES. Did any special friend of Senator LORIMER assist you?
Mr. BROWNE. Not a one, and I did not ask one. In fact, I had not asked aside from that—yes, I did ask one other, Senator, but aside from that and one other I made no request.

Then, he goes on and testifies about the other:

Senator FLETCHER. Were those large amounts or comparatively small?

Referring to the money that he borrowed from others than LORIMER—and this is one particular individual whose name he asked the committee not to compel him to disclose, because it would be of no assistance to the committee. I myself know who the gentleman was.

Mr. BROWNE. I got $1,500 from him—

Referring to this man from whom he borrowed the money—

Senator FLETCHER. And the other amount?
Mr. BROWNE. I could not tell you now, Senator, how much, but a good deal more than that—

Referring to the money that he got from LORIMER—

The CHAIRMAN. From which one did you get $1,500?
Mr. BROWNE. From my friend.
Mr. MARBLE. The amount you say you can not tell is the one you got from Senator LORIMER?
Mr. BROWNE. Yes. I can not tell that amount.

That is the record. He states that he got $1,500 from his friend, and he says the money that he got from LORIMER was a larger amount. He testified to it here; and yet the Senator in his speech on the floor of the Senate a few days ago said that LORIMER testified it was $10,000 that he loaned Browne; that Lee O'Neil Browne said it was $1,500; and that he would not test the credibility of the testimony of either one of those men.

That is the sort of information you get from the minority of this committee. I challenge any one of the minority now and here to refute the statement that I have just made—any one of them—in the presence of the judges who must decide this case. Let us have it if it is the truth; and, if it is not, then let us denounce it as a misstatement of the record and a deliberate attempt to mislead the Senate.

His testimony shows—

Talking about the testimony of LORIMER—and this is also from the speech of the Senator from Indiana—

His testimony shows that by reason of this system of machine politics he was thrown in contact with the most vicious political elements of that city; that the spoils were distributed not only to Republicans, but that official favors were granted to Democrats who would serve him and the interests of his party; that he maintained friendly, and in some cases intimate, relationships, personal as well as political, with such notorious characters as "Hinky Dink" Kenna, the now discredited John Broderick, Manny Abrahams, Cyril Jandus, and many others.

When the Senator made that statement on the floor of the Senate, referring to Kenna and Broderick, he included the statement:

Both of whom are saloon keepers.

Why it was stricken from his speech I can not tell; whether or not it was because he was chasing a ghost at Baltimore and was afraid to go before the saloon keepers of the country as denouncing them because they were saloon keepers I can not tell. He will have to explain that; but the fact is that he did say it, and it is stricken from the speech.

Yes, I have known John Broderick since long before he kept a saloon, and "Hinky Dink" Kenna since we were children, when we played together and when we worked together. Then we nicknamed him "Hinky Dink." That was when Chicago had 2,000,000 less population than it has to-day and when the greatest distance from one city limit to the other was 3 miles, instead of about 30, as it is to-day. Our chums and playmates of those days are engaged in all sorts of business—some saloon keepers, some leading merchants, some leading physicians, some leading lawyers, some judges, some clergymen, some small merchants, some mechanics, some laboring men, and some have fallen from grace—but he who is the most successful meets and greets him who is the least successful in the same cordial way as in the days of yore, ready always to extend a helping hand. No man in our city has reached out and lifted up more fallen and helped them on the road to a better life and prosperity and greater happiness than Michael Kenna.

I should like to call the attention of the Senator from Indiana to the fact that it is written that charity covers a multitude of sins, and to suggest to him when on that great judgment day the recorder shall open the great book of records to set off the bad deeds with the good to see to it that he may have marked up behind his name as many marks for treating "thy neighbor as thyself," and "doing unto others as ye would be done by," as will be found behind the name of this man whom he so much despises, "Hinky Dink" Kenna.

Oh, yes! It is all right to slur. It is all right, by innuendo and insinuation, to denounce. It is easy enough to pull down. But let us all see to it that when the record is made up we have more marks for building up and lifting up than we have for tearing down and destroying. And the Senator from Indiana may profitably learn from Michael Kenna on that question.

Mr. JONES. Mr. President——

The PRESIDENT pro tempore. Will the Senator from Illinois yield to the Senator from Washington?

Mr. LORIMER. Certainly.

Mr. JONES. I will ask the Senator to allow me to suggest that there is not a word or a line in this record reflecting in any way, shape, or form upon this man Kenna, or in any way connecting him with the election of the Senator from Illinois.

Mr. LORIMER. The Senator from Indiana just deliberately went outside of the record to find somebody who was a friend of LORIMER, or had been in his boyhood days, whom he might assail, without reason and without cause. That gives the Senate an idea of the character of the information it has received from the minority of the committee and from Senator KERN in his statement on the floor of the Senate.

He desired to stand by those who had been his friends—

Referring to LORIMER—

in times of stress and storm, and followed them into the current of political wrongdoing.

Now, we have the question brought right up to us—LORIMER charged by this Senator upon the floor of the Senate with political wrongdoing. That is his language. I have added nothing to it; I have taken nothing from it. It is as you will find it in his speech.

Mr. President, I claim to be no different than any other man. I am subject to all the weaknesses of the human family. I expect to be called upon to account for my share of sin in the Kingdom Come. Oh, yes! I am only as other men are; and there is none of us different, except in degree. And so I claim for myself nothing more than I am willing to accord to every living soul on the earth. But here and now I challenge the Senator from Indiana to point out to the Senate anything in this record, anything that he knows, anything that he has ever heard, anything that anybody ever told him, that will point—no! I will not close it there. I will open it wider. It shall be broader than that. Let him point to anything—and let him, though, make good—to any wrongdoing, either in private, in commercial, in financial, or in political life. And if he will do it here and now, Senators, I will not embarrass you with voting on my case. When he has done it, I will walk out of yonder door and never seek to return. Come on, Senator KERN—you who have slimed

and smeared this record all over with suspicion—come here now and make good, and I will keep my word.

[After a pause:]

The Senator saw fit to quote a statement that I made in proof of the statement that he made that I did not understand American ideals, that I had been raised in such a way that I had not been able to learn the human family, and to come to any kind of a sensible conclusion of what American institutions stand for. He asked me some question as to whether the people were not to be consulted. He says, in support of his views, that LORIMER answered—and this is correct:

> Oh, yes. That is the way men talk who reach the clouds, you know, when they are making that kind of a speech—that the voters are the men that they are responsible to. Of course they are, but voters are human beings.

I said that. When I said "that is the way men talk who reach the clouds" I had something in mind. I had in mind that the Senator was sitting in front of me and that he was interrogating me. I had in mind that at the first meeting of the committee that I attended, when my counsel asked that the names of the witnesses be submitted to him, Senator KERN protested in an undertone that does not appear in the RECORD. Just think of it. Senator KERN, a United States Senator—not only that, a lawyer—mumbling: "No, no, no; don't give him the names of the witnesses."

Who ever heard of such a proceeding as that—a lawyer doing that? A layman who does not understand the rules of procedure might do that and might be excused for it, but no lawyer can be excused for such an act.

Then I had in mind that he had attended about 80 per cent of the committee meetings, and his name is registered there, and then I had in mind that he was there only about 50 per cent of that 80 per cent of time. Then I had in mind that he had not asked one question during the whole hearing that tended to elicit the truth; that all his inquiry was along the lines of trying to muddle the record. Then I had in mind what this righteous man once stated, or what purports to have been stated by him:

> It is a matter of great regret that under the cloak of the secret ballot so many Representatives were able to defy the will of their constituents. The secret ballots made possible not only these betrayals, but all sorts of treachery, double-dealing, and corrupt practices. I believe that thoughtful people will find in the scenes of the last two days additional strong argument in favor of the election of United States Senators by direct vote of the people. I do not care at this time to discuss in detail the causes which contributed to the result. (Indianapolis Star, Jan. 15, 1909, p. 1, col. 7.)

Mr. President, I had that in mind. I had in mind, further, that if the Senator made that statement, I have never heard him denounce it as false. I had in mind, further, that if he made that statement, he never rose in his place in this Chamber and said that it was not the truth. I had in mind, further, that the man whose seat he charges in that language with having been secured by corrupt practices was a candidate for the leadership on the Democratic side of this Chamber. I further have in mind that Senator KERN supported him.

Because he made that charge against his colleague, it makes no impression on me. I never knew a character of his sort who was a good loser; and seldom are they willing to attribute the success of their opponents to anything but unfair dealing. Until it is proven, I will never believe, after reading the views of the minority that he signed, and the statements that he made in his speech on this case, that there is a word of truth in it. I had those things in mind when I sat and looked at the Senator asking these questions—all those things. And I had in mind—oh, yes—that he had never introduced a resolution for an investigation, but has since allowed the blot to remain upon the escutcheon of his State and the title of his colleague. And as he sat there before me with assumed self-righteousness and an expression of "more holy than thou" on his countenance, then was I reminded of the Pharisee in the parable, with his hands reaching to the high heaven in prayer:

> God, I thank Thee that I am not as other men are, * * * even as this publican.

That is what I had in mind, Mr. President, when I said: "Yes; men reach to the clouds."

Now, Mr. President, I am not going into the detail of the Funk testimony, but some Senators here seem to have the impression that Mr. Funk is a very much abused man. Some Senators here state that Mr. Funk is a very honorable man and that he would do no wrong, and during the discussion of the question as to whether or not a committee should be appointed to reinvestigate this case, it was stated by a Senator on the floor that there was convincing proof that Edward Hines went to Funk and asked him for $10,000. He asked him he said on the 27th day of May, 1909. But after February 15, 1911, he went to Mr. Funk to ask him to hush it up, to tell him he wanted to talk with him about it, that he was afraid he might have gotten a wrong impression, that he might have thought he was asking him to get money for LORIMER'S election. That was the corroborative circumstance; that was the proof; and the Senator said that is the most common way that crooks cover up their tracks. It was convincing and conclusive to him, and he believed the story for that reason.

What does Funk testify to? Funk testified that Hines came to him on the 27th of May, 1909, and said to him: "We put LORIMER over at Springfield. It cost us a hundred thousand dollars, and we had to do it quick, so a few of us put up the money." Now, they had to do it quick; they were in a hurry; the men would not perform until the money was given to them. That must be the natural deduction from Hines's statement, if he made such a statement, and if he was telling the truth. So the money was paid then, before LORIMER was elected, because it was the 27th day of May, 1909, and LORIMER was elected the day previous, and if they had to do it quick and put up the money then, the money was up.

The legislature was in Springfield at that time. LORIMER was elected on the 26th. The legislature adjourned on the 4th day of June, and it was there continuously from the 26th day of May until the 4th day of June. Now, the money was up. LORIMER'S election had been paid for. A hundred thousand dollars had been given. A few men had to put it up and had to put it up in a hurry. Then what do we find them trying to prove? That the money was paid to these men, one of them in Chicago on the 18th day of June; the others in St. Louis on the 21st day of June.

Now, let us take the reasonable view of this proposition. If the money was put up before LORIMER was elected, why not pay them then? If they would not vote until they got their money, they must have paid them then. They were all in Springfield all this time—all the members of the legislature. There was a full meeting of both houses every day. Why defer it until the legislature adjourned and take them all the way down to St. Louis, calling them together from all parts of the State, or take them up to Chicago, as White says he was taken, all the way from East St. Louis to get his money? Why not pay them in the most convenient place, where there was the least suspicion? Do those things coincide in the record?

They got the money before LORIMER was elected, and whoever got it kept it for pretty nearly a month before he delivered it. He carried it around with him; he had it in his pocket or in a belt; he had it in a safe-deposit vault; he had it somewhere; but he did not pay until after the legislature adjourned.

Does that harmonize? Does that look right? Do you think if they were demanding their pay that those Democrats who voted for LORIMER, who were insisting upon having their money, or the Republicans who voted for LORIMER and insisted upon having their money before they voted, and Hines and a few other fellows had to put it up, would wait until the legislature adjourned? Would they wait until everybody went home and then be called in from all parts of the State—from long distances—to be paid the money that they might have been paid in the city of Springfield a month prior?

Now, did Edward Hines go to Funk's office as Funk stated about the time, two days, he said, or three days, it may be, he was not sure as to the number of days, but sure it was about two or three days after the editorial was published in the Record-Herald, and it was published on the 15th day of February, 1911. The record shows conclusively that Edward Hines was not in Chicago at or about that time. The record shows conclusively that Hines was in the city of Washington from about the 7th day of February until, as I know, the 4th day of March. Never before was such a lot of corroborative testimony presented anywhere as that which proved that Edward Hines was in Washington. For myself, I would not testify that he was here on the 7th or 8th day of February, but I did testify that he was here on and after the 12th day of February excepting one day, one night, when he was in the city of New York. The reason why I know he was here all that time, I testified, was that on the 12th day of that month Senator BAILEY made the first portion of his speech, and I know that he was here from that day until the 4th day of March. I had been home on account of sickness. When I returned Mr. Hines was going to Rainy Lake or Virginia City to attend a meeting of his board of directors. His wife came and talked with me and told me that Edward was sick; she did not want him to make the trip; she was afraid of it. I talked it over with him and I persuaded him to call off his meeting arranged for the 15th of February.

Then he was going to New York on the 16th day of February or the 15th day of February on a business trip that he testified to. He was very poorly at that time, and I told him that he should not go to New York, that I was afraid if he should go on the night train to New York he was much in danger of having pneumonia. I persuaded him to stay over until the next day. The next day he went to New York at night. He was at my room in the Raleigh Hotel at 11 o'clock talking to me. He took the train at 12 o'clock and went to New York. The next afternoon he called me upon the telephone from New York City and that night at 9 o'clock he walked into my room. That was on the 17th of February, and he appeared here every single day, and he went home with me on the train accompanied by his wife on the 4th day of March, and we arrived in Chicago on the 5th day of March.

But I am telling you only what I know about it myself. I do not ask you to take my word, but to read the record, and see if you can arrive at any other conclusion but that Edward Hines was in Washington except the time that he went to New York, every single night, and that was only one night on the train going to New York.

Now, if this corroboration is to strengthen and buttress and build up Funk's story there is nothing to that. There is no chance to believe it if you take the record. Nobody reading the record would ever arrive at that conclusion.

I said I would not go into details of it, because it has been discussed by the majority of the committee, but I want to call your attention to another fact, and only a portion of it is disclosed by the record. Mr. Funk testified on the stand that the corporation of which he is general manager never made contributions to any campaign, to individuals, or to parties. His statement was that broad; it covered everything. He said that they never gave any money. He was asked if he ever personally made any contribution, and he said, "Oh, yes; sometimes I have given $5, sometimes I have given $25. One time I gave $100, and that man was beaten, and I thought I was a poor guesser and let it go at that."

Now, you have only my statement for this, but I state it to you on my honor as a man and as a Senator, and if you have another investigation I will convince the committee and give the committee the names. This is as true as every word that I uttered here on the 22d day of February, 1911, which I have sworn to since and which is now in the record, and that has been corroborated, much of it, by the testimony of Gov. Deneen.

I met two men, prominent men in politics in Illinois, one a Democrat and the other a Republican. The Democrat I met only a few days ago. I met them both on a train on the Pennsylvania Railroad. We were discussing the Funk testimony. The Republican said, "LORIMER, I could not believe Funk's testimony, and the reason why I can not believe it is because he said that his company or he never contributed to anything or anybody in politics. Well," he said, "I know that is not so because he has contributed several times, and I received the money, for campaign purposes."

The Democrat came down on the train with me. It was before the Democratic convention, and he was on his road to Baltimore. He said, "LORIMER, the reason why I did not believe Funk's story was because he testified that his company or he did not contribute to campaign funds, and it is only a short time ago since I went to him and he gave me a contribution of $5,000 for the campaign of the Democratic Party."

Now, I say that is only a statement from me, and if I am the kind of a man the Senator from Indiana [Mr. KERN] would have you believe me to be, if you think as he thinks, you will not accept my word. But if it be true that Funk did give this money to the Republican and to the Democrat, then he deliberately committed perjury. Why commit perjury? It made no difference whether the International Harvester Co. contributed to Democratic or Republican campaign funds; at least there was nothing criminal about it, and when he was under oath and asked the question you would think that he would at least tell the truth and not perjure his soul when it did not make any difference whether he told it or not. At least that is the opinion that I hold. That is what I think about it.

I sat and listened to Mr. Funk testify, and so without the information that I have I could not say, and I would not have said until this testimony was given, that Mr. Funk was anything but an honorable, straightforward, truthful man. But with this staring me in the face, facts of which I had knowledge myself, I can not be brought to believe that an honorable man would perjure his soul. It does not make any difference as a matter of law, but it makes a difference as a matter of truth, and it will count against him as much as if he could have been sent to the penitentiary for making the false statement.

With that in mind, without any of the other testimony that was produced to prove that Edward Hines was not in Chicago anywhere around the 15th of February, I take Mr. Hines's testimony against Mr. Funk's.

But now, Senators, suppose we take the Funk story in all that it is. He says he gave no money. He said that they were not in that kind of business. No money was paid to Hines. So what we have is the statement of Mr. Funk that Mr. Hines told him that they had to put up a hundred thousand dollars, had to put it up quick, had to put it up before the election, and then LORIMER was elected. That was the deduction, and nobody can make any other logical deduction from that statement.

That is the evidence we have that there was $100,000 put up, and that is all. Nobody has ever said that that money, $100,000, was paid out to anybody for anything in connection with LORIMER's election. Hines testified that he never put up a dollar for LORIMER in his life. LORIMER testified that Hines never did. LORIMER testified that Hines had lived in his district for years and that he thought Mr. Hines would have contributed to his campaign if he had allowed him to do it, but that he did not allow anybody to contribute to his campaign; he paid his own expenses. That is the testimony that is in the record.

Now, Hines, and the record will show it, was no bosom friend of LORIMER. He lived in my district. He called upon me as a Member of Congress to aid in things that I should do as a Member of Congress; for instance, to go to Gulfport, Miss., to view an improvement being made by the Federal Government to determine whether, in my opinion, the Federal Government should take over the improvement or not. Mr. Hines did not own it. He had not a cent's worth of interest in it. I went there; and I did other things in the years that I have known him like that, as a public official, but he never called at my house. His family and my family were not intimate. We were not friends in the sense of the word that we were associates or that we attended the same club or that we had any sort of social intercourse.

I think I would state it truthfully if I said that I have not seen Mr. Hines more than once in one or two years since I have known him.

There is the Funk story, and there is the Hines story. If what Mr. Funk said was true, that Hines did ask him for the money, and he did tell him what Funk says he told him, still there is no evidence that Mr. Hines or anybody else ever collected a dollar or paid it to get votes for LORIMER. In the views of the minority it is insinuated that he went to his bank, and as soon as he talked to the president he telephoned quick to Springfield, and then it was all over. LORIMER was elected.

The auditors for your committee examined the bank account. Does anybody think that you can go to a president of a national bank—now just stop and think of it for a minute—that you can go to a president of a national bank and make arrangements and take out at any time $100,000 without the bank having a record of it, or the president or somebody else connected with the bank making a record of it? When the money goes into a bank there is a record made of it, and every single night the cashier has to account for every dollar that the record shows is in the bank; and if they find an error has been made, then the tellers and the bookkeepers must remain there after hours and work the mistake out. I have seen the boys in our bank work all night to discover an error. The idea that you can go to a bank, grab a hundred thousand dollars out of the vault, and run away with it without making a record will not appeal to anybody who has the slightest idea about banking business.

The record of the bank was examined into by the experts appointed by your committee. They reported that they examined every single account, not only in that bank, but in every bank, that Edward Hines had any business with, and reported that they did not find that he had paid out any money for LORIMER's election. Edward Hines made good with a record for every single dollar that had been drawn out of any bank anywhere in the country with which he had business. He proved every check by a voucher, and every voucher was followed until the experts were satisfied that the money was used for the purpose the voucher indicated.

Now, there is the testimony of Mr. Funk. Let me ask the lawyers here, if a poor criminal that had a record so black that nothing would make it white, or even put a white spot on it, and he was being tried on that kind of testimony—I am now asking the lawyers—should he be convicted on that testimony? Would you consider that sort of testimony, even admitting that it was true? Would you consider it when you were making up your judgment? That is all there is.

Funk did not care as to what he testified. His tongue seemed to be hung in the middle, and it ran at both ends at the same

time. He testified that Edward Hines was at Springfield; that it was common gossip; that the newspapers were full of it; and that he was down there pulling wires to elect LORIMER—not in Chicago or in Washington, but in Springfield—and all the evidence tends to show that Hines was not in Springfield, that he had not been there for three years prior and not until two years later, when he was subpœnaed by the Helm committee.

I am not calling your attention to any sort of feeling that Mr. Funk had against LORIMER. I am not basing this on any feeling that existed between LORIMER and Funk or Funk and LORIMER. My statement is based on nothing but the record, and any Senator who will look into the record will find it just exactly as I have stated it. If that is not so, then I will stop discussing the question for the reason that I am not familiar with the record.

As to Representative Beckemeyer, the Democrat, I am not going into the impeaching testimony in that case, because it has been thoroughly discussed by the members of the committee, except to call the attention of the Senate to the fact that the minority views state that there was nothing in the charge of the third degree. They say that Mr. Burke and Mr. Wayman both testified that there was no third-degree methods employed by either of them. Beckemeyer was brought to Chicago by subpœna, he testifies, when before the grand jury on the first occasion. I think he said there he was not in St. Louis. Then he was taken out of the room and an indictment was found against him for stating that he was not in St. Louis. That is all that they asked him. That is all he stated. I am not a lawyer, so I am going to ask any lawyer present if that was all he was asked and all that he stated, could he be sent to the penitentiary if he had been put on trial? Will any lawyer say that he could? Why, then, was he indicted? He was indicted to intimidate him. After that he was put in the custody of an officer of the State attorney's office, who was told to take him out "and to treat him right." The officer, when he was on the stand, testified that he knew what that meant—to get him drunk. They stopped in a saloon just across the street and they had some drinks. They went to the Hotel Kaiserhof, at Van Buren Street, about a mile from the court, and got something to eat and some beer there. When they returned Beckemeyer went before the grand jury again. He testified that he got a thousand dollars at the Southern Hotel; that he called on the clerk; that the clerk handed him an envelope with a thousand dollars in it, and that he did not know what it was for, but that he took it and went away.

Then, what happened? Officer Keeley took him out again; took him to a club and bought drinks for him there. Then they went to a number of places and bought drinks. They seemed to be drinking all the time. They went to the theater, and he was so drunk he had to go outside because he was sick in the theater. They then went to the Grand Pacific Hotel, and then asked him to go out for the night. He says himself that he was so drunk that after they took him to a house of ill fame, from that time on he did not remember anything until the next morning, when he wanted to go back to the State attorney's office to learn what he had sworn to the day before, and he did. He then testified that he got $1,000 from Lee O'Neil Browne, but he did not claim at that time that anything was said about the thousand dollars being Lorimer money. That was the last time that he was before the grand jury. When he went on the stand he said that Browne gave him the thousand dollars, and said "Here is your Lorimer money."

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Vermont?

Mr. LORIMER. Yes.

Mr. DILLINGHAM. He never testified to that before the grand jury.

Mr. LORIMER. I said when he went on the stand. I meant to say in the trial of Lee O'Neil Browne. I omitted to state that.

Mr. DILLINGHAM. That may have been, but before the grand jury he never testified to that remark.

Mr. LORIMER. He never testified to that remark before the grand jury, but the State's attorney, Mr. Wayman, says that, after he came out of the grand jury, he told him that when Browne handed him the money he said: "Here is your Lorimer money."

Now, I should like to ask the judgment of Senators on this proposition. Lee O'Neil Browne was Beckemeyer's friend. He said so on the stand. Beckemeyer liked Lee O'Neil Browne. LORIMER was nothing to him. He testified on the stand that he did not intend to vote for LORIMER until George Alschuler, his seat mate, pleaded with him, and said to him, "You promised me all winter long that whenever the time came that Hopkins could be beaten, you would vote for the man, no matter whether or not he was a Republican, who could beat him." The substance of what he said to him was, "I want you to keep your word;" and a short time before the roll was called, he said he told George Alschuler that he would vote for LORIMER; and the record will show, if Senators will investigate it, that Beckemeyer voted for LORIMER, not because Browne got him to vote for him, but because George Alschuler, who had devoted the whole session to trying to beat Hopkins, had pledged him to vote for anybody to beat Hopkins; Beckemeyer kept his word with Alschuler; as he testified time and again, everywhere, in court and before committees, in every imaginable way that the question could be put to him, that, when he voted for LORIMER, nobody prior to that time or subsequent to that time had told him that he would get a dollar for voting for LORIMER, and he testified over and over again, everywhere, in the Browne trials and twice before the Senate committee, that he never had any hope of reward for casting his vote for LORIMER or after he had cast that vote.

That is Beckemeyer's testimony. No member of the minority will dispute that; and yet in their report they say there was no third degree. He was taken out by an officer and was "mellowed up," and he came back and testified again. Then, he testified that his friend, Lee O'Neil Browne gave him the money, but he did not testify that it was given to him for his LORIMER vote.

What I want to ask Senators is this: Why should Beckemeyer shield LORIMER and destroy his friend Lee O'Neil Browne? What is the logic of that? Can some Senator point out the logic of that position to me? He testified that Browne gave him the money, and he involved Browne; but he failed to say that when Browne did give it to him, he said, "Here is your Lorimer money," thus protecting a man that he had no association with, that he had no such friendship for as he had for Browne. Why should he protect me? The facts are that the poor, weak man, as he stated, had a sick wife in the hospital. He could drink and go home; he might even accept a bribe and go home; but he felt that if it ever came out that he spent in a house of ill repute the whole livelong night, and that got to his wife, it might have serious results. If any man who had a good wife at home and children that he loved were guilty of such an act, even though he had been unfaithful to them, and it was held up to him that this information would be taken home to the good wife and that his children would learn of it, oh, what would a weak man do under those conditions? No man could imagine the position that that man was in or his state of mind if he had not at some time been in the same position himself; and so I do not expect Senators to imagine what this man's state of mind was; but, oh, what would your state of mind be if you had been found desecrating your own home, stopping all night in a house of ill fame, and the news were to be taken home to your good wife and your lovely children? That is hard to imagine.

If that, Senators, is not "the third degree," what is it? What is "the third degree"? I do not know the real definition of the term, but the impression I have of it, and the average impression is, that it is doing something to a man to make him talk. And they made Beckemeyer talk. Beckemeyer never told anybody that Browne said, "Here is your Lorimer money." Beckemeyer never testified that Browne said, "Here is your Lorimer money," until they gave him the "third degree." Beckemeyer's testimony was of very little value unless they could connect it with LORIMER's election, because they were not searching out corruption; they were not trying to send men to the penitentiary who had been guilty of corrupting members of the legislature. Oh, no; that was not the campaign they were carrying on; they were carrying on a campaign to destroy LORIMER; and if Lee O'Neil Browne had testified as Beckemeyer testified, or substantially so, and had said, "Yes; I did give Beckemeyer the money, and it was given to me by somebody else to give to Beckemeyer," and that he got his part of it and that this somebody else was the man who was responsible for handing around the money, Lee O'Neil Browne never would have been put on trial. Corruption was not what they were seeking; they wanted to get rid of LORIMER, and any man who would connect LORIMER with the matter, even in the remotest degree, could have immunity. You have not read all this testimony, but you have heard about all the corruption in the Illinois Legislature, about all sorts of things, and the names of men connected with it, but not one single man has been put on trial for a corrupt vote in the legislature except where it involved LORIMER.

When the Browne case was over all these cases were nollied. There has not been a single member of the Illinois General Assembly put on trial for corruptly casting any vote on any

proposition. We have Beckemeyer with "Here's your Lorimer money." That was the final price of immunity, to save himself, though I think not so much from disgrace with the public as from trouble at home. Beckemeyer was willing to do anything that would secure for him immunity. That is all there is in the Beckemeyer story.

Now, for Holstlaw. What happened to Holstlaw? Did they work the third degree on Holstlaw? Let us see what the record shows. Holstlaw was a senator. He had been to Baltimore to a church convention, and on his way home was summoned before the grand jury in Springfield, Ill. The State's attorney took him before the grand jury and inquired of him if he had made an appointment or solicited an appointment at a certain time with a furniture agent of the name of Johnson, and the senator said, "No." The State's attorney said, "That is all"; and took him out of the room. That is the only question Holstlaw was asked; that is all that was inquired into. In 10 minutes Holstlaw was indicted. For what? Will any lawyer say he could have been convicted on an indictment of that kind—for testifying that he had not solicited an appointment not in connection with anything else, not to prove that something else that he had said was false, but, "did you write a letter?" He was indicted within 10 minutes. The sheriff took him into custody.

The sheriff said to him, "You are in a bad box." That is the substance of the statement. I am not attempting to give the exact language—"and you had better get a lawyer." Holstlaw consulted him about a lawyer, and the sheriff recommended the firm of Gillespie & Fitzgerald. Gillespie and Fitzgerald came over to his hotel that night. But I am getting ahead of my story.

Holstlaw sent the sheriff to tell Mr. Burke, the State's attorney, that he wanted to go back before the grand jury and change his testimony; that he had forgotten about writing the letter, but now he remembered that he did write a letter soliciting an appointment, and he wanted to go back and change his testimony on that point. Now, what did the State's attorney say? "Tell him I will not let him come back and change his testimony or go before the grand jury unless he will tell all about the Lorimer deal." There was nothing about the Lorimer deal in connection with the Johnson letter. That referred to a furniture deal—furniture to equip the legislative halls. Holstlaw was one of a committee appointed by the legislature to buy the furniture. He was not taken to Springfield on anything, so far as could be observed from the testimony, except the furniture deal. But when they got him on the letter and the sheriff told him he was in a bad box and that he had better get a lawyer, and Holstlaw asked permission to go back to change his testimony, the State's attorney said, "No; he can not come here unless he tells all about the Lorimer deal." Then he said he did not know anything about any Lorimer deal, and upon the sheriff's advice he got these lawyers.

They came and talked to him that night and asked him to their office the next morning. These were lawyers—real lawyers—men in the active practice every single day; they knew the law; and if they knew anything they knew that Holstlaw could not have been convicted for testifying as to that letter, because it did not mean anything, it did not pretend to be anything, it did not refer to anything.

They were supposed to be his lawyers. If they had been doing their duty to their client under their oath they would have told Mr. Holstlaw, "Well, we are sorry you have been indicted, but the best thing for you to do is to give a bond, then when the State's attorney calls the case, we will try it, because you have not committed any offense against the law, and they can not convict you, and they can not put you in jail on this charge." But did they do that? Oh, no. They took him over into their office, and they led him to believe that he was in a bad boat. They went over and saw the State's attorney. They made three trips over there, seeming to be greatly interested, making strenuous efforts to help Holstlaw out. They had to go three times to the State's attorney's office. Finally they came back and told Holstlaw, "If you will make a statement about the Lorimer deal, we can get you immunity on the indictment." And so Holstlaw sat down and made a statement to the effect that he met John Broderick the night before the election, and Broderick said to him, "We are going to put LORIMER over to-morrow," or something to that effect; that is the substance of it at any rate; and Holstlaw said, "Yes; and I am going to vote for him, too"; and then he said that Broderick said to him, "There is twenty-five hundred dollars for you."

Now, who are these lawyers? I am going to call attention to but one of them—Gillespie. He is the man, he testified, who drew the Holstlaw statement. He is a prominent lawyer in Springfield, and an able man at the law, at least such is his reputation. I do not know anything about him personally. When he was on the stand Judge Hanecy asked him if he was employed by the Tribune, and he said "no." Then the judge asked him this further question:

And did you not tell Judge Monroe that you were retained by the Chicago Tribune in those matters?
Mr. GILLESPIE—

This is Holstlaw's attorney—

No, sir.
Mr. HANECY. Did you ever tell anybody else that?
Mr. GILLESPIE. No, sir.

Who is Judge Monroe? Judge Monroe is a prominent lawyer in Springfield, and a man of good reputation. I am not very well acquainted with him, but I know of his reputation. He is a warm, close personal friend of the lawyer Gillespie, and they handle many cases together. There is no animosity between them.

Judge Monroe was put on the stand. Now, let me give you Judge Monroe's testimony:

Mr. MONROE. The conversation came about by Mr. Gillespie asking me if I was getting any business out of these bribery cases. In answer to that I told him that I was not. I said: "Are you getting any of it?" He said that he was getting into it, or something like that; that was the expression, that he was getting into the business.

Now, mark what Judge Monroe said:

I said, "How did you get in?" He said he got in for the Chicago Tribune through Gov. Deneen.

This is Holstlaw's lawyer. Judge Monroe said that Gillespie told him he got in for the Chicago Tribune through Gov. Deneen.

I said, "How did you come to get in that way?" He said—

Now, listen to this—the attorney for the Tribune—

He said that he had taken Mr. Holstlaw's confession, and that was about all that was said about it.

That was the testimony of his friend Judge Monroe, a man that practiced with him and worked with him, a close, bosom friend of his, when he was put on the stand.

Judge Monroe wrote a letter here that I received last March, a year ago, or I think the latter part of February, stating to me the substance of what I have stated here, and saying that I might show it to Senators if I chose. He said he did not want to have it put in the record, because Gillespie was his friend; but if it would help any to show it to Senators I might use it in that way. He was summoned before the committee. I showed the letter only to one Senator, or probably two, and that was after the vote was taken in my case. That is my recollection of it.

It does not stop there, Senators. You recall that Gillespie testified before your committee that he had never told this to anybody. When he was asked about Judge Monroe, he said:

No, sir.
Did you ever tell anybody else that?
No, sir.

Here is the testimony of W. H. Dillman:

Mr. DILLMAN. Mr. Gillespie said that he represented a Chicago paper. * * * The Chicago Tribune, the paper that was fighting Mr. LORIMER. * * * He was referring to the scandal that had come out; that he had gotten employment as a lawyer; and that Mr. Holstlaw had made his confession to him. * * * He said he was just employed by this Chicago paper.
Mr. HANECY. The Chicago Tribune?
Mr. DILLMAN. Yes, sir; to get evidence along that line.

That is what Mr. Dillman testified.

Who is Mr. Dillman? He is a lawyer and a banker, as far as I know a man of very high reputation, and a warm, close, personal friend of Mr. Gillespie and Mr. Gillespie's client.

And that is not all. The morning before Judge Monroe and Mr. Dillman went on the stand they came into my office in the Senate Office Building and they asked me for God's sake to see the chairman of the committee, Mr. DILLINGHAM, and ask him to excuse them, because if they went on the stand they would have to testify, as they did thereafter testify, that Gillespie was their warm, close, personal friend, and if they should testify, as they would testify if called, proceedings would be instituted against Mr. Gillespie for disbarment, and he would be disbarred. And because they were his warm, close, personal friends they did not want to be put in the position of bringing about the disbarment of Mr. Gillespie. They were both lawyers, and they knew what the consequences would be if Gillespie was ever taken before the Supreme Court on the testimony they would be compelled to give.

Now, Holstlaw did not testify before the grand jury that his statement was correct. He just signed it, when the immunity was given to him for perjury for saying that he had not written a letter to Mr. Johnson. Mr. Holstlaw has testified in season and out of season that when he voted for LORIMER he voted for him without any hope of reward; that he had told his friends and his neighbors, Democrats and Republicans, weeks before

LORIMER was a candidate. It amounted to a statement that before LORIMER was generally talked about as a candidate he had made up his mind that if he ever got an opportunity he was going to vote for LORIMER for United States Senator, and that all the people he talked with, Democrats and Republicans, told him it was the right thing to do, except one Democrat, who told him he thought he would be making a mistake. Now, I do not care whether the Democrat told him he was making a mistake or not, the facts are that the Democrat was urging him not to do it, and he told him he was going to do it. Holstlaw says John Broderick talked with him the night before LORIMER was elected, and he told Broderick he was going to do it. All this testimony is in the record here.

Holstlaw testified, as the record shows, that he went to Gillespie. Gillespie prepared the statement, Holstlaw signed it, and he got immunity after he signed it, and on the stand he swore that he would have done almost anything to go home a free man—anything to go home a free man. He said that when he got the money Broderick handed it to him. He was asked if Broderick told him what the money was for, and he said, "No." He did not say it was Lorimer money; he did not testify that he got it for his vote for LORIMER. He said that Broderick did not tell him anything about it. If you were a juror and trying Broderick, would you have convicted Broderick on that sort of testimony? Knowing all the facts, Holstlaw's lawyer, who knew the law, would have told him that the indictment was not worth the paper it was written on, if he had been acting solely in the interest of Holstlaw, but the fact is that Gillespie was in the employ of the Chicago Tribune at the time that he wrote Holstlaw's statement, that he got his employment from the Chicago Tribune through Gov. Deneen, that he went back and forth three times to the State's attorney's office trying to make Holstlaw think it was a hard thing to get freedom for him, and finally Holstlaw made the statement. No kind of inquiry could make Holstlaw say that he voted for LORIMER because he was promised money; that he voted for LORIMER with the hope of any kind of reward. All the testimony shows that Holstlaw told the people in his own district time and time again, long before LORIMER became a candidate, that if ever he got a chance to vote for him he would, and they agreed, all but one, that it was the right thing to do.

When John Broderick said to him, "We are going to put LORIMER over to-morrow," he told John Broderick, "I think we are." Mark you that statement; this is his sworn testimony. "I think we are, and I am going to vote for him." Broderick had not offered him any money; he had not indicated that he was going to offer him any money. Holstlaw testified that Broderick did not even ask him to vote for LORIMER, but Holstlaw told him that he was going to vote for LORIMER, and Holstlaw said that Broderick said, "There is $2,500 for you."

When you consider Gillespie, when you consider the statement, or the indictment that was not worth the paper it was written on, when you consider that the State's attorney sent word to him that he would not let him correct his testimony unless he came in and told about the LORIMER deal, will you believe that he was not coerced? Will you believe that he did not add those few words because his lawyer wanted it that way and told him that was the only way he could get out of the indictment for perjury? Will you believe that Holstlaw was not third degreed?

The four cases that I have discussed here are the four alleged confessors—the men who, it is claimed, were bought to vote for LORIMER. Not one of them except Charley White testified that he was ever offered anything for his vote for LORIMER. Beckemeyer said he had no idea that he would ever get any reward; that he voted for LORIMER because George Alschuler pleaded with him to so vote; and he did not make up his mind to do so until a few minutes before he did vote. Link said he himself had promised LORIMER; that he was LORIMER's friend; that the people of his district were for LORIMER, and were for him because they thought LORIMER was trying to bring about an improvement of the Mississippi River that would be of more value to Madison County, where he lived, than any other thing or all other things that could be done for the people of that county. He testified he had no hope of reward. He testified that he had no promises. He testified that he never received a dollar for voting for LORIMER. He testified under oath three times that he was compelled to testify that he received money from Browne and Wilson; and that he was threatened, unless he did, that he would be sent to the penitentiary and would lose his wife and home; and that he then told the prosecuting attorney that he would go before the grand jury and lie if he had to, but that he did not want to. He said that the money that he did get, when he testified that he did get money, he got for something else; he did not know what it was; and that he would not have taken money for his vote for LORIMER. That was Michael Link's testimony. It may be misconstrued and misstated, but nothing can change it.

Holstlaw's story I have just told you. Then what have we left? Charles A. White, who received, according to his own testimony, $3,500 from the Tribune for the testimony he gave.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Utah?

Mr. LORIMER. I do.

Mr. SMOOT. The Senator from Illinois has been talking now for five hours. It is a physical impossibility for him to conclude his remarks to-night. I therefore move that the Senate take a recess until 10 o'clock to-morrow morning.

Mr. CURTIS. Mr. President, I move to amend the motion by making it 8 o'clock to-night. ["No!" "No!"]

Mr. MARTINE of New Jersey. What is the motion, Mr. President?

The PRESIDENT pro tempore. The Senator from Utah makes a motion that the Senate take a recess until 10 o'clock to-morrow. The Senator from Kansas moves to amend that the Senate take a recess until 8 o'clock this evening. Does the Senator from Kansas insist on his motion?

Mr. CURTIS. I do.

The PRESIDENT pro tempore. The question is on the motion to amend made by the Senator from Kansas.

The motion to amend was not agreed to.

The PRESIDENT pro tempore. The question is on the motion made by the Senator from Utah that the Senate take a recess until 10 o'clock to-morrow.

The motion was agreed to; and (at 4 o'clock and 10 minutes p. m., Friday, July 12) the Senate took a recess until Saturday, July 13, 1912, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July 12, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou Eternal One, in whose infinite wisdom, power, and goodness rests the destiny of men and of nations, make us wise, we beseech Thee, in our generation, that we may live to the full measure of Christian manhood, and thus round out to completeness our character and so fulfill our earthly mission that when the call comes we may be prepared to enter upon the new life fully equipped for the duties which await us there; and Thine shall be the praise through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS.

Mr. SULZER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of national good-road building.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD on national good-road building. Is there objection? [After a pause.] The Chair hears none.

CHANGE OF REFERENCE.

Mr. MOON of Tennessee. Mr. Speaker, the bill H. R. 19276, with a report thereon, has been referred to the Private Calendar. It is a bill that disposes of public lands and should be on the Union Calendar. I ask unanimous consent to have that change of reference made.

The SPEAKER. If it disposes of public lands, the rule is to send it to the Union Calendar.

Mr. MANN. Mr. Speaker—well, I do not know; this bill provides for the conveyance of a particular tract of land to a particular individual.

The SPEAKER. Of course the Chair does not know what is in the bill.

Mr. MOON of Tennessee. That is true, but this disposes of public lands.

Mr. MANN. Oh, well, it is the disposition of public lands, but there are many bills on the Private Calendar, Mr. Speaker, providing for the disposition of public lands to particular individuals. That is what this bill is. I do not care what calendar it goes on, but I suggest the gentleman ought to consult with the Speaker or whoever assigns these bills before he makes the request for the change, because there are a number of bills on the Private Calendar of the same character.

The SPEAKER. The Chair will ask the gentleman from Tennessee to let the matter stand until the Chair can investigate the matter.

Mr. MOON of Tennessee. Very well.

ORDER OF BUSINESS.

Mr. POU. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole——

The SPEAKER. This is pension day.

Mr. POU. I will say, Mr. Speaker, under the rule I understand a motion will be in order for the House to resolve itself into the Committee of the Whole to consider bills on the Private Calendar subject to the right of the Committee on Pensions. I make that motion, and if there is no business on the calendar which the Pensions Committee desires to consider, then that motion I make will be in order.

The SPEAKER. Why, of course, if there is no pension business then the motion is in order.

Mr. BURKE of Wisconsin. Mr. Speaker, there is pension business.

The SPEAKER. There is pension business, the committee notifies the Chair.

Mr. BURKE of Wisconsin. Mr. Speaker, I ask unanimous consent to take up bills reported from the Committee on Invalid Pensions.

The SPEAKER. It is not necessary to ask unanimous consent. The Chair will read clause 6 of Rule XXIV:

On Friday of each week, after the disposal of such business on the Speaker's table as requires reference only—

That has been disposed of—

it shall be in order to entertain a motion for the House to resolve itself into the Committee of the Whole House to consider business on the Private Calendar in the following order: On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion.

Now, the motion is to go into Committee of the Whole House on the state of the Union.

PENSION BILLS.

Mr. BURKE of Wisconsin. Mr. Speaker, I move that the House consider as in Committee of the Whole House on the state of the Union the bill H. R. 25598, being No. 221 on the calendar.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the bill which he names shall be considered in the House as in Committee of the Whole House on the state of the Union.

Mr. MANN. Mr. Speaker, I think we had better go into the Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Illinois objects.

Mr. BURKE of Wisconsin. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of private pension bills.

The SPEAKER. The gentleman from Wisconsin [Mr. BURKE] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of pension bills on the Private Calendar.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of bills on the Private Calendar, with Mr. RUCKER of Colorado in the chair.

CORNELIA BRAGG.

Mr. BURKE of Wisconsin. Mr. Chairman, I move that the bill (H. R. 25598) granting an increase of pension to Cornelia Bragg be taken up for consideration.

Mr. MANN. I do not know whether that is the first pension bill on the calendar, but I suggest, under the rule, that they be called up in order on the calendar.

The CHAIRMAN. The Chair will state to the gentleman from Wisconsin [Mr. BURKE] that, as the Chair understands the rule, they should be called up in order.

Mr. BURKE of Wisconsin. Then I withdraw my motion.

The CHAIRMAN. The Clerk will report the first bill.

CATHERINE WISE.

The first business on the Private Calendar was the bill (H. R. 20362) granting a pension to Catherine Wise.

The Clerk read the bill, as follows:

A bill (H. R. 20362) granting a pension to Catherine Wise.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Catherine Wise, widow of John Wise, late of the United States Military Academy Detachment of Field Artillery, and pay her a pension at the rate of $12 per month.

Also the following committee amendment was read:

Amend, page 1, lines 6 and 7, by striking out the words "United States Military Academy" and the word "Field."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. MANN. Mr. Chairman, I would like to make an inquiry of the committee which reported this bill, as to whether this is to inaugurate a new policy of the Government. This is a bill to pension a widow of a soldier of the Regular Army who is not entitled to a pension under the existing law. I believe it has not been usual to do that. It may be a very desirable thing to do. It might be a very desirable thing for the beneficiary if we would pension the widow of a clerk in one of the departments who had died. Here was a soldier at West Point who never served anywhere else, and finally died, and it is proposed now to pension his widow, although the Pension Office found he did not die from disability incurred in the service.

Is it to be the policy of the Pension Committee to pension the widow of every soldier of the Regular Army who asks for a pension but who is not entitled to it under the general law, and does the committee propose to bring in a special bill in each of those cases? We have a general law governing that subject. We pass a great many private bills for soldiers and widows of soldiers of the Civil War, and I would like to inquire whether it is to become the policy of the Pension Committee to adopt the same plan concerning widows of soldiers of the regular service that Congress has adopted in reference to widows of soldiers of the Civil War? Because, if we are to commence that, it would be much more economical to simply provide by general law that every widow of every soldier of the regular service shall be entitled to a pension. There are no circumstances disclosed in this case which would not be disclosed in almost every other case, unless it be the length of service.

The CHAIRMAN. The question is on agreeing to the committee amendment.

Mr. MANN. Mr. Chairman, I think I am entitled to a response from the Pension Committee, or somebody representing it, on that subject, if they desire to have this pension bill passed.

The CHAIRMAN. The Chair will say to the gentleman from Illinois that the Chair has not any power to call upon anybody to express their opinion.

Mr. LANGLEY. I think it was due to a misunderstanding as to what committee the bill belonged to.

The CHAIRMAN. Does the gentleman from Alabama [Mr. RICHARDSON] desire to answer the gentleman from Illinois?

Mr. RICHARDSON. I have not heard him. I want to know exactly what bill the clerk has there.

Mr. MANN. I appreciate the fact that the committee has been asleep. I think they were asleep when they reported this bill out.

The CHAIRMAN. I will say to the gentleman from Alabama it does not behoove the Chair to repeat what the gentleman from Illinois [Mr. MANN] has said. The Chair is sorry the gentleman from Alabama did not hear him.

Mr. RICHARDSON. I will confess I was not giving attention to him. I did not think the pension bills had been reached. I thought the invalid pensions were under consideration, and I did not give the gentleman from Illinois the usual attention I give to everything else he says.

Now, I would be very glad to know what objection you have made to the bill H. R. 20362.

Mr. MANN. Mr. Chairman, may I ask the gentleman a question? This bill now pending is one to pension the widow of a soldier of the Regular Army who was not able to bring herself within the general law on that subject. The soldier was in service at West Point, I believe, during his entire service. Now, what I asked was whether it is to be the policy of the Pension Committee, when a Regular Army soldier passes away leaving a widow who is unable to bring herself within the provisions of the law granting her a pension, to report a special bill in such a case.

Mr. RICHARDSON. The gentleman asked the question whether I believed the Pension Committee has that power. I think so.

Mr. MANN. No; the question whether it is the policy of the committee, whether that is to be their policy.

Mr. RICHARDSON. That, I believe, is the policy of the committee. That is the policy. Wherever an injustice is done by a strict enforcement of the law according to technicalities, upon the discovery of that fact the Pension Committee generally recommends relief if the facts and environments and circumstances justify the same. That is the general policy. This case, as the gentleman from Illinois [Mr. MANN] will see

by reading the report, has been very carefully considered and the facts set out.

Mr. MANN. I have read the report, but I can not find any exhaustive consideration of the subject, although, of course, I do not doubt but that the committee has given it consideration.

Mr. RICHARDSON. The gentleman may not be aware of the fact that we have reported bills of this character heretofore. We thought this widow was entitled to a pension of $12.

Mr. MANN. Well, I do not see myself any special circumstances in the case which would differentiate it from any other case of a widow of a soldier of the Regular Army. It may be desirable to grant them all pensions, but if we are to grant them all pensions it ought to be done by general law, and they should not be required to come before Congress in special bills.

Mr. RICHARDSON. Well, the gentleman from Illinois understands the fact that the Committee on Pensions was brought into existence some years since for the reason that the Pension Bureau in its administration of the general law in certain cases had rejected applications for pensions upon technicalities. For instance, it frequently occurred that in cases connected with the Mexican War and other wars a pension could not be granted on application unless the service of the soldier had been of a certain length of time. For instance, unless the soldier had served 60 days in the Mexican War and in the Civil War—which we do not have control of—90 days, and in the Indian wars 30 days, pensions could not be granted under the general law. Now, when it can be shown that the soldier served 25 days or 29 days only, the application would be rejected in the Pension Bureau. But under such conditions the Committee on Pensions had the right to look into that fact and give a pension, notwithstanding the soldier had served not more than 25 or 29 days. Such technicalities were and are disregarded by our Pension Committee.

Mr. MANN. That is all true; but——

Mr. RICHARDSON. There is no general law on the subject at all.

Mr. MANN. The attitude of Congress in the past in relation to soldiers and the widows of soldiers serving in war has been quite a different policy from that with respect to soldiers and widows of soldiers who served in the Regular Army but not in any war. The soldier in this particular case served in no war. He died from old age or from a complication of diseases, probably resulting from old age, but in no way connected with his Army service.

Now, I can understand that if a widow desires a pension it may be desirable to give her a pension. But is it to be the policy of the Committee on Pensions and the policy of Congress to grant a pension upon application to every widow of every Regular Army soldier when the widow can not bring herself within the terms of the existing law? And if not, what is there in this case to plead especially for a pension?

Mr. RICHARDSON. Well, if the gentleman from Illinois will allow me to suggest, this statement about this widow is to the effect that she is the widow of John Wise, who at the age of 22 years enlisted in the detachment of artillery at the United States Military Academy. That is the basis of her claim for a pension and that is set forth in this statement. I can not repeat all of the facts.

Mr. MANN. The gentleman says he thinks this is an exceptional case. Is that it?

Mr. RICHARDSON. Well, I would not say it is an exceptional case. I am disposed to believe that wherever a widow like this brings herself within the purview of the law and fails to get a pension thereunder on the stated facts there set forth, I expect for myself and for the Committee on Pensions that under these circumstances a pension would be recommended. The gentleman can consider that either as a general policy or as a policy affecting specific cases, either way he pleases.

Mr. MANN. Then I understand it is to be the policy of the Committee on Pensions that wherever a soldier or a soldier's widow can not obtain a pension under the general law it is the duty of the committee to report a special pension bill granting a pension to that soldier or to his widow?

Mr. RICHARDSON. No; I did not say that in that exact language.

Mr. MANN. That is practically what the gentleman said.

Mr. RICHARDSON. I say when a widow comes in and brings a fair and reasonable statement of her case and puts it before us, I think it is right and proper that we should grant her application.

Mr. LANGLEY. I have a good many cases in my district where a fair and reasonable statement of the case could be presented, and yet I have never been led to understand that special pensions could be granted in those cases.

Mr. OLMSTED. Mr. Chairman, in this case the War Department records show that this soldier was treated October 21 and 22, 1868, for diarrhea; February 16 to 20, 1871, for rheumatism; February 1 to 7, 1872, for contusion; February 16 to 19, 1872, for dysentery; July 9, 1872, to —, for boil; July 20 to 30, 1875, for incised wound; May 28 and 29 and July 23 to 27, 1878, for intermittent fever; March 29 to April 25, 1880, for contusion of left arm, swinging hammer, received while drilling rocks in line of duty; October 26 to 31, 1880, for lumbago; March 8 to 12, 1887, for contusion, left side, cause, misstep and fall in line of duty, cured. The records show also that "he died September 29, 1910, at Highland Falls, N. Y., from hypostatic pneumonia, three cerebral hemorrhages"; age given as 66 years.

It further appears that the immediate cause of death was uremia and exhaustion following a series of apoplectic seizures, covering a period of two years; that he had on the left side three ribs which had been broken and which had healed, with some deformity, and a large linear dent in the left parietofrontal region; that he had an immense hydrocele, which was tapped several times and finally obliterated by operation; that he was rather peculiar, but whether that was natural or was the result of the injury to his head shown by the scar they could not say, and whether this could have had any connection with the apoplexy could not be stated.

If he had died from any injury received in the service, his widow would have been entitled to a pension under the law. If his death had in any way been of service origin, she would have received a pension; but the medical officers of the Pension Bureau claimed that the death could not be accepted as the result of any disability of record, and that it was not a probable result of his military service; and yet it was certainly a possible result, following all those ailments and difficulties which he had had in the service, as I have stated.

His widow is blind in the right eye and almost blind in the left, and from feebleness of age and chronic rheumatism she is helpless to a degree requiring frequent and periodical aid and attention of another person. She has no income and is dependent on relatives for her support, which they can ill afford.

Mr. RICHARDSON. She is certainly entitled to a pension.

Mr. OLMSTED. It was not shown that the soldier's death from the alleged hypostatic pneumonia as the sequel of apoplectic attacks, nephritis, uremia, arteriosclerosis, and exhaustion was due to any cause arising during his military service; but while it can not positively be shown that all those things resulted from his service, yet it is quite possible that they did, and it seems to me, under all the circumstances of the case, that the committee was justified in finding that this was an exceptional case, taking it out of the general rule, and a case in which this pension might reasonably be allowed.

Mr. RICHARDSON. I think, clearly, under the gentleman's statement about the combination of troubles from which the soldier suffered and met his death, the widow is certainly entitled to this pension.

Mr. OLMSTED. I do not myself see why the widow of a Regular Army soldier should not be pensioned the same as the widow of a volunteer soldier, but I agree with the gentleman from Illinois [Mr. MANN] that, save in very exceptional cases, we ought not to grant it to one unless we do to all; but this seems to me such an exceptional case.

Mr. RICHARDSON. We can not adopt that fixed rule, and there is no necessity for it before that committee, because we must be governed by the specific facts that bear upon the cases, and the facts are different. You might find one widow who had a good income. Ought she to be pensioned like this helpless impoverished widow?

Mr. OLMSTED. I say this is an exceptional case, in which it appears to me that the widow is fairly entitled to this small pension.

Mr. RODDENBERY. Mr. Chairman, I notice that the report of the committee on the second page says:

> From the foregoing history of this case your committee believe the soldier's death was caused by his military service. They respectfully recommend the allowance of pension at the rate of $12 per month.

The report also shows that he was retired as a private in 1895, and that so far as the War Department records disclose, while he was treated for divers and sundry diseases or ailments, he was treated for no disease or ailment after March, 1887; so that if the report of the committee is accurate, he was in the service from 1887 to 1895, and there was no record in the War Department of his having been treated for any ill or infirmity during that time. Then he was placed on the retired list, and if he was subject to various diseases in the meantime, in any

manner connected with his service in the Army, the reports and the facts fail to disclose it.

Mr. RICHARDSON. I do not believe I have ever been instrumental in preparing a report that showed more diseases than does this report.

Mr. RODDENBERY. Yes; but the last treatment shown in the records of the War Department was in 1887, 23 years before the man died, and how from that record it can be concluded that he died of diseases that were caused by his military service the report does not disclose and I fail to perceive.

Mr. RICHARDSON. The gentleman has probably overlooked the affidavit of Dr. Blanchard, who says in an affidavit executed June 14, 1911, that the immediate cause of death was uremic exhaustion following a series of apoplectic seizures covering a period of two years. Can not the gentleman connect that with the latter part of the statement made on the first page of the report, which shows that he was treated for diarrhea, rheumatism, contusion, dysentery, boils, incised wounds, intermittent fever, and a contusion of the left arm; can not the gentleman connect that with some of these diseases? Can not he see how these diseases might bring about the death of the soldier?

Mr. RODDENBERY. According to the record these troubles were all 20 years or more prior to the services rendered by the physician.

Mr. RICHARDSON. The gentleman must know that in the case of soldiers where they have some of these diseases they will develop causes of death 25 or 30 years after.

Mr. RODDENBERY. And then, furthermore, this soldier never served in any war.

Mr. RICHARDSON. Did not he join the Army?

Mr. RODDENBERY. Yes; but he never served in any war, according to the report. His entire service was at West Point.

Mr. RICHARDSON. Then it was because he did not happen to be in any battle.

Mr. RODDENBERY. His widow applied for a pension November 14, 1910, under the act of April 19, 1908, which provides a pension for widows whose husbands rendered service in the Civil War. That claim was rejected December 9, 1910, on the ground that the soldier's service was not rendered in the Civil War. Then she applied for a pension April 19, 1911, under the general law, which provides pensions for widows whose husbands died of a cause originating in service in line of duty. That claim was rejected by the Commissioner of Pensions July 18, 1911, on the ground that the soldier's death from the alleged hypostatic pneumonia, as the sequel of apoplectic attacks, nephritis, uremia, arteriosclerosis, and exhaustion was not shown by the record or other evidence to have been due to any cause arising during his military service.

Now, with that record the committee asserts that they conclude that he did die of a disease contracted in the service. I see no evidence on which they base their conclusion.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. RICHARDSON. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk reported the other committee amendments, which were agreed to.

The bill as amended was laid aside to be reported to the House with a favorable recommendation.

MARY BRADFORD CROWNINSHIELD.

The next business on the Private Calendar was the bill (S. 1152) granting an increase of pension to Mary Bradford Crowninshield.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary Bradford Crowninshield, widow of Arent Schuyler Crowninshield, late rear admiral, United States Navy, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

Mr. MANN. Mr. Chairman, I think it is due to the committee where a bill grants a large pension to have some explanation in regard to it. What reason is there for pensioning Mrs. Crowninshield at the rate of $50 a month? I do not recall that the admiral ever had any very strenuous service. He had a good many battles with other men in the department. He was here during the Spanish War. As I understand, $50 a month is the limit which the Pension Committee will report in any case for a widow's pension. I suppose it is not intended to provide that limit for every person.

Mr. LONGWORTH. Is that the limit? It seems to me that I have known cases where the pension was larger than that.

Mr. MANN. That is the limit which the Pension Committee will report.

Mr. ROBERTS of Massachusetts. We have increased the pension on the floor sometimes.

Mr. MANN. We increased the pension for Mrs. Schley the other day on the floor to $75. It seems to me that the limit of the pension ought to be reserved for special cases.

Mr. BURKE of Wisconsin. Mr. Chairman, I desire to say, on behalf of the Committee on Invalid Pensions, that this bill providing a pension for the widow of Admiral Crowninshield was introduced and passed in the Senate, and has had the careful consideration of our committee. I am rather astonished at the gentleman from Illinois not knowing who Admiral Crowninshield was.

Mr. MANN. Oh, I did not say I did not know who he was. I know very well.

Mr. BURKE of Wisconsin. Then I misunderstood the gentleman. Admiral Crowninshield served in the Civil War, and also during all of the years between that and the Spanish War, and during the Spanish War. His record is first class. His widow is in needy circumstances and she ought to have this small amount of pension. It is in about the same proportion that widows of soldiers and sailors of similar rank receive.

Mr. SULLOWAY. Mr. Chairman, I was not present when the committee reported this bill, but it appears from the report that this officer contracted this disease while he was in the service some years before his discharge and death. The widow was his wife for a good number of years, from 1860 down to the time of his death. The only fault I can find with the proposition is that she is not given enough. If I had been present in the committee at the time, I should have voted for more. I hope the bill will pass.

The CHAIRMAN. The Clerk will read the bill for amendment under the five-minute rule.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary Bradford Crowninshield, widow of Arent Schuyler Crowninshield, late rear admiral, United States Navy, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection, and it was so ordered.

JAMES A. DICKINSON AND OTHERS.

The next business on the Private Calendar was the bill (H. R. 25713) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of James A. Dickinson, late of Company K, Sixth Regiment Ohio Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of James Campbell, late of Company C, Tenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Joseph G. Long, late of Capt. Cone's company, First Regiment Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of William S. Smith, late of Company K, Twenty-first Regiment Kansas Volunteer Infantry, War with Spain, and pay him a pension at the rate of $8 per month.

The name of Jackson A. Watkins, late of Company D, Fifth Regiment United States Infantry, and pay him a pension at the rate of $6 per month.

The name of Peter Peterson, late of Company A, Sixth Regiment Massachusetts Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of James B. White, late of Company A, Thirty-fourth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of William J. Abrams, late of Troop C, Second Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $6 per month.

The foregoing bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 6758. James A. Dickinson.	H. R. 13616. Jackson A. Watkins.
H. R. 11529. James Campbell.	H. R. 19388. Peter Peterson.
H. R. 12515. Joseph G. Long.	H. R. 22679. James B. White.
H. R. 13066. William S. Smith.	H. R. 24257. William J. Abrams.

The CHAIRMAN. If there is no general debate, the Clerk will read the bill for amendment under the five-minute rule.

The Clerk read as follows:

The name of James B. White, late of Company A, Thirty-fourth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

Mr. RICHARDSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 2, line 24, by striking out the words "in lieu of that he is now receiving."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk concluded the reading of the bill.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection, and it was so ordered.

CORNELIA BRAGG.

The next business on the Private Calendar was the bill (H. R. 25598) granting an increase of pension to Cornelia Bragg.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Cornelia Bragg, widow of Gen. Edward S. Bragg, late a brigadier general of the United States Army during the late Civil War, and pay her a pension at the rate of $100 per month in lieu of that she is now receiving.

Mr. MANN. Mr. Chairman, I think the gentleman from Wisconsin [Mr. BURKE] ought to make a statement in regard to this bill and in regard to Gen. Bragg.

Mr. BURKE of Wisconsin. Mr. Chairman, some time during this session of Congress the Congress passed a bill providing a pension of $100 per month for Gen. Edward S. Bragg. The bill became a law by the approval of the President on the 19th day of June, and on the 20th of June Gen. Bragg died. Cornelia Bragg was married to Gen. Bragg some few years before the Civil War. She is a war widow. She has lived with him continually from the time of their marriage until his death. She has been a most faithful and devoted wife to the noble old general. She has been his constant aid and companion during all of these years. She is now nearly 83 years of age, feeble, helpless, without any income, without any property excepting the humble home in which she lives. She has at best but a few years more to live, for she will soon follow her noble husband to the grave.

The bill as read provides a pension of $100, but there is a committee amendment reducing that amount to $50 a month. I think the amount is too small, yet it seems to be in accordance with the custom of Congress in providing for the widows of generals of his rank. I do not think it is necessary in this House, in which Gen. Bragg served four different terms with distinction, to say anything further in respect to the bill. He was a friend of the soldier and the enemy of the coffee cooler and camp follower. Although entitled to it, he never during his lifetime asked for a pension. He was granted a pension through the courtesy of Senator Spooner of Wisconsin in 1906, but that was without his knowledge, and he refused to accept it for several months thereafter, but finally did accept it because of his needy circumstances. I think, in view of the honorable record of Gen. Bragg, that no student familiar with the history of the Civil War desires or needs an explanation, and I think in view of the circumstances that the small amount allowed for Cornelia Bragg is well deserved by her. [Applause.]

Mr. SULLOWAY. Mr. Chairman, I hope that amendment will not be adopted. This widow is the widow of a general with whom she lived for all these long years, and it was the practice in the case of those generals who died earlier to give at least $100, and in many cases more was granted. She has arrived at that age when she can survive only a few days, weeks, or months more at the best, and I think it is due to her and to the memory of Gen. Bragg and what he did in that terrible war to give her at least $100 instead of the mere pittance of $50, which will not support her and pay for the nurses and watchers who will be needed while she does live. I hope the amendment will be voted down. [Applause.]

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amend, page 1, line 6, by striking out after the word "of" the word "General."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Amend, line 7, by striking out the words "the United States Army" and inserting in lieu thereof "United States Volunteers."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Amend, line 9, by striking out the words "one hundred" and inserting in lieu thereof the word "fifty."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced the noes seemed to have it.

Mr. RODDENBERY. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 19, noes 20.

Mr. RODDENBERY. Mr. Chairman, I make the point of order there is no quorum present.

Mr. SIMS. Ask for tellers.

Mr. RICHARDSON. Mr. Chairman, I ask for tellers on the question.

Mr. RODDENBERY. Mr. Chairman, I withdraw the point of no quorum.

Mr. RICHARDSON. Mr. Chairman, I ask for tellers.

Mr. MANN. Mr. Chairman, I make the point of order there is no quorum present.

Mr. RICHARDSON. I want to say here is an evidence of what we are coming to. In the case of Mrs. Schley the committee stood firmly by the action of the Senate committee and refused $150, and the gentleman from Illinois was the man who broke the precedent by giving $75. You see where this is going to now.

The CHAIRMAN. Does the gentleman from Illinois make the point of order that there is no quorum?

Mr. MANN. I did make that point of order.

The CHAIRMAN. Does the gentleman now make the point of order?

Mr. MANN. I made the point of order before.

Mr. RICHARDSON. Can not I ask for tellers on the question?

Mr. MANN. If the Chair has finished his count, I would like to have an announcement of the result.

The CHAIRMAN. The Chair finds there are 94 Members present, not a quorum, and the Clerk will therefore call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Doremus	Kent	Porter
Adamson	Draper	Kindred	Powers
Akin, N. Y.	Driscoll, M. E.	Kinkead, N. J.	Pujo
Ames	Dupré	Knowland	Randell, Tex.
Andrus	Dyer	Konig	Reyburn
Ansberry	Ellerbe	Kopp	Riordan
Anthony	Evans	Lafean	Roberts, Nev.
Ashbrook	Fairchild	Lamb	Russell
Bartholdt	Faison	Legare	Sells
Bartlett	Ferris	Lindbergh	Shackleford
Bates	Fordney	Lindsay	Sharp
Boehne	Fornes	Littleton	Sheppard
Bradley	Francis	Lloyd	Sherley
Brantley	Garrett	Loud	Sherwood
Broussard	Gillett	McCall	Simmons
Brown	Glass	McCoy	Slemp
Burke, Pa.	Goeke	McCreary	Small
Byrnes, S. C.	Gould	McGuire, Okla.	Smith, S. W.
Calder	Graham	McHenry	Smith, Cal.
Callaway	Griest	McLaughlin	Stack
Campbell	Guernsey	McMorran	Steenerson
Cannon	Hamilton, Mich.	Macon	Stephens, Nebr.
Cantrill	Hamilton, W. Va.	Maher	Taylor, Colo.
Carter	Hanna	Martin, S. Dak.	Thayer
Cary	Hardwick	Miller	Thistlewood
Clark, Fla.	Harrison, N. Y.	Mondell	Thomas
Claypool	Heald	Moon, Pa.	Utter
Covington	Heflin	Moore, Pa.	Vare
Cox, Ohio	Helgesen	Moore, Tex.	Volstead
Crago	Helm	Morse	Vreeland
Currier	Henry, Conn.	Murdock	Weeks
Dalzell	Higgins	Needham	Wilder
Daugherty	Hill	Nelson	Wilson, N. Y.
Davidson	Hinds	Nye	Wilson, Pa.
Davis, W. Va.	Holland	O'Shaunessy	Wood, N. J.
De Forest	Hughes, W. Va.	Palmer	Young, Kans.
Dies	Humphreys, Miss.	Patten, N. Y.	Young, Tex.
Donohoe	Jackson	Plumley	

During the roll call,

Mr. CARLIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN (Mr. MARTIN of Colorado). The gentleman will state it.

Mr. CARLIN. I do not know whether the House understands this roll call is to disclose a quorum or whether we are to vote "yea" or "nay" on the bill.

The CHAIRMAN. The purpose of the roll call is to disclose whether or not a quorum is present.

After the roll call,

The SPEAKER resumed the chair, and Mr. RUCKER of Colorado, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, finding itself without a quorum, he had caused the roll to be called, and that 238 Members answered to their names, a quorum.

LEAVE OF ABSENCE.

Mr. DENVER, by unanimous consent, was granted leave of absence for an indefinite period on account of important business.

SPEAKER PRO TEMPORE FOR TO-MORROW.

The SPEAKER designated Mr. LLOYD to preside as Speaker pro tempore for to-morrow, Saturday, July 13, 1912.

CORNELIA BRAGG.

The committee resumed its sitting, with Mr. RUCKER of Colorado in the chair.

Mr. SIMS. Mr. Chairman, I demand a division on the vote. I demand tellers.

The CHAIRMAN. Tellers are demanded.

Mr. RICHARDSON. Mr. Chairman, I ask that the Clerk read the amendment.

The CHAIRMAN. Without objection, the Clerk will read the amendment.

The Clerk read as follows:

Page 1, line 9, strike out the words "one hundred" and insert in lieu thereof the word "fifty."

Mr. LANGLEY. Is that a committee amendment, Mr. Chairman?

Mr. RICHARDSON. I desire, Mr. Chairman, to discuss that amendment for a moment. I wish to say this: I believe that if the Members of the House understand what the amendment is they will vote for it. It is an important matter and has recently been passed upon. It is a good custom if it is honestly and faithfully observed, because it applies to all widows of admirals and generals. I held in my hand the other day some seventy and odd of such bills when the question came up here that the Pension Committee of the Senate had allowed Mrs. Schley, the widow of Admiral Schley, the sum of $50. The Pension Committee of this House that had charge of this bill sustained the Pension Committee of the Senate, but after an earnest speech, full of eloquence and sentiment, as I was told, the Senate overrode its own committee and fixed Mr. Schley's pension at $150. I did not think then and I do not think now it was right, although the suggestion was made to me by the various gentlemen here as chairman of the Pension Committee that we allow an amendment of $75, which the gentleman from Illinois [Mr. MANN] had offered.

I said it was breaking that custom and making a line of demarcation against those widows that was unjust and unfair, and I did not think this House would stand for it. But it did. I predicted it then, that having violated that custom, sacred as I thought it was, that a number of instances would follow where it would be asked by worthy widows of distinguished admirals and generals, "Why could you not give us $100 just as well as you do any of the distinguished widows?"

Mr. SLAYDEN. Will the gentleman from Alabama permit a question?

Mr. RICHARDSON. Why, yes.

Mr. SLAYDEN. Quite a good many of us came into the House after this question was raised, and there is confusion in the minds of a good many Members as to just what this proposition is, and there is so much confusion in the House that many of the Members did not hear the statement of the gentleman from Alabama [Mr. RICHARDSON]. I want to ask him if I have a correct understanding of it.

The CHAIRMAN. The Chair will state that the gentleman from Alabama is out of order. The matter has been settled so far as debate is concerned. If the gentleman from Alabama will ask unanimous consent——

Mr. SLAYDEN. The gentleman from Alabama asked the privilege of speaking.

Mr. MANN. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Was there any order entered by the House closing debate?

Mr. LANGLEY. The demand for tellers makes it necessary to take a vote over again.

Mr. RICHARDSON. I ask unanimous consent to make a statement about the status of this matter.

Mr. KENDALL. I ask unanimous consent that the gentleman from Alabama [Mr. RICHARDSON] may proceed for 10 minutes.

There was no objection.

Mr. SLAYDEN. Now, Mr. Chairman, I was asking the gentleman from Alabama a question, and with his permission I will continue it. Am I correct in the understanding that this was a proposition to grant a pension of $100 a month, and that there is now pending an amendment reducing that pension to $50 a month?

Mr. SIMS. Is it a committee amendment?

Mr. SLAYDEN. Yes; a committee amendment, to make it $50 a month.

Mr. RICHARDSON. Yes; but the trouble is that the gentleman who is in charge of the bill offers to leave it at $100 a month.

Mr. LANGLEY. Mr. Chairman, as a member of that committee, if the gentleman will allow me, let me state that the bill as introduced, if I remember aright, provided for $100 a month.

Mr. RICHARDSON. Yes.

Mr. LANGLEY. And our committee thought it best to follow the usual custom in such cases and fix the amount at $50 a month. This is a committee amendment, reducing the amount provided in the original bill.

Mr. KENDALL. It is a Senate bill?

Mr. RICHARDSON. That is correct, I have no doubt, as stated by the gentleman from Kentucky, and all that I am interested in, Mr. Chairman, is that there shall be justice and uniformity of treatment.

Mr. KENDALL. Is it a Senate bill?

Mr. RICHARDSON. No; a House bill.

Mr. KENDALL. How does it come before the House, then, with a committee amendment reducing it to $50?

Mr. LANGLEY. It came from the Committee on Invalid Pensions, and this is a committee amendment reducing the amount that was provided in the original bill.

Mr. RICHARDSON. Is this a Senate bill?

Mr. LANGLEY. No; this is a House bill.

Mr. GARNER. Mr. Chairman, will the gentleman yield to me for a moment?

The CHAIRMAN. The Chair desires to understand from the gentleman from Alabama to whom he yields.

Mr. RICHARDSON. I yield to the gentleman from Texas [Mr. GARNER.]

Mr. GARNER. Mr. Chairman, the gentleman from Iowa [Mr. KENDALL] asked a very pertinent question; but when the gentleman from Iowa or any other gentleman asks the question, and this bill comes in here with an amendment at $50 a month instead of $100, as originally introduced, if he will refer to the rules of the House and the rules governing the action of the committee he will ascertain, if any bill is introduced and reported back to the House with a change, that the committee amendment must be adopted. In other words, if he should introduce a bill allowing $1,000 a month the committee would report that identical bill with an amendment, say, at $25 a month.

Mr. LANGLEY. That is exactly the case here. This is not an omnibus bill, but an individual bill.

Mr. KENDALL. The committee has reported the bill and recommended that the bill be passed with the rate fixed at $50 a month.

Mr. RICHARDSON. Yes. If we vote on it, we will vote for an amendment which makes it $50 a month for the widow.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Alabama yield to the gentleman from Wisconsin?

Mr. RICHARDSON. Yes; certainly.

Mr. COOPER. This widow is 82 years of age, is she not?

Mr. LANGLEY. She is about that age.

Mr. COOPER. She is 82 years of age past, I am informed by my colleague, Mr. BURKE. The testimony is uncontradicted that she has no income at all. Is that true?

Mr. MANN. That is true.

Mr. RICHARDSON. Yes; that is true, I presume, from the statements made.

Mr. COOPER. And the testimony is that she is the widow of Gen. Bragg, the commander of the Iron Brigade, one of the most justly celebrated brigades in all history. Is not that true?

Mr. RICHARDSON. I have no doubt it is true.

Mr. COOPER. That was the brigade which history declares held Stonewall Jackson's whole division at Gainesville, one of the fiercest battles of the war, for more than an hour, and helped save the Union Army from what seemed certain disaster. The heroism of that brigade on many a blood-stained field won for it an immortality of renown. And yet the poor widow of its heroic commander is to be pensioned at the rate of $50 a month, when every Member of the House knows that no woman of her age, without other income, can live in these times as the widow of a Union veteran ought to live on only $50 a month. She will be obliged to have the attendance of another person, and for this she can not pay; and yet the Government of the United States, the richest Nation the world has ever seen, is quibbling about giving her a pension large enough to maintain her in comfort.

Mr. ANDERSON of Minnesota. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Minnesota?

Mr. COOPER. I yield.

Mr. RICHARDSON. I do not think that is a proper statement.

Mr. ANDERSON of Minnesota. The gentleman's argument would indicate that in his judgment every widow should have at least $50 a month.

Mr. COOPER. That is what I do believe if she is more than 80 years old and without income. This widow is more than 80 years of age and destitute of income.

Mr. LANGLEY. That is what the House has always refused.

Mr. COOPER. I do not care how often or how long the House has refused. It is never too late to do justice to the

widow of a Union soldier. A bad precedent never makes good law. Penurious, ungrateful, pinchbeck, alleged economy does not weigh an atom, in my judgment, against the just claims of the widow of a hero like Gen. Bragg, of the Iron Brigade. [Applause.]

Mr. RICHARDSON. I think that is all true, but——

Mr. COOPER. My attention has only just been called to this. I knew nothing about it until a moment ago, when I inquired of my colleague and of the gentleman from Illinois as to what was before the House. I shall never knowingly vote to give only $50 from the Treasury of the United States to the widow of a private soldier nor to the widow of an officer when, in either case, the widow is more than 80 years of age and practically helpless. [Applause.]

Mr. RICHARDSON. How does the gentleman establish the line of demarcation——

Mr. COOPER. I do not establish any line of demarcation.

Mr. RICHARDSON. I have listened to the gentleman's questions carefully, and I should like to ask him a question.

Mr. COOPER. When a widow of any gallant Union soldier, officer or private, is so aged as to be unable to earn a living, I will vote to pay her enough money out of the United States Treasury to keep her honorably, in comfort and free from care, until she goes to her grave.

Mr. RICHARDSON. Then I will ask the gentleman this question: How will he make a line of demarcation as to the widow of an admiral who has not the reputation, fame, honor, and glory among the people of the Nation that Admiral Schley made in this country for himself? Will the gentleman make a difference in money between them? That is the question I want him to answer.

Mr. COOPER. I will make no line of demarcation.

Mr. RICHARDSON. You are bound to make it.

Mr. COOPER. I am not bound to make it.

Mr. RICHARDSON. You are, when you give the widow of one admiral $150 a month and another $75 or $80, and the records of this Government show that the widows of brave and gallant soldiers who fought for the flag of the Union are by a uniform custom receiving $50. Why do you not increase them? Our committee try to maintain justice and fairness without discrimination between these good women, and for that reason, as chairman of the Pension Committee, when the case of Mrs. Schley came up, and it was proposed to give her $150, our committee stood strongly against it because it was violative of a custom that was right and fair and just to the equally deserving widows of other distinguished men.

Mr. COOPER. I was not aware that the Congress of the United States had heretofore voted only $50 a month to so aged and poor a widow as is the one named in the pending bill.

Mr. ANDERSON of Minnesota. Twelve dollars in some cases.

Mr. COOPER. I was not referring to the general law. I mean that I am not aware of a special act having been passed in such a case which limited the pension to that amount.

Mr. KENDALL. Is it not ordinarily true——

Mr. COOPER. But if that be true, I am in favor of doing what is plainly right now, and of giving to this woman, helpless in her old age and within sight of her grave, enough to support her in comfort, as becomes the widow of a Union soldier, until she shall pass across the dark river.

Mr. RICHARDSON. Regardless——

Mr. COOPER. And the fact that heretofore Congress may not have dealt justly by another aged widow will not suffice to justify us if now we deal unjustly by this one.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FULLER. Mr. Chairman, this Congress, at the present session, passed a bill giving to Gen. Bragg himself a pension of $100 a month. That bill became a law on the 19th day of June last, and on the next day Gen. Bragg died, at the age, I think, of over 84 years. He never received any benefit from that act. The proposition now is to give to this old widow the pension that had just been voted by this Congress to Gen. Bragg, and I am surprised that any gentleman on the other side of this House, especially, should oppose any honor that may be shown to Gen. Bragg or his aged widow. There never was a braver soldier; there never was a man deserving more from his country than Gen. Bragg. [Applause.] To that widow, who is now more than 82 years of age, and who is without property and helpless, we are proposing to give the pension that Congress had already voted to the general himself, and from which neither he nor she ever received any benefit.

I hope this amendment will not be adopted, but that this House, with unanimity, may agree to give to this aged widow what she needs for her comfort and support during the few days that she is to remain upon this earth. [Applause.]

Mr. RICHARDSON. Mr. Chairman, I am surprised at the gentleman [Mr. FULLER] who just closed his remarks referring to "this side of the House," the Democratic, on the subject of pensions of this character. That is unfair and unkind. I can say for myself that there would be no hesitancy on my part, and has been none since I have been a Member of the House, to honor the Federal soldiers of the Civil War and their widows.

But this is a different principle. It is a question of justice between these widows of distinguished soldiers. It makes no difference how grand the record of Gen. Bragg was in the Civil War. There is no question about that; but I predicted the other day that if you broke down this custom of granting to this class of widows $50 you would destroy the whole thing, and all these good women would be led to come in and ask for a different and increased pension. Here we have one to-day, and they will come in numbers, trooping along, as they ought to come, if you make a distinction between them. This bill does not come from the Pension Committee, it comes from the Committee on Invalid Pensions; but it is the principle I am contending for, and doing justice among these widows of the old soldiers.

Mr. SIMS. Mr. Chairman, I want to ask the gentleman from Illinois [Mr. FULLER] a question. I understood the gentleman to allege, as a matter of policy, that we ought to give the widow of a soldier the same pension that the soldier himself received while living.

Mr. FULLER. I did not state that as a matter of policy, but in this case I think it is a matter of common justice.

Mr. SIMS. The gentleman thinks that this is an exceptional case?

Mr. FULLER. I do, on account of the age of the widow and the distinguished services of the soldier.

Mr. SIMS. And the gentleman voted for $100 for Gen. Bragg, who had himself and his wife to take care of, and he thought that was amply sufficient.

Mr. FULLER. It was not amply sufficient.

Mr. SIMS. It was all the gentleman voted for.

Mr. FULLER. It was all we could get the House to give.

Mr. SIMS. Does the gentleman think there is any discrimination in regard to the widow when he voted that $100 was enough for both of them, and now the proposition is to give $50 to one?

Mr. FULLER. It was a pittance for both. I never said it was enough for both. It is a little thing for this great Nation to do to give this widow the pension that we voted to Gen. Bragg.

Mr. JONES. Mr. Chairman, I make the point of order that this debate is out of order. The committee was dividing when the point of no quorum was made.

Mr. MANN. Mr. Chairman, I submit that there was no order closing debate, and the universal rule of parliamentary law and the rule in this House is that until debate is closed by order of the House debate is in order until the negative vote is taken on the final vote.

Mr. JONES. I make the point of order, Mr. Chairman.

Mr. SIMS. But, Mr. Chairman, I do not want to be taken off of the floor by any point of order.

Mr. JONES. I make the point of order that debate was closed and the House was dividing.

The CHAIRMAN. The Chair will state to the gentleman from Virginia that the Chair was inclined to agree with the gentleman from Virginia, but he has since been convinced that he was wrong, and as the gentleman from Illinois is usually right, the Chair will overrule the point of order. The gentleman from Tennessee [Mr. SIMS] has the floor.

Mr. SIMS. Mr. Chairman, I want to state that I am not making an objection to this particular pension, but I think the committee should not be overruled without an opportunity to be heard. The bill was reported by the committee of which the gentleman from Illinois [Mr. FULLER] is a member.

Mr. FULLER. But I was not present when the report was made.

Mr. SIMS. I have been on the Committee on Pensions and I have had some experience. Many times it used to occur that amendments were offered on the floor of the House of which the committee had had no opportunity to consider, and an appeal would be made to the sympathy of Members when the committee had had no opportunity to consider it. Now, the Committee on Pensions and the Committee on Invalid Pensions must have general rules, and whenever a bill is reported from that committee and the House thinks it is not sufficiently large, it seems to me that the proper motion would be to recommit the bill and let the committee reconsider its action and give the committee an opportunity to do what it deems wise. I think the gentleman from Alabama is correct. If these widows are allowed different pensions by special acts—if they are granted pensions in excess of the sum allowed by the committee as reported—every one will come in here and ask for an increase of pension by

private act. Besides, under the general law we have always given the soldier himself a greater pension than his widow.

Mr. FULLER. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Certainly.

Mr. FULLER. If the bill were recommitted, the probability is that this widow, like her husband, would die before she could have any benefit from the pension.

Mr. SIMS. I do not think the gentleman's committee is subject to a charge that it does not act diligently.

Mr. FULLER. But we are in the closing days of this session.

Mr. SIMS. And where does the gentleman get such encouraging information—that we are in the closing days of this session? [Laughter and applause.]

Mr. MANN. Mr. Chairman, I ask unanimous consent to proceed for three minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, we recently passed a law, general in its nature, providing for an increase in pensions. The highest amount carried under that law for a soldier of three years' or more service in the Army, of old age, was $30 a month for himself and his wife. We have recently passed, without the knowledge of the House, a bill granting a pension of $100 a month to Gen. Bragg. It was news to every Member of the House, I think, that the bill had been passed, except perhaps the gentlemen upon the committee. Gen. Bragg has died. That bill carried $100 a month for the support of himself and his wife. There is a general rule of Congress, of the committees both of the House and the Senate, that they will not grant a pension for more than $50 a month to widows. In the course of my service here I have had numerous applications from widows of generals living in Chicago pointing to the day when Congress passed pensions for widows at the rate of $100 a month and insisting that they were entitled to the same amount.

I prefer to grant larger pensions to widows of soldiers who now get not to exceed $12 a month and give them $20, and less to the widows of soldiers who receive $100. [Applause.] Therefore I shall vote for the amendment to reduce the amount to $50 a month, knowing that if that bill passes the House it has a chance to become a law and the widows will receive that amount of money during their lifetime.

Mr. LANGLEY. Mr. Chairman, I move to strike out the last word. I do this for the purpose of affording myself the opportunity, debate having been exhausted under the rules, to speak briefly on the merits of this bill. I desire to support the amendment reported by the committee, and I am free to admit that I am speaking against my sentiments and in obedience to my judgment. I am a member of the committee that reported the bill. I trust that I am not seriously violating the rule regarding committee proceedings when I say that it was upon my motion that the amount proposed by the bill as originally introduced by the gentleman from Wisconsin [Mr. BURKE] was reduced from $100 to $50 a month. We thought, after discussing the matter fully, that $50 a month was a sufficient amount, and that it was in accordance with the usual custom which has prevailed heretofore in similar cases. The sympathy of every kind-hearted man is naturally appealed to by the statement that has been made here, that Mrs. Bragg is past 81 years of age, and but for the principle involved that fact alone would induce me to vote for the $100 rate. But, Mr. Chairman, I am satisfied that most Members have not been advised fully as to the facts of the case. The evidence before our committee showed that Mrs. Bragg owns a residence valued at $5,000. That would be regarded in the mountains of Kentucky, where I live, as a rather palatial home. It is a finer home than any widow of a Union soldier in my congressional district possesses, so far as I am informed. I can recall the cases of scores of widows of Civil War veterans who live in my district who occupy log cabins that are not worth $25. Some of these widows, who married the soldiers since June 27, 1890, are not receiving any pensions at all. Nearly all of those who are on the rolls receive only $12 a month, and they are old and unable to earn a support, and most of them are in actual need of some of the necessaries of life which this pittance of $12 a month will not procure for them.

I agree with the distinguished gentleman from Illinois [Mr. MANN] that we ought to concern ourselves more with cases where actual poverty and need exist and less with bills granting a rate of pension which to these poor widows would be a magnificent income. I do not believe this House ought to increase the amount over that recommended by the committee. I think the action of the committee was right, and I think the people of the country will approve of it, not because they do not honor the memory of Gen. Bragg, not because they do not appreciate to the fullest the spendid service which he rendered to the country in the hour of its peril, but because they believe that the Congress of the United States should exercise a little more justice, a little more equity, a little more uniformity, than it sometimes does in the distribution of the gratuities that are granted by the Government to its soldiers and their widows. [Applause.]

Mr. SULLOWAY. Mr. Chairman, will the gentleman yield for a question?

Mr. LANGLEY. Certainly.

Mr. SULLOWAY. Mr. Chairman, I am a member of the committee, but I was absent when this matter was brought up.

Mr. LANGLEY. I am sorry the gentleman was not present. He ought to have been.

Mr. SULLOWAY. And so am I—much more so than the gentleman. I want to ask him if this widow has any other property than the home in which she lives?

Mr. LANGLEY. So far as I am advised, she has no cash income.

Mr. SULLOWAY. Does the gentleman know of the widow of a general, who was his wife during the war, with the rank and record of Gen. Bragg, who is not drawing $100 a month at the present time, if she is living? Has not that been the fact for long years? This talk about a custom of paying only $50 a month is of no force and never was a fact. Let the gentleman look at the record, and he will find that some widows were granted $500 a month—yes, all the way from $100 a month to $5,000 a year.

Mr. LANGLEY. My information is that has not been the general practice. If the gentleman has evidence to the contrary, let him submit it.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken; and on a division (demanded by Mr. LANGLEY) there were—ayes 67, noes 56.

Mr. FOCHT. Mr. Chairman, I ask for tellers.

Mr. KENDALL. Mr. Chairman, I make the point of order it is too late to ask for tellers.

Mr. FOCHT. Mr. Chairman, I ask for tellers.

Mr. LANGLEY. Mr. Chairman, it is too late.

Tellers were ordered.

The committee again divided; and the tellers [Mr. RICHARDSON and Mr. BROWNING] reported that there were—ayes 77, noes 53.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will report the additional committee amendment.

The Clerk read as follows:

Page 1, lines 9 and 10, strike out the words "in lieu of that she is now receiving."

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question is, Shall the bill be laid aside with a favorable recommendation?

The question was taken, and the bill was ordered to be laid aside with a favorable recommendation.

Mr. RICHARDSON. Mr. Chairman, I move that the committee do now rise and report the bills favorably with the recommendation that the amendments be agreed to and that the bills as amended do pass.

Mr. MANN. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. If the gentleman will withhold his motion for a second.

Mr. RICHARDSON. Yes.

Mr. MANN. The parliamentary inquiry is, Is it not in order to call up on the calendar those bills removing charges of desertion or bills which have been similarly treated in recent years—bills providing that the pension laws shall be made applicable in certain cases where there are charges of desertion?

The CHAIRMAN. The Chair will state to the gentleman from Illinois that he is advised that in the House the motion was made to go into the Committee of the Whole House on the state of the Union to consider pension bills on the Private Calendar.

Mr. MANN. I understand that is the way the Speaker put the motion, but I believe that is not the way it was made, and it is not the proper motion; but I have no objection.

The CHAIRMAN. The gentleman from Alabama moves that the committee rise and report the bills favorably, with the recommendation that the amendments be agreed to and that the bills as amended do pass.

The question was taken, and the motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RUCKER of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration pension bills on the Private Calendar and had directed him to report

back to the House the bill H. R. 20362 with amendments, the bill S. 1152 without amendment, the bill H. R. 25713 with amendments, and the bill H. R. 25598 with amendments, with the recommendation that the amendments be agreed to and that the bills as amended do pass.

The SPEAKER. The Clerk will report the first bill.

CATHERINE WISE.

The Clerk read as follows:

A bill (H. R. 20362) granting a pension to Catherine Wise.

Mr. COOPER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COOPER. I desire at the proper time, if this is the proper time, to ask for a separate vote upon the Bragg amendment. I did not hear what this bill is.

The SPEAKER. The bill comes up in its turn.

Mr. COOPER. I did not understand the name of this bill, and I wished to be on the safe side.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

MARY BRADFORD CROWNINSHIELD.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (S. 1152) granting an increase of pension to Mary Bradford Crowninshield.

The bill was ordered to be read a third time, was read the third time, and passed.

GRANTING PENSIONS TO CERTAIN SOLDIERS AND SAILORS, ETC.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 25713) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The amendment was read.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

CORNELIA BRAGG.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 25598) granting an increase of pension to Cornelia Bragg.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Page 1, line 6, after the word "of," strike out the word "General."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Page 1, line 7, strike out the words "the United States Army" and insert in lieu thereof the words "United States Volunteers."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Page 1, line 9, strike out the words "one hundred" and insert in lieu thereof the word "fifty."

Mr. COOPER. Mr. Speaker, I ask for a yea-and-nay vote on that amendment, which decreases the amount to $50 a month. First, I ask for a division on that. I demand the yeas and nays.

The SPEAKER. The gentleman from Wisconsin demands the yeas and nays.

Mr. COOPER. And I make the point of no quorum.

The SPEAKER. The Chair did not hear the last remark.

Mr. COOPER. I make the point of no quorum.

Mr. MANN. Has the vote been ordered taken?

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. COOPER. Now, Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. On the roll call those in favor of the amendment will vote "aye" and those opposed will vote "no."

Mr. RICHARDSON. A parliamentary inquiry, Mr. Speaker?

The SPEAKER. The gentleman will state it.

Mr. RICHARDSON. In voting on the question of a quorum, if you vote "aye" you vote for the amendment?

The SPEAKER. The vote is on the amendment.

Mr. RICHARDSON. I say it is on the amendment.

The SPEAKER. That is what the Chair stated. On this vote it was not a question of voting "present" only. It is a question of voting "aye" or "no." Those in favor of the amendment will vote "yea" and those opposed will vote "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 125, nays 78, answwered "present" 8, not voting 178, as follows:

YEAS—125.

Adamson	Fields	Jones	Rouse
Aiken, S. C.	Fitzgerald	Kendall	Rubey
Alexander	Flood, Va.	Kennedy	Sabath
Allen	Floyd, Ark.	Kitchin	Sims
Anderson, Minn.	Garner	Korbly	Sisson
Barnhart	George	La Follette	Smith, Tex.
Bathrick	Godwin, N. C.	Langley	Stedman
Beall, Tex.	Goodwin, Ark.	Lee, Ga.	Stephens, Miss.
Bell, Ga.	Gray	Lever	Stephens, Tex.
Blackmon	Green, Iowa	Lindbergh	Sulzer
Booher	Gregg, Pa.	McDermott	Sweet
Borland	Gudger	McKellar	Talbott, Md.
Buchanan	Hamill	McKenzie	Taylor, Ala.
Burke, S. Dak.	Hamlin	Maguire, Nebr.	Taylor, Colo.
Burleson	Hammond	Mann	Tilson
Burnett	Hardy	Martin, Colo.	Towner
Byrns, Tenn.	Harrison, Miss.	Mays	Townsend
Candler	Haugen	Moon, Tenn.	Tribble
Clayton	Hay	Morrison	Turnbull
Collier	Hayden	Moss, Ind.	Tuttle
Cullop	Henry, Tex.	Neeley	Underhill
Curley	Hensley	Oldfield	Underwood
Davenport	Hobson	Padgett	Utter
Dent	Houston	Page	Warburton
Dickinson	Howard	Payne	Watkins
Dixon, Ind.	Howell	Pou	White
Doughton	Hughes, Ga.	Prouty	Wilson, Pa.
Driscoll, D. A.	Hughes, N. J.	Redfield	Witherspoon
Dupré	Hull	Rees	Woods, Iowa
Edwards	Jacoway	Richardson	
Faison	James	Robinson	
Fergusson	Johnson, Ky.	Roddenbery	

NAYS—78.

Ainey	Foss	Lobeck	Smith, J. M. C.
Anderson, Ohio	Fowler	Longworth	Smith, N. Y.
Austin	Francis	McGillicuddy	Speer
Bartholdt	French	McGuire, Okla.	Stephens, Cal.
Bowman	Fuller	McKinley	Sterling
Browning	Gallagher	McKinney	Stevens, Minn.
Bulkley	Gardner, Mass.	Morgan	Stone
Burke, Wis.	Goldfogle	Mott	Sulloway
Catlin	Good	Murray	Switzer
Connell	Greene, Mass.	Olmsted	Taggart
Conry	Hartman	Pickett	Talcott, N. Y.
Cooper	Hawley	Porter	Taylor, Ohio
Copley	Hayes	Post	Thistlewood
Cox, Ind.	Howland	Raker	Wedemeyer
Crumpacker	Konop	Rauch	Whitacre
Danforth	Langham	Reilly	Willis
Dodds	Lee, Pa.	Roberts, Nev.	Wilson, Ill.
Esch	Lenroot	Rucker, Colo.	Young, Mich.
Farr	Linthicum	Scully	
Focht	Littlepage	Sloan	

ANSWERED "PRESENT"—8.

Burgess	Foster	Johnson, S. C.	Parran
Butler	Hill	Kahn	Peters

NOT VOTING—178.

Adair	Difenderfer	Kinkaid, Nebr.	Pray
Akin, N. Y.	Donohoe	Kinkead, N. J.	Prince
Ames	Doremus	Knowland	Pujo
Andrus	Draper	Konig	Rainey
Ansberry	Driscoll, M. E.	Kopp	Randell, Tex.
Anthony	Dwight	Lafean	Ransdell, La.
Ashbrook	Dyer	Lafferty	Reyburn
Ayres	Ellerbe	Lamb	Riordan
Barchfeld	Estopinal	Lawrence	Roberts, Mass.
Bartlett	Evans	Legare	Rodenberg
Bates	Fairchild	Levy	Rothermel
Berger	Ferris	Lewis	Rucker, Mo.
Boehne	Finley	Lindsay	Russell
Bradley	Fordney	Littleton	Saunders
Brantley	Fornes	Lloyd	Sells
Broussard	Gardner, N. J.	Loud	Shackleford
Brown	Garrett	McCall	Sharp
Burke, Pa.	Gillett	McCoy	Sheppard
Byrnes, S. C.	Glass	McCreary	Sherley
Calder	Goeke	McHenry	Sherwood
Callaway	Gould	McLaughlin	Simmons
Campbell	Graham	McMorran	Slayden
Cannon	Gregg, Tex.	Macon	Slemp
Cantrill	Griest	Madden	Small
Carlin	Guernsey	Maher	Smith, Saml. W.
Carter	Hamilton, Mich.	Martin, S. Dak.	Smith, Cal.
Cary	Hamilton, W. Va.	Matthews	Sparkman
Clark, Fla.	Hanna	Miller	Stack
Claypool	Hardwick	Mondell	Stanley
Cline	Harris	Moon, Pa.	Steenerson
Covington	Harrison, N. Y.	Moore, Pa.	Stephens, Nebr.
Cox, Ohio	Heald	Moore, Tex.	Thayer
Crago	Heflin	Morse, Wis.	Thomas
Cravens	Helgesen	Murdock	Vare
Currier	Helm	Needham	Volstead
Curry	Henry, Conn.	Nelson	Vreeland
Dalzell	Higgins	Norris	Webb
Daugherty	Hinds	Nye	Weeks
Davidson	Holland	O'Shaunessy	Wilder
Davis, Minn.	Hughes, W. Va.	Palmer	Wilson, N.Y.
Davis, W. Va.	Humphrey, Wash.	Patten, N. Y.	Wood, N. J.
De Forest	Humphreys, Miss.	Patton, Pa.	Young, Kans.
Denver	Jackson	Pepper	Young, Tex.
Dickson, Miss.	Kent	Plumley	
Dies	Kindred	Powers	

So the amendment was agreed to.

The Clerk announced the following pairs:
For the session:
Mr. BARTLETT with Mr. BUTLER.
Mr. HOBSON with Mr. FAIRCHILD.
Mr. GLASS with Mr. SLEMP.
Mr. RIORDAN with Mr. ANDRUS.
Mr. FORNES with Mr. BRADLEY.
Until further notice:
Mr. BOEHNE with Mr. CARY.
Mr. BRANTLEY with Mr. DALZELL.
Mr. BROUSSARD with Mr. NYE.
Mr. BROWN with Mr. DAVIS of Minnesota.
Mr. CALLAWAY with Mr. MICHAEL E. DRISCOLL.
Mr. CANTRILL with Mr. HANNA.
Mr. CARLIN with Mr. HELGESEN.
Mr. MCCOY with Mr. HIGGINS.
Mr. CLARK of Florida with Mr. HENRY of Connecticut.
Mr. COVINGTON with Mr. HUGHES of West Virginia.
Mr. DAVIS of West Virginia with Mr. HUMPHREY of Washington.
Mr. DICKSON of Mississippi with Mr. KENT.
Mr. DIES with Mr. KINKAID of Nebraska.
Mr. DIFENDERFER with Mr. KNOWLAND.
Mr. DONOHOE with Mr. LAFEAN.
Mr. ESTOPINAL with Mr. LAFFERTY.
Mr. FERRIS with Mr. LAWRENCE.
Mr. GREGG of Texas with Mr. MCCREARY.
Mr. HAMILTON of West Virginia with Mr. MADDEN.
Mr. HEFLIN with Mr. MARTIN of South Dakota.
Mr. HOLLAND with Mr. MATTHEWS.
Mr. KINDRED with Mr. MILLER.
Mr. LAMB with Mr. MONDELL.
Mr. LLOYD with Mr. PRINCE.
Mr. CLINE with Mr. ROBERTS of Massachusetts.
Mr. PEPPER with Mr. RODENBERG.
Mr. RAINEY with Mr. SIMMONS.
Mr. REILLY with Mr. SELLS.
Mr. RUSSELL with Mr. SAMUEL W. SMITH.
Mr. SAUNDERS with Mr. VREELAND.
Mr. SHACKLEFORD with Mr. WOOD of New Jersey.
Mr. SHARP with Mr. YOUNG of Kansas.
Mr. SHERWOOD with Mr. MOON of Pennsylvania.
Mr. SLAYDEN with Mr. MOORE of Pennsylvania.
Mr. STANLEY with Mr. MURDOCK.
Mr. THAYER with Mr. POWERS.
Mr. WEBB with Mr. NEEDHAM.
Mr. WILSON of New York with Mr. PATTON of Pennsylvania.
Mr. YOUNG of Texas with Mr. PRAY.
Mr. AYRES with Mr. BURKE of Pennsylvania.
Mr. ANSBERRY with Mr. AMES.
Mr. ASHBROOK with Mr. BARCHFELD.
Mr. FINLEY with Mr. CURRIER.
Mr. CLAYPOOL with Mr. REYBURN.
Mr. HUMPHREYS of Mississippi with Mr. ROBERTS of Nevada.
Mr. SHERLEY with Mr. MCLAUGHLIN.
Mr. GRAHAM with Mr. VARE.
Mr. RANDELL of Texas with Mr. SMITH of California.
Mr. ELLERBE with Mr. CRAGO.
Mr. FOSTER with Mr. KOPP.
Mr. JOHNSON of South Carolina with Mr. GILLETT.
Mr. LEGARE with Mr. LOUD.
Mr. LITTLETON with Mr. DWIGHT.
Mr. PUJO with Mr. MCMORRAN.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. GARRETT with Mr. FORDNEY.
Mr. CARTER with Mr. KAHN.
Mr. SHEPPARD with Mr. BATES.
Mr. GOEKE with Mr. HEALD.
Mr. RUCKER of Colorado with Mr. DYER.
Mr. O'SHAUNESSY with Mr. DE FOREST.
Mr. HARRISON of New York with Mr. HAMILTON of Michigan.
Mr. DAUGHERTY with Mr. DRAPER.
Mr. KINDRED with Mr. GRIEST.
Mr. PETERS with Mr. MCCALL.
Mr. SPARKMAN with Mr. DAVIDSON.
Mr. PALMER with Mr. HILL.
Mr. ADAIR with Mr. HINDS.
Mr. PATTEN of New York with Mr. CANNON.
Ending July 15:
Mr. BURGESS with Mr. WEEKS.
Mr. SMALL with Mr. CALDER.
Ending August 1:
Mr. COX of Ohio with Mr. ANTHONY.
Beginning June 28, for two weeks:
Mr. BYRNES of South Carolina with Mr. PLUMLEY.

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

On lines 9 and 10 strike out the words "in lieu of that she is now receiving."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. KENDALL rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. KENDALL. I rise to suggest that in view of the fact that the amendment has been adopted striking out those words, the title ought to be amended.

The SPEAKER. That will be done after the bill is passed. The question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill granting a pension to Cornelia Bragg."

Mr. LANGLEY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD.

The SPEAKER. The gentleman from Kentucky [Mr. LANGLEY] asks unanimous consent to extend his remarks in the RECORD. On what bill?

Mr. LANGLEY. On this bill.

The SPEAKER. Is there objection?

There was no objection.

On motion of Mr. RICHARDSON, a motion to reconsider the votes whereby the foregoing pension bills were passed was laid on the table.

REMOVAL OF CHARGES OF DESERTION.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House to consider bills on the Private Calendar having for their purpose the removal of the charge of desertion.

The SPEAKER. The gentleman from Virginia [Mr. HAY] moves that the House resolve itself into Committee of the Whole House for the consideration of bills on the Private Calendar removing political disabilities and bills removing the charge of desertion. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House for the consideration of business on the Private Calendar, with Mr. RAKER in the chair.

The CHAIRMAN. The House is in Committee of the Whole for the purpose of considering bills to remove political disabilities and charges of desertion. The Clerk will report the first bill.

Mr. HAY. Mr. Chairman, I desire to call attention to the fact that only bills which have for their purpose the removal of charges of desertion are now in order, and they should be called in their order on the calendar.

The CHAIRMAN. Bills to remove charges of desertion and political disabilities are in order.

Mr. HAY. There are no bills on the calendar to remove political disabilities.

Mr. MANN. Who is representing these bills, and which is the first one?

Mr. RUCKER of Colorado. I am representing H. R. 606.

The CHAIRMAN. If there be no objection, the Clerk will report that bill.

Mr. MANN. Does the gentleman from Virginia [Mr. HAY], chairman of the Committee on Military Affairs, have any memorandum from the calendar, or otherwise, to indicate the order of these bills?

Mr. HAY. I made a memorandum for the gentleman from Tennessee [Mr. SIMS]. I marked his calendar, showing which were the bills to remove charges of desertion.

Mr. MANN. I think they ought to be taken in their order.

Mr. HAY. Of course.

Mr. MANN. I ask that they be called in their order.

BARKLEY S. DENISON.

The first business was the bill (H. R. 11627) to correct the military record of Barkley S. Denison.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and instructed to correct the military record of Barkley S. Denison, late of Fifty-third Regiment Kentucky Volunteer Infantry, and to grant him an honorable discharge from said regiment: *Provided, however*, That no pay, bounty, or other allowances shall become due or payable by virtue of the passage of this act.

Mr. TILSON. Mr. Chairman, the report on this bill gives the facts very fully, and unless there is some request for further explanation I will ask that the amendments be agreed to and

that the bill be laid aside to be reported to the House with a favorable recommendation.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the word "late," in line 5, down to and including the word "regiment," in line 7, and insert in lieu thereof the following: "A first lieutenant in the Fifty-third Regiment Kentucky Volunteers, so that he shall hereafter be held and considered to have been discharged honorably from the military service of the United States on the 6th day of August, 1863."

The amendment was agreed to.

The following amendment was read:

Page 2, line 2, after the word "bounty," insert the word "pension."

The amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

JOHN TREFFEISEN.

The next business was the bill (H. R. 606) for the relief of John Treffeisen.

The bill was read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged officers, John Treffeisen, who was captain of Company C, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 24th day of October, 1862.

With the following amendment:

Strike out all after the enacting clause and insert: "That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged officers, John Treffeisen, who was captain of Company C, Fifty-sixth Regiment Pennsylvania Infantry Volunteers, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 24th day of October, 1862."

Mr. FOSTER. Mr. Chairman, I think we ought to have an explanation of this bill, as the report gives no information whatever.

Mr. MANN. The report in this case is:

The Committee on Military Affairs, to whom was referred the bill (H. R. 606) for the relief of John Treffeisen, having considered the same, report thereon with a recommendation that it do pass with the following amendment in the nature of a substitute.

I have no desire to reflect on the able committee which reported so fully on the subject, but it does seem to me that we ought to know some reason for removing the charge of desertion, or some fact in regard to it.

Mr. RUCKER of Colorado. I will say to the gentleman that the charge was not desertion.

Mr. MANN. Then the bill is not in order under the rule.

Mr. RUCKER of Colorado. It is akin to that, because he was dismissed the service, and it is for the purpose of reinstating him as far as possible. I have conferred for the last two years or more with the War Department concerning this claim.

For 50 years there lay in the archives of the office of the War Department a certificate from a Surgeon General of the Army that accounted for the absence of this man for three days. After his wardrobe had been burned up somewhere between here and Culpeper, on the afternoon of the day that he got permission to come to Washington to get clothing, he walked 8 or 10 miles to this city. He came to the Prescott Hotel and was there taken ill. He had been in battles from day to day for a week before that. He had been living upon roasting ears of corn, and he was taken violently ill before he reached Washington. He went to the Prescott Hotel. He was due to return to his regiment at 7 o'clock that evening. When he returned upon the third day, a battle was in progress, which continued for three or four days afterwards. He was a German. He could not speak the English language very clearly, nor could he understand it very well. He had received a military education in the old country, and his education in that service appealed to the defenders of our country. This was his second enlistment, both times as captain. The colonel of the regiment was mortally wounded during his absence, and the lieutenant colonel of the regiment, with whom he possibly had been at outs, although that is not fully disclosed, was in command. The War Department records show that instead of being absent without leave, the charge that was made against him and upon which he was found guilty was of not reporting his absence. No pen, pencil, nor paper was at his command. He assumed that when he handed the doctor's certificate to the commanding officer that it was in place of and would answer for his report concerning his absence, and so it would have appeared to any of you.

There never was a clearer case of injustice having been done an old soldier, and the War Department agrees in that. This man is only asking now what is his just due. He is 82 years of age. I have been anxiously waiting for this bill to pass before he passes to the other side. He has a large family. His wife died only a few weeks ago, and therefore she was not able to enjoy the privilege of seeing this justice done him. He has been thought so well of by his comrades that he has been chosen commander of the Grand Army post a number of times since he has been out of the service. He is asking nothing of this Government in the way of a pension. He is asking simply to be relieved from this odium, and if I had the time to read what the War Department says concerning this case and the affidavits that he himself has made Members would understand the cause I plead for. His comrades, when they learned of this, were utterly astonished and surprised that he had been dismissed from the service. The fact was that they were constantly in battle in and around between here and Culpeper, and no time was given, even if he knew that it was necessary, to do any more than to put in this certificate. It is very doubtful from the examination of the war records that the certificate of the Surgeon General was discovered. That reads as follows:

SURGEON GENERAL'S OFFICE,
Washington City, September 8, 1862.

Captain Jno. Treffeisen has been under medical treatment in this city—is this day discharged, & will return to his regt. fit for duty.
MEREDITH CLYMER, *Surgeon Volunteers.*

That was on the 8th, and on the 9th, when he reported there and was asked for this certificate, he turned it over to his commanding officer and supposed that was all he had to do. He was cited to appear before a court-martial soon afterwards, but the evidence is so meager that it is not determined that the certificate of the Surgeon General was ever presented to the board, showing the reason for his absence.

Mr. FOSTER. Will the gentleman yield?

Mr. RUCKER of Colorado. Certainly.

Mr. FOSTER. He was court-martialed for not returning to his command within the time the leave would have expired?

Mr. RUCKER of Colorado. That was the charge made, but he was only found guilty of not reporting in writing his absence. He was court-martialed for not putting in writing the cause of his absence, and yet that cause appeared in the Surgeon General's certificate, and nothing he could have written would have conveyed more information.

Mr. FOSTER. There is a law which says that when a man is not able to return to his command on account of physical inability, that when he files the evidence under the law he now gets an honorable discharge, although he might have been discharged as a deserter.

Mr. RUCKER of Colorado. I am not sure about that.

Mr. FOSTER. This is the situation here. In this case the War Department could not issue to him under the law an honorable discharge for the reason that he was court-martialed and discharged from the service for his inability to return to his command before his leave of absence had expired.

Mr. RUCKER of Colorado. Not quite that way, because the usual order would be to reinstate him, but the regiment having gone out of the service, the war having been over, such order could not be given by the War Department.

Mr. FOSTER. What I am getting at is this, that under the law a soldier has now, if he could show that he had leave of absence for 30 days, say, and failed to return within 30 days, in order to secure a discharge he must file an affidavit showing physical inability to return to that command within the time. If he does so he is granted an honorable discharge, although he is marked on the record as a deserter. But in this case it is because he was court-martialed, and for that reason they would not remove the charge against his record.

Mr. RUCKER of Colorado. Yes; and I want to state furthermore what the War Department said about my bill that I sent down for approval. It says:

With regard to your proposal to introduce a bill for the relief of the said John Treffeisen it should be stated that it is impossible to discharge the officer now because both he and the organization of which he was a member passed out of the military service of the United States and beyond military control more than 40 years ago, and that any change of the records to show a different state of facts with regard to his separation from the service will be a falsification of those records and will be an attempt, if embodied in any bill for relief, to exercise the power of overruling and reversing a valid judgment by statute.

It is easily possible, however, without any alteration of historical records or without attempting to exercise the power to overrule or reverse a valid judgment by statute to confer upon Capt. Treffeisen or any person claiming under him any right, privilege, or benefit to which he or such other person would be entitled if it were a fact that he was honorably discharged from the military service of the United States. Legislation with that end in view is the most that can now be done for the benefit of the officer in question, and in view of the facts shown by the record of his trial it would seem that some measure of the character suggested may well be enacted for his relief. If you take the same view of the matter and desire to introduce a bill for the relief of the officer it is suggested that the following form be adopted.

Then follows the form which is now the substitute for the bill.

Mr. KENDALL. Mr. Chairman, will the gentleman yield?

Mr. RUCKER of Colorado. Yes.

Mr. KENDALL. What rights, privileges, or benefits does an honorably discharged officer have as distinguished from an honorably discharged private?

Mr. RUCKER of Colorado. I really do not know. I will say this, that I have an affidavit here from this old man that he never expects to put in an application for a pension. That is not the object that he has in view. It may be possible that he may be entitled to it, for aught I know. I made no examination in regard to that because he has made a disclaimer. All in the world he wants is to have this stain removed from his name.

Mr. KENDALL. This is not a proposition to correct the record or to clarify the record so far as his case is concerned. It is to confer affirmative rights upon him. What are the rights that you are about to confer?

Mr. FOSTER. It exempts him under the civil-service law and also as to the right to homestead.

Mr. KENDALL. It will give him the same standing in the civil service and to make homestead entries that he would have had if he had served through his term and been honorably discharged. Is that the idea?

Mr. MANN. Oh, there is nothing about the civil service that this man would acquire.

Mr. FOSTER. In the case of a discharged soldier the age limit of 45 years does not run.

Mr. MANN. How old is that man?

Mr. RUCKER of Colorado. He is over 80 years of age.

Mr. KENDALL. And he has a large family?

Mr. RUCKER of Colorado. He has a large and a very worthy family.

Mr. KENDALL. Dependent upon him?

Mr. RUCKER of Colorado. Absolutely. There are two or three of his children I think who are school-teachers.

Mr. KENDALL. It would scarcely be suspected that a man 82 years of age would have a very large family dependent upon him.

Mr. RUCKER of Colorado. Some of his children are pretty old citizens, themselves.

Mr. KENDALL. I am not antagonizing the measure at all the gentleman will understand, but I was a little curious to know what the rights, privileges, and benefits contemplated here for an honorably discharged officer were as distinguished from the benefits that accrue to an honorably discharged private.

Mr. RUCKER of Colorado. I will say to the gentleman from Iowa, as I said before, my attention has never been called to that, nor in my judgment is that the purpose that is sought to be accomplished.

Mr. KENDALL. That is the whole purpose of the bill as I understand it. It is to restore him to the rights, privileges, and benefits.

Mr. RUCKER of Colorado. I would say not altogether, if this record was read in the light of the circumstances surrounding the case at the time of his dismissal.

Mr. KENDALL. He was dismissed as the result of a court-martial.

Mr. RUCKER of Colorado. As the result of a court-martial, because he did not make a written report of his absence.

Mr. KENDALL. Was he served with a notice of the sitting of the court-martial?

Mr. RUCKER of Colorado. Yes; and he appeared. He said he was absolutely dumfounded. He had handed in his doctor's certificate and he supposed that that was all that he had to do. At that time the most they had to do was to be upon the fighting line both day and night.

Mr. KENDALL. He told that to the court?

Mr. RUCKER of Colorado. I do not know. The record is meager about that.

Mr. KENDALL. But they seem to have discharged him nevertheless.

Mr. RUCKER of Colorado. Yes; they did.

Mr. KENDALL. I suppose that was during the Civil War and before hostilities had been concluded.

Mr. RUCKER of Colorado. Yes; it was in 1862.

Mr. KENDALL. This man, I take, is a man of very much more than ordinary intelligence. He was a captain commanding a company?

Mr. RUCKER of Colorado. Yes.

Mr. KENDALL. What reason is there for the long delay in these intervening years, without seeking some method of having this difficulty removed?

Mr. RUCKER of Colorado. I do not know. I am inclined to think that possibly one of my predecessors presented a bill upon some occasion some time ago.

Mr. KENDALL. Was it unfavorably reported?

Mr. RUCKER of Colorado. No; it was never unfavorably reported, but it was never acted upon. He has gone along in that slow, easy-going way of his, of course always resting under the belief, possibly, that at some time the Government would remove what he regards as a stain, and anybody, on referring to this record and considering the circumstances of the assembling of the court, seeing the doctor's certificate and the affidavits of the comrades, knowing his gallantry in the service and how profoundly sorry and surprised his comrades were at this action, would never for a moment come to the conclusion that there had been a proper adjustment of his case.

Mr. KENDALL. So surprised that the court-martial had acted as it did?

Mr. RUCKER of Colorado. So surprised that the court-martial had acted as it did. Now, I trust that this bill——

Mr. MANN. Will the gentleman yield for a question?

Mr. RUCKER of Colorado. Yes, sir.

Mr. MANN. Has this bill been referred to the War Department for a report upon it?

Mr. RUCKER of Colorado. Yes, sir.

Mr. MANN. Will the gentleman have that report read in his time?

Mr. RUCKER of Colorado. The gentleman from Illinois [Mr. MANN] does great injustice to his usual alertness, for the main part has been read.

Mr. MANN. The gentleman knows that these bills have been frequently vetoed, and I think the President, as a rule, has acted upon the recommendation of the War Department when he has vetoed a bill of that sort, and before we pass it I would like to hear what the department has to say upon it, if it is not too long.

The CHAIRMAN. If there is no objection, the Clerk will read the report.

There was no objection.

Mr. RUCKER of Colorado. This is an acknowledgment of the letter I sent to the department.

The Clerk read as follows:

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, January 30, 1911.

Hon. A. W. RUCKER,
House of Representatives.

SIR: I am in receipt of your letter of the 28th instant relative to the case of John Treffeisen, who was dismissed from service as a member of the Fifty-sixth Pennsylvania Volunteer Infantry for absence without leave. You state that a recent examination of the records of this office indicates that the officer was unjustly dismissed, and request an opinion relative to the matter in order that you may use the same before the committee when you present a bill for the relief of the officer, which you intend to introduce. With regard to the matter in question I have the honor to inform you as follows:

The court-martial records show that Capt. John Treffeisen, Company C, Fifty-sixth Regiment Pennsylvania Volunteers, was on October 7, 1862, arraigned before a general court-martial and tried on the charge of absence without leave, it being specified that, having obtained leave of absence from his regimental commander on September 4, 1862, to visit the city of Washington to purchase clothing, with the understanding that he was to return by 7 o'clock the same day, he did not join his regiment until the morning of September 10, 1862.

Capt. Treffeisen stated to the court that when he received the pass on September 4 or 5, 1862, it was near noon; that the distance to the city of Washington from the station of his command was 6 or 8 miles, and that, not being well, he required nearly all the afternoon to get there, and it was impossible for him to return at the hour stated; that the next day he was detained in his room on account of sickness until late in the afternoon, when he reported to a medical officer of the Army as being unable to return to his regiment; that the officer took his name and lodging place and visited him at his lodging every day until September 8, when he, the said Capt. Treffeisen, advised the officer that he thought that he was fit for duty and would like to go to his regiment; that he reported to the Surgeon General's office before leaving and received a certificate. That certificate is now on file in this department and reads as follows:

"SURGEON GENERAL'S OFFICE,
"*Washington City, September 8, 1862.*

"Capt. Jno. Treffeisen has been under medical treatment in this city; is this day discharged and will return to his regiment; fit for duty.

"MEREDITH CLYMER, *Surgeon Volunteers.*"

Capt. Treffeisen stated to the court that the certificate quoted above was not received until late in the afternoon of September 8, 1862, and that on the next morning he started for his regiment, which he reached on the following day (the 10th) and reported to the colonel. Upon consideration of the statement referred to above and of another statement to the court made by the commanding officer of the Fifty-sixth Pennsylvania Volunteers to the effect that Capt. Treffeisen was absent from September 4 to September 10, 1862, and that he, the said Treffeison, had failed to make a written statement concerning his absence, as directed, the court found the said Capt. Treffeisen guilty of the charge of absence without leave during the period mentioned and sentenced him to be dismissed the military service of the United States.

As the sentence of the court was duly confirmed and the officer dishonorably dismissed the service pursuant to the terms thereof, it is beyond the power of the War Department to revoke, modify, or set aside the sentence, it being a well-established principle of law that there can be no revocation or modification of the sentence of a general court-martial that has been lawfully carried into execution, no matter how unjust or unmerited the sentence may be deemed to have been.

It is therefore beyond the power of the War Department to do anything to or in behalf of Capt. Treffeisen in the matter of changing his

record or status as an officer dishonorably dismissed the service of the United States.

With regard to your proposal to introduce a bill for the relief of the said Capt. Treffeisen, it should be stated that it is impossible to discharge the officer now, because both he and the organization of which he was a member passed out of the military service of the United States and beyond military control more than 40 years ago, and that any change of the records to show a different state of facts with regard to his separation from the service will be a falsification of those records and will be an attempt, if embodied in any bill for relief, to exercise the power of overruling and reversing a valid judgment by statute.

It is easily possible, however, without any alteration of historical records, or without attempting to exercise the power to overrule or reverse a valid judgment by statute, to confer upon Capt. Treffeisen, or any person claiming under him, any right, privilege, or benefit to which he or such other person would be entitled if it were a fact that he was honorably discharged from the military service of the United States. Legislation with that end in view is the most that can now be done for the benefit of the officer in question, and in view of the facts shown by the record of his trial it would seem that some measure of the character suggested may well be enacted for his relief. If you take the same view of the matter and desire to introduce a bill for the relief of the officer, it is suggested that the following form be adopted:

"A bill for the relief of John Treffeison.

"That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged officers John Treffeisen, who was captain of Company C, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 24th day of October, 1862."

Very. respectfully, F. C. AINSWORTH,
The Adjutant General.

Mr. MANN. Then I would like to ask the gentleman again, as I understand the gentleman was asked by the gentleman from Iowa, what are the rights, privileges, or benefits to an honorably discharged officer which this officer would acquire by the passage of this bill? As I understood the gentleman, he says that he does not know.

Mr. RUCKER of Colorado. I want to say to the gentleman from Illinois that I would defer to him more than I would to anybody in this House to answer any question which I did not know myself, but that was not the object I had in the introduction of this bill, to have any benefit that might be derived, but the main object was that it would be a solace to him in his old age and also a help possibly to those of his family who may live after him to have this stain removed, and I believe the record in this case shows that if any one of the gentlemen of this House had been upon that court they never would have found this man guilty. It goes without saying that not a man in this House would have done it, so I believe the court-martial was actuated by some other motive than now appears, and can only be referred to some improper motive and did not warrant the act of dismissal.

Mr. MANN. Mr. Chairman, it is very easy to reflect upon the motives of a court-martial which was held 50 years ago, and I think it quite out of place to do so and that only upon an ex parte hearing on behalf of a man who complains that he was injured by a court-martial. Here is a bill reported to the House, with a substitute for the entire bill, without a line of information in the report, and when we ask what will be accomplished by the bill, it being expressly the purpose of the bill to grant certain rights, privileges, or benefits, the gentleman says he does not know what they are. There is no information about the bill in the report and when it is called up on the floor we can not ascertain what it will accomplish.

Mr. RUCKER of Colorado. I wish the gentleman from Illinois would just let me read an affidavit here from the comrades alive who were members of his company at the time, referring back to the time of these occurrences, as well as the affidavit of Capt. Treffeisen himself and his recognition by the Grand Army of the Republic, and I know he will agree with me that there was a grave miscarriage of justice in this case. I ask the Clerk to read those affidavits.

The Clerk read as follows:

AFFIDAVIT.

STATE OF COLORADO, *Jefferson County, ss:*

I, John Treffeisen, was born in Germany in 1833 and became a naturalized citizen of the United States in 1859. I have resided at Golden, Colo., ever since 1879, and before that in Pittston, Pa., from 1856 to 1878. From Pittston I enlisted on the first call of volunteers made by President Lincoln in April, 1861, for three months' service. After the expiration of that service I was honorably discharged at Harrisburg, Pa., July 29, 1861.

About September, 1861, I commenced to recruit a company for the Fifty-sixth Pennsylvania Volunteer Infantry, and was mustered in as captain of Company C January 18, 1862, under Col. Meredith, Lieut. Col. Hoffman, and Maj. Smith.

Early in the spring of 1862 the regiment was ordered to Washington, and from there became part of Gen. McDowell's Corps, King's Division, Doubleday's Brigade, and later on became a part of Gen. Pope's command. In the retreat from Culpeper the regiment took part in all battles and skirmishes, including the second battle of Bull Run.

In coming near Washington I asked for leave of absence for a day to get me some clothing, as all our baggage fell into the hands of the enemy near Manassas and were burned.

Col. Meredith was wounded in our first engagement in our retreat from Culpeper, so Lieut. Col. Hoffman was in command at the time I asked for leave. Lieut. Col. Hoffman promised me a horse, so that I could get back in time, but failed to do so, and the pass had to be countersigned by the brigade commander, which took almost until noon, so I walked to Washington, about 10 miles.

On coming near Washington I was taken sick as the result of our great retreat from Culpeper, when we had to eat whatever we found. (Green corn tasted good then.) I stopped at the Prescott House that night, and could not return before the expiration of my pass. In the morning a doctor from some hospital visited the hotel, as there were several officers sick there. I did not ascertain their names or that of their regiments. I made myself known to the doctor, and he ordered me to stay a few days for rest, but I told him that I would be reported as being absent without leave, and he told me that he would fix it all right. So on the third day he brought me a certificate, explaining the cause of my absence. The following morning I got back to the regiment and reported myself to Lieut. Col. Hoffman. I produced my doctor's certificate, but the colonel did not accept or even look at it, but accused me of staying away purposely, using these words: "I know all about it." So the charge was preferred, "Absence without leave."

In connection with the charge of "absence without leave," the charge of disobedience for not making a report of my absence when asked by the acting adjutant, Healey, in the evening of the day of my return. Our army was continuously under marching orders in Maryland. The engagement at South Mountain and the Battle of Antietem were in progress, and so, under the circumstances, it was then neglected. Neither the adjutant nor Col. Hoffman ever said anything more about it, and I did not understand that besides a verbal report it was necessary to make a written report. I did not realize what it meant for not making my report in writing until it was brought up before the court, and then I was surprised and could not make amends for it any more.

I was always thinking that my verbal report would be so stated in the regimental report on that day I returned. This of course made the case worse, and in my astonishment did not make much of a defense. Whether Col. Hoffman had any ill feeling toward me I could not say, as he had always been very friendly toward me; although in an engagement a few days before the second Bull Run the regiment flag was lost, as the color sergeant skedaddled during the evening and a few more of my company, amongst them my first lieutenant then acting as adjutant that day. In retreating from the field of battle, the regiment was somewhat broken up, as it was dark. Picket line was drawn up and they opened fire on us. That night I gathered about 250 men from the regiment. Next morning I found the balance of the regiment about a mile in the rear from where we camped that night. I mentioned this incident, which might have caused some ill feeling toward me. (I would not say that it had.)

The etiquette of military law was not so strictly observed among us Volunteers. We were all citizens of the United States alike, keeping discipline as near as we could.

As I am nearing fourscore years and am on the end of my journey, would like so much to have the stain removed.

JOHN TREFFEISEN.

Personally appeared before me John Treffeisen, who is known to me to be the identical person whose signature is subscribed to the above statement.

Sworn and subscribed to before me this 4th day of February, A. D. 1911.

[SEAL.] BENJAMIN F. SNYDER, *Notary Public.*
My commission expires December 9, 1914.

—

Know all men by these presents:

That we, the undersigned members of Company C, Fifty-sixth Regiment Infantry of Pennsylvania Volunteers, and others of the same regiment, remember of the dismissal by court-martial of Capt. John Treffeisen, charges of absence without leave. It was rather a surprise to the whole company and regiment for so small an offense as absence of only three days on account of sickness, proven by the doctor's certificate, when, in fact, we were all played out on our retreat under Gen. Pope from Culpeper to Washington, having some severe battles and other skirmishes and being very short on rations—green corn was our daily ration. And we further testify that Capt. Treffeisen was always on hand when duty called him.

CHARLES MORROW,
90 Mill Street, Pittston, Pa.
MICHAEL LUTZ,
Private Company C, Fifty-sixth Pennsylvania Volunteers,
953 Taylor Avenue, Scranton, Pa.
SIMON WERTS,
Private Company I, Fifty-sixth Regiment Pennsylvania Volunteers,
70 Rendel Street, Pittston, Pa.
ELECER (his x mark) CAREY,
Private Company C, Fifty-sixth Regiment Pennsylvania Volunteers,
196 Johnson Street, Pittston, Pa.

STATE OF PENNSYLVANIA,
County of Luzerne, ss:

On this 6th day of April, A. D. 1911, before me, the subscriber, Lewis Smith, an alderman in and for said county, personally appeared Charles Morrow, of 90 Mill Street, of the city of Pittston, Pa., and being duly sworn according to law, deposeth and saith that the foregoing statements regarding Capt. Treffeisen are true in every particular, and he further said that he has personal knowledge of the facts stated therein.

[SEAL.] CHARLES MORROW,
Late Second Lieutenant Company I,
Fifty-sixth Regiment Pennsylvania Volunteers.

Sworn and subscribed to before me the day and year aforesaid.

[SEAL.] LEWIS SMITH, *Alderman.*

—

HEADQUARTERS T. H. DODD POST, No. 3, G. A. R.,
DEPARTMENT OF COLORADO AND WYOMING,
Golden, Colo.

Know all men by these presents:

That the undersigned, the commander and adjutant of T. H. Dodd Post, Grand Army of the Republic, Department of Colorado and Wyoming, do hereby certify as follows:

That John Treffeisen, late a first lieutenant in Company G, Eighth Pennsylvania Infantry, and captain Company C, Fifty-sixth Pennsylvania Infantry, in the War of the Rebellion, that he was discharged therefrom as first lieutenant, Eighth Pennsylvania Infantry, on account of expiration of term of service. He has been a resident of the

city of Golden for the past 32 years; that on the 16th day of July, 1904, he was mustered into the above-mentioned G. A. R. post, and ever since last-mentioned date he has been and is now a member of same in good standing; that on the 10th day of December, 1908, he was unanimously elected commander of said post and served one term as such commander.

Witness our hands and the seal of said post at Golden, Colo., this 27th day of March, A. D. 1911.

[SEAL.]

JAMES R. STANLEY,
Post Commander.
BEN F. SNYDER,
Post Adjutant.

Mr. RUCKER of Colorado. I now ask for a vote, and I want to see the face of the man who votes against this bill. Furthermore, I want to say that I want to see justice done to these old soldiers. You young men can never appreciate the trials, sufferings, hardships, and privations to which they were subjected, but the time is now ripe and the occasion is here for the registration of your temperaments in such matters.

Mr. MANN. I have no objection to the gentleman reading an affidavit, but as far as I am concerned, while that may be the best evidence that can be produced, I have very little confidence in an affidavit prepared by some interested person concerning facts which occurred 50 years ago. The Members of this House would not agree upon what occurred here 15 minutes ago, yet you undertake to say that after the tribunal which heard the case 50 years ago passed upon the facts which were presented, and the accused was there in person, that they did not know what they were doing, and you find it out now from an affidavit which some interested person prepares and gets people to sign to tell them they remember so-and-so.

Mr. RUCKER of Colorado. I ask, Mr. Chairman, that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. If there is no further general debate, the Clerk will report the bill for amendment.

The bill was read.

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Amend by striking out lines 3, 4, 5, 6, 7, 8, 9, 10, and 11 and insert the following as a substitute for the bill:

"That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged officers, John Treffeisen, who was captain of Company C, Fifty-sixth Regiment Pennsylvania Infantry Volunteers, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 24th day of October, 1862."

The question was taken, and the amendment was agreed to.

The CHAIRMAN. Without objection, the bill as amended will be laid aside with a favorable recommendation.

There was no objection.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate joint resolution of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. J. Res. 121. Joint resolution authorizing the use of certain unexpended balances to defray expenses incident to parting and refining bullion; to the Committee on Appropriations.

HERMAN HAUPT.

The next business on the Private Calendar was the bill (H. R. 20613) for the proper recognition of services rendered by Herman Haupt during the Civil War.

Mr. SIMS. Mr. Chairman, that is not one of the bills marked by Chairman HAY. The next one marked is Calendar No. 127.

The CHAIRMAN. That is on the calendar regularly, and is in order to be taken up first.

Mr. MANN. Neither one is in order.

Mr. SIMS. The Chairman of the committee [Mr. HAY] marked the calendar and left it with me and asked me to call attention to it.

Mr. SLAYDEN. I do not know anything about what bills have been collected on the calendar for consideration. It may have been an entirely proper procedure.

Mr. MANN. I will say to the gentleman from Texas [Mr. SLAYDEN] that the only bills which can be called up now are bills removing the charges of desertion or bills to that effect. This bill has nothing to do with the subject.

Mr. SLAYDEN. That has been my understanding, Mr. Chairman, and I would like to ask the gentleman if he does not frankly think——

The CHAIRMAN. Just a moment. The Chair understands this bill is not under the order of the House. It is not for the purpose of relieving desertion.

Mr. SLAYDEN. No; it is nothing of that kind.

The CHAIRMAN. We will mark that bill.

Mr. SLAYDEN. If the rule is to confine the committee to the consideration of the bills removing the charge of desertion, or providing some fellow shall have a pension, whether he deserves it or not, that does not come under that class.

Mr. SIMS. Mr. Chairman, the gentleman from Virginia [Mr. HAY] just left the calendar marked.

The CHAIRMAN. I will ask the gentleman from Tennessee [Mr. SIMS] if this is one of the bills that it is desired to bring up.

Mr. SIMS. It is Calendar No. 127, which is one marked by the gentleman from Virginia [Mr. HAY].

Mr. SLAYDEN. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SLAYDEN. Has there been an order or a rule that only bills should be considered that undertake to relieve men from charges affecting their military record?

The CHAIRMAN. That is the order of the committee.

Mr. SLAYDEN. Now, this is a bill that ought to be passed, I think; but it is not in that category.

Mr. MANN. I do not think it ought to be passed, even though it is not in that category.

Mr. FOWLER. It says, "To correct the military record."

The CHAIRMAN. The Chair will recognize the gentleman from Tennessee [Mr. SIMS] on this bill if he insists it shall be taken up.

Mr. SIMS. I make no insistence about it. I will say it was marked by Chairman HAY as a proper bill to be considered today. I have no interest in it.

The CHAIRMAN. The Clerk will proceed with the reading of the bill, and then we can consider whether it is a proper one to be taken up in the committee or not.

The Clerk read the bill, as follows:

An act (S. 4778) to correct the military record of John T. Haines.

Be it enacted, etc., That John T. Haines, deceased, who was a captain in the Eleventh Regiment United States Cavalry, and who was nominated by the President for appointment as major of Cavalry to rank from the 3d day of March, 1911, said nomination being confirmed by the Senate after the death of said Haines, which occurred after his nomination, shall hereafter be held and considered to have become a major of Cavalry in the service of the United States on the 3d day of March, 1911, and to have held that office until the date of his death; and the President is hereby authorized to issue a commission as major of Cavalry in the name of John T. Haines with rank to date from March 3, 1911.

Mr. MANN. Mr. Chairman, I make the point of order that it is a bill that can not be called up under the rules.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will report the next bill.

JOHN J. TROXELL.

The Clerk read as follows:

A bill (H. R. 5135) to correct the military record of John J. Troxell.

Be it enacted, etc., That the order dismissing Lieut. John J. Troxell, Fifty-second Regiment Ohio Infantry Volunteers, from the United States service be, and the same is hereby, revoked and set aside, and the Secretary of War is hereby authorized and directed to cause such revocation to be entered in the military record of said Lieut. John J. Troxell and to issue to him an honorable discharge, to date from the 23d day of October, 1863.

Mr. WILLIS. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. We have not got to that point yet. If there is no general debate desired, the Clerk will read the bill for amendment.

Mr. MANN. I think the gentleman from Ohio [Mr. WILLIS] ought to give a little explanation of this bill. From reading the report it does not seem to me there has been a very strong case made.

Mr. WILLIS. Does the gentleman mean as to facts involved or the form of the bill?

Mr. MANN. As I understand, the gentleman proposes to offer an amendment to put the bill in the usual form?

Mr. WILLIS. Yes.

Mr. MANN. I would like just a brief statement. I do not wish to detain the committee.

Mr. WILLIS. Mr. Chairman, the report the committee has made on this bill is a very fair statement of the facts in the case. They are substantially as follows, as I recollect them. I have gone over the evidence with care, as I am sure the committee did. Now, the facts are simply these: Lieut. John J. Troxell was acting quartermaster on or about September 1, 1863, at the time when the division of the Army to which he belonged was nearing Elktown, Tenn.

At the crossing of Elk River, near Elktown, Tenn., it appears that a wagon train became hopelessly stalled in going up a steep bank, as described here in one of the affidavits, namely, the affidavit by Col. Holmes, who commanded the regiment, and, as the colonel rather jocosely put it, the mule team "seemed to lose their sense of loyalty." At all events, the wagon train was stalled. The road was narrow and the progress of the army was blocked.

Just at this time the general in command of that division—Gen. McCook—came up. I presume the Members know somewhat of the record of "the Fighting McCooks." Gen. Dan. McCook was one of them, and far be it from my purpose to say anything derogatory of his splendid record as a soldier, but his best and most intimate friends admitted that at times he would fly into an ungovernable and unreasonable passion and accuse everybody of various offenses when they got into trouble. When he came up there and tried to get this mule team "into a sense of loyalty" and found he was not successful he immediately began to curse the lieutenant and abused him roundly as is stated in the record here.

The attack was so severe that when it was repeated a little later Lieut. Troxell tendered his resignation as an officer of the Army at the suggestion of Gen. McCook, and had every reason to believe that his resignation was accepted, since it was asked for by Gen. McCook.

Some time later—I believe in the year 1896, or somewhere along there—when Troxell sought to secure a pension he found in the records of the War Department, upon his application, that his resignation had not been accepted, and that Gen. McCook had made charges against him, charges that were not presented to Lieut. Troxell at all, charges to the effect that he was guilty of drunkenness, and that he was drunk upon the occasion when the wagon train was stalled and when the difficulty with Gen. McCook occurred.

It is shown by abundance of testimony, by the testimony of Col. Holmes, in command of the regiment, the testimony of Maj. Blackburn, the testimony of a large number of his comrades—I have all the affidavits before me here—that Lieut. Troxell was not drunk, and had not been drunk, and was not a drinking man at all, and that there was no such charge against him at the time that he was drunk or had been drinking. That charge seems to have been a sort of afterthought. At all events his resignation was not accepted, and it was recommended by Gen. McCook in a spirit of rage that he be dismissed the service. That action was had.

Subsequently when this question came up in 1896—I was right in regard to the date—a bill for the relief of Troxell was introduced by Congressman Bromwell, of Cincinnati, Ohio, in whose district Lieut. Troxell at that time resided. Mr. Bromwell had some correspondence with the department, and the letters are set forth here in the report, which in part is as follows:

[House report, Fifty-seventh Congress, first session.]

The Committee on Military Affairs have considered the bill (H. R. 2206) to correct the military record of John J. Troxell, referred to them, and report as follows:

John J. Troxell, now 73 years of age and a resident of Cincinnati, Ohio, was enrolled as a private of Company H, Fifty-second Regiment Ohio Volunteer Infantry, in May, 1862, Col. Daniel McCook being colonel of said regiment, and was on the 23d day of May, 1862, appointed by said McCook quartermaster sergeant of said regiment and was afterwards promoted first lieutenant and regimental quartermaster on the 20th day of November, 1862, which position he filled until October, 1863.

On or about September 1, 1863, at the crossing of Elk River near Elktown, Tenn., one of the teams in Troxell's charge as quartermaster became stalled by reason of the mules getting stuck in the mud in ascending the bank and for a while interfered with the passage of the troops. Although this was no fault of Troxell's, Col. McCook, who was then commanding the brigade, came up, fell into a great passion, and cursed and abused Troxell outrageously. Lieut. Troxell protested against this treatment. A few days after, when the regiment had reached Stevenson, Ala., McCook sent for Troxell and again cursed and abused him to such an extent that Troxell, in self-respect, stated that he would be compelled to tender his resignation. Col. McCook ordered him to hand it in at once, which he did. After handing in his resignation to McCook the latter ordered him to leave the regiment immediately and sent an officer to Troxell's quarters to take possession of his effects, not allowing him to take any of his books or papers and refusing to give him any receipt therefor. Troxell, in pursuance of McCook's orders, started toward Nashville, Tenn., but was stopped by an officer belonging to the headquarters of Gen. Morgan, of the Union Army, who, after hearing Troxell's explanation, ordered him to return to McCook, stating that McCook had no authority to order him away until the resignation had been accepted. He accordingly went back and again reported to Col. McCook. The latter became furious and stated that he would see who was the superior officer. McCook again ordered Troxell out of camp, and the latter having again reported to headquarters and explained the situation was passed through the lines and returned to Cincinnati.

Troxell assumed that his resignation had been accepted and that he had received an honorable discharge, and knew nothing to the contrary until September 10, 1896, when, in response to an inquiry to Col. Ainsworth, he discovered for the first time that instead of his resignation having been accepted as he supposed Col. McCook had preferred charges against him and caused him to be dishonorably discharged on the ground of drunkenness. Nothing was said to him at any time of any such charge, and as a matter of fact, he had never been drunk while in the service, and a number of affidavits of comrades, some of whom are still living and men of high reputation and standing, verify his statement that he was never known to be under the influence of liquor during the entire time that he was in the service. These affidavits are set out in full as exhibits attached to this report.

Lieut. Troxell having, in 1896, applied for a pension was for the first time made aware of the condition of his record by its rejection by the Commissioner of Pensions on the ground of his having been dishonorably discharged on a charge of drunkenness. Troxell immediately communicated all the circumstances to his Representative in Congress, and the latter wrote to Col. Ainsworth for an official statement of the record in the case. This was furnished November 15, 1897, and is as follows:

RECORD AND PENSION OFFICE,
WAR DEPARTMENT,
Washington City, November 15, 1897.

Hon. J. H. BROMWELL, M. C.,
Cincinnati, Ohio.

SIR: Referring to your letter of the 12th instant, received to-day, in which you request to be advised whether or not John J. Troxell, formerly first lieutenant and quartermaster, Fifty-second Ohio Infantry Volunteers, was tried by court-martial prior to his dismissal from service, I am directed by the Secretary of War to inform you that it is shown by the official records that the tender of resignation of John J. Troxell, first lieutenant and regimental quartermaster, Fifty-second Ohio Infantry Volunteers, was forwarded by the commanding officer of the Fourteenth Army Corps to the headquarters of the Department of the Cumberland October 22, 1863, with the recommendation that he be dismissed the service, and that he was dismissed the service in orders from the headquarters of that department, dated October 23, 1863. It does not appear from the records that he was tried by court-martial previous to his dismissal from service.

Very respectfully,

F. C. AINSWORTH,
Colonel, United States Army,
Chief Record and Pension Office.

On this report from Col. Ainsworth, showing that there was no record of any court-martial in the case and that Troxell had been dismissed the service in orders from the headquarters of the department of the Fourteenth Army Corps, dated October 23, 1863, Troxell's Representative, Mr. Bromwell, of Ohio, addressed a communication to the Judge Advocate General of the Army on the 2d of December, 1897, of which the following is a copy:

WASHINGTON, D. C., *December 2, 1897.*

Brig. Gen. G. N. LIEBER,
Judge Advocate General, Washington, D. C.

MY DEAR GENERAL: I wish to know whether on or about October 22, 1863, there was any regulation of the Army which permitted the summary dismissal from the service of an officer (first lieutenant) by a department commander without trial by court-martial, and will be obliged to you if you will furnish me that information.

My particular object in desiring this information is to enable me to decide whether it will be proper for me to introduce a bill for the relief of such officer. The certificate of Col. Ainsworth in the particular case referred to shows that said officer tendered his resignation, which was forwarded to the department headquarters by the commanding officer of the Army corps to which he belonged, with the recommendation that he be dismissed the service and that he was dismissed the service by orders from headquarters dated the next day. Col. Ainsworth says "It does not appear from the record that he was tried by court-martial previous to his dismissal from the service."

By furnishing the above information you will greatly oblige,

Yours, truly,

J. H. BROMWELL, M. C.,
Second District, Ohio.

To this Gen. Lieber replies as follows:

WAR DEPARTMENT,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, December 4, 1897.

Hon. J. H. BROMWELL, M. C.,
House of Representatives, Washington, D. C.

SIR: Replying to your letter of December 2, 1897, I have the honor to say that there was no law or regulation specifically authorizing department commanders, during the War of the Rebellion, to dismiss commissioned officers without trial by court-martial, but such dismissals were made, sometimes unconditionally and sometimes subject to approval of higher authority, and I believe that the War Department has uniformly held that it is not within its power now to change the record or the status of persons so dismissed.

By section 17, act of July 17, 1862 (12 Stats., 590), the President was authorized and requested to dismiss any officer for any cause which, in his judgment, rendered him unsuitable for or whose dismission would promote the public service.

Very respectfully,

G. NORMAN LIEBER,
Judge Advocate General.

In this report it is shown to be a somewhat doubtful question whether an officer has the right to have a subordinate officer dismissed from the service without any sort of trial or court-martial.

I call the attention of the committee to the fact that this bill received the foregoing favorable report in the first session of the Fifty-seventh Congress. The report of the present committee, which is here set forth, is very largely a copy of that original report, and properly so. I call attention especially to the last paragraph of the committee report, where it is stated:

It would seem, therefore, that without any authority of law, on charges which had never been presented to Troxell for answer, and without any opportunity for defense against the charge of drunkenness, a dishonorable dismissal had been substituted for the resignation which he had tendered and had every reason to believe had been accepted. With one exception (that of Maj. C. H. Blackburn), all of the comrades who file affidavits herewith submitted are still living and recall distinctly the incidents in connection with Troxell leaving the Army. It may be added that they are also of good character and entirely reliable. Troxell took the first opportunity after learning of the error in his record to bring the matter to the attention of Congress by bills introduced in the Fifty-sixth and Fifty-seventh Congresses, but owing to the pressure of other matters before the committee these bills were not passed or considered until the present time.

The committee, in view of all the evidence before them, feel satisfied that Troxell's dismissal was without authority of law, that he has been treated very unjustly, and that his record should be corrected as provided for in the bill.

And this report is adopted by the present committee. I do not know whether I have covered the matter about which the gentleman from Illinois desired information.

Mr. RODDENBERY. I should like to offer an amendment.

The CHAIRMAN. We have not yet reached that stage. If there be no further general debate, the Clerk will read the bill under the five-minute rule.

The Clerk read the bill with the following committee amendment:

Amend, by adding after the word "sixty-three," in line 10, the following: "*Provided, however,* That no pay or back pension or other emoluments shall accrue to said Troxell by reason of the passage of this act."

Mr. WILLIS. Mr. Chairman, I desire to offer an amendment as a substitute for the entire bill. This meets the objections that were raised before as to the form of the bill.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That in the administration of the pension laws and the laws governing the soldiers' home for disabled volunteer soldiers, or any branch thereof, John J. Troxell shall hereafter be held and considered to have been honorably discharged from military service of the United States as lieutenant of Company H, Fifty-second Regiment Ohio Volunteer Infantry, on the 23d day of October, 1863: *Provided,* That no pension shall accrue prior to the passage of this act."

Mr. RODDENBERY. Mr. Chairman, I desire to offer an amendment to the substitute.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the word "prior," add the words "or subsequent."

Mr. RODDENBERY. Mr. Chairman, the object of this amendment is not to interfere with the reinstatement of this soldier so that his military record may go down in history correctly, as contended by gentlemen who are sponsors for the bill. It is perhaps unfortunate that in time of war high temper may manifest itself and that a soldier under those circumstances may be summarily dismissed or in some way his record not clearly appear. To that extent the corrections of these records often commend themselves to the good judgment of the House.

The proviso in the substitute of the gentleman is that in the straightening out of the record of this soldier no back pension shall accrue to him by reason of the passage of the act. The amendment I propose adds that "no subsequent" pension shall accrue to him by the passage of this act. If the gentleman simply seeks to give to this man Troxell a correct military status, the amendment I offer does not interfere with it.

If, however, the gentleman, under the guise of correcting his military record, is laying the foundation to get for him in the future a pension, then the amendment I propose will, of course, be objectionable to him. If it is solely and only to do military justice—to correct the result of an imprudent act of 40 years ago and give to this soldier a correct record—my amendment will not in any manner interfere; but I repeat again that the purpose of my amendment is to allow the correction of the military record of the soldier and at the same time provide that in the future no pension shall inure or accrue to him. I think it is proper in this case, because, so far as the report shows, he was in the Army only about a year. He was associated with the grub-dispensing department most of the time. There is no evidence that he sustained any hardships, and the report shows that the first time he encountered any actual service it arose by high water, when the mules got stuck in the mud. The soldier at once flew into a fit of anger, cussed out the whole machine, and flung up the job. He ought not to draw a pension for that public service.

Mr. WILLIS. If there is any reason why the record should be corrected, if as a matter of fact John J. Troxell was unfairly dismissed from the service, this House should so determine. There is no reason at all, in my judgment, why he should not be allowed to get a pension in the future.

Mr. SLAYDEN. Mr. Chairman, I want to ask the gentleman from Ohio if he knows of a single instance in his experience in this House where a bill that carried on its face a declaration that it was intended to correct the military record, and usually supported by argument that it was to remove the stain for the benefit of the children, was not really designed to secure a pension?

Mr. WILLIS. I can not answer the gentleman's question, because his experience has been so much more extensive than mine; but he must concede that, so far as this proposition is concerned, I have been perfectly frank.

Mr. SLAYDEN. While the gentleman's frankness was not necessary to enlighten the House I commend him for it. A man who undertakes to get mules that are stuck in the mud in crossing a stream out of a situation is better entitled to a pension than many who are getting it. [Laughter.]

Mr. MANN. Mr. Chairman, the bill as originally introduced in the House provided that the order dismissing this man from the service be, and the same is hereby, revoked and set aside. When this bill came up on the Private Calendar some days ago and that calendar was being called by unanimous consent the bill went over on objection. I objected to the consideration of it, because I do not think it is the province of Congress 50 years after an order is entered to pass a law revoking and setting aside the order. It would be a good deal like passing a law providing that the sun did not rise this morning. You can not change the fact. You may pass bills from now until doomsday on this subject and the fact still remains that an order was entered. Now the gentleman offers a proper proposition to the House, that in the administration of the pension laws this man shall be entitled to the benefits of the pension laws without attempting to falsify history. As that is the purpose of the bill I hope that his substitute may prevail without inserting the amendment offered by my friend from Georgia, which would render it valueless to pass it.

The CHAIRMAN. The question is on the committee amendment.

The question was taken, and the committee amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was lost.

The CHAIRMAN. The question now recurs on the substitute offered by the gentleman from Ohio.

The question was taken, and the substitute was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

FREDERICK H. FERRIS.

The next business on the Private Calendar was the bill (H. R. 21524) to correct the military record of Frederick H. Ferris.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Frederick H. Ferris shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a second lieutenant of the Seventy-fourth Regiment United States Colored Infantry on the 28th day of February, 1865: *Provided,* That no pension shall accrue prior to the passage of this act.

The bill was ordered to be laid aside with a favorable recommendation.

JOSEPH W. M'CALL.

The next business on the Private Calendar was the bill (H. R. 20339) for the relief of Joseph W. McCall.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of laws conferring rights, privileges, and benefits upon officers of the Volunteer Army in the Civil War, Joseph W. McCall shall hereafter be held and considered to have been in the military service of the United States as assistant surgeon of the Second Regiment West Tennessee Volunteer Cavalry (subsequently known as the Seventh Regiment Tennessee Volunteer Cavalry) from the 15th day of September, 1862, to the 15th day of October, 1862, and as assistant surgeon of the same regiment (Seventh Regiment Tennessee Volunteer Cavalry) from the 1st day of March, 1864, to the 15th day of March, 1864, and to have been honorably discharged from said service on the date hereinbefore last named: *Provided,* That no pay or other allowances shall become due or payable by reason of the passage of this act.

Mr. MANN. Mr. Chairman, I make the point of order that this bill is not in order at this time.

Mr. SIMS. Mr. Chairman, the bill may not be, strictly speaking, in order under the rules by which bills are in order to-day, but I hope the gentleman from Illinois will not make the point. Dr. McCall is 80 years old or over, and this is only a slight amendment to his record, and no pay or allowance follows. He is the father-in-law of the clerk to the Committee on Appropriations, Mr. James C. Courts. He is a very strong Republican, and his son is mayor of the city of Huntington, who was also a soldier in the Spanish War. While I am a Democrat and these people are Republicans, they are all honorable people, and I hope no mere technical objection will be made against the consideration of this bill.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

This bill proposes to allow this man service for 30 days at one time and 14 days at another. Perhaps it is 15 days. It says from the 1st of the month to the 15th of the month. I will leave the lawyers to wrestle out whether that means 14 or 15 days. But what good will it accomplish? The man has an honorable discharge from the service, the report says, although it says that he was never mustered into the service. What does this accomplish?

Mr. SIMS. He actually served from the 15th of September to the 15th of October, in fact.

The CHAIRMAN. Does the Chair understand that the man has an honorable discharge?

Mr. SIMS. Yes.

Mr. MANN. Mr. Chairman, I withdraw the point of order that I made.

The CHAIRMAN. Yes; but from the former rulings of the Chair we must treat all alike. It seems to me that the Chair himself ought to pass on these bills.

Mr. SIMS. This is not a bill to remove a charge of desertion per se.

The CHAIRMAN. If there is no objection, the gentleman from Tennessee may proceed.

Mr. SIMS. I will ask unanimous consent that I may proceed with the explanation of the bill and have it considered.

The CHAIRMAN. Very well.

Mr. MANN. What would be accomplished by the bill?

Mr. SIMS. Nothing, except to show that the doctor did serve one and a half months more than is shown by the record. The fact is that he served 1 month and 15 days longer than the military record shows.

Mr. MANN. What good does that do?

Mr. SIMS. I do not know, only that the old gentleman wants his record to be correct. The proof is ample that he did this service.

Mr. MANN. As a matter of fact, he was not mustered in during that time, so that the bill will not show it as it is.

Mr. SIMS. The bill says to appear as though it was.

Mr. LANGLEY. He actually performed the service?

Mr. SIMS. He actually served this month and a half.

Mr. BUTLER. He did serve the time?

Mr. SIMS. Yes.

Mr. BUTLER. And this is simply to make that service appear on the record?

Mr. SIMS. Yes.

Mr. BUTLER. And make up this record and make it complete?

Mr. SIMS. Yes. He does not get a cent out of it and does not ask for a cent.

Mr. MANN. Oh, this bill passes because of the statement which the gentleman made, which has no relation to politics. [Laughter.]

Mr. BUTLER. And also because the gentleman from Tennessee is a Democrat.

Mr. SIMS. And that he is the father-in-law of the clerk of the Committee on Appropriations, who is nearly the whole House of Representatives.

Mr. MADDEN. And the gentleman from Tennessee might add that the clerk also comes from Tennessee. [Laughter.]

Mr. SIMS. Of course.

Mr. LANGLEY. Oh, the gentleman always takes care of Tennessee.

Mr. SIMS. I suppose that is a matter of general presumption and assumption.

The CHAIRMAN. If there is no further general debate, the Clerk will read the bill under the five-minute rule.

The Clerk read the bill.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM K. HARVEY.

The next business was the bill (H. R. 5763) for the relief of William K. Harvey, alias William K. Hall.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, William K. Harvey, also known as William K. Hall, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private in Company B, Seventh Regiment California Volunteer Infantry, on the 18th day of August, 1898: *Provided*, That no pension shall accrue prior to the passage of this act.

Mr. MANN. Mr. Chairman, as I recall, this bill is to remove the charge of desertion growing out of the Spanish War.

Mr. KAHN. It is.

Mr. MANN. I think we ought to have some explanation of it.

Mr. KAHN. Mr. Chairman, William K. Harvey enlisted in the Seventh California Volunteer Infantry Regiment on the 11th of May, 1898, at the Presidio in San Francisco. He enlisted for the purpose of going to the front to fight for his country. As a matter of fact, he learned that his regiment would not be ordered to the front. The regiment had been given orders two or three times to go to the front, and then the orders were revoked. When he finally learned that the regiment would not go to the front, on the 18th of August, 1898, he left the regiment and immediately applied under the name of William K. Hall for enlistment in the First Regiment Colorado Volunteer Infantry, in order that he might go to the front and fight.

Mr. MADDEN. What became of that regiment?

Mr. KAHN. That regiment went to the Philippine Islands, and this man served in all the skirmishes and battles in which that regiment participated. He was mustered out of the service with that regiment and received an honorable discharge.

Mr. MADDEN. Under what name?

Mr. KAHN. Under the name of William K. Hall. There is evidence to show that William K. Hall and William K. Harvey are one and the same person. The War Department says that the bill in its present form does not mutilate the records of the department, and they have no objection to its passage in that form. I ask now that the bill be read for amendment.

The bill was read.

Mr. KAHN. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, that will be the order. There was no objection.

Mr. SIMS. Mr. Chairman, I believe that completes the number of bills for the Committee on Military Affairs.

ROBERT ROSS.

Mr. FIELDS. Mr. Chairman, Speaker CLARK was mistaken awhile ago about the nature of the bill to which I called attention. He was under the impression it was a Senate bill.

The CHAIRMAN. What is the number?

Mr. FIELDS. Calendar 183, House bill 21315.

The CHAIRMAN. Is it the gentleman's contention that the bill comes under the order of the House to consider these bills?

Mr. FIELDS. It is my contention that it is of the same nature of the bills that have been passed here, and it should be acted upon at the present time.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 21315) for the relief of Robert Ross.

Be it enacted, etc., That the Secretary of War be, and he is hereby, directed to remove the charge of desertion now appearing in the military record of Robert Ross, late of Company B, Sixty-first Regiment Pennsylvania Volunteer Infantry, and to issue to him an honorable discharge from the Army of the United States.

Mr. FIELDS. Mr. Chairman, the bill has been amended by the committee, and I ask to have the amendment read, which is in the nature of a substitute.

Mr. SLAYDEN. Mr. Chairman, before we begin the reading of the bill under the five-minute rule, we would like to have an explanation and have some general debate on the bill.

Mr. FIELDS. Mr. Chairman, this is a bill for the relief of Robert Ross, who enlisted on the 1st day of August, 1861, and the records show was mustered into the service on October 31, 1861; that he was with his command from that time until the 31st of May, 1862, when he was captured at Chickahominy, was confined in Richmond, Va., on the same day, sent to Salisbury, N. C., June 3, 1862, paroled September 13, 1862, and returned to his company October 10, 1862. He received a severe wound in the Battle of Fredericksburg, Va., on December 12 to 13, 1862, by shell contusion of the shoulder, and was admitted to a general hospital at Washington, D. C., on December 18, 1862. And he is charged by the records with having deserted therefrom on December 28, 1862, 10 days after he was admitted to the hospital. The proof in this case, Mr. Chairman, shows that this man was taken from the hospital by his brother. The proof shows that he was unconscious until a day or two before his brother appeared at the hospital and took him to his home in Allegheny County, Pa., and the proof shows to the satisfaction of your committee that this soldier was not able to return to the service during the war, and it shows further——

Mr. SLAYDEN. In that connection, Mr. Chairman, may I ask the gentleman a question? Did this man take any steps while he was in that weakened physical condition to communicate with the authorities and submit certificates from physicians and others that he was in a physical condition that made it impossible for him to return?

Mr. FIELDS. The proof does not disclose that fact.

Mr. SLAYDEN. Did he make any effort to collect any pay for his services during that time?

Mr. FIELDS. He makes the statement he did not know it was his duty to report and he was in a very bad condition, and, as we all know, it is easy for a sick man to overlook a point which may seem to him a point of small concern at the time, but which may be very vital to the case as it now stands. But the proof shows that he was never able to return to his command, and the proof further shows that he is to-day a cripple and unable to support himself as the result of the wound received in the Battle of Fredericksburg.

Mr. MANN. Will the gentleman yield?

Mr. FIELDS. Yes.

Mr. MANN. As I recall this bill, the man was captured and imprisoned for a time and afterwards went back into the Union service and was wounded and sent to a hospital at Washington.

Mr. FIELDS. Yes, sir.

Mr. MANN. His brother came here and took him home?

Mr. FIELDS. Yes, sir; and the proof shows he was not able to return to the service, and the proof further shows that for three or four years after the close of the war he was an invalid.

Mr. MANN. I will say to the gentleman that this bill is the only one strictly under the rule and the most meritorious one in the bunch.

Mr. SLAYDEN. How could his brother remove him from a hospital in Washington without the consent of the authorities?

Mr. MANN. They had the consent.

Mr. SLAYDEN. Then the military record ought to show that.

Mr. MANN. Let me say to the gentleman, I went over to Montauk Point and got my brother away from the camp after the Spanish War. I had some experience with the Army officers. For instance, they had issued him a new suit of clothing which he never had worn at all. They ordered that taken away from him and burned for fear that it might communicate yellow fever coming from Cuba, but he came out of the camp wearing the suit that he had worn all through Cuba, by consent of the Army officers. And there were a number of other specimens of the same kind. I am not at all surprised that they let this soldier out of the hospital without making a memorandum of it.

Mr. SLAYDEN. It is to be presumed that in 40 years' time they have advanced a little in intelligence.

Mr. FIELDS. I want to say, Mr. Chairman, that he did get out of the hospital, and as to how he got out that is none of our business; but he got out. And his brother did what I would have done under the circumstances. If my brother were wounded and in a hospital and I felt I could do more for him at my home, I would go to the hospital and remove him to my home if I could. I contend, sirs, that his brother did a patriotic act and that this man who went on the battlefield and offered his life as a sacrifice that the Union might not be dissolved should not be refused a pension in his old age. The proof shows he is not able, by reason of this wound, to support himself. The proof shows also, and to my own knowledge it is a fact, that he is crippled in the left shoulder and is not able to work.

Mr. BUTLER. Will the gentleman permit me to ask him a question?

Mr. FIELDS. Yes.

Mr. BUTLER. This soldier, I understood the gentleman to say, never returned to the service after he received this wound?

Mr. FIELDS. That is what the proof shows.

Mr. MANN. After he had been in prison.

Mr. BUTLER. After he had been discharged from the Confederate prison?

Mr. FIELDS. After he was removed from the hospital at Washington.

Mr. KENDALL. This soldier, after his release from the prison, went back to his command.

Mr. BUTLER. I want to know something. The soldier was removed from the Washington hospital and conveyed by his brother to Allegheny, Pa.?

Mr. KENDALL. That is not to be considered against him.

Mr. BUTLER. That is not to be considered against him, of course. Can the gentleman tell me why there was this long delay? The soldier must have known when he returned to the service he would be charged with desertion.

Mr. FIELDS. I am glad the gentleman brought that point up. I heard the same question asked to-day. We all know how difficult it is to get through a very great number of claims in one session of Congress, and we all know that there have been many claims of this character. This man had his claim in the hands of my predecessor, and it is my opinion that he has had it in the hands of every Representative from my district since he has been a citizen of the district, which has been since a few years subsequent to the Civil War.

Mr. BUTLER. That is long enough. That ought not to be charged to the soldier.

Mr. SLAYDEN. I want to be recognized for a moment. Mr. Chairman, I know nothing about the service of this soldier and nothing about the merits of the case. The record is not a very clear or very strong one; but I do want to take issue with one statement that the gentleman made. It is no business of this House to know how the man got out of the hospital. It is the business of this House to try to protect the Public Treasury by keeping the record straight.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. SLAYDEN. Yes.

Mr. FIELDS. The gentleman has misunderstood me.

Mr. SLAYDEN. Oh, the gentleman said that. I could not misunderstand that.

Mr. FIELDS. I meant to say that in the proof that was furnished it was not our business or the business of the claimant. That is what I had in mind. If they let him out, it was his business to go.

Mr. SLAYDEN. But the record shows that he deserted from the hospital, and the gentleman says it is no business of Congress to know how he got out.

Mr. FIELDS. Well, his brother came and took him out. What I had in mind was the fact that he was taken away, and it was not our business to question how he was taken away, because the proof shows that he left the hospital.

Mr. SLAYDEN. Well, I want to make it clear, Mr. Chairman, that, in my judgment, it is the business of the Congress and of the House to know the facts in all these cases. We are asked to open the doors of the Treasury to unnumbered thousands of people charged with the military crime of desertion. As a matter of fact, this man had had considerable experience in the Army. He knew the nature of the offense of desertion. He must have known that it was his duty, if he was sick and in the hospital, to remain there unless removed with the permission of the authorities, and he must have known that he should have reported from time to time, and that he should have returned to the Army for discharge if unable to continue in the service, or to have resumed his service in the Army if able.

The gentleman makes another statement in his speech that, perhaps, explains why it is so easy to pass these bills, I may say, almost regardless of their merits. The gentleman says: "Those of us who come from pension districts know these difficulties." I have never noticed that gentlemen from pension districts have had difficulty in getting their claims through. If such a Member will only ascertain from the Commissioner of Pensions that this Government has paid out more than $4,200,000,000 since 1865 for pensions, and that now, nearly 50 years after the war closed, we are in the way of paying out approximately $200,000,000 a year more, almost entirely in consequence of the Civil War, he will be compelled, I think, to reach the conclusion that there are no great obstacles to getting pensions. And when one wants to have a record made straight; when one wants to know whether a man has been removed from the hospital by fraud; when one wants to know whether a charge of desertion against a soldier is well or ill founded, he ought to be able to get that proof somewhere. That is all there is in this case.

Mr. LANGLEY. Mr. Chairman, the gentleman from Texas [Mr. SLAYDEN] referred, and I thought rather facetiously, to "gentlemen who represent pension districts." I want to say to the gentleman that I represent a pension district, and that my activity in pension matters is influenced largely by that fact. But I do not think I would take the extreme and adverse position that some gentlemen of this body take against remedial legislation for the old soldiers unjustly charged with desertion, even if there was not a veteran in my district.

Mr. Chairman, I am in favor of this bill. The case stated by the gentleman from Kentucky [Mr. FIELDS] is a strong one, and it is on "all fours" with many cases in my district. He has simply been a little more fortunate than I have been, presumably because he is a member of the committee and has succeeded in getting this bill before the House. I have been trying for six years, but without success, to get the Committee on Military Affairs to report a bill granting relief to an old soldier in my district who served over two years and a half. During this long service he was engaged in many battles. He reenlisted as a veteran volunteer, then went home on furlough, was taken sick, and could not get back to his command, nor could he get word back to his command explaining why he did not return, and as a result he was charged with desertion, and that charge still stands.

Many gentlemen do not seem to understand the conditions which surrounded soldiers in the border States like Kentucky. Oftentimes they were cut off from their commands, and it was utterly impossible for them to return, and to undertake to do so meant the sacrifice of their lives.

I have no doubt that many of them did not realize that unless they reported the cause of their absence they would be charged with desertion. I want to say to the gentleman from Texas that, so far as I am concerned, I think the committee is wrong and is doing a great injustice to many old soldiers by failing to act favorably upon these bills. Some gentlemen excuse it upon the ground that the general law on the subject affords them relief; but this is not the case. This law is narrow, and when applied to many cases that I know of is utterly ridiculous. For example, it requires that a soldier charged with desertion must not only show that he was prevented from returning to his command by reason of disability, but that such disability was contracted in the service and line of duty. But in many cases—

in fact, I think in the majority of cases—especially where men were permitted to go home on furlough or leave of absence, the disability which prevented their return was not contracted in the service and line of duty, but originated after they started home or after they got home. A case like this does not come within the provisions of the general law, and yet the charge of desertion in such a case is just as unfounded and as unjust as if the disability did originate in line of duty. I know of a case where a soldier was prevented from returning to his command because he was a prisoner of war, and yet the general law does not provide relief in such a case as that. These instances serve to illustrate the truth of my statement—that the present law upon the subject is narrow, unjust, and, as applied to some cases, ridiculous.

There is a splendid field open to the committee of which my friend from Texas is a member to provide relief by special legislation in many meritorious cases which the general law does not reach. I am sorry that the gentleman from Texas takes the extreme view that he does of these cases, and I wish he felt a little more liberally inclined toward the old soldiers. I do not wish to inject politics into this discussion or into the discussion of any private measure of this kind, but I venture to say that the gentleman is not doing his party any good by taking this stand; nor do I think his colleagues from the South are helping their cause any by taking a like attitude which, in the main, they have done. I undertake to say that the South is deprived to-day of the honor of having a nominee for the Presidency in the person of the honored Speaker of this House because that distinguished gentleman has dared to champion more liberal pension legislation for the soldiers of the Union. But for that fact I believe that the Hon. CHAMP CLARK would be to-day the Democratic nominee for the Presidency, and might have been the next President of the United States. I do not see how any man could sit at the Baltimore convention, as I did, and listen to the roll calls and note the way in which States like Texas, Georgia, Alabama, and the Carolinas scurried away from the opportunity which was afforded them of choosing a southern man for President, nor analyze that vote, without reaching the same conclusion; and, while Bryanism had its share in the result, I still believe that the prime cause of the defeat of my distinguished friend from Missouri was as I have just stated it, and I believe the soldiers of the country know it, too. [Applause.]

The CHAIRMAN. If there is no further general debate the Clerk will report the bill for amendment under the five minute rule.

The bill was read.

With the following committee amendment:

Amend, page 1, by striking out all after the enacting clause and inserting as a substitute, the following:

"That in the administration of the pension laws Robert Ross, now a resident of Ryan, Ky., shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company B, Sixty-first Regiment Pennsylvania Volunteer Infantry, on the 28th day of December, 1862, and that a certificate of honorable discharge from the United States Army be issued to him: *Provided*, That no pension, emoluments, or allowances of any description shall accrue by reason of this act prior to date of approval thereof."

The amendment was agreed to.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

Mr. SIMS. Mr. Chairman, I move that the Committee do now rise and report the several bills to the House, with the recommendation that the amendments be agreed to and that the bills as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RAKER, Chairman of the Committee of the Whole House on the Private Calendar, reported that that committee had had under consideration sundry House bills, and had directed him to report the same back to the House, some with and some without amendments, and with the recommendation that the amendments be agreed to and that the bills do pass.

BILLS PASSED.

The bill (H. R. 11627) to correct the military record of Barkley S. Denison was read, the amendments reported from the Committee of the Whole agreed to, and the bill as amended ordered to be engrossed and read a third time, read the third time, and passed.

The bill (H. R. 606) for the relief of John Treffeisen was read, the amendment reported from the Committee of the Whole agreed to, and the bill as amended ordered to be engrossed and read a third time, read the third time, and passed.

The bill (H. R. 5135) to correct the military record of John J. Troxell was read, the amendments agreed to, and the bill as amended ordered to be engrossed and read a third time, read the third time, and passed.

Mr. WILLIS. I move to amend the title so that it will read: "A bill for the relief of John J. Troxell."

The amendment to the title was agreed to.

The bill (H. R. 21524) to correct the military record of Frederick H. Ferris was ordered to be engrossed and read a third time, read the third time, and passed.

Mr. MANN. The title of this bill is erroneous. It should be "A bill for the relief of Frederick H. Ferris."

The SPEAKER. If there be no objection, the title will be so amended.

There was no objection.

The bill (H. R. 20339) for the relief of Joseph W. McCall was ordered to be engrossed and read a third time, read the third time, and passed.

The bill (H. R. 5763) for the relief of William K. Harvey was ordered to be engrossed and read a third time, read the third time, and passed.

The bill (H. R. 21315) for the relief of Robert Ross was read, the amendment agreed to, and the bill as amended ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. SIMS, a motion to reconsider the votes by which the several bills were passed was laid on the table.

Mr. MANN. Mr. Speaker, I make the point of order that no quorum is present.

The SPEAKER. The gentleman from Illinois makes the point that no quorum is present. It is perfectly evident to the Chair that no quorum is present.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Saturday, July 13, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. ESTOPINAL, from the Committee on Naval Affairs, to which was referred the bill (S. 2001) to provide for the award of congressional medals of honor to officers and enlisted men of the naval service and officers and enlisted men of the Revenue Marine, and for other purposes, reported the same without amendment, accompanied by a report (No. 991), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SWEET, from the Committee on Military Affairs, to which was referred the bill (S. 6926) to convey to the Big Rock Stone & Construction Co. a portion of the military reservation of Fort Logan H. Roots, in the State of Arkansas, reported the same without amendment, accompanied by a report (No. 989), which said bill and report were referred to the Private Calendar.

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 25707, reported in lieu thereof a resolution (H. Res. 629) referring to the Court of Claims the papers in the case of Joseph Block, deceased, accompanied by a report (No. 990), which said resolution and report were referred to the Private Calendar.

Mr. BROWNING, from the Committee on Naval Affairs, to which was referred the bill (H. R. 25428) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Evan Urner Rinehart, reported the same without amendment, accompanied by a report (No. 992), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 25122) granting a pension to Charles E. Sleeper, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reserva-

tion, and for other purposes; to the Committee on the Public Lands.

By Mr. BURNETT: A bill (H. R. 25739) restricting the method of disposition of public land in the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 25740) granting jurisdiction to the Supreme Court of the District of Columbia to quiet the title to lands in certain cases; to the Committee on the District of Columbia.

By Mr. PETERS: A bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909; to the Committee on Ways and Means.

By Mr. HOBSON: A bill (H. R. 25742) for the erection of a monument to the memory of Commodore Oliver Hazard Perry; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWNING: A bill (H. R. 25743) granting a pension to Josephine E. Miller; to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 25744) granting an increase of pension to Luman A. Fowler; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 25745) granting an increase of pension to Harriet L. Bidwell; to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 25746) granting a pension to Leatha Chambers; to the Committee on Pensions.

By Mr. HOWELL: A bill (H. R. 25747) granting an increase of pension to Mary Clark; to the Committee on Pensions.

By Mr. REDFIELD: A bill (H. R. 25748) for the relief of Robert Rogers and Augustus Mackenzie; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. FITZGERALD: Memorial of the State Federation of Pennsylvania Women, favoring the appropriation for the pier at the Philadelphia immigrant station, Gloucester, N. J.; to the Committee on Immigration and Naturalization.

Also, memorial of the board of officers of the Order of Independent Americans of the State Council and the Immigration Restriction League, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Manufacturers' Association of New York, favoring passage of the vocational education bill; to the Committee on Agriculture.

Also, memorial of the Manila Merchants' Association, against restricting in any respect the sale of the Philippine friar lands; to the Committee on Insular Affairs.

Also, memorial of the Board of Trade of Paterson, N. J.; the board of directors of the Buffalo Chamber of Commerce; and the Jacksonville Board of Trade, of Jacksonville, Fla., against the curtailment of the appropriation for the Consular and Diplomatic Service, etc.; to the Committee on Appropriations.

Also, memorial of the Jacksonville Board of Trade, of Jacksonville, Fla., and the Board of Trade of the city of Newark, N. J., favoring appropriation to continue the Efficiency Commission; to the Committee on Appropriations.

Also, memorial of the Trenton Chamber of Commerce, against passage of Senate bill 5458, placing a bridge across the Delaware River south of Trenton, N. J.; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the Southern Shoe Retailers' Association, of Atlanta, Ga., against passage of the Campbell bill, compelling all goods to be marked with manufacturer's name; to the Committee on Interstate and Foreign Commerce.

Also, memorial of citizens of the first and seventh congressional districts of Brooklyn and of Bay Ridge, Brooklyn, N. Y., against appropriation for celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

Also, memorial of the Workmen's Sick and Death Benefit Fund of the United States of America and the Lithuanian Alliance of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the National Association of Piano Merchants of America, protesting against passage of any legislation prohibiting price maintenance; to the Committee on Patents.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Nebraska, protesting against the passage of any parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. SCULLY: Petition of St. Joseph Society, No. 20, Washington, N. J., protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Daughters of Liberty of Long Branch, N. J., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. STEPHENS of Texas: Petition of the Order of Railway Conductors, Division No. 275, Yoakum, Tex., favoring passage of the employers' liability act; to the Committee on the Judiciary.

By Mr. WHITACRE: Petition of citizens of East Youngstown, Ohio, against appropriation for celebrating 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

Also, petition of the Daughters of Liberty of Massillon, Ohio, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

SENATE.

SATURDAY, *July 13, 1912.*

(Continuation of legislative day of Saturday, July 6, 1912.)

At 10 o'clock a. m., on the expiration of the recess, the Senate reassembled.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggets the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Lorimer	Smith, Md.
Bacon	Cullom	McCumber	Smith, Mich.
Bailey	Curtis	Martin, Va.	Smith, S. C.
Bourne	Dillingham	Martine, N. J.	Smoot
Brandegee	Gallinger	Myers	Stephenson
Briggs	Gamble	Nelson	Stone
Brown	Gardner	Oliver	Sutherland
Bryan	Gronna	Overman	Swanson
Burnham	Johnson, Me.	Page	Thornton
Burton	Johnston, Ala.	Perkins	Tillman
Chamberlain	Jones	Pomerene	Townsend
Clapp	Kenyon	Rayner	Watson
Clarke, Ark.	Kern	Sanders	Wetmore
Crane	Lea	Shively	Works
Crawford	Lippitt	Simmons	

Mr. THORNTON. If the senior Senator from Louisiana [Mr. FOSTER] has not responded to his name, I will simply state that he is absent on account of indisposition and consequently is not able to attend the session this morning.

The PRESIDENT pro tempore. Fifty-nine Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM ILLINOIS.

The Senate resumed the consideration of Senate resolution No. 315, submitted by Mr. LEA May 20, 1912, as follows:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

Mr. LORIMER. Mr. President, when I concluded my remarks last evening I was discussing the testimony of Holstlaw, and I stated that Link, Beckemeyer, and Holstlaw had always testified everywhere, in court and before the two committees appointed by the Senate to investigate the charges in this case, that they had never been promised or had any hope of any reward for casting their votes for me. But in order that there may be no doubt in the mind of any Senator as to whether or not I placed the correct construction on their testimony I will read it. This is the question by Judge Hanecy to Michael Link:

Q. Did you ever receive any money from Lee O'Neil Browne, Bob Wilson, or R. E. Wilson, whatever his name is, or anybody else, or from any source whatever, or did you receive any other thing of value at any time from anybody because you had voted for WILLIAM LORIMER for United States Senator?—A. No, sir.

Q. Was there ever any consideration moving to you, or to anybody for you, or for your benefit, in any place, from any source whatever, with the understanding that you were to vote for WILLIAM LORIMER for United States Senator, or if you had voted for WILLIAM LORIMER for United States Senator, any consideration of any kind?—A. None whatever.

Q. Did you vote for WILLIAM LORIMER for United States Senator for any other reason than that you liked him, and that you favored and that your people favored the things he favored in relation to the deep waterway from the Lakes to the Gulf?—A. That is why I voted for him.

That is the testimony of Michael Link. He is the man who has been heralded all over this country as one of the men who confessed that he was bribed to vote for LORIMER; and that impression has been sent out over this country by Senators who, had they been interested in establishing the truth, could have known that Michael Link testified in effect to this statement

that appears in this record, twice in the Browne trial and once before the Burrows committee.

At no time and at no place did Michael Link ever testify that he ever received one dollar for his vote for LORIMER. Yet it has been charged for two and a half years, and has been repeated, parrotlike, on this floor, that he confessed that he was bribed to vote for LORIMER.

Let me say further that I challenge any of the minority of the committee to refute the sworn testimony of Michael Link. You are here now, and I appeal to you to refute it now if you can.

Now, the general impression is that Beckemeyer testified that he was bribed by Browne to vote for LORIMER. The average person in the country holds the opinion that Beckemeyer was approached by Browne and was bribed to vote for LORIMER. I think the testimony will show that Beckemeyer and Browne did talk about LORIMER's candidacy, but Beckemeyer testified that it was not Browne who persuaded him to vote for LORIMER, but that it was George Alschuler, Senator Hopkins's neighbor, a Democrat from Aurora, who went to the general assembly for no purpose other than to try to defeat Senator Hopkins.

Let me go just a step further. How did George Alschuler happen to go to the general assembly? I think it well for Senators to know the history of his candidacy and the reason for it.

Congressman COPLEY, now a Member of the other body, lives in Hopkins's town, Aurora. There had been a feud for a long time between the two men. Alschuler and COPLEY were personal friends. COPLEY went to Alschuler before the Democratic primaries time after time and pleaded with him to become a candidate for the general assembly for no other purpose than to defeat Hopkins if he could do it or to help in the defeat of Senator Hopkins if he could.

I do not think that appears in the record, but that is the truth. After much persuasion on the part of Congressman COPLEY, George Alschuler went to the legislature, and it is shown by the testimony in this record that George Alschuler devoted all of his time to persuading and pledging members of the legislature, Democrats, that at any time when it was possible to defeat Hopkins they would do so.

Luke was one of the men who was opposed to Hopkins, just as George Alschuler was. He was just as bitter toward Hopkins as George Alschuler was. Those men worked all the session constantly among the Democrats creating a sentiment through which if the time ever arrived Democrats would cast their vote for any man to beat Senator Hopkins. So George Alschuler, according to Beckemeyer's testimony, just before he cast his vote pleaded with Beckemeyer to keep his pledge that had been previously given to vote for a Republican whenever an opportunity presented itself to beat Senator Hopkins for United States Senator.

I am going to read Beckemeyer's testimony. Beckemeyer is the man who said that Lee O'Neil Browne gave him a thousand dollars and said, "Here is your Lorimer money." That is all there is in this testimony that in the slightest degree could create any suspicion of any kind that Beckemeyer ever testified that he was bribed to vote for LORIMER. I make this statement with reference to Beckemeyer based on what the record shows. This is a question to Beckemeyer:

Mr. HANECY. You knew the morning that Senator LORIMER was elected that you were going to vote for him, did you not?

That is the morning LORIMER was elected.

Mr. BECKEMEYER. No; I will say that I did not.
Mr. HANECY. You did not know that?
Mr. BECKEMEYER. No, sir.
Mr. HANECY. When did you first know that you would vote for Senator LORIMER before you did vote for him?
Mr. BECKEMEYER. I can say that when I first made up my mind definitely to vote for Mr. LORIMER was at the time of my last talk with Mr. Alschuler, just a very few minutes before my name was called on the roll.

Will some member of the minority of that committee refute this statement? If you can, do it now, so that Senators may know who tells the truth concerning this record. Let us not have discussion over it after a while. The minority members are here in the Chamber; let them refute it now if they can.

Mr. BECKEMEYER. Our exact conversation I do not know, Mr. Hanecy, but he was rather, in a begging way, persuading me to stick and vote for LORIMER, as I had intimated before I would. I was wanting to quit then and not vote for him.

It is Alschuler he is talking about, who had pledged him during the winter to vote for anybody, Democrat or Republican, to beat Hopkins.

Now listen to this:

Mr. HANECY. You told Mr. Alschuler early in the session of the forty-sixth general assembly that you were going to vote for anybody to beat Hopkins, did you not?
Mr. BECKEMEYER. I think I did; yes, sir. I did.

Can language be plainer than that? Can anybody misunderstand that ordinary English?

Mr. HANECY. Mr. Alschuler was very much opposed to the reelection of Senator Hopkins, was he not?
Mr. BECKEMEYER. He certainly was very bitter against Hopkins.
Mr. HANECY. And that was a personal as well as a political feeling that existed, growing out of their close proximity to each other in their native town?
Mr. BECKEMEYER. It was a very bitter personal affair, as I understood from Mr. Alschuler.

Not Lee O'Neil Browne. He testified on the stand before this committee—and he never changed his testimony on that question—that he had not determined until they almost reached his name upon the roll call to vote for LORIMER, and then only after George Alschuler had persuaded him to do so.

Now, as to whether or not he was bribed, whether or not a pledge or a promise was made to him before he cast his vote for LORIMER:

Mr. HANECY. That was an investigation, as I distinguished it from a trial. [To the witness.] Mr. Beckemeyer, up to the time that you say you got the $1,000 from Lee O'Neil Browne, did Lee O'Neil Browne or anyone else, directly or indirectly, offer you or promise to pay you any money or other thing of value if you would vote for Senator LORIMER, or give you anything if Senator LORIMER was elected?

And here is Beckemeyer's answer:

No, sir.

Nobody had promised him anything, either before or after LORIMER was elected, for his vote for LORIMER. I repeat, this is Beckemeyer's testimony, and nobody who knows will claim that Beckemeyer was endeavoring to aid LORIMER in his testimony.

Mr. HANECY. Did Lee O'Neil Browne, at any time or at any place, before Senator LORIMER was elected on the 26th day of May, 1909, ever tell you that he or anybody else would give you any money or other thing of value afterwards, if you did vote for Senator LORIMER?
Mr. BECKEMEYER. No, sir.
Mr. HANECY. You did vote for Senator LORIMER for United States Senator, did you not?
Mr. BECKEMEYER. Yes, sir.
Mr. HANECY. Did you vote for him because of any promise, agreement, or understanding, directly or indirectly, from anybody or from any source, that you would receive anything of value for voting for him, or after you had voted for him?
Mr. BECKEMEYER. No, sir.

Now, here comes your jack-pot insinuation.

Mr. HANECY. Were you willing to vote for Senator LORIMER for United States Senator without regard to any money or compensation or other thing of value being given to you by anybody?
Mr. BECKEMEYER. I did do it; yes, sir.

He was willing to so vote. He answered the question, "I did do it; yes, sir." It is as plain as the noonday sun that when Beckemeyer testified he testified that he did not have in his mind any thought of any sort that would lead him to believe or to think or to hope or to suspect that anybody at any time would give him anything for his vote for LORIMER. That is the testimony of Beckemeyer, the man who was debauched into desecrating his home in order that he might be driven to say—what? When before the grand jury three times he would not testify that Lee O'Neil Browne gave him a thousand dollars for his Lorimer vote, but when he left the grand jury for the third time somebody put it into his mouth and he testified to it in the trial of Lee O'Neil Browne that Browne said to him, "Here is your Lorimer money." Here is his testimony; but Beckemeyer, who is willing to say anything to save himself and his home, said that Browne added to it, "Here is your Lorimer money." Nobody will ever make me believe that to be true, and especially will they not make me believe it to be true as long as that testimony of Beckemeyer that I have just read to you remains undisputed and unrefuted in the record in this case:

I did do it; yes, sir.
Mr. HANECY. What is that?
Mr. BECKEMEYER. I did do it; yes, sir.
Mr. HANECY. Were you willing to do it all the time?
Mr. BECKEMEYER. Yes, sir.
Mr. HANECY. Was there anything in the way of money or compensation or anything of value moving to you, or anybody else for you, that was held out to you or promised to you, or indicated to you in any way, by Browne—

Not only Browne—

or anybody else—

The limit was off; did anybody indicate to him—

or from any other source, to induce you in any degree—

Not to positively settle the question with him, but in any degree—

or from any other source, to induce you in any degree to vote for WILLIAM LORIMER for United States Senator on the 26th day of May, 1909?
Mr. BECKEMEYER. No, sir.

Did you know how completely this man had testified?

Mr. HANECY. Did you know, or did you think, or did you believe, or had you any indication that if you did vote for Senator LORIMER for United States Senator that you were to be paid anything of value afterwards, or that anybody else was to receive anything for you, or on account of your vote for Senator LORIMER?
Mr. BECKEMEYER. No, sir.

It was never in his mind in the remotest degree at any time, either before or after, that he would be rewarded for his vote

for LORIMER, or that he wanted reward, or that he expected that he might be rewarded. It was far from his mind that he would be bribed or was being bribed when George Alschuler, who gave up the whole winter trying to defeat Hopkins, persuaded him to vote, as he had promised, for LORIMER.

Mr. BAILEY. Was George Alschuler the Alschuler who was once the Democratic nominee for governor of Illinois?

Mr. LORIMER. No; George Alschuler is the brother of Samuel Alschuler, who was the candidate of the Democratic Party for governor of Illinois in the campaign of 1900.

Now, for Mr. Holstlaw's testimony, as it appears in the record:

Did you, at any time during that session, declare to anyone that you were willing to vote for a Republican for United States Senator?

Mr. HOLSTLAW. I did not; not until late. Very late I did. I declared to some of my friends at home that I intended to vote for some Republican if we could not elect a Democrat.

Mr. MARBLE. How long before the time of the actual election was that; do you know?

Mr. HOLSTLAW. I think probably four weeks—three or four weeks at least.

This is Holstlaw—

Mr. MARBLE. To whom did you make that declaration? First, just what was the declaration? Did you say what Republican you would vote for?

Mr. HOLSTLAW. I think I first said that I would vote for some Republican rather than stay there very much longer; and finally I think I said that if I ever had an opportunity I would vote for Senator LORIMER.

Mr. MARBLE. You think you said all of that down home?

Mr. HOLSTLAW. I think I did; yes, sir.

Mr. MARBLE. To whom did you make the first statement that you were willing to vote for a Republican?

Mr. HOLSTLAW. I think the first statement I made was to J. B. Lewis, editor of the Democrat, in Salem.

Mr. MARBLE. And to whom else?

Mr. HOLSTLAW. I think I told Mr. Bell.

Mr. MARBLE. Who is Mr. Bell?

Mr. HOLSTLAW. Mr. Bell is a merchant in Salem.

Mr. MARBLE. Do you know his initials?

Mr. HOLSTLAW. J. J. Bell.

Mr. MARBLE. Anyone else?

Mr. HOLSTLAW. I told some of my friends at home, but I do not remember whom I did tell.

Mr. MARBLE. Do you recall who it was that you told that you would vote for Senator LORIMER if you got the opportunity?

Mr. HOLSTLAW. I told Mr. Lewis that I would.

Mr. MARBLE. Anyone else?

Mr. HOLSTLAW. I am not positive, but I believe I told Mr. Eddings—John Eddings, of our place. I think I did.

Mr. MARBLE. Of Iuka?

Mr. HOLSTLAW. Yes, sir; and I also told Capt. Schofield that I intended to vote for some Republican if we could not elect a Democrat.

Mr. MARBLE. You do not remember mentioning Senator LORIMER's name?

Mr. HOLSTLAW. I do not think I did at that time.

Mr. MARBLE. Were these Democrats in your district to whom you talked?

Mr. HOLSTLAW. Yes, sir; all Democrats except one.

Mr. MARBLE. Who was the one?

Mr. HOLSTLAW. Mr. Eddings.

Mr. MARBLE. Did they concur in your view of the situation as to what you should do?

Mr. HOLSTLAW. They all did except Capt. Schofield.

* * * * * * *

Mr. MARBLE. Did you have any conversation with Mr. Broderick?

Mr. HOLSTLAW. I did not.

Mr. MARBLE. You did vote for Senator LORIMER?

Mr. HOLSTLAW. I did.

I think perhaps I am not reading the testimony as fully as I should, for I am of the opinion that Mr. Holstlaw must have meant at this time to convey the impression that he did not talk to Mr. Broderick at the time he was then discussing.

Did you have any conversation with Mr. Broderick?

This was when he was making up his mind to vote for a Republican, and this is what he said:

I did not.

His mind was already made up to vote for a Republican. He so testified.

Mr. MARBLE. Had you voted for a Republican before that?

Mr. HOLSTLAW. I had not.

Mr. MARBLE. Did you believe what Senator Broderick told you when he told it to you?

Mr. HOLSTLAW. In regard to what?

Mr. MARBLE. In regard to the $2,500.

This is all from Mr. Marble's examination.

Mr. HOLSTLAW. I did not think very much about that, because I intended to vote for LORIMER anyway.

He never talked with Broderick when he was making up his mind. He made up his mind before he spoke to Broderick or Broderick spoke to him. When Broderick said "there is $2,500 for you," as Holstlaw testifies and as Broderick denies, Holstlaw said he did not think very much about it—

Because I intended to vote for LORIMER anyway, and that did not have any influence whatever with me.

He testifies that it did not have any influence whatever with him; that he had intended to vote for LORIMER anyway.

Now, listen to this statement:

Mr. MARBLE. You would have voted for Senator LORIMER if John Broderick had not spoken to you the night before?

The night of the 25th is the day he said Broderick told him there would be $2,500 for him, and Mr. Marble asked him the question:

You would have voted for Senator LORIMER if John Broderick had not spoken to you the night before?

And he answered:

I would, most assuredly.

This is the third alleged confessor; this is the man who it is charged was bribed to vote for LORIMER. Can anbody believe that if he had not been put through the third degree he ever would have stated that Broderick said to him, after he told Broderick that he was going to vote for LORIMER, and before Broderick asked him, according to his own testimony, to do so, that "there is $2,500 for you."

Have you ever stopped to think of the fallacy of the situation? Link, Beckemeyer, Holstlaw—two of them with their minds made up weeks before that—were going to vote for LORIMER, telling everybody with whom they conversed upon the subject, freely and openly, that they intended to vote for LORIMER; and that after they had made up their minds, after they had told everybody what they were going to do, according to their own sworn testimony, that somebody was going to come along some time afterwards and give $1,000 to Link and Beckemeyer and $2,500 to Holstlaw? What sort of economy is that? What sort of logic is that? Will anybody think that men who will give bribes, men who are boodlers, men who are in legislatures for the money they can make out of it, will give the money away when they are in possession of it and when there is no obligation of any kind on their part to give it away—that they will give it voluntarily to men who voted on the subject as freely as the best friends I had in the Illinois Legislature? Can you work out that logic? Can you yourselves believe it? Not for a moment.

Now, what is the testimony of Gillespie, the man who drew the Holstlaw statement. Let us see what he claims Holstlaw said as to whether or not he was bribed to vote for LORIMER. The chairman to Mr. Gillespie:

And still you understood from what he had previously told you that the payment of that money was not an inducement to vote for LORIMER, but he intended to vote for him in any event.

Now, that question is plain enough. Anybody could understand it. And here is Mr. Gillespie's answer:

Yes, sir. He stated he had intended to vote for Mr. LORIMER, and he thought he might just as well get the money as not.

Senator JONES. But he gave you the impression that the money was no inducement to him to vote for LORIMER.

Mr. GILLESPIE. Yes; just as I have stated.

Senator JONES. Well, why did you not suggest that that statement go in?

Meaning that the statement go into Holstlaw's so-called confession. It was not in the so-called confession.

Mr. GILLESPIE. I did not undertake to control his statement in any particular.

He did not undertake to control his statement in any particular, but this is the way Mr. Gillespie testifies that the statement was made up. He said he talked it all over with Holstlaw, and that then he drew the statement; that when he had talked it all over with him, and Holstlaw had made that statement to him, then he drew it himself and Holstlaw signed it. His answer is "I did not undertake to control his statement," when the only statement that Holstlaw made was the one that was drawn up by Gillespie—this man who was the attorney for the Tribune when he accepted employment from Holstlaw whose interests were opposed to the interest of the Tribune crowd who wished to establish corruption on the part of those voting for LORIMER.

Mr. HANECY. If you saw that he was not stating it just as he had stated it to you——

There is an interruption.

Mr. GILLESPIE. If he could have dictated the statement we would have permitted him to dictate his own statement.

When we found he could not do that, we examined him, as I have stated.

So it was on the examination that Holstlaw stated that he was going to vote for LORIMER anyhow.

Senator JONES. But, acting as his attorneys there, you did not deem it of importance to suggest to him that the language he had expressed did not correctly state what he had before expressed to you.

Mr. GILLESPIE. No; I did not consider it of any importance.

Holstlaw's interest was not an important matter to Gillespie, because Gillespie was employed by the Tribune to cooperate with the sheriff's office and the State attorney's office to apply the third degree to Holstlaw, and if he had put what Holstlaw said into the statement it would not have been as valuable to his employers—the Tribune—as he drew it.

This is heralded as a prosecution on the part of the people and for the people to banish corruption, but the very fountains of justice were corrupted, and lawyers of previous good reputation

were employed as decoys to secure statements from an unsuspecting client that he had committed the crime of bribery and who at the same time arranged for immunity for perjury or any other crime committed by the person making the statement just so long as he would swear to something which might point to corruption in my election.

Does that look as though there was no conspiracy? I am not giving you my views, Senators; I am not stating to you what I think about it, but I am reading it from the cold type in the record, from these witnesses themselves, the men on whom they rely to remove LORIMER from this Chamber. Were they prosecuted afterwards? Did anything happen to any of them afterwards? Was anybody sought out for corruption in the legislature and prosecuted afterwards? No; but "swear that you got money to vote for LORIMER, and it matters not what else you have done, you are as free as the air to go and go forever without any punishment for any crime that you yourself say you have committed."

Did the Tribune try to prosecute anybody for crime? Oh, no. Did Wayman prosecute Beckemeyer? Did he prosecute Link? He tried to convict the man who White testified had bribed him, and if Wayman had convicted Browne, then the Tribune would have brought proceedings in the Senate to oust LORIMER from his seat on the ground that his election was corruptly secured by a man then on his way to the penitentiary.

If I had not myself, a month after this story was out, introduced the resolution for an investigation, there never would have been one, after Lee O'Neil Browne was acquitted, brought to this body by anybody representing the Tribune. It was not until after the Senate had sent to the committee a resolution I had introduced, asking for an investigation, not until the Senate was under way and the Tribune thought they would lose ground if they did not come here and say something, that they sent their handy man, Albert Barnes, the president of the Uplift Municipal Voters' League, consisting of about 10 men in the State of Illinois, under the domination of the Tribune, to make a statement that he himself swore he got from the Tribune, and that he, himself, did not have the facts to substantiate the affidavit that he made and sent to this body.

Of course this has no earmarks of conspiracy. This looks just like the people rising up in their might, determined that corruption shall no longer influence the election of United States Senators; only the people. Oh, if all the people in this land could know the story as it is written in this book they would drive that band of hypocrites out of the country, and the day will come when the people will know the truth. If God spares me years and strength they will know it from one end of the land to the other.

I have said about all I am going to say about these four witnesses, but what I have said, what I have read, was from the record, and I challenge anybody to point out by the record that I have not stated the truth without anything added to it or anything taken from it.

I can understand how people can be led astray. This is not the only attempt to drive a Senator from this Chamber by a conspiracy. It is not the only attempt to drive a Senator from this Chamber through a conspiracy who sits in this Chamber now. And as they started it it was very much more a complete case against a Senator than any testimony which has been given by Charles White in this case, and surely it would have confused Senators if the truth finally had not been brought forth.

I refer to Senator PERCY, of Mississippi. Do you know the history of his case? He voted against me. I am not his champion, nor have I the slightest feeling in the world against him, because I believe that he voted his convictions on the misinformation which he had at that time and on which he based judgment. I would not have a man in this body, if I controlled it, who would not vote his convictions, but I would have him know the facts before voting on an important question like this.

Senator PERCY was a candidate for United States Senator before the Mississippi Legislature. A senator, a member of that body, named Bilbo, stated before a grand jury that a man named Dulaney came to him and asked him to help elect Senator PERCY. He said if he would help him and vote the way he wanted him to vote, he would give him a thousand dollars, and would pay it to him in installments, $500 before and $500 after the election. Bilbo claimed that he received $150, the first payment, and that he took it over to his room and put it in the sweatband of his hat. Then he went to the Democratic caucus, and when he got there Dulaney asked him to vote for some person other than PERCY, who received 2 votes, and he said that he did so. He said the next day Mr. Dulaney gave him a package of money and said, "Here is $150." He said he counted it and found only $145. He went to the caucus again, and again the next day Dulaney gave him $50, and he said he took all the money and put it in his pocketbook and kept it there.

Then they caucused again. Senator PERCY was nominated, and after the nomination he was elected. Bilbo said that after PERCY was elected he went to Dulaney's room and he got $300 more. That was $645 in all. He testified that he was a friend of Gov. Vardaman and that he wanted to help Gov. Vardaman.

If he had wanted to help Gov. Vardaman, when he got the first $150 and went to the caucus, it was his place to rise in the caucus with the $150 in his hand. He said he was only doing it as a detective to catch these corruptionists. He should have risen in the caucus and said, "Here is $150 I got from Dulaney to help elect PERCY. He wants me to vote for Mr. So-and-So and I am not going to do it. I am going to find out what is going on here. PERCY's friends are trying to corrupt the legislature."

Did he do that? Oh, no; he did not do it. He did do, he says, what Dulaney asked him to do. Then he went to him again and got the other $150, and they had the next session of the caucus. Did he rise and say, "Now, I have $295 here"? No; he sat there with $295 in his pocket, he says.

Then they had another caucus. When he went back to that caucus he had the extra $50 in his pocket. That made $345, and he said he voted as Dulaney asked him to do. He did not rise and say "I have got $345 here that I got from Dulaney to help elect PERCY." No; he just voted, and he permitted the caucus to nominate Senator PERCY.

The legislature met the next day. According to his testimony he still had the $345 in his pocket. He, with $345 of corrupt money in his possession, allowed that legislature, without a protest from him, to elect Senator PERCY, when he might have risen in the legislature, handed the money to the speaker or laid it down on the desk, and said: "There is the money that I received to vote for PERCY. I am not going to vote for him. You had better have an investigation of this matter before we elect anybody to the United States Senate and see if they have not attempted to corrupt other members of this general assembly besides myself." Did he do that? No.

PERCY was elected. Then Bilbo said he went further. When he had caught this man for bribery three times, when he could have stopped PERCY's election, he said that he went back to Dulaney again and got $300 more, when it was all over and he had not helped; that is to say, he had not voted for PERCY. That made $645 that he collected. He said he took $145 and put it in his pocketbook, took the balance home and gave it to his wife and asked her to keep it for him and for her to be sure not to allow any change of the bills, because he wanted to use the identical bills that he had received.

Then he went before the grand jury. The foreman of the grand jury testified in the Dulaney case that Bilbo swore that the money which he produced before the grand jury were the identical bills that he got from Dulaney and with which Dulaney either did or tried to corrupt him. Dulaney was indicted. The foreman of the grand jury turned the bills over to the sheriff, and the sheriff took the numbers of them, took a description of them, so there could be no doubt when this money was presented in the trial of the case that the sheriff was producing the same identical bills that Bilbo produced before the grand jury and on which Dulaney was indicted.

Then came the trial. You say people will not do wrong. Do you say people will not do wrong, that they will not try to get even with their enemies by destroying them forever and ever? But what was the result of the trial? The money was brought in, and it was laid down on the table, and on investigation it was found that some of the bills Bilbo said he had received from Dulaney were not made, were not printed, were not in circulation until after the date when he swore he received the money from Dulaney. The modesty of Senator PERCY prevented him from telling that story to the United States Senate, but that is the fact. That is what the record in the case shows.

Now, suppose that had not been discovered. That was the turning point in the case. Suppose they had not discovered that these bills were made after he swore he received them; Dulany would have been sent to the penitentiary—I believe he would. Then they would have come here to the United States Senate and asked for an investigation. They would have brought the money with them.

I am reminded by the Senator from Texas [Mr. BAILEY] what I had forgotten, that the only reason why they investigated these bills was because some of them happened to be very new bills—brand-new bills—and that attracted the attention of somebody, and they made the investigation, and they discovered it. If they had been carried around in the pockets of some people, perspiring for two or three days or a week, that would not have been discovered. But supposing they had not dis-

covered it, Dulany would likely have gone to the penitentiary. They would have been here asking for an investigation. They would have presented a transcript of the record of his trial and conviction, and probably the proper paper from the warden of the penitentiary to show that he was there. They would have brought the bills with them. They would have laid them down before you: "There is the money. He did not take it because he wanted money. He took it because he wanted to purify politics in Mississippi. He wanted to catch the corruptionists."

How would Senator PERCY have answered? What would he have said? "Here is the money. Look at it. That is what I got." What could you have done? What could I have done with such testimony as that? Yet because the few bills happened to be new and it was a suspicious circumstance; somebody investigated it and they found that they were made after Bilbo said he received them, and that ended the case, and that is why there was no contest brought before the Senate to unseat Senator PERCY.

That I state without any official authority, but what they were trying to do was to destroy PERCY.

Now, how does that work out? They thought they would beat PERCY in the caucus, and they were defeated. PERCY was here. He had his enemies in Mississippi just as I have mine in Illinois. They were determined to find some way to destroy him, and they concocted that scheme after he was here and got the man indicted. They thought they would send him to the penitentiary just as the Tribune thought they would send Lee O'Neil Browne to the penitentiary. When they got him there they would have been here just as the Tribune would have been here if Lee O'Neil Browne had been sent to the penitentiary; and the Tribune never would have been here if I had not introduced the resolution myself for an investigation into this matter, because Lee O'Neil Browne was not convicted, and they had no testimony to present in this case except the testimony of White, and if they could not make the White testimony stick, then what was the use of coming to the Senate of the United States? If they could not make it stick back there in Chicago, where they control all the newspapers, where the public sentiment was so strong against LORIMER—if they could not pick 12 men there that would convict Lee O'Neil Browne, why should they come here?

The Senator from Indiana [Mr. KERN] suggested in a very, very veiled way that it would be impossible on account of the bipartisan system to convict any politician in Chicago, the inference naturally being that the crowd that ran with LORIMER controlled the jury system.

But the facts, Senators, are these, that the best men in Chicago are on our bench, about 30 in all, judge of the county court, judges of the circuit court, judges of the superior court. The jury commissioners, the men who select the names of those who are going into the box, the men who control the drawing of jurors, are three men who are appointed by the judges.

When the inference is to be drawn from an insinuation made that the jurors were corrupt and that because on account of the bipartisan condition in Chicago it is impossible to convict a politician, it amounts to a statement that the judges on the bench in our county are not honest men, but that they are corrupt. That is where it works its way to.

With this testimony that they would have had in the case of Senatory PERCY, the money in hand, White comes here. He said he got the money; he said he got $1,900; he said he spent it all in debauchery, in getting drunk, in riotous living. He brought no money here; but he said that he went into the legislature to find out who was corrupting the legislature, to take the money, and to expose the corruption. When does he expose it? After all that money is gone; after he is broke; after nobody will give him employment, except that which he refused, that I secured for him.

Then he started out to get money. How much? Seventy-five thousand dollars. He did not get that from LORIMER. Then he went to the Chicago Tribune. Fifty thousand dollars was what he then wanted. They all swear that he got $3,500. Look at the difference in the testimony—Bilbo, with the money in his hand, and it was discovered that he was a conspirator trying to destroy the life and the reputation of one of Mississippi's best citizens. Compare it with the man who gets paid for swearing to a falsehood that he had received a thousand dollars to vote for LORIMER.

Do you think, will you say, that we have not disproven what White said? I think the record will show that it has been disproven. He hung his whole story on the statement that nobody had ever talked to him about LORIMER's candidacy. He claims he never said to anybody he would vote for LORIMER until he told it to Lee O'Neil Browne, when Browne, he said, bribed him. We have not got the bills, disproving the claim as they had in the Percy case, but we have got the testimony of Representative Shaw, the man who led the fight against LORIMER among the Democrats; who, everybody admits, was a truthful witness; who had a reason to talk to White about it; and he testified that he talked to White and pleaded with him not to vote for LORIMER, but White said, "If I ever get a chance I am going to vote for BILL LORIMER." He told John O'Neil a week before LORIMER was elected—and I do not think anybody will dispute or question John O'Neil's testimony—that he was going to vote for LORIMER; he told a motorman that he had worked with, whom he met in Chicago, and whom he invited to come down to the Briggs House on Sunday morning of the 23d of May, on the day before he said that he met and talked with Browne in his room, and he told him he was going to vote for LORIMER. There you are!

I said that White told me 10 days or a week before I was elected that he intended to vote for me, and he himself volunteered the statement. Suppose you say that I have a motive for perjuring myself—nobody has ever questioned my word until this day—but did not White have a motive for perjuring himself? He had $3,500 for his perjury. You say I have a seat in the Senate. While I regard it as the greatest honor that the people can confer upon one of their citizens to give him a seat in this Chamber, I doubt if I appreciated it or do now appreciate it any more than White appreciated money, no matter where or how he got it. So, then, the motives, if you want to put it that way, are equal. Charles A. White swore on the stand that he was a liar and a perjurer; I at least did not do that; and my word should be as potent with Senators as is the word of a man who on the stand swears under oath that he is a perjurer.

Oh, it is an easy matter to destroy a man. How easily Senator PERCY would have been destroyed; and he is not the only man who has enemies in his State, either; he is not the only man who sits in this body against whom false charges have been brought.

I have looked over the CONGRESSIONAL RECORD, and will call the attention of the Senate to an instance of what people will do in this world. Those who favor turning LORIMER out seem to think that everything that White said that would injure LORIMER must be the truth; that, of course, there was no reason for him telling anything but the truth; and therefore his statements were true. But we have evidence that another Senator was maligned. Why? I do not know; I have not been able to ascertain; but the RECORD shows the sworn charges, and the subsequent history is evidence that he was maligned.

If Senator CRAWFORD is in the smoking room, I wish a page would invite him to come into the Chamber.

[After a pause Mr. CRAWFORD entered the Chamber.]

Mr. LORIMER. While you were absent, Senator CRAWFORD, I called the attention of the Senate to the effort on the part of the enemies of Senator PERCY, of Mississippi, to destroy him by trying to send a man to the penitentiary for trying to bribe a member of the Mississippi Legislature to aid in electing Senator PERCY, and how, with the evidence they had on hand, if he had not been able to refute it, they would have absolutely destroyed him. I said there was another Senator in the United States Senate—as showing that all men are not free from conspiracies—who had a conspiracy, as this record would indicate to me, concocted in his State to destroy him, and I wanted to have you in the Chamber when I read the affidavit; and as I read it I should like to have you think of this foul effort to destroy you and compare it with the testimony in this case on the part of White to destroy LORIMER, and see if you can find any sort of analogy in these affidavits by these men who, as they stated, were, first of all, willing to do anything in the world to get money, and then, to get more, willing to do anything else. Here is the affidavit:

COUNTY OF BEADLE, *State of South Dakota, ss:*

Thomas H. Thompson, being first duly sworn, on his oath deposes and says: I am 23 years of age, having been born June 21, 1882; am clerking for my father, Thomas Thompson, in a men's clothing store in this city (Huron).

In the fall of 1903 Julian Blount, who is a stenographer for Crawford & Taylor, lawyers, in Huron, S. Dak., came to me and asked me if I did not wish to go with him and take up a claim—

Referring to Government lands—

I asked him, "Where?" and he replied, "In Walworth County." He told me I could make $100 for my right and have all my expenses paid; that if I took the claim Mr. COE I. CRAWFORD would pay the expenses and give me the $100 when I made proof. He said that Harry Lampe and Floyd Valentine had taken a claim under the same conditions before.

I told him I had not used my right, and that I would go. We—Valentine, Lampe, and Blount—started for the land some time in the early part of November, 1903. We went to Bangor, where Blount and myself filed on land. We drove out to CRAWFORD'S ranch before filing on the land and looked it over. Mr. COE I. CRAWFORD'S brother met us at Java, I think, and drove us out to the land. We then went to Bangor to the courthouse and made the filing. I do not know before

whom we filed nor do I remember the description of the land. Couple of months later we made another trip from Huron to the land and stayed overnight. Valentine, Lampe, and Blount, and myself went on this second trip. Mr. COE I. CRAWFORD accompanied us from Huron to the ranch and paid our expenses and railroad fare on this trip.

The improvements on the land I filed on consisted of a shack 8 by 8 feet, 6 feet high. I do not know who built the shack.

The next trip I made was in the fall of 1904. The three young men named above went with me on this trip, or, rather, the three young men went the day before I did. I was sick and did not leave until the day following, and when I got to Aberdeen Julian Blount met me and said there was nothing to do and that I could go back home. I did not see Mr. CRAWFORD on this trip. Mr. CRAWFORD paid my expenses on this trip also.

Several months after I filed Julian Blount came to my house and gave me a check for $50. This check was made out by Mr. CRAWFORD.

About a year ago—I can not recollect the day—Harry Lampe came in the store and said, "Let us go up to CRAWFORD'S office and get the balance of our money." I went with him, and, as I understood it, Mr. CRAWFORD said we were not to prove up on the land and that I should sign a relinquishment. I remember signing a paper at that time or what I supposed was a relinquishment. Mr. CRAWFORD was busy at the time and did not say much else about the land. He paid me the balance of the money on the deal, $50, in the form of a check, signed by the firm name of Crawford & Taylor.

I have not been up to the land since, nor has Mr. CRAWFORD talked to me about it since I received the money. The land I slept on and on which I filed is about 2 miles from his ranch house. I do not know whether it is in his pasture or not. My only idea in filing on the land was to make $100. I had no intention of making my home on the land or of giving up the business I was engaged in in Huron.

THOS. H. THOMPSON.

Sworn and subscribed to before me this 26th day of February, 1906, in room 53 of Kent's Depot Hotel, Huron, S. Dak.

M. D. MCENIRY,
Special Agent General Land Office.

That purports to be an affidavit, a sworn affidavit, stating that this man violated the law. If true, he would have been indicted and probably would be now in the penitentiary. Is it true? All the circumstances surrounding it deny the truth of that affidavit. A grand-jury investigation was had in that neighborhood. The jurors were selected from the people in that community. If my memory serves me right, it was a Federal grand jury. If my memory serves me right, the district attorney, or somebody that was trying to prosecute, was piqued because he did not succeed. The grand jury called in the witnesses and they testified; and the grand jury returned a "no bill," and they cleansed the skirts of this Senator from the charge of corruption.

But take the affidavit there, naked, as it stands, without knowing more of it than just the reading of it, and what would be your natural conclusion? That there must be something in it; that there must be some foundation for it, or no man would charge it, because it would be perjury, and he might be sent to the penitentiary if he should be convicted of perjury. But a jury of the best men of the community investigated this charge, and they said there was nothing in it.

Has Charles White made any kind of a statement before your committee stronger than that affidavit? I think not. And yet you are to turn a man out of his seat on testimony no stronger than the testimony that would have destroyed that Senator, and he would not have been here if a jury of his peers had believed that he was capable of that act.

"They have conspired against a man for nothing," LORIMER says. "Nobody would do such a vile thing as he claims," you answer. You have the record of Senator PERCY'S case. You have that affidavit, and you have the judgment of a jury of disinterested men that stamps it untrue. And yet Senator CRAWFORD would turn me out of this body on the testimony of a man who, according to the evidence we have, is more foul than he who made that affidavit.

I will not believe, on the sworn statement of a man who swears he was corrupted and knew he entered into a corrupt deal, that the testimony of that sort of a man is as good as the testimony of any man whose word, whose reputation for truth and for veracity has never been challenged, much less successfully attacked. And so they might, as the Senator from Indiana says, stack "mountain high" affidavits like that they have in the record against Senator CRAWFORD, but in the face of the results they will never make me believe that he corrupted a man to make a few dollars or to get land that did not and could not honestly under the law belong to him.

I do not ask for the Senator's vote. I am not pleading with the Senator for his vote. But I am asking him if, in all reason, with that awful experience that he had, similar to this that I am having, excepting only that all the press of the land was not trying to destroy him—with that experience, does he not think he ought to weigh carefully, thoughtfully, meditate long and often, before he votes to destroy his fellow man on testimony like that?

Why, Senator, if you had lived in my city, if for 25 years you had refused to bend your knee to the trust press of the town, if they had searched your record from the cradle until the moment you entered this Chamber to try to find just one act, no matter how trivial, on which they could base a slander through which they might destroy you, and in the end a creature like this man White, a man who would sell his soul for money, had made that affidavit in Chicago, the circumstances being the same, oh, how they would have jumped for it. Oh, how they would have grasped it. And controlling the State's attorney as they did John Wayman, controlling the most powerful law officer of the State as they controlled John Wayman, what happened to Lee O'Neil Browne would have happened to you. They would have gotten more perjury, as they did in this case. They would have indicted you, as they indicted Lee O'Neil Browne. That you would have been discharged on the trial of the case I have not the slightest doubt. But your reputation would have been assailed; and where the people did not know you they would have thought of you as they think of me—that I am the vilest, foulest creature on the earth—because they have been misinformed.

Yes, Senator CRAWFORD, that is what would have happened to you; and as far as they could they would have destroyed you. They never would have finally succeeded any more than they succeeded in convicting Lee O'Neil Browne of buying White's vote for LORIMER. But you would have had these awful assaults, and I do not know whether you could have lived under them or not. I hope you would have had the courage, and I hope you would have been fortified with the truth and the knowledge that it was known to you at least, and to your God, that you were not guilty and never had been guilty, in which case a clear conscience would have given you the strength to go on and on and on, and fight the battle of a man to clear your name from such foul—oh, such foul, foul persecution.

No, Senator CRAWFORD; vote as you did before; have your name recorded among those that vote to drive me hence, and I shall not believe then that you are that kind of a man. But surely, surely having gone through what you have gone through I am entitled, at least from you, to a fair consideration of the evidence. If anything, it ought to be in your mind that I am entitled to the benefit of the doubt instead of charging me, as you did in your speech last year, with being capable of organizing the Illinois Legislature for "dark-lantern purposes."

Senator, there was nothing in the record to justify that statement. But "dark-lantern purposes" was passed from mouth to mouth all over the land. It was taken from your speech, and thousands upon thousands of people got the impression that LORIMER was a man that went out in the dark of the night with a mask on his face, a gun in one hand, and a dark lantern in the other, despoiling the people of their property and of their rights, and that because he was that sort of a character he had debauched a legislature and bought a seat in this body. And, of course, if it be true, he should be driven from this body—not by a divided vote, but by the vote of every Senator occupying a seat in this Chamber.

I wish now to call the attention of Senators to what actually has been going on for the last two and a half years in this case. I want to call your attention to things that you have never thought of, and surely have you never thought of them in connection one with the other.

Charles A. White made the affidavit. You have his story. When I spoke in this Chamber on the 28th day of May, 1910, there was no evidence anywhere that Charles White was paid for his testimony. Nobody knew except those who were prosecuting this case that Charles White had ever received one dollar. But I knew the situation in Chicago. I knew my enemies. I knew that there was nothing under the sun to which they would not resort to destroy me; and I knew that Charles White was paid for his lies, and I stated it from yonder desk in this Chamber.

Then in the trial of the case the evidence came out that Charles White had been paid $3,500, and the contract was secured from him on the stand. Probably I should not say this, because it is not in the record, but it is no fault of mine that it is not in the record. I do not believe that the contract produced by Charles A. White was the original contract. I was informed that a man named Semmes saw the original contract, and that the original contract provided that Charles A. White was to get so much money for his testimony down, and at the end of the trial, if Lee O'Neil Browne was convicted and sent to the penitentiary, he was to get the balance of it. Then after a consultation they discovered if that ever was shown they could all be sent to the penitentiary for conspiracy, and they withdrew the contract and drew up the one that was presented to the committee. Semmes was a street car man. We have looked high and low all over the country for him. We have not

been able to find him. Whether that statement is true or not I can not tell, but true it is we have tried to get Semmes to find out whether or not it was a true statement.

White gave the affidavit. White swore against Browne twice. White swore in the investigation twice.

Then what came next? They had not put Browne in the penitentiary, and they had not driven LORIMER from this Chamber. The evidence they had had never connected LORIMER with anything unlawful nor with any wrongdoing. So, to prove that LORIMER really was a corrupt man and that he was capable of doing things of this sort, they organized another conspiracy. We have never had an opportunity to go very far into this, but we have enough to show the conspiracy.

Keeley, of the Tribune, testified on the stand that a man named Glavis came to him and told him he could get books, papers, or records that would show that LORIMER, when a Member of Congress, was acting corruptly, and if he was acting as they said, he should be in the penitentiary.

They gave the man $750. Mr. Keeley said so. Mr. Keeley said it was to procure the records that would prove the charge. It went on I do not know how long, but finally Glavis, for some reason or another, did not make good. Members of the committee were charitable enough to say that they thought Mr. Keeley had been fooled—buncoed, so to speak. That is what Mr. Keeley said, and the members of the committee were charitable enough—and I do not blame them for it, because they do not know these men. But let that stand on the testimony.

I have no doubt that there was a scheme to work up some such evidence as they worked up with White for which they had already paid $750, and in which Mr. Keeley said if they got it they were going to lay it before this investigating committee, I think he said, for what it was worth, and subsequently put it in the hands of the district attorney in Washington. Why in the hands of the district attorney in Washington? Why, unless to furnish an excuse to the United States district attorney here to indict LORIMER and to try to put him in the penitentiary? They were not satisfied with destroying him, driving him from this honorable body, trying to ruin him financially. That is not enough. He shall go to the penitentiary if we can get perjury enough to send him there. That is the plain, unvarnished truth, sustained, every suggestion, by the record.

Then what next? Things to their mind were not looking quite right. Evidence probably was not strong enough to cause the committee to report against LORIMER. So it had to be bolstered up. They had to get somebody to make it stronger, and whom did they get? A member of the Illinois Legislature? No. Anybody who ever had known anything about this case? No. They hired W. J. Burns, who calls himself "the great detective." W. J. Burns, who aided in putting a venerable United States Senator in his grave on testimony that the President of the United States now believes not to have been true. Keeley hired Burns to go to Canada, where young Mr. McGowan lived. Mr. McGowan is a young man, a citizen of Ontario, Canada, who was called to impeach the testimony of one Burgess, who gave a fantastic account of a conversation which he alleged took place in a smoking compartment in a railway train and in which C. F. Wiehe, of the Hines Lumber Co., was represented as boasting that he contributed $10,000 to a fund to elect LORIMER. McGowan testified that he was in the compartment at the time and that no such conversation occurred as that detailed by Burgess.

Burns said he went there to bring McGowan back to the United States, to talk to his father and get him to persuade the son to come back here to the United States and go before the committee and swear that he had committed perjury in his previous testimony before the committee.

Burns said he went to Toronto, and he called up McGowan's father, and he asked him if he was the senior McGowan, and the senior McGowan answered yes. "Well," he said, "this is Burns." He inquired "What Burns?" "Why, W. J. Burns." "Oh, you are Burns, the great detective?" "Yes." "What do you want?" "I want you to come over to Toronto." "What for?" "Why, your boy was guilty of perjury in the United States. He is a young man, too young a man to have a sin of that sort registered permanently against him." I am not giving you his exact language, but I state it on my honor that I am giving you the substance. He said, "I want him to come to the United States to go before the committee and tell them he lied and cleanse his soul." The old gentleman and he had a few more words and they rang off.

Now, just think of it! Going to the father to ask the son to come beyond the border to testify that he was a perjurer, which testimony would make him surely, if it could have been substantiated, a subject for the penitentiary. It mattered not whether he lived in the United States or in Canada had he given the testimony, for he might have been taken under our treaty from home, brought here, and prosecuted and sent to the penitentiary.

Who will believe that Burns went over there for any such purpose? Who that has a son would have urged him to make way quick for the penitentiary? What father would do that? But his father did not believe that his son was a perjurer, and he told "the great detective" that he would not come to Toronto.

Do you think Burns wanted the young man to come to the United States? Why, no; not at all. What they wanted to do was to scare the life out of the young man, give him to understand that if he did come, if he got over here, that finally he would land in the penitentiary.

Then what happened? The fake dictograph story never would have been discovered. Nobody would have understood it. He wanted to frighten the McGowan family to keep the boy at home, and he would come here with his two detectives and his stenographer who operated the dictograph for him. They would all have sworn, as they did, that McGowan had told them in the room in Toronto, where McGowan went to meet them as friends, that he had committed perjury before the committee, that what he said was a lie, that he got $1,500 for it, that he tried to get more, but that that was pretty good.

Two detectives swore to that, and to corroborate it they put on the stand the Burns stenographer, who, sitting in the other room, claimed he had taken shorthand notes when the McGowan conversation was alleged to have taken place. The receiver was hung under a table in this room, and the enunciator was over in that room [indicating]. Here is where McGowan and the other two men were sitting [indicating]. The detectives swores to a story. Naturally they corroborated each other. Then Sheridan, the Burns stenographer, went on the stand and read his notes, and he swore to them as being the original and identical notes which he had taken on that occasion; and, as he read them, they corroborated the statements of the two detectives.

It later developed that by chance—no, I will not say by chance; I believe the hand of God directed it—Blumenberg, the official reporter of the Senate, had talked for two or three moments with Sheridan on the morning of the day that Sheridan testified. Blumenberg had the impression, in common with almost everyone else, that the dictograph was a mechanical sound recorder. Much to his surprise he learned from Sheridan that the dictograph was merely a telephonic device, and that the conversation coming over the wire was listened to by the operator in the other room, who was supposed to take it down in shorthand. Finding that in the last analysis the device depended for its success upon the shorthand writer at the end of the wire—Sheridan in this case—he asked Sheridan what his experience had been. He learned from Sheridan that he was but 19 years of age; that he had been writing shorthand but two years; that he was not sure he could write 75 words a minute, when ordinarily a conversation among three men under the circumstances testified to would run from 175 to 200 words per minute.

When the Sheridan boy was on the stand—and he was only a boy—he testified to the conditions under which he took the alleged notes, which Blumenberg, after his years of experience, knew precluded all possibility of making an accurate report, even if the machine worked perfectly and the man at the other end of the wire was an expert shorthand reporter.

Briefly stated, the conditions were these: Sheridan used a headpiece such as telephone operators at a switchboard wear. This apparatus was defective, and he used his left hand to hold it to his ear. With his disengaged right hand he said he put down the conversation in his notebook, and to prevent the book moving on the table he weighted it down with a Bible. His explanation of how he turned the pages of his notebook upon which rested the Bible, while both hands were otherwise engaged, was not satisfactory, and he was asked to give a demonstration of his method before the committee. At his very first attempt to turn the page he tore it in two.

Everybody knows that Blumenberg is one of the best stenographers in the country. All the expert shorthand witnesses on the stand said so; some of them, I think, said he was without a peer; but at any rate he is one of the best stenographers in the world. Blumenberg said he himself could not do what Sheridan had sworn he had done. He could not understand how a boy, who had had only two years' experience with shorthand, who was about 19 years of age, could do things that a man who had had the experience Blumenberg has had was incapable of doing.

So Blumenberg stood behind Sheridan when the latter was on the stand, and he examined Sheridan's notes as the latter read them. When Blumenberg was examined by the committee

he swore that Sheridan's notes resembled a child's copy book, and that unless Sheridan had had a great deal of time to make those notes, which Blumenberg characterized as having been drawn, Sheridan could not possibly have written them as he claimed he did; that nobody could do it. Blumenberg swore that in his opinion, after 30 years devoted to shorthand writing, Sheridan's notes were a fake, were fabricated for the purpose, and were not original notes.

Sheridan swore that there was much talk among McGowan and Kerr and Bailey, the latter two detectives; that it was on a great many subjects, but that he, Sheridan, disregarded all that was said except that which pertained to the Lorimer case; that he took only such parts of the conversation as applied to the Lorimer case. He had the book in his hand and he read from it, and he said: "These are the notes I took at the time."

Then congressional stenographers, in addition to Blumenberg and a professional shorthand writer in business for himself in Washington, were put on the stand. They fully corroborated Blumenberg's professional judgment, and swore that it was impossible for Sheridan to have done what he claimed to have done.

The committee asked Sheridan if he was willing to undergo a test. He said he was. So the committee arranged for a test. They put the receiver in one room and the enunciator in the other, and the committee and those carrying on the conversation sat with the official stenographers in another room. In one case Mr. Pierce, the clerk of Senator DILLINGHAM'S committee, conversed with Kerr and Bailey, the two detectives, and Sheridan in the other room was supposed to take down the conversation. He was to do in the other room just what he said he had done in Toronto, because he could do it so easily, so absolutely perfect, in copy-book style.

In the second test Mr. Ward, the clerk of the committee of which I have the honor to be chairman, with these two detectives, in the presence of the committee and of the stenographers who were employed by the committee, held a conversation, and Sheridan, in the other room, was again supposed to report the same conversation over the dictagraph. Sheridan could take, he claimed, anything he wanted to take, eliminate any part and put in any part, and not leave any sign that he had eliminated anything or that he was confused in any sense of the word. In other words, he could write it so that there would be no evidence in the notes of false starts or of striking out shorthand characters and inserting others, as men use a word and withdraw it and employ another.

Every stenographer who testified said it was absolutely impossible to select particular parts of a conversation and report them, because the stenographer could not tell, when the first words were uttered, what the conclusion of the sentence would be; that he had to take the first words of a sentence in order to report the whole sentence if it should turn out that the sentence related to the matter he was supposed to report; that if the stenographer did wait and when he heard that which assured him the three men were talking on the subject he was supposed to report, he could not go back and take the first words, because if he did he would lose all that followed. That is what the expert shorthand witnesses before the committee testified to.

After the test was made the result was printed. This paper [exhibiting] gives the result. Now, you will observe that the full columns contain the conversation had in the committee room as reported by the official reporter, and the other columns contain what Sheridan got of the same conversation. That is the record of the test of the dictograph stenographer, who never was confused in taking notes, and who takes notes under any and all conditions! There it is for Senators to look at, and from it for Senators to decide whether or not Sheridan was capable of doing what he says he did in Toronto.

Briefly stated, the result of the first test is that Sheridan failed absolutely to report the "strange voice." He did not record the words or convey the meaning of a single sentence spoken by Mr. Pierce. Sheridan gathered only 32 out of the 482 words spoken by Mr. Pierce on the Lorimer case. Yet the Chicago Tribune calls this a "triumph" for the forger of the Toronto notes! As a matter of fact, it proved conclusively that Sheridan's Toronto notes were a forgery!

The result of the second test was that Mr. Ward, the strange voice, spoke 770 words on matters pertaining to the Lorimer case, and of these Sheridan recorded only 56 words which conveyed the meaning expressed by the speaker. In both tests Sheridan recorded about 5 per cent of what was said by the unknown strange voice.

That is the man who could take up and leave off and go back and begin in the middle, or start at the end of any sentence and report it correctly! There could not be any mistake about him!

It seems hardly necessary to add, after this demonstration, that not a single expert witness was called to contradict Blumenberg and the other shorthand writers who so completely sustained him in his professional opinion as to the factitious character of the Sheridan notes.

Now let me quote to you from the report of the majority of the committee their conclusion with respect to Sheridan after witnessing both tests. They say:

> A dictograph had been secreted in a room to which Mr. McGowan had been invited by Messrs. Bailey and Kerr, from which a wire with a telephonic receiver attached led to an adjoining room where one Sheridan, another employee of the Burns Agency, was stationed to take down in shorthand any conversation which might be had in the other room relative to the Lorimer case. This young man, James E. Sheridan, afterwards appeared as a witness before this committee, with his original shorthand notes claimed to have been taken on that occasion, which he read into the record. Doubt was expressed as to his ability to hear and write under the conditions described, and a test of his ability to do so was made by order of the committee. Mr. Sheridan and Mr. Bailey were permitted to make all the arrangements for the same, so as to reproduce as nearly as possible the conditions under which the work was done in Toronto. They used the same instruments and expressed themselves as satisfied with conditions, but the results were so disastrous to the claims made by Mr. Sheridan in his testimony as to satisfy the committee that no dependence whatever can be placed upon his testimony.

No dependence whatever can be placed upon Sheridan's testimony, say the committee. The minority of the committee in their report are wise enough and discreet enough not to mention the Sheridan incident. So we have no defense of "the great detective's" story, nobody explaining away this failure of Sheridan to make the same sort of record before the committee that he swore he made in Toronto.

Now, what does the Senator from Indiana [Mr. KERN] say in his remarks about McGowan? Why, he said that it was so sure and conclusive that McGowan was a perjurer that he did not need any more testimony; he would not sit and listen to the detectives; there was no use of doing it; he was convinced.

Well, of course, I am not a mind reader, and I do not know what was running through the Senator's mind, but every Senator has a right to guess, and I guess that the Senator knew that he would not dare to defend that record on the floor of the Senate, and he passed it in that way.

I will insert in my remarks at this point the result of the tests in parallel columns.

The matter is as follows:

FIRST TEST.

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER.	WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION.
Mr. PIERCE. How long have you two gentlemen been around the city?	
Mr. BAILEY. Why, about two weeks, I think, I have been here.	
Mr. PIERCE. Have you been around here as long as that, Mr. Kerr?	
Mr. KERR. I believe I have been here for pretty nearly three weeks.	
Mr. PIERCE. Three weeks. You have seen quite a bit of the sights around here?	
Mr. BAILEY. Why, we have not taken in many sights; at least, I have not. I have not been anywhere, very much, since I have been here.	
Mr. PIERCE. Of course you have been up around the Capitol, more or less?	
Mr. BAILEY. Yes; I have been around the Capitol.	
Mr. PIERCE. Been around the Senate Office Building? Have you heard any of the hearings around?	

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Mr. BAILEY. No. I was in the Supreme Court, I think, one day—only one day.

Mr. PIERCE. You have not been around the Lorimer hearing, or the Interstate Commission hearing at all?

Mr. BAILEY. Only as a witness around the Lorimer hearing.

Mr. PIERCE. You were not in there yesterday afternoon, either of you gentlemen?

Mr. KERR. I believe I was in there yesterday morning.

Mr. PIERCE. You did not hear the testimony yesterday afternoon of the young lady witness? I believe that you were connected with that, Mr. Bailey.

Mr. BAILEY. Yes; but I did not hear any of it.

Mr. PIERCE. You did not hear any of it?

Mr. BAILEY. No; I didn't hear any of the evidence at all in regard to that.

Mr. PIERCE. She made a very interesting witness, and some points that she brought out were very closely followed by all of the spectators. You both have been witnesses there, then, haven't you?

Mr. BAILEY. Yes; I was a witness there; I was on, I think, for two days, or probably a little more than two days.

Mr. PIERCE. You are a detective, Mr. Bailey?

Mr. BAILEY. Why, I call myself an investigator. Some people call me a detective.

Mr. PIERCE. Mr. Kerr was there as a witness with you wasn't he?

Mr. BAILEY. Yes, Mr. Kerr.

Mr. PIERCE. He followed right on after you, as (if) I remember correctly?

Mr. BAILEY. Yes; Mr. Kerr followed me on the witness stand, I think, if I remember rightly; yes.

Mr. PIERCE. You were on for more than one day?

Mr. KERR. No; I was only on one time. I believe that it was the understanding, however, that I should go on again; but I have not been advised definitely as to whether or not I will go on again.

Mr. PIERCE. That is, you are still retained here, are you?

Mr. KERR. I believe I am; but I am very anxious to get away.

Mr. PIERCE. Of course you are collecting your three-dollar fee, aren't you, along every day?

Mr. KERR. I have not been advised to that effect.

Mr. PIERCE. It is rather hard work, all right.

Mr. KERR. I certainly would prefer other employment, if I can call this employment. It is very hard to fill in the time.

Mr. PIERCE. You are anxious to get back, too, I suppose, Mr. Bailey?

Mr. BAILEY. Yes; I am very anxious to get back. I have several matters that should be taken up. I should have been away from here—well, a week or more ago, at least—to take up a very important matter.

Mr. PIERCE. You are both anxious to get away?

Mr. KERR. I know I am.

Mr. PIERCE. How long is this conversation supposed to be carried along? Can you tell me, Mr. Bailey?

Mr. BAILEY. No; I can't tell you the exact length of time, Mr.——

Mr. PIERCE. Do you know, Mr. Kerr?

Mr. KERR. Why, if we are to be governed by the actual time that the conversation took place in Toronto, I believe that the interesting part, or the part which pertains to the case, covered a period of about 20 minutes to a half an hour.

Mr. PIERCE. Twenty minutes to a half an hour?

Mr. KERR. Yes.

Mr. PIERCE. We will carry on the conversation that length of time, I suppose.

Mr. KERR. Why, I have not been instructed by any person as to the length of time that the conversation will go on here. I will say that we were in the room, though, about an hour and a half.

Mr. PIERCE. This testimony which Sheridan took—was that supposed to cover that length of time?

Mr. KERR. Why, Mr. Sheridan took very little of the total conversation that occurred in the room. The only conversation that he took was evidence that had to do with this case—that is, that was considered as incriminating evidence, as I understand.

Mr. PIERCE. As you understand?

Mr. KERR. Yes, sir.

Mr. PIERCE. You say you have been around the city quite a bit, Mr. Bailey, since you have been here?

Mr. BAILEY. Well, I have not taken in many of the sights. I have been to the Capitol, and over to the Howard Institute one day; but outside of that I have not taken in anything.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

Strange VOICE. You were not in yesterday afternoon, were you?

Mr. KERR. I was in yesterday morning.

Mr. BAILEY. I did not hear any of the evidence regarding that.

Strange VOICE. ———.

Strange VOICE. Made a very interesting witness—— (Break.)

Mr. BAILEY. (Break.) Two days and possibly a little more than two days.

Mr. BAILEY. Mr. Kerr followed me on the witness stand, if I remember.

Mr. KERR. I was only on one time. It was the understanding, however, that I should go on again, but I have not been advised as yet whether I will go on again. (Break.) I am very anxious to get away.

Mr. KERR. I have not been advised to that effect.

Mr. KERR. (Break.) Governed by the actual time the conversation took place in Toronto, I believe the interesting part, but the part which pertains to this case covers a period of about 20 minutes to a half hour. (Break.) I should say we were in the room about an hour and a half.

Mr. KERR. Mr. Sheridan took very little of the (break) conversation that occurred in the room. The only conversation he took was the evidence that had to do with this case—that is, incriminating evidence, as I understand it.

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Mr. PIERCE. Of course, it has been rather cold for sightseeing?

Mr. BAILEY. Not only that; I have been expecting to be called at any time before the committee, and I have been down here at the Senate House every day, practically all day.

Mr. PIERCE. Mr. Bailey has been along—Mr. Kerr has been along with you, I suppose?

Mr. BAILEY. Yes; we usually have been together since we have been in Washington. We spent most of the time together.

Mr. PIERCE. There is quite a bit to see in the city. You have had plenty of time to get around.

Mr. BAILEY. Well, I have seen most of the sights here on previous occasions. I have been here a number of times, and spent more or less time in Washington.

Mr. PIERCE. So that you are not very much interested?

Mr. BAILEY. No; I am interested, but at the same time it is not like a person that has never seen these things.

Mr. PIERCE. I really myself have not had time to get around at all, as much as I would like to.

Mr. KERR. I would like very much to go through the Treasury Department. I imagine that would be a very, very interesting trip.

Mr. PIERCE. Yes; I should think that it would.

Mr. KERR. I have been through the National Museum of Art over here, and the State capitol. Those are about the only two places that I have been, with the exception of the theaters, of course.

Mr. PIERCE. You did not mean the State capitol, did you, Mr. Kerr? You meant the National Capitol?

Mr. KERR. Yes; I meant the National Capitol.

Mr. PIERCE. You said "the State capitol," I believe.

Mr. KERR. Yes. No; I was wrong there. I meant the National Capitol.

Mr. PIERCE. Of course the correction will not be needed. You say that you have been more or less interested in the Lorimer case for some time, Mr. Bailey—three years?

Mr. BAILEY. Well, through my investigation, yes; since I have been working on this investigation, of course, I was more or less interested in it.

Mr. PIERCE. And the papers, of course, have been full of it; and you followed it through them only?

Mr. BAILEY. Well, I have not followed it very closely, but I have read some of it, of course. I have not really followed it closely, though; in fact, I followed it very little until I took this matter up with regard to McGowan.

Mr. PIERCE. I have noticed the Chicago papers have been all full of the case, so I didn't know but you had followed it through that.

Mr. BAILEY. Well, you see, I spend very little time in Chicago. I am out around in other cities most of my time. I may get in Chicago over night and leave in the morning for some other place, or the next day, and I spend very little time in Chicago.

Mr. KERR. Mr. Cornelius suggests talking on the Columbus affair down there. I don't know whether it would be advisable to go on with that or would the committee desire us talking on that?

Mr. PIERCE. I don't suppose that they really would.

Mr. KERR. Probably not.

Mr. PIERCE. Mr. Kerr, you are on from Detroit, are you not?

Mr. KERR. Yes; I am in Detroit pretty much, although I am out of the city a lot. Detroit is my home. My residence is there.

Mr. PIERCE. And you came on here for this one case alone—that is, the Lorimer case?

Mr. KERR. Yes; I came over here from Toronto.

Mr. PIERCE. Have you been interested in the case before?

Mr. KERR. No.

Mr. PIERCE. From reading it in the papers, I mean?

Mr. KERR. What is that?

Mr. PIERCE. Reading it in the papers, I mean.

Mr. KERR. Oh, I have read considerable of it in the papers; yes.

Mr. PIERCE. In the Detroit papers or in the Chicago papers?

Mr. KERR. Oh, Detroit papers, or papers that I would get wherever I was, you know; mostly, though, in Detroit papers.

Mr. PIERCE. Are they as interested in the case as the Chicago papers?

Mr. KERR. What is that?

Mr. PIERCE. Are they as interested in the case as the Chicago papers?

Mr. KERR. Oh, no; there is very little in the Detroit papers on this case. They don't seem to pay much attention to the cases, although I read considerable in the Detroit papers of Mr.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

Mr. BAILEY. During my investigation, yes. (Break.) I have been working on this investigation more or less. (Break.)

Mr. BAILEY. I have not followed it very closely. (Break.) I have not really followed it closely, though. (Break.) Took this matter up in regard to McGowan.

Mr. BAILEY. You see, I spend very little time in Chicago. I am (break) I may go into Chicago over night and leave Chicago. (Break.)

STRANGE VOICE. Have you been in the case before?

Mr. KERR. In the papers; yes.

STRANGE VOICE. Detroit papers?

Mr. KERR. Detroit papers, or papers I look at wherever—mostly all Detroit papers.

STRANGE VOICE. (Break.) Chicago papers.

Mr. KERR. Oh, no; there is very little in the Detroit papers on this case. They don't seem to pay much attention to this case.

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Carnegie's testimony in Washington. I don't know whether it was before the same committee or not, but——

Mr. PIERCE. I don't believe that was before the same committee.

Mr. KERR. I don't know. I don't think it was, however. I was very much amused when I read an article in the Detroit paper stating that Mr. Carnegie got a check, or something, for his time, and was going to have it framed.

Mr. PIERCE. What is that again? I didn't understand that.

Mr. KERR. Why, if I remember the article rightly, Mr. Carnegie got a check or a voucher for his fee as a witness, and I believe the article stated that he was not going to have it cashed, but was going to keep it as a sort of souvenir.

Mr. PIERCE. Preserve it, I suppose?

Mr. KERR. Preserve it; yes.

Mr. PIERCE. Have it framed?

Mr. KERR. I believe that he was going to have it framed; yes.

Mr. PIERCE. You fellows, when you go back, ought to get your money framed.

Mr. BAILEY. Yes; we ought to. That's right. I haven't heard anything about getting any yet.

Mr. PIERCE. I believe that you have your expenses, don't you? You are witnesses in the case.

Mr. BAILEY. I don't know much about that. I don't remember ever collecting any witness fees or any expenses for anything that I testified on anywhere.

Mr. KERR. This is the first time I ever appeared before a committee, or the first time that I ever was involved either as a witness or had any charges put before me. I never had any court experience at all.

Mr. PIERCE. It must be very trying all right.

Mr. KERR. Oh, I was a little nervous when I first went on the stand, but after I was on there a short time I believe I was composed.

Mr. PIERCE. In following this Lorimer case, you say the papers all over the country have been more or less filled with the account of the hearings. You say, Bailey, that you never remember reading of it before you were employed by your agency?

Mr. BAILEY. Oh, yes; I have read some of the testimony at different times, but I never followed it closely, you know.

Mr. PIERCE. Not closely at all?

Mr. BAILEY. No; not until after I took up this case, you know; this investigation. Then, of course, I followed it more or less closely; but there were times when I was on that investigation that I could not very well take it up. I don't think they had very much of it in the Regina or Moosejaw papers or any of those places. I don't think they had anything, in fact.

Mr. PIERCE. But, of course, through your interest in the case, after you were employed by these parties that were interested in it, you followed it pretty closely, didn't you?

Mr. BAILEY. Well, I suppose you would call it closely. I read considerable of it when I was around where I could get papers, you know, that had much of it in.

Mr. KERR. But you did not read any of it when you were up in Canada, eh?

Mr. BAILEY. No; I don't think it treated upon it very much in the Canadian papers. I don't remember seeing any of it at all in the Canadian papers.

Mr. KERR. What was your impression of the case?

Mr. BAILEY. Oh, I didn't have much of an impression of it; I didn't form any opinion about it at all. I was not familiar with it enough for that, Harry.

Mr. PIERCE. You say you did not form any opinion at all?

Mr. BAILEY. I have not formed any opinion in regard to the outcome of the case or anything like that. That is what I thought Mr. Kerr meant by his question there.

Mr. KERR. No; I just wanted to know what your opinion was on it. I probably should not have asked that question—about the only thing I could think of at the time.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

Mr. KERR. I was a little nervous when I first went on the stand, but after I was on a short time (break) composed.

STRANGE VOICE. (Break.) Lorimer case. The papers all over the country.

Mr. BAILEY. I read some of the testimony at different times, but I never followed it closely (break) not till after (break) of course I followed it more or less closely (break) then I could not very well follow it. I don't think they had very much in the Regina or Moosejoint papers.

Mr. BAILEY. I suppose you would call it closely.

Mr. KERR. What was your impression on the case?

Mr. BAILEY. I did not have much of an impression. (Break.) I was not familiar with it enough, Harry (break) regard to the outcome of the case.

Mr. KERR. I just wanted to know what wour opinion on it was. (Break.)

SECOND TEST.

WHAT WAS SAID AS REPORTED BY OFFICIAL REPORTER.

Mr. WARD. To begin with, I want to get the opinion of you if this is a case of forced hospitality?

Mr. BAILEY. If this is a case of forced hospitality?

Mr. WARD. Yes.

Mr. BAILEY. Well, I don't know. It looks a little bit like that to me.

Mr. WARD. What has been your connection with this case other than Mr. McGowan?

Mr. BAILEY. Why, I have made the investigation on Mr. McGowan. That is about the extent of my work on this case.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION.

STRANGE VOICE. What has been your connection with this case other than McGowan?

Mr. BAILEY. Oh, I have been making an investigation with McGowan (break) has been about the extent of my work on this case.

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Mr. WARD. Well, now, to begin with, I want to ask both of you gentlemen if it has occurred to you that it is a long time between drinks?

Mr. KERR. Yes. I suggest that we have a bottle of Budweiser.

Mr. BAILEY. Well, I second the motion.

Mr. WARD. What was that banquet in Detroit?

Mr. BAILEY. Oh, there are so many banquets around the New Year's, you know, that I couldn't remember just any particular banquet that took place there.

Mr. WARD. Was that on New Year's eve?

Mr. BAILEY. Well, on acount of New Year's coming on Sunday, the conditions of the law there in regard to selling liquor, some held it on Saturday and some on Sunday; different places held it on different occasions, you see.

Mr. WARD. Who is the mayor up there now?

Mr. KERR. Billy Thompson.

Mr. WARD. Who is the police magistrate?

Mr. KERR. Frank Crowell.

Mr. WARD. Is there any talk up there on general politics?

Mr. KERR. Is there any talk on general politics?

Mr. WARD. Yes; presidential politics.

Mr. KERR. Oh, there naturally would be.

Mr. WARD. What is the sentiment up in that country for Col. Roosevelt?

Mr. KERR. Why, I believe Roosevelt has a pretty good following up there.

Mr. WARD. Considerable advertising?

Mr. KERR. I don't know of any advertising.

Mr. WARD. Have the papers said anything about him?

Mr. KERR. Oh, there is more or less in the newspapers regarding the candidates on the Republican ticket, or whatever you want to call it. I believe Mr. Taft is very strong up there. I don't follow politics very closely, although I should judge that I am in the prosecuting attorney's office two or three times a week. My attorney is in that building and is assistant prosecuting attorney.

Mr. WARD. Who is the prosecutor now?

Mr. KERR. Mr. Shepard—Hugh Shepard.

Mr. BAILEY. Where are you from?

Mr. WARD. Chicago.

Mr. BAILEY. Oh, you live in Chicago, do you?

Mr. WARD. Yes.

Mr. BAILEY. That is a pretty nice city, isn't it?

Mr. WARD. Yes; it is quite a large city.

Mr. BAILEY. Have you been living there very long?

Mr. WARD. Yes; four or five years.

Mr. BAILEY. You like it better than your previous place of abode, do you?

Mr. WARD. Oh, yes; yes.

Mr. BAILEY. It is funny I never met you around Chicago, sir.

Mr. WARD. Well, I am pretty busy most of the time, on the way from Chicago to Washington and back again. I generally have been with the Senator on his trips back and forth, and of course while this investigation has been going on I have been connected with that more or less all the time.

Mr. BAILEY. Well, I meet so many people around Chicago that I remember an awful lot of faces around there after seeing them a time or two, you know. Anyway, I am pretty good at remembering faces.

Mr. KERR. You could pretty nearly make your home here, couldn't you, Mr. ——, I have forgotten your name.

Mr. WARD. My name is Ward.

Mr. KERR. Mr. Ward?

Mr. WARD. Yes. No; I could not—not if I had my own way about it.

Mr. KERR. Well, I mean you are here so much.

Mr. WARD. Oh, I am here a great deal of the time; yes. I spend my time entirely between here and Chicago.

Mr. KERR. Do you like this?

Mr. WARD. Oh, very much, as a city. It is a beautiful place, and all that; but there is not enough going on here, as a rule, to interest a person who has lived in a large city.

Mr. KERR. I see.

Mr. WARD. And particularly a person who has been connected for the last two years, as I have, with every phase of this investigation, both here and in Chicago and in Springfield. I happened to be with the Senator at the time. That is, I was his secretary at the time that he was elected to the Senate.

Mr. KERR. I see.

Mr. BAILEY. Was not this matter taken up in Chicago at one time?

Mr. WARD. In some of its phases; yes. What have you reference to particularly?

Mr. BAILEY. To the Lorimer investigation.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

STRANGE VOICE. (Break.) It has occurred to you it is a long time between drinks.

STRANGE VOICE. (Break.) With this investigation, both here and in Chicago and at Springfield.

Mr. BAILEY. Was not this matter taken up in Chicago at one time?

STRANGE VOICE. (Break.) Yes.

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Mr. WARD. Yes; yes; it has been taken up there on two different occasions, as I remember; first, in October, or late in the fall of 1910, and then again this committee went out there this summer and sat there for a number of weeks taking testimony there in Chicago.

Mr. BAILEY. Well, I have reference to the October session, I guess, when Mr. McGowan and I came back from the West.

Mr. WARD. Oh, yes.

Mr. BAILEY. I think, if I remember rightly, they were in session there at that time.

Mr. KERR. Did you come back in October?

Mr. BAILEY. Yes; in October.

Mr. WARD. What time in October?

Mr. BAILEY. Oh, I forget; somewhere around about the 18th, 19th, or 20th. I think, if I remember rightly, I was in Milwaukee on the 18th. I seem to remember that very distinctly.

Mr. WARD. The 18th of October?

Mr. KERR. Have you got a match?

Mr. BAILEY. No; I have not got a match just now.

Mr. KERR. Do you care for a cigar?

Mr. BAILEY. Yes; I will take a cigar. Is it a good one?

Mr. KERR. Not this one.

Mr. WARD. At that meeting in the King Edward Hotel, how many rounds of drinks did you fellows have?

Mr. BAILEY. Well, it is pretty hard to say. Neither of us are very heavy drinkers, you know.

Mr. WARD. Do you recollect how long the discussion ran on the McGowan matter?

Mr. BAILEY. Oh, I could not recall. We talked, I think, for about an hour and a half in that room that first time Mr. McGowan came up there; but the LORIMER matter was not discussed, you know, only a certain limited time.

Mr. WARD. Did it occur to you at that time that it was rather cold weather?

Mr. BAILEY. Very cold. We had the windows closed. I know that the room was closed up very tight, and I think we had the transoms closed, if I remember rightly.

Mr. WARD. How cold does it get there at that time of year; do you know?

Mr. BAILEY. Well, I heard them say it was 12 or 14 below.

Mr. WARD. Oh, it gets that cold in Chicago. It was 16 or 17 in Chicago, as I recollect it, and about 12 or 14 below here in Washington, even.

Mr. KERR. I believe on the Sunday it was 8 or 9 below zero.

Mr. WARD. Was that the Sunday you were in the room up there?

Mr. KERR. Yes; we were in a room that Sunday, but we went down to the Walker House with Mac for luncheon, and I remember we walked down, and I remember distinctly that I thought my ears were frozen on the way down. It was awful cold, and there was an awful sharp wind off the lake, and we took that route down; that is, we did not go down King Street; we went down—I believe we took the street down that the Walker House is on. I don't just recall that street.

Mr. WARD. How far is the King Edward Hotel from the lake?

Mr. KERR. Oh, it is three or four squares; maybe it is five or six, but not any more, I don't think. It is pretty close to the lake.

Mr. BAILEY. Were you ever in Toronto?

Mr. WARD. No. Now, on that occasion when you were all together and going down to the lake, did you stop on the way to get any drinks or anything to eat?

Mr. KERR. Not on a Sunday. We went to the Walker House and had a luncheon; no.

Mr. WARD. Is Toronto a "dry" town?

Mr. KERR. Well, I always was under the impression that all Canadian towns were pretty "dry" for this reason: that the law provides over there for all hotels and bars to close their sample rooms or barrooms at, I think, 11 o'clock week nights and 7 o'clock on Saturday night, and all day Sunday. Now, I never can recall an instance where there have been any prosecutions, you know, or read any articles, or where you could ever get a drink in Canada on a Sunday, unless you got it in a high-grade or first-class hotel in your own room.

Mr. WARD. I always understood that—that the Province of Ontario was very strict in laws of that kind, in what you might call in this country the "blue laws"; but that was what set me to wondering, when the testimony came out in this case down here, that there were drinks in the hotel on that Sunday night; I didn't suppose that they could be gotten.

Mr. KERR. Oh, yes; you can get a drink; I think, at some time about 2 o'clock in the morning, isn't it, that you can't get any? Then you can get it at 6 o'clock. I remember that now. They have a kind of a subbar, as I understand it, that they

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

Mr. BAILEY. To the LORIMER investigation?

STRANGE VOICE. Yes; it has been taken up on two different occasions; first, in the fall of 1910 (break), taking testimony in Chicago.

Mr. BAILEY. I have reference to the October session.

STRANGE VOICE. I say, if I remember right, they were in session there at that time.

Mr. KERR. Did you come back in October?

STRANGE VOICE. Yes; in October.

Mr. BAILEY. (Break.) I think, if I remember rightly, I was in Milwaukee on the 18th.

STRANGE VOICE. Eighteenth of October?

STRANGE VOICE. (Break.) In the King Edward Hotel. (Break.)

Mr. BAILEY. (Break.) Pretty hard to say; neither of us are pretty heavy drinkers.

Mr. KERR. We went down to the Walker House with Mac for luncheon, and I remember distinctly I thought my ears were frozen on the way down (break), and we took that (break) I believe we took (break) that the Walker House is on.

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

serve from to the rooms, but I believe the other is served from the bar. While I am not sure about it, I believe——

Mr. BAILEY. Well, we had no difficulty in getting a drink in our room at any time, without it was after 2, or something, very late in the morning or early in the morning, whichever you would call it.

Mr. WARD. Do the drug stores sell it up there?

Mr. BAILEY. I never got any at the drug store. They may do it. I know they do in lots of places—for medicinal purposes, though, I think, as a rule.

Mr. WARD. I know of a little town in Illinois that had local option, and I think they started up about 20 drug stores in a town of 2,000 people. It was a common saying around there that everybody in town sold it, and every institution sold it except the post office.

Mr. BAILEY. Well, that may be a fact. I don't know anything about that.

Mr. WARD. Did you work on the McNamara case?

Mr. BAILEY. Yes; I worked on the McNamara case to some extent; not to any——

Mr. WARD. Out on the coast—any features of it out on the coast?

Mr. BAILEY. I never went on the coast on the McNamara case at all; no. I went to Milwaukee and made the investigation up there for the Milwaukee Fuel Co, when that explosion took place up there.

Mr. WARD. You travel around a good deal, don't you?

Mr. BAILEY. Yes; I travel around a great deal.

Mr. WARD. On the road a great deal?

Mr. BAILEY. A great deal.

Mr. WARD. That was true in the last year, the early part of the year, was it?

Mr. BAILEY. Why, I travel around a great deal all of the time. Of course I can't recall whether I was traveling around just at the first of the year or not, but I travel around a great deal at all times. I don't spend very much time in one place, without the operation is a lengthy operation, a drawn-out operation.

Mr. WARD. I suppose in your travels around you probably run on little incidents in connection with the McNamara case, and probably in connection with your Columbus case, or whatever that was, and you pick up information generally, don't you, wherever you go around the country, and even when you are on those trips you pick up things connected with this investigation?

Mr. BAILEY. Oh, anything that I would pick up connected with any investigation I would report it to our office, you know. That would be natural. We don't overlook any bets, if we can help it, you know, in our line.

Mr. WARD. Yes; I guess not. The conversation seems to be flagging.

Mr. BAILEY. Yes; I don't know what seems to be the trouble. I can't find much to talk about.

Mr. KERR. You were on the Columbus case, weren't you—that is, didn't you spend a long time on that Columbus case?

Mr. BAILEY. Yes; I think I was on the Columbus case probably three or four months; I don't know just how long. I think I took it up some time in May, and worked on it until about the middle of July—something like that. It might have been longer. I think we went—I think we went to Columbus and testified later than that. The operation was really over as far as getting the evidence.

Mr. WARD. What time was that?

Mr. BAILEY. That was in—the operation, I think, terminated in July. Then I think we went to testify some time in September. It was the latter part of August, I think, when Diegle was tried there.

Mr. WARD. What year was that?

Mr. BAILEY. That was 1911.

Mr. WARD. Did you carry that work along in connection with your work on this case?

Mr. BAILEY. Oh, no.

Mr. WARD. When did you go tc Toronto?

Mr. BAILEY. Well, I left Detroit for Toronto, I think, on the—on the 2d of January, 1912, if I recall rightly.

Mr. WARD. Now, then, I want to ask you a question about that meeting there in the hotel that night. I do not want to encroach on the prerogatives of the committee in asking these questions, and I do not intend any discourtesy to them in doing it, but there is a feature of it that I would like to know about, and that is, if you gentlemen had anything there in the way of refreshments in the room at that time?

Mr. BAILEY. At what time?

Mr. WARD. At the time this conversation took place.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

STRANGE VOICE. Pick up things in connection with this investigation.

Mr. BAILEY. That would be natural.

STRANGE VOICE. Did you carry that work along in connection with the work in this case?

Mr. BAILEY. No.

STRANGE VOICE. When did you go to Toronto?

Mr. BAILEY. (Break.) I went to Detroit. (Break.)

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Mr. BAILEY. Oh, yes; we had a bottle of beer there, I think—Budweiser, I think. Mac and I generally drank Budweiser if we could get it.

Mr. KERR. I believe we had two bottles each.

Mr. BAILEY. Well, that may have been so, Harry.

Mr. WARD. What was that story you related up there that evening, Mr. Kerr? Do you recollect what it was about?

Mr. KERR. Oh, I related a couple of stories. I related a story that pertained to George B. Cox, of Cincinnati. Do you want me to tell it to you?

Mr. WARD. Why, no; I don't believe I care. I just want to know if it had any bearing on this case, or if it had any connection with this case in any way.

Mr. KERR. No; it had no connection with it, but I was always a great admirer of Mr. Cox, for this reason, that I understood that—that is, they told me when I went to Cincinnati that he worked himself up from a bartender.

Mr. BAILEY. Well, I don't think we want to go into that, discuss that thing, because we want to talk here and not discuss that thing at any length. I don't think we want to do that.

Mr. WARD. Well, that is all right. I don't care to know about it.

Mr. KERR. Well, anyway, it was only told in the form of a story. There was really no object in telling the story.

Mr. WARD. Did you have in mind, at the time this conversation was going on, that you gentlemen would go out that evening around the town?

Mr. BAILEY. I don't remember whether we did or not. We may have. I don't recall that just now at this time. We may have. Charlie generally wanted to take a run around, and I generally fell in line with him.

Mr. KERR. I did not personally care about going out, because I don't go out on excursions of that kind. I have only been married a little over two years.

Mr. BAILEY. Well, I have been married considerably longer than that. Of course business sometimes calls you in ways that you wouldn't go otherwise, don't you know. [After a pause.] Well, we were discussing the LORIMER case. Do you think it will last very much longer?

Mr. WARD. Oh, I can't tell. I don't have any means of knowing how long it would last.

Mr. BAILEY. It has been going on now for some 9 or 10 months, has it not?

Mr. WARD. The present investigation has been going on since last June.

Mr. BAILEY. And have you been on the case ever since that, Mr.——

Mr. WARD. Even before that. I was, as I stated before—I was connected with the Senator when he was elected to the United States Senate, and came down here as his secretary, and have been with him constantly ever since; and, of course, I was with him when the first investigation was had, in the fall of the year 1910, when Senator Burrows was chairman of the committee, and that case was debated in the Senate last spring; and I believe it was either on the 1st or 2d day of March, 1911, that the committee took a vote on a resolution submitted by Senator Beveridge in the Senate declaring that Senator LORIMER had not been legally elected to his seat. The result of that vote was 46 nays and 40 yeas, by which Senator LORIMER was seated. Following that session——

Mr. BAILEY. You are going a little too rapidly. I can't quite understand you there, sir.

Mr. WARD. Well, following that session of that Congress a resolution was introduced in the present Congress, the first session, by Senator LA FOLLETTE, in which he raised the question that new evidence had been——

Mr. BAILEY. Pardon me just a moment. You are talking so fast that I can't hardly get a word that you are talking about. You just go along as though you were reading a book.

Mr. WARD. No; I am not reading a book.

Mr. BAILEY. Well, you are——

Mr. WARD. I am just stating about this case in answer to your question. You asked me how long——

Mr. BAILEY. Oh, I didn't want you to go in it quite so far.

Mr. WARD. I did not want to detain the committee here, and that is the reason I was just skimming over——

Mr. BAILEY. You surely will not, if you go along at that rate; you won't detain the committee.

Mr. KERR. Pardon me, Mr. Ward. Mr. Burrows was a Michigan man, wasn't he?

Mr. WARD. Yes; he lived in Kalamazoo, Mich.

Mr. KERR. Oh, yes.

Mr. WARD. And he has been Senator from Michigan for a great number of years. I think he has been in public life for about 33 years, as I recollect. He started in the Civil War.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

Mr. BAILEY. We were discussing the LORIMER case. Do you think it will last much longer?

STRANGE VOICE. No; I can't tell.

Mr. BAILEY. It has been going on now for some 9 or 10 months, hasn't it?

STRANGE VOICE. (Break.) Ever since last June.

STRANGE VOICE. In the fall of the year of 1910, when Senator (break) was chairman of the committee (break). I believe it was on the 2d of March (break) declaring that Senator LORIMER had not been legally elected to his seat (break). Senator LORIMER was (break) following that action of Congress a resolution was introduced (break) by Senator LA FOLLETTE, in which he (break).

WHAT WAS SAID AS REPORTED BY THE OFFICIAL REPORTER—continued.

Mr. BAILEY. It is pretty hard to stop this gentleman. He wants to do all the talking, doesn't he? I don't know why he wants to rattle along that way. We can't understand that rapid conversation.

Mr. KERR. How do you spell his name—B-u-r-r-o-w-s?

Mr. WARD. Yes; that is correct.

Mr. KERR. He has no connection with the Burroughs Adding Machine Co. in Detroit?

Mr. WARD. No; the names are spelled in an entirely different manner. I don't know whether he has any connection with them or not.

Mr. BAILEY. Do you know the Burroughs Adding Machine people?

Mr. WARD. No; I do not. I probably——

Mr. BAILEY. They have a big plant in Detroit, you know.

Mr. WARD. I probably know an agent of the company, but I don't know any of them.

Mr. BAILEY. They are quite a large concern. They build these adding machines, you know.

Mr. WARD. Yes. Who is connected with them?

Mr. BAILEY. Mr. Lauver, for one. I know him very well.

Mr. WARD. Whom?

Mr. BAILEY. Mr. Lauver—L-a-u-v-e-r.

Mr. KERR. I know a couple of the heads of that concern who were, rather, in the mechanical department. One is now. Let me see. I think a gentleman by the name of Bannard.

WHAT SHERIDAN REPORTED OF THE SAME CONVERSATION—continued.

Mr. LORIMER. As I have said, the William J. Burns Detective Agency had been employed for six weeks by the Senate committee on this same phase of the case, and though paid a large amount by the Senate, had not produced any results. The committee, at the suggestion of its counsel, thereupon terminated its employment. Subsequently the Burns agency was employed by the Chicago Tribune and the International Harvester Co. on the same job. Thus Burns and every employee of his had a double incentive—to relieve himself from the odium of his own complete failure and to meet the demands of his new employers, the arch enemies of LORIMER.

Sheridan and the forged notes were the result. What was staged to be a dramatic-climax conclusion of the hearings before the committee collapsed into an anticlimax and laid bare the methods of the prosecution.

Now, where do we come? Charles A. White, bought by the Tribune; nobody denies that. Glavis got $750 to get something to be given to the committee on which to create an impression that LORIMER was corrupting officials in the departments in Washington, and, if it was so, he ought to be in the penitentiary. That would convince Senators that he was not fit to be in the Senate; and that would be so if it were true. After they got through turning him out here then they would start him on the road for Leavenworth, which is the nearest place of the kind to the town in which I live.

Then they did not have enough. So the Tribune bought William J. Burns's Detective Agency to commit perjury. What I have shown you here is the proof of it; nobody will doubt it. While bought to perjure his soul, Glavis bought to perjure his soul, but he did not have nerve enough to go through with it. Then, when they found that Glavis would not go through, what did they do? They had him indicted here in Washington. Of course, after they got him indicted they could say that Glavis was the crook; they could swear to anything that they wanted, and they would have sworn to anything; in other words, they had him indicted to make him shut his mouth, to make him hold his tongue. All that we know about the Glavis case is what I have stated to you, that he did get $750 to try to produce something to help destroy LORIMER with the Senators of the United States and ultimately to land him in the penitentiary.

Burns was employed by the attorneys of the committee. He sent his men out after McGowan and they were with him for many weeks, I have forgotten how many. Burns was employed by the attorneys of the committee at the suggestion of the Chicago Tribune. After he had been out for about six weeks the committee met in Chicago to examine into what Burns reported, and they concluded that he had nothing, and so they discharged him.

After the committee had discharged him Mr. Funk, of the International Harvester Co., and the Chicago Tribune, and Bancroft, of the International Harvester Co., told the Burns Detective Agency to go ahead. So all these conspirators are shown by the testimony to have been working together, not getting people who had sinned and repented to come in and cleanse their souls and purge the country of corruption, but to get others to commit perjury for them. The men they bought and paid were the men that produced perjury. Will anybody believe when these men had gone on the stand and the evidence showed that they had perjured themselves that the Tribune crowd and the International Harvester crowd did not know that they were going to perjure themselves when they bought them and when they paid for them?

Senators, let me ask you this question: If the press of the country had not misled you so much on the testimony in this case, if you knew it as I have stated it to you here since I have been discussing the case, if your minds were not made up because of that misinformation before the committee reported, if you believe what I state, would you turn a Senator out of the Senate on that sort of testimony? Let us have a case without any newspaper trust prosecuting it, without any International Harvester Trust prosecuting it, brought here on its merits, with no public sentiment created by false statements in the press, with no people back home demanding blood, would you then turn out a Senator—I do not care who he may be—on that sort of testimony? I believe if you knew this record, if you had studied the record, as it is impossible for you to do, because I know what the duties of a Senator are; I know that we do not all know all about what is going on, but that we must follow in this body as we follow in the world throughout our lives men in whom we have confidence, and that is what you do here—if you had the information in your minds, as Senator JONES now has it in his mind—and nobody will say that Senator JONES has changed his mind for any reason other than that he is now convinced that he was wrong a year ago—if you only had this testimony in your minds as he has it in his mind, Senators would rise in their places and state that they have had enough of this talk, that there is other business in which the country is interested, that they do not believe this foul perjurer—White—and that they want to settle the case and have done with it. That is the frame of mind Senators would be in if they knew this testimony.

So, Senators, if you drive me hence, I will never charge you with anything except voting upon a case on which you did not have sufficient information to make up a correct judgment.

I want, however, to call your attention—I had no idea of discussing it, but if I had had this information I would have discussed it yesterday—to a telegram which just comes to the Chamber. I did not even know that the sender still lived. He was a member of the legislature of our State years ago. This is not testimony. At the best it is only hearsay, and we do not even know that the man whose name appears as signed to it is the person who really sent it, but I believe that it comes from Walter B. Sayler, once a member of the Illinois General Assembly, a then successful lawyer in the city of Chicago. He wires as follows:

(Telegram.)

CARTHAGE, MO., *July 13.*

Hon. WILLIAM LORIMER,
United States Senate, Washington, D. C.:

Sometime since H. H. Kohlsaat sent a man from Chicago to Carthage, Mo., who wanted me to make an affidavit against you charging you with influencing legislation by the use of money. This shows the extent to which he will go to injure your reputation, as there were no grounds for me to make such an affidavit.

WALTER B. SAYLER.

Mr. Sayler was a reputable man and always had a good reputation in Chicago. This is not evidence, but I offer it to the Senate for what it is worth.

I want now just for a moment to address myself to the other side of the Chamber—to the Democratic side of the Chamber. I do not want you to answer the question, but I want you to consider it.

I have lived for about 40 years among the people among whom I reside now. Since I was 10 years of age I have lived with those people, Democrats in a very large majority. Those who live there and own homes, who have charge of business affairs, who are the professional men and the clergymen and the mechanics and the laborers in that community were the boys of my boyhood. I never quarreled with my neighbors, any more than I quarrel with my chums, any more than I have quarreled with Members of Congress in either branch since I have been here. So, I was not quarreling with my Democratic neighbors because they were Democrats. I was brought up among them. Their fortunes were my fortunes, and my fortune was theirs. I have been a Republican all these years ever since I cast my first vote in 1884. My surroundings were overwhelmingly Democratic, but I made up my mind to cast my lot with the Republican Party because, after what I had read and what I had been able to glean of the history of my country, I decided that that party could probably manage most successfully this great Government under which we live.

Since I was 24 years of age, in a lesser or a greater degree, I have been taking an active part in the affairs of my party, aiding in all the campaigns, both local and national, discussing the issues in every campaign, talking about the principles of the party as I understood them, pleading with the people to vote the Republican ticket because, in my opinion, it was to the best interests of every citizen of this country to do so.

Our campaigns were heated, while Republican victories were few in that community; but never in all my experience on the platform have I ever uttered one word of denunciation of the party that I was opposing or of the candidates of the party to which I was opposed. I have always held the opinion that if a party was good enough to manage the affairs of this Government there were reasons enough to present to the people on which they might be convinced without slandering or villifying the other party or its candidates. In season and out of season, when Democrats came to me and asked for favors of any sort, large or small, I never asked them what party ticket they voted, and I never in my life, as Senator KERN stated in his speech—which will not be justified by anything in the record—got a job in a public office for any Democrat because he would serve me.

I have had sense enough to know, I have had experience enough to know, and I have that knowledge now of the human family, that what you may do to-day for an individual may not count to-morrow; it may not count the next day; it may never count; but I have always justified my act to myself on the ground that I was helping a fellow man, and if I wanted his help at some time in the future and did not get it he, not I, was the loser. So it has been; so it will be while the world endures. Every good act has its own compensation, whether the recipient appreciates it or not, and while he might himself have been ungrateful I have the pleasure and the gratification and the knowledge that I have reached out the hand to a fellow man and aided him when he needed aid and when he could not get it elsewhere. Oh, I never asked him whether he was a Democrat or a Republican; it was enough for me to know that he was a man, that he needed help, and I could help him; and if it happened, as it has happened, and if it be true that I have on account of the position that I have been in, whether it was fortunate or unfortunate, helped here and there and elsewhere the friends of my boyhood, my neighbors, and the friends of my neighbors who were in need of my help, and they were Democrats—and there are Democrats by the thousand that I have helped—does that not show that Democrats had valid reasons to support me rather than prove that their votes were secured through corrupt methods and practices?

Will any man with an ounce of sense believe that a man who has that sort of record, as it appears in this record, must resort to bribery and corruption to secure the support of the friends of his boyhood, his playmates, his playfellows, those whom he has helped, and those with whom he has worked? Should it be charged that because they represent the Democratic Party and because I am a Republican that, at the end of a long drawn out deadlock, with the knowledge from the beginning to the end that there was no chance of any kind for a Democrat—should it be charged that I, or somebody for me, must have bought those friends to vote for me in order to secure a seat in this body? I doubt if the people of the country would lay that charge at the door of any citizen under similar circumstances if they were conversant with the history and knowledge of the life I have lived as shown by the record in this case.

And so you gentlemen, many of you who live in States from which a Republican does not now and probably for many years will not come to this body, who know nothing about the politics of our community, even though you do not understand it, it is as I have told it to you, though you can not even conceive of such a condition.

Then may I not invite your attention to the great State of Tennessee that recently elected [LUKE LEA] a Senator to this body. By what? Bribery and corruption? Oh, no; I do not charge that; I do not suspect it; but by 32 Republican and 34 Democratic votes. For what reason? Because of Republican friends of the days of his boyhood, Republican friends who have gone shoulder to shoulder through the world for 40 years with him in all the trials and tribulations of life, friends whom he has helped and who have helped him? Oh, no. Republicans, honest men, just as honest as the 53 Democrats who voted for me, voted for him on account of a political condition in his State, different from the condition in my State, but yet a political condition without any chance in the world of electing a Republican. Nobody could hope for that. Democrats there would not vote for a Republican because the Democrats were in the majority. Each man might not have the man he wanted, but because they were in the majority, they were determined he must be a Democrat, and they would have been there until to-day if they could not have agreed upon a Democrat. Republican leaders, honest men, thought that was the best solution of the situation for the Republican Party—not the Democratic Party, but the best solution of the situation in Tennessee for the Republican Party—as Democrats have sworn they thought it was the best solution of the situation for Democrats in Illinois who were of the minority party there.

Because of that situation, on the recommendation of the leaders of the Republican Party, they voted for Senator LEA. What the detail is I do not know, and it is not of any consequence, any more than it is of any consequence in my case. The fact remains that those were the conditions in the two States; and the result is here as you observe it.

Are Democrats the only corrupt people on the face of the earth? Are they the only people that can be bribed and corrupted? I will not believe it. Nobody will ever make me think that. I know the heads of families in my neighborhood; I know the men who built up our community; I know their families. Two out of every three of them are Democrats; and I know them better, and more of them, probably, than any Democrat in public life in the State of Illinois. And because of what I know of the Democrats in my community, I will not believe that Democrats are the only people that are susceptible to bribery and can be corrupted. Nor will I believe the statement of any man that the Republicans of Tennessee—32 of them, as great a number in proportion as voted for me in Illinois—were corrupted. I believe, Senator LEA, you occupy your seat here with as clean a title as any man that ever sat in this body; but not by your party vote, any more than I occupy my seat by the strict Republican vote of the State of Illinois.

Democratic Senators, unless you are convinced from this record that Democrats were bought to vote for me—and there is no charge that Republicans were corrupted—you ought not to vote to turn me out. I want no answer; but I think what I have suggested to you is worthy of consideration.

I want you to know now that I am not pleading for votes. I would not have the vote of a man that believes I came here corruptly. I do not want your votes unless you believe that my election is as clean and was as clean, and my certificate is as pure, as that of any man that ever sat in this body.

It has been suggested that "the interests" want LORIMER here; that the "the interests" wanted LORIMER elected. Everybody knows what is meant by "the interests." I will not name the corporations. But the evidence in this case, Senators, shows that one of the largest so-called "interests" in the country has left no stone unturned to turn me out. The International Harvester Co. has even gone so far as to continue the Burns Detective Agency in an investigation of this case for the purpose of turning LORIMER out.

I never did anything to the International Harvester Co. I never in my life did them an injury. I never lifted a finger against them. The only thing I ever did was to do my duty as a Member of Congress and prevent them from closing up a navigable stream in the city of Chicago that would serve a territory about 6 miles long on either side of the river, which some day in the future will be one of the largest industrial centers in the world. I was not doing anything against the

International Harvester Co. I was keeping open for navigation a highway of commerce that has been used ever since Marquette and Joliet traversed the Desplaines Valley, and in parts is now navigable for ships drawing 12 feet of water. They wanted it closed. I, as a Member of Congress, felt that it was my duty to keep it open. Since long before the McCormicks were members of the International Harvester Co. this contest has been going on, but without malice on my part. At any time, in my capacity as a Member of Congress, I would have served them if it had been to the interest of the industries in my community. But I could not sit as a Member of Congress and see destroyed forever a section of the great city from which I come, which some day will be the center of commerce, the center of industry of the world.

That is a broad statement, and Senators probably think a rash statement. But consider the Central West and the Mississippi Valley in connection with the position Chicago occupies, and you can not fail to understand what the future of that great city is to be. I was to destroy one of the best portions of the town or have the ill will of men who should not have viewed the matter in that way. They have more money than they will ever spend—millions piled upon millions. The interest on their income they never can consume. Yet their greed for more prompted them to try to shut out their neighbors from the same advantages that they still would have had if their neighbors had been shut out. And, in addition to that, they themselves own the only artery of commerce which could have served that community in the future—a railroad which they own and control and which parallels the waterway they would close.

That is not reason enough for men to turn in with the enemies of another man to aid in destroying him. It did not seem to me that men could stoop so low. But that is all that I have ever offended them in. Whether or not they are bitterly opposed to me the record will tell. And so I say that if there is evidence here that "the interests" were taking a hand, the largest "interest" in the country, or one of them, was taking a hand on the other side.

But there is one question that I want to put to Senators on this proposition of electing LORIMER with the money of "the interests." Who was the candidate against me? Who was the candidate that LORIMER beat? LORIMER beat Hopkins. The day before LORIMER was elected Hopkins had 95 votes. All he needed in order to have a majority of the General Assembly, or of the members that were alive at that time, was seven more. That is all. Only seven more. When LORIMER started out he did not have a vote—not a vote. He had friends in the legislature, but no votes—nobody voting for him.

Did "the interests" want to get LORIMER into this body? Let us see. There is reason in all things; there should be logic in everything; or, at least, logic can be applied to everything, regardless of the results.

Fifty-three Democrats voted for LORIMER. Were they bought? Senator KERN, in the first part of his speech, intimates that they were. A little further on he says he does not think they were all bought. But the impression is general over the country that 53 Democrats would not have voted for a Republican unless they were bought. Then, if they were bought, they were corrupt; they were cattle; they were not fit to sit in a legislature.

Hopkins needed seven. LORIMER required 53. Will you tell me that "the interests" were going to spend enough money to buy 53 corrupt men, when they could just as easily have elected Senator Hopkins by buying seven of these alleged corrupt Democrats? Do you mean to say that if they were there for money, if money was the all-powerful influence, if money brought about the result, they could not have been purchased for Hopkins?

Ah, no! Men that can be bought can be bought for anything or for anybody, in my opinion. I have had no experience in it, but I would not trust anywhere a man that could be bought for anything.

If they could have bought seven, why not buy them? What about Hopkins? What about LORIMER? If LORIMER had been owned body and soul by every "interest" in the city of New York on Wall Street, could he have been under any conditions a stronger protectionist than Hopkins? In any way in the world could he have been described as a more conservative man than Hopkins? Hopkins always voted with the Republican Party. He believed in the principles of the party. He was a sound-money Republican. He was a protectionist of the stalwart kind. He was an anti-injunctionist. He was for constitutional and representative government, and against the initiative and referendum, and the recall of judges. On the fundamentals of this Government, Hopkins and I stand together. We may both be wrong, but there is no difference in opinion.

If that be true, if I do not differ from Hopkins on those questions, Hopkins was known to be an able man, a good lawyer, with long congressional experience, able to defend himself against men on the floor, in every way equipped for service in this Chamber or any other legislative body. If Hopkins and I think alike, believe alike, and vote alike on governmental questions, he with more ability, a well-educated man, will anybody who knows the facts believe that the interests bought 53 votes for LORIMER when they could have bought 7 votes and had in the Senate Hopkins, who believes on all important public questions just as LORIMER believes? Oh, no. That fallacy will fall of its own weight when people know the truth, when people know what Hopkins and LORIMER stand for.

Much has been said in this debate; many beautiful things for which a Senator should be grateful and he must feel glad that men felt they were justified in making the statements—much has been said that LORIMER has lived a pure private life.

I hope the record will show in the closing days that their statements have been justified. But every man who lives a pure private life, as far as the weaknesses of humankind will permit, has his own reward. Every correct act and every good deed have their own compensation. I ask nothing from Senators on that account; it is no part of this case, and I hope it will not influence any Senator in making up his judgment. Much has been said of an ideal home life. Oh, yes; ideal. When I return to my home, one glance into the beautiful faces, one kiss from each and caresses from all, is compensation enough for the trials and the efforts of a lifetime. They will not feel that they are disgraced with me if I am turned from this Chamber. It will draw them closer about me; they will love me the more; they will form a hollow square around me and defend me against the world. In them am I not blessed beyond my merits? Such blessings are not always bestowed upon men; and in all this strife and in all these trials and tribulations—in the last two years when they have been fiercer and more ferocious than ever before—with all this, surrounded by them I am the happiest of men living under God's sun. Oh, yes; I have been abundantly rewarded, and I ask nothing because of them or because of the ideal home life.

It has been said by Senators that the worst enemies of LORIMER have not impeached his integrity; that they have not challenged his honesty. They have said, and it is in the record, that his word is as good as his bond; that he never turned on a friend; that he has always been consistent, right or wrong. I ask nothing for that except the consideration on the part of Senators of that statement when they are making up their judgment to pass on this case, when they are deciding as to whether or not they can believe LORIMER, whether they will believe LORIMER or Charles A. White; and this whole case is centered around the question as to whether or not White told the truth when he stated that Lee O'Neill Browne bribed him to vote for LORIMER on the 24th day of May, 1909, and that never until that time did he speak of it to another soul and never did he state to another person that he would vote for LORIMER. All I ask is that you consider that in connection with the record of 40 years for truth and veracity, not on my statement, but on the statement of my enemies as printed in the record. I ask that consideration. Will you believe the professed bribe taker, the man who admits that he has time after time lied and perjured his soul, or will you believe the three other men—Shaw, O'Neil, and Gloss—and use in connection with that consideration my word?

Much has been said about LORIMER's resignation. The question comes every day, Will LORIMER resign? When I introduced the resolution over two years ago inviting the Senate to investigate as to whether or not I was corruptly elected to the Senate by the General Assembly of Illinois, I had no more knowledge of the facts, no more information than any other Senator, except as I knew the conditions under which my election was secured; and I did not believe that my Democratic friends could be bought, and I did not believe that they would take money to vote for me; and I so stated upon the floor of the Senate. If I had found when the testimony was written that one man had been bribed, Charles A. White himself, not enough to reduce the majority to a minority, but one bribed vote, the first day thereafter I would have walked into this Senate and laid my resignation before this body.

But I know the history of this case. I know the history of my State. I know the history of the people who have followed me, lo, nigh unto death, for 25 years. I know the record. As God is my judge, and some day I must be judged by Him, I know that no man cast a corrupt vote for LORIMER.

Resign in the face of that knowledge? Resign in the face of that conviction? Why? Because they say the Senate has been canvassed and, right or wrong, enough votes have been secured to turn LORIMER out.

Resign when and why? Because defeat stares you in the face? Oh, such an argument; run from defeat which stares you in the face. What sort of a man is he who will do an act like that? If the men who built this country and made it what it is, had run when they saw defeat staring them in the face, we would have had no history to boast of; we would have no Stars and Stripes to pray for and to praise. We would have no country. He who is so cowardly as to run because defeat stares him in the face surely has no place in this body. This is not a Chamber for cowards. It was not built on fear or cowardice. No man who will run because defeat stares him in the face or because there is danger ahead is fit to occupy a seat in this body.

Oh, Senators, you may vote to turn me out. If every vote in the Senate had been canvassed and been declared against me, I am still, while I have strength and am alive, going to continue to try to make a character and reputation of never having been a coward.

Oh, no, no, no, I will not resign. If I go from this body it will be because more Senators vote in favor of that resolution than against it. My exit will not be from fear. My exit will not be because I am a coward. It will be because of the crime of the Senate of these United States.

I am ready.

Mr. LEA. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Tennessee suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lippitt	Root
Bacon	Cummins	Lodge	Sanders
Bailey	Curtis	Lorimer	Shively
Borah	Dillingham	McCumber	Simmons
Bourne	Dixon	Martin, Va.	Smith, Ariz.
Bradley	Fall	Martine, N. J.	Smith, Ga.
Brandegee	Fletcher	Myers	Smith, Md.
Briggs	Foster	Nelson	Smith, S. C.
Bristow	Gallinger	Newlands	Smoot
Brown	Gamble	O'Gorman	Stephenson
Bryan	Gore	Oliver	Stone
Burnham	Gronna	Overman	Sutherland
Burton	Guggenheim	Page	Swanson
Catron	Hitchcock	Paynter	Thornton
Chamberlain	Johnson, Me.	Penrose	Tillman
Clapp	Johnston, Ala.	Perkins	Townsend
Clark, Wyo.	Jones	Poindexter	Watson
Clarke, Ark.	Kenyon	Pomerene	Wetmore
Crane	Kern	Rayner	Williams
Crawford	La Follette	Reed	Works
Culberson	Lea	Richardson	

The PRESIDENT pro tempore. Eighty-three Senators have answered to their names. A quorum of the Senate is present.

Mr. DIXON. Mr. President, I hesitate about detaining the Senate even for one minute, but on Thursday of this week, while I was absent from the Chamber, the Senator from Illinois [Mr. LORIMER] in the course of his remarks had read from the clerks' desk an affidavit, or paper purporting to be an affidavit, in which my name was mentioned. As a matter of common decency, as a matter of truth, that may go into this record before the vote is taken, I must make the statement which I now make.

The Senator from Illinois—I quote from the RECORD of Thursday—said:

> Mr. President, I do not introduce those affidavits as proof that I am in any way entitled to a seat in the Senate. They have no bearing on this case at all, and should have no influence on anybody's mind; they should have no controlling influence over any United States Senator; but I merely introduce them that the people of the country may have an opportunity to observe the hypocrisy that is running rampant through this country.

I do not have the full remarks of the Senator from Illinois, but, quoting from a New York paper, printed the morning after, I read:

> It was here that LORIMER declared his sole purpose in introducing the affidavit was to reveal hypocrisy. "They prove," he shouted, "that Col. Roosevelt would have been nominated for the Presidency at Chicago if his friends could have obtained it for him by corruption."

Here is the affidavit read at the request of the Senator from Illinois, which he stated had been made by a negro delegate from the State of Georgia, so the Senator informed me, to the Chicago convention, and handed to him, so he told me, by a negro who was an alternate delegate from Georgia. Here is the statement as presented by the Senator from Illinois:

> STATE OF GEORGIA, *County of Henry, ss:*
>
> On this 27th day of June, 1912, before me, J. A. Fouche, clerk superior court, appeared R. A. Holland, who, after being duly sworn, deposes and says that he was elected a delegate to the National Republican convention from the State of Georgia; that on the 21st day of June, 1912, while in attendance at said convention in the city of Chicago, he was approached by Dr. L. Brinson, at Chicago, Ill., who carried him to the Roosevelt headquarters, where he was met by Senator DIXON, McHarg, and Kincaid. DIXON went out. McHarg introduced Kincaid as a millionaire, who said: "We are to represent Mr. Roosevelt—are ready to do business, and whatever you boys want we are ready to give it to you; if you will vote for us to-morrow for the nomination of Mr. Roosevelt, whatever you want I will see that you get it." I refused to name any amount or to accept one cent from him.
>
> Further this deponent saith not.
>
> R. A. HOLLAND.
>
> Subscribed and sworn to before me this 27th day of June, 1912.
>
> J. A. FOUCHE,
> *Clerk Superior Court.*

I now say to the Senate as a United States Senator and on my honor as a man that the whole statement contained in this so-called affidavit is a malicious and a deliberate falsehood. I know no such man by the name of Holland, the so-called colored delegate. I never heard of any man by the name of "Kincaid." No such man was ever directly or indirectly connected with the Roosevelt headquarters at Chicago. No such colored delegate ever came to the Roosevelt headquarters. No man by the name of Kincaid, to my knowledge, ever came into the Roosevelt headquarters. I never knew or heard of "Dr. L. Brinson."

No such thing took place at "Roosevelt headquarters at Chicago." No agent or friend of Col. Roosevelt ever authorized, sanctioned, or tolerated any such thing as is set forth in this so-called affidavit.

Whatever may have been the consideration for the execution of this affidavit by this negro from Georgia or the motive of the Senator from Illinois in introducing it into the record at this time I do not know.

Undoubtedly the motive behind its introduction into this debate was to try and poison men's minds and to strike blindly at Theodore Roosevelt, whom the Senator from Illinois says is his enemy. Whatever the motive, I now say to you that the whole statement is a malicious, a deliberate, and a premeditated falsehood.

The PRESIDENT pro tempore. The question is on the resolution of the Senator from Tennessee [Mr. LEA], upon which the yeas and nays have been ordered.

Mr. REED. I ask that the resolution may be read.

Mr. TILLMAN. Mr. President, I desire to make a statement before the vote is taken.

The PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. TILLMAN. I am too weak to read it. I will ask the Secretary to read it.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

Mr. TILLMAN. Mr. President, I desire to explain the reasons which will control my action on this vote. I was unwilling to expel Mr. LORIMER from the Senate when this matter came up the first time, because there was no direct evidence showing that he knew of the bribery or had advised or connived at it. Our laws recognize the righteousness of giving the man accused the benefit of the doubt, if there be any doubt, and I did not think it right to send Mr. LORIMER from the Senate disgraced when there was strong doubt as to his guilt. I myself have been the object of so much newspaper persecution and false accusation I did not like to expel him when I found that the Chicago Tribune was the principal prosecutor in the case. I find nothing in the so-called "newly discovered evidence" to justify a change in my attitude, and I shall give him the benefit of the doubt and vote against the resolution.

When it was first proposed to reopen the Lorimer case upon the plea of newly discovered evidence, although I was not in the Senate at the time, I favored the idea, desiring the fullest exposé of the corruption, if any existed. But the more I think about it, the more convinced I am that each succeeding Senate ought not to have the power to exercise the right to reopen cases that have already been tried by their predecessors. There ought to be some time when a case will be settled once for all. I have changed my mind and come to believe that the Constitution ought to be interpreted to mean that the Senate to which a man is elected "shall be the judge of the elections, returns, and qualifications of its own Members." Otherwise a man's title to his seat here will always be in jeopardy, and if it is worth while Senators may be driven by public clamor and newspapers to persecute rather than prosecute a Senator. The changing currents in our political life are sometimes so rapid and violent that there is danger in giving way to them, and I say this believing religiously in the right of the people to govern themselves, and having faith that ultimately they will right all wrongs of which we now complain.

That there is corruption at Springfield, I have no doubt whatever. That there is corruption at Chicago, I have no doubt whatever. No large city has ever escaped the "boodlers" that

naturally spring up where millions of men are assembled together and the strong are led to prey upon the weak; and in any State where there is a large city under our scheme of government there may be expected corrupt politics. The only exception, if it be an exception, is in Massachusetts. I never have believed that Boston exercised the corrupting influence upon the Massachusetts Legislature that New York City does on New York, or Philadelphia does on Pennsylvania; and I attribute New England's exemption from corruption in politics to the large size of the State Legislatures. It is much easier by use of money or other corrupt instrumentalities to debauch a small legislature than a large one; and then, too, our "Yankee" friends, while they always seem willing and anxious, under the forms of the law, to put their hands in other men's pockets, are always very careful to guard their own. The corporations in New England I have sometimes thought controlled the legislatures enough to send their attorneys here, but in my 18 years of service I do not believe there has ever, in my time, been a Senator from New England who was corrupt.

I know that my vote in this case before has given great umbrage to a large number of my constituents in South Carolina, because the newspapers there have a fellow feeling for the great Chicago dailies, and have howled about LORIMER'S corruption until they believe him to be corrupt, and the people knowing nothing about the record and the evidence in the case have imbibed the same idea.

Two men are now canvassing the State for my seat and the primary comes off on the 27th of August; but if I knew my vote would cause my defeat, I would still cast it in his favor. Since I was stricken with paralysis, 30 months ago, I have thought often and seriously about death and the hereafter. That I am here at all is in some respects a miracle, and I know I must go hence and meet the Great Judge face to face very soon. Knowing that, I can not do otherwise than vote as my conscience dictates, and I believe this man is innocent of the charges brought against him.

If he be driven from the Senate, as seems probable now, I hope he will consecrate his life and great talents—for we all recognize what a phenomenal orator he is—to the purification of politics in his native city and the uplift of his fellow citizens in Illinois to the realization of their duty and their danger. But whether he is expelled or not, he ought to do this, and I believe if he does bravely fight for a purer and better government in Illinois, God will strengthen his arm and he will return to the Senate vindicated by the people of that great State. I know, for I have been all over it, that there are many millions of the native American stock there, men as high and patriotic as those in any other State, and they ought to assert their manhood and prove their patriotism.

The PRESIDENT pro tempore. The resolution upon which the Senate is about to vote will be read from the desk.

The SECRETARY. Senate resolution 315, by Mr. LEA:

Resolved, That corrupt methods and practices were employed in the election of WILLIAM LORIMER to the Senate of the United States from the State of Illinois, and that his election was therefore invalid.

The PRESIDENT pro tempore. Senators who are in favor of the resolution will, when their names are called, answer "yea" and those opposed will answer "nay." The roll will be called.

The Secretary proceeded to call the roll.

Mr. JOHNSTON of Alabama (when Mr. BANKHEAD'S name was called). My colleague [Mr. BANKHEAD] is necessarily absent. He is paired with the Senator from West Virginia [Mr. CHILTON]. If my colleague were present, he would vote "nay"; the Senator from West Virginia would vote "yea."

Mr. RICHARDSON (when Mr. DU PONT'S name was called). My colleague [Mr. DU PONT] is absent, indisposed. He has a general pair, I understand, with the senior Senator from Texas [Mr. CULBERSON]. If my colleague were present and voting, he would vote "nay."

The PRESIDENT pro tempore (when Mr. GALLINGER'S name was called). The occupant of the chair is paired with the Senator from Arkansas [Mr. DAVIS]. He transfers that pair to the Senator from Idaho [Mr. HEYBURN], and votes "nay." The Chair has been requested by the Senator from Idaho to state that if he had the privilege of voting, he would vote "nay," and that the Senator from Arkansas would vote "yea." The Senator from Idaho is detained from the Senate by serious illness, and he requested that this statement be made.

Mr. GAMBLE (when his name was called). Mr. President, during my recent absence from the city a pair was arranged between the senior Senator from Oklahoma [Mr. OWEN] and myself. I do not regard it as binding in this particular case. I am, however, anxious to protect him, and I transfer that pair to the junior Senator from Wyoming [Mr. WARREN] and vote. I vote "nay."

Mr. MYERS (when his name was called). During his absence from the Senate I have a pair with the Senator from Connecticut [Mr. MCLEAN]. I am, however, authorized to state that, if the Senator from Connecticut were present, he would vote on this question in the same way that I shall vote. I am therefore released from my pair with him on this question and shall vote. I vote "yea."

Mr. GORE (when Mr. OWEN'S name was called). My colleague [Mr. OWEN] is necessarily absent from the Senate. If present, he would vote "yea."

Mr. CLARK of Wyoming (when Mr. WARREN'S name was called). My colleague [Mr. WARREN] has been called from the city by serious illness in his family.

The roll call was concluded.

Mr. CULBERSON (after having voted in the affirmative). In view of my general pair with the Senator from Delaware [Mr. DU PONT], who has not voted, I withdraw my vote.

Mr. MCCUMBER. It is perhaps proper for me to state that I have a general pair with the senior Senator from Mississippi [Mr. PERCY]. I have a letter from that Senator relieving me from that pair. I, however, would not have considered the pair as binding in a case of this kind.

The roll call resulted—yeas 55, nays 28, as follows:

YEAS—55.

Ashurst	Cummins	Martin, Va.	Shively
Bacon	Curtis	Martine, N. J.	Simmons
Borah	Dixon	Myers	Smith, Ariz.
Bourne	Fall	Nelson	Smith, Ga.
Briggs	Gardner	Newlands	Smith, Mich.
Bristow	Gore	O'Gorman	Smith, S. C.
Brown	Gronna	Overman	Stone
Bryan	Hitchcock	Page	Sutherland
Burton	Johnson, Me.	Poindexter	Swanson
Chamberlain	Kenyon	Pomerene	Townsend
Clapp	Kern	Rayner	Watson
Clarke, Ark.	La Follette	Reed	Williams
Crawford	Lea	Root	Works
Cullom	Lodge	Sanders	

NAYS—28.

Bailey	Dillingham	Jones	Richardson
Bradley	Fletcher	Lippitt	Smith, Md.
Brandegee	Foster	McCumber	Smoot
Burnham	Gallinger	Oliver	Stephenson
Catron	Gamble	Paynter	Thornton
Clark, Wyo.	Guggenheim	Penrose	Tillman
Crane	Johnston, Ala.	Perkins	Wetmore

NOT VOTING—11.

Bankhead	Davis	Lorimer	Percy
Chilton	du Pont	McLean	Warren
Culberson	Heyburn	Owen	

The PRESIDENT pro tempore. On the resolution submitted by the Senator from Tennessee [Mr. LEA] the yeas are 55 and the nays are 28. The resolution is agreed to.

SENATOR FROM NEVADA.

Mr. NEWLANDS. Mr. President, I rise to a question of privilege. The Hon. W. A. MASSEY, recently appointed by the governor of Nevada to fill the vacancy in the Senate created by the death of the late Senator Nixon, is present and desires to take the oath of office.

The PRESIDENT pro tempore. The Senator elect will present himself at the desk and take the oath of office.

Mr. MASSEY was escorted to the desk by Mr. NEWLANDS, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

MANUFACTURE OF COTTON GOODS (H. DOC. NO. 872).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent J. M. Hause containing the result of his investigation of the English methods of dyeing, finishing, and marketing of cotton goods, which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

ENROLLED BILLS SIGNED.

The PRESIDENT pro tempore announced his signature to the following enrolled bills, which had heretofore been signed by the Speaker of the House of Representatives:

S. 23. An act to authorize the extension of Underwood Street NW.;

S. 5271. An act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases;

H. R. 17937. An act authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance Department for improvements or economy in manufacturing processes or plant; and

H. R. 20684. An act providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation, in the State of Idaho.

PETITIONS AND MEMORIALS.

Mr. CRANE presented the petition of Rev. F. W. Hazen, of Falmouth, Mass., and the petition of Rev. H. L. Kilborn, of Kingsborn, Mass., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were referred to the Committee on the Judiciary.

Mr. SANDERS presented a petition of the National Anti-Third Term League, praying for the enactment of legislation submitting to the legislatures of the States a joint resolution prohibiting the election to the office of President or Vice President of the same person for more than two terms of four years each and eight years in all, and remonstrating against the proposed single term of six years, which was ordered to lie on the table.

Mr. PENROSE presented a memorial of members of the Lithuanian Societies of Wilkes-Barre, Pa., remonstrating against the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on Patents, to which was referred the bill (S. 6896) to reopen and extend certain letters patent granted to Richard B. Painton; to insert certain claims in said letters patent dated May 9, 1899, reported it without amendment and submitted a report (No. 905) thereon.

He also, from the same committee, to which was referred the bill (H. R. 24224) to amend sections 5, 11, and 25 of an act entitled "An act to amend and consolidate the acts respecting copyrights," approved March 4, 1909, reported it without amendment and submitted a report (No. 906) thereon.

Mr. ROOT, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 95) providing for a monument to commemorate the services and sacrifices of the women of the country to the cause of the Union during the Civil War, reported it with amendments and submitted a report (No. 908) thereon.

Mr. WILLIAMS, from the Committee on Military Affairs, to which was referred the bill (S. 5262) to correct the military record of Capt. Sylvester G. Parker, reported it with amendments and submitted a report (No. 909) thereon.

Mr. BRISTOW, from the Committee on Military Affairs, to which was referred the bill (H. R. 17483) amending section 1998 of the Revised Statutes of the United States, and to authorize the President in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the military or naval service, reported it with amendments and submitted a report (No. 910) thereon.

Mr. SANDERS, from the Committee on Military Affairs, to which were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were postponed indefinitely:

S. 1168. A bill for the relief of Christopher C. McCamment (Rept. No. 911); and

S. 1169. A bill for the relief of John Vankirk (Rept. No. 912).

Mr. SUTHERLAND. I submit the report of the Commission to Investigate the Title of the United States to Lands in the District of Columbia. I ask that the report (No. 907) be printed and that it be referred to the Committee on Public Buildings and Grounds.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAWFORD, from the Committee on Claims, to which was referred the bill (H. R. 24121) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims, reported it with amendments and submitted a report (No. 913) thereon.

Mr. OVERMAN, from the Committee on Claims, to which was referred the bill (H. R. 7672) for the relief of Mary J. Manning, reported it without amendment and submitted a report (No. 914) thereon.

He also, from the same committee, to which was referred the bill (S. 259) for the relief of the First National Bank of Cottonwood, Idaho, reported adversely thereon, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. RAYNER:

A bill (S. 7266) for the relief of Mary E. E. Cheseldine (with accompanying paper); to the Committee on Military Affairs.

A bill (S. 7267) waiving the age limit for admission to the Pay Corps of the United States Navy in the case of Evan Urner Rinehart; to the Committee on Naval Affairs.

A bill (S. 7268) for the relief of the estate of Thomas Loker, deceased; to the Committee on Claims.

By Mr. BANKHEAD:

A bill (S. 7269) for the relief of the Mobile Marine Dock Co.; to the Committee on Claims.

By Mr. SHIVELY:

A bill (S. 7270) granting an increase of pension to George W. Jones;

A bill (S. 7271) granting an increase of pension to William White; and

A bill (S. 7272) granting an increase of pension to Joseph Troyer; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 7273) opening certain lands in the Colorado River Indian Reservation in Arizona to settlement under the provisions of the Carey Act; to the Committee on Indian Affairs.

By Mr. SANDERS:

A bill (S. 7274) to amend an act entitled "An act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases," approved August 8, 1890; to the Committee on Interstate Commerce.

By Mr. BOURNE:

A bill (S. 7275) for the relief of Mary J. McLaughlin; to the Committee on Military Affairs.

A bill (S. 7276) granting an increase of pension to Martha Dye (with accompanying paper); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 7277) for the relief of the estate of George Lloyd Raley; to the Committee on Claims.

A bill (S. 7278) providing that the pay of officers of the Navy commence from the date they take rank as stated in their commissions; to the Committee on Naval Affairs.

By Mr. PENROSE:

A bill (S. 7279) granting an increase of pension to Henry M. Palm; to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BAILEY submitted an amendment proposing to appropriate $25,000 to construct and maintain a fish-cultural station in Uvalde County, Tex., intended to be proposed by him to the sundry civil appropriation bill (H. R. 25069), which was referred to the Committee on Appropriations and ordered to be printed.

Mr. STEPHENSON submitted an amendment authorizing the Secretary of the Treasury to adjust the accounts of the clerks of the United States courts for the western district of Wisconsin, etc., intended to be proposed by him to the general deficiency appropriation bill (H. R. 25970), which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

OMNIBUS CLAIMS BILL.

Mr. PENROSE submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with the findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts, which was ordered to lie on the table and be printed.

DONATION OF CANNON.

Mr. PERKINS submitted an amendment intended to be proposed by him to the bill (H. R. 24458) authorizing the Secretary of War, in his discretion, to deliver to certain cities and towns condemned bronze or brass cannon, with their carriages and outfit of cannon balls, etc., which was referred to the Committee on Military Affairs and ordered to be printed.

ESTATE OF WILLARD WARNER, DECEASED.

Mr. SANDERS submitted the following resolution (S. Res. 354), which was read and referred to the Committee on Privileges and Elections:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to the estate of Willard Warner, deceased, formerly a Senator from the State of Alabama, the sum of $6,543.38, due him as a Senator of the United States in the Fortieth Congress, from the 4th of March, 1867, to June 24, 1868, to be paid from the miscellaneous items of the contingent fund of the Senate.

THE "TITANIC" DISASTER.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 355), which was read and referred to the Committee on Printing:

Resolved, That 500 additional copies of Senate Document No. 726, Sixty-second Congress, second session, be printed for the use of the Senate folding room.

ADA ANDREWS.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 356), which was read and referred to the Committee on Printing:

Resolved, That 18,000 additional copies of Senate Document No. 806, Sixty-second Congress, second session, be printed for the use of the Senate folding room.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 7015) to provide American registry for the steamer *Damara*.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 606. An act for the relief of John Treffeisen;

H. R. 5135. An act for the relief of John J. Troxell;

H. R. 5763. An act for the relief of William K. Harvey, alias William K. Hall;

H. R. 11627. An act to correct the military record of Barkley S. Denison;

H. R. 20339. An act for the relief of Joseph W. McCall;

H. R. 20362. An act granting a pension to Catherine Wise;

H. R. 21315. An act for the relief of Robert Ross;

H. R. 21524. An act for the relief of Frederick H. Ferris;

H. R. 22591. An act to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911;

H. R. 25598. An act granting a pension to Cornelia Bragg; and

H. R. 25713. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had passed the following resolution (H. Res. 628):

Resolved, That a message be sent to the Senate to inform them that this House has impeached, for high crimes and misdemeanors, Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court, and that the House adopted articles of impeachment against said Robert W. Archbald, judge as aforesaid, which the managers on the part of the House have been directed to carry to the Senate, and that HENRY D. CLAYTON, of Alabama; EDWIN Y. WEBB, of North Carolina; JOHN C. FLOYD, of Arkansas; JOHN W. DAVIS, of West Virginia; JOHN A. STERLING, of Illinois; PAUL HOWLAND, of Ohio; and GEORGE W. NORRIS, of Nebraska, Members of this House, have been appointed such managers.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. BACON. Mr. President, I now submit to the Senate an order, which I ask the Senate to make, and for which I ask present consideration.

The PRESIDENT pro tempore (Mr. GALLINGER). The Senator from Georgia submits an order, for which he asks present consideration. The order will be read.

The Secretary read as follows:

Ordered, That the Secretary inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court, agreeably to the notice communicated to the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the order? The Chair hears none, and, without objection, the order is agreed to.

THE PANAMA CANAL.

Mr. BRANDEGEE. I move that the Senate proceed to the consideration of House bill 21969, known as the Panama Canal bill.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Connecticut. The bill will be stated by its title.

Mr. McCUMBER, Mr. SIMMONS, and Mr. REED addressed the Chair.

The PRESIDENT pro tempore. The Chair will suggest that the motion is not debatable.

Mr. McCUMBER. I rise to a parliamentary question, as to whether or not that motion makes the Panama Canal bill the unfinished business.

The PRESIDENT pro tempore. It will if the motion is agreed to.

Mr. McCUMBER. Mr. President, I object.

The PRESIDENT pro tempore. The Senator from North Dakota can not object. The question is upon the motion.

Mr. REED. I ask for a roll call on the motion.

Mr. SIMMONS. Mr. President, I desire to make a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. SIMMONS. Is it in order to move to substitute another bill for the bill named by the Senator from Connecticut?

The PRESIDENT pro tempore. It is not under the rules of the Senate.

Mr. SIMMONS. Mr. President, it is my desire to substitute for the bill moved by the Senator from Connecticut, the wool tariff bill; and so I hope the motion to take up the Panama Canal bill will be voted down.

The PRESIDENT pro tempore. The question is on the motion made by the Senator from Connecticut [Mr. BRANDEGEE] that the Senate proceed to the consideration of House bill 21969, known as the Panama Canal bill.

Mr. SIMMONS. I ask for the yeas and nays on the motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. OLIVER]. I therefore withhold my vote.

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON]. I therefore withhold my vote.

Mr. FOSTER (when his name was called). I have a general pair with the Senator from Wyoming [Mr. WARREN], who is absent. I therefore withhold my vote.

Mr. MYERS (when his name was called). I have a pair with the Senator from Connecticut [Mr. McLEAN]. On this question the pair holds good. Therefore I refrain from voting. If at liberty to vote, I should vote "nay."

Mr. BROWN (after having voted in the affirmative and when Mr. OWEN's name was called). I have a general pair with the Senator from Oklahoma [Mr. OWEN]. He is absent from the Senate Chamber, and I therefore withdraw my vote.

The roll call was concluded.

Mr. CURTIS (after having voted in the affirmative). I am paired with the junior Senator from Arkansas [Mr. DAVIS], and therefore withdraw my vote.

Mr. BAILEY. I did not answer to my name when it was called because I was not certain whether the Senator from Montana [Mr. DIXON], with whom I have a pair, was in the Chamber. I desire now to inquire whether or not he has voted.

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. BAILEY. Then, I withhold my vote.

Mr. JOHNSTON of Alabama. My colleague [Mr. BANKHEAD] is necessarily absent. He is paired with the Senator from Idaho [Mr. HEYBURN].

Mr. BRADLEY (after having voted in the affirmative). I voted without observing the absence of the Senator from Maryland [Mr. RAYNER], with whom I have a pair. I therefore withdraw my vote.

Mr. CLARK of Wyoming. I desire to announce the necessary absence of my colleague [Mr. WARREN] because of serious illness in his family. He has a general pair with the Senator from Louisiana [Mr. FOSTER].

Mr. MYERS. I rise to inquire if the Senator from Florida [Mr. FLETCHER] is recorded as having voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. MYERS. Then, I transfer my pair with the Senator from Connecticut [Mr. McLEAN] to the Senator from Florida [Mr. FLETCHER] and will vote. I vote "nay."

Mr. WATSON. I desire to announce that my colleague [Mr. CHILTON] is absent from the Chamber on account of personal illness. He is, however, paired with the Senator from Illinois [Mr. CULLOM].

The result was announced—yeas 40, nays 34, as follows:

YEAS—40.

Borah	Crane	Kenyon	Richardson
Bourne	Crawford	La Follette	Root
Brandegee	Cummins	Lippitt	Sanders
Briggs	Dillingham	Lodge	Smith, Mich.
Bristow	Fall	Nelson	Smoot
Burnham	Gallinger	Oliver	Stephenson
Burton	Gamble	Page	Sutherland
Catron	Gronna	Penrose	Townsend
Clapp	Guggenheim	Perkins	Wetmore
Clark, Wyo.	Jones	Poindexter	Works

NAYS—34.

Ashurst	Johnston, Ala.	Overman	Smith, S. C.
Bacon	Kern	Paynter	Stone
Bryan	Lea	Pomerene	Swanson
Chamberlain	McCumber	Reed	Thornton
Clarke, Ark.	Martin, Va.	Shively	Tillman
Gardner	Martine, N. J.	Simmons	Watson
Gore	Myers	Smith, Ariz.	Williams
Hitchcock	Newlands	Smith, Ga.	
Johnson, Me.	O'Gorman	Smith, Md.	

NOT VOTING—20.

Bailey	Culberson	du Pont	McLean
Bankhead	Cullom	Fletcher	Owen
Bradley	Curtis	Foster	Percy
Brown	Davis	Heyburn	Rayner
Chilton	Dixon	Massey	Warren

So Mr. BRANDEGEE's motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone, which had been reported from the Committee on Interoceanic Canals with amendments.

Mr. BRANDEGEE. Mr. President, I had intended to ask that the bill be read this afternoon and then laid aside, but I find quite a disposition among Senators to hold an executive session, which is said to be necessary, and therefore I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and that order is made.

Mr. BRANDEGEE. I ask unanimous consent to have inserted in the RECORD, without reading, a communication from the Secretary of State transmitting a résumé of a note received from the British Government in relation to the Panama Canal tolls.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The communication is as follows:

DEPARTMENT OF STATE,
Washington, July 12, 1912.

The Hon. FRANK B. BRANDEGEE,
Chairman Committee on Interoceanic Canals,
United States Senate.

SIR: I have the honor to bring to the knowledge of your committee the fact that a communication dated the 8th instant, just received from the British chargé d'affaires, indicates that the attention of the British Government having been called to various proposals from time to time made for the relieving of American shipping from the payment of tolls on vessels passing through the Panama Canal, that Government has studied carefully those proposals and the arguments in support of them, with a view to the bearing thereon of the provisions of the treaty between the United States and Great Britain of November 18, 1901. The communication sums up the proposals mentioned as (1) one to exempt all American shipping from tolls, (2) one to refund to all American ships tolls which they might pay, (3) one to exempt from the payment of tolls American ships engaged in the coastwise trade, and (4) one to repay to the last-named class of American ships tolls which they might pay.

The communication indicates it to be the opinion of His Britannic Majesty's Government that to exempt all American shipping from the payment of tolls would involve an infraction of the treaty, and indicates further the opinion that there would be no difference in principle between charging tolls only thereafter to refund them and remitting such tolls altogether. The opinion is expressed that the method of charging but refunding tolls, while perhaps complying with the letter of the treaty, would still contravene its spirit. The communication admits that there is nothing in the Hay-Pauncefote treaty to prevent the United States from subsidizing its shipping, but claims that there is a great distinction between a general subsidy either to shipping at large or to shipping engaged in any given trade and a subsidy calculated particularly with reference to the amount of use of the canal by the subsidized lines or vessels. Such a subsidy, if granted, would not, in the opinion of His Britannic Majesty's Government, be in accordance with the obligations of the treaty.

With respect to the proposal that exemption shall be given to vessels engaged in the coastwise trade, the communication states that it may be that no objection could be taken if the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for American vessels, would be benefited by this exemption; but that it appears to His Britannic Majesty's Government that it would be impossible to frame regulations which would prevent the exemption from resulting in a preference to American shipping and consequently in an infraction of the treaty. I have the honor to be, sir,

Your obedient servant,

P. C. KNOX.

Mr. BACON subsequently said: While the Senator from Connecticut [Mr. BRANDEGEE] is on the floor I should like to make an inquiry of him. There was so much noise at the time that I really could not hear anything that was said. I desire to know what was the paper that the Senator had put in the RECORD.

Mr. BRANDEGEE. The document I asked to have printed in the RECORD was a communication from the Secretary of State giving the views of the State Department as to the contentions of the British foreign office concerning the right of the American Government to exempt its vessels from tolls in the Panama Canal. I thought it would be convenient for Senators to have it in the RECORD, and I therefore asked to have it inserted in the RECORD.

Mr. BACON. I may be mistaken, Mr. President, but I do not think that is the usual way in which the Senate is informed as to the attitude of foreign nations upon diplomatic questions which may arise.

Mr. BRANDEGEE. I do not think it is, Mr. President, and it was not so intended. The communication was addressed by the Secretary of State to the chairman of the Committee on Interoceanic Canals for the information of the committee. I thought it might also interest other Senators, and therefore I asked that it be inserted in the RECORD.

Mr. BACON. I think this is a matter of some little importance. I can very well understand that the Secretary of State might make an informal communication to the committee in order to give it information which might be of service to it in its deliberations on the question as to what it would recommend to the Senate. But it seems to me the communication of that information to the Senate is an altogether different matter. I do not think it ought to come to the Senate by indirection. It seems to me that while it might be free from criticism if it were limited to a communication to a committee, it would not be free from criticism if it were a communication intended to reach the Senate. This method does bring to the Senate and puts the Senate upon official notice of a very grave matter, a grave international matter, which it seems to me should come to the Senate in another way.

Mr. BRANDEGEE. Of course, the Secretary of State is not responsible for the way in which this matter has come to the Senate.

Mr. BACON. I understand that.

Mr. BRANDEGEE. I did not offer it to the Senate because the Secretary had requested me to do so. I asked that it might be printed in the RECORD because the committee to which it was sent had already reported the bill, and I thought the information contained in the correspondence would be of some interest to the Senate. Therefore I asked unanimous consent that it be inserted in the RECORD, as I have understood that communications from the departments concerning all matters of legislation are almost daily inserted in the RECORD.

If any Senator objects to its being printed in the RECORD, I have done what I thought was my duty; and it will go out on a single objection if it is not proper.

Mr. BACON. I am not going to object; but I was unwilling that the matter should pass in that way and grow into what might be considered a precedent for the future as to the manner in which the Senate should be informed of grave international matters. I disclaim any purpose to criticize the Secretary, because the Senator himself says the Secretary did not send the matter to the committee for the purpose of its being submitted to the Senate.

Therefore I am not criticizing the Secretary in the matter. But I think the practice, if it should be followed hereafter, would be a very objectionable one. For that reason I wanted to voice this much of a criticism, if such it may be termed, of bringing to the attention of the Senate a matter of very grave international importance except in the most formal way that the Constitution contemplates such matters shall be brought to the attention of the Senate.

Mr. SIMMONS. Mr. President, having been a member of the Committee on Interoceanic Canals ever since I came to the Senate, I desire to make an inquiry of the chairman of that committee with reference to his purpose as to taking up the canal bill for actual discussion by the Senate. Is it his purpose to press the matter on Monday, or to defer it to a later date?

Mr. BRANDEGEE. Owing to the fact that it is now in the position of the unfinished business, I suppose it will automatically come up each day, two hours after the convening of the Senate. If any Senator is then ready to proceed with it, it will be held there, unless it is displaced by appropriation bills or other privileged matter.

Mr. SIMMONS. Then it is the purpose of the Senator to ask the Senate to proceed to its actual consideration on Monday?

Mr. BRANDEGEE. Yes; that is my purpose, unless it is displaced. The bill should be read. I think there will be no great hurry about its final disposition; but I think we ought at least to start with it. I think very early in the reading of the bill there will be discovered something that will furnish all the debate necessary to occupy whatever time the Senate has to devote to it.

Mr. SIMMONS. I had hoped that the Senator would not desire to press the canal bill on Monday and Tuesday, but that we might take the wool bill at that time and dispose of it.

SEVERAL SENATORS. Oh, no.

ALLOTTEES OF THE FIVE CIVILIZED TRIBES.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," which were to strike out all after the enacting clause and insert:

That conveyances of inherited allotments by full-blood Indian heirs members of the Five Civilized Tribes in Oklahoma made subsequent to May 27, 1908, in cases of allottees dying prior to May 27, 1908, shall have the same effect as if the allottee had died subsequent to May 27, 1908, and shall not require the approval of the Secretary of the Interior; and to amend the title so as to read: "An act relating to inherited estates in the Five Civilized Tribes in Oklahoma."

Mr. GORE. I move that the Senate concur in the substitute amendment of the House of Representatives, with certain amendments, which I shall offer. I send one to the desk.

The PRESIDENT pro tempore. The Senator from Oklahoma moves that the Senate concur in the amendment of the House of Representatives, with certain amendments which he offers. The Secretary will state the first proposed amendment to the amendment of the House of Representatives.

The SECRETARY. At the end of the House amendment, after the words "Secretary of the Interior," it is proposed to insert the following:

Provided, That no conveyance of any interest by a full-blood heir of inherited allotted lands heretofore or hereafter made shall be valid unless approved by the county court of the county where the deceased allottee was a resident at the time of his death.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Oklahoma to the amendment of the House of Representatives.

Mr. SMOOT. Is this a House bill that is now being considered?

The PRESIDENT pro tempore. It is a Senate bill with a House amendment.

Mr. SMOOT. Does the Senator move to accept the House amendment?

Mr. GORE. With certain amendments.

The PRESIDENT pro tempore. He moves to accept the amendment of the House of Representatives with an amendment, which is in order.

Mr. SMOOT. I will ask the Senator if there is any report upon the proposed amendment from the Secretary of the Interior?

Mr. GORE. Mr. President, the bill previously passed the Senate and was amended in the House. Now I am offering an amendment providing that conveyances of claims of deceased Indians by full-blood heirs shall be approved by the county court of the county in which the deceased allottee lived.

Mr. SMOOT. Mr. President, if there is no special hurry for the passage of the bill, I believe that it should go to conference.

Mr. GORE. I should like to say to the Senator that I expect to leave the city to-morrow afternoon and may not return during the session. I will also suggest that the amendment I propose makes the pending bill conform with the existing law, and makes it correspond with what the existing law was supposed to be with reference to these particular claims when the bill was passed, May 27, 1908.

The bill was construed originally by the Secretary of the Interior to mean what the pending bill undertakes to make it mean. Subsequently the Attorney General placed a different construction on the act of May 27, 1908, from that placed upon it by the Secretary of the Interior. The United States District Court for the Eastern District of Oklahoma, however, construed the act of May 27, 1908, to mean what the pending bill undertakes to make it mean, but for commercial purposes it is desired to clarify the situation.

Mr. SMOOT. I should like to ask the Senator if the amendment has ever been submitted to the Secretary of the Interior for a report?

Mr. GORE. I am not able to answer the question, and I really do not know whether the bill as it originally passed the Senate contained this provision, as it was introduced by my colleague and not by myself.

Mr. SMOOT. It does seem to me that the approval ought to be by the Secretary of the Interior rather than a county court. The Senator can have it referred to a committee, and the committee will report it out anyhow.

Mr. GORE. I think if I make a brief statement the Senator will not object.

The act of May 27, 1908, provided that conveyances by full-blood heirs of allotted lands which belonged to deceased Indians should be approved by the county courts of the counties in which they were situated. The Secretary of the Interior construed that act to apply where the death occurred prior to the passage of the act as well as where the death occurred subsequent to the passage of the act. That is the law now. Where the death occurred subsequent to the passage of the act of May 27, 1908, those conveyances are approved under existing law by the county courts.

The Attorney General afterwards construed the act of May 27, 1908, to apply only to conveyances of land where the death occurred subsequent to the act of May 28, 1908. The United States Court for the Eastern District of Oklahoma, as I have suggested, has construed the law of May 27, 1908, to apply in both instances, where the death occurred prior to the act of May 27, 1908, as well as where the death occurred subsequent to the act of May 27, 1908. There is simply that confusion. All conveyances of land where death occurred subsequent to that date are now approved by existing law by the county courts of the several counties.

This amendment is intended to make it uniform with reference to deaths that occurred prior to the act as well as those that occurred subsequently.

Mr. SMOOT. Just a question, Mr. President. If the amendment is accepted by the Senate, will the matter go back to the House?

Mr. GORE. Yes.

The PRESIDENT pro tempore. The amendment as amended will go back to the House, unquestionably.

Mr. SMOOT. This is a very, very dangerous way of legislating.

Mr. LODGE. I do not think it is a wise way to legislate on any bill. The Senate has passed the bill and the House has amended it, and it is now proposed that we, without consideration, without understanding the purport of it, in a complicated matter, shall amend the amendment and send it back to the House. It seems to me it ought to take the regular course.

Mr. CLARK of Wyoming. I should like to ask the Senator from Oklahoma whether or not this bill, as proposed to be amended by the Senator from Oklahoma, if it should become a law, would affect any proceedings or suits now pending?

Mr. GORE. It would have the effect of removing the cloud from certain titles, resulting from the decision of the Attorney General, that the act of May 27, 1908, did not apply to deaths preceding that date. It has confused and clouded titles in the State, and for that reason it is extremely desirable that the cloud should be removed. This bill conforms to the construction placed on the act by the Secretary of the Interior. It conforms to the construction placed upon the act by the United States court for the eastern district.

Mr. SMOOT. It seems to me the matter is of enough importance at least to go to conference, and I certainly must object to its present consideration.

The PRESIDENT pro tempore. The Chair is of the opinion that an objection would not lie. The Chair desires to state that while there is no direct rule of the Senate governing the motion made by the Senator, Jefferson's Manual covers it:

A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.

The Chair therefore entertains the motion of the Senator from Oklahoma.

Mr. BAILEY. I did not quite understand the ruling of the Chair. If I understood it aright, I think it is not now the accepted rule of parliamentary law. Will the Chair be good enough to again state the ruling?

The PRESIDENT pro tempore. The Chair ruled that the motion of the Senator from Oklahoma was in order.

Mr. BAILEY. I think it is in order; but I understood the Chair to say that a motion to concur with an amendment takes precedence of a motion to concur.

The PRESIDENT pro tempore. That is what Jefferson's Manual says.

Mr. BAILEY. That rule has been long since abandoned, and the rule everywhere practically now is that a motion to concur, removing all the differences between the two Houses, takes precedence of a motion to concur with an amendment, because the latter may introduce a still more violent difference than the former one.

Mr. SMOOT. Then a motion to refer to a committee would be in order?

Mr. GORE. It would have to be sent to conference.

The PRESIDENT pro tempore. Yes. A motion for a conference would be a proper motion. The Senator from Oklahoma, however, has made a motion which the Chair feels constrained to entertain.

Mr. GORE. I should like to say to the Senator from Utah that the bill as amended by the House does not require these conveyances to be approved either by the Secretary of the Interior or the county court. I can not get my consent to suffer a measure of that sort to pass. I think they ought to be approved either by the Secretary or by the county court. They are now under existing law approved by the county court.

The act originally intended that all these conveyances should be approved by the county court, but owing to the construction to which I have referred, a different policy has been instituted, and it is simply to harmonize and make uniform the practice that this amendment is offered.

Mr. SMOOT. I move that the Senate disagree to the amendment of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The PRESIDENT pro tempore. The Chair will entertain the motion. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to; and the President pro tempore appointed Mr. CLAPP, Mr. GAMBLE, and Mr. STONE conferees on the part of the Senate.

ALIEN AND SEDITION LAWS (S. DOC. NO. 873).

Mr. BAILEY. I ask unanimous consent that this book containing the "Debates in the House of Delegates of Virginia, in December, 1798, on resolutions before the House, on the acts of Congress, called the 'Alien and Sedition Laws,'" shall be printed as a public document.

This book includes, in addition to the debates in the Virginia House of Delegates, what are known as the Kentucky and Virginia resolutions, and also the responses made by the several States to those resolutions.

I will say, Mr. President, that the book will never again be printed by any publishing house. The demand for it would not justify that, and I doubt that it will be very widely read, even if printed as a public document, because the disposition in this day is to go no further back than the last issue of the muckraking magazines; but there are a few of us who still delight in this kind of literature, and in order to have this book reprinted I am willing to furnish to the Printing Office my individual copy, which I found 10 or 15 years ago in a second-hand bookstore.

The PRESIDENT pro tempore. Without objection, the book will be printed as a public document.

SUPPLY BILLS.

Mr. WILLIAMS. Mr. President, some weeks ago the Senator from Massachusetts [Mr. LODGE] and the Senator from Wyoming [Mr. WARREN] and I fell into a sort of debate about the constitutional right of the House of Representatives to originate money bills—supply bills. At that time I got the permission of the Senate to insert in the RECORD, later on, references to certain occurrences and comments upon them by me. I agreed at the time not to put the matter in the RECORD without previously giving notice. I now want to notify the Senator from Massachusetts and the Senator from Wyoming that upon Monday or Tuesday next, one or the other, I will have the matter to which I refer inserted in the RECORD.

Mr. LODGE. I am very glad the Senator is going to print it.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On July 10, 1912:

S. 6369. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

S. 6847. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

S. 6946. An act authorizing the sale of certain lands in the Flathead Indian Reservation to the town of Ronan, State of Montana, for the purposes of a public park and public-school site.

S. 4180. An act for the relief of Alessandro Comba.

On July 12, 1912:

S. 6636. An act to authorize the President of the United States to appoint Robert H. Peck a captain in the Army.

NAVAL APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PERKINS. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. PERKINS, Mr. LODGE, and Mr. TILLMAN conferees on the part of the Senate.

STATISTICS OF COTTON.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LA FOLLETTE. I move that the Senate insist upon its amendments and consent to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. LA FOLLETTE, Mr. GUGGENHEIM, and Mr. BAILEY conferees on the part of the Senate.

DRAINAGE OF LANDS IN OKLAHOMA.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4913) to enable the Indians allotted lands in severalty within the boundaries of Little River drainage district No. 1, in Pottawatomie County, Okla., to cooperate with the officials of said State in the protection of their lands from overflow, and for other purposes, which were to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to approve the assessments, together with maps showing right of way and definite location of proposed drainage ditches made under the laws of the State of Oklahoma upon the allotments of certain Absentee Shawnee and Citizen Pottawatomie allottees in Little River drainage district, in Pottawatomie County, Okla., and upon the allotments of certain Sac and Fox allottees in Deep Fork drainage districts, in Lincoln County, Okla.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to pay the amount assessed against each of said allotments: *Provided*, That said assessment shall not exceed $15 per acre on any allotment or portion thereof; and there is hereby appropriated for said purpose, out of any money in the Treasury not otherwise appropriated, the sum of $40,000, to be immediately available, the said sum to be reimbursable from the rentals of said allotments, not to exceed 50 per cent of the amount of rents received annually, or from any funds the said allottees may have in the United States Treasury, in the discretion of the Secretary of the Interior.

SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to approve deeds for right of way from such said allottees or their heirs as may be necessary to permit the construction and maintenance of said drainage ditch upon the payment of adequate damages therefor.

That the Secretary of the Interior is hereby authorized to approve the assessments upon all other restricted allotments located within any proposed drainage district located and made under the laws of the State of Oklahoma.

That in the event any allottees shall receive a patent in fee to an allotment of land in any lawfully constituted drainage district within the State of Oklahoma, before the United States shall have been wholly reimbursed as herein provided, the amount remaining unpaid shall become a first lien on such allotment, and the fact of such lien shall be recited on the face of each patent in fee issued and the amount of the lien set forth thereon, and the receipt of the Secretary of the Interior, or of the officer, agent, or employee duly authorized by him for that purpose, for the payment of the amount assessed against any allotment as herein provided, shall, when duly recorded by the recorder of deeds in the county wherein the land is located, operate as a satisfaction of such lien.

SEC. 4. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect, and to amend the title so as to read:

An act to provide for the payment of drainage assessments on Indian lands in Oklahoma.

Mr. GORE. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

H. R. 6083. An act to amend an act entitled "An act for the widening of Benning Road, and for other purposes," approved May 16, 1908;

H. R. 21710. An act to amend section 842 of the Code of Law for the District of Columbia;

H. R. 21712. An act to amend section 808 of the Code of Law for the District of Columbia;

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire;

H. R. 22648. An act to authorize a change in the location of Fourteenth Street NE. in the District of Columbia, and for other purposes;

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 606. An act for the relief of John Treffeisen;

H. R. 5135. An act for the relief of John J. Troxell;

H. R. 5763. An act for the relief of William K. Harvey, alias William K. Hall;

H. R. 11627. An act to correct the military record of Barkley S. Denison;

H. R. 20339. An act for the relief of Joseph W. McCall;

H. R. 21315. An act for the relief of Robert Ross; and

H. R. 21524. An act for the relief of Frederick H. Ferris.

The following bills were severally read twice by their titles and referred to the Committee on Pensions:

H. R. 20362. An act granting a pension to Catherine Wise;

H. R. 25598. An act granting a pension to Cornelia Bragg;

H. R. 25713. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the

Civil War, and to widows and dependent relatives of such soldiers and sailors; and

H. R. 22591. An act to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, was read twice by its title and referred to the Committee on the Judiciary.

EXECUTIVE SESSION.

Mr. CULLOM. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 25 minutes spent in executive session the doors were reopened; and (at 3 o'clock and 20 minutes p. m., Saturday, July 13) the Senate adjourned until Monday, July 15, 1912, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate July 13, 1912.

CHIEF OF THE BUREAU OF INSULAR AFFAIRS.

Under the provisions of an act of Congress approved June 25, 1906, I nominate Col. Frank McIntyre, United States Army, assistant to the Chief of the Bureau of Insular Affairs of the War Department, to be chief of said bureau, with the rank of brigadier general, for a period of four years from the date of his appointment, unless sooner relieved, vice Brig. Gen. Clarence R. Edwards, chief of said bureau, to be appointed brigadier general, United States Army.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

Maj. Guy Carleton, Cavalry, unassigned, to be lieutenant colonel from June 30, 1912, vice Lieut. Col. John H. Gardner, Cavalry, unassigned, retired from active service June 29, 1912.

Capt. Matthew C. Butler, jr., Seventh Cavalry, to be major from June 30, 1912, vice Maj. Grote Hutcheson, Sixth Cavalry, detached.

COAST ARTILLERY CORPS.

Second Lieut. Virginius E. Clark, Coast Artillery Corps, to be first lieutenant from May 30, 1912, vice First Lieut. Sanderford Jarman, detached from his proper command.

Second Lieut. Thomas I. Steere, Coast Artillery Corps, to be first lieutenant from June 2, 1912, vice First Lieut. John W. McKie, promoted.

APPOINTMENTS IN THE ARMY.

COAST ARTILLERY CORPS.

To be second lieutenants with rank from December 20, 1911.

Shepler Ward FitzGerald, of the District of Columbia.
Alden George Strong, of Pennsylvania.

INFANTRY ARM.

Harold Hancock Taintor, of New York, now serving as second lieutenant in the Philippine Scouts, to be second lieutenant of Infantry, with rank from April 24, 1912.

MEDICAL CORPS.

First Lieut. Luther Raymond Poust, Medical Reserve Corps, to be first lieutenant in the Medical Corps, with rank from July 8, 1912, vice Capt. George H. Crabtree, promoted.

Under the provisions of an act of Congress approved July 3, 1912, I nominate Lloyd Le Roy Krebs, late captain, Medical Corps, United States Army, to be a major of the Medical Corps on the retired list of the Army, with rank from July 3, 1912.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from July 3, 1912.

Robert Burns, jr., of Missouri.
Charles Dewey Center, of Illinois.
Sanders Lewis Christian, of Louisiana.
William Ruston Davidson, of Indiana.
John Clinton Dodds, of Michigan.
Ernest Nesbitt Dolman, of Michigan.
William Augustus Downes, of New York.
Meyer Milton Eckert, of New York.
William Edward Fitch, of New York.
William Fuller, of Illinois.
Charles Lewis Gandy, of New Jersey.
Preston Manasseh Hickey, of Michigan.
William Hilliard Honor, of Michigan.
Harry Neal Kerns, of California.
George Price Lingenfelter, of Colorado.
George Edward Potter, of Michigan.
Charles David Ricker, of Virginia.
James Harry Ullrich, of Maryland.
Homer Samuel Warren, of Illinois.
Frederic Newhall Wilson, of New York.
Simon Jonathan Young, of Indiana.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Commander Robert L. Russell to be a captain in the Navy from the 1st day of July, 1912, to fill a vacancy.

Herbert J. Hauser, a citizen of Idaho, to be an assistant paymaster in the Navy from the 1st day of July, 1912, to fill a vacancy.

Commander Robert E. Coontz to be a captain in the Navy from the 1st day of July, 1912, to fill a vacancy.

The following-named lieutenant commanders to be commanders in the Navy from the 1st day of July, 1912, to fill vacancies:

Raymond De L. Hasbrouck,
Benjamin B. McCormick,
Edward S. Kellogg,
David V. H. Allen, and
Frank H. Clark.

Lieut. Commander Walter S. Crosley, an additional number in grade, to be commander in the Navy from the 1st day of July, 1912, with the officer next above him.

The following-named lieutenants to be lieutenant commanders in the Navy from the 1st day of July, 1912, to fill vacancies:

William K. Riddle, and
William N. Jeffers.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 7th day of June, 1912, upon the completion of three years' service as ensigns:

Richard S. Galloway,
Samuel L. Henderson,
Carl C. Krakow,
Louis J. Gulliver, and
Richard B. Coffman.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 7th day of June, 1912, upon the completion of three years' service as ensigns:

Charles S. Keller, and
Louis C. Scheibla.

Asst. Surg. George A. Riker to be a passed assistant surgeon in the Navy from the 14th day of April, 1912, upon the completion of three years' service as an assistant surgeon.

Charles A. E. King, a citizen of New York, to be a second lieutenant in the Marine Corps from the 12th day of July, 1912, to fill a vacancy.

The following-named midshipmen to be ensigns in the Navy from the 8th day of June, 1912, in accordance with the provisions of an act of Congress approved March 7, 1912:

Ralph S. Wentworth, and
Raymond G. Payne.

The following-named lieutenant commanders to be commanders in the Navy from the 1st day of July, 1912, to fill vacancies:

Edward H. Campbell, and
Henry B. Price.

The following-named midshipmen to be ensigns in the Navy from the 8th day of June, 1912, in accordance with the provisions of an act of Congress approved March 7, 1912:

Harold E. Saunders,
Garland Fulton,
Ralph S. Parr,
Samuel J. Zeigler, jr.,
Shirley A. Wilson,
Charles H. McMorris,
Ernest M. Pace, jr.,
John A. Byers,
Virgil C. Griffin, jr.,
Henry M. Kieffer,
William A. Corley,
Benjamin Perlman,
Howard H. Good,
Carroll B. Byrne,
Ernest G. Small,
Carleton H. Wright,
Donald Boyden,
Stanley P. Tracht,
Robertson J. Weeks,
Roscoe L. Martin,
Herman E. Fischer,
Marc W. Larimer,
Willard E. Cheadle,
Edward P. Nickinson,
Thomas L. Gatch,
Harry G. Patrick,
James A. Saunders,
John H. Culin,
Alfred E. Montgomery,
Andrew C. Bennett,
Fred K. Elder,

Eugene P. A. Simpson,
Edward O. McDonnell,
Oliver W. Bagby,
Lawrence P. Bischoff,
James C. Clark,
James C. Monfort,
Robert D. Moore,
Carl C. Gilliland,
Robert D. Brown,
George L. Woodruff,
Mahlon S. Tisdale,
Schuyler Mills,
Edmund A. Crenshaw,
James L. King,
Lawrence K. Forde,
William D. Taylor,
Davis De Treville,
Homer C. Wick,
John P. Dalton,
Robert A. Lavender,
Louis P. Wenzell,
Robert S. Haggart,
Richard E. Byrd, jr.,
Raymond E. Kerr,
Philip Van H. Weems,
George H. Fort,
Lunsford L. Hunter,
Forrest U. Lake,
Ray H. Wakeman,
Robert R. Thompson
Elliott Buckmaster,
Nelson W. Hibbs,
Walter S. De Lany,
Emory P. Eldredge,
Albert B. Sanborn,
Ellis M. Zacharias,
Clarence Gulbranson,
Wentworth H. Osgood,
Donald F. Patterson,
Harold B. Grow,
Donald W. Hamilton,
Herbert G. Gates, jr.,
Hiester Hoogewerff,
John H. Falge,
Louis E. Denfeld,
Ralph W. Holt,
George W. D. Dashiell,
Harold Dodd,
Whitley Perkins,
Warren A. Shaw,
Robert A. Hall,
Guy C. Hitchcock,
Anton B. Anderson,
William S. Hogg, jr.,
Beriah M. Thompson,
John L. Fox,
Earl R. Morrissey,
Stephen B. Robinson,
William G. Greenman,
Harold H. Little,
Horatio J. Peirce,
Hamilton Harlow,
Hugh C. Fraser,
James L. Abbot,
Thales S. Boyd,
James A. Crutchfield,
Daniel E. Barbey,
Raymond V. Hannon,
George W. Whiteside,
Charles P. Mason,
John J. Brown,
Grady B. Whitehead,
Carl K. Martin,
Campbell D. Edgar,
Harry P. Curley,
Walter S. Haas,
John P. Bowden,
Dewitt C. Ramsey,
Baylis F. Poe,
Emory W. Coil,
Nathan B. Chase,
George W. La Mountain,
Alexander W. Loder,
Harold W. Scofield,
Carroll M. Hall,
Rodes H. Hawkins,
Roscoe E. Schuirmann,
Charles K. Osborne,
Abraham C. Ten Eyck,
Ingram C. Sowell,
Francis E. M. Whiting,
Charles A. Lockwood, jr.,
John K. Richards, jr.,
William H. Burtis,
Stanley G. Womble,
Hans Ertz,
Paul S. Theiss,
Aaron S. Merrill,
John Wilbur,
Charles S. Alden,
Robert E. P. Elmer,
Charles F. Greene,
Hervey A. Ward,
George S. Gillespie,
Garnet Hulings,
Hubert V. La Bombard,
Charles W. McNair,
Edward H. McKitterick,
Otto M. Forster,
Laurence R. Brown, and
Lloyd H. Lewis.

Asst. Surg. Alfred J. Toulon to be a passed assistant surgeon in the Navy from the 11th day of April, 1911, upon the completion of service as an assistant surgeon of three years, plus service during suspension from promotion after failure at examination, and to correct the date from which he takes rank as previously confirmed.

Asst. Surg. Chandler W. Smith to be a passed assistant surgeon in the Navy from the 3d day of October, 1911, upon the completion of service as an assistant surgeon of three years, plus service during suspension from promotion after failure at examination, and to correct the date from which he takes rank as previously confirmed.

Asst. Surg. John B. Pollard to be a passed assistant surgeon in the Navy from the 14th day of April, 1912, upon the completion of service as an assistant surgeon of three years, plus service during suspension from promotion after failure at examination, and to correct the date from which he takes rank as previously confirmed.

Machinist Jarrard E. Jones to be a chief machinist in the Navy from the 27th day of December, 1911, upon the completion of six years' service as a machinist.

PROMOTION IN THE REVENUE-CUTTER SERVICE.

First Lieut. William Edward Wyatt Hall to be captain in the Revenue-Cutter Service of the United States, to rank as such from August 23, 1910, to fill the vacancy created June 19, 1912, by the retirement of Capt. John Ernest Reinburg.

UNITED STATES CIRCUIT JUDGE.

Frederic Dodge, of Massachusetts, to be United States circuit judge for the first judicial circuit, vice William Schofield, deceased.

UNITED STATES ATTORNEYS.

D. Lawrence Groner, of Virginia, to be United States attorney for the eastern district of Virginia, vice Lunsford L. Lewis, resigned.

Oliver D. Street, of Alabama, to be United States attorney, northern district of Alabama. (A reappointment, his term expiring Jan. 14, 1912.)

UNITED STATES MARSHAL.

Aaron M. Storer, of Mississippi, to be United States marshal, northern district of Mississippi. (A reappointment, his term having expired.)

RECEIVER OF PUBLIC MONEYS.

Thomas V. McAllister, of Mississippi, to be receiver of public moneys at Jackson, Miss., his term having expired May 21, 1912. (Reappointment.)

PENSION AGENT.

Joab N. Patterson, of New Hampshire, to be pension agent at Concord, N. H., his term having expired April 28, 1912. (Reappointment.)

POSTMASTERS.

ALABAMA.

Buckner L. Garber to be postmaster at Demopolis, Ala., in place of Lea Woodruff, removed.

Walter W. Harkins to be postmaster at Fayette, Ala., in place of Walter W. Harkins. Incumbent's commission expired January 13, 1912.

Thomas J. Kennamer to be postmaster at Ensley, Ala., in place of John X. Thomas, removed.

John H. McEniry to be postmaster at Bessemer, Ala., in place of George R. Lewis, removed.

ARKANSAS.

Edward I. Stevens to be postmaster at Nashville, Ark., in place of Edgar E. Hudspeth, resigned.

CALIFORNIA.

Frank J. Grillo to be postmaster at Angels Camp, Cal., in place of Frank J. Grillo. Incumbent's commission expired May 26, 1912.

Hugo J. Schumann to be postmaster at Soledad, Cal. Office became presidential July 1, 1912.

COLORADO.

John A. Murphy to be postmaster at Las Animas, Colo., in place of Francis M. Tague, deceased.

Wesley W. Parshall to be postmaster at Durango, Colo., in place of Wesley W. Parshall. Incumbent's commission expired May 26, 1912.

FLORIDA.

Alexander G. Fell to be postmaster at Pensacola, Fla., in place of Rix M. Robinson. Incumbent's commission expired March 31, 1912.

GEORGIA.

Mary E. Hinton to be postmaster at Woodbury, Ga., in place of Mary E. Hinton. Incumbent's commission expired February 27, 1912.

Mattie Mitchell to be postmaster at Acworth, Ga., in place of Mattie Mitchell. Incumbent's commission expired February 27, 1912.

IDAHO.

Blanche S. Rowe to be postmaster at Burke, Idaho, in place of Fred F. Evans. Incumbent's commission expired December 13, 1910.

ILLINOIS.

Louis Wolfram to be postmaster at Des Plaines, Ill., in place of Benjamin Wendling, removed.

INDIANA.

Thompson Turner to be postmaster at Walkerton, Ind., in place of Thompson Turner. Incumbent's commission expired January 27, 1912.

IOWA.

John M. Wormley to be postmaster at Kingsley, Iowa, in place of John M. Wormley. Incumbent's commission expired January 10, 1910.

KANSAS.

Henry S. Mueller to be postmaster at Sedgwick, Kans., in place of Henry S. Mueller. Incumbent's commission expired May 22, 1912.

KENTUCKY.

W. A. Coffey to be postmaster at Columbia, Ky., in place of James N. Coffey. Incumbent's commission expired March 24, 1912.

John B. Harvey to be postmaster at Madisonville, Ky., in place of Virgil L. Bacon. Incumbent's commission expired February 7, 1911.

Robert L. Jones to be postmaster at Morganfield, Ky., in place of Lizzie Vaupel. Incumbent's commission expired March 31, 1912.

William L. Kimbrough to be postmaster at Guthrie, Ky., in place of William C. Balee. Incumbent's commission expired May 15, 1912.

Lewis M. Lebus to be postmaster at Cynthiana, Ky., in place of George M. Dickey. Incumbent's commission expired March 10, 1912.

Edwin B. Linney to be postmaster at Danville, Ky., in place of Edwin B. Linney. Incumbent's commission expired February 7, 1911.

Charles W. Parrish to be postmaster at Midway, Ky., in place of Samuel L. Gatrell. Incumbent's commission expired May 15, 1912.

Frank W. Stith to be postmaster at Falmouth, Ky., in place of James M. Wilson, resigned.

Charles F. Troutman to be postmaster at Shepherdsville, Ky., in place of Charles F. Troutman. Incumbent's commission expired May 15, 1912.

MAINE.

John W. Mathews to be postmaster at Berwick, Me., in place of Lewis C. Flagg, resigned.

MASSACHUSETTS.

Fred A. Hanaford to be postmaster at South Lancaster, Mass., in place of Fred A. Hanaford. Incumbent's commission expired February 27, 1912.

George L. Minott to be postmaster at Gardner, Mass., in place of George L. Minott. Incumbent's commission expired January 20, 1912.

Charlotte L. Parker to be postmaster at Osterville, Mass. Office became presidential July 1, 1912.

MISSISSIPPI.

H. C. Turley to be postmaster at Natchez, Miss., in place of Seaborn McDowell. Incumbent's commission expired December 11, 1911.

NEBRASKA.

Jules Haumont to be postmaster at Broken Bow, Nebr., in place of Jules Haumont. Incumbent's commission expired May 14, 1912.

NEVADA.

T. W. O'Connor to be postmaster at Virginia City, Nev., in place of Amelia E. Roth, resigned.

NEW JERSEY.

Richard F. Treweeke to be postmaster at Butler, N. J., in place of Richard F. Treweeke. Incumbent's commission expired February 27, 1912.

NEW YORK.

Alfred Cox to be postmaster at Hawthorne, N. Y. Office became presidential July 1, 1912.

Edward J. Monroe to be postmaster at Croghan, N. Y., in place of William Mattson, resigned.

William B. Le Roy to be postmaster at Cohoes, N. Y., in place of William B. Le Roy. Incumbent's commission expired February 15, 1911.

OHIO.

Oscar O. Gale, to be postmaster at Eaton, Ohio, in place of Charles E. Albright, resigned.

Richard Gilson to be postmaster at Steubenville, Ohio, in place of Alexander Sweeney, deceased.

Owen Livingston to be postmaster at Richwood, Ohio, in place of Charles H. Huffman, not commissioned.

Charles A. Schumacher to be postmaster at Dresden, Ohio, in place of Lee L. Cassady. Incumbent's commission expired May 22, 1912.

OKLAHOMA.

Walter I. Reneau to be postmaster at Tulsa, Okla., in place of Walter I. Reneau. Incumbent's commission expired February 10, 1912.

PENNSYLVANIA.

Charles E. B. Hunter to be postmaster at Union City, Pa., in place of Delos A. Wright. Incumbent's commission expired May 23, 1912.

William B. Palmer to be postmaster at Clifton Heights, Pa., in place of William B. Palmer. Incumbent's commission expired February 3, 1909.

SOUTH DAKOTA.

J. M. Miller to be postmaster at Colome, S. Dak., in place of Henry D. Lehmberg, resigned.

TENNESSEE.

Norwell L. Scobey to be postmaster at Newbern, Tenn., in place of Norwell L. Scobey. Incumbent's commission expired January 31, 1912.

TEXAS.

F. C. Allen to be postmaster at Bonham, Tex., in place of Harry R. Gray, not commissioned.

Clinton J. Farrell to be postmaster at Vernon, Tex., in place of Clinton J. Farrell. Incumbent's commission expired April 28, 1912.

VIRGINIA.

Cecil R. Grabill to be postmaster at New Market, Va., in place of Charles W. Wickes. Incumbent's commission expired May 13, 1912.

WEST VIRGINIA.

Isaiah Stephens to be postmaster at McMechen, W. Va., in place of Isaiah Stephens. Incumbent's commission expired May 22, 1912.

WISCONSIN.

Jerome C. Capron to be postmaster at Menasha, Wis., in place of George W. Dodge. Incumbent's commission expired January 27, 1912.

Wardlaw A. Clapp to be postmaster at Wauwatosa, Wis., in place of William H. Landolt, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 13, 1912.

PROMOTION IN THE REVENUE-CUTTER SERVICE.

Cadet Carl Herbert Abel to be third lieutenant.

COLLECTOR OF INTERNAL REVENUE.

David F. Bailey to be collector of internal revenue for the sixth district of Virginia.

SOLICITOR GENERAL OF THE UNITED STATES.

William Marshall Bullitt to be Solicitor General of the United States.

REGISTERS OF THE LAND OFFICE.

George D. Orner to be register of the land office at Woodward, Okla.

George H. Charlton to be register of the land office at Durango, Colo.

RECEIVER OF PUBLIC MONEYS.

Frank M. Foote to be receiver of public moneys at Evanston, Wyo.

JUDGE OF THE CIRCUIT COURT OF HAWAII.

Lyle A. Dickey to be judge of the Circuit Court of the Fifth Circuit of the Territory of Hawaii.

PROMOTIONS IN THE NAVY.

Lieut. (Junior Grade) Edward S. Moses to be a lieutenant.
Ensign Edward S. Moses to be a lieutenant (junior grade).
Ensign William C. I. Stiles to be a lieutenant (junior grade).
Ensign James J. Manning to be a lieutenant (junior grade).
Ensign William O. Wallace to be a lieutenant (junior grade).
Ensign Ellis Lando to be a lieutenant (junior grade).
Commander Volney O. Chase to be a captain.
The following-named ensigns to be lieutenants (junior grade):
Clarence N. Hinkamp,
Leslie E. Bratton,
Ralph R. Stewart,
Ralph C. Parker,
Henry C. Gearing, jr.,
George W. Simpson,
Charles F. Pousland,
Charles C. Windsor,
Edmund D. Almy,
Robert F. Gross,
Seymour E. Holliday,
Emanuel A. Lofquist,
Elmer W. Tod,
Homer H. Norton,
John F. Cox,
George N. Barker,
Newton L. Nichols, and
Patrick N. L. Bellinger.

POSTMASTERS.

ALASKA.

Philip J. Hickey, jr., Seward.

FLORIDA.

Alexander G. Fell, Pensacola.
Elbert A. Froscher, Marathon.

GEORGIA.

Marcus S. Baker, jr., Savannah.
Edgar R. Gunn, Oxford.

KENTUCKY.

Edwin B. Linney, Danville.
Charles W. Parrish, Midway.
Charles F. Troutman, Shepherdsville.

LOUISIANA.

J. Ernest Breda, Natchitoches.

MICHIGAN.

A. Edgar West, Upton Works.

MISSOURI.

Alexander T. Boothe, Peirce City (late Pierce City).
Charles L. Farrar, Macon.
Charles L. Gray, Carterville.
Albert F. Huggins, Shelbina.
David B. Ormiston, Linneus.
John J. Sleight, Montgomery City.
Rachael A. Smith, Deepwater.
W. H. P. Walkenhorst, Concordia.

NEW JERSEY.

William E. Bedle, Keyport.
Harry E. Frey, Stewartsville.
Andrew Mercer, Lodi.

NEW YORK.

Byron Clearwater, Highland.
William R. Crawford, Warsaw.
Charles D. Randles, Ogdensburg.
Wilfred A. Robbins, Mexico.
Frank W. Smith, Freeville.
Mary A. Wilson, Sacket Harbor.
Wilbur H. Wolcott, Crown Point.

OHIO.

Clifford N. Quirk, Chardon.
Charles A. Ward, Marietta.

OKLAHOMA.

George C. Barber, Prague.
David C. Blossom, Atoka.
C. S. Cannady, Madill.
Joel E. Cunningham, Konawa.
Emma Dale, Roff.
Marion Henderson, Pauls Valley.
John W. Randall, Blackwell.
Robert L. Sample, Maysville.
George Stowell, McLoud.
Squire J. Thompson, Wellston.

OREGON.

Mabel Miller, Jacksonville.

PENNSYLVANIA.

James M. Bell, Chicora.
William H. D. Godshall, Lansdale.
Robert R. Groetzinger, Leetsdale.
Charles E. B. Hunter, Union City.
Alfred Edward Lewis, West Middlesex.
Anne D. Moore, Avondale.
William B. Palmer, Clifton Heights.
Louis F. Senn, Brackenridge.
Freeman C. Wilcox, New Albany.

WASHINGTON.

C. J. Casad, Twisp.
William L. Oliver, Rockford.

WITHDRAWAL.

Executive nomination withdrawn July 13, 1912.

POSTMASTER.

Charles W. Wickes to be postmaster at New Market, Va.

HOUSE OF REPRESENTATIVES.

SATURDAY, *July 13, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty and most merciful God, our heavenly Father, be graciously near to us and imbue us plenteously with heavenly gifts, that our minds may be illumined, our hearts mellowed; that the rectitude of our behavior may be in consonance with Thy will; that the opportunities which loom large for the betterment of conditions in the individual, the home, the State, the Nation, may be accentuated to the honor and glory of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATION FROM COMMITTEES.

Mr. UNDERWOOD. Mr. Speaker, I send to the desk and ask to have read a communication to the Speaker of the House.

The Clerk read as follows:

JULY 12, 1912.

Hon. CHAMP CLARK,
Speaker House of Representatives.

DEAR MR. SPEAKER: I hereby tender to the House of Representatives, through you, my resignation as a member of the Committee on Agriculture and as a member of the Committee on Public Lands.

Very truly, yours, JACK BEALL.

The SPEAKER pro tempore. Without objection, the resignation will be accepted.

There was no objection.

ELECTIONS TO COMMITTEE ON AGRICULTURE AND COMMITTEE ON THE JUDICIARY.

Mr. UNDERWOOD. Mr. Speaker, I move the election of Hon. JACK BEALL, of Texas, to fill the vacancy on the Committee on the Judiciary caused by the resignation of Hon. ROBERT L. HENRY, of Texas.

The SPEAKER pro tempore. The question is on agreeing to the motion.

The question was taken, and the motion was agreed to.

Mr. UNDERWOOD. Mr. Speaker, I now move the election of Hon. JAMES YOUNG, of Texas, to the Committee on Agriculture to fill the vacancy created by the resignation of Mr. BEALL, of Texas.

The SPEAKER pro tempore. The question is on agreeing to the motion of the gentleman from Alabama.

The question was taken, and the motion was agreed to.

Mr. UNDERWOOD. Mr. Speaker, I also move the election of Hon. H. M. JACOWAY, of Arkansas, to the Committee on Agriculture to fill the vacancy created by the death of the gentleman from Louisiana, Mr. WICKLIFFE.

The SPEAKER pro tempore. The question is on agreeing to the motion of the gentleman from Alabama.

The motion was agreed to.

CORRECTION IN ENROLLMENT OF PENSION BILL.

Mr. RICHARDSON. Mr. Speaker, I present the following concurrent resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

House concurrent resolution 59.

Resolved by the House of Representatives (the Senate concurring), That the action of the Vice President and President of the Senate and the Speaker of the House of Representatives in signing the enrolled bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors," be rescinded; that the Clerk be directed to re-enroll said bill; and that in the re-enrollment of said bill the Clerk be, and he is hereby, authorized and directed to amend the title of said bill by striking out the word "of" where it first appears in the fourth line thereof and insert in lieu thereof the word "and."

The SPEAKER pro tempore. The question is on agreeing to the resolution.

The resolution was agreed to.

EUGENE PRINCE.

Mr. SABATH. Mr. Speaker, I move to take from the Speaker's table House joint resolution 220, to grant American citizenship to Eugene Prince, with a Senate amendment thereto, and to agree to the Senate amendment.

The Senate amendment was read.

The SPEAKER pro tempore. The question is on agreeing to the motion of the gentleman from Illinois.

The motion was agreed to.

SALE OF FUTURES IN COTTON.

Mr. POU. Mr. Speaker, by direction of the Committee on Rules I present the following privileged resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution 630 (H. Rept. 997).

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider H. R. 56, "A bill to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between the States and Territories and foreign nations."

That there shall be two hours' general debate on said bill, after which the bill shall be read for debate and amendment under the five-minute rule, and at the end of one hour's consideration a vote shall be had upon the bill and all pending amendments.

Mr. POU. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the passage of the resolution.

Mr. MANN. Mr. Speaker, I was not listening when the resolution was read.

The SPEAKER pro tempore. Without objection, the Clerk will report the resolution.

Mr. MANN. I would just as lief have the gentleman from North Carolina state what it is.

Mr. NORRIS. I would ask that the Clerk read the resolution again.

The SPEAKER pro tempore. Without objection the Clerk will report the resolution; several Members did not hear it.

The resolution was again reported.

Mr. MANN. I suppose 20 minutes' debate will be on a side if anybody desires to be heard.

The SPEAKER pro tempore. Yes.

Mr. POU. Mr. Speaker, this resolution brings before the House what is known as the Beall bill, making it unlawful to use certain instrumentalities of interstate commerce in gambling in cotton. I am informed that H. R. 56 is practically the same as the Scott bill, which was passed by a former House of Representatives. It will be observed that the rule does not cut off amendment, and also allows reasonable opportunity for discussion on this floor.

Mr. DUPRÉ. Will the gentleman yield?

Mr. POU. I do.

Mr. DUPRÉ. May I ask why the Rules Committee, when it brought in this rule, did not take into consideration the fact that the Committee on Agriculture reported a bill by Mr. LEVER, of South Carolina, prohibiting similar transactions in other agricultural products—wheat, corn, and oats?

Mr. POU. Why, the Committee on Rules did take into consideration that fact, and for that very reason framed this rule so that the Beall bill will be open to amendment. Now, Mr. Speaker, I do not care to consume further time in the discussion of this rule, and I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from North Carolina reserves the balance of his time.

Mr. FITZGERALD. Mr. Speaker, I desire some time in opposition to the rule.

Mr. MANN. Mr. Speaker, I will not take the floor, but I will ask that the gentleman from Wisconsin [Mr. LENROOT] be recognized.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. LENROOT] is recognized for 20 minutes.

Mr. LENROOT. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, I am opposed to the adoption of the rule. In the first place, it provides for the consideration of a bill which purports to do certain things that the Supreme Court has held in quite a recent case that Congress has no power to do; and, in the second place, while the rule purports to afford opportunity for amendment, gentlemen who are interested in passing this bill, and who have been interested in preparing the rule, are fully aware of the fact that it effectively prevents this bill being considered for amendment. I might, Mr. Speaker, be challenged for making this statement, if in the past the House did not have an opportunity to demonstrate the impossibility of considering under the five-minute rule a bill considered under an identical rule from the Committee on Rules.

This rule purports to be manifestly fair. It is very unfair and unjust to those opposed to the bill. It provides that there shall be two hours of general debate and that the bill shall then be considered under the five-minute rule for amendment, and that at the end of one hour the previous question shall be considered as ordered upon the bill and all pending amendments. A similar bill was reported two years ago last month to this House under an identical rule, and by the simple process of various gentlemen offering amendments to the first paragraph of the bill and consuming one hour's time in discussing those amendments, the House never got beyond the first paragraph. The first paragraph of the bill amounts to nothing. It is not a vital part of the bill. It is not a part of the bill Members wish to discuss or to amend. There is no opportunity at that point to suggest that this bill be so enlarged in its scope as to include operations in wheat, grain, and other matters which are included in the so-called Lever bill.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. Does the gentleman undertake to convey the idea that the friends of the bill are going to enter into a conspiracy to try to amend the first section of the bill to prevent the reaching of the other sections?

Mr. FITZGERALD. No; I am not.

Mr. GARNER. Then if the first section amounts to nothing, who is going to offer the numerous amendments to take up the hour—the friends of the bill?

Mr. FITZGERALD. The gentleman will have his doubts cleared on that point when the bill is read for consideration. The gentleman was present two years ago, if my recollection is accurate, when the bill was considered; I was not here because I was ill at home.

The friends of the bill and the enemies of the bill in disguise occupied the time under the five-minute rule in perfunctory discussions of immaterial amendments, so that the Clerk never read beyond the first paragraph. I believe that the friends of the bill do not wish it read beyond the first paragraph. They do not wish to have submitted to this House an amendment to include in this bill the same restrictions upon wheat, corn, and other products contained in the Lever bill. I have no intimation that the Committee on Rules intends to bring in a rule for the consideration of that bill.

If the legislation proposed here relative to speculative contracts in cotton be proper, it should be applied to all other commodities which are dealt with in the same way. There can be

no excuse to legislate especially for the benefit of, or for the protection of, or for the injury of, the class of persons engaged in these speculative future contracts in one line of commodities and permit those doing business in the same way and the same manner as to a number of other commodities to be foot free to continue their methods. If their methods be improper, they should be stopped.

Mr. BURLESON. Will the gentleman submit to an interruption?

Mr. FITZGERALD. I will.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. FITZGERALD] has expired.

Mr. LENROOT. Mr. Speaker, I yield five minutes more to the gentleman from New York.

Mr. BURLESON. You say the same conditions obtain in the exchanges dealing in other farm products that exist with reference to cotton?

Mr. FITZGERALD. I am not sufficiently familiar with either class of exchanges to know. I am speaking of the legislation reported by the same committee affecting all of these commodities, and I assume the condition must have been similar in order to have induced the reporting of this bill.

Mr. BURLESON. Now, if, as a matter of fact, the conditions are entirely dissimilar, will the gentleman contend the same legislation could be directed against grain speculation as against cotton speculation?

Mr. FITZGERALD. Undoubtedly.

Mr. BURLESON. Notwithstanding the conditions are entirely different?

Mr. FITZGERALD. If it be improper to deal in contracts for future delivery of cotton upon exchanges, it is improper, illegal, and unrighteous to deal in future contracts for the delivery or for the purchase or sale of wheat and corn. There can be no distinction drawn whatever between dealings in one commodity in a certain way and similar dealings in other commodities. If these gentlemen profess to be anxious to stop what, in their opinion, is a great wrong, why should they limit their activities, why should they restrict this legislation to cotton? Why should they not, at least, give the House an opportunity to pass upon the question as to whether they would not include similar dealings in these other commodities?

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. I know the gentleman from New York [Mr. FITZGERALD] is as familiar as anyone in this House with the necessities or the exigencies for certain legislation; and it must occur to the gentleman from New York that if there should be as large a percentage in opposition to the grain proposition as there is as to cotton, that we would likely not get a bill through including both of them. Whereas if we take them up one at a time we can put them through, and we could not put them through with the two in; and I imagine that is the reason the gentleman wants to put grain on the list.

Mr. FITZGERALD. I know this, that two years ago in June, approaching the election, some gentleman interested in this cotton bill had a special rule brought into the House and it passed the House, but nothing further was done. It slumbered along without any special effort to have the bill taken up.

Now, when we are approaching, within a few months another election, the same gentlemen have brought in another rule to consider this bill at this time, knowing that there is no possible chance for its enactment into law before election.

Mr. HENRY of Texas. If the gentleman will yield a minute, I want to set him right. If he will read the platform adopted at Baltimore, he will find it declares in favor of this legislation we are now providing for.

Mr. FITZGERALD. Mr. Chairman, I doubt that.

Mr. HENRY of Texas. Oh, no.

Mr. FITZGERALD. One moment. We can discuss that at another time, because the Democratic platform could not have declared in favor of legislation which, as clearly as it is possible to declare, the United States Supreme Court says Congress has no power to enact.

Mr. HENRY of Texas. It has declared for it in specific terms.

Mr. FITZGERALD. If it refers to this particular bill, it is one of those things that slipped into the platform in the dark hours, when it was considered without knowledge of the convention.

Mr. HENRY of Texas. Then the gentleman ought to withdraw his opposition to this bill.

Mr. FITZGERALD. I decline to withdraw my opposition to the bill. The gentleman can make his own statement in his own time. I believe it is unwise legislation and improper legislation. I believe that the Congress has no power to enact it. A declaration in a platform adopted at Baltimore or anywhere else will not control my action in a legislative capacity when I believe, as I do believe, on the subject of such legislation that it is beyond the power of Congress. I doubt, however, that anything in the Democratic platform can be construed as an indorsement of this particular bill.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. POU. Mr. Speaker, I yield two minutes to the gentleman from Virginia [Mr. HAY].

Mr. HAY. Mr. Speaker, I am requested by my colleague, Mr. LAMB, who is unavoidably absent from the House, to make a statement for him as to his attitude on that bill. That statement, which is very brief, I will now read:

"The Democratic Party in its platform at Baltimore having declared in favor of antioption legislation in relation to cotton and grain dealings, it becomes my duty as a loyal Democrat to support this measure, notwithstanding I have made a minority report in opposition to the same. I shall therefore yield my individual judgment to the combined wisdom of the Democratic Party, as set forth in its platform, and vote for the bill."

Mr. POU. Mr. Speaker, as the debate seems to be exhausted on both sides, I will call for a vote.

The SPEAKER pro tempore. Does the gentleman from Wisconsin [Mr. LENROOT] wish to dispose of his time?

Mr. LENROOT. Does not the gentleman from North Carolina [Mr. POU] wish to use further time?

Mr. POU. I do not know that we can, unless there is a desire for further debate on that side.

Mr. LENROOT. Mr. Speaker, it is somewhat refreshing to hear a Member on the Democratic side of this House assault, as he has just done, a rule reported by the Democratic majority as a rule that does not afford this House an opportunity fully and adequately to consider a bill pending in the House. Permit me to say, however, that the argument made by the gentleman from New York [Mr. FITZGERALD] would have, I think, greater weight in this House if it were not for the fact that the gentleman himself has voted in this session of Congress for rule after rule that did not permit the House to offer any amendment at all.

Now, Mr. Speaker, I am in sympathy with the purposes and objects——

Mr. FITZGERALD. Will the gentleman from Wisconsin enumerate some of these rules prohibiting the offering of any amendment?

Mr. LENROOT. Yes. The other day there was one prohibiting the offering of amendments, except a motion to recommit with a substitute.

Mr. FITZGERALD. What bill?

Mr. LENROOT. The contempt bill.

Mr. FITZGERALD. I will say to the gentleman that I did not vote for that. The gentleman is mistaken. I did not vote for it. Perhaps the gentleman can name another.

Mr. LENROOT. If I have misquoted the gentleman, I withdraw that statement.

Mr. FITZGERALD. The gentleman should not make that sort of a statement concerning me. I have been criticized enough for things that I have done without having the gentleman from Wisconsin attempt to criticize me for things I have not done.

Mr. LENROOT. Yes; but I want to ask the gentleman—because I have no desire to place him in any false light—if he also voted against the resolution bringing in the injunction bill, which was a rule similar to that?

Mr. FITZGERALD. I think I voted for that. And let me say to the gentleman from Wisconsin I would have voted for the contempt rule if I had been present.

Mr. LENROOT. I am glad, Mr. Speaker, to find, after all, that I was not mistaken in my first statement. But even if I had been mistaken, in so far as the gentleman from New York [Mr. FITZGERALD] is concerned, it would be entirely excusable, because upon these gag rules that have been brought in from time to time the vote on the Democratic side was so nearly unanimous in favor of them that one had every reason to believe and to think that the gentleman from New York was included in that vast majority that voted for such rules as only a short year ago the Democratic majority, then the minority, was opposing.

But, Mr. Speaker, this rule does afford some opportunity for amendment, and it is so much better than we have reason to expect from the Democratic majority lately that I am disposed to accept and vote for the rule myself.

It is true, Mr. Speaker, that this opportunity for amendment, with one hour's consideration under the five-minute rule, relates to a bill that primarily concerns the Southern States. I

hope, Mr. Speaker, that as time goes on the Democratic majority may be broad enough to permit opportunity to amend bills that affect the Northern States as well as the general welfare of the entire country.

I am disposed to vote for this rule, because although it is a small concession in the public interest, it is some concession, and we ought to be grateful for it. As time goes on I hope that we may have opportunity to amend important bills that are brought before the House.

Let me say for the information of the House that the Committee on Rules has acted upon certain other bills, and that they propose to give reasonable opportunity to offer amendments. I hope that this repentance on the part of the Democratic majority is not manifest because an election is approaching. I hope that that attitude will be evident upon their part at the next session of Congress after the November election as well as now, but I fear that that will not be the case.

I yield two minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, under the provisions of the rule, this bill will be up for amendment for one hour. It is quite probable that section 3 will not be reached for amendment within that time. I call the attention of the House to the danger and absurdity of the rule which forbids an amendment to every part of the bill, and which puts the House in the attitude of doing something that nobody wants to do. On page 4, begining in line 19 of this bill, it reads:

> And in any prosecution under the provisions of section 2 or 3 of this act the proof or failure to make any affidavit herein required shall be prima facie evidence that said message or messages related to a contract prohibited by section 2 of this act.

Of course what was intended was—

> The proof of failure—

But gentlemen will be called upon to vote upon the passage of a bill which provides that the proof or the failure either one shall be considered prima facie evidence against the man. Whether you do or do not, you are damned. [Applause on the Republican side.]

Mr. POU. I yield five minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, I had hoped that the gentleman from Wisconsin [Mr. LENROOT] was about to join me in protesting against this rule. He has been so vociferous in denouncing special rules brought into the House that when an obvious defect in a rule was pointed out to him I assumed that he would unhesitatingly enlist in my cause. It appears from the statement of the gentleman from Wisconsin, however, that he is not so much interested in the substance of the rule as he is in its form. It is immaterial to him whether opportunity be given to the Members of the House really to offer amendments to a bill, so long as the rule in its form pretends to give Members that opportunity; and in view of this attitude of the gentleman from Wisconsin I have no doubt that hereafter the Committee on Rules will be able so to frame special rules for the consideration of measures that, although they will give him no privilege and no right of amendment, still he will be satisfied, because he may be able to pretend that he is obtaining some such privileges and rights.

I suppose that some of the constituents of the gentleman from Wisconsin [Mr. LENROOT] are interested in corn, wheat, and oats. They have some interest in legislation designed to prevent the so-called gambling in those commodities. If the gentleman opposed this rule and marshaled his forces in opposition to it, it might be possible to have this bill considered in such a way that the provisions desired by his constituents might be included within the bill before its passage through the House; but since he is about to support the rule, because in form it apparently makes possible the offering of these amendments, while everyone knows it really will not permit the offering of them, he is, in effect, preventing any attempt being made to include in this bill wheat, corn, and oats, as provided in the Lever bill.

The gentleman says that this rule is designed to help one section of the country as against the other.

Why not join with us, who would be pleased to include provisions in the bill making it apply equally to commodities raised in all parts of the country by perfecting the bill so as to include oats, corn, wheat, and so forth?

Mr. HOBSON. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. HOBSON. I desire to ask the gentleman if he would favor a bill that included all of the commodities, or, to put it in another form, does he favor a similar bill for corn, wheat, oats, and the commodities he enumerates?

Mr. FITZGERALD. I do not; because, as I have stated, under the decision of the United States Supreme Court, Congress has no power to enact this legislation.

Mr. BURLESON. In what case?

Mr. FITZGERALD. In the case of Ware & Leland against the State of Alabama, Two hundred and ninth United States, where, in the State of Alabama, a tax was levied on certain brokers in cotton. They resisted the tax on the ground that they were engaged in interstate commerce. The United States Supreme Court upheld the Supreme Court of the State of Alabama in holding that such contracts were not interstate commerce, but purely State transactions, and could be controlled by any State in the United States. In view of that decision, which is the law of the land, I am unable to find authority for Congress to enact this legislation.

Mr. RUBEY. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. RUBEY. If the bill were constitutional, would the gentleman be in favor of it?

Mr. FITZGERALD. If the gentleman can prepare a bill which is constitutional and which is designed to eliminate what are considered certain abuses connected with transactions in futures, I certainly would support it; but I do not believe that this bill is designed to accomplish that purpose.

Mr. POU. Mr. Speaker, I yield five minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I have only a few suggestions that I wish to make. The first is that the purpose and effect of the bill is simply to promote honesty. No legitimate transaction of broker or merchant will be interfered with. On the contrary such legitimate transactions will be facilitated. The second is that the nature of the instrumentalities invoked is interstate, and therefore clearly within the jurisdiction of the United States, and this act, like similar acts dealing with interstate commerce, is clearly constitutional. The next is that such a measure prohibiting gambling in the interest of plain honesty and facilitating real contracts and the observance of real contracts has merits and is entitled to the support of all good men, whether it embraces one commodity, another commodity, or all commodities.

Mr. NORRIS. Will the gentleman yield?

Mr. HOBSON. Yes.

Mr. NORRIS. I concur in the statement which the gentleman has made, but I want to call attention to the fact that this is a rule that we are debating, and not the merits of the bill.

Mr. HOBSON. I am coming to that. The limitations under the five-minute rule are very reasonable, and create no prejudice against other commodities. This is really one of the fairest rules reported to the House for many years, fairer than any similar rule ever reported by a Republican committee within my memory. The next suggestion or point I was going to make is that cotton is special; if we were going to take up the whole question we ought to take it up with cotton alone and then with the other commodities.

Mr. DUPRÉ. Why?

Mr. HOBSON. I will explain that to the gentleman and the gentleman from Nebraska. Cotton is the monopoly production of the United States alone. Of course I do not mean absolutely, but the bulk of the cotton of the world is produced, and must continue to be produced, in the United States.

Mr. NORRIS. I agree with the gentleman, if he will allow me to interrupt him.

Mr. HOBSON. If the gentleman will permit me, he must realize that I have not the time to answer another question. Now, as a Nation we export yearly $500,000,000 worth of this staple. We have exported food products; but the export of food products is dwindling. The day is fast approaching when America will have to import food products. Cotton, though, will remain continually and perpetually, as far as we can see, to the end of time, the one great permanent export of America. This is the commodity, above all commodities, in which America is interested, and especially interested in seeing that the economic laws should be allowed to have their way. The gambling in cotton futures interferes with the working of economic laws and entails heavy losses not only upon the cotton States but upon the whole Nation. If these economic laws hold as the years go on, as the population of the world multiplies, and prosperity of men multiplies, and the demand for cotton increases in proportion, it means the steady balance of trade ever increasing on the side of the United States.

Every patriotic American citizen ought to be a bull, if he can conscientiously be one, on the cotton market, and this body ought to welcome, like the German legislative body welcomes anything that legitimately increases the price of potash—so every legislator here ought to welcome anything that will legiti-

mately increase the price of cotton. It is now and will then become more and more a fundamental factor in promoting the prosperity of the whole Nation. Thus cotton merits individual and special consideration at the hands of this House. I do not agree with the gentleman from New York that we ought not to invoke on this side of the House the support that comes from our platform. It would come with poor grace for any Democrat, it comes with particularly poor grace from the gentleman from New York [Mr. FITZGERALD], to begin to criticize our platform or a section of it, superficially declaring it unconstitutional before it is even cold from the convention. This bill carries out a plank of that platform—a plank that is regularly and legitimately in that platform, and therefore binding on Democrats.

Mr. LENROOT. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. Two minutes.

Mr. LENROOT. Mr. Speaker, I yield the balance of my time to the gentleman from Nebraska [Mr. NORRIS].

Mr. NORRIS. Mr. Speaker, can the gentleman from North Carolina give me any time?

Mr. POU. Unfortunately, Mr. Speaker, my time is all parceled out.

Mr. NORRIS. Mr. Speaker, of course I can not say what I would like to in two minutes' time. I agree with a great deal of what the gentleman from Alabama [Mr. HOBSON] has said, but I want to call the attention of the House to the fact that this is the rule and not the bill that we are first called to vote upon. This rule provides that this bill shall be considered under the five-minute rule for one hour. That is a little better than as if the rule did not give any consideration to the bill under the five-minute rule. There is no reason, however, why the bill should not be considered clear through under the five-minute rule, without regard to limitation of time. It may not take an hour. We ought to consider it so that any Member may have an opportunity to offer an amendment to any part of the bill, that we may consider every section of it. As has been well pointed out, if this rule is adopted it is possible for gentlemen to consume the whole hour on the first section or first two or three sections of the bill, and thus absolutely cut off amendments to the balance of the bill. I am not speaking as an enemy of the bill, but rather as the friend of it. I am not opposing it, but I would like to give every man here an opportunity to offer an amendment to any part of the bill; and in a short bill like this, containing only seven pages, there is no reason why it should not be done. Common fairness would dictate that it ought to be done. It seems to me that the Committee on Rules is at fault when it puts this limitation of one hour in the rule. Why not let us consider it under the five-minute rule clear through to the end of the bill, and thus give a fair opportunity to everybody to offer any amendment that he may see fit? It will not delay the legislation. It is only a method of consideration that ought to be given to every bill unless there is some reason why we should not give that consideration. If this body were going to adjourn to-day without date, there would be some reason for this kind of a rule, but there is no reason why we should not go clear through the bill. Of course, it may not be done; but why should we make it possible for Members to prohibit the offering of an amendment to anything except the first part of the bill?

Mr. POU. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. HENRY], the chairman of the Committee on Rules.

Mr. HENRY of Texas. Mr. Speaker several matters this morning have pleased me very much, and one of those things is that my friend from New York [Mr. FITZGERALD] has begun the study of constitutional law. He is opposed to the passage of this bill because he finds it to be unconstitutional. I do not remember to have seen him very often bring a law book into the House, but if he will study the law books a little further he will find that this measure is constitutional. If Congress can pass a law prohibiting the transmission of lottery tickets from one State to another as interstate commerce and break up lotteries and kindred transactions, it certainly has the power to prohibit the making of contracts which impede interstate commerce. Mr. Speaker, it grieves me to see the gentleman oppose his party in this matter, and I hope that he will yet change his attitude, for I think we can convince him that the bill is strictly within the limits of the Constitution. Indeed, it is identically the same bill that practically every Member of this House voted for when it passed as the Scott bill. Nearly all of you gentlemen on the other side voted for this bill in identically the same language which is contained in the measure to-day.

Mr. DUPRÉ. Mr. Speaker, will the gentleman yield?

Mr. HENRY of Texas. I have not much time, but yield for a question.

Mr. DUPRÉ. I would like to ask the chairman of the committee why his committee saw fit to bring in this one bill when he had knowledge, or should have had, that a similar measure with regard to other agricultural products had been favorably reported from the Committee on Agriculture? The gentleman is now invoking the Democratic platform in support of this bill, when a similar measure in respect to other agricultural products has been overlooked.

Mr. HENRY of Texas. We may bring in that bill very speedily and give the gentleman an abundance of time to consider it.

Mr. Speaker, I want to read just a few lines from a paper in which the Democratic creed is printed, as it always prints Democratic doctrine, the Commoner.

Mr. MANN. Made by the Commoner, not printed. [Laughter.]

Mr. HENRY of Texas. Well, I accept the amendment. This is from the Democratic platform adopted in the recent convention at Baltimore, and I commend it to the consideration of the gentleman from New York and am sure he must have overlooked or forgotten it. I appeal to all Democrats to begin now to carry out the pledges of the party as made at that convention and we will have the confidence of the American people from one ocean to the other.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. HENRY of Texas. I really have not the time, but go ahead.

Mr. FITZGERALD. Would the gentleman vote for a bill which is insisted by some carries out the provisions of a platform which bill in the gentleman's opinion was unconstitutional?

Mr. HENRY of Texas. No; I would not.

Mr. FITZGERALD. Has the gentleman any right to criticize me for opposing a bill which in my opinion, though I may not conform to the gentleman, does not come within the power of the Congress under the decisions of the United States courts?

Mr. HENRY of Texas. Let me ask the gentleman this question: Conceding that this bill is constitutional, then would the gentleman from New York support it?

Mr. FITZGERALD. Well, I can not conceive that; that is assuming an impossibility, because if it should be constitutional it would be in an entirely different category. The gentleman is asking me to assume an act that we have no power to do.

Mr. HENRY of Texas. Well, I can not yield further. It is apparent there is scant opportunity for the gentleman and myself to get together on this proposition. Now I will read the Democratic creed and commend it to gentlemen on this side of the House and to gentlemen on the other side if they wish to get on the proper side of the question:

> We believe in encouraging the development of a modern system of agriculture by a systematic effort to improve the conditions of trade in farm products, so as to benefit both the consumers and producers *and as an efficient means to this end we favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges or others.*

Mr. Speaker, there is the expressed pledge of the Democratic Party, inserted not by inadvertence, but deliberately with the intention of being redeemed by the representatives of the American people, and we intend to do it to-day by the passage of this bill. [Applause on the Democratic side.]

The SPEAKER pro tempore. The time of the gentleman has expired; all time has expired. The question is on the adoption of the resolution.

The question was taken, and the resolution was agreed to.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 56) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

Be it enacted, etc., That certain words used in this act and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows: The word "message" shall mean any communication by telegraph, telephone, wireless telegraph, cable, or other means of communication from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or to any foreign country. The word "person" shall mean any person, partnership, joint-stock company, society, association, or corporation, their managers and officers, and when used with reference to the commission of acts which are herein required or forbidden shall include persons who are participants in the required or forbidden acts, and the agents, officers, and members of the boards of directors and trustees, or other similar controlling or directing bodies of partnerships, joint-stock companies, societies, associations, and corporations. And words importing the plural number, wherever used, may be applied to or mean only a single person or thing, and words importing the singular number may be applied to or mean several persons or things.

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received, or offering to make

or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton; and the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations. Any person who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than $1,000 nor less than $100, or shall be imprisoned for not more than six months nor less than one month, or by both such fine and imprisonment, and the sending or causing to be sent of each such message shall constitute a separate offense.

SEC. 3. That it shall be the duty of any person sending any message relating to a contract or to the making of a contract for future delivery of cotton to furnish to the person transmitting such message an affidavit stating that he is the owner of such cotton and that he has the intention to deliver such cotton; or that such cotton is at the time in actual course of growth on land owned, controlled, or cultivated by him and that he has the intention to deliver such cotton; or that he is, at the time, legally entitled to the right of future possession of such cotton under and by authority of a contract for the sale and future delivery thereof previously made by the owner of such cotton, giving the name of the party or names of parties he has the intention to deliver such cotton; or that he has the intention to acquire and deliver such cotton; or that he has the intention to receive and pay for such cotton: *Provided*, That any person electing to do so may file with the telegraph, telephone, wireless telegraph, or cable company an affidavit stating that the message or messages being sent, or to be sent, for the six months next ensuing by such person do not and will not relate to any such contract or offers to contract as are described in section 2 of this act, and any such company shall issue thereupon a certificate evidencing the fact that such affidavit has been duly filed, and such certificate shall be accepted in lieu of the affidavit herein required at all the transmitting offices of such company during the life of said affidavit. Any person who knowingly shall make a false statement in any affidavit provided for in this act shall be punished by a fine of not more than $5,000 nor less than $500, or shall be imprisoned for not more than two years nor less than one year, or by both such fine and imprisonment. And in any prosecution under the provisions of section 2 or 3 of this act the proof or failure to make any affidavit herein required shall be prima facie evidence that said message or messages related to a contract prohibited by section 2 of this act, and the proof of failure to deliver or receive the cotton called for in any contract for future delivery of cotton shall be prima facie proof of failure to deliver or receive the cotton called for in any contract for future delivery of cotton shall be prima facie evidence that there was no intention to deliver or receive such cotton when said contract was made.

SEC. 4. That any agent of any telegraph, telephone, wireless telegraph, or cable company to whom messages herein described may be tendered is hereby required, empowered, and authorized to administer any oath required to be made under the provisions of this act with like effect and force as officers having a seal, and such oath shall be administered without any charge therefor.

SEC. 5. That it shall be unlawful for any person owning or operating any telegraph or telephone line, wireless telegraph, cable, or other means of communication, or any officer, agent, or employee of such person, knowingly to use such property or knowingly to allow such property to be used for the transmission of any message relating to such contracts as are described in section 2 of this act. Any person who shall be guilty of violating this section shall, upon conviction thereof, be punished for each offense by a fine of not more than $1,000 nor less than $500, and the sending of each message in violation of the provisions of this section shall constitute a separate offense.

SEC. 6. That every book, newspaper, pamphlet, letter, writing, or other publication containing matter tending to induce or promote the making of such contracts as are described in section 2 of this act is hereby declared to be nonmailable matter, and shall not be carried in the mail or delivered by any postmaster or letter carrier. Any person who shall knowingly deposit or knowingly cause to be deposited for mailing or delivery any matter declared by this section to be nonmailable, or shall knowingly take or cause the same to be taken from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than $5,000 nor less than $500, or shall be imprisoned not more than five years nor less than one year, or both. Any person violating any of the provisions of this section may be proceeded against by information or indictment and tried and punished either in the district at which the unlawful publication was mailed or to which it is carried by mail for delivery according to the direction thereof, or at which it is caused to be delivered by mail to the person to whom it is addressed.

SEC. 7. That the Postmaster General, upon evidence satisfactory to himself that any person in sending through the mails of the United States any matter declared by section 6 of this act to be nonmailable, may instruct the postmasters in the post offices at which such mail arrives to return all such mail to the postmaster in the post office at which it was originally mailed, with the word "unlawful" plainly written or stamped upon the outside thereof, and all such mail, when returned to said postmaster, shall be returned to the sender or publisher thereof under such regulations as the Postmaster General may prescribe.

SEC. 8. That in any proceeding under this act all persons may be required to testify and to produce books and papers, and the claim that such testimony or evidence may tend to criminate the persons giving such testimony or producing such evidence shall not excuse such person from testifying or producing such books and papers; but no person shall be prosecuted or subjected to any penalty or punishment whatever for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence of any character whatever.

The SPEAKER pro tempore. Is there any understanding as to how the time shall be divided? If there is no objection the gentleman from Texas [Mr. BEALL] will be recognized for one hour in favor of the bill and the gentleman from Iowa [Mr. HAUGEN] will be recognized for one hour in opposition to the bill. [After a pause.] The Chair hears no objection.

[Mr. BEALL of Texas addressed the House. See Appendix.]

Mr. BEALL of Texas. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. RUBEY). Does the gentleman from Iowa [Mr. HAUGEN] desire to consume any more time on his side?

Mr. HAUGEN. I yield 10 minutes to the gentleman from New York [Mr. REDFIELD].

The SPEAKER pro tempore. The gentleman from New York [Mr. REDFIELD] is recognized for 10 minutes.

Mr. REDFIELD. Mr. Speaker, even if this bill, up to the close of section 5, were, in my judgment, everything that is to be desired, I could not vote for it or for any bill, no matter for what purpose designed, that carried with it so extraordinary a clause as section 6 contains. It seems to me, whatever it be founded upon, that it creates a situation that is peculiar and astonishing. The language of section 6, when it is read with care, carries with it, I am sure, such a conclusion as to make it seem that this section could hardly have been intended to be taken seriously.

If this thing be supposed to be a poem or a work of the imagination, then section 6 has a place in it. But for sober-minded and thoughtful men to attempt to enact into law, no matter upon what precedent, such language as section 6 contains, is, to my mind, so amusing as to prove it to be impracticable and not to be taken seriously. For it says, among other things, that every letter, writing, or other publication containing matter "tending to induce" or promote the making of such contracts as are described in section 2 is unmailable; and then it proceeds to provide penalties for the crime of mailing and penalties for him who takes out of the mails that which is unmailable. It does not provide any means for finding out what a letter contains in order to make it unmailable. If a letter is written containing the fearful and new crime which may be entitled "tendency to inducement" created in this bill, and the act be found out, it is made a crime punishable by fine and imprisonment. Is it to be the duty of the postmaster to examine letters mailed in order to see whether this crime of "tendency to inducement" really exists?

Mr. BEALL of Texas. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. REDFIELD. I can not yield.

Mr. BEALL of Texas. I will give the gentleman two minutes if he will yield.

Mr. REDFIELD. Very well.

Mr. BEALL of Texas. The gentleman criticizes section 6, does he not?

Mr. REDFIELD. Yes.

Mr. BEALL of Texas. That is modeled exactly after the antilottery section of the statutes which was enacted some years ago.

Mr. REDFIELD. I am interested to hear that. But, no matter what it is modeled after, it is absurd, because it creates a situation which is simply impossible. A letter containing this "tendency to inducement" is not to be mailed. Who is to find out whether it contains that inducement before it is mailed? It is impossible to find that out.

Mr. BEALL of Texas. Will the gentleman yield for another question?

The SPEAKER pro tempore. Does the gentleman from New York yield?

Mr. REDFIELD. I regret I can not yield further. Furthermore, what is it that is meant by "tends to induce"? Does the young man, when he writes a letter to a young lady and signs himself "Yours, sincerely," tend to induce her to accept an offer of matrimony? Does it tend to induce her to take him as hers, sincerely? What is the crime of "tendency to inducement," which is made subject to a maximum fine of $5,000 or five years' imprisonment and to a minimum fine of $500 and one year's imprisonment, or both, to the writer and to the person who innocently receives a letter in which this crime of "tendency to inducement" is committed? Suppose, for example, that this has been a law for six months. In perfect good faith, a man writes to his counsel or a friend in the business and suggests that this law be tested in the courts, and, in order to be tested in the courts, recommends that a case under this law be brought. Then, in so doing, he may commit a crime for which he may be fined $5,000 and subjected to five years' imprisonment, and the man who gets the letter may be fined $5,000 and be subjected to five years' imprisonment, and all for the tendency of inducement, which is not defined, nor is any person given authority to state what the crime of tendency to inducement is.

The whole thing is so vague that, if it be conceded that the purpose of the bill and its language is in every other respect wise and right and sound, this whole matter of the unmailability of articles under seal, protected by law from examina-

tion before mailing, is so absurd, and the whole indefiniteness of the tendency to inducement is so plain, that it is too drastic a power to put into the hands of a postmaster or a postmaster general.

I think that really, no matter what it is founded upon, a bill containing this language in section 6, and also the language in section 7, based upon it, is therefore made both laughable and unworkable and wrong in principle and calculated to bring perfectly innocent parties who may merely get letters or pamphlets through the mail into the position of committing a criminal act, which is absurd. [Applause.]

Mr. HAUGEN. I yield five minutes to the gentleman from Mississippi [Mr. CANDLER].

Mr. BEALL of Texas. Mr. Speaker, I should like to ask the gentleman from New York [Mr. REDFIELD] to use the two minutes that I gave him.

Mr. CANDLER. Mr. Speaker, I desire to detain the House but a short time with what I have to say in reference to this bill, because I believe that it is thoroughly understood, and the gentleman from Texas [Mr. BEALL], who has already addressed the House, has in a very forcible, succinct, and pointed way discussed the specific sections of the bill and demonstrated their effect. As was stated by him, this bill is intended only to forbid and prohibit gambling in cotton futures. There is no desire on the part of anybody and there is no provision in this bill which prevents honest dealing in cotton. If a man wants to buy a hundred bales of cotton, to be delivered to him at a specific and definite time in the future, he can buy the product itself under this bill and demand it, and it can be delivered to him, and he can pay for it and get possession of his property. The bill is simply intended to prevent the gambling to which the people of this country are opposed and which ought to be prohibited, not only in reference to this product, but any other product of any kind or description.

As was stated a moment ago, section 6 is modeled after the lottery statute, which has been sustained by the courts of the country and is to-day the law of the land in reference to matters of that character, and it is invoked in this bill because of the fact that experience has shown that it can be enforced and that it is in accordance with the provisions of the Constitution which permit its enactment and enforcement.

So far as the demand for this legislation is concerned, the people who are more directly interested in this great product than anybody else, the producers themselves, have for years come to this Congress and asked for this legislation, and so far as I know or believe there is a universal demand on their part for the enactment of this law. They are perfectly willing that their product should be sold in the market for what it is actually worth, and they are willing to have it go into the markets of the world and to secure the price which the demand for it will fix; but they are opposed, and every honest man ought to be opposed, to having their products dealt in in a gambling way so that the value may be fixed by fictitious, unlawful, gambling transactions, when there is no intention or purpose on the part of the purchaser to accept the cotton or on the part of the seller to deliver the cotton, but it is simply bought and sold on the exchanges with a view of settling upon the basis of margins.

As the rules of the cotton exchanges are fixed to-day, if a man demands the cotton itself, any character of cotton can be delivered without regard to the classification, and a small amount is kept on hand for the purpose of meeting such demands, with no idea or view of delivering any grade which may be demanded or purchased at any time, but simply cotton of any character, description, or order. These transactions affect the price of the product detrimentally to the producer, detrimentally to the man who brings it upon the market by his own effort and energy. Hence he does not have the opportunity to secure the real value, but the price is fixed by these fictitious and gambling transactions.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. CANDLER. Certainly.

Mr. MADDEN. Is the combination of cotton growers in the South understood to be a combination to raise prices or to lower prices?

Mr. CANDLER. They are no combination at all. They simply want an opportunity to sell their product upon the markets for its value as may be fixed by the demand for it, at a price which may be fixed in accordance with that demand—nothing more and nothing less.

When they can secure its actual value they are content, and they do not want that value affected by these transactions, which should be unlawful and that are merely engaged in in a speculative or gambling way. This bill forbids dealing in futures, which it ought to prohibit in the interest of honesty and fair dealing with the producers of this great product. I was on the subcommittee that reported this bill to the full Agricultural Committee, and we gave it careful consideration, after extensive hearings, and it comes to this House with the approval of the Agricultural Committee, which also gave it serious consideration; and it ought to pass this House, and I hope and believe it will pass by a large majority. [Applause.]

Mr. BEALL of Texas. Mr. Speaker, I now yield five minutes to the gentleman from Colorado [Mr. RUCKER].

Mr. RUCKER of Colorado. Mr. Speaker, I am in favor of this bill, but I was in hopes that there might be some result from several meetings by Representatives of this House and the Senate when we agreed upon an amalgamated bill covering the grain products as well as the cotton. For some reason, I do not know what—and I am not charging any ulterior motive in regard to it—these bills have been separated and the cotton bill, which in my judgment is less defensible from the standpoint of gambling than the grain bill, has been brought in here first. I am assured that when this other bill is presented it will have the same votes that this bill received. I thoroughly hope that there is no deception in this matter because I have been put on record with reference to this grain bill. I was appointed as one of the Members of the House, and my friend over here at my left as another Member, to canvass Congress with reference to whether these two bills should be at the same time considered, and whether they would receive the same votes.

I want to say, gentlemen, that cotton grows up from the seed to its blossom, but I do not believe you have any more complaint to make against the gamblers than we grain men have. The gamblers sell your cotton before it blossoms. The gamblers sell our grain before the seeder has gone over the soil. It does not even crop out of the earth in the way of a spear, and hence it is just as necessary to legislate against the gambler in the grain as it is to legislate against the gambler in the cotton. There can not be any difference. If one is right the other is right; if one is wrong the other is wrong. Therefore I say here to-day, and I want to serve notice on you gentlemen who are voting for this bill, that we have agreed among ourselves—because we got everybody here we could find—that these two bills should come here amalgamated. But it appears that they have been separated, and I shall demand a vote from every one that votes for the cotton bill to vote for the grain bill when it comes before the House. [Applause.]

Mr. HAUGEN. Mr. Speaker, I yield 10 minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, it is not my purpose to attempt, within the brief time at my disposal, a general discussion of the merits or demerits of speculating in futures in cotton. In my opinion there are abuses connected with the present methods that should be eliminated. I am also of the opinion that if such transactions were entirely prohibited the producer of cotton would suffer as grievously as anybody else from such legislation. The legality of such transactions which gentlemen condemn has been upheld by the highest court in this land, in the case of the Chicago Board of Trade *v.* Christy (198 U. S., 236).

In that case the Supreme Court of the United States had under consideration the question of the legality of the transactions upon the board of trade. The direct question was stated by the court as follows:

> It is said that the plaintiff itself keeps the greatest of bucket shops, in the sense of an Illinois statute of June 6, 1887—that is, places wherein is permitted the pretended buying and selling of grain, etc., without any intention of receiving and paying for the property so bought or of delivering the property so sold.

Mr. Justice Holmes said:

> It appears that in no less than three-quarters of the transactions in the grain pit there is no physical handing over of any grain, but that there is a settlement, either by the direct method, so called, or by what is known as "ringing up." The direct method consists simply in setting off contracts to buy wheat of a certain amount at a certain time against contracts to sell a like amount at the same time and paying the difference of price in cash at the end of the business day. The ring settlement is reached by a comparison of books among the clerks of the members buying and selling in the pit and picking out a series of transactions which begins and ends with dealings which can be set against each other by eliminating those between, as if A has sold to B 5,000 bushels of May wheat, and B has sold the same amount to C, and C to D, and D to A. Substituting D for B by novation, A's sale can be set against his on simply paying the difference in price.

And the legality of direct settlements, ring settlements, and hedging was asserted.

> The sales in the pits are not pretended, but, as we have said, are meant and supposed to be binding. A set off is in legal effect a delivery. We speak only of the contracts made in the pits, because in them the members are principals. * * * The proportion of the dealing in the pit which are settled in this way throws no light on the question of the proportion of serious dealings for legitimate business purposes to those which may be classed as wagers, or pretended contracts. No more does

the fact that the contracts thus disposed of call for many times the total receipts of grain in Chicago. The fact that they can be and are set off sufficiently explains the possibility, which is no more wonderful than the enormous disproportion between the currency of the country and contracts for the payment of money, many of which in like manner are set off in clearing houses without anyone dreaming that they are not paid, and for the rest of which the same money suffices in succession, the less being needed the more rapid the circulation.

The court also said:

This court has upheld sales of stock for future delivery and the substitution of parties provided for by the rules of the Chicago Stock Exchange. (Clews *v.* Jamieson, 182 U. S., 461.)

Some gentlemen have attempted to criticize me for my position on the pending bill because the Democratic platform adopted at Baltimore contains a provision favoring legislation which would prohibit, if I recall the language correctly, "pernicious gambling in farm products." I am in entire accord with that provision of the Democratic platform.

Mr. RUCKER of Colorado. Does it use the word "pernicious"?

Mr. FITZGERALD. My recollection of the language is that it is "pernicious gambling." I repeat that I am in accord with that provision of the platform, and I shall cheerfully support legislation designed to accomplish such a result. I did not recall the exact wording of the platform when it was mentioned by the gentleman from Texas [Mr. HENRY]. I was quite certain it had not approved this particular bill. The declaration in the platform does not mean, Mr. Speaker, that every bill proposing to accomplish certain results, no matter where the bill originates, no matter who favors it, is legislation which a party man is compelled to support because of such a provision as that contained in the Baltimore platform. I deny that this bill does or can accomplish what the platform favors. Legislation to carry out the pledges of the party will receive my support. I regard party platforms as binding, but I do not agree that this bill carries out the platform pledge or is wise legislation. I know that nobody interested in making the platform desired to coerce men to support a bill which in their honest judgment, based on an opinion of the United States Supreme Court, is beyond the power of Congress to enact. This bill would not stop pernicious gambling in cotton options, but it would completely eliminate important and necessary and proper and legitimate transactions, which are essential for the proper marketing of the cotton crop of the country.

The gentleman from Texas [Mr. HENRY] in his statement a while ago seemed to be somewhat amused at the fact that I had any opinion as to the constitutionality of any proposed legislation; he commented with some surprise upon the fact that I finally had carried into the House a law book. He stated that he had never known me on any other occasion to bring a law book into this body. Mr. Speaker, my experience and observation has been that if many of the so-called constitutional lawyers in this House carried around fewer law books and better and more thoroughly understood a few cases decided by the United States Supreme Court, they would much better comprehend the powers of Congress in many respects. I shall indulge myself in the belief that I am able to understand at least one decision of the Supreme Court of the United States which applies to this bill—a decision which in my opinion points out clearly that Congress has no power to enact this legislation.

Section 2 of the bill provides:

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton; and the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations.

The section then provides generally for violation of its provisions. That the authors of the bill themselves had very grave doubt as to their ability to make the sending of such a message a crime is evident from the fact that they believed it essential to insert the language:

And the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations.

The only power that Congress has to make the sending of such messages a crime is the fact that it is interstate commerce. That is why the law affecting the lottery case was upheld, namely, that the transmission of the lottery ticket itself constituted commerce, and Congress could control it. The United States Supreme Court in the case of Ware & Leland *v.* Mobile County (209 U. S.) had this case before it.

Mr. RUCKER of Colorado. What is the date of it?

Mr. FITZGERALD. October, 1907. The State of Alabama had enacted a law which provided that each person engaged in the business of buying and selling futures for speculation or on commission, either for themselves or for other persons, and each place of business commonly known as cotton exchanges or stock exchanges, and sometimes called bucket shops in towns and cities of 20,000 inhabitants or more, should pay a license fee of $500. The State and county had levied this license tax upon the plaintiffs in error in two cases; they resisted the enforcement of the tax upon the ground that they were engaged in interstate and foreign commerce. The case was submitted upon an agreed statement of facts, from which it appeared that the plaintiffs in error were brokers, with offices in Mobile, Ala., and with branch offices in New Orleans, Chicago, and New York. They were engaged in the ordinary business of a broker—of accepting orders for the purchase and sale of cotton and grain, telegraphing these messages from one State to another, and settling, either upon the closing out of the transactions, or, in very few instances, as it appeared upon the deliveries of the commodities agreed to be purchased or sold. The contention of the plaintiffs in error was that they were engaged in interstate commerce, and that the State had no power to levy a tax upon them or upon the business in which they were engaged. The Supreme Court, after setting out the statement of facts, said:

The sole question here presented is whether the statute in question is an attempt to regulate interstate commerce, for if the plaintiffs in error are shown by the foregoing agreed facts to be engaged in interstate commerce, then the statute is void, as an attempt by a State to regulate the commerce which the Constitution of the United States places within the exclusive control of Federal authority.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. HAUGEN. Mr. Speaker, I yield five minutes more to the gentleman.

Mr. FITZGERALD. Mr. Speaker, the court then refers to the case of Leloup *v.* Mobile (127 U. S., 640), where telegraph companies were held to be engaged in interstate commerce. Reference is also made to the case of Paul against Virginia, in which the question as to whether insurance policies are interstate commerce was determined, and to the case of Hooper *v.* California (155 U. S.), in which it is pointed out that a contract of insurance is not an instrumentality of commerce, but a mere incident of commercial intercourse. It is also shown that—

if the power to regulate interstate commerce applied to all the incidents to which said commerce might give rise and to all contracts which might be made in the course of its transaction, that power would embrace the entire sphere of mercantile activity in any way connected with trade between the States, and would exclude State control over many contracts purely domestic in their nature.

With the permission of the House I shall insert the complete opinion as part of my remarks.

Mr. ALEXANDER. Will the gentleman yield for a question? Section 2——

Mr. FITZGERALD. I wish the gentleman would permit me to finish discussing this case and then I shall yield. And then the court comes to the facts in the case at bar:

But how stands the present case—

Said the court—

upon the facts stipulated? The appellants are brokers who take orders and transmit them to other States for the purchase and sale of grain or cotton upon speculation. They are in no just sense common carriers of messages as are the telegraph companies. For that part of the transactions, merely speculative and followed by no actual delivery, it can not be fairly contended that such contracts are the subject of interstate commerce, and concerning such of the contracts for purchases for future delivery as result in actual delivery of the grain or cotton, the stipulated facts show that when the orders transmitted are received in the foreign State the property is bought in that State and there held for the purchaser. The transaction was thus closed by a contract completed and executed in the foreign State, although the orders were received from another State. When the delivery was upon a contract of sale made by the broker the seller was at liberty to acquire the cotton in the market where the delivery was required or elsewhere. He did not contract to ship it from one State to the place of delivery in another State. And though it is stipulated that shipments were made from Alabama to the foreign State in some instances, that was not because of any contractual obligation so to do. In neither class of contracts—for sale or purchase—was there necessarily any movement of commodities in interstate traffic, because of the contracts made by the brokers.

These contracts are not, therefore, the subjects of interstate commerce any more than in the insurance cases, where the policies are ordered and delivered in another State than that of the residence and office of the company. The delivery, when one was made, was not because of any contract obliging an interstate shipment, and the fact that the purchaser might thereafter transmit the subject matter of purchase by means of interstate carriage did not make the contracts as made and executed the subjects of interstate commerce.

We are of the opinion that the Supreme Court of Alabama correctly held that the transactions of the plaintiffs in error were not interstate commerce, and the judgments in both cases are affirmed.

The very contracts themselves are not interstate commerce. Upon what theory, then, can the Congress prohibit the sending

of a message by telegraph or by telephone or in any other way affecting contracts which are domestic in themselves unless declared illegal in the States and which affect transactions which have been held are not transactions in interstate commerce? It seems to me clear, Mr. Speaker, that the Congress has not the power to enact this legislation. Even if this bill did not do what I believe it will do—go far beyond what it is desired should be accomplished by eliminating whatever improper practices may exist in connection with dealing in cotton futures—I should not be able to support it in view of the case to which I have referred. Here is a case which is as clearly applicable to this bill, and the court differentiates the cases which the gentlemen rely upon in order to support this bill. Whether the purpose be to accomplish desirable results or to carry out declarations in party platforms, no Member of this House can possibly support a bill which clearly is beyond the power which Congress has under the Constitution. Now I yield to the gentleman from Missouri.

Mr. ALEXANDER. I desire to call the gentleman's attention to section 2.

Mr. FITZGERALD. That is the only section I have discussed.

Mr. ALEXANDER (reading)—

That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received—

Now, if I understand it, nearly every State in the Union has a statute declaring that kind of a contract to be absolutely void and the supreme courts of the different States have uniformly held that class of contracts to be void, and so with reference to *the following*:

Or offering to make or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton.

Now, the statutes of the different States say that class of contract is void and the decisions of the supreme courts of the States say that class of contracts is void.

Mr. FITZGERALD. Oh, no; the decisions of the United States Supreme Court do not say that.

Mr. ALEXANDER. I say the courts of the several States have declared that class of contracts were void. I do not think you can find an exception to it. Now, as I understand it, all this bill does is to say that telegraph, telephone, wireless telegraph, or cable, and all kinds of communication——

Mr. FITZGERALD. Does the gentleman wish to ask a question?

Mr. ALEXANDER. That these agencies of interstate commerce shall not be used——

Mr. FITZGERALD. I do not think the gentleman should make a speech in my five minutes.

Mr. ALEXANDER. I understand the gentleman differentiated——

Mr. FITZGERALD. I know, but I do not think the gentleman should consume the whole of my time. Let him take his time to express his own views. I should prefer to express mine in my own time.

Mr. HAUGEN. I yield the gentleman from New York another five minutes.

Mr. FITZGERALD. If the gentleman wishes to ask a question I will yield.

Mr. ALEXANDER. I can not ask a question unless I form the premise for the question first.

Mr. FITZGERALD. Then I decline to yield to the gentleman.

Mr. ALEXANDER. I concede the decision, but I say it has absolutely nothing to do with this case.

Mr. FITZGERALD. That is the gentleman's opinion.

Mr. ALEXANDER. And that is the reason I was laying the basis for asking a question.

Mr. FITZGERALD. The gentleman did not attempt to ask a question, but the gentleman attempted to argue the question from his standpoint, and after he had advanced his argument, I assume, would ask if I agreed or disagreed with him.

I will try to state my view of this matter. The gentleman does not agree with it. He apparently will not be converted to my views, and I shall not be converted to his view. I simply ask the privilege of stating my own views. I will answer a question, however, if the gentleman desires to ask one.

Mr. ALEXANDER. Does not the bill, then, simply come to do this, to say that the telegraph and telephone and wireless-telegraph companies and other interstate agencies shall not be used, including the Post Office Department, to carry or disseminate knowledge with reference to these contracts alleged to be illegal? Is not that all?

Mr. FITZGERALD. I think not. This attempts to prohibit the sending of certain messages, and the only ground upon which Congress can do that is that these messages are interstate commerce. I do not think the gentleman will differ with me on that proposition, and that the contract itself, after being made in writing, as was done in the Ware & Leland case, has been held by the court not to be interstate commerce.

I am unable to see how the message being sent for the purpose of making a contract, or the making of a contract itself, by telegraph can be held to be interstate commerce. I do not think there is any question about it whatever. In the case to which I have referred is the following in the agreed statement of facts upon which it was decided:

No actual delivery of cotton or grain was ever made on any such contract except in a few instances when such delivery was made when the contracts were executed, to wit, in New York, N. Y., or New Orleans, La., or Chicago, Ill.

Of course when gentlemen assert a power in the Congress to enact certain legislation they should be able, Mr. Speaker, to sustain their contention by citing decisive authority. I know that men who are anxious to enact this legislation are sincere in their efforts to eliminate certain abuses. In my opinion, some of them are mistaken in the belief that certain features of these transactions are abuses. For many years men have been led to believe that their failure to obtain larger returns for cotton which they produce is due entirely to transactions upon certain cotton exchanges.

From a somewhat extended and as careful an investigation as it has been possible for me to make, the exchanges are an important and valuable instrumentality for making stable and certain the prices of commodities traded in through their members. The existence of the exchanges is of value to the producer as well as to the consumer. Their place is well fixed by economic writers and students. It would be futile to deny that abuses have existed in connection with them. I believe that they have existed. I am informed that legitimate efforts have been made to eliminate the abuses. Whatever can be done by legislation should be done. From careful study and from information furnished me by men competent to judge I am convinced that this bill, even if within the power of Congress to enact, will not give the relief desired. In the time allowed to discuss the bill it is not possible to go exhaustively into the various phases of the subject. I have merely sought an opportunity to refer briefly to the reasons which make it impossible for me to support the bill, which I hope will never be enacted into law.

Mr. Speaker, I ask unanimous consent to extend in the way indicated my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. Justice Day delivered the opinion of the court.

These cases were submitted together and are in all respects similar, and involve the constitutional validity of subdivision 40 of an act of the Legislature of Alabama imposing license taxes, "to better provide for the revenue of the State," general acts, 1903, page 207, which reads as follows:

"For each person engaged in the business of buying and selling futures for speculation or on commission, either for themselves or for other persons, and each place of business commonly known as cotton exchanges, or stock exchanges, and sometimes called 'bucket shops,' in towns and cities of 20,000 inhabitants or more, $500; in all other towns and cities, $250; but this shall not be held to legalize any contract which would otherwise be invalid."

In case No. 173 the action was brought by Mobile County for the recovery of the defendants' license tax for the year 1903, for engaging in the business of buying and selling futures on commission for other persons in the city of Mobile. The other case (No. 174) was an action by the State. Plaintiffs recovered in the circuit court and both judgments were affirmed by the Supreme Court. (146 Ala., 163.)

The cases were submitted upon an agreed statement of the facts as follows:

"During the whole of the year 1903 defendants had an office in the city of Mobile, in the county of Mobile and State of Alabama; they also had offices in the city of New York in the State of New York, and in the city of New Orleans in the State of Louisiana, and in the city of Chicago in the State of Illinois, each of which offices was connected by private telegraph wires with said Mobile office.

"Said Mobile, Ala., office was in charge of their agent, one Robbins, and was engaged in the business of buying and selling cotton for future delivery, on commission, for the public generally and for special customers, said business being conducted in the following way and in no other way: They would undertake, through their agent, to buy or sell a cotton future contract for a customer in the cotton exchange in New York or in New Orleans, as he might select, he making at the time a deposit of money with them as a margin to protect them against loss in making such transaction for him. When the customer gave the order to Ware & Leland, either for a sale or a purchase of a future contract, it was not usual for anything to be said between them about an actual delivery of the cotton, but when the transaction was commenced by a purchase or sale of the cotton Ware & Leland would immediately furnish to the customer a memorandum thereof, partly written and partly printed, upon which the following stipulations were printed: 'On all marginal business we reserve the right to close transactions without further notice when margins are about exhausted and to settle contracts in accordance with the rules and customs of the exchange on which the order is placed, it being understood and agreed in all trades that actual delivery is contemplated,' and 'All purchases

and sales made by us for you are made in accordance with and subject to the rules, regulations, and customs of the exchange on which the order is placed, and the rules, regulations, and requirements of the board of managers of said exchange, and all amendments that may be made thereto.' Such agent would thereupon transmit such order by their private telegraph line to the defendants' office in the city without the State of Alabama selected for such transaction; that such order would be thereupon executed by defendants by the purchase or sale, as directed, of a future cotton contract for such customer in the cotton exchange of the city to which such order was sent, and subject to the rules and regulations of such cotton exchange, which rules and regulations may be introduced in evidence by defendants in this cause; that said contract would be held by defendants for such customer until he ordered the same closed out, when they would sell or buy another cotton contract against it as might be necessary to cover the same or close it out, or receive or deliver the cotton on said contract. If a profit was made on the transaction, defendants remitted the same to its agent in Mobile, who paid it over to the customer; if a loss was made, it was taken by the agent out of the customer's margin, or, if that was insufficient therefor, the customer was called on for the balance. Said business was done on a commission paid defendants by the customers.

"No actual delivery of cotton or grain was ever made on any such contracts, except in a few instances, when such deliveries were made where the contracts were executed, to wit, in New York, N. Y., or in New Orleans, La., or Chicago, Ill. When any such delivery of cotton was made to defendants for the customer on a purchase by him, it was held by the defendants for account of the customer at the place of delivery, either in New York, N. Y., or in New Orleans, La., until ordered sold by the customer, and was then sold by them there for the account of the customer, and the proceeds accounted for by them to such customer. When they made delivery of cotton on a sale of futures made by them for a customer, the cotton was shipped by the customer for whom such sale was made from Alabama to the place of sale and there delivered through defendants to the buyer.

"A similar future grain business was done by defendants at their said office in Mobile, Ala., for customers through their office in Chicago, in the State of Illinois, said orders being executed on the Chicago (Ill.) Board of Trade, and subject to its rules and regulations, which contemplated and provided for the actual receipt or delivery of grain bought or sold therein, such delivery to be made in Chicago, Ill.

"During the whole of the year 1903 said city of Mobile, Ala., was a city of more than 20,000 inhabitants.

"Defendant paid to plaintiff a license tax of $100 for doing such business in said city for the year 1903, which payment was made prior to the 4th day of March, 1903; they have not paid any further license tax to plaintiff for doing such business in said year."

Upon the trial of the action, in addition to the foregoing agreed facts, the counsel for the plaintiff admitted that the rules and regulations of the New York Cotton Exchange, New Orleans Cotton Exchange, and Chicago Board of Trade, respectively, provided "that contracts executed therein should be in writing; and also provided that in every cotton or grain contract for future delivery executed and entered into in said exchange or board of trade it should be stipulated, agreed, and understood that an actual receipt and delivery of the cotton or grain was to be had, and that said contracts were transferable and assignable."

The sole question here presented is whether the statute in question is an attempt to regulate interstate commerce, for if the plaintiffs in error are shown by the foregoing agreed facts to be engaged in interstate commerce, then the statute is void, as an attempt by a State to regulate the commerce which the Constitution of the United States places within the exclusive control of Federal authority.

Interstate commerce must be such as takes places between States as differentiated from commerce wholly within a State. It must have reference to interstate trade or dealing, and if the regulation is not such, and comprehends only commerce which is internal, the State may legislate concerning it. In each case the recurring question is, On which side of the line does the commerce under investigation fall?

It is unnecessary to review the former decisions of this court, as that has been done in very recent cases, such as the Lottery case (188 U. S., 321), where it was held that the transportation of lottery tickets was interstate commerce and as such subject to regulation by act of Congress. In that case the Federal act prohibiting the transmission of lottery tickets was sustained because of the actual carriage in interstate traffic of the tickets themselves; and in concluding the opinion of the majority of the court Mr. Justice Harlan said (p. 363):

"The whole subject is too important and the questions suggested by its consideration are too difficult of solution to justify any attempt to lay down a rule for determining in advance the validity of every statute that may be enacted under the commerce clause. We decide nothing more in the present case than that lottery tickets are subjects of traffic among those who choose to sell or buy them; that the carriage of such tickets by independent carriers from one State to another is therefore interstate commerce; that under its power to regulate commerce among the several States Congress, subject to the limitations imposed by the Constitution upon the exercise of the powers granted, has plenary authority over such commerce and may prohibit the carriage of such tickets from State to State; and that legislation to that end and of that character is not inconsistent with any limitation or restriction imposed upon the exercise of the powers granted to Congress."

And in Leloup *v.* Mobile (127 U. S., 640) it was held that a telegraph company, whose business is the transmission of messages from one State to another, invested with the powers and privileges conferred by Congress, could not be compelled to pay a license tax by the State. And in Pensacola Telegraph Co. *v.* Western Union Telegraph Co. it was held that interstate telegraphic communications, conducted by companies organized for that purpose, was commerce within the regulating power of Congress. The Pensacola case was affirmed in Telegraph Co. *v.* Texas (105 U. S., 460), in which case Mr. Chief Justice Waite, speaking for the court, said (p. 464): "A telegraph company occupies the same relation to commerce as a carrier of messages that a railroad company does as a carrier of goods."

While the general principles applied in these cases are not to be denied, there is a class of cases which hold that contracts between citizens of different States are not the subjects of interstate commerce simply because they are negotiated between citizens of different States or by the agent of a company in another State where the contract itself is to be completed and carried out wholly within the borders of a State, although such contracts incidentally affect interstate trade.

As in the cases involving insurance policies, it has been held that issuing them in one State and sending them to another, to be there delivered to the insured upon payment of premium, is not a transaction of interstate commerce. Paul *v.* Virginia (8 Wall., 168), Hooper *v.* California (155 U. S., 648), New York Life Insurance Co. *v.* Cravens (178 U. S., 389).

In Paul *v.* Virginia Mr. Justice Field, delivering the opinion of the court, said (p. 183):

"Issuing a policy of insurance is not a transaction of commerce. The policies are simple contracts of indemnity against loss by fire, entered into between the corporations and the assured for a consideration paid by the latter. These contracts are not articles of commerce in any proper meaning of the word. They are not subjects of trade and barter offered in the market as something having an existence and value independent to the parties to them. They are not commodities to be shipped or forwarded from one State to another and then put up for sale. They are like other personal contracts between parties which are completed by their signature and the transfer of the consideration. Such contracts are not interstate transactions, though the parties may be domiciled in different States. The policies do not take effect—are not executed contracts—until delivered by the agent in Virginia. They are, then, local transactions and are governed by the local law. They do not constitute a part of the commerce between the States any more than a contract for the purchase and sale of goods in Virginia by a citizen of New York whilst in Virginia would constitute a portion of such commerce."

In Hooper *v.* California (155 U. S., 648) it was said:

"If the power to regulate interstate commerce applied to all the incidents to which said commerce might give rise and to all contracts which might be made in the course of its transaction, that power would embrace the entire sphere of mercantile activity in any way connected with trade between the States and would exclude State control over many contracts purely domestic in their nature. The business of insurance is not commerce. The contract of insurance is not an instrumentality of commerce. The making of such a contract is a mere incident of commercial intercourse, and in this respect there is no difference whatever between insurance against fire and insurance against 'the perils of the sea.'"

These cases are not in conflict with those in which it is held that the negotiation of sales of goods in a State by a person employed to solicit for them in another State, the goods to be shipped from the one State to the other, is interstate commerce. Robbins *v.* Shelby County Taxing District (120 U. S., 489); similar cases are Rearick *v.* Pennsylvania (203 U. S., 507) and Caldwell *v.* North Carolina (187 U. S., 622). In these cases goods in a foreign State are sold upon orders for the purpose of bringing them to the State which undertakes to tax them, and the transactions are held to be interstate commerce because the subject matter of the dealing is goods to be shipped in interstate commerce—to be carried between States and delivered from vendor to purchaser by means of interstate carriage.

But how stands the present case upon the facts stipulated? The appellants are brokers who take orders and transmit them to other States for the purchase and sale of grain or cotton upon speculation. They are, in no just sense, common carriers of messages, as are the telegraph companies. For that part of the transactions, merely speculative and followed by no actual delivery, it can not be fairly contended that such contracts are the subject of interstate commerce; and concerning such of the contracts for purchases for future delivery as result in actual delivery of the grain or cotton, the stipulated facts show that when the orders transmitted are received in the foreign State the property is bought in that State and there held for the purchaser.

The transaction was thus closed by a contract completed and executed in the foreign State, although the orders were received from another State. When the delivery was upon a contract of sale made by the broker, the seller was at liberty to acquire the cotton in the market where the delivery was required or elsewhere. He did not contract to ship it from one State to the place of delivery in another State. And though it is stipulated that shipments were made from Alabama to the foreign State in some instances, that was not because of any contractual obligation so to do. In neither class of contracts, for sale or purchase, was there necessarily any movement of commodities in interstate traffic, because of the contracts made by the brokers.

These contracts are not, therefore, the subjects of interstate commerce, any more than in the insurance cases, where the policies are ordered and delivered in another State than that of the residence and office of the company. The delivery, when one was made, was not because of any contract obliging an interstate shipment, and the fact that the purchaser might thereafter transmit the subject matter of purchase by means of interstate carriage did not make the contracts as made and executed the subjects of interstate commerce.

We are of the opinion that the Supreme Court of Alabama correctly held that the transactions of the plaintiffs in error were not interstate commerce, and the judgments in both cases are affirmed.

Mr. BEALL of Texas. Mr. Speaker, I yield 10 minutes to the gentleman from North Carolina [Mr. WEBB].

Mr. WEBB. Mr. Speaker, I shall only discuss the legality or constitutionality of this bill. The vital part of this measure is contained in the following section, viz:

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton; and the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations. Any person who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than $1,000 nor less than $100, or shall be imprisoned for not more than six months nor less than one month, or by both such fine and imprisonment, and the sending or causing to be sent of each such message shall constitute a separate offense.

When the Constitution of the United States was framed every State in the Union under the Articles of Confederation had the right to prohibit the importation or entrance across its borders of anything in the world it pleased. Now, when these States possessing these sovereign powers came together in constitutional convention the question of interstate commerce bothered them greatly. They had to surrender that power which they

formerly had to somebody, and finally they did surrender it, and they surrendered it in the Constitution to the Congress of the United States in these words:

The Congress shall have power to regulate commerce with foreign nations and among the several States and with Indian tribes.

Over and over again the Supreme Court of the United States has held that that clause in the Constitution gives this body, or, rather, Congress, plenary and absolute power and control over not only the commerce itself but over all the instrumentalities of interstate commerce.

Mr. MANN. Will the gentleman yield for a question?

Mr. WEBB. Yes.

Mr. MANN. How about the insurance case and the transfer of insurance policies from one State to another?

Mr. WEBB. You can, under the Constitution, prohibit the transportation of the insurance policy itself. The court says the making of the contract is not interstate commerce, but Congress can prohibit the transportation of the policy. In the lottery case it was held we could prohibit the transmission of a little bit of card with a few words printed thereon. The Congress has the power to prohibit the transmission in the mails and in interstate commerce of that little card on which the contract was printed. It is the physical thing which we prohibit and control in interstate commerce. Now, as I say, when these States yielded up this power they reposed it in Congress not only to control the commerce that goes through interstate channels, but to control the instrumentalities of such commerce. Now, I never wanted to believe the power of Congress under the Constitution was that broad and plenary, but any gentleman who will read decisions of the Supreme Court from the beginning of the Government to the present must come to the conclusion that the only and the sole power to regulate all objects of interstate commerce and instrumentalities of commerce resides in the Congress of the United States. We have exercised that power pretty freely recently.

The lottery case is one in point. We exercise that power in prohibiting the shipment of whisky through the mails in the United States; we exercised it in prohibiting the shipment of dead birds when killed in violation of the law of the State from which the birds are shipped. There is nothing wrong with the birds. They are good and wholesome, and all that, but we prohibit the shipment of them because they were killed in violation of the law of some State. We prohibit the importation of English sparrows. We do not allow a vessel leaving the ports of the United States to carry loose hay. We passed a few years ago a bill prohibiting the shipment in interstate commerce of certain jewelry misbranded, and with certain words upon it. And I do not know of a case where the courts have held that Congress has not this plenary power over commerce and the instrumentalities of commerce. It has been held over and over again that the States can not under the present Constitution hamper or in any way regulate commerce which is interstate.

Now, if that is the law, and I take it that it is, as a case in point I will refer to Pensacola Telegraph Co. *v.* Western Union Telegraph Co. (96 U. S., p. 1):

The powers conferred upon Congress to regulate commerce with foreign nations and among the several States, and to establish post offices and post roads, are not confined to the instrumentalities of commerce, or of the postal service known or in use when the Constitution was adopted, but keep pace with the progress of the country, and adapt themselves to the new developments of time and circumstances.

That quotation is from the syllabus, and in the opinion itself the court say:

The powers thus granted are not confined to the instrumentalities of commerce, or of the postal service known or in use when the Constitution was adopted, but they keep pace with the progress of the country, and adapt themselves to the new developments of time and circumstances. They extend from the horse with its rider to the stagecoach, from the sailing vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph, as these new agencies are successively brought into use to meet the demands of increasing population and wealth. They were intended for the government of the business to which they relate, at all times and under all circumstances.

No one can doubt that the Congress controls the telegraphs, the telephones, and railroads of this country, if those telegraphs, telephones, and railroads are interstate and do an interstate business. This section 2 of the bill prohibits a telegraph company or one of its agents from transmitting an unlawful proposal on its wires.

We do not declare that the message is commerce. We say what this interstate instrumentality shall do and shall not do, and in this section 2 of the bill we provide that it shall not transmit over its wires this contract which the Congress declares is in the nature of a gambling contract. Therefore, if they want to continue interstate business they are prohibited from sending over their wires this kind of a message.

In One hundred and fifth United States, page 460, you will find it expressly held—

In respect to its foreign and interstate business a telegraph company is, as an instrument of commerce, subject to the regulating power of Congress.

I do not know whether my friend from New York heard that or not. Chief Justice Waite, in writing the opinion, said:

In Pensacola Telegraph Co. *v.* Western Union Telegraph Co. (96 U. S., 1) this court held that the telegraph was an instrument of commerce, and that telegraph companies were subject to the regulating power of Congress in respect to their foreign and interstate commerce.

Mr. FITZGERALD. I called attention to the case in which the court said that if telegraph companies were engaged in interstate commerce that was true, but the plaintiff in error in the case to which I referred was not so engaged.

Mr. WEBB. Section 2 of this bill does regulate the conduct of telegraph companies, and if Congress wanted to, we could provide by law that no interstate telegraph company should send a message on its wires signed by a particular individual.

Mr. FITZGERALD. That might come in conflict with the provision that guarantees equal protection to all persons.

Mr. WEBB. No; the Congress has absolute control over these interstate facilities.

Mr. FITZGERALD. They can not discriminate against individuals in that way.

Mr. WEBB. I say, again, this section 2 simply regulates the conduct of interstate telegraph and telephone companies, and Congress has the power to say to them what they shall transmit and what they shall not transmit. According to my view of it, this has been decided in substance many times by the Supreme Court of the United States.

Mr. MANN. Mr. Speaker, will the gentleman yield for one question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. WEBB. Yes, sir.

Mr. MANN. Does the gentleman think that Congress has the power to require a telegraph company to furnish a service for nothing? In other words, does he think Congress has the power to require that a telegraph company shall take an affidavit without charging for it?

Mr. WEBB. Well, I have not considered that.

Mr. MANN. Swearing a man without charging for it?

Mr. WEBB. I doubt that. Of course that is not a material question.

Mr. MANN. That is just as important as any other question in this bill.

Mr. WEBB. Not at all. That is incidental to the main feature of this bill.

Mr. CULLOP. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from North Carolina yield to the gentleman from Indiana?

Mr. WEBB. I do.

Mr. CULLOP. As I understand, it is the gentleman's contention that Congress has the right to pass a law making it a crime for a telegraph company to transmit from State to State any message that it defines to be a crime. Would it not, then, be the proper way to meet this whole question by simply affixing a penalty making it a penal offense for telegraph and telephone companies, and also to make it unlawful to transmit in the mails, either messages or contracts to be made between citizens of different States for future delivery of products grown in one State to be transported to another State?

Mr. WEBB. Oh, no. I think a man ought to have the right to buy for future delivery when he actually intends to have the product delivered, and this bill does not interfere with that right.

Mr. CULLOP. I do not mean the future delivery, but to deal in options, in other words.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WEBB. I would like to have just two minutes more in which to answer this question.

Mr. BEALL of Texas. Mr. Speaker, I yield two minutes additional to the gentleman.

Mr. WEBB. In answering this question, I think we ought to reserve the right to a man to buy for future delivery and not for the purpose of gambling and speculation. That is the only kind of a transaction that this bill denounces as an offense, and provides that the telegraph lines can not transmit that kind of a speculative, gambling contract.

Mr. CULLOP. Now, if Congress simply passes a law defining that act to be a crime, and penalizing both the sender of the message and the company which carries or transmits it, will not that solve this whole problem?

Mr. WEBB. Well, I think that sections 1 and 2 of the bill do that very thing.

Mr. HAUGEN. Mr. Speaker, I yield 10 minutes to the gentleman from Mississippi [Mr. SISSON].

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. SISSON] is recognized for 10 minutes.

Mr. SISSON. Mr. Speaker, the case read by the gentleman from New York settled only the one question as to whether a cotton firm doing business and having an office in the State of Alabama, and having its principal office in the city of Mobile and branch offices in New York and New Orleans, was subject to a State tax. The privilege tax levied against men engaged in cotton business of that character was $500 in a city of the size of Mobile, and in smaller cities the privilege tax was less. Now, the courts simply held that because they sent messages in reference to cotton from the city of Mobile to New Orleans and New York that did not cause that concern to cease to be under the control of the laws of the State of Alabama and subject to taxation by the State of Alabama.

Now, this bill does not in any way seek to affect the legality of a contract made under the laws of New York with respect to the rules of the cotton exchange. It is not necessary for the purposes of this discussion to talk to this House about the contract itself, because the courts have held that on their faces these contracts are legal, because under the rules of the exchange a party buying cotton on exchange can demand the spot cotton. But it is an evasion of a statute in the State of New York. It is an evasion of the laws of that State, because it is admitted by all parties that many of these transactions are not transactions in substance. And, in fact, the proof before the Committee on Agriculture shows that when we had a 7,000,000-bale crop of cotton over 56,000,000 bales of so-called cotton were sold on the cotton exchange, and when we have a ten or eleven million bale crop over 100,000,000 bales are sold on the exchange in the city of New York, showing that the greater amount of these transactions, where three or four million bales are sold actually, were transactions where no actual delivery was ever contemplated.

And it will be admitted by every lawyer here that these contracts are contracts which are controlled entirely by the State of New York; but when the cotton exchange assumes the right to use the instrument of interstate commerce, when they use one of the avenues of communication established by the United States Government, it is absurd, to my mind, for anyone to contend on this floor that this Congress has not the right to regulate what shall be transmitted through and by that means. If the Congress has the right to establish means of communication, it has the absolute right to control it and determine what shall go through the mail, and that was decided in the Lottery case which has been referred to so often during this debate.

It is equally true that one can not establish interstate communication and put himself within the jurisdiction of Congress, that Congress has the right to regulate that means of interstate communication because States have no right to do so, and the right to regulate it is absolutely in Congress. And because a man does business in a State which has its location within the boundaries of the State, doing business under a State charter and under control of the laws of that State, because he seeks to use the means of interstate communication, does not mean that Congress can not regulate the manner in which he shall use the means of interstate communication. That is all there is in the case referred to by the gentleman from New York.

This bill does not interfere with the legitimate contract. I could get on the train, go to the city of New York, and there buy or sell cotton futures, and I would violate no law if this bill should become a law. But the very moment I buy cotton futures by telegram, or the very moment I use means of interstate communication, I then become guilty of a violation of this act—then and then only.

Mr. MADDEN. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. MADDEN. Suppose I went to the telegraph office and telegraphed to a broker in New Orleans to buy me a thousand bales of cotton, to make that contract, and did not say anything else in the telegram about where it was or when it was to be delivered. Would that be a legal contract?

Mr. SISSON. I do not see how the gentleman could buy cotton if he did not tell how or when it was to be delivered.

Mr. MADDEN. I was supposing that case.

Mr. SISSON. If you buy cotton to be delivered on a certain day, specifying the time and the character of the cotton, you might get your order filled, but you could not buy a thousand bales of cotton without specifying when.

Mr. MADDEN. Why not?

Mr. SISSON. You would have to state what month you wanted the cotton bought, or else the broker would not handle it.

Mr. MADDEN. Suppose I simply asked him to buy me a thousand bales.

Mr. SISSON. He would not buy it at all unless you told him what month, because the price would vary in accordance with the various months. He might go down and buy spot cotton.

Mr. MADDEN. That is what my telegram would mean, I suppose.

Mr. SISSON. Well, that would not violate this statute.

Mr. MADDEN. Suppose I refused to take the cotton?

Mr. SISSON. If you contemplated and intended at the time to take the cotton, if you bought the cotton in good faith, if you were worth it, the broker could compel you to take it.

Mr. MADDEN. Or pay the difference in the price.

Mr. SISSON. The broker could tender you the cotton, and if you did not take it he could dispose of it and sue you for the difference.

Mr. MADDEN. In the arrangement of the brokers their contract contemplates the purchase of the cotton.

Mr. SISSON. Oh, I am not talking about the rules of the exchange. They provide that there shall be a margin, and then they turn it over to the exchange, and when a loss occurs they turn the margin over to the party entitled to it under the rules of the exchange.

Mr. MADDEN. But suppose the gentleman and I were both brokers; that I was a broker for the man that wanted to buy and the gentleman was a broker for the man that wanted to sell. Would a contract between us brokers have any legal force?

Mr. SISSON. It would.

Mr. MADDEN. Would it not be considered interstate commerce?

Mr. SISSON. A contract, if sent from the District of Columbia to a broker in New York, and the New York broker accepts the contract, it becomes a New York contract. But the means established to make the contract would be interstate means of communication over which Congress would have control. That is the point involved in this bill, and that is all that is involved in the bill.

Mr. MADDEN. So persons in one State could not buy commodities from persons in another State at all under the construction the gentleman puts on it?

Mr. SISSON. Not at all; you could always buy commodities, but you could not gamble in them; you could not go and buy or sell something that did not exist.

The gentleman is not as familiar with the cotton business as he is with the grain business, and I am less familiar with the grain business than with the cotton business. I do know something about the cotton business, because I am engaged entirely in that. Under the rules of the New York Cotton Exchange if you buy a thousand bales of cotton from me on exchange basis middling, for November delivery, and 10 days before the date of delivery you notify me, under the rules of the exchange, that you want the spot cotton, I tell you that I am going to deliver you the meanest grade of cotton, and you say, "Mr. SISSON, I bought basis middling; I bought cotton that was merchantable; I endeavored to buy cotton that I could use in my factory." I reply that I do not care anything about that, and you go and consult your lawyer. He will tell you that under the rules of the exchange I have the right to deliver you the meanest grade of cotton; cotton you can not handle. What is the result? You are compelled to settle in margins with me or I will unload on you a lot of cotton that you do not want.

Mr. MADDEN. Is there not a standard fixed?

Mr. SISSON. There is a standard fixed, basis middling, and there is an arbitrary rule that where you deliver a man cotton below middling you have the right to deliver him the cotton at so many points off, and if it is above middling cotton it is so many points on; but the man who has bought the cotton has nothing on earth to say as to what shall be delivered to him. You can buy shoes and demand that they be delivered to you, and so in every business of that kind. You can buy clothing of a certain character and demand that clothing, but when you buy cotton, under the rules of the New York and New Orleans exchanges, the man who sells the cotton can determine for you what you shall take, and that is the wicked means of manipulation in the stock market.

Mr. MADDEN. Is there not any standard of inspection?

The SPEAKER pro tempore. The time of the gentleman from Mississippi has expired.

Mr. BEALL of Texas. Mr. Speaker, I yield the gentleman two minutes more.

Mr. SISSON. If you go to deliver spots there is a standard for grading the cotton.

Mr. MADDEN. How many grades of cotton are there?

Mr. SISSON. Twenty-eight.

Mr. BURLESON. There are 9 standard grades and in all about 28 grades.

Mr. MADDEN. Can not a man buy any grade of cotton that he desires?

Mr. SISSON. He can buy any grade of cotton he desires; but under the rules of the New York Exchange the man who sells has the right to deliver either one of the 28 grades, or he can deliver him a portion of the cotton which would fall under all of the grades. For example, if there are 28 grades, he could deliver one twenty-eighth of one grade and one twenty-eighth of another grade, and so on until the whole contract is filled.

Mr. MADDEN. I assumed that when a man undertook to purchase cotton of a certain grade he could do it and have it delivered to him.

Mr. SISSON. And the gentleman did that because the grain exchanges in Chicago made that provision; but the cotton exchanges of New York, Liverpool, and New Orleans do not do that, and that is why it is that every factory engaged in manufacturing cotton and every man who produces cotton wants Congress to relieve them from this iniquitous situation where cotton can be put up or down at the will of the cotton manipulator.

Mr. MADDEN. Then I do not blame them if that is the case.

Mr. SISSON. That is the case, and if I had the time I would show you how it is that it is utterly within their power to put cotton up or down, 15 or 20 or 30 or 40 points at any time they desire to do it, and there is no power on earth to prevent them from doing it if they agree among themselves.

Mr. MADDEN. I supposed the different grades of cotton were sold at different prices.

Mr. SISSON. There is an arbitrary rule that provides that all cotton shall be sold on basis middling.

Mr. MADDEN. What does that mean?

Mr. SISSON. That is a certain grade of cotton, and from that one grade they fix a price arbitrarily on all grades above or below it. For example, we will take the first grade. I do not know whether that is in accordance with the rule exactly, but we will take 100 bales of cotton at basis middling, and 50 bales of that is below middling. The whole middling cotton will be arbitrarily fixed in that contract at a certain price, but I could only demand of you under that arbitrary rule the amount that the 50 bales were worth less than what middling cotton was worth. In other words, there is an arbitrary rule that fixes the number of points on or off.

Mr. RUBEY. Mr. Speaker, the measure now under consideration meets with my approval. There can be only one valid objection to it, and that is that it does not go far enough. Its provisions should be so extended and enlarged as to include grain and all agricultural products. I shall take but a few moments of the time of the House on the discussion of this question, but in that time I want to refer briefly to the history of this kind of legislation in this body.

Since the opening of this Congress there have been introduced some 25 or 30 bills the purpose of each of which is to prevent dealing in futures in farm products. Of these bills, 4 or 5 seek to prevent dealing in cotton alone, while the rest of them, 20 or 25, are broader in their scope and include, besides cotton, grain and other farm products. The very fact that four-fifths of the bills introduced upon this subject relate to all farm products is sufficient evidence, to my mind, to prove conclusively that a very large majority of the Members of this body, who favor this sort of legislation, desire to extend the provisions of such legislation in the broadest possible way so as to prevent gambling in all farm products.

The Committee on Agriculture, to which all of these bills were referred for consideration, appointed a subcommittee to examine carefully into the matter and to consider the best means of securing the desired legislation. The subcommittee made a very careful investigation. It held extensive hearings; representatives of the exchanges from all parts of the country appeared before the committee, as well as others representing the agricultural interests. At the conclusion of its deliberations it reported back to the full committee two bills, one of which is the cotton bill before you to-day, and the other is the grain bill, covering the products—wheat, corn, and oats. On the same day, and practically at the same time, both of these bills were reported favorably by the Committee on Agriculture. The gentleman from Texas [Mr. BEALL] was instructed to make a report on the cotton bill, while I was directed to report the grain bill. These two companion bills have been on the calendar of the House now for over two months.

I regret exceedingly that the Committee on Rules, when it brought in to-day the rule to permit us to vote on the cotton bill, did not at the same time report a rule permitting us to vote on the grain bill. These bills should both be considered and passed. It is a mistake to take up one and not the other, and I hope that before this bill is disposed of it will be amended by inserting grain and other agricultural products. If this is done, we will then have an opportunity to vote in accordance with the platform to which my friend from Texas [Mr. HENRY] has referred this afternoon.

For the information of the House, and especially the Democratic Members of it, I will read the following extract taken from the platform adopted at Baltimore:

> We believe in encouraging the development of a modern system of agriculture and a systematic effort to improve the conditions of trade in farm products so as to benefit both the consumers and producers. And as an efficient means to this end we favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges or others.

This is the first opportunity we have had to put into force the provisions of this particular plank of our platform. The whole country demands that we extend the provisions of this measure to include all agricultural products. When we come to consider this bill under the five-minute rule, it is my intention to offer an amendment providing that this legislation shall apply not only to cotton, but also to grain and all farm products. When that is done, I hope that no Member, especially on the Democratic side of the House, will attempt to defeat my amendment by interposing a point of order against it. I doubt very much whether a point of order would be sustained against the introduction of this sort of an amendment; at the same time, I sincerely hope that no Member of the House will seek in this technical manner to prevent this legislation.

The purpose of these two measures—the cotton bill and the grain bill—is to prevent as far as possible what is popularly known as gambling in futures so far as the transactions relate to these commodities. To that end it is made unlawful to use telegraph or telephone lines, cable, or the mails for the transmission of messages and communications purporting to contract for the purchase or sale of these products for future delivery when the actual transfer of the products is not intended by either party. There is nothing in either of these bills that will prevent or hinder the legitimate buying and selling of cotton, grain, or any other product, nothing that will prevent the buying and selling for future delivery, and nothing that will prevent the farmer from contracting or actually selling his product even before it is matured and harvested. These bills do not seek in any way to prohibit or interfere with legitimate transactions in the buying or selling of farm products. They do seek, however, to compel dealing in the actual commodity itself.

By the passage of these measures Congress will prohibit the selling by any person of a commodity which he does not possess, has not contracted to acquire, does not expect to possess, and therefore never intends to deliver. It will prevent the purchase by any person of a commodity which he never expects to receive. It is not believed that the enactment of this legislation will interfere with legitimate transactions on the exchanges. All these bills seek to do is to confine buying and selling to the actual commodity bought and sold, to prevent illegitimate speculation, and the creation of fictitious values, to guard the innocent public against the sharp practices of the trained speculator, and to prevent the violent fluctuations in the prices of the necessities of life by eliminating the purely gambling transactions in them.

For many, many years legislation of this character has been before the Congress of the United States. It has been opposed by the exchanges and the moneyed interests of the country; it has been advocated by the toiling millions who by the sweat of honest labor have produced the very products in which these exchanges seek to traffic. We are told that the exchange is but a great market place, where the buyer and the seller meet. I have visited a great many market places, but I have yet the first one to see wherein there was not an actual transfer of the commodities bought and sold. If the exchanges will conform to this rule and see to it that the cotton and grain bought and sold is received and delivered, then the legislation here sought to be enacted will not affect them.

The farmers of this country want a stable market for their product, one based upon the great law of supply and demand. They are unalterably opposed to the fruits of their honest toil being made the basis of exchange manipulations whereby prices are raised and lowered at will to suit the whims of the speculator and satiate his greed for gain.

In conclusion, Mr. Speaker, let me again express the hope that the pending measure may be amended so as to include grain and all farm products, and in that form passed by this House.

Do this and you will at once redeem to the fullest extent the pledge so recently made at Baltimore, and at the same time forever put an end to the pernicious practice of gambling in the necessaries of life—the foodstuff and the clothing of the people of this great Nation.

Mr. HAUGEN. Mr. Chairman, how much time have I taken?

The SPEAKER pro tempore. The gentleman has 17 minutes remaining.

Mr. HAUGEN. I yield 10 minutes of that time to the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. OLMSTED. Mr. Speaker, I have listened with considerable interest to the remarks of my friend from New York [Mr. FITZGERALD]. I am not able to go quite as far as he or to put quite the same construction and give the same effect that he did to the decisions which he read. If it be conceded that the simple making of a contract for the purchase of a bale of cotton is not interstate commerce, nevertheless the shipment of that bale of cotton from one State to another would be interstate commerce, and the sending of a telegraph message, whether upon that subject or any other, from a point in one State to a point in another is interstate commerce. I had the honor to try the case in which that point was first decided in the Supreme Court of the United States in the first opinion ever written and handed down in that court by the late Chief Justice Fuller. I do not know that it has ever been decided that the mere talking across a State line through a telephone is interstate commerce. That point will have to be decided if this bill shall become a law. But while it may be conceded that Congress has the right and the power to regulate the sending of messages by telegraph or mail, and possibly by telephone, there are nevertheless some objections to this bill in its present form to which I wish to call attention. Here is a bill which creates a number of new statutory offenses.

It bristles with fines and imprisonments, and yet is so drawn as to be, to my mind, in many particulars vague and dangerous and possibly to do more harm to legitimate commerce than it would do good in the direction in which it is intended. On the very first page it is declared that certain words shall mean certain things, "unless the same be inconsistent with the context," which gives at once rise for great differences of opinion and construction in many particulars. That it shall mean certain things, "unless inconsistent with the context." That opens the door for doubt and difficulty. I notice again that while Congress has undoubtedly authority in the District of Columbia, this does not refer to or attempt to prohibit the making of such contracts in the District of Columbia or the sending of messages or the delivery of messages within the District of Columbia, not coming from or going to any other State or Territory. Under this bill as now drawn a cotton exchange, with all its alleged gambling features could be conducted right here in this city.

Then, again, on the second page, line 15, it is declared:

Words importing the singular number may be applied to or mean several persons or things.

If you do not put the right construction on them, you may go to the penitentiary for "several things." Now, cotton is a word importing a singular number, yet under the provisions of this act it may mean several things. I do not know whether it would mean corn or wheat or other things, but it may mean several persons or things.

Mr. MANN. Will the gentleman yield?

Mr. OLMSTED. Certainly.

Mr. MANN. "Cotton" is singular, and "cotton" in the trade is a well-known term in the trade.

Mr. OLMSTED. It may be manufactured articles commonly known as "cotton" or "cottons."

Mr. ROBINSON. The gentleman does not assume that the word "cotton" could be construed to embrace corn and wheat?

Mr. OLMSTED. I do not know how it may be construed as used in this bill. It says it may be construed to mean "several things."

Mr. ROBINSON. The plural of cotton could not be anything but cotton.

Mr. OLMSTED. This says:

Words importing the singular number may be applied to or mean several persons or things.

Now, what things that means I do not know.

In the second section it makes it unlawful for any person to send or cause to be sent any message. "Messages" applies to messages within a Territory or within a State, as well as to messages from one State or Territory to another. And Congress has no power over messages sent from one point in a State to another point in the same State. It then says:

The transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations.

And further:

And the sending or causing to be sent of each such message shall constitute a separate offense.

Strictly interpreted, that section would refer to messages over which Congress has no power or control.

In the third section it is provided that—

Any person sending any message relating to a contract or to the making of a contract for future delivery of cotton to furnish to the person transmitting such message an affidavit—

Setting forth a whole lot of things about his intentions, and where he got it, and what he is going to do with it.

This bill applies to telephone companies. A message is not ordinarily delivered to a telephone company except as it is delivered by the voice into the receiver and transmitted by the voice of the sender over the wire. A telephone operator can not regulate and is not supposed to hear what is talked into the telephone in the telephone booth, and yet the operator and the company is liable to fine and imprisonment under this act unless they require an affidavit. The result would be that the telephone company would have, in order to live strictly up to the terms of this act, to require an affidavit from every person using the telephone for long-distance messages from one State into another.

Any person electing to do so may file with the telegraph, telephone, wireless telegraph, or cable company an affidavit—

Which shall last for six months the next ensuing.

So that I suppose the telephone company could make itself safe by requiring an affidavit every six months from every person using a telephone.

And here is in line 21, on page 4, the glaring error, typographical perhaps, although it is in here, which was referred to by the gentleman from Illinois [Mr. MANN], which makes a person subject to fine and imprisonment if he shall prove or fail to make an affidavit. In either event he is caught. Like the old hunter's trap, it catches them coming or going.

Now, in section 6, it provides:

That every book, newspaper, pamphlet, letter, writing, or other publication containing matter tending to induce or promote the making of such contracts.

I suppose the report of the Agricultural Department showing a bumper crop or a small crop of cotton might be construed into a publication issued to induce a person to buy or sell cotton.

Mr. COOPER. Will the gentleman permit an interruption?

Mr. OLMSTED. Certainly.

Mr. COOPER. I have not heard the discussion of the gentleman from Pennsylvania. Has he already discussed section 7?

Mr. OLMSTED. I have not yet reached that.

Mr. COOPER. As I read it—and I would like to have the gentleman's interpretation—that gives the Postmaster General unlimited discretion to stop the mail.

Mr. OLMSTED. It certainly does. It gives him discretion to stop your mail or mine or any other mail.

Mr. COOPER. And at the top of page 7 it says:

And all such mail, when returned to said postmaster, shall be returned to the sender or publisher thereof under such regulations as the Postmaster General may prescribe.

Suppose it is an envelope that is not marked and they suspect it contains unlawful material. How is it going to be returned to the sender unless the letter is opened?

Mr. OLMSTED. It would certainly be opened.

Then here is this provision in section 6: That if any letter, writing, or other publication is sent through the mails, or—

If any person shall knowingly take or cause the same to be taken from the mails for the purpose of circulating or disposing thereof, or aiding in the circulation and disposition thereof, the person mailing or receiving it shall be fined not more than $5,000 nor less than $500, or shall be imprisoned not more than five years nor less than one year, or both.

If he would even take that letter from the mails for the purpose of disposing of it by chucking it in the wastebasket, he would be subject to fine or imprisonment, or both.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. OLMSTED. I would like to have one minute more.

Mr. HAUGEN. Mr. Speaker, I yield one minute more to the gentleman.

Mr. OLMSTED. I want to call attention to section 1, to which the gentleman from Wisconsin has already called attention, and point out the danger of such a provision in an act of Congress—the danger to all of us, the danger to commerce.

Then in the eighth paragraph there is another provision—

That in any proceeding under this act all persons may be required to testify and to produce books and papers—

Not only relating to this transaction, but to other transactions. It affords a wonderful scope of inquiry into other people's business, even though they may never have bought a pound of cotton.

Mr. Speaker, it is apparent that there are many provisions in this bill that ought to be amended before the bill is enacted into law. I regret that under the special rule just adopted opportunity is not given to make such amendments as ought to be made to the bill in order that it may accomplish the purposes which its friends desire to accomplish without at the same time doing more harm in other directions than good in the direction that its friends intend.

Mr. HAUGEN. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. FOWLER].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. FOWLER] is recognized for five minutes.

Mr. FOWLER. Mr. Speaker, the bill now under consideration makes it unlawful for any person to send or cause to be sent over the wires by telephone or telegraph or by wireless telegraph, or through the United States mails, or by any other means, any message for the purpose of making or offering to make any contract for the future delivery of cotton without intending at the time in good faith that such cotton shall actually be delivered. It provides a penalty by fine or imprisonment, or both fine and imprisonment, in the discretion of the court. It further provides that the sending or offering to send such message is an interference with the commerce between the States and Territories and foreign nations. It provides rules and regulations for sending messages for the real sale for future delivery of cotton and prescribes appropriate penalties for the violation thereof. The object of the bill is to suppress the pernicious practice, now so common, of making contracts for the future delivery of cotton wherein no cotton is ever intended to be delivered.

The bill as it comes before the House seeks to suppress gambling in cotton only. The pernicious speculation in other farm products is just as harmful to the best interest of the farmer, and its baneful influence is equally corrupting to the public morals and ought to be prohibited by law the same as the practice now tolerated in cotton. I therefore give notice now, Mr. Speaker, that when this bill comes up for consideration under the five-minute rule I will offer an amendment to make the bill broad enough to include all farm products by striking out the word "cotton" wherever it occurs in the bill and inserting in lieu thereof the words "agricultural products." This amendment, if adopted, will give an opportunity to punish all men who engage in speculating in futures which pertain to agricultural products. I can see no reason why Congress should limit the powers of this bill to only one farm product when it is generally known that the same practice is going on in other products of the farm, which is equally sinful and equally harmful and depressing to the best interests of the people and equally demoralizing to the good name and honor of this Republic.

For this reason, Mr. Speaker, I give notice now of my intentions so that the members of the Agricultural Committee and the Members of the House may have ample time to consider the effects of my proposed amendment upon the pending bill. I take it as a matter of course that the author of the bill and the honorable committee which reported the bill with a favorable recommendation were then and still are prompted by a high sense of duty to the American people and a sincere desire to suppress gambling in "futures." If I am correct in my conclusions, then there remains but one thing which I will be required to do in order that my amendment may receive a favorable consideration by this House, and that is whether such gambling is now going on in other products of the farm and whether the contracts relative thereto are being made by means of messages sent through the United States mails and by wire or by wireless. By way of interlude, permit me to say that such practice has been for a long time, and still is now, going on in every State of the Union, and is so common that it does not require proof. The House will, I have no doubt, take judicial notice of such baneful conduct, thereby releasing me from the necessity of making proof; and when you seek to curb and prohibit gambling in one of the agricultural products your fairness and sense of duty to the people whom you represent will, I know, compel you to make this bill broad enough to include all other agricultural products.

Mr. Speaker, I now turn to the consideration of the bill on its merits. I have been giving close attention to the speeches of gentlemen who oppose the bill, but I am much gratified to see no one opposing it because of its merits. I presume that there will be no opposition to it on this ground. But there are some gentlemen who have served in this body for many years and by reason of their long service have become great constitutional lawyers. They are perfectly familiar with all the powers of that sacred instrument and never fail to defend it whenever it is assailed by bills for the enactment of laws not authorized by the Constitution. These gentlemen are here to-day and are urging with much force the unconstitutionality of this bill. I have been listening with much interest to the speeches of two of these gentlemen, the distinguished gentleman [Mr. FITZGERALD] of New York and the distinguished gentleman [Mr. OLMSTED] of Pennsylvania.

Mr. OLMSTED. I beg the gentleman's pardon, I did not say that it was unconstitutional.

Mr. ROBINSON. He did not say that.

Mr. FOWLER. I did not understand the gentleman to use the word "unconstitutional," but I gathered from the body of his argument that he considered the bill subject to such criticism.

The authority under which this bill is drawn relates to section 8 of Article I of the Constitution, which confers on Congress the power "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The friends of this bill contend that ample authority is given in this clause of the Constitution for the enactment of this measure. The power to "regulate" commerce with foreign nations and to regulate it among the several States ought to be strong and powerful enough to keep commerce clean and to prohibit demoralizing practices connected therewith. If unwholesome articles of food are offered for transportation from one State to another or to a foreign nation, Congress, under this clause, ought to have the power to pass laws for regulating such practice because of its effect upon the health and life of the people. Upon the same reasoning, if the stream of interstate commerce is polluted by immoral conduct, Congress ought to have the power and does in my opinion have the power to "regulate" such commerce to the extent of prohibiting such immoral conduct in the interest of public morals. The word "regulate" as used in the Constitution concerning interstate commerce does not mean power for partial regulation but it means power for a complete regulation, carrying with it the power to regulate the moral and wholesome effect upon the public as well as the power to regulate the physical transportation of commodities. To give any other construction would seriously cripple the power of Congress over such commerce and leave the citizen to the mercy of spoliation and intrigue.

Were California in the throes of bubonic plague, and were the germs thereof transmitted by means of fleas carried by ground squirrels infesting the State in large numbers, and to get rid of the squirrels suppose that she proposed to ship them out over the various States of the Union and turn them loose instead of killing them, who would doubt the power of Congress to prohibit the same? Or who will contend that Congress could not prohibit Chicago from shipping diseased pork, infested by the deadly trichina, to other States or to other nations, under this clause to "regulate" commerce among the States and with other nations?

The Constitution is an instrument of enumeration of powers and not an instrument of definition of powers. The means of commerce are rapidly changing, and therefore no narrow construction of the term "regulate" would be either expedient or justifiable. At the time when the Constitution was written the commerce was carried on largely between the States by wagons drawn by animal power, or on water by means of flatboats or sailboats, but now we have outgrown these slow methods. Commerce is commerce, regardless of the means by which it is carried on, and the constitutional power to regulate it will always remain the same, whether it be conducted on land by animal power, or propelled on rail by steam and electric power, or whether by water in flatboats and sailboats or by steamships, or whether through the clouds by means of airships, or by some unknown method. The power, therefore, to regulate commerce among the States and with foreign nations is a living, vitalizing, progressive power, ready to be applied to the unknown means which may become necessary and expedient for the good of mankind as well as to the known means of to-day.

To regulate that which affects public morals is the highest duty of the State, because the State can rise no higher in the scale of national life than the sum total of its public morals. I therefore turn my attention to the consideration of some of the things which Congress has done for the good of our public morals under this clause of the Constitution. On the 2d day of May, 1895, Congress passed an act entitled "An act for the suppression of lottery traffic through national and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States." The violation of this act was made criminal and punished by fine or imprisonment, or both, in the discretion of the court, for the first offense, and by imprisonment alone for any subsequent offense. In February, 1899, in Dallas County, Tex., C. F. Champion, W. F. Champion, and Charles B. Park were indicted for a conspiracy to violate

this act. One of the defendants, Champion, was arrested in Chicago and sued out a writ of habeas corpus, upon the theory that this act was unconstitutional. It is known as the Lottery case, and is found in One hundred and eighty-eighth United States, page 321. Justice Harlan delivered the opinion of the court. It involved directly the power of Congress, under the clause of the Constitution, to "regulate" commerce among the States and with foreign nations, to prohibit the commerce itself, instead of regulaing it and permitting it o continue. In his opinion upholding this statute, Justice Harlan said:

We have said that the carrying from State to State of lottery tickets constitutes interstate commerce, and that the regulation of such commerce is within the power of Congress under the Constitution. Are we prepared to say that a provision which is in effect a prohibition of the carriage of such article from State to State is not a fit or appropriate mode for the regulation of that particular kind of commerce? If lottery traffic carried on through interstate commerce is a matter of which Congress may take cognizance and over which its powers may be exerted, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, for the protection of the people of all the States, and under the power to regulate interstate commerce, devise such means within the scope of the Constition and not prohibited by it as will drive that traffic out of commerce among the States? If a State in considering legislation for the suppression of lotteries within its own limits may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another? What provision in that instrument can be regarded as limiting the exercise of the power granted? What clause can be cited which in any degree countenances the suggestion that one may of right carry or cause to be carried from one State to another that which will harm the public morals?

The object of this statute was not intended to regulate the sale of lottery tickets, but it was intended to prohibit the sale entirely. It drove out of the United States every lottery then in existence and has resulted in the absolute prohibition of the traffic. The wisdom of the law rests on the sound discretion of the State to protect its citizens against immoral conduct which penetrates every quarter of the country. No one would doubt the power of Congress under this clause to prohibit the transportation from one State to another of poisonous reptiles, such as rattlesnakes, and vicious wild beasts, such as tigers, and turning them loose in large quantities to pray upon the lives and property of the people. And yet the danger to life and property from such traffic is not to be compared with the danger to public morals which results from the traffic in such debasing and demoralizing business as lotteries and gambling in "futures."

In the case of Phalen *v.* Virginia (8 How., 163, 168) the Supreme Court, after declaring that among the most important duties of Government was that of suppression of nuisances which are injurious to public health and public morals, said: "Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons, but the latter infests the whole community; it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; it plunders the ignorant and the simple." The ravages of the old-time lottery upon the purse of the individual and upon the morals of the public as compared with the enormous ravages which are going on to-day on the exchanges and boards of trade in every State of the Union are in size what the child is to the parent or the penny is to the eagle. If the lottery was so immoral that it became necessary to prohibit it in order to protect the public morals, then all the more is it necessary to prohibit gambling in futures for the same reasons.

Congress has by law excluded intoxicating liquor from commerce with the Indian tribes, and has excluded obscene literature from foreign commerce. We have seen that Congress has prohibited lottery tickets from being sent from one State to another. All of this has been done under the power of the Constitution giving Congress the right to regulate interstate commerce. In each of these three instances the power to regulate interstate commerce has been construed to mean a right to prohibit such commerce in these three articles entirely. This is done under the sovereign police power of the Republic over interstate trade in order to protect the public from the dreadful and demoralizing influences of the dangerous and immoral traffic in interstate commerce.

If Congress can prohibit the interstate traffic in lottery tickets, why has it not the power to prohibit interstate messages by wire or otherwise for the sale of cotton which is not intended to be delivered, but which is primarily intended to be gambling? If Congress can prohibit the sale of intoxicating liquors with the Indian tribes, because when under its influence the Indian is more dangerous and more bloodthirsty, why can it not prohibit the making or offering to make contracts by wire or otherwise for the future delivery of cotton or any other article of commerce, whereas, in fact, no delivery is contemplated, but the only thing sought is gambling in futures? If Congress can prohibit interstate commerce in obscene literature because of its immoral effect upon the public, why can it not prohibit gambling on stock exchanges for the same reason? If the police power of the Republic over interstate trade rests in Congress alone, and if it fails or refuses to prohibit such immoral traffic, when and how will the people get relief? The power does not belong to the several States, but rests now in the hands of Congress, for it was lodged there on the adoption of the Constitution, and has so been construed by the Supreme Court of the United States repeatedly in construing statutes of various States which were broad enough to deal with interstate commerce.

Are interstate messages by wire or interstate wireless messages such traffic as fall under the meaning of interstate commerce? If so, then Congress has a right to regulate them, or it has the right to prohibit them entirely if the good of the public demands it. Let us examine a few decisions of the Supreme Court of the United States upon the question and see whether such messages are interstate commerce. In the case of Pensacola *v.* Western Union Telegraph Co. (96 U. S., 9) it was held that telegraphic communications from one State to another by companies organized for that purpose is interstate commerce and falls within the legislative jurisdiction of Congress. In the case of Telegraph Co. *v.* Texas (105 U. S., 460) this decision was reviewed by Chief Justice White and reaffirmed. In the opinion he used these words:

> Telegraph companies occupy the same relation to commerce as a carrier of messages as a railroad company does as a carrier of goods.

In the case of Leloup *v.* Mobile (127 U. S., p. 640) it was held that a telegraph company with lines extending from one State to another, and whose business was to transmit interstate messages, could not be compelled to pay a license tax sought to be collected by a State, on the ground that the business of the company was interstate commerce and, therefore, without the jurisdiction of the State. These cases put at rest the question as to whether such messages are interstate commerce. Congress has the undoubted right to regulate such traffic, and in the light of the lottery case Congress has the plenary power to prohibit such traffic whenever it sinks to such a low level as to become highly obnoxious to the public morals. If the electric wires or wireless messages should become the instruments through which gambling contracts are entered into on stock exchanges and boards of trade, by means of which interstate commerce in any article of trade is tainted with the foul stench of bribery and gambling, Congress has not only the legislative power to regulate such traffic by prohibiting it entirely, but, as the keeper of the police power of interstate trade, it owes a duty to the people of this country which it will never discharge until it exercises that power by enacting a drastic law prohibiting such traffic entirely. The power to regulate commerce carries with it the power to keep commerce clean and free from corrupting and demoralizing influences.

The Olympic games were instituted among the Greeks for the purpose of developing the physical manhood of the youth in order that he might be the better prepared to defend his country against invasions by the foreign enemy. One of these games was called the Marathon run. It was the extreme test of physical endurance. It is said that the youth who carried the glad tidings of the victory of the Battle of Marathon died with the immortal message on his lips. That was a battle between the well-trained Athenians and the Persian hosts, who outnumbered the Athenians more than 10 to 1; but Athens was fighting for existence as a people and as a nation, while the Persians were fighting for spoils and for revenge. Athens won. Our greatest enemy is not without, threatening to invade our shores, but it is camped within, with well-trained soldiers in every city, hamlet, and town, organized for the purpose of spoils only, and employing means the most demoralizing and destructive to the best interests of our Republic. It is within our power to disarm this mighty enemy by passing this law with my proposed amendment. Will we do our duty now, while the task is easy, or will we wait until the enemy has grown so strong that it will require skillful training in Olympics? Will we wait until it requires the Marathon run in order to have

even a chance of winning? Perish the thought that any are here who are recreant to trust and to duty. Let us hope that the most ultra to the passage of this measure will be for it in the final analysis.

Mr. Speaker, the pernicious practice in America of gambling in farm products ought to be stopped. It has brought about more destruction and more financial ruin to helpless individuals than anything I know of which has been tolerated interstate, unless it is the sale and interstate traffic of intoxicating liquors. It is one of the greatest, if not the greatest, species of gambling in the world. While I was a member of the Illilnois State Senate I had an occasion to introduce a bill for the purpose of prohibiting gambling in futures in the farm products in my State. I knew but little about the workings of the board of trade in Chicago, and in order to be more familiar with the business and the methods of conducting the same I quit my office and camped in Chicago for a month and went on the board of trade actively in a small way. I was not there long until I learned one lesson by heart. It almost broke my heart to learn it, for it cost me some good hard-earned cash. Here is the lesson: After you have put up your money and lost several times and won but a few times you get over the scare and dread and become seized with an insatiable desire to win back the money which you have lost, and the more you lose the greater is the desire to remain until you have won at least what you have lost. That becomes your controlling thought and desire. It is worse than your appetite for smoking, or any other bad habit, I am told by those who have been in the business for years. While there I met many men from Indiana and other States, who told a sad story, among which I recall the story told me by an Indiana farmer, who had been on the board for 10 years. He went to Chicago with a lot of fine cattle to compete in the fat-cattle show which is annually held in that city. While there he sold his cattle for a fine price, and the commission merchant told him of the great opportunity to make money on the board of trade. He was flush with money and bit at the bait. He lost and won, but lost more times and in bigger sums than he won. He stayed with the game until he had lost all his cattle money. Then he went home on borrowed money. The next year he took another fine lot of cattle to the fat-cattle show and bucked the game again with like results. He had a good farm, and he was told that if he would sell his farm and move to Chicago and study the game from a scientific standpoint he could win all the money he had lost and much more. He sold his farm and all his personal property, moved to Chicago, remained on the board of trade until he lost all he had, and when I met him he was working by the day on the streets; but still seized with that everlasting desire to win back his lost money, he was dividing his wages with these gamblers who had robbed him of thousands of dollars and reduced him to poverty and want. Many men from the country told me like stories, a bunch of whom were reduced to daily labor, but who were pooling their meager allowances in order to be able to buy a thousand or two bushels of wheat, still hanging on the hopeless thread of good luck and filled with the determination to stay until the tide turned in their favor. You are led on by your commission man, who always holds out to you that all you have to do in order to be a good winner is to stay with the game until you have learned it well. Hordes of men from every State in the Union are kept there the year round by such flattering inducements, and daily haunt the board of trade until they are reduced to poverty and grief, often resulting in suicide. I knew one man who met with a big slump in the market and lost largely; he was seized with a fit of self-destruction, and, on going to the drawer where he kept his razor, he reflected, locked the drawer, and threw the key out of the window.

The Chicago Board of Trade is the greatest Monte Carlo in the world, where more people are held up and annually robbed in open daylight than any other city in the world, without question and without restraint. How long will the patient people tolerate these polluting, stiffling dens of stench? How long will Congress delay relief to public morals? Let us stimulate our moral sensibilities to the point of action by taking a dose of public opinion upon this question. Let us gird ourselves like a strong man to run a race and make one united and determined effort to place upon the statute books before this session of Congress adjourns a law strong enough to break up these dens of sin and hell. [Applause.]

Mr. AINEY. Mr. Speaker, the support and advancement of the great agricultural interests of the country have been one of the announced purposes of the National Government, and in the carrying out of which the Department of Agriculture was established and occasional laws enacted.

Several measures have been proposed at this Congress, some of which have already received the sanction of this House, which, if placed upon the statute books, will violate this established policy and make futile the departmental advice and assistance given to the cane-sugar planter of Louisiana, the sugar-beet raiser of Colorado, and the dairyman of the Nation, and, perforce, seriously cripple, if not destroy, the industries which they represent.

I am unalterably opposed to such a departure from our fundamental position, and my votes as a Member of this House have been and will continue to be cast against such destructive legislation.

I can not but view with anxiety the attacks which the oleomargarine manufacturers and dealers and their allies, the beef interests, are making against the dairy industry of this country, which, if successful, must result in the loss of the dairy cow, with her product of milk, cheese, and butter, now contributing so largely to the healthful food supply of the city and country.

I desire, therefore, to speak particularly concerning the dairy industry of the land, an industry which ultimately affects the entire citizenship of the Nation and which touches with equal force the economic, social, and political realms of our national well-being, and in opposition to those measures which I believe if enacted into law would work national injury.

IMPORTANCE OF DAIRY INDUSTRY.

According to the advance reports from the Bureau of Census (May 6, 1912), there were 1,620,766,000 pounds of butter produced during the census year 1909, valued at $405,000,000. of which 996,000,000 pounds were produced on farms and the balance in cooperative and other factories.

Of these totals, Pennsylvania produced 91,642,000 pounds, valued at $25,282,000, of which 61,158,000 was farm made, while the balance was produced in cooperative and other factories.

According to the census of 1900, the milk produced in the United States was 7,266,392,674 gallons, of which 2,134,915,342 were sold.

For the census year 1909 the cheese production amounted to approximately 320,000,000 pounds, valued at about $44,500,000.

In 1909 there were 21,720,000 milch cows, valued at $702,945,000. These, taken in connection with the vast acreage, buildings, and equipment employed, designate this industry as second to none in importance.

I am pleased to be able to state that the district which I have the honor to represent contributes largely to the Nation's requirements of milk, cheese, and butter. The amount and value of butter and cheese produced during the year 1909 in the four counties constituting the fourteenth congressional district of Pennsylvania are as follows:

Amount and value of butter and cheese produced in the fourteenth congressional district of Pennsylvania in 1909.

County.	Pounds produced.	Value.
Butter:		
Bradford	2,334,156	$635,266
Susquehanna	1,020,576	278,449
Wayne	1,078,675	295,401
Wyoming	532,647	140,968
Cheese:		
Bradford	86,075	11,544
Susquehanna	42,759	5,172
Wayne	2,321	163
Wyoming	650	81

UNFAIR COMPETITION.

Any competition, no matter how honest or otherwise legitimate, calculated to depopulate the farms or drive the farmer into other lines of activity, would result in great national loss. When, therefore, this Congress is asked to pass measures subjecting butter, the most important dairy product of the farm, to unequal and unfair competition at the hands of a so-called cheaper substitute, and to confer upon that substitute by law the right to clothe itself in the well-known garb and habiliments of butter, I propose to object and to proclaim it a departure from the Government's avowed policy of helpfulness to agriculture, and violative of the first principles of common honesty, and fraught with danger.

When it is proposed to permit the manufacturer of oleomargarine not only to color his product in imitation of butter, but to mix with it a sufficient quantity of genuine butter to impart the real butter taste and appearance, all barriers are destroyed. Man's elemental senses, given him for the purpose of protection and discrimination, are of no avail against such deceit, for neither sight, smell, nor taste will distinguish the real from the spurious.

Inherently and by long-established custom the most obvious distinguishing characteristic of butter is its color. It is, so to speak, its trade-mark and designation; prescriptively it is entitled by all equitable considerations to maintain this right against all comers.

The natural color of oleomargarine, so far as an artificial product may be said to have a natural color, is white—not absolutely pure white, but relatively, as the eye passes judgment. So said Mr. John F. Jelke, a prominent oleomargarine manufacturer (Hearings, 1911, p. 88).

Here is a clearly defined basis for distinction which both custom and nature has established and which readily aids the purchaser in his selection, whereby fair competition is assured to producers, and which affords the broadest margin of protection to the consumer.

It is demanded that this clearly defined boundary line be obliterated by law and a merely prohibited fiat be substituted making it an offense to ship and sell oleomargarine other than in marked, sealed, and designated packages.

In surveying, a natural and permanent object on the ground is accepted as establishing a better basis for a boundary line than an imaginary line designated and supported by course and distance. Yellow is the natural visible boundary mark of butter; to obliterate this line by law and substitute a mere legislative prohibition is as unsafe as it would prove unsatisfactory and unwise.

It is generally admitted that oleomargarine has been a most successful and persistent violator of existing laws, 90 per cent of its sales being illegal, as disclosed at the hearings before the Committee on Agriculture. It paid into Pennsylvania nearly $500,000 in fines before it learned respect for that State's law. It is now urged that by removing the 10-cent tax on colored oleomargarine the incentive to fraudulently avoid the tax would be gone and violations would cease. It is hard to conceive that these same violators would take higher ethical grounds when the opportunity and incentive for gain still remained to fraudulently sell colored oleomargarine for butter. Will it be argued that the man who would defraud the Government in order to gain 10 cents would not defraud the consumer in order to reap the same profit?

OLEOMARGARINE DEFINED.

Oleomargarine is a term legislatively adopted to designate heterogeneous mixtures of varying constituents, and with no standard as to quality, composition, purity, or method in manufacture. Included in this definition is "oleomargarine as heretofore known," and all mixtures with itself, including the whole scale of fats from "lard" to intestinal fat and offal fat."

In actual manufacture, as in the legislative definition, there is this same range. This definition of oleomargarine as enacted in the Grout bill is substantially followed in other and proposed measures, and is as follows:

That for the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, vegetable oil, annotto, and other coloring matter, intestinal fat, and offal fat made in imitation or semblance of butter, or when so made calculated or intended to be sold as butter or for butter.

In the hearings of 1912 (p. 146) appears a colloquy with Mr. Jelke:

Mr. HAWLEY. I would like to ask Mr. J. F. Jelke, of Cincinnati, Ohio. You heard the gentleman quote the formula for making oleomargarine yesterday, I think it was. Do you agree with the formula he quoted there?

Mr. JELKE. I didn't hear him read them, but there is no man can really fix the formula. There are thirty-odd different patents in the Patent Office and 42 different manufacturers in this country, each making it in a different way.

Mr. HAWLEY. Are those fairly typical?

Mr. JELKE. I didn't hear them. I say there isn't another factory making oleomargarine the way we do in our factory, and I am not going to tell you how we do it.

Mr. George L. McKay, secretary American Association of Creamery Manufacturers, representing 400,000 farmers, in his testimony before the committee (p. 81), quoted from the book "Modern Packing House," edited by the late F. W. Wilder, formerly general superintendent of Swift & Co. and Schwartzchild & Sulzberger Co., published in 1905, as to some of the element going to make up different grades of oleo oil:

COMPOSITION OF OLEO OILS.

Neutral, or No. 1, oleo oil is made from the following:

Gaul fat, ruffle fat, gaul piece of gut end, briskets trimmed from the bed pickings, crotch trimming from the bed pickings, paunch trimmings, pluck trimmings, reed trimmings, heart casing fats.

No. 2, or second-grade oils:

Gut ends—small fat, chipped fat, which is taken off the middle guts; machine fat, which is taken off round gut by the fatting machines; heart trimmings, pluck trimmings, miscellaneous bed pickings of the second grade, kidney fat, clean trimmings from cattle, which are being cut up for canning or sausage, skimmings from scrap vat of No. 1 oil.

No. 3, or third-grade oil:

Head fat, fat trimmed from cattle heads when checking, plucked sweetbread trimming, liver trimmings, bladder trimmings, fat from chilled beef tongues when they are trimmed, miscellaneous fats from other departments which are kept clean, the first washings from the oleo press cloths before soda has been used, scrap-vat skimmings from the second-grade oil.

These may be technically clean and possibly wholesome, and so may be rats in China, but they offend against the sensibilities of the average American stomach.

The same authority gives us the average formula used by manufacturers, together with costs for three grades of oleomargarine:

Formula for and cost of high-grade oleomargarine.

Material and quantities.	Cost per pound.	Total cost.
526 pounds No. 1 oleo oil	$0.0875	$45.19
475 pounds No. 1 neutral lard	.08125	38.57
50 gallons 30 per cent cream	.42	30.24
300 pounds creamery butter	.28	84.00
Labor and package	.01	15.09
Salt and color	.00	1.00
Total		214.00

This formula will yield 1,500 pounds of oleomargarine; therefore the cost per pound is $0.1426.

Formula for and cost of medium-grade oleomargarine.

Material and quantities.	Cost per pound.	Total cost.
525 pounds No. 1 oleo oil	$0.0875	$45.19
475 pounds No. 1 neutral lard	.08125	30.57
40 gallons 30 per cent cream	.42	40.32
Labor and package	.01	12.00
Salt and color	.00	1.00
Total		137.08

This formula will yield 1,200 pounds of oleomargarine. Therefore the cost is $0.1142 per pound.

Formula for and cost of low-grade oleomargarine.

Material and quantities.	Cost per pound.	Total cost.
350 pounds No. 2 oleo oil	$0.08	$28.00
250 pounds cottonseed oil	.04	10.00
450 pounds neutral lard	.08125	36.54
60 gallons 2½ per cent milk, at 12 cents per gallon		7.20
Labor and package		12.00
Salt and color		1.00
Total		94.74

This formula will yield 1,200 pounds of oleomargarine. Therefore, the cost of producing and packing for shipment will be $0.0789 per pound.

From the above it will be seen that the extra prime, yellow cottonseed oil, known as butter oil, is not used in the best grades of oleomargarine. This agreed with what Mr. Jelke stated before the Agricultural Committee, that they did not use cotton-seed oil in their best grades of oleomargarine, as it injured the flavor. Consequently, he said the best grades of oleomargarine were white or light in color.

So far as I have been able to ascertain the oleomargarine manufacturers have entered no denial before the Committee on Agriculture as to the substantial accuracy of these statements concerning oleo oils or the use of these oils in the manufacture of oleomargarine.

The chemists certification of good character as to the wholesome and nutritive quality of oleomargarine will hardly be accepted by the public until it is known as to which of the oleomargarines, varying as they do in the nature of their constituents, it applies.

BUTTER SHOULD NOT BE AN INGREDIENT.

Large amounts of butter are bought by certain oleomargarine dealers and mixed with fat products and sold. Dr. Wiley's views on this subject, briefly stated, appear on page 80 of the 1912 hearings of the Committee on Agriculture, as follows:

I would be heartily in favor of refusing the privilege of mixing any kind of a dairy product with oleomargarine. I do not believe it should be churned or mixed with milk, cream, or butter in any way. The only purpose in doing this is to deceive the people in regard to its taste. If oleomargarine were offered to the people as a pure product, without any suspicion of a butter flavor or taste, the difficulty of controlling it would be considerably lessened.

OLEOMARGARINE LAWS.

Nearly every country of Europe and almost all the States of the Union have passed laws regulating its manufacture and sale, and in several of them mixing of butter with oleomargarine is prohibited except in some instances a percentage of butter fat acquired in the churning in milk or cream is allowed.

Germany, Belgium, France, Denmark, Britain, Norway, and Sweden prohibit the mixing with butter. All of the above and several others have laws prohibiting the manufacture or sale of oleomargarine where butter is manufactured or sold.

Denmark, France, Italy, and Russia prohibit the yellow color. Belgium, Denmark, Germany, Portugal, and Sweden require the addition of sesame oil or other designated ingredient to make oleomargarine more readily recognized when offered for sale.

France, the birthplace of oleomargarine, compels the printing of the ingredients and formula on the wrapper.

POOR MAN'S BUTTER.

If the designation of "poor man's butter," which the oleomargarine people have sometimes applied to their product, is to be treated seriously and dignified as a statement of fact or an argument, and if for the moment it be conceded that the poor man is really urging "colored as distinguished from uncolored oleomargarine and freed from the payment of tax" on the ground of his poverty, because it is butter's equal in nutritive and wholesome qualities, it then follows that this so-called poor man is entitled to get what he wants. Why should this wholesome and cheap product, the equal of butter, be permitted to be adulterated or mixed with its more costly but no better competition, whereby the cost to the poor man is materially enhanced. Dr. Wiley's opinion, which I have elsewhere quoted, and the laws of several European nations is the solution as well as answer.

COST OF BUTTER PRODUCTION.

Prof. Oscar Erf, of Ohio, has carefully analyzed the present cost of butter production, and by comparison shows that that cost has doubled in the last 20 years, averaging in 1910, $108.75 per cow, whereas in 1889 it was only $43 per cow. So that notwithstanding the increased costs to consumer—a considerable portion going to middlemen—the profit to the farmer is not such as to make the dairying business attractive nor cause it to increase to meet the increase of population.

In 1909 there were 21,720,000 milch cows and in 1912, 20,699,000, a loss of over a million in three years.

WEAKNESS OF THE GROUT LAW.

The existing law regulating oleomargarine has many excellent features. It went into effect July 1, 1902, but it has been followed by the most persistent violations on the part of oleomargarine manufacturers, dealers, or retailers. It provides a tax of one-fourth of a cent per pound on uncolored and 10 cents per pound on "artificially" colored oleomargarine.

Notwithstanding the large increase in production and sale, the report of the Treasury Department shows a decrease of 75 per cent in the revenue collected and an increase in fraudulent sales of nearly 100 per cent.

The failure of the law is attributable to three principal causes:

First. It attempted to abolish the color line between butter and oleomargarine and substitute a 10-cent tax on colored oleomargarine.

Second. In its enforcement the revenue officers had not the authority which was granted under other revenue acts to visit, at all times, places where oleomargarine was manufactured and sold.

Third. The wording of the provisions in the law exempting oleomargarine from 10-cent tax when "free from artificial coloration."

When the law permitted oleomargarine to be colored in imitation of butter by the payment of a 10-cent tax, it destroyed the color line, the natural and proper distinguishing mark between itself and butter, and it opened the door to fraud both upon the Government and consumer, for it was colored and sold extensively without the payment of the tax and for butter.

The designation in the act of "artificial" coloring matter was unfortunate; it met the existing conditions, but it failed to take into consideration the ingenuity of the oleomargarine people, with the result that they now produce oleomargarine in imitation of butter without the use of artificial coloring matter by the addition of certain beef fats, June butter, or some highly colored oils which have now become among its common ingredients.

It is interesting to note how the Wisconsin statute, which prohibits artificial coloration of oleomargarine, has thus been avoided. (Hearings, p. 71.)

CONGRESSMAN NELSON QUESTIONS MR. JELKE.

Mr. NELSON. Does not your firm sell uncolored oleomargarine in Wisconsin, and is it not sold notwithstanding that prohibition?

Mr. JELKE. We sell oleomargarine there without artificial coloration.

Mr. NELSON. And you actually sell butter-colored oleomargarine in Wisconsin notwithstanding there is prohibition of coloration in imitation of butter?

Mr. JELKE. No; you miss the whole distinction.

Mr. NELSON. I want to see how you do it.

Mr. JELKE. I want to tell you, and the Supreme Court of Wisconsin has made that very distinction. For a market like Wisconsin we make oleomargarine absolutely free from artificial coloration, but of highly colored oils, and the Supreme Court of Wisconsin has said that where the color comes from essential ingredients it is not in the power of the State to prohibit or stop it.

Mr. NELSON. You actually sell uncolored oleomargarine in the States where they prohibit coloration?

Mr. JELKE. When you say "uncolored," it is colored, but it has no artificial coloration. Remember that distinction.

Mr. LEVER. Do not you put any color in it?

Mr. JELKE. No artificial color in it, but the essential oils out of which it is produced have high color, and it still has color.

CONCLUSION.

Butter as a food product established a place in the early dawn of civilization when history spun but a single thread. It has graced the board of king and peasant, of rich and poor, of high and low, through countless ages.

When Jehovah met the Patriarch Abraham near the oaks of Mamre and through the instrumentality of the three messengers brought the words of hope to his aged heart and perpetuity to his race, it was no menial offering with which he supplied his regal visitants, for he gave them meat and bread, and, as sang Deborah, the prophetess in another age, he set before them "butter in a lordly dish."

The American dairyman believes the consumer of butter to be his natural and proper defender. For years he has passed judgment upon the product of the dairy by the use of his faculties—sight, smell, and taste. In all the ages these have been the commonly accepted and satisfactory tests.

It is now proposed to destroy the value of these tests by permitting the distinguishing characteristics of butter which responds to them to be counterfeited by a cheaper and inferior product, leaving not a single differentiating mark between them. To take away the distinctive mark in the product and substitute for that mark a printed mark on the wrapper is neither good legislation nor good judgment.

In the interest of the consumer of oleomargarine the law should be changed, requiring the formula to be printed upon the wrapper. The method of manufacture and composition should be standardized and perhaps graded. The visible yellow color line should be maintained between butter and oleomargarine, and the question should receive serious consideration as to whether butter should be permitted to be mixed with oleomargarine.

If I mistake not, it was Artemus Ward who expressed great liking for hash, because it was a simple food, and then he always knew what he was eating. It may be that there are those who enjoy the simplicity and purity of oleomargarine.

There is a remote possibility that some of the ardent advocates may be consistent enough to eat it as well as speak for it. In any event, I commend them to the discriminating words, which may lead to real knowledge, as recorded in the Book of Isaiah:

Butter and honey shall he eat when he knoweth to refuse the evil and choose the good.

Mr. BEALL of Texas. I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

[Mr. SIMS addressed the House. See Appendix.]

The SPEAKER pro tempore. Will the gentleman from Alabama please suspend in order that the House may receive a message from the Senate?

Mr. CLAYTON. Mr. Speaker, owing to the lateness of the hour, I can not hope to make any very extended remarks on this bill. The pending measure shall have my support, because I believe it to be in accord with both the wishes and interests of the great agricultural constituency that I have the honor to represent on this floor. I shall support it for the additional reason that the convention of the Democratic Party, the party to which I owe allegiance, in its recent convention adopted a plank in favor of it.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution:

Resolved, That the Secretary inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court, agreeably to the notice communicated to the Senate.

Mr. CLAYTON. Mr. Speaker, may I be permitted to make an observation in regard to the message which has just been received from the Senate?

The SPEAKER pro tempore. Without objection, the gentleman will be recognized for that purpose.

Mr. CLAYTON. Mr. Speaker, it is now nearly 3 o'clock, and the managers of the House did not anticipate the action of the Senate to-day. I have been over to the Senate this morning to ascertain when probably the Senate would receive a message

from the House upon which this order is predicated, but I was unable to get any information as to when the Senate would receive the message. Probably at this time, although I do not know, the Senate has adjourned or is in executive session, and therefore I wish it to be stated in the RECORD that it is the purpose on the part of the managers of the House to take the articles of impeachment against Judge Archbald over to the Senate on Monday.

Mr. MANN. If the gentleman will permit, the gentleman from Alabama understands that this is merely a formal communication from the Senate.

Mr. CLAYTON. I so understand. I may say, Mr. Speaker, that the managers on the part of the House, or I as one of the managers, in the endeavor to get early consideration of these articles of impeachment, have had the cooperation of the gentleman from Illinois and am indebted to him for that cooperation.

SALE OF FUTURES IN COTTON.

Mr. Speaker, as I was saying, another reason that will constrain me to support this bill is that the party to which I owe fealty—the Democratic Party—at its recent convention in Baltimore, in which convention I was a delegate at large from the State of Alabama, adopted a plank covering this matter of the gambling in agricultural products.

I want to quote the platform which bears on this subject:

We believe in encouraging the development of the modern system of agriculture and systematic improvement of conditions of trade in farm products so as to benefit both the consumers and the producers, and as an efficient means to this end we favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges or others.

And again, Mr. Speaker, the bill shall have my support, because the great Committee on Agriculture in this House, composed, I believe, of 20 members—originally it had 21 members, but I believe there are only 20 surviving members—with but two exceptions, agreed upon a report in behalf of this bill. For the information of Members I will read the report:

The Committee on Agriculture, having had under consideration H. R. 56, a bill to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations, submits the following report:

Section 1 of this bill defines the word "message" and the word "person," and provides that words importing the plural number, whenever used, may be applied to or mean only a single person or thing, and words importing the singular number may be applied to or means several persons or things.

Section 2 makes it unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale of cotton without intending that such cotton shall be actually delivered and received, and provides penalties for violation.

Section 3 makes it the duty of any person sending any message relating to a contract for the future delivery of cotton to furnish to the person transmitting such message an affidavit to the effect that the message does not relate to the character of contracts described in section 2, and provides penalties for any false statement that may be made in such affidavit. This section also provides that proof of failure to make any affidavit required in the act shall be prima facie evidence that the message or messages related to a contract prohibited by section 2 of the act, and that proof of failure to deliver or receive the cotton called for in any contract for future delivery shall be prima facie evidence that there was no intention to deliver or receive said cotton when said contract was made.

Section 4 authorizes and requires any agent of any telegraph, telephone, wireless telegraph, or cable company to whom messages described in the act may be tendered to administer any oath required to be made under the provisions of the act, such oath to have like effect and force as if administered by officers having a seal.

Section 5 makes it unlawful for any person owning or operating any telegraph or telephone line, wireless telegraph, cable, or other means or communication, or any officer, agent, or employee of such person, knowingly to use such property, or knowingly to allow such property to be used, for the transmission of any message relating to such contracts as are described in section 2 of the act and imposes a penalty for violation.

Section 6 declares every book, newspaper, pamphlet, letter, writing, or other publication containing matter tending to induce or promote the making of such contracts and carries the usual penalties for violation.

Section 7 authorizes the Postmaster General to instruct the postmasters in the post offices at which any matter described in section 6 as nonmailable matter arrives as to the disposition to be made of such matter and is modeled after the fraud-order section of the existing law.

Section 8 provides that in any proceeding under this act all persons may be required to testify and to produce books and papers, but no person shall be prosecuted and subjected to any penalty or punishment whatever on account of any transaction, matter, or thing concerning which he may testify or produce evidence of any character whatever. This action conforms to the immunity clause of the Elkins Act.

The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity. It does not seek to prohibit or to interfere with a single legitimate transaction in cotton. It is recognized as one of the world's greatest articles of commerce. Millions of our own people are engaged in its production, and other millions, here and elsewhere, are employed in its manufacture and in the distribution of cotton and cotton products. The demand for cotton is world-wide, and commerce in it is a necessity. Any attempt to restrict or hamper the course of legitimate commerce in cotton would be injurious to the producers and distributors, as well as the consumers of cotton products.

It is not believed by this committee that any injurious effects upon legitimate dealing in cotton will follow the enactment of this measure into law. In so far as the present system of trading in cotton is dependent upon future trading, if it is at all, when actual delivery is not made, a readjustment may be necessary, but such readjustment can be made with advantage to the cotton trade. In effecting the purpose of eliminating gambling in cotton this bill closes the mails and the interstate agencies of communication against those seeking to use them for purely speculative purposes. It is not believed that any serious constitutional objection can be made against its provisions, and it is expected to prevent a form of speculation that is morally wrong and economically hurtful.

The committee therefore recommend that the bill be passed.

Now, Mr. Speaker, I may say in my own behalf that I have been constantly engaged, as Members of this House know, during this session of Congress in trying to work out legislation involving a number of important legal questions. For instance, the anti-injunction bill, which has passed the House; jury trials in certain contempt cases, which the House has passed; and later in the impeachment proceedings against Judge Archbald, which the House has voted upon and has ordered articles of impeachment to be sent to the Senate. These are some of the important matters which have engaged my time and attention.

I have not, Mr. Speaker, had the opportunity to examine all the authorities so as to make a legal argument on this bill. I observe that on the committee that reported the bill are the names of several eminent lawyers, among them the gentleman from Texas, Mr. BEALL, whose name the bill bears; also the gentleman from Kentucky, Mr. STANLEY, and my colleague, Mr. HEFLIN, whose opinion I value most highly, and quite a number of other lawyers and a number of farmers and business men on the committee who want this legislation. This bill shall have my hearty support and my vote for the reasons I have given. [Applause.]

Mr. BEALL of Texas. Mr. Speaker, I yield five minutes to the gentleman from Oregon [Mr. HAWLEY].

Mr. HAWLEY. Mr. Speaker, in addition to the arguments already made in behalf of the bill by the gentlemen who have preceded me, there are one or two things that I wish to state. The bill will not affect any direct buying or selling of cotton where the commodity is transferred immediately. It will not affect any legitimate speculation where the parties buying expect to receive the cotton and where the parties selling expect to deliver the cotton immediately or at a future time. The committee was besieged by the growers of cotton, stating that certain conditions had grown up in the marketing of cotton that were very embarrassing to them and had cost them a great deal of money. It was alleged before the committee, and, I believe, not disproved by those opposed to the bill, that the exchange is no place for the cotton manufacturer to go to get cotton with which to manufacture his goods, for if he buys cotton on the exchange, any kind of cotton of a very large number of grades may be delivered on that contract, and his machinery is only prepared to handle cotton within a limited number of grades.

But there is another thing stated in evidence. It was specifically questioned and directly answered that the cotton exchanges of the country could not live without what are known as the gambling features of the exchange—that the contracts by persons who wish to buy for speculative purposes, having no intention whatever to receive any cotton, or who wish to sell for speculative purposes, having no intention to deliver any cotton, were necessary to the life of the exchange. They said specifically, in answer to a definite question, that this influx of new blood or new money was absolutely necessary to the continuance of the exchange.

We do not object to the legitimate hedging upon the exchange, but we do object to the maintenance in this country of an institution which says that it can not exist without gambling, and that it can not exist unless there are brought to it continually a stream of people who must lose their money and get out in order to make place for another stream of people to come in and be treated in the same way. This bill proposes to render it impossible for those people who are thus being deprived of their money in gambling transactions to be longer deprived of it. It is the policy of the Government, and has been for a long period, that no gambling should be fostered or tolerated under the law, and many laws have been enacted for the purpose of preventing gambling. The only thing this bill does is to make it impossible for these cotton exchanges to longer be places of gambling. Every legitimate purpose that they can serve and do serve, they can continue, and if, under their present organization, they can not continue to subsist without the gambling features it is no argument that they should be allowed to continue. The argu-

ment is that they ought to be compelled to change their organization so that they can continue without the gambling end of their business.

For these reasons, in addition to those already alleged by gentlemen preceding me, I believe the bill ought to pass as a first measure in the general step to prevent illegitimate transactions in all farm products.

Mr. BEALL of Texas. Mr. Chairman, I want now to ask unanimous consent that all gentlemen who have spoken or may speak on this bill be given permission to extend their remarks in the RECORD for five legislative days.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. At this time I shall object.

Mr. BEALL of Texas. Mr. Speaker, I yield now five minutes to the gentleman from Texas [Mr. BURLESON].

Mr. BURLESON. Mr. Speaker, more than 20 years ago the Hon. William H. Hatch, a sturdy Democrat from Missouri, introduced the first bill having for its purpose the elimination of the evil of gambling in farm products. In that bill Mr. Hatch attempted to define options and futures and to impose a tax upon every contract for the sale on exchanges of farm products for future delivery. Afterwards Mr. Hatch was supplemented in his attempt to strike at this great gambling evil by the efforts of Senator George of Mississippi and Senator Washburn of Minnesota, who drafted a bill dealing with this subject along the same lines, eliminating, however, the tax feature and fixing penalties for transactions for future sale of cotton or of other farm products where there was no intention on the part of seller or buyer to deliver or to receive. Since that time innumerable bills have been introduced striking at this practice. The sentiment against this great evil throughout the country even at that time was overwhelming, especially among the farming, spinning, and milling interests, and year by year the opposition to these hurtful practices has become more intense. During the Fifty-ninth Congress a bill dealing with this subject matter was prepared along entirely different lines and was by its author introduced.

Discouraged by the failures of Messrs. Hatch and George and Washburn for years but little effort was made to push this legislation, but when the Hon. Charles F. Scott, of Kansas, was appointed chairman of the Committee on Agriculture, those who favored striking at this evil made a serious effort to secure some action by the Congress. At the request of the author of the bill last alluded to, which as originally drawn applied only to cotton, Chairman Scott took same and made it by appropriate terms apply to all farm products, and introduced it as his bill. This bill, with all other bills directed against the evil, was referred by the Committee on Agriculture to a subcommittee, consisting of Mr. Scott, as chairman, and four of the ablest lawyers on the Committee on Agriculture, Mr. BEALL of Texas, Mr. HAWLEY of Oregon, Mr. PLUMLEY of Vermont, and Mr. LEVER of South Carolina.

This subcommittee, using the Scott bill as a basis for its action, brought great energy and industry to bear in the preparation of the bill, which was rearranged and in some parts rewritten, but retaining every essential provision of the bill as originally drawn, and was subsequently introduced by the chairman of the committee, and became known as the Scott bill.

The subcommittee, however, improved it in many particulars. This bill now being considered is identical in terms with the Scott bill, but it is now known as the Beall bill, which was explained to the House so ably this morning by the gentleman from Texas, my colleague [Mr. BEALL].

Mr. Speaker, I want to direct attention to the fact that this bill strikes at only one character of transaction, and none other. It strikes at "contracts for the purchase or sale for future delivery of cotton without intending such cotton shall be actually delivered or received." Every court in this country, whether Federal or State, which has passed upon a transaction of that kind has declared it to be an illegal contract, a gambling transaction, and absolutely null and void. Now, who will say such transactions should not be prohibited; no man here will arise in his place and say they should be permitted. There has been some discussion as to the constitutionality of this bill. This bill denies the use of certain instrumentalities of interstate commerce to those who want to make these illegal contracts. The gentleman from Pennsylvania [Mr. OLMSTED], who appeared in the first case that was argued before the Supreme Court of the United States when the same principle upon which this bill is founded was passed upon, has just stated to you in no uncertain language that in his opinion that feature of this bill is constitutional.

Mr. Speaker, I want to state to the House that this bill was written following weeks of laborious study in the Supreme Court Library, and after it was thus carefully prepared it was submitted to the best constitutional lawyer in the United States Senate, who consented to examine it with a view of passing on the question of whether it violated any provision of our organic law. He carefully investigated every section of the bill, and after the expiration of the three months he returned the bill to the man who prepared it, saying: "Introduce it in the House and, to show my confidence in the constitutionality of your bill, I will introduce it in the Senate." It was then the bill was introduced in the House, and Senator CULBERSON introduced it in the Senate. There is absolutely no question about the constitutionality of the bill.

Now, Mr. Speaker, I desire to refer to what the gentleman from Oregon [Mr. HAWLEY] said a moment ago about the character of transactions aimed at by this bill. There are certain great exchanges in this country where these transactions for the sale of cotton for future delivery—where there is no intent to deliver on the part of the seller and no intent to receive on the part of the buyer—takes place, and, during the hearings before the Committee on Agriculture, members of one of those exchanges admitted that the operations of that exchange could not continue if transactions of that character were stricken down or eliminated. In other words——

Mr. DUPRÉ. May I ask the gentleman to what exchange he refers?

Mr. BURLESON. I will state to the gentleman that I do not allude to the New Orleans Exchange.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. BEALL of Texas. I yield the gentleman four minutes additional.

Mr. BURLESON. In other words, Mr. Speaker, the admission was made not only by the members of that exchange, but by the officers of that exchange that these admittedly gambling transactions were essential for the continued existence of that exchange. Now, unfortunately, that exchange—the New York Exchange—because of a change in the transportation conditions of this country which took place about 1880 when the use of the through bill of lading was first introduced, reached the point where a loss of a dollar and a half a bale was sustained upon every bale of cotton that was stopped in the city of New York. And, Mr. Speaker, a moment's reflection will show anyone the reason for this. What would it avail the spinner in New England or elsewhere to stop his cotton in the city of New York when by a through bill of lading he could get the cotton from the South delivered at the doors of the mill itself? To stop cotton in New York City meant a loss for handling, which amounts to $1.50 per bale, and I give the figures of an officer of the New York exchange.

By reason of these changed transportation conditions this exchange was compelled, in order to bring to the city of New York cotton, to use as a reserve, for the fulfillment of its future contracts, to adopt the indefensible and uncommercial system of arbitrarily fixing differences of value between the various grades of cotton, during the month of November, without reference to the commercial values of the grades of cotton that existed then or thereafter. Why were the members of this exchange compelled to do this? They were forced to do this in order that they might overcome this loss of a dollar and a half a bale on cotton stopped there for reserve purposes.

Mr. Speaker, as a result of this condition the Commissioner of Corporations, who made a comprehensive report upon the cotton exchanges of this country, a report which is really the last word on the subject, says in that report that this exchange adopted a practice of uniformly overvaluing the grade of cotton that is in least demand by consumers of cotton in order that the exchange might attract that character of cotton to their reserve in New York, which cotton is largely used for tender upon contracts if, perchance, delivery should be demanded. What is the inevitable effect of this practice? This cotton that is in least demand is assembled there and used as a tender upon their contracts, and whenever they will, by tendering such cotton, they can hammer the price of this great product down below its real value to the great detriment and injury of those who produce it.

Mr. Speaker, there are two rules of this New York exchange under which the principal injuries to the cotton grower are wrought.

First, the rule which enables the revision committee to arbitrarily fix values early in the season, without reference to the differences in values fixed by commercial usage under the law of supply and demand, and under which rule they are tempted to overvalue that grade of cotton in least demand so as to overcome this loss of $1.50 a bale sustained as a result of the use of the through bill of lading. And, Mr. Speaker, I fear they are compelled to adhere to this rule in order to continue the ex-

istence of their exchange. I desire to be fair, and I would not be candid if I did not state that I believe the New York Exchange would change this rule if it could, but when it changes it and adopts the commercial system of fixing differences then, in my opinion, the days of the exchange will be numbered, for New York City has, in my opinion, ceased to be a spot-cotton market.

Second, the rule of the exchange under which the seller is given the option of delivery or settling his contract in accordance with the differences which have been fixed by the revision committee, and if he decides to deliver the actual cotton under the rules of the exchange he may deliver any or all of about 30 different grades of cotton, including tinges, stains, and some claim unspinable cotton of as low grade as that commonly known as "dog tail."

Any intelligent person can readily see that one operating under these rules may, if he has the capital, manipulate the price of futures at his own sweet will. The price of spot cotton is largely controlled by the price of futures, if not absolutely so. Many prominent members of the exchange pretend that they favor the adoption of the Government standard of cotton classification, and to so amend the rules as to require tender on contracts to be made of cotton composed of these grades. If this was done and the fixed difference system abandoned then it is my belief the ability of the exchange to manipulate the price of futures, thus controlling the market price of spot cotton and thereby working such great wrong and injury to the cotton grower, would be largely removed.

But, Mr. Speaker, in my opinion, notwithstanding the protestations of many of its members, this the New York exchange will never do until it is forced to do so by law.

Mr. Speaker, during the first hearings on this bill before the Committee on Agriculture the New York exchange was represented by its ablest exponents and defenders. Mr. Samuel T. Hubbard, its former president, was there. Mr. Arthur R. Marsh, its then vice president, afterwards president, was there. Mr. George W. Neville, its present president, was there; and Mr. Luispold Mandelbaum, who is the shrewdest of all its apologists, was there to speak in its behalf. Mr. W. B. Thompson, its president, and others were there to speak for the New Orleans Cotton Exchange.

Everyone knows that within the limited time allowed us under the rule under which we are operating at this time that it is impossible to fairly discuss this bill, but we did have time before the Agricultural Committee to discuss it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BURLESON. Mr. Speaker, I ask unanimous consent to extend my remarks by embodying an argument I made before the Committee on Agriculture in 1910 in support of the Scott bill and my cross-examination of Mr. Marsh before that committee.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

ARGUMENT OF HON. ALBERT S. BURLESON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS.

The committee met, pursuant to the taking of recess, at 2 o'clock p. m., the chairman presiding.

The CHAIRMAN. Mr. BURLESON, we will now hear from you.

Mr. BURLESON. Mr. Chairman and gentlemen of the committee, I hardly feel that I am addressing this committee in my representative capacity. I am myself a producer of cotton and have been asked by the representatives of the farmers' organizations engaged in the production of cotton to present their views with reference to these bills now before you for consideration. In view of these facts I feel that no different rule should apply in the matter of my being sworn, and I ask that I be sworn as others who have appeared before you.

(The witness was sworn by the chairman.)

Mr. BURLESON. In the outset, gentlemen, I desire to say that it is my purpose to be brief in the discussion of the issues which I think have been made before this committee, and above all things I am determined, and it is possible to do so, to avoid dodging or befogging these issues by indulging in a mere multiplicity of words.

Before I proceed to the main discussion I want to say, in answer to the suggestion made by one gentleman representing the exchange, Mr. Mandelbaum, that I am sure that I am not acting under coercion in my advocacy of this legislation. Long before I received a letter on this subject I had started upon an investigation for myself with a view of reaching a conclusion, if possible, whether the practices of the so-called cotton exchanges were hurtful or beneficial to the cotton trade. After prosecuting this investigation for some time I reached a satisfactory conclusion in my own mind, and my colleague Mr. BEALL will bear me out that a number of years ago, before any action had been taken by the Texas Legislature in this matter, I met with him and one or two others in the city of Dallas for the purpose of taking such preliminary steps as would result in legislation to drive the wire houses, the representatives of the cotton exchanges, from the State of Texas.

The CHAIRMAN. The warehouses?

Mr. BURLESON. No; the wire houses.

The CHAIRMAN. Explain what that term means.

Mr. BURLESON. The wire houses, if I may so term them, are branch exchanges, are places—not called bucket shops—but places where representatives of members or firms on the cotton exchanges keep boards for the purpose of quoting prices thereon, noting conditions of the crop, and giving notices of sales or purchases on the exchanges, such information being received on a telegraph wire carried to such place for this purpose.

Mr. LEVER. And giving information to customers.

Mr. BURLESON. And giving general information relating to the cotton crop to those who buy or sell future contracts on the main exchange, through the particular wire house. As I say, I reached a satisfactory conclusion in my own mind about the hurtful result of such transactions, and I then introduced a bill which I thought would correct the evil. And right here, Mr. Chairman, I want to say that if I am mistaken about it, if the practices and rules and regulations and business transacted on the New York Exchange and the New Orleans Exchange are not hurtful to the producer and the consumer of cotton and to the cotton trade, there is nobody more anxious to ascertain that fact than I am, and for that reason—and it will not disconcert me in the slightest—I invite any member of the committee, any representative of the cotton exchanges, to propound queries to me at any time during the progress of my discussion. If the query relates to a transaction or a phase of the business with which I am not familiar, I will promptly say so, but if I can elucidate the subject matter of the query by my answer, or by telling what I believe or think about it, I will glady do so.

Above all things, I do not want to do anything that is going to be hurtful to the cotton trade. The welfare of my people—I represent a cotton constituency—the welfare of my State, yes, of my section of the country—is so thoroughly identified with cotton, the production of cotton, the sale of cotton, and the manufacture of cotton, that if a blow were struck it we would be the greatest sufferers, and for that reason I desire to move in this legislation with the utmost caution and to avoid making a mistake, if possible to do so. Above all, I do not want to do any injustice or wrong to the people who are identified with or interested in cotton exchanges, especially those who think they are serving a useful purpose; and I want to be absolutely fair in every statement that I make and in every conclusion based upon what I believe are the facts that have been established before you.

Mr. Chairman, I gladly say—I cheerfully bear witness to the fact that, in my belief, for 10 years after the organization of the New York Cotton Exchange it served a most beneficial purpose to the cotton trade throughout the world. I believe it was a cotton exchange in the true sense of the word; that it discharged every one of the beneficial functions of an exchange. As a matter of fact, New York at that time was the second great spot-cotton market of the world. Spinners' agents, mill treasurers, exporters' agents were there for the purpose of buying cotton, the actual cotton, in New York City, and many were connected with the exchange. Manufacturers of cotton went there during that period to get their supplies, and then—and I want to absolve the members of the exchange from responsibility for it, because I would not be candid if I did not say so—I believe through no fault of theirs, a condition developed which makes it impossible for New York City to be a spot market for cotton. By the development of a commercial utility it became possible for cotton to be shipped direct from the section where it was produced to the door of the cotton mill cheaper than if it was stopped at New York.

The through bill of lading, undoubtedly—and this fact can not be questioned—when its use became thoroughly perfected and was adopted by the trade, brought about a condition which precipitated an immediate decadence of New York City as a spot-cotton market. What authority have I for this assertion, Mr. Chairman? Out of the lips of the ablest spokesman for the exchange—and I mean no disparagement to the other gentlemen when I say this, for Mr. Marsh, who has been a professor in one of our leading universities, has been the ablest exponent and defender of the exchanges in this country—we have it that a loss of a dollar and a half a bale is sustained upon every bale of cotton that is stopped in New York. Of course, gentlemen,

you know even if the improvident southern producer could not and would not take advantage of that situation, the shrewd, smart Yankee cotton spinner, the shrewdest man who lives upon this earth, would promptly take advantage of it, and he did, and the decline immediately commenced, and New York is no longer a spot-cotton market of any importance.

Now, gentlemen, I want to support the statements of fact, which I will utilize before you, by some character of satisfactory testimony. Ordinarily I am going to take it from the lips of these defenders of the exchanges themselves. Before I conclude I intend to make these spokesmen of the exchanges my witnesses and with their admissions drive the conviction home to the mind of every member of this committee, who keeps an open mind, that the New York Cotton Exchange has developed into just what Mr. Parker, the greatest southern spinner, has called it, a curse to the cotton trade.

Now, let us see whether New York has ceased to be a spot market. I am going to read from the report of Mr. Herbert Knox Smith, and with reference to this publication, gentlemen, I want to state in the outset that I accept literally every statement of fact which is found in this report. I do not agree with all of Commissioner Smith's conclusions; in fact, in one very important matter I am in thorough accord with the view taken by Mr. Marsh, which I will discuss later on, but wherever the report of the Bureau of Corporations states a fact I accept it, because there is no motive on the part of this Government official to lie; there is no reason why he should embody in this report untruths. He is not swayed by self-interest; he is without local bias or prejudice; he does not live in a cotton-spinning section, he does not live in a cotton-producing section, he is a native of and lives in Pennsylvania; and, furthermore, I know the man. He is an official of ability and integrity, and every statement of fact he has made in this report he believes to be a fact. Now, has New York fallen into a condition of decadence as a spot-cotton market? The statement made by Mr. Marsh about the loss of $1.50 on every bale going there would show you it had if I did not produce figures to further substantiate the fact. But let me show you the statistics bearing on the proposition. In order to be perfectly fair to the exchange, I will take figures for periods of 10 years apart and then give the average for the 10 years.

In 1870–71 the total sales of spot cotton at New York in proportion to the total crop were 16.9 per cent. Nearly 17 per cent of the whole cotton crop was marketed in New York City. The development of the through bill of lading took place about 1879. I was curious to know exactly when the general use of the through bill of lading took place, and I addressed a communication to the secretary of the Interstate Commerce Commission, who is one of the best posted men in matters of transportation in this country, with a view of ascertaining the history of its development. He replied that it came into free use in 1885, developing from along about 1880. Now, let us see its immediate effect in New York as a spot market. In 1880–81 the spot sales of cotton in New York had fallen off to 4.8 per cent of the crop; in 1890–91 to 1.1 per cent of the total crop; in 1900–1901 to nine-tenths of 1 per cent of the crop; and for 1906–7, the last crop before Mr. Smith's report, nine-tenths of 1 per cent of the crop—the same as 1900–1901. You naturally ask why. Mr. Chairman, there it is going to remain. New York City, as long as this cotton exchange exists, will always have spot cotton come there just about in that proportion to the main crop. Why? Because it is necessary for the exchange to have a certain reserve in New York in order to meet demands for tender upon its contracts, and by long experience through course of business they have reached a knowledge upon the subject, concluding that it takes about nine-tenths of 1 per cent of the crop in order to meet this situation.

Now, as I have said, in order to be absolutely fair I want to give the average of spot sales of cotton in New York for the 10-year periods; this I read from Commissioner Smith's excellent report:

Average for period—	Total spot sales in New York.	Total crop.	Per cent New York spot sales to total crop.
	Bales.	*Bales.*	
1870–71 to 1879–80 (10 years)	434,865	4,397,032	9.9
1880–81 to 1889–90 (10 years)	221,719	6,496,933	3.4
1890–91 to 1899–1900 (10 years)	159,467	8,973,734	1.8
1900–1901 to 1906–7 (7 years)	145,873	11,178,931	1.3

Considering these statistics, if they are based on truth, can anyone doubt that New York has ceased to be a spot cotton market?

But, Mr. Chairman, these figures show that a small lot of cotton does still go to New York. In order to get this cotton to New York it must be brought there by some one—it will not go there of itself; it will not be brought there if it is going to occasion the buyer a constant loss. Everybody is struggling for money. I do not acquit the producers of cotton of a desire to accumulate money any more than I hold up against these exchange gentlemen the desire to accumulate it. Everybody wants to make money, nobody wants to lose money. This cotton is not going to New York at a loss of a dollar and a half a bale, hence it will not reach there unless some artificial condition is created or brought into existence that will draw it there without this loss, and this has been done, and I will tell you in a moment what that artificial condition is. Now, suppose some member of this committee will say, "Well, BURLESON is mistaken about this proposition. The fact that they lose a dollar and a half on each bale would not keep cotton from going to New York, and as to these statistics that Mr. Herbert Knox Smith embodied in his report, these gentlemen, representing the exchanges, have denounced his conclusions as 'a befuddlement of ideas,' and his statement of the facts." I do not remember exactly what was the expression with reference to the facts, but they were thoroughly discredited. Suppose there is some committeeman in that frame of mind; if so, will you accept an emphatic statement by a member of the exchange upon the proposition? When the producers and the consumers come here practically united in a demand that this great incubus be lifted from them, and when they offer you admissions out of the mouths of the members of the exchange, do you propose to reject it? I do not believe you will.

Let me give you an admission deliberately made by one of their own people. But before I give to you his statement let us see who he is? Is he an obscure member, some little insignificant scalper with a desk in another member's office, who plies his avocation upon the floor of the exchange day by day, scalping out a miserable existence through the practice of his knowledge of the rules of the exchange? Oh, no; I do not offer you the testimony of that kind of a member of the New York Exchange. I bring before you the greatest spot cotton dealer to-day in the United States, if not in the world, a man whose firm has been and is represented upon the revision committee, and it is the revision committee, gentlemen, that wields the power that controls the organization, that shapes the action of the members of the New York Cotton Exchange, as I will show you later on. I will bring you the admissions of an exchange member, represented on the revision committee, he or his firm, year after year, and I will read you his own letter, giving his views about New York as a spot market [reading]:

PHILADELPHIA, *June 20, 1905.*

Mr. ATWOOD VIOLETT,
New York City.

DEAR ATWOOD: I have been intending to write you regarding your circular concerning the certification of cotton in the South, so that it would be a good delivery there against contracts made on the New York Cotton Exchange.

You understand there are two factions in the New York Cotton Exchange, one faction contending that the present system of fixing differences is uneconomical, uncommercial, indefensible, who have expressed the fear that if it was not changed the people of the United States, those people who are really vitally interested in the cotton trade, would ultimately wipe the exchange out of existence. [Continuing reading:]

I agree with your opinion in the matter thoroughly, and if you ever take the matter up again—

Evidently some matter had been taken up before the exchange on a former occasion and had been defeated, I suppose, through the power of the organization, which is possible, as I shall show you later. [Continuing reading:]

If you agree with me, I would go a step further and ask the New York Exchange to change their differences between grades, if necessary, semimonthly or monthly, depending upon the value of the respective grades of cotton.

Now, Mr. Chairman, this comes not from a spinner who wants the contract changed so as to serve his selfish ends. This is not from a spinner, and I regret that whenever anything has been read during these hearings from a spinner, or when the representative of the American Cotton Manufacturers' Association came before you to protest against the practices of exchanges, an effort has been made to leave the impression: "Oh, you can't accept what he wants, because he is controlled entirely by selfishness." Gentlemen, this man from whom I read is not controlled by selfishness, at least not from the standpoint of a spinner. I do not mean he has no selfishness in him. We all have selfishness in us. I believe that even these gentlemen are in a measure selfish. But he is one of the great cotton mer-

chants who have been so graphically and so favorably described in the presence of this committee.

Mr. NEVILLE. Won't you add "ably"?

Mr. BURLESON. Yes; I do it most cheerfully, because I admit now that every word that can possibly be said in defense of the New York Exchange, its dules, its regulations, and its practices, has been most ably presented by the gentlemen selected by the New York Exchange to appear before this committee for that purpose. [Continuing to read]:

To avoid any effort at local manipulation of these differences it could be arranged upon the average of the differences between grades at five or six of the prominent cotton markets in the South.

My reason for the above is that the efforts of the New York Cotton Exchange for the past five or six years have been to see how poor a contract they could make in New York.

Mr. Mandelbaum says it has attained perfection, that it is without a blemish, there is nothing he would change. Mr. Neville says there is only one slight difference he would make, and he wanted a change so that the spinnable value of cotton should be considered in fixing differences between grades. If I do not forget it—and I hope I will not—I want to say a word about that when I reach that phase of the question. But here is a man who has been represented on the revision committee, as I say, for years, and one of the largest spot buyers in the world. He says:

My reason for the above is that the efforts of the New York Cotton Exchange for the past five years have been to see how poor a contract they could make in New York, and not how good a one or even fair, and I think the time has come when the New York contract should be made a better one than either Liverpool or New Orleans, for with proper differences and the certificate system there is no reason why it should not be. A vital reason for this change comes from the fact that I do not think there is any reason existing why New York should not be a cotton market for the sale of actual cotton.

You know actual cotton is spot cotton. [Continuing reading:]

It has the most perfect coastwise connections with southern ports and very reasonable rates of freight; it has frequent and cheap freight; connections with all the cotton-consuming centers of the world; it is within a night's ride of all the mills in the Middle States and New England, whose consumption is 2,000,000 bales cotton per year, if not more; it has the cheapest storage in America.

GEO. H. MCFADDEN.

But you will say, "He does not say in his letter that New York is no longer a spot market." I will read further in a moment, but in passing I want to ask, Is there a cotton producer in America, is there a cotton spinner in America or elsewhere who could voice before this committee a severer condemnation of the New York Cotton Exchange than has been made in this letter by George H. McFadden?

Mr. NEVILLE. What is the date of that letter?

Mr. BURLESON. June 20, 1905. I will read you exactly what Mr. McFadden said two years later, when Commissioner Smith was making his investigation of the exchange:

Mr. McFadden (the author of this letter), when asked in November, 1907, whether he cared to comment upon his letter said:

"Simply that since that time I have changed my mind regarding the situation. New features and new interests coming into the cotton market, and the development of the manipulations in the different positions and months, make it imposible for New York to be what I once hoped it would. Also, the freight situation, which has remained unchanged, has not operated to the benefit of New York as against New England and other spinning districts."

Now, there you have it. First, there is a loss of $1.50 a bale on each bale of cotton which is stopped in New York, which makes it impossible for it to become or continue a spot-cotton market. Second, the actual statistics—and, by the way, did I tell you the sources of these statistics I read to you a moment ago from Mr. Smith's report? I believe I neglected to do that. In order that Commissioner Smith may not be put in the attitude of going out and cooking up statistics against these exchanges I will say that the figures for the commercial crop are from the Government census publication, and the figures showing spot sales in New York are—but I will read from the report:

An idea of the shrinkage in spot sales since 1870 may be obtained from the following table—

That is, the table I read the statistics from a moment ago—

Compiled from figures furnished by the New York Cotton Exchange.

Their own figures. Now, can the conclusion be escaped that New York has ceased to be a spot market?

Now, Mr. Chairman, not only will I demonstrate that New York has ceased to be a spot market, but I want to show you that it has ceased to perform every function of a legitimate exchange. What are the functions of a legitimate exchange? From the day of Adam Smith, who was referred to so glibly here by the distinguished gentlemen speaking for the exchanges, to the last man who has written upon the subject of economics, it is agreed that the primary function of an exchange is to bring the buyer and the seller, the producer and the consumer, together. That is fundamental. It is to bring them together.

Before I proceed further I will read an excerpt from an article published in the Atlanta Constitution in 1907, which has just been called to my attention by Mr. BEALL, in which it is said:

The New York market, which, as a regular market for spot cotton, was doomed early in the eighties of the last century, found a new reason for being in the immense development of the theory and practice of hedging transactions in cotton goods.

Mr. LEVER. Who said that?

Mr. BURLESON. Mr. Marsh.

Mr. SIMS. The gentleman who testified before the committee?

Mr. BURLESON. Mr. Arthur R. Marsh, the vice president of the cotton exchange. But I will proceed.

The second important function of an exchange is that it may enable the producer and consumer to market the product at the least expense. The third function of an exchange is to aid in the speedy distribution of the product with which it attempts to deal. I do not think there can be any division of opinion that those are the important functions of an exchange.

Mr. Chairman, I believe I can show you that the New York Cotton Exchange has ceased to perform a single one of these functions.

First. Does the consumer, the buyer, go to the cotton exchange in New York in order to get his cotton supply? Who are the sellers? The producers, the farmers. Who are the buyers of raw cotton? The spinners. Now, if the producer does not go there to sell, if the spinner does not go there to buy, if it can be conclusively demonstrated that they do not go there for those purposes, will you not be forced then to the conclusion that, in so far as that function of an exchange is concerned, the New York Cotton Exchange signally fails? You heard Mr. Parker when he told you that spinners required even-running grades of cotton. He read before you the resolutions that had been adopted by the Cotton Spinners' Association, of which he is the president. I read you yesterday, and I will read it again now, if you want to hear it, what Theophilus Parsons said on this subject. Who is Theophilus Parsons? No antagonism can be aroused in my breast against the consumers of cotton. I am a producer of cotton myself. My entire fortune, nearly, is invested in cotton-producing lands. I realize, and every intelligent farmer realizes, that the value of our cotton depends upon the demand for this cotton for consumption. Who consumes it? As I have said, the spinners, Theophilus Parsons—a man who has been engaged in the spinning business for decades, honored by those with whom he has been associated for years by being elevated to the presidency of the greatest organization of cotton consumers in the world, as has been said by Mr. Neville, expressed himself about his ability to go there for cotton and what he would get if he went there.

You heard me read from Mr. MacColl, the president—I never can distinguish between the two manufacturing associations, the northern and the southern.

Mr. NEVILLE. He is the former president of the National Association of Cotton Manufacturers.

Mr. BURLESON. He is the former president of the National Association of Cotton Manufacturers, the northern organization, and you have heard his statement with reference to the proposition as to whether or not they go to the New York Cotton Exchange for the purpose of doing any sort of business. Gentlemen, it is common sense. If you were inclined to believe that Mr. Parker would come here and willfully misrepresent the facts, do you not know that it is stated time and time again in this report that even-running grades of cotton are required by spinners, generally a half grade above or below a specified grade? It is admitted that if you go to the New York Exchange and purchase a future contract and demand delivery on that contract, you will get or may receive 28 different grades of cotton under the same contract if they see fit to give them to you. Gentlemen, don't you know it is human nature that if I have a contract to deliver to you certain property, and I have the option, as the seller, to deliver to you, and I do not want you to call on me for delivery, that I will tender the very character of stuff you do not want to receive, in order to make you run away from the contract? That is human nature. It is conclusively shown in Commissioner Smith's report that these future contracts for the delivery of cotton are formulated, so framed, that a delivery of 28 different grades can be made if delivery is demanded. Every spinner would flee from such a delivery as he would from a pesthouse, a leprosarium.

This legislation has been under discussion for some time. Don't you know that if there could have been found in the United States a spinner who had gone to the New York Cotton Exchange and demanded a delivery for the purpose of using the cotton in his mill he would be here to tell you of it? The

buyer, then, does not go there—to the New York Exchange or New York—for his cotton; and I might end the discussion right there, because if the buyer, the consumer of cotton, will not go there, there would be no necessity for the producer to carry his cotton there for sale. But out of the lips of Mr. Marsh we have it that the producer, if he carried his cotton there, would lose $1.50 on each bale, and of course he will not carry it there.

Furthermore—and on this proposition there can be no mistake—Mr. Marsh in his testimony used the language that the New York Cotton Exchange is not a medium through which cotton is either bought or sold. Why? That is literally true; he meant literally what he said. They do not deal in cotton on the New York Cotton Exchange; they deal in cotton-future contracts. And right on that point I want to read you an interview some friend in New York City clipped out of the New York Commercial and mailed me on December 7. It is an interview by Mr. T. Ashley Blythe, a director of the National Cotton Manufacturers' Association. He gave out the following statement:

The commissioner's report—

Speaking of the Commissioner Smith report on the cotton exchange—

covers the situation in most respects, but unfortunately does not go far enough. He does not show clearly the unfortunate position that the legitimate spinner or consumer is placed in by the gambling methods of the New York Cotton Exchange.

It is a well-known fact that no legitimate cotton spinner in the world can spin cotton yarn out of cotton futures. The commissioner does not state what is known to every well-posted cotton spinner—that the cotton exchange of New York sells you cotton on a middling basis, and when the money is put up and the cotton demanded, gives you for every 100 bales probably not more than 5 or 10 bales of any particular grade. In other words, and to be as brief as possible, the cotton exchange of New York, as it is now operated, is not only clearly in restraint of trade, but, further than this, obtains money under false pretenses.

Theophilus Parsons, the head of the greatest cotton consumers' organization in the world, gave you his opinion about the danger of consumers going there to purchase. Mr. Parker, the president of the American Cotton Manufacturers' Association, the southern organization, tells you they do not go there. Mr. MacColl, who was the president of the National Association of Cotton Spinners, tells you that thousands and thousands of them never buy futures and that the exchange has been used to a very limited extent. And here is Mr. Blythe, a present director in that great northern association of spinners, expressing his views on the subject. Now, gentlemen, can there be any question about it that, in so far as bringing the producer of cotton and the consumer of cotton together, the New York Cotton Exchange does not perform that legitimate and primarily most important function of an exchange.

Now, does the cotton exchange perform the second function of an exchange? I do not want to forget anything. I certainly do not want to evade any phase of this question, and I repeat again, if any member of the committee or any other gentleman here wants to ask any question about this phase of the question before I proceed, I invite him to do it, because if I am in error I want to know it.

Mr. COCKS. I would like to have you explain what became of all this cotton that has been in New York. You say the spinner does not go there to buy it. Where does it go? The same cotton does not stay there from year end to year end, does it?

Mr. BURLESON. Some of it stays there year in and year out.

Mr. HAUGEN. How much of it?

Mr. COCKS. That is it. How much do you suppose?

Mr. BURLESON. These gentlemen are in a position to tell. I will show you this; I will show you, from one of the certificates from their warehouses, that they certificate more cotton in a year than was brought there, showing conclusively that some of it must have been brought over from the year before. You ask me what becomes of it. Did you not hear Mr. Parker when he stated that when the future contracts were selling so extremely low in New York he thought surely he could go there and accept delivery at a profit; and he went there to one of the great speculators on the exchange, formerly a member of the exchange, a man whom I heard deliver an address in Philadelphia a few years ago? I went over there myself to deliver an address to the cotton spinners, at their invitation, and just before I delivered my address, or just after, I forget which, Mr. Theodore H. Price delivered an address in which he spoke of the New York stock. He said——

Mr. MANDELBAUM. I would like to ask Mr. BURLESON one question, and that is, you have laid great stress on the fact that it costs a dollar and a half to bring cotton to New York?

Mr. BURLESON. Yes, sir; so Mr. Marsh has said.

Mr. MANDELBAUM. I believe Mr. Neill, one of the parties you represent, has stated that it cost them the first month alone, in Galveston, $1.

Mr. BURLESON. I am neither defending nor explaining conditions in Galveston, Tex. I am explaining the effect of a statement of fact made here by the vice president of the cotton exchange which shows the impossibility, from a commercial standpoint, of spot cotton reaching New York. I do not feel called upon to discuss Mr. Neill's statement about storage charges; it is extraneous matter, and I do not want to encumber the record with it.

Mr. MANDELBAUM. I know; but I do. I want to know whether my question is not a question of fact.

Mr. BURLESON. It may be; I do not doubt it. It is immaterial.

Mr. MANDELBAUM. A question of fact that has been brought out at this hearing?

Mr. BURLESON. I do not doubt it, as far as that is concerned.

Mr. MANDELBAUM. That is all.

Mr. BURLESON. I take no issue with you about it.

Mr. MANDELBAUM. Do you not know it is so, that it has been brought out?

Mr. BURLESON. Mr. Mandelbaum, I do not know it, nor do I for the purposes of this argument care.

Mr. MANDELBAUM. You do not know it?

Mr. BURLESON. No.

Mr. MANDELBAUM. You do not know, in other words, what has been going on or what Mr. Neville has been testifying?

Mr. BURLESON. I will accept his statement; I will let it go at that.

Mr. MANDELBAUM. Let it go at that.

Mr. BEALL. Regardless of that, it is a fact that spot cotton does go to Galveston in large quantities.

Mr. BURLESON. Undoubtedly; it is a great cotton market.

Mr. MANDELBAUM. Is it not a fact that three-fourths, or practically seven-eighths, of the cotton that goes to Galveston goes only through Galveston?

Mr. BURLESON. That may be true; it is also a great export market.

Mr. MANDELBAUM. Do you realize that there is nearly as much cotton that goes to the port of New York as goes to Galveston?

Mr. BURLESON. Oh, no; the facts don't show that.

Mr. MANDELBAUM. We will show you.

Mr. BURLESON. I have your own figures upon that proposition.

Mr. MANDELBAUM. Never mind.

Mr. BURLESON. Since the question has been raised, I believe it was; but you gentlemen are in the trade; you should know more about that than I do.

Mr. NEVILLE. We will answer you, Mr. BURLESON.

Mr. BURLESON. I say there is more than 2,000,000 bales of cotton that goes to and through Galveston each year.

Mr. NEVILLE. We will give you the whole thing when you get through.

Mr. BURLESON. I will read——

Mr. MANDELBAUM. One million three hundred and fifty-two thousand bales went last year through New York.

Mr. BURLESON. I doubt that, but I will read what Commissioner Smith said in——

Mr. MANDELBAUM. I do not care about Commissioner Smith; I am talking about the facts in the matter.

Mr. MCLAUGHLIN. I would like to hear what Commissioner Smith says.

Mr. BURLESON. I will read the figures given in his report.

The CHAIRMAN. To whom does he credit those figures?

Mr. BURLESON. To the New York Cotton Exchange. On page 249 you will find that. Suppose cotton does go through New York for export. Let us admit for the purpose of this argument it goes through there for purposes of export; admit that 2,000,000 or 2,500,000 bales go through there for export. Does that make it a spot-cotton market?

Mr. MANDELBAUM. Just as much as Galveston, when you say that seven-eighths of the crop goes through Galveston without being handled there; just as much.

Mr. BURLESON. On page 249 of this report are given the New York spot sales, "for export," "for consumption," "on speculation," and the total. I will take the last year we have here, 1906–7: For export, 18,464 bales—I really hesitate to read it, because it is incredible—for consumption 99,801 bales. Two years ago I was reading from Shepperson's Cotton Facts, or Latham Alexander's Statistics, that for a particular year there was only, I think, 23,000 bales of spot cotton that reached New York during the year, and dear old Shepperson, who has been in the cotton business a long, long time (he is the exchange's principal statistician), nearly had a spasm when he read my deductions from these figures; and he rushed into the columns of the New York Journal of Commerce making a defense of New York as a spot market, and he was ably supplemented in this effort by Henry Hentz & Co., and even the Evening Chron-

icle took a whirl at me on the proposition, saying I was either wittingly or unwittingly falsifying the records in order to show that New York had ceased to be a spot market, and yet George H. McFadden, the greatest spot merchant in the United States—and these gentlemen can not deny it—a member of the New York Exchange, admits it has ceased to be a spot cotton market, and that he has abandoned hope of its ever again being a spot market.

Mr. MANDELBAUM. What page did you read those figures off?

Mr. BURLESON. Two hundred and forty-nine, volume 1.

Mr. SIMS. May I ask you a question right there? It was read yesterday by Mr. Neville in reply to a question from something, I don't know what he read from, that the deliveries and redeliveries of cotton in New York on the cotton exchange for a year were about 500,000.

Mr. NEVILLE. Five hundred and six thousand.

Mr. SIMS. And his deduction was that about two-thirds was the cotton that was bought and sold during that current year.

Mr. NEVILLE. We have the spot sales right here.

Mr. SIMS. Now, Mr. BURLESON, if the whole 500,000 bales had been bought and sold on the cotton exchange that year, if they would equal one-twentieth of the cotton crop of that year, I would like to ask if one-twentieth can possibly fix the price of the nineteen-twentieths?

Mr. BURLESON. Certainly it should not.

Mr. HUBBARD. Is Bartlett, Tex., in your district?

Mr. BURLESON. Yes; and it is quite a cotton market.

Mr. HUBBARD. Do you know a gentleman there by the name of W. B. Cox?

Mr. BURLESON. Yes; I know him.

Mr. HUBBARD. Will you be kind enough to write to him and ask him how much cotton he shipped to me this last year?

Mr. BURLESON. Why should I do that? I do not doubt he shipped you cotton, but for the purposes of this discussion, we have the statistics of the exchange itself. If we can not take the statistics of the exchange, if these gentlemen are not willing to stand by their own figures compiled by their own statistician, promulgated in their own defense, we can have no basis for fair discussion, and this controversy would be interminable. Now, Mr. Chairman, I am perfectly willing to answer any questions hereafter propounded, but I want them to be short, because my time is flying.

Mr. MARSH. May I make one simple suggestion, that Mr. BURLESON give the figures for the spot sales in New York and then the figures for the spot sales in Galveston?

Mr. BURLESON. I think I have that right here in this speech of mine—a very comprehensive document, by the way.

I will read, though I believe it does not give spot sales:

In 1906, as I have shown, the entire receipts at New York amounted to 6,575 bales, and in 1907 the receipts reached a total of 23,108 bales. For the same year (1907), the receipts at Galveston amounted to 3,891,695 bales; at New Orleans to 2,296,971 bales. At the end of that season Galveston had 30,820 bales on hand and at New Orleans there remained on hand 31,964 bales.

Now, let's see what stock remained on hand at the end of the same season in New York—169,975 bales. Its receipts during the three years preceding in the aggregate were less than 65,000. Thus, you see, we have the proof of the truth of the charge made by Mr. Price and many others that this low-grade cotton has been accumulated and held in New York for several years for purposes of tender on contracts for futures.

But, gentlemen, for the purposes of this discussion, understand me, suppose I admit that Galveston is not a spot market at all; Galveston is not under discussion here; why should we divert attention from the real issues involved before this committee by weaving in a thread of irrelevant matter to cover up, confuse the real woof and warp of matters in controversy? Why should we do it?

Mr. COCKS. I will tell you one reason why, because I would like to know where in the world there is a spot market?

Mr. BURLESON. There are innumerable spot markets.

Mr. COCKS. All right. If it is not in New York, I would like to know where it is. I am all mixed up on this.

Mr. BURLESON. I will say to the gentleman from New York that Houston, Galveston, New Orleans, Savannah, Memphis, Taylor, Waco, and Greenville are great spot-cotton markets, where men are to be found day by day, week by week, and month by month acting for spinners who want real cotton, buying cotton in even-running grades for purposes of legitimate consumption.

Mr. COCKS. What I would like to know is how does the cotton get from these spot markets you have mentioned to the spinner in New England, for instance; is it shipped there to him?

Mr. BURLESON. Mr. Cocks, it is bought either by the merchant or some spinner's agent in 100 or 500 bale lots when it is needed, assorted into even-running grades, and that is sent by through bill to the mill.

Mr. NEVILLE. Mr. Cocks, for fear you get a false impression of that, I would like to ask Mr. Burleson if the farmers sell it to the agents in even-running lots?

Mr. BURLESON. Certainly not. I sell my cotton frequently in what is termed, colloquially——

Mr. NEVILLE. Hog-round?

Mr. BURLESON. Hog-round. I sell it hog-round. For instance, I have a number of bales of cotton that is very bad, low grade; it was the last pickings; it was the last cotton that was scraped together in the ginnery, before it was put through the gin, and finally ripened into a bale, and I make the entire lot of cotton sell this low stuff. I make the good sell the bad, and the man who buys it culls it, selecting that desired by spinners, and the remainder is what is called "overs." The low grades are left over, and it is these overs, as I will show you by admission of the exchange, or the representative of the exchange, which, as a result of the action of the revision committee of the New York Cotton Exchange, finds its ways to the warehouses of the New York Cotton Exchange and acts as a thermometer or a standard by which the value of the product of the farmer, yet unsold, is frequently if not constantly measured.

Mr. MARSH. May I ask a question at that point? I should like to ask Mr. Burleson whether he has been encouraged by the New York Cotton Exchange to produce and pick a low grade of cotton?

Mr. BURLESON. Oh, no; I have not been encouraged to do that, but I will say this, and Mr. Marsh can not escape the conclusion, and every man here will know it is true—that on a big plantation there is not that care exercised about protecting the cotton from trash. You must remember that in white cotton it is trash alone that either lowers or raises the grade, and when I know, and when it is known by every practical farmer in the South, that some one will take this low-grade cotton, that you can force them to take it, and that they take it because of the fact that they know it has been overvalued in New York and can be disposed of, I will show you this cotton is overvalued in New York so that no one can possibly get away from admitting it—that these low grades of cotton or undesirable grades have been constantly overvalued, that it will find its way to New York. Undoubtedly if that opportunity of disposing of this cotton was done away with, was eliminated, the farmer would be more careful in the gathering and treatment of his crop so as to protect it from leaves and trash.

Mr. HOWELL. You state that the mills buy even lots of cotton?

Mr. BURLESON. Yes. Cotton of even running grades.

Mr. HOWELL. And yet there must be a large part of the crop that is inferior cotton?

Mr. BURLESON. No; not a large part, Mr. Howell. It has been estimated at less than 10 per cent.

Mr. NEVILLE. You referred just now to the overs being low-grade cotton.

Mr. BURLESON. Oh, no; overs may be either of themselves, a very low grade of cotton or it may be that in a year where the cotton crop is of a very high grade—the overs may be extremely high-grade cotton. And in a year like that, instead of overvaluing the low grades of cotton the New York Cotton Exchange, because this very high-grade cotton is the least desirable cotton, from the standpoint of the spinner, have overvalued the high grades, and I will show you that stated emphatically in Commissioner Smith's report.

Mr. NEVILLE. One more question on the subject of overs.

Mr. BURLESON. Yes, sir.

Mr. NEVILLE. Does it ever happen that a buyer in your territory, in buying your run of cotton, hog-round, could happen to have overs running from strict low middling to good middling? I am only asking because I want to get the record straight; these are not antagonistic questions.

Mr. BURLESON. Permit me to assure you in advance that I always regard you as friendly, and you could not ask a question that would arouse antagonism on my part. I want to answer your question in the utmost candor. Mr. Chairman, as incredible as it may sound, for I have been in the cotton-producing business all my life, from the time I was 18 years old, when I commenced to look after and manage my own farm, I have been producing cotton, and I pledge you my honor I can not tell one grade of cotton from another, hence I can not answer Mr. Neville's question.

Mr. NEVILLE. That is all.

Mr. BURLESON. You must have cotton right before you in order to class it, and then you must be able to keep in mind the difference in grade. That is one of the reasons prompting me to introduce my bill a few years ago to bring about a uniform standardization of cotton. I did it in order that the farmers and producers might be able to secure a standard to show the different grades of cotton.

Mr. MANDELBAUM. Were you not indorsed by the New York Cotton Exchange, and were not your standards approved?

Mr. BURLESON. No; I do not think they have yet been approved.

Mr. MANDELBAUM. Were you not indorsed, and were you not told it would receive the full approval of the exchange?

Mr. BURLESON. I believe that is true; but, as I said before—and I am not saying it just to hear the sound of my own voice; I never was more honest in a statement in my life—I sincerely believe if these gentlemen could conduct a proper exchange in New York they would do it. I have no feeling of antagonism in my heart toward them. I told you just now that geographic conditions, conditions of trade, are such that it is utterly impossible to maintain a cotton exchange in New York, and these gentlemen must recognize that fact. I am not criticizing them harshly; they can not help themselves; and I make that statement believing sincerely in its truthfulness. I do not know whether I have answered the gentleman from New York about how it ultimately reaches the spinner. It is bought by such men as Weld, Neville & Co., McFadden & Co.——

Mr. NEVILLE. And thousands of other parties.

Mr. BURLESON. No; not thousands, but numbers of others. Sometimes they buy it hog-round, as I have described, and sometimes they have their men to buy it in large lots from merchants. They assemble it and make the selection of grades desired. They make the assortment, responding to the demands of the spinner, and then ship it to him direct.

Mr. JOHNSON. You were diverted from what you were about to say about Mr. Parker going to New York to buy cotton. I would like to know if Mr. Parker got any cotton.

Mr. BURLESON. Yes; to return to our muttons, we all recollect about Mr. Parker saying that a few years ago he thought the prices of future contracts in New York were so much lower than spots that he could surely go there and get cotton at a profit that he could use. He said, "I went up there, and I went to Mr. Theodore Price." Theodore Price at that time was conducting a bull or bear raid, I do not know which—and in this connection I will say candidly that I believe I understand the economic effects of certain of the rules of the New York Cotton Exchange, which I am going to discuss, but there are transactions that take place on the exchange with which I am not familiar. I do not pretend to be familiar with them. I can not explain how their rules can be evaded; how this "scalping" process takes place; how "turns" are made; how they "hammer the price down"; how they create or bring about "rings." I do not pretend to be familiar with those. But I know that at the time I speak of Mr. Parker said Mr. Theodore Price had accepted delivery on contract of a large amount of certificated cotton. He was conducting some sort of a transaction on the exchange and had accepted delivery of a large amount of the New York stock. Now, gentlemen, you remember how Mr. Theophilus Parsons described this cotton. What did Mr. Parker say about it? "I went there, and Mr. Price was anxious, of course, to get rid of this cotton in order to effect his corner, or squeeze, or whatever it was." He had taken the small quantum of cotton in New York at that time, and still demanded of these—I will not say gamblers—these merchants, that they come forward and comply with their contracts. Mr. Parker wanted cotton, and looked into some of this Mr. Price had on hand. He opened up some of it, and what did he find? I will not attempt to describe it, but leave it to your recollection as to what Mr. Parker said of it. I will not attempt to quote him, but we all know he said it was useless to him. And I suffered another diversion, Mr. Chairman, when I started to tell you what Mr. Price said in his Philadelphia address about the New York exchange stock of cotton. I will in this connection read what he said. [Reading:]

> There is no limitation in New York upon the delivery of cotton, with a staple so short that it is almost unspinnable. In fact, in my opinion, there is in the New York stock at present a considerable quantity of cotton that approaches dangerously near, so far as its staple is concerned, to what are ordinarily described as "linters." This is cotton which has remained in New York for an indefinite period.
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> They sell what they do not have in the hope that delivery of it may not be demanded, and to make sure that it will not be demanded the process of rendering the stuff that was to be delivered less and less desirable, year by year, has continued until to-day there are in New York some 20,000 or 30,000 bales of cotton which I think have been there from three to four years, and some of it longer, and which no one can be induced to buy except for the purpose of redelivering it as a means of depressing the market.

Mr. MANDELBAUM. Mr. BURLESON has talked about the geographic position of New York.

Mr. BURLESON. Yes, sir.

Mr. MANDELBAUM. On that point I want to ask the question again, how it was possible that if the geographic position is so against New York 1,352,000 bales of cotton should go through it in one year?

Mr. BURLESON. Well, I should like very much to be sure of your premise before I answer. If 1,350,000 bales of cotton did go through New York for export purposes, that would not make it a spot-cotton market.

Mr. MANDELBAUM. Your conclusion about the geographic position was incorrect.

Mr. BURLESON. Oh, no; the geographic position alluded to is with reference to the section where the cotton is produced, and I think every member of this committee understands what I meant by that. I think I have shown that the consumer of cotton does not go to New York for his stock, nor the producer to sell. That is one function of an exchange that the New York Cotton Exchange does not meet. I do not think any man can possibly gainsay that proposition. Now, let us go a step farther. Does the New York exchange perform the second important function of an exchange? Does it aid in the marketing of the crops at the lowest expense to producer and consumer?

Mr. HAUGEN. I infer from what you say Mr. Parker said that the cotton carried in New York, in the warehouses of New York exchange, is of very inferior quality—poor quality cotton?

Mr. BURLESON. Mr. HAUGEN, I will give you a clean-cut answer to that query with which these gentlemen will not take issue. The New York stock depends on the general character of the cotton crop. If the general character of the cotton crop is low—I mean low in grade—and the revision committee of the exchange has overvalued the low grades, then the cotton which finds its way to the exchange for certification is low-grade stuff; but if the general character of the crop is of high grade, then the revision committee will overvalue the higher grades of cotton, and instead of being low-grade stuff seeking certification by the exchange, it is the very highest grades of cotton; it is the character of the cotton crop which determines what kind of cotton finds its way to New York. I will put it to you in a word—as was said by Mr. Marsh, the cotton brought to New York is that grade being least freely bought by the spinner.

Mr. HAUGEN. But my inquiry is as to the quality of cotton. I want to know if you contradict the statement made by Mr. Marsh. He says the quality of cotton is good; that is, it comes up to a certain grade. Do you agree with Mr. Marsh as to that statement, the quality of cotton held in the warehouses in New York and sold to the warehouses of New York?

Mr. BURLESON. As I said, Mr. HAUGEN, it depends on the general character of the crop.

Mr. HAUGEN. I do not think you answer my question as to the quality now of the cotton.

Mr. NEVILLE. If you will let me put a word in right there, I think you will make this clear to Mr. BURLESON. Say, if the spinning quality of the cotton in New York is the same.

Mr. HAUGEN. It is not necessary to have spinning quality if it has quality.

Mr. MANDELBAUM. The gentleman's question is whether the cotton furnished if of the correct grade.

Mr. BURLESON. I will answer your question as best I can. I have never seen any of this cotton myself. But if I had to pass on its quality, I would rather accept the testimony of men who spin cotton, like Theophilus Parsons, like Mr. Parker, like Mr. Blythe, or Mr. McCall, than the testimony of men who speculate in cotton. You heard, also, what Mr. Price said on this subject.

Mr. HAUGEN. Then do you except to the statement made by Mr. Marsh that the quality of the cotton is good, and the same quality of cotton is handed out that is received? My question is, Is the cotton dumped on the New York market of that quality? He says that the quality was good, up to a certain standard—I do not remember the term used. Do you except to that statement?

Mr. BURLESON. I do not deny that the character of cotton certificated there is the character of cotton that they turn out, as you put it; but I do deny——

Mr. HAUGEN. Your contention is that they manipulate the price of it?

Mr. BURLESON. Not only that, but as to its quality, permit me to read to you——

Mr. HAUGEN. I do nt want to take up your time. I do not question your statement about the price. I simply wanted to know as to the quality of cotton that is being delivered at the exchange in New York.

Mr. NEVILLE. If Mr. BURLESON will pardon me, I introduced yesterday, before this committee as a witness, a gentleman who is now in the employment of the Agricultural Department, making the standard types that Mr. BURLESON offered the resolution for a year ago. That gentleman testified as an expert and under oath of allegiance to the United States, in the honest

discharge of his duties, that he had classed the cotton referred to—some of the cotton referred to—in the New York stock, and that it was all merchantable and spinable cotton called for in the trade certificate.

Mr. HAUGEN. Now, what I want to know is if Mr. BURLESON excepts that statement.

Mr. BURLESON. No. I do not.

Mr. HAUGEN. As a fact?

Mr. BURLESON. No; I do not believe this cotton is desired by spinners.

Mr. HAUGEN. That is what I wanted to know.

Mr. BURLESON. I will read from Mr. Marsh himself on that point:

> The reserve (actual cotton) of the New York Cotton Exchange must always be taken from those kinds of cotton which for the time being spinners are not buying freely, and which consequently holders of cotton in the South are willing to part with at a concession for the sake of getting their money out of them.

Mr. HOWELL. Then, I think my question comes in.

Mr. BURLESON. Permit me to finish my answer to Mr. HAUGEN. What is the quality of cotton? Mr. Marsh says it is cotton the spinners are not buying freely—in other words, cotton they do not want. What character of cotton is it? I will now read from a report by the chairman of one of the important committees of the New York Cotton Exchange. Are you willing to accept declarations made in his report? You ought to be willing to accept his admissions. What did he say [reads]:

> The cotton world is demanding that we must represent the real trading basis, the spot prices, for spinners' cotton, not prices based on overs, low grades, and speculations.

Now you will remember I asked Mr. Marsh the question: "Mr. Marsh, what is it that fixes the price of future contracts?" He says, "It is an offer to sell on the part of one man and the acceptance of this offer by another that fixes the price of the future contract." "What are those prices based on?" "They are based upon the cotton that is in the warehouses of the New York Cotton Exchange tenderable on these contracts. This is true, because a man bids with the expectation of paying for that which he is going to receive." "What is he going to receive?" "He is going to receive the quality of cotton that is in the warehouse." "What is in the warehouse?" "Low grades, or cotton not being bought by spinners, and overs." You can not get away from it.

Mr. COCKS. Yes; but you said sometimes it was very high-grade cotton.

Mr. BURLESON. Oh, yes. Now, wait a minute.

Mr. COCKS. I am confused. I am getting a little mixed about this.

Mr. BURLESON. And yet there is no reason why you should be. I tried to make it as plain as I could. When the trade does not want high-grade cotton, when there is a great superabundance of high grades, then the accumulation in the New York Cotton Exchange is of the very high grades, because those are the characters of grades that the spinners are not buying freely.

Mr. COCKS. Then would not that raise the price?

Mr. BURLESON. Raise the market price?

Mr. COCKS. Yes; deliverable on contract?

Mr. BURLESON. On the contrary, the fact that these grades are not wanted, but at the same time are overvalued, makes a man run away from it. They can not sell them, hence the price of futures is depressed.

Mr. COCKS. Yes; but it ought to make the price higher of the poor cotton.

Mr. BURLESON. Oh, not at all; because those grades are overvalued and——

Mr. COCKS. If I have a carload of horses to sell and the valuation is based on the best horse in the car, of course a low-priced horse is going to bring what I consider an over-high price.

Mr. BURLESON. Yes; but when they overvalue the high grades, and you do not want them and they have them, and you know——

Mr. COCKS. Yes; but even so, if my other horse is going to be delivered, that low-priced horse, at the price of the high one——

Mr. BURLESON. You must remember that this is a basis contract. You do not get all high grades of cotton; it is a basis contract. That is where the difficulty comes in of understanding it.

Mr. HAWLEY. You read an extract there from some remarks of Mr. Marsh a moment ago, and I did not hear your conclusion. Did you deduce from his remarks that he admitted that the cotton in the warehouses in New York was not merchantable or spinable?

Mr. BURLESON. It was the character of cotton that the spinners are buying least freely; that is, the cotton that is the least desired by them at the particular time.

Mr. HAWLEY. I wanted to know whether you thought that was an admission on his part that the cotton there was not what you call spinable?

Mr. BURLESON. When it is a low-grade crop, when the character of the crop is low grade, it undoubtedly is.

Mr. MANDELBAUM. Mr. Chairman, the only thing that puzzles me in the explanation of Mr. BURLESON is this, that he spoke that we are dealing in nothing but phantom and spook cotton, and I do not understand, therefore, what the cotton has, according to his opinion, to do with the whole matter. [Laughter.]

Mr. BURLESON. If Mr. Mandelbaum will contain his soul in patience, I will shortly discuss that phase of the matter. I will show him how much of this cotton is spook or phantom cotton and how much of it is actual cotton. But I wanted to show, if I could, and I think I have—that the New York stock, whether high or low grade, is always undesirable. I am anxious to proceed to the next branch of this discussion, because I want to agree with Mr. Marsh. I want to show that as to the second function of an exchange the New York Cotton Exchange fails to meet the test. That is, does it aid in marketing the cotton crop at the least expense to the producer and consumer?

Mr. LEVER. Before you leave this point, I think if you will just explain this proposition you will make it clear to these gentlemen what you have been driving at, and I think you have not made it clear. Whenever there is a very high grade of cotton raised during the course of the year the New York Cotton Exchange overvalues the high grades?

Mr. BURLESON. That is what I have said as plainly as I could state it.

Mr. LEVER. If there is a large crop of low grades, they overvalue the low grades?

Mr. BURLESON. I have so stated.

Mr. LEVER. For the purpose of drawing those grades into the stocks of New York, for the purpose of delivering upon future contracts, for the purpose of depressing the prices of future contracts; is that true?

Mr. BURLESON. I will not say that is the purpose of it. That is the inevitable effect. If it is not wanted, a grade, whether high or low, if tendered on contract, depresses the price of futures.

Mr. LEVER. Is that the effect?

Mr. BURLESON. That is undoubtedly the effect of it; and just one more assertion. I do not know how I can make it plainer than I have already made it by reading Mr. Marsh's statement about it.

Mr. COCKS. I understand Mr. Marsh's statement exactly, I think, but the point I do not understand is, How does overvaluing the high-grade cotton depress the spot market or the price to the producer? That is what I can not see.

Mr. BURLESON. I have not reached in my discussion the effect of the price of futures on spots, but I promise to submit data bearing thereon which will be to your complete satisfaction. The point now is the character of the New York stock, and I could not make my meaning plainer if I were to state it a thousand times. Mr. Marsh expresses it exactly in his statement. With a wonderful facility for conveying the thought in his mind, he expressed it exactly, and much better than I could, when he said:

> The reserve of actual cotton in New York must always be derived from those kinds of cotton which for the time being spinners are not buying freely, and which consequently holders of cotton in the South are willing to part with at a concession.

That is, the men who grow the cotton, whether it is high or low grade cotton, which at the particular time is not being sought by the spinner, are willing to get rid of it at a concession in order to dispose of it.

Mr. COCKS. Is not that true in regard to everything? If I go into Kansas City with a carload of heavy hogs, and there happens to be an overplus of heavy hogs on the market, I may have to carry those particular hogs over until the next day.

Mr. BURLESON. That is all right, but suppose it was within some one's power to use the price offered or given you for this undesirable load of hogs as a standard to measure the value of the desirable hogs that were being brought there by other people; would not that be unfair?

Mr. COCKS. Sure.

Mr. BURLESON. Would it not be unjust?

Mr. COCKS. And on the other hand, suppose the high-priced load of hogs was used as a standard to value the hogs of everybody else. [Laughter.]

Mr. BURLESON. But suppose that those hogs must be disposed of——

Mr. COCKS. Oh, never mind; they are good hogs and they will keep. [Laughter.]

Mr. SIMS. I think there is a misunderstanding of what you are getting at.

Mr. BURLESON. There is absolutely no misunderstanding on my part.

Mr. SIMS. The cotton exchange, as I understand, puts a value on that high-grade cotton at a time in excess of what you could sell the cotton for in market if delivered to you on the contract?

Mr. BURLESON. That is it.

Mr. SIMS. And therefore, instead of taking the delivery and selling out the cotton——

Mr. BURLESON. They run away from it.

Mr. COCKS. I understand that, but I do not see how that depresses the price to the man who brings a bale of cotton in that very day. It looks to me like he must be getting a big price for his cotton if it is based on the low-grade cotton.

Mr. ELLERBE. Is it true or is it not true—I must confess I have not seen a published statement in some months, but is it not true—that approximately a year ago there was in the neighborhood of 35,000 or 40,000 bales of cotton in New York that was considered unspinable, and that that cotton, according to all newspaper reports, was used to depress prices?

Mr. BURLESON. Of course I have no knowledge of that. I read what Mr. Price said about it.

Mr. ELLERBE. Is it not true that two months ago, taking the grades of cotton from the top to the bottom, there was a very small percentage of cotton in the warehouses of New York that was middling or above?

Mr. BURLESON. I have no knowledge about that. I have not seen it.

Mr. ELLERBE. Is it or not true that there are a great many mills in this country that can not spin cotton below strict low middling?

Mr. BURLESON. I have no personal knowledge on that proposition. When I reach that phase of the question in my discussion, I have a certificate of the New York warehouses of the New York Cotton Exchange which I will submit to this committee, which shows exactly the character of the cotton that it had in its warehouses at that time.

The CHAIRMAN. Allow me to suggest that it is growing late, and we want to finish the hearings on this branch of the subject this evening, and I think you had better proceed with your argument, Mr. BURLESON.

Mr. BURLESON. Let us see whether the New York Cotton Exchange performs this function of an exchange by marketing this cotton at the least expense. It has been brought out in this testimony that the commission is $7.50 for each 100 bales for the buyer and $7.50 for the seller, or $15 on every 100 bales of sales that take place on the New York Cotton Exchange. That is an admitted fact. Now, these gentlemen who operate the New York Cotton Exchange maintain elaborate establishments in New York. They have typewriters and stenographers and elaborately furnished offices, and the New York Cotton Exchange itself is a palatial structure, and it costs some money to operate that. Many members operate private telegraph lines to warehouses and local agents throughout the country. These expenses, added to commissions which amount to $7,500,000, must amount to a vast sum. Is this all? By no means. It takes a vast amount of money to finance future transactions—not based on actual cotton, it is true—I have shown that the actual cotton does not go to New York—nevertheless, the burden of all this expense rests on the actual crop.

Consider for a moment the money required for future transactions. If $2 per bale is required by way of margin on each transaction of 100 bales, the buyer and seller between them put up $400. It is a simple matter of caculation to arrive at the result showing that first and last on 50,000,000 bales of cotton $100,000,000 would be required in margins from the seller and a like amount from the buyer. Of course these vast sums are not all required at one and the same time, but when it is used someone pays interest thereon. Now, if a fluctuation in price takes place, a further margin is required; for every 20 points an additional dollar per bale must be put up. And if a violent fluctuation occurs and a change of as much as 100 points is made in the market price, it would represent on the year's transaction one-quarter of a billion dollars. I would not have you believe for a moment that any such sum of money or credit is called in use at one time, but during the cotton season covering the full year this vast sum in the aggregate may be required, and if so, some one pays tribute therefor in the way of interest. What in the way of additional burden does this place on the actual crop? It staggers one who attempts to make the calculation. Upon whom does the burden of that rest? Where does it fall? Mr. BEALL repeatedly during the hearings asked the question, "Where does it rest; where does it rest?" I do not agree with the statement contained in Commissioner Smith's report that it rests upon the speculator. Not a bit of it. Mr. Chairman, there is no peculiarity hedging around cotton which exempts it from the operations of the ordinary laws of trade. If I have a horse that I want to sell, and I propose to sell through a broker and that broker is going to charge me 5 per cent for his services, and I wanted to realize $95 for my horse I would just add $5 to my price and sell my hose for $100. The man who bought it would of course bear the burden of the broker's commission.

Mr. COCKS. He might make you split the commission. [Laughter.]

Mr. BURLESON. He would if he was as smart as the people on Long Island. You may reverse the proposition. If a man wants to buy a horse and he is going to buy through a broker and he has got $100, he goes to his broker and says, "I want to buy a horse and I have $100," and the broker replies, "I will charge $5 to buy a horse for you. I know all about horses, I am a good judge of horses, and I will do the best I can for you." The man says, "Here is my $100. Go out and buy the horse." The broker takes the $100, deducts from it his 5 per cent, goes out and buys for his customer a horse that costs $95. There is no escaping the proposition that the burden of this broker's commission rests on the buyer or seller. Mr. Marsh laid down the correct rule. It is a rule of trade that is as old as the hills. No modern development can possibly change it or enable anyone to evade it. On a declining market the seller bears the burden and on an advancing market the consumer bears the burden. In principle I agree with Mr. Marsh exactly, but I do not exactly agree with him when he says that finally on a rising market the ultimate consumer in Canton, in Manchuria, or in the jungles of Africa, wherever cotton goods are bought, bears this burden. Now, in one state of the case that may be true, because it is human nature for the original buyer—consumer—of the cotton goods to unshoulder this burden, if he can, and if the price continues to advance he does unshoulder it on the ultimate consumer. But suppose the price fluctuates just at the time he is ready to dispose of his goods and a decline takes place, then, as has been stated here, there is in a measure a parity between the cost of raw cotton and the cost of cloth, and if the price fluctuates before he sells his goods, and begins to decline, then the original consumer, the spinner, is unable to unload the burden on the ultimate consumer, and he must bear it himself. Consider for a moment this stupendous burden. Can you conceive of a more uneconomical situation? A product of 5,000,000 of people, consumed by a few thousand spinners here and a few thousand spinners abroad; can anyone offer a reason why the cost of marketing their crop should be increased by these stupendous charges? Can any man question the proposition that at the least, under these conditions, under the admissions made by Mr. Marsh himself, this crop is not marketed at the least expense to the producer and the consumer? So you see the cotton exchanges fail to perform the second important function of the legitimate exchange.

Now, let us see whether the cotton crop is distributed expeditiously throughout the world by the aid of these exchanges. That is the third important and necessary function of an exchange. I have shown you that they have signally failed in performing the first two functions of an exchange. Now, let us see whether they fulfill the third function of an exchange—to aid in expeditiously distributing this crop throughout the world wherever it is needed. I say they do not. I have only to cite the testimony of Mr. Hubbard this morning in response to a question asked by Mr. HEFLIN, "Do you know of cotton being shipped back?" Now, catch exactly what the function is. The third function of a cotton exchange is to expeditiously distribute the cotton to those who are going to consume it, to distribute the raw material to those who are going to use it—to the mills. And yet Mr. Hubbard said that the conditions on the New York Cotton Exchange had been such that he had known, or had heard, and admitted it to be a fact, that cotton grown in America, after it had reached the coasts of Great Britain or Europe, en route to the consumer, had been, for the purposes of gambling pure and simple, in order to meet the demands of speculation by cotton merchants, turned in its course and found its way back across the ocean to be tendered on future contracts at the New York Cotton Exchange. Is that the only ground upon which I can base an assertion that these exchanges do not aid in expeditiously distributing the cotton crop? By no means. Did you not hear Mr. Parker, did you not hear Mr. Mandelbaum, did you not hear Mr. Neville say

that when these violent fluctuations take place on the New York Cotton Exchange and prices go down, cotton farmers stop selling? No sales occur while fluctuations are taking place. The farmer lives in hope that the price will advance, and instead of disposing of his crop expeditiously, in order that it may find its way into the ordinary channels of trade to those who are going to consume it, he holds it. Thus these exchanges obstruct commerce, obstruct and interfere with the distribution of the cotton crop rather than assist it. Now, is there a man here who will question that? Can any fair-minded man question it?

Now, gentlemen, let me move on to what I regard as the most indefensible feature connected with this whole business. The New York Cotton Exchange, during the period of its usefulness, operated under a rule of fixing differences between grades, so that such differences were measured by the commercial difference in the values between the grades. The law of supply and demand measured what that difference in value should be. Now understand, gentlemen, we have reached the period in the history of the world where the consumption of cotton is in excess of production by probably 1,000,000 bales. There is no question about this. The suggestion has been made about the spinner not taking cotton, that the producers might become the victims of the spinners who might not buy. Yet if they should cease to take cotton, if they did not buy the product to keep the spindles moving in Manchester, for instance, there would be riots in the streets of that city within 60 days.

Mr. COCKS. Even though they were manufacturing cotton at a loss?

Mr. BURLESON. Well, Mr. Cocks, I have never yet found any business where a man, either in law or in morals, is entitled to an insurance that he will make a profit.

Mr. COCKS. Except under the tariff. [Laughter.]

Mr. BURLESON. It is claimed by some that they do not always make it, even if high.

Mr. COCKS. I can not quite get your point. As I understand, you would try to make me believe that the cotton spinner is going to buy this cotton anyhow, whether he is going to make a profit or not, because there would be a riot if he did not. That is the point I do not see.

Mr. BURLESON. I do not say that he has to buy cotton anyhow. He can not buy it unless the producer sells it. If the producer burned his cotton, of course the spinner could not buy it. But, Mr. Cocks, it is a law of economics that when one man has something he wants to sell and another man has a use for that something and wants to buy it, it is natural that they should get together, and I have no fear that the cotton grower and the cotton spinner will fail to get together. When the New York Cotton Exchange started upon its career under its rules it fixed the difference between the grades of cotton in accordance with the values as determined by the law of supply and demand. During the first 10 years of its existence the New York exchange fixed these differences just as they are now fixed in Liverpool, and just as they have always been fixed in New Orleans. Then the period arrived when New York commenced to decline as a spot market. As you know, it is impossible to operate the exchange without having some cotton there to be used for purposes of tender on contracts. If cotton will not go there at a loss, they must create a condition that will bring it there. How did they do it? Why, it was a serious problem confronting these gentlemen, how they were going to get the necessary cotton to come there. Now, who is my authority for that? Mr. Marsh. He says:

> One of the most serious problems of the cotton exchange has been and is to so frame these contracts that a sufficient supply of actual cotton will readily come to New York to insure the maintenance of the reserve.

How can they get the necessary cotton to come there? He tells you now that the cotton that comes there is the cotton that is not being freely bought by the spinners.

Mr. MARSH. At the time.

Mr. BURLESON. At the time. Oh, yes; at the time. Now, gentlemen, I will tell you how they do get the necessary cotton there, and this is the secret of the adoption of the fixed difference plan, their fixed difference system. The exchange would not have it if it could exist without it. They would prefer, if it were possible, to adopt some other system; but the only way they can get the cotton there for this necessary reserve is by an arbitrary overvaluation of certain grades. This action draws these grades to their reserves. Do they overvalue it? Let us see. By reference to the chart opposite page 160 in volume 1 of this report—and you gentlemen will have this before you when you come to the consideration of this bill—it will be seen that for several years past the New York differences for low middling and good ordinary cotton have as a rule been much too narrow. In other words, these grades were overvalued relatively to middling. What is the effect of overvaluing them? The grades thus overvalued seek the place where they command the best price. Understand, Mr. Chairman, that these grades are not being bought freely by the spinners. Why is it that in a crop year where it is a low-grade crop they overvalue the lower grades and if the crop is a high-grade crop they overvalue the higher grades? Why is it they overvalue the grades that the spinners are not buying freely? I will show you why. I read from page 291:

> At the same time there can be no doubt, in view of statements obtained in the course of the investigation, that large operators, in the New York market particularly, were able years ago, when the commercial differences were applicable on future contracts or when revisions were made monthly, to manipulate prices on a rather extensive scale. This raises the question whether this manipulation may not have been due in large degree to the narrowness of the New York spot market. As shown elsewhere (see p. 247), transactions in spot cotton in New York at that time had already decreased very sharply from the totals of earlier years. Furthermore, the range of grades principally received in the New York market had narrowed greatly, that market in the main receiving only the surplus or temporarily undesirable grades. It is obviously easier to manipulate the prices of such grades than of those which are in active demand, since in the case of the latter any important change in price ordinarily will be vigorously contested as the result of free competition.

For instance, they could not easily manipulate the grades that the spinners wanted. They could not overvalue the grades that the spinners wanted, because the spinners would say, "We want these grades, and we will contest the matter with you." They overestimate the value of those grades that the spinners do not want. In a low-grade crop the lowest grades are least in demand; in a highest-grade crop ordinarily the highest grades are being bought less freely.

Now, directly on that point, go back to page 253:

> For the high grades the differences on the New York Cotton Exchange have been more nearly in line with commercial differences. Nevertheless, in the high-grade crop year of 1903–4 the difference at New York for good middling was, for a considerable period, materially greater than the commercial differences existing at New Orleans, thus overvaluing that grade.

Good middling is one of the higher grades and hence in 1904, a high-grade crop year, it was overvalued——

Mr. COCKS. How did the overvaluing of these low grades that the spinners did not want hurt the producer?

Mr. BURLESON. Because they sell a basis contract, and it pulls down the price of the futures.

Mr. COCKS. That is a future for that stock?

Mr. BURLESON. Yes.

Mr. COCKS. And yet you say it is overvalued; and yet the cotton would be overvalued, the spot cotton?

Mr. BURLESON. The seller would not have to deliver to you a single bale of that. As a matter of fact, the buyer bids less because of this overvalued cotton. The seller could deliver any of the different sorts of grades on this contract, but of course will deliver such grades as will prove most profitable to him.

Mr. COCKS. But that would be quoting the future that day in New York, upon which would be based the pay at Houston, we will say, for spot cotton?

Mr. BURLESON. Yes.

Mr. COCKS. Would not that be a little bit higher than usual, then?

Mr. BURLESON. Because of the fact that certain grades are overvalued, if a man was going to buy one of these future contracts, it is natural that he would bid lower for it because he would probably have to take these grades at a price higher than their commercial value. Every contract on the New York Cotton Exchange is of that character. They do not sell a contract for a particular grade of cotton; they sell a basis contract upon which at present 28 different grades are deliverable.

Mr. LAMB. Before my friend finishes his earnest speech along this line, I want to say that this committee, and I am a member of it, is deeply interested in this question, and if we look at it purely from an economic and business standpoint, as he has been arguing it so well here, I claim that this Congress has no right in this matter to pass this bill. On the other hand, if the New York Exchange is engaged in a gambling enterprise, and this is a moral question, such as the question in regard to the Louisiana lottery was, then we have some right. I would like to hear the gentleman on that point.

Mr. BURLESON. I want to be perfectly candid with the committee on that point. I will not say that the moral phase of this matter does not appeal to me, but I have not considered these moral phases in arriving at my conclusions, nor do I make them the basis for my earnest insistence for the adoption of this measure. It is true, gentlemen, that the Federal Government passed a law that destroyed the Louisiana lottery, denying it the use of the telegraph and the telephone and the mails, solely because of its demoralizing effect on the people. It is true there is no one here who will say that there ever was a suicide that resulted because

of the existence of the Louisiana lottery; there never was a bankruptcy brought about by the existence of that institution; there never was an embezzlement or a defalcation or a betrayal of trust by reason of the purchase of a dollar ticket in order to secure a chance for the capital prize in the New Orleans lottery. It is true we can not say that with reference to the New Orleans Cotton Exchange.

Mr. BEALL. You mean the New York Cotton Exchange?

Mr. BURLESON. Well, the New Orleans Cotton Exchange or the New York Cotton Exchange, either; it makes no difference to me, because I am against them both. You can not say that with references to these exchanges. But that phase of this matter has not controlled me in the least in the conclusions I have reached on my earnest insistence that this bill should become a law. I am opposed to these future-trading exchanges, because I believe they have become an incubus on the cotton trade. They are a great burden on the spinners and the producers of cotton in this country, who have a right to look to the Federal Government for relief after having done everything possible to relieve themselves. Their practices interfere with the freedom of trade between the cotton producer and consumer, obstructs and hinders trade between the cotton-producing States and cotton consumers, domestic and foreign. Mr. Chairman, we have passed laws in the Southern States driving the representatives of these exchanges from their confines; in every State with the exception of two. This action has, in a measure, curtailed their hurtful operations, but we have not been able to interfere with the interstate traffic in these future contracts. The Senate bill strikes at that evil. When the propaganda was inaugurated in the South against these exchanges, a seat on the New York Cotton Exchange was worth about $23,000, or in the neighborhood of that sum. As we passed laws excluding them from the States, thus diminishing the supply of "lambs," year by year the value of a seat on this exchange depreciated in value until the year 1908, and I have not looked into it since then, but I did look into it then, getting the information that a seat had gone down to $10,000. Mr. Chairman, I deplore the moral degradation caused by these exchanges; I regret the crimes and suicides traceable to speculation thereon, but for the purposes of this discussion what I object to is the uneconomical practices of this exchange and the resulting obstructions and interferences with commerce; and to think that these exchanges have the hardihood to contend that they are necessary because of the assistance they render the cotton trade. But I desire to return to a discussion of the fixed-difference system, the crux of this whole controversy. The fixing of the differences in September amounts to but little.

The CHAIRMAN. Before you start on that fixed-difference proposition, let me make this suggestion, which I think will come in properly in connection with that discussion.

Mr. BURLESON. Yes, sir.

The CHAIRMAN. That one of the features of this whole controversy which I am sure interests every member of the committee, is the contention on the part of the representatives of the exchange that elimination of the exchange would harass and hamper the whole cotton trade to the detriment of the producer, to the detriment of the merchant, and to the detriment of the spinner, for the reason that it would compel all of them to transact their business on wider margins and that it would force out of the trade the small man who would not command great capital. Before you close, I hope you will touch on that point.

Mr. BURLESON. I will, Mr. Chairman, before I conclude. But let me show you what the fixing of the differences under the rule of the New York Exchange involves. In November, before it is possible for human wisdom to forecast the character of the crop——

The CHAIRMAN. In September, you mean?

Mr. BURLESON. No; the September fixing amounts to very little.

Mr. BEALL. Is it not a fact that in many instances, even since the September fixing was adopted, there is no action taken?

Mr. BURLESON. Frequently it happens that there is no action taken at the September meeting, sometimes only to reaffirm the action taken at the last November meeting. They will not deny that. This practically means the fixing of the differences in value between these grades of cotton only once during the year. Now, gentlemen, is such a thing possible, considered either economically or from a standpoint of justice and fairness? How can these men making up the revision committee determine the character of the crop yet to be matured and gathered? Even if it were possible to eliminate selfishness on the part of the individual member entirely from consideration, how can this committee know whether the crop is to be of low or high grade, whether there are to be a small per cent of the higher grades or a large per cent? And these factors determine the value of the different grades. How can they tell what these differences in the value between the grades will be? They can not forecast the weather. And right on that point—I will return to a discussion of this—I want to tell you of a conversation I had with Col. John H. Inman, who in his time was the greatest spot-cotton merchant in the world. On one occasion I met him, and in conversation the topic arose as to the real cause of gambling in cotton. I said "You have devoted your life to the cotton trade, and I want you to tell me this. Here are four textile fibers—silk, flax, wool, and cotton—out of which the raiment of the world is manufactured. Why is it that those who want to speculate select cotton, and cotton alone, for that purpose?" He replied, "Mr. BURLESON, it is easy of explanation; there are more elements of doubt and uncertainty entering into the making and marketing of a cotton crop than of any other crop in the world." He further said "Speculation thrives upon uncertainty, and for that reason speculators have seized upon cotton as the product with which they will gamble." Do you not see how convincing and satisfying this explanation is? And yet I have lived to see the time when Mr. Mandelbaum and Mr. Marsh come here and assert that there are more uncertainties, more different conditions, environing the wool trade and the manufacture of wool than the cotton trade. Gentlemen, just in a word I want to say to you, and I speak from an experience of twenty-odd years, cotton is a most uncertain crop to plant and the most difficult in the world to grow. In the first place it is dependent upon a proper season to bring up the seed after it is planted. If you do not get a proper season, and then plant at the proper time, the uncertainties of the weather are against you. Your seed may lie dormant in the earth and never come to the period of germination.

Mr. BEALL. Just as it did in my county this year.

Mr. BURLESON. Just as it did this year in Ellis County, the greatest cotton-producing county in the world. They produce more cotton in Mr. BEALL's home county than in any other in the world; and yet Mr. BEALL will tell you that the conditions were such this year that the cotton did not properly germinate in that county and from a practical standpoint did not germinate at all. That is not the only uncertainty the cotton planter must contend against. Cotton, to be successfully grown, must be planted during the early part of the year. There is the uncertainty of the effects of inclement weather. It is the tenderest plant in the world, as Mr. Neville knows and as these gentlemen know; the lightest frost destroys it. It is more tender than any pot plant grown in hothouse.

Mr. NEVILLE. And it is likewise the toughest plant in the world.

Mr. BURLESON. In a certain way, yes; when it reaches a certain stage of growth it is capable of great resistance, especially to heat.

Mr. NEVILLE. Yes.

Mr. BURLESON. I repeat, it is the tenderest plant in the world, and the most difficult to secure a proper stand. Are these the only uncertainties? Oh, no. After you have germinated your seed, escaped the frost, and secured your stand, gentlemen, I assert, and without fear of successful contradiction, as I speak from a storehouse of sore experience, there are more creeping, crawling, flying, boring insects that prey upon cotton than upon any other plant ever tended by man. Now, after the uncertainties of weather, after all these insects are combated, after the Mexican boll weevil has preyed upon it, is it possible that you are going to deliver the producer of cotton over to the tender mercies of the worst pests of all, the bull and the bear? [Laughter.]

Mr. HEFLIN. The chairman asked you if the New York Cotton Exchange, or the speculative features of it, were abolished, would it not injure the three or four different classes of people that deal in cotton—the producer, the spinner, and the mill man, and so forth?

Mr. BURLESON. I will come to that.

Mr. HEFLIN. Do you think that if the speculative features of the exchange should be abolished we would have spot cotton exchanges all over the South?

Mr. BURLESON. Undoubtedly. There are no dealings in futures on the cotton exchange at Bremen, and that is one of the greatest, most helpful exchanges in the world. Only one exchange in the cotton section deals in futures. And why this solicitude upon the part of these gentlemen from New York about the welfare of the cotton producer? The farmer is the man who produces and furnishes the cotton for everybody, and Mr. Neal, who spoke for all the farmers' organizations the other day, challenged the production of one resolution adopted by

them which does not appeal for this legislation. But, gentlemen, this is a mere shaking of the bush. Let me go back to the fixed differences of the New York exchange.

Mr. MANDELBAUM. Before you leave that subject, I would like to ask you one question.

Mr. BURLESON. Yes.

Mr. MANDELBAUM. One is in regard to the fixing in November of these differences.

Mr. BURLESON. Yes.

Mr. MANDELBAUM. That is about the time that you and your farmer friends agree that the cotton has been gathered, fixed, and sold.

Mr. BURLESON. Oh, no. We do not so agree.

Mr. MANDELBAUM. Do you think it is possible on the 13th of November to form any opinion as to the character of the crop?

Mr. BURLESON. Not with any degree of certainty.

Mr. MANDELBAUM. I understood you to say so.

Mr. BURLESON. Oh, no. I said you could not tell. That is the burden of my——

Mr. MANDELBAUM. I said that you said that you could not tell.

Mr. BURLESON. That is what I say; you can not tell.

Mr. MANDELBAUM. You deny that the crop on the 13th of November could be ascertained to any degree of certainty as to the character?

Mr. BURLESON. I think not.

Mr. MANDELBAUM. Now, you said something about the riots in Manchester I would like to know whether you would hold the New York Cotton Exchange responsible for the riots in Manchester?

Mr. BURLESON. Oh, no: I do not hold it responsible for anything it does not do. All I am trying to hold it for is what it actually does, and God knows if I can put upon its shoulders responsibility for that I will be satisfied——

Mr. MANDELBAUM. But why do you expect those riots in Manchester?

Mr. BURLESON. Oh, you say "riots?" I thought you said rises—in prices. [Great laughter.]

Mr. MANDELBAUM. Yes, riots. Why do you expect them in Manchester?

The CHAIRMAN. Pardon me; I do not think it is necessary to go into that. I can explain that in one minute to Mr. Mandelbaum—because I speak his language and Mr. BURLESON does not—that Mr. BURLESON's reference to the bread riots in Manchester was simply his rhetorical expression of his opinion that if they did not keep the spindles going in Manchester there would be riots.

Mr. MANDELBAUM. There is another thing I want to get at, why he expects those riots; why he thinks cotton is so high. That is the basis of those riots, or would be the basis of those riots.

Mr. BURLESON. The chairman says we are not to discuss it. Now, back to the fixed differences.

Mr. HEFLIN. Mr. Chairman, I rise to a parliamentary inquiry. Is Mr. BURLESON making the closing argument in these hearings, and is it the fact that any interruptions and statements of fact must come in while he is speaking now?

Mr. BURLESON. I am perfectly willing to be interrupted.

The CHAIRMAN. Yes; but I think if we are going to bring these matters to a close to-night we will have to let Mr. BURLESON go ahead and finish his statement. He has said he was willing to be interrupted, but I think we had better let him finish without further interruption.

Mr. HEFLIN. My question is whether when he gets through anybody else may make any speech?

The CHAIRMAN. No speech. If there is anything that any gentleman wants to submit he will have that opportunity; but I hope Mr. BURLESON will proceed with as little interruption as possible.

Mr. BURLESON. Now, Mr. Chairman, there is a limitation upon human wisdom. The wisest man makes mistakes. Even when self-interest is not involved, even when you eliminate entirely the element of self, we are liable to mistakes. Do you think it is right; do you think it is commercial in November to attempt to forecast the character of this important crop and fix the difference between grades? It is the only commercial body in the world, the New York Cotton Exchange—save the coffee exchange—that attempts this impossible task——

Mr. NEVILLE. And the —— exchange.

Mr. BURLESON (continuing). Which attempt, arbitrarily, by the action of a committee of 17 members, to annul the law of supply and demand. That is what it means. Not only do they assume the ability, in November, before the character of the crop can be forecast, to determine the character that the crop is going to ultimately develop into, but to also determine and fix the differences between the grades without knowledge of the proportion these grades will bear to the whole crop. When you consider the fact that New York's is the greatest cotton exchange in the world, as was said by Mr. Mandelbaum, when you consider the volume of transactions taking place on this exchange, so stupendous as compared to transactions taking place elsewhere that they exert a controlling influence on the trade; when these differences are fixed by this exchange out of line with their real commercial value, the value determined by the law of supply and demand, what a vehicle for wrong it becomes; what a great injury, Mr. Chairman and gentlemen of the committee, through this instrumentality is done to the 5,000,000 helpless people who are engaged in the production of this staple. What a great wrong can be done to those who consume this cotton, and upon whose prosperity those who produce it must at last depend. And when they come before you practically wringing their hands—the consumers—and tell you that this uneconomical rule, this uncommercial rule of the New York Cotton Exchange, works to their hurt, will you not give ear to them?

A further suggestion, Mr. Chairman, and I proceed upon the assumption that the 17 members of the exchange on the revision committee are going to do the very best they can. I am not going to impugn the honesty of these men; not at all. But, gentlemen, when you consider the fact that the men who have the power to fix these differences are the large operators upon this exchange, when you consider that they are the men who are going to make or lose by virtue of the character of differences that are fixed, how exceedingly dangerous this rule becomes; how indefensible it becomes. Again, gentlemen, suppose, as a matter of fact, that on this committee of 17 there should find their way, year after year, the men who are large spot buyers in the South; suppose, through the great influence which they exert upon the membership of the exchange, it should become possible for these large buyers of spot cotton to control that revision committee, not only does it then become a vehicle through which great wrong can be done, but it becomes a vehicle through which disaster itself may be brought to the entire cotton trade. Now, let us see just for a minute.

Mr. COCKS. What would be the result of having these differences fixed by an impartial body?

Mr. BURLESON. You mean just arbitrarily fixed, as they now fix them?

Mr. COCKS. Yes.

Mr. BURLESON. It would be uneconomical, uncommercial, and indefensible.

Mr. COCKS. I mean arbitrarily fixed in January, say.

Mr. BURLESON. That is utterly impossible. I say this because the seed for the crop will not then be in the ground. It is utterly impossible for any tribunal. Why, we have not had a prophet on earth since the days of sacred history.

Mr. COCKS. When would be the time to have them fixed?

Mr. BURLESON. Let them be fixed by the law of supply and demand, changing from time to time as values change.

Mr. LEVER. Each day?

Mr. BURLESON. Yes; let them be fixed each day.

Mr. COCKS. By whom?

Mr. BURLESON. As the merchant offers his price or as the spinner offers his price for these products of the farmer, and an acceptance is given by him, thus fixing these values.

Mr. COCKS. Then, as I understand that you emphasize so much fixed differences, why not eliminate any differences as arbitrary? That is what you want to do.

Mr. BURLESON. They should be eliminated, so far as they are sought to be fixed arbitrarily. This power should not be vested in this revision committee or in any other committee upon earth. Now, to resume. I was about to show you who goes on this revision committee, how it is made up, but before I get to the question of who goes on this committee I want to say this: We have heard here a great deal about the action of the revision committee of 1906. I used that year myself in a speech that I made on the floor of the House, and Commissioner Smith used it because it was an abnormal year and it accentuated the situation; it made it stand up, so that the ordinary layman could understand the resulting wrongs and injustices. That is the only reason we have used that year. We do not use it because it is the only year when these differences have been fixed out of line with their commercial value. Not at all. It is a frequent occurrence. I read from page 238 of the report of the Commissioner of Corporations:

> These revisions of November, 1903, and November, 1906, and particularly the latter, are, in the opinion of some members of the cotton trade, only exaggerated instances of a more or less general policy on the part of revision committees of the New York Cotton Exchange to systematically manipulate differences in their own interests.

Now, I am not going to say that this is the case. It is not necessary for me to say that, although I will say, God spare us

from being year after year subjected to the temptation of benefiting ourselves, where the opportunity is absolutely placed in our hands, where we are given the power to benefit ourselves, at the expense of our fellows. God deliver me from such temptation. I will not make this accusation, but suppose the large buyers of spot cotton, members of the exchange, could shape the action of the revision committee. What opportunities this would afford! Does it occur? (Continuing to read from pp. 238 and 239 of the Smith report:)

The essence of this contention is that a clique of spot-cotton merchants in New York have for years controlled the revision committees of the exchange, and have through them established improper differences for the express purpose of reaping illegitimate gains. A member of the New York Cotton Exchange said in this connection:

"The money that has been made, particularly by 10 or a dozen firms, in this market in the past 10 years in consequence of these conditions has been very large, and in individual cases it has been extremely large."

This charge that spot-cotton merchants in the New York market have controlled revision committees of the exchange and have systematically established improper differences with the particular object of reaping illegitimate profits is almost impossible to prove, even if true. Owing to the very wide discretion allowed members of the revision committee—

What is that discretion? "Is there a standard by which you are governed, if you are fixing these differences?" I asked the leading member of this committee. "No standard." Absolutely no standard or rule to guide these men in this all-important work which they undertake. (Continues reading:)

Owing to the very wide discretion allowed members of the revision committee and the variety of factors that its members may take into consideration, it is virtually impossible to prove that members of any revision committee have deliberately abused their trust, even though circumstances may point very strongly to such a conclusion.

I suggested a moment ago. Suppose the great injury to the trade which could be wrought if the great firms dealing in spot cotton throughout the South could find their way upon this committee. If they have, what a vehicle of wrong and injustice it is possible for them to make of it. Let us see who gets on this committee. (Continues reading from the Smith report:)

It is a fact that the revision committees of the New York Cotton Exchange have for several years been selected from a limited group of members of the exchange, and mainly from so-called spot-cotton interests. For six years, beginning with 1901, nine such firms were constantly represented on the revision committee, and four other such firms had been so represented for five years.

For six years nine of the great spot-cotton firms dealing with spot cotton in the South have controlled (because 9 is a majority of 17) the action of this committee which fixes the differences in value between the grades of the product of five millions of people. I am going to embody in my remarks the list showing who they are. I will now read only three: George H. McFadden & Bro., S. M. Weld & Co., and Hubbard Bros. & Co. They are the three that lead the band. What can they do? They can so fix these differences as to shape the market price of the entire crop. I do not say these gentlemen do it; but, should they have such power? Why, gentlemen, talk about the poor little speculator about whom there has been so much talk before this committee, and, as you will recall, Mr Marsh particularly discussed him, he is harmless compared with these others. Sometimes I fear we are not getting at the real vitals of this danger. Mr. Marsh spoke of the subsidiary broker, the little chap who scalps around day by day for the purpose of making a living, probably impecunious, with very little capital. What do they care for him? Nothing at all. It is the opportunity afforded these stronger men; it is the danger and menace of these great firms which fix the price of all cotton at last, under the operation of this rule; the price they pay to the producer for his product, and in the end the price that they will grind out of the spinner which concerns us. Now, am I mistaken about that?

Mr. COCKS. Do you not think they have let the price get up a little high lately?

Mr. BURLESON. Yes; and, gentlemen, I want to say to you in that connection, that when we inaugurated the campaign against the wire houses throughout the South, having long before destroyed the bucket shop, one of the stock arguments used against their suppression was that if we drove the wire houses from the South we would largely eliminate from the market the bull element (which is naturally found in the cotton section) and in consequence we would never have high prices again. As suggested by the gentleman from New York [Mr. Cocks] the price has been a little high lately—in fact, higher at one time in my opinion than is justified even by the fact that the crop is more than 2,000,000 bales short. The advance in price is largely attributable to the short supply, but not wholly, and I am just as much opposed to the manipulation of prices when it operates against the consumer as I am when it operates against the producer. I oppose the gambler putting up the price, and likewise oppose his putting it down. By the way, during these hearings we have heard the bucket shop roundly denounced. I want to say here, with full recollection of the fact that I am under oath, that so far as the bucket shop is concerned it does, in my opinion, infinitely less harm than the operations of the great exchanges. Now, why? I can tell it to you in a breath. The men who operate in the little bucket shops put up their money; one wins and the other loses; the man who wins is the beneficiary; the man who loses is the sole sufferer, the only man affected by the transaction; nobody else is hurt.

But when these great spot operators go upon the floor of the exchange and milk the exchange—"milk the exchange"—now, gentlemen, I am not going to say what that means—they are the ones, gentlemen, who do the serious hurt to the producer and the consumer of cotton, these members of the exchange, within whose power it has been given, by reason of the fact that they know the character of cotton that is in the warehouses, by reason of the fact that they are engaged in the spot business and probably control the major portion of the certificated cotton in the exchange warehouses, these men who can go upon this exchange, and, when they see fit to do it, "hammer the prices down"; they are the men whose actions bring serious hurt. These injuries, as compared with those coming from the bucket shop, would be like comparing the misery, woe, and misfortune that comes from Monte Carlo, where they say there is an average of a suicide a month, to the effects coming from a couple of little pickaninnies shooting craps for pennies in a back alley.

Now I want to read a little further from Commissioner Smith's report. I do not want anyone to ask me what certain of these terms or expressions mean, because, as I told you, I understand the effect of the exchange rules, these uneconomical rules, upon the cotton trade as affecting both the producer and the consumer—I think I understand that—but there are certain phrases used in transactions which take place upon this great mart where merchants are engaged in business with which I am not familiar and which I can not elucidate for you if you ask questions about them.

Mr. MANDELBAUM. I think I have some questions that had better come in before you read that.

Mr. BURLESON. I am perfectly willing to be interrupted.

Mr. MANDELBAUM. I want to ask only one question, and I have to frame it a little, because I want to ask you only one question.

Mr. BURLESON. All right.

Mr. MANDELBAUM. You stated at first that the cotton exchange dealt only in spook and phantom cotton.

Mr. BURLESON. I will tell you what I will do——

Mr. MANDELBAUM. Wait, and let me ask my question, and then you answer it.

Mr. BURLESON. All right, if I can.

Mr. MANDELBAUM. After that you stated about the great wrong that is brought about in cotton or in the fixing of grades or valuing of grades. Of course, the spook and phantom grades are not interested in that; and, in fact, in accordance with your own conclusion, nobody is, because you stated that neither the producer nor the consumer trades on the New York Cotton Exchange. Now, if that be the case, they certainly do not pay the charges, either the one or the other, because neither of them trades there.

Mr. BURLESON. Mr. Mandelbaum——

Mr. MANDELBAUM. Wait a minute; there is something else in this. Then comes the question of the revision committee made by a lot of spot men. Now, I ask you in all fairness, by whom should they be made unless by the men who are familiar with the cotton? Do you want them made by the speculator or the gambler?

Mr. BURLESON. Oh, no.

Mr. MANDELBAUM. Then by whom do you want them made?

Mr. BURLESON. I am trying to show here that the way you make them——

Mr. MANDELBAUM. No; you said that the biggest spot dealers in the country make those differences. I will nail you down exactly to what you said.

Mr. BURLESON. Well, I stick to that statement.

Mr. MANDELBAUM. I nail you to it. Now, who should make the differences—the speculators and the gamblers?

Mr. BURLESON. That is not what I call them, but what you call them.

Mr. MANDELBAUM. The speculators and gamblers? Who under heaven should make them?

Mr. BURLESON. I can answer you in a word. I think they should be made in accordance with the law of supply and demand.

Mr. MANDELBAUM. By whom?

Mr. BURLESON. There are a dozen different ways they might be reached.

Mr. MANDELBAUM. By the gambler and speculator, or by whom?

Mr. BURLESON. By the way, since Mr. Mandelbaum has alluded to the gambler, I want to direct the attention of these gentlemen to the fact that the bill introduced by the chairman of this committee deals alone with the transaction where the seller does not expect to deliver and the buyer does not expect to receive. A transaction denounced by the Supreme Court as a gambling transaction

Mr. MANDELBAUM. This is no answer to my question. You can go to that after you answer that question. Your oratory must stop somewhere. [Laughter.]

Mr. HEFLIN. Mr. Chairman, Mr. Mandelbaum said "Who in hell" should make these differences.

Mr. MANDELBAUM. I did not say "Who in hell."

Mr. NEVILLE. He said "Who under heaven." [Great laughter.]

Mr. HEFLIN. Oh, I beg your pardon.

Mr. MANDELBAUM. I said who under heaven should make them.

The CHAIRMAN. This is a serious matter, gentlemen.

Mr. HAUGEN. Have you any remedy to suggest?

Mr. BURLESON. Pass the Scott bill; it will remedy the evil.

Mr. HAUGEN. That has nothing to do with the revision.

Mr. BURLESON. Why?

Mr. HAUGEN. I understand this bill does away with the whole business, the whole transaction?

Mr. BURLESON. Oh, no. It is directed against only one character of transaction.

Mr. HAUGEN. Oh, yes, it does.

Mr. BURLESON. Well, if the New York Cotton Exchange people say that by the elimination of transactions which the Supreme Court of the United States has repeatedly held were gambling transactions their business will be destroyed, then I say it ought to be destroyed. I direct attention to the fact that the provisions of the Scott bill define one character of transaction, and is directed exclusively against such, "where the seller does not expect to deliver and where the buyer does not expect to receive." If no such transactions take place upon the cotton exchange in New York, then it can not be hurt. And I will get to the phantom cotton in a minute, if I am ever permitted to proceed.

And, in passing, I desire to say that the only way to fix these differences is to permit the law of supply and demand to fix them.

Mr. MANDELBAUM. Through whom?

Mr. BURLESON. For instance, it might be ascertained what the price of spot cotton was in half a dozen different markets, the real spot cotton markets in the South, and average them. That is one way it could be done. Or it could be done (and the only reason why the New York exchange can not do this is because they can not exist if they adopt the plan) by fixing differences day by day based on their spot sales, as they do in Liverpool. They can't do this because of a lack of spot sales.

Mr. HAUGEN. Or in New Orleans?

Mr. BURLESON. Yes; as they do in New Orleans.

Mr. MANDELBAUM. I want to state right here that the prices of the revision committee in the last few years have been exactly fixed by the ruling price of the markets of the South and that the exchange has thriven under that system.

Mr. BURLESON. "When the devil was sick, the devil a monk would be; when the devil was well, a devil of a monk was he." [Laughter.]

Mr. MANDELBAUM. Would you have them quote the prices of all grades of cotton?

Mr. BURLESON. I desire to discuss that in a few minutes and show you what grades of cotton are actually quoted in the spot market. I will do so before I conclude, but I would like to get along now. There are a number of matters I want to direct attention to, and if I am in error I want it pointed out.

Mr. COCKS. That seems to me one of the very important things, and I do not quite get it in my mind yet what it would be if we eliminate this fixed difference, how it could be provided for.

Mr. BURLESON. Fix them at what they actually are in the cotton markets as they are fixed by the law of supply and demand.

Mr. COCKS. Fix it each day?

Mr. BURLESON. Yes; each day as at Liverpool and New Orleans.

Mr. COCKS. It would not be fair to fix it for a week or a month?

Mr. BURLESON. Who can anticipate market conditions that far ahead?

Mr. COCKS. You can average it, and cotton runs about such grades, and it seems to me you could do that. It is all Dutch to me, of course.

Mr. BURLESON. I understand that, Mr. Cocks.

The CHAIRMAN. I hope the gentlemen of the committee will allow Mr. BURLESON to proceed.

Mr. BURLESON. This part of Commissioner Smith's report has some bearing on the matter of differences, and I was about to read it when interrupted. I read from page 261 of the report:

> In addition to the charge that the fixed-difference system of the New York Cotton Exchange has tended to attract mainly the surplus grades of cotton to that market, the further complaint is made that this stock has been used by large operators in connection with the fixed-difference system to systematically hammer the New York contract price. It has already been shown that the effect of differences which overvalue certain grades of cotton when delivered on contract is to depress the contract price. A striking illustration of this occurred in the New York market in November, 1906. It is charged that such sacrifices of contracts as took place at that time has occurred again and again on a smaller scale in the New York market as a result of improper difference in connection with an undesirable stock of deliverable cotton. The argument is that because the New York contract differences frequently overvalue certain grades, and because deliveries of cotton are usually so mixed as to be undesirable to the receiver, holders of contracts, even though they were aware of these conditions at the time they bought such contracts, nevertheless, when the date of delivery actually arrives, are unwilling to take up the cotton, but instead "run from notices"; that is, sell out their contracts when they receive notice of delivery from the seller.
>
> The charge here outlined is substantially that large spot houses on the New York Cotton Exchange have taken advantage of the general character of the New York stock and of the artificial differences established by the New York Cotton Exchange to "milk" the market by tendering undesirable deliveries at false differences, thus inducing the buyers of such contracts to sell them out at a sacrifice. In this case it is alleged these same spot interests have purchased these contracts at the decline, thus making a profitable turn. It is alleged that spot merchants in the New York market have thus been able to keep in their possession a stock of cotton and to use it over and over again as a very effective weapon for clubbing the New York contract market.

Now, is that true? If that is true, will anyone say it is not a grievous wrong? Do I offer it as my ipse dixit? Why, no; I offer it as defined by Mr. Smith in this report. But suppose my friend here says he will not accept that?

Mr. MANDELBAUM. I do not want to say that, but I say, Did you yourself not find some fault with some of his conclusions?

Mr. BURLESON. I find fault with his conclusions. I agree with Mr. Marsh that the burden of marketing the crop does not fall on the speculator, but is borne by the producer and the consumer. I agree with Mr. Marsh on that, and not with Mr. Smith. I accord to Mr. Smith honesty in the conclusion that he reached, but I do not agree with him; just as Mr. Mandelbaum and I do not agree about many things. It is the viewpoint. But suppose there is somebody here who says, "Well, I will not take this disinterested Government official; I decline to accept his statement." Then let me read you this:

> In this connection one of the largest spot merchants in the New York market, who is also a member of the exchange, said——

Mr. MANDELBAUM. Who said?

Mr. BURLESON. Who is the member? Gentlemen, that is one of the mysteries I am unable to fathom. I receive letters from the members of the exchange denouncing the nefarious practices that they say exist there, and yet they are unwilling to come forward and speak before this committee. I could have explained about the yellow paper, but I will not, because I am not authorized to do so.

Mr. MCLAUGHLIN. But it is evidently somebody that Mr. Smith thinks worthy of being quoted.

Mr. BURLESON. Yes; and who, Mr. Smith says, is a large spot dealer and a member of the exchange.

Mr. MCLAUGHLIN. Or he would not have quoted him.

Mr. BURLESON. I so understand it.

Mr. MCLAUGHLIN. Let us see what he says.

Mr. BURLESON. Unless Mr. Smith is a liar, he is a large spot dealer and a member of the exchange. Are you not willing to take out of the mouths of these people themselves what they say about it; when the spinners themselves come here pleading that they be relieved of this great burden that has been placed upon them? He says:

> In this connection one of the largest spot merchants in the New York market, who is also a member of the exchange, said: "There is no question but that there is a large amount of that (i. e., inferior cotton) here. These men who get control of a lot of contracts and want to weaken the market—that is, the spot brokers."

That is, the spot brokers want to weaken the market; these large spot dealers, nine of them, on the revision committee, who want to weaken the market before they buy—ought such power to rest with men who are buying the product of a helpless people, to weaken the market price and then buy? I want some man with a conscience to answer that question. Should this be permitted? Hear the further reading from this member of the exchange:

> These men, who get control of a lot of contracts and want to weaken the market—that is, the spot brokers—do not want to handle and finance actual cotton. They will throw a lot of this stuff over which they have got to transfer to a different month or themselves finance it. This has been acting as a club, and I think it is one of the worst features of the exchange. A combination will get together a lot of this

low-grade cotton, and before notice day there would be a high market and they would throw it right on the market, and of course it would force the market down—sometimes a half a cent.

Q. And then they take back their contracts?—A. Yes; and very often at a lower price and thereby make what is called a "turn." They might have sold short and they throw this low cotton on the market and lower the price a half a cent and then buy it in again.

Q. Has that been an extensive practice?—A. Right along.

Q. So that the same cotton has been sold again in this way a great many times?—A. Without question.

The CHAIRMAN. Let me interrupt you there to make a suggestion.

Mr. BURLESON. With pleasure.

The CHAIRMAN. I think the committee is quite willing to agree to a proposition which nobody would deny, that with fixed differences which did not represent actual commercial relations between grades, manipulation might be possible under which the market could be unfairly depressed or advanced.

Mr. BURLESON. It is undeniably true.

The CHAIRMAN. And the emphasis which you have laid upon the proposition I think might perhaps fairly warrant the conclusion that if this one wrong practice could be remedied, you might have no objection to the exchange?

Mr. BURLESON. Oh, no; there are many others.

The CHAIRMAN. And I think before you close it would a good idea for you to bring up other reasons, if you have any other reasons.

Mr. BURLESON. I have. I think this is the most indefensible practice of the exchange under their rules. And I contend it can not correct it; that is the point I make. The New York Exchange can not abandon this system of fixed differences, because if it did it could not draw cotton to New York upon which to bank as a reserve; it must have a certain amount of actual cotton in New York or it can not operate. It can not draw this cotton there if it abandons its practice of overvaluing certain grades. That is the point that I make, and it can not be gotten away from.

Mr. BEALL. Bearing on the question of this quotation that Mr. BURLESON has just read, I notice that it is in the form of question and answer. This statement must have been made in some investigation.

Mr. BURLESON. Yes, sir; in an investigation by Mr. Herbert Knox Smith, and he put the questions and answers in this report so that you could get exactly at the meaning of the member of the exchange who was speaking.

The CHAIRMAN. Were the witnesses under oath?

Mr. BURLESON. I do not know whether they were or not; but they are a lot of reputable merchants who, when the suggestion was made that there might be transactions through the exchange where there was no expectation of delivery or receipt of the actual cotton, became much offended. Now I will proceed to other matters, although I have not exhausted this subject of fixed differences.

Mr. LEVER. I would like you, before you get away from that point, to answer this question: Why is it necessary to keep a reserve of cotton in New York?

Mr. BURLESON. Because they are bound to have a certain amount of cotton there to tender on these future contracts if the cotton should be demanded. And now, right on that point, how many bales on contracts are demanded? I want to be perfectly fair to the exchange about it; I want to take what they say about it themselves. On page 264 we find table No. 23, which is headed "Total tenders of cotton on contract in New York and contract deliveries in New Orleans, crop years 1892–93 to 1906–7." These are the last data that I have on the subject at hand. This was in the year 1906–7, the year that we raised the 14,000,000-bale crop, the big crop; and when Mr. Neville was before you the question was asked how many bales were annually delivered on contract, and he said about 500,000. That does not mean 500,000 bales of cotton. Oh, no! I read from page 264 of the Smith report:

It may be noted that these large tenders of cotton at New York unquestionably mean that a considerable amount of cotton was retendered again and again, since for several years the total tenders at New York have greatly exceeded the total amount of cotton certificated by the inspection bureau of the New York Cotton Exchange.

Now, out of their own establishment comes this information, and surely they can not be heard to deny it.

Mr. MANDELBAUM. Can you not include New Orleans, too?

Mr. BURLESON. New Orleans is pitiful.

Mr. MANDELBAUM. That is a spot market. I want you to read that, too.

Mr. BURLESON. The New Orleans spot market is one thing, and the New Orleans Cotton Exchange, dealing in future contracts, is quite another. I hold no brief for the defense of the New Orleans Cotton Exchange. If it can not exist under the operation of the Scott bill, let it go out of business, and I hope it will.

Now, how many bales are handled on the New York Cotton Exchange on these contracts? That is an interesting question. We have had some difficulty in getting these figures. I want to show you, and I think I can, to your satisfaction, approximately how many there were.

Mr. BEALL. This number that you have read is the number tendered, not the number delivered?

Mr. BURLESON. No, sir.

Mr. BEALL. Then, although the same bale might be delivered over and over, this is the total number tendered.

Mr. MANDELBAUM. Delivered.

Mr. BEALL. Well, is it?

Mr. MANDELBAUM. Yes.

Mr. BEALL. It does not mean actual delivery.

Mr. BURLESON. I will read this which is handed to me by Mr. BEALL, which is particularly appropos:

It should be emphasized that the figures given for the New York Exchange are not necessarily actual deliveries of cotton on contract but the total of notices of delivery; in other words, the total does not mean that there was an actual transfer of ownership of cotton to the extent of the figures given.

Mr. MANDELBAUM. That is absolutely wrong. I will state that under oath.

Mr. BURLESON. I am perfectly willing to take it as Mr. Mandelbaum wants it.

The CHAIRMAN. There is no controversy over the proposition that an enormously greater number of bales are dealt in than are actually delivered. There is no question about that.

Mr. MANDELBAUM. Yes.

Mr. BURLESON. There is no question about that. We have had Mr. Hubbard, Mr. Neville, Mr. Mandelbaum, and Mr. Marsh before the committee, and we have struggled to find out how many bales are bought and sold, and I want to say in that connection that every future transaction on the New York Exchange exercises its influence ultimately upon the market price of cotton. I lay down that proposition and do not think it can be refuted. The particular influence exerted by an isolated transaction may be imperceptible, but ultimately this transaction enters into an aggregate which finally either depresses the price or raises it. There can be no question about that. The question is how many of these transactions take place.

Mr. COCKS. What would be the objection to that from an economic point of view?

Mr. BURLESON. It does not make any difference whether we object to it or not. It is a law of trade.

Mr. COCKS. Whom does it hurt? That is what I mean.

Mr. BURLESON. If, under the rules and operations of the principal exchange, where these future contracts are dealt in, it exercises a depressing influence upon the market price of spot cotton it hurts the producer. If it has the reverse result it hurts the spinner. Speaking for the producer, I want to say that he does not desire an abnormal price, an unnatural price, or an artificial price for his cotton. All he wants is the price fixed by the legitimate law of supply and demand.

Mr. MANDELBAUM. One question, Mr. BURLESON. According to your explanation that you have given us, we depress the price if we deliver cotton and we do something wrong when we do not deliver it Now, will you kindly point out what we should do?

Mr. BURLESON. Abandon your present practices.

Mr. BEALL. Turn from the evil of your ways.

Mr. BURLESON. Yes; turn from the evil of your ways. But, Mr. Chairman, we are trying to get at how many bales of this spook cotton are annually bought and sold. I want to distinguish between the phantom cotton and the bales tendered on contracts, and I will approximately arrive at the truth. Of course, it rests with these gentlemen alone to tell us the real facts. They say they can not do it. Consequently, we must enter upon a process of reasoning and get at the facts as best we can. We knew these annual sales until they adopted the fixed-difference system in 1897, but since then we do not know; but when that practice was adopted, undoubtedly, as admitted by everybody, it greatly stimulated speculation in cotton. Now, how many bales were bought and sold the last year of which we have the record? But I will not take the last year. The last year was not satisfactory to them, and that was the reason they adopted the fixed-difference system; consequently, it is not fair to take the last year. I am going to take the year before the last, and use figures the exchange itself has furnished.

Mr. SIMS. By "the last year" you mean——

Mr. BURLESON. The last year before the New York Exchange adopted the fixed-difference system, in 1896. In 1896 there was a total crop of 7,140,000 bales. That year, according to their own admissions, they sold, for future delivery on the New York Cotton Exchange, 56,469,000 bales, with a crop of 7,140,000. The total crop in 1906, speaking in round numbers, was practically doubled, or 14,000,000 bales. Remember that the adop-

tion of the fixed-difference system greatly stimulated speculation. At the lowest, allowing for no increase of speculation, we have 100,000,000 bales of future contracts bought and sold on the exchange for that year. Am I not fairly justified in this estimate? Mr. Marsh was asked what was an ordinary day's transactions on the exchange. He said 350,000 bales.

Mr. BEALL. He said, in answer to Mr. LEVER's question, that that would be a normal day's transactions.

Mr. BURLESON. Three hundred and fifty thousand bales in one day. What would be an active day, he was asked. He said 1,000,000 bales would be an active day. Now, gentlemen, are we justified in this estimate? Are we not moderate when we fix its annual sales and purchases at 100,000,000 bales? Knock off 10,000,000 and say it is 90,000,000 bales.

Mr. SIMS. May I ask you a question there right on that line?

Mr. BURLESON. Yes.

Mr. SIMS. I want to ask you if, upon the average, the entire certificated stock in New York is not sold, in and out, every day of the year?

Mr. BURLESON. Yes; it usually has about 130,000 bales in its warehouses—an ordinary day's sales is about 350,000 bales.

The CHAIRMAN. Let me suggest again that that is not the controverted point, and let us not spend any more time on it. It is 5 o'clock already. How soon can you complete your speech?

Mr. BURLESON. I have no set speech.

Mr. MANDELBAUM. I thought you were only going to speak for 30 minutes.

Mr. HAUGEN. You stated that we had difficulty in finding out the number of bales bought and sold on the New York Cotton Exchange. I think that you want to be fair. They were very candid in giving that information.

Mr. BURLESON. Yes; I said they could not give the aggregate. I did not understand either one of them to give an aggregate. If he did, I beg his pardon.

Mr. HAUGEN. His statement was corroborated by the statement of Mr. LEVER.

Mr. BURLESON. I am accepting his statement as to a normal day's trade, and I have based my calculation on it.

Mr. HAUGEN. I rather inferred from what you said that this information had been furnished reluctantly.

Mr. BURLESON. I say we have had some difficulty in getting at the annual sales. We have not gotten it at all. They have not given it to us. I will not assign any reason for their failure to do so. Now, how many bales of cotton were hedged during the year? How many is it possible for them to have hedged? Let us take the 90,000,000 bales of futures, how many of this number was it possible for them to have hedged? We spun in this country about 6,000,000 bales of cotton. We all know, Mr. McCALL says that thousands of spinners do not hedge at all. But for argument's sake, take every single bale that was used here, and eliminate the Liverpool Exchange and eliminate the New Orleans Exchange, and say that it was all hedged in New York, this whole 6,000,000 bales that was consumed here in the United States, that would give us only 12,000,000 bales hedged, 6,000,000 bales bought and 6,000,000 bales sold. Now take the 12,000,000 bales of hedges from 90,000,000 bales of futures dealt in and it leaves 78,000,000 bales of phantom cotton dealt in. Now, can this conclusion be escaped? If so, I would like the error to be pointed out by some one right now.

Mr. MCLAUGHLIN. Without expressing an opinion, suppose it was to be conceded that a very large part of the transactions on that exchange were speculations, that they were dealing in phantom cotton, that their transactions were merely a bet as to what quotations would be at a future day, just as we might bet on what the temperature would be on the 1st day of next July. What do you say to the proposition that the cotton exchange is necessary and does good as a protection to the producer and to the consumer of cotton, because the prices prevailing do bear some relation to the actual value as it might be determined by the supply and demand, and is practically the only means that the producer has of learning the prices and that he would be at the mercy of the spinner, and so on, if there were no such system; that the cotton exchange really serves a good purpose? Suppose it to be conceded that all you speak of is true, what do you say as to the good that is claimed for it?

Mr. BURLESON. The only justification that they claim for it themselves is the protection it affords as a place for hedging, and I contend that according to their own figures, with the fluctuations that constantly take place and the wide margins that exist between the price of futures and the price of spots, that it really affords no hedge.

The CHAIRMAN. It appears that you will not be able to answer that question to-night.

Mr. BURLESON. It will take quite an elaborate discussion to do that; but there is one other phase that I would like to present, and then I will stop.

Mr. MANDELBAUM. One question about that phantom cotton. Suppose I sell a horse to Mr. LEVER, and he sells it to the next gentleman, and the next gentleman sells it to the chairman, and the chairman sells it to Mr. Cocks. Are four of those horses phantom horses? [Laughter.]

Mr. BURLESON. No; and I would not so claim.

Mr. NEIL. The committee has given the other side a good deal of time on this proposition, and, if it is not trespassing upon the committee too much, I would ask that Mr. BURLESON have time to-morrow to conclude his speech.

Mr. BURLESON. I realize, Mr. Chairman, that the date set for hearing the representatives of the grain exchanges is to-morrow, but I want to discuss the hedging facilities of the New York Cotton Exchange, and I do not believe I can do it at this late hour with fairness to the committee or myself.

The CHAIRMAN. I believe the committee would like to have Mr. BURLESON answer the question which has just been asked him. It is very true that we have heard the gentlemen representing the cotton exchange for the last five or six days, but it is only fair to state that the time has been pretty evenly divided, because they were engaged in answering questions which the members of the committee asked for the purpose of eliciting information, so that I think the time has been fairly divided, so far as that is concerned. But that is not the question. What the committee desires is to get information, no matter from whom it comes, and if there is not objection, I think it might be understood that Mr. BURLESON will have some time to-morrow morning.

Mr. BURLESON. If you will give me 20 minutes without interruption, I can finish what I have to present.

The CHAIRMAN. Suppose we have it understood that he shall have 30 minutes in the morning to conclude his remarks, and at the conclusion of his remarks there are a few questions that I desire to ask Mr. Marsh or some other gentleman, and perhaps other members of the committee will have questions they would like to ask, so that on the whole we will extend this hearing for an hour, and take that much time off the time of the grain men to-morrow morning.

Mr. BURLESON. Will you permit me to present one further matter at this time? It will take only a few minutes to do so.

Mr. Mandelbaum asked about phantom horses, and did it hurt anybody? Let us see whether such transactions hurt anybody. What are the effects of these transactions? Have I not read of the effects of manipulation by large spot buyers, members of the cotton exchange, who are also members of the revision committee? Have I not shown that they can hammer prices of futures down? If I have, then we are face to face with the question, Does the price of futures control the price of spots, or does the price of spots control the futures? as these gentlemen have so very earnestly contended here. I can show you in Commissioner Smith's report where the statement is made that the prices of spots, if not controlled by futures, are largely influenced. This report says on this subject:

> A fact of great importance in this discussion is that the prices paid by cotton merchants for a large part of the cotton crop are based directly upon the future quotations of some cotton exchange. It is imperative that this be kept clearly in mind. Such merchants send their buying agents directly to the large plantations, or to the small country towns where cotton is brought in from farms in wagonloads of a few bales each. Instead of instructing these agents to pay a flat price for cotton, such merchants usually direct them to make their purchases within a certain number of points "on" or "off" (above or below) some cotton-exchange quotations of futures. These points on or off are known as "limits."

I am not going to ask you to accept this statement. You heard Mr. Parker say that instruction coming from New York merchants, large spot operators, to buy spot cotton was usually to buy it, so many points on or off futures. I will not ask you to accept his statement. You heard Mr. Lathrop, in reply to a question, state that frequently orders came to him, "buy spot cotton, so many points on or off futures." I will not ask you to take his testimony. I think, however, I have the right to ask your acceptance of the testimony I now offer. One of the ablest and most earnest defenders of the New York exchange, who was in the thick of the fray at the time of the Hatch and the George bills, was the firm Latham, Alexander & Co. Mr. Latham and Mr. Alexander are both dead, but the firm is still conducted.

Mr. NEVILLE. No; it is not.

Mr. BURLESON. Well, if it is not conducted, there is some member of your exchange operating under their name.

The CHAIRMAN. That is an immaterial matter.

Mr. BURLESON. It is immaterial, for I hold in my hand a pamphlet defending the New York Exchange, which was mailed from one end of this country to the other last year, containing a discussion of this matter and prepared by Latham, Alexander & Co. This was issued and bears date March 16, 1908.

Mr. SIMS. Mr. Latham has only recently died.

Mr. BURLESON. I do not know when he died, but he was a member of the exchange at the time this statement was issued. He was put forward to attack these bills, and when speeches were made two years ago attacking the exchanges the first document received by Members of Congress in defense of the New York Cotton Exchange was issued by Latham, Alexander & Co. I read from this defense of the exchange by one of its members:

If there were other exchanges throughout the United States dealing in cotton for future delivery, they would have to look to the controlling market, which is New York, for quotations.

That shows, first, just what I have contended all the time, that the New Orleans Cotton Exchange is completely overshadowed by the colossal New York affair, that it merely trails along in the wake of the New York concern. Now, let us see what else he says:

The price of cotton contracts—

Not spot cotton—but the price of cotton contracts, futures—

in New York oftentimes controls the price of cotton in the whole world, because this city is presumed to know more about the supply than any other, and our operations and dealings are therefore generally followed.

There you have it—the price of futures oftentimes controls the price of spot cotton throughout the world.

The issue is fairly raised, and bearing on it Mr. Parker tells you that futures exercise a controlling influence on spot, that merchants in the South buy spots so many points on or off futures. Mr. Latham says that that is frequently the practice. Commissioner Smith, in his report, says that futures exercise a psychological influence over—does not control absolutely but exercises great influence over—the price of spot cotton, and last we have Latham, Alexander & Co. in this defense of the New York Cotton Exchange, admitting that futures control the price of spots and not spots the price of futures.

Now, gentlemen, I am going to testify myself. Not once, not twice, but many times has this happened. I sell cotton in Waco, Tex., where I believe Mr. Neville has an agent. That is my market place. I do not sell it myself. The man who manages the plantation and is associated with me sells it. I have stood by his shoulder dozens of times and heard him ask the cotton buyer over the phone, "What will you give for cotton this morning?" The answer would be, "I can not make you an offer, because I have not heard from New York."

Mr. COCKS. Would not they make any price?

Mr. BURLESON. Oh, yes; but he knew that we are not fools; that we wanted approximately what the cotton was worth.

Mr. MANDELBAUM. You wanted what the cotton was worth?

Mr. BURLESON. Yes; we wanted the highest price we could get.

Mr. MANDELBAUM. You did not want to sell it for nothing?

Mr. COCKS. It seems to me that would apply to everything on earth.

Mr. BURLESON. Then you admit, you concede the proposition that futures control the price of spots?

Mr. MANDELBAUM. So far as you are concerned; yes. You would not sell before you got that quotation.

Mr. COCKS. That is evidently true, so far as you are concerned.

Mr. BURLESON. Not once, not twice, but hundreds of times has that happened, and my practice is not different from others. The cotton buyers would say, "We can not give you the price, because we have not heard from the market": and then when this information would come, we would frequently be told "If you had called us up yesterday, we could have given you so many points more than we can this morning, because the market has declined to that extent."

Mr. COCKS. Would not that have been a stand-off, then? What is the difference? If you had sold yesterday, somebody else would have been out.

Mr. BURLESON. It sometimes was a stand-off to the extent of $2 a bale to me—$2 less, because futures in New York had declined.

Mr. COCKS. But if you had sold yesterday, you would have made $2 a bale.

Mr. HOWELL. What is to hinder you from taking out contracts with the actual consumer—the mill?

Mr. BURLESON. The trade conditions do not permit it.

Mr. HOWELL. Upon the actual demand?

Mr. BURLESON. The bulk of the cotton crop is made by small producers. There are very, very few men who make 100 bales of cotton, and mill owners buy in 100 or 500 bale lots. My colleague, Mr. BEALL, represents, as I said a moment ago, the largest cotton-producing county in the world. I should like Mr. BEALL to state approximately what per cent of farmers in his county make 100 bales of cotton.

Mr. BEALL. I should say not over 5 per cent; perhaps not more than 2 per cent.

Mr. HOWELL. You failed to state, when you said that you wanted to hear the price of cotton in New York, at Waco, that it was the price of futures.

Mr. BURLESON. Of course, that cotton buyer had instructions to buy within certain limits—so many points off or on the future price.

Mr. MANDELBAUM. You wanted to sell, did you not, and you would not sell until you got that price?

Mr. BURLESON. I wanted to sell and I wanted to get the best price I could. I must confess my profound astonishment when I heard even an attempt at denial of the proposition, not that futures absolutely controlled spots (because they do not), but that they exercise a controlling influence over the price of spots; and no candid, fair-minded man ought to deny it.

Mr. BEALL. On what was that bid on your cotton based?

Mr. BURLESON. It was based upon the price of future contracts in New York. There is no doubt about it that large spot dealers in New York and elsewhere send out instructions. I am able to state it. I have seen such instructions time and time again—instructions to buy cotton at so many points on or off futures.

Mr. COCKS. Suppose we admit that; I understand that. That is simple and plain. What I can not understand is how you are hurt any. Suppose spots are the basis, how are you hurt?

Mr. BURLESON. Under the operation of the rules of the New York Cotton Exchange one large operator on the exchange can depress the price of futures. I think I have shown it here. If I have not shown that, then I do not think that any proposition is susceptible of demonstration. I have shown it by Commissioner Smith's report, by spinners, by cotton merchants, and by the confessions of the members of the exchange.

Mr. COCKS. Probably you have, but my mental capacity has not been able to grasp it thoroughly. It seems to me you are only on all fours with the man who has a carload of cattle and he calls up on the telephone and wants to know what the market is, and he ships to Kansas City and the market has dropped 2 or 3 cents while the cattle are on the way, and he loses that much. What is the difference?

Mr. BURLESON. One is operating in the actual cattle, and the price is offered for actual cattle by the man who is going to buy these cattle from him. In the other case the man who is selling the cotton is compelled to take a price for his spot cotton, for his actual cotton, that is influenced by the price of a future contract which has been fixed in New York, which has been manipulated, which may have been hammered down by the very man offering to buy the spot cotton.

Mr. COCKS. The shipper of the cattle believes that the price of his cattle is fixed by the beef trust.

Mr. BURLESON. Oh, well. I think there is no analogy between the two cases.

Mr. COCKS. I wanted to know what you think would happen if you had not a cotton exchange?

Mr. BURLESON. Then prices would be regulated by the law of supply and demand.

Mr. COCKS. Why does not the law of supply and demand regulate it now?

Mr. BURLESON. Because of these unnatural conditions which are brought about under the rules of the cotton exchanges dealing in futures.

Mr. COCKS. Why does not the same thing happen in regard to cattle?

Mr. BURLESON. Because they have no exchange on which cattle can be gambled in, as they gamble in cotton.

Mr. COCKS. But the trust affects that in the same way. Would it not be possible for the same tihing to exist in the cotton market?

Mr. BURLESON. There is a different economic principle involved there, entirely. With the permission of the chairman, I will now suspend until to-morrow morning.

(At 5.30 o'clock p. m., the committee adjourned until to-morrow, Friday, February 18, 1910, at 10.30 o'clock a. m.)

COMMITTEE ON AGRICULTURE,
Friday, February 18, 1910.

The committee met at 10.30 o'clock a. m., Hon. Charles F. Scott (chairman) presiding.

The CHAIRMAN. It was the expectation of the committee to take up this morning that phase of the pending bills relating particularly to the grain exchanges, and it is still our expectation to do that before the morning expires. But Representa-

tive Burleson, of Texas, who was addressing the committee yesterday, was unable to finish within the time allowed and it was agreed, before adjournment on yesterday, that he should proceed this morning for 30 minutes, and in order that he may have all of that time in which to present the matters which he regards of importance, the Chair will ask that he be not interrupted until he has concluded his statement. I will ask Mr. Burleson to proceed. He is to be called down in 30 minutes.

TESTIMONY OF HON. A. S. BURLESON—CONTINUED.

Mr. BURLESON. Mr. Chairman and gentlemen of the committee. It is my purpose to confine myself this morning, in the main, to a discussion of two phases of the question now before you. First, as to the necessity for the existence of these exchanges for hedging purposes; second, what will be the result upon the cotton trade if we eliminate the speculative feature from these exchanges. But before I enter upon a discussion of those two questions, just for a minute or two, I want to answer one or two questions that were asked me yesterday, which, by reason of interruptions and diversions, I did not answer. One question was asked by the gentleman from Iowa Mr. HAUGEN, and it was with reference to whether cotton carried in the reserve stock at New York was spinable or useable cotton, and if so, when one purchased that cotton where was the serious hurt to him?

Now, gentlemen, just in a word that can be answered. It has been shown here that during the entire period of the crop season of 1906 and 1907, and at frequent intervals since that time, there has been a lack of parity between the price of future contracts and spot cotton amounting sometimes from 80 to 196 points. This means from $4 to $10 a bale less for futures on the New York Cotton Exchange than the market price for spot cotton in the South. Now, if it were practicable for spinners of the East to go to New York and secure the actual cotton on these contracts wouldn't they jump at the chance to save that $4 to $10 a bale and, in addition, the freight charge from the South, which they could do if by going there they could get the cotton they want? Why, you know they would. And yet they do not do it because it is unsafe and dangerous for them to attempt an acceptance of the cotton tenderable on contract. Take the case of Representative Lovering, who recently died, who, with his brother, spun 200,000 bales a year; think a moment what a saving it would have been to him if he could have gone to New York and bought his cotton through the New York Cotton Exchange; by saving $4 a bale his savings would reach $800,000 or more each year, an amount probably greater than his entire profits for the year. I think this answers the question of the gentleman from Iowa. Representative Cocks of New York also said that he could not understand why, if there was an overvaluation of the high grades deliverable on the future contract, and the prices of spots were being influenced by reason of that overvaluation of the high grades, it would not be beneficial to the people of the South or the producers of cotton rather than hurtful to them. It should be kept in mind that the grades overvalued are deliverable by the seller, and the buyer if he accepts delivery must take these grades on the basis of their overvaluation.

Now, gentlemen, I can illustrate the effect of this. I went by Woodward & Lothrop's this morning and bought some cotton goods. A spinner is controlled in the character of cotton he buys by the use he intends to put it to; by the character of cotton goods he intends to manufacture. I hold in my hand two samples of cotton goods made from the very lowest grades of cotton, one worth 4 cents a yard, the other, I think, worth about 10 or 12 cents a yard [exhibiting pieces of cloth]. These goods are made from the low grades of cotton; the spinners who make this character of stuff do not want the higher grades of cotton. It would be a useless expense to them to purchase the higher grades and use them. Now, suppose a spinner wanted low-grade cotton and the high grades of cotton had been overvalued by the revision committee of the New York Cotton Exchange, and he demanded delivery on a future contract—and, as Mr. Parker says, and as other spinners have said to you, the seller has the option and always gives you what you do not want—and they should give to this spinner who uses a low grade of cotton for the purpose of making this cheap cloth—they can manufacture a suit of clothes out of such cotton for a dollar and a half, an entire suit of clothes—and they tender to this spinner who manufactures this sort of material, the highest grade of cotton, which costs from $8 to $10 a bale more than the cotton which enters into the manufacture of this cheap cloth, he would promptly refuse to accept delivery and sell his contract at a loss. Can not you see how dangerous it would be for him to go to the exchange for the purpose of acquiring his stock of cotton, because if he acquired high-grade cotton to manufacture into this character of stuff he would suffer a great loss. If he accepts delivery, it might cost him $10 a bale more than he would pay if he bought the kind of cotton suitable for his purpose, and consequently he runs away from the notice of delivery; he promptly sells out his contract.

Keep in mind at all times this proposition, that one can not buy a future contract and expect to receive delivery of a particular grade of cotton. The contract sold is a basis contract, and the seller may deliver 15 or 20 or even 28 different grades of cotton on it, and one may expect an excess of the particular grades he can not use and does not want. A spinner who manufactures this cloth [exhibiting same], a fine grade of cotton cloth, could not use the grade of cotton used to make this cheap cloth. An entire suit of clothes out of this cheap cloth can be bought for $1.50, whereas the cloth (8 yards) for a woman's suit from this material would cost $16.

Mr. MANDELBAUM. Do you think you could make a suit out of that cloth for $1.50?

Mr. BURLESON. I bought a coat and pair of trousers for $1.50, in order to use while fishing, and they were made of this cheap material. Now, suppose a spinner who manufactures this kind of goods, the finest cotton cloth [exhibiting piece of goods to committee], bought a future contract and there should happen to be a cotton crop that was low in grade for the year, and he should go to the New York Cotton Exchange and demand delivery under his contract and should be tendered and receive the kind of cotton that goes into the manufacture of this cheapest of cotton goods [exhibiting cloth to committee], can not you see that it would be as worthless to him as wheat and straw? It would represent, especially if it were overvalued, as it always is when the crop is of low grade, as I showed you on yesterday, nearly a total loss to him. Thus you see that the tender of high grades may be ruinous to one spinner and the tender of low grades ruinous to another.

Yesterday Mr. Mandelbaum propounded a query to me. When I was discussing "spook" cotton, he asked, "If A sells a horse to B, and B sells the same horse to C, and C to D and D to E and E to F, would four of these horses be 'spook' horses?" Do you recall that when Mr. Marsh was addressing the committee he said the intricacies of the transactions upon the New York Exchange were such that it was difficult for the lay mind to comprehend them? I realize that the complexities of these exchange transactions might confuse some people, but I did not think they were such that even Mr. Mandelbaum would fail to comprehend them. Mr. Chairman, the horse illustration is not the character of transaction that takes place on the New York Cotton Exchange; they do not there sell a hundred bales of cotton to A and A to B and so on; they sell a future contract for the delivery of cotton, a different proposition altogether, a contract, and a basis contract at that, for the delivery of cotton. Now, I will also use a horse illustration of the exchange type.

Suppose a man who had a horse to sell heard that there was a horse exchange in the town and should carry his horse to the exchange to dispose of him. Arriving there he finds that on this exchange they are not selling horses, but future contracts for the delivery of horses, and that these transactions were going to control the price he was to receive for his horse. Suppose he should see a future contract for the delivery of a horse sold for a given price, then another future contract for a horse at a lower price, and then another at a higher price, and somebody standing by, a member of the exchange, should say to him as these contracts were being sold and bought, "Now, the price of your horse has gone down; now it has gone up." And if you asked why, should answer, "Because these sale contracts for the delivery of horses that are taking place, actual contracts, where there is an expectation that delivery will take place, indicate the market value of your horse, in fact will control the price you are to receive for him." When he saw these transactions going on and on and on would it be surprising if he finally asked, "Where are all these horses? I don't see any horses that are being traded in under these contracts; where are the horses? I have seen dozens of sales, I have seen hundreds of contracts for horses sold, but I have not seen a horse." Would you blame him if he reached the conclusion that they were phantom horses that were being dealt in? Why, of course, you would not. Neither would you blame him if he objected to having the market price of his horse influenced or controlled by these transactions.

My friend Mr. Mandelbaum has become so involved in the complexities of the situation that he loses sight of the real transactions which take place on the cotton exchange. Keep in mind the fact that it is future contracts for the delivery of cotton that are being bought and sold on this exchange and not real cotton that is there being bought and sold. Remember, also, that these future contracts for the delivery of cotton are controlled by the law of supply and demand, just exactly as cotton is controlled by the law of supply and demand. If there

is an excess of offers of the future contracts for the delivery of cotton, the price of contracts or futures goes down; if there is a scarcity of offers of contracts, then the price of futures goes up. By an excess of offers to sell contracts a combination may force a decline in futures at its will.

I address myself now to the hedging proposition. Mr. Chairman, the chief defense made, or the principal justification for the continued existence of the New York Cotton Exchange, is that it affords a protection to the spinner or a protection to the cotton merchant who sells the spinner his raw material when goods are being sold in advance of their manufacture by the spinner.

Now, what is it that makes a safe hedge? It has been made plain to you that where violent fluctuation takes place in the price of futures and the parity between the price of futures and the price of spots is not maintained, that when the margin becomes too wide, an attempt at hedging becomes an added risk rather than a protection. For a future contract to be a protection as a hedge there must be maintained a certain parity, a uniform parity, between the price of futures and the price of spots. Now, is this parity being maintained, or has it been for years, so as to afford a safe hedge? Let me read from Commissioner Smith's report, page 155, Volume I:

From the table it will be seen that in the period from 1880 to 1888, during which the commercial-difference principle was employed by the New York Cotton Exchange, fluctuations in the margin between the price of spot cotton and the price of futures were confined to moderate limits. It was reasonably safe, then, during that period, for the merchant or spinner to go to the New York Cotton Exchange for the purpose of buying a contract hedge to relieve himself of the risk.

Now, it was about this time that the through bill of lading came into use, and the exchange changed its practice of fixing differences, and what happened? I read further from the report:

In 1888 the New York Cotton Exchange, as already stated, abandoned its policy of frequent revisions and provided that its revision committee should meet only nine times a year (or monthly from September to April and again in June).

That was once a month during the active cotton season. Now, note the immediate effect of that change upon the price of contracts. I read further from Commissioner Smith's report:

It is worth noting that this change was almost immediately accompanied by a marked disturbance of the parity between the spot and the contract price.

They were making revisions of differences during that time once a month, nine times during the season, and conditions were growing worse. Finally New York ceased to be a spot-cotton market, and in 1897 the exchange abandoned the practice of fixing these differences once a month during the active cotton season and entered upon the policy of fixing the differences once a year. When first organized and until 1888 differences in value between grades were, by the rules of the exchange, fixed daily—kept in line with commercial differences—and the parity between the price of futures and spots was closely maintained. In 1888 the exchange changed its rules and differences were fixed once a month, being at such times brought in line with the commercial differences. This change brought about a marked disturbance of the parity between spots and futures. This practice continued until 1897, when again the exchange changed its rules and entered upon the policy of fixing differences practically only once a year, and that, too, at a time when the character of the crop could not possibly be known. The result could not be other than it is—the parity between the prices of future and spots has, for commercial purposes, been completely destroyed.

Speaking of this last change, Commissioner Smith in his report had this to say:

In the same year, 1897, the New York Cotton Exchange abandoned monthly meetings and provided that it should meet only twice a year, namely, in September and November, and this system has been in force ever since. This change has been followed by a very marked change in the relationship between the spot and the contract price. Since that period what has been the common result, or the continuous result, if I may so express it, of this system of fixed differences?

I will read you further from this report:

From September, 1899, down to the present time, however, the margin has, on the whole, been very much greater than in earlier years, and, what is far more important, it has fluctuated with much greater violence.

If this margin was maintained at a parity, even if it was slightly out of line with the commercial value of cotton—spot cotton in the South—merchants and spinners could take that into account, make allowance for it and protect themselves; but, gentlemen, when cotton fluctuates in this wise—I read from their own statistics for 1907:

Taking each month as I call them, from the time deliveries for that month were dealt in until the close of that month, the price fluctuated as follows: For September, from 11.18 cents per pound to 8.58. Remember, now, that this price is for the same grade of cotton. For October, from 11.30 cents to 8.69 cents per pound; November, from 11.70 to 8.85; December, 11.30 to 8.90; January, 11.31 to 8.99; February, 11.40 to 9.06; March, 11.48 to 9.02; and thus throughout the year, for July the highest being 13 cents and the lowest 9.35 cents per pound. Thus you see that these prices are either manipulated or the unrestrained speculation keeps the market price shifting round like a howling dervish.

Frequently since then, during certain months, futures have fluctuated violently, as much as 3 cents within a very short period. Recently the price of future contracts has fluctuated as much as 3 cents a pound in the month, and nearly always there is a fluctuation of from 2 to 3 cents in any future month for the delivery of cotton. When these violent fluctuations take place, pray tell me what becomes of this margin of safety which affords protection to merchant and spinner? Where is it found? As a matter of fact it is often so wide there is frequently such a variance between the price of future contracts and the price of spots that no merchant and no spinner can, with safety, rely upon it as a hedge. It has ceased to be a protection either to the merchant or to the spinner, as was asserted here by Mr. Parker, and has, as a matter of fact, become an additional menace and danger. Now, let us see what Commissioner Smith says on that point. Page 157, speaking of this irregularity in the margin, he says: "This means that merchants using the market for hedging purposes have been more or less constantly subjected to a very serious risk."

What is the purpose of hedging? The purpose of hedging is to avoid risk, to escape the dangers occasioned by fluctuation in the price of cotton. And, by the way, I will say here that, in my deliberate judgment, these dangers, these fluctuations in prices are directly attributable to the operations of these exchanges. They bring about the very condition which makes it necessary for the merchant and the spinner to fly to them in a vain effort to protect themselves by hedging. A careful reading of this report will drive conviction home to the mind of any candid man that fluctuations in the price of futures are directly attributable to the "subsidiary element" operating on the New York Cotton Exchange; that it is these violent fluctuations of from 2 to 3 cents a pound in the price of futures in each and every month that makes it necessary for the cotton spinner and the cotton merchant to seek protection for themselves against it. Eliminate this danger by prohibiting these gambling contracts—and that is the sole purpose of the Scott bill—and you make it impossible for these violent fluctuations to be brought about. I did not read all that Commissioner Smith said on this subject.

Whereas, as so frequently emphasized, the purpose of hedging is to reduce or eliminate risk. It means, too, that the calculations of speculators as to the movements of the contract price itself have been rendered more difficult and risks consequently increased.

Thus it is made plain that instead of hedging facilities being afforded, the New York Cotton Exchange or any other exchange, where the margin between the price of future contracts and the price of spots is constantly disturbed and becomes so wide as to destroy the parity between them, instead of affording relief to the spinner or affording a safeguard for the merchant by eliminating risk, really increases such risk. Now, right on that point I want to read this morning excerpts from letters by spinners to show the views held by them on the protection afforded by a hedge on these exchanges.

I first submit a statement by Mr. A. W. Emery, of the Evansville Cotton Manufacturing Co., of Indiana:

I believe the bill which you have introduced is just and right, and, so far as our observation has been, we consider the matter of dealing in futures in cotton to be detrimental to the manufacturer in every respect, as it is a form of gambling which misrepresents facts and is harmful to anyone who is in any way connected with such doubtful methods of business.

Evidently this spinner would not attempt a hedge. I next read from Mr. T. L. Wainwright, president of the Stonewall Cotton Mills of Mississippi:

Now, touching the future business, will say that I have frequently had occasion to buy so-called futures or future-contract cotton to cover actual future sales of cotton goods, but I am very sorry to have to say that we have always come out, with very few minor exceptions, with either the hot end of the poker or short end of the string in our hands. The methods of the New York Cotton Exchange are an outrage on the public. They do not afford the protection that is expected and held out. * * *

Again:

It is argued that if our American exchanges are suppressed or closed up that we transfer the market quotations, or I should say prices, to Liverpool. This I deny.

Now, down to the real practical facts, which will be attested by every sensible cotton-mill manager. The trouble is we and many others have recently and heretofore many times sold large quantities of cotton goods at profitable prices and have bought the spot cotton or futures as a hedge; then the gamblers get into the deal and depress the cotton markets from 1 to 3 or 4 cents per pound; then down goes cotton goods, the purchasers cancel their orders and leave the cotton mills with the high-price future or spot cotton on their hands and their orders for the goods all canceled. We are in this fix to-day, and with a loss from this very cause on our hands that will amount to many thousands of dollars. I have gone through this experience before. The dethroned cotton kings, and many others of their stripe and class, are absolutely to blame for these terrible conditions. So, I must repeat, from a common-sense and practical experience of a third of a century, I am unalterably opposed to the bucket shop; and, secondly, to the swindling and unjust methods followed by the New York cotton

exchanges; and, thirdly, to the general practice of the so-called cotton exchanges as relates to future cotton transactions. If the whole future business were swept off the map of cotton business, I believe everybody would be far better off.

He says further that the bill under consideration covers his views and ideas exactly

Now, one from Mr. E. S. Hobbs, of the Aurora Cotton Mills, of Illinois.

In the 24 years' operation of these mills, during which time I have been connected with the active management, we have not made use of the future markets as a means of protection against unforeseen fluctuations. We are opposed to the cotton exchanges as now conducted, because they serve no legitimate purposes of commerce. The statement that they do seems plausible to the unthinking mind, but really has no foundation in fact. The producer and consumer of cotton want stability of prices; the speculators and gamblers want rapid and violent fluctuations, and use all sorts of means, honorable and otherwise, to produce them. The inevitable result is that the honest producer and consumer are defrauded.

I have many such letters, but will content myself with submitting only one more. It is from Thomas Henry & Sons, of Philadelphia, Pa. In no uncertain terms do they speak:

We think if the present cotton exchanges could be wiped out of existence the people or concerns engaged in legitimate business of cotton manufacturing would be far better off in every particular than they are at present.

Owing to the enormous rises and falls that have taken place in the cotton market quotations for the past few years it is almost impossible to do business on a legitimate basis; but if, as above stated, the exchanges were out of existence, and the old rule made to apply—that is, to make the price of cotton according to the legitimate demand and supply—it would result to the mutual advantage of the producer and the consumer, meaning the cotton-mill man as well, and the ultimate extinction of the gambling element who use the cotton market as a dummy for their gain.

Again they say:

We sincerely trust you will be able to have laws passed through both Houses to overcome the gross evils of the present cotton market, which have existed for the past 10 years, and thereby receive the everlasting gratitude of the law-abiding people who have millions of dollars invested in the manufacture of cotton fabrics.

In a letter from the same, of another date, they have this to say:

We as manufacturers to-day can not use anything in grade lower than good middling in our class of manufacture, and we question seriously whether at this moment there are 700 bales of good cotton in New York market.

Our weekly consumption of cotton is, on the average, 100 bales of strict good middling.

In our opinion, as we believe we stated in our last letter, we feel if there is any law existing permitting trading and selling future contracts (on paper), it should be wiped out for the benefit of the country at large.

You will note that this mill takes no grade of cotton lower than good middling, and that their weekly consumption calls, on an average, for 100 bales of strict good middling cotton.

I hold in my hand one of the warehouse certificates of exchange, which I submit:

New York Cotton Exchange.

Grades of cotton in New York warehouses on September 30, 1907, inspected, classed certificated, and grade guaranteed by the New York Cotton Exchange (with differences on or off middling).

Grade.	Cents.	Number of bales.	Middling.
Fair	1.75	.....	On.
Strict middling fair	1.50	.....	On.
Middling fair	1.25	.....	On.
Barely middling fair	1.00	7	On.
Strict good middling	.75	15	On.
Fully good middling	.62	1	On.
Good middling	.50	20	On.
Barely good middling	.37	23	On.
Strict middling	.25	116	On.
Middling	Basis.	375	
Strict low middling	.30	2,212	Off.
Fully low middling	.65	8,857	Off.
Low middling	1.00	22,782	Off.
Barely low middling	1.25	30,848	Off.
Strict good ordinary	1.50	27,554	Off.
Fully good ordinary	1.75	9,318	Off.
Good ordinary	2.00	6,772	Off.
Strict good middling tinged	.35	45	On.
Good middling tinged	Value of mid.	146	
Strict middling tinged	.20	386	Off.
Middling tinged	.30	2,026	Off.
Strict low middling tinged	1.00	8,476	Off.
Low middling tinged	1.50	8,967	Off.
Strict good ordinary tinged	2.00	3,190	Off.
Fully middling stained	1.00	2,261	Off.
Middling stained	1.25	2,028	Off.
Barely middling stained	1.75	477	Off.
Strict low middling stained	2.25	1,012	Off.
Fully low middling stained	2.62	26	Off.
Low middling stained	3.00	544	Off.
Total	.....	138,484	

There can be no revision until November 20, 1907.

GEORGE BRENNECKE,
Chairman Warehouse and Delivery Committee.

Suppose Henry & Sons had bought future contracts and accepted delivery of every bale of cotton in the stock at that time—the entire 138,484 bales—they would not have gotten sufficient strict good middling and up (22 bales) to keep their mill in operation for two days. They would have secured in all this lot of cotton only 43 bales which they could use. What folly! How dangerous it would be for them to attempt to secure their stock of raw material through this exchange.

These spinners all agree that instead of the New York Cotton Exchange being a place of refuge for them against fluctuation in the price of cotton it has become an additional menace to their business.

Now, I will go on. Yesterday the gentleman from New York asked where one could go to ascertain the difference between grades. I then replied, to spot-cotton markets in the South. In order to further answer Mr. Cocks's question I want to read what the president of the New York Cotton Exchange said about the revision of 1906 and where he suggested we go to ascertain these differences. On page 164 of the report I find this statement made by the president of the exchange: "Probably the best markets to be governed by in the actual differences are Houston and Galveston," because they are the great spot-cotton markets. The other day Mr. Neville introduced Mr. Barbot to prove that there are what is known as quarter grades, clearly distinguishable from others. He spoke also of tinges and stains, his purpose being to show that it was necessary to have this wide range of 28 grades deliverable upon future contracts. I hold in my hands the Galveston News. I want to show that so far as the cotton trade is concerned these microscopic grades are never considered. You must always keep in mind the fact that when those who consume cotton want actual cotton they go or send to the spot markets in the South for it. There the cotton is bought, assembled, and assorted as to grades, and for the purposes of the trade there are only about 7 grades of cotton considered. These other barely definable grades only serve to aid manipulation and stimulate speculation.

In Galveston, Tex., the trade requires quotations of prices for low ordinary, ordinary, good ordinary, low middling, middling, good middling, and middling fair, 7 grades; the same in Houston, the same in New Orleans, the same wherever actual cotton is dealt in; even the New York quotations that are telegraphed down to the spot markets reflect only information with reference to the value of these 7 grades. This is shown by the News, the leading paper in the leading spot market, and yet the contention is made that 28 different grades should be deliverable upon future contracts, when the spot market takes no account of more than 7, and it is the spot market at last where the spinner goes to get his cotton. The wide range of grade deliveries are useful only for purposes of manipulation and serve as an additional means of depressing or inflating prices. Now, one other phase of the question and I will conclude. What will be the result if the Scott bill is enacted into law and these purely speculative transactions are eliminated? Will it result in the destruction of the exchanges, and if so, what will follow? I will say that if a condition has developed on the New York Cotton Exchange that makes it necessary to continue transactions, 90 per cent of which are pure gambling, in order that it may exist, then it ought to be our desire to bring about a change regardless of what the consequences might be.

Mr. Chairman, I do not subscribe to the proposition that if this bill is passed the field of speculative operation will be transferred to Liverpool and the producer placed at the mercy of the English spinner. Representative HARDWICK will, before this hearing is concluded, present several amendments to the Scott bill, having for their purpose the making it impossible for the Liverpool exchange to be made the basis of these operations. If gambling in cotton was prevented in this country, would the Liverpool exchange continue to deal in futures? I have from the lips of the oldest living member of the New York Cotton Exchange, made to me in the presence of William C. Lovering—and I made this statement during the lifetime of Mr. Lovering, and did not wait until his death—Mr. Walter T. Miller, one of the men who organized the exchange, helped construct its present building, when I put the direct question to him as to what would be the effect upon the Liverpool exchange if we eliminated these speculative transactions upon the New York Cotton Exchange, this reply:

Mr. BURLESON, it would be compelled to at once abandon the practice of dealing in such contracts, because the principal source of their patronage is from this country.

Destroy this gambling and I believe the cotton exchanges of this country would at once become, like the exchange at Bremen, an exchange where spot cotton is dealt in. I do not believe any serious trade disturbance would result, regardless of the effect this bill, if law, might have on the two big exchanges.

I would not be candid, however, if I did not express my belief that there would be necessary some readjustment of trade conditions. There would be. But the intelligent producers and consumers of this country will readily devise a new system to meet the situation. Already it is in progress. The construction of a system of warehouses throughout the South has been inaugurated, where cotton can be stored and where spinners can come in direct contact, not with the producer himself, because he would not be there, but they would come in contact with the middleman. This system will not eliminate the middleman; it would not eliminate Mr. Neville as a spot merchant, not at all; it will eliminate Mr. Neville in a way as a speculator—I would not say gambler; it will eliminate Mr. Hubbard as such a speculator. These gentlemen could have their agents at the places where warehouses are located representing them, the spinning interests would be represented, and the producers' interests would also be represented, all interests represented, all there to find the cotton they need in lots of even-running grades, just as they desire it, without all this stupendous burden of expense. I do not believe and can not see one single reason why cotton should under this system be bought or sold under a wider margin by those who aid in marketing the crop. It was suggested three years ago by Mr. James R. MacColl, the president of the New England Spinners' Association, that—

The New York Cotton Exchange has become so useless to us that we must devise for ourselves a place where we can go and have spot cotton find its way there and supply our needs.

He suggested that in an address to the spinners themselves. Acting upon that, the intelligent producers of the South, for a number of years, have been erecting these warehouses and they are nearly prepared to meet the situation which will be presented if this bill should become a law.

Mr. LEVER. How many in the South do you happen to know?

Mr BURLESON. I believe it has been stated that there are some two thousand cotton warehouses there now. In this connection I will state that Mr. Haines, the secretary of the Galveston Chamber of Commerce, recently told me that capital could be readily enlisted to erect the necessary warehouses at Galveston to meet the demand, not only of Texas, but of the entire cotton territory tributary to that city, affording warehouse facilities, so that the cotton finding its way into those warehouses could readily find its way across the ocean, if needed for export purposes, or around to New England spinners, if needed by them, or the southern spinners. You need have no apprehension or fear that there is going to be any serious disturbance, any irremediable injury to the cotton trade, if this bill is enacted into law. And, gentlemen, one word more; whether this is so or not, who will be the sufferers if disturbance is occasioned, who will be the only sufferers? The producers upon the one hand and the spinners upon the other. They stand here, so far as this record is concerned, united in the expression of a desire that the Scott bill be passed and this great incubus be removed. If they are willing to take the risk and stand here to say to you that they are willing to take the risk, why should there be a single conscientious man upon this committee who would hesitate to act?

Mr. LEVER. Mr. Burleson, do you think there is any danger of the formation of a great cotton trust throughout the country which would control the price of cotton and put the farmer at the mercy of the trust?

Mr. BURLESON. The suggestion—pardon me, if I indulge in strong language—the suggestion is absurd, for the reason that the American spinner is not the only consumer of American cotton; he has an active competitor upon the European Continent, an active competitor in Great Britain; no combination that could be entered into could possibly control the situation.

Mr. LEVER. You think the suggestion is radical?

Mr. BURLESON. It is ridiculous.

CROSS-EXAMINATION OF MR. ARTHUR R. MARSH, VICE PRESIDENT OF NEW YORK EXCHANGE, BY MR. BURLESON.

Mr. BURLESON. Do you operate on the New York Exchange as an individual or as a member of a firm?

Mr. MARSH. As an individual.

Mr. BURLESON. How many years have you been a member of the exchange?

Mr. MARSH. I think I was elected in 1901, but I have not kept it as an anniversary.

Mr. BURLESON. What office do you now hold on the exchange?

Mr. MARSH. Vice president.

Mr. BURLESON. What other offices have you held?

Mr. MARSH. I have been a member of the board of managers and an occasional member of this or that committee of the exchange.

Mr. BURLESON. Numbers of committees?

Mr. MARSH. Yes.

Mr. BURLESON. The other day, Mr. Marsh, in response to a question by Mr. BEALL of Texas (when he asked you to distinguish between the conditions which surround the cotton trade which make it necessary to have an exchange for the sale of future contracts for cotton, and the conditions which surround the cotton goods trade, which in value represent about three times the value of the raw product, for which there is no exchange), if I understood you, you stated that the multitude of merchants, retail and wholesale, engaged in disposing of cotton goods enabled the trade to distribute any losses which might be sustained among so many or over so large an area that it was not necessary to have an exchange, but that it was necessary to have an exchange for the sale of raw cotton in order to maintain intact, or protect as far as possible, the volume of capital necessary for the prosecution of the business?

Mr. MARSH. I think that is a very accurate statement of what I said, sir.

Mr. BURLESON. There are fewer people engaged in the manufacture of wool than cotton, fewer people engaged in growing wool than cotton. It takes approximately $500,000,000 to handle the world's wool crop. Differentiate for this committee, if you can, why it is that it is necessary to have an exchange for cotton and not for wool.

Mr. MARSH. Before proceeding to speak of the wool I should like to call attention to one point which I did not make in the statement Mr. Burleson quoted from me. I said that the immense number of small merchants who handled dry goods enabled the risk to be distributed to such an extent as not to fall unbearably upon any one of them. I ought to have added to that statement the further statement that the retailers and wholesalers of dry goods work on a margin of profit so large as compared with the profit which handlers of raw cotton work on that a decline in the value of the goods which they have on hand may be very considerable before those goods get down to their cost.

Mr. BURLESON. Well, considering that additional element, please, in a few words, if you can, differentiate between the conditions which environ wool and make it unnecessary to have an exchange for the sale of future contracts for wool.

Mr. MARSH. That statement which I have just made was preliminary to a statement I desire to make with regard to wool. I have never been in the wool business myself, but a member of my family was in the wool business for a number of years, in Boston, which is now the chief wool market in this country, and I become tolerably familiar with the conditions of conducting that trade.

In the first place, in the wool trade, owing to these possibilities of loss, due to having no opportunity to hedge, the margins are kept very much wider than they are in cotton. A wool merchant expects to get, tries to get, at least 20 per cent. A cotton merchant expects to get from one-half to three-quarters of 1 per cent. But, Mr. Chairman, in spite of the wool merchant aiming to get this very much larger margin between what he pays for his wool and what he sells it to the manufacturer for, the wool business is one of the most speculative and one of the most dangerous forms of modern merchandizing.

Any wool merchant in Boston will tell you that the wool firms there go through extraordinary vicissitudes of profits and losses——

Mr. BURLESON. You evidently mistook the purpose of my question. I want you to tell this committee, if you can, the difference in conditions which environ the wool trade—I don't care whether those engaged in it lose more money or not; that is a subsequent matter—tell, if you can, the difference in conditions which environ the wool trade which make it unnecessary to have an exchange.

Mr. MARSH. The wool trade would have an exchange in a minute if it could. There is not a wool merchant in Boston——

The CHAIRMAN. Well, can you tell us in a word why it can not?

Mr. MARSH. The first and chief reason why it is impossible is that the determination of the value of a pile of wool in a warehouse is purely and simply a matter of guesswork. Wool is handled almost entirely in the grease. The value of the wool, however, is its value after it is scoured. Now, there are the most extraordinary divergencies of opinion between the most expert buyers as to the scoured value of any given pile of wool. It is a business which is more largely guesswork than any business probably in the world.

Now, when you come to taking a contract for future delivery, this element of guesswork, of uncertainty, as to the real economic value of each particular lot which is to be delivered introduces problems and perplexities which have so far proved

insuperable. There was, as you know, undoubtedly, an attempt some years ago to establish a wool exchange in New York. It was never possible—never proved possible—to work out any rules for the delivery of wool on contracts which were dependable and which worked out in practice in a manner economically sound.

Another difficulty that arises in connection with wool, but along the same line, is that, although the total amount of wool produced is very large, there is a very extraordinary difference in the characters of wool that are produced, and the valuation of these extraordinarily different characters of wool has proved beyond the powers of any set of wool merchants who have ever put their brains to the matter.

In this connection, however, I should like to call your attention to the fact that there formerly was, and I supposed until I heard a positive statement to the contrary still was, trading in contracts for what are known as wool tops in Antwerp. That one specific——

Mr. BURLESON. I beg your pardon; I was not asking you whether there was an exchange at Antwerp or about a rumor of one at Antwerp. I again direct your attention to my request for conditions which environ the wool trade which you think makes it unnecessary to have an exchange, in the fewest words, please.

Mr. MARSH. Well, in the fewest words possible, the conditions that make it impossible, or so far make it impossible, are the incalculability of the particular lots of wool that have to be dealt with.

Mr. BURLESON. Now, Mr. Marsh, am I to understand by that answer that the principal reason why the trade requires no wool exchange is that there is a much larger number of grades of wool than there is of cotton?

Mr. MARSH. Yes; I am sure of it.

Mr. BURLESON. And you think the extreme doubt about the quality of wool that there is another reason why you can not have a wool exchange?

Mr. MARSH. I did not say the extreme doubt about the quality of wool. I said the extreme doubt as to the value of each particular lot of wool.

Mr. BURLESON. All right. Would not doubt as to the value of each particular lot of wool make for speculation rather than diminish the chances for it and, in fact, afford an additional reason why you should have a wool exchange, from your viewpoint, rather than a reason why you should not have one?

Mr. MARSH. Mr. BURLESON, I do not think the reason for the exchange is the opportunity it offers for speculation.

Mr. BURLESON. No, but to eliminate the risk; but I will ask you this question: Was not the principal reason for failure to establish the wool exchange in New York because the existing exchanges furnished sufficient facilities to anyone who wanted to speculate or gamble, and that the wool exchange did not receive the patronage necessary to keep it going?

Mr. MARSH. I have not been so informed. My information has been that the trouble with the wool exchange was the impossibility of making rules and regulations of a general character to apply to a commodity so incalculable in its varieties as wool.

Mr. BURLESON. You know Mr. J. R. McColl?

Mr. MARSH. Yes, sir.

Mr. BURLESON. He was at one time the president of the National Association of Cotton Manufacturers?

Mr. MARSH. Yes.

Mr. BURLESON. You are not in accord with the view expressed by Mr. McColl when he said, speaking as to the necessity for a cotton exchange:

> Why should it be so, if the wool crop of the world, amounting in value to $500,000,000 annually, as well as the silk and linen crop, are marketed successfully without trading in futures. This system does not influence or move the crop, and it certainly affords great opportunity for speculation, which is injurious to legitimate industry. The speculator claims to foresee coming conditions. Unfortunately, this is not his chief business. It is to create temporary artificial conditions by selling quantities of cotton that he does not own or buying cotton he does not intend to accept delivery of. In the long run it must, of course, be admitted that supply and demand regulate price, but in the intermediate artificial fluctuations the speculator makes his money and the grower and manufacturer are apt to suffer disaster.

You do not agree with those views at all, although Mr. McColl is the president of a number of cotton mills and has been a manufacturer of cotton for many years.

Mr. MARSH. My first answer to that would be, Mr. BURLESON, that there is no commodity handled in the United States in which there is more constant speculation than there is in wool. The speculation in proportion to the amount of wool handled is, in my opinion, fully as great as the speculation in cotton.

Mr. BURLESON. And yet it is not necessary to have a wool exchange to hedge the risks.

Mr. MARSH. There is no exchange.

Mr. BURLESON. You said yesterday, in response to a question asked by Mr. Scott, that it was unsafe for the spinner and unwise for the spinner to go to the New York Cotton Exchange.

Mr. MARSH. Did I use those words, sir?

Mr. BURLESON. I think you did.

Mr. MARSH. Did I say unsafe?

Mr. BURLESON. I think so.

Mr. MARSH. Unsafe and unwise? I should be very glad to have the matter looked up.

Mr. BURLESON. Well, did you use the word "unwise"?

Mr. MARSH. I do not remember using the word "unwise." My recollection is that I said the contract for future delivery of cotton in New York was a cotton merchant's contract; was not designed for the use of spinners.

Mr. BURLESON. And that it was unsafe and unwise?

Mr. MARSH. I don't think I said that, sir.

Mr. BURLESON. Well, do you say it is unsafe and unwise or do you not—for him to go there?

Mr. MARSH. In determining safety and wisdom I am not particularly an expert.

Mr. BURLESON. Well, I will put it to you this way, then, if you can not readily answer the question: Does the spinner go there?

Mr. MARSH. I think he does.

Mr. BURLESON. Would you be surprised to know that Mr. McColl, of whom I spoke, in testifying before this committee has said:

> My opinion is that the spinners of this country have used the future market to a very small extent. Lately they have been forced to use it more, but they have not used it to any large extent in years gone by. There are thousands and thousands of manufacturers who have never bought a bale of futures.

Is that statement, entertaining the view that you have just——

Mr. MARSH. I think that statement is absolutely correct. I think the spinners of this country until a few years ago were of the opinion that the course for them to pursue was, as one of them stated to Mr. Hubbard and me, in a rather excited argument we had at Washington, to take a merchant's view of the situation and buy their cotton when they thought it was cheap, or sell their goods when they thought the price of the goods was high, and if they had bought their cotton when it was cheap, carry it until they sold their goods; or if they had sold their goods when they thought cotton was high, to keep short of cotton until they had a chance to buy the cotton at a lower price. It is a rather interesting commentary upon this spinner's attitude that his mill has during the last year practically gone bankrupt, that this spinner himself has been turned out of his job as treasurer of the mill, and that the Bishop of Massachusetts, who was a large stockholder in the mill, has preached a sermon against speculation.

Mr. BURLESON. Who was the spinner you speak of?

Mr. MARSH. I will not mention his name.

Mr. BURLESON. This statement made by Mr. McColl was rather a broad statement and embraced the use of futures for hedging purposes or any other purpose. I am asking you if it is not a fact that for many, many years the New England spinners especially have been extremely hostile to the New York Cotton Exchange upon the ground that its practices were inimical to their interests or the interests of the trade?

Mr. MARSH. The older generation of spinners in New England was unquestionably hostile to the New York Cotton Exchange or any cotton exchange, but the new generation of New England spinners who are just getting into the field are, so far as I know, unanimously of the opinion that they could not conduct their business without the aid of the exchanges. And the reason for that, Mr. Chairman, if Mr. BURLESON cares to have it, I will give.

Mr. BURLESON. Yes; I would like to have any reason you can give, if you can put it in a few words.

Mr. MARSH. I can, sir. The older mill treasurers of New England began with small mills and gradually built them up to large mills. When their mills were small they had no trouble in going to the banks and borrowing money enough to buy the cotton, which was comparatively small in amount, to run their mills. As their mills grew and these older treasurers remained in the saddle, the banks insensibly enlarged their accommodations to these treasurers, and so until the end of the career of these successful old treasurers they had no trouble in getting the money from the banks to buy the cotton which they needed. But now, sir, younger men are taking the place of these old treasurers, and the banks are beginning to ask questions. They say, "It was all right for us to lend money enough to buy 100,000 bales of cotton to Mr. Thomas Jefferson Coolidge, who

was a seasoned veteran, who had grown up in this business, who had made an enormous amount of money for his mill, and we could trust him; but how about this young man who has got to come in and take his place? Are we willing to lend eight or ten million dollars to this young man on his judgment as to when is the right time to buy cotton? This young man has not been through the mill. We can not trust his judgment."

And the consequence is, sir, that as these younger spinners come along they are abandoning, and abandoning, perforce, the manner of conducting the business of those older spinners, and now you will find younger spinners in New England conducting their spinning to a large extent in the way in which the English spinner conducts his business. He hedges his sales of goods by buying some cotton; or if he buys cotton at a time when he thinks the quality he desires is most easily obtainable he sells or hedges against it.

Mr. BURLESON. Then in a nutshell you say the reason for this change is that the moneyed class in New England had a confidence in the old spinners that they have not in the younger ones, and here the bankers force the latter to hedge? If that is so, no man would be better advised of it than the president of the New York Cotton Exchange, would he? If this change in sentiment had taken place, or this viewpoint has changed, on the part of the New England spinner, there would be no person who would be better informed about it than the president of the New York Cotton Exchange?

Mr. MARSH. The president of the New York Cotton Exchange never lived in New England, and I have lived there.

Mr. BURLESON. But is it not his duty to keep posted, Mr. Marsh, and haven't you said that one of the great advantages of this exchange was the facilities and opportunities its membership had for keeping right up with the trade, for gathering all kinds of information from all sources with reference to the trade? Would you say, then, that you would expect ignorance upon the part of the president of the exchange with reference to this change of sentiment on the part of the New England spinner?

Mr. MARSH. I should not expect anything.

Mr. BURLESON. Let me read you something that was said by the president of the New York Cotton Exchange, addressing the New England spinners [reading]:

The hostile attitude taken by the spinners of New England at the formation of our exchange and which has continued with more or less intensity during the past 36 years—

It was organized in 1871, and 36 years would bring it down to 1907, would it not? I haven't the date, but I take it from that that it must have been in 1906 or 1907 when this address was made [continuing reading]—

was, and is, to my mind, a mistaken policy, which the spinners of England and Continental Europe have avoided by their daily intercourse with merchants from all portions of the world.

If this change of attitude has taken place, Mr. Hubbard, who made that address, was not aware of it, was he, unless he was making a very loose statement or a false statement?

Mr. MARSH. I don't know what Mr. Hubbard was aware of.

Mr. BURLESON. Well, if he made that statement, was he mistaken about it?

Mr. MARSH. A tendency had already set up which he did not call attention to in that statement, unquestionably.

Mr. BURLESON. And it has ripened in the last two years into a complete change, you would think?

Mr. MARSH. So far as the younger spinners are concerned.

Mr. BURLESON. There is about as much cotton manufactured in the South as in New England. The president of the American (Southern) Cotton Spinners' Association was here, Mr. Parker. Do its members patronize the New York Cotton Exchange to any extent?

Mr. MARSH. Mr. Parker?

Mr. BURLESON. No; I didn't say Mr. Parker. I said the southern cotton spinners.

Mr. MARSH. Mr. Parker is one of the best customers of the New York Cotton Exchange.

Mr. BURLESON. I didn't say Mr. Parker. I said the southern spinners.

Mr. MARSH. The southern spinners certainly use the facilities to a large extent.

Mr. BURLESON. Did you grasp the meaning of that resolution they adopted when they said the conditions on the New York Exchange made it unsafe to attempt to hedge there? How do you explain that if that is true? Can it be explained, Mr. Marsh?

Mr. MARSH. It can be explained; yes.

Mr. BURLESON. How do you explain it if it is true?

Mr. MARSH. I explain it as the case of certain gentlemen wishing to force certain other gentlemen to do something they want to have them do and using severe language to that end.

Mr. BURLESON. Then you take issue with the sincerity of statement embodied in that resolution, do you?

Mr. MARSH. I certainly do.

Mr. BURLESON. What is it that fixes the price of a future contract on the New York Exchange?

Mr. MARSH. A member of the exchange ready to buy and another member ready to sell at that price.

Mr. BURLESON. It is the fact that an offer is made and accepted which fixes the price of futures?

Mr. MARSH. Yes.

Mr. BURLESON. Now, what is the basis which controls the fixing of a price by the seller? In other words, upon what is the price to sell based?

Mr. MARSH. In the case of a merchant hedging it is based on what he has paid for his cotton in the South.

Mr. BURLESON. As a matter of fact, you maintain a reserve in New York City of cotton to be delivered or tendered on contracts?

Mr. MARSH. We do not maintain a reserve. There is, under the natural operation of our by-laws and rules, a reserve there.

Mr. BURLESON. We will get to that in a minute. I want to know if there is a reserve there?

Mr. MARSH. There is a reserve there; yes.

Mr. BURLESON. As a matter of fact, is not the price of future contract based upon what is in that reserve, and does not a knowledge of what is in that reserve control and fix the price of the future contract?

Mr. MARSH. No, sir.

Mr. BURLESON. You know Mr. J. F. Maury? [After a pause.] I mean Mr. James F. Maury. He is a member of your exchange.

Mr. MARSH. Then I know him.

Mr. BURLESON. A sufficiently important member of your exchange to have been continued for a number of years as chairman of one of the important committees of the exchange.

Mr. MARSH. He is the treasurer of the exchange.

Mr. BURLESON. The present treasurer?

Mr. MARSH. Yes.

Mr. BURLESON. What do you think of this statement coming from Mr. Maury?—

The present price of our futures represents the value of the kind and grades of cotton which the buyer expects to get if he calls for delivery.

Is that true or was he mistaken about that?

Mr. MARSH. In one sense of the word it is true, and in another sense of the word it is not true. It is, of course, true that the character of cotton likely to be delivered in New York in its relation to middling cotton will have an effect on the price of futures relative to the prevailing price for middling cotton.

Mr. BURLESON. Then you accept that statement of Mr. Maury as true?

Mr. MARSH. Absolutely and completely? No, sir.

Mr. BURLESON. You do not?

Mr. MARSH. No.

Mr. BURLESON. Now, then, see if the chairman of your committee, Mr. Maury, has not stated the whole truth in that particular; see if you agree on this part of his statement:

He expects low grades and mixed lots, and so forth.

That is the man to whom cotton is tendered under the contract. He expects low grades and mixed lots.

Mr. MARSH. When?

Mr. BURLESON. When the cotton is tendered to him under the future contracts that are made on the New York exchange.

Mr. MARSH. There are no such grades in the stock in the port of New York at the present time, and so he can not possibly expect it.

Mr. BURLESON. Then, what do you think about this statement (I read from Mr. Maury's report):

If you go to any great southern market, as Memphis, New Orleans, Galveston, etc., you will see large lots of cotton of the various spinners' grades inspected and classed out in even-running lines of single grades, ready for purchase by spinners or exporters. We used to see these in New York years ago, but we do not now—it does not pay to send them here.

Mr MacColl, president of the National Association of Cotton Manufacturers, in his recent address on April 24, advises establishing a cotton exchange in New England, especially for spot cotton, to bring the planter and spinner nearer together, and to have fixed standards of grade and sworn classers. We have all these and a working system tested by years, but it is tied down to a small number of bales of mixed lots brought to New York, because they are hard to handle elsewhere.

The speculative business will come here, too, because here are the largest number of buyers and sellers, and our future prices will then be based upon spinners' cotton, as they can not be said to be now.

The cotton world is demanding of us that we must represent the real trading basis, the spot prices for spinners' cotton, not prices based on "overs," low grades, and speculation.

That is the statement made by Mr. Maury in this report which he made to the New York Cotton Exchange, "that your prices for future cotton were based on overs, low grades, and speculation, and not on spot cotton." Is that true or false? That can be answered yes or no. You understand the question, do you not?

Mr. MARSH. I don't think I do.

Mr. BURLESON. I will repeat it in order that you may understand its full meaning, because I want you to answer it, whether it is true or not. This is the report to the exchange made by Mr. Maury, and he makes this statement.

Mr. MARSH. Will you permit me to ask there what that report is. You say a report made by Mr. Maury?

Mr. BURLESON. As chairman of your classification committee, I believe you call it, which was made July 10, 1907, before the New York Exchange. It was by a committee of the New York Exchange, the "Committee on Licensing Warehouses," of which Mr. Maury was chairman. I will read it again, because I want you to understand it, and I want you to say whether it is a false statement or not. There are certain facts connected with this business upon which you are entitled to draw your conclusions, and I want to agree with you, if I can, on the facts, and you may draw your conclusions and I will draw mine from the same facts. I want to ask you now this question. I will read this again:

The cotton world is demanding of us that we must represent the real trading basis, the spot prices for spinners' cotton, not prices based on "overs," low grades, and speculation.

Now, Mr. Marsh, I want to know whether or not this statement made by Mr. Maury and four or five or six others—how many exchange members are there on that committee? It was signed by all the membership of the committee. Is it true?

Mr. MENDELBAUM. Mr. Chairman——

The CHAIRMAN. I think Mr. Marsh is entirely competent to take care of himself.

Mr. MENDELBAUM. He has stated that he was chairman of the committee on licensing warehouses, and if Mr. BURLESON would read exactly what was said there he would see that he was chairman of the committee dealing with the proposition to deal with southern warehouses.

The CHAIRMAN. I will repeat that I think Mr. Marsh is capable of taking care of himself, and I prefer to have it left with him.

Mr. MARSH. I answer that question, Mr. BURLESON, by saying that Mr. Maury was absolutely correct in saying that the world expected the New York Cotton Exchange—will you read just what that is?

Mr. BURLESON. I agree to that part of it. I agree that that is what the world is demanding of your cotton exchange. That is not the part I am after. "Spot prices for spinners' cotton, not prices based on overs, low grades, and speculation." Now, I ask you the question, Are your prices based on overs, low grades, and speculation?

Mr. MARSH. I reply that they are not, and never have been.

Mr. BURLESON. Then the statement made by Mr. Maury to that effect is not true?

Mr. MARSH. He does not say that they are.

Mr. BURLESON. What does he say, if he does not say that; what is the purport of his statement, Mr. Marsh?

Mr. MARSH. You have the statement before you.

Mr. BURLESON. I certainly have, and I have read it, and I so understand it. If he does not say that they are based on overs, low grades, and speculation, what does he say that they are based on?

Mr. MARSH. I can not see from the statement that he says they are based on anything.

Mr. BURLESON. Are you content with that answer to that question?

Mr. MARSH. I think the answer is a good answer to the question.

Mr. BURLESON. All right.

The CHAIRMAN. Let me ask you one question there. Would it be a fair inference from the statement Mr. BURLESON has read that in the judgment of Mr. Maury the prices are based on overs, low grades, and speculation?

Mr. MARSH. It would be a fair inference. If I might have an opportunity to explain——

Mr. BURLESON. I will give you an opportunity later.

Mr. MARSH. May I suggest that I am in the hands of the chairman, and not asking the privilege of the gentleman from Texas? I await the ruling of the chairman.

The CHAIRMAN. I think it would be fair to let the gentleman explain the circumstances.

Mr. MARSH. Mr. Maury is a member of the New York Cotton Exchange. He has not been in the active cotton business for many years. He is a man whom we all greatly esteem, and whose position as a member of the New York Cotton Exchange commands the highest respect on the part of his fellow members. But he has not been in the active cotton business for many years. If I may venture to say so, he is somewhat of a theorist, and he has conceived a certain opinion as to the necessity of the cotton exchange extending its license warehouse system to Southern States, and in arguing for that position he has rather taken up the current talk about the stock of cotton in the port of New York, which he is not himself handling, and which he has not handled for many years. Therefore that answers that.

Mr. BURLESON. All right. If you repudiate Mr. Maury and his committee, I ask if you know Mr. James T. Milne?

Mr. MARSH. Yes; I think I do know who he is

Mr. BURLESON. Is he a member of the New York Cotton Exchange? There are only 450 of them.

Mr. MARSH. I think not. I was not sure, but I think not. He is an unimportant person.

Mr. BURLESON. Unimportant, but has he been a member of the New York Cotton Exchange?

Mr. MARSH. That I can not answer. Does anybody here know whether Mr. Milne has been a member?

Mr. MENDLEBAUM. Yes, sir; he is.

Mr. BURLESON. All right. What do you think of a man who is a member of the New York Cotton Exchange, or has been a member of the New York Cotton Exchange, saying this? He was a member at the time that this statement was made:

Referring to yours of the 14th, asking my views as to the particular difference between grades, I am not now in touch with the business sufficiently to form an opinion. My contention is that cottons which have no standing or class in primary markets are not entitled to recognition or listing by the New York Cotton Exchange. The fact that they are listed and an arbitrary value fixed, and that a buyer of contracts must accept them at the value fixed by the exchange, a value that can not be obtained anywhere else in the world, is in my judgment a standing disgrace reflecting on the integrity or intelligence of every influential member. Whatever may be said regarding past operation of exchange business is proof that the system has given satisfaction, it is true nevertheless that the public is awakening to the fact that "heads, I win; tails, you lose" means that the profit all the time goes to one side, and is not, as it first strikes the ear, a fair deal to both.

Now, I want to know if there is any truth in that statement, made by a man who was a member of the exchange at the time it was made.

Mr. MARSH. It does not seem to me that there is any truth in it. It never has seemed so to me.

Mr. BURLESON. You said, in response to a question asked by Mr. SIMS the other day, in a hypothetical case that he put to you, attempting to show that the price of futures was affected by combination, that it was a pipe dream, or some other expression—I believe you said it was a "fish story." Now, Mr. Marsh, let me read you this, referring to a slump in cotton:

Look as critically as we may, we can find no germane weakness that would account for the sudden collapse of the market. We must look to some outside agency. It is easily found. The slump was the result of a premeditated attack and persistent onslaught by a party of New York operators, backed by ample capital and prestige in speculation.

Mr. MARSH. I should say that was a fish story, too.

Mr. BURLESON. You would say that it was not true, then, would you? That is what I want to know. When you say "a fish story," do you mean that it is not true?

Mr. NEVILLE. Might I ask whom he is quoting from?

Mr. BURLESON. You will have it in a minute. What do you think of this? Is this also a "fish story"?

If we believed that the present prices were the result of natural and legitimate causes, we would advise our friends to accept these prices and turn their cotton into money without delay. But we do not believe that the present prices are natural or legitimate. The brief experience we have had with the market this season before speculation interfered showed that consumers were willing to pay the prevailing prices and producers were willing to accept them. If business had been permitted to run its natural course, probably the increased volume of receipts would have gradually lowered prices. This would have been a natural and acceptable result. But when an outside element that knows nothing about cotton and has no interest therein except as a medium for gambling profits arbitrarily, interferes between the producer and consumer and undertakes to fix prices by sheer force of money and manipulation, we believe in suspending the rules and striking with the weapon at hand.

Mr. BURLESON (continuing). What would you say about an opinion expressed by that man about the ability of a combination to go in and drive prices up and force prices down?

Mr. MARSH. I should think he was sore.

Mr. BURLESON. Would you think it was true or false?

Mr. MARSH. I should think again that it was a "fish story."

Mr. BURLESON. What do you mean by that? Somebody may not know what you mean by that. I do not know myself; I do not know whether you mean to say that it is a false statement or not.

Mr. MARSH. An intentionally false statement?

Mr. BURLESON. I don't care whether you say it is intentionally false or not.

Mr. MARSH. I think on the face of it it is false, as a matter of fact.

Mr. BURLESON. That was a statement made on September 16, 1907, by the president of the New Orleans Cotton Exchange, W. B. Thompson. Is he a member of the New York Cotton Exchange also?

Mr. MARSH. He is not.

Mr. BURLESON. Has he ever been?

Mr. MARSH. Not to my knowledge.

Mr. BURLESON. You say, Mr. Marsh, that statement is a "fish story." Now, let me ask you this: What is the standard by which you fix differences between the various grades of cotton in the New York Cotton Exchange? That is, the standard used by your revision committee. The committee consists of 17 members, I believe.

Mr. MARSH. Yes.

Mr. BURLESON. What is the standard they use?

Mr. MARSH. I explained to the committee this morning that the revision committee of the New York Cotton Exchange as it now does its work endeavors to arrive at a fair and reasonable valuation of the different grades of cotton as compared with middling, taking into account its information as to the probable quantities of those grades in the crop——

Mr. BURLESON. Right there, is there any rule of the New York Cotton Exchange that requires them to do that?

Mr. MARSH. There is not.

Mr. BURLESON. Is there any rule of the New York Cotton Exchange which prescribes a standard to guide them in fixing the difference in value of the grades?

Mr. MARSH. There is not, sir.

Mr. BURLESON. Is it not a fact that they invariably overvalue the grades of cotton that are least in demand?

Mr. MARSH. How is that?

Mr. BURLESON. Does not the revision committee in the New York Cotton Exchange fix the values of grades not in demand higher than they should be?

Mr. MARSH. The commissioner of corporations in his last volume charges the New York——

Mr. BURLESON. I beg your pardon; I am not asking you about the report of the commissioner of corporations of New York. I am asking you as a matter of fact—well, I will get at it in another way. Is it not a fact, Mr. Marsh, that New York has ceased to be a spot market for cotton?

Mr. MARSH. Well, there are several hundred thousand bales of spot cotton dealt in in New York every year.

Mr. BURLESON. I will ask you if the number of bales of spot brought to New York is not brought there by reason of an artificial condition created by your exchange?

Mr. MARSH. I do not think they are brought there by an artificial condition. They are brought there because you can get more for them there than in some other market.

Mr. BURLESON. Is not the fact that you can get more for them there than in any other market purely an artificial condition?

Mr. MARSH. Cotton always goes where you can get the highest price for it. That is not artificial.

Mr. BURLESON. Exactly——

Mr. MARSH. If it goes to the spinner——

Mr. BURLESON. No, no; that is the very point I am trying to get at, Mr. Marsh. Is it not a fact that if it goes to New York at all to find a market that is because of an artificial condition?

Mr. MARSH. Well, sir, New York is alive and doing business, and cotton goes there. That may be artificial, or it may not; I can not answer that question.

Mr. BURLESON. Is not that one of the serious problems confronting the New York Cotton Exchange, as to how to bring cotton there, how to make cotton come there?

Mr. MARSH. It is unquestionably one of the problems we have to deal with.

Mr. BURLESON. And is it not a fact that the revision committee for years has overvalued the cotton least desirable or least in demand—overvalued it, understand—in order to draw it there?

Mr. MARSH. No, sir.

Mr. BURLESON. You say it is not?

Mr. MARSH. It is not.

Mr. BURLESON. You wrote a letter to the Atlanta Constitution, did you not, Mr. Marsh, in April, 1907? I referred to it in a speech I delivered in the House, and it is embodied in the Smith report. Of course I am not asking you to accept this report or any fact in it, but I am going to ask you about this letter. Did you write a letter?

Mr. MARSH. My impression is that I wrote two or three letters.

Mr. BURLESON. On April 26, 1907?

Mr. MARSH. I think I wrote one to the Constitution.

Mr. BURLESON. Did you not, in this letter, state that it cost somebody one dollar and a half for every bale of cotton stopped off in New York?

Mr. MARSH. Certainly.

Mr. BURLESON. And that cotton sought by the consumers, the spinners, would not come there because the spinners could outbid those who wanted it to come there?

Mr. MARSH. Will you read exactly what I said?

Mr. BURLESON. Well, I want to know if that is substantially correct.

Mr. MARSH. No, that is not substantially correct.

Mr. BURLESON (reading)—

> Years ago, in the early days of the New York Cotton Exchange, New York was a market in which large quantities of all kinds of cotton were regularly carried in stock and offered for sale to spinners precisely like stocks of dry goods and other commodities which are now even carried and sold by the New York merchants. This is no longer the case, as it was discovered some 20 years ago by New England spot brokers that they could buy cotton in the South and sell it to New England spinners at practically the same price the New York merchants had to pay for their cotton delivered in New York. In other words, these New England brokers see that every bale of cotton that comes to New York and is carried in warehouses is subject to an expense of $1.50, which is not incurred if the same cotton is shipped direct from the South to the spinner. By saving this $1.50 per bale the New England broker was able to steadily undersell the New York cotton merchant and speedily capture all the old-time business in spot cotton which formerly New York controlled. Spinners ceased to come to New York in search of cotton for their mills, and the result was that the New York market was no longer able to carry at all times the considerable stock of all kinds of cotton it formerly did. * * *
>
> Now, as has been pointed out above, every bale of cotton that comes to New York regularly costs somebody $1.50 to cover New York expenses; evidently, then, it is never possible for any character of cotton which spinners are buying freely throughout the South to come to New York at all. The mere saving of $1.50 per bale enables the spinner always to outbid New York for such cotton as he is buying freely.

Did I misquote you?

Mr. MARSH. You did, sir.

Mr. BURLESON. In what respect?

Mr. MARSH. Because you left out the phrase, "The spinners were buying freely throughout the South."

Mr. BURLESON. No; was not that what I said, that New York could not get the character of cotton that the spinners were buying? That is neither here nor there. It will not stop there, unless it costs somebody $1.50, will it?

Mr. MARSH. That is true.

Mr. BURLESON. If it does not come there somebody loses $1.50 on it, because he could get $1.50 more for it if the spinners were buying it freely in the South, more than the New York parties could pay. Is not that true?

Mr. MARSH. Yes.

Mr. BURLESON. Now I will ask you if you did not use this expression in that same address:

> One of the most serious problems of the New York Cotton Exchange has been and is to frame its contracts so that a sufficient supply of actual cotton will regularly come to New York to insure the maintenance of this reserve.

Mr. MARSH. Undoubtedly.

Mr. BURLESON. Now, then, in order to get cotton to New York, you must overvalue the grades that are not being used by the spinners or demanded by the spinners freely to the extent of that $1.50, must you not?

Mr. MARSH. No, sir.

Mr. BURLESON. Then, how do you get it there, and what makes it come there?

Mr. MARSH. Any grade of cotton correctly valued which spinners do not happen to be buying freely at a given moment and which the holders desire to sell will come to New York.

Mr. BURLESON. Will come to New York if it is going to lose somebody $1.50 to get it there?

Mr. MARSH. Certainly.

Mr. BURLESON. Cost him $1.50 more than he could get it by shipping it straight to the spinner, or south for export purposes?

Mr. MARSH. But the statement there is that the spinner is not buying that kind of cotton freely. That is the statement you have got before you, sir.

Mr. BURLESON. Is that what is termed "overs"?

Mr. MARSH. I don't know what are termed "overs."

Mr. BURLESON. Well, if there is a lot of cotton in the South and the spinners are buying freely, and there are certain grades that are not being taken by the spinners, and they leave it over and do not buy it, is not that what Mr. Maury meant in his report when he said overs?

Mr. MARSH. I don't know.

Mr. BURLESON. Well, is that what you mean by overs; is that an expression that is used on the cotton exchange?

Mr. MARSH. It is an expression that is used by cotton merchants, and the meaning of it is this: If a spot-cotton merchant has contracted to deliver to a spinner a hundred or a thousand bales of even-running cotton, an even grade, and in order to get that he has to buy from the producer 200 or 500 or 2,000 bales of all kinds of cotton, then what is bought beyond the hundred or the thousand bales of even-running cotton is called overs.

Mr. BURLESON. That which the spinners do not desire, then——

Mr. MARSH. That which the spot merchant has not contracted at the moment to deliver——

Mr. BURLESON. Has not been able to dispose of?

Mr. MARSH. Has not disposed of.

Mr. BURLESON. Is what is called overs?

Mr. MARSH. What the spot merchant has not disposed of.

Mr. BURLESON. Is that what you meant when you said, then, that cotton that was not in demand freely by spinners would find its way to New York?

Mr. MARSH. That is a part of it; yes.

Mr. BURLESON. What is the other part?

Mr. MARSH. Cotton comes to New York which is not overs.

Mr. BURLESON. Now, what is it?

Mr. MARSH. Spot merchants buy the cotton in the South and ship it to New York.

Mr. BURLESON. At a loss of $1.50 a bale?

Mr. MARSH. Certainly not.

Mr. BURLESON. For the purpose of certificating in the New York Cotton Exchange?

Mr. MARSH. And for delivering it on contracts.

Mr. BURLESON. For the purpose of certificating it for the New York Cotton Exchange?

Mr. MARSH. It must be certificated to deliver.

Mr. BURLESON. To be delivered on the New York Cotton Exchange?

Mr. MARSH. Yes.

Mr. BURLESON. On contracts for future delivery?

Mr. MARSH. Certainly.

Mr. BURLESON. Now, I want to ask you if you do not think there is extreme danger in permitting a committee of active members of the exchange to fix the difference in value between grades, in the month of November, to obtain until the following September?

Mr. MARSH. I do not approve, myself, of that method of arriving at the valuation of different grades of cotton.

Mr. BURLESON. Why don't you approve of it?

Mr. MARSH. Because I think the different grades of cotton ought to be valued on the basis of their value to the spinner.

Mr. BURLESON. Their value to the spinner is fixed by the demand of the spinner for that particular grade of cotton, is it not?

Mr. MARSH. What is that?

Mr. BURLESON. Their value to the spinner is fixed by the demand of the spinner for that particular grade; the law of supply and demand would fix the value of it, so far as the spinner was concerned; and its value would depend upon the number of bales of a particular grade and the number of spinners who wanted that grade of cotton?

Mr. MARSH. The value to the spinner is determined by what he gets out of a given grade in the shape of yarns and goods, as against what he gets out of middling.

Mr. BURLESON. You mean, you would determine it as to its spinning value, as against the value determined by commercial conditions?

Mr. MARSH. What do you mean by "commercial conditions"?

Mr. BURLESON. The amount of a particular grade, for instance, and the demand on the part of the spinners for cotton of that particular grade.

Mr. MARSH. I would fix it upon the basis of what it is worth to the spinner.

Mr. BURLESON. How many members of the exchange agree in that view?

Mr. MARSH. I never counted them.

Mr. BURLESON. As a matter of fact, there is a faction on the New York Cotton Exchange who do not concur in the view that this system in vogue is the best system of fixing differences in values of grade, is there not?

Mr. MARSH. A faction?

Mr. BURLESON. Yes.

Mr. MARSH. I do not know of any such faction on the New York Cotton Exchange.

Mr. BURLESON. Is there any division of opinion as to whether——

Mr. MARSH. Undoubtedly; there are great diversities of opinion.

Mr. BURLESON. Well, what proportion of the members of the exchange approve of the present plan for fixing the differences in value of grades?

Mr. MARSH. At the present time?

Mr. BURLESON. Yes.

Mr. MARSH. There is no way on earth of our telling that.

Mr. BURLESON. Well, take the last time you had a test of the proposition?

Mr. MARSH. We have never had a test of the proposition since it was originally adopted by a two-thirds majority.

Mr. BURLESON. Is it not a fact that the majority of the New York Cotton Exchange are now in favor, or were a couple of years ago, of changing your present rule for fixing differences between grades?

Mr. MARSH. We had no vote upon it. I have no earthly way of telling whether a majority are or are not in favor of it.

Mr. BURLESON. I will ask you if the suggestion was not made that instead of fixing differences in September and November, that one more month for fixing the differences should be added?

Mr. MARSH. Yes; that suggestion was made.

Mr. BURLESON. Was it voted upon?

Mr. MARSH. It was voted upon.

Mr. BURLESON. How was the vote?

Mr. MARSH. The vote was a tie.

Mr. BURLESON. Was not the vote on that proposition 163 in favor of the change and 123 against it, it being lost because it failed to receive two-thirds vote in its favor?

Mr. MARSH. Those are not the figures that I have in my mind.

Mr. BURLESON. The New York Journal of Commerce and Commercial Bulletin is in favor with you exchange people, is it not?

Mr. MARSH. I don't see what that has to do with it.

Mr. BURLESON. I want to get at the truth, as to whether or not they would misrepresent the New York Cotton Exchange to its prejudice.

Mr. MARSH. Well, this was a matter of history. My impression is that the chairman of this committee has the exact figures of the vote on this occasion. I heard, before I left New York, that the chairman of this committee requested that the figures of that vote should be reported to him, and if that is correct—if I am correct in that—there is no use in discussing the question, because it is a matter of fact that may be determined.

The CHAIRMAN. It may be among my papers, but I have not seen it.

Mr. NEVILLE. I have those figures here.

Mr. BURLESON. Was not that the vote, as I have given it?

Mr. MARSH. Mr. Neville said his impression was that the vote was 100 to 100, and that was my impression. But I do not attempt to carry in my memory the exact figures of all the votes which are taken on the New York Cotton Exchange.

Mr. NEVILLE. Here you are [handing witness a memorandum].

Mr. MARSH (reading). "One hundred yeas and 100 nays."

Mr. BURLESON. When was that vote taken?

Mr. MARSH. The 13th of November, 1907.

Mr. BURLESON. I referred to the vote on the 25th of January, 1907. At that time was not the proposition voted upon and was it not published in the newspapers the next morning? I refer to the vote on the 25th of January, 1907. Was there not a vote upon that proposition; was there not a vote on the elimination of certain of the quarter grades?

Mr. NEVILLE. Will you pardon my suggestion? You have read the vote. Would you mind reading what they voted on? Perhaps that would give us some light on the subject we are discussing. I think there was something else that you had in mind that was voted upon.

Mr. BURLESON. I have this data here. I clipped it from the New York paper myself. [Reading from the New York Journal of Commerce and Commercial Bulletin, January 25, 1907:]

The New York Cotton Exchange yesterday adopted by ballot the amendment proposed by the manager to its by-laws, which makes strict low middling stained the lowest grade of cotton deliverable under exchange contracts. The change will take effect in January, 1908. An amendment was also adopted eliminating all the quarter grades.

The proposed amendment changing the dates of meetings of the revision committee from the second Wednesday in September and the third Wednesday in November to the third Wednesday in September,

November, and February was not carried, considerable opposition having developed to this feature by Wall Street and spot houses, as shown by the following circular, which all members found in their mail yesterday morning:

"We, the undersigned, are of the opinion, after giving the subject considerable consideration, that it would not be advisable to have an other revision of differences between grades of cotton commencing February, 1908, as it would have an unsettling effect on the market by restricting transactions during December and January. Operators would do very little during that period, pending the uncertainty of February revision, particularly Europeans, who at times do a large business. The importers and jobbers in coffee have no fear of further revision, as the coffee exchange abolished the rule for fixing differences after it adopted the present differences between grades.

"A vote by ballot will be taken at our exchange to-morrow, Wednesday, January 23, between 11 a. m. and 2 p. m.

"We hope you will be present. If you can not, proxy can be used, which will be furnished by Henry Hentz & Co., or some of the signers of this.

"HENRY HENTZ & CO.	HENRY CLEWS & CO.
"STEPHEN M. WELD & CO.	C. B. GUEST & CO.
"FERNIE, WILSON & CO.	W. R. CRAIG & CO.
"T. M. ROBINSON & CO.	C. E. RICH & CO.
"WILLIAM RAY & CO.	LATHAM, ALEXANDER & CO.
"HOPKINS, DWIGHT & CO.	SIEGF, GRUENER & CO."
"SHEARSON, HAMMILL & CO.	

The vote on the first two amendments was overwhelmingly in favor, but the figures on the revision amendments were 163 in favor and 123 against it, it being lost because it failed to receive a two-thirds vote in its favor.

Mr. MARSH. I had forgotten that any vote was taken at that time on the proposition to increase the number of revision dates. The occasion which I had in my mind was the 13th of November, 1907, when a vote was taken on the proposition to make the number of revision dates three instead of two, and on the 13th of November, 1907, the vote was yeas 100, nays 100, which shows a very considerable change in sentiment from the vote which Mr. BURLESON reads.

Mr. BURLESON. What is the date of that?

Mr. MARSH. November 13, 1907.

Mr. BURLESON. This was January, 1907. Is it or is it not a fact that vote took place?

Mr. MARSH. I don't remember it myself, sir. I presume it did, from the fact that you have a report from a reputable paper that it did take place.

Mr. BURLESON. I will ask you what influences the members; is there any pressure brought to bear upon the members to vote a particular way upon this amendment?

Mr. MARSH. Not in the least.

Mr. BURLESON. Is there a vestige of truth in this, or is it a "fish story":

"The people who believe in reforming the New York contract have the votes," said one prominent member, "but the old machine has the organization." There has been a great awakening among the members, but at the same time the people with business to give out to other members usually get what they want, and the machine may win again, although it is to be remembered that the last annual election was not a victory for the revision of November, 1906.

Is there any truth in that statement, taken from the same newspaper?

Mr. MARSH. Not a vestige of truth.

Mr. BURLESON. No such influences are brought to bear by members of the exchange who deal in large volumes of cotton or who deal in large transactions on the cotton exchange, on these brokers who have a vote upon the proposition, suggesting that they will not give them their business unless they vote in a particular way?

Mr. MARSH. Not a vestige or iota of truth in it.

Mr. BURLESON. I am glad to hear you say so. [Reading further:]

It should not be overlooked, however, that a few very strong and influential firms, especially if they have representatives on the revision committee, may, in one way or another, create a sentiment that must necessarily influence the committee in their action. For instance, a large spot-cotton firm, which also operates extensively in futures, might through its extensive brokerage payments easily influence some members of the exchange serving on the revision committee who were favored with its patronage. Indeed, it is alleged that precisely this thing has happened in New York, and moreover that such large operators have thus been able to influence the election of boards of managers and through them the appointment of revision committees.

What would you say, that that was true or false?

Mr. MARSH. I should say that that was an admirable illustration of what I said this morning to the effect that the report of the Commissioner of Corporations is so lacking in sound and exact knowledge of the facts and in sound and discriminating deductions from the facts that it carries no intellectual authority with any thinking member of the New York Cotton Exchange.

Mr. BURLESON. Now, one more question, and I will be through. You have heard the description of the condition or a state of facts read by me from Mr. Thompson. I want to ask you this question: Can such a condition of the market for futures in New York as charged by Mr. Thompson be brought about by the use of money or independent of current conditions as to supply and demand?

Mr. MARSH. It absolutely can not be brought about.

Mr. SIMS. Then Mr. Thompson's statement is not true?

Mr. MARSH. It is not true.

Mr. BURLESON. Not only not true as a fact but impossible of performance?

Mr. MARSH. Yes.

Mr. MENDELBAUM. You may have heard the statement of Senator Smith of South Carolina who came here and made what I considered a stump speech, in which he claimed that all the members of the New York Cotton Exchange stand together to rob the outsider, and then consider the line of questions propounded by Mr. Burleson, who tries to show the different factions that exist on the New York Cotton Exchange, can they happen at the same time or would that be possible?

Mr. MARSH. Of course Senator Smith's statement was made without exact knowledge of the facts, and he certainly would not have made it if he had been acquainted with the facts firsthand.

Mr. BURLESON. Bearing directly upon what Mr. Mendelbaum said, you know Mr. Scales?

Mr. MARSH. Yes.

Mr. BURLESON. He was at one time a member of the exchange, was he not?

Mr. MARSH. I don't think so. I don't think he was.

Mr. HUBBARD. I think he was one of them.

Mr. NEVILLE. I don't know.

Mr. MARSH. He is not now.

Mr. HUBBARD. E. G. Scales was a member.

Mr. NEVILLE. Is that the letter the chairman read from the rostrum?

Mr. BURLESON. No; this is another one. [Reading:]

The cotton exchange is a good thing for the producer if their rules are fair, but as it stands to-day it would be best to put them out of existence, as they have their rules so that they can get the country in and then skin them.

Mr. MARSH. Is Mr. Scales the country?

Mr. NEVILLE. Mr. Chairman, I am no lawyer, but we are trying to get a record before this committee in proper shape and personal allusions without the appearance of the witness to be cross-examined is something that you have studiously avoided up to now, and I consider that in all fairness the admission of such letters as that in the testimony is contrary to the policy that you adopted when you started this investigation.

The CHAIRMAN. As I understand it, Mr. BURLESON only used that expression as a postulate for a question. If there is any other present it does not appear.

Mr. NEVILLE. I move it be stricken out, because if Mr. Scales had that view he ought to be here for cross-examination.

Mr. BURLESON. In view of that I will read the entire letter. [Reading:]

THE WALDORF-ASTORIA,
New York, February 14, 1910.

Hon. A. S. BURLESON,
Washington, D. C.

DEAR SIR: The inclosed copy of a letter I wrote explains itself. If you can force the New York Cotton Exchange to change its rules so that the spinner can buy a certain grade of cotton on the exchange and get what he buys at once instead of something else, you will have done the whole South the greatest service you could possibly do.

While the New York future contracts sentimentally regulate the price of cotton in the South, that contract is so unfair to those who buy it, by forcing them to accept something that they don't want, that it is a menace to legitimate trade and has the effect of keeping prices unnaturally low. If changed as I suggest, it will advance the price of spot cotton and then cotton buyers and spinners will have a hedge contract closely related to spot cotton. I live in Dallas, am familiar with the future markets, and experience has shown me that the change I suggest is what is needed. The cotton exchange is a good thing for the producer if their rules are fair, but as it stands to-day it would be best to put them out of existence, as they have their rules so that they can get the country in and then skin them. If I could talk with you personally, I could give you some valuable pointers. I am a planter and raise on my Texas farms about 1,000 bales of cotton each year. I want the exchange, if run on a fair basis; otherwise want it closed up.

Judge RUFUS HARDY, Senators GORE, CULBERSON, and BAILEY all know me personally.

H. L. SCALES,
Care of Waldorf Hotel.

I never saw him.

Mr. NEVILLE. That is another Mr. Scales altogether. I don't think he has ever been a member of our exchange. Mr. Hubbard tells me he thinks Mr. E. G. Scales was a member. I move that that letter be struck from the record. If he has such an interest in the matter as he says he has he would be here to-day and not writing a letter.

The CHAIRMAN. I can hardly recognize your right to make a motion.

LEAVE OF ABSENCE.

Mr. J. M. C. SMITH, by unanimous consent, was granted leave of absence indefinitely, on account of important business.

SALE OF FUTURES IN COTTON.

The SPEAKER pro tempore. The Clerk will read the bill under the five-minute rule.

Mr. MANN. Mr. Speaker, a parliamentary inquiry. Has the general debate closed?

The SPEAKER pro tempore. Yes, sir.

Mr. MANN. Mr. Speaker, it seems to me there ought to be a little larger membership in the House to consider the bill, and I therefore make the point that there is no quorum present.

ADJOURNMENT.

Mr. BEALL of Texas. Mr. Speaker, it is apparent there is no quorum present, and therefore I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 15 minutes p. m.) the House adjourned until Monday, July 15, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Acting Secretary of Commerce and Labor, transmitting a report by Commercial Agent Ralph M. Odell, containing result of his investigations of the trade in cotton goods in Turkey (H. Doc. No. 871), was taken from the Speaker's table, referred to the Committee on Ways and Means, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. McGILLICUDDY, from the Committee on the Judiciary, to which was referred the bill (H. R. 20194) to provide payment of rewards for information as to violation of antitrust act of 1890, and amendments thereto, and of the various interstate-commerce acts, and for other purposes, reported the same with amendment, accompanied by a report (No. 993), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 25073) to authorize the construction of a bridge across the Mississippi River between Moline, Ill., and Bettendorf, Iowa, reported the same with amendment, accompanied by a report (No. 994), which said bill and report were referred to the House Calendar.

Mr. LEWIS, from the Committee on Military Affairs, to which was referred the bill (S. 6354) to perpetuate and preserve Fort McHenry and the grounds connected therewith as a Government reservation under the control of the Secretary of War and to authorize its partial use as a museum of historic relics, reported the same without amendment, accompanied by a report (No. 995), which said bill and report were referred to the House Calendar.

Mr. SIMS, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 7195) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River, reported the same without amendment, accompanied by a report (No. 996), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BOOHER: A bill (H. R. 25749) to provide a permanent supply of coal for the use of the United States Navy and other governmental purposes, to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes; to the Committee on the Territories.

By Mr. AYRES: A bill (H. R. 25750) making an appropriation for the deepening of the channel known as the Bronx River, to reduce the velocity of the tides in said river and its connecting channels, and for other purposes; to the Committee on Rivers and Harbors.

By Mr. BORLAND: A bill (H. R. 25751) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBINSON: A bill (H. R. 25752) to amend sections 2380 and 2381, Revised Statutes of the United States; to the Committee on the Public Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ESTOPINAL: A bill (H. R. 25753) for the relief of Georgeanna A. Brannan, dependent mother of John Douglas Malone; to the Committee on Claims.

By Mr. GOEKE: A bill (H. R. 25754) to remove the charge of desertion from the record of Jeremiah Swisshelm; to the Committee on Military Affairs.

By Mr. HARTMAN: A bill (H. R. 25755) granting a pension to Ann M. Hammer; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 25756) for the relief of John Davis; to the Committee on Naval Affairs.

By Mr. LA FOLLETTE: A bill (H. R. 25757) granting a pension to Edward C. McDowell; to the Committee on Pensions.

Also, a bill (H. R. 25758) granting an increase of pension to Marmaduke N. Jeffreys; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 25759) for the relief of Leander Parker; to the Committee on Military Affairs.

Also, a bill (H. R. 25760) granting an increase of pension to John W. Pettee; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Karl C. White and 7 others, of Hebron, Ohio, against passage of a parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Memorial of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

By Mr. ESCH: Memorial of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Grand Lodge Free and Accepted Masons, of Milwaukee, Wis., favoring adoption of joint resolution 291, relative to insignia on tombstones in national cemeteries; to the Committee on Military Affairs.

By Mr. ESTOPINAL: Papers to accompany bill for the relief of Georgianna A. Brannan, dependent mother of John D. Malone; to the Committee on Claims.

By Mr. HARTMAN: Petition of the Brotherhood of Railroad Trainmen, United Lodge, No. 174, of Altoona, Pa., favoring passage of the workmen's compensation bill (H. R. 20487); to the Committee on the Judiciary.

By Mr. HUGHES of New Jersey: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. SABATH: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America and Tow sw Wojcrecka Bi M. S. T. Society, No. 64, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Richmond Chamber of Commerce, of Richmond, Va., favoring a revision of our currency system; to the Committee on Banking and Currency.

By Mr. TILSON: Petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

By Mr. UNDERHILL: Memorial of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in the patent laws; to the Committee on Patents.

SENATE.

MONDAY, *July 15, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of the proceedings of the legislative day of Saturday, July 6, 1912, when, on request of Mr. OVERMAN and by unanimous consent, the further reading was dispensed with and the Journal was approved.

COTTON GOODS IN TURKEY (H. DOC. NO. 871).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent Ralph M. Odell, containing the result of his investigations of the trade in cotton goods in Turkey, which,

with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 1152) granting an increase of pension to Mary Bradford Crowninshield.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 220) to grant American citizenship to Eugene Prince.

The message further announced that the House had passed a concurrent resolution (No. 59) providing that the action of the Vice President and President of the Senate and Speaker of the House of Representatives in signing the enrolled bill (H. R. 23515) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows and dependent relatives of such soldiers and sailors be rescinded, and that the Clerk be directed to reenroll the bill, and that in the reenrollment he be authorized to amend the title, etc., in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and they were thereupon signed by the President pro tempore:

S. 4913. An act to provide for the payment of drainage assessments on Indian lands in Oklahoma; and

S. 7015. An act to provide American registry for the steamer *Damara.*

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented petitions of the congregation of New Castle Church, of New Castle; Rose Hill Sunday School, of Rose Hill; and of the Elsmere Sunday School, of Wilmington, in the State of Delaware; and of the congregations of the Janes Methodist Episcopal Church, of Germantown; of the Zoar Methodist Episcopal Church, of Philadelphia; and of the Trinity Methodist Episcopal Church of Germantown, of Philadelphia, in the State of Pennsylvania, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which were referred to the Committee on the Judiciary.

He also presented a memorial signed by the presidents of 26 railroads, remonstrating against the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

Mr. CULLOM presented petitions of the Manufacturers and Shippers' Association of Rockford; of Local Union No. 4, International Steel and Copper Plate Printers' Union of North America, of Chicago; of Typographical Union No. 215, of Decatur; and of Local Lodge No. 575, International Boiler Makers and Iron-Ship Builders and Helpers of America, of Villa Grove, all in the State of Illinois, praying for the passage of the so-called injunction-limitation bill, which were referred to the Committee on the Judiciary.

He also presented a petition of the Trades and Labor Assembly of Belleville, Ill., praying for the enactment of legislation providing for the better protection of American seamen, which was referred to the Committee on Commerce.

He also presented the petition of W. B. Lloyd, secretary of the Illinois State Horticultural Society, of Kinmundy, Ill., praying for the enactment of legislation to establish a standard barrel and standard grades for apples when packed in barrels, which was referred to the Committee on Interstate Commerce.

He also presented a memorial of sundry citizens of Alton, Ill., remonstrating against the enactment of legislation prohibiting the fixing of resale prices on patented goods, which was referred to the Committee on Patents.

He also presented a petition of sundry citizens of Chicago, Ill., praying for the establishment of a parcel-post system, which was referred to the Committee on Post Offices and Post Roads.

He also presented memorials of sundry citizens of Chicago, Ill., remonstrating against the enactment of legislation to increase the postal rates on printed matter, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of members of the Association of Commerce, of Chicago, Ill., remonstrating against the repeal of the law providing for competition among architects for all Federal buildings, which was referred to the Committee on Appropriations.

Mr. SMITH of Michigan presented a petition of sundry citizens of Wallace, Mich., praying for the establishment of a parcel-post system, which was referred to the Committee on Post Offices and Post Roads.

He also presented memorials signed by 1,280 citizens of Detroit, Mich., and memorials signed by 1,012 citizens of Michigan, remonstrating against the establishment of a department of public health, which were ordered to lie on the table.

Mr. ASHURST. I present a resolution adopted by the Coconino Cattle Raisers' Association of Arizona, which I ask may be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the resolution was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Resolved, That this association is opposed to the changing of the lines of the forest reserve of the Coconino and Tusayan Forest Reservations as now established by the Department of Agriculture, and petition our Senators and Congressmen to use all honorable means to prevent the lines of said reservations being changed; that we favor the lease law of the Government domain, now pending in Congress, and strongly protest against any changes of the lines of the reservations mentioned until said law is passed.

Mr. SANDERS. On Saturday last I presented a memorial of the Anti-Third Term League, with the request that it be printed, but it was not understood at the time. I wish again to present the memorial now with that request.

The PRESIDENT pro tempore. That it be printed in the RECORD?

Mr. SANDERS. That it be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

MEMORIAL OF THE NATIONAL ANTI-THIRD TERM LEAGUE.

(By its president, Henry W. Blair.)

WASHINGTON, D. C.

To the Congress of the United States:

Respectfully represents your petitioner, president of the National Anti-Third Term League, of Washington, D. C.

Believing that the framers of the Constitution acted wisely in providing after long and careful deliberation that the term of the President should be for the period of four years, and that the unwritten law which prohibits any person to hold that office a third term should be made a part of the written Constitution, and also believing that there should be no other change therein touching the presidential term, I do respectfully petition that during the present session you will submit to the States for their action a joint resolution proposing to amend Article II of the Constitution, so as to provide that—

"No person who has held the office of President for two terms, or for any part of two terms, whether consecutive or otherwise, shall thereafter be eligible to be chosen to the office of President or Vice President."

Permit me to respectfully ask attention to the following considerations:

1. It should be in the power of the people to secure the services of a good President for two terms or not exceeding eight years in all.

2. There is danger that the Executive power would become too formidable to the other departments of the Government and to the liberties of the people if concentrated in even the most able and patriotic hands for more than two terms. Thus in time the best President may become the most dangerous to the public welfare, for we must never forget that it has been the great struggle of the ages to rescue liberty from the grasp of Executive power.

3. The hope of one reelection will stimulate the President to the wisest and most patriotic endeavor during his first term, whether really safe and fit for the office or otherwise.

4. During his first term the policies and measures and the official organization of administration will naturally be so fashioned that it will be difficult for even an unpatriotic Executive essentially to change them during a second term.

5. Frequent elections, or the power to recall or reelect officials, are essential to the preservation of our institutions. Impeachment is no practicable means of removing bad high officials, and the people ought not to be compelled to endure the burdens and perils of an incompetent or dangerous Chief Magistrate or of a party or policy which they disapprove for more than a single term of not exceeding four years.

6. Too frequent elections are burdensome to the people and produce weariness and indifference in the exercise of the primary duties of sovereignty. At the same time it must be remembered that public order and business stability can only be preserved by elections of such frequency as will secure the immediate removal of bad officials and the repeal of unwise laws.

7. It is difficult and often impossible to formulate and enact into law a wise administrative policy in a single term of four years, while two terms are ample for that purpose; on the other hand, six years of uncontrolled exercise of irresponsible Executive power by a bad, an obstinate, or an incompetent man might be more dangerous than even three terms of four years each, held subject to recall or reelection.

8. There is no precedent, no test of experience in State or Nation for the restriction of the Executive to a single term, long or short, except in the constitution of the Confederate States, which would favor a shorter rather than a longer term.

It is said that eminent statesmen of the Southern Confederacy attributed its fall largely to the six-year term of its Executive, owing to the belief that it could not survive two years more of the measures and policies of the President.

Washington, Jefferson, Jackson, Lincoln, McKinley, Roosevelt, and other Presidents are on record in solemn disapproval of more than two terms, either "in form or substance," for themselves or any other person, and such was the expressed personal judgment and preference of President Grant, who yielded his own to others.

9. A third term initiates revolution in our form of government, leading directly through anarchy to monarchy and despotism. The war of 1861 was waged to divide our country into but two sections, both republics. The third term will insure the utter dissolution of the Union and interminable war before order is restored under a monarch or czar.

There is no evidence that the single term of more than four years would be any better, for the increase of consolidated Executive power would be far greater, proportionately, than the increased length of the

term, and in practical experience might prove more harmful than many terms subject to recall every four years.

10. We hold the pledge to a single term, with no specification as to its length, which might be for a year or for life, to be an evasion of the most serious problem in statesmanship involved in the pending presidential election, to wit: Shall we now initiate a revolution in our form of government?

In fact, we already have a powerful monarchist party, which should be so named, based upon a thoroughly organized aristocratic plutocracy, well educated and trained for the last 30 years in all the tastes, forms, and sentiments of foreign countries, seeking titles and social connections abroad rather than at home, until now, both male and female, they are Europeans rather than Americans, and, as a class, with the hope that in the new order of things which they strive for they may have the status of a recognized nobility, they are threatening the peace, if not the existence of the Republic, by their vigorous support, financial, social, and otherwise, of a turbulent aspirant for a third presidential term, which, like the Napoleonic precedents of the first and second empires, is the sure forerunner of an avowed monarchy, unless indeed he, with his avowed worshipers, should prefer to found a theocracy.

Like Absolom, and every other historic demagogue from the dawn of time, he plays his part as a specialist in righteousness, and the only real hope of the people.

And with the monarchists are the most powerful and dangerous monopolies of this or any country.

It is a combination of the present demagogue, the aristocrat, the plutocrat, and the coming despot against our republican form of government. If they take the third term, they will capture the citadel. Then—

"Of what avail
Are plow and sail
If freedom fail?"

Remember 1776 and 1861.

11. The people of this country will ratify no amendment to the Constitution which lengthens by 1 inch the already dangerously "far-flung" executive power; and to attempt it or to risk it by a change of uncertain effect, like the single term, whether long or short, or by a plain first step in revolution like the third term will be to throw away a golden opportunity to render forever impossible the constant recurrence of these desperate attempts of mad ambition to change our Republic into a monarchy, a despotism, or worse. The War of the Revolution was fought to found this Nation and the Civil War to preserve it.

Why throw away the fruits of both?

For these reasons I believe that the term of four years, fixed by the fathers and working well in practice for a century and a quarter, with limitation of eligibility to not exceeding eight years, is the best which can be adopted. And your petitioner will ever pray.

HENRY W. BLAIR,
President of the National Anti-Third Term League,
Colorado Building, Washington, D. C.

THE NATIONAL ANTI-THIRD TERM LEAGUE.

[From the CONGRESSIONAL RECORD of June 3, 1912.]

Mr. GALLINGER. On the 16th of May last I presented a petition from ex-Senator Henry W. Blair, president of the Anti-Third Term League, which was printed in the RECORD at my request. I have a brief paper from ex-Senator Blair somewhat explanatory of that petition, and I make the same request—that it may be printed in the RECORD.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered

The matter referred to was ordered to lie on the table and to be printed in the RECORD as follows:

"We have organized the National Anti-Third Term League because we believe the integrity of our form of government and the preservation of our free institutions are seriously threatened by the proposed candidacy of Mr. Roosevelt for a third term.

"To be sure, he is the only person in the country who could possibly be such a candidate at the present time, for he is the only one who has had a second term. But our special opposition is not to him as a man or on account of the principles or want of principles which he may represent, but to the third term itself.

"We protest against the indorsement of the third term, which is implied by the election of delegates pledged to vote for him as a candidate in the national convention.

"We protest that his name ought not be considered at all in that convention, because he is the third term itself.

"We do not believe that the Republican Party in any State designs to disregard the unwritten law which prohibits either the 'form or the substance' of the third term of the Presidency to any man, just the same 'form and substance' of a third term as that which Mr. Roosevelt renounced and denounced in the most solemn manner.

"We propose to help him redeem that pledge."

This is just what we are and mean.

THE NATIONAL ANTI-THIRD TERM LEAGUE,
HENRY W. BLAIR, *President.*

Organized May 6, 1912.
Headquarters: Rooms 808–809 Colorado Building.

PLATFORM.

No third term, either "in form or substance," for any man as President of the United States.

INDORSERS.

On the 4th of March next I shall have served three and a half years, and these three and a half years constitute my first term.

The wise custom which limits the President to two terms regards the substance and not the form, and under no circumstances will I be a candidate for or accept another nomination.

THEODORE ROOSEVELT.

(After his election to the Presidency November, 1904.)

Three years afterwards he said he had not changed and should not change.

Roosevelt is not eligible, and has no moral or legal right to be a candidate at all. He can not be President again for he has had two terms. He has said so himself. There are millions of Republicans who will never vote for him as President again. It is against the unwritten law, which is the strongest of all laws. No candidate or faction or convention can, and the people never will, repeal it. Roosevelt is impossible. George Washington or Abraham Lincoln if now running for President would be defeated. I certainly for one would vote against both, and I am among the most conservative and hidebound of Republicans. I helped to organize the party and have fought for it through thick and thin, both in war and in peace. A third term is revolution. It leads first to anarchy and then to monarchy and slavery, straight to the disfranchisement of both races and the practical reenslavement of the colored man.

It is the first step that costs. Revolutions never go backward.

The third term makes the United States first a Mexico and then a Russia.

But there will be no third term. Mark that.

Mr. GALLINGER presented a petition of Typographical Union No. 152, of Manchester, N. H., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. TOWNSEND, from the Committee on Claims, to which was referred the bill (S. 6408) for the relief of Margaret McQuade, reported it with an amendment and submitted a report (No. 919) thereon.

Mr. BRADLEY, from the Committee on Claims, to which were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were postponed indefinitely:

H. R. 15594. An act for the relief of the heirs of those killed by the explosion at Fort Lafayette, February 19, 1903 (Rept. No. 917); and

H. R. 22863. An act for the relief of H. C. Owens (Rept. No. 918).

Mr. BRYAN, from the Committee on Claims, to which was referred the bill (H. R. 24699) extending the time for the repayment of certain war-revenue taxes erroneously collected, reported it without amendment.

Mr. CUMMINS, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 92) providing for the purchase of the home of Thomas Jefferson, at Monticello, Va., reported it without amendment.

Mr. CLAPP, from the Committee on Interstate Commerce, to which was referred the bill (S. 7274) to amend an act entitled "An act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases," approved August 8, 1890, asked to be discharged from its further consideration and that it be referred to the Committee on the Judiciary, which was agreed to.

MISSISSIPPI RIVER BRIDGE AT MEMPHIS, TENN.

Mr. MARTIN of Virginia. From the Committee on Commerce I report back favorably, with an amendment, the bill (H. R. 17239) to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was to add at the end of section 1 the following proviso:

Provided further, That the said Arkansas & Memphis Railway Bridge & Terminal Co. shall not be required to construct the approaches to said bridge necessary to adapt the same as a highway for trolley car, vehicles, travelers on foot, and other like traffic, until there shall be paid, or payment thereof secured to its satisfaction, the sum of $50,000 by parties locally interested in such highway feature of said bridge.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

IMMIGRATION STATION AT BALTIMORE, MD.

Mr. LODGE. From the Committee on Immigration, I report back favorably, without amendment, the bill (H. R. 20501) to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof, and I ask for its present consideration, as it is important that the measure should be passed now.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. From the Committee on Appropriations, I report back, with sundry amendments, the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, and I submit a report (No. 915) thereon.

I wish to give notice I will endeavor to call up the bill early to-morrow, and that there will be printed copies of the bill and report at the desk within an hour or two. I hope Senators will give it such attention as they wish, so that we may proceed with the bill to-morrow.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

AMERICAN STEAMER "DOROTHY."

Mr. OVERMAN. From the Committee on Claims I report back favorably with amendments the bill (H. R. 22111) for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy*, and I ask unanimous consent for its present consideration.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments were, on page 1, line 9, to strike out the words "for the eastern district of Virginia, the district in which said collision occurred" and insert "in the district in which suit shall be filed by the United States to recover damages and losses by said collision"; on page 2, line 1, to strike out the words "any suits brought" and in lieu to insert "the whole controversy"; on page 2, line 4, before the word "against," to insert the words "either for or"; and to strike out all of section 2 and renumber section 3 to stand as section 2, so as to make the bill read:

Be it enacted, etc., That the claim of the Delaware Transportation Co., owner of the American steamer Dorothy, injured in collision with the United States steam collier Sterling in Chesapeake Bay on December 3, 1911, for and on account of the damage to said steamship Dorothy by reason of said collision, may be submitted to the United States court in the district in which suit shall be filed by the United States to recover damages and losses by said collision, under and in compliance with the rules of said court sitting as a court of admiralty; and the said court shall have jurisdiction to hear and determine the whole controversy and to enter a judgment or decree for the amount of the damages sustained by reason of said collision, if any shall be found to be due, either for or against the United States, upon the same principles and measure of liability, with costs as in like cases in admiralty between private parties, and with the same rights of appeal.

SEC. 2. That should damages be found to be due the said Delaware Transportation Co., as owner of said steamship Dorothy, the amount of the final decree therefor shall be paid out of any money in the United States Treasury not otherwise appropriated: *Provided*, That said suit shall be brought and commenced within four months from the date of the passage of this act

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. OVERMAN. I report back adversely from the same committee the bill (S. 5221) for the relief of the Delaware Transportation Co., owner of American steamer *Dorothy*, and I move that it be indefinitely postponed.

The motion was agreed to.

OBSERVANCE OF MEMORIAL DAY.

Mr. DU PONT. From the Committee on Military Affairs I report back the joint resolution (H. J. Res. 321) relative to the observance of Memorial Day, and I submit a report (No. 916) thereon, which I ask may be read.

The PRESIDENT pro tempore. Without objection, the report will be read.

The Secretary read the report, as follows:

[Senate Report No. 916. Sixty-second Congress, second session.]

OBSERVANCE OF MEMORIAL DAY.

Mr. DU PONT, from the Committee on Military Affairs, submitted the following report, to accompany H. J. Res. 321.

The Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 321) relative to observance of Memorial Day, having considered the same, reports that, so far as all military posts and stations are concerned, paragraph 449 of the Army Regulations already provides for a much more elaborate and fitting observance of Memorial Day than is provided for by the terms of the joint resolution.

In view of the fact that this joint resolution applies also to all Government establishments under the control of the Navy, as well as to customhouses, quarantine stations, post offices, Indian schools, and other departments of the Government, it is suggested that the resolution be also considered by other committees of the Senate.

Attention is directed to the letter of the Assistant Secretary of War, hereto appended:

WAR DEPARTMENT,
Washington, July 8, 1912.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
United States Senate.

SIR: Replying to your communication of the 3d instant inclosing a copy of House joint resolution 321, in relation to observance of Memorial Day (passed by the House of Representatives July 1, 1912), and requesting to be furnished with any information relative to the measure in the possession of the War Department, I have the honor to inform you that we have nothing on file with reference to this resolution.

I will state, however, that Memorial Day is observed throughout the military service in accordance with paragraph 449, Army Regulations, which is based on joint resolution No. 6, February 23, 1887 (24 Stat. L., 644). This paragraph reads as follows:

"449. On Memorial Day, May 30, at all Army posts and stations, the national flag will be displayed at half-staff from sunrise till midday, and immediately before noon the band or field music will play some appropriate air, and the national salute of 21 guns will be fired at 12 m. at all posts and stations provided with artillery. At the conclusion of this memorial tribute, at noon, the flag will be hoisted to the top of the staff and will remain there until sunset. When hoisted to the top of the staff the flag will be saluted by playing one or more patriotic airs.

"In this way fitting testimonial of respect for the heroic dead and honor to their patriotic devotion will be appropriately rendered."

This seems to provide for a more elaborate testimonial than would the joint resolution now before your committee.

The proposed resolution provides for lowering the flag to half-staff from 12 m. to 12.05 p. m., while the present Army Regulations lowers it from sunrise to 12 m., fires the national salute, plays appropriate airs, etc.

Very respectfully,

ROBERT SHAW OLIVER,
Assistant Secretary of War.

The PRESIDENT pro tempore. What is the Senator's request concerning the joint resolution?

Mr. DU PONT. Other committees would have control of different parts of the joint resolution as it relates to three or four departments of the Government—the Navy Department, the Interior Department, the Post Office Department, the Quarantine Service, and so forth.

The PRESIDENT pro tempore. Will the Senator suggest to what committee or committees the joint resolution ought to go?

Mr. DU PONT. I would suggest that it first be referred to the Committee on Finance. I will state that so far as the Committee on Military Affairs is concerned it is entirely unnecessary, as the existing Army Regulations provide for much more elaborate observance of Memorial Day than the joint resolution calls for.

The PRESIDENT pro tempore. The Senator from Delaware asks that the Committee on Military Affairs be relieved from the further consideration of the joint resolution. Is there objection? The Chair hears none. Without objection, the joint resolution will lie on the table for the present.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 7280) granting an increase of pension to Clara V. King; to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 7281) granting an increase of pension to Henry H. Woodward (with accompanying paper); to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7282) granting an increase of pension to Carrie Hitchcock (with accompanying paper); and

A bill (S. 7283) granting a pension to Sarah A. Mitchell (with accompanying paper); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 7284) granting an increase of pension to Emanuel Sandusky (with accompanying papers);

A bill (S. 7285) granting an increase of pension to Harvey Key (with accompanying papers); and

(By request): A bill (S. 7286) granting a pension to Mary K. Munoz; to the Committee on Pensions.

A bill (S. 7287) for the relief of the estate of William Claunch, deceased; to the Committee on Claims.

By Mr. FOSTER:

A bill (S. 7288) to authorize the transfer of First Lieut. Sydney Smith from the retired to the active list of the Army; to the Committee on Military Affairs.

By Mr. LODGE:

A bill (S. 7289) authorizing the War Department to test upon ships a device for hoisting and lowering lifeboats at sea; to the Committee on Commerce.

By Mr. ASHURST:

A bill (S. 7290) repealing the act approved March 3, 1911, being "An act to authorize the Greeley-Arizona Irrigation Co. to build a dam across the Colorado River at or near Head Gate Rock, near Parker, in Yuma County, Ariz."; to the Committee on Indian Affairs.

A bill (S. 7291) for the relief of the heirs of John W. Johnson (with accompanying paper); to the Committee on Public Lands.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SWANSON submitted an amendment proposing to appropriate $80,000 for additional equipment and supplies at the Geological Survey photolithographic plant, etc., intended to be

proposed by him to the sundry civil appropriation bill (H. R. 25069), which was ordered to lie on the table and to be printed.

Mr. CATRON submitted an amendment relative to surveys and resurveys of public lands, etc., intended to be proposed by him to the sundry civil appropriation bill (H. R. 25069), which was ordered to lie on the table and to be printed.

Mr. CLARK of Wyoming (for Mr. GUGGENHEIM) submitted an amendment authorizing the Commissioners of the District of Columbia to strike from the plan of permanent construction of highways for the District of Columbia Crittenden Street NW., etc., intended to be proposed to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

THE PANAMA CANAL.

Mr. PERCY submitted two amendments intended to be proposed by him to the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone, which were ordered to lie on the table and to be printed.

OMNIBUS CLAIMS BILL.

Mr. BACON submitted two amendments intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which were ordered to be printed and, with the accompanying papers, ordered to lie on the table.

Mr. MARTINE of New Jersey (for Mr. O'GORMAN) submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to be printed and, with the accompanying paper, ordered to lie on the table.

He also (for Mr. O'GORMAN) submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to lie on the table and to be printed.

IMPROVEMENT OF THE HUDSON RIVER.

Mr. BURTON submitted the following resolution (S. Res. 358), which was read and referred to the Committee on Printing:

Resolved, That there be printed 300 copies of House of Representatives Document No. 719, Sixty-first Congress, second session, together with Senate resolution No. 323, Sixty-second Congress, second session, and the response of Hon. Henry L. Stimson, Secretary of War, thereto and inclosures transmitted therewith.

REPORT OF THE NATIONAL MONETARY COMMISSION.

Mr. BURTON submitted the following resolution (S. Res. 359), which was read and referred to the Committee on Printing:

Resolved, That there be printed 1,000 copies of Senate Document No. 243, being the final report of the National Monetary Commission.

SUPPLY BILLS (S. DOC. NO. 872).

Mr. WILLIAMS. Mr. President, I gave notice upon Saturday last that I would present, under leave previously granted by the Senate, a certain paper holding, in my opinion, the constitutional right of the House of Representatives to originate supply bills. I now present it for publication in the RECORD.

The PRESIDENT pro tempore. The Senator from Mississippi desires to have it printed in the RECORD?

Mr. WILLIAMS. In the RECORD.

The PRESIDENT pro tempore. And also as a public document?

Mr. WILLIAMS. I have not had unanimous consent for the latter purpose yet, but I will ask now for unanimous consent to print it as a Senate document.

Mr. SMOOT. I did not hear the Senator's statement as to what the report is.

Mr. WILLIAMS. Some three, four, or five weeks ago, I do not remember how long, the Senator from Massachusetts [Mr. LODGE], the Senator from Wyoming [Mr. WARREN], and I had some little joint debate upon the floor about the constitutional right of the House of Representatives to originate supply bills, the contention on my side being that it was derived from the Constitution and upon the other that it was a mere practice, and was not derived from the Constitution.

I announced at that time that I did not have the books about me to go into it fully, but that, with the permission of the Senate, I would later put in the RECORD a statement of my views as to the authority. It was then agreed between the Senator from Wyoming and the Senator from Massachusetts and me that when I got ready to do that I would give them some notice. I gave the notice last Saturday, saying that I would present it to-day. I have already the permission of the Senate to insert it in the RECORD. I am asking now, if there be no objection, to have it printed as a Senate document.

Mr. SMOOT. I have no objection to the article going into the RECORD, but I wish to ask the Senator this question: Is there anything in the report outside of what was then said on the floor of the Senate?

Mr. LODGE. Oh, yes.

Mr. SMOOT. Has the Senator added anything to what was said in the Senate?

Mr. WILLIAMS. Yes; it is all new.

Mr. LODGE. The purpose was to bring in some new matter and show the authority.

Mr. SMOOT. I asked the question because I was going to object to any document being printed if it was only a speech made by a Senator in this body.

Mr. LODGE. It is not a speech at all.

Mr. WILLIAMS. I withdraw the request.

Mr. SMOOT. I will say to the Senator from Mississippi that if it is outside of a speech that was delivered here, I have not any objection.

Mr. WILLIAMS. I will tell the Senator what it is. It can hardly be called even that. It is a citation of various authorities, a number of the Federalist that was written by Mr. Hamilton, then a speech made by Mr. Madison in the Virginia convention when it was adopting the Constitution, and then a part of a speech of Mr. Iredell, of North Carolina, in the North Carolina convention, who had been a delegate to the national convention. These various matters are connected together by explanatory comments in my hand.

Mr. SMOOT. I have no objection.

Mr. WILLIAMS. It is all new.

The PRESIDENT pro tempore. There being no objection, the paper will be printed in the RECORD and also as a Senate document.

The paper referred to is as follows:

[Senate Document No. 872, Sixty-second Congress, second session.]

THE SUPPLY BILLS.

Article by Hon. JOHN SHARP WILLIAMS concerning the constitutional power of the House of Representatives to originate supply bills.

Presented by Mr. WILLIAMS July 15, 1912. Ordered to be printed.

[From Elliot's Proceedings.]

Among the resolutions offered by Mr. Edmund Randolph to the convention May 29, 1787, I find the following:

"*Resolved, That each branch ought to possess the right of originating acts;* that the National Legislature ought to be empowered to enjoy the legislative right vested in Congress by the Confederation, and, moreover, to legislate in all cases to which the separate States are incompetent or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening, in the opinion of the National Legislature, the Articles of Union or any treaty subsisting under the authority of the Union; *and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof.*"

From Mr. Charles Pinckney's Draft of a Federal Government I quote the following:

"All *money* bills of every kind shall originate in the House of Delegates, and shall not be altered by the Senate." (Italics mine.)

Thursday, July 5, 1787. "The committee to whom were referred the eighth resolution reported from the Committee of the Whole House, and so much of the seventh as hath not been decided on," submitted a report, from which I quote the following:

"That all bills for raising or appropriating *money*, and for fixing the salaries of the officers of the Government of the United States, shall originate in the first branch of the Legislature and shall not be altered or amended by the second branch." (Italics mine.)

On the question as to whether this clause should stand as a part of the report, it passed in the affirmative.

On Monday, July 16, 1787, the question being taken on the whole of the report from the grand committee as amended, it passed in the affirmative. From the report, as passed, I quote the following:

"*Resolved*, That all bills for raising or appropriating *money* and for fixing the salaries of the officers of the Government of the United States shall originate in the first branch of the Legislature of the United States, and shall not be altered or amended by the second branch." (Italics mine.)

From the resolutions of the convention, referred on the 23d and 26th of July to a committee of detail (Messrs. Rutledge, Randolph, Gorham, Ellsworth, and Wilson) for the purpose of reporting a constitution, I quote the following:

"X. *Resolved*, That all bills for raising or appropriating *money* and for fixing the salaries of the officers of the Government of the United States shall originate in the first branch of the Legislature of the United States, and shall not be altered or amended by the second branch." (Italics again mine.)

From the draft of the constitution, reported by the committee of five, August 6, 1787, I quote as follows:

"SEC. 5. All bills for raising or appropriating *money* and for fixing the salaries of the officers of the Government shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the Public Treasury but in pursuance of appropriations that shall originate in the House of Representatives." (Italics again mine.)

On Monday, August 13, 1787, it was moved by Mr. Randolph, and seconded, to amend the fifth section of the fourth article to read as follows, namely:

"All bills for *raising money for the purposes of revenue, or for appropriating the same,* shall originate in the House of Representatives and shall not be altered by the Senate," etc.

NOTE.—Here it is raising money for the purposes of revenue—distinction between raising *money* and raising *revenue.*

The question was taken on the first clause of this amendment, which passed in the negative.

On Wednesday, August 15, 1787, it was moved and seconded to amend the twelfth section of the sixth article as follows:

"Each House shall possess the right of originating all bills, except bills *for raising money for the purposes of revenue, or for appropriating the same,* and for fixing the salaries of the officers of the Government, which shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as in other cases."

It was moved and seconded to postpone the consideration of the last amendment, which was passed in the affirmative.

Yeas: New Hampshire, Massachusetts, Virginia, North Carolina, South Carolina, Georgia, 6. Nays: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, 5.

NOTE.—The small States in the negative.

On Saturday, September 8, 1787, it was moved and seconded to amend the third clause of the report, entered on the Journal of the 5th instant, to read as follows, instead of the twelfth section, sixth article:

"All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills. No money shall be drawn from the Treasury but in consequence of appropriations by law."

Which passed in the affirmative.

No discussion. Evidently nobody thought that it made a difference from previous drafts. Why? Because the phrase "raising revenue" was equivalent to the phrase "raising money and appropriating the same."

Ayes: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 9. Nays: Delaware, Maryland, 2.

This time only the two smallest States vote nay. They still stickling for their branch of the National Legislature, the Senate, to have right to originate.

It was moved and seconded to appoint a committee of five *"to revise the style of and arrange"* the articles agreed to by the House, which passed in the affirmative.

Note what I have italicized in the foregoing sentence.

September 12, 1787. From a revised draft of the Constitution, reported September 12, 1787, by the committee of *revision of style,* I quote the following from section 7:

"All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills."

As reported by the committee appointed on September 8, *to revise the style.* No discussion.

Seems still evident that to "raise *revenue*" meant to raise *money and appropriate it.*

[From Yates's Minutes.]

On Tuesday, July 3, 1787, the *grand committee* met. From a motion of Dr. Franklin, which, after some modification, was agreed to and made the basis of a report to the committee, I quote the following:

"That bills for raising or appropriating *money* and for fixing salaries of the officers of the Government of the United States shall originate in the first branch of the Legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the Public Treasury but in pursuance of appropriations to be originated in the first branch."

This is the history of the clause up to its report by the committee on revision and style and arrangement and its adoption by the convention. Meager but to my mind conclusive.

In the consideration of the adoption of the Constitution by the several States in their conventions, I find nothing in the discussions in Massachusetts, Connecticut, New Hampshire, New York, Pennsylvania, or Maryland, which is significant, unless it be because the absence of discussion shows that they notice no variance between the provisions of the Constitution and the several provisions of the several States requiring money or supply bills to originate in the lower houses. When I come to the proceedings of the State of Virginia, however, I find that Mr. Madison, in his argument in advocacy of the adoption of the constitution of the Virginia convention, uses the following language:

"Mr. Chairman, the criticism made by the honorable member is that there is an ambiguity in the words and that it is not clearly ascertained where the origination of *money bills* may take place. *I suppose the first part of the clause is sufficiently expressed to exclude all doubts.* The gentlemen who composed the convention divided in opinion concerning the *utility of confining this to any particular branch.* Whatever it may be in Great Britain, there is sufficient difference between us and them to render it inapplicable to this country. It has always appeared to me to be a matter of no great consequence whether the Senate had a right of *originating* or *proposing* amendments to money bills or not. To withhold it from them would create disagreeable disputes. Some American constitutions make no difference. Virginia and South Carolina are, I think, the only States where this power is restrained. In Massachusetts and other States the power of proposing amendments is vested, unquestionably, in their senates. No inconvenience has resulted from it. On the contrary, with respect to South Carolina, this clause is continually a source of disputes. When a bill comes from the other house the senate entirely rejects it, and this causes contentions. When you send a bill to the senate without the power of making any alteration you force them to reject the bill altogether, when it would be necessary and advantageous that it should pass.

"The power of proposing alterations removes this inconvenience and does not appear to me at all objectionable. I should have no objection to their having a right of originating such bills. * * * There is no landmark or constitutional provision in Great Britain which prohibits the House of Lords from intermeddling with *money bills,* but the House of Commons have established this rule. Let the Lords insist on their having a right to originate them, as they possess great property, as well as the Commons, and are taxed like them. The House of Commons object to their claim, *lest they should too lavishly make grants to the Crown* and increase the taxes. * * * When a bill is sent with proposed amendments to the House of Representatives, if they find the alterations defective they are not conclusive. *The House of Representatives are the judges of their propriety, and the recommendation of the Senate is nothing."*

Mr. Madison here uses the words "money bills" as synonymous with "bills to raise revenue." Power to originate important, lest upper house be "too lavish in their grants." Says House of Representatives are "the judges of the propriety of money bills, and the recommendation of the Senate is nothing."

Mr. Grayson, arguing upon the other side, made use of the following language:

"The Senate could strike out every word of the bill except the word 'whereas' or any other introductory word, and might substitute new words of their own."

Friday, July 25, 1788. In the North Carolina convention I find that Mr. Iredell, arguing in favor of the adoption of the Constitution, urged this clause specially, on the ground that the "House of Representatives would be more numerous than the Senate"; that "they will represent the immediate interests of the people," etc., showing that Mr. Iredell regarded the phrase "money bills" as synonymous with the phrase "bills to raise revenue." I find further on that Mr. Iredell, in another speech to the same convention, identifies the right given to the House of Representatives with that already enjoyed by the House of Commons in Great Britain, as is shown by the following quotation of his language:

"Yet the Commons have generally been able to carry everything before them. The circumstance of their representing the great body of the people alone gives them great weight. This weight has great authority added to it by their possessing the right (a right given to the people's representatives in Congress) of *exclusively originating money bills."*

Note the significance of the parentheses above. To continue:

"The authority over money will do everything. A Government can not be supported without money. *Our Representatives may at any time compel the Senate to agree to a reasonable measure by withholding supplies till the measure is consented to.* There was a great debate in the convention whether the Senate should have an equal power of originating money bills. It was strongly insisted by some that it should, but at length a majority thought it unadvisable, and the clause was passed as it now stands. I have reason to believe that our representatives had a great share in establishing this excellent regulation, and, in my opinion, they deserve the public thanks for it."

And still later, in reenforcing the same contention, he uses the following language:

"It is contended by that gentleman that the addition of the power of making treaties to the other powers will make the Senate dangerous; that they would be even dangerous to the representatives of the people. The gentleman has not proved this in theory. Whence will he adduce an example to prove it? What passes in England directly disproves his assertion. In that country the representatives of the people are chosen under undue influence, frequently by direct bribery and corruption. They are elected for seven years and many of the members hold offices under the Crown—some during pleasure, others for life. They are also not a genuine representation of the people, but from a change of circumstances a mere shadow of it. Yet, under these disadvantages, they *having the sole power of originating money bills,* it has been found that the power of the King and lords is much less considerable than theirs. The high prerogatives of the King and the great power and wealth of the lords have been more than once mentioned in the course of the debates. If, under such circumstances, such representatives—mere shadows of representatives—by having the power of the purse and the sacred name of the people to rely upon, are an overmatch for the King and lords, who have such great hereditary qualifications, we may safely conclude that our own Representatives, who will be a genuine representation of the people and *having equally the right of originating money bills,* will at least be a match for the Senate, possessing qualifications so inferior to those of the House of Lords in England."

In the House of Representatives, March 2, 1797, Mr. Nichols said:

"The power of this House to control appropriations has been settled. It was indeed an absurdity to call a body a legislature and at the same time deny them a control over the public purse. *If it were not so, where would be the use of going through the forms of that House with a money bill?* The Executive might as well draw upon the Treasury at once for whatever sum he might stand in need of. A doctrine like this would be scouted even in despotic countries."

Note, when he says "that House," he means the House of Representatives, referring back with his relative to his first sentence.

In The Federalist, that great book whose articles were written by Hamilton, Madison, and Jay, in No. 57 of The Federalist, published in the New York Packet on Friday, February 22, 1788, I find language which I shall quote at large, a part of which I have put in italics, as an easy way of bringing it to the attention of the reader. This article, in my opinion, judging by the style of it, was written by Alexander Hamilton. It is more interesting than Jay's style and less diffuse than Mr. Madison's. Next to Mr. Madison himself, Mr. Hamilton perhaps knew better what the Constitutional Convention intended than almost any other one man.

Although in some of the editions of The Federalist this number is attributed to Mr. Madison and in some others to Mr. Hamilton, in a majority of the sources of information, as far as I had time to run it down, the number is attributed to Mr. Madison, but in my opinion, as I said above, the better authority is that Hamilton wrote it and the style is that of Alexander Hamilton.

I quote from the article as follows:

"These considerations seem to afford ample security on this subject and ought alone to satisfy all the doubts and fears which have been indulged with regard to it. Admitting, however, that they should all be insufficient to subdue the unjust policy of the smaller States or their predominant influence in the councils of the Senate a constitutional and infallible resource still remains with the larger States by which they will be able at all times to accomplish their just purposes. *The House of Representatives can not only refuse but they alone can propose the supplies requisite for the support of the Government. They, in a word, hold the purse,* that powerful instrument by which we behold in the history of the British constitution an infant and humble representation of the people gradually enlarging the sphere of its activity and importance and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the Government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure.

"But will not the House of Representatives be as much interested as the Senate in maintaining the Government in its proper functions, and will they not, therefore, be unwilling to stake its existence or its reputation on the pliancy of the Senate? Or if such a trial of firmness between the two branches were hazarded, would not the one be as likely first to yield as the other? These questions will create no difficulty with those who reflect that in all cases the smaller the number and the more permanent and conspicuous the station of men in power the stronger must be the interest which they will individually feel in whatever concerns the Government. Those who represent the dignity of their country in the eyes of other nations will be particularly sensible to every prospect of public danger or of a dishonorable stagnation in public affairs. To those causes we are to ascribe the continual triumph of the British House of Commons over the other branches of the Government whenever the engine of a money bill has been employed. An absolute inflexibility on the side of the latter, although it could not have failed to involve every department of the State in the general confusion, has neither been apprehended nor experienced. The utmost degree of firmness that can be displayed by the Federal Senate or President will not be more than equal to a resistance in which they will be supported by constitutional and patriotic principles."

You will note that his language is that the "House of Representatives can not only refuse, but *they alone can propose* the supplies requisite for the support of the Government." He adds, "They, in a word, hold the purse," etc. This demonstrates beyond challenge that in the mind of Mr. Hamilton the phrase "bills to raise revenue" was synonymous with the old English phrase "supply bills," or what we call in American phraseology now "general appropriation bills," as contradistinguished from "special appropriation bills"; that is to say, appropriations for the Army and Navy, executive, legislative, and judicial departments.

Gentlemen have contended that while the practice of the Government was in accordance with my contention, that practice was not founded upon any constitutional warrant. I place against their opinion the opinions of Hamilton and of Madison and of Iredell and of Nicholas (all, if I mistake not, members of the Constitutional Convention), but above all, I place the fact that when the committee on the revision of style reported the present phraseology that it excited no remark and no discussion, which is self-evident proof of the fact that in the opinion of the members of the Constitutional Convention it was a mere change of style or expression and not a change of substance, and that what was meant in their minds by the phrase "bills to raise revenue" was the same thing as is meant by the phrase "bills to raise money and to appropriate the same," or by the phrase "money bills," or by the phrase "supply bills," all of which in their minds at that time were synonymous.

Mr. Madison, than whom no man was better acquainted with the Constitution, in the Virginia convention, constantly uses the words "money bills" and "supply bills" when talking about this clause and the power given the House by it.

Mr. Hamilton uses the words "supplies requisite for the support of the Government."

The confusion of those who in subsequent generations have raised this question—and it is to be remembered that nobody in the generation of the framers of the Constitution did raise it or did try to make the distinction—grows out of their not understanding that a "bill to raise revenue" means a bill to raise revenue *for the supply of the executive branch of the Government*. There are two sorts of bills for raising revenue for the Government, or, as the English called it, "for carrying on His Majesty's Government." One was by appropriating money already in the Treasury. In this case the money had been raised, but it had not been made *Government revenue*, and could not be made "revenue" to be disbursed by the executive branch until the legislative branch had appropriated it. When there was no money in the Treasury, then the money had to be "raised" through a bill to appropriate money and a bill to levy taxes, but it did not become "revenue" for the purpose of disbursement by the executive branch solely with the passage of the bill to levy taxes, nor solely with the passage of a bill to issue bonds, but there was needful yet to appropriate the money. The further act necessary to make it revenue for the disbursement of the executive branch was an appropriation. There is no such thing as a "bill to raise revenue" by merely levying a tax in the technical sense in which that phrase was used in the Constitution. There is no such thing as having the legislative branch put money at the disposal of the executive branch except by not only *raising* the money but by *appropriating* the same, and raising money and appropriating the same, both taken together, constitute "raising revenue" for the Government.

Even "*money in* the Treasury" is not a Government "*revenue*" until rendered disbursable by an appropriation of the money *out* of the Treasury.

If there were a billion of dollars in the Treasury, it would not be revenue for carrying on the Government—revenue of the Government, revenue in a governmental or constitutional sense—until it had been appropriated. And as the House alone can originate a bill "to raise revenue," it alone can originate a bill to transmute *money* in the Treasury into *revenue*.

Revenue—Government revenue—is money in the Treasury rendered available to the Executive for expenditure for "carrying on the Government" by an appropriation.

The Senator from Massachusetts [Mr. LODGE] says that "not a week passes that we do not originate appropriation bills in the Senate"; that we originate them on claims, on public buildings, etc. I had never contended and do not now contend that the power of the House to originate goes beyond origination of general "supply bills" for the carrying on of the Government or, as it was called in England, carrying on His Majesty's or Her Majesty's Government what were called in England and by Hamilton, Madison, and their contemporaries "money bills." As to special appropriations for many purposes, even the House of Commons in England never claimed exclusive power over them. The Senator adds: "There is, in my opinion, nothing in the Constitution that can be twisted into any such limitation"; that is—a limitation of the power to originate "supply bills" in the House. In this the Senator differs from Mr. Hamilton; he differs from Mr. Madison; he differs from the first Congress that ever met; and he differs, in my opinion, because he has not truly understood the meaning of the phrase "to raise revenue." To raise revenue for what? Why, evidently for disbursement by the Government. To be disbursed by whom? Why, evidently by the Executive. To be appropriated by whom? Evidently by the legislative. Not a dollar in the Treasury can become *revenue* for carrying on the Government except after two things have been done: First, having the *money* placed there, and as long as it is there without an appropriation by Congress it is not *revenue*, it is merely *money*, because the Constitution provides that no money shall be taken out of the Treasury except in pursuance of an act of Congress; secondly, after being put at the disposal of the Executive for expenditure by appropriation out of the Treasury, then and then only has the money changed its character and become revenue—i. e., money for Executive disbursement by direction of law. As long as it is in the Treasury without appropriation it is inert, dead, and can not be used; it is not governmental revenue, it is not at the behest of the Executive for disbursement. A "bill to raise revenue" is a bill to turn money into an active instrumentality for carrying on the Government.

In 1871 the House adopted a resolution taking exception to a Senate bill which repealed the income tax. The Senate asserted the right to originate bills repealing a tax. Roscoe Conkling, as a Senate conferee, contended for the right. The House conferees refused to assent to the position of the Senate, and pointed out that not only "the right to originate tax and tariff bills, but also appropriation bills" was "conceded to the House of Representatives without dispute until the year 1832, when the right of repealing duties was unsuccessfully asserted by the Senate, and again in 1833 the same thing was attempted, but without success."

You will note that the Senate never until then even asserted any right over general appropriation bills. The resolution recommended by the House conferees was adopted by the House after debate.

Senator Hoar quotes Mr. Webster, who certainly was a very fine constitutional lawyer, as saying: "Whatever the Senate might think, the House is the sole constitutional judge of the extent, meaning, and scope of that constitutional provision," to wit, the constitutional provision to originate "revenue bills." Senator Hoar adds: "Mr. Webster was clearly right."

A very clear discussion of this will be found on page 161 of Mr. McCall's "The Business of Congress." Mr. McCall adds: "In practice the general appropriation bills are now in a sense treated as money bills, and their formation, as well as the formation of those relating to taxation, is given over to the House." I admit that the House has sometimes been lax in this assertion of its right, but whenever the matter has been narrowed down to a crisis and discussed the House has always maintained its right and the Senate has always acquiesced in it. It is idleness to say that this assertion and maintenance and this acquiescence would have taken place without constitutional authority.

Senator Hoar well said: "By a practice as old as the Government itself the constitutional prerogative of the House has been held to apply to all the general appropriation bills."

Reference is directed here to an article entitled "Conduct of business in Congress," published in the North American Review, CXXVII, page 113.

In this connection it is pertinent to inquire that, if I be not right about all this, why is it that the letter from the Secretary of the Treasury transmitting estimates for appropriations for the fiscal year is invariably sent to the House and not to the Senate? Why is it not sent to the Senate in the first place, or why not at the same time? Why not addressed to Congress or both Houses? It is sent to the House immediately after the House convenes and is referred to the House Committee on Appropriations. This has been the uniform custom ever since the first Congress met.

Prof. Woodrow Wilson says that the Constitution is silent as to the origination of bills appropriating money. This statement is not correct. The statement begs the question. What are "bills for raising revenue" except bills to make money mobile as a governmental instrumentality—as revenue. Every supply bill is a money bill. Every money bill is a bill to raise revenue. The "revenue" is not "raised" until the appropriation of the money is directed. Raised for what? With us, "to carry on the Government"; in England, "to carry on His Majesty's Government." Who pays out the money to carry on the Government? Why, the Executive, of course. Who raises or provides or supplies the money for the Executive to pay out or to disburse? Why, the legislative branch, equally of course. Who pays your salary or mine? Why, the Executive. And how? By an order upon the Treasury. And in consequence of what? In consequence of an appropriation bill, rendering inert, dead money active, live, Government revenue. You and I are paid by a warrant on the Treasury. We can not pay our own salaries directly to ourselves by ourselves. How is the Executive warranted to give the warrant? Why, by an act of Congress, of course. What is this act? Why, it is a bill to raise supplies—to raise revenue for carrying on the Government. The revenue is not raised for Executive capacity to pay out and therefore not raised as governmental revenue, as an instrumentality in the disbursement whereof the Government is carried on until appropriated by Congress and the purpose of the appropriation designated in an act of Congress. How is revenue raised? I answer, in two ways. What are they? If the money be already in the exchequer or the Treasury here, it is raised for a designated purpose by its appropriation, and if there be no money in the Treasury, then it is raised by levying a tax and at the same time or afterwards appropriating the proceeds of it—by tax bills and appropriation bills.

Much of the confusion has grown out of forgetting that in the early history of the country tax bills and appropriation bills, the conjoint purpose of the two being to raise Government revenue, were provided for in the same act. The Ways and Means Committee of the House levied a tax and at the same time appropriated the tax in one act, which constituted a budget. Later on, when the magnitude of our governmental machinery began to assert itself, the work was divided. Tax bills were left to the Committee on Ways and Means and bills appropriating the proceeds of taxes were left to a new committee, called the Committee on Appropriations. It was not until after this division of labor occurred that any confusion in public thought ever occurred.

Levying a tax and appropriating the money thus raised are two parts of the same act, the object of both of which is to "raise revenue" for carrying on the Government. If you appropriate when there is no money in the Treasury, the Government will not have any revenue. If you levy and collect a tax, but do not appropriate, the Government will still have no revenue. In one and the same bill, or else in two different bills, you must do the two things, which are parts of the same act—first, put money in the Treasury; second, turn the money into Government revenue by appropriating it.

Henry Jones Ford, in his book The Cost of Our National Government (p. 11) says, very properly: "It is a fundamental principle of constitutional government that appropriations are made and expenditures are controlled by the representatives of the people." He adds that "the process of budget making starts with the transmission of a letter from the Secretary of the Treasury to the Speaker of the House of Representatives, giving estimates of appropriations required for the public service," and "congressional action on the estimates thus transferred begins in the House of Representatives." (See ibid., p. 14.)

This is a significant recognition of the principle by the practice of the executive department. In fact, throughout our whole history the

House has asserted, the Executive has practiced, and the Senate has acquiesced by practice in the general principle—a principle and practice founded on the real and historic meaning of the phrase "bills to raise revenue"—a meaning contemporaneous with the Constitution.

I quote from the same author, page 23: "We began our National Government with a firm and precise principle of budget control; namely, that the House of Representatives held the purse strings. It was the expectation of the framers of the Constitution that the immediate Representatives of the people would control the budget and fix expenditures."

In No. 57 of the Federalist, support was given to this position.

I call the reader's attention to CONGRESSIONAL RECORD, volume 16, part 2, page 949, et seq, being the record of the Forty-eighth Congress, second session. Representative HAMMOND (p. 952), in his reply to what I have called attention to, confuses special appropriations, which are not supply bills, with general appropriations, which are and have always been so treated, both in England and here; and here, as Senator Hoar says, "even from the very origin of the Government."

Mr. HAMMOND likewise confuses the phrase "raising revenue" and the phrase "raising money." Before the Committee on Style changed the verbiage proposed in the constitutional convention, it read: "Bills to raise money and make appropriation of the same." The language "bills to raise revenue" was substituted, and, as far as I can find out, without debate or opposition of any description, showing that the men who had voted for the former phraseology thought that the latter meant the same thing; that is, that a "bill to raise revenue" involved the ideas of "raising money and appropriating the same."

Raising money or putting money into the Treasury is one thing. Making out of money Government revenue is another thing. The money is raised, or collected, or gotten when, by operation of a tax bill, it is covered into the Treasury, but it does not thereupon become revenue. The executive, which alone disburses revenue, can't even touch it. If there were $500,000,000 in the Treasury, no branch of the executive could touch it until the legislative branch had made it revenue by an appropriation bill. The process of raising revenue is not completed until by appropriation it has been made available for carrying on the Government.

In England the means of taxation and the appropriation of money raised by taxes were both carried in the same bill, and such a bill was always indifferently called "a supply bill," "a bill to raise revenue," "a money bill." The committee of the whole of the House of Commons, when moved for that purpose, was called the committee on ways and means, hence the name for our House standing Committee on Ways and Means, which in our early history had jurisdiction over both these parts of the same transaction, to wit, tax bills to put money into the Treasury and appropriation bills directing the use of the money raised by the taxing power; that is, making of the inert money in the Treasury Government revenue to be disbursed by the executive—making it by law available for executive disbursement.

At first, as I have already said, even with us, bills generally did both at the same time, but gradually we found need for two committees in the House acting separately, and out of this grew much of the confusion, which has resulted in the failure to make the distinction between "raising *money*" and "raising *revenue*," the distinction between money lying inert in the Treasury and money made active and mobile as a governmental revenue. Governmental revenue is money in the Treasury appropriated and placed at the disposal of the executive for carrying on the Government with more or less or sometimes no specific and detailed direction for its expenditure. The point is that it is not Government revenue until the executive can use it.

In Delaware, Maryland, Massachusetts, and New Hampshire, at the time of the adoption of the Constitution, all money bills had to originate in the lower house, and the senate or upper house could amend.

In the colonial constitution of Massachusetts the exact language of the Federal Constitution is used, to wit: That the senate "may propose or concur with amendments."

Blackstone defined "money bills" to be "all bills by which money is directed to be raised." Now, mark that language—"money is directed to be raised"; that is, directed to be made alive; directed to cease to be inert; directed to be lifted into the capacity of carrying on the Government.

The House of Lords, in 1702, 1708, 1719, 1733, and 1736, disputed, as the United States Senate seems to be beginning to dispute here, the power of the House of Commons to originate appropriation bills, and tried, as gentlemen are beginning to try here, to confuse the power of originating tax bills with the power to raise revenue. The Commons always contended that the tax bills and the appropriation bills were part and parcel of the same thing. That contention of the representatives of the people which was successfully carried to a consummation in Great Britain must be carried to the same successful consummation here, or else there is danger of the cessation of all popular control of legislation.

If you will read the proceedings of the Constitutional Convention at Philadelphia very carefully, you will find that the whole argument there was whether the Senate should or should not have *the right to amend*. There never was one moment spent in discussion as to whether the House should or should not have *the right to originate*. As distinguished a man as George Washington took a very broad position in favor of giving the Senate the right to amend, or, as the Constitution expresses it, to propose and concur in amendments.

In 1856 Mr. Seward, of New York, said: "We make a revenue bill but once in 10 or 12 years, and these appropriation bills are, in fact, what were intended, I suppose, by the framers of the Constitution as bills of revenue." (See CONGRESSIONAL RECORD, vol. 16, pt. 2, p. 954.) He added: "The practice for these 70 years had been that all appropriations of this character" (and by that he means general appropriation bills) "have originated in the House." He further adds: "The stubborn fact is that the Senate has never originated an appropriation bill" (meaning, of course, a general supply bill), "but has always conceded to the House their origination, and the House of Representatives has never conceded to the Senate the right to originate such bills, but has always insisted upon and has always exercised that right itself." Then, further, he adds, significantly: "The spirit of the Constitution as ascertained from the British constitution and the extemporaneous debates and from the practice for 70 years is stronger than the letter of the Constitution."

Our Constitution provides that no money shall be taken out of the Treasury except in pursuance of law appropriating it. From this it follows, even if the history of the particular language "bills to raise revenue" did not demonstrate it, that money is not revenue wherewith to carry on the Government until its expenditure is directed by law—that is, until it is appropriated. No Government "revenue" has been "raised" until after appropriation, because it can not until then be used by the Executive, who alone can ever use it for carrying on the Government.

Mr. Hammond, who has made out the strongest case ever made against what I am contending for, again confuses the source of revenue with revenue. A tax bill is *a source of revenue*, but the proceeds of a tax bill are not *revenue* until rendered available for expenditure by an appropriation. The phrase "No money shall be drawn from the Treasury but in consequence of appropriations made by law" is absolutely of the same meaning as if it had been written "No money in the Treasury shall be available to the Executive for disbursement as Government revenue but in consequence of appropriations made by law."

Hammond, by a slip of the tongue, which gives him away, uses the phrase "the revenue of the King"—a perfectly accurate expression. Money in the exchequer in England is not revenue at all until it becomes by appropriation "the revenue of the King," so that the King's Government can pay it out, with or without specific direction. Nor does money in our Treasury become revenue of the king, or revenue of the Executive, or revenue for carrying on the Government, or, in any governmental sense, revenue at all, until it has become in the same way, to wit, by appropriation, the revenue of the Executive. It is the Executive alone in either Government which can disburse money.

In New Jersey, South Carolina, and Virginia, at the time of the Constitution, all money bills must originate in the house of representatives of the State, and could not be even amended in the upper house.

For further study of this question, turn to First Congressional Annals (vol. 1, pp. 592, 593, and 597, and pp. 603, 605, and 617). Turn to the Twenty-second Congressional Debates (Vol. XIV, pt. 1, pp. 1152, 1155, and 522), and Forty-first Congressional Debates (3d sess., Appendix, p. 265), both of which are quoted in note 1 of Hinds' Precedents (vol. 2, p. 951).

In April, 1872, Mr. Dawes, of Massachusetts, reported a resolution citing what occurred in the House on June 25, 1789, during the First Congress, and says: "Madison, Livermore, Gerry, Lawrence, and Tucker contended that the sole right of originating money bills belonged to the House—this was an appropriation bill—but that this clause coerced all appropriation bills, because an appropriation bill was an appropriation of the money raised by the revenue powers of the Government and therefore was included; and since that time, as we all know, the appropriation bills of the Government and general supply bills have originated uniformly in the House of Representatives, with perhaps a single exception, which I will note later, and which failed to pass." (See Hinds' Precedents, vol. 2, p. 958, where the above is set forth.)

The J. Proctor Knott House resolution on February 2, 1871, had no reference to a general appropriation bill. It concerned a bill to "purchase lots adjoining the new building for Bureau of Printing and Engraving." It was in no sense a supply bill. I cite this, because it has been frequently quoted on the other side. But even here the utmost that can be contended is that the House never acted upon the resolution. (See Hinds' Precedents, vol. 2, pp. 971 and 972 top; the views of the minority, ibid., pp. 972, 973.)

Mr. Garfield's language. (CONGRESSIONAL RECORD, vol. 16, pt. 2, p. 954.) Proceedings of the House quoted by Hammond right afterwards prove that Garfield was right about what happened in the House, and the proceedings there do not admit of the explanation attempted to be made by Hammond. The distinction was made in what the House did between general appropriation bills, or supply bills, on the one hand, and special appropriation bills on the other.

If the reader will turn to Webster's Dictionary of 1840 and Worcester's Dictionary of 1846, both of them American, he will find that they bear out exactly the opposite contention to that in behalf of which Hammond quotes them, and that in both cases they confine the meaning of the word "revenue" to "income for public use" and "income for the payment of national expenses."

In no event can money in the Treasury become "income for public use"—that is, be available for the Executive for use—or become available for "the payment of national expenses," except by force of appropriation. These phrases are right, and money not made available by appropriation "for public use" or "for the payment of national expenses" is not Government revenue. It is simply money lying inert in the Treasury. It belongs to the people, of course, but it can not be constitutionally used by "the Government."

Mr. President, if the Senate can constitutionally originate general appropriation bills when money is in the Treasury, then it can do the same thing when there is no money in the Treasury, and thus this body, representing the States and not the people—representing chiefly the smaller States—could force either Federal insolvency—not to be thought of—or else could force the House to levy new or additional taxes and thus force the House to originate tax bills. The two things hang together. If this Senate could originate general supply bills, then it could commit the Government to a course of expenditure that would coerce the House not only into originating but passing tax bills.

As Seward well says, speaking of the long practice under which the House always insisted upon and the Senate always conceded the right of the House to originate general appropriation bills:

"This (practice) could not have been accidental; it was therefore designed. The design and purpose were those of the contemporaries of the Constitution itself. It evinces their understanding of the subject, which was that bills of a general nature for appropriating the public money or for laying of taxes or burdens on the people, direct or indirect in their operation, belonged to the province of the House of Representatives." (See CONGRESSIONAL RECORD, vol. 16, pt. 2, p. 959.)

He added:

"If this power be confined to the one and not to the other—that is, to the levying of taxes to get money but not to its expenditure—then the right is useless, because we change revenue laws so seldom."

This criticism of Seward's is correct, although it was made in view of what occurred later and not of what was in the minds of the framers of the Constitution. I believe it is not too much to say that, in the minds of the framers of the Constitution, a bill to raise revenue was a budget; that is, a bill levying taxes and at the same time appropriating the proceeds of the levy, because such was the contemporaneous practice.

Mr. Sumner, of Massachusetts, said that he regarded the Senate origination of general appropriation bills as "a departure from the spirit of the Constitution." (Ibid.)

Mr. Hinds, in his incomparable work, in a note at the bottom of page 973, volume 2, concerning the question of the right of the House to originate general appropriation or supply bills, says: "But while there has been a dispute as to the theory, there has been no deviation from the practice that the general appropriation bills originate in the House of Representatives." He expressly uses this phrase as contradistinguished from special bills appropriating for single, specific purposes.

It is well to remember in this connection the Hurd resolution of January 13, 1885, which was laid on the table in the House. The fact

that it was laid upon the table has been quoted very frequently, but the resolution was directed at Senate bill 398 (The Blair educational bill). It was not a supply bill, but a bill of specific appropriation, not a bill for carrying on the Government any more than a bill making appropriation for a public building would be a bill for carrying on the Government.

WHITE RIVER DAM, ARK.

Mr. CLARKE of Arkansas. Some days since the House returned to the Senate a disagreement upon the amendments of the Senate to the bill (H. R. 20347) to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark., and asked for a conference and named the conferees. I wish to move that the Senate agree to the conference asked by the House.

The PRESIDENT pro tempore. The Chair lays before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 20347) to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark. The Senator from Arkansas moves that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. NELSON, Mr. BOURNE, and Mr. MARTIN of Virginia conferees on the part of the Senate.

ANNIE R. SCHLEY.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 4568) granting an increase of pension to Annie R. Schley, which was on page 1, line 8, before the word "dollars," to strike out "one hundred and fifty" and insert "seventy-five."

Mr. McCUMBER. I move that the Senate disagree to the amendment of the House and ask a conference upon the disagreeing votes of the two Houses, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. BURNHAM, Mr. SMOOT, and Mr. GORE conferees on the part of the Senate.

IMPEACHMENT OF ROBERT W. ARCHBALD.

At 12 o'clock and 15 minutes p. m. the managers of the impeachment, on the part of the House of Representatives, of Judge Robert W. Archbald appeared below the bar of the Senate, and the Assistant Doorkeeper (C. A. Loeffler) announced their presence as follows:

I have the honor to announce the managers on the part of the House of Representatives to conduct the proceedings in the impeachment of Robert W. Archbald, judge of the circuit court and designated a judge of the Commerce Court of the United States.

The PRESIDENT pro tempore (Mr. GALLINGER). The managers on the part of the House will be received, and the Sergeant at Arms will assign them their seats. The managers were thereupon escorted by the Sergeant at Arms, (D. M. Ransdell) to the seats assigned to them in the area in front of the chair.

Mr. Manager CLAYTON. Mr. President, the managers on the part of the House of Representatives are here present and ready to present the articles of impeachment which have been preferred by the House of Representatives against Robert W. Archbald, a circuit judge of the United States and designated a judge of the Commerce Court of the United States. The House adopted the following resolution, which I will read to the Senate:

House resolution 626.

THE CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
July 11, 1912.

Resolved, That HENRY D. CLAYTON, of Alabama; EDWIN Y. WEBB, of North Carolina; JOHN C. FLOYD, of Arkansas; JOHN W. DAVIS, of West Virginia; JOHN A. STERLING, of Illinois; PAUL HOWLAND, of Ohio; and GEORGE W. NORRIS, of Nebraska, Members of this House, be, and they are hereby, appointed managers to conduct the impeachment against Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court; that said managers are hereby instructed to appear before the Senate of the United States and at the bar thereof in the name of the House of Representatives and of all the people of the United States to impeach the said Robert W. Archbald of high crimes and misdemeanors in office and to exhibit to the Senate of the United States the articles of impeachment against said judge which have been agreed upon by this House; and that the said managers do demand that the Senate take order for the appearance of said Robert W. Archbald to answer said impeachment and demand his impeachment, conviction, and removal from office.

CHAMP CLARK,
Speaker of the House of Representatives.

Attest:

SOUTH TRIMBLE,
Clerk.

By J. C. SOUTH,
Chief Clerk.

Mr. President and Senators, the articles of impeachment are as follows——

Mr. LODGE. Mr. President, before the presentation by the managers on the part of the House of the articles of impeachment, section 2 of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials requires that the Sergeant at Arms shall make proclamation as therein prescribed.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Sergeant at Arms (D. M. Ransdell) made proclamation as follows:

"Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against Robert W. Archbald, circuit judge of the United States and designated a judge of the United States Commerce Court."

The PRESIDENT pro tempore. The articles of impeachment may now be presented.

Mr. Manager CLAYTON. Mr. President, the articles of impeachment, which have been adopted by the House of Representatives and which the managers on the part of the House have been directed to present to the Senate, are in the words and figures following:

[Sixty-second Congress, second session.]

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
July 11, 1912.

Resolved, That Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stat. L., vol. 36, 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve for four years in the Commerce Court, be impeached for misbehavior and for high crimes and misdemeanors; and that the evidence heretofore taken by the Committee on the Judiciary, under House resolution 524 sustains 13 articles of impeachment which are hereinafter set out; and that said articles be, and they are hereby, adopted by the House of Representatives, and that the same shall be exhibited to the Senate in the following words and figures, to wit:

Articles of impeachment of the House of Representatives of the United States of America in the name of themselves and of all of the people of the United States of America against Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stat. L., vol. 36, 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve for four years in the Commerce Court:

ARTICLE 1.

That the said Robert W. Archbald, at Scranton, in the State of Pennsylvania, being a United States circuit judge, and having been duly designated as one of the judges of the United States Commerce Court, and being then and there a judge of the said court, on March 31, 1911, entered into an agreement with one Edward J. Williams whereby the said Robert W. Archbald and the said Edward J. Williams agreed to become partners in the purchase of a certain culm dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson, for the purpose of disposing of said property at a profit. That pursuant to said agreement, and in furtherance thereof, the said Robert W. Archbald, on the 31st day of March, 1911, and at divers other times and at different places, did undertake by correspondence, by personal conferences, and otherwise, to induce and influence, and did induce and influence, the officers of the said Hillside Coal & Iron Co., and of the Erie Railroad Co., a corporation, which owned all of the stock of said coal company, to enter into an agreement with the said Robert W. Archbald and the said Edward J. Williams to sell the interest of the said Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500. That during the period covering the several negotiations and transactions leading up to the aforesaid agreement the said Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting as such judge; and at the time aforesaid and during the time the aforesaid negotiations were in progress the said Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 39, then pending in the United States Commerce Court; and the said Robert W. Archbald, judge as aforesaid, well knowing these facts, willfully, unlawfully, and corruptly took advantage of his official position as such judge to induce and influence the officials of the said Erie Railroad Co. and the said Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and the said Edward J. Williams, as aforesaid, for profit to themselves, and that the said Robert W. Archbald, then and there, through the influence exerted by reason of his position as such judge, willfully, unlawfully, and corruptly did induce the officers of said Erie Railroad Co. and of the said Hillside Coal & Iron Co. to enter into said contract for the consideration aforesaid.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

ARTICLE 2.

That the said Robert W. Archbald, on the 1st day of August, 1911, was a United States circuit judge, and, having been duly designated as one of the judges of the United States Commerce Court, was then and there a judge of said court.

That at the time aforesaid the Marian Coal Co., a corporation, was the owner of a certain culm bank at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna

& Western Railroad Co. and five other railroad companies as defendants, charging said defendants with discrimination in rates and with excessive charges for the transportation of coal shipped by the said Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce. That the decision of the said case by the Interstate Commerce Commission at the instance of either party thereto was subject to a review, under the law, by the United States Commerce Court; that one Christopher G. Boland and one William P. Boland were then the principal stockholders of the said Marian Coal Co. and controlled the operation of the same, and they, the said Christopher G. Boland and the said William P. Boland, employed one George M. Watson as an attorney to settle the case then pending as aforesaid in the Interstate Commerce Commission and to sell to the Delaware, Lackawanna & Western Railroad Co. two-thirds of the stock of the said Marian Coal Co.; and at the time aforesaid there was pending in the United States Commerce Court a certain suit entitled "The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38," to which suit the said Delaware, Lackawanna & Western Railroad Co. was a party litigant.

That the said Robert W. Archbald, being judge as aforesaid and well knowing these facts, did then and there engage for a consideration to assist the said George M. Watson to settle the aforesaid case then pending before the Interstate Commerce Commission and to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the said Marian Coal Co., and in pursuance of said engagement the said Robert W. Archbald, on or about the 10th day of August, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise, to induce and influence the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with the said George M. Watson for the settlement of the aforesaid case and the sale of said stock of the Marian Coal Co.; and the said Robert W. Archbald thereby willfully, unlawfully, and corruptly did use his influence as such judge in the attempt to settle said case and to sell said stock of the said Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

ARTICLE 3.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about October 1, 1911, did secure from the Lehigh Valley Coal Co., a corporation, which coal company was then and there owned by the Lehigh Valley Railroad Co., a common carrier engaged in interstate commerce, and which railroad company was at that time a party litigant in certain suits then pending in the United States Commerce Court, to wit, The Baltimore & Ohio Railroad Co. et al. *v.* Interstate Commerce Commission et al., No. 38, and The Lehigh Valley Railroad Co. *v.* Interstate Commerce Commission et al., No. 40, all of which was well known to said Robert W. Archbald, an agreement which permitted said Robert W. Archbald and his associates to lease a culm dump, known as Packer No. 3, near Shenandoah, in the State of Pennsylvania, which said culm dump contained a large amount of coal, to wit, 472,670 tons, and which said culm dump the said Robert W. Archbald and his associates agreed to operate and to ship the product of the same exclusively over the lines of the Lehigh Valley Railroad Co.; and that the said Robert W. Archbald unlawfully and corruptly did use his official position and influence as such judge to secure from the said coal company the said agreement.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a misdemeanor in such office.

ARTICLE 4.

That the said Robert W. Archbald, while holding the office of United States circuit judge and being a member of the United States Commerce Court, was and is guilty of gross and improper conduct, and was and is guilty of a misdemeanor as said circuit judge and as a member of said Commerce Court in manner and form as follows, to wit: Prior to and on the 4th day of April, 1911, there was pending in said United States Commerce Court the suit of Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission. Said suit was argued and submitted to said United States Commerce Court on the 4th day of April, 1911; that afterwards, to wit, on the 22d day of August, 1911, while said suit was still pending in said court, and before the same had been decided, the said Robert W. Archbald, as a member of said United States Commerce Court, secretly, wrongfully, and unlawfully did write a letter to the attorney for the said Louisville & Nashville Railroad Co. requesting said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that the said witness had given in said suit, and communicate the same to the said Robert W. Archbald, which request was complied with by said attorney; that afterwards, to wit, on the 10th day of January, 1912, while said suit was still pending, and before the same had been decided by said court, the said Robert W. Archbald, as judge of said court, secretly, wrongfully, and unlawfully again did write to the said attorney that other members of said United States Commerce Court had discovered evidence on file in said suit detrimental to the said railroad company and contrary to the statements and contentions made by the said attorney, and the said Robert W. Archbald, judge of said United States Commerce Court as aforesaid, in said letter requested the said attorney to make to him, the said Robert W. Archbald, an explanation and an answer thereto; and he, the said Robert W. Archbald, as a member of said United States Commerce Court aforesaid, did then and there request and solicit the said attorney for the said railroad company to make and deliver to the said Robert W. Archbald a further argument in support of the contentions of the said attorney so representing the said railroad company, which request was complied with by said attorney, all of which on the part of said Robert W. Archbald was done secretly, wrongfully, and unlawfully, and which was without the knowledge or consent of the said Interstate Commerce Commission or its attorneys.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 5.

That in the year 1904 one Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by the Philadelphia & Reading Coal & Iron Co., located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated a culm dump located on said property for several years thereafter; that operations were carried on at a loss; that said Frederick Warnke thereupon applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the said land covered by the said lease, and was informed that the lease under which he claimed had been forfeited two years before it was assigned to him, and his application for said maps was therefore denied; that said Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under the said lease provided that the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what was known as the Lincoln culm bank, located near Lorberry; that said George F. Baer referred said proposition to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that, the general policy of the said coal company being adverse to the lease of any of its culm banks, the said George F. Baer and the said W. J. Richards declined to make the lease, and the said Frederick Warnke was so advised; that the said Frederick Warnke then made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; that on or about November 1, 1911, the said Frederick Warnke called upon Robert W. Archbald, who was then and now is a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court, and asked him, the said Robert W. Archbald, to intercede in his behalf with the said W. J. Richards; that on November 24, 1911, the said Robert W. Archbald, judge as aforesaid, pursuant to said request, did write a letter to the said W. J. Richards requesting an appointment with the said W. J. Richards; that several days thereafter the said Robert W. Archbald called at the office of the said W. J. Richards to intercede for the said Frederick Warnke; that the said W. J. Richards then and there informed the said Robert W. Archbald that the decision which he had given to the said Warnke must be considered as final, and the said Archbald so informed the said Warnke; that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which also owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a common carrier engaged in interstate business.

That the said Robert W. Archbald, judge as aforesaid, well knowing all the aforesaid facts, did wrongfully attempt to use his influence as such judge to aid and assist the said Frederick Warnke to secure an operating lease of the said Lincoln culm dump owned by the Philadelphia & Reading Coal & Iron Co., as aforesaid, which lease the officials of the said Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to the said Robert W. Archbald.

That the said Robert W. Archbald, judge as aforesaid, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co., aforesaid, in behalf of the said Frederick Warnke, and on or about the 31st day of March, 1912, willfully, unlawfully, and corruptly did accept, as a gift, reward, or present, from the said Frederick Warnke, tendered in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and the said coal company, and for other favors shown by said judge to the said Frederick Warnke, a certain promissory note for $500 executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as a judge and high crimes and misdemeanor in office.

ARTICLE 6.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about the 1st day of December, 1911, did unlawfully, improperly, and corruptly attempt to use his influence as such judge with the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to induce the officers of said companies to purchase a certain interest in a tract of coal land containing 800 acres, which interest at said time belonged to certain persons known as the Everhardt heirs.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 7.

That during the months of October and November, A. D. 1908, there was pending in the United States district court, in the city of Scranton, State of Pennsylvania, over which court Robert W. Archbald was then presiding as the duly appointed judge thereof, a suit or action at law, wherein the old Plymouth Coal Co. was plaintiff and the Equitable Fire & Marine Insurance Co. was defendant. That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the pufpose of speculation and profit; that in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsuit, and after extended argument by attorneys for both plaintiff and defendant, the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,129.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused and which was later discounted by a bank and has never been paid.

All of which acts on the part of the said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

ARTICLE 8.

That during the summer and fall of the year 1909 there was pending in the United States District Court for the Middle District of Pennsylvania, in the city of Scranton, over which court the said Robert W.

Archbald was then and there presiding as the duly appointed judge thereof, a civil action wherein the Marian Coal Co. was defendant, which action involved a large sum of money, and which defendant coal company was principally owned and controlled by one Christopher G. Boland and one William P. Boland, all of which was well known to said Robert W. Archbald; and while said suit was so pending the said Robert W. Archbald drew a note for $500, payable to himself, and which note was signed by one John Henry Jones and indorsed by the said Robert W. Archbald, and then and there during the pendency of said suit as aforesaid the said Robert W. Archbald wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland, or one of them, for the purpose of having the said note discounted, corruptly intending that his name on said note would coerce and induce the said Christopher G. Boland and the said William P. Boland, or one of them, to discount the same because of the said Robert W. Archbald's position as judge and because the said Bolands were at that time litigants in his said court.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his office as judge, and was and is guilty of a misdemeanor in his said office as judge.

ARTICLE 9.

That the said Robert W. Archbald, of the city of Scranton and State of Pennsylvania, on or about November 1, 1909, being then and there a United States district judge in and for the middle district of Pennsylvania, in the city of Scranton and State aforesaid, did draw a note in his own proper handwriting, payable to himself, in the sum of $500, which said note was signed by one John Henry Jones, which said note the said Robert W. Archbald indorsed for the purpose of securing the sum of $500, and the said Robert W. Archbald, well knowing that his indorsement would not secure money in the usual commercial channels, then and there wrongfully did permit the said John Henry Jones to present said note for discount, at his law office, to one C. H. Von Storch, attorney at law and practitioner in said district court, which said Von Storch, a short time prior thereto, was a party defendant in a suit in the said district court presided over by the said Robert W. Archbald, which said suit was decided in favor of the said Von Storch upon a ruling by the said Robert W. Archbald; and when the said note was presented to the said Von Storch for discount, as aforesaid, the said Robert W. Archbald wrongfully and improperly used his influence as such judge to induce the said Von Storch to discount same; that the said note was then and there discounted by the said Von Storch, and the same has never been paid but is still due and owing.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his said office, and was and is guilty of a misdemeanor in his said office as judge.

ARTICLE 10.

That the said Robert W. Archbald, while holding the office of United States district judge, in and for the middle district of the State of Pennsylvania, on or about the 1st day of May, 1910, wrongfully and unlawfully did accept and receive a large sum of money, the exact amount of which is unknown to the House of Representatives, from one Henry W. Cannon; that said money so given by the said Henry W. Cannon and so unlawfully and wrongfully received and accepted by the said Robert W. Archbald, judge as aforesaid, was for the purpose of defraying the expenses of a pleasure trip of the said Robert W. Archbald to Europe; that the said Henry W. Cannon, at the time of the giving of said money and the receipt thereof by the said Robert W. Archbald, was a stockholder and officer in various and diverse interstate railway corporations, to wit: A director in the Great Northern Railway, a director in the Lake Erie & Western Railroad Co., and a director in the Fort Wayne, Cincinnati & Louisville Railroad Co.; that the said Henry W. Cannon was president and chairman of the board of directors of the Pacific Coast Co., a corporation which owned the entire capital stock of the Columbia & Puget Sound Railroad Co., the Pacific Coast Railway Co., the Pacific Coast Steamship Co., and various other corporations engaged in the mining of coal and in the development of agricultural and timber land in various parts of the United States; that the acceptance by the said Robert W. Archbald, while holding said office of United States district judge, of said favors from an officer and official of the said corporations, any of which in the due course of business was liable to be interested in litigation pending in the said court over which he presided as such judge, was improper and had a tendency to and did bring his said office of district judge into disrepute.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office ,and was and is guilty of a misdemeanor.

ARTICLE 11.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, did, on or about the 1st day of May, 1910, wrongfully and unlawfully accept and receive a sum of money in excess of $500, which sum of money was contributed and given to the said Robert W. Archbald by various attorneys who were practitioners in the said court presided over by the said Robert W. Archbald; that said money was raised by subscription and solicitation from said attorneys by two of the officers of said court, to wit, Edward R. W. Searle, clerk of said court, and J. B. Woodward, jury commissioner of said court, both the said Edward R. W. Searle and the said J. B. Woodward having been appointed to the said positions by the said Robert W. Archbald, judge aforesaid.

Wherefore said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 12.

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district, and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United States district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

ARTICLE 13.

That Robert W. Archbald, on the 29th day of March, 1901, was duly appointed United States district judge for the middle district of Pennsylvania and held such office until the 31st day of January, 1911, on which last-named date he was duly appointed a United States circuit judge and designated as a judge of the United States Commerce Court.

That during the time in which the said Robert W. Archbald has acted as such United States district judge and judge of the United States Commerce Court he, the said Robert W. Archbald, at divers times and places, has sought wrongfully to obtain credit from and through certain persons who were interested in the result of suits then pending and suits that had been pending in the court over which he presided as judge of the district court, and in suits pending in the United States Commerce Court, of which the said Robert W. Archbald is a member.

That the said Robert W. Archbald, being United States circuit judge and being then and there a judge of the United States Commerce Court, at Scranton, in the State of Pennsylvania, on the 31st day of March, 1911, and at divers other times and places, did undertake to carry on a general business for speculation and profit in the purchase and sale of culm dumps, coal lands, and other coal properties, and for a valuable consideration to compromise litigation pending before the Interstate Commerce Commission, and in the furtherance of his efforts to compromise such litigation and of his speculations in coal properties, willfully, unlawfully, and corruptly did use his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., the Lackawanna & Wyoming Valley Railroad Co., and other railroad companies engaged in interstate commerce, respectively, to enter into various and divers contracts and agreements in which he was then and there financially interested with divers persons, to wit, Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, and others, without disclosing his said interest therein on the face of the contract, but which interest was well known to the officers and agents of said railroad companies.

That the said Robert W. Archbald did not invest any money or other thing of value in consideration of any interest acquired or sought to be acquired by him in securing or in attempting to secure such contracts or agreements or properties as aforesaid, but used his influence as such judge with the contracting parties thereto, and received an interest in said contracts, agreements, and properties in consideration of such influence in aiding and assisting in securing same.

That the said several railroad companies were and are engaged in interstate commerce, and at the time of the execution of the several contracts and agreements aforesaid and of entering into negotiations looking to such agreements had divers suits pending in the United States Commerce Court, and that the conduct and efforts of the said Robert W. Archbald in endeavoring to secure and in securing such contracts and agreements from said railroad companies was continuous and persistent from the said 31st day of March, 1911, to about the 15th day of April, 1912.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office.

CHAMP CLARK,
Speaker of the House of Representatives.

Attest:

SOUTH TRIMBLE, *Clerk*,
By J. C. SOUTH, *Chief Clerk*.

And, Mr. President, the House of Representatives by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles of accusation or impeachment against the said Robert W. Archbald, a circuit judge of the United States and designated as a judge of the United States Commerce Court, and also of replying to his answers which he shall make unto the articles preferred against him, and of offering proof to the same and every part thereof, and to all and every other article of accusation or impeachment which shall be exhibited by them as the case shall require, do demand that the said Robert W. Archbald may be put to answer the high crimes and misdemeanors in office which have been charged against him in the articles which have been exhibited to the Senate, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

Mr. President, the managers on the part of the House of Representatives, in pursuance of the action of the House of Representatives by the adoption of the resolutions and articles of impeachment, which have just been read to the Senate, do now demand that the Senate take order for the appearance of said Robert W. Archbald to answer said impeachment, and do now demand his impeachment, conviction, and removal from office.

The articles of impeachment were handed to the Secretary of the Senate.

The PRESIDENT pro tempore. Mr. Chairman and gentlemen of the committee of the House of Representatives, the Chair begs to assure you that the Senate will take order in the matter of the impeachment of Judge Archbald and communicate its action to the House of Representatives.

Mr. Manager CLAYTON. Mr. President, in behalf of the House of Representatives the managers of the House beg to thank the Presiding Officer and the Senate for the courtesy extended to the managers upon the part of the House of Representatives.

The managers thereupon withdrew from the Chamber.

Mr. CLARK of Wyoming. Mr. President, I offer the following resolution, for which I ask immediate consideration.

The PRESIDENT pro tempore. The resolution will be read.

The resolution (S. Res. 360) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the message of the House of Representatives relating to the impeachment of Robert W. Archbald be referred to a select committee to consist of five Senators to be appointed by the President pro tempore.

The PRESIDENT pro tempore. The Chair announces the following as the committee: The Senator from Wyoming [Mr. CLARK], the Senator from Minnesota [Mr. NELSON], the Senator from Vermont [Mr. DILLINGHAM], the Senator from Georgia [Mr. BACON], and the Senator from Texas [Mr. CULBERSON].

Mr. SUTHERLAND. Mr. President, I submit the following order, for which I ask immediate consideration.

The PRESIDENT pro tempore. The order will be read.

The order was read, considered by unanimous consent, and agreed to, as follows:

Ordered, That the articles of impeachment presented against Robert W. Archbald be printed for the use of the Senate. (S. Doc. No. 874.)

Mr. LODGE. Mr. President, under the provisions for the conduct of impeachment trials it is necessary, I understand, that we should arrange for taking up these articles to-morrow at 1 o'clock. We have no choice in the matter whatever. I did not catch in either of the resolutions any provision for that.

Mr. BACON. I would say in reply to the suggestion of the Senator that the resolution offered by the Senator from Wyoming is an exact copy of the resolution which under similar circumstances was offered in the case of the impeachment of Judge Swayne, and while the specification is not made in the resolution to which the Senator from Massachusetts has alluded the action of the committee did embrace the particular matters the Senator has in mind, and I presume that that would be the action of the committee in this case. In other words, while the reading of the resolution is one which relates simply to the reference of the articles of impeachment, that committee did on the former occasion go forward and make preparation in the way of the presentation of the orders, and so forth, which were necessary to prepare for the trial, in arranging for the oath to be administered to Senators and the necessary orders to bring the matter at issue after the proper notice had been served upon the officer who is charged with high crimes and misdemeanors.

I thought it proper to mention to the Senator from Wyoming, who had shown me before he offered it the resolution which he had prepared, and both he and I concurred in the opinion that the resolution having been identical in the former case and having been acted on by the Senate, it would be better probably to follow the precedent in that instance.

Mr. LODGE. I do not question at all the propriety of the resolution appointing the committee. I have not, of course, the record before me showing what was done previously, and as to the action taken before in regard to what is required under the rule, that we shall act not later than 1 o'clock on the following day.

Mr. BACON. This does not in any manner interfere with what the rule contemplates.

Mr. SUTHERLAND. The record in the Swayne case shows that a resolution similar to that presented by the Senator from Wyoming was submitted to the Senate and was adopted prior to the submission of the articles of impeachment.

Mr. BAILEY. Mr. President, if the Senator will permit me, the whole confusion arises out of the fact that this has not been the procedure heretofore. Heretofore the committee of the House came and notified the Senate that they would prepare articles of impeachment, and subsequently did come to exhibit the articles. The Senator from Georgia is exactly right, because when the Senate does convene to-morrow at 1 o'clock for this purpose the committee will have such order ready as the Senate ought to make.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Wyoming?

Mr. LODGE. Certainly.

Mr. CLARK of Wyoming. If the Senator will permit me, the resolution presented by the Senator from Wyoming was presented with a full knowledge of the difference between this case and the Swayne case. The Senator from Wyoming can not see where it creates any difficulty whatever.

Mr. BAILEY. None at all.

Mr. CLARK of Wyoming. The resolution, in the judgment of the Senator from Wyoming, is proper at any stage of the proceedings until the Senate acts upon the resolution of the House.

Mr. BAILEY. If the Senator will permit me, if some such resolution as the Senator from Wyoming has introduced had not been introduced and adopted, we would meet here at 1 o'clock to-morrow and nobody would be prepared for properly taking the procedure indicated in the rule.

Mr. CLARK of Wyoming. That is the position of the Senator from Wyoming.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. LODGE. Certainly.

Mr. CUMMINS. I desire a rereading of the resolution. I recognize the propriety of some one preparing the necessary order or resolution, but I did not gather from the resolution that such was the purpose or function of the committee.

The PRESIDENT pro tempore. The resolution will be again read.

The Secretary again read the resolution, as follows:

Resolved, That the message of the House of Representatives relating to the impeachment of Robert W. Archbald be referred to a select committee, to consist of five Senators to be appointed by the President pro tempore.

Mr. CUMMINS. It seems to me that the articles of impeachment under that resolution would go to the committee with neither direction for a report nor any order as to this procedure.

Mr. CLARK of Wyoming. No; if the Senator will allow me, the resolution refers not at all to the articles of impeachment. The resolution refers to the message that came from the House on Saturday last.

Mr. CUMMINS. That will obviate the objection I had in mind, because I do not believe the Senate has any power to commit the articles of impeachment to any committee.

Mr. CLARK of Wyoming. Of course not.

Mr. LODGE. Mr. President, I now desire to call attention to the point I made before, that after the presentation of the articles of impeachment, which is what has happened, on the Swayne case, the Senate first made the order which has just been made on the motion of the Senate from Utah to print the articles of impeachment for the use of the Senate. They then made an order "that at 2 o'clock this afternoon the Senate will proceed." It seems that under the rule we ought to make an order as to when we shall proceed, which must be not later than 1 o'clock to-morrow.

Mr. BAILEY. In the absence of making any order, we would proceed under the rule at 1 o'clock.

Mr. LODGE. The Senate would proceed automatically at 1 o'clock.

Mr. BAILEY. Certainly.

Mr. LODGE. It seems to me it would be rather better to proceed by agreement.

Mr. SUTHERLAND. Mr. President, with all due deference to the suggestion made by the Senator from Texas, it does seem to me that the appointment of this committee is absolutely unnecessary. When the committee was appointed in the Swayne case it was, as I have already stated, at an entirely different stage of the proceeding.

Mr. BACON. This is a very important matter and I hope the Senator will speak loud enough for us to hear what he says.

Mr. SUTHERLAND. Very well. The message which is referred to this committee, as I understand the statement made by the Senator from Wyoming, is that which was received by the Senate on Saturday. Now, that message was disposed of upon the motion of the Senator from Georgia. We adopted an order which reads:

That the Secretary inform the House of Representatives that the Senate is ready to receive the managers appointed by the House for the purpose of exhibiting articles of impeachment against Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court, agreeably to the notice communicated to the Senate.

So the Senate has taken action upon that message. Nothing remains for the committee to do. The articles of impeachment, in pursuance of the order adopted by the Senate on Saturday, have been exhibited to the Senate, and they are now before the Senate for consideration. Article III——

Mr. BAILEY. No; not until we take the oath of office.

Mr. SUTHERLAND. Certainly; we must take the oath of office before we proceed.

Article III of the rules relating to the trial of impeachment cases provides that—

Upon such articles being presented to the Senate, the Senate shall, at 1 o'clock afternoon of the day (Sunday excepted) following such presentation, or sooner if ordered by the Senate, proceed to the consideration of such articles, and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, etc.

Mr. WORKS. Mr. President——

Mr. SUTHERLAND. In just a moment. When the articles of impeachment have been presented, and they have been presented to-day, nothing remains for the Senate to do except to proceed to the consideration of those articles on the following day at 1 o'clock, unless an order is adopted to the contrary.

So there is absolutely nothing for this committee to consider. The rules prescribe exactly what the Senate shall do. It seems to me that the proper course is either to adjourn, under the rule, which will authorize us automatically to meet again at 1 o'clock to-morrow for the purpose of considering these articles or to adopt an order that that course be taken. I have prepared an order to that effect, and at the proper time I will offer it.

I now yield to the Senator from California.

Mr. WORKS. Under the Constitution when the Senate comes to act upon this matter it must act as a court. The Senate has no power to take action with respect to any matter material to the question presented by the impeachment. Therefore these proceedings on the part of the Senate seem to me to be idle. There is no power to act until the Senate convenes as a court and its members are sworn. Then such action may be taken as is necessary.

Mr. SUTHERLAND. That occurs to-morrow.

Mr. WORKS. Of course that occurs to-morrow. No action is necessary on the part of the Senate until to-morrow.

Mr. SUTHERLAND. If the Senator will permit me to call attention to the language of Rule III, it provides, as I have already stated, "that upon the following day, at 1 o'clock in the afternoon, the Senate shall meet for the purpose." and so forth, and then the rule proceeds:

> Before proceeding to the consideration of the articles of impeachment the Presiding Officer shall administer the oath hereinafter provided to the Members of the Senate then present and to the other Members of the Senate as they shall appear, whose duty it shall be to take the same.

So, as I understand it, to-morrow at 1 o'clock before the Senate proceeds to the consideration of the articles of impeachment, it is the duty of the Presiding Officer to administer the oath of office. That having been done the Senate is constituted a court for the trial of this impeachment case.

Mr. WORKS. And it has no power to act as a court until then.

Mr. SUTHERLAND. It has no power to act as a court until that time.

Mr. WORKS. Certainly not.

Mr. SUTHERLAND. I offer the following order, and ask for its immediate consideration.

Mr. BACON. Before that is done, I hope the Senator will permit me——

Mr. LODGE. Let it be read.

Mr. SUTHERLAND. Will the Senator permit it to be read?

Mr. BACON. Very well.

The PRESIDENT pro tempore. The order will be read.

The Secretary read as follows:

> *Ordered*, That at 1 o'clock p. m. July 16, 1912, the Senate will proceed to the consideration of the articles of impeachment of Robert W. Archbald, a United States circuit judge and a member of the Commerce Court, presented by the House of Representatives this day.

Mr. BAILEY. That is an exact transcript of the rule now.

Mr. BACON. It is probably proper that I should make some statement as to the circumstances under which I offered the order which was adopted by the Senate on Saturday.

The Senator from Texas has correctly stated the fact that the order of procedure adopted by the House in this instance is not exactly as it was in the case of the impeachment of Judge Swayne. In that case there was a method pursued under which the committee appointed on the part of the House appeared and announced the fact to the Senate that it appeared in obedience to the order of the House, and the House had ordered an impeachment, and at a future time would exhibit articles of impeachment. In this instance, there has been delay on account of monopoly of the time of the Senate in the consideration of the election case of Mr. Lorimer. The House determined that they would refrain from that formality, and that they would send notice to the Senate of the fact that the impeachment had been ordered and a resolution had been adopted to that effect, which resolution was communicated by the Clerk of the House.

It was the desire of the managers, if practicable, to present those articles on Saturday afternoon. They did not know, however, at what time the Senate would finish the consideration of the case of Mr. Lorimer, as that could not be anticipated with certainty. The House desired that it should be notified as promptly as possible that the Senate was ready to receive the managers appointed by the House for the purpose of conducting the impeachment trial. Therefore it was at the request of the board of managers that I offered the resolution, their intention being, if time permitted, to appear immediately on Saturday afternoon. That accounts for the variation of the method which was pursued in the case of the impeachment of Judge Swayne so far as the preliminary steps were concerned.

As to the order taken—I am speaking of the resolution offered this morning by the Senator from Wyoming [Mr. CLARK]—I do not know whether an order identical in terms was adopted in prior cases of impeachment, but I am quite familiar with and I recollect very distinctly what was done in the adoption of that resolution in the case of the impeachment of Judge Swayne. The purpose of the resolution was in that case, and I presume it is in this case, to appoint a committee who should suggest the steps in the procedure, the orders to be taken, and so forth. It is manifestly necessary that there should be somebody charged with that responsibility in order that the various steps to be taken may be anticipated and provided for.

So far as the membership of that committee is concerned, I am sure that I reflect the sentiments and feelings of the other Members by saying that I am perfectly willing that that duty shall be conferred upon other Senators, but it must be conferred on somebody. It is not proper, it is not conducive to regular and orderly procedure that the question of what papers shall be presented and the question of what particular methods shall be pursued shall be left to the irregular and unconcerted action of different Senators.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from California?

Mr. BACON. I do.

Mr. WORKS. Does not the Senator from Georgia think that this committee should be appointed after the Senate becomes the court and has this matter within its jurisdiction?

Mr. BACON. I think not, for the reason that this committee will not exercise any function except the function of taking the necessary steps to see that the proper procedure is inaugurated.

Mr. WORKS. Well, the committee could take no action that would be binding upon the court as such when it was organized.

Mr. BACON. Of course not. The committee could not summon Judge Archbald; the committee could not do anything except suggest to the Senate what it ought to do.

Mr. BAILEY. If the Senator will permit me, one of the very things it ought to do would be to have the subpœna ready.

Mr. BACON. Of course it can simply prepare things, but it can do nothing by its own authority; it can do nothing except suggest and prepare for the Senate. Then it is for the Senate to say whether or not it will approve of the suggestion.

Mr. WORKS. It seems to me that that is just as much a function of the court as any other duty that it has to perform—to prepare for the trial of the case after it becomes a court.

Mr. BAILEY. How often does the district attorney prepare an order in advance and bring it into court?

Mr. WORKS. But the district attorney in this case is not the Senate; it is the House of Representatives.

Mr. BACON. There is no authority for this committee except to suggest. Everything that is done must be done by the Senate. This committee can do nothing but consider what is, in its opinion, a proper thing to be suggested to the Senate. When suggested to the Senate, it is for the Senate to approve of the suggestion or to disapprove of it and take further action

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Utah?

Mr. BACON. I do.

Mr. SUTHERLAND. I call the attention of the Senator from Georgia to the fact that the rules which have already been adopted are quite specific as to the steps that are to be taken. The form of summons to be issued to the respondent is particularly prescribed by the rules. The procedure, as it seems to me, is perfectly plain and simple. Besides that, this committee is not appointed to do any of the things about which the Senator from Georgia has spoken. This committee has been created and has had referred to it the message of the House of Representatives, of which the Senate has already disposed. The committee has no other function under the order which has been adopted.

Mr. BACON. That is——

Mr. BAILEY. If the Senator will permit me further, as I understand, at 1 o'clock to-morrow the Members of the Senate are sworn. Then the Senate is organized as a court of impeachment; directions are given for the summoning of this respondent; the summons is issued directing him to appear at a certain time; and the procedure thereafter is laid down with a great deal of particularity in the rules.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Wyoming?

Mr. BACON. I do.

Mr. CLARK of Wyoming. I want to relieve the situation a little. For some reason—I do not know why—there seems to be

a desire on the part of some of the Senators to depart from the course that was pursued in the last impeachment trial. Of course, in presenting the resolution, the mover of the resolution had no object in view whatever except to expedite the matter and to proceed in the ordinary way as we have done before. It seems to me that we shall immediately fall into difficulties if we proceed as a court and have all these matters of ordinary routine coming up for action of the entire court, or the entire Senate, when they might well be prepared and sifted out by a committee. Inasmuch as there seems to be a misunderstanding, Mr. President, I move that the vote by which the committee was appointed be reconsidered.

Mr. BAILEY. I hope the Senator will not do that, because——

Mr. BACON. Mr. President, if the Senator will pardon me, I have not yielded the floor.

Mr. BAILEY. I beg the Senator's pardon.

Mr. BACON. No; go ahead.

Mr. BAILEY. Mr. President, we shall meet here to-morrow with absolutely no procedure properly mapped out. No Senator will take it upon himself to do it. Consequently we shall have to appoint somebody to-morrow to do what this committee would have ready for our hands to-morrow at 1 o'clock.

Mr. President, the procedure indicated here is not only that in the Swayne case, but it is the same as in all the other impeachments; it is the same as that pursued in the impeachment of the President and of the Secretary of War, those differing, as the Swayne case did, in the fact that here there was no antecedent notice of the House that it had adopted and would subsequently exhibit articles of impeachment.

It seems to me that to-morrow when we meet, articles of impeachment already having been exhibited, Senators will be sworn, as the Constitution requires we must be, and we must then not only give notice to the respondent to appear and defend himself, but our rules, if I am not mistaken, require a copy of those articles of impeachment to be presented to the accused. Who will have them ready unless there is a committee? The rule provides that such things shall be done, but it does not provide who shall do them.

Mr. LODGE and Mr. ROOT addressed the Chair.

The PRESIDENT pro tempore. To whom does the Senator from Georgia yield?

Mr. BACON. Mr. President, I have not yielded the floor.

Mr. BAILEY. If the Senators will pardon me a moment, I shall hear them both. I will first hear the Senator from Massachusetts.

Mr. BACON. I want to suggest to the Senator from Texas that I have never yielded the floor. The Senator from Utah [Mr. SUTHERLAND] interrupted me——

Mr. BAILEY. I beg the Senator's pardon.

Mr. LODGE. I suggest to the Senator from Texas that we wait until the Senator from Georgia has concluded, and then we shall have an opportunity to go on.

Mr. BAILEY. Yes.

Mr. BACON. I yield the floor altogether, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the fact that the Senator from Georgia [Mr. BACON] had the floor.

Mr. BAILEY. I must respectfully submit that the Chair is mistaken, because the Chair recognized, as I understood, the Senator from Wyoming [Mr. CLARK] to move a reconsideration of the vote by which this committee was appointed; and I took the floor upon that motion.

The PRESIDENT pro tempore. The Senator from Texas is mistaken as to that. The Chair did not take any action on the motion of the Senator from Wyoming.

Mr. BAILEY. The Chair had not stated it, but the Senator from Wyoming had submitted that motion.

The PRESIDENT pro tempore. That is correct.

Mr. BAILEY. But that is immaterial, as I understand. The Senator from Georgia, of course, and every other Senator will have time to present his views. Now I will hear what the Senator from Massachusetts has to say.

Mr. LODGE. I was only going to suggest to the Senator that I have looked back over these cases, and I find in every instance that the committee appointed by the Senate was appointed to have referred to them the message of the House of Representatives announcing that they were about to send a committee such as we have had here from the House to-day. No such committee was ever appointed after the articles of impeachment were exhibited.

Mr. BAILEY. I have not examined as to that, Mr. President.

Mr. LODGE. It was the same in the Andrew Johnson case, which I have before me.

Mr. BAILEY. In the case of Andrew Johnson they first adopted these rules which are now the Senate rules; but when Johnson was impeached there were no rules.

Mr. LODGE. That is true. That committee reported the rules under which the Senate proceeded, and those rules are now part of our regular rules.

Mr. BAILEY. Well, Mr. President, I am not so sure that the Senate sitting as a Senate can go beyond the time when the Senate resolves itself into a court, and some of these things must be done after the Senate resolves itself into a court; for instance, the subpœna and notice.

The Senator from California [Mr. WORKS] was not exactly fortunate in replying to the suggestion I made that the court often invites the district attorney to prepare an order. If it is permissible for a court to say to a district attorney or to counsel of a suitor, "Prepare your order and bring it here"—of course, it is a nullity until the court approves it and enters it upon the record, but if that is permissible in the case of a district attorney, certainly it is still more permissible for the Senate, when sitting as a court, to receive from its committee such suggestions as that committee may think wise and proper to make. Now I will hear the Senator from New York [Mr. ROOT].

Mr. ROOT. Mr. President, I rise for the purpose of suggesting to the Senator from Texas a consideration which seems to me to arise upon the face of the rules; and that is, whether this whole subject is not disposed of by the rules to be placed in the hands and under the authority of the Presiding Officer. Rule V provides:

> The Presiding Officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

And Rule VII provides:

> The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for.

It seems to me that those rules intended to put in the power of the Presiding Officer the authority, and to impose upon him the duty, of doing substantially what the Senator from Texas is looking to a committee to do; and that the Presiding Officer can, of course, call to his assistance the very Senators named in the resolution or any other Members of the Senate to advise with him regarding what he shall do under this authority.

Mr. BAILEY. That is all true, Mr. President, and if it had been a question of whether or not the committee should be appointed I would not have regarded that as vital; but the committee has been appointed, and it seems to me that it can not possibly do any harm. It may facilitate the disposition of that business and will do so. I have no doubt that the committee will have the writ ready, and, while the writ itself is a mere matter of form, the articles of impeachment must be put in shape to be transmitted by the presiding officer to the accused. That requires some attention.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. The Senator from California.

Mr. WORKS. I suppose "the presiding officer" referred to in the rule read by the Senator from New York means the presiding officer of the court, and not the Presiding Officer of the Senate?

Mr. BAILEY. That is undoubtedly true.

Mr. BACON. Mr. President, just to show how widely mistaken Senators are as to the effect of this resolution, if the same effect is to be given to it as was given to it on the former occasion, I am going to ask the attention of Senators to what was done under that form of resolution in the Swayne case. That resolution was offered by Mr. Platt, a Senator from Connecticut, who was then chairman of the Judiciary Committee. Under that resolution—and I hope I may have the attention of Senators, because I think what I am about to say and what I am about to read will throw some light upon this matter—under that resolution a committee was appointed consisting of Messrs. Platt, of Connecticut, CLARK of Wyoming, Fairbanks, BACON, and Pettus. That was a resolution identical in terms with the present resolution. The present resolution has been copied from it, the only variation being in the name of the officer against whom articles of impeachment are presented. Under that resolution the committee then appointed was, by the general regulation of the Senate, charged with the preparation of such orders as it was deemed necessary the Senate should adopt in the process of trial. Some of the orders were adopted before the court was convened and others after the court was convened. In each instance, of course, they were orders which were subject entirely to the approval and confirmation of the Senate.

Mr. Platt, of Connecticut, in a subsequent part of the proceedings, was selected as the presiding officer, upon motion of Mr.

Spooner, then Senator from Wisconsin, after the then President pro tempore had signified his desire that some other Senator should be substituted for him. Up to the time that Mr. Platt was selected, he offered every order that was offered in the Senate under which the proceeding was subsequently had. The committee met regularly for the purpose of considering what was necessary to be done, so that the proceedings should be orderly, properly, and most expeditiously conducted. When that committee had considered what orders were necessary, and agreed upon them, in each instance the order was handed to some member of the committee and it was by him presented to the Senate. The Senate then passed upon the question whether it approved of the order which was thus suggested by the committee.

Now I am going to read some of these orders, to show the manner in which this proceeding was had.

The Senator from Utah suggests that as the resolution relates only to the message which came from the House, the office of the committee ended with the receipt of that message, and there was nothing further to be done. But of course this resolution is to be considered in the same way that the former resolution was considered. That was the construction put upon it by the Senate; that was the action taken under it by the Senate; and the Senate was in that way served.

If Senators have the book before them, they will find that after the adoption of the resolution on page 4, Mr. Platt, the chairman of the committee—of course this was after the message had come from the House—made this favorable report:

Whereas the House of Representatives, on the 14th day of December, 1904, by five of its Members—

Naming them—

at the bar of the Senate impeached Charles Swayne, judge of the District Court of the United States for the Northern District of Florida, of high crimes and misdemeanors in office, and informed the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same; and likewise demanded that the Senate take order for the appearance of the said Charles Swayne to answer the said impeachment: Therefore—

This was an order presented by the committee. It simply illustrates the work of the committee:

Ordered, That the Senate will, according to its standing rule and orders in such cases provided, take proper order thereon (upon the presentation of the articles of impeachment), of which due notice shall be given to the House of Representatives.

Ordered, That the Secretary acquaint the House of Representatives therewith.

That is one of the orders taken on the suggestion of this committee.

Mr. SUTHERLAND rose.

Mr. BACON. I yielded to the Senator before and lost the floor by it. I hope the Senator will let me go on now.

Mr. SUTHERLAND. I wanted to ask the Senator a question.

Mr. BACON. I will answer it when I get through, if the Senator will permit me to continue.

Mr. SUTHERLAND. The question will lose its point by that time.

Mr. BACON. I think not.

Subsequently Senator Platt submitted another order, which had been considered and agreed upon by the committee, and will be found on the same page:

Ordered, That the Secretary inform the House of Representatives that the Senate is ready to receive the managers,

And so forth.

That order is similar to the one we adopted on Saturday.

Then, on page 6, another order was entered by Mr. Platt. It was the work of the committee, and he was speaking for the committee:

Resolved, That the expenses incident to the impeachment trial of Charles Swayne, judge for the northern district of Florida, be paid from the contingent fund of the Senate upon vouchers approved by the Sergeant at Arms.

I am going to read some of these to show Senators the nature of the work the committee did, and which, I presume, either this committee or some other committee is to do unless it is going to leave it for Senators indiscriminately, one to offer one and another to offer another, without any concerted action, thereby leading to a great deal of unnecessary confusion and delay in the proceeding.

On page 10 will be found another order presented by Mr. Platt and adopted by the Senate:

Ordered, That the articles of impeachment presented this day by the House of Representatives be printed for the use of the Senate.

The Senator from Utah has already offered a similar order. It is all right. There is no trouble about that.

On page 11 appears the following:

Ordered, That at 2 o'clock this afternoon the Senate will proceed to the consideration of the articles of impeachment of Charles Swayne, judge of the United States District Court for the Northern District of Florida, presented this day.

Then, on the same page, appears the resolution adopted upon the motion of the Senator from Wisconsin, Mr. Spooner, which made Mr. Platt the presiding officer. Thereafter, it will be found, practically all the orders were presented by Mr. Fairbanks, who was a member of the committee and was selected by the committee as its mouthpiece to present the various orders. I will read some of them to show the things which constantly occur in the progress of the trial which make it necessary that there shall be some person or some committee charged with the preparation of the orders which are necessary and proper for the orderly procedure of the Senate in an impeachment trial.

On page 14 there is an order presented by Mr. Fairbanks. These are very simple orders, but it is necessary that they should be carefully prepared and presented and that one Senator should not get up and offer an order, and another Senator get up and offer another one, and a third another, and in that way have confusion. It is as necessary to have a committee to give proper attention and care to the preparation of these orders as it is to have committees for any other purpose in order to put matters in shape for the action of the Senate. The committee does not act for the Senate. It has no authority. It can only present matters for the action of the Senate.

On page 14 there is an order which was prepared by the committee and presented by Mr. Fairbanks, a member of the committee:

Ordered, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against Charles Swayne, judge of the United States District Court for the Northern District of Florida, and is ready to receive the managers on the part of the House at its bar.

That is a very simple order; but it is necessary that it should be prepared by somebody and that it should be prepared in such a way as to obviate the confusion which would arise from having half a dozen Senators presenting different orders at the same time, all having the same purpose in view.

Then, on page 15, there is another order prepared by the committee and presented by Mr. Fairbanks:

Ordered, That a summons be issued, as required by the Rules of Procedure and Practice in the Senate when sitting for the trial of impeachment of Charles Swayne, returnable on Friday, the 27th day of the present month, at 1 o'clock in the afternoon.

On the same page there is another order presented by Mr. Fairbanks:

Ordered, That the Senate, sitting for the trial of impeachment of Charles Swayne, adjourn until Friday, the 27th instant, at 1 o'clock in the afternoon.

And so, clear through that trial, there were orders which the Senate had to act upon, and the care and responsibility for the preparation which had to be intrusted to some person or some committee.

So the Senator from Utah is entirely mistaken when he says that so far as concerns the interpretation given to a similar resolution on a former occasion the duties of the committee are ended when the articles of impeachment are presented. The duties of the committee were continued throughout in the Swayne case. While in that case it is true that the chairman of the committee, Mr. Platt, was taken from the floor and put in the chair, he continued as the chairman of the committee, though he did not thereafter present any orders in person. But he had regular meetings of the committee every day. As matters developed and some action was necessary the committee was gathered together; and when it had framed an order some Senator—Mr. Fairbanks, usually—was given the order, and it was presented and explained to the Senate.

I think in most instances, if not in all, the Senate agreed to the orders. But there was no obligation on the Senate to agree to the orders unless it approved them. They were very largely matters of formality. But it is necessary, in the interest of orderly procedure, that these formalities should be properly cared for and prepared.

I do not know whether the Senator from Utah now desires to ask me a question or not. If he does, I shall be glad to respond to him.

Mr. SUTHERLAND. The question I had in mind to ask the Senator a moment ago, when he was reading the report of the committee——

Mr. STONE. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Missouri will state his parliamentary inquiry.

Mr. STONE. I wish to ask the Chair what is the pending question.

The PRESIDENT pro tempore. The question before the Senate is the motion made by the Senator from Wyoming to reconsider the vote whereby the appointment of a committee was ordered by the Senate.

Mr. STONE. That motion was made at a time when the Senator from Wyoming did not have the floor to make it.

Mr. BACON. I will yield to the Senator to let him make it as soon as I get through.

Mr. STONE. It seems to me we are wasting a great deal of time in useless discussion. I call for the regular order.

The PRESIDENT pro tempore. The Chair will rule that the proceeding is under the regular order.

Mr. SUTHERLAND. The question I was about to ask the Senator from Georgia related to the report which was made by the committee in the Swayne case. That report concludes with a proposed order—

That the Senate will, according to its standing rule and orders in such cases provided, take proper order thereon (upon the presentation of the articles of impeachment), of which due notice shall be given to the House of Representatives.

The question I wish to submit to the Senator is this: Has not the Senate already reached in this case the point that was reached in the Swayne case by the report of the committee? We have passed beyond the point of the necessity of appointing a committee, such as was provided for in the Swayne case. Is not that true?

Mr. BACON. If that is the Senator's question, I will reply to it. It was put in that way—in the shape of a report—although it embraced an order.

If that had been the final work of the committee, the suggestion of the Senator undoubtedly would be very pertinent and conclusive. But the fact is, as I have stated, that the committee did not end its work there. but continued to act during the entire trial.

I am perfectly willing to have this resolution reconsidered—in fact, I rather prefer it—and I hope some other gentleman will be appointed on the committee. But somebody will have to be on a committee.

Mr. LODGE. They did not again act as a committee in the Swayne case.

Mr. SUTHERLAND. Will the Senator yield to me a little further?

Mr. BACON. Yes.

Mr. SUTHERLAND. I call the attention of the Senator from Georgia to the fact that there is nothing in the record which he has read which indicates in any way that the committee acted upon anything.

Mr. BACON. I will state as a fact that it did.

Mr. SUTHERLAND. Let the Senator, if he will, wait until I am through. A committee would act by making a report to the Senate. There is nothing in the record to show that the committee made any report or did anything. It is true that Mr. Fairbanks, who happened to be also a member of the committee, made certain motions; but any Member of the Senate could have done that. Does the Senator from Georgia think that because we appoint a committee that precludes other Members of the Senate from making these motions and proposing these orders?

Mr. BACON. Not by any means.

Mr. SUTHERLAND. The functions of the committee, as clearly indicated by the report in the Swayne case, ended when they presented the report which the Senator has read, on page 4. There is nothing to indicate that the committee had any power to do anything after that time.

Now we have reached that point. These articles of impeachment are before the Senate. The only thing which is proposed by the resolution offered by the Senator from Wyoming is to refer this message, which the Senate has already disposed of, to the committee.

It has absolutely no further duty to perform.

Mr. BAILEY rose.

Mr. BACON. Mr. President, I will yield to the Senator in a moment.

The Senator from Utah says there is nothing in the record to indicate that the committee continued to act. I say there is this in the record to show that the committee continued to act—the fact that every order, I think, without exception, which was thereafter presented during that trial, was presented by a member of the committee.

Mr. SUTHERLAND. By common consent.

Mr. BACON. Why, of course. It was the recognized function of the committee in that trial, and it did act in that way. I state as a fact—and the Senator from Wyoming, who was a member of the committee, will recall it as a fact—that the committee continued throughout that trial in the consideration of such orders as were required for the orderly conduct of the trial. When they conferred and agreed upon an order, it was thereafter presented, I think in almost every instance, after Mr. Platt took the chair, by Mr. Fairbanks; and I state as a fact—the Senator says there is nothing in the record to show it—that under that resolution the committee did act under the chairmanship of Mr. O. H. Platt during that entire time; and if I recollect aright, every order which was presented in that proceeding was an order which was considered by the committee and presented by a member of the committee.

Now, I want to repeat, if I am not fatiguing my friend, the Senator from Texas, by keeping him waiting for me to conclude——

Mr. BAILEY. Not at all.

Mr. BACON. I wish to repeat that, so far as the duties of that committee are concerned, I have no desire to be on it. I am one of the busy Members of the Senate, having more work than I can conveniently do, and I am perfectly willing that the Senator from Utah shall be made a committee sole. I am satisfied he would do it all right by himself; but it is necessary that somebody should do it.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Texas?

Mr. BACON. I do. I yield the floor.

Mr. BAILEY. Mr. President, I wish to make a suggestion which comes to me in considering what the Senator from New York [Mr. ROOT] said when he expressed the opinion that the rules themselves take care of this matter. Let us see if the rules do. For instance, Rule VIII requires:

VIII. Upon the presentation of articles of impeachment and the organization of the Senate as hereinbefore provided a writ of summons shall issue to the accused, reciting said articles and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate—

And so forth.

Now, nobody believes that the Presiding Officer is authorized to fix that day or to fix that place under the rule. Therefore it would be necessary that the Senate itself fix the time and place when and where the accused should appear to answer.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Iowa?

Mr. BAILEY. Certainly.

Mr. CUMMINS. The rule itself provides that the Senate must fix a day.

Mr. BACON. The Senate.

Mr. BAILEY. I understand; and I was just saying that the Presiding Officer could not fix that day.

Mr. LODGE. The rule requires the Senate to do it.

Mr. CUMMINS. The rule provides that the writ shall notify him to appear at a time and place to be fixed by the Senate.

Mr. BAILEY. That is what I said. The Senator merely emphasizes what I was saying.

Plainly the rule does not take care of it as the Senator from New York supposed it did, but when that committee would come back into the Senate it would consider the date upon which the accused should appear and make his answer. The committee would report a resolution fixing the day and, of course, fixing the Senate Chamber as the place. The Senate must adopt that resolution, but it ought to be first considered by a committee. What Senator would think to go around among the Senators and consult with them as to the most convenient day?

Again, Mr. President, the very statement which the Chair has made to the managers on the part of the House requires further action. The Chair's statement was that the Senate would take order and notify the House. Now, that notification to the House must be given. It is not sufficient to say that our rules say that we must be ready at 1 o'clock to-morrow, because the House is not charged with judicial notice of our rule. The managers of the House would not come here at 1 o'clock or at any other hour until, in response to the statement made by the Presiding Officer, they should be notified of the hour and the day on which the Senate would be ready to receive them.

Therefore it becomes not only appropriate but necessary that some committee should consider that question, both with reference to its convenience and with reference to the time it will take to bring the accused to the bar of the Senate in order that the Senate may act advisedly when it acts at all.

I first rose to protest against the undoing of a thing that I did not think very important, but the recitation by the Senator from Georgia of what was necessary has impressed me, and the more I think of it the more I am convinced that the committee not only would not be harmful, but that it would be immensely useful to the Senate.

Mr. LODGE. I note the hour of 2 o'clock has arrived. I was going to ask——

THE PANAMA CANAL.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by title.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone.

Mr. BAILEY. I suggest that the bill be laid aside temporarily.

Mr. BRANDEGEE. The Senator from Massachusetts [Mr. LODGE] gave notice at the last session of the Senate that he would call up the seal bill to-day, which is a very important measure. He was prevented from doing so by the matter which has been before the Senate. If the Senator will indulge me for a minute, I ask unanimous consent that the article which I send to the Clerk's desk, entitled "Relation of the Panama Canal to the Traffic and Rates of American Railroads," by Prof. Emory R. Johnson, the special commissioner appointed by the President to investigate that matter, may be printed as a Senate document (S. Doc. No. 875) and that 500 extra copies may be printed for the use of the Senate.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Connecticut? The Chair hears none, and it is so ordered.

Mr. BRANDEGEE. Now, I ask unanimous consent that House bill 21969, which is the unfinished business, as reported, with the amendments recommended by the Senate committee, may be printed in the RECORD.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears none, and it is so ordered.

The bill as reported is as follows:

[In the Senate of the United States, Calendar No. 771, Sixty-second Congress, second session, H. R. 21969.]

May 24, 1912, read twice and referred to the Committee on Interoceanic Canals.

June 12, 1912, reported by Mr. BRANDEGEE, with amendments.

[Omit the part between heavy brackets and insert the part printed in italics.]

An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the zone of land and land under water of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the canal now being constructed thereon, which zone begins in the Caribbean Sea three marine miles from mean low-water mark and extends to and across the Isthmus of Panama into the Pacific Ocean to the distance of three marine miles from mean low-water mark, [excepting and] excluding therefrom the cities of Panama and Colon and their adjacent harbors located within said zone, as excepted in the treaty with the Republic of Panama dated November eighteenth, nineteen hundred and three, but including all islands within said described zone, and in addition thereto the group of islands in the Bay of Panama named Perico, Naos, Culebra, and [Falmenco] *Flamenco*, and any lands and waters outside of said limits above described which are necessary or convenient or from time to time may become necessary or convenient for the construction, maintenance, operation, sanitation, or protection of the said canal or of any auxiliary canals, lakes, or other works necessary or convenient for the construction, maintenance, operation, sanitation, or protection of said canal, the use, occupancy, or control whereof were granted to the United States by the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on the twenty-sixth day of February, nineteen hundred and four, shall be known and designated as the Canal Zone, and the canal now being costructed thereon shall hereafter be known and designated as the Panama Canal. The President is authorized, [to acquire] by treaty with the Republic of Panama, *to acquire* any additional land or land under water not already granted, or which was excepted from the grant, that he may deem necessary for the operation, maintenance, sanitation, or protection of the Panama Canal, and [may, in like manner,] *to* exchange any land or land under water not deemed necessary for such purposes for other land or land under water which may be deemed necessary for such purposes, which additional land or land under water so acquired shall become part of the Canal Zone.

SEC. 2. That all laws, orders, regulations, and ordinances adopted and promulgated in the Canal Zone by order of the President for the government and sanitation of the Canal Zone and the construction of the Panama Canal are hereby ratified and confirmed as valid and binding until Congress shall otherwise provide. The existing courts established in the Canal Zone by Executive order are recognized and confirmed to continue in operation until [Congress shall otherwise provide] *the courts provided for in this act shall be established.*

SEC. 3. That the President is authorized to declare by Executive order that all land and land under water within the limits of the Canal Zone is necessary for the construction, maintenance, operation, sanitation, or protection of the Panama Canal, and to extinguish, by agreement when advisable, all claims and titles of adverse claimants and occupants. Upon failure to secure by agreement title to any such parcel of land or land under water the adverse claim or occupancy shall be disposed of and title thereto secured in the United States and compensation therefor fixed and paid in the manner provided in the aforesaid treaty with the Republic of Panama, or such modification of such treaty as may hereafter be made.

SEC. 4. That when [in the judgment of the President] the construction of the Panama Canal shall be [sufficiently advanced toward completion] *completed so as* to render *unnecessary* the further services of the Isthmian Canal Commission [unnecessary] *as now constituted* the President is authorized [by Executive order to discontinue the Isthmian Canal Commission, which, together with the present organization, shall then cease to exist; and the President is authorized thereafter to complete and operate the Panama Canal or cause it to be completed and operated through a governor of the Panama Canal and such other persons as he may deem competent to discharge the various duties connected with the completion, care, maintenance, sanitation, operation, and protection of the Canal] *to reduce the membership of the commission to three, one chosen from the Corps of Engineers of the Army, who shall be president of the commission as so reorganized, one experienced in the work of sanitation in the Tropics, and one a civilian. The president of said commission shall receive a salary of ten thousand dollars per annum, and the other members each shall receive a salary of nine thousand dollars per annum. Said commissioners shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office until their successors shall be appointed and qualified. Until otherwise provided by law, the President, through such commission, shall provide for the government of the Canal Zone and the completion and operation of the canal.* Any of the persons appointed or employed [as aforesaid] *under the provisions of this act* may be persons in the military, *naval*, or civil service of the United States, but the amount of the official salary paid to any such person shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of this act. [The governor of the Panama Canal shall be appointed by the President, by and with the advice and consent of the Senate, commissioned for a term of four years, and until his successor shall be appointed and qualified. He shall receive a salary of ten thousand dollars a year.] All other persons necessary for the completion, care, management, maintenance, sanitation, and operation of the Panama Canal shall be appointed by the [President, or by his authority] *commission*, removable at [his] *its* pleasure, and the compensation of such persons shall be fixed by the President, or by his authority, until such time as Congress may, by [appropriation act or other] law, regulate the same, but salaries or compensation fixed hereunder by the President shall in no instance exceed by more than twenty-five per centum the salary or compensation paid for the same or similar services to persons employed by the Government in continental United States. That upon the completion of the Panama Canal the President shall cause the same to be officially and formally opened for use and operation.

SEC. 5. That the President is hereby authorized to prescribe and from time to time change the tolls that shall be levied by the Government of the United States for the use of the Panama Canal: *Provided, That no tolls, when prescribed as above, shall be changed, except six months' notice thereof shall have been given by the President by proclamation.* No tolls shall be levied upon vessels engaged in the coastwise trade of the United States. Tolls may be based upon gross or net registered tonnage, displacement tonnage, or otherwise, and may be based on one form of tonnage for warships and another for ships of commerce. When based upon net registered tonnage for ships of commerce the tolls shall not exceed one dollar and twenty-five cents per net registered ton, nor be less [, other than for vessels of the United States and its citizens,] than the estimated proportionate cost of the actual maintenance and operation of the canal, subject, however, to the provisions of article nineteen of the convention between the United States and the Republic of Panama, entered into November eighteenth, nineteen hundred and three. *No tolls shall be levied upon vessels of American registry engaged in the foreign trade if the owners agree that such vessels may be taken and used by the United States in time of war or other public emergency, in the discretion of the President, upon payment to the owners of the fair actual value at the time of the taking; and if there shall be a disagreement as to the fair actual value of the same at the time*

of the taking between the United States and the owners then the same shall be determined by two disinterested appraisers, one to be appointed by each of the said parties, they at the same time selecting a third, who shall act in said appraisement in case the two fail to agree; and the decision of any two of the appraisers shall be final and conclusive: Provided, however, That under regulations prescribed by the President a vessel paying toll going through the canal in ballast shall, on its return trip through the canal laden with cargo, be entitled to receive a rebate of fifty per centum of the tolls just previously paid going through in the opposite direction without cargo. If the tolls shall not be based upon net registered tonnage, they shall not exceed the equivalent of one dollar and twenty-five cents per net registered ton as nearly as the same may be determined, nor be less than the estimated proportionate cost of the actual maintenance and operation of the canal. The toll for each passenger shall not be more than one dollar and fifty cents. The President is authorized to make and from time to time amend regulations governing the operation of the Panama Canal, and the passage and control of vessels through the same or any part thereof, including the locks and approaches thereto, and all rules and regulations affecting pilots and pilotage in the canal or the approaches thereto through the adjacent waters.

Such regulations shall provide for prompt adjustment by agreement and immediate payment of claims for damages which may arise from alleged injury to vessels, cargo, or passengers from the passing of vessels through the locks under the control of those operating them under such rules and regulations. In case of disagreement suit may be brought in the district court of the Canal Zone against the [governor of the Panama Canal] *Isthmian Canal Commission.* The hearing and disposition of such cases shall be expedited and the judgment shall be immediately paid [off] without proceeding to execution. All such claims, whether by agreement or after judgment, shall be paid out of any moneys appropriated or allotted for canal operation.

[The President shall provide a method for the determination and adjustment of all claims arising out of personal injuries to employees thereafter occurring while directly engaged in actual work in connection with the construction, maintenance, operation, or sanitation of the canal or of the Panama Railroad, or of any auxiliary canals, locks, or other works necessary and convenient for the construction, maintenance, operation, or sanitation of the canal, whether such injuries result in death or not, and may revise and modify such method at any time; and such claims, to the extent they shall be allowed on such adjustment, if allowed at all, shall be paid out of the moneys hereafter appropriated for that purpose or out of the funds of the Panama Railroad Company, if said company was responsible for said injury, as the case may require. And after such method shall be provided by the President, the provisions of the act entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," approved May thirtieth, nineteen hundred and eight, and of the act entitled "An act relating to injured employees on the Isthmian Canal," approved February twenty-fourth, nineteen hundred and nine, shall not apply to personal injuries thereafter received and claims for which are subject to determination and adjustment as provided in this section.]

The provisions of the act entitled "An act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment," approved May thirtieth, nineteen hundred and eight, and of the act entitled "An act relating to injured employees on the Isthmian Canal," approved February twenty-fourth, nineteen hundred and nine, shall apply to the determination and adjustment of all claims arising out of personal injuries to employees occurring while directly engaged in actual work in connection with the construction, maintenance, operation, or sanitation of the canal, or of the Panama Railroad, or of any auxiliary canals, locks, or other works necessary and convenient for the construction, maintenance, operation, or sanitation of the canal, whether such injuries result in death or not; and such claims as shall be allowed under such provisions shall be paid out of moneys appropriated for that purpose, or out of the funds of the Panama Railroad Company if said company was responsible for said injury, as the case may require.

SEC. 6. That the President is authorized to cause to be erected, maintained, and operated, at suitable places along the Panama Canal and the coast adjacent to its two terminals, in connection with the operation of said canal, such wireless telegraphic installations as he may deem necessary for the operation, maintenance, sanitation, and protection of said canal. If it is found necessary to locate such installations upon territory of the Republic of Panama, the President is authorized to make such agreement with said Government as may be necessary, and also to provide for the acceptance and transmission, by said system, of all private and commercial messages, and those of the Government of Panama, on such terms and for such tolls as the President may prescribe: *Provided,* That the messages of the Government of the United States and the departments thereof, and the management of the Panama Canal, shall always be given precedence over all other messages. *The President is also authorized, in his discretion, to enter into such operating agreements or leases with any private wireless company or companies as may best insure freedom from interference with the wireless telegraphic installations established by the United States.* The President is also authorized to establish, maintain, and operate, *through the Panama Railroad Company or otherwise,* dry docks, repair shops, yards, docks, wharves, warehouses, storehouses, and other necessary facilities and appurtenances for the purpose of providing coal and other materials, labor, repairs, and supplies for [our official] vessels [,] *of the Government of the United States* and, incidentally, for supplying such at reasonable prices to passing vessels, in accordance with appropriations hereby authorized to be made from time to time by Congress as a part of the maintenance and operation of the said canal. Moneys received [in the ordinary course of business] from the conduct of said business may be expended and reinvested for such purposes without being covered into the Treasury of the United States; and such moneys are hereby appropriated for such purposes, but all deposits of such funds shall be subject to the provisions of existing law relating to the deposit of other public funds of the United States, and any net profits accruing from such business shall annually be covered into the Treasury of the United States. Monthly reports of such receipts and expenditures shall be made to the President by the persons in charge, and annual reports shall be made to the Congress.

SEC. 7. That the [governor of the Panama Canal] *Isthmian Canal Commission* shall, in connection with the operation of such canal, have official control and jurisdiction over the Canal Zone and shall perform all duties in connection with the civil government of the Canal Zone, which is to be held, treated, and governed as an adjunct of such Panama Canal. [Unless in this act otherwise provided all existing laws of the Canal Zone referring to the civil governor or the civil administration of the Canal Zone shall be applicable to the governor of the Panama Canal, who shall perform all such executive and administrative duties required by existing law.] The [President] *Isthmian Canal Commission* is authorized to determine or cause to be determined what towns shall exist in the Canal Zone and subdivide and from time to time resubdivide said Canal Zone into subdivisions, to be designated by name or number, so that there shall be situated one town in each subdivision, and the boundaries of each subdivision shall be clearly defined. In each town there shall be a magistrate's court with exclusive original jurisdiction coextensive with the subdivision in which it is situated of all civil cases [of every character] in which the principal sum claimed does not exceed three hundred dollars, and all criminal cases wherein the [fine] *punishment* that [can] *may* be imposed [could] *shall* not exceed [twenty-five] *a fine of one hundred* dollars, *or* imprisonment [could] not [exceed] *exceeding* thirty days, or both, and all violations of police regulations and ordinances and all actions involving possession or title to personal property or the forcible entry and detainer of real estate [, and all other matters and proceedings which are now within the jurisdiction of the present district judge or the courts]. Such magistrates shall also hold preliminary investigations in charges of felony *and offenses under section ten of this act,* and commit or bail in bailable cases to the district court. A sufficient number of magistrates and constables, who must be citizens of the United States, to conduct the business of such courts, shall be appointed by the [governor of the Panama Canal] *Isthmian Canal Commission* for terms of four years and until their successors are appointed and qualified, and the compensation of such persons shall be fixed by the President, or by his authority, until such time as Congress may by [appropriation act or other] law prescribe the same. The rules governing said courts and prescribing the duties of said magistrates and constables, oaths and bonds, the times and places of holding such courts, the disposition of fines, costs, forfeitures, enforcements of judgments, *providing for the allowance and prosecution of* appeals therefrom to the district court, and the disposition, treatment, and pardon of [misdemeanor] convicts shall be established by order of the President. The [governor of the Panama Canal] *Isthmian Canal Commission* shall ap-

point all notaries public, prescribe their powers and duties, their official seal, and the fees to be charged and collected by them.

SEC. 8. That there shall be in the Canal Zone one district court with two divisions, one including Balboa and the other including Cristobal; and one district judge of the said district, who shall hold his court in both divisions at such time as he may designate by order, at least once a month in each division. The rules of practice in such district court shall be prescribed or amended by order of the President. The said district court shall have original jurisdiction of all felony cases, *of offenses arising under section ten of this act*, and [of] all causes in equity and admiralty and all cases at law involving principal sums exceeding three hundred dollars and [of] all appeals from judgments rendered in magistrates' courts. The jurisdiction in admiralty herein conferred upon the district judge and the district court shall be the same that is exercised by the United States district judges and the United States district courts, and the procedure and practice shall also be the same. The district judge shall also have jurisdiction of all other matters and proceedings not herein provided for which are now within the jurisdiction of the Supreme Court of the Canal Zone, of the Circuit Court of the Canal Zone, or the District Court of the Canal Zone, or the judges thereof. Said judge shall provide for the selection, summoning, serving, and compensation of jurors from among the citizens of the United States, to be subject to jury duty in either division of such district, and a jury shall be had in any criminal case or civil case at law originating in said court on the demand of either party. There shall be a district attorney and a marshal for said court. It shall be the duty of the district attorney to conduct all business, civil and criminal, for the Government, and to advise the [governor of the Panama Canal] *Isthmian Canal Commission* on all legal questions touching the operation of the canal and the administration of civil affairs. It shall be the duty of the marshal to execute all process of the court, preserve order therein, and do all things incident to the office of marshal. The district judge, the district attorney, and the marshal shall be appointed by the President, by and with the advice and consent of the Senate, for terms of four years each, [or] *and* until their successors are appointed and qualified, and during their terms of office shall reside within the Canal Zone, and shall hold no other office nor serve on any official board or commission nor receive any emoluments except their salaries. The district judge shall receive the same salary paid the district judges of the United States, and shall appoint the clerk of said court, who shall receive a salary to be fixed by the President. The district judge shall be entitled to six weeks' leave of absence each year with pay. During his absence or during any period of disability or disqualification from sickness or otherwise to discharge his duties the same shall be temporarily performed by any circuit or district judge of the United States who may be designated by the President, and who, during such service, shall receive the additional mileage and per diem allowed by law to district judges of the United States when holding court away from their homes. The district attorney and the marshal shall be paid each a salary of five thousand dollars per annum.

SEC. 9. That the records of the existing courts and all causes, proceedings, and criminal prosecutions pending therein as shown by the dockets thereof, except as herein otherwise provided, shall immediately upon the organization of the courts created by this act be transferred to such new courts having jurisdiction of like cases, be entered upon the dockets thereof, and proceed as if they had originally been brought therein, whereupon all the existing courts, except the supreme court of the Canal Zone, shall cease to exist. The President may continue the supreme court of the Canal Zone and retain the judges thereof in office for such time as to him may seem necessary to determine finally any causes and proceedings which may be pending therein. All laws of the Canal Zone imposing duties upon the clerks or ministerial officers of existing courts shall apply and impose such duties upon the clerks and ministerial officers of the new courts created by this act having jurisdiction of like cases, matters, and duties.

All existing laws in the Canal Zone governing practice and procedure in existing courts shall be applicable and adapted to the practice and procedure in the new courts.

The Circuit Court of Appeals of the Fifth Circuit of the United States shall have jurisdiction to review, revise, modify, reverse, or affirm the final judgments and decrees of the district court of the Canal Zone and to render such judgments as in the opinion of the said appellate court should have been rendered by the trial court in all actions and proceedings in which the Constitution, or any statute, treaty, title, right, or privilege of the United States, is involved and a right thereunder denied, and in cases in which the value in controversy exceeds one thousand dollars [or which involves the title or possession of real estate exceeding in value the sum of one thousand dollars], to be ascertained by the oath of either party, or by other competent evidence, and also in criminal causes wherein the offense charged is punishable as a felony. And such appellate jurisdiction, subject to the rights of review by or appeal to the Supreme Court of the United States as in other cases authorized by law, may be exercised by said circuit court of appeals in the same manner, under the same regulations, and by the same procedure as nearly as practicable as is done in reviewing the final judgments and decrees of the district courts of the United States.

SEC. 10. That after the Panama Canal shall have been completed and opened for operation the [governor of the Canal Zone] *Isthmian Canal Commission* shall have the right to make such rules and regulations, subject to the approval of the President, touching the right of any person to remain upon or pass over any part of the Canal Zone as may be necessary. Any person violating any of such rules or regulations shall be guilty of a misdemeanor, and on conviction in the [magistrate's court] *District Court* of the [subdivision in which the violation occurred] *Canal Zone* shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding a year, or both, in the discretion of the court. It shall be unlawful for any person, by any means or in any way, to injure or obstruct, or attempt to injure or obstruct, any part of the Panama Canal or the locks thereof or the approaches thereto. Any person violating this provision shall be guilty of a felony, and on conviction in the District Court of the Canal Zone shall be punished by a fine not exceeding ten thousand dollars or by imprisonment not exceeding [ten] *twenty* years, or both, in the discretion of the court. If the act shall cause the death of any person within a year and a day thereafter, the person so convicted shall be guilty of murder and shall be punished accordingly.

[SEC. 11. That section five of the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, as heretofore amended, is hereby amended by adding thereto a new paragraph at the end thereof, as follows:

["From and after the first day of July, nineteen hundred and fourteen, it shall be unlawful for any railroad company or other common carrier subject to the act to regulate commerce to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner) in any common carrier by water with which said railroad or other carrier aforesaid does or may compete for traffic; and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense."]

[Jurisdiction is hereby conferred on the Interstate Commerce Commission to determine questions of fact as to the competition or possibility of competition, after full hearing, on the application of any railroad company or other carrier. Such application may be filed for the purpose of determining whether any existing service is in violation of this section and pray for an order permitting the continuance of any vessel or vessels already in operation, or for the purpose of asking an order to install new service not in conflict with the provisions of this paragraph. The commission may on its own motion or the application of any shipper institute proceedings to inquire into the operation of any vessel in use by any railroad or other carrier which has not applied to the commission and had the question of competition or the possibility of competition determined as herein provided. In all such cases the order of said commission shall be final.]

SEC. 11. That no ship owned, chartered, operated, or controlled by a railroad company, or in which any railroad company has any interest whatsoever (by stock ownership or otherwise, either directly or indirectly, through any holding company, or by stockholders or directors in common, or in any other manner), shall be permitted to enter or pass through the Panama Canal if engaged in the coastwise trade between ports of the United States. That any ship of American registry, however owned or controlled, shall be permitted to operate through the canal in transoceanic trade to and from oriental or European countries; said vessel on its way to and from said foreign countries shall be permitted to do a coastwise trade between ports of the United States and intermediate foreign ports: Provided, That this shall not be permitted to any ship owned or controlled in whole or in part by any railroad company, except those engaged in said transoceanic trade, nor shall any coastwise trade be done by any such ship unless on a voyage to or from such

transoceanic ports, and not to those of Canada, Mexico, or any Central or South American port: Provided further, That no such railroad owned or controlled ship shall pass through the canal unless at least fifty per centum of its cargo, in tonnage, is destined to or shipped from oriental or European ports.

That section six of [said] *the* act to regulate commerce, *approved February fourth, eighteen hundred and eighty-seven*, as heretofore amended, is hereby amended by adding a new paragraph at the end thereof, as follows:

"When property may be or is transported from point to point in the United States by rail and water through the Panama Canal or otherwise, the transportation being by a common carrier or carriers, and not entirely within the limits of a single State, the Interstate Commerce Commission shall have jurisdiction of such transportation and of the carriers, both by rail and by water, which may or do engage in the same, in the following particulars, in addition to the jurisdiction given by the act to regulate commerce, as amended June eighteenth, nineteen hundred and ten:

"(a) To establish physical connection between the lines of the rail carrier and the dock of the water carrier by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of its right of way, or by directing either or both the rail and water carrier, individually or in connection with one another, to construct and connect with the lines of the rail carrier a spur track or tracks to the dock. This provision shall only apply where such connection is reasonably practicable, can be made with safety to the public, *where the public, in the judgment of the commission, will be benefited by such connection*, and where the amount of business to be handled is sufficient to justify the outlay.

"The commission shall have full authority to determine the terms and conditions upon which these connecting tracks, when constructed, shall be operated, and it may, either in the construction or the operation of such tracks, determine what sum shall be paid to or by either carrier. The provisions of this paragraph shall extend to cases where the dock is owned by other parties than the carrier involved.

"(b) To establish through routes and maximum joint rates between and over such rail and water lines, and to determine all the terms and conditions under which such lines shall be operated in the handling of the traffic embraced.

"(c) To establish maximum proportional rates by rail to and from the ports to which the traffic is brought or from which it is taken by the water carrier and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water.

"(d) If any rail carrier subject to the act to regulate commerce enters into arrangements with any water carrier operating from a port in the United States to a foreign country, through the Panama Canal or otherwise, for the handling of through business between interior points of the United States and such foreign country, the Interstate Commerce Commission may require such railway to enter into similar arrangements with any or all other lines of steamships operating from said port to the same foreign country."

The orders of the Interstate Commerce Commission relating to this section shall only be made upon formal complaint or in proceedings instituted by the commission of its own motion and after full hearing. The orders provided for in the two amendments to the act to regulate commerce enacted in this section shall be served in the same manner and enforced by the same penaltes and proceedings as are the orders of the commission made under the provisions of section fifteen of the act to regulate commerce, as amended June eighteenth, nineteen hundred and ten, and they may be conditioned for the payment of any sum or the giving of security for the payment of any sum or the discharge of any obligation which may be required by the terms of said order.

SEC. 12. That all laws and treaties relating to the extradition of persons accused of crime in force in the United States, to the extent that they may not be in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama with respect to the Canal Zone, and all laws relating to the rendition of fugitives from justice as between the several States and Territories of the United States, shall extend to and be considered in force in the Canal Zone, and for such purposes and such purposes only the Canal Zone shall be considered and treated as an organized Territory of the United States.

SEC. 13. That in time of war in which the United States shall be engaged, or when, in the opinion of the President, war is imminent, such officer of the Army as the President may designate shall, upon the order of the President, assume and have exclusive authority and jurisdiction over the operation of the Panama Canal and all of its adjuncts, appendants, and appurtenances, including the entire control and government of the Canal Zone, and during a continuance of such condition the [governor of the Panama Canal] *Isthmian Canal Commission* shall, in all respects and particulars as to the operation of such Panama Canal, and all duties, matters, and transactions affecting the Canal Zone, be subject to the order and direction of such officer of the Army.

SEC. 14. That this act shall be known as, and referred to as, the Panama Canal Act, and the right to alter, amend, or repeal any or all of its provisions or to extend, modify, or annul any rule or regulation made under its authority is expressly reserved.

Passed the House of Representatives May 23, 1912.

Attest:

SOUTH TRIMBLE, *Clerk.*

Mr. BRANDEGEE. I ask unanimous consent that the unfinished business may be temporarily laid aside.

Mr. STONE. Does the Senator from Connecticut mean to request that it be laid aside for the day?

Mr. BRANDEGEE. I ask that it be just temporarily laid aside, to retain its place on the calendar as the unfinished business.

Mr. STONE. Is it the expectation of the Senator to call it up again during this day?

Mr. BRANDEGEE. I shall be very glad to call it up again during the day, if the opportunity presents itself, and to have the bill read. All I have asked is that it be temporarily laid aside, which is the usual request in such cases.

Mr. STONE. I know it is the usual request, but I am asking the Senator to make a statement as to his purpose, whether he intends by that request to lay the unfinished business aside for the day.

Mr. BRANDEGEE. Not if I can get it up again; but I will state that there are several appropriation bills to come in, and of course if they do they will have the right of way.

The PRESIDENT pro tempore. Is there objection to the motion of the Senator from Connecticut?

Mr. BRANDEGEE. I will say to the Senator that I intend not only to call it up again to-day at the earliest possible moment, but on every other day I intend to call it up when I can get it up under the rules of the Senate.

Mr. STONE. I will object to laying it aside.

The PRESIDENT pro tempore. The Senator from Missouri objects.

Mr. BRANDEGEE. I am perfectly willing to go ahead with the bill, and only asked to have it laid aside informally that a measure which is of great importance might be considered.

CONSTITUTIONAL RIGHT OF SENATE.

Mr. BAILEY. Mr. President, I submit what I consider a privileged resolution. I ask that it be read and lie on the table, and if I find an opportunity I will submit some observations on it to the Senate to-morrow.

The PRESIDENT pro tempore. The resolution will be read.

The resolution (S. Res. 357) was read as follows:

Whereas the Constitution of the United States makes the Senate the sole judge of the elections, returns, and qualifications of its members; and

Whereas every Senator is required by his oath of office to decide all such cases according to the law and the testimony before him: Therefore be it

Resolved, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate violates the spirit, if not the letter, of the Constitution, invades the rights of the Senate, and ought to be severely condemned.

Mr. BAILEY. I ask that the resolution may lie on the table.

The PRESIDENT pro tempore. The resolution will lie on the table and be printed.

Mr. CUMMINS and others addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Iowa?

Mr. BRANDEGEE. I do. I will say that I will yield to any Senator for morning business.

(Certain routine business was transacted, which appears under its proper headings.)

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER. Prior to the last legislative day a motion was entered by me for the recall of a bill from the House of Representatives, and I also gave notice of an intention to move

to reconsider the vote by which the Senate refused to agree to the amendments of the House and requested a conference. I ask the Chair to lay the matter before the Senate.

The PRESIDENT pro tempore. The message of the House will be laid before the Senate.

The Secretary read as follows:

In the House of Representatives, July 8, 1912:
Resolved, That the Clerk be directed to return to the Senate, in compliance with its request, Senate bill 6084, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move to reconsider the vote by which the Senate disagreed to the amendments of the House and requested a conference.

Mr. BRANDEGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Connecticut suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	McCumber	Smith, Ariz.
Bacon	Cullom	Martin, Va.	Smith, Ga.
Borah	Cummins	Martine, N. J.	Smith, Md.
Bourne	Dillingham	Massey	Smith, Mich.
Bradley	Dixon	Myers	Smith, S. C.
Brandegee	Fall	Nelson	Smoot
Bristow	Fletcher	Newlands	Stephenson
Bryan	Gallinger	Oliver	Stone
Burnham	Gamble	Overman	Sutherland
Burton	Gronna	Page	Swanson
Catron	Hitchcock	Percy	Thornton
Chamberlain	Johnson, Me.	Perkins	Tillman
Clapp	Johnston, Ala.	Pomerene	Townsend
Clark, Wyo.	Jones	Reed	Warren
Clarke, Ark.	Kenyon	Sanders	Wetmore
Crane	Lippitt	Shively	Williams
Crawford	Lodge	Simmons	Works

Mr. THORNTON. I announce the necessary absence of my colleague [Mr. FOSTER] on account of sickness. I will let this announcement stand for the day.

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is detained from the Senate by important business.

The PRESIDENT pro tempore. Sixty-eight Senators have answered to their names. A quorum of the Senate is present.

The Chair lays before the Senate a concurrent resolution from the House of Representatives and calls the attention of the Senator from North Dakota to it.

The Secretary read the concurrent resolution of the House (No. 59), as follows:

Resolved by the House of Representatives (the Senate concurring), That the action of the Vice President and President of the Senate and the Speaker of the House of Representatives in signing the enrolled bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors," be rescinded; that the Clerk be directed to reenroll said bill; and that, in the reenrollment of said bill, the Clerk be, and he is hereby, authorized and directed to amend the title of said bill by striking out the word "of" where it first appears in the fourth line thereof and insert in lieu thereof the word "and."

Mr. McCUMBER. I ask that the Senate agree to the resolution.

The concurrent resolution was considered by unanimous consent and agreed to.

Mr. STONE. Mr. President, I demand the regular order.

Mr. McCUMBER. I have not yet yielded the floor. We had another matter before the Senate when the call for a quorum was made.

Mr. STONE. The regular order is demanded.

The PRESIDENT pro tempore. It is the regular order. It is a message from the House which, under the rules, the Chair is compelled to lay before the Senate at any time.

Mr. McCUMBER. I move that the Senate reconsider the vote by which it disagreed to the amendments of the House to Senate bill 6084 and requested a conference with the House and the conferees were appointed.

Mr. STONE. I object, and demand the regular order.

The PRESIDENT pro tempore. It is the regular order.

Mr. STONE. I beg the Chair's pardon; I make the point of order that laying the message of the House before the Senate is one thing and proceeding to legislate upon that message is another thing.

The PRESIDENT pro tempore. The Chair is of opinion that any motion relating to the message from the House must be in order, either to recede or concur.

Mr. BACON. Mr. President——

The PRESIDENT pro tempore. It will be disposed of in a moment. The Senator from North Dakota moves that the action of the Senate disagreeing to the amendments of the House and sending the bill and amendments to conference be reconsidered.

Mr. STONE. Mr. President, I insist that the ruling of the Chair is not correct.

The PRESIDENT pro tempore. The Chair will be very glad to hear any Senator on that matter.

Mr. BACON. Mr. President, I simply want to suggest that the point made by the Senator from Missouri must necessarily be a good one. The question suggested by the motion made by the Senator from North Dakota is a debatable question, and if the ruling of the Chair is correct any proceeding could be interrupted under the privileged feature, or rather the obligatory feature, which requires the Chair to lay a message from the House of Representatives before the Senate. If that followed then any proceeding could thereafter be interrupted and a debate of interminable length injected into it.

The PRESIDENT pro tempore. For the instruction of the Chair will the Senator suggest when this matter can properly come before the Senate again?

Mr. BACON. I presume it can come at any time when it would be in order to take up any business.

Mr. STONE. At any time?

Mr. BACON. At any time when a motion is in order to take up something else. It is in order now for the Senator from North Dakota to move to take it up, but if he does and the motion prevails it displaces the regular order and becomes then the unfinished business. There is no question about that whatever. It is always in order to be moved, and it is always within the power of the Senate to say no; but it is not a privileged matter as is the laying of a message from the House before the Senate. It is privileged that the Senate shall be informed promptly of any communication which comes from the House, but the action the Senate will take upon it when it will proceed to discuss that communication is another matter. It rests exactly as any other matter. It rests in the power of the Senate to consider it as it sees proper upon a motion so made.

Mr. McCUMBER. Mr. President, let me explain it to the Senator from Georgia and then I do not think he will make any further objection to this proceeding.

Mr. BACON. I am not objecting.

Mr. McCUMBER. The matter is one in which the House amended a Senate bill for pensions by striking out two names. Not having the information before me at the time, I moved to disagree to the House amendment and to have a committee of conference appointed. I ascertained afterwards that the two names stricken out were stricken out because of the death of two parties, and therefore there is nothing really to go to conference upon. Then I gave notice of a motion to reconsider the vote by which the amendments were disagreed to, and also moved to request the House to return the bill to the Senate. The only object of this motion is to reconsider the vote and to agree to the amendments of the House.

Mr. BACON. Mr. President——

Mr. McCUMBER. In just a moment. When the matter comes over from the House it comes here as a message from the House as a message comes from the President, or a message from any proper source, and the message then as it comes is subject to the action of the Senate immediately when it is laid before the Senate. It may lie on the table or the Senate may at that time refer it to a proper committee or do what is the proper thing with reference to the message.

We have taken much more time in the discussion of it than it would have taken to dispose of it. It seems to me that we are hardly justified in further delaying the matter.

Mr. BACON. I wish to say to the Senator that I have not objected to it and I do not object to it. The Senator from Missouri objected to it. The only object I had was to maintain what I consider to be the correct parliamentary procedure. I was unwilling that a precedent should be established under which, when a message comes from the House, its consideration could then be proceeded with as a matter of privilege. I do not think that is the rule. Yet that would be the rule if the fact that a message was laid before the Senate, which of course it is the duty of the Chair to lay before the Senate, carries with it the privilege of immediate consideration. That is a very serious matter, and one that I do not think the rules will support in any way. It was solely in the interest of what I consider to be correct parliamentary procedure that I had anything to say and not because I have any objection to its consideration. I have none.

Mr. McCUMBER. I am ready for the ruling of the Chair.

The PRESIDENT pro tempore. The Chair would suggest that it has been the universal practice of the Senate to act upon a message of this kind, and yet if there is objection the Chair will permit the matter to go over until another time. Does the Senator from Missouri enter the objection?

Mr. STONE. I made the objection.

The PRESIDENT pro tempore. Then the matter will go over for the present. The unfinished business is before the Senate.

THE PANAMA CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I ask that the bill may be read.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary read the bill.

Mr. BRANDEGEE. Mr. President, ordinarily I should now ask that the bill be read for committee amendments, but I have been informed that the Senator from Ohio [Mr. BURTON] desires to submit some remarks upon certain features of the bill and would prefer to do so at this point before the bill is taken up for committee amendments. I will ask the Senator if I understand his position correctly?

Mr. BURTON. The Senator is correct.

Mr. BRANDEGEE. Then, Mr. President, I will defer any remarks I may have to make until later.

Mr. BURTON obtained the floor.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. BURTON. Yes.

Mr. SANDERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Tennessee suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Martin, Va.	Smith, Ga.
Bacon	Cullom	Martine, N. J.	Smith, Md.
Bailey	Cummins	Massey	Smith, S. C.
Borah	Dixon	Myers	Smoot
Bourne	du Pont	Newlands	Stephenson
Bradley	Fall	Oliver	Stone
Brandegee	Fletcher	Overman	Sutherland
Bristow	Gallinger	Page	Thornton
Bryan	Gamble	Percy	Townsend
Burton	Gardner	Perkins	Warren
Catron	Gronna	Pomerene	Wetmore
Chamberlain	Hitchcock	Reed	Williams
Clapp	Johnson, Me.	Root	Works
Clark, Wyo.	Johnston, Ala.	Sanders	
Clarke, Ark.	Jones	Simmons	
Crane	Kenyon	Smith, Ariz.	

The PRESIDING OFFICER. Sixty-one Senators have answered to their names. A quorum of the Senate is present.

Mr. BURTON. Mr. President, I suppose there will be no vote this afternoon upon any of the amendments proposed by the committee, and I take this occasion to call to the attention of the Senate two provisions, one in the bill as it came from the House, and another, even more objectionable as it seems to me, among the amendments proposed by the Senate committee.

The first paragraph to which I wish to direct attention is contained in the bill as it passed the House, and is found on page 6, lines 13 and 14 of section 5:

No tolls shall be levied upon vessels engaged in the coastwise trade of the United States.

The second paragraph is the proposed amendment suggested by the Senate committee, beginning at the bottom of page 6:

No tolls shall be levied upon vessels of American registry engaged in the foreign trade if the owners agree that such vessels may be taken and used by the United States in time of war or other public emergency, in the discretion of the President, upon payment to the owners of the fair actual value at the time of the taking; and if there shall be a disagreement as to the fair actual value of the same at the time of the taking between the United States and the owners then the same shall be determined by two disinterested appraisers, one to be appointed by each of the said parties, they at the same time selecting a third, who shall act in said appraisement in case the two fail to agree; and the decision of any two of the appraisers shall be final and conclusive.

In brief, the first paragraph contained in the House bill exempts from tolls vessels that are engaged in the coastwise trade. The second paragraph, the suggested Senate amendment, exempts, on certain conditions, vessels of American register engaged in the foreign trade.

There are several reasons why these paragraphs should not be adopted, but to-day I wish to give my attention to the objection from an international standpoint.

It is a time for us to show a scrupulous regard for the observance of treaty relations. This country has become too large, its trade relations too wide, and its future growth and prosperity depend too much upon friendly relations with other countries to allow us to pursue any selfish or narrow policy. In recent years the growth of our commerce, particularly of our exports, has been a marvel to the commercial world. Our future largely depends upon the continuing increase of this commerce. Nothing will insure its increase more certainly than the respect and friendliness of other nations.

If there is one policy toward which the uniform course of the United States may be said to point, it is that of neutralization and equal terms for the use of all waterways, natural or artificial.

This traditional policy was prompted in earlier days by the large extent of our shipping. Even before the Revolutionary War the Colonies shipped very considerable quantities of exports to the Mediterranean and also to the north of Europe. Since that date we have advocated the same principles because of the importance of our export trade. The absence of outlying possessions exercised a similar influence. This traditional policy has been fostered, more than for all other reasons, because of a liberal and progressive spirit actuated by a desire for amicable relations with all nations.

Our country was one of the most active in protesting against the sound dues imposed by the Government of Denmark, although ships had to pass from the North Sea to the Baltic Sea within cannon shot of shore, and these channels were furnished by the Danish Government with aids to navigation, such as suitable lights and buoys. In the year 1857 for a financial consideration we purchased exemption from those dues.

We insisted upon the continued neutralization of the Strait of Magellan. Mr. Evarts, our Secretary of State, in a letter dated January 18, 1879, said on this subject:

The Government of the United States will not tolerate exclusive claims by any nation whatsoever to the Strait of Magellan, and will hold responsible any Government that undertakes, no matter on what pretext, to lay any impost or check on United States commerce through this strait.

The triumphs of our Navy under Decatur, Bainbridge, and others against the Barbary pirates in the Mediterranean Sea, inured not alone to our benefit, but to the safety of the commerce of the whole civilized world.

We secured by treaty stipulations the equal use of the St. Lawrence River through Canadian territory. To-day we grant and receive equal privileges in canals near to the Canadian border.

Pursuant to this general policy, the tenor of our diplomatic negotiations and legislation has been toward a neutral canal across the Isthmus, through which the boats of all nations might pass on equal terms.

In the latter part of his life a medal was suggested for Henry Clay, and as one of the inscriptions upon it he insisted upon having engraved the words "Panama Instructions." These instructions were given to Messrs. Anderson and Sargent, in 1826. In these he wrote:

If a canal across the Isthmus be opened so as to admit of the passage of sea vessels from ocean to ocean, the benefits of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe, upon the payment of a just compensation or reasonable tolls.

This was the first declaration by a Secretary of State, other official, or Congress in regard to the proposed Panama Canal. Since that time this first declaration has been confirmed by American statesmen of all political parties—Whig, Democratic, and Republican—with substantial unanimity. The principle has been enunciated by presidential messages, by instructions from Secretaries of State, and by resolutions of the House and Senate and of Congress. The message of President Roosevelt, in submitting the treaty with Panama, expressly states this policy.

I will read a few of these.

On the 3d day of March, 1835, the United States Senate unanimously adopted a resolution as follows:

Resolved, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the Governments of other nations, and particularly with the Governments of Central America and New Granada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific Oceans by the construction of a ship canal across the isthmus which connects North and South America, and of securing forever, by such stipulations, the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established to compensate the capitalists who may engage in such undertaking and complete the work.

So much for the action of the Senate.

Four years later, in 1839, the House of Representatives, by unanimous vote, adopted a resolution much the same as that of the Senate, requesting the President—

to consider the expediency of opening or continuing negotiations with the Governments of other nations, and particularly with those of the territorial jurisdiction of which comprehends the Isthmus of Panama, and to which the United States have accredited ministers or agents, for the purpose of ascertaining the practicability of effecting a communication between the Atlantic and Pacific Oceans by the construction of a ship canal across the Isthmus, and of securing forever, by suitable treaty stipulations, the free and equal right of navigating such canal by all nations.

On the conclusion of the treaty with New Granada in 1846 President Polk submitted the treaty to the Senate with a message, in which he said:

In entering into the mutual guaranties proposed by the thirty-fifth article of the treaty neither the Government of New Granada nor that of the United States has a narrow or exclusive view. The ultimate object, as presented by the Senate of the United States in their resolution (March 3, 1835) to which I have already referred, is to secure to all nations the free and equal right of passage over the Isthmus. * * * The interests of the world at stake are so important that the security of this passage between the two oceans can not be suffered to depend upon the wars and revolutions which may arise among different nations.

President Taylor in his message to Congress December 4, 1849, said:

* * * All States entering into such a treaty will enjoy the right of passage through the canal on payment of the same tolls. The work, if constructed under these guaranties, will become a bond of peace instead of a subject of contention and strife between the nations of the earth. Should the great maritime States of Europe consent to this arrangement—and we have no reason to suppose that a proposition so fair and honorable will be opposed by any—the energies of their people and ours will cooperate in promoting the success of the enterprise. * * * Should such a work be constructed under the common protection of all nations for equal benefits to all it would be neither just nor expedient that any great maritime State should command the communication. The territory through which the canal may be opened ought to be freed from the claims of any foreign power. No such power should occupy a position that would enable it hereafter to exercise so controlling an influence over the commerce of the world or to obstruct a highway which ought to be dedicated to the common uses of mankind.

It may be said that these expressions were used at a time when it was contemplated that the canal would be constructed by private capital, and that in view of the fact that the Government has undertaken this work a different status is created, but the very language of the Hay-Pauncefote treaty of 1901 and the later treaty with Panama negatives this contention. It was clearly the intent of both treaties to continue the policy which had been enunciated in former years.

In this connection, reading chronologically, I wish to quote certain instructions from Secretaries of State. Mr. Secretary Fish, during the administration of President Grant, wrote:

* * * A Darien canal should not be regarded as hostile to a Suez Canal. They will be not so much rivals as joint contributors to the increase of the commerce of the world, and thus mutually advance each other's interests. * * *

We shall * * * be glad of any movement which shall result in the early decision of the question of the most practicable route and the early commencement and speedy completion of an interoceanic communication which shall be guaranteed in its perpetual neutralization and dedication to the commerce of all nations, without advantage to one over another of those who guarantee its assured neutrality.

Secretary of State Blaine's instructions to Mr. Lowell:

* * * Nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees and will by public proclamation declare at the proper time in conjunction with the Republic on whose soil the canal may be located that the same rights and privileges, the same tolls and obligations for the use of the canal shall apply with absolute impartiality to the merchant marine of every nation on the globe; and equally in time of peace the harmless use of the canal shall be freely granted to the war vessels of other nations.

President Cleveland, in his message of 1885, his first message to Congress, said:

* * * Whatever highway may be constructed across the barrier dividing the two greatest maritime areas of the world must be for the world's benefit—a trust for mankind, to be removed from the chance of domination by any single power, nor become a point of invitation for hostilities or a prize for warlike ambition. * * *

* * * These suggestions may serve to emphasize what I have already said on the score of the necessity of a neutralization of any interoceanic transit; and this can only be accomplished by making the uses of the route open to all nations and subject to the ambitions and warlike necessities of none.

I read from Secretary of State Olney's memorandum, 1896:

* * * That the interoceanic routes there specified should, under the sovereignty of the States traversed by them, be neutral and free to all nations alike. * * *

Then, in speaking of the Clayton-Bulwer treaty, he said:

* * * Under these circumstances, upon every principle which governs the relations to each other, either by nations or of individuals, the United States is completely estopped from denying that the treaty is in full force and vigor.

President Roosevelt, in submitting the treaty, said:

It specifically provides—

I quote this for the special reason that it shows that no distinction in the measure of control or in the neutrality or equality of opportunity was contemplated when it was decided that this canal should be built by the United States.

* * * It specifically provides that the United States alone shall do the work of building and assume the responsibility of safeguarding the canal, and shall regulate its neutral use by all nations on terms of equality without the guaranty of interference of any outside nation from any quarter. * * *

Again he says, on January 4, 1904, in a special message:

* * * Under the Hay-Pauncefote treaty, it was explicitly provided that the United States should control, police, and protect the canal which was to be built, keeping it open for the vessels of all nations on equal terms. The United States thus assumes the position of guarantor of the canal and of its peaceful use by all the world.

In a note by Secretary Hay on January 5, 1904, he states:

* * * The Clayton-Bulwer treaty was conceived to form an obstacle, and the British Government therefore agreed to abrogate it, the United States only promising in return to protect the canal and keep it open on equal terms to all nations, in accordance with our traditional policy.

That, I believe, is in Article I.

Article V guarantees neutrality.

Article VI engages to invite every State to enter into stipulations concerning the construction and maintenance of the canal for the benefit of mankind, on equal terms to all.

Before reading the provision in the Hay-Pauncefote treaty, I think it desirable to trace the history of a controversy commencing in the year 1888 between the United States and Great Britain relating to canals in Canada.

By the treaty of 1854, known as the reciprocity treaty, which was abrogated or terminated in 1866, equal privilege was granted to the citizens of the United States and the citizens of Canada in the boundary waters and canals to the north of us. The right was given to Canada to navigate Lake Michigan on the same terms as those afforded to our shipping. In 1871 a provision was inserted with reference to these canals. As everyone will recognize, it is very desirable for the shipping of both countries to sail along the Great Lakes and Canadian waters without let or hindrance. There was inserted in the treaty of 1871 the following article:

ART. XXVII. The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties on terms of equality with the inhabitants of the United States.

It will be noted that this is not an absolute agreement. It starts out by saying:

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals.

It is not, then, a positive agreement that they should be open on equal terms to both. I refer to this as a matter of extreme importance, because it shows the basis of our contention in this particular case.

The Canadian Government imposed certain restrictions and discriminations, to wit: That while the tolls through the Welland Canal should be 20 cents per ton on west-bound freight, the tolls on east-bound freight, while the same, should be subject to a rebate of 18 cents, leaving the net tolls only 2 cents, if the boat went as far as Montreal; and that if on the course, say from Duluth, Chicago, or any other city, cargoes should be unloaded and loaded again, if that unloading and loading should be on Canadian territory the same rebate of 18 cents a ton should be granted. This gave a preference to the port of Montreal as compared with the ports of the United States on the Atlantic seaboard or on Lake Ontario.

On this subject President Cleveland, in a message of August 23, 1888, said:

I desire also to call the attention of the Congress to another subject involving such wrongs and unfair treatment to our citizens as, in my opinion, require prompt action.

The navigation of the Great Lakes and the immense business and carrying trade growing out of the same have been treated broadly and liberally by the United States Government and made free to all mankind, while Canadian railroads and navigation companies share in our country's transportation upon terms as favorable as are accorded to our own citizens.

The canals and other public works built and maintained by the Government along the line of the Lakes are made free to all.

In contrast to this condition and evincing a narrow and ungenerous commercial spirit, every lock and canal which is a public work of the Dominion of Canada is subject to tolls and charges.

By Article XXVII of the treaty of 1871 provision was made to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation—

I take it that it would be no violation of the treaty if the tolls were the same—

but we had a right to expect that we, being Americans and interested in American commerce, would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals

should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers, as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own is to fulfill a promise with the shadow of performance.

I recommend that such legislative action be taken as will give Canadian vessels navigating our canals, and their cargoes, precisely the advantages granted to our vessels and cargoes upon Canadian canals, and that the same be measured by exactly the same rule of discrimination.

The course which I have outlined and the recommendations made relate to the honor and dignity of our country and the protection and preservation of the rights and interests of all our people. A government does but half its duty when it protects its citizens at home and permits them to be imposed upon and humiliated by the unfair and overreaching disposition of other nations. If we invite our people to rely upon arrangements made for their benefit abroad, we should see to it that they are not deceived; and if we are generous and liberal to a neighboring country our people should reap the advantage of it by a return of liberality and generosity.

These are subjects which partisanship should not disturb or confuse. Let us survey the ground calmly and moderately; and having put aside other means of settlement, if we enter upon the policy of retaliation let us pursue it firmly with a determination only to subserve the interests of our people and maintain the high standard and the becoming pride of American citizenship.

At a later time, in the following month, President Cleveland communicated to Congress certain documents and referred to the breach of the engagement contained in the treaty of 1871, whereby Great Britain promised to the United States equality in the matter of such canal transportation.

President Harrison several times commented on this subject. In a message under date of February 23, 1892, he says:

In the matter of canal tolls our treaty rights were flagrantly disregarded.

In speaking of the discriminations practiced, he says in a message of June 20, 1892:

The report of Mr. Partridge, the Solicitor of the Department of State, which accompanies the letter of the Secretary of State, states these discriminations very clearly. That these orders as to canal tolls and rebates are in direct violation of Article XXVII of the treaty of 1871 seems to be clear. It is wholly evasive to say that there is no discrimination between Canadian and American vessels; that the rebate is allowed to both without favor upon grain carried through to Montreal or transshipped at a Canadian port to Montreal. The treaty runs:

"To secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion."

It was intended to give to consumers in the United States, to our people engaged in railroad transportation, and to those exporting from our ports equal terms in passing their merchandise through these canals. This absolute equality of treatment was the consideration for concessions on the part of this Government made in the same article of the treaty, and which have been faithfully kept.

It is a matter of regret that the Canadian Government has not responded promptly to our request for the removal of these discriminating tolls.

In another message, of July 1, 1892, he says:

There can be no doubt that a serious discrimination against our citizens and our commerce exists, and quite as little doubt that this discrimination is not the incident but the purpose of the Canadian regulation.

This question was taken up in Congress, and the House and Senate by a unanimous vote authorized the President to issue a proclamation to take steps in retaliation. In pursuance of this act, which was passed July 26, 1892, President Harrison, on the 18th of August, 1892, issued the following proclamation:

And whereas the Government of the Dominion of Canada imposes a toll amounting to about 20 cents per ton on all freight passing through the Welland Canal in transit to a port of the United States, and also a further toll on all vessels of the United States and on all passengers in transit to a port of the United States, all of which tolls are without rebate; and

Whereas the Government of the Dominion of Canada, in accordance with an order in council of April 4, 1892, refunds 18 cents per ton of the 20-cent toll at the Welland Canal on wheat, Indian corn, peas, barley, rye, oats, flaxseed, and buckwheat, upon condition that they are originally shipped for and carried to Montreal or some port east of Montreal for export, and that if transshipped at an intermediate point such transshipment is made within the Dominion of Canada, but allows no such nor any other rebate on said products when shipped to a port of the United States or when carried to Montreal for export if transshipped within the United States; and

Whereas the Government of the Dominion of Canada by said system of rebate and otherwise discriminates against the citizens of the United States in the use of said Welland Canal, in violation of the provisions of article 27 of the treaty of Washington concluded May 8, 1871; and

Whereas said Welland Canal is connected with the navigation of the Great Lakes, and I am satisfied that the passage through it of cargoes in transit to ports of the United States is made difficult and burdensome by said discriminating system of rebate and otherwise and is reciprocally unjust and unreasonable:

Now, therefore, I, Benjamin Harrison, President of the United States of America, by virtue of the power to that end conferred upon me by said act of Congress approved July 26, 1892, do hereby direct that from and after September 1, 1892, until further notice a toll of 20 cents per ton be levied, collected, and paid on all freight of whatever kind or description passing through the St. Marys Falls Canal in transit to any port of the Dominion of Canada, whether carried in vessels of the United States or of other nations; and to that extent I do hereby suspend from and after said date the right of free passage through said St. Marys Falls Canal of any and all cargoes or portions of cargoes in transit to Canadian ports.

This proclamation, reenforced, I take it, by diplomatic negotiations, led to an entire revocation of the regulations of the Canadian Government by order in council, so that equal privileges were afforded to the ships and the commerce of both nations. President Harrison refers to that fact in his annual message of 1892. President Cleveland alludes to it also in his message early in December, 1893.

Here was a clear enunciation of our policy on this subject. Here was asserted an interpretation of a treaty in which the language was—

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals.

When the Hay-Pauncefote treaty of 1901 was framed the word "entire" was inserted before "equality." Instead of simply "equality," as here, this adjective was inserted so as to make it read "entire equality." There is no doubt but that those who framed the treaty, after a lapse of about nine years, had clearly in mind this controversy concerning the Welland Canal and the waterways of Canada.

Now, the question for the Senate is, Can we afford to make our policy as changeable as the figures of a kaleidoscope whenever it happens to suit our own interests? When we have throughout our entire history proclaimed to the world a line of policy which means neutrality and equality, can we sanction any measure which favors equality when it helps us and utterly ignore and disregard it when it may not prove to be for our interest?

Indeed, this very question of discrimination in favor of domestic commerce was brought before the Senate when the Hay-Pauncefote treaty was under discussion. It was proposed to strike out article 3 and substitute the following:

The United States reserves the right in the regulation and management of the canal to discriminate in respect of charges for traffic in favor of vessels of its own citizens engaged in the coastwise trade.

The proposition was placed squarely before the Senate, when this treaty providing for entire equality was under consideration, by this proposed amendment, to the effect that the United States would reserve the right "to discriminate in respect of charges for traffic in favor of vessels of its own citizens engaged in the coastwise trade."

Mr. SHIVELY. Will the Senator allow me?

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. BURTON. Certainly.

Mr. SHIVELY. Was that substitute offered in the Senate?

Mr. BURTON. It was offered in the Senate. It is found in the executive document to which I referred.

Mr. SHIVELY. And it was voted down?

Mr. BURTON. The record of it appears on page 15 of Senate Document 85, Fifty-seventh Congress, first session. It was an amendment proposed by Senator Bard, of California, and was determined in the negative—yeas 27, nays 43.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Dakota?

Mr. BURTON. Certainly.

Mr. CRAWFORD. The question which has occurred to me is whether this is equality. The United States is spending perhaps in the neighborhood of $500,000,000. The other nations of the earth are not spending a penny. We are taking the responsibility of building fortifications there, of policing it, and of maintaining a government. Is it equality as far as the relation between the United States and other governments is concerned for us to be so philanthropic and sentimental that we are going to pay out all that money for the benefit of all the other nations of the earth and allow them to have absolutely as much privilege there as we have ourselves? It seems to me that it is more than equality; that it is a discrimination against ourselves.

Mr. BURTON. The answer to that suggestion is that after the method of construction was determined, after it was understood and even known that it was to be built by the United States at its expense instead of by private enterprise, precisely the same rules were applied to it as would have been applied in case it had been constructed by private capital. That very subject was under consideration and thoroughly understood when President Roosevelt sent in his message in 1904.

Mr. CRAWFORD. If that rule is to prevail all the way through, what right have we to build fortifications down there?

Mr. BURTON. That right was secured.

Mr. CRAWFORD. Not in the Hay-Pauncefote treaty?

Mr. BURTON. The right to fortify was forbidden by the Clayton-Bulwer treaty, and was under long discussion at that time. It rests, if it exists at all, in the right, I take it, to police and protect the canal. The general right and custody over it is secured by the Hay-Pauncefote treaty. I have not the clause before me just at this time.

Mr. McCUMBER. Mr. President, I wish to suggest to the Senator from Ohio that the question asked by the Senator from South Dakota was fully answered by Senator Davis in his report upon the original Hay-Pauncefote treaty—the question as to whether our investing the money and having the control would justify us in allowing our own vessels to go through free. He took the position squarely that our investment was the matter of an investment for our own benefit, that we were presumed to get a benefit from the use of the canal and from the tolls, and that would not justify us to make a different arrangement or agreement other than that which we entered into in the treaty, namely, that the vessels of all nations should be treated exactly the same, putting it on the same footing, exactly as if it was a private enterprise.

Mr. TOWNSEND. Does the Senator from Ohio concede that the United States may send its warships through the canal free?

Mr. BURTON. I do not see how it can, unless special regulations apply to warships. That question, however, does not assume importance because the United States, the owner of the warships, would pay the tolls to itself, the owner of the canal. That is a very different question, however, from ships that are engaged in commerce in competition with other nations. As far as this discussion is concerned, I do not regard the question relating to warships as really having any bearing. That would be a question not of equality but of neutrality.

Mr. TOWNSEND. Will the Senator please tell me what he means by neutrality as applied to this canal as distinguished from equality? I should like to have the Senator's definition.

Mr. BURTON. Neutrality requires that all ships shall have the same rights to pass through—warships and commercial ships—that no one nation, the one constructing it or any other, should have any advantage in that regard. Equality requires that the tolls and burdens shall be the same; that the terms of use shall be the same for all.

Mr. TOWNSEND. The Senator suggested a moment ago that when this treaty was before the Senate the proposition to favor our coastwise trade was voted down. Does the Senator contend that the argument was made then that it would be a violation of the treaty, or, rather, was it included and understood?

Mr. BURTON. Clearly it must have been discussed.

Mr. TOWNSEND. It was discussed in the Senate at that time, and my understanding from the reading of it was that many, at least, of those opposed to the amendment insisted that the terms of the treaty provided that the United States could care for the coastwise trade that was not participated in by a foreign country, and no right was taken from the foreign country either before or after the treaty was made, as far as participating in the coastwise trade was concerned.

Mr. BURTON. I think it would be difficult for the Senator from Michigan to find any such argument advanced at that time. A fact that throws light on the question is this: Two bills were introduced, one by the Senator from Maine, Mr. Frye, and the other by the Senator from Massachusetts [Mr. LODGE], providing for a repayment to boats engaged in the domestic trade of the amount of tolls that were collected, taking it for granted that the tolls must be paid under the treaty, and endeavoring in that indirect way to secure an equivalent rebate to the domestic coastwise trade.

Mr. TOWNSEND. I did not quite catch one of the questions of the Senator from South Dakota [Mr. CRAWFORD]. He may have asked the question, but it occurred to me when the Senator was discussing it that there is another question which was considered in regard to this treaty, namely, that of fortifications, and that also was voted down, was it not?

Mr BURTON. I am not aware that that subject was brought to a vote at that time.

Mr. TOWNSEND. I am very certain that it was discussed, and there was a vote had and the proposition to fortify the canal was defeated by a vote 27 ayes, 44 nays. Yet the Senator from Ohio will not contend now that under the treaty the United States can not fortify the canal?

Mr. BURTON. We may fortify the canal, as I said, on the theory that the United States is the guardian to protect it, on the theory of protecting it against attack and enforcing its equitable use.

I do not believe we have any right to fortify it for the purpose of exacting tolls from foreign ships for our own benefit.

Mr. TOWNSEND. There is one point more. The Senator has been discussing very intelligently, and I am greatly interested in his discussion, the matter of our Canadian treaty, the one of 1854 and the later one of 1871. The treaty mentioned in terms the United States and Canada. No other nation or nations could participate in those canals, but the whole subject matter of the treaty applies to the two nations, not to the world in general, as the Panama Canal does.

Mr. BURTON. But the Senator from Michigan will recognize——

Mr. TOWNSEND. If the Senator will permit me, he suggests that we laid down and established a policy at that time which we can not depart from now. Our contract in express terms at that time was in relation to trade for the use of those waterways by the two signatory powers. It was an equal arrangement between the two powers in express terms and included no others. The United States could not insist on less than the exact letter of the treaty covering the only subject matter that they had under consideration.

Mr. BRISTOW. Mr. President——

Mr. BURTON. The Senator from Michigan, however, will concede that an agreement which is general in its application to all nations without limit is just as binding as an agreement between two nations. The question is, Was there an agreement or not? In the other case there was one involving two nations. In this case there is one involving all nations.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Kansas?

Mr. BURTON. Certainly.

Mr. BRISTOW. I would suggest to the Senator that in the treaty which was made in regard to the Canadian canal there was a consideration that the Canadians should use our canals and we should use theirs. The conditions under which this commerce is to be carried on are entirely different from those with Canada. It seems to me that it is not at all a parallel case.

Mr. BURTON. You can not, Mr. President, in international agreements weigh carefully the adequacy of the consideration. But there was a consideration in this case, and that was the surrender of the advantages secured to Great Britain by the Clayton-Bulwer treaty, which we had considerable difficulty in removing from our path.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. BURTON. Certainly.

Mr. CUMMINS. I suggest to the Senator from Ohio what is a very grave question, I think, in this whole matter. I should like to know from the Senator from Ohio what advantages were secured by the abrogation of the Clayton-Bulwer treaty—what there was in that treaty regarded as a serious obstacle that had to be removed?

Mr. BURTON. The right to equal participation which they asserted. In a moment I will read from that treaty.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from North Dakota?

Mr. BURTON. Certainly.

Mr. McCUMBER. I was going to suggest to the Senator from Ohio that not only was there an agreement under the Clayton-Bulwer treaty that each nation would have the same right with reference to a Panama Canal, but Great Britain had obtained from Nicaragua a right to construct a canal of her own volition across the Isthmus. The United States had an equal right from Colombia to construct a canal, and Great Britain under this treaty relinquished her right to construct a canal without the consent of the United States across the Nicaraguan route, while the United States obtained the right to construct it and to prohibit Great Britain from doing likewise.

Mr. BURTON. I am much obliged to the Senator from North Dakota for the suggestion. It gives the general idea of the treaty:

> The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal—

Right there in terms—

> That neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof; or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain

take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

That is, I take it, the main point. The sentiment of this country, as the Senator from Iowa [Mr. CUMMINS] will recollect, was for a canal owned and controlled absolutely by the United States. A resolution was introduced here in the latter part of the session of 1898–1899 providing for a commission to recommend to Congress plans for the construction of a canal under the ownership and control of the United States. Our policy pointed in that direction.

Mr. CUMMINS. Mr. President——

Mr. BURTON. And, if the Senator will allow me, for a time those commissioners refused to negotiate with the French Panama Canal Co. because that company was unwilling to convey a title giving to the United States exclusive ownership and control.

Mr. CUMMINS. The Senator from Ohio has said that all the provisions of the treaty from which he has just read contemplate a canal built and maintained by private owners or through private enterprise. Is it the view of the Senator from Ohio that if the Clayton-Bulwer treaty had remained in force the Government of the United States could not have built for itself and operated for itself a canal across the Isthmus of Panama?

Mr. BURTON. The treaty reads:

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal.

So far as Panama is concerned, I regard that question as rather academic for the reason that at the time it was the general expectation that the canal would be constructed along the Nicaraguan route.

Mr. CUMMINS. I realize that, Mr. President, but I wanted to get the Senator's idea of the consideration which we really received. The Senator says, and I will accept it for the purpose of this debate, that the United States could not have built a canal, either across the Isthmus of Nicaragua or the Isthmus of Panama, without the consent of Great Britain, and in order to get it we abrogated that treaty and made the treaty of 1901. Is that the view of the Senator?

Mr. BURTON. It is a little more than the consent. It is an absolute agreement not to build it:

Neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal.

It is a prohibition against building it in the first instance and a prohibition against getting control by foreign capital.

Mr. CUMMINS. But the Senator from Ohio, of course, recognizes that the Clayton-Bulwer treaty was not made to prevent the building of a canal.

Mr. BURTON. It was made with the idea that both should have equality——

Mr. CUMMINS. Precisely. But it was not made with the idea that neither country would build the canal. It was made with the idea that somebody would build the canal, and each country agreed that it would not undertake to become the manager—would not undertake to have exclusive control of it so built; but I did not know, and I asked for information, that it was ever claimed that this was a prohibition forever upon the United States against the building of a canal, either through Central or South America.

Mr. BURTON. Certainly it sounds very much like that. The understanding at that time no doubt was that if either country built the canal they would have exclusive control over it. Such exclusive control is denied by this article.

Now, Mr. President, I wish to call attention also to another manifestation of our diplomatic——

Mr. BACON. Will the Senator from Ohio permit me?

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. BURTON. Certainly.

Mr. BACON. On the subject which the Senator from Iowa raises, in reading article 1, the Senator will see that however narrow the language may be as to the location of the canal, the contract, the undertaking never to fortify any part of that country, extends to any part of Central America, and if the Clayton-Bulwer treaty were still in force we would certainly be precluded from any right to fortify the present canal.

Mr. ROOT. May I suggest to the Senator from Georgia that it goes a little further than fortifying? It is:

That neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify——

Mr. BACON. Or colonize.

Mr. ROOT (reading)—

or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America.

The dominion which we have found necessary for the construction of the canal was excluded.

Mr. BACON. That you neither exercise the dominion military or civil, or ever fortify any part of it, even though it may not be along the Nicaragua River and Managua Lake.

Mr. CUMMINS. In response to the suggestion of the Senator from Georgia I beg to say that the United States did not acquire in the Hay-Pauncefote treaty any right to fortify the canal or any part of it.

Mr. BACON. No; but we did get a release from an obligation not to do it.

Mr. CUMMINS. While I believe it is wise to fortify it, I have never been able to find a justification for it, save in the general principles of government.

I have never been able to find that authority which seemed to move the other House and the Senate when the policy of fortification was entered upon. I am in favor of fortification simply because I am in favor of the United States holding its own and being able to defend its own against all comers, and I suppose fortification is necessary to preserve the very neutrality of which the Senator from Ohio has spoken.

Mr. BACON. With the permission of the Senator from Ohio, I should like to ask the Senator from Iowa if he also is as indifferent to the necessity——

Mr. SMITH of Georgia. We can not hear the Senator over here, and we want to hear him.

Mr. BACON. I was inquiring of the Senator from Iowa, he having announced his indifference to the right to fortify this canal, whether he was equally indifferent to the exercise of the right of dominion over the Canal Zone, a right which we could not exercise if the Clayton-Bulwer treaty were in force.

Mr. CUMMINS. I am inclined to agree with the Senator from Georgia about that. I did not ask my question on the assumption that there was no consideration in the abrogation of the Clayton-Bulwer treaty, but I wanted the Senator from Ohio to state precisely what that consideration was, in order to ascertain whether it bears any relation whatsoever to the matter under discussion, namely, the right of equality in tolls.

Mr. BURTON. That is, whether there was any consideration?

Mr. CUMMINS. Whether there was such a situation under the Clayton-Bulwer treaty as required the United States to agree with Great Britain that the United States should charge no more for the ships of other countries than for her own. I only wanted to make that clear.

Mr. BACON. With the permission of the Senator from Ohio, I will say that I do not think the Senator from Iowa correctly states the question. As I understand the question suggested by the Senator from Iowa, it is this: Whether there were any such existing conditions as would require that we should grant equality of use of the canal to all nations? I do not think that is the question.

Mr. CUMMINS. But——

Mr. BACON. Pardon me a moment. As I understand the question, it is this: Whether there were at the time certain restraints upon us by reason of our contract through the Clayton-Bulwer treaty as were of so grave a character as to make it a matter of importance that we should be relieved from them, and whether, in securing that relief, we did enter, or did not enter, into a certain contract—not whether the conditions required us to enter into it, but whether we deemed the advantage which we were to gain of sufficient importance to enter into that contract, and did enter into it. That is the question.

Mr. CUMMINS. Mr. President, I asked the Senator from Ohio to state what there was in the Clayton-Bulwer treaty that made it necessary from the viewpoint of the United States to abrogate it in order that we might build that canal? He stated the objection, and it has been reiterated by the Senator from New York [Mr. ROOT] and by the Senator from Georgia [Mr. BACON], and I think everybody realizes it. I only wanted that obstacle to be clearly defined in order that we might see its relation, if it has any, to the present controversy.

I have not made up my mind with regard to the proper interpretation of this treaty, but I hope the Senator from Ohio will not take it for granted that we did agree with Great Britain that her ships should pass through this canal upon the same terms imposed upon the ships of the United States. That is the very question to be decided, for, if we did, we must keep to our word and perform religiously the obligation we have undertaken; but the question with me is—and I suggest it to the Senator from Ohio—whether the words "all nations" em-

brace the United States, or whether they embrace only the other nations of the world in whose behalf we were making an agreement with Great Britain.

Mr. BURTON. First, on the Clayton-Bulwer treaty, the question is asked, Was there enough gained by its abrogation to create a consideration? To repeat what I have already said, that treaty in its very first article declared that—

neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal.

In constructing the canal contemplated in 1901 it was our desire to exercise exclusive control over the canal, to build it and to operate it ourselves. So that clause was in the way.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Kansas?

Mr. BURTON. Yes.

Mr. BRISTOW. Was not the abrogation of that provision necessary in order that the canal might be constructed?

Mr. BURTON. In order that it should be constructed at all?

Mr. BRISTOW. Constructed by the United States Government. Without that it could not have been constructed?

Mr. BURTON. No; it could not have been constructed in that way.

Mr. BRISTOW. It could not have been constructed at all by the United States. So that treaty had to be abrogated in order that the canal might be constructed. It does not seem to me that that can operate as a reason why we must give other nations the same privileges that we ourselves exercise in regard to our own property.

Mr. BURTON. It was a question whether the canal should be constructed by private enterprise or by this Government. For reasons which were accepted as sufficient by Congress at the time—and I recall very well that the question was much discussed whether it should be constructed by a private corporation or by the Government—it was deemed most advisable for the United States Government to do it. Certain private corporations had undertaken it; they had been incorporated, and then had failed to do anything. More or less scandal had been associated with their acts. We were anxious to construct the canal, and we virtually said "after all these failures the Federal Government, with its power and resources, will now enter upon this work." At the very outset we were met by a treaty provision—

That neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal.

The resolution which was made a part of the river and harbor appropriation bill of March 3, 1899, was rendered absolutely futile. We could not go ahead as that resolution contemplated and build the canal ourselves with that treaty provision directly in the way. The question as to whether it was wise for the Government to build or leave it to private enterprise was entirely foreclosed by the action of Congress—

Agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof—

That also had to be removed—

or occupy, or fortify, or colonize, or assume, or exercise any domain over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America—

That too, had to be eliminated if we were to exercise control over the canal after it was constructed—

nor will either make use of any protection, which either affords or may afford, or any alliance, which either has or may have, to or with any State or people for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same.

I think really the best answer to this question is to read the treaty itself. It was full of troublesome conditions.

Furthermore, it is not altogether a question as to whether or not there was a consideration. Rather it is a question of the solemn faith of this Government. Did we agree to do this? We did agree; and having before us for consideration a treaty in which the word "equality" occurred, we inserted and agreed to the word "entire," as still further emphasizing the idea of "equality."

Mr. BRISTOW. Mr. President, I hope the Senator from Ohio will not overlook the suggestion of the Senator from Iowa, that there is a difference of opinion as to whether such an agreement was made, so far as our commerce and that of England or of other nations is concerned.

Mr. BURTON. That is, whether it applies to us at all or merely refers to other countries?

Mr. BRISTOW. There are many who contend that the language means that we agreed that the canal should be neutral between all nations—it is our own property—and that the term "all nations" includes the nations of the world, but does not include ourselves, because we are dealing, not with a canal that is owned by a third party, but with a canal which we ourselves own and have as a nation constructed. The theory is advanced by a great many that it was a pledge that this property of ours should be neutral and not be used so as to embarrass one nation as against another.

Mr. BURTON. The Senator, I presume, refers to the provision in the Hay-Pauncefote treaty. I think it would be a very strange construction, if I may be permitted to suggest, that such a general expression as "all nations" includes every nation except the United States, even though the United States should have been the constructor of the canal.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Dakota?

Mr. BURTON. I should like to answer the question of the Senator from Kansas [Mr. BRISTOW] before yielding to any further interruption. Article 1 of the treaty reads:

ARTICLE I. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present convention, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

Now comes section 1 of article 3, which reads:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules—

Which are very much like those pertaining to the Suez Canal—

on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Dakota?

Mr. BURTON. Yes.

Mr. CRAWFORD. The Senator from Ohio would not contend that that language would include the United States in case of a war in which the United States was itself engaged, would he?

Mr. BURTON. Well, I think it would, unless it is held that treaties are suspended by war.

Mr. CRAWFORD. Then, if that be true, we should carry that exclusive construction through the entire treaty, and we would not have the right to revictual one of our own ships of war in that canal, if the United States is included in the broad terms used here, "vessels of war of a belligerent." That language might include the vessels of war belonging to the United States in time of war.

Mr. BURTON. Mr. President, of course it is a collateral question, which anyone would hesitate to answer, as to what would happen in case of a war in which the United States was engaged. War ships of the contending nation would no doubt hesitate very much about going there; they would feel that in some mysterious way they would suffer injury by passing through that canal. But, according to its terms, it is put on the same plane with the Suez Canal, with no discrimination in favor of the United States. The question of what would happen in time of war may be discussed, but the result would probably be that ships of any contending nation would keep away and ours would pass through. In the midst of war laws are silent, and the right to go through might be denied under the emergency; but, according to its terms, it seems to me the treaty is made to apply alike to the warships of all countries, including our own.

Mr. CRAWFORD. We have said over and over again, not privately, but publicly and everywhere, that the real purpose of building this canal was to increase the efficiency of our fleet in time of war and to add to it mobility and usefulness. Now, if we are to be so careful that we are to make no use of this canal that all other nations are not to enjoy with entire equality, as the Senator says, it seems to me we have built it under a great misapprehension.

Mr. BURTON. It is thought by some that the canal was built merely as a warlike enterprise; that was the motive of many; but I look at it merely as a great commercial enterprise for promoting the commerce of the world; and while vessels of another nation at war with us theoretically would have the right to go through the canal, practically they would not do so. That is about what would happen.

Mr. WILLIAMS. Mr. President, if the Senator from Ohio will pardon me a moment, it is a general principle of international law, is it not, that when war breaks out between two countries all existing treaties are thereby abrogated?

Mr. BURTON. Yes; inter arma silent leges.

Mr. WILLIAMS. If war broke out between the United States and France, let us say, of course the treaty, so far as France was concerned, or so far as it protected France, would be abrogated and put to an end, and her war vessels could not pass through the canal; but the war vessels of other countries at peace with both of us would still be protected by the treaty.

Mr. BURTON. I am inclined to think the Senator from Mississippi is correct in his statement in regard to that.

Mr. McCUMBER and Mr. ROOT addressed the Chair.

The PRESIDENT pro tempore. To whom does the Senator from Ohio yield?

Mr. BURTON. I yield to the Senator from North Dakota, who was first on his feet.

Mr. McCUMBER. May I suggest to the Senator that the report of the majority when this treaty was before the Senate conceded that the intent and purpose was that it should cover our coastwise trade and should bind the Government of the United States, as well as that of Great Britain, in the matter of tolls? The minority of the committee conceded that that was the proper construction, and no one in the Senate during the entire debate ever claimed, as I remember, that the United States was not considered as included in the expression "all nations."

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. Yes.

Mr. ROOT. Mr. President, on the subject which the Senator from Mississippi [Mr. WILLIAMS] has mentioned as to the effect of war putting an end to rights under treaties, of course, there has been a great deal of discussion about that; but I do not think there is any doubt whatever that so far as promissory treaties go—that is, treaties which rest in contract as to the future—the contract is abrogated by war.

Mr. WILLIAMS. By the existence of war.

Mr. ROOT. During the war—while treaties which are in the nature of executed conveyances may stand and their title may not be disturbed. Any treaty which undertakes that something shall be done or shall not be done in the future by one country in respect of another, is either suspended by war or terminated forever by war. So that no nation claiming the benefit of this executory provision could continue to claim it after a state of war between that nation and the United States existed.

Mr. BURTON. In other words, they could not claim the right to go through the canal in case of war with the United States.

Mr. ROOT. No; war abrogates the right.

Mr. BURTON. That is a question, Mr. President, which I had not considered in this connection; but——

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Kansas?

Mr. BURTON. Yes.

Mr. BRISTOW. I want to call the attention of the Senator to the language of the treaty. Section 1, of article 3, is in exactly the language the Senator has just read, only I want to read a little more, and I invite his attention to the words used:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

Exactly the same language is used in relation to commercial vessels as to war vessels. If upon the declaration of war between the United States and any other country the United States is relieved as a matter of general international law from the provisions of the treaty, why is the word "war" put in there? The fact that this language is identical as to vessels of war and of commerce certainly makes it refer to other nations. We agree that it shall be neutral as to other nations. If the treaty is abrogated by the declaration of war anyway, then the provision is of no use there so far as war vessels are concerned. Why is the same language used as to vessels of commerce and of war? It can not, according to the Senator's own construction, refer to our own war vessels. Then, how can it refer to our own commercial vessels?

Mr. ROOT. They are not our own.

Mr. WILLIAMS. Mr. President, if the Senator from Ohio will pardon me a moment, the Senator from Kansas seems to proceed along the line of thought that vessels of war do not exist during times of peace. This provides for vessels of war. The Senator seems also to lose sight of the fact that the United States might be at war with one power of the earth and not with any other nation at that time. During war not only could the vessels of war of the party with whom we are at war not pass through the canal, but her vessels of commerce could not pass through, because during the war this promise between the two parties ceases to exist; the treaties between the two parties are at an end during the war; but meanwhile there would be vessels of war, and plenty of them, belonging to other nations that would be protected, notwithstanding the war between the United States and France, let us say, or, if the United States and Great Britain were at war, certainly during that war, if we had the power on the canal, we would have the war right to prevent, not only the war vessels of Great Britain, but the commercial vessels of Great Britain, from going through the canal, though meanwhile the other nations at peace with us would still be protected by the treaty in its every line. There are a hundred treaty obligations toward aliens that cease the moment they become alien enemies and war is going on.

Mr. BRISTOW. Does the Senator contend that during a time of war the United States would have to pay toll on its war vessels going through the canal?

Mr. BURTON. Oh, I do not think that has any special bearing upon this controversy. I presume that the condition of war would suspend all rules and regulations as regards that question.

Mr. BRISTOW. In regard to the canal?

Mr. BURTON. Yes; so far as war vessels are concerned.

Mr. BRISTOW. In regard to all nations or merely in regard to our own Nation?

Mr. BURTON. In regard to our own Nation, all regulations would be suspended practically by war.

Mr. BRISTOW. Then, if the Senator's construction is correct, and we would not be required when we were at war with other nations to pay tolls on our own war vessels that might go through the canal, that is clearly a discrimination as against the war vessels of other nations with whom we are not engaged in war.

Mr. BURTON. The trouble with the question of the Senator from Kansas is this: He puts a condition of war, exceptional in all international law, a condition during which all rules are suspended, on the same footing with the general question of commerce, applicable under well-understood rules everywhere and under all circumstances.

Mr. BRISTOW. If the Senator will pardon me, if all the rules would be abrogated in case of war, the abrogation would apply to commercial ships as well as to warships, because commercial ships are included in the same paragraph; and if the Senator's application of the language is correct, then we would not be bound to collect tolls from our own vessels in time of war, while we could collect tolls from vessels of other countries.

Mr. BURTON. I am inclined to think that in case of war we would not be hesitating long on a little question like tolls for going through the canal. It does not seem to me that that has any very considerable bearing on the question before us.

Mr. ROOT. Mr. President, if I may make a suggestion regarding the question asked by the Senator from Kansas, the Senator from Kansas has used the term "our own vessels" indiscriminately as applied to two quite distinct classes. A country owns its war vessels; they belong to the Government. The country that owns a canal can not pay toll on its own war vessels, because it pays toll to itself; but when you speak of commercial vessels, the Government does not own them. We say they are our vessels. They are American vessels, or they are British vessels, or they are German vessels, not because they belong to the United States or to Great Britain or to Germany, but because they belong to citizens of those countries, and they have the ascribed nationality of those countries. The owners of those vessels can pay toll to the owner of the canal though that owner be their own country. In that case there is a real change of title to the money which is paid in the way of tolls; and, so far as all those vessels go which are not the property of the owner of the canal, the language of this clause would seem to require that vessels belonging to a man who is an American citizen and vessels belonging to a man who is a British subject should be put upon an entire equality. The support of this provision of the bill must rest upon limiting by construction the general language of this clause, and for the construction which imposes that limitation some affirmative justification would seem to be required.

Mr. BRISTOW. The Senator, then, concedes that, if the United States Government owns commercial vessels of its own, they could pass through the canal without the payment of tolls?

Mr. ROOT. It would simply be a matter of bookkeeping, because the United States Government as the owner of a vessel would be paying to the United States Government as the owner of the canal. It would not be a payment. It makes no difference whether you take up your dollar bill from one place and put it in another or take it from one agency and put it in the

hands of another agent, it would not be a payment. No one can pay anything to himself.

Mr. BRISTOW. That was my understanding. I beg the pardon of the Senator from Ohio for taking so much time, but I want to read paragraph 2.

Mr. BURTON. From what page of the canal hearings is the Senator reading?

Mr. BRISTOW. From page 267 of Senate Document No. 191:

The canal shall never be blockaded—

Mr. TOWNSEND. Mr. President, may I ask a question before the Senator leaves the other point?

Mr. BRISTOW. Yes.

Mr. TOWNSEND. I was interested in what the Senator from New York [Mr. Root] stated, that the United States could not pay anything to itself, and I should like to ask him, if the United States should put on a fleet of commercial vessels to engage in our coastwise trade, would Great Britain consider that we had complied with the terms of the treaty as interpreted by the Senator from New York?

Mr. ROOT. Mr. President, I can not say what would satisfy Great Britain; I am not representing Great Britain.

Mr. BRISTOW. Mr. President, I was very much interested in the interpretation of the Senator from New York. While I do not agree with him as to the term "all nations," including our own nation as well as other nations, I am glad that he concedes that we would not be expected to collect tolls from ships which the United States Government individually owns. I desire now to read paragraph 2 of section 1, article 3:

The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

Now, it is a fact, which the Senator well knows, that we are constructing at the termini of this canal the most powerful fortifications the United States Government will own. Guns have been contracted for to be placed on the Pacific side that, so I am told, have a range of more than 20 miles.

Now, if the language of the treaty is to be construed so technically, what right have we to blockade that canal? What are the guns for? They are not to be used by a police force.

Mr. BURTON. That, I think, comes up in another connection rather than here. I understand there has recently been some discussion on that subject. Certainly there was some discussion a year or two ago as to our right to fortify the canal.

But, not to pass entirely from that point, I take it the ground for it is the general police regulation and right of protection over the canal.

Mr. President, in closing I wish to call attention to a negotiation by Mr. Secretary Hay, which is probably the latest expression of our policy in cases like this. It is in regard to the open door in China.

Three nations—the French, the English, the German—had spheres of influence there; territorial concessions of unequal size. Russia and Japan also, by their propinquity, had great influence over the Chinese Empire, and, especially with Russia, the matter of railroad ownership was involved in the question. In a note sent by him on the 6th day of September, 1899, to the Governments of Great Britain, Germany, and Russia; on November 17, 1899, to the Government of Italy; and on December 26, 1899, to the Government of China, he referred to activities of those powers in obtaining "spheres of influence" in China by leases and agreements among themselves and with China. Secretary Hay requested a formal assurance from each power within its "sphere of influence" that—

Third. That it will levy no higher harbor dues on vessels of another nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

That was our request of those nations in the year 1899, although they had fleets and armies there and large spheres of influence and large investments in railway building and along other lines.

The proposal of Secretary Hay met with a favorable reception by the powers addressed, and replies were received from each expressing a willingness to adhere to the declaration, providing the same action were taken by the other powers. When all the replies were received Secretary Hay, on March 20, 1900, addressed a circular note to our ambassadors, instructing them to convey to the ministers of foreign affairs of the Governments concerned the sincere gratification of the President at the successful termination of these negotiations.

This instance is directly applicable to this question. The demand acceded to by those nations was that the foothold they were gaining in the Flowery Kingdom, advantages secured by years and years of diplomacy and in some cases by war, the advantages gained by large investment, were to be afforded to our citizens, the people of the United States, in the same manner in which they were enjoyed by Russia or by England or by France or any other country.

Mr. President, I submit that in the light of such a demand as that and in the face of such a policy it is inconsistent for us to seek to exempt our coastwise traffic or our foreign traffic from the burden of tolls on the Panama Canal.

Mr. BACON. Before the Senator from Ohio takes his seat, and right in connection with the discussion as to whether or not the United States is bound by this treaty as are other nations, I want to call attention to a certain provision which I think very clearly recognizes the fact that it is so bound.

Mr. BURTON. I shall be glad to hear it.

Mr. BACON. There are six rules laid down to be observed by the nations. The question is whether the United States is one of those nations to be thus bound. The language of the first of the rules is the one which has been commented upon, and is in these words:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Then follow five other rules. Now, the question is whether those rules were intended to apply to the United States, not only the one I have read, but all the other five, as well as to all other nations.

I wish to call attention to one of the other provisions of this treaty which seems to recognize very distinctly that the United States were to be bound by these rules, and that is found by the second article which precedes the rules. That article is in this language:

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

Mr. President, if the purpose was not to have the United States bound by the six rules, that language would have been entirely unnecessary. It would have been sufficient to say:

And the said Government shall have and enjoy all the rights incident to such construction as well as the exclusive right of providing for the regulation and management of the canal.

In fact, I could go further and say that the entire part of the clause could have been omitted, because if the United States Government is not bound by six rules, there is no reason to specify certain rights that she would have the power to enjoy, which might be considered to be in conflict with those rules. It would not be necessary to make any qualification whatever. In that case it would have been an indirect recognition that they were not bound by the rules. But the qualification made in the second article is an express recognition of it. It says:

And that, subject to the provisions of the present treaty.

What are the provisions of the present treaty? They are found in article 3. There are only three articles as to the construction, management, and operation of the canal. Article 4 is as to change of territorial sovereignty and the fifth article is as to ratification.

So when the treaty speaks of "subject to the provisions of the present treaty" it can refer only to the provisions found in article 3, which lay down rules—the six rules—and if they were not subject to it then it was not necessary to say that the enjoyment of all the rights incident to such construction as well as the exclusive right of providing for the regulation and management of the canal should be subject to the provisions of the present treaty unless the provisions of the present treaty apply to the United States.

It seems to me, Mr. President, so far from its being true that the language would imply that it did not include the United States as found in the provisions of the six rules, that here in the second article is an express recognition of the fact that the United States are subject to the six rules, and that certain rights may be enjoyed by them subject to that obligation.

Mr. BURTON. I thank the Senator from Georgia for his suggestion. I have already embodied in my remarks the language of that section, and have called attention especially to the words "subject to the provisions of the present treaty."

Mr. BACON. I beg the Senator's pardon; I did not hear him.

Mr. BURTON. But the Senator from Georgia has elaborated the matter much more clearly than I did.

Mr. CRAWFORD. Mr. President, before the Senator from Ohio passes from this subject I should like to ask him if he has considered the fact that other nations could not be prejudiced, and would have no substantial right to complain, if the United States permitted vessels engaged in the coastwise trade to go through the canal without charge of toll. The coastwise trade is one enjoyed exclusively by American ships, and can not be engaged in by any foreign vessels. So that so far as any substantial infringement of the treaty is concerned, there would be none.

Mr. BURTON. What seems to me to be a conclusive answer to that proposition is this: An agreement is an agreement; and it does not lie in the mouth of any country to say: "Oh, well, this will not hurt you. We will put our own interpretation upon this treaty."

But I do not think the Senator's conclusion is altogether correct. In our contention in 1890–91 we maintained that the provision relating to reciprocal use of Canadian canals in the treaty with Great Britain was not merely for the benefit of our shipping, but that it was for the protection of the rights of our citizens as well, and to prevent discrimination and disadvantages in trade. It did not refer merely to the sailing of ships, but in a broad sense covered our national interests.

Now, let us see whether or not free tolls for coastwise ships would create any disadvantage to foreign nations. This is a matter to which I refer with some unwillingness, because it sounds as if I were taking a position rather to the disadvantage of our own country. Nevertheless, it is well to state the facts.

Suppose there were a demand in San Francisco for an article for which there were two competing sources of supply; one in New York or on the Atlantic seaboard and the other in Hamburg or Liverpool. Would not removing the tolls on coastwise ships, in violation of this treaty, inure to the disadvantage of the nation which had the competing supply?

There is another case to which I may refer, viz: Certain classes of freight may be readily transshipped and will not necessarily be carried to destination in the ships in which originally loaded. Porto Rico is within the operation of our navigation laws. Suppose a cargo should be shipped from Liverpool or Bremen to San Juan, P. R., in a foreign bottom, and then should be unloaded, and loaded into a domestic ship. Suppose, instead of continuing in a boat that must pay tolls, it should go into a boat which, under the provisions of this bill, would pay no tolls. Would that be in accordance with the letter and spirit of this treaty? Would it not be a violation of it?

It is well, while we are on that subject, to remember that there is a Canadian Atlantic coast and a Canadian Pacific coast. The commerce between the Atlantic and the Pacific is largely a competing one. Under this provision the ships of the United States would be free from tolls and those of Canada would be subject to the payment of tolls.

As I said, I state these things with some hesitancy, because they point out certain disadvantages to our trade. But it is well that we should frankly discuss this matter in all its aspects and give the facts in regard to them. I still adhere, however, to what I said first: That it is our duty to observe a treaty in its entirety, and not to seek to evade it by saying, "Oh, well, it will not hurt you; we have certain privileges here."

Mr. SMOOT. Mr. President, before the Senator takes his seat I should like to ask him a question. The Senator says an agreement is an agreement and should be strictly lived up to. I should like to ask the Senator whether we have an agreement with England that American ships shall not be discriminated against when passing through the Suez Canal?

Mr. BURTON. Yes; the same agreement which is contained in this treaty in regard to Panama.

Mr. SMOOT. Does the Senator consider that the payment by England of a subsidy to English vessels going through the Suez Canal is a discrimination against America?

Mr. BURTON. The difficulty about that statement is that, except as to mail steamers, it is not true.

Mr. SMOOT. I also wish to ask the Senator whether he believes that if the American Government should pay a subsidy to American ships that would be a discrimination against foreign governments?

Mr. BURTON. No; because that is a matter of general policy. The Peninsular & Oriental Steamship Co. receives payment for carrying the mails. Its ships go through the Suez Canal. There is one rival company, I believe, which also receives payment. It is not a subsidy in the sense in which the word is used in this country. It is not true that the Government of Great Britain pays to any ship a rebate of the tolls through the Suez Canal. If it happens that the mail pay amounts to about the same as the tolls it is merely a matter of coincidence.

Mr. SMOOT. But it always happens that way.

Mr. BURTON. Every country pays for the transportation of its mails.

Mr. SMOOT. Where a subsidy is granted to an English ship for carrying the mail, it applies not only to the mail but to the merchandise carried by the ship, although it may be specifically stated to be for the mail only.

Mr. BURTON. It is not a subsidy. It is payment for a service, just as carrying freight or passengers is paid for. It may be called a subsidy.

Mr. SMOOT. The Senator may not call it a subsidy, but it seems to me it amounts to the same thing. But what I want to ask the Senator is this: Suppose this Government should decide to pay a ship subsidy to American vessels passing through the Panama Canal. Would the Senator say that was a violation of the treaty between England and America?

Mr. BURTON. Not in the letter; but I should be very doubtful whether it was not really a violation. It would depend upon whether it was a subsidy granted for building up trade, or whether it just about equaled the toll. It would depend upon a variety of circumstances.

Mr. WILLIAMS. If I may ask the Senator from Ohio a question there, would it not also depend upon whether it was a general bounty or subsidy, on the one hand, or whether, on the other hand, it was a special bounty or subsidy confined entirely to ships going through the Panama Canal?

Mr. BURTON. That would be an important question. I suppose a country desiring to promote its trade in some particular direction could agree to pay a subsidy that way and not in other ways without violating treaty stipulations such as this. For instance, if we desired to pay a subsidy to boats going to South America and none to boats going to Europe, we could do it. If we desired to pay a subsidy to boats going through this canal to the Pacific coast of South America, we could do so. That, however, is an altogether different question from this.

I especially desire that there shall be no misunderstanding in regard to the question raised by the Senator from Utah. There is no English regulation providing for a rebate to English vessels equal to the tolls charged for passing through the Suez Canal. Three countries, however, do pursue the policy of granting a subsidy which is practically the equivalent of the canal tolls or charges. Those countries are Austria-Hungary, Russia, and Sweden.

Mr. SMITH of Georgia. Before the Senator takes his seat, let me ask him a question. With reference to the Panama Canal, would not this really be the determining factor—if the subsidy was honestly intended as a subsidy to the vessel——

Mr. BURTON. That is, for building up trade.

Mr. SMITH of Georgia. It would not be repugnant to the treaty? But if it was intended merely as a subterfuge, the real object being to return the tolls through the Panama Canal, it would violate the provisions of the treaty.

Mr. BURTON. The Senator from Georgia states in an excellent form the distinction between the two propositions.

Mr. ROOT obtained the floor.

Mr. BRISTOW. Mr. President, before the Senator from Ohio takes his seat, I want to suggest that his remarks, as to Canadian commerce and the coastwise commerce of the United States, may be misunderstood. The Canadian vessels that are engaged in Canadian commerce can not handle the coastwise commerce of our own country—that is, a Canadian vessel can not take a cargo at New York and land it at San Francisco. It can take it and land it at a Canadian Pacific port.

Mr. BURTON. Yes.

Mr. BRISTOW. But not if that cargo was destined for an American living in the United States.

Mr. BURTON. I thought I made that clear. I said there was an Atlantic coast in Canada, and a Pacific coast in Canada as well.

Mr. BRISTOW. But they are not competitors in any sense.

Mr. BURTON. However, freight can be shipped by railroad from one country to the other. Take the Puget Sound region, which is only a short distance from Vancouver. The same is true with reference to Portland and Halifax. It seems to me that would constitute a violation of the purpose of the treaty.

Mr. McCUMBER. Let me ask the Senator a question. Suppose a shipload of lumber was to be taken by an American vessel from Seattle to New York, and another shipload of lumber was to be taken by a Canadian vessel from Victoria to New York, would it not be a discrimination against the Canadian vessel if it could not compete for the New York trade by reason of not having the same toll through the canal as the American vessel?

Mr. BURTON. Of course the boat from Vancouver or Victoria could land its cargo at New York as well as the one from Seattle, as it would be going from one country to the other. In the case of the cargo from Seattle, no tolls would be charged under this bill, while on the cargo from Victoria or Vancouver tolls would be charged.

Mr. BRISTOW. The language of the treaty is that all nations shall be treated alike. The Canadian vessel can not take a cargo of lumber from Seattle to New York.

Mr. McCUMBER. I did not say "Seattle"; I said "Victoria."

Mr. BRISTOW. It can take a cargo from a Canadian port to New York, but that is not the same shipment. It is an entirely different shipment.

Mr. BURTON. It is not the same route, but it involves exactly what such a treaty as this would be calculated to guard against—a disadvantage to one country and an advantage to another.

Mr. BRISTOW. I think that is a very great straining of language in the interest of the foreigner as against the people of our own country. That is the way it seems to me.

Mr. BURTON. In giving treaties an interpretation it is always well for us to be frank and fair. I am willing to take any aspersion that may be involved on that score; for, if anything, we should lean backward when we come to our relations with foreign countries.

Mr. BRISTOW. Let me inquire what the Senator thinks of the fortification of the canal as it relates to the language of this treaty. Does he think we leaned over backward when we established the fortifications there?

Mr. BURTON. The Senator from Kansas knows that the Senator from Ohio made a motion here to strike out the provision for the fortification of the canal. I do not believe in that; so I am inclined to think the Senator had better call some other witness in regard to the fortification of the canal.

Mr. ROOT. Mr. President, some weeks ago I stated to the Senate that, in my opinion, the provision of this bill exempting American ships from tolls which were to be imposed upon the ships of other countries—that is to say, exempting ships owned by American citizens from tolls which were to be imposed upon ships owned by the citizens and subjects of other countries—was a violation of this treaty, known as the Hay-Pauncefote treaty; and I said that at a future time I would give my reasons to the Senate.

Since that time the Senate has been advised of a formal communication from the Government of Great Britain, the other party to the Hay-Pauncefote treaty, to the Government of the United States, questioning the right of the United States to make that kind of discrimination.

I feel very reluctant to make an argument regarding the rights of the United States under the treaty which have already come into diplomatic discussion. I feel the more reluctant because the view I entertain would require me to argue against the position which the Government of the United States may be bound to take if the opinion of the Senate should agree with the opinion of the House and this provision should be enacted into law.

It appears quite certain to me, sir, that if we enact the provision which is now before us, making the discrimination against which Great Britain protests, as the other party to this international agreement, the question raised will be one for arbitration under our existing treaty with Great Britain. It will present the simplest, most unquestionable case for the submission to an impartial tribunal of the contending claims of the two parties to the contract. We could not refuse to arbitrate the question. Great Britain could not refuse to arbitrate it. It is the kind of question which our treaty of arbitration expressly requires to be arbitrated, and it is a question which ought to be arbitrated.

Instead of arguing the question I shall content myself with suggesting to the Senate that any legislation which may be enacted ought to be framed with a view to the fact that this is a matter about which we can not finally decide. If the judgment of the Senate shall be in favor of the policy of discrimination—and mine is not; I think it is wholly unjustifiable and unnecessary—nevertheless we should exercise our power of legislation with a view to the fact that the question of our right to legislate in such a way as to discriminate is one which may be decided against us by the international tribunal to which we are bound to submit it.

Mr. BACON. Will the Senator permit me to hand him here one paragraph of that treaty, which is pertinent in connection with what he says? The Senator probably is a little modest about reading it, because of the fact that he made the treaty.

Mr. ROOT. Yes; I made the treaty, but it was a treaty which was really drafted and carried far toward its conclusion by Mr. Hay. It followed the form of a treaty made years before between France and Great Britain, and is the settled form of arbitration treaties, which far outnumber all other kinds of treaties that there are in the world.

Mr. BACON. There are 25 of them, as I understand, that we have with other nations.

Mr. ROOT. We have 25.

Mr. BACON. In the same language.

Mr. ROOT. In the same language.

The article which the Senator from Georgia is good enough to call attention to is as follows:

> Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the permanent court of arbitration established at The Hague by the convention of the 29th July, 1899.

Mr. MARTIN of Virginia. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Virginia?

Mr. ROOT. Certainly.

Mr. MARTIN of Virginia. I should like to ask the Senator from New York what procedure is available, if any, in the United States to abrogate this provision in the treaty?

Mr. ROOT. Does the Senator mean this provision in the arbitration treaty?

Mr. MARTIN of Virginia. No; the provision in the Hay-Pauncefote treaty, which is under discussion—the subject matter of the Senator's present argument.

Mr. ROOT. I know of none. I know of no provision under which this treaty can be abrogated, for it already has been in a great measure executed. I know of no course which we could follow which would not involve us in repudiating the obligations which we have assumed while accepting the benefits for which those obligations were made.

Mr. MARTIN of Virginia. I will say to the Senator from New York that my remark was not originated by any present desire to abrogate the treaty. My understanding of the law or regulation in respect to the matter was exactly as he has stated it, but I desired to have an expression from him as to whether or not there was any way by which this treaty could be abrogated in these respects. There has been a good deal of talk in the Senate as to taking steps with a view to the abrogation of this treaty.

Mr. ROOT. Mr. President, there is a doctrine under which treaties may some time be abrogated, what is called the doctrine of sic stantibus rebus; that is, when in the lapse of time the conditions under which a treaty was made have so completely changed that it is no longer reasonable that its provisions shall be deemed to be binding. The change of conditions may receive effect through an abrogation of the treaty. But no such conditions exist here. By means of making this treaty we secured a release from Great Britain of her copartnership rights in an isthmian canal, and we have proceeded to take what is equivalent to sovereignty over the Canal Zone. We have proceeded to construct, or in a great measure to construct, a canal over which we exercise rights as a sovereign; and without abandoning the canal and abandoning all we have acquired already, which would require the assent both of Great Britain and of Panama, we could not retire from the obligations we have contracted there.

Now, Mr. President, having in view the fact that if we legislate upon this subject we legislate regarding a right which a court to whose judgment we must bow may decide that we have not, though we believe in the policy of this bill, we should frame our legislation with reference to the possibility of such a judgment. We should frame our legislation so as to facilitate such a judgment. We can not do less than that consistently with our oft-repeated declarations in favor of the principle of arbitration and consistently with the requirements of good faith under the treaty.

What would be the situation, sir, if this law were enacted as it now stands and if the question raised between Great Britain and the United States were to be submitted to arbitration and the arbitral tribunal were to decide that the effect of this clause was to put all nations on an equality, including the United States? What would be the effect if the arbitral tribunal were to decide that we are precluded by the terms of the treaty from discriminating between British merchant vessels and American merchant vessels in passing through the canal? That decision, sir, may come one or two or five or ten years hence. Controversies between two great nations are not readily and swiftly disposed of. It is a long and cumbersome proceeding, and with many counsel, declaiming knowledge, perhaps, with long discus-

sions and deliberations; a considerable number of years may be looked to at all events before a conclusion is reached.

If under the law we now pass we have been imposing tolls upon British ships, and French ships, and German ships, and imposing no tolls upon American ships, what must be the judgment if it is against us? Not that we proceed to impose tolls upon American ships. That opportunity will be forever gone; the ships will have passed and will be gone; but that we refund the tolls that have been imposed upon the British and French and German ships, and all the great income of the canal, no one can tell how many millions would have to be taken out of the Treasury of the United States and paid over to these foreign ship owners, if the decision is against us. No one can tell what a vast burden of debt we will be piling up against the Treasury of the United States if we pass this law as it is framed here.

I submit to the Senate that the most careful consideration should be given, not only to the question whether the Senate will commit itself to this construction of the treaty, not only whether the Senate believes in the policy of this proposed legislation, but to framing the legislation in such a way that we may comply with our honorable obligations in seeking and submitting to a decision by an arbitral tribunal upon this disputed construction, and in such a way that if the judgment be against us we may not be subject to ruinous demands upon the Treasury.

Mr. STONE. Mr. President, I should like to make a suggestion to the Senator. Evidently this is very important legislation, and the contingencies may be great in many ways. The British Government protests informally, at least, so far as we have it here, against the enactment of this legislation. I assume that in due time the British Government will make more extended representations to our State Department. Congress ought to have the benefit of the views of that Government before we pass upon this matter finally.

After listening to the very able addresses of the Senator from New York and the Senator from Ohio, it occurs to me to inquire of the Senator from New York if he does not think it will be the part of wisdom if we should postpone this particular legislation until the next session of Congress, when we can have in the meantime an opportunity for acquiring greater information respecting it and be prepared to pass upon it with greater deliberation.

Mr. ROOT. Mr. President, so far as this particular provision goes I think it is very desirable. I am told, however, that a large part of the bill is quite pressing, to enable the officers in charge of the completion of the canal to make the arrangements necessary for opening the canal. Of course, it would not do for us to have the canal finished and be unable to open it. We must have legislation under which the proper disposition and arrangements can be made for the opening of the canal and operating it.

Mr. STONE. When will it be opened?

Mr. ROOT. I understand that the canal will be practically completed during the next year, 1913. The commerce of the world has to adjust itself beforehand to a new facility of that kind; that is, ship owners must know what they are going to expect in order to make their arrangements long beforehand for using the canal. A ship owner does not get up in the morning and casually determine to send a ship by way of Suez or by way of Panama. He makes his arrangements and his contracts for freight, and merchants make their contracts for the purchase and the sale of commodities with reference to the opportunities for transportation. I am told that there is pressing need for legislation along that line.

As to this particular question it may well be deferred. I think it ought to have fuller consideration than we can give to it now in the heat of the summer and with everybody tired and in a condition where he is unwilling to do any work that can be avoided. I do not think that the Senate is in a condition to really give the kind of consideration that this measure ought to have.

Mr. BACON. Mr. President, with the permission of the Senator before he takes his seat, of course the Senator recognizes that there can be no decision by a court until there is an issue between parties, and the arbitration court is no exception to that general rule. The question I desire to ask the opinion of the Senator on is whether there is any legislation which we can adopt short of something which takes a position in regard to the matter of tolls on which an issue may be joined which can present to the court something for it to decide.

I ask the Senator if he can think of any legislation that we could enact which would form such an issue or present such an issue as would enable the arbitration court to take jurisdiction of it and decide it? If so, I myself would very much favor legislation which would accomplish that end without a provision such as is embodied in this bill, because, as pointed out by the Senator from New York, for us to adopt a provision in this bill which will let American vessels through this canal free and charge tolls to the vessels of all other nations may involve us in a very large indebtedness upon a judgment by the arbitration court that it was an illegal regulation and in violation of the treaty. Therefore, I think it highly important if we desire to make this issue that, if possible, we frame some legislation upon which an issue can be joined and upon which issue the court of arbitration can pass.

I have not myself given any consideration to it. I should like very much to have the judgment of the Senator from New York, who has had experience in these diplomatic matters and also in the practice before the courts of arbitration at The Hague, whether there is any legislation, or, in the absence of legislation, whether by any other governmental act, we can submit it by a treaty. I do not now recall whether the terms of The Hague convention are sufficiently broad to permit of a suppositious or a fictitious case to be made in the absence of any direct issue, which will make such an issue as will justify the court of arbitration to take jurisdiction of it and pass upon it. If so, I think that is the direction which should be given to it.

Mr. ROOT. Mr. President, I think there is nothing to prevent an immediate reference. The rules which govern nations in submitting questions to arbitration are not technical. That could not be, because different nations of the earth all have different rules, and all that is necessary is that there should be a difference.

Now, that difference may be created by the assertion of a right on the part of one country and the denial of that right on the part of the other, without waiting for the country that asserts the right to exercise it or attempt to exercise it. In other words, the question may be submitted to arbitration just as if a suit were brought for an injunction to restrain a violation of right. I should say that no legislation and no action was necessary beyond an assertion by the Government of the United States of the right to discriminate in tolls.

Mr. BACON. I will suggest to the Senator that sometimes we have had statutes passed which were expressions of public policy aside from the usual prescribing of rules of action and conduct. I think we had one once with regard to the monetary question. Possibly it might be sufficient to engraft upon this bill the assertion of the contention on the part of the United States of a right to so discriminate without in fact proceeding to enact a law making a discrimination.

Mr. ROOT. Mr. President, following the line of thought suggested by the Senator from Georgia, it has occurred to me that possibly we might make some arrangement for some modus under which the tolls of American vessels could be paid and the ultimate disposition of the amount paid be made to depend upon the decision of the arbitral tribunal, so that if the decision is in favor of the right of the United States to make a discrimination those tolls could go to the shipowners, while if the decision is against us we should keep them, and would not have to refund all of the foreign tolls we had been collecting in the meantime. That merely occurs to me on the spur of the moment. I should like to think about it a little more, and I think we all ought to think about it.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. Yes.

Mr. CUMMINS. Does the Senator from New York have any idea with regard to the annual tolls which will probably be received from the foreign shipping through the canal? I ask that question because I believe it to be true that if we have a controversy with Great Britain upon this subject it must eventually be decided in a court of arbitration; but I do not think we ought to be appalled by some vague, imaginary amount that we might be required to refund. I suppose that the measure of damages would be no greater, at any rate, than the restoration of the tolls exacted from foreign shipping. If you will exclude domestic shipping—that is, American shipping—from consideration, I think no one would claim that the probable receipt of tolls in the next five years would be more than $25,000,000. I do not think it would be nearly that much; but even if we were to make a mistake in the interpretation of this treaty and be compelled at the end of five years to restore the money that we had improperly exacted of foreign shipping, it would not be a very serious matter. I think we will find from the estimates as we go along that the amount of tolls that will be exacted from foreign shipping in the next five years will be very much less than $25,000,000, and probably not more than $15,000,000, and if there is no other way to raise the question save by the assertion of our rights in this way, we could well afford to refund the tolls rather than to forego for

all time the rights which some people claim the United States has in regard to this matter. As I have said before, I have not made up my mind about it. I am strongly disposed, however, to assert the American right if it can be fairly done from the language and the spirit of the treaty.

Mr. WILLIAMS. Mr. President, I think the analogy resorted to by the Senator from Georgia [Mr. BACON] does not apply in international affairs. It is true that you can not have a decision of a court to settle conflicting rights between individuals until there has been an issue joined, but nations can make up a case, and, by consent, refer it to arbitration. They need not wait until the issue has been made.

As to the point raised by the Senator from Iowa [Mr. CUMMINS], that we might lose the point itself, it seems to me that that can be very easily arranged in the bill. You can add in this bill a provision fixing the tolls for the ships of all nations and providing that the coastwise ships of the United States shall go through the canal free, with a proviso that, pending the hearing and settlement of the controversy now going on between Great Britain and the United States to determine our rights to pass the foregoing clause, equal tolls shall be collected from American coastwise vessels, which shall be kept in a separate fund, to be refunded when the decision is made, if it is made in favor of our right to discriminate, and to be kept in case the decision is against us.

I think almost anybody could draw up that clause very easily. It would obviate the trouble suggested by the Senator from New York, and would also obviate the trouble upon the other side suggested by the Senator from Iowa. Meanwhile the two Governments, of course, can easily agree to submit the matter to arbitration as an academic question, as a hypothetical question, simply because one asserts the right and the other denies it. They need not wait for anything further.

Mr. LIPPITT. Mr. President, I wish to suggest that the proposition originally advanced by the Senator from New York [Mr. ROOT] and renewed by the Senator from Mississippi [Mr. WILLIAMS] of forming a fund to be returned to the owners of our vessels in case a decision be made in our favor, would scarcely be a commercial arrangement that would be very satisfactory to the country, because the sale of goods and merchandise carried through the canal depends very largely upon the rate of freight that is charged for their transportation. No steamship line, pending such an arrangement, would dare to charge any rate of freight other than such as would be sufficient to pay a profit in case the decision went against us. The result, therefore, of such a fund would be simply to pay to the steamship lines an additional profit over what the ordinary transportation of the freight would bring, for it would be impossible for them to distribute, it seems to me, that freight through all their customers, and their customers in turn redistribute it to their customers so that the ultimate benefit would perhaps go to the purchaser of a yard of cloth in the Andes Mountains.

Mr. WILLIAMS. Mr. President, in answer in a general way to what the Senator from Rhode Island has just said, I will say that, of course, the shippers, as well as the shipowners, would know of the existence of this provision, and they would probably base their contracts upon a rebate to be paid to them finally in case a rebate were made at all.

Mr. LIPPITT. I think, Mr. President, that would form one of the greatest international gambles in which the world has ever indulged.

Mr. WILLIAMS. That may be; and a great deal of business that looks toward some contingency in the future not to be accurately prophesied is a good deal of a gamble. There is no doubt about that.

Mr. ROOT. A considerable part, Mr. President, of the business that is done under our customs tariff involves similar questions. People buy goods when the question of the duty is uncertain, and a great amount of litigation is going on all the time; but they get along with it, and there is an allowance made for it in the prices charged the purchaser.

HOUR OF MEETING TO-MORROW.

Mr. BRANDEGEE. I move that when the Senate adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning.

The motion was agreed to.

EXTRACTS FROM SENATE JOURNAL IN IMPEACHMENT CASES (S. DOC. NO. 876).

Mr. SMOOT. I move that the Senate adjourn.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah withhold his motion?

Mr. SMOOT. I withhold the motion.

Mr. CLARK of Wyoming. I have in my hand a book which was published by the Senate in 1904, being Extracts from the Journal of the Senate of the United States of America in Cases of Impeachment. This is a very valuable compilation and contains probably all the precedents on the subject that the Senate would care to have. There are but six copies of it left. I ask that it be printed as a Senate document, and that there be included in that document such parts of the Swayne impeachment trial as would be useful and applicable.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The order as agreed to was reduced to writing, as follows:

Ordered, That extracts from the Journals of the Senate containing the record of impeachment trials in the cases of William Blount, John Pickering, Samuel Chase, James H. Peck, West H. Humphreys, Andrew Johnson, William W. Belknap, and Charles Swayne be printed as a Senate document.

LEGISLATIVE APPROPRIATION BILL.

Mr. WARREN. Mr. President, the Senator from Louisiana [Mr. FOSTER], who was appointed one of the conferees on the part of the Senate on the legislative, executive, and judicial appropriation bill (H. R. 24023), has been compelled to leave the city and will be absent during the consideration by the conference committee of that measure. He has requested that the member next in order on the subcommittee of the Committee on Appropriations be designated to serve in his place. I therefore ask unanimous consent that the Senator from North Carolina [Mr. OVERMAN] be appointed to serve as one of the conferees on the part of the Senate on that bill in place of the Senator from Louisiana [Mr. FOSTER].

The PRESIDENT pro tempore. Without objection, that order will be made.

PARCEL POST.

Mr. SIMMONS. I ask unanimous consent to have printed in the RECORD an article written by Mr. P. V. De Graw, Fourth Assistant Postmaster General, to the Charlotte Observer, a newspaper published in my State, with reference to the parcel-post proposition now pending before the Committee on Post Offices and Post Roads.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from North Carolina? The Chair hears none, and it is so ordered.

The article referred to is as follows:

SENATOR BOURNE'S PARCEL-POST PLAN—VIEWS OF FOURTH ASSISTANT POSTMASTER GENERAL DE GRAW—APPROVED BY TAFT—PROPOSED LAW PROVIDES FOR BUT THREE INSTEAD OF FOUR CLASSIFICATIONS.

The editor of The Observer having requested Hon. P. V. De Graw, Fourth Assistant Postmaster General, to outline from his viewpoint the proposed parcel-post legislation and its probable effect, Mr. De Graw has complied as follows:

While my specialty is that of rural mails, to which branch of the service in connection with the proposed establishment of parcel post my particular energies have been more directly devoted, I will endeavor to comply concisely with your general inquiry.

The parcel-post plan now before the Senate Committee on Post Offices and Post Roads, known as "the Bourne scheme," has the indorsement of the President and the Postmaster General. In fact, the measure has been compiled by Senator BOURNE after careful personal research into all branches of the postal service. This has been accomplished through a series of conferences with the heads of bureaus of the Post Office Department, who are necessarily experts in their respective lines. I do not hesitate in the circumstances to emphasize what the Postmaster General has already stated, namely, that the department believes parcel post is inevitable, and that being the case no more just and equitable measure than the so-called Bourne scheme can be devised at this time.

The measure divides the country into six zones, determining each by latitude and longitude, and changes qualifications and postage charges. It is believed it will solve in a very simple way what has heretofore been regarded as a most trying and complicated problem.

If the proposed new law is enacted, the classification of mail and postage rates so that instead of four classes, as heretofore, there will be but three classes, is considered a most important feature.

The first and second classes are to remain as now. The first-class mail is to be paid for by stamps attached. The second-class mail is to be paid for in money. Third-class mail would include all mailable matter not embraced in the first two classes. The parcel post already in existence in this country, limited to a 4-pound package, costing 1 cent an ounce to transport, would be changed and the limit raised to 11 pounds.

The cost of transportation will be regulated by distance as well as weight. The country is divided into six zones, the first zone including all territory lying within a mean radial distance of 50 miles from a central point. The sixth zone includes all territory lying outside of a radius of 2,000 miles from the central point. Each State and Territory is divided into units of 30 minutes square.

The rate of transportation was based upon figures showing the actual cost of carrying a pound package of fourth-class matter various distances from 50 to 2,000 miles.

The cost varies from 6 cents for the first pound and 2 cents for each additional pound in the sixth zone.

It has been charged that I did not seem to realize that a parcel-post delivery would be a hard blow to country merchants and would only benefit the department stores of the cities. I do not realize any such thing. Of course there are two sides to every question, which may affect different communities in different ways.

It will undoubtedly be recalled that when it was proposed to establish rural delivery certain sections of the country rose en masse and denounced it in terms most bitter. What was the result? Appreciation in land values by millions of dollars and the bringing of country life, from my viewpoint, far in advance of that of the city dweller.

In order that I may be thoroughly understood I wish to give it as my firm conviction that the establishment of package or parcel post, not to exceed a cost of 15 cents for a package of 11 pounds, 5 cents for the first pound and 1 cent for each additional pound, will greatly benefit the patrons on rural-delivery routes as well as the merchants located in the villages or towns whence rural delivery starts. By way of illustration it may be interesting to cite a personal experience during the past summer.

I was called to Dubuque, Iowa, to address the Commercial Club, a body of bright men, all of whom were opposed to parcel post of any description. Being urged to explain to them the attitude of the Post Office Department on the subject, I instanced the fact that, as they knew, the town of Waterloo lay but 100 miles west of their own city; that in Dubuque 13 or 14 rural-delivery carriers started to the country every morning carrying, perhaps, from 5 to 30 pounds of mail each. Any one of the merchants in Dubuque desiring to send a package to a patron on any of the routes starting from that city would have to confine its weight to 4 pounds and pay 16 cents a pound, or 64 cents on the parcel, a rate which is practically prohibitive. Under the proposed parcel-post or rural-delivery routes, should the Congress follow the recommendation of the department, the rate on the same package would be 15 cents, and, besides that great difference, the weight might be extended to 11 pounds for 15 cents, or 5 cents for the first pound and 1 cent for each additional pound to the limit of weight, an arrangement which it is proposed to confine strictly to bona fide patrons of rural routes and to local city delivery.

After submitting the proposition as I construed it, I queried my audience as to whether in their opinion, under the conditions outlined, any merchants located in Waterloo could compete with those of Dubuque successfully, considering that under present conditions the 4-pound package above referred to would cost 64 cents from Waterloo to Dubuque rural patrons, and a package of 11 pounds $1.76. Under the most favorable circumstances, assuming that the Congress may—and I believe it is only a matter of time until they will have to do so—inaugurate a general system of parcel post by mail, reduce the rate on packages from 16 cents to 12 cents a pound, and raise the weight limit from 4 pounds to 11 pounds, the package of 11 pounds from Waterloo would cost $1.32. Therefore, any way you please to view the matter, the merchant in Dubuque would have so much margin on freight that the merchant 100 miles away could not compete. Every man in the house agreed with me that that argument was conclusive, and that if the Congress should adopt it there would be no opposition to parcel post on rural delivery routes in that community.

Since submitting the argument cited the Post Office Department actually recommended that packages of 11 pounds be carried on rural routes and in cities having city delivery for 5 cents for the first pound and 1 cent for each additional pound, or 15 cents for 11 pounds.

Of course, I can not attempt to predict the action of Congress, but the theory upon which my recommendation for this year has been based leaves me no room for doubt that if the recommendation is followed the parcel post on rural delivery routes will be a great advantage to the persons living in the country, and I sincerely believe will not only hold those who are there, but add greatly to the population in every section of our great and glorious country.

In my judgment, all the arguments which are based upon the assumption that the country merchant by the installation of parcel post would be driven out of business are absolutely without foundation.

As to the inadequacy of present postal facilities to handle the increased business resulting from a rural parcel-post system, which has been suggested, all I can say is that a large and healthy growth of the postal service is considered desirable and that as necessity arises facilities will improve to meet conditions.

P. V. DE GRAW.

Mr. SMOOT. I renew my motion that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 33 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, July 16, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *July 15, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, O God, our heavenly Father, that back of the vast universe of which we are a part, back of our joys and sorrows, our hopes and aspirations, and all the issues of life, are Thine infinite wisdom, power, and goodness. Yet Thou hast dignified Thy children with the gift of choice and holdest them responsible for their acts. Hence the seeds we sow today will be the harvest of the morrow. Help us, therefore, to sow good seed, that our harvest may be the fruits of joy and peace and righteousness, in Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, July 13, 1912, was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 4913) to enable the Indians allotted lands in severalty within the boundaries of Little River drainage district No. 1, in Pottawatomie County, Okla., to cooperate with the officials of said State in the protection of their lands from overflow, and for other purposes.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes"; asked a conference with the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. GAMBLE, Mr. CLAPP, and Mr. STONE as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. LA FOLLETTE, Mr. GUGGENHEIM, and Mr. BAILEY as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PERKINS, Mr. LODGE, and Mr. TILLMAN as the conferees on the part of the Senate.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4913. An act to provide for the payment of drainage assessments on Indian lands in Oklahoma;

S. 7015. An act to provide American registry for the steamer *Damara*; and

S. 1152. An act granting an increase of pension to Mary Bradford Crowninshield.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution of the following title, when the Speaker signed the same:

H. J. Res. 220. Joint resolution to grant American citizenship to Eugene Prince.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 20684. An act providing for the sale of the Lemhi school and agency plant and lands on the former Lemhi Reservation, in the State of Idaho; and

H. R. 17937. An act authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance Department for improvements or economy in manufacturing processes or plant.

EXEMPTION OF CIGARS FROM TAXATION.

Mr. PETERS, from the Committee on Ways and Means, reported, without amendment, the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States as amended by section 32 of the act of August 5, 1909, which was read a first and a second time and, with the accompanying report (No. 1000), ordered to be printed and referred to the Committee of the Whole House on the state of the Union.

EXTENSION OF REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend in the RECORD after to-day's proceedings my statement and remarks in regard to the duty of a person who has given pledges and promises to the people before election and the duty to carry out those preelection promises.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I make a similar request for unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. MANN] also makes a request for unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. The Clerk will call the first bill on the Calendar for Unanimous Consent.

EXCHANGE OF SCHOOL LANDS.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 19344) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The bill was read.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I think I shall have to object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects. The bill will be stricken from the calendar.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 20501. An act to authorize the Secretary of Commerce and Labor to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 20347) to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark., disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. NELSON, Mr. BOURNE, and Mr. MARTIN of Virginia as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 4568) granting an increase of pension to Annie R. Schley, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. BURNHAM, Mr. SMOOT, and Mr. GORE as the conferees on the part of the Senate.

CONFLICT BETWEEN PLACER AND LODE LOCATORS OF PHOSPHATE LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8883) providing for adjustment of conflict between placer and lode locators of phosphate lands.

The bill was read.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] objects. The bill will be stricken from the calendar.

DISPOSITION OF SURPLUS AND UNALLOTTED LANDS IN STANDING ROCK INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect.

The title of the bill was read.

Mr. BURKE of South Dakota. Mr. Speaker, this bill was read on a former occasion.

The SPEAKER. Is there objection?

Mr. FOSTER. I reserve the right to object.

Mr. FINLEY. Mr. Speaker, I reserve the right to object.

Mr. BURKE of South Dakota. This bill was read, I say, on a former occasion in the House. It has been on the calendar for a number of unanimous-consent days and has gone over for one reason or another. The last time it went over because I was away. Unless somebody demands the reading of the bill now, I see no reason for taking up the time of the House in reading it, it having been read on a former occasion.

The SPEAKER. As a matter of fact the second time is just the same as the first time as regards the reading of the bill. The gentleman from South Dakota [Mr. BURKE] asks unanimous consent to waive the reading of this bill because it has been read once before. Is there objection?

There was no objection.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I desire to say that I have had some matters and statements in reference to this bill that came into my possession some time ago, and I have waited four or five weeks, hoping that possibly the gentleman from South Dakota might be able to show that these statements were incorrect. I have had no word to that effect up to this time.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. FOSTER. Yes.

Mr. BURKE of South Dakota. I wish to say, Mr. Speaker, that there was a delegation of Indians who came on to Washington and presented the document to which the gentleman from Illinois [Mr. FOSTER] refers. They appeared on two different occasions before the Committee on Indian Affairs. The committee, after hearing their protest, reported a substitute, which is now before the House. And I want to say to the gentleman from Illinois [Mr. FOSTER] that practically every objection made that is at all important has been met in the substitute bill which has been reported; and I will state further that the leading member of the Indian delegation told me that their opposition to the bill was based largely because they had not received any of the proceeds from the sale of a portion of this reservation that was authorized to be disposed of under a former act of Congress. This substitute bill provides that they may be paid $40 per capita from the money in the Treasury to their credit, which is exactly the amount that they are asking.

And I would call the gentleman's attention to the fact that this bill has now been upon the Unanimous Consent Calendar for a number of weeks, and I am sure the gentleman has not had anything subsequent to the protest which was presented before the bill was considered by the committee, and at the time the bill was considered. I want to say that the Committee on Indian Affairs at a full meeting carefully considered the entire matter, and particularly the objections of the Indians, and unanimously reported this substitute bill; and I can say to the gentleman from Illinois and to the House that it is my honest and candid judgment and belief that it ought to pass, from the standpoint of the Indians alone, to say nothing of other conditions; and I believe if the Indians were present here at this time they would withdraw any objection that they made to the passage of the bill in the form in which it passed the Senate.

Mr. FINLEY. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. FINLEY. Will the gentleman state briefly the purpose of the bill?

Mr. BURKE of South Dakota. I will say to the gentleman that the purpose of the bill is to dispose of the unallotted lands in the Standing Rock Reservation.

The original treaty, by which the Standing Rock Reservation was created, provided that the Indians should be allotted a greater area per capita than has ever been allotted to any other tribe of Indians in the country. The heads of families received 640 acres each; the wives 320 acres each; an unmarried Indian, 18 years of age or over, 320 acres; and each child 160 acres. All of the Indians have received their allotments, and there are about two hundred thousand and some odd acres of unallotted land scattered all over the reservation. This bill proposes to sell these unallotted lands and to deposit the proceeds in the Treasury to the credit of the tribe.

Mr. FINLEY. No appropriation will be called for?

Mr. BURKE of South Dakota. Only an appropriation necessary to pay for sections 16 and 36, which go to the State of South Dakota.

Mr. FOSTER. I will state that this bill provides for an appropriation of $180,000.

Mr. BURKE of South Dakota. Yes; to pay for sections 16 and 36, and that is a question that has been disposed of by Congress on a number of occasions on similar bills, and is simply carrying out the solemn obligation of the United States.

Mr. FINLEY. There being this question of the appropriation of $180,000, why can not this matter go over?

Mr. BURKE of South Dakota. I think it has been before the House now so long that it ought to be passed at this session. There is a demand for it on the part of everybody.

Mr. FINLEY. Was this bill introduced in the last Congress?

Mr. BURKE of South Dakota. My recollection is that it was introduced in the Senate. I am not quite clear that it was, but I think it passed the Senate, but I am not certain.

Mr. FINLEY. What is the value of these lands which are proposed to be sold?

Mr. BURKE of South Dakota. The value is estimated by one of the appraisers who appraised a portion of the reservation heretofore disposed of at not to exceed $2.50 an acre, but this bill provides that all lands taken within the period of three months shall be disposed of at $6 an acre.

Mr. FINLEY. Is not that a very low price for land?

Mr. BURKE of South Dakota. It is a very high price for lands of this character, which are semiarid and not desirable for agriculture. They are classified mostly as grazing lands; and I call the attention of the gentleman to the fact that this bill proposes to dispose of the remainder of the lands after nearly 2,000,000 acres have been allotted. The Indian knows the best land just as well as the white man does. Consequently these lands, you may say, are rejected lands.

Mr. FOSTER. Mr. Speaker, I think a bill of this importance where there seems to be some conflict in reference to the matter, ought to come up in the usual way, and not on the Unanimous Consent Calendar, and I therefore object to the consideration of it.

The SPEAKER. The gentleman from Illinois objects. The bill will be stricken from the calendar. The clerk will report the next bill.

RADIO COMMUNICATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 6412) to regulate radio communication.

Mr. ALEXANDER. Mr. Speaker, as that bill will be considered under a special rule, I think I will ask unanimous consent that it may go over without prejudice.

Mr. MURRAY. May I inquire of the gentleman to what rule the gentleman refers?

Mr. ALEXANDER. I think there will be a rule from the Committee on Rules under which certain bills from the Committee on the Merchant Marine and Fisheris will be considered, and this is one of them.

The SPEAKER. The gentleman asks unanimous consent that this bill be passed without prejudice.

Mr. MANN. Reserving the right to object, Mr. Speaker, I understand that the gentleman from Missouri is likely to offer some amendments to this bill when it is presented for consideration.

Mr. ALEXANDER. Yes.

Mr. MANN. Has the gentleman those amendments formulated?

Mr. ALEXANDER. Yes.

Mr. MANN. Would the gentleman be willing to put them in the RECORD so that Members may know what they are?

Mr. ALEXANDER. I would not object to doing that. Mr. Speaker, I ask unanimous consent to place the amendments which I propose to offer to the bill in the RECORD for the information of Members.

The SPEAKER. Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none. The gentleman from Missouri also asks unanimous consent to print in the RECORD the amendments to the bill for the information of the House. Is there objection?

There was no objection.

The following amendments will be offered to Senate bill 6412, "An act to regulate radio communication," by the Committee on the Merchant Marine and Fisheries:

SECTION 1. Amend section 1, page 1, by striking out the words "receipt or" in line 8.

SEC. 2. Amend section 2, page 3, by inserting, after the word "States" in line 5, the words "or of Porto Rico," and by inserting, after the word "States" in line 6, the words "or Territory," and by inserting, after the word "States" in line 7, "or of Porto Rico."

SEC. 3. Amend section 3 of the bill as follows: Strike out the words, in lines 8 and 9, "Every person so licensed for the operation of any radio apparatus on shore shall be a citizen of the United States"; also, in line 14 insert, after "them," the following: "or who shall fail to enforce obedience thereto by any unlicensed person while serving under his supervision." Also, in lines 15 and 16, substitute for "upon conviction shall" the word "may"; and strike out "and" at the end of line 16. Also, in lines 17 and 18, substitute "for a period to be fixed by the Secretary of Commerce and Labor not exceeding one year" for the words "the name shall not be renewed for a period of one year from and after the date of his conviction of any such failure." Also, in line 20, after "charge," insert "or in supervision."

On page 6, in line 14, add at the end of regulation first the following: "Every ship station, except as hereinafter provided, and every coast station open to general public service shall be prepared to use 2 sending wave lengths, 1 of 300 meters and 1 of 600 meters, as required by the international convention in force."

On page 7, line 10, substitute the following for the fifth regulation: "Every station on shipboard shall be prepared to send distress calls on the normal wave length designated by the international convention in force, except the vessels of small tonnage unable to have plants insuring that wave length."

On page 10, lines 13 and 14, strike out the words "at the date of passage of this act."

On page 10, line 17, at end of fifteenth regulation, change the period to a colon and add: "*Provided*, That the owner or operator of a station of the character mentioned in this regulation shall not be liable for a violation of the requirements of the third or fourth regulations to the penalties of $100 or $25, respectively, provided in this section, unless the person maintaining or operating such station shall have been notified in writing that the said transmitter has been found upon tests conducted by the Government to be so adjusted as to violate the said third and fourth regulations, and opportunity has been given to said owner or operator to adjust said transmitter in conformity with said regulations."

On page 12 strike out lines 23, 24, 25, and on page 13 strike out lines 1 and 2, and insert the following in lieu thereof: "No person or persons engaged in or having knowledge of the operation of any station or stations shall divulge or publish the contents of any messages transmitted or received by such station except to the person or persons to whom the same may be directed or to another station employed to forward such message to its destination, unless legally required so to do by the court of competent jurisdiction. Any person guilty of divulging or publishing any message except as herein provided shall, on conviction thereof, be punishable by a fine of not more than $250 or imprisonment for a period of not exceeding three months, or both fine and imprisonment, in the discretion of the trial court."

On page 13, line 7, after the word "dollars," insert the words "to be imposed by the Secretary of Commerce and Labor."

On page 13, lines 9 and 10, strike out the words "which shall be deemed a misdemeanor."

On page 13, line 16, strike out the words "which shall be deemed a misdemeanor," and in line 17 strike out "may" and insert "shall," and after the word "suspended" add "or revoked."

On page 15, lines 7 and 8, strike out the words "or in any district in which the offender may be found."

On page 15, after line 12, insert as a new section:

"SEC. 10. This act shall not apply to the Philippine Islands."

On page 15, line 13, change "Section 10" to "Section 11."

On page 15, line 14, change "90 days" to "4 months."

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. ADAMSON, for 10 days, on account of illness in his family.

To Mr. KONIG, for one week, on account of sickness.

To Mr. MCGUIRE of Oklahoma, for three weeks, on account of important business.

To Mr. HUGHES of Georgia, for three days, on account of illness.

WITHDRAWAL OF PAPERS.

Mr. WHITE, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of James L. Dalzell, H. R. 18775, Sixty-second Congress, second session, an adverse report having been made thereon in the Senate Committee on Pensions.

SALE OF LANDS IN OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22647) providing for the sale and entry of certain lands in the State of Oklahoma, and for other purposes.

The Clerk read the bill as follows:

Be it enacted, etc., That the following-described tracts of land within the State of Oklahoma, to wit, the southeast quarter and the south half of the northeast quarter of section 30, the east half of section 31, and section 32, all in township 19 north of range 13 west of the Indian meridian; and the west half of section 5 and the northeast quarter of section 5, and section 6, all in township 18 north of range 13 west of the Indian meridian; and also any other tract or tracts of land within what was formerly the Cheyenne and Arapaho Indian Reservation which heretofore may have been reserved for agency or school purposes which, in the judgment of the Secretary of the Interior, are no longer needed or necessary for the purpose for which said tract or tracts were originally reserved; and said lands shall be opened to entry and settlement and the proceeds thereof disposed of under the conditions, terms, and provisions prescribed in the act approved June 17, 1910, entitled "An act to open to settlement and entry under the general provisions of the homestead laws of the United States certain lands in the State of Oklahoma, and for other purposes."

The SPEAKER. Is there objection?

Mr. FOSTER. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman in charge of the bill a question. I observe by the report that the Secretary of the Interior says that they need these lands if this school is to be continued at this place. Now, this bill provides for selling a certain portion of these lands. Can the gentleman inform the House whether there is still sufficient land left for all the purposes of the Government?

Mr. MORGAN. I think about 800 acres.

Mr. FOSTER. What is being done with the land?

Mr. MORGAN. The Government leases the lands to parties wherever it can.

Mr. FOSTER. What is the object in wanting to sell these lands?

Mr. MORGAN. In the first place, it is the policy of the Government to dispose of surplus lands for homes wherever it can. These lands will be disposed of in 80-acre tracts. It is a drawback to the country, because these lands are not taxable. They should be sold so as to make them taxable. These men who lease these lands do not occupy them to make homes. Their homes are outside the reservation.

Mr. FOSTER. The rental that is received from these lands goes into the National Treasury.

Mr. MORGAN. I understand not; I understand the Secretary of the Interior uses it for the education of the children.

Mr. FOSTER. As I understand, if the Government sells this land, it will be necessary to appropriate that much more money for the support of these Indian schools.

Mr. MORGAN. No; as the lands were reserved for the education of the children, the funds will be used for the same purpose. The interest on this fund will be more than the rental amounts to.

Mr. FOSTER. Does not the gentleman think that next year there will be an Oklohoma delegation coming here for a larger appropriation for this school as the result of the cutting down of the revenues derived from these lands?

Mr. MORGAN. I can not tell the exact amount of revenue that comes from the 3,000 acres, but there is only a portion of it leased. It is very small. The income would be much greater from the interest on the proceeds than what the Government is getting now. I think the income derived from it now is very little.

Mr. FOSTER. What is the land worth?

Mr. MORGAN. I suppose it would sell for from $10 to $30 an acre.

Mr. FOSTER. Would not the land rent for more than 4 per cent on $10 or $30 an acre?

Mr. MORGAN. It is not all leased; it is in pasturage and not in a high state of cultivation. I could not say how much is in cultivation, but my understanding is that only a small portion of it. At present the Government and the Indians are getting only a limited income from it, a negligible quantity.

Mr. FOSTER. How much are they getting?

Mr. MORGAN. Mr. Speaker, to be frank, I do not know how many acres are in cultivation, and I can not give the gentleman any information. I would not want to mislead him. I am giving an impression. I know in passing around this reservation, just looking over it, I would not think that one-fourth of it was in cultivation.

Mr. FOSTER. This land is increasing in value, is it?

Mr. MORGAN. I would state that this county has been settled for 15 to 18 years. There is a railroad which runs close to these lands. My judgment is that these lands now will sell for practically their full value for land that is not improved. It is a well-settled county, and there is a railroad within a reasonable distance. I think the land would sell for practically all it is worth, or all that it would be worth in a number of years.

Mr. FOSTER. This land is suitable for farming?

Mr. MORGAN. Yes.

Mr. FOSTER. I do not believe it ought to be the policy of the Government, while continuing this Indian school at this point, to sell these lands. Whatever revenue is derived goes to the use of the school. It occurs to me that the Government might just as well keep this tract of land.

Mr. MORGAN. Mr. Speaker, I hope the gentleman will not object. I think he ought to take into consideration the fact that as long as these lands are untaxed they are a burden to the white people who support the schools, who support the local government. In other words, in order to make a little money for the Indians and the Government of the United States you are putting an additional tax on the farmers and other taxpayers of that country. I do not think it is good policy for the Government to hold lands for speculation at the expense of the taxpayers, who have a hard enough time to develop and make that new country.

Mr. FOSTER. I will say to the gentleman that if they tax all these 3,800 acres of land at the valuation the gentleman puts upon it I judge that failure to get the money would not impoverish the State of Oklahoma nor make it rich if she received it.

Mr. MORGAN. Yes; but in that community there are white children who must be educated. Somebody must pay that money. The National Government does not do that. Those people who live out there in that country have a hard enough time getting along and establishing the elements of society. You are doing an injury by holding these lands from settlement and occupation. You are doing an injury to the white people.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. Certainly.

Mr. BURKE of South Dakota. It is my judgment that this bill ought to pass and that the amendment of the Committee ought to be disagreed to.

Mr. FOSTER. I will say to the gentleman from South Dakota frankly that if there is any possibility of that the objection will be made immediately.

Mr. BURKE of South Dakota. Just one moment. I think when the gentleman understands the bill he will probably take a different view of it.

Mr. FOSTER. I would state to the gentleman that I notice by the report of the Secretary of the Interior he says:

> The Indian Office has received from the superintendent of the cantonment school a report, from which and from other information in the Indian Office it appears that the lands described have been and are now being used for school and agency purposes. The superintendent says he knows of no reason for selling any part of the reservation at this time unless it should be decided to discontinue the cantonment agency and school.

Mr. BURKE of South Dakota. I took it for granted that there was no longer any use for the lands.

Mr. FOSTER. Are they not continuing the school there?

Mr. BURKE of South Dakota. The gentleman from Oklahoma, perhaps, can give us that information.

Mr. MORGAN. They continue the school, but there are 800 acres left for the use of the Indian schools. I would be willing to have this bill amended so as to leave it entirely to the discretion of the Secretary of the Interior to open those lands when he thinks they are not any longer needed.

Mr. FOSTER. Let me ask the gentleman this question: Would he be willing to incorporate an amendment in this bill providing for the discontinuance of this school at this place?

Mr. MORGAN. No, certainly not; because I think the Indians need that school there, but I would be willing to add an amendment to this effect:

> *Provided*, That these lands should not be disposed of under this law until the Secretary of the Interior shall determine that the same are no longer needed for Indian school or agency purposes.

I would be willing to add an amendment of that kind. Then the matter could go on for one or two or three years, or until the Secretary of the Interior concluded that they were not any longer necessary for that purpose. It would be at his option and discretion. I would be willing to add that amendment.

Mr. FOSTER. This Congress, in the Indian appropriation bill, passed an appropriation for the support of this school, did it not?

Mr. MORGAN. It did.

Mr. FOSTER. And the gentleman from Oklahoma was here advocating the appropriation which the committee allowed for the support of this school.

Mr. MORGAN. Well, it was contained in the general appropriation bill for that purpose.

Mr. FOSTER. And there was no objection upon the gentleman's part to the appropriation of this money for the support of this school and no thought of removing it from that particular place?

Mr. MORGAN. No, sir; I did not want to do any injustice to the Indians.

Mr. FOSTER. Does not the gentleman really think it is an injustice to those Indians at this particular time to sell this particular land now instead of letting the proceeds or whatever money there may be now remain on the chance that in Oklahoma there will be an increase in the value of this land, and in a few years it will be worth much more than it is now?

Mr. MORGAN. I am willing to agree to offer this amendment: That this land shall not be disposed of until the Secretary of the Interior shall determine that it is no longer necessary and can be of no further advantage for Indian school purposes.

Mr. FOSTER. It is my judgment, as long as the Government maintains the school at that particular place, with 243 Indians at this particular time——

Mr. MORGAN. No; only 60.

Mr. FOSTER. I may have read the report wrong.

Mr. MORGAN. I think that only shows there are only 60 pupils.

Mr. FOSTER. I see there are 243 Indians within the jurisdiction of the agency.

Mr. MORGAN. All of which do not attend the school; there are only 60 who attend the school.

Mr. MILLER. May I ask the gentleman this question: Providing this tract of 3,000 acres will be placed upon the market, then how much land remains for the use of the school?

Mr. MORGAN. Eight hundred acres, which is ample.

Mr. MILLER. There are about 3,000 acres to be placed upon the market.

Mr. MORGAN. Yes; about 3,000 acres.

Mr. MILLER. And it is contemplated to still reserve 800 acres in the future?

Mr. MORGAN. Yes, sir.

Mr. MILLER. Can the gentleman give any idea of the possible use to which this school can put the 800 acres? Would not 160 acres be ample?

Mr. MORGAN. I think 160 acres would be ample, but I did not want to crowd it down too closely.

Mr. MILLER. If the gentleman will permit, I would like to suggest to the gentleman from Illinois, because he is interested in this subject, speaking for one member of the Committee on Indian Affairs, who has during the last two or three years been taking some special interest in the schools in the Indian country and the education of the Indian children, I think I can say without hesitation that large land areas in connection with schools are an absolute farce.

I do not believe that the welfare of the school and the welfare of the Indians or the welfare of any department of the Government is served by retaining a large acreage dealing with any school. It is apparent why. We had in contemplation at the time when we set apart these tracts of land the idea of instructing them in agriculture. Now, when you come to instruct 200 or 300 Indians in agriculture extending over an acreage of 3,000 or 4,000 acres, you have lost your idea of intensive farming and instruction in agriculture, and you can only carry it on successfully where the area is probably not

more than two sections or a section, or 160 acres even. There is no possible use to which this school could put 800 acres of land, let alone nearly 4,000.

Mr. FOSTER. The gentleman may be right on the general proposition, so far as educating the Indian is concerned, but it has occurred to me while we are keeping up a school and agency at this particular place we ought not to sell off this land, and it does not cost the National Government to keep this land.

Mr. MILLER. One further thought and that is that I do not agree with the gentleman from Oklahoma that the proceeds should be placed to the credit of this Indian school. Now, why?

It certainly is not good policy to give to any school or collection of schools a source of income independent from the Federal Treasury and from the Government.

Mr. FOSTER. I think the gentleman is right on that point.

Mr. MILLER. We should never do that in any case. I think the funds ought to go into the United States Treasury.

Mr. FOSTER. I think the gentleman is exactly right. I believe that it is but fair and right that the Government should keep these lands, and if there is any benefit to come on account of the increased price in that great and enterprising State of Oklahoma, and it is likely to come within the next few years, is there not some friend of the National Government here, some time in the history of Congress, who would be willing to see that the National Government's interest be looked after?

Mr. RUCKER of Colorado. I do not believe the gentleman from Illinois [Mr. FOSTER] understands the amendment proposed by the gentleman from Oklahoma [Mr. MORGAN], which obviates all of the argument which the gentleman from Illinois has made against this, and that is to the effect of leaving the matter in the hands of the Secretary of the Interior, and that when it becomes desirable to abandon this proposition, then the land shall be sold. I understand that is the amendment, and I do not believe that the gentleman from Illinois understands it.

Mr. FOSTER. I understand it all right.

Mr. RUCKER of Colorado. It does look to me like 800 acres is a great big tract of land, and it is bigger than we have for colleges for the education of these people.

Mr. FOSTER. Does not the gentleman see the possibility in the near future that Congress may be called upon to set apart some land and possibly go down there after this land has been sold and buy it back for the purpose of starting an experimental school where we may teach the Indians how to farm?

Mr. RUCKER of Colorado. That may be so if there is an increase in the Indian population, but statistics show there is a decrease from year to year.

Mr. MORGAN. I hope the gentleman will not make any objection. The proceeds from the sale of this land is to go to the benefit of the Indians. It is to draw interest. The land will probably sell at an average of $20 an acre, and the interest from the sale of these lands will bring as great an income—I think a much greater income—than will come from renting the lands, as they have them now. I do not think the gentleman ought to insist on the white people down there paying an extra tax every year. I do not think the gentleman ought to insist on the white people suffering in order that the Government may enter into the real-estate business and in the course of 10 or 15 years get a little more for this land.

Mr. FOSTER. I do not believe the gentleman believes for one minute the United States Government has mistreated Oklahoma in the matter of these schools. The gentleman knows that each year the National Government is called upon to appropriate out of the Indian funds certain sums of money as advance payment in order to go down there and pay the Indians in Oklahoma. The gentleman will realize that that is some benefit to the people of Oklahoma.

Mr. BURKE of South Dakota. It is the Indians' own money.

Mr. FOSTER. That may be true; but if you will take it out of the Treasury continually they will be coming up here after awhile asking that the Government take care of these Indians.

Mr. MORGAN. I do not believe that.

Mr. FOSTER. It may not happen, however, during your time or mine.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MORGAN. I yield to the gentleman from Texas.

Mr. STEPHENS of Texas. I take it the gentleman from Illinois [Mr. FOSTER] has examined this report?

Mr. FOSTER. Yes; I have read it.

Mr. STEPHENS of Texas. The Secretary makes this statement in regard to this bill, which is made a part of the report on this:

> Although, as before mentioned, it would appear that the act of June 17, 1910, confers sufficient authority upon the department to open to entry the lands in question when they shall be no longer required, yet if the bill may be amended in such manner as to enable the Secretary to sell the lands and devote the proceeds to a proper purpose when in the future occasion for such action shall fully appear, it would have no objection to its passage as so amended.

Now, that language recommends and proposes the very amendment suggested here and is as follows:

> In order to reach this result I would recommend that the bill be amended by striking out all after the word "purposes," in the thirteenth line on the first page, and inserting in lieu thereof:
> "and which are no longer necessary for school or agency purposes, may be opened to entry and settlement and disposed of in accordance with the provisions of the act approved June 17, 1910, entitled 'An act to open to settlement and entry under the general provisions of the homestead laws of the United States certain lands in the State of Oklahoma, and for other purposes,' or, in his discretion, may be sold by the Secretary of the Interior, under such rules and procedure as he may prescribe, and the proceeds thereof shall be available for expenditure for the benefit of the Cheyenne and Arapaho Indians for their schooling or education, or for the maintenance and improvement of any schools established for them: *Provided*, That the lands described, or any part thereof, shall not be so disposed of until the Secretary of the Interior, in the exercise of his judgment and discretion, shall determine that said lands are no longer required for school, agency, or other purposes."

That is the language suggested by the department, and with that language in the bill the department would have no objection to it. Let me call the gentleman's attention to the fact that there are but a few of these Indians. Of the Arapaho Tribe there are 243, and of the Cheyenne 513. There are 175 children in this school, and I think 800 acres of land for school purposes for a school of 175 children is not necessary, and that if the bill should become a law they would need but a few acres, and even if it was an industrial school you would not need over 100 acres. You would not find that in any State in the Union. Why should it be held back, with no taxes being paid, and preventing the settlement of that country?

Is the gentleman aware of the fact that this country is filled with people who have no homes? Why should we give 175 Indian children 800 acres of land when there are thousands of homeless people all over this country? This is very valuable agricultural land and should be covered with homestead settlers instead of lying idle, as it is now.

Mr. FOSTER. They are renting this land, are they not?

Mr. MORGAN. The Government can not rent the land to any advantage unless a man can take 160 acres and go on the tract. They can only rent it to some man who wants a little surplus land—a man who is living in the surrounding community. Now, if a man could go in there and establish a home and rent this farm he might do that successfully, but you can not manage it successfully otherwise. It is only the man who can go in there and farm this land.

Mr. FOSTER. The Indians are opposed to this, are they not?

Mr. MORGAN. I will say to the gentleman that the Indians originally filed a protest, but they have changed their minds since then.

Mr. FOSTER. There is nothing in the report to indicate that.

Mr. MORGAN. That is true; but the Indians have come here and investigated the matter and are willing now that the land shall be sold.

Mr. MANN. If the gentleman will permit, I understand the report says with reference to the Secretary of the Interior, that he now has authority to sell this land. Has the gentleman a letter from the Secretary of the Interior in which he says he was mistaken about that?

Mr. FOSTER. Does he state that he has authority to sell the land?

Mr. MANN. He stated that in a letter, and later he stated that he was in error when he made that statement.

Mr. MORGAN. On June 10, 1910, Congress passed an act opening another school reservation, and in that act it was provided that the Secretary of the Interior might sell and dispose of any other surplus land. That act of June 10, 1910, provided that the Secretary of the Interior might sell surplus land, but the act provided that it must be done within six months. Consequently, the Secretary of the Interior could not act upon this, because the six months have elapsed.

Mr. McGUIRE of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. FOSTER. Yes.

Mr. McGUIRE of Oklahoma. I will state to the gentleman from Illinois [Mr. FOSTER] that at one time this was in my district and I am quite familiar with the conditions there. Now, when the tract of 4,000 acres was reserved, land in that country was regarded as valuable only for grazing purposes. It finally developed, in the course of the upbuilding of the country, that it is more valuable for farming purposes than for grazing. Subsequently, in opening the Indian reservations, it has been the policy of the Government and of Congress all along not to reserve a large quantity of the land for school purposes, but only one section or two sections.

Now, take the Pawnee Indian Reservation. On that reservation only one section was reserved for school purposes, where there are nearly 300 children. On the Sac and Fox Indian Reservation one section is reserved, where there are something more than 200 children. So that the policy of the Government has been entirely reversed since the authorities saw their mistake. This land ought to have been sold long since.

Now, here are 4,000 acres of land in a county where they need the taxes from every foot of land that will produce revenue. If the gentleman realizes that one-third or more of all the real estate and land in Oklahoma is nontaxable he can form some conception of the condition that confronts us. That is so by reason of its being Indian land.

Mr. FOSTER. I would suggest to the gentleman that he does not mean all that. The gentleman did not take into consideration the vast sums of money that the Government is spending in the State of Oklahoma. Does not the State of Oklahoma get some benefit out of all that?

Mr. McGUIRE of Oklahoma. What does the gentleman mean by "vast sums of money" spent by the Government in Oklahoma?

Mr. FOSTER. Well, I may say that the gentleman from Oklahoma, who was here during the consideration of the Indian appropriation bill, looked particularly after those matters, so that the Government should make ample appropriations down there for all the purposes that could be thought of for the benefit of the Indians.

Mr. McGUIRE of Oklahoma. The gentleman does not quite understand.

Mr. FOSTER. I suggest to the gentleman that if the vast number of employees of the Government that are kept in Oklahoma are of no benefit to Oklahoma, if their presence there is worth nothing to Oklahoma, why does the gentleman who so ably represents that part of Oklahoma on this floor look after all these matters so carefully, to see that they go into the State of Oklahoma?

Mr. McGUIRE of Oklahoma. If the gentleman will permit, Oklahoma would be exceedingly glad if every Federal officer was eliminated from the State. There is very little compensation in the few dollars paid to the officers in charge of the local Indian governments when compared with the loss of taxes from one-third of the land in the State which is nontaxable by reason of the fact that it consists of allotted Indian lands. We get a very little, but it would be worth far more to the State of Oklahoma if the Indian business could be eliminated entirely and we could have the benefit of the tax upon the one-third of the State now nontaxable. And I say to the gentleman again that if he withdraws his objection and this bill is permitted to go through it is only in line with the well-established policy of Congress and of the Government recently with respect to the quantity of land set apart for these schools. Not only that, but it would be an advantage in every particular, and there is not one reason known to the people on the ground who are familiar with all the facts why the bill should not pass. I hope the gentleman will withdraw his objection.

Mr. RUCKER of Colorado. How large is this school district in which the 800 acres are reserved?

Mr. McGUIRE of Oklahoma. I understand what the gentleman desires to know. There is nothing in the district that is taxable except personal property. The gentleman realizes what that means.

Mr. RUCKER of Colorado. For school purposes?

Mr. McGUIRE of Oklahoma. For school purposes.

Mr. RUCKER of Colorado. Nothing but personal property?

Mr. McGUIRE of Oklahoma. Nothing but personal property.

Mr. RUCKER of Colorado. That is, under the law of Oklahoma.

Mr. McGUIRE of Oklahoma. And the school district must of necessity be four or five times as large as it ought to be, and the children have to go to school five or six miles, where they ought to have to walk only a mile and a half or two miles.

Mr. RUCKER of Colorado. I think the gentleman does not understand my question. You have a certain school district there. This 800 acres is within that school district. How much more burden is it upon those who pay taxes for school purposes, who send their children to school, by reason of this 800 acres being withdrawn from taxation?

Mr. McGUIRE of Oklahoma. Four thousand acres.

Mr. RUCKER of Colorado. I thought it was 800 acres.

Mr. McGUIRE of Oklahoma. He must reserve 800 acres, but 4,000 acres are nontaxable.

Mr. RUCKER of Colorado. Is it an additional burden upon the taxpayers for school purposes within that school district?

Mr. McGUIRE of Oklahoma. It is.

Mr. RUCKER of Colorado. How much?

Mr. McGUIRE of Oklahoma. It is very hard to tell, but I should say if this land could be taxed the people would probably be relieved to the extent of 80 per cent.

Mr. RUCKER of Colorado. If that was all that would be a very important reason why I should favor the bill.

Mr. McGUIRE of Oklahoma. I think the gentleman is quite right about that.

Mr. GARNER. If the gentleman from Oklahoma will accept the suggestion, if this is all there is as to the merits of the legislation, evidently gentlemen have about all the information necessary to determine whether they are going to give uanimous consent.

Mr. McGUIRE of Oklahoma. I think so.

Mr. MORGAN. I hope the unanimous consent will be given.

Mr. FOSTER. I think this bill had better go over for the present.

Mr. MORGAN. I hope the gentleman will let the bill go through.

Mr. FOSTER. I do not think I am willing this morning to let it pass. I shall object, unless the gentleman wants to let the bill go over.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. FOSTER. I object, if the gentleman does not want to let it go over.

The SPEAKER. The gentleman from Illinois objects. The bill is stricken from the calendar, and the Clerk will call the next bill.

RENOVATED OR ADULTERATED BUTTER.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24828) to amend the law relative to the manufacture and sale of process or renovated or adulterated butter.

Mr. KINKAID of Nebraska. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

Mr. BUTLER. I reserve the right to object.

The SPEAKER. The gentleman from Nebraska asks unanimous consent to pass the bill without prejudice. Is there objection?

Mr. ANDERSON of Minnesota. Mr. Speaker, this bill has been on the calendar for three or four Mondays. It keeps everybody here who is interested in it, and it seems to me that it should be disposed of to-day. Unless it is disposed of to-day, I shall object.

Mr. KINKAID of Nebraska. As soon as we find and determine upon certain amendments that are objected to and which will go out, and can agree on its going out, and other objections that will be removed, then we will call the bill up.

Mr. BUTLER. I shall always object unless there is a sufficient report made on the bill. There is nothing in the report now to give any information.

The SPEAKER. Is there objection to the request made by the gentleman from Nebraska, that the bill be passed without prejudice?

Mr. MANN. Reserving the right to object, I would like to state that this bill purports to amend section 4 of the act of August 2, 1886, as amended by the act of May 9, 1902, and it does not do anything of the kind. I hope the gentleman will look up the matter and see what he is trying to amend and have the bill state what it intends to do. It does not amend what is stated in the bill.

The SPEAKER. Is there objection?

Mr. BUTLER. Reserving the right to object, will the gentleman from Nebraska say that there will be a report made on the bill, from which we can learn the purpose of the bill?

Mr. KINKAID of Nebraska. We will give the gentleman from Pennsylvania and all the membership of the House a very full report before it comes up again.

The SPEAKER. Is there objection to passing the bill without prejudice? [After a pause.] The Chair hears none.

FORT NIOBRARA MILITARY RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22090) to subject the lands of the former Fort Niobrara Military Reservation and other lands in Nebraska to homestead entry.

Mr. KINKAID of Nebraska. Mr. Speaker, I ask unanimous consent that that bill be temporarily passed over on the calendar, without prejudice, for a short time.

The SPEAKER. The gentleman from Nebraska asks unanimous consent to pass this bill temporarily without prejudice. Is there objection?

Mr. FITZGERALD. What does the gentleman mean by "temporarily"?

Mr. KINKAID of Nebraska. So that it may be called up later to-day if we can get ready; otherwise not.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

PATENT TO ENTRYMEN FOR HOMESTEADS ON RECLAMATION PROJECTS.

The next business on the Calendar for Unanimous Consent was S. 5545, an act providing for the issuing of patent to entrymen for homesteads upon reclamation projects.

Mr. MONDELL. Mr. Speaker, to save the reading of the bill, I desire to say that, understanding there will be objection made to the bill in its present form and that there would not be objection, possibly, to the bill in an amended form of a substitute, I ask unanimous consent that the substitute may be read in lieu of the bill.

Mr. RAKER. To that I reserve the right to object.

Mr. MANN. I reserve the right to object to the bill unless we can have an understanding with reference to it. My understanding is that everybody concedes that a portion of the Senate bill is unworkable and impracticable.

Mr. TAYLOR of Colorado. If the gentleman will permit me. The Committee on Irrigation of Arid Lands has authorized me to offer a substitute for the bill. I assume that all the committee are in favor of it except, possibly, the gentleman from California.

Mr. RAKER. Mr. Speaker, I want to say that the committee have not had under consideration this substitute the gentleman refers to, and have never considered it; and it being a matter of so vast importance, turning over all the legislation for 50 years, I think the committee at least ought to have an opportunity to consider the proposed substitute or amendment.

Mr. MANN. If the gentleman will permit, this is a Senate bill, proposing to grant patents on irrigation projects. I think no one is opposed to the principles of the bill. Am I right about that?

Mr. RAKER. No; I think the gentleman is not right about it.

Mr. MANN. I had supposed that no one was opposed to the principle of the bill. It is admitted that certain provisions of the Senate bill are not workable, and the suggestion now is to strike out all after the enacting clause and insert provisions that have been suggested, so that the matter will go to conference, where the provisions that go into the law can be worked out and made perfectly workable.

Mr. FITZGERALD. In what shape is the substitute to be inserted after the enacting clause?

Mr. MONDELL. It is before the House.

Mr. FITZGERALD. Has it been reported?

Mr. MANN. It has not.

Mr. FITZGERALD. It is difficult enough to keep track of bills that have been reported from a committee, without being expected to keep track of thirty thousand odd bills introduced into the House.

Mr. MANN. It is not necessary to keep track of bills that have not been reported here. The principle involved in both is the same, and is covered in the Senate bill, which has been on the Unanimous Consent Calendar for some time.

Mr. FITZGERALD. Let me suggest that if the Committee on the Irrigation of Arid Lands would report a bill containing legislation in the shape in which it believes it should be, then Members who have some interest in the legislation might examine it and such a bill might be substituted; but it is not fair to take some bill that no one has ever read and to ask unanimous consent that it be substituted for a Senate bill, not for the purpose of having it enacted into law in the shape in which it passes the House, but of having it perfected in conference, where very few Members ever know what goes on.

Mr. MANN. Mr. Speaker, I appreciate the objection that the gentleman makes, and yet the principle in the Senate bill is one that is sought to be enacted into law in every case. The provisions of the Senate bill are intended to provide that on irrigation projects after a certain length of time, and certain work having been done, a patent shall issue, although the Government has not been paid the full cost of the proportionate share of the irrigation project, and that the patent shall be issued to the entryman subject to the lien of the Government. The Senate bill thereupon further provided in reference to enforcing the lien, and provided in a way that nobody on God's green earth could read and tell what it meant.

Mr. RAKER. Mr. Speaker, if such a bill has been reported by the committee, ought not the matter to go back to the Committee on Irrigation of Arid Lands, in order that they may have an opportunity to report and that the matter may go over?

Mr. MANN. Oh, I have no objection. I am not raising any question about that. I asked to have it passed over. I objected to the form of the Senate bill because, in my judgment, if enacted it would not accomplish the purpose for which it was intended, and in place of giving the entryman protection and credit it would not have amounted to anything at all. I have no objection to granting to an entryman a patent after a certain length of time, which secures to him some credit in dealing with other people, subject to the lien of the Government. I take it that the interest of the Government is, first, to permit the entryman to go upon the land, and second, to secure to the Government the proportion of payment due the Government for the construction of the irrigation project.

Mr. RAKER. Has the gentleman considered, in connection with that, other features in regard to this bill that are different from any legislation that has ever been enacted? Has he considered the question of the State taxes, involving the municipal tax, and what shall become of the land if they are not paid? Has he considered the question of the jurisdiction of the circuit and district courts of the United States in regard to foreclosures or the right of redemptioners in regard to this bill? Has he considered the other proposition in regard to creating new officers, practically new land officers, in these 32 land districts, which give that agent the same power as the Commissioner of the General Land Office now has, as well as the register and receiver, and many other important matters in regard to the bill? If the Senate bill did not make those plain and specific, how is the House to know whether or not the substitute is plain and specific when the committee has not had an opportunity to even consider it?

Mr. MANN. I have no criticism of the gentleman if he asks to have the bill go over. I would say to the gentleman that I considered all of those things. I am not on the committee. I considered other things as well which he has not enumerated, because no one could tell from the bill as it passed the Senate what effect it would have. I was not willing that it should pass in that form, but I am quite willing that the gentlemen who are interested have their attention called to it in order that they may prepare a bill which clearly does conserve the rights of the General Government and grants the patent.

Mr. RAKER. I want to call the gentleman's attention to the further fact that the bill provides that immediately upon default the title passes that moment into the Government, and then down further in the bill it provides that if the debtor does so-and-so some one else does so-and-so, the title goes back again. So you have the title shifting here like a shuttlecock and no one will be able ever to tell where the title actually is.

Mr. MANN. That is one of the objections to the form of the Senate bill; the gentleman and I both discovered that.

Mr. MONDELL. But it does not apply to the bill proposed to be substituted for the Senate bill, however, I will say to the gentleman from California.

Mr. RAKER. I do not believe that a matter of this importance ought to be adopted as a substitute or as an amendment in the House without any consideration by the appropriate committee having jurisdiction of such legislation.

Mr. MONDELL. Does the gentleman propose to object to the consideration of the measure.

Mr. TAYLOR of Colorado. I want to say, in answer to the gentleman, that the committee have considered and thrashed out the bill and the subject of the various forms of forfeiture and benefits to be obtained by the homestead entryman under these 32 reclamation projects very exhaustively. The whole subject has been gone over very fully, and that is the reason it was put on the Unanimous Consent Calendar.

Mr. SMITH of Texas. If the gentleman will permit me, I want to call attention to the fact for the benefit of the gentleman from New York [Mr. FITZGERALD] that the Committee on Irrigation of Arid Lands has considered this Senate bill very thoroughly and reported it with certain amendments, some objection having been made to certain provisions by the members of the committee, and most of them informally have agreed to accept the substitute that was prepared by Mr. MONDELL. It is not like the case of a Senate bill coming over here and without any consideration by the committee accepting a substitute offered on the floor of the House.

Mr. FITZGERALD. The gentleman's statement shows the necessity of some care in the consideration of this bill. The committee reported a Senate bill with certain proposed amendments and then their attention having been called to certain alleged defects in the bill they had some gentleman prepare what they now call a substitute perfecting the bill, but not in such shape as may be desired by other Members of the House who might be interested in this legislation, and now ask that what they call this perfected substitute be passed by unanimous consent.

Mr. SMITH of Texas. The committee has passed the substitute.

Mr. FITZGERALD. But some other Members besides members of the committee are interested in legislation that passes through this House. Some persons other than those representing those desiring to get these lands wish to have an opportunity at least to examine the legislation that is to be enacted into law.

Mr. RAKER. Mr. Speaker, I want to say this in response to what the gentleman from Colorado said——

Mr. TAYLOR of Colorado. I had not finished my statement. I will state—what everyone knows—the committee have been having a hard time to secure a quorum lately. For several meetings we have been without a quorum. I do not know whether the gentleman from California has been there all the time or not——

Mr. RAKER. I want to call the gentleman's attention to the fact that I have been there every meeting except one meeting, when I was away on important business.

Mr. TAYLOR of Colorado. Was the gentleman there last Saturday?

Mr. RAKER. I was.

Mr. TAYLOR of Colorado. You know we did not have a quorum, and if we had we expected this matter to be one of the subjects of consideration, and not being able to get a quorum we have been considering this matter, not only among the members of the committee, but with the author of the bill in the Senate and with gentlemen on the opposite side of the Chamber and with the minority leader also, and the only thing that is in dispute is in the phraseology and modus operandi of the forfeiture. In the substitute we believe it is more intelligible and workable. That is merely a side issue and incidental. That is all there is to it, and it improves the measure, and we feel that this is of great importance to thousands and thousands of homeseekers under these 32 reclamation projects, who are now absolutely held up by the gilis. Some of them will not be able to get title within 20 years. They have no basis of credit by which they can even go to town and buy a sack of flour. By this bill they will be able to get title and the Government will be protected by a lien in full, and it will be of great benefit to all the 15 Western States and all the reclamation projects, and I hope no gentleman will object to the measure.

Mr. RAKER. In regard to that matter I want to call the attention of the gentleman from Colorado to the fact when the national irrigation law was passed it was the intention that each man should have a homestead, that he should not barter or sell it, but that he should have the water right to but 160 acres of land or the farm unit under that reclamation project. Now, the very fundamental principle under which that act passed this act repeals, and permits a disposition of the land.

Mr. LAFFERTY. Mr. Speaker, will the gentleman yield?

Mr. RAKER. Not right now, until I get through.

Mr. LAFFERTY. Well, when the gentleman gets through I can get time in my own right, and I will try to return the courtesy.

Mr. RAKER. If it will make any difference I will yield to the gentleman now; this is the first time I have had an opportunity to say a word.

Mr. LAFFERTY. I decline to accept the floor at this time.

Mr. RAKER. Under the Government's lease it might be sold, and anyone owning a dozen other tracts might bid in that tract, that he might mortgage it before the payments had been made, and that would then put it in the hands of an individual holder under the project. Thereby, by this method, instead of reserving the homes, one man under the project might be the owner of all the homes under that project by virtue of this operation of law, and therefore control the dam, control the works and water conditions, and thereby freeze out the other 49 per cent under this project. That will be the result of this bill if carried out.

Mr. SMITH of Texas. Could not that be done in regard to private lands, and could not that be done with entrymen who have complied with the law under the present law?

Mr. RAKER. It could not be done under the present law.

Mr. SMITH of Texas. This bill would leave the situation just as it is to-day?

Mr. RAKER. No; for this reason: That you are getting the bounty of the Government to build these reclamation projects, with an understanding that you go there and build your home and you live there; that you will improve the country; and under the policy of this act no man should have any more than 160 acres and the water right, or a lesser unit if directed by the reclamation project. Now, what have we come to? I admit under the general law one man can buy as much land with his money as will enable him to monopolize the community, and this reclamation bill was to prevent that very thing. Now, as it is, before the Government has completed its project, with $9,000,000 invested, we pass a bill by which the Government may foreclose those men; Tom, Dick, and Harry may buy it; and one man may become the owner of 51 per cent of all the land and all the water right under this project, and thereby squeeze out the balance of those homesteaders who went there for the purpose of making their homes. Is that the object and purpose of the reclamation act or the homestead act?

I want to call your attention, Mr. Speaker, to the further fact——

Mr. MONDELL. I do not believe it will be possible for the House to secure unanimous consent for the consideration of this bill, and I therefore object to its further consideration.

The SPEAKER. The bill will be stricken from the calendar, and the Clerk will report the next one.

PATENTS TO SEMINOLE ALLOTTEES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23184) directing the Secretary of the Interior to deliver patents to Seminole allottees, and for other purposes.

The bill was read.

Mr. DAVENPORT. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

The SPEAKER. Is there objection?

There was no objection.

DAMS ACROSS DUCK RIVER, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24197) to authorize Carl J. Kiefer and Laurent Lowenberg to construct two dams across Duck River, in Hickman County, Tenn.

Mr. RAINEY. Mr. Speaker, I make an objection to the bill.

Mr. AUSTIN. Mr. Speaker, I hope the gentleman from Illinois will withhold his objection until the gentleman from Tennessee [Mr. PADGETT] has an opportunity to be heard. I ask that the bill be passed without prejudice.

Mr. COOPER. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Tennessee [Mr. AUSTIN] asks unanimous consent to pass the bill without prejudice. Is there objection?

There was no objection.

DAM ACROSS MISSISSIPPI RIVER BETWEEN IOWA AND ILLINOIS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23284) to authorize the Great Northern Development Co. to construct a dam across the Mississippi River from a point in Scott County, Iowa, to a point in Rock Island County, Ill.

Mr. RAINEY. Mr. Speaker, I object, in order to save the reading of the bill.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] objects, and the bill will be stricken from the calendar.

Mr. MANN. Mr. Speaker, there are a number of these bills on the calendar, and——

Mr. RAINEY. I expect to object to all of them.

Mr. MANN. The gentleman just permitted one to be passed without prejudice.

Mr. RAINEY. That was because the gentleman from Tennessee [Mr. PADGETT] was not present. However, I expect to object to it.

Mr. PEPPER. Mr. Speaker, I ask that this bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] has already objected to the consideration of it.

DAM ACROSS OSAGE RIVER, MILLER COUNTY, MO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24067) providing for the construction, erection, maintenance, and operation of a dam across the Osage River, in Miller County, Mo., for the purposes of improving navigation and the development of water power.

The bill was read.

The SPEAKER. Is there objection?

Mr. RAINEY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] objects, and the bill is stricken from the calendar.

DAM ACROSS CLINCH RIVER, ANDERSON COUNTY, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23571) authorizing and permitting Clinch River Power Co., its successors and assigns, to build and maintain a dam and a water-power development in and across Clinch River, in Anderson County, State of Tennessee.

The bill was read.

The SPEAKER. Is there objection?

Mr. RAINEY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] objects, and the bill is stricken from the calendar.

Mr. AUSTIN. Mr. Speaker, will the gentleman from Illinois [Mr. RAINEY] give us the reason why he objects to these local bills?

The SPEAKER. The gentleman from Illinois objects.

DAM ACROSS KOOTENAI RIVER, MONT.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24196) to authorize the construction of a dam across the Kootenai River, in the State of Montana.

The bill was read.

The SPEAKER. Is their objection?

Mr. RAINEY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] objects, and the bill is stricken from the calendar.

DAMS ACROSS CLINCH AND POWELL RIVERS, ANDERSON COUNTY, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24028) authorizing and permitting the Tennessee Hydro Electric Co., its successors and assigns, to build and maintain dams and water-power development in and across Clinch and Powell Rivers, in Anderson County, State of Tennessee.

The bill was read.

The SPEAKER. Is there objection?

Mr. RAINEY. I object, because the Government has as yet adopted no fixed policy with reference to water powers in our navigable rivers. All these reports are very meager and insufficient. There is no question about the rapid formation of a water-power trust, and for these reasons and many others I object.

Mr. AUSTIN. Mr. Speaker, if the gentleman will give me three minutes' time I think I can satisfy him that this is an exceptionally meritorious bill. It proposes to establish a water power where Congress has already authorized a survey for the improvement of the river. It means the improvement of an important river at private expense.

Mr. RAINEY. I object, Mr. Speaker.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] objects.

Mr. AUSTIN. I will say to the gentleman from Illinois that he will never get a bill through by unanimous consent as long as I am in Congress if he persists in maintaining this attitude of objecting to purely local bills.

The SPEAKER. All this is out of order. The gentleman from Illinois [Mr. RAINEY] objects, and the bill is stricken from the calendar.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 22111. An act for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy;* and

H. R. 17239. An act to authorize Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River.

The message also announced that the Senate had passed without amendment the following resolution:

House concurrent resolution 59.

Resolved by the House of Representatives (the Senate concurring), That the action of the Vice President and President of the Senate and the Speaker of the House of Representatives in signing the enrolled bill (H. R. 23515) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of dependent relatives of such soldiers and sailors," be rescinded; that the Clerk be directed to reenroll said bill; and that in the reenrollment of said bill the Clerk be, and he is hereby, authorized and directed to amend the title of said bill by striking out the word "of" where it first appears in the fourth line thereof and insert in lieu thereof the word "and."

INVESTIGATION OF CERTAIN COAL COMPANIES, TWO HARBORS, MINN.

The next business on the Calendar for Unanimous Consent was the House resolution 577 to investigate certain coal companies doing business in Two Harbors, Minn.

The resolution was read, as follows:

House resolution 577.

Resolved, That the Commissioner of Corporations be, and hereby is, authorized and directed to make an investigation of the facts touching the handling and selling of coal at the city of Two Harbors, Minn., in accordance with the powers and authority granted to said commissioner by section 6 of an act entitled "An act to establish the Department of Commerce and Labor," approved February 14, 1903, and the acts amendatory thereof and supplemental thereto, to determine whether the said city of Two Harbors was and is prevented from purchasing coal in wholesale quantities by an agreement, understanding, or conspiracy by and between companies, persons, or partnerships engaged in the coal business and in interstate commerce, and to determine whether any of said companies, persons, or partnerships have committed acts in restraint of trade or otherwise contrary to law in connection with the matters herein referred to.

Mr. MANN. Mr. Speaker, reserving the right to object, does the gentleman from Minnesota [Mr. MILLER] desire to have this bill disposed of?

Mr. MILLER. I desire to have it disposed of favorably and passed by the Congress.

Mr. MANN. Does the gentleman desire to have it disposed of adversely?

Mr. MILLER. I do not.

Mr. MANN. I think the gentleman had better ask to have it go over.

Mr. MILLER. I can not see any possible reason why the gentleman should find it necessary to object. I had very nearly completed a brief statement of the facts in this case two weeks ago when the urgency of legislation necessitated the amputation of my remarks. [Laughter.] I think the gentleman from Illinois [Mr. MANN] ought to be willing to let this go through, even if there has not been a complete elucidation of all details.

Mr. MANN. I know what the facts are; I appreciate the difficulties surrounding the case; but it seems to me, I will say to the gentleman, that it goes beyond the intended scope of the Bureau of Corporations, and at this time, with my present information, I shall be constrained to object.

Mr. MILLER. Will the gentleman give me about two minutes to explain it?

Mr. MANN. So far as I am concerned, I have never cut off anybody in my life from opportunity to discuss legislation. I will reserve the right to object.

Mr. MILLER. Without going into a detailed discussion of this measure, I wish to call the gentleman's attention and the attention of the Members of the House to certain striking facts. Of late we have become exercised over the high cost of living, and complaint is heard all over the country. Statesmen and laymen offer many suggestions to relieve the distress. Here is a concrete case. The city of Two Harbors, Minn., consists of about 6,000 people, and three-fourths of the men are laboring men employed on the great docks or on the railroads. It is an industrious, enterprising, progressive city. Its government is under a home-rule charter prepared and adopted by its people in accordance with the laws of the State. The city council, responding to the wishes of the people and zealous to promote the welfare of the citizenship generally, aimed to reduce the high cost of living. In that climate, naturally rigorous during a considerable part of the year, fuel is one of the largest items in the family expenditures. Accordingly the city council took appropriate steps to purchase coal in wholesale quantities and sell to the citizen consumers at prices greatly reduced from the prevailing retail prices.

They advertised for bids, and many companies submitted bids. The bid of one company was accepted, and there was a part performance of the contract under that bid. Thereafter the company said it could not furnish any more coal, and all of the other companies said likewise. Now, that may have been for either one of two reasons, either of which calls for the passage of this resolution. It may be they thought there was not due authority in the city council under its charter to engage in this enterprise. If that is true, the city ought to know it, so that it may adopt such provisions as will give a local community of this character authority to carry on such a work. They have the legal authority under the statute to adopt such provisions as the citizenship of the community may desire. They do not know why the coal companies refused to furnish this coal. No reason was given. The companies simply said deliberately that they would not supply the coal. It may be that these coal companies entered into an unholy alliance or conspiracy by which they each and all agreed that they would not sell any coal to this community for the community to sell at retail to its citizens.

If that is the reason, the city ought to know it, the world ought to know it, and appropriate action ought to be taken by the community and by the Government. I understand one reason urged by the gentleman from Illinois for objecting to this bill is that he thinks it is not proper for the Commissioner of Corporations to investigate this which he, with perhaps a good measure of truth, thinks is a somewhat local affair, but I want to call the gentleman's attention to the fact that it is more than local. It is both local and national. If this is to be passed over in silence and all other acts of a similar kind are likewise to be passed over, then the door is closed to all municipalities that desire to solve the problem of the high cost of living. If a community can not enter into a purchase of commodities in wholesale quantities and sell to its citizens in Two Harbors, Minn., it can not do so in any other place. It is time now to say whether a community's efforts in this direction are to be palsied and brought to naught by a conspiracy among concerns enjoying governmental protection and engaged in interstate

business. I for one think that where there is such a splendid opportunity for an investigation as exists here, where all of the companies are large concerns engaged in a distinctly interstate commerce, there should be an investigation by the Commissioner of Corporations and a result secured.

I have in my hand the act establishing the Department of Commerce and Labor, which act I read before I drafted the resolution that is now up for consideration. I should like to read a sentence or two in a paragraph on page 3 of the act, which reads:

The said Commissioner—

Of Corporations—

shall have power and authority to make, under the direction and control of the Secretary of Commerce and Labor, diligent investigation into the organization, conduct, and management of the business of any corporation, joint-stock company, or corporate combination engaged in commerce among the several States and with foreign nations, excepting common carriers subject—

To an act which is specified.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield for a question?

Mr. MILLER. Yes.

Mr. FITZGERALD. Why did they not present this matter to the Federal grand jury?

Mr. MILLER. I can not say why they did not, but I can state a reason why I would not—because the Federal grand jury would not be naturally competent to make an investigation of this character, because they are not equipped as lawyers, and are not equipped with the methods for carrying on an investigation. It seems to me it is distinctly the business of the Commissioner of Corporations to investigate exactly such a subject as this.

Mr. FITZGERALD. The resolution introduced by the gentleman from Minnesota says:

And to determine whether any of said companies, persons, or partnerships have committed acts in restraint of trade or otherwise contrary to law in connection with the matters herein referred to.

I do not think that is a part of the duty devolved upon the Commissioner of Corporations.

Mr. MILLER. I will ask the gentleman from New York if it is not a duty that the Commissioner of Corporations has at least been assuming to perform during the past three or four years? Have we not had report after report coming to this body from the Commissioner of Corporations in which he does exactly such things?

Mr. FITZGERALD. I want to call attention to the fact that the gentleman ought to put in here a provision that the report shall be submitted to Congress, because under the act creating the Department of Commerce and Labor the gentleman might not get the information that was gathered.

Mr. MILLER. I would have no objection to an amendment making that change; all we want to know is the facts.

Mr. LINTHICUM. Will the gentleman yield?

Mr. MILLER. I will.

Mr. LINTHICUM. As I understand the gentleman, a number of bids were submitted?

Mr. MILLER. Five or seven.

Mr. LINTHICUM. And one of the bids was accepted?

Mr. MILLER. It was.

Mr. LINTHICUM. And then that company refused to furnish the coal?

Mr. MILLER. It supplied five carloads and then refused to supply any more, and each and all of the companies then said they would not supply any.

Mr. LINTHICUM. Could not these facts be had and this thing be tested under a suit for breach of contract?

Mr. MILLER. I am not certain about that. It would be an unsatisfactory and fragmentary method, it seems to me. This goes into the larger question, whether a community of that kind has the right to enter into that sort of a contract and carry it on, and whether interstate commerce corporations shall obey the law.

Mr. LINTHICUM. I wanted to make the suggestion to the gentleman.

Mr. MILLER. It may be that that would be one method of procedure, but this seems to me to be the better and more methodical way. The reason that I selected the Commissioner of Corporations is because he can do it without any expense to the Government. It is work that the commissioner and his associates are already engaged in; they are acquainted with the method and the procedure and know how to go about it. They can do it without expense; it is within their line of work, and it is carrying out the duties which they were originally constituted to perform, and I think the public welfare will be benefited by it.

Mr. LINTHICUM. Does the gentleman know whether they refused to carry out the contract because they contend that the city charter did not give them the power to make such a contract? Is the Commissioner of Corporations to go into the question whether they did have such a power? I think the gentleman ought to find out all these facts before he comes here with this proposition.

Mr. MILLER. What we desire to know is whether they gave it as a reason for not furnishing the coal that the power was not in the city charter.

Mr. LINTHICUM. Would it not be best first to investigate whether they had the power?

Mr. MILLER. That might be one way, but this appealed to me as being the most direct and the most likely to produce beneficial results.

Mr. LINTHICUM. I want the gentleman to understand that I am in favor of the investigation, but I think he first ought to lay the proper foundation for the investigation.

Mr. MILLER. Mr. Speaker, corporations engaged in interstate traffic here refuse to perform work for which they naturally exist and are constituted under circumstances that imply an illegal combination and conspiracy. I think it is highly desirable that the Commissioner of Corporations should investigate the facts and report. Now, one word more. As I understand the situation just now and the feelings that peculiarly agitate gentlemen on the other side of the aisle, it is desired by them to save this great Nation in many ways. One of the ways is to reduce the high cost of living. They have given us an exhibition of unity and harmony almost unparalleled in one respect. It seems to me that it is now time to give an exhibition of good, conscientious performance of a declared purpose. Here is an opportunity to show whether they desire to do or whether they simply intend to talk. There does not exist anywhere in the country, as far as I know, a place, big or little, where actual performance can be indulged in to better advantage than this to which I have called attention. On the one side a community of laboring people; on the other coal barons. Which side will you take? If flagrant acts like this can go unpunished and unchecked, no wonder the price of coal is raised by the coal barons with a contemptuous glance at the American public. I will say to the gentlemen on that side of the aisle, as well as to the gentleman from Illinois, that I have petitions from hundreds of cities and villages, signed by many thousands of citizens, asking that this investigation should be had by the Government. They are interested in the case, and they know if the investigation is made by the Government it will be authentic, it will be thorough, it will be honest, and when the result is attained the people of the entire country will both know it and accept it. A grand jury up in Lake County, where this city is located, might attempt an investigation, arrive at a result, indict the parties thereto perchance, and the parties be tried, be convicted, but nobody out of the confines of that particular region would know much of anything about it. Of course I am assuming in that statement that somebody is guilty and who lives in that county.

Mr. GARNER. Is the gentleman trying to whip us on this side of the aisle with the hope that the tail of the lash may reach the gentleman from Illinois? [Laughter.]

Mr. MILLER. I was talking over to that side, hoping that some of it might reach gentlemen on this side of the aisle in case any of it is needed here.

Mr. LINTHICUM. The gentleman says that he was talking to this side of the aisle. Has a gentleman on this side of the aisle said one word against his proposition?

What I want to say is this: Suppose we do go into this investigation and that investigation finds all these facts which the gentleman fears to exist, yet you have not then decided that these men have not the right to insist upon the performance of that contract, because the charter has not been construed by the courts of the gentleman's State. The courts of the gentleman's State should construe the charter and ascertain if they have the power to make a coutract of that kind, and if they have, then go into the investigation, and this side of the House will sustain the gentleman.

Mr. MILLER. Mr. Speaker, does not the gentleman think that if that was the reason these companies refused to furnish the coal after they had submitted bids, it is exceedingly strange and remarkable they did not whisper that as the objection when they sent in their refusal to supply the coal?

Mr. LINTHICUM. I rather agree with the gentleman, but I think he should go at it in the right way.

Mr. FITZGERALD. Mr. Speaker, I wish to call the attention of the gentleman from Minnesota [Mr. MILLER] to the fact that apparently his object is not to secure results so much as it is to advertise either the locality therein or the persons whom he believes to be guilty of crime. No one outside of his own State went so far as to reflect to the extent that the gentleman him-

self, did upon the mental capacity of the citizens of his State who would constitute the grand jury to whom this matter should be referred. He speaks of a petty, insignificant grand jury, selected from the most desirable citizens from his own State, as lacking in mental caliber to make the character of the investigation needed. If some other gentleman were to make such reflection upon the citizens of his State he would be highly indignant. I presume the House is justified in accepting the gentleman's estimate of the mental caliber of his own constituents and be unwilling to have this matter submitted to a grand jury. But I wish to call his attention to another matter. He speaks about the value of one little demonstration in the interest of bringing about conditions that would reduce the high cost of living. Under the act creating the Bureau of Corporations, the Bureau of Corporations, under the direction of the President and the Secretary of Commerce and Labor, has complete authority to make this investigation at this time. The administration is of the political party of which the gentleman is a member. What is the trouble between the gentleman and the administration? If this terrible condition exists, it is not necessary to come to the House and secure the passage of a resolution compelling this investigation. If the facts justify it, the investigation should be made without occupying our attention or compelling us to devote any time to the matter whatever. It seems to me the gentleman should put his own house in order before he attempts to criticize this side of the House. It must be that the conditions are such that they do not appeal to the administration as requiring any such investigation. If they do, somebody must be very derelict in his duty in waiting the action of Congress directing the investigation which the gentleman so eloquently pictures as essential.

In view of the gentleman's statement that the people of this community are so incompetent, so lacking in mental caliber, that the grand juries there are unfit to act as the grand inquest to ascertain in the ordinary processes of our Government whether crimes have been committed, I might be inclined to favor some outside assistance in the matter, but I should not care to live in a community in which it is universally conceded that the mental caliber of its citizens is so low and deficient that the grand-jury system is an absolute failure.

Mr. MILLER. Mr. Speaker, if the gentleman desires an answer to his question, I shall be very glad to answer it. I shall not attempt a complete answer to all that he has said, but I will state that he undoubtedly in this instance, as at other times, for a purpose congenial to his own soul, has indulged in a sarcastic assumption of facts which he assumed that I gave and which I did not give, and which I never entertained. I take delight in the sarcasm in which the gentleman indulged, but he ought to start on fair premises.

Mr. FITZGERALD. The gentleman made the statement in answer to my question that the grand jury in that community did not have the mental caliber to make the investigation.

Mr. MILLER. Oh, the gentleman knows just as well as he knows that he stands there, that I meant that that grand jury, or any other grand jury, is not composed of lawyers or skilled investigators, men who by their training and experience are in a position to take hold of an investigation like this, as compared with men who are in the Bureau of Corporations. I will say further, if the gentleman wants an answer to his remarks, that irrespective of whatever reflection may be cast upon constituencies elsewhere in this Nation, thank God they one and all and wherever found tower head and shoulders above that which the gentleman represents.

Mr. FITZGERALD. Oh, the gentleman knows nothing about them; he has never been there. I will call the gentleman's attention to some facts which will help out. Congress appropriates very large sums of money to enable the Attorney General to pay special assistants and to secure all the technical and skilled aid he requires in conducting these investigations, and if the gentleman were in touch with the department he would have no difficulty in getting these investigations made.

Mr. LENROOT. Mr. Speaker——

Mr. BERGER. Mr. Speaker, is not the real reason for this resolution——

The SPEAKER pro tempore (Mr. MARTIN of Colorado). To which gentleman from Wisconsin does the gentleman yield, the gentleman from Wisconsin [Mr. LENROOT] or the gentleman from Milwaukee?

Mr. MILLER. I yield to the gentleman from Wisconsin [Mr. BERGER].

Mr. BERGER. While I feel highly honored to represent Milwaukee, Milwaukee is not a State.

Mr. MANN. It is in a State.

Mr. BERGER. It is in a State. Is not the real reason for the enactment of this resolution the fact that the real culprits may live outside of the State of Minnesota; that they may live in Chicago or in Pennsylvania or in New York, even? I mean that the grand jury of Lake County, Minn., would not have any jurisdiction, and is not that the real reason for requesting the legislation?

Mr. MILLER. That is the exact reason and one I was going to give to the gentleman from New York when interrupted just now.

Mr. FITZGERALD. The gentleman is mistaken as to that. Under the law the Commissioner of Corporations has authority without the passage of any legislation.

Mr. MILLER. I think possibly that is true, but I wish to impress upon the gentleman the fact that the grand jury would not have authority to call witnesses for the purpose of investigation outside of the State, and nearly all the witnesses—practically all—would be outside of the State—some in Pennsylvania, some in Ohio, and some in New York, as far as I know.

Mr. FITZGERALD. The Federal grand jury would have ample authority.

Mr. MILLER. The Federal grand jury would have no authority to subpœna witnesses outside of the State of Minnesota. The gentleman is mistaken about that.

Mr. GARNER. I want to suggest to my friend from Minnesota——

The SPEAKER pro tempore. To whom does the gentleman yield?

Mr. MILLER. I promised to yield to the gentleman from Wisconsin [Mr. LENROOT], and then I will be pleased to yield to the gentleman from Texas.

The SPEAKER pro tempore. The Chair will permit the gentleman from Minnesota to choose to whom he will yield.

Mr. LENROOT. Mr. Speaker, just a word with reference to the suggestion of the gentleman from New York that this matter should be left to the grand jury in the State of Minnesota.

Mr. FITZGERALD. I made no such statement.

Mr. LENROOT. I understood that was the statement.

Mr. FITZGERALD. I did not say that; I had in mind the Federal grand jury, or to have the Commissioner of Corporations, under the power conferred upon him by the organic act, make the investigations without any resolution by Congress. He has that power.

Mr. LENROOT. With reference to the suggestion that it be laid before the Federal grand jury, I want to say to him by the same process of reasoning the gentleman would have opposed any investigation of the Sugar Trust, of the Steel Trust, and of the Money Trust, because it is not a local question in the State of Minnesota. I have a large number——

Mr. FITZGERALD. Let me call the gentleman's attention to the fact that the Sugar Trust was prosecuted and investigated by the Federal grand jury in the State of New York, and convictions and collections were made through the instrumentality of the district attorney's office there and not through the Bureau of Corporations.

Mr. LENROOT. So the gentleman, then, assumes that, so far as this question is concerned, which after all is a determination of the facts whether there is an illegal combination, submission to a grand jury would not bring any beneficial results, so far as substantial relief is concerned. Now, I want to say it is not a local question involving the city of Two Harbors alone. I have a large number of requests from the State of Wisconsin for the passage of this resolution. I had intended earlier in the session to introduce a resolution providing for a general investigation of the coal situation, but I became satisfied that if this resolution could be adopted, broadened perhaps somewhat, it would give that full investigation that the entire Northwest is demanding, and I want to say to the gentleman from New York, with reference to the suggestion that we should not come before this House and ask for this investigation, that the Committee on Interstate Commerce, controlled by his own party, favorably recommended this to the House.

Mr. FITZGERALD. The gentleman is assuming something that is not correct. I offered no objection, but asked the gentleman from Minnesota a simple question and he indulged in such reflections upon the people who composed the grand jury that I replied.

I am perfectly willing, so far as I am concerned, to have these people investigated in any manner possible. I asked, first, why the grand jury did not make the investigation, and, second, if it was desirable it be made by the Bureau of Corporations, why the gentleman did not exert his influence with this administration to have the investigation without any recourse to a Democratic House.

Mr. LENROOT. It was the feeling upon my part that the most which could be said for the gentleman's remarks was that he was damning this resolution with very faint praise.

Mr. GARNER. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. GARNER. Are we proceeding under request for unanimous consent; and if so, does not the Speaker think we have gotten about all the information we need concerning this bill, so that the question can be put?

The SPEAKER pro tempore. The Chair thinks the gentleman from Texas is right on both propositions stated by him, and the Chair would ask whether there is any objection to the present consideration of the bill.

Mr. MANN. Reserving the right to object——

The SPEAKER pro tempore. The Chair understood before coming to the chair that the gentleman stated that right, and the Chair thought it was about time he should exercise it.

Mr. MANN. Mr. Speaker, I still reserve the right to object.

I think it is sometimes unfortunate that I happen to occupy a position known as minority leader in the House, because there are certain functions which I attempt to perform in the House entirely apart from the position of minority leader, and sometimes it is probably embarrassing to my party to have me do some things which I do of my own volition and without regard to leadership. One of those times is unanimous-consent day.

Mr. Speaker, I thoroughly believe, although I may be mistaken, that the State of Minnesota is quite able to handle this question. Here is a town that has trouble about purchasing coal. Thereupon it wants the General Government to investigate, or, at least, the gentleman from Minnesota [Mr. MILLER] has introduced a resolution to that effect. Of course, that is all he could do. Active and bright as he is, he has sized up the situation and is endeavoring to pursue the remedy which he can pursue, because he has not control whatever over what the State of Minnesota may do. He is a Representative here, and not there. If the State of Minnesota desires to control these corporations, it has power to do so. It has power to shut them out of the State on terms which it may lay down. I doubt very much if it is the duty of Congress, whenever a local municipality has some local dispute with some one, to pass a resolution directing the Commissioner of Corporations to make an investigation. If this resolution should pass, I doubt not in the course of a year I would be called upon to introduce and urge the passage of not less than 50 resolutions, because if you can have an investigation made at somebody else's expense, you will always have an investigation made, whether one is required or not. Therefore, for the present, I shall object.

The SPEAKER pro tempore. The gentleman from Illinois objects, and the bill will be stricken from the calendar.

PATENTS TO ENTRYMEN UPON RECLAMATION PROJECTS.

Mr. FRENCH. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. FRENCH. To ask unanimous consent to return to Calendar No. 284, an act (S. 5545) providing for the issuing of patents to entrymen for homesteads upon reclamation projects, for the purpose of giving an opportunity for the objection to be withdrawn in order that I might ask unanimous consent for the bill to be passed without prejudice. I understand those who made the objection are willing to let this course be pursued and have no desire to have it stricken from the calendar. It is for that reason that I make the request on a matter which is of such vital interest to the West.

The SPEAKER pro tempore. The gentleman from Idaho [Mr. FRENCH] asks unanimous consent to return to the bill S. 5545, for the purpose of permitting objection to be withdrawn. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask if this is the first time this bill has been placed on the Unanimous Consent Calendar, or if it has been put on there twice?

Mr. HAYDEN. This is the first time it has been put on the calendar.

Mr. MANN. I doubt very much the propriety, when objection is made and a bill is stricken off the calendar at one time, of later in the day asking unanimous consent that it may be passed without prejudice.

Mr. MONDELL. Well, Mr. Speaker, I trust the gentleman will not object under these circumstances.

Mr. MANN. Well, I shall not object.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Speaker, I objected to the consideration of the bill because I did not believe it was possible to secure its consideration at this time. But I am interested in the bill, as other Members from the West are, and with the understanding that the request will be made that the bill be passed over without prejudice, I withdraw my objection.

The SPEAKER pro tempore. The gentleman from Wyoming [Mr. MONDELL] withdraws his objection.

Mr. FRENCH. Then, Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. The gentleman from Idaho [Mr. FRENCH] asks unanimous consent that the consideration of the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

SALE OF CERTAIN LANDS, COLVILLE INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 338) authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public park purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby granted and conveyed, for public park purposes, to the town of Okanogan, county of Okanogan, State of Washington, a municipal corporation, the following-described lands, or so much thereof as said town may desire, to wit: All that portion of lot 8 of section 17, township 23 north, range 26 east, of the Willamette meridian, containing 47.35 acres.

SEC. 2. That the said conveyance shall be made of the said lands to the said town by the Secretary of the Interior upon the payment by the said town for the said lands, or such portion thereof as it may select, of such sum as may be fixed by the appraisement hereafter to be made under the act entitled "An act to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes," approved March 22, 1906, and patent issued to the said town for the said lands selected, to have and to hold for public park purposes, subject to the existing laws and regulations concerning public parks, and that the grant hereby made shall not include any lands which at the date of the issuance of patent shall be covered by a valid, existing, bona fide right or claim initiated under the laws of the United States: *Provided*, That there shall be reserved to the United States all oil, coal, and other mineral deposits that may be found in the lands so granted, and all necessary use of the lands for extracting the same: *And provided further*, That the said town shall not have the right to sell or convey the lands herein granted, or any parts thereof, or to devote the same to any other purpose than as hereinbefore described, and that if the said lands shall not be used as public parks the same, or such parts thereof not so used, shall revert to the United States: *And provided further*, That the lands conveyed to the town of Okanogan, as authorized herein, shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I notice that section 1 of this bill, a Senate bill, expressly grants and conveys the land in question. That is always held to constitute a conveyance of the title, without patent. Section 2 contemplates the issuance of a patent by the Secretary of the Interior. I would ask the gentleman from Washington whether he has taken into consideration the fact that the two sections apparently conflict?

Mr. LA FOLLETTE. Mr. Speaker, when this bill passed the Senate I presume the gentleman who introduced it there overlooked the fact that this condition existed. We have prepared an amendment to cover it, if the House is willing to accept it.

Mr. Speaker, this bill is on the Union Calendar, and I ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. FOSTER. Reserving the right to object, Mr. Speaker, I would like to inquire if this is irrigable land?

Mr. LA FOLLETTE. No. It is land at the edge of the reservation. The town is in a narrow valley on the Okanogan River, and the reservation goes down to the river on one side. As I understand, this land is not irrigable, and the fact that it has never been taken as an allotment is proof of that fact. It is simply a piece of land that lies level enough for park purposes, but, as I understand, it is gravelly and rocky and is not fit for agricultural purposes. It would have been allotted if it were agricultural land. That is certain.

Mr. FOSTER. I will call the attention of the gentleman to the letter of the Secretary of the Interior to the Chairman of the Committee on Indian Affairs in the Senate, in which he says:

Reports from field officers of the Indian Service indicate that this lot is not actually occupied or used by the Indians of the reservation, but that until the allotment work is nearer completion it is impossible to determine whether it will be needed for allotments. It may be added, however, that a report from Special Allotting Agent Hunt, dated December 7, 1911, indicates that there will not be any considerable amount of desirable agricultural land remaining after allotments are completed. He says that there will be about 2,500 Indians to allot and that as a large part of the reservation is unfit for either agricultural or grazing purposes there will be great difficulty to find a sufficient amount of cultivable land for allotments.

Mr. MANN. Go ahead to the next paragraph.

Mr. FOSTER. The Secretary writes further:

The lot is said to be valueless for agricultural purposes without water to irrigate it, which may be applied by pumping from the Okanogan

River, on which the lot borders. Irrigable land in that locality is valued at from $200 to $300 per acre, and any Indian who may wish to take the lot as his allotment should be permitted to do so.

Now, if this land can be irrigated, as the Secretary says, by pumping from the Okanogan River, and if it is true that irrigated land is worth from $200 to $300 per acre, it seems to me we are giving away the land of these Indians that may be very valuable some time.

Mr. LA FOLLETTE. In answer to that I will say to the gentleman that you can irrigate a rock pile if you have the water. Whether or not it would be expedient to do so would be a question. They could pump water onto this land even if it is rocky and gravelly. I have been told that this land is not good agricultural land. As I understand it, that report was made a couple of years ago?

Mr. FOSTER. This report was made February 23, 1912.

Mr. LA FOLLETTE. When was the inspection made, though?

Mr. FOSTER. In May, 1911.

Mr. LA FOLLETTE. That is right.

Mr. FOSTER. What I would like to know is whether this land can be irrigated, as stated by the Secretary of the Interior.

Mr. LA FOLLETTE. I do not doubt that it could be irrigated, but whether it would be profitable to irrigate it I very much doubt.

Mr. FOSTER. If it can be irrigated, as suggested by the Secretary of the Interior, by pumping from this river, and if the land is worth $200 or $300 an acre——

Mr. LA FOLLETTE. The Secretary does not state that, does he?

Mr. FOSTER. It seems to me I read it here in the report somewhere.

Mr. MANN. Irrigable land is worth that.

Mr. FOSTER. He says that irrigable land in that locality is worth $200 to $300 an acre, and that any Indian who desires to take this land as his allotment should be permitted to do so.

Mr. LA FOLLETTE. You will find further on where they have agreed to this.

Mr. FOSTER. I do not know about that. I have not noticed it. It seems to me we ought to have some information on that subject. If that is true, it does not seem to me that we ought to give up this land and take it away from the Indians. The Indian ought to have some right to his property.

Mr. BUTLER. Is there not to be an appraisement?

Mr. MANN. It is provided that the land shall be paid for.

Mr. FOSTER. But paid for in its present condition, which is not worth much.

Mr. MANN. I looked this matter up. I do not speak with any degree of authority, but I was told that this land was valueless for any purpose except a park or an Indian encampment, or something of that sort.

Mr. FOSTER. What does the gentleman think of the statement of the Secretary of the Interior that it could be irrigated in the way suggested? Is it possible to do that?

Mr. MANN. I do not think it is possible to irrigate the land practically.

Mr. FOSTER. That is the gentleman's opinion?

Mr. MANN. Yes. I do not think it is possible to irrigate it practically.

Mr. FOSTER. I will accept the gentleman's word for it. I have no objection.

The SPEAKER. Is there objection to the present consideration of this bill?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. LA FOLLETTE. I ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Washington asks unanimous consent to consider the bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

Mr. LA FOLLETTE. I have an amendment to section 1.

The amendment was read, as follows:

Amend, in line 3, after the word "that," by striking out the words "there is hereby granted and conveyed" and inserting in lieu thereof the words "the Secretary of the Interior is hereby authorized and directed to convey."

The amendment was agreed to.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

On page 2, strike out lines 17, 18, and 19 and all of line 20 down to the word "further."

Mr. MANN. Mr. Speaker, I ask the Clerk to read the language which the amendment proposes to strike out.

The Clerk read as follows:

That there shall be reserved to the United States all oil, coal, and other mineral deposits that may be found in the lands so granted, and all necessary use of the lands for extracting the same: *And provided further,*

Mr. MANN. Mr. Speaker, this bill proposes to authorize the conveyance of land to this town for park purposes. The Senate bill contains a provision reserving to the United States oil, coal, and other mineral deposits. I see no reason for striking that language out of the bill. I do not see why we should not retain any coal, oil, or other mineral deposits in this land, which is intended only for park purposes. If there be any deposits there, they never could be utilized. The town could not dispose of them. The town can only use the land for park purposes. When we grant the title for park purposes, we ought to retain the control of any minerals that are in the land under the surface.

The SPEAKER. The question is on the committee amendment.

The question being taken, the committee amendment was rejected.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

On motion of Mr. LA FOLLETTE, a motion to reconsider the last vote was laid on the table.

CONSOLIDATION OF COPYRIGHT ACTS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23568) to amend section 55 of an act to amend and consolidate the acts respecting copyright, approved March 4, 1909.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 55 of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, be amended to read as follows:

"SEC. 55. That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain the name and address of said claimant, the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been published, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book, the certificate shall also state the receipt of the affidavit, as provided by section 16 of this act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out as above provided for in the case of all registrations made after this act goes into effect, and in the case of all previous registrations so far as the copyright office record books shall show such facts, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same. Said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration."

Mr. MANN. Mr. Speaker, reserving the right to object, I can not, from an examination made somewhat casually of the bill, see any objection to its passage; but I notice in the report where it states what the bill does I find that it is not quite correctly stated. I would like to inquire of the gentleman if he will state what the bill does do. Can the gentleman tell what new language, new as to the existing law, is inserted in the bill?

Mr. OLDFIELD. Yes; beginning at line 1, page 2, I will read the new part:

Name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been published.

Mr. MANN. Is not that now in the existing law?

Mr. OLDFIELD. No; it is not. This is merely to make the certificate of the copyright state the facts essential for one to know without going to the copyright office to get the facts.

Mr. MANN. The language the gentleman read is not included in the report as made.

Mr. OLDFIELD. I intended that it should be.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. The Clerk will read the first amendment.

The Clerk read as follows:

Page 2, line 9, strike out the word "published" and insert the words "reproduced in copies for sale or publicly distributed."

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Page 2, line 17, after the word "out," insert the words "in each case."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

PENSION TO WIDOWS AND MINOR CHILDREN OF SPANISH AND PHILIPPINE INSURRECTION SOLDIERS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 17470) to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection.

The Clerk read the bill, as follows:

Be it enacted, etc., That from and after the passage of this act if any officer or enlisted man who served 90 days or more in the Army, Navy, or Marine Corps of the United States, either as a regular or volunteer, during the War with Spain or the Philippine insurrection, and who has been honorably discharged therefrom, has died or shall hereafter die leaving a widow or minor children under the age of 16 years, such widow shall, upon due proof of her husband's death, without proving his death to be the result of his Army or Navy service, be placed on the pension roll from the date of the filing of her application therefor under this act, at the rate of $12 per month during her widowhood, and shall also be paid $2 per month for each child of such officer or enlisted man under 16 years of age, and in the case of the death or remarriage of the widow, leaving a child or children of such officer or enlisted man under the age of 16 years, such pension shall be paid such child or children until the age of 16: *Provided*, That in case a minor child is insane, idiotic, or otherwise permanently helpless, the pension shall continue during the life of said child, or during the period of such disability, and shall commence from the date of application therefor after the passage of this act: *Provided further*, That said widow shall not have married said officer or enlisted man after he shall have passed the age of 50 years: *And provided further*, That the beneficiaries under this act shall include the widows and orphans of acting assistant surgeons, contract doctors, dentists, veterinary surgeons, and officers and enlisted men in the United States Revenue-Cutter Service on vessels temporarily under the control of the War or Navy Departments: *Provided, however*, That this act shall not be so construed as to reduce any pension under any act, public or private.

SEC. 2. That no agent, attorney, or other person engaged in preparing, presenting, or prosecuting any claim under the provisions of this act shall, directly or indirectly, contract for, demand, receive, or retain for such services in preparing, presenting, or prosecuting such claim a sum greater than $10, which sum shall be payable only on the order of the Commissioner of Pensions, by the pension agent making payment of the pension allowed; and any person who shall violate any of the provisions of this section, or shall wrongfully withhold from the pensioner or claimant the whole or any part of a pension or claim allowed or due such pensioner or claimant under this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each and every offense, be fined not exceeding $500 or be imprisoned at hard labor not exceeding two years, or both, in the discretion of the court.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SLAYDEN. Mr. Speaker, reserving the right to object, I would like to have a statement in relation to the bill by the gentleman in charge of it. I have not finished reading the report, and I want to know the reason for the legislation.

Mr. RICHARDSON. The purpose of the legislation is, as the gentleman will see from the report, to equalize the widows of the Spanish soldiers with widows of the Civil War, Mexican War, and Indians wars. The purpose of this bill is to place the widows of the Spanish War with the widows in all other wars that our Government took part in.

Mr. SLAYDEN. Is not this more liberal legislation and more prompt than was accorded to the widows of the soldiers of the Civil War?

Mr. RICHARDSON. It is not any more liberal, but it does give them the benefit of the pension a little bit earlier.

Mr. SLAYDEN. How much earlier?

Mr. RICHARDSON. Perhaps 12 or 15 years earlier than was accorded to the widows of the Civil War.

1. I am informed by the Commissioner of Pensions that in the consideration of claims filed on account of service during the War with Spain and the Philippine insurrection, April 21, 1898, has been accepted as the date of commencement of the War with Spain, and July 4, 1902, as the date of termination of the Philippine insurrection.

2. In a publication issued some years ago it was estimated that the number of United States troops engaged in the Spanish War was 312,523, and that the number engaged in the Philippine insurrection was 140,038. No data, however, is obtainable showing the number of individuals engaged in the two services, as this department has no definite information as to the number of persons who were in the service during the Spanish War who reenlisted and were in the service during the Philippine insurrection.

3. The number of claims filed by widows and dependents based upon service during the Spanish War and the Philippine insurrection is 14,614; and the number of widows and dependents who have been granted pensions on account of such service, 7,122. The number of widows on the roll on account of the service above named, on June 30, 1911, was 1,217 and the number of minor children 326. The number of widows' claims which have been rejected is 4,705. In the number rejected there are no doubt included many claims which have been rejected the second or third time, upon the submission of additional evidence; so that the actual number of rejections would be somewhat less than that given.

Mr. SLAYDEN. Has the gentleman had an estimate made of how much the annual charge on the Treasury will be as a consequence of this legislation?

Mr. RICHARDSON. Yes; it was made because of an application by letter to the Secretary of the Interior Department on my own part. It has been made as accurately and as near as it could be made by application to the Superintendent of Pensions in the Interior Department. An elaborate letter was written upon the subject and careful estimates were made. They are not accurate as a matter of course. The number of widows of Spanish-American soldiers that had already been pensioned were taken into the account. I think it about as accurate as can be made under existing circumstances. No estimate of such expenses can be ascertained accurately.

Mr. SLAYDEN. What was that estimate, approximately?

Mr. RICHARDSON. If the gentleman will read the report on page 3 he will find that the matter is fully set forth; just what was said to the committee and to myself as chairman.

Mr. AUSTIN. It is in paragraph 4.

Mr. RICHARDSON. For full information, I refer to that part of the Secretary's letter that gives information on this subject.

Mr. SLAYDEN. I have just seen it. Mr. Speaker, I see that it is estimated that it will cost about $2,500,000 a year.

Mr. RICHARDSON. But the gentleman does not mean to say that the first year it will cost that. It may cost more. I can not make any more accurate statement than is included in that report. It is impossible. I think the report sets forth the facts upholding the merits of the case.

Mr. SLAYDEN. I regret to have to admit, Mr. Speaker, that I have not read the report. I did not know that there was any such bill on the calendar. My impression is that this Government has gone about as far and been about as liberal in the matter of pensions as it ought to go. I have been a Member of this House for about 15 years, and I have seen this legislation go almost unopposed, and I dare say that it is utterly futile to make an effort to prevent the enactment of legislation that has organized voters behind it.

Mr. RICHARDSON. I do not think that is properly said in this case at all. As for myself, no "organization" from the South or from my own State or my own home has used any influence to control me in this matter.

Mr. RUCKER of Colorado. Mr. Speaker, I object to the gentleman's statement in that respect.

The SPEAKER. To whom does the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. SLAYDEN. Mr. Speaker, I am sorry I have to differ with the gentleman from Colorado, but I repeat that in my judgment there are organizations of voters behind this measure. Since it was called up I remember myself having received communications from camps of Spanish War veterans in Colorado urging this legislation.

Mr. RUCKER of Colorado. I am not surprised at that at all, because we are very much interested in this legislation.

Mr. GARDNER of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. Speaker, I want to say to the gentleman from Texas [Mr. SLAYDEN] that of course there are some organizations behind this bill. That must always be the case.

Mr. SLAYDEN. That has been denied and objected to.

Mr. GARDNER of Massachusetts. I am speaking as a man who voted against the Sherwood pension bill and who holds the views of the gentleman from Texas with regard to that measure. I do not, however, think that this particular bill comes into the same class. I voted against the Sherwood bill, and everybody knows that I come from a part of the country which is full of Union soldiers. Yet I say that this particular bill seems to me to be perfectly just and very proper legislation. There are organizations behind it to a certain extent. There are some organizations of Spanish War veterans who have petitioned for it. In my district no organization of Spanish War veterans, with the exception of a single one, has so much as called my attention to the existence of the bill. One organization in a very informal way, through some of its members, brought this question to my notice without in the least demanding my support for it. I appeal to the gentleman from Texas, with whom I agreed in the matter of the Sherwood and

Sulloway bills, to reopen his mind and see whether this bill is subject to the same criticisms which might be made in the case of those measures.

Mr. RICHARDSON. Mr. Speaker, I can add to what the gentleman from Massachusetts has said. I have not received the scratch of a pen from any one organization of the Spanish War soldiers in the South or in my own State or district. I would not blame them at all for being interested in having their widows provided for.

Mr. KINKAID of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. Certainly, with pleasure.

Mr. KINKAID of Nebraska. I wish to know if the gentleman thinks it is a tenable objection to the merits of a bill that some organization, though it be composed of soldiers of the Civil or Spanish-American War, or any other war, have asked for the enactment of the bill?

Mr. RICHARDSON. As for myself, I think the soldiers of the Spanish-American War or their widows have the right to apply in behalf of their interests to me or any other member of the Pension Committee. All other interests are tolerated in the same way.

Mr. KINKAID of Nebraska. I voted for the Sherwood bill and for the Sulloway bill, and I am proud that it was in conformity to the recommendations of my constituency. Whom do we represent upon the floor of the American Congress but the people, and who are these soldiers but the people? [Applause.]

Mr. SLAYDEN. Mr. Speaker, what has been said absolutely bears out the accuracy of my statement that there were organizations of voters behind this legislation. Now, of course, these people have the right under the law, at least it is not forbidden, to organize for any kind of a measure they please, but it occurs to me that the laws we now have with reference to pensions are abundantly liberal. The Spanish-American War was not a great war. A large number of our troops took the hazard of watermelons in Georgia and Florida, fought the malaria and mosquitoes, but very few Spaniards. I do not know how true it is, but I was told some time ago that within less than four years after the Spanish-American War an enormous percentage, very much more than a majority, of the regimental organization of volunteers had applied for pensions, 80 per cent, I think it was, in one regiment, on account of their health having been ruined by the struggles and hardships of that war. Now it appears, from a hasty reading of this report and from the communication from the Secretary of the Interior to the gentleman from Alabama, that the number of claims filed by widows and dependents, based upon service during the Spanish War and the Philippine insurrection, is 14,614. That letter was written June 1 of this year, and the number of widows and dependents who have been granted pensions on account of such service was 7,122.

The number of widows' claims that have been rejected is 4,705. Now, I presume that it was found the claims of those widows were not covered by the law, and as the Treasury could stand an invasion or two it was thought proper to enact legislation that would throw wide the doors and give access to it of those whose claims had been rejected as being undeserving. The Spanish-American War yielded comparatively little in heroics, but paid the most marvelous dividends in politics and in magazine articles of any war in the history of this country. The greatest evil of that war was not from the actual shock of battle but from the consequences of it. It has led us into all kinds of adventures of a political nature in which it is not helpful or profitable for this country to be engaged. It has created and foisted upon the public a type of hero who does not commend himself to me because of his patriotism, his love of his country, or his great skill in military matters. I do not believe that the bill should pass. I believe we could well afford to stop, and I believe that in spite of these organizations a great majority of the people of this country would sustain us if we did for a long time no more than has already been done in the way of granting pensions. But I recognize the utter futility of the effort. I realize from the applause that greeted the remarks of my friend from Nebraska [Mr. KINKAID] that the pension propaganda is still popular.

Mr. COOPER. Mr. Speaker, I am somewhat surprised that the gentleman from Texas should urge as a reason that this bill should not pass that there are organizations of voters behind it.

Mr. SLAYDEN. Mr. Speaker, I object to the present consideration of the bill.

The SPEAKER. The gentleman from Texas objects to the present consideration of this bill.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that this bill be passed without prejudice. Mr. CRAGO is very much interested in it, and I reluctantly took this case up during his absence, and I should be very glad if the House would pass over the bill without prejudice.

Mr. BUTLER. Mr. Speaker, I supplement the request made by the gentleman. My colleague is unavoidably absent, and I know it would be a favor to him if this could go over without prejudice for two weeks.

The SPEAKER. If the gentleman from Texas will withdraw his objection and let the gentleman make his request——

Mr. SLAYDEN. I am willing to have that done.

The SPEAKER. The gentleman from Alabama asks unanimous consent that this bill be passed without prejudice. Is there objection?

Mr. RUCKER of Colorado. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. RUCKER of Colorado. I want to object to the request of the gentleman from Alabama. He puts it upon the ground of the absence of Mr. CRAGO——

Mr. RICHARDSON. I did that because he is the author of the bill.

The SPEAKER. The gentleman from Texas withdraws his objection and the gentleman from Alabama asks unanimous consent that this bill be passed without prejudice. Is there objection to the unanimous-consent request?

Mr. RUCKER of Colorado. Well, Mr. Speaker, I do not think there is any more ripe time, even though my friend from Pennsylvania [Mr. CRAGO] is not here——

Mr. SLAYDEN. Mr. Speaker, I renew my objection.

The SPEAKER. The gentleman from Texas renews his objection to the present consideration of this bill.

Mr. RUCKER of Colorado. Then when does it come up again?

The SPEAKER. It goes off of this calendar and can be put back on it once more and come up two weeks from to-day, if we ever reach it.

Mr. RICHARDSON. As I understand, if the objection of the gentleman from Texas [Mr. SLAYDEN] is withdrawn, it comes up on the next Unanimous Consent Calendar.

The SPEAKER. Here is the situation. The gentleman from Texas [Mr. SLAYDEN] objects. The gentleman from Alabama [Mr. RICHARDSON] asks him to withdraw his objection in order that he might ask that this bill be passed without prejudice, and the gentleman from Texas withdraws his objection. The gentleman from Alabama made his request, and then the gentleman from Colorado [Mr. RUCKER] made some remarks, and the gentleman from Texas [Mr. SLAYDEN] objected again. Then he withdrew his objection on the condition that you get it postponed.

Mr. RICHARDSON. I certainly did, and I have not——

The SPEAKER. Does the gentleman from Texas [Mr. SLAYDEN] withdraw it for that purpose?

Mr. SLAYDEN. I withdraw it.

The SPEAKER. The gentleman from Alabama asks unanimous consent that this bill be passed without prejudice. Is there objection?

Mr. RUCKER of Colorado. Mr. Speaker, I withdraw my objection under protest.

The SPEAKER. It does not make any difference how you withdraw it, so that you withdraw it. There is no objection, and the bill is passed without prejudice. The Clerk will report the next bill.

Mr. RICHARDSON. Mr. Speaker, I desire to call the Chair's attention to a Senate pension bill and a request for a conference. The Clerk has the bill there and will read it, if necessary.

The SPEAKER. After we get through with the Unanimous Consent Calendar the Chair will recognize the gentleman from Alabama.

Mr. RICHARDSON. I thought that, being on my feet, I could get unanimous consent.

The SPEAKER. We can not interfere with the Unanimous Consent Calendar. The Clerk will report the next bill.

ASSIGNMENT OF DESERT-LAND ENTRIES.

The next business on the Calendar for Unanimous Consent was the bill (S. 5446) relating to partial assignment of desert-land entries within reclamation projects made since March 28, 1908.

The Clerk read the bill, as follows:

Be it enacted, etc., That a desert-land entry within the exterior limits of a Government reclamation project may be assigned in whole or in part under the act of March 28, 1908 (35 Stat. L., 52), and the benefits and limitations of the act of June 27, 1906 (34 Stat. L., 520), shall apply to such desert-land entryman and his assignees: *Provided*, That all such assignments shall conform to and be in accordance with farm units to be established by the Secretary of the Interior upon the application of the desert-land entryman. All such assignments heretofore made in good faith may be recognized under this act.

The SPEAKER. Is there objection to consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask a question in regard to the bill, which appears to be a meritorious one, and ask what is meant by the words:

All such assignments heretofore made in good faith may be recognized under this act?

Mr. RAKER. The object and purpose is that there are some of these assignments that have been made by the original entrymen, and the departments have held they were not valid under the act as it existed. They have investigated, though, and find those which they have investigated were in good faith and they believe the balance are in good faith, and the departments ask this legislation that they may investigate assignments already made, and, if right, the assignee will get his title clear, and the whole entry will stand as originally filed, without going back to the Government and making a new fight.

Mr. MANN. Now, here are some claims. We pass a law. Then it says:

All such assignments heretofore made in good faith may be recognized under this act.

Does it mean they may be recognized under this act? Somebody must decide, and, if so, who?

Mr. RAKER. The Secretary of the Interior.

Mr. MANN. It does not say so here.

Mr. RAKER. Those matters are up to the office, coming from the Department of the Interior. They are sent through the local land office to the department. After investigation he determines whether they shall be recognized, and, if in good faith, of course he has the discretion to recognize them. It was not intended to make it compulsory on him to recognize them, but we wanted to give him full opportunity for full investigation. That is the object.

Mr. MANN. He would still have all that provided the assignments were made in good faith. I am aware that this language is language prepared by the Department of the Interior. I do not know that I shall live long enough, and, doubtless, if I do, I shall not be in Congress long enough for the Interior Department to find some one who is capable of drawing bills and put that person on that job.

Mr. RUCKER of Colorado. It is to be hoped so.

Mr. MANN. I am saying this for the benefit of the Secretary of the Interior, who, by the way, has failed in recent months to sign communications to Congress. Every communication we receive from the office of the Secretary of the Interior, or almost every one, is signed by the First Assistant Secretary. The Department of the Interior is the only department of the Government that deliberately permits the head of the office or department in communicating to Congress to escape the responsibility and put that responsibility upon a subordinate. I am saying this, I say, for the benefit of the Secretary, who is my warm personal friend, and in the hope that, so long as he occupies the position of head of the department, he will have somebody do the work and then be willing to accept the responsibility of communicating the result of that work to Congress. I do not blame him for not accepting the responsibility for these various bills, the drafts of which they send to us, because I am very sure I would not want to accept the responsibility myself. There ought to be somebody there, however, who is capable of drawing bills and who will draw bills and let the Secretary communicate them to Congress when asked by committees to do so.

The SPEAKER. Is there objection?

Mr. CANNON. Mr. Speaker, I have listened to the gentleman from California [Mr. RAKER] and the gentleman from Illinois [Mr. MANN], and I have been convinced that it is not just to the Secretary of the Interior, or to anybody connected with the department, to have a further discretion if, on investigation, it is found that the assignments have been made in good faith. I think the gentleman from California ought to amend his bill and strike out the word "may" and say "shall." Otherwise in a great department it is a premium on blackmail, it seems to me. That is to say, attorneys, claim agents, and perhaps unworthy people connected with the land service, if such there be, although I trust there are not, would thereby find an opportunity to obtain an undue advantage. "Lead us not into temptation" is, I think, the strongest petition in the Lord's Prayer. I trust the gentleman from California will agree to strike out the word "may" and put in "shall."

Mr. RAKER. Mr. Speaker, personally that would appeal very much to me and, I am satisfied, to the House; but it seems as though in deference to the great Department of the Interior, after they have made their examination, they should have some discretion.

Mr. CANNON. Well, after all, there is a discretion in determining whether it is in good faith. That ought to end it, if they find it is in good faith. I have a high respect for all the departments, and then I have some respect for myself.

Mr. RAKER. If it will expedite the passage of this bill I will ask to have the word "may" changed to "shall."

Mr. CANNON. I confess it will.

Mr. RAKER. Then I will guarantee that I will make the motion.

The SPEAKER. Is there objection to the present consideration of this bill? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none. Did the gentleman from Illinois [Mr. CANNON] offer an amendment?

Mr. CANNON. No. The gentleman from California [Mr. RAKER] gave notice that he would offer an amendment.

Mr. RAKER. I move, Mr. Speaker, that the word "may," in line 4, page 2, be stricken out and the word "shall" substituted therefor.

The SPEAKER. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, by striking out, in line 4, the word "may" and insert in lieu thereof the word "shall."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on the third reading of the amended Senate bill.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. RAKER, a motion to reconsider the vote whereby the bill was passed was laid on the table.

CONSOLIDATION OF LANDS IN PAULINA NATIONAL FOREST, OREG.

The next business on the Calendar for Unanimous Consent was the bill (S. 4745) to consolidate certain forest lands in the Paulina (Oreg.) National Forest.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior, for the purpose of consolidating the forest lands belonging to the United States within the Paulina (Oreg.) National Forest, be, and he hereby is, authorized and empowered, upon the recommendation of the Secretary of Agriculture, to exchange lands belonging to the United States which are part of the Paulina (Oreg.) National Forest for privately owned lands lying within the exterior limits of the said national forest: *Provided*, That the lands so exchanged shall be equal in area and substantially equal in value: *And provided further*, That upon the consummation of such exchange the land deeded to the United States thereunder shall become a part of the Paulina (Oreg.) National Forest.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman to make a brief statement in regard to the bill. Will the gentleman from Oregon [Mr. HAWLEY] state just what this bill accomplishes? I have seen the Senate report, I think, but the House report has not yet been printed.

Mr. HAWLEY. The bill proposes to exchange some privately owned lands in the Paulina National Forest for some lands now owned by the Government in equal areas. Many years ago, before the forest reservation was created, the Government made a land grant through this section of the country, and when the forest was created, of course, the privately owned lands did not become a part of the national forest, although included within its exterior boundaries.

In the southern portion of this section of the country, where the lands lie which are proposed to be exchanged, there is a light soil, known in that country as a "pummy" soil, which does not produce timber. A small scrub pine tree will grow there, a few feet in height, but of no value; but on the higher portions of the tract yellow pine grows of a very excellent quality and considerable size. The company which owns certain sections through this national forest desire to exchange their pine lands in the north for the comparatively level "pummy" lands in the south, and they desire to irrigate these lands. Under the water law of Oregon they had until a certain time, some time in the spring of this year, to make certain improvements; but while this bill was pending the State engineer of Oregon gave them an extension of time until the end of this Congress to see whether Congress would authorize the exchange or not. If the bill is passed, then they will irrigate only the lower portion and consolidate their lands. If not, they will have to irrigate the alternate sections all through the tract.

Mr. MANN. If the gentleman will permit, this bill has been before the Committee on the Public Lands for quite a while. Is the report upon it a unanimous one?

Mr. HAWLEY. I know of no objection to it.

Mr. RAKER. I will state in this connection that the Committee on the Public Lands made a very thorough investigation and a full report upon the matter, and heard the Department of Agriculture and the Forest Service, and went into the matter very carefully, and had public hearings. A full and complete report has been made by the committee.

Mr. MANN. Which report has not yet been printed.

Mr. RAKER. I want to call the attention of the gentleman——

Mr. MANN. I wanted to know whether it was a unanimous report.

Mr. RAKER. It was a unanimous report, and a proof of it was sent to me to correct. I sent it back the day after it was sent to me, and since I found this morning that it was not here I have been using every effort to get it.

Mr. MANN. I can tell the gentleman why he has not got it.

Mr. RAKER. I think I understand the reason why.

Mr. MANN. There were some plates put into it, and they had to send the plates out to be prepared.

Mr. HAWLEY. The report of the committee is unanimous.

Mr. MANN. I sent over and got the Senate report, and got the information which I have in that way.

Mr. RAKER. The committee believe it is a just and proper bill and that it ought to pass.

Mr. MANN. The department is in favor of it?

Mr. RAKER. Yes.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. HAWLEY. I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Oregon asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The bill was ordered to a third reading, was accordingly read the third time, and passed.

On motion of Mr. RAKER, a motion to reconsider the last vote was laid on the table.

WATER SUPPLY OF COLORADO SPRINGS AND MANITOU, COLO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.

The bill was read, as follows:

Be it enacted, etc., That the public lands within the Pike National Forest, situated in the counties of El Paso and Teller, Colo., hereinafter described, are hereby reserved from all forms of location or entry and set aside as a municipal water-supply reserve for the benefit of the city of Colorado Springs, a municipal corporation of the State of Colorado, to wit:

Lot 3, the southeast quarter of the southwest quarter and the south half of the southeast quarter of section 7; the southwest quarter of the southwest quarter of section 8; the northwest quarter of the northwest quarter, the south half of the southwest quarter, the west half of the southeast quarter, and the northeast quarter of the southeast quarter of section 17; lots 2, 3, and 4, the northeast quarter, the east half of the northwest quarter, the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter of section 18; lots 2, 3, and 4, the northeast quarter, the southeast quarter of the northwest quarter, the east half of the southwest quarter, and the west half of the southeast quarter of section 19; the northwest quarter of the northwest quarter of section 20; lots 1, 2, 3, and 4, the west half of the northeast quarter, the east half of the northwest quarter, and the east half of the southwest quarter of section 30; lot 1, the northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section 31, in township 13 south, range 68 west of the sixth principal meridian.

Lot 6 of section 4; lots 1, 2, 3, and 4, the south half of the northeast quarter, and the northeast quarter of the southeast quarter of section 9; the south half of the northeast quarter, the south half of the northwest quarter, the southwest quarter, and the north half of the southeast quarter of section 10; the south half of the southeast quarter, and the northeast quarter of the southeast quarter of section 14; the north half of the northwest quarter, and the southeast quarter of the southeast quarter of section 15; lot 2, the northeast quarter of the northeast quarter, the south half of the southeast quarter, and the northwest quarter of the southeast quarter of section 22; the east half of the northeast quarter, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, and the south half of section 23; the north half of the north half, the southwest quarter of the northwest quarter, the southwest quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section 26; the north half of the northeast quarter, the southwest quarter of the northeast quarter, and the south half of section 27, in township 14 south, range 68 west of the sixth principal meridian.

The southeast quarter of the southwest quarter of section 10; the south half of the northeast quarter, the southwest quarter of the southwest quarter, the east half of the southwest quarter, and the southeast quarter of section 13; the northeast quarter of the southwest quarter, and the southeast quarter of the southeast quarter of section 14; the west half of the northeast quarter, and the north half of the southwest quarter of section 15; the west half of the northeast quarter, the west half of the southeast quarter, the southeast quarter of the southeast quarter, and the south half of the northeast quarter of the southeast quarter of section 21; the northeast quarter, the east half of the northwest quarter, the east half of the southwest quarter, the southwest quarter of the southwest quarter, the south half of the northwest quarter of the southwest quarter, and the southeast quarter of section 22; all of sections 23 and 24; the northeast quarter, the east half of the northwest quarter, and the south half of section 25; the west half of the northeast quarter, the northwest quarter, and the south half of section 26; all of section 27; the north half of the northeast quarter, the west half and the south half of the southeast quarter of section 35; the north half of the northeast quarter, and the west half of section 36, in township 13 south, range 69 west of the sixth principal meridian.

The west half (or lots 3 and 4, the south half of the northwest quarter, and the southwest quarter) of section 1; and the north half of the northeast quarter (or lots 1 and 2) of section 2, in township 14 south, range 69 west of the sixth principal meridian, containing 10,131.23 acres, more or less.

SEC. 2. That the public lands within the Pike National Forest, situated in the counties of El Paso and Teller, Colo., hereinafter described, are hereby reserved from all forms of location or entry and set aside as a municipal water-supply reserve for the benefit of the town of Manitou, a municipal corporation of the State of Colorado:

Lot 4, the southeast quarter of the southwest quarter, and the south half of the southeast quarter of section 31; the south half of the southwest quarter, the south half of the southeast quarter, and the northeast quarter of the southeast quarter of section 32; the south half of the northeast quarter, the north half of the southwest quarter, and the east half of the southeast quarter of section 33; all of section 34; the west half of section 35, in township 13 south, range 68 west of the sixth principal meridian.

Lots 3 and 4, the south half of the northwest quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section 2; all (including lots 1, 2, 3, and 4) of section 3; lot 5, the north half (including lots 1, 2, 3, and 4), and the east half of the southeast quarter of section 4; lots 1, 2, 3, 4, 5, 6, and 7, the south half of the northeast quarter, the south half of the northwest quarter, and the north half of the southwest quarter of section 5; lots 1, 2, 3, 4, 5, 6, 7, and 8, the south half of the northeast quarter, the southeast quarter of the northwest quarter, the east half of the southwest quarter, the southwest quarter of the southeast quarter, and the north half of the southeast quarter of section 6; lots 1, 2, 3, and 4 of section 7; the north half of the northeast quarter of section 10, in township 14 south, range 68 west of the sixth principal meridian.

The east half (or lots 1 and 2, the south half of the northeast quarter, and the southeast quarter) of section 1; and all that part of the northeast quarter of section 12 lying north of the north line of the Pikes Peak Military Reservation, in township 14 south, range 69 west of the sixth principal meridian, containing 4,712 acres, more or less.

SEC. 3. That the lands heretofore described and reserved for municipal water-supply purposes shall be administered by the Secretary of Agriculture in cooperation with the city of Colorado Springs and the town of Manitou for the purpose of storing and conserving the water supply, protecting them from pollution, and preserving the timber on said lands to more fully accomplish such purposes, and to that end said city and town shall each have the right, subject to approval by the Secretary of Agriculture, to the use of any and all parts of the lands reserved for them, respectively, for the storage and conveying of water, and the construction and maintenance thereon of reservoirs, pipes, mains, conduits, and other like improvements.

SEC. 4. That in addition to the authority given the Secretary of Agriculture under the act of June 4, 1897 (30 Stats., p. 35), he is hereby authorized to prescribe and enforce such regulations as he may find necessary to carry out the purpose of this act, including the right to forbid persons other than forest officers and those authorized by the municipal authorities from entering or otherwise trespassing upon these lands, and any violation of this act or of regulations issued thereunder shall be punishable as is provided for in the act of June 4, 1888, amending section 5388 of the Revised Statutes of the United States.

SEC. 5. That this act shall be subject to all legal rights heretofore acquired by any person or persons in or to the above-described premises, or any part thereof, and now existing under and by virtue of the laws of the United States or of the State of Colorado.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I understand this proposes to grant certain land for water-supply purposes.

Mr. TAYLOR of Colorado. The lands in the Pike National Forest are reserved from all forms of entry and location and set aside as a municipal water-supply reserve.

Mr. MANN. The gentleman is technically correct, and for that reason I wish to ask him whether he would object to an amendment reserving the right to alter, amend, or repeal the act.

Mr. TAYLOR of Colorado. I have no objection to that.

Mr. MANN. So that the Government may really retain control.

Mr. TAYLOR of Colorado. I have no objection to that whatever.

Mr. MANN. Then I have no objection to the bill.

Mr. FOSTER. Let me ask the gentleman from Illinois if he does not think that the provision should be put in that the Government incurs no liability thereby.

Mr. MANN. No; I do not think that is necessary.

Mr. FOSTER. We have seen when we have changed the law the Government has incurred liability in regard to the undertaking.

Mr. MANN. I have no objection to such a provision, but that is not usual.

Mr. FOSTER. The gentleman from Illinois, I think, has put that in several bills.

Mr. MANN. Yes; I put it in the dam bill and I believe in the general bridge bill, but this proposition is to grant the use of certain lands for water-supply purposes. The Department of

the Interior recommended that there be reserved out of the grant any land which could be used for power purposes, but the committee did not put that provision in the bill, and there may be good reason for not putting it in. I can see objections to it. If the cities create the power by construction of dams, they might properly utilize that power and the Government would have nothing to do with it. On the other hand, we do not convey the title of the land by the bill. If Congress should want to make any change in regard to this at any time there would be difficulty and dispute about the power of Congress to do it. I have no doubt that under any ordinary conditions the land will always be used by the municipalities for water purposes. I do not believe the Government would incur any liability, although I do not say so.

Mr. FOSTER. I do not, either.

Mr. MANN. But, on the other hand, here are two municipalities and we are entitled to treat them a little more leniently than we would corporations organized for profit. These municipalities exist only as a matter of common good, and if they are proposing to expend some money to create a reservoir, complete dams, laying water-supply pipes, and perhaps having to do it through the borrowing of money, I really think that if we change it so as to interfere with that we ought to take into consideration the possibility of paying them damages, they not being a private corporation.

Mr. FOSTER. The gentleman will recollect that this matter came up in the consideration of the bill paying for the bridge across Weymouth Back River, where the Government ordered a draw put in.

Mr. MANN. Yes; but there was no question there but that we had the power to do it without liability.

Mr. FOSTER. The fact is the provision of law did not say that we incurred no liability, and then the claim was made that we ought to pay.

Mr. MANN. No; but I will say that the bridge at that place was ordered removed under a provision in the river and harbor act of 1899, which has been applied in a number of cases and has been sustained by the court wherever it has been tested, and it has been tested a number of times. The courts have held without liability at all on the part of the Government it can order these bridges removed and reconstructed and incur no liability.

Mr. FOSTER. I realize that, and yet the gentleman will recall that in that case the Government did pay several thousand dollars.

Mr. MANN. Yes; and I think they ought to have paid more. That was a matter of equity and fair dealing and not a matter of liability.

Mr. FOSTER. Some of these cases may come back with a claim of equity asking the Government to pay it where the Government reserves the right to alter, amend, or repeal the law.

Mr. MANN. I presume that if these municipalities carry out their plans they will have to do it with borrowed money, and it is very likely that doing it with borrowed money they will have to give as security the work that is produced by the aid of the money. Now, these cities, Colorado Springs, Colorado City, and Manitou——

Mr. TAYLOR of Colorado. Yes; three cities.

Mr. MANN. The grant runs to two, but it covers three. I have been there a good many times, and I suppose almost every other Member has. There is every reason in the world why they should be given the right to have this water supply that is on the north side of Pikes Peak, as I understand.

Mr. TAYLOR of Colorado. Yes.

Mr. FOSTER. Just let me state this to my colleague. When it comes to borrowing money, if it is necessary to complete the waterworks or extend it. I do not think the fact that this provision is in the bill will affect their ability to borrow money.

Mr. MANN. It might affect it quite a good deal.

Mr. FOSTER. I do not think so. Bonds are issued by municipalities, and I do not see how it can affect them.

Mr. MANN. I do not know under what system they issue bonds, but they are sometimes issued against the plants, where they have water plants. Whether that be the case here or not, I do not know.

Mr. ROBINSON. Mr. Speaker, the Committee on Public Lands gave this measure very careful attention, and the suggestions made by the gentleman from Illinois [Mr. FOSTER] were all very carefully considered by the committee. Supplementing what has been said by the gentleman from Illinois [Mr. MANN] and the gentleman from Colorado [Mr. TAYLOR], I desire to state that this bill contemplates the highest use, in my opinion, for which these lands are capable of being used. The cities of Manitou and Colorado Springs are great health resorts and are visited annually by many thousands of citizens from all parts of the United States and of the world. It is necessary that some provision be made for the protection of their water supply, and after many months of consideration of the subject matter the committee decided that the provisions of the bill were the very least that ought to be granted to these two cities. I desire to suggest to the gentleman that, having considered those subjects very carefully, no amendment should be made to the bill which would embarrass the carrying out of the purpose for which the bill is to be passed, and I believe that the amendments he suggests might do that. I would urge no objection to the amendment suggested by the gentleman from Illinois [Mr. MANN] as to the reservation of the right to alter, amend, or repeal.

Mr. FOSTER. I think my colleague takes the position that the right to alter, amend, or repeal being reserved to the Government, if it ever becomes necessary for the Government in the exercise of that right to alter, amend, or repeal, that the National Government ought not to be called on to pay out any money.

Mr. ROBINSON. Oh, there is nothing of that kind contemplated. There is nothing of that kind possible under the bill, under a fair construction, and in my judgment under a legal construction of the bill. The entire liability on the part of the Government is the right of the Government to participate through its forest officers in the policing of the reservation, and we want that, we think that is necessary, and to say that the Government shall assume no liability might cause it to be held by the courts that the Government could not even do that, and we want that done.

Mr. FOSTER. I want to say that I am not opposed to this bill. I believe in the object of the bill, in the protection of the water supply for those cities. I do suggest to the gentleman that the National Government ought to have its rights protected as well.

Mr. ROBINSON. I am suggesting to the gentleman that the rights of the Government are protected in so far as the right to alter, amend, or repeal the bill is concerned. That amendment should be adopted for this reason: The time may come when the National Government may want to use some small portion of this land for different purposes, and when that small portion of land is not necessary for the purposes of this bill, and in that event it might become necessary to have an amendment of that sort adopted.

Mr. FOSTER. The gentleman, in that case, does not think there ought to be any liability on the part of the Government?

Mr. ROBINSON. I have stated repeatedly that I do not think there is any liability on the part of the Government, and if the gentleman will read the bill I do not believe he will contend there is any liability further than the one to help police it through its forest officers.

Mr. FOSTER. Oh, I have read the bill and I understand it.

Mr. MANN. Mr. Speaker, the gentleman from Arkansas I think does not catch the point that my colleague makes when he speaks of liability of the Government. He means liability by reason of alteration of law. The question is whether, having the right to alter, amend, or repeal, if you do alter or amend the law it affects the rights of the municipalities, and if you have damaged them any, whether you have to pay them.

Mr. ROBINSON. I do not think the Government ought to put itself in a position where it could not be required under some circumstances to recognize the rights of the cities. I do not believe that amendment is proper and I do not believe the gentleman should press it.

Mr. TAYLOR of Colorado. Mr. Speaker, if the gentleman will permit, I may say that this bill was carefully considered by both the Secretary of the Interior, the Secretary of Agriculture, and also the forest reserve people, in conjunction with the mayor and city attorney of Colorado Springs, and they jointly prepared this language and recommend it as the agreed-upon measure of the two departments for the protection from pollution of the water of those two cities. I want to call attention to a portion of my report upon this bill as follows:

The city of Colorado Springs owns its water-supply system and has expended several million dollars in perfecting its municipal plant. The city has a population of about 30,000. The city of Colorado City, though a separate municipality, adjoins Colorado Springs and is virtually a part of it, has a population of 6,000, and gets its water from the Colorado Springs water-supply system. The town of Manitou has a population of about 2,000. The addition of the adjacent population which secures its water supply from the city of Colorado Springs and Manitou aggregates a population of about 50,000, which is increasing very rapidly. Colorado Springs and Manitou, as everyone knows, are situated at the foot of Pikes Peak. They are among the most noted resort places of the world. There are approximately 100,000 tourists visit those cities every season, and large numbers of them spread over the sides of Pikes Peak and camp out on the small streams, springs, and reservoirs which supply those cities with water.

The cities have no possible way of securing water except from the southerly, easterly, and northerly slopes of Pikes Peak.

The snowfall and precipitation in that territory are necessarily limited, and as those cities increase in population the problem of securing a pure-water supply is not only important but is becoming very serious. In fact, it has become imperatively necessary for the continued growth of those cities and the health of the inhabitants that their available water supply be conserved and protected from pollution. There is no possible way of preserving the water from contamination and pollution and maintaining its purity excepting by some systematic regulations of the use and occupation of the land from which the waters are derived.

While the cities do not desire to exclude the public from the slopes of Pikes Peak, nevertheless the health of from 50,000 to 100,000 people is of very much greater importance than the unrestricted liberties of campers in that territory. It was shown that the people exercise little or no restrictions whatever in their habits upon the streams and reservoirs of the water that is diverted direct from them through pipes to the cities and necessarily pollutes the water more or less, and it is absolutely imperative that the cities be given the right to join with the forest-reserve officials in policing and guarding and regulating the use of the lands described in this bill, which are now within the forest reserve and situated on the northern slope of Pikes Peak. The forest-reserve officers are not sufficient and do not and can not under existing regulations protect the water supply of those cities.

On his trip West last summer the attention of the President of the United States was called to this situation by the Chamber of Commerce of Colorado Springs and the officials and city authorities and public-spirited citizens, and the President promised to give the matter his careful consideration.

The mayor of Colorado Springs and other public officials have been before your committee and have had a full hearing. While there was opposition to the original bill, H. R. 27434, of the Sixty-first Congress, and H. R. ———, Sixty-second Congress, which provided for the conveyance of the land direct to the city, and there was some opposition to the present bill as recommended by the Interior Department and Agriculture Department, yet after section 5 of the bill was added, fully disavowing the intention of injuring or affecting in any way the legal rights of anyone, there was little or no opposition to the bill in its present form.

The bill grants no lands whatever to either Colorado Springs or Manitou, and grants no water right whatever. In fact, the Government does not own any water rights and could not grant any. There is no property of the United States Government of any kind granted by this bill. It merely authorizes the forest reserve officials, in conjunction with the cities, to adopt such regulations as may be necessary to prevent the pollution and preserve the purity of the waters used by those three cities.

The lands referred to in this bill have been carefully examined by the Forest Service officials and it is a matter of general knowledge that the lands are of comparatively no value whatever for agricultural or mineral or any other purpose, as it consists of the steep, rocky north slope of Pikes Peak; and it was very positively shown by the hearings that neither the Government nor the public would suffer any inconvenience or loss by the withdrawal of those lands from entry.

There would be very much more reason and justice in allowing the city of Colorado Springs and town of Manitou to secure title to the lands referred to in this bill than there was for the act of Congress of February 28, 1911 (36 Stat., 959), "authorizing the city of Seattle, Wash., to purchase certain lands for the protection of the source of its water supply." Colorado Springs and Manitou have been endeavoring for two years to secure the passage of a similar bill to the Seattle one and upon identically the same terms. But owing to the opposition of the Forest Service and one or two private interests, and owing to the city being compelled to make extensive improvements to its water-supply system, the city authorities are practically forced to consent to the enactment of the present bill.

It is believed by your committee that Congress can not consistently refuse to authorize the cooperation of the Forest Service officials with the municipalities in the suitable guarding and protection of the public lands which contain the source of their water supply; that the precedent which would thereby be established would be meritorious and highly commendable in aiding municipalities in the protection of their water supply from contamination and pollution. It is believed that there can be no higher or more commendable use of Government land—especially the kind of land referred to in this case—than to supply pure water for the inhabitants of the cities and towns. A city that has no other source of water supply can not consent to or permit people under any pretense to make deposits of offal or contaminating matters in its water supply. The consideration of pure water far outweighs any other consideration that may be presented concerning the lands referred to herein. If this bill be enacted into law, these municipalities will have such control, under the supervision of the Secretary of Agriculture and the Forest Service, over the watershed of the north slope of Pikes Peak as will enable them to establish such rules and regulations as will insure the purity of their water supply. It will be in their interest to make these regulations as liberal to their visitors who wish to go upon these watersheds as water conditions will permit.

When it is considered that the Government conveys no property whatever, that no vested rights whatever are affected by this bill, and the meritorious objects of the measure are appreciated, no fair-minded or reasonable people can justly oppose an act by Congress which will give these municipalities such control over their water supply as is shown to be necessary to preserve the health of their inhabitants.

The Secretary of the Interior has submitted to the committee a supplemental report, which is attached hereto. The committee does not deem it either wise or necessary to adopt this suggestion of the Secretary, because, while the city is not engaged in the generation of power, nevertheless the city does own its own water plant, and if the increase of its reservoirs or the additional expenditures which the city contemplates in further conserving the waters belonging to it should generate any additional power it is deemed that these cities that have expended large amounts of the inhabitants' money are entitled to the benefits of any power they may create, and it is deemed that that provision would not only be unjust and unfair to those cities, but would materially interfere with the improvements and use of their municipal system, and probably interfere with their placing of the bonds necessary for the city to make the improvements contemplated for the growth of the city.

Mr. FOSTER. I think it is a very commendable thing.

Mr. TAYLOR of Colorado. The city of Colorado Springs owns land on the south and east slopes of Pikes Peak, and I have been earnestly trying for two years to get a bill reported allowing the city the same kind of a title that we gave the city of Seattle to protect her water supply, to protect the water on the north slope. But owing to the opposition of the Agricultural Department and the Forest Service and some private interests I have been unable to secure a favorable recommendation for such a bill. This bill simply provides that under the supervision of the Agricultural Department the city officials can do certain things—they can police this land and protect the city's water supply from pollution. People camp all over that slope of the peak, and they almost of necessity contaminate the water of those small streams more or less.

Mr. FOSTER. I am not opposed to the bill.

Mr. TAYLOR of Colorado. But the gentleman is very seriously opposing the bill when he asks this House to adopt such an amendment as he suggests.

Mr. FOSTER. The amendment I propose is only for the protection of the National Government.

Mr. ROBINSON. Suppose these cities interested should construct expensive reservoirs?

Mr. TAYLOR of Colorado. And spend over a million dollars, as they must do.

Mr. ROBINSON. And suppose they spent from a million to five million dollars in the construction of the reservoir, and the Government should, for some reasons which appeared manifestly necessary, repeal this act, would the gentleman from Illinois or any other fair-minded man insist that they should have the right to repeal without responding in any sense to those cities for the enormous expenditure in which they have been involved?

Mr. FOSTER. That is a hypothetical case I do not propose to answer.

Mr. ROBINSON. If the gentleman will state a hypothetical case which will support the amendment which he suggests as necessary to protect the Government, I would like to hear it.

Mr. FOSTER. I will say it is a good plan in passing these bills that in the future the interest of the Government may be protected. Men come here and very frequently ask the Government to make concessions and give away property and all that, and yet it is done because our constituents ask us to do it——

Mr. ROBINSON. If the gentleman will permit——

Mr. FOSTER. And for good purposes, too. I am not complaining of this at all, but at the same time it seems to me that the National Government ought to be protected in its rights.

Mr. MONDELL. Mr. Speaker, will the gentleman yield for a moment?

Mr. FOSTER. Certainly.

Mr. MONDELL. Will the gentleman from Illinois allow us to consider the bill and then present the amendment or amendments he may desire?

Mr. FOSTER. I have no objection at all; not in the least.

Mr. MONDELL. Very well.

Mr. FOSTER. Do not understand me as being opposed to the protection of the water supply of any portion of this country. This came up as a suggestion of my colleague from Illinois [Mr. MANN].

The SPEAKER. Is there objection?

Mr. FOSTER. None at all.

The SPEAKER. The Chair hears no objection. The Clerk will report the committee amendment.

The Clerk read as follows:

Strike out lines 15, 16, and 17, on page 7, and insert in lieu thereof the following:

"for in section 50 of the act entitled 'An act to codify, revise, and amend the penal laws of the United States, approved March 4, 1909 (35 Stat. L., 1098), as amended by the act of Congress approved June 25, 1910 (36 Stat. L., 857).'"

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I move to amend by adding as a new section the following:

The right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by adding as a new section the following:

"The right to alter, amend, or repeal this act is hereby expressly reserved."

Mr. FOSTER. Mr. Speaker, I offer an amendment to the amendment.

The SPEAKER. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Add to the amendment the following:

"And the United States shall incur no liability by the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested."

Mr. TAYLOR of Colorado. Mr. Speaker, what is the question before the House?

The SPEAKER. The question before the House is the amendment offered by the gentleman from Illinois [Mr. FOSTER].

Mr. TAYLOR of Colorado. Mr. Speaker, I hope that amendment will not be adopted. There is no reason or justice in adding an additional burden by inserting a revocation clause that you never have before put in a bill, so far as I know, since I have been in Congress. It seems to me when this is a measure of absolute necessity to protect the health and lives of 60,000 people, and when they have to spend over a million dollars in the betterment of their waterworks systems along the north slope of Pikes Peak, they should not be handicapped in such a way that they could not sell the bonds or know what kind of a temporary right they are getting. I am confident the citizens of those municipalities would rather have no law at all than to have it so that they can not invest their money with safety. I have no objection to the usual reservation clause that we place in the statutes every day. While I think it is unnecessary and really ought not be put in, I will accept the amendment of the gentleman from Illinois [Mr. MANN]. But the amendment to the amendment is utterly unwarranted. I feel it renders the bill comparatively worthless. I want these cities to either get something plain and definite or nothing at all. I can not agree to a provision that would always be a cloud upon their rights and probably lead to litigation and loss of vast property rights. I hope the amendment to the amendment will be voted down.

Mr. FOSTER. Mr. Speaker, I am not personally particular as to whether the House adopts this amendment or not. I offer it as a safeguard in these bills to the National Government. We are here legislating not only for Illinois, Colorado, Massachusetts, Ohio, and the rest of the States, but we are supposed to be legislating for the United States, for the National Government. And it seems to me that the placing of such an amendment as this does not affect the ability of the city of Colorado Springs nor of Manitou nor of Colorado City to borrow whatever money may be necessary for the construction of this reservoir, the laying of the mains and pipes, and so forth. I do not know whether there will ever be any liability on this or not. I hope not. But I do suggest that in a matter of this kind, if it becomes necessary for the National Government to alter, amend, or repeal this law, the people should not be asked to pay for something that might occur out in the State of Colorado or Illinois, or any other State. I believe the rights of the people are paramount to any particular municipality or locality. And so I have offered this amendment, which is not an unusual one, as stated by my colleague from Illinois [Mr. MANN], who suggested this amendment be placed upon another bill, where they were expending possibly more than $1,000,000 for the development of a water power. And I think many men here in this House to-day voted very readily for that amendment offered by the gentleman from Illinois at that time.

I did not hear any man say that he would not take the right granted by the National Government; but I think overwhelmingly this House, and probably the gentleman from Colorado [Mr. TAYLOR]—although I do not know—voted for it. There was not much opposition to an amendment of this kind when it was offered upon this floor during the last session of Congress. Now, when we are here offering to protect the rights of the National Government and provide that the National Government shall not be liable for any amendment, alteration, or repeal of this law, gentlemen throw up their hands in horror and say: "Are you going to say to these people that the Government shall not be liable if we ask them to amend this bill or appeal it in some way?" I believe these people will be willing—and I am sure they ought to be willing—to take this land, and I want them to have it. But I want them to have it with the proper regulation and with the proper protection to the National Government.

Mr. TAYLOR of Colorado. Let me suggest that Congress has for 50 years been granting lands unconditionally to cities and towns for municipal purposes. Why should you now for the first time try to inflict these harsh restrictions on these two cities?

Mr. FOSTER. The National Government has in the past been giving away many, many valuable rights and many, many valuable acres of land and water-power sites, more than they ever will give away in the future.

Mr. TAYLOR of Colorado. Yes; Congress has been exceeding liberal in giving away the public property to private corporations. But these are municipal corporations that own their waterworks systems. They are vastly different from private corporations.

Mr. FOSTER. But Congress will not do it in the future.

Mr. TAYLOR of Colorado. It will continue to grant the property and power to the cities necessary for the protection of their water supply. There can be no higher use of public land than that. The gentleman is evidently trying to kill the bill.

Mr. FOSTER. There is no objection to the city policing this land and having control of it. I want them to have it to protect their water supply. But at the same time I want to keep in mind the interest of the National Government in these matters, so that we may not in years to come—the National Government will not be compelled to pay thousands of dollars because we do not protect it now.

Mr. STEPHENS of Texas. Mr. Speaker, will the gentleman yield?

Mr. FOSTER. Yes.

Mr. STEPHENS of Texas. Does not the gentleman think that in engrafting his amendment upon this bill he would make it harder than it would otherwise be for the people of Colorado Springs and Manitou to sell their bonds?

Mr. FOSTER. Well, does not the gentleman from Texas think that a city of 30,000 inhabitants and a town of 2,000 inhabitants, with all the millions of property they own, ought to be able to borrow money even under such a restriction as that on this bill? If they are not able, I will declare they are different from what I think the people of Colorado are. I think the people of Colorado and the people of those cities are enterprising citizens, and I have a good opinion of their ability.

Mr. TAYLOR of Colorado. Why should you want to handicap them with lawsuits and uncertainty?

Mr. FOSTER. I am not seeking to handicap them in the least.

Mr. TAYLOR of Colorado. Why does the gentleman for the first time in his official career favor the engrafting of such an amendment on a bill?

Mr. FOSTER. I will say to the gentleman that I have voted for such amendments as this heretofore.

Mr. TAYLOR of Colorado. This is the first time I have ever heard of it since I have been a Member of Congress. That kind of a restrictive provision in this law would be nothing less than an outrage upon those cities for all time to come. There is no necessity or justification for it.

Mr. FOSTER. It should go on a bill of this kind the same as on any other kind. I think this amendment will not work hardship on the people of Colorado. I have a very good opinion of those people.

Mr. MONDELL. Mr. Speaker, I do not think the gentleman from Illinois [Mr. FOSTER] understands the character of the legislation, otherwise he would not have offered his amendment.

Under the act of 1905 the cities of Colorado Springs and Manitou could secure many of the rights granted in this bill in absolute perpetuity. That act gives them the right to lay their pipes, erect dams, develop water power, and do all those things that they will do under this bill except that the bill goes further and provides for a general reservation of the watershed. But if the cities proceed under the act of 1905 their rights would be fixed for all time.

Now, it has been deemed wise to grant those same rights with the provision that Congress may at any time alter, amend, or repeal. It is not at all probable that Congress will ever alter or amend in a way that would be confiscatory of the cities' investment, but it is altogether possible that that might be done, and it might occur that it would be in the public interest in a larger public sense than that of these cities for Congress, under its reserved authority and power, to pass an act that would be confiscatory of the property created under this law. Surely the gentleman from Illinois [Mr. FOSTER] would not suggest that under those circumstances we should take from the cities a right to a reasonable recompense for the loss that might occur under those circumstances. As the matter stands, a revocable permit—revocable at the will of Congress—is not likely to be repealed in a way greatly to injure the cities; and yet Congress proposes, and wisely I think, to reserve the right to repeal in a way that might be absolutely confiscatory of the created property, and in doing that, of course, the property would become valuable to the Government for some other use, and we should not say that under those circumstances it should not pay.

Mr. STEPHENS of Texas. Is it not a fact that under the law to which the gentleman has referred, and under the general doctrine of riparian rights and prior appropriation of water, these cities have the right to use this water?

Mr. MONDELL. Yes; but particularly under the act I have referred to, because it was an act passed to cover just such cases, giving rights in perpetuity to municipalities.

Mr. STEPHENS of Texas. Mr. Speaker, will the gentleman again yield?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. Is it not also a fact that the only thing this bill would accomplish is to permit these people, by using the northern slope of Pikes Peak, to get the water from the snow melting from this peak, and that it only gives them the right to prevent the water from being polluted before it reaches the main?

Mr. MONDELL. That is all it does—prevents pollution and enables the cities to acquire necessary rights.

The SPEAKER. The time of the gentleman from Wyoming has expired.

Mr. MADDEN. Mr. Speaker, I would like a minute or two in order to ask the gentleman a question.

The SPEAKER. Request is made that the time of the gentleman from Wyoming be extended two minutes. Is there objection?

There was no objection.

Mr. MADDEN. I want to know whether the Government of the United States does not own all the land described in this bill?

Mr. MONDELL. Yes.

Mr. MADDEN. It has dedicated it to the two cities of Colorado Springs and Manitou?

Mr. MONDELL. Yes.

Mr. MADDEN. And the gentleman favors the dedication of this land to the cities without any protection whatever, so that if at some future time the Government of the United States should find itself in a position where it ought to repeal or amend or modify the bill, it should recompense the people to whom it had dedicated the land for any investment that they may have made on Government property? Is that it?

Mr. MONDELL. The gentleman has fallen into a curious error and therefore makes a curious misstatement.

Mr. MADDEN. I am asking the gentleman a question.

Mr. MONDELL. He says I am objecting to the Government protecting itself. Not at all. The Government has nothing to protect itself in further than it has protected itself by the amendment offered by the gentleman from Illinois [Mr. MANN]. What I am objecting to is the proposition that the bill shall be so amended that the cities shall have no protection, although the Government may confiscate all their property. That is all there is to it. Of course, if the gentleman thinks the Government should hold land from use by its citizens or not allow them to use it, or, if it does allow them to use it, provide that it shall be under conditions that are impossible—if that is the gentleman's notion of a proper Government policy, he wants to get a fairer and more accurate notion of the Government. We have a law under which the city could secure all these rights in perpetuity, and we are now giving them the lands under a permit revocable at the will of Congress, but we say that if Congress repeals the permit in a way to confiscate or injure the property it certainly will do it with the idea of using that property itself in some other way, and therefore it ought to pay for it.

Mr. MADDEN. The gentleman concedes that the property belongs to the Government, does he not?

Mr. MONDELL. Nothing belongs to the Government but the land.

Mr. MADDEN. Well, the land.

Mr. MONDELL. The improvements that will be placed upon it will belong to the people of Colorado Springs and Manitou.

Mr. MADDEN. These people who want to make these improvements understand that they can not make them unless the Government of the United States concedes to them the right to use this property.

Mr. MONDELL. And I assume that the gentleman would not have the people of the West placed in such a position that they could not improve their country except under a permit that could be revoked the day after, thereby confiscating all the improvements they had made.

Mr. MADDEN. Most people in other sections of the country improve property which they buy.

Mr. MONDELL. These people were perfectly willing to buy this land, and wanted to buy it, but the Government did not want to sell it.

Mr. MADDEN. The Government has the right to refuse to sell it, and it has the right to impose conditions.

The SPEAKER. The time of the gentleman has again expired. The question is on the amendment of the gentleman from Illinois [Mr. FOSTER] to the amendment of the gentleman from Illinois [Mr. MANN].

The amendment of Mr. FOSTER to the amendment was rejected.

The SPEAKER. The question is on the amendment of the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

PARK LAND, BOULDER AND CANON CITY, COLO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 19339) granting public lands to the cities of Boulder and Canon City, in the State of Colorado, for public-park purposes.

The bill was read, as follows:

Be it enacted, etc., That there is hereby granted and conveyed to the following-named municipal corporations in the State of Colorado for public-park purposes, and for the use and benefit of the respective cities, the following-described land, or so much thereof as said cities may desire, to wit:

To the city of Canon City, county of Fremont, section 10, township 19 south, range 71 west of the sixth principal meridian, containing 640 acres, more or less.

To the city of Boulder, county of Boulder, the east half of the southeast quarter of section 11; west half of section 13; east half of the northeast quarter, east half of the southeast quarter, and southwest quarter of the southeast quarter of section 14; east half of section 23; northwest quarter and the west half of the southwest quarter and the northeast quarter of the southwest quarter of section 24; all in township 1 south, range 71 west of the sixth principal meridian.

Provided, That this act shall be subject to all the conditions and the same provisions as are contained in section 2 of an act entitled "An act granting public lands to certain cities and towns in the State of Colorado for public-park purposes," approved June 7, 1910 (36 U. S. Stats., 459).

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I call the attention of the gentleman to the fact that this bill starts out as a direct grant, which, as I remarked with reference to another bill to-day, is a conveyance, and requires no patent. The latter part of the bill then proposes that a patent shall be issued, by reference to another law. Has the gentleman any objection to changing the first part?

Mr. TAYLOR of Colorado. No; I have no objection to making the same change that you made in the other bill. I will simply say to the gentleman from Illinois that this act follows the identical language of the act of 1910, by which these other towns got their park land.

Mr. MANN. I am aware of that.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, do I understand that this land is to be conveyed only for park purposes?

Mr. TAYLOR of Colorado. That is what the bill says.

Mr. MANN. That is not what it says, and that is why I asked the question. It says, "For park purposes and for the use and benefit of the respective cities."

Mr. TAYLOR of Colorado. I am willing to strike out the word "and," if that is the question. That is all they want it for. You can strike out the word "and" and the comma.

Mr. MANN. Yes; so as to make it "for park purposes." Of course the department recommended the provision be inserted reserving the oil and mineral rights. Is the gentleman willing to accept the same sort of amendment that went into the last bill?

Mr. TAYLOR of Colorado. Yes.

Mr. FOSTER. And is the gentleman willing to accept the same amendment that I offered to the amendment of the gentleman from Illinois?

Mr. TAYLOR of Colorado. No; I would not want to accept that amendment.

Mr. FOSTER. Then I will object.

Mr. MANN. I will say that I do not think there is the same objection to inserting the amendment offered by my colleague in this bill that there was in the other bill.

Mr. TAYLOR of Colorado. I do not think there is, except there is no expenditure here.

The SPEAKER. Does the gentleman from Illinois [Mr. FOSTER] withdraw his objection?

Mr. FOSTER. Yes; I will reserve the right to object.

Mr. TAYLOR of Colorado. I would like to ask the gentleman from Illinois if he is going hereafter to insert this provision in all the bills or is he simply making an example of me?

Mr. FOSTER. Oh, no; I have the kindest feeling for the gentleman and the great State of Colorado; but I have some consideration for the people whom I represent.

Mr. MANN. I can say to the gentleman from Colorado that if both my colleague and myself did not have the kindest regard for the gentleman from Colorado we would not have let the bill which has just passed go through which gave the city of Colorado Springs and Manitou a large amount of land to be policed and watched for fire at the Government expense.

Mr. TAYLOR of Colorado. I do not think so. I do not object to this amendment. There is no expenditure of money about this. It is a barren piece of ground and has lain there for 40 years, waste land.

Mr. FOSTER. But you can not tell what it will be worth 40 years from now.

Mr. TAYLOR of Colorado. I have no objection to the amendment going in.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask that this bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Colorado asks that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I move to amend, in line 3, page 1, by striking out the words "there is hereby granted and conveyed" and insert in lieu thereof the words "the Secretary of the Interior is hereby authorized to convey."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 3, strike out the words "there is hereby granted and conveyed" and insert in lieu thereof the words "the Secretary of the Interior is hereby authorized to convey."

The amendment was agreed to.

Mr. MANN. Now Mr. Speaker, I move to strike out, in line 5, the comma and the word "and."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 5, strike out the comma after the word "purposes" and the word "and" immediately following.

The amendment was agreed to.

Mr. MANN. I move to amend by adding a new section, "Section 2. The right to alter, amend, or repeal this act is hereby expressly reserved."

Mr. FOSTER. And, Mr. Speaker, I move to amend the amendment by adding the following: "And the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested."

The SPEAKER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The SPEAKER. The question now is on agreeing to the amendment as amended.

Mr. MANN. Mr. Speaker, a part of this land has been covered by patents.

Mr. TAYLOR of Colorado. There is a clause here which reserves all that.

Mr. COOPER. Mr. Speaker, I desire to ask the gentleman if there is any provision in this bill by which if the land is not used for park purposes it shall revert to the Government.

Mr. TAYLOR of Colorado. Yes; that provision is in the bill. The gentleman will see it in the report on page 3:

And that if the said lands shall not be used as public parks the same or such parts thereof not so used shall revert to the United States.

Mr. COOPER. Is the gentleman reading from the report?

Mr. MANN. That is in section 2 of the act referred to in the proviso. This is made subject to the provisions of that law.

Mr. MONDELL. Mr. Speaker, I understand that an amendment has been offered by the gentleman from Colorado reserving the right to alter, amend, or repeal this law, and that a supplementary amendment has been offered by the gentleman from Illinois [Mr. FOSTER], providing that the United States shall not be liable under this act. I desire to call the attention of the House to the fact that this is a sale of land at $1.25 an acre. We are selling these town lands at $1.25 an acre. It is to be their land after it is purchased. It is an outright sale of land for park purposes, rocky, broken, mountainous land, of no value for anything but park purposes; but out of an abundance of caution we reserve to the United States all the coal and oil that may be under the land, and the right to enter for the purpose of extracting these minerals from the land.

It does seem to me that when we sell land and charge for it it is scarcely fair or reasonable or equitable to reserve the right to alter or amend or, in other words, to take back the bargain. Either the Government ought to sell these lands to these towns or it ought not to. The reservation in itself is in my opinion ridiculous, but it is in the other bill. It was insisted upon, and it went in because the people responsible for the legislation could not help themselves. They either had to accept it or not get the legislation, which is often the case, and now it is proposed to burden these other reservations with more reservations. I doubt if any city or town anywhere would care to buy public land at the ordinary public-land price of one dollar and a quarter an acre with a reservation to the Government of all the mineral in the land, and then have a string attached to the patent under which the Government can jerk it back any time, confiscate all of the improvements on the land, and double clinch and copper rivet the thing by a provision that if that is done the Government shall not be responsible for its nefarious acts. I do not believe the gentlemen really intended to do that.

Mr. MADDEN. Does the gentleman think that the Government ever acts nefariously?

Mr. MONDELL. I do not believe the gentlemen really intended that these amendments shall apply to this sort of a transfer of property. I doubt whether either of the gentlemen realizes the conditions of this sale, for it is a straight-out sale of land for one dollar and a quarter an acre.

Mr. MANN. The gentleman may except me from that. I have a memorandum of the whole thing right here.

Mr. MONDELL. I can not understand why the gentleman from Illinois [Mr. MANN], now for the first time in the history of the Government, proposes to put such a provision into a bill providing for a sale and transfer of real estate by the Government, rocky, broken, comparatively worthless mountain land, to municipalities, not to individuals or grasping corporations, but to some good people who have associated themselves together in a municipal corporation and who desire to beautify the surrounding territory.

We charge them one dollar and a quarter an acre. That of itself is not a very reasonable proceeding on the part of a great Government under the circumstances. We reserve all sorts of minerals that are not present out of excess of caution. We charge all that we charge anybody if we did not reserve the minerals. It is now proposed that the city shall buy, if they do buy, with the understanding that day after to-morrow we could take it all back and not repay the dollar and a quarter for the land, not reimburse them for any improvements they may have placed upon it; and in order to fix it so that there will be no getting away from it, the gentleman from Illinois proposes to put in the bond to exact the pound of flesh and the blood that flows with it. I can not believe that the gentlemen really want that sort of an amendment adopted.

Mr. MANN. Mr. Speaker, this bill proposes to grant to the city of Boulder 1,200 acres of land for park purposes. The city of Boulder is not a very large city. It has heretofore acquired at one time from the Government for park purposes 139 acres, at another time 1,601 acres, at another time 1,524 acres. One would suppose that the city of Boulder was well supplied with land for park purposes, when it has in the neighborhood of more than 3,000 acres for that purpose, not quite an acre to a man, but at least more than an acre to 10 men. A portion of the land that is now proposed to be conveyed at $1.25 an acre has heretofore been reserved by the Government for power purposes. The gentleman from Wyoming, who does not believe the Government ought to have any control over power purposes, did not mention that fact. This land is already reserved by the Government under an act of Congress for power purposes, and the gentleman proposes to take it out of the hands of the Government for power purposes. My amendment proposes to leave the control of it in the hands of the Government for power purposes. The well-known animosity of the gentleman from Wyoming against any control of the Government over the Government lands in the Western States does not need further comment.

Mr. MONDELL. There is no animosity on the part of the gentleman from Wyoming against the people of a municipality developing water power and using it.

The SPEAKER. The time of the gentleman from Wyoming has expired.

Mr. TAYLOR of Colorado. Mr. Speaker, I merely want to state that the city of Boulder is the seat of the State university. It is one of the prettiest cities in the West. The residents of the city and the State generally are trying to make it one of the most attractive and important educational centers of this country. This park will be an additional feature and will materially add to the scenic attractiveness of the city. This mountain to which you refer is simply a kind of amphitheater around the city which is covered by a growth of pinon, or, rather, scrubby pine trees. If this land was worth anything, it would have been taken in private ownership 30 years ago. The city simply wants this tract of mountain side to prevent anybody acquiring it and removing these trees, and thus disfiguring the background and surroundings of the city. The gentleman is mistaken about this park for the city of Boulder having a water-power reservation. That is in the Canon City park bill. That is in a canyon off from Canon City. The land is worthless for any other purpose. The authorities are building a road to it by convict labor and beautifying it as a drive and an outing place.

Mr. MANN. What mistake did I make about the city of Boulder? I read from the report on this bill that the city of Boulder had acquired for park purposes the amount of land to which I have referred.

Mr. TAYLOR of Colorado. Certainly; but, as I was stating, the power site is not in the proposed Boulder park, but it is in the Canon City park.

Mr. MANN. It is in this bill.

Mr. TAYLOR of Colorado. Oh, yes; but the Government's rights are all reserved in the bill. The mayor and city council of Boulder filed with the committee a memorial in support of this bill, which in part reads as follows:

Your memorialists, the mayor and city council of said city of Boulder, respectfully represent that the lands hereinbelow described are in the mountains or foothills west of and near to our city and adjoin the lands heretofore granted to our city by the act of Congress of February 28, 1899, and are of almost no value except for the sparse growth of native trees thereon.

They are necessary to round out and complete the lands that ought to be included in the park lands of the city and to prevent, so far as possible, the beauty of the foothills within sight of the city being spoiled by the destruction of the timber thereon; that much of the native timber formerly growing on the lands herein asked for has been cut off in the early years of settlement of said county, and that only a small proportion thereof now remains, chiefly small pine and spruce trees and entirely unfit for lumber or building purposes; that this small remainder is being constantly diminished by trespassers for firewood and by careless setting out of fires; that it will be an advantage to the inhabitants of this city, and of this county that said remaining trees be, if possible, protected and preserved; that if the Government will grant said lands to our city for the preservation of said remaining trees, our city will take pleasure and exercise its best endeavors in caring for and preserving the trees now remaining on said lands, and will plant and encourage the planting of other trees thereon; that said lands are near to and of easy access from our State university and contain no mines or minerals or any mining claims of any known value; that said lands have been open to settlement under the land laws of the United States for more than 50 years, but that no one up to this date has filed on or claims any of said lands.

We therefore respectfully request you, if in harmony with your duties as officers of the Government, to present and, if practicable, to secure the passage of a bill granting to the city of Boulder, in the State of Colorado, the lands herein described for park purposes and for the preservation of the native trees on said lands.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN] as amended by the amendment offered by the gentleman from Illinois [Mr. FOSTER].

The question was taken, and the Speaker announced the ayes seemed to have it.

On a division (demanded by Mr. MONDELL) there were—ayes 32, noes 1.

So the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

EXCHANGE OF CERTAIN LANDS WITH THE STATE OF MICHIGAN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 4012) to authorize the exchange of certain lands with the State of Michigan.

The Clerk read as follows:

A bill (H. R. 4012) to authorize the exchange of certain lands with the State of Michigan.

Be it enacted, etc., That, upon the request of the Secretary of Agriculture, the Secretary of the Interior shall accept on behalf of the United States the relinquishment or conveyance to the United States, by or from the State of Michigan, of any lands covered by its unperfected claims under the land laws of the United States, or of any lands owned or controlled by the State of Michigan which the said State of Michigan is willing to relinquish or convey to the United States, and which, in the opinion of the Secretary of Agriculture, should be included in, or made a part of, or set aside as and for a national forest in said State; and upon such acceptance the lands so relinquished or conveyed shall immediately, and by force of this act alone, be reserved and set aside as national-forest lands, and is hereby made subject to all the laws affecting other national forests.

SEC. 2. That the State of Michigan is hereby authorized to select, in lieu of any lands relinquished or conveyed to the United States under the foregoing provisions of this act, other lands of equal area and approximately equal value from any part of the unappropriated public lands in said State, including lands within a national forest and lands withdrawn from entry without other special reservation. A description of the lands selected, together with a description of the lands relinquished or conveyed, or intended to be relinquished or conveyed under this act, shall be filed with the Secretary of Agriculture: *Provided*, That the question as to whether any lands intended to be relinquished or conveyed under the provisions of this act are approximately equal in value to the lands selected and whether the mutual exchange of said lands would be beneficial to the public interests subserved by the national forests in the State of Michigan shall be determined by the Secretary of Agriculture.

SEC. 3. That upon the certification of the Secretary of the Interior by the Secretary of Agriculture that the lands selected and the lands relinquished or conveyed are of equal value, and that the exchange of said lands would be beneficial to the administration of the national forests in the State of Michigan, the Secretary of the Interior shall determine, in accordance with the rules and regulations to be prescribed by him, whether the lands selected by the State are unappropriated lands, and if so found he shall issue a patent for said selected lands to the State of Michigan: *Provided*, That no deed or other instrument of conveyance shall be accepted by the United States until the Attorney General of the United States shall certify that a good and sufficient title to such lands is vested in the United States.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I understand that this bill is to permit the State of Michigan and the Government to exchange lands in their forest reservations so that the State may have a forest reserve in a compact body and the Government in the same manner.

Mr. YOUNG of Michigan. That is correct.

Mr. MANN. Now, the original bill provided for the relinquishment by the State of its unperfected claims under the land laws of the United States or of any lands controlled by the State. The committee proposes to strike out by amendment the unperfected claims, and so forth, and leave in the words "relinquishment or." Is there any land which the State can relinquish to which it has a perfect title? If it owns land, it conveys by conveyance, does it not?

Mr. YOUNG of Michigan. Mr. Speaker, there is no land in the State of Michigan to which those words would apply.

Mr. MANN. Then I suppose there is no objection to striking them out.

Mr. YOUNG of Michigan. There will be no objection to striking them out. I will say to the gentleman that this bill, in its original form, was framed in the Department of Agriculture. It was then submitted to the Secretary of the Interior, who made certain criticisms upon it. It was then resubmitted to the Secretary of Agriculture, with the criticisms of the Secretary of the Interior, and to these criticisms the Secretary of Agriculture agreed and expressed a willingness that the changes should be made, and it was the intention of the Committee on Public Lands to make the amendments in the act as suggested by the Secretary of the Interior, but through inadvertence it left in the words "relinquishment or" or "relinquished or" in a good many places in the bill, and if no objection is made to the consideration of the bill it is my purpose, when the time comes, to ask that those words be stricken out.

Mr. MANN. Now, then, one more question, or, maybe, two: Section 2 of the bill proposes that before the selections made by the State are carried into effect by conveyance from the Government the Secretary of Agriculture must approve the selection.

Mr. YOUNG of Michigan. Absolutely.

Mr. MANN. But it reads:

That the State of Michigan is hereby authorized to select in lieu of any lands relinquished or conveyed.

Ought it not to be that the State of Michigan is authorized to make application to select?

Mr. YOUNG of Michigan. Of course, the selection would not be valid until it was agreed to on the part of the authorities of the United States, as provided for in section 1.

Mr. MANN. That is one of the criticisms the Secretary of the Interior makes of this bill, and it occurred to me possibly if the State of Michigan should file a selection of a particular part of land and it was not approved there might be a cloud upon the title to that land.

Mr. YOUNG of Michigan. I have no objection to the suggestion of the gentleman.

Mr. MONDELL. If the gentleman from Illinois will notice, the word "shall," in line 4, page 1, is stricken out and the word "may" inserted.

Mr. MANN. I do not think that makes a particle of difference.

Mr. MONDELL. It makes a very great deal of difference.

Mr. MANN. Not from the standpoint of a lawyer, it does not.

Mr. MONDELL. It simply provides that the Secretary may accept. He is not required to accept anything.

Mr. MANN. I think he is. When the Secretary of Agriculture makes certification the Secretary of the Interior has nothing further to do except to make patent under section 3 of the bill. I do not think it makes any difference at all. "May" means "shall" under ordinary circumstances, and I do not thinks it makes any difference here.

Mr. YOUNG of Michigan. I have not any objection to the amendment the gentleman suggests.

Mr. MANN. The gentleman understands that I do not object to the consideration of his bill in any event. I was going to suggest that there should be inserted in line 9, before the word "select," page 2, the words "make application to," and in line 15, the words "so applied for."

Mr. MONDELL. Where is that?

Mr. MANN. To read:

A description of the land so applied for shall be filed with the Secretary of Agriculture.

Instead of a description of the land selected.

Mr. YOUNG of Michigan. I have no objection to that.

Mr. MANN. I will be frank and say that I do not know whether it makes any change, but I notice the department made

that objection as though it did amount to something coming from the Interior Department, and as it was not intended to have a selection amount to anything until it was approved by the Secretary of Agriculture, I do not see what objection there could be to the change.

Mr. MONDELL. As a matter of fact, there is no objection to the change except an objection that the change proposed is not uniform with the language generally used relative to State selections and in all general selections of that sort. I do not know as there is any objection to changing the language, but the word "selected" is generally used. The State selects and the Secretary of the Interior confirms the selection.

Mr. MANN. But it is not purely a matter of discretion on his part, like it is here with the Secretary of Agriculture. Where the State selects lieu lands for base lands, if it selects under ordinary conditions, the Secretary is bound to use the patent.

Mr. MONDELL. There are conditions in every case, as the gentleman knows. They may not be the same character of conditions, but there are always conditions.

Mr. MANN. But this is made on the recommendation or certification of the Secretary of Agriculture. Does the gentleman himself feel perfectly clear under such circumstances that if the State should file a notice of selection which was not approved by the Secretary of Agriculture that that would leave the title to that piece of property perfectly clear?

Mr. MONDELL. I do not think it would. I have no objection to the amendment.

Mr. MANN. The gentleman from Wyoming [Mr. MONDELL] is my authority upon questions relating to public lands, where the Western States are not trying to set off and get everything themselves. If he thinks that makes no difference, I will take his opinion in preference to the opinion of the Interior Department.

Mr. MONDELL. I am inclined to think the language used is more nearly in harmony with the language ordinarily used in cases of this kind than the language suggested, and I do not believe there would be any difficulty about it, although I do not believe there would be any objection to our accepting the amendment proposed.

Mr. MANN. I am calling it to the attention of the gentleman. The Secretary of the Interior did not make the matter very plain. He says:

> The first sentence of section 2 would imply a right in the State to select. The provisos to section 2 and section 3 seem to make this right subject to the approval of the Department of Agriculture. If this is intended it is suggested that after the word "to" in line 8, page 2, there be inserted the words "apply to."

Inserting the words "apply to" would not make sense, so far as that is concerned, and yet the purpose the Secretary had in making his report I have been trying to carry out in the language proposed.

Mr. MONDELL. The State selection in itself attaches no right whatever to the land, would not in this case, and does not in any case; and the act goes on to say that the State is authorized to select—that is, to give a description of the lands they desire in lieu of the lands relinquished under the foregoing provisions of this act. That is to give the description of the land they desire in lieu of lands relinquished under the foregoing provisions of this act. One of the provisions of this act is that they are lands which in the opinion of the Secretary of Agriculture should be included in or made a part of or set aside as a national forest.

Mr. MANN. That is not the lands selected. That is the lands conveyed to the Government.

Mr. MONDELL. I understand.

Mr. MANN. That is not the same proposition at all. The State does not select the lands for the Government. The State selects the lands now owned by the Government.

Mr. MONDELL. I understand it does and the Government need not make the exchange unless it sees fit to.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. YOUNG of Michigan. Mr. Speaker, this bill is on the Union Calendar. I ask unanimous consent that it be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Michigan [Mr. YOUNG] asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The Clerk will report the first amendment.

The Clerk read as follows:

> Page 1, line 4, strike out the word "shall" and insert in lieu thereof the word "may."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

> Page 1, lines 7 and 8, strike out the words "covered by its unperfected claims under the land laws of the United States, or of any lands."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

> Page 1, line 8, strike out the words "or controlled."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

> Page 2, line 6, strike out the words "is hereby made" and insert the word "be."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read the next committee amendment, as follows:

> Page 2, lines 13 and 14, strike out the words "and lands withdrawn from entry without other special reservation."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read the next committee amendment, as follows:

> Page 3, lines 14 and 15, insert, after the word "States," in line 14, the words "by said conveyance."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. Mr. Speaker, I now move to strike out the words "relinquishment or," in line 5, page 1, and the words "relinquish or" and "relinquished or" wherever they appear in the bill.

The SPEAKER. It would be best to take them up separately. The Clerk will read the first one.

The Clerk read as follows:

> Page 1, line 5, strike out the words "relinquishment or."

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. The next one is on line 10.

The Clerk read as follows:

> Page 1, line 10, strike out the words "relinquish or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. The next one is on line 4 of page 2.

The Clerk read as follows:

> Page 2, line 4, strike out the words "relinquished or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. The next amendment is on page 2, line 9, to strike out the words "relinquished or."

The Clerk read as follows:

> Page 2, line 9, strike out the words "relinquished or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. The next is on line 16.

The Clerk read as follows:

> Page 2, line 16, strike out the words "relinquished or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. The next is on lines 16 and 17.

The Clerk read as follows:

> Page 2, lines 16 and 17, strike out the words "relinquished or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. The next is on line 19.

The Clerk read as follows:

> Page 2, line 19, strike out the words "relinquished or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. YOUNG of Michigan. Mr. Speaker, on page 3, line 3, I move to strike out the words "relinquished or."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 3, strike out the words "relinquished or."

The amendment was agreed to.

Mr. MANN. Mr. Speaker, I think the word "of," in line 1, page 3, ought to be "to." It should be on certification "to" the Secretary of the Interior, instead "of" the Secretary of the Interior, by the Secretary of Agriculture.

Mr. YOUNG of Michigan. That is true. Let the gentleman offer the amendment.

Mr. MANN. On page 3, line 1, I move to strike out the word "of" and insert the word "to" where it first occurs.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 3, line 1, strike out the word "of" where it first occurs and insert the word "to."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

LAND TO SALT LAKE CITY, UTAH, FOR RESERVOIR PURPOSES.

The next business on the Calendar for Unanimous Consent was the bill (S. 7002) to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to grant to Salt Lake City, Utah, under the provisions of section 4 of the act of February 1, 1905 (33 Stats., 628), a right of way on and over section 34, township 2 south, range 3 east, and sections 2 and 3, township 3 south, range 3 east, in Big Cottonwood Canyon, within the Wasatch National Forest, Salt Lake City land district, Utah, which lands have heretofore been reserved for reservoir purposes under and by virtue of the act of October 2, 1888 (35 Stats., 505).

The SPEAKER. Is there objection?

Mr. FINLEY. Mr. Speaker, reserving the right to object, I should like an explanation of the bill.

Mr. ROBINSON. Mr. Speaker, the bill is designed to grant to the city of Salt Lake, Utah, under the provisions of existing law, a right of way over section 34, township 2 south, range 3 east, and sections 2 and 3, township 3 south, range 3 east, in Big Cottonwood Canyon, within the Wasatch National Forest, Salt Lake City land district, Utah, which lands have heretofore been reserved for reservoir purposes under and by virtue of the act of October 2, 1888. The city of Salt Lake finds it necessary to secure a right of way for waterworks over these lands, and this bill grants that right of way. If any further explanation is desired by the gentleman, I shall be glad to make it.

Mr. FINLEY. Mr. Speaker, my recollection is that bills of this character have been strenuously objected to by the gentleman from Illinois [Mr. MANN], but from the explanation given I can see no objection to the bill myself.

Mr. MANN. I never have objected to a bill of this character since I have been on earth.

Mr. FINLEY. The gentleman has not been on earth recently, then.

Mr. MANN. I have, but the gentleman has not.

The SPEAKER. Is there objection?

There was no objection.

Mr. HOWELL. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I move to amend page 2, line 3, by striking out the word "thirty" and inserting the word "twenty." The citation is erroneous.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 3, strike out the word "thirty" and insert the word "twenty."

Mr. MANN. It is not necessary to cite the statute, but when you do cite it you ought to get nearer than within 10 volumes of it.

The amendment was agreed to.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

EXTENSION OF CERTAIN HOMESTEAD RIGHTS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5309) to amend section 3 of the act of Congress approved May 14, 1880 (21 Stat. L., p. 140).

The bill was read, as follows:

Be it enacted, etc., That section 3 of the act of Congress approved May 14, 1880 (21 Stat. L., p. 140), be, and the same is hereby, amended by adding thereto the following:

Provided, That any settler upon lands theretofore designated by the Secretary of the Interior as subject to the provisions of sections 1 to 5 of the enlarged-homestead acts of February 19, 1909 (35 Stat. L., p. 639), and June 17, 1910 (36 Stat. L., p. 531), shall be entitled to the preference right of entry accorded by this section, provided he shall have plainly marked the exterior boundaries of the lands claimed as his homestead: *And provided further*, That after the designation by the Secretary of the Interior of public lands for entry under the non-residence provisions of the enlarged-homestead acts of February 19, 1909, and June 17, 1910, any person who shall have plainly marked the exterior boundaries of the lands claimed under said provisions of law and made valuable improvements thereon shall have a preference right to enter the lands so claimed and improved at any time within three months after the date on which such lands become subject to entry; but such right shall forfeit unless the settler or claimant under the provisions of the enlarged-homestead acts shall annually cultivate and improve the lands in the form and manner and to the extent therein required following date of initiation of his claim hereunder: *And provided further*, That this act shall apply to all claims, locations, or entries made under the above-mentioned acts, where no adverse claims have intervened.

The SPEAKER. Is there objection?

Mr. FINLEY. Reserving the right to object——

Mr. MANN. Reserving the right to object, I should like to know whether I understand this bill. Four men have each taken up 160 acres, surrounding another 160 acres. As I understand the bill, it is intended to let any one of those four men mark the boundaries on that 160 acres and thereby secure a preference right.

Mr. MONDELL. Yes.

Mr. MANN. Which one of the four is entitled to the preference?

Mr. MONDELL. The one who first exercises it.

Mr. MANN. Under what right?

Mr. MONDELL. Under the general rule of priority which prevails in all of the land laws of the United States.

Mr. MANN. Where that right prevails it prevails because it is conferred by statute.

Mr. MONDELL. Not in all cases, by any manner of means.

Mr. MANN. There is no priority unless it is given by statute.

Mr. MONDELL. The gentleman does not mean that. Two homestead settlers under the law as it now stands may go on the same piece of land at approximately the same time, and the question of priority of settlement is the question always. In a thousand land cases that arises under the law, as it did in the Oklahoma rush cases.

Mr. MANN. That is what the law provides—that the one who gets there first and stays there is entitled to it.

Mr. MONDELL. That is what this provides; this is an extension of the priority right.

Mr. MANN. I am not going to object to the bill, I will say to the gentleman, for that reason.

Mr. MONDELL. It is not an objection.

Mr. MANN. It would be to anyone who wanted to provide in advance against litigation, for as sure as the sun rises tomorrow there will be trouble over this.

Mr. MONDELL. There can not be over this more than over the general provision to which this is a proviso.

Mr. MANN. It is not a proviso to anything of the sort; there is no preference given now to these people.

Mr. MONDELL. Not to this class.

Mr. MANN. So it is not an amendment to any proviso; it is a proposition to enact a new law which, it seems to me, possibly unobjectionable, gives to the man who is there a preference right to take the land adjoining what he already has. It gives each one of the four a preference right to take a particular tract of land.

Mr. MONDELL. It gives the man who does the thing required to establish his right the priority.

Mr. MANN. It gives the man who shall plainly mark the exterior boundaries the preference.

Mr. MONDELL. It gives it to the man who first marks it.

Mr. MANN. No; it does not say so and it does not mean so; the man who first marked it might withdraw his mark. It does not mean him, it means any one of the four who marks it. It will require one of those peculiar opinions in the Interior Department which the gentleman blames the department for making, but which in this case they will be compelled to make, not because of their lack of understanding, but because of our lack of understanding.

Mr. MONDELL. I must frankly acknowledge that this is a Senate act drawn by the department. The gentleman from Wyoming is constantly getting himself into trouble by mildly criticizing bills drawn by the department. Some people have been unkind enough to suggest that the gentleman from Wyo-

ming is never satisfied with the phraseology of acts drawn by the department. In order to avoid that I am frank to say that I amend the department bills as little as I possibly can and have them understandable.

Mr. MANN. If that is the reason the gentleman takes that position I will give him some little information. The language which I have referred to is in the first proviso in the bill, and the department, in reporting upon the bill, says:

Before giving consideration to the questions propounded in your letter I wish to state that the third and last proviso to the bill as it passed the Senate was not upon the bill as it was reported upon by this department to the Senate Committee on Public Lands.

Mr. MONDELL. We struck that proviso out.

Mr. MANN. The gentleman is right. I thought it referred to the first proviso.

Mr. MONDELL. That is the one that we have stricken out. The bill came to us from the Senate, and it was not very clear to some gentlemen on the Public Lands Committee, so the chairman wrote a letter to the department, in order that we might have their construction of it before we passed it, and the letter from which the gentleman reads construes the act in advance to a certain extent.

Mr. MANN. Yes; and expressly says in the report that nobody knows who would have the preference right in the case I have suggested. They do not make it quite so clear as I do.

Mr. MONDELL. We did not so interpret it.

Mr. MANN. It is there, nevertheless.

Mr. FINLEY. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. FINLEY. How much land will be affected by the passage of this bill?

Mr. MONDELL. It is difficult to say how much. It is simply a modification of the law that has been on the statute books for many years giving the settler who goes on the public domain a preference right for three months in which to locate his claim in the land office.

Mr. FINLEY. The gentleman says a preference right for three months. Does the gentleman think it is necessary to give the settler three months?

Mr. MONDELL. That has been held to be necessary ever since we had the homestead law.

Mr. FINLEY. But the gentleman proposes to change it now?

Mr. MONDELL. No; we simply extend it to this class of settlers.

Mr. FINLEY. Does not the gentleman think that a bill of this character involving the public domain should come up and be considered in the House on a call of committees?

Mr. MONDELL. I have never heard anyone in the committee or out of it or on the floor doubt the wisdom of the legislation. The propriety of it is apparent to anybody. It simply brings under the general law this additional class of homestead entrymen. The provision is one so well understood and the propriety of giving this class of settlers the right that all others have is so clear that I do not think anyone has objection to it.

Mr. FINLEY. Does not the gentleman think that all homesteaders should have the same rights?

Mr. MONDELL. That is what this law is for. It is to give this new class of homesteaders the same rights which all other homesteaders have, so that if a man goes and settles on a piece of public land he shall have 90 days within which to file his claim in the local land office, so that some one else who does not go upon the land and put improvements upon it may not be able to go to the land office and file a claim in advance of him.

Mr. FINLEY. The gentleman thinks the homesteader should have the right to settle on a piece of land without taking the preliminary steps to homestead?

Mr. MONDELL. That is the fundamental principle of the homestead law. It has been in the homestead law from the beginning. As a matter of fact, it was the origin of the homestead law. Originally settlers went upon the land, picked out the piece they wanted and put their families there, and then went off to the land office. The settler does not want somebody to make an entry on the land while his family is there and he is on the way to the land office. Some other man might have a swifter horse than he.

Mr. FINLEY. When was this bill first introduced, in this Congress or the last Congress?

Mr. MONDELL. This bill was introduced some time ago.

Mr. FINLEY. This is the first Congress that the bill has ever been introduced in?

Mr. MONDELL. It could not have been introduced in the last Congress because we have only provided for this class of homesteaders in this Congress.

Mr. FINLEY. Mr. Speaker, I think this bill ought to be considered in the regular way, on a call of committees, and I object.

Mr. CANNON. Mr. Speaker, will the gentleman from South Carolina withhold his objection for a moment? I just want to ask a question. This enlarged homestead law largely applies to the sand lands in western Nebraska and elsewhere?

Mr. MONDELL. It applies to lands that are so poor that nobody will take them under the ordinary homestead law.

Mr. CANNON. Does the gentleman know whether the Representative from Nebraska, Mr. KINKAID, approves of this legislation?

Mr. MONDELL. The enlarged homestead does not apply to Nebraska at all, because there is a still larger homestead which applies to that State.

Mr. Speaker, I hope the gentleman from South Carolina will not object to allowing the matter to go over without prejudice, if he has any question in his mind at all.

Mr. FINLEY. I have no objection to that.

The SPEAKER. The gentleman from South Carolina withdraws his objection, and the gentleman from Wyoming asks unanimous consent that the bill be passed over without prejudice. Is there objection?

Mr. MONDELL. Mr. Speaker, the gentleman from South Carolina withdraws his objection entirely——

The SPEAKER. But the gentleman from South Carolina withdraws his objection on a condition.

Mr. MONDELL. Very well; I accept that.

Mr. FINLEY. Otherwise I object.

The SPEAKER. The gentleman from Wyoming, on account of the situation, asks unanimous consent that this bill be passed over without prejudice. Is there objection?

There was no objection, and it was so ordered.

HOMESTEADERS ON UINTAH INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 6934) to provide an extension of time for the submission of proof by homesteaders on the Uintah Indian Reservation.

The Clerk read the bill, as follows:

Be it enacted, etc., That any person who has heretofore made a homestead entry for land which was formerly a part of the Uintah Indian Reservation in the State of Utah, authorized by the act approved May 27, 1902, and acts amendatory thereto, shall, upon application to the register and receiver of the land office in the district in which the land is located, and upon payment of 5 per cent of the price of said land, be allowed an extension of time of one year within which to submit proof on his entry and make payment therefor: *Provided*, That said 5 per cent shall be accepted as interest for said year, and shall be deposited in the Treasury to the credit of the Indians as a part of the proceeds received for the lands: *Provided further*, That any entryman may, upon the same conditions, obtain a second extension, and no more.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I notice that this allows anybody who has made a homestead entry prior to the date of the passage of the bill to obtain an extension. Is not this a little unusual to make the bill as broad as that?

Mr. HOWELL. Mr. Speaker, I think the bill follows the language of bills of this character that have been passed during this session of Congress. The intention of the bill is to relieve those homesteaders on the Uintah Reservation whose time of making proof is about to mature during the next few months.

Most of the homesteads on this reservation were taken up at the time it was opened for settlement in 1905. These lands were then subject to entry only under the homestead laws with the proviso that the entryman was required at the time of making final proof to pay $1.25 per acre. The preferential right to make a homestead entry was determined by a system of drawing. There was a rush to acquire lands in the beginning, and a great many people found it much more difficult to redeem the soil and bring it under successful cultivation than they expected.

Mr. MANN. If I remember correctly, when this was opened up we provided the land should be paid for all at once.

Mr. HOWELL. All at once, $1.25 an acre.

Mr. MANN. And this money is now coming due?

Mr. HOWELL. The homesteaders who first made entries will be required to make final proof some time this fall.

Mr. MANN. Of course this is to authorize an extension, and anyone who took a homestead entry to-day would authorize an extension probably five years from now.

Mr. HOWELL. That point was considered by the committee, and, inasmuch as the homesteader is required to pay 5 per cent interest on the deferred payment, it was thought that no one would be injured even if some of the later settlers should avail themselves of this provision.

Mr. BURKE of South Dakota. Mr. Speaker, reserving the right to object I desire to interrogate the gentleman for a moment. When this bill was considered in committee I suggested to the gentleman I thought it ought to be amended, and I want to call his attention to the provision in the last Indian appropriation act, which refers to the settlers upon the Uintah Indian Reservation. That provision is very short and reads as follows:

That any person who prior to March 1, 1909, made homestead entry for land in the Uintah Indian Reservation, in the State of Utah, under the act of May 27, 1902, and acts supplementary thereto, and who has not abandoned the same, may make commutation proof therefor, provided such person has fully complied with the provisions of the homestead laws as to improvements and has maintained an actual bona fide residence upon the land for a period of not less than eight months and upon payment thereof of $1.25 per acre: *Provided further*, That nothing contained herein shall affect any valid adverse claim initiated prior to the passage of this act.

Now, does not the gentleman think that if we pass this bill it ought to conform to that act? Otherwise you are going to have three different laws affecting the homesteaders upon the Uintah Reservation. I apprehend that the persons you are desirous of relieving are those settlers who went in there at the time of the drawing, at the time of the rush, and not the settlers who may go in there to-morrow, because under this bill anyone who makes an entry up to the time the law is approved by the President is granted a special privilege, seven years after that time, of still having two years to pay for his land. Does not the gentleman think it would be better, inasmuch as we have already passed one act—special legislation—authorizing these entrymen to acquire title to their land upon a residence of eight months, whereas the law requires 14, that we ought to limit this act to settlers who filed prior to March, 1909?

Mr. HOWELL. I will say to the gentleman from South Dakota that, under the existing law, lands in the late Uintah Reservation can be acquired without homesteading. The Secretary of the Interior is authorized to appraise the land and dispose of it to the highest eligible bidder at or above the appraised value The restriction as to disposing of the lands by homesteads continued for only five years after the lands were thrown open to settlement. In view of this provision for selling the land the paragraph mentioned was inserted in the Indian appropriation bill relaxing the conditions of the homestead law to the entryman.

Mr. BURKE of South Dakota. I will ask the gentleman if any lands that have not been disposed of in the Uintah Indian Reservation are now subject to homestead entry?

Mr. HOWELL. Undoubtedly they are. They are also subject to sale under the system of appraisement. After five years, if I remember the law aright, lands not then entered under the provisions of the homestead laws were subject to disposal by the Secretary of the Interior.

Mr. BURKE of South Dakota. It is more as to a question of precedent that I raised the question than to suggest an amendment in this particular case. You are legislating, so far as the Uintah Reservation is concerned, and saying that a man who makes a homestead entry now shall have a privilege which does not exist under the homestead laws, and it is a question of whether or not it is not a bad precedent.

Mr. HOWELL. Of course, this is primarily to relieve the situation of these first hardy settlers, who have battled against obstacles in making homes in that section of the country and whose final proof must be made during the next year or two. From the time these lands became subject to sale by the Secretary of the Interior I hardly believe that but few persons would apply to make a homestead entry. Since 1910 the lands can be purchased at practically the same value as exacted of the homesteader, and for that reason but few, if any, homesteads have been made recently.

Mr. BURKE of South Dakota. Does the gentleman think there have been, as a matter of fact, any homestead entries made since March, 1909?

Mr. HOWELL. I think very few, if any.

Mr. STEPHENS of Texas. Will the gentleman inform us what the climatic conditions are in Utah which make a necessity for extension at this time?

Mr. HOWELL. The Uintah Indian Reservation is an arid region. It is impossible to grow crops there without irrigation. Most of the streams are in deep canyons, and it has required an immense amount of labor and capital to bring the water out and render it available for irrigation. The settlers in that country have devoted themselves to the establishment of homes and the construction of irrigation systems by which to reclaim the country. When irrigated this section is very fertile and is being developed successfully, but it is comparatively unproductive without irrigation. You can not insure the growth of any valuable crop without it.

Mr. STEPHENS of Texas. Is it true that on some of the new lands it is easier to raise crops than on old lands?

Mr. HOWELL. I think that new land would require more water in the first place in order to properly irrigate it than later when the land became thoroughly saturated with water. I think this relief is very much deserved, and anyone who will go through that country and see the obstacles which the settlers have to contend with would freely and cheerfully extend the help asked. It is not at the expense of anyone. It simply means in this new country, where money is scarce and the homesteader is hard up for means, he is able to borrow from the Indian fund at 5 per cent interest, which does no injury.

Mr. STEPHENS of Texas. About how many families would be affected?

Mr. HOWELL. About 1,800. There have been some 2,300 applications made in the Land Office——

Mr. STEPHENS of Texas. I think the bill should become a law. We have frequently granted extensions of time in different parts of the country for the same reason, and I think this bill should pass.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

Mr. HOWELL. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Utah asks unanimous consent that the bill be considered in the House as in the Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

On page 2, insert a new section, as follows:
"SEC. 2. That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act.

Mr. RAKER. Mr. Speaker, I do not want to take the full five minutes on this matter, but I would like to ask the gentleman from Utah what is the purpose of this amendment? It seems to me if you are giving all these people the right of extending their time a year, and paying 5 per cent interest, you ought not to cut that out by this amendment and leave them all standing as they now stand.

Mr. BURKE of South Dakota. Mr. Speaker, the amendment was offered by me in the committee for this purpose: If a man is in default and a contest is brought against his entry, it is not the purpose of this legislation to dispose of that case.

Mr. RAKER. Why not?

Mr. BURKE of South Dakota. Well, I do not think we ought to do it.

Mr. RAKER. If he is in default on the payment, you are extending the time to these other people, and rightfully; and if somebody has slipped in in the night and caused him a contest, it seems to me we ought to give him the same right as anybody else.

Mr. BURKE of South Dakota. There are a great many things that would justify a contest. A contest might be based on the theory of compliance with the law, a matter of residence, and so forth.

Mr. RAKER. As far as payments are concerned this bill would not affect their other rights, but if a man has not paid up——

Mr. BURKE of South Dakota. It is practically an extension of the time within which he may make proof.

Mr. MONDELL. Let me suggest to the gentleman from California that in some cases persons might have paid their relinquishments and made entries, and if this provision was not in the bill the original entryman could go in there and demand his.

Mr. RAKER. That would not be anything wrong.

Mr. BURKE of South Dakota. In all these bills granting extensions and relief to settlers that provision has usually been incorporated as a part of the law.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, insert as a new section the following:
"SEC. 2. That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on the third reading of the amended Senate bill.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. HOWELL, a motion to reconsider the vote whereby the bill was passed was laid on the table.

INVESTIGATION INTO THE HIGH PRICE OF ANTHRACITE COAL.

The next business on the Calendar for Unanimous Consent was House resolution 578, directing the Secretary of Commerce and Labor to ascertain and report to the House of Representatives certain facts regarding the cost of anthracite coal and the increased demand upon the public consumer.

The resolution was read.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to make this suggestion to the gentleman from Pennsylvania [Mr. DIFENDERFER]: First, whether the resolution ought not simply to direct the Secretary of Commerce and Labor to make the investigation, leaving it to him to determine whether all or a part of it should be made through the Bureau of Labor or the Bureau of Corporations; second, whether the gentleman knows whether the Interstate Commerce Commission is now making an investigation of railroad rates on anthracite coal, which, if made, ought to be utilized in connection with any investigation like this, instead of doing it originally again.

Mr. DIFENDERFER. I think the gentleman is perhaps right in that. This resolution was introduced before we had any information on that subject.

Mr. MANN. I ask the gentleman whether he will not ask unanimous consent to pass over this resolution without prejudice until he can ascertain as to that matter? There will be plenty of opportunity for the passage of the resolution before the adjournment of Congress.

Mr. DIFENDERFER. The gentleman means it can come up in two weeks?

Mr. MANN. Yes; it can come up in two weeks, if we are in session at that time, and I am afraid we shall be.

Mr. DIFENDERFER. I am very anxious to have the matter brought up at this session, and I would be very much pleased to incorporate any amendment that the gentleman might suggest.

Mr. MANN. I have not the amendment, and I am not certain just what the amendment should be. I asked the question of the gentleman so that he might understand that it would be advisable to amend his resolution in that regard.

Mr. SABATH. Does not one department, as a rule, secure the information from the other, so if one department initiates such an investigation the other department to which the resolution was referred would inquire of that first department and obtain such information as it had secured by making the investigation?

Mr. MANN. I do not think, as a rule, the department making the investigation would go to the Interstate Commerce Commission for information, although I would not say they would not; but I am inclined to think that in making this investigation gentlemen will remember this: The Commissioner of Corporations has much greater power in making investigations than has the Commissioner of Labor. The Commissioner of Labor is certainly the person to make the investigation of labor costs, but when you want to go further and investigate these corporations you might need the power that the Commissioner of Corporations has, and I apprehend that an investigation of this sort, if it is to be of any value, ought to be very thorough.

Mr. DIFENDERFER. I will suggest to the gentleman from Illinois that Mr. Charles P. Neill assisted in drawing up this resolution.

Mr. MANN. I have no doubt of that. I have never heard of one of these resolutions coming in without proper previous consultation with a department. But probably this did not occur to the Commissioner of Labor.

Mr. DIFENDERFER. I will accede to the gentleman's wish, Mr. Speaker, and ask that the resolution be passed over without prejudice.

The SPEAKER. The gentleman from Pennsylvania [Mr. DIFENDERFER] asks unanimous consent that the consideration of the resolution be passed without prejudice. Without objection, it will be so ordered.

There was no objection.

Mr. MANN. Mr. Speaker, we have had a very hot day, and——

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned until to-morrow, Tuesday, July 16, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, requesting an increase in the appropriation for the Butler and Winder Buildings at Washington, D. C. (H. Doc. No. 873), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. PETERS, from the Committee on Ways and Means, to which was referred the bill (H. R. 12813) to refund duties collected on parts and accessories of lace-making and other machines imported prior to January 1, 1911, reported the same with amendment, accompanied by a report (No. 998), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUGHES of New Jersey, from the Committee on Ways and Means, to which was referred the bill (H. R. 22199) to establish a subport of entry and delivery at Port Bolivar, in the State of Texas, reported the same with amendment, accompanied by a report (No. 999), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILSON of Pennsylvania, from the Committee on Labor, to which was referred the bill (H. R. 25305) to regulate the method of directing the work of Government employees, reported the same without amendment, accompanied by a report (No. 1001), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. UNDERHILL: A bill (H. R. 25761) defining wine, imitation and carbonated wines; for preventing adulteration, misbranding, and imitation of wines; for imposing a tax upon and regulating the sale of artificial wines; for regulating interstate traffic and foreign trade therein, and for other purposes; to the Committee on Ways and Means.

By Mr. BROUSSARD: A bill (H. R. 25762) for the construction of a bridge across the Mississippi River at or near Baton Rouge, La.; to the Committee on Interstate and Foreign Commerce.

By Mr. HULL: A bill (H. R. 25763) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; to the Committee on the Judiciary.

By Mr. KINKAID of Nebraska: A bill (H. R. 25764) to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry; to the Committee on the Public Lands.

By Mr. LEVY: A bill (H. R. 25765) to amend "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, by placing certain articles on the free list; to the Committee on Ways and Means.

By Mr. TAYLOR of Colorado: Resolution (H. Res. 631) to print 30,000 copies of Senate Document No. 722, entitled "Equal Suffrage in Colorado"; to the Committee on Printing.

By Mr. BULKLEY: Joint resolution (H. J. Res. 337) requesting the President to cause an investigation of the Patent Office, and make a report with recommendations to Congress; to the Committee on Patents.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 25766) granting an increase of pension to Mary Daniels; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 25767) granting a pension to Sanford P. Cutler; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 25768) for the relief of Mrs. R. E. Lucas; to the Committee on War Claims.

Also, a bill (H. R. 25769) for the relief of heirs of Charlton Hines; to the Committee on War Claims.

Also, a bill (H. R. 25770) for the relief of the heirs of H. C. Mehrtens, deceased; to the Committee on War Claims.

By Mr. GOULD: A bill (H. R. 25771) for the relief of James M. McKenney; to the Committee on Military Affairs.

By Mr. KORBLY: A bill (H. R. 25772) for the relief of the heirs of Bernhard Strauss; to the Committee on War Claims.

By Mr. McCALL: A bill (H. R. 25773) granting a pension to Charles McHugh; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 25774) granting an honorable discharge to Francis Tomlinson; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 25775) granting an increase of pension to William A. Barnes; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 25776) for the relief of Sarah Ann Slaven; to the Committee on War Claims.

Also, a bill (H. R. 25777) for the relief of the heirs of Samuel Griffis, deceased; to the Committee on War Claims.

By Mr. STEPHENS of California: A bill (H. R. 25778) to authorize the sale and issuance of patent for certain land to H. W. O'Melveny; to the Committee on the Public Lands.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of Tow Rycewy sw Kazirmina Kroli Society, No. 344, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of the American Embassy Association of New York City, favoring passage of House bill 22589, for improvement of consular and diplomatic building; to the Committee on Foreign Affairs.

Also, petition of R. Reiser and 5 other merchants of Tuscarawas, Ohio, protesting against the enactment of proposed parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. BARTHOLDT: Petitions of the Chas. F. Luehrmann Hardwood Lumber Co. and the Antrim Lumber Co., of St. Louis, Mo., that the same privilege be given the shipper to go to court to correct mistakes as is given the carrier; to the Committee on the Judiciary.

Also, petition of the Antikamnia Chemical Co., of St. Louis, Mo., against the Wright bill, imposing a tax upon the production, etc., of habit-forming drugs; to the Committee on Ways and Means.

Also, petition of the Workingmen's Sick and Death Benefit Society, Branch No. 71, of St. Louis, Mo., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. DIFENDERFER: Petition of the Daughters of Liberty of Pennsylvania, and of Wyndmoor Council, No. 770, Order of Independent Americans, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Women's Auxiliary of the Church of the Messiah of Gwynedd, Pa., favoring passage of bill for medical and sanitary relief of the natives of Alaska; to the Committee on the Territories.

By Mr. FOCHT: Petition of citizens of Pennsylvania, favoring passage of the Berger old-age pension bill, pensioning deserving men and women over 60 years of age; to the Committee on Pensions.

By Mr. FORNES: Petition of the Brotherhood of Locomotive Engineers, favoring passage of workmen's liability act; to the Committee on the Judiciary.

By Mr. GOLDFOGLE: Memorial of citizens of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the committee of Wholesale Grocers of New York City, favoring reduction of tax on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill proposing change in patent laws; to the Committee on Patents.

By Mr. LEE of Pennsylvania: Petition of citizens of Glen Carbon, Mich., against passage of Burton-Littleton bill, to celebrate 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. MAGUIRE of Nebraska: Petition of citizens of the first congressional district of the State of Nebraska, against passage of a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. MANN: Petition of the Chicago Association of Commerce, against the repeal of the Tarsney Act by the sundry civil bill; to the Committee on Appropriations.

By Mr. RAKER: Memorial of the California Club, of California, favoring passage of bill giving the right of franchise to every native-born American woman of the United States, irrespective of the nationality of her husband; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the National Association of Piano Merchants of America, protesting against any legislation affecting price maintenance; to the Committee on Patents.

By Mr. SABATH: Memorial of Holy Mother of Lazajs B. Society, No. 179, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

SENATE.

TUESDAY, *July 16, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed, without amendment, the bill (S. 4745) to consolidate certain forest lands in the Paulina (Oreg.) National Forest.

The message also announced that the House had passed the following bills, each with an amendment, in which it requested the concurrence of the Senate:

S. 338. An act authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public-park purposes;

S. 5446. An act relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908;

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation; and

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 17239) to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River.

The message also announced that the House insists upon its amendment to the bill (S. 4568) granting an increase of pension to Annie R. Schley, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. GUDGER, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

The message also announced that the House insists upon its amendment to the joint resolution (S. J. Res. 100) authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming, disagreed to by the Senate, agrees to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBINSON, Mr. TAYLOR of Colorado, and Mr. MONDELL managers at the conference on the part of the House.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4012. An act to authorize the exchange of certain lands with the State of Michigan;

H. R. 19339. An act granting public lands to the cities of Boulder and Canon City, in the State of Colorado, for public-park purposes;

H. R. 23293. An act for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.; and

H. R. 23568. An act to amend section 55 of "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909.

PETITIONS AND MEMORIALS.

Mr. OLIVER presented a memorial of sundry citizens of South Pittsburgh, Pa., remonstrating against an appropriation being made to be used for the purpose of celebrating the one

hundredth anniversary of peace with England, which was referred to the Committee on Foreign Relations.

He also presented a petition of members of the Washington County Medical Society, of Pennsylvania, praying for the establishment of a national department of public health, which was ordered to lie on the table.

He also presented a memorial of members of the Lithuanian Societies, of Wilkes-Barre, Pa., remonstrating against the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. CULLOM presented a petition of members of the Cort Club, of Chicago, Ill., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

He also presented a petition of the Christian Endeavor Society of the First Presbyterian Church, of Champaign, Ill., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. McLEAN presented petitions of Local Union No. 453, Brass and Aluminum Molders, of Hartford; of Local Union No. 11, International Association of Steam, Hot Water, and Power Pipe Fitters and Helpers, of New Haven; of the Central Labor Union of Bridgeport; of Local Union No. 127, United Brotherhood of Carpenters and Joiners, of Derby; of the Central Labor Union of Stamford; of Local Union No. 15, United Hatters of North America, of South Norwalk; of Local Union No. 216, United Brotherhood of Carpenters and Joiners, of Torrington; of the International Molders' Local Union, of Ansonia; of Local Union No. 298, International Molders' Union, of Waterbury; of Local Union No. 30, International Association of Machinists, of Bridgeport; of Local Union No. 282, Cigarmakers' International Union of America, of Bridgeport; and of sundry citizens of Bridgeport, all in the State of Connecticut, praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

He also presented a memorial of members of John Hay Lodge, No. 61, Knights of Pythias, of Hartford, Conn., and a memorial of members of Judith Lodge, No. 33, of Hartford, Conn., remonstrating against the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the Chamber of Commerce of Los Angeles, Cal., remonstrating against the enactment of legislation providing for a five-year tenure of office for civil-service employees, which was ordered to lie on the table.

He also presented a petition of the Chamber of Commerce of Oakland, Cal., praying for the enactment of legislation to exempt from tolls all American ships passing through the Panama Canal engaged in coastwise traffic, which was ordered to lie on the table.

He also presented resolutions adopted at the Forty-first California Fruit Growers' Convention, held at Santa Barbara, Cal., favoring the enactment of legislation providing for the establishment of a national quarantine against insect pests, which were referred to the Committee on Agriculture and Forestry.

Mr. SMITH of Michigan presented memorials of T. B. Taylor and 67 other citizens of Elwell, of D. Van Kamp and 101 other citizens of Allegan County, of Fred C. Ranchholy and 72 other citizens of Richland Township, of William Tanis and 69 other citizens of Ottawa County, of H. C. Spinchove and 84 other citizens of the eighth congressional district, of B. C. Hubbard and 195 other citizens of Holland, of A. H. Lowry and 89 other citizens of St. Louis, of Joseph E. Craver and 138 other citizens of Ithaca, of J. H. Ter Avest and 67 other citizens of Coopersville, of Titus Van Haitsma and 82 other citizens of the fifth congressional district, of John J. Slag and 125 other citizens of Ottawa County, of Dix H. Beeson and 64 other citizens of Berrien County, of O. P. Gordon and 63 other citizens of Allegan County, of George Robinson and 63 other citizens of Allegan County, of Guy W. Rouse and 180 other citizens of Kent County, of Charles E. Watson and 95 other citizens of Breckenridge, and of H. Coomer and 85 other citizens of Shepard, all in the State of Michigan, remonstrating against any reduction of the duty on sugar, which were referred to the Committee on Finance.

Mr. SHIVELY presented petitions of Local Union No. 5, National Brotherhood of Operative Potters, of Evansville, and of sundry citizens of Marion County, all in the State of Indiana, praying for the passage of the so-called injunction-limitation bill, which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. JOHNSTON of Alabama, from the Committee on Military Affairs, to which were referred the following bills, submitted adverse reports thereon, which were agreed to and the bills were postponed indefinitely.

S. 5359. A bill providing for the recognition by the United States Government for the men who served as locomotive engineers during the late Civil War (Rept. No. 922);

S. 1380. A bill to authorize the location of a branch home for disabled volunteer soldiers, sailors, and marines in the State of Florida (Rept. No. 923); and

S. 3108. A bill for the relief of George W. Philpott (Rept. No. 924).

Mr. CLAPP. From the Committee on Pacific Islands and Porto Rico, I report back favorably, without amendment, the bill (H. R. 18041) granting franchises for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii, and I submit a report (No. 925) thereon. I desire to state that it has been impossible to get the committee to meet upon this bill, and the clerk advises me that the favorable report is made upon a poll of the committee.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. CLAPP. I ask that Order of Business 472, being the bill (H. R. 11628) authorizing John T. McCrosson and associates to construct an irrigation ditch on the Island of Hawaii, Territory of Hawaii, be taken from the calendar and rereferred to the Committee on Pacific Islands and Porto Rico.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAMBERLAIN, from the Committee on Military Affairs, to which was referred the bill (S. 1562) for the relief of William Walters, alias Joshua Brown, reported it with an amendment and submitted a report (No. 926) thereon.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war, reported it with amendments.

Mr. OLIVER, from the Committee on Claims, to which was referred the bill (H. R. 4113) for the relief of Robert E. Burke, reported it without amendment.

He also, from the same committee, to which was referred the bill (S. 3159) for the relief of John W. Cupp, reported adversely thereon, and the bill was postponed indefinitely.

Mr. POMERENE, from the Committee on Pensions, to which was referred the bill (H. R. 25598) granting a pension to Cornelia Bragg, reported it with an amendment and submitted a report (No. 927) thereon.

Mr. BRANDEGEE, from the Committee on the Judiciary, to which was referred the bill (H. R. 17595) to amend sections 1 and 118 of act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary," reported it with amendments and submitted a report (No. 928) thereon.

JOHN C. SCHOLTZ.

Mr. DU PONT. From the Committee on Military Affairs I report back favorably without amendment the joint resolution (S. J. Res. 119) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela, and I submit a report (No. 921) thereon. I ask for the present consideration of the joint resolution.

The PRESIDENT pro tempore. It will be read for the information of the Senate.

The Secretary read the joint resolution.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. I shall not object to the present consideration of this measure, but I shall object to any further unanimous consent being given for the consideration of a bill this morning.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GIBBES LYKES.

Mr. DU PONT. From the Committee on Military Affairs I report back favorably with an amendment in the nature of a substitute the bill (S. 6176) for the relief of Gibbes Lykes, and I submit a report (No. 920) thereon.

Mr. TILLMAN. I ask for the immediate consideration of the bill just reported by the Senator from Delaware.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was to strike out all after the enacting clause and insert:

That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint Gibbes Lykes, late a second lieutenant of Cavalry in the United States Army, to be a second lieutenant of Cavalry in the United States Army, to take

rank at the foot of the list of second lieutenants of Cavalry: *Provided*, That no back pay or allowances shall accrue by reason of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STONE:

A bill (S. 7292) granting to the Ozark Power and Water Co. authority to construct a dam across White River, Mo. (with accompanying paper); to the Committee on Commerce.

By Mr. CHAMBERLAIN:

A bill (S. 7293) authorizing the Secretary of the Interior to pay and to distribute the balance now in the Treasury to the credit of the Alsea and other Indians on the Siletz Reservation; to the Committee on Indian Affairs.

By Mr. SMOOT:

A bill (S. 7294) to amend sections 2380 and 2381, Revised Statutes of the United States; to the Committee on Public Lands; and

A bill (S. 7295) to authorize agricultural entries on surplus coal lands in Indian reservations.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Public Lands.

Mr. CLAPP. I suggest that the bill should go to the Committee on Indian Affairs.

The PRESIDENT pro tempore. Does the Senator so move?

Mr. CLAPP. Yes.

The PRESIDENT pro tempore. The Senator from Minnesota moves that the bill be referred to the Committee on Indian Affairs.

The motion was agreed to.

By Mr. SMOOT:

A bill (S. 7296) granting a pension to Elizabeth Garland; to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 7297) for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis.; and

A bill (S. 7298) for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis.; to the Committee on Public Buildings and Grounds.

By Mr. OLIVER:

A bill (S. 7299) to correct the military record of Harrison H. Hollowell (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7300) granting a pension to Mary A. Moorhead; to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 7301) for the relief of Richard H. Grey; to the Committee on Claims.

By Mr. MYERS:

A bill (S. 7302) to place certain ex-acting assistant surgeons of the United States Army on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. SIMMONS:

A bill (S. 7303) granting a pension to Emily Wilkie; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7304) granting an increase of pension to George N. Townsend (with accompanying paper); to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 7305) granting a pension to Bertie L. Wade; to the Committee on Pensions.

A bill (S. 7306) for the relief of Crestino Romero; and

A bill (S. 7307) for the relief of Manuel S. Salazar; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 7308) granting an increase of pension to Jennie C. Marks (with accompanying papers);

A bill (S. 7309) granting an increase of pension to Joseph Dunn (with accompanying papers);

A bill (S. 7310) granting an increase of pension to Alice P. B. Kenyon (with accompanying papers);

A bill (S. 7311) granting an increase of pension to Josephine M. Perry (with accompanying papers);

A bill (S. 7312) granting an increase of pension to Margaret E. Goff (with accompanying paper);

A bill (S. 7313) granting an increase of pension to Oscar B. Viberts (with accompanying papers); and

A bill (S. 7314) granting an increase of pension to Thomas McKenna (with accompanying papers); to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 7315) to authorize the construction of a bridge across the Clearwater River at any point within the corporate limits of the city of Lewiston, Idaho; to the Committee on Commerce.

A bill (S. 7316) relating to proof by certain homestead entrymen; to the Committee on Public Lands.

PATENT LAWS.

Mr. CULLOM submitted an amendment intended to be proposed by him to the bill (S. 6273) to codify, revise, and amend the laws relating to patents, which was referred to the Committee on Patents and ordered to be printed.

CLAIMS OF GOVERNMENT EMPLOYEES.

Mr. WORKS submitted an amendment intended to be proposed by him to the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, which was referred to the Committee on Claims and ordered to be printed.

OMNIBUS CLAIMS BILL.

Mr. CATRON submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to lie on the table and to be printed.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. SWANSON submitted an amendment proposing to appropriate $80,000 for additional equipment and supplies for the Geological Survey photolithographic plant, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Printing and ordered to be printed.

Mr. FALL submitted an amendment relative to surveying the public lands, intended to be proposed by him to the suudry civil appropriation bill, which was ordered to lie on the table and be printed.

MAXIMUM SHIP FOR NAVY.

Mr. TILLMAN. I submit a resolution and ask for its present consideration.

The resolution (S. Res. 361) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Naval Affairs be, and it is hereby, instructed to investigate and report to the Senate what is the maximum size of ship, whether battleship or cruiser; the maximum thickness of armor that such ship can safely carry; the maximum size of gun; the maximum speed; and the maximum desirable radius of action of such vessel that can safely be built so as to navigate the ocean and enter the first-class harbors of the world; how much draft can such vessel carry in order to enter the existing dry docks in this country for repairs and safely pass through the Panama Canal, the object being to find out from authentic and reliable official sources the maximum size and maximum draft, the maximum armament, and the maximum thickness of armor to make the very best battleship or cruiser that the world has ever seen or will ever see; to have this country own the greatest marine engine of war ever constructed or ever to be constructed under known conditions; and to report whether one such overpowering vessel would not in its judgment be better for this country to build than to continue by increasing taxation to spend the millions and millions of dollars now in prospect in the race for naval supremacy. Let such vessel be named the "Terror" and become the peacemaker of the world. Let us find out just how far we can go with any degree of safety and go there at once. Let us leave some money in the Treasury for other more necessary and useful expenditures, such as good roads, controlling the floods in the Mississippi, draining swamp land in the South, and irrigating the arid land in the West.

LOYALTY OF CIVIL WAR CLAIMANTS.

Mr. JOHNSTON of Alabama. Mr. President, I ask to have printed in the RECORD so much of a decision of the Court of Claims as defines the jurisdiction of the court conferred by the fourteenth section of the Tucker Act; also the proclamation of amnesty of December 25, 1868, by the President of the United States, and the two decisions of the Supreme Court of the United States reported in the case of Armstrong *v.* The United States and Pargoud *v.* United States in Thirteenth Wallace, at pages 155 and 156, in order to bring before the Senate the question whether the rule adopted by the Committee on Claims of the Senate, namely, "To allow no claim whatever wherein there is any question as to the loyalty of the claimant as determined by the court," and in the enforcement of which rule the committee has excluded from the bill H. R. 19115, and other bills of the same nature, the names of all such claimants for payment in accordance with findings of the Court of Claims, made and reported by said court in pursuance to sec-

tion 14 of the Tucker Act, is not an avoidance by that committee of the provisions of that section as construed by the Court of Claims in said decision, and a denial of the constitutional rights of such claimants as restored and reestablished by said proclamation, subsequently recognized and confirmed by the Supreme Court of the United States in said decisions.

The following is from the opinion of the Court of Claims in the case of Dowdy, Ex., *v.* The United States (26 Ct. of Cls., p. 223):

This (the fourteenth) section of the Tucker Act is not an amendment of the Bowman Act, and the jurisdiction conferred by the one is an independent and distinct thing from the jurisdiction conferred by the other. * * *

Under the Tucker Act any bill may be referred, "except for a pension," and there is no other restriction upon the jurisdiction of the court. A claim for the destruction of property by the Army, a claim for the occupation of real estate at the seat of war, a claim barred by a law of Congress, and a claim for quartermaster's stores, where the owner has given aid and comfort to the rebellion, are all within the jurisdiction of the court for the purpose of investigating and reporting the facts, if properly referred under the fourteenth section.

The proclamation of the President of December 25, 1868 (15 Stat., 711), is as follows:

Whereas the President of the United States has heretofore set forth several proclamations, offering amnesty and pardon to persons who have been or were concerned in the late rebellion against the lawful authorities of the Government of the United States, which proclamations were severally issued on the 8th day of December, 1863, on the 26th day of March, 1864, on the 20th day of May, 1865, on the 7th day of September, 1867, and on the 4th day of July in the present year; and

Whereas the authority of the Federal Government having been reestablished in all the States and Territories within the jurisdiction of the United States, it is believed that such prudential reservations and exceptions as at the dates of said several proclamations were deemed necessary and proper may now be wisely and justly relinquished, and that a universal amnesty and pardon for participation in said rebellion, extended to all who have borne any part therein, will tend to secure permanent peace, order, and prosperity throughout the land and to renew and fully restore confidence and fraternal feeling among the whole people and their respect for and attachment to the National Government designed by its patriotic founders for the general good:

Now, therefore be it known that I, Andrew Johnson, President of the United States, by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare, unconditionally and without reservation to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late Civil War, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.

In testimony whereof I have signed these presents with my hand and have caused the seal of the United States to be hereunto affixed.

Done at the city of Washington the 25th day of December, 1868, and of the Independence of the United States of America the ninety-third.

ANDREW JOHNSON.

By the President:
F. W. SEWARD,
Acting Secretary of State.

The opinion of the court in the said case of Armstrong *v.* The United States is as follows:

The abandoned and captured property act provides for the restoration of the proceeds of property on proof that the claimant has never given any aid or comfort to the present rebellion. The Court of Claims seems to have thought that going South with her slaves was evidence that she did give aid or comfort to the rebellion. On this point it is not now necessary that we express an opinion; for the President of the United States on the 25th of December, 1868, issued a proclamation, reciting that "a universal amnesty and pardon for participation in said rebellion, extended to all who have borne any part therein, will tend to secure permanent peace, order, and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people, and their respect for and attachment to the National Government, designed by its patriotic founders for the general good"; and granting "unconditionally, and without reservation, to all and every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late Civil War, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof."

We have recently held, in the case of the United States *v.* Klein, that pardon granted upon condition blots out the offense if proof is made of compliance with the condition; and that the person so pardoned is entitled to the restoration of the proceeds of captured and abandoned property if suits be brought within "two years after the suppression of the rebellion." The proclamation of the 25th of December granted pardon unconditionally and without reservation. This was a public act of which all courts of the United States are bound to take notice, and to which all courts are bound to give effect. The claim of the petitioner was preferred within two years. The Court of Claims therefore erred in not giving the petitioner the benefit of the proclamation.

Its judgment must be reversed with directions to proceed in conformity with this opinion.

The opinion of the court in the said case of Pargoud *v.* The United States is as follows:

We have recently decided in the case of Armstrong *v.* The United States that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated, directly or indirectly, in the late rebellion, relieved claimants of captured and abandoned property from proof of adhesion to the United States during the late Civil War. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States.

The judgment of the Court of Claims dismissing the petition is reversed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on July 16, 1912, approved and signed the following act:

S. 5271. An act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases.

COLVILLE INDIAN RESERVATION.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 338) authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public park purposes, which was, on page 1, line 3, to strike out "there is hereby granted and conveyed" and insert "the Secretary of the Interior is hereby authorized and directed to convey."

Mr. PAGE. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ASSIGNMENTS OF DESERT-LAND ENTRIES.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 5446) relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908, which was, on page 2, line 3, to strike out "may" and insert "shall."

Mr. JONES. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

UINTAH INDIAN RESERVATION.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6934) to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation, which was, on page 2, after line 5, to insert:

SEC. 2. That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act.

Mr. SMOOT. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

LAND AT SALT LAKE CITY, UTAH.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 7002) to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes, which was, on page 2, line 3, to strike out "Thirty-fifth" and insert "Twenty-fifth."

Mr. SMOOT. I move that the Senate concur in the House amendment.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 4012. An act to authorize the exchange of certain lands with the State of Michigan;

H. R. 19339. An act granting public lands to the cities of Boulder and Canon City, in the State of Colorado, for public-park purposes; and

H. R. 23293. An act for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.

H. R. 23568. An act to amend section 55 of "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, was read twice by its title and referred to the Committee on Patents.

PENSIONS AND INCREASE OF PENSIONS.

Mr. CUMMINS. I ask unanimous consent for the present consideration of the joint resolution (S. J. Res. 92) providing for the purchase of the home of Thomas Jefferson at Monticello, Va.

The PRESIDENT pro tempore. Will the Senator from Iowa kindly permit the Chair to call attention to the message from the House that was laid before the Senate yesterday? The Senator from North Dakota [Mr. MCCUMBER] desires to make a motion concerning it.

Mr. CUMMINS. Very well.

The PRESIDENT pro tempore. The Chair lays before the Senate a message from the House, which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
July 8, 1912.

Resolved, That the Clerk be directed to return to the Senate, in compliance with its request, Senate bill 6084, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move to reconsider the vote by which the Senate disagreed to the amendments of the House and requested a conference.

The motion to reconsider was agreed to.

Mr. McCUMBER. I now move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. STONE. Mr. President, I make the point that there is no quorum.

The PRESIDENT pro tempore. The Senator from Missouri raises the point that there is no quorum present, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Jones	Paynter
Bacon	Cummins	Kenyon	Perkins
Bailey	Dillingham	Lodge	Pomerene
Bradley	du Pont	McCumber	Simmons
Brandegee	Fall	McLean	Smith, Ga.
Bristow	Fletcher	Martin, Va.	Stephenson
Bryan	Gallinger	Martine, N. J.	Stone
Chamberlain	Gamble	Massey	Thornton
Clapp	Gronna	Myers	Tillman
Clark, Wyo.	Guggenheim	Newlands	Townsend
Clarke, Ark.	Heyburn	O'Gorman	Warren
Crane	Hitchcock	Oliver	Wetmore
Crawford	Johnson, Me.	Overman	Works
Culberson	Johnston, Ala.	Page	

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER], and I ask that this announcement stand for the day.

The PRESIDENT pro tempore. Fifty-five Senators have answered to their names. A quorum of the Senate is present.

Mr. ASHURST. Mr. President, on the 27th of last June I gave notice, at the time I introduced Senate bill No. 7204, that on this morning, immediately after the morning business, I would submit a few remarks in reference to that bill. I now simply desire to inquire has morning business closed.

The PRESIDENT pro tempore. Morning business has closed, but the Senator from Iowa [Mr. CUMMINS] was recognized. He has asked for the consideration of Senate joint resolution No. 92. Will the Senator from Arizona yield to the Senator from Iowa for that purpose?

Mr. ASHURST. Very cheerfully.

PURCHASE OF MONTICELLO.

Mr. CUMMINS. I ask unanimous consent for the present consideration of the joint resolution (S. J. Res. 92) providing for the purchase of the home of Thomas Jefferson at Monticello, Va.

Mr. CLAPP. Mr. President, I do not object to the consideration of this joint resolution, but I shall feel constrained to object to any further request of this character, in view of the appropriation bills now before the Senate.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, as follows:

Whereas the Declaration of Independence was a new light and gospel to the downtrodden of the world; and

Whereas through the genius, splendid patriotism, and teachings of Thomas Jefferson, America was started on a career that has brought untold blessings to this country; and believing it most fitting and proper that the home of Thomas Jefferson at Monticello should be the property of the great Nation and country he loved and served so well: Therefore be it

Resolved, etc., That the President of the Senate of the United States be, and is hereby, instructed to appoint a committee of five Members of this body, to cooperate with a similar committee to be appointed by the House of Representatives, to inquire into the wisdom and ascertain the price of acquiring said home as the property of the United States, that it may be preserved for all time in its entirety for the American people.

Mr. BAILEY. I suggest to the Senator from Iowa that where the joint resolution reads "the price of acquiring said home" that it should read "the cost of acquiring," and so forth.

Mr. CUMMINS. I think that is a wise suggestion, and I am quite willing to accept it.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. HEYBURN. I ask that the joint resolution go over, Mr. President.

The PRESIDENT pro tempore. The Senator from Idaho objects.

Mr. CUMMINS. May I suggest to the Senator from Idaho that the joint resolution itself provides only for the appointment of five Senators and five Members of the other House as a committee. I think the Senator must possibly found his objection upon the preamble, which the committee should have stricken and intended to strike out; and I shall be very glad to offer an amendment striking out the preamble.

Mr. HEYBURN. The Senator from Iowa has exactly stated my objection. The statement contained in a preamble very often attempts to interpret legislation. A man might be perfectly willing to vote for a joint resolution, but he might not be willing to subscribe to a doctrine stated in the nature of a preamble.

Mr. BAILEY. Well, vote against it.

Mr. HEYBURN. But if the preamble is stricken out, my objection would be withdrawn. I do not subscribe to the preamble.

Mr. BAILEY. The Senator from Idaho does not commit himself to it by withholding the objection and allowing the Senate to vote on the joint resolution. The Senator could vote against it, and I have no doubt would do so, if he objects to any part of the joint resolution.

Mr. HEYBURN. I would not want to be placed in the position of voting against the joint resolution.

Mr. BAILEY. The Senator's statement is in the RECORD, and there would be no trouble about it.

Mr. CUMMINS. If the Senator from Texas will allow me a moment. The part of the preamble that ought not to be there is the part that commits Congress to the purchase of the estate. That is the very thing to be hereafter determined. Therefore I believe it to be very wise to allow the preamble to be stricken out.

Mr. BAILEY. Very well.

Mr. HEYBURN. I ask for the reading of the entire joint resolution.

The PRESIDENT pro tempore. The joint resolution will again be read.

The Secretary again read the joint resolution.

Mr. HEYBURN. Mr. President, I was right in my first impression. It is the preamble that I object to. It recites statements that I do not concur in—that is to say, I would not responsibly concede that Thomas Jefferson wrote the Declaration of Independence or that he was in any way responsible for it. He was merely the secretary of a committee that prepared it.

Mr. BAILEY. He was the chairman of the committee, and it is in his own handwriting.

Mr. HEYBURN. Well, I have many things, perhaps with not so much merit, that are in my clerk's handwriting, and yet I would not like to see them attributed to the wisdom of my clerk. We all know the history of the Declaration of Independence. I have a large share of admiration for Thomas Jefferson for what he really did, but I do not think it is necessary to build up any fiction about it. I presume I have had access, and have given study to everything that has been available to any other Member of this body, and I would not detract a word from him; neither would I deify him because of something that he did not do.

I know that he has been set up as the patron saint, when he is convenient, for a great political party, and that whenever they desire to use something on the authority of ancient records, they bring out Thomas Jefferson. He is about as well bronzed and moss covered as any other statesman who could be found. I would not stand here——

Mr. BACON. Mr. President——

Mr. HEYBURN. Just a moment. I would not stand here and detract in the slightest degree from him, first, out of consideration for the feelings of my friends—and I regard every man in the body as my friend whether he regards me as such or not—but I do not desire to be carried away upon the wings of sentiment. I do not desire to enter into a discussion of the merits of Thomas Jefferson. I only protest at this time against stating as an established fact that he is the author of the Government of the United States. He took no part in framing or in making the Government of the United States. He was not even on this continent when the Government of the United States was organized and framed; and, if history is correct, he was not in sympathy at all——

Mr. O'GORMAN. Mr. President——

Mr. HEYBURN. I will yield in a moment. I am not physically able to enter into a controversy this morning.

Mr. BACON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. I should like very much to yield, but I am not physically able to enter into a controversy. I am, how-

ever, able to record my views, and then let them stand for such treatment as Senators may see fit to give them now or later. I merely want to state my views against a declaration on the part of the Senate, which will doubtless be unanimous if it is made at all, that Thomas Jefferson was the founder of this Government or that he was the author of the Constitution of the United States or that he was the author of the Declaration of Independence. There are too many interlineations in the hand of good old Benjamin Franklin in that document to be overlooked. It was the result of the conference of a number of men.

Mr. BACON. If the Senator will permit me——

Mr. HEYBURN. Just a moment. I would gladly yield, and would even be pleased to enter into a conservative——

Mr. ASHURST. Mr. President——

Mr. HEYBURN. Now, I would say, if Senators who are seeking to interrupt will pardon me, that I am not physically able this morning to enter into any discussion. It is as much as I can do to state my reasons for asking that the matter go over. At another day, when the question comes up, if it ever does, and I am feeling equal to it, I would be very pleased to discuss this question, but at this time I am merely trying to state for the RECORD the reasons why I interpose this objection, which is well within my rights.

The Senator from Texas [Mr. BAILEY] has given notice that this morning he is going to discuss just such rights as I am undertaking to exercise now. I never welcomed the discussion of a question with more hearty accord than I do that which is to be undertaken by the Senator from Texas this morning. It is one that I have lived with and have grieved over for weeks and years.

Mr. ASHURST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho object to the present consideration of the joint resolution?

Mr. HEYBURN. Mr. President, I was doing more; I was, with the ordinary privilege of a Senator, stating my objection. I am not going to discuss it at length, but I would ask the permission of the Senate to finish my remarks.

The PRESIDENT pro tempore. The Senator from Idaho objects to the present consideration of the joint resolution.

Mr. BACON. Mr. President, does the Senator from Idaho object to a word being said on the subject? I merely want to say one word.

Mr. HEYBURN. I can not understand——

Mr. BACON. I do not propose to engage the Senator in any discussion.

Mr. HEYBURN. Now, if the Senator will be just as patient as he can——

Mr. ASHURST. Mr. President——

Mr. HEYBURN. Unless the Chair takes me off the floor, I shall object to being taken off by another Senator.

Mr. ASHURST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Arizona?

Mr. HEYBURN. I will not yield, unless the Chair takes me off the floor.

Mr. ASHURST. The Senator from Idaho has not the floor; he does not hold it except through the courtesy of the Senator from Arizona. I yielded to the Senator from Iowa [Mr. CUMMINS] with the understanding that the matter which he desired to present would lead to no discussion, and he yielded to the Senator from Idaho, but I very cheerfully yield to the distinguished Senator from Idaho.

Mr. HEYBURN. I do not desire to occupy the floor under any such conditions. The joint resolution came up, and the question was whether or not there was objection, and I raised the objection. I am not on the floor by the grace of any other Senator; I am here by the courtesy of the Presiding Officer, with the right of the Senate always to direct the course of the Presiding Officer, and without any intention of going at length into the question. I desire that there shall be no mistake to be gathered from the RECORD hereafter as to the nature of my objection. I am glad to have had the opportunity to have been able to reenter the Senate just as this question came up; and I am confining myself merely to stating the grounds of my objection in order that I may not be charged with churlishness or sectionalism or partisanship. You can charge a good bit of it—the last part of it—to partisanship, because I am a partisan politician, but I never feel called on to apologize for that. I think the man who does feel called on to apologize for it should apologize for being in public life at all.

Now, Mr. President, that is the extent of my objection. I asked that the joint resolution go over, in order that I might state those reasons. Having stated them, I will now withdraw my objection and let the Senate do as it pleases with the matter.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. CULBERSON. Mr. President, I have no objection to the consideration of the joint resolution, of course, but I call the attention of the Senator from Iowa to the fact that while this is a joint resolution, it proposes to appoint a committee of the Senate alone. I make this inquiry——

Mr. CUMMINS. Mr. President, it is not my resolution; it is a resolution reported by the Committee on the Library, and I do not feel authorized to change it in that respect.

Mr. MARTINE of New Jersey. I offered that joint resolution, Mr. President, and I am willing to change it in any way that may be necessary to make it effective. I regret that the distinguished Senator from Idaho can not indorse the preamble. God knows I can not see anything in the preamble that should harm the Senate or any individual; and I am vain enough to believe, in view of the unfortunate physical condition of the Senator from Idaho, that if he would just gushingly and willingly vote for that preamble it would restore him to better health. I have no purpose of infusing or injecting any politics into it at all.

Mr. HEYBURN. I was unable to understand the remarks of the Senator in connection with my name, because——

Mr. MARTINE of New Jersey. I thought I spoke loud enough. The Senator referred to the fact that he was not feeling well, and I simply said that I believed anyone voting for the joint resolution, with the sentiments embodied in the preamble, would advance his well-being.

I had no thought in introducing the joint resolution with reference to Democracy. I merely took into consideration the fact that Thomas Jefferson was the author of the Declaration of Independence and that he is believed to be by the masses of the people of the United States one of its great sons. I am quite anxious to do him honor and at the same time give the people the benefit of his home as a shrine.

Mr. CUMMINS. Mr. President, I feel we are violating the arrangement under which I asked for the consent, and I therefore withdraw it rather than to provoke any further discussion.

DESERT-LAND ENTRIES.

Mr. ASHURST. Mr. President, a sense of duty and propriety as well impel me to be very brief, and I shall be, in submitting the few remarks that I shall make. I ask the Secretary to read for the information of the Senate the bill (S. 7204) to exempt from cancellation and provide for patenting of desert-land entries reclaimed by dry-farming process.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the bill, as follows:

Be it enacted, etc., That no desert-land entry heretofore made under the public-land laws, for lands, shall be canceled or in any wise impaired because of any failure on the part of the entryman to make any annual or final proof falling due upon any such entry prior to December 31, 1913: *Provided, however*, That patent shall be permitted to issue to any desert-land entry when the proofs disclose that the land embraced within such entry has fairly and in good faith been reclaimed to agricultural or horticultural crops by the dry-farming process.

Mr. ASHURST. Mr. President, it will be observed that this bill, if enacted into a law, will enable those settlers who have made desert entries to procure patent when they shall have in good faith reclaimed to agricultural or horticultural crops the land embraced within their entry.

There exists no substantial reason why this bill should not become a law. The object of the law authorizing desert entries is the reclamation of the land. For all practical purposes it should be of no concern as to the particular manner in which lands are reclaimed, so long as they actually be reclaimed. It is unfair to subject the desert entryman to a Procrustean bed of fixity, and in effect to tell him, as the present law does, that, no matter what success he may achieve, no matter how bountiful be the crops he may grow upon his land by dry-farming or other process, he may obtain title by reclaiming the lands by irrigation only.

The character of the land always varies, and the home builder should be afforded every reasonable opportunity to have the advantage of the variations. Some tracts of land are susceptible of reclamation by irrigation only, and of course the reverse is true respecting different lands.

Irrigation was practiced by the early people on the banks of the Nile, the Tigris, and the Euphrates. Irrigation was also practiced by the aborigines of South America before and at the time of the Spanish conquests.

Numerous places in Arizona bear indisputable evidence of the fact that the skillful engineers of ancient Arizona watered its fertile fields from concrete-lined aqueducts and giant irrigation dams centuries before Montezuma ascended the throne of the Aztecs.

But irrigation in the present age upon the North American Continent dates from the settlement on the Jordan River in Utah by those heroic pioneers, the Mormons.

The early irrigation enterprises consisted of damming the rivers and streams, conveying their waters by ditches and laterals, and distributing it over the land. This method gave rise to water rights and vested interests in the use of the water. In the old and established communities such rights have become very valuable. Later storage dams were constructed, and irrigation in some places has become more and more complex and expensive.

The Government is now, with eminent success, reclaiming vast tracts by constructing immense projects, and the lands under cultivation have become extremely valuable and the field for irrigation greatly enlarged.

It will thus be observed that irrigation is the most ancient and the most feasible method of reclaiming land, but it is not the exclusive method, for many tracts of land may be reclaimed by dry farming only.

Dry farming may be defined to mean the conservation and economical use in farming of a scant rainfall which is variable in point of time.

DRY FARMING.

The production of crops without irrigation in regions having a limited rainfall is called arid or dry farming. As a rule, where dry farming is practiced the annual rainfall ranges from about 8 to 20 inches. There are vast semiarid areas in the West which can not be brought under irrigation, and this method of farming is an attempt to utilize some of these lands for other agricultural purposes than mere grazing.

Farming without irrigation was practiced in numerous localities by the early settlers, and while in many cases these efforts were successful in many more they were failures. They demonstrated, however, that under certain conditions dry-land agriculture may be successfully practiced. The experience gained during the last 30 or 40 years and the results of the recent work in this connection carried on by several experiment stations and other agencies indicate that by means of special methods of cultivation, requiring in some instances special tools and implements, and by the use of drought-resistant crops and varieties arid farming may be placed on a much safer basis than heretofore. The fact should not be disregarded, however, that under semiarid conditions without irrigation crop failures are bound to be much more frequent than in regions of adequate rainfall, and it is generally conceded that in order to establish a permanent home on the dry lands of the western plains provision should be made for the irrigation of a small area on which vegetable food for the family and forage for the stock may be grown with certainty every year to tide over the seasons of possible failures on the unirrigated portion of the farm. (Farmers' Bulletin 262, p. 15.)

Last September I attended the agricultural and horticultural fair held in Willcox, in Cochise County, Ariz., where were exhibited products that were raised by dry farming in the Sulphur Springs Valley, and the exhibits there were sufficient to convince the most skeptical that dry farming may be made a success in that valley.

I ask permission at this point to incorporate into the RECORD as a part of my remarks an article by Prof. R. H. Forbes, who has for the past 12 years been superintendent of the agricultural experiment station at the University of Arizona.

The article referred to is as follows:

DRY FARMING IN SULPHUR SPRINGS VALLEY.

The first essential step in dry farming operations is to plow the ground deeply in order that the soil surface may be made receptive to rainfall. In many localities it is necessary for best results to subsoil to a depth of as much as 30 inches in order to break up the hard layer of soil often to be found beneath the surface in this region. With the soil thus prepared, the rainfall will sink rapidly to a depth of from a few inches to a few feet, according to its amount.

The second important thing is to prevent the evaporation of this rainfall after it has been received into the soil. This is accomplished by cultivating the surface of dry-farmed fields after each rain. The mulch of pulverized soil thus maintained on the field acts as a protecting blanket, which prevents the moisture from the deeper inches or feet of soil from evaporating at the surface.

A third important matter is the selection of crops which are especially suitable to our climatic conditions and to dry-farming methods of agriculture. There are many crop plants, such as milo, maize, kafir corn, sorghum, native varieties of maize and beans, together with such vegetable crops as melons and squashes, which do well under our climatic conditions. These crops, at the proper time of year, are planted down to soil moisture and then covered deeply with the surface mulch. The young plants will come up through a surprising depth of this mulch—as much as 6 or 8 inches in the case of corn—and if the ground-water supply is sufficient, and especially if the summer rains are favorable, a crop thus started may be brought to maturity.

Looking to the future of dry farming in Sulphur Springs Valley, it might be well to call attention to the fact that the French in North Africa are at present growing crops of corn, wheat, the vine, grasses, sorghum, and olives on lands receiving from 10 to 16 inches of rainfall per annum. The French employ thorough cultural methods and are especially skillful in the choice of varieties of crop plants suited to semiarid conditions. Recent crop statistics from Algeria state that the average yield of wheat thus grown is 10 bushels per acre; of wine, 1,000 gallons; and of corn, 8 bushels per acre.

Mr. President, I ask unanimous consent that I may include in the RECORD, as an appendix and as a part of my remarks, a few data on dry farming prepared by the head of the dry-farming bureau of the Brazilian Government at Rio Janeiro; also a communication on this same subject addressed to me by Mr. Malcolm A. Fraser, secretary of the Chamber of Commerce of Prescott, Ariz. I ask permission further at this point to include in the RECORD as a part of my remarks, as an appendix thereto, a portion of the report, No. 413, made by the House Committee on Public Lands relating to the three-year homestead law.

The PRESIDENT pro tempore. Without objection, the matter referred to will be inserted as an appendix.

Mr. ASHURST. Mr. President, I have now said all I wish to say directly upon this bill, but with the kind permission of the Senate, I desire to submit some observations upon the present policy obtaining in Washington, which unfortunately has been adopted respecting the pioneers, producers, and home builders of the West; in other words, I embrace this opportunity not only to protest against some of the harsh, narrow, and in many instances unfair ways in which the land laws have been enforced, but to do my full duty toward pointing out that Congress has been remiss in enacting progressive laws necessary to keep abreast with the times.

Mr. President, much of the trouble has arisen because the departments are trying to execute these harsh laws as they find them. It is the duty of the Secretary of the Interior to enforce the law as he finds it written. It would be grossly unjust to lay upon the honorable Secretary of the Interior or the Forestry Department all the blame, or even a large part of the blame, for the evil results flowing from the present reactionary policy that is being pursued toward the West. The blame lies upon Congress, and any relief to be obtained must be obtained by legislation instead of by administration. I am, however, wholly and totally at variance with the present practice which, to my astonishment, I find exists here and permits the head of a department to give his opinion as to what should or what should not be the law. Departments when called upon for reports and for facts should state facts, not conclusions.

Congress should not permit the mere ipse dixit of a department to defeat wholesome laws.

It is the duty of the National Legislature to make the laws, and the House of Representatives with over 400 Members, and the Senate with 96 Senators, representing every State, are presumed to be and, in fact, are more thoroughly conversant with the needs and requirements of the country than any departmental clerk, bureau chief, or department in Washington. And I believe the relief, if any is to come, must be obtained not through the departments, but through that coordinate branch of the Government to which is delegated by the Constitution the power of making laws—the Congress.

Mr. James Bryce, the British ambassador, profound student of political and national economics, eminent publisher and author of that monumental work, The American Commonwealth, published first in 1888, in a certain chapter of his great book spoke of the temper of the West as follows:

Western America is one of the most interesting subjects of study the modern world has seen. There has been nothing in the past resembling its growth and probably there will be nothing in the future. A vast territory, wonderfully rich in natural resources of many kinds; a temperate and healthy climate * * * a soil generally and in many places marvelously fertile; in some regions mountains full of minerals, in others trackless forests where every tree is over 200 feet high; and the whole of this virtually unoccupied territory thrown open to a vigorous race, with all the appliances and contrivances of modern science at its command—these are phenomena absolutely without precedent in history and which can not recur elsewhere, because our planet contains no such other favored tract of country. * * *

The details of this development and the statistics that illustrate it have been too often set forth to need restatement here. It is of the character and the temper of the people who have conducted it that I wish to speak, a matter which has received less attention, but is essential to a just conception of the Americans of to-day. For the West is the most American part of America; that is to say, the part where those features which distinguish America from Europe come out in the strongest relief. What Europe is to Asia, what England is to the rest of Europe, what America is to England, that the Western States are to the Atlantic States. * * * It is the most enterprising and unsettled Americans that come West; and when they have left their old haunts, broken their old ties, resigned the comfort and pleasure of their former homes, they are resolved to obtain the wealth and success for which they have come. They throw themselves into the work with a feverish yet sustained intensity. They rise early, they work all day, they have few pleasures, few opportunities for relaxation. All the passionate eagerness, all the strenuous effort of the Westerners is directed toward the material development of the country. To open the greatest number of mines and extract the greatest quantity of ore, to scatter cattle over a thousand hills, to turn the flower-spangled prairies into wheat fields, to cover the sunny slopes of the Southwest with vines and olives—this is the end and aim of their lives. * * * The passion is so absorbing and so covers the horizon of public as well as private life that it ceases to be selfish, it takes from its very vastness a tinge of ideality. To have an immense production of exchangeable commodities, to force from nature the most she can be made to yield and send it East and West by the cheapest routes to the dearest markets, making one's city a center of trade and raising the price of its real estate—this, which might not have seemed a glorious consummation to Isaiah or Plato, is preached by western newspapers as a kind of religion. It is not really, or at least it is not wholly, sordid. These people are intoxicated by the majestic scale of the nature in which their lot is cast, enormous mineral deposits, boundless prairies, forests which * * * will supply timber to the United States for centuries; a soil which, with the rudest cultivation, yields the most abundant crops, a populous continent for their market.

But now, in 1912, all is changed. That the temper of the people of the West is still the same is quite true. They are still the same brave, resolute, virtuous, liberty-loving, and God-obeying people. The western climate still possesses its salubrity, and the western soil is yet fertile. The mountains and canyons are, as in the days of '49, rich in minerals, but a policy of retrogression and stagnation has been adopted at this Capitol, a policy which declares that money—metals—are of more value to mankind hidden away in the earth than they are when circulating in the channels of trade; a policy which declares that Government land is "wasted" when the settler goes out upon the almost measureless immensity of the desert and by the sweat of his face and by incessant toil causes two orange trees to grow where one giant cactus grew before; a policy so reactionary that in effect it declares that iron is of more utility hidden in the earth than when used for structural purposes or for rails over which to transport the commerce of the Nation; a policy so reactionary that it withdraws all coal and oil lands from entry, thereby allowing the Government to become an accessory before the fact in assisting the Coal Trust and the Oil Trust to retain their crushing and devastating monopoly; a policy so reactionary that in effect it declares that lead and tin, copper, manganese, and other metals are more valuable to the family of men if kept securely in the vaults where primordial chaos locked them than if brought by sturdy miners to earth's surface and used in constructing the mechanical contrivances and ingenious electrical appliances which civilization now demands; a policy which in effect declares that native grasses are "conserved" when permitted to dissipate their nutrition in earth and in air, but are "wasted" when eaten by cattle whose flesh gives food and whose hide furnishes leather for man's use, or by sheep whose flesh gives food and whose wool gives warmth to mankind.

It is proper at this juncture to inquire what are the injustices that are being committed by these policies now in vogue in Washington, and it is pertinent further to inquire what are these abuses?

The recent very able and exhaustive debate, especially the speech of the distinguished Senator from Idaho [Mr. BORAH], upon the three-year homestead law, relieves me from the necessity of pointing out at length or in any great detail the iniquity of the "red tape" and "house that Jack built" methods of the department, against which I now inveigh.

The distinguished Senator from Montana, Mr. Carter, a statesman of vast experience, whose memory the West honors, speaking in the Senate on the 30th of January, 1907, and pointing out the hardships to which these departmental rulings subjected the settlers, said inter alia respecting the difficulties which attended the homesteader in attempting to secure title to the land embraced within his entry:

> In actual practice the register and receiver of the local land office deliver to the claimant a final receipt on submission of the required proof and the payment of the statutory fees. The land thereupon becomes subject to taxation and the receipt is held by the State courts sufficient evidence of legal title to sustain an action of ejectment. The final receipt, held by the courts and always regarded heretofore as the equivalent of the patent, soon to follow from Washington, is accepted joyously by the man through whose patience, industry, and self-sacrifice it has been won. The family is now secure in its well-earned home, and the future looks brighter and better. The credit formerly withheld will now be extended to enable the struggling toiler to buy a few cattle or other needed stock to make the farm more profitable and the labor less exacting. The good wife and children may now hope to enjoy a few of the long-deferred comforts of life so much needed in and about their humble home.
>
> The accumulated capital of years of patient endeavor is made available to meet any pressing needs of long standing. The sod roof on the log cabin will soon give way to shingles, and the oldest boy or girl may go away to school. But now, under the order of the honorable Secretary of the Interior, all is changed. The claimant and his two witnesses are now a trio suspected of perjury, and under that suspicion they must rest until some special agent finds time to relieve them at the expense of the Federal Government. When the relief may come no one can tell. That it will be tardy experience demonstrates, for the pernicious practice has been indulged to a considerable extent for some time. In certain cases, I am informed, the poor settlers have been held in painful suspense for years after final proof, either awaiting arrival of the special agent or waiting to hear from his report. Just picture to yourself the settler and his family on the lonely prairie or in the mountain glen. For years he has toiled and struggled to maintain himself and those dependent upon him. On the average he has been in debt every day of that time and, his credit being poor, the interest rate has been high. The land, fairly earned, is his only capital. In support of his right to a patent he produces proof sufficient to sustain a conviction of murder in the first degree. In the face of all this his right under the law is denied him, and he is sent home from the land office, with his witnesses, suspected of felony and commanded to await the coming of a special agent or an officer of the Interior Department to clear up the suspicion.
>
> Waiving denial of the title their toil has fairly won, who can measure the pain these suspected men are doomed to suffer through the "chastity of honor which feels a stain like a wound?" An implied charge of perjury has been fixed where a badge of honor should have been attached. To all this the torture of suspense is added, for the discredited homesteader has a long period of anxious waiting in store for him. He can not stock the farm, because he has no basis of credit. He dare not make additional improvements, because the special agent may report against him or the land be lost on a technicality. He can only wait, and I understand that some have now been waiting for four years or more. The pathetic victims of this iniquitous policy could not appeal in vain for sympathy to the bowels of a brute.
>
> We are tardy in demanding to know what overwhelming public necessity cries out for the immolation of so many thousands of innocent victims on the altar of suspicion. The Congress and the country should know. Congress does not intend that its laws shall be executed in a spirit of cruelty or wrath, and the American people, inherently fair and just, need only be informed in order that the potent force of enlightened public opinion may be extended to stay the hand of injustice and oppression.

Mr. President, virtue and patriotism are not confined to congresses and to cabinets. There is not in all this world, nor in the broad extended wings of imagination a subject of thought more ennobling, or a subject of speech more inspiring, than the man who follows the plow, or the man who wields the miner's pick in the hope of achieving fortune, not from tariff exactions or special favors but from the bounty of nature.

The pioneer does not seek wealth or power by hasty ways or fraudulent means, but he patiently waits and resolutely works through dull delays of slow and laborious but sure advancement. The homesteader, in a vast majority of cases, is a man of family; he realizes that the family, not the individual, is the basic constituent element of a country's strength. With a conscience as clear as a cube of sunshine, after a day of useful labor, he finds that sleep which "knits up the raveled sleeve of care" and is, therefore, again at work before the aurora gilds the morning. He is the strength of the State. "He constitutes the State." He bears up against untold difficulties and labors for a subsistence for himself and his family with an industry and a gameness which prove him to be the possessor of the choicest gifts that are bestowed upon the children of men, for he shows by his silent but all-conquering courage that he is of the haughtiest and most aspiring of mankind. The pioneer sometimes lacks that wealth of speech which is heard in the fever of the forum, but "every word he utters weighs a ton, because there is a man behind it." He is familiar with his country's history—with the eye of faith he sees her glorious destiny. He is familiar with the rocks, with seasons that bring variety; familiar with the trees and with the soil.

Mr. President, throughout the land orators, philosophers, poets, authors, and many who sit in academic chairs, are advising the people "to get back to the soil." Nearly every publication contains an article giving wholesome advice as to "how to keep the boys on the farm," and, indeed, it can not be doubted that this advice is timely. The "back to the soil" movement is one of the worthiest movements of the day. History has shown that in troublous times those who have come from the soil have been foremost in defending liberty, for the spirit of the soil is the spirit of freedom, of justice, of purity, and of incarnate honesty.

Permit me at this point to quote those splendid lines recently written by Miss Katharine Turney entitled the "Song of the Soil:"

> I am the Mother of men that toil,
> The ancient Mother of all—the soil.
> The strength that ye boast ye have drawn from my breast,
> 'Tis to my arms that ye creep when ye go for your rest;
> The man to his Mother full tribute shall bring,
> Then hush ye and harken the song that I sing.
>
> I hold in my great heart the seed and root.
> I give to my children the blossom and fruit;
> In my veins lie the silver, the copper, the gold;
> I bleed, yea I bleed, yet I nothing withhold;
> I smile when thy blade rends my bosom in twain,
> And cover my wounds with a mantle of grain.
>
> I give ye the bread that ye lift to your lips,
> I feed your proud mills and your far-sailing ships;
> I am loved of the sun and the wind and the rain;
> Then hush ye, my children, no longer complain;
> To each shall be given the guerdon of toil,
> For I am the Mother of Men—the soil.

The stubborn fact, however, is that while all these deep thinkers, sweet singers, powerful orators, and persuasive authors have been advising the people to "get next to the soil" a policy has been pursued in Washington which almost precludes the possibility of getting next to the soil, a policy which, to say the least, renders the life of the homesteader and home builder in the West one of isolation, a policy which requires the overcoming of so many almost insurmountable difficulties that even the boldest and most resolute men and women are shaken when contemplating the difficulties they must encounter before they may receive a patent for this soil, of which we talk so much but really cultivate so little.

Let us, therefore, do our part. The delays incident to acquiring patent to a desert-land entry or a mining claim are interminable. This should not be. Let the Government proceed upon up-to-date business principles and discard the methods that savor so much of Jarndyce versus Jarndyce.

If any great business house—Marshall Field & Co., for example—should attempt for one year to do business according to governmental methods, bankruptcy and ruin would follow that firm. Is this Government to become known as "Uncle Sam,

the irresolute"? What a sickening pity to reflect that this Government loses or wastes $1,000,000 every day through indecision and circumlocution!

We hear very much about the necessity of conserving our natural resources, and, indeed, he "would be fit for treasons, stratagems, and spoils" who would have the Nation waste its natural resources. The conservation of our forests should indeed be given attention, and he who would ruthlessly and wastefully or needlessly lay low one of the green-plumed monarchs of the forest would be "baser than a bondman"; but the policy of conservation of resources should not go so far as to preclude their honest and necessary use by the people. The policy of precluding the people from taking dead timber from the forests unless the settler runs the gauntlet of the departmental methods of taking out permits is a fruitful source of annoyance to the homesteaders and pioneers; and I do not forget that the bold barons who wrung from King John at Runnymede in 1215 the great charter of English liberty took care to see to it that the forests should be preserved for the use of all the people instead of the use of the aristocracy, and they used the following significant language in articles 47 and 48 of the Magna Charta:

47. All forests that have been made forests in our time shall forthwith be deforested; and the same shall be done with the water banks that have been fenced in by us in our time.

48. All evil customs concerning forests, warrens, foresters and warreners, sheriffs and their officers, water banks and their keepers shall forthwith be inquired into in each county.

I have always been in favor of the protection of the forests, and I am ready now to vote to appropriate such sums of money as are necessary to protect the forests from fire, but reproach is being brought upon conservation by the wholesale and unnecessary withdrawals from settlement and sale of public lands.

Under the present policy, while we may be conserving some of the Nation's resources, we are wasting the people. We are conserving trees, but wasting men. We should not conserve land for itself, nor a tree just because it is a tree, but because the land and tree are useful to man. The end to be achieved in conservation is not the land itself, for itself, but the prevention of unlawful waste in order that man may use the things conserved. We are all aware that there is a Nation-wide rise in the cost of living. While I believe the high protective tariff to be the pregnant parent of the present high cost of living, there are other contributing causes, and one of the chief contributing causes is the fact that the Congress has not enacted laws that give encouragement to those who are engaged in agriculture. There exists in this Nation to-day an unhealthy and unwise economic situation. There are many crowded cities where the condition of the poorer classes of the people is so pitiable that their lives are one fierce struggle for bread. The era of great cities is at hand, and something must be done, and speedily done, to bring relief. Surely to assist in advancing a remedy is a cause worthy of our close attention and our ardent support.

If the people of this Nation be encouraged and be given every legitimate and practicable opportunity for getting next to the soil, we will soon discover that millions of unplowed acres in Arizona, Washington, California, Idaho, Nevada, Oregon, New Mexico, Colorado, Montana, and Wyoming will some day be turned into farms and fields of waving grain and thus afford an opportunity for the absorption of some of the congested situations in our great cities. If home building be encouraged, thousands of our citizens to whom life is now nothing but one ceaseless, remorseless grind for the barest necessaries of life will have an opportunity to enjoy some of the blessings of independence and to get from under the landlordism of another.

I desire at this juncture to read a short article from a Canadian paper, the Calgary Albertan, which I have just clipped and which states that the Dominion immigration agent is very sanguine in his belief that the immigration from the United States for this year will reach 170,000 persons. The article referred to is as follows:

On the same day that the Dominion immigration agent was giving reasons for his belief that the immigration from the United States for the year would reach 170,000, which is much greater than in any previous year, representatives of the most promising States in the Union were making arrangements for a convention to arrange some sort of plan to prevent the migration to our western Provinces.

American settlers will continue to desire to come here under present conditions. They are attracted by our cheap and fertile lands. They are not the kind of people who will permit any person in authority or not in authority to tell them where they are to go and where they are to stay.

The campaign will have no effect other than to advertise the worth and charm and attraction of western Canada among the people who are most desirable as prospective Canadians. Every word that these gentlemen say about the exodus is a word said in favor of the place to which the migration is tending. There is a reason for the exodus. Western Canada is giving an excellent bargain to incoming settlers. The visitor is wise who takes advantage of it.

I ask Senators to observe especially these significant words: "American settlers will continue to desire to come here," to Canada. "They are attracted by our cheap and fertile lands."

Mr. President, the Dominion may boast of its cheap lands, but in many portions of the great State of Arizona, which I have the honor in part to represent, the land is so fertile that if it were not for the prohibitively high freight rates we could ship Arizona soil into Canada for fertilizing purposes. If you be seeking fertile land, turn your attention to our own great States in the West, where citrous fruits fill the air with the fragrance of their blooms even in winter—

Where the olives grow;
The land where the fragrant winds blow
Blue bubbles of grapes down a vineyard row.

If this Congress should pass the bill I have already introduced, which provides for opening the Colorado River Indian Reservation to public settlement, and should this Government then go further and lend its assistance to the construction of an irrigation project there, or if the State of Arizona should, as it probably will, under the Carey Act, construct an irrigation project there, such action would open to settlement 150,000 acres of the richest soil on which the sun ever shone, a soil so fertile that the wildest hyperbole becomes impotent and prosaic in attempting to describe it.

In my judgment, it is not the fertility of the soil that is attracting our Americans to Canada; but there is another line in this clipping which gives the reason why western Canada is attracting our Americans, and I will read that line, which is as follows:

There is a reason for the exodus. Western Canada is giving excellent bargains to incoming settlers.

Thus we find the situation to be that western Canada, with land by no means possessing the fertility of our land, is being settled because excellent bargains are offered to the people, but there is still another significant line in this clipping which I desire to read and which is the real reason why there is stagnation in the western part of the United States but prosperity and vigor in the western part of Canada. This clipping, speaking of the kind of people who are going into Canada, says:

They are not the kind of people who will permit any person in authority or not in authority to tell them where they are to go and where they are to stay.

That is true. The frontiersman, the pioneer, the true American will not for a moment permit a beaurocrat or a doctrinaire sitting at a desk in Washington or elsewhere to tell him where to go and where not to go, and rather than submit to this unjust, un-American harassment and vexation he will resign his citizenship under the banner of the Stars and Stripes and seek a more congenial environment under the Union Jack. To the true American the lands within the State are the lands of his father's house; he will break through red tape; he will be impatient when syllabub instead of statesmanship is applied to public questions.

Let us therefore manfully face the situation as it is; let us cease blaming those who are not responsible. Congress alone is responsible. If these departments and bureaus are circumlocution offices Congress is to blame.

Mr. SMITH of Arizona. Will my colleague pardon an interruption?

Mr. ASHURST. Very cheerfully.

Mr. SMITH of Arizona. I do not think that the animadversion cast on Congress in the matter of which my colleague now speaks is entirely due to Congress itself. In quite a long experience in the other House I found the practice growing up that Congress instead of getting the facts from the departments when necessary and legislating in the light of them began to legislate through bureaus, until it has become the custom of the Senate to-day in the committees on which I am serving to ask the advice of the departments. The first question which comes from the chairman of a committee here when a bill comes up is, What has the department advised about this measure? If instead of this course we had been getting only the facts from the department itself, and then Congress had used its judgment in these matters, we would have avoided much that my colleague now very justly criticizes. The sooner we break up the practice and let it be a Government of laws by congressional enactment instead of through the advice of a bureau of the Government, the better it will be not only for us but for the balance of the United States. That Congress is rapidly surrendering its legitimate function to the executive branch of the Government is a lamentable fact, and if persisted in will in yet a short time prove the most dangerous, as it is the most insidious, assault on the guaranties contained in the Federal Constitution limiting within their proper scope the three great powers of government.

Mr. ASHURST. I thank my distinguished colleague. I am very glad to have what he has stated here made as a contribution to my address, because I regard his interruption as the most meritorious part thereof.

Mr. President, if no public business may be transacted in the departments except through endless sinuosities and the unwinding of tangled red tape Congress alone is to blame. I have sufficient faith in the integrity and patriotism of the Secretary of the Interior and the forestry officials to believe that they will scrupulously administer any law we may enact.

With Congress and with Congress alone lies the power, the authority, and the jurisdiction to remedy the situation by enacting fair, reasonable, practical, progressive laws. And then, but not until then, will we reach to a counterpart of the days depicted by Lord Macaulay's balanced lines:

Then none was for a party,
Then all were for the State;
Then the great man helped the poor,
And the poor man loved the great;
Then lands were fairly portioned;
Then spoils were fairly sold;
The Romans were like brothers
In the brave days of old.

I thank the Senate for its attention.

APPENDIX A.

PRESCOTT, ARIZ., *June 24, 1912.*

Hon. HENRY F. ASHURST,
United States Senator from Arizona, Washington, D. C.

DEAR SENATOR ASHURST: Northern Arizona contains upward of 1,000 dry farmers who, in spite of limited experience, have been able to make a living in this department of the agricultural industry.

Dr. Cooke, who is now head of the dry farming bureau of the Brazilian Government, at Rio de Janeiro, was the first expert to look over the possibilities of this county. His report in a facsimile letter is attached hereunto.

Dr. W. E. Taylor, one of the world's foremost experts on the subject of soil culture, visited Prescott at my request last October. I took him over such parts of our county as must be farmed dry, owing to lack of auxiliary water, and showed him crops which had then been harvested by farmers in different sections of the county. He pronounced the quality of these products equal to the best he had ever seen, and marveled at the depth and richness of the soil.

Since the visits of these two men, great interest has been manifested in dry farming in northern Arizona. I speak particularly of Yavapai County, because my experience lies within its borders, but I am informed that Coconino, Navajo, and Apache Counties contain great areas of land as fertile and with equally deep soils as Yavapai. In Coconino County potatoes raised by scientific farming, without irrigation, can not be surpassed in the world. In the other counties mentioned fine corn, Milo maize, Kaffir corn, sorgum, and potato crops are raised yearly.

Most of the grains and cereals raised by dry-farming methods in northern Arizona are fed to stock, and the market price of these commodities is high. Farmers get 2 cents a pound for corn, Milo maize, and potatoes.

At the rate entries are being made nearly all available acreages in Lonesome, Big Chino, Williamson, Thompson, and Peeples Valleys will be filed upon within the next 10 years.

Of these valleys the most promising is the Big Chino, 50 per cent of which is owned by the Santa Fe Railroad. It is probable, however, that in this valley the chief watersheds will be utilized as dam sites, and, if so, 70,000 acres will ultimately go under irrigation. Along the main line of the Santa Fe dry farming is practiced successfully from Seligman east to the New Mexican line.

Rainfall in northern Arizona, I would say, averages about 18 inches for the last 20 years, and as dry farming is successfully carried on in parts of Wyoming and Idaho with 5 inches less of rainfall, experts agree that our chances are better. Certainly our soils are not inferior to those of any other dry-farming section in the United States; we have enough warm weather to mature crops, and water is available nearly everywhere for domestic and stock purposes. Wells have been dug in Lonesome and Big Chino Valleys and water obtained at from depths of 35 to 400 feet, and I have yet to hear of a case where water has not been found. In the Big Chino Valley several settlers, whom we have located near the valley, state within the last six months that they have found water at depths of from 14 to 60 feet, and along the Big Chino wash, where there seems to be an underflow, it is probable fodder crops can be irrigated on limited acreages.

At the Fifth International Dry Farming Congress, held in Colorado Springs last October, this county had 30 exhibits of root crops, cereals, and deciduous fruits, all raised without irrigation. We entered 26 exhibits and took 24 prizes out of the 26, this being the banner show for any country in the world besides Colorado. Had we exhibited for all Arizona, instead of Yavapai County, as we propose to do this year, I firmly believe we would have beaten Oklahoma and Colorado. The exhibits were collected within 10 days, and no opportunity was given for careful selection. The whole collection was made within a radius of 25 miles of Prescott. This showing was commented upon by the Colorado papers and by the agricultural periodicals of the country.

Very respectfully, yours,

MALCOLM A. FRASER,
Secretary Prescott Chamber of Commerce.

APPENDIX B.

Replying to your favor of recent date, will say that the history of dry farming in Yavapai County, Ariz., covers a period of barely 10 years, although the Indians in the northern counties successfully raised crops of Hopi corn and other drought-resisting cereals for centuries.

Dry farming received its greatest impetus after April, 1911, when Dr. V. T. Cooke, then the State Director of Dry Farming for Wyoming, visited the principal dry-farming areas in Yavapai County—more than 250,000 acres—under the auspices of the Prescott Chamber of Commerce. The following is taken from his report, written for that organization on April 10:

"No doubt exists in my mind to-day, after my visit in Yavapai County, and, taking into consideration information as to precipitation and general climatic conditions which I have gathered, but what so-called 'dry farming' can successfully be carried on with certain varieties of crops, provided the farmer will realize the importance of properly preparing his soil and using seed adapted to your particular conditions.

"Prior to leaving Cheyenne, Wyo., where for the past five years I have acted as State director of dry farming, I gathered weather data from the United States observer.

"I was agreeably surprised to note that you have here more precipitation than I had been led to believe; more, in fact, than was the case in my Wyoming experience.

"Yavapai County soils are extremely fertile; they are easier to work and more susceptible to the retention of moisture than those soils of Wyoming upon which I have achieved notable successes.

"During my several journeys from Prescott to outlying valleys I saw large areas which I am confident will raise paying crops of alfalfa, winter wheat, winter rye, spring barley, oats, and wheat, emmer (commonly called speltz), stock beets, potatoes, corn, sorghum, Milo maize, Kafir corn, and possibly winter barley, brome grass, and slender wheat grass.

"With these crops properly grown and cultivated and with summer tillage to conserve one year's moisture to another, thus obtaining two years' moisture for one maximum crop, and with proper rotation, I am confident some crop can be raised each year on Yavapai County dry farms.

"Invariably, whether under irrigation or by dry-farming methods, I can not too much emphasize the use of seed raised by natural precipitation."

V. T. COOKE,
State Director of Dry Farming for Wyoming.

Following Dr. Cooke's visit many entries on Government land adjacent to Prescott and in the contiguous valleys of Yavapai County were made, and by the end of June, 1911, the figures for the fiscal year aggregated 50,000 acres which had been filed upon under the homestead and desert acts, either of which in the State of Arizona permits the settler 320 acres of land.

Encouraged by the influx of farmers from all parts of the Union, the Prescott Chamber of Commerce, in July, completed plans for the establishment of an experimental dry-farming station just north of the city; here, on 110 acres, which represents nearly every soil existent in the dry-farming areas of the county, Prof. A. M. McOmie, of the University of Arizona, is personally directing a course of experiments with many of the crops mentioned. A brief résumé of the status of dry farming in Yavapai County may be of interest to the prospective settler:

E. W. Stephens, in Ferguson Valley, has matured a crop of corn on 80 acres of land which has had no irrigation; this crop has netted him not less than 50 bushels to the acre; it was planted late in June, after the soil had been plowed but 7 inches deep; on the same ranch 30 acres of small white beans were planted at the same time on an upland field, and, although somewhat injured by insufficient rains during August, this crop nets its owner $55 per acre.

C. A. Carter, on 40 acres of his farm in Kirkland Valley, estimates the yield at over 50 bushels; he expects to win the prize for the State of Arizona with this corn at the coming fair at Phoenix.

James Davis, in Ferguson Valley, has just harvested a crop of corn that goes over 50 bushels. This field was badly torn by hail in August, which resulted in cutting the blades seemingly to ribbons; this was the only damage done, however, and in many parts of his acreage the corn stood 15 feet high; in an adjacent field milo maize did equally well.

Davis bought his farm of 320 acres in 1909 for $1,000; it had been given up as an agricultural factor by its previous owner who had expended over $2,000 in improvements; since his occupancy Davis has made a good living for his family; has made a good crop each season, and has upwards of 300 hogs to reward his industry and perseverance.

Walter Atkin, farming on dry land about 2 miles south of Prescott, has just taken 70 bushels of Silverhull buckwheat from a field of 3 acres, this being the first dry-farm crop of buckwheat raised in Yavapai County. This buckwheat received the gold award at the International Dry Farm Congress, Colorado Springs, last October. Mr. Atkin's potatoes raised in a near-by field without irrigation, took the blue ribbon at the 1910 State fair.

We have said that dry farming is in its infancy in Yavapai County; but we believe that the above statements, which can be borne out by corroboration at first hand, are impressive and will command the serious attention of industrious, thrifty farmers, which is the only class we wish to draw to this section.

Over 100,000 acres of exceedingly fertile lands adapted to dry farming are now available for entry in this county.

Very truly, yours,

PRESCOTT CHAMBER OF COMMERCE.

APPENDIX C.

During the last half century there have been granted to railroads approximately 115,500,000 acres of the public land, while during the same period there have been in round numbers 900,000 homestead entries gone to final patent, which have taken substantially 125,000,000 acres of the public domain. During the past 35 years, since the enactment of the stone and timber law and the desert-land law, there have been patented under the former act about 13,000,000 acres and under the latter about 6,000,000 acres, and during the past 40 years, under the timber-culture laws there were patented about 10,000,000 acres. There have been in the neighborhood of 500,000 acres patented as coal lands and also some other dispositions of the public domain in smaller amounts in various ways.

While there remains in the United States, exclusive of Alaska, approximately 317,500,000 acres of the public domain, and exclusive of about 190,000,000 acres in forest reserves, the fact is that all of these various entrymen made during the past 50 years have had the choice of the public domain and have very naturally selected the most fertile and productive land and the land most easily cleared and cultivated.

Those 900,000 homesteaders and the entries of thousand of preemption claimants, desert land, and stone and timber entrymen, as well as the railroads themselves, have culled over the lands of the Western States until to-day there only remain the lands that have been during all of these years and up to the present passed over many times and rejected as unfit for cultivation and not worth the effort required for their reclamation. The result is that at the present time our home seekers are not only becoming more and more reluctant to take the remaining isolated tracts of land, but the stringency of the rulings of the Department of the Interior and the construction placed upon the existing laws are, in the judgment of your committee, seriously retarding the development of the West. This statement is conclusively borne out by the very rapidly decreasing number of original entries.

In his annual report for the year 1911, the Commissioner of the General Land Office, at page 6, says:

"The total area of public and Indian land originally entered during the fiscal year ended June 30, 1911, is 17,639,099.54 acres, a decrease of 8,752,169.55 acres as compared with the area entered during the year 1910."

This statement brings home to us very forcibly, indeed, the fact that during the past year the number of original entrymen, intending settlers upon the public domain, has fallen off 33⅓ per cent. That vividly discloses the startling fact that 55,000 home seekers and home builders that would naturally and have formerly gone out to select and settle

upon our public lands have gone elsewhere during the past year. And when the records show that during that year 125,000 good American citizens—the farmers and backbone and sinew of this country—have gone to Canada, and not only expatriated themselves personally, which is by far the most serious loss, but have taken with them at the least estimate $125,000,000, the loss to this country can scarcely be estimated.

The PRESIDENT pro tempore. The Chair will ask the Senator from Arizona what disposition he desires to have made of the bill. Will the Senator have it referred?

Mr. ASHURST. I ask that the bill be referred to the Committee on Public Lands.

The PRESIDENT pro tempore. Without objection, the bill will be referred to the Committee on Public Lands.

CONSTITUTIONAL RIGHT OF THE SENATE.

Mr. BAILEY. Mr. President, I ask the Chair to lay before the Senate the resolution which I submitted yesterday.

The PRESIDENT pro tempore. The Chair lays the resolution before the Senate. It will be read.

The Secretary read Senate resolution 357, submitted yesterday by Mr. BAILEY, as follows:

Whereas the Constitution of the United States makes the Senate the sole judge of the elections, returns, and qualifications of its Members; and

Whereas every Senator is required by his oath of office to decide all such cases according to the law and the testimony before him: Therefore be it

Resolved, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate violates the spirit, if not the letter, of the Constitution, invades the rights of the Senate, and ought to be severely condemned.

Mr. BAILEY. Mr. President, executive interference in a contest involving the right to a seat in this body is so manifestly improper that it must always seem—to me, at least—very improbable; and I would not have introduced this resolution if the information on which it is based had come to me in such a way as to permit any reasonable doubt of its correctness. There is, however, no reasonable doubt about the facts in this case; indeed, there is no possible doubt about them, because the President himself has stated them in the most public and formal manner. On the 25th of last April he delivered an address in the city of Boston, and as a part of that address he read a letter which he had written to ex-President Roosevelt under date of January 6, 1911. That letter recites certain efforts made by the President to control the vote of Senators on a question which the Constitution has wisely confided to the exclusive judgment of the Senate, and which every Senator is bound by his honor and by his oath to decide according to the law and the testimony before him. In order that the Senate may know from the President's own words the extent to which he proceeded in this matter, I will ask the Secretary to read the letter which I send to his desk.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

It comes to me, perhaps without foundation, that you are going to write a strong article on the Lorimer case and publish it in The Outlook. I have been doing everything I could legitimately to have the closest examination made into the Lorimer case. I have read as much of the evidence as I could get at, and I am convinced that there was a mess and mass of corruption upon which his election was founded that ought to be stamped with the disapproval of the Senate. But I want the movement to oust him to succeed. I have urged different Senators to read the record carefully; and after a talk with ROOT, and BURTON, and KNUTE NELSON, and CRAWFORD, and some others I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

It has leaked out that I have been taking some interest in the matter, and I fear that it has not helped the situation generally because of that strong feeling of clubdom in the Senate and that resentment against outside interference which nobody who is not intimately acquainted with the situation can understand the weight of. I was talking with BORAH this morning. I have consulted a good deal with him on the subject, and he and I agree that it would be unwise either for you or for me to come out now against Lorimer and in favor of his being ousted; that it would enable those who are determined to keep him in, especially, among the Democrats, BAILEY and others, to use an argument against outside interference that would hold a number of Democrats and would deprive us of the strength we should get by a quiet presentation of the full facts on the floor of the Senate from the Senate itself. ROOT is going to make a speech; so is BURTON, and I believe that LODGE will do the same thing. Now, nothing would have stronger weight than speeches from them, whereas if either you or I came out with an attack it would enable the friends of Lorimer to shift the subject from the tainted character of his seat to the independence of the Senate in acting as a judge of the qualifications of its own Members.

I suggest, therefore, that if you have an article on this subject you hold it until after the issues are more plainly made by speeches on the floor of the body in which the contest is to be won. I want to win. So do you. This is my excuse for writing you.

Sincerely, yours,

WILLIAM H. TAFT.

Hon. THEODORE ROOSEVELT,
The Outlook, 287 Fourth Avenue, New York, N. Y.

P. S.—Of course I may be misinformed as to your purpose in this matter. Since dictating the above I have had the telephone conversation with you, but I let it go.

Mr. BAILEY. The speech which includes that letter was made a public document by the Senate on the 29th day of April. It happened that I was not in Washington at that time, having gone to Texas upon a brief errand, and I knew nothing about it for some time afterwards. But even when I learned about it, I refrained from calling the attention of the Senate to it, because the matter to which it related was still pending here, and I thought that the Lorimer case ought to be decided without reference to any other question. I also thought that the President's intervention ought to be judged without reference to the Lorimer case, and under this conviction I postponed all comment on the matter until after that case has been finally disposed of by the Senate.

I do not think it necessary to detain the Senate with any elaborate argument in support of this resolution, because it and its preamble declare such self-evident truths that no Senator, I think, will venture to deny them. On many questions, the President can properly communicate his opinions to the Senate, and on some questions, such as appointments to office and the negotiation of treaties, I think he can properly exchange opinions with individual Senators; but he has no right to obtrude his opinion upon the Senate or upon Senators with respect to any question affecting the membership of this body, and it is essential to the orderly administration of this Government that he shall not be permitted to do so.

Remembering that the Senate is the sole judge of the elections, returns, and qualifications of its own Members, let us dispassionately examine the President's letter and see how far he has attempted to invade our constitutional privilege on that subject. I first invite your attention to this sentence:

I have urged different Senators to read the record carefully, and after a talk with ROOT and BURTON and KNUTE NELSON and CRAWFORD, and some others, I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

"I have urged different Senators to read the record carefully," says the President. In God's name, has the Senate of the United States fallen to a point of such unspeakable degradation that the President of the United States must summon its Members to the White House and urge them to read the record carefully in a case which they must decide upon their oath and upon their honor?

If the President had gone no further than to urge "different Senators to read the record carefully," he would, perhaps, have been guilty of no more than an impropriety, and I would not have deemed it of sufficient importance to have brought it before the Senate. But the President, according to his own statement, did not content himself with merely urging "different Senators to read the record carefully," for he declares in that same sentence that—

after a talk with ROOT and BURTON and KNUTE NELSON and CRAWFORD, and some others, I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

What right had the President of the United States to "line up" Republicans, regular or irregular, upon the question of an election to this body? The right of a Senator to his seat ought to be determined upon the law and the evidence, and no political exigency can justify the application of any other rule. That ought never to be made a party question, and in this particular case it had absolutely no connection with party politics. But, sir, even if this had been a case in which it was proper for "regular Republicans" to be lined up, it was absolutely improper for the President of the United States to line them up.

For what was the President striving to "line up" these "regular Republicans"? Was it for a decision of that case upon the law and the evidence? No, sir. If the President had said that "I believe we are going to line up a good many of the regular Republicans" to decide that case according to the law and the evidence, there would have been good reason to complain at him for having said anything; but there could have been no just complaint against what he had said; but he did not say that, and although it was the sworn duty of every Senator to decide that case according to the election, the returns, and the qualifications of the Illinois Senator, the President proposed a wholly different test. His plan was to "line up" regular Republican Senators on the side of what "he considered decency and honesty in politics." I doubt if the President would be so willing now as he was aforetime to try a man on such an indictment, because his recent experience must have taught him how easy it is for a man's enemies to make a general charge of political dishonesty and how difficult it is for a man's friends to refute it, even when it is utterly unfounded. If we could believe what many "irregular" Republicans are saying about the

President, he is not so stanch an advocate of "decency and honesty in politics" now as he was 18 months ago.

But I will not adopt or repeat the bitter things which his enemies say against the President. I am willing to believe that he is still an advocate of "decency and honesty in politics" as he understands them. He is not, however, more earnestly in favor of decency and honesty in politics than I am; and he has done no more, according to his ability to promote them, than I have. But as I understand my duty, when I come to determine the right of a Senator to a seat in this body, I am compelled to try the question upon a more definite basis, and unless the record shows that he was elected by bribery or corruption, I am bound by my oath of office to recognize his right to represent the State which has given him her commission. As a citizen of Illinois, or as a member of her legislature, it would have been my right, and it would have been my duty, to have voted against Senator Lorimer if I believed him an exponent of indecent and dishonest politics; but that right belonged, and that duty rested, with others and not with us. The question of fitness, of decency, and of honesty, is left by the Constitution of this country to those who choose our Senators, and we have no right to reject their choice unless he lacks the qualifications of age, residence, or citizenship, or unless his election was procured through bribery and corruption.

Not only was the President of the United States guilty of a meddlesome interference with a matter which belonged entirely to the Senate, and concerning which he had no duty to perform; but, sir, even if the Constitution had authorized him to advise us on that question, he had not qualified himself to give us intelligent advice. He did not know the facts. He had never read a line of the official testimony.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. I do.

Mr. BORAH. The Senator from Texas is in error as to that proposition.

Mr. BAILEY. The Senator from Texas is not in error.

Mr. BORAH. The Senator from Texas is in error as to the President not having the evidence, because the President did have the evidence. A number of Senators here in the Senate had the evidence.

Mr. BAILEY. All Senators had the brief of the attorney for the Chicago Tribune, but all Senators did not have a copy of the evidence. The printed evidence was not delivered to the Senate document room until the 7th of January, while the President's letter to the ex-President is dated January 6.

Mr. BORAH. No; I beg the Senator's pardon. They had the evidence; they had the evidence which was printed by the committee.

Mr. BAILEY. For the committee's use.

Mr. BORAH. For the committee's use. But it was distributed here among Senators and was the same evidence as afterwards was printed for the Senate. I had it myself; the Senator from South Dakota [Mr. CRAWFORD] had it; we all had that evidence before the holidays. I spent the entire holidays in going through the testimony, and there are plenty of Senators here in the Chamber who had the evidence at that date.

Mr. BAILEY. The Senator was one of the few Senators who procured a copy of the evidence; but there was not a sufficient number printed before the holiday adjournment to have supplied each Senator with a copy.

Mr. BORAH. But, Mr. President——

Mr. BAILEY. I happened to be a member of that committee, and I know that when it came to act upon the case the committee desired to have, and it was necessary that it should have, the evidence taken by the subcommittee made available for its examination. That evidence was printed by the subcommittee for the use of the full committee, and if any Senator obtained a copy of it he obtained it from the committee or from some member of it.

Mr. BORAH. Mr. President, the evidence was printed by the committee and for the committee; but when the question was raised here upon the floor of the Senate as to whether or not it was available, the then Senator from Michigan, Mr. Burrows, stated that it would be available to the extent of a certain number of copies, and the Senator from Michigan went direct and brought copies into the Senate Chamber and handed a copy to me personally, as he did to other Senators.

Mr. BAILEY. That confirms my statement that if any Senator had a copy of it he obtained one of the committee copies.

Mr. BORAH. Well, Mr. President, I apprehend that the committee copy was a correct copy, because upon that copy the Senator from Texas and his associates filed their report. We had all the evidence that the Senator from Texas had when he filed his report.

Mr. BAILEY. Mr. President, the interruption of the Senator from Idaho makes it proper for me to say that I have not intended to criticize him because the President had mentioned his name in this letter. I had not expected to refer to him in this connection; but since he has put me under that necessity, I feel that I ought to say, in justice to him, that I knew when I took the floor that he was one of the first, outside of the committee itself, to read the evidence. But the fact that the Senator from Idaho had read the evidence in full does not prove that the President had done so. What does the President himself say on that point? In his letter to the ex-President he says:

> I have read as much of the evidence as I could get at—

I do not see how that statement can be construed otherwise than as an admission that the President had not read all of the testimony, and therefore it is plain, to my mind, that he had not, up to that time at least, seen a copy of the printed evidence. If the Senator from Idaho had been called upon to state his knowledge of the case after he had obtained and read a copy of the printed evidence, would he have said that he had "read as much of the evidence as he could get at"? Would he not have said that he had read the entire evidence? Would any man who read it all have said that he had "read as much of the evidence as he could get at"?

But the fact that the President does not claim to have read all the evidence is not the only circumstance which justifies me in saying that he was not prepared to advise the Senate on that matter, even if it had been his privilege to do so. In his Boston speech—the same speech in which he read his letter to the ex-President, and almost immediately after he had finished reading that letter—the President thus expresses himself:

> I hope that my strong expressions of opinion in this letter, formed without hearing argument, may work no unfair prejudice in a cause that remains undecided.

As a lawyer at the bar and as a judge upon the bench the President of the United States had learned that even after hearing all the evidence the argument is often essential to a sound conclusion. So deeply embedded is this thought in our judicial proceedings that learned judges must often listen to stupid lawyers argue questions which they do not comprehend; because the arguments are deemed so important that it is considered better that a superior judge shall waste some time listening to an inferior lawyer than it is that he shall be deprived of the benefit of an argument from lawyers who can illuminate the question. The President realizes that an opinion formed without hearing the argument can not be relied on with full confidence, and he meant to concede that fact, or else his statement that he had formed his opinion "without hearing argument" is destitute of any meaning.

Can the Senate believe that the President was qualified to advise us about the Lorimer case when he had only read a part of the evidence and none of the arguments? Is that the way we should try a man in this country for his life or for his good name, which is dearer than his life? Was it just, was it fair, was it manly for the President of the United States, with at best but a partial knowledge of the evidence and with no knowledge of the arguments, to summon his partisans to the White House and encourage their attacks upon a Member of this body?

Yesterday, Mr. President, we witnessed a solemn and impressive ceremony in this Chamber—happily one of the few of its kind which have occurred in our history. We heard articles of impeachment exhibited against a circuit judge of the United States. Would any Senator here feel it consistent with his oath of office and with his duty as a judge in that impeachment trial to answer the President's summons and hear the President tell him whether or not he ought to vote for the conviction or for the acquittal of Judge Archbald? And yet he would have a better right to do that than he had to do the other. He appointed Judge Archbald to the bench, and it is natural that if the judge has been guilty of such misconduct as shows him unfit for that high office the President must earnestly desire to see the country relieved from the consequences of his own mistake. On the other hand, it is equally natural that if he believes Judge Archbald to be an upright judge and an honest man he would earnestly desire to see his character and his reputation vindicated. But in the choice of a United States Senator the President is under no responsibility, and having no voice in any man's election to the Senate, he should have no influence over any man's ejection from it. As well, sir, might the President of the United States send his messenger to the Supreme Court room and, summoning its honorable justices to his presence, tell them how to decide a lawsuit pending there as

for him to call Senators to the White House and tell them how they should vote upon the question of a Senator's right to a seat in this body.

Was the President conscious that his course, to put it mildly, was irregular? I think he was. He must have been, or else he would not have spoken in that letter about it having "leaked out" that he "had been taking some interest in the matter."

Oh, what an expression to come from a President to an ex-President of this Republic! If the President of the United States was doing what he believed it was his duty to do, or what he had a right to do, there was no necessity of attempting to conceal it, and if there had been no attempt to conceal it, he would have never said that a knowledge of it had "leaked out." A President ought never to do anything which "leaks out." It may happen, of course, in the administration of justice or in our international relations, that it would not be compatible with the public interest for the President to announce his purposes or his negotiations; but the President of the United States should never do anything with respect to the Senate or its Members where a knowledge of what he had done might "leak out."

After telling the ex-President that it had "leaked out" that he had been "taking some interest in the matter," the President adds:

> And I fear that it has not helped the situation generally, because of that strong feeling of clubdom in the Senate, and that resentment against outside interference which nobody who is not intimately acquainted with the situation can understand the weight of.

Here is the old slander which has been made to do service for many years. For a quarter of a century the vicious have taught the ignorant to believe that the Senate of the United States is a mere club. Sometimes they call it a "millionaires' club," and in order to aggravate the prejudice against this body, they describe as millionaires Senators who are not worth the tenth of a million dollars. The President moderates the offensiveness of his reference to the Senate as a club by omitting the "millionaires," but he still does this body, and he does the sovereign States which it represents, the gross injustice of speaking of it as imbued with the narrow spirit of a club, and he puts its resentment against outside interference as second to the "strong feeling of clubdom." What answer will the Senate make to such a reproach upon it?

If the President had only declared that the Senate would resent outside interference with its functions, he would have paid you a tribute which your predecessors of other days deserved, and to which I hope you will establish your claim when we come to vote upon this resolution; but no man who entertains a proper respect for this body will tell his dearest friend that it is moved upon questions touching the integrity of its members by a "strong feeling of clubdom." I hold no brief to defend the Senate, and I am not in harmony with the opinions which dominate it to-day, but I bear cheerful witness to the fact that it is high above the poor opinion which the President expresses of it.

By a large majority the Senate decided the very case to which the President's letter related differently from what I think it ought to have been decided, and contrary, as I firmly believe, to the law and the testimony concerning it. But Senators whose character and patriotism do credit to the Senate and the country were governed in their votes upon that question more by what they believed was "a larger view" of it than by the law and the testimony. I feel sure that they were wrong in casting their votes upon such a consideration, but I know that some of them, right or wrong, were absolutely honest in what they did and acted for what they believed to be the highest welfare of the country.

Mr. President, no personal or party feeling ought to actuate the Senate in repelling an encroachment upon its privileges, and I am averse to introducing such topics into this discussion; but I do not see how I can ignore that sentence in which the President refers to me by name and to my party associates by designation. To leave that part of his letter without some comment might impress those who may now read, or who may hereafter read, this debate with the idea that what the President has said about us was either so true that we could not deny it, or else that we did not regard it as serious enough to call for an answer. With that idea in my mind I am constrained to take the President to task for what he said about me and about the Democrats of the Senate. I particularly invite your attention to this sentence:

> I agree that it would be unwise for either you or for me to come out against Lorimer and in favor of his being ousted; that it would enable those who are determined to keep him in, especially among the Democrats, BAILEY and others, to use an argument against outside interference that would hold a number of Democrats.

In naming me as one of those who were determined to keep Mr. Lorimer in the Senate I think the President was seeking to flatter an ancient grudge which the ex-President holds against me. But if that was not his purpose and he intended to imply that I desired to keep the Senator from Illinois in this body without regard to the law and the evidence, then he slandered me, and he deliberately slandered me; because no man knows better than he does that I discharge my duties here with absolute fidelity to my judgment and to my conscience. I do not enjoy a high degree of popularity among my associates because my unfortunate habit of bitter speech has often left a wound where I ought not to have left even a sting. I challenge error wherever I happen to find it, but I do not always challenge it with words or in a manner calculated to promote good feeling, and I have provoked more or less hostility in that way. But without regard to their personal good will or their personal ill will toward me, there is no Senator in this Chamber who thinks or who will dare to say that my course in the Senate is ever influenced by any unworthy motive. Some of them say that I am too severely technical and that I sometimes sacrifice substantial justice by adhering too rigidly to the letter of the law. They may be right, but I can not accept that philosophy. I can no more believe that there is a justice higher than the law than I can believe that there is a law higher than the Constitution. I know, of course, and I know it as well as any living man, that no law has ever been devised which will work out exact justice in every case; but I am certain that it is better for all the people that an occasional injustice shall be done than that the shifting and imperfect judgment of the individuals who try each case shall be substituted for those well-established rules which have been developed and matured by the wisdom of successive ages. I was trained in a school of politics which taught that it is the highest duty of every legislator to religiously obey the Constitution in making laws and that it is no less the duty of every man charged with the execution of those laws to execute them precisely as they were written. I know that a different view prevails in this day even among some Democrats, and I am willing to concede that they are as honest as I am, but I am sure that they have fallen into a grievous error and that sooner or later they must renounce that opinion. A distinguished Democrat quoted to me last Saturday morning the old Roman maxim that "the safety of the State is the supreme law," and I answered him, as I have answered others in the Senate before this, that the party to which I belong adopted in its infancy the wiser maxim that "the supremacy of the law is the safety of the State."

But, Mr. President, the reflection on me, if any reflection was intended by the President, is not so grave as the reflection upon my party associates. He pays me the compliment—though I doubt if he so intended it—of saying that I would denounce all "outside interference," and I am now justifying his opinion in that respect. But when he intimates that my Democratic colleagues would disregard the law and the evidence, would disregard even that "larger view" upon which some of them felt themselves compelled to decide the Lorimer case, and would be controlled by their resentment against his misconduct, he writes them down as lower even than those "regular Republicans" whom he was hoping to "line up." He knows some of these Democratic Senators as well as any Republican President ought to know them, but he knows less about them than I had supposed if he does not know them well enough to understand that they will resent his unwarranted interference with the privileges of the Senate in a proper way and not permit it to control their votes upon a different question.

Mr. President, I have now discharged what has been to me an unpleasant duty. It has been unpleasant because my personal relations with the President of the United States have been of the most delightful nature, and I would not lightly interrupt our friendship; but if he were my brother I would vote to censure him whenever he crosses the line which separates the executive and the legislative departments of this Government. Whether the Senate agrees with me or not means more to it than it does to me, for I am soon to retire from public life; and while I do not regret the 22 years which I have spent in Congress, I am waiting with impatient eagerness for the 4th day of next March to come, so that I shall be released from my duties and my obligations here. But while I will not be a Senator after that, I will know then, as well as I know now, that the future of my country depends in a large degree upon this assembly, and it is my fervent prayer that the Senate of the United States shall show itself worthy of its great power by exercising it on all occasions with firmness, dignity, and wisdom.

THE PANAMA CANAL.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, the Chair calls attention to the fact that at that hour the unfinished business would ordinarily be laid before the Senate, and also that under the rule of the Senate the matter of the impeachment of Judge Archbald is to be considered.

The Chair will take the liberty of laying the unfinished business before the Senate first, with a view of having it laid aside temporarily. It will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. GALLINGER). The hour of 1 o'clock has arrived, and, in accordance with the rule, the legislative business will be suspended and the Senate will proceed upon the impeachment of Robert W. Archbald.

On yesterday the Senator from Utah [Mr. SUTHERLAND] offered a resolution which in a moment of confusion the Chair supposed had been agreed to, but which the RECORD does not show was agreed to; and laboring under a misapprehension the Chair recognized the Senator from Wyoming to make a motion. The Chair will now lay the resolution of the Senator from Utah before the Senate. It will be read.

The Secretary read the order submitted yesterday by Mr. SUTHERLAND, as follows:

Ordered, That at 1 o'clock p. m., July 16, 1912, the Senate will proceed to the consideration of the articles of impeachment of Robert W. Archbald, a United States circuit judge and a member of the Commerce Court, presented by the House of Representatives this day.

Mr. CULBERSON. Mr. President, I suggest that there is no necessity for the adoption of that resolution in view of Rule III of our impeachment proceedings, and that the resolution is, in fact, out of order.

Mr. SUTHERLAND. Mr. President, my purpose in offering the resolution yesterday was that a formal record might be made by which the House of Representatives would have notice. The rule to which the Senator from Texas calls attention does provide that the day following the presentation of the articles of impeachment, at 1 o'clock, the Senate shall proceed to the consideration of the impeachment case. That hour has arrived, and I see no purpose to be served by adopting the resolution at this time, and, with the consent of the Senate, I will withdraw it.

The PRESIDENT pro tempore. The resolution is withdrawn.

The Senator from Wyoming [Mr. CLARK] entered a motion to reconsider the vote of the Senate on yesterday appointing a committee of five Senators.

Mr. CLARK of Wyoming. I understood the announcement to be made by the Chair that we had now entered upon the execution of the impeachment rule, which provides that at 1 o'clock we shall sit as a court of impeachment. Under that rule it occurs to me that the motion as a legislative act would not properly have place at this time. I give notice, however, that as soon as we go into legislative session I shall urge the adoption of that motion.

Mr. CULBERSON. I call attention to the latter part of Rule III, and suggest that the Senate proceed to the execution of the rule.

Mr. CLARKE of Arkansas. Mr. President, I think it is perfectly evident that Rule III was adopted with reference to meeting at 12 o'clock. As the Senate assembled to-day at 11 o'clock, it is altogether probable that the hour of 1 as understood in the rule had passed at 12, it being evidently the intention that the impeachment proceedings should be taken up one hour after the assembling of the Senate.

I therefore ask that the matter be laid aside, having passed the time fixed, until the Senator from Texas [Mr. BAILEY] shall have concluded his remarks. I ask unanimous consent that that modification of the existing order be made.

The PRESIDENT pro tempore. The Senator from Arkansas asks unanimous consent——

Mr. BAILEY. I thank the Senator from Arkansas, but I would not be willing to interfere with this proceeding.

Mr. CUMMINS. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator from Iowa rises to a point of order, which he will state.

Mr. CUMMINS. It is that under the rule of the Senate there is nothing in order at the present time save the administration of the oath to Senators who are present.

Mr. LODGE. Nothing else.

The PRESIDENT pro tempore. The point of order is sustained. The oath will be administered to the Presiding Officer by such person as may be designated by the Senate.

Mr. CLARK of Wyoming. I suggest that the oath be administered to the Presiding Officer by the senior Senator in the Chamber, the Senator from Illinois [Mr. CULLOM].

The PRESIDENT pro tempore. The Chair did not understand the remark of the Senator from Wyoming.

Mr. NELSON. The rule prescribes that before proceeding to the consideration of the articles of impeachment the Presiding Officer shall administer the oath to Senators. The Senator from New Hampshire is now the Presiding Officer of the Senate. It is his duty to administer the oath.

Mr. CLARK of Wyoming. My motion was directed to the point of the administration of the oath to the Senator from New Hampshire as Presiding Officer.

The PRESIDENT pro tempore. The Chair is of the opinion that the oath should first be administered to the Presiding Officer.

Mr. SMOOT. I should like to ask the Chair if it is in order for any Senator to move that any particular Senator shall administer the oath.

The PRESIDENT pro tempore. The Chair would prefer not to take the liberty of ruling on that, preferring that the Senate itself should act.

Mr. STONE. As a matter of privilege I ask unanimous consent that the oldest Senator in service in this body administer the oath.

Mr. SMOOT. I was going to make a motion that the Senator from Illinois [Mr. CULLOM] administer the oath to the Presiding Officer.

The PRESIDENT pro tempore. Without objection that order will be made, and the Senator from Illinois [Mr. CULLOM] will administer the oath.

Mr. CULLOM advanced to the Vice President's desk and administered the oath to Mr. GALLINGER as Presiding Officer, as follows:

You do solemnly swear that in all things appertaining to the trial of the impeachment of Robert W. Archbald, additional circuit judge of the United States, from the third judicial circuit, designated a judge of the Commerce Court, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

The PRESIDING OFFICER (Mr. GALLINGER). Without objection, the Chair will suggest that the Secretary will call the roll, calling 10 Senators at a time, and that as their names are called the Senators advance to the desk to have the oath of office administered to them.

Mr. O'GORMAN. Mr. President, would it not be permissible for each Member to rise in his place and, with uplifted hand, be sworn at the same time by the Presiding Officer?

Mr. LODGE. If I may say so, this is the method heretofore pursued.

The Secretary called the names of Messrs. ASHURST, BACON, BAILEY, BANKHEAD, BORAH, BOURNE, BRADLEY, BRANDEGEE, BRIGGS, and BRISTOW; and these Senators, with the exception of Mr. BANKHEAD, advanced to the Vice President's desk, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. BROWN, BRYAN, BURNHAM, BURTON, CATRON, CHAMBERLAIN, CHILTON, CLAPP, CLARK of Wyoming, and CLARKE of Arkansas; and these Senators, with the exception of Mr. BROWN, Mr. CHAMBERLAIN, and Mr. CHILTON, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. CRANE, CRAWFORD, CULBERSON, CULLOM, CUMMINS, CURTIS, DAVIS, DILLINGHAM, DIXON, and DU PONT; and these Senators, with the exception of Messrs. CURTIS, DAVIS, DIXON, and DU PONT, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. FALL, FLETCHER, FOSTER, GAMBLE, GARDNER, GORE, GRONNA, GUGGENHEIM, and HEYBURN; and these Senators, with the exception of Mr. FOSTER and Mr. GORE, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. HITCHCOCK, JOHNSON of Maine, JOHNSTON of Alabama, JONES, KENYON, KERN, LA FOLLETTE, LEA, LIPPITT, and LODGE; and these Senators, with the exception of Mr. KERN and Mr. LEA, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. MCCUMBER, MCLEAN, MARTIN of Virginia, MARTINE of New Jersey, MASSEY, MYERS, NELSON, and NEWLANDS; and these Senators appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. O'GORMAN, OLIVER, OVERMAN, OWEN, PAGE, PAYNTER, PENROSE, PERCY, PERKINS, POINDEXTER, POMERENE, and RAYNER; and these Senators with the exception of Messrs. OWEN, PENROSE, POINDEXTER, and RAYNER, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. REED, RICHARDSON, ROOT, SANDERS, SHIVELY, SIMMONS, SMITH of Arizona, SMITH of Georgia, SMITH of Maryland, SMITH of Michigan, SMITH of

South Carolina, and SMOOT; and these Senators, with the exception of Mr. RICHARDSON, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. STEPHENSON, STONE, SUTHERLAND, SWANSON, THORNTON, TILLMAN, TOWNSEND, WARREN, WATSON, WETMORE, WILLIAMS, and WORKS; and these Senators, with the exception of Mr. WATSON and Mr. WETMORE, appeared, and the oath was administered to them by the President pro tempore.

The PRESIDING OFFICER. If there be no objection, the Chair will suggest that the names of the absentees be now called.

Mr. LODGE. I was about to make that suggestion in order that the record might be complete.

The Secretary read the names of the absent Senators, as follows:

Messrs. BANKHEAD, BROWN, CHAMBERLAIN, CHILTON, CURTIS, DAVIS, DIXON, DU PONT, FOSTER, GORE, KERN, LEA, OWEN, PENROSE, POINDEXTER, RAYNER, RICHARDSON, WATSON, and WETMORE.

The PRESIDING OFFICER. Senators now present whose names have been called and who have not heretofore been sworn will present themselves and take the oath.

Mr. CHAMBERLAIN and Mr. WETMORE advanced to the Vice President's desk and the oath was administered to them by the President pro tempore.

The PRESIDING OFFICER. Senators, the Senate is now sitting for the trial of the impeachment of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, designated a judge of the United States Commerce Court.

Mr. CLARK of Wyoming. I send to the desk an order for which I ask immediate consideration.

The PRESIDING OFFICER. The order will be read.

The Secretary read as follows:

Ordered, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against Robert W. Archbald, United States circuit judge, and is ready to receive the managers on the part of the House at its bar.

The PRESIDING OFFICER. If there be no objection, the order will be now considered. The question is on its adoption. [Putting the question.] The order is agreed to. The Secretary will so inform the House of Representatives.

Mr. BACON. Mr. President, I should like to call attention to Rule XXIII. I wish to suggest that in former cases the inconvenience of calling the roll in each instance has been avoided simply by having the order passed by unanimous consent rather than by putting it as a motion, as is ordinarily done. I would suggest that in this instance the vote just taken be either reconsidered or set aside as not having been properly had, and that the question be submitted by the Chair for unanimous consent in order that the record may thus appear.

The PRESIDING OFFICER. Upon reflection the Chair agrees with the Senator from Georgia, and will ask that that procedure be had. The Chair will ask, Is there objection to agreeing to the order? The Chair hears none, and it is agreed to by unanimous consent.

Mr. SMOOT. I ask the Senator from Georgia whether he thinks that that is the rule? I do, for this reason. Rule XXIII provides that:

XXIII. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, subject, however, to the operation of Rule VII.

Rule VII provides that:

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment and all forms during the trial not otherwise specially provided for. And the presiding officer on the trial may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision.

The query arose in my mind whether it would be necessary to secure unanimous consent unless a vote was questioned by a Senator.

Mr. BACON. No, Mr. President, I think the Senator, I say respectfully, is not correct in that view. The rule is positive that upon all orders and decisions the vote shall be taken by yeas and nays except as provided in Rule VII. This is not one of the classes of questions provided for in Rule VII. It is not of that class at all, and manifestly it is one where, in the absence of unanimous consent, it would require that there should be a roll call. During the course of the trial questions must be decided. There are questions about which there will be no division, and if it is done by unanimous consent it complies with the intention of the rule, which is that wherever there is a division of the Senate upon any order or decision other than matters prescribed in Rule VII there shall be a record vote, and without debate.

Mr. HEYBURN. Mr. President, I am under the impression that the rule of unanimous consent does not apply during an impeachment trial at all. The rule provides that the Chair shall decide. It provides the manner of an exception to the decision of the Chair. That is the whole story. The Chair is not required to inquire whether or not unanimous consent is given. The Chair rules primarily under the rule, and unless some objection is interposed in the manner provided by the rules the ruling of the Chair is final.

So I think that during the trial of an impeachment case in the United States Senate the rule of unanimous consent has nowhere an application.

Mr. LODGE. I am about to make a motion that the Senate, sitting as a court of impeachment, take a recess until 3 o'clock in order to give the managers on the part of the House time to assemble and appear here. Before making the motion, however, I call attention to the fact that the Senate sitting as a court, when it takes a recess, brings the Senate back into legislative session where it was. I now make the motion that the Senate, sitting as a court of impeachment, take a recess until 3 o'clock.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate, sitting for the trial of impeachment of Robert W. Archbald, take a recess until the hour of 3 o'clock.

The motion was agreed to; and (at 1 o'clock and 45 minutes p. m.) the Senate, sitting as a court of impeachment, took a recess until 3 o'clock p. m.

EXPENSES OF IMPEACHMENT TRIAL.

The PRESIDENT pro tempore. The Senate is now in legislative session.

Mr. WARREN. Mr. President——

Mr. CLARK of Wyoming. I desire to present legislative business, of which I gave notice this morning.

Mr. WARREN. Then, I will ask to present what I now have. I present a joint resolution, which I ask may be read twice by its title and referred to the Committee on Appropriations.

The joint resolution (S. J. Res. 122) providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald was read twice by its title and referred to the Committee on Appropriations.

Mr. WARREN subsequently said: From the Committee on Appropriations I report back favorably, without amendment, the joint resolution (S. J. Res. 122) providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The Secretary will read the joint resolution for the information of the Senate.

The Secretary read the joint resolution, as follows:

Resolved, etc., That there be appropriated from any money in the Treasury not otherwise appropriated the sum of $10,000, or so much thereof as may be necessary, to defray the expenses of the Senate in the impeachment trial of Robert W. Archbald.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. BACON. I should like to inquire of the Senator from Wyoming if he thinks the amount provided for in the joint resolution is adequate for the purpose.

Mr. WARREN. The expenses of the last impeachment trial only amounted to about $7,000, and this joint resolution is so framed as to use whatever may be necessary. If more funds are needed, another joint resolution can follow.

Mr. BACON. I did not know what was the actual cost of the other impeachment trial, but I knew that the resolution then offered provided for an appropriation of about $40,000.

Mr. WARREN. It provided for $40,000, but only a little over $7,000 were used.

Mr. BACON. Yes; I understand that there was only about $7,000 of it used.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. WARREN. Mr. President, I now ask that the sundry civil appropriation bill be taken up, which is House bill 25069.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent that the Senate proceed to the consideration of the bill named by him.

Mr. SIMMONS. Mr. President, I object.

Mr. WARREN. May I ask the Senator from North Carolina why he objects to the consideration of the bill?

Mr. SIMMONS. Because I desire to make a motion to take up the wool bill.

Mr. WARREN. Well, Mr. President, then I move that the Senate proceed to the consideration of the sundry civil appropriation bill.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate proceed to the consideration of the sundry civil appropriation bill.

Mr. SIMMONS. Regular order, Mr. President.

Mr. WARREN. This is the regular order.

Mr. SIMMONS. That is a matter for the Chair to decide.

The PRESIDENT pro tempore. The Chair decides very promptly that the motion made by the Senator from Wyoming is in order. The question is on that motion.

Mr. SIMMONS. I suggest the absence of a quorum.

Mr. BACON. Mr. President——

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. BACON. The Senator from North Carolina suggests the absence of a quorum, and I shall not therefore proceed.

The PRESIDENT pro tempore. The Chair did not hear the suggestion. The Senator from North Carolina having suggested the absence of a quorum, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	La Follette	Pomerene
Bacon	Culberson	Lodge	Sanders
Bourne	Cummins	McCumber	Shively
Bradley	du Pont	McLean	Smith, Ariz.
Brandegee	Fall	Martin, Va.	Smith, Ga.
Briggs	Fletcher	Martine, N. J.	Smith, Md.
Bristow	Gallinger	Massey	Smoot
Bryan	Gamble	Myers	Stephenson
Burnham	Gronna	Nelson	Sutherland
Burton	Guggenheim	Newlands	Swanson
Chamberlain	Heyburn	O'Gorman	Tillman
Clapp	Hitchcock	Overman	Warren
Clark, Wyo.	Johnston, Ala.	Page	Wetmore
Clarke, Ark.	Jones	Percy	Williams
Crane	Kenyon	Perkins	Works

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is detained from the Chamber on important business.

The PRESIDENT pro tempore. Sixty Senators have answered to their names. A quorum of the Senate is present. The Senator from Wyoming [Mr. WARREN] moves that the Senate proceed to the consideration——

Mr. BACON. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BACON. If the motion made by the Senator from Wyoming prevails, the unfinished business is displaced and the bill moved by the Senator from Wyoming becomes the unfinished business in lieu thereof. Am I correct in that?

Mr. BRANDEGEE. Mr. President, I should like to have the Senator from Georgia repeat what he said, as I did not quite understand it.

Mr. BACON. The Senator from Wyoming [Mr. WARREN] moved to proceed to the consideration of the sundry civil appropriation bill. The Senator from North Carolina [Mr. SIMMONS] called for the regular order, which would be the resumption of the consideration of the Panama Canal bill. The question was raised whether the motion of the Senator from Wyoming was or was not in order, and I understood the Chair to say, before the roll was called for the purpose of ascertaining whether a quorum was present, that it would be in order. I then rose to a parliamentary inquiry, to ascertain if the Senate upon a majority vote should sustain the motion of the Senator from Wyoming, whether the unfinished business would not thereby be displaced and no longer be the regular order, and by that vote the appropriation bill would itself become the regular order, the unfinished business.

The PRESIDENT pro tempore. The Chair will frankly state, in response to the parliamentary inquiry of the Senator from Georgia, that when the Chair ruled he had forgotten the fact that the unfinished business had been temporarily laid aside. The Chair is of the opinion that a demand for the regular order would take the Senate back to the consideration of the unfinished business.

Mr. BACON. Undoubtedly.

Mr. BAILEY. A parliamentary inquiry, Mr. President. I wonder if the Chair could tell me exactly what becomes of my resolution under this condition?

The PRESIDENT pro tempore. The Chair is of the opinion that if the Senator should ask unanimous consent to continue the discussion of the resolution it would be quite in order; in fact——

Mr. BAILEY. I have some other things that it would please me to say; but if the Senate would be good enough to adopt the resolution I would be willing to take the resolution and spare the Senate the speech.

The PRESIDENT pro tempore. The regular order having been demanded, the Senate will resume consideration of the unfinished business.

Mr. CLARK of Wyoming. I ask unanimous consent that the Senator from Texas be allowed to continue his remarks.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from Wyoming? The Chair hears none. The Senator from Texas is recognized.

Mr. BAILEY. Mr. President, I will testify my appreciation of the Senate's kindness by occupying as little of its time as will enable me to conclude what I feel I ought to say.

Mr. BRANDEGEE. Mr. President, will the Senator from Texas allow me to interrupt him for a parliamentary inquiry?

Mr. BAILEY. Certainly.

The PRESIDENT pro tempore. The Senator from Connecticut will state his parliamentary inquiry.

Mr. BRANDEGEE. I desire to know whether or not the motion made by the Senator from Wyoming was put to the Senate?

The PRESIDENT pro tempore. It was not put to the Senate; at any rate——

Mr. BRANDEGEE. And I further desire to inquire whether the Panama Canal bill still remains the unfinished business?

The PRESIDENT pro tempore. It does still remain the unfinished business. Had the motion of the Senator from Wyoming been put to the Senate and agreed to, it would have displaced the unfinished business beyond question.

Mr. WARREN. I did not intend to displace the regular unfinished business when I made the motion. It has been generally understood here that when the unfinished business was laid aside temporarily, it was laid aside for the day, unless called up again, and I made the motion in deference to that custom.

I may say, however, that if the Senate expects to proceed orderly with its business, it seems to me there will have to be a time allowed for the appropriation bills in order to get them to conference. Our conferences this year on appropriation bills have been and will doubtless continue to be extended and laborious, and it seems to me that I shall have to, so far as I can, if not at this time, then very soon, undertake to displace any and all things possible in order to get the appropriation bills through, because the Government must be provided with funds, and it is running now under a temporary resolution which lasts but a few days.

CONSTITUTIONAL RIGHT OF THE SENATE.

Mr. BORAH. Mr. President, I want to say a few words. I do not, however, want to take the time of the Senator, if he has not concluded his remarks.

I should not feel called upon to say anything in regard to this resolution if I did not feel that to remain silent would be in some sense to shirk a part of the responsibility for this letter. I am not willing, therefore——

Mr. BAILEY. Mr. President, will the Senator permit me a suggestion?

Mr. BORAH. Certainly.

Mr. BAILEY. I want to say that I did not intend to mention the Senator's name, if I had done so—and the Senator observed that in reading the letter I omitted that part—I intended, before the Senator interrupted me the first time, to say that while the President admitted he had never read this evidence that was not true of all the Senators, and I happen to know it was not true of the Senator from Idaho. I happen to know that the Senator from Idaho had one of the copies of the testimony prepared by the subcommittee for the consideration of the full committee. I hope the Senator understands that my personal relations with him are such that it would be impossible for me to believe that he had committed himself to the decision of a question before he knew anything about the law or the facts involved.

Mr. BORAH. Mr. President, on the 21st day of December, 1910, the Committee on Privileges and Elections filed with the Senate its report upon the matter of the title to his seat of Mr. Lorimer from Illinois. When that report came in some discussion followed as to the time necessary for the consideration of the evidence and the time which had been given in its consideration. While I do not propose to trespass upon the time of the Senate to read from the record of that days' proceedings, I ask leave to insert in the RECORD a portion of the CONGRESSIONAL RECORD of December 21, 1910, pages 552, 553, and 554.

The PRESIDENT pro tempore. Without objection, leave will be granted as requested.

The matter referred to is as follows:

Mr. BEVERIDGE. * * * On last Friday night I received a notice that the full committee would meet on Saturday at 10 o'clock. The committee did meet on that date, and a report of the subcommittee

to the full committee was presented, together with the statement of the Senator from Tennessee [Mr. Frazier], to which the chairman of the committee has just alluded, which I am sorry is not presented with the report and other matters just laid before the Senate. But, I take it, this could not be done under the telegram the chairman has read.

Mr. President, when the committee met at 10 o'clock last Saturday the testimony was laid before all the members of the committee. That was on Saturday morning. Speaking for myself, it was the first time I had seen the testimony. I understood also that there were briefs more or less voluminous, neither of which I had seen.

After the report of the subcommittee was read and other statements, including that of Senator Frazier, were submitted, a motion was made that the report of the subcommittee should be adopted by the full committee. I was not able to assent to that proposition at that time for the reason that I had not read the testimony and had had no opportunity of doing so.

For that reason I asked that the matter might go over until after the holidays so that this testimony might be examined. The committee would not agree to that.

Then I asked for a week in which to examine the testimony and briefs. The committee, in its wisdom, of which I make no criticism whatever, would not agree to that. Finally, upon the withdrawal of the motion to adopt the report then presented by the subcommittee on last Saturday, the full committee adjourned on motion to meet and finally dispose of the matter on yesterday morning, thus giving the members of the committee who had had no opportunity to examine the testimony and the briefs until Tuesday morning to make such examination before making up their minds.

This seemed to me to be too short a time. It amounted to one-half of a working day; that is, Monday forenoon; or, if you include Sunday, one day and a half. The Senate itself can judge of that. Here is the testimony. It is a volume of 748 pages, closely printed. Here are the precedents involved, or some of them—a large volume. Here are the briefs—one of them nearly 200 pages long.

I immediately took the testimony away with me, and finally, on Saturday afternoon, got a copy of the brief in behalf of Senator Lorimer, but I was not able to get the brief which I understood had been printed on the other side until Monday morning.

On Sunday I entered into the investigation, so as to inform myself whether I could intelligently, one way or the other, concur or dissent from the report.

On Sunday it was quite impossible to examine with any kind of care even this brief, which is over 190 pages in length; it was impossible to examine the testimony in that brief time, so at the committee meeting on yesterday, when the motion was made to adopt the conclusion of the subcommittee and authorize the chairman to draw the report which has just been filed, I was not able to vote in favor of it, but, on the contrary, was impelled to vote against it, because, using all possible diligence, I had not been able, not only not to master, but even carefully to investigate the testimony, the briefs, or the precedents.

For this reason, Mr. President, I am not able either to concur with or dissent from the report of the majority of the committee, and shall not be able to determine whether I shall do so until I have given to these matters—the testimony, the arguments, and the precedents—such investigation and study as satisfies my mind one way or the other—such study as so serious a matter requires.

I thought it necessary to state this to the Senate so that the Senate might know why I can not concur or dissent. I therefore reserve the right, as I did in committee, to take such action as my judgment compels when I have had an opportunity to investigate these matters—which I trust I have shown to the Senate has not existed heretofore so far as I am concerned. I reserve the right, as I did in committee, either to concur or dissent or file a minority report.

Mr. President, I have served on this committee, I think, for about 12 years, and I recognize the gravity and seriousness of a case like this, not only as it affects the Senator whose name is in question, but as it affects a State and the Senate itself. There ought to be no delay on the one hand nor any inconsiderate haste on the other hand. We are about to adjourn. We shall reconvene immediately after the Christmas holidays. That will give to any Senator who desires diligently to examine the matter time to do so and to arrive at his conclusions. That having been done, Mr. President, I think all Senators will agree, without exception, that the case should be expedited and concluded.

I therefore ask unanimous consent that at an appropriate time, quite early after the reconvening of the Senate after the holiday recess—say Monday, January 9—the report of the committee just given to the Senate and laid on the table subject to call, together with any other reports which may be made in the premises, shall be taken up for consideration and made the special order, to be continued from day to day until Saturday, the 14th of January, unless sooner disposed of, at which time, before adjournment on that day, the report of the committee and all questions arising thereunder and any other reports that may be filed, together with any resolution that may be offered up to that time, shall be voted on and finally disposed of.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from New Hampshire?

Mr. BEVERIDGE. I do.

Mr. GALLINGER. As I understand the matter, this is a privileged question, which can be called up at any time and discussed by the Senate. I am not willing that it shall be put in such attitude that it will displace the unfinished business, which is now the matter before the Senate, but of course the consideration of a question of this kind will not be opposed whenever the chairman of the committee feels that it is his duty to call it up.

Mr. BEVERIDGE. Mr. President, I understand that, and, as I tried to state, the reason for the request for unanimous consent was that a definite period might be fixed. I thought we might thus best expedite the matter, which, I take it, everybody desires to have disposed of. I assume that a definite period—if this is too long a time, reduce it—would answer the ends of the reasonable disposition, not only of this business, but of the other business of the Senate.

Of course it lies on the table, subject to the call not only of the chairman of the committee but also of any other Senator—the Senator can make it broader than that—but if that should be the case, and it be called up one day, discussed, and then go over for a week, the discussion might go on to the end of the session without arriving at any conclusion. Of course I merely want the sense of the Senate upon it. Whatever the Senate decides will be the law of the case.

Mr. BURROWS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Michigan?

Mr. BEVERIDGE. I have made my request for unanimous consent, and I yield to the Senator.

Mr. BURROWS. Mr. President, I gather from the remarks of the Senator from Indiana that he desires to reserve the right to file minority views if he should conclude so to do.

Mr. BEVERIDGE. I reserve the right to either concur, dissent, or file a minority report, or anything else dictated by the study of the testimony, briefs, and precedents.

The PRESIDING OFFICER. The Senator from Indiana asks unanimous consent that he may be allowed to file his views on the report just made. Is there objection?

Mr. BURROWS. There is no objection to that, I understand.

The PRESIDING OFFICER. The Chair hears no objection, and the Senator from Indiana has that permission.

Mr. BURROWS. Mr. President, I desire to say further that I think the Senator from Indiana must have misunderstood the resolution passed by the Senate and my request that the report of the committee lie on the table.

Mr. BEVERIDGE. No; I understood that.

Mr. BURROWS. The very object of that was to give to every Member of the Senate the opportunity to examine the testimony and the report. In that way we fully meet the criticism of the Senator from Indiana that there has been undue haste in the matter——

Mr. BEVERIDGE. I expressly stated that I made no criticism at all. I merely stated the facts as to why I can not now concur or dissent from the majority report.

Mr. BURROWS. In order to give time to examine the report and the testimony, I have asked that the report lie on the table and the testimony printed in sufficient quantity to supply the Senate. There is no occasion for fixing a date for the consideration of the report.

As has been well said by the Senator from New Hampshire, this is a privileged report and can be called up at any time.

Mr. BEVERIDGE. Mr. President, I expressly state that I make no criticism on the committee or any member thereof. I am familiar with the proprieties. I have stated merely the facts. The Senate can see for itself that it was not an excuse, but an explanation as to why I myself am not ready to express any opinion upon this case, either concurring with or dissenting from the majority report. There [exhibiting] is the volume of testimony—748 pages closely printed; here [exhibiting] is one of the briefs—nearly 200 pages long; there [exhibiting] is another; and here [exhibiting] is an abstract. The time given——

Mr. BAILEY. Will the Senator permit me to ask him a question?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Texas?

Mr. BEVERIDGE. I do.

Mr. BAILEY. Of course the Senator might have been otherwise engaged, but a very elaborate brief for the petitioners in this case was sent to me, and I assume was sent to every member of the committee, and probably to every Member of the Senate, something like two months ago, or certainly more than a month ago.

Mr. BEVERIDGE. As I have said in my remarks, to interrupt the Senator right there, I never saw nor heard of these briefs until the meeting of the committee on Saturday last. On Saturday afternoon I succeeded in getting the brief of Mr. Hanecy, but was unable to get the other briefs—I was informed at that time that they were in existence—until Monday morning, when I did get them, and I never saw the testimony until last Saturday morning at committee meeting.

The Senate itself can judge whether or not I am unreasonable in saying that, even working on Sunday, which would allow a day and a half before the final meeting of the committee, there was sufficient time to go through a volume of 748 pages, a brief of 190 and some odd pages, and another brief of I do not know how many pages, to say nothing of the precedents.

At least, Mr. President, working with some diligence, I could not do it. I state that not in criticism of anybody else, but as a reason why I am not able to act this morning, and I made the same statement in the committee yesterday morning.

Now, as to the other point of the Senator from Michigan, Mr. Burrows, I am not urging haste. Not being able, for the reasons given, thoroughly to familiarize myself with the case—and, I repeat, the Senate can judge for itself whether a day and a half, including working on Sunday, is enough to go through all of these volumes and all the authorities cited—it seems to me that the holidays would afford enough time. And if the holidays do afford enough time, we should then proceed to consider and conclude the case without unreasonable delay. That is the only request I made.

Mr. BURROWS. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Michigan?

Mr. BEVERIDGE. Yes.

Mr. BURROWS. Does the Senator know of any criticism of him because he did not feel able to concur or dissent at that meeting of the committee?

Mr. BEVERIDGE. Well, no; except the one the Senator implied. He did not mean it, but he implied one when he stated a moment ago that, in the first place, I complained of haste and now I wanted to make haste. I am trying to show that the Senator is in error, and he will see it himself.

I said, as the Senator will remember, when I asked that opportunity to investigate the record of the case be given those of us who were not members of the subcommittee, that the time during the holidays would be sufficient. The committee would not agree to that. Then I asked for only one week. The committee would not agree to that.

I do not desire, on account of my not having gone through 748 pages of testimony and the briefs and precedents in a day and a half, including Sunday, to delay this matter. It struck me—and it is a matter I have thought of since I have been sitting here in my seat—that it would serve the ends of justice, the convenience of Senators, and the settlement of the whole great question involved if, a reasonable time having been given to all Senators to examine the testimony and the arguments, that a specific time then be fixed for taking up and determining the report of the committee, any other reports that may be filed, and any resolutions that may be based upon them.

If the 9th of January is too early to take the matter up, I would change the dates in my request for unanimous consent so that it would be taken up on Monday, the 16th, and continue until Saturday, the 21st, unless we can dispose of it earlier than that. That would give one week.

Mr. BORAH. This discloses, Mr. President, that upon that day the evidence was subject to the call of those Members of the Senate who desired to call for it; that while it had not been published by the Senate, there had been a print of it by the committee, and that print was subject to the call of Members of the Senate.

Mr. BAILEY. Mr. President, whatever the records may show in that regard, that is not correct. The committee had no authority to print the testimony for the use of the Senate until the Senate ordered it printed. The committee had authority to print only for the use of its own members; and no part of the testimony had been printed except for the use of its members. I distinctly recall that I procured at least one and probably two copies of it for some of my friends in the Senate who wanted to read it during the holidays.

Mr. BORAH. The point which I was pressing was not the technical proposition as to whether or not the print had been made under the control of the committee for the Senate; but the fact was that the evidence was in such shape that it could be had by Members of the Senate to read, and that that was a condition which had existed for some days, and that briefs on the subject had been upon the tables of Senators for weeks and weeks prior to that time.

The Senator from Texas stated upon that day, when the Senator from Indiana was asking for time:

> Of course the Senator might have been otherwise engaged, but a very elaborate brief for the petitioners in this case was sent to me, and I assume was sent to every member of the committee, and probably to every Member of the Senate, something like two months ago, or certainly more than a month ago.

The matter which I desire to have the RECORD disclose is that those who were discussing this matter with the President or anyone else upon the 6th day of January, 1911, had had the testimony for nearly a month and had had the briefs for a month and a half or two months.

One further matter:

In this letter the President refers to the fact that apparently there was a disposition to let the matter go by default. Perhaps that was an unfortunate expression upon the part of the President. Yet the history of the situation at that time discloses that that was an expression which might very properly come from almost anyone engaged in a discussion of the matter.

Mr. BAILEY. Permit me to call the Senator's attention to the fact that this statement of the President about going by default was not made in the letter written in 1911; it was made in his speech on the 25th day of last April. It is part of the speech, and not part of the letter.

Mr. BORAH. Whether the expression appeared in the letter or in the speech, the facts which I am about to narrate to the Senate would, I think, justify its use.

On the Friday prior to the 21st day of December, 1910, the subcommittee of the Committee on Privileges and Elections made its report to the general committee. The Senator from Indiana, Mr. Beveridge, asked for an extension of time to read and discuss the testimony. That was denied to him by the committee. He again asked for an extension of time, as he says in his statement here, and again the committee thought it proper to refuse the extension of time.

It is a notorious fact, Mr. President, known to all who are familiar with the condition of affairs at that time, that notwithstanding the report of the subcommittee did not come to the general committee until the 18th day of December, and notwithstanding the general committee did not report until the 21st day of December, and that in two or three days we were to adjourn for the holidays, there was an urgent disposition to dispose of that matter prior to the holidays.

Mr. BAILEY. Mr. President, will the Senator permit me to interrupt him there?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I do.

Mr. BAILEY. Instead of there being an urgent disposition on the part of the committee to dispose of it, there was an urgent insistence on the part of somebody that the committee should make its report before the holidays.

While I am on my feet, I want to say that it is not true that the committee denied Senator Beveridge any time that he wanted. It is true that the committee, when ready to make its own report, was not willing to delay it in order that Senator Beveridge might have his dissenting opinion ready to file with the opinion of the committee. But it did not deny him any opportunity that he wanted to examine the record.

Mr. BORAH. Mr. President, Mr. Beveridge says in his statement:

> On last Friday night I received a notice that the full committee would meet on Saturday at 10 o'clock. The committee did meet on that date and a report of the subcommittee to the full committee was presented, together with the statement of the Senator from Tennessee [Mr. Frazier], to which the chairman of the committee has just alluded, which I am sorry is not presented with the report and other matters just laid before the Senate. But, I take it, this could not be done under the telegram the chairman has read.
>
> Mr. President, when the committee met at 10 o'clock last Saturday the testimony was laid before all the members of the committee. That was on Saturday morning. Speaking for myself, it was the first time I had seen the testimony. I understood also that there were briefs, more or less voluminous, neither of which I had seen.
>
> After the report of the subcommittee was read, and other statements, including that of Senator Frazier, were submitted, a motion was made that the report of the subcommittee should be adopted by the full committee.

Now, it is but fair to say, it seems to me, that if this matter was in such a condition and the record was so that the full committee could pass upon it within the time which it undertook to pass upon it, whatever other criticism may be lodged against the President for the letter it should not be said that he did not have an opportunity to examine the facts some 30 days thereafter. The subcommittee made its report upon a certain morning, and upon the same morning voted to send its report out of the committee into the Senate.

Mr. BAILEY. Mr. President, will the Senator permit me to interrupt him there?

Mr. BORAH. Certainly.

Mr. BAILEY. If the Senator wants to indulge in that kind of a reflection upon the committee, I am more than ready to meet it. I want to tell him now that no matter what Senator Beveridge said, it is not true that every member of the full committee had not been furnished that evidence before the subcommittee met. I do not know whether it is in that record or not. If it is not, it ought to have been suggested, when Senator Beveridge made that statement, that if he had never examined that record until that morning it was his own fault, because as soon as the subcommittee had concluded its labors it put its report into print and furnished it to the full committee.

Mr. BORAH. Mr. President, I am not reflecting upon the committee. I assume that when the committee signed that report they had had ample time to examine the 800 pages of testimony.

Mr. BAILEY. What was the purpose of the Senator in saying that they came and at once made the report if he did not mean to imply that they made the report without consideration?

Mr. BORAH. It was this. My object and purpose in making the statement was that if this committee, upon evidence which it had before it and the record which was before it, could pass upon it on the 21st day of December, the President, on the same record, could be fully informed on the 7th day of January.

Mr. BAILEY. But the President said he had read only such parts of the evidence as he could get at, making it plain that he had not read what the committee had.

Mr. BORAH. No; it does not make it plain that he had not read what the committee had. It makes it plain that he had read what the record discloses. Whether that should be regarded as a full and complete showing or not might be a subject of discussion, but he had the same record and he had the opportunity to have the same record, and there is no proof that he did not have what the committee had when it signed its report on the 21st day of December.

Now, Mr. President, a number of Senators here know it to be true that this record was taken by them during the holidays and examined upon their part and thoroughly analyzed, and when we convened after the holidays they had fully studied, considered, and digested the evidence and the law and made up their mind in regard to this record. It was a matter which was being discussed here and there, and was much more familiar in a way than it was to Senators a month thereafter, because they had thoroughly studied it during the time they had nothing else to do except to consider it.

This is what leads me, however, to say what I am saying. I learned that Col. Roosevelt was to write this article. I did not think it was a wise or a proper thing to do, and I went to the President and told the President that, in my judgment, it was not a wise thing to do to have the matter discussed in that way; neither was it a fair proposition; that this was a matter which ought to be settled by the Senators themselves. I have no doubt, in fact I know, that it was upon my suggestion that the President wrote and asked that that article be not published. It was not, in my opinion, upon his initiative, but having learned it in a way that I could not doubt, I felt that Col. Roosevelt ought not to take that course, and that the discussion ought not to proceed along that line. Now, I never saw the letter after it was written until it was published at Boston.

Let me say another thing. The Senator seems to think that wherein the President says that he—the Senator from Texas—was determined to keep Senator Lorimer in the Senate is a reflection upon the Senator from Texas. It might seem so upon the face of the letter, but I happen to know, and I want to say to the Senator from Texas in public, that that was not the construction which the President put upon that language.

The Senator from Texas at that time had signed this report. He had made known to the world that he believed that this man was innocent of these charges and that his title was good. Everyone who knows the character and disposition of the Sena-

tor from Texas knows that when he takes a position back of it always is his determination, and it was in that view that the President of the United States used that language in that letter. I would not say so from the construction of the letter had I not been in the discussion with him and known precisely what he meant. I do not myself consider it to be a reflection upon the Senator to have it said that in so grave a matter and so important a matter, after he had made up his mind and announced it to the world, he would put forth his best efforts to carry his convictions to a successful result; and that is the fair construction which is to be placed upon the letter.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I yield.

Mr. BAILEY. Mr. President, the Senator from Idaho makes it plain to the Senate that he had discussed with the President of the United States the letter, and therefore he knows what was in the President's mind. I am glad to know that the President did not intend what I thought the letter fairly implied, and upon the statement of the Senator from Idaho I want to withdraw what I said about the President on that point. I shall take leave, unless it is denied me by the Senate, to omit that from my remarks.

Mr. BORAH. Mr. President, I am not at liberty, I presume, to go into the details of what was said in the conversation at that time, although I presume I might do so in view of the fact of the publication of the letter. But I will say, in a general way, that no part of that conversation could have been construed into a reflection upon the Senator from Texas. It would have been a reflection of the most unfortunate kind had not the exact position which the Senator from Texas had taken in that matter been known. But that was thoroughly known. No one who knows the Senator from Texas ever doubts what his attitude will be toward a question after he once announces his position.

I think, Mr. President, I shall not go into a discussion of another feature of this matter. I doubt if the circumstances would justify it. But I have felt constrained to say this much for the reason that I could not sit silent and permit the entire responsibility for this matter to rest upon the President. I have no doubt in my own mind that the letter was written by reason of the suggestion which I myself made. The exact language of the letter or the references therein made, of course, I knew nothing about until after the letter came out, but I felt then—and I have no doubt that that was the proper view of it—that the matter should have been decided just as the President, in the latter part of the letter, said it should be decided, by the record and the result of discussion in the Senate.

Strange as it may seem to the Senator from Texas, the object of the President in writing this letter was to bring about that situation in so far as he could. I did not know of anyone at that time who could reach to the ex-President so well as the President, and therefore I went to the President upon that proposition.

It might be said further, Mr. President, as a reflection upon myself, that I had no business at the White House discussing a matter upon which I was to pass as I was to do in that matter. But, Mr. President, I had, as I said, taken the testimony and read it during the holidays. I made up my mind as to what the record disclosed and as to what it proved. I had no doubt as to the justice of my position, and having concluded myself, after a thorough investigation, I felt that there was only one thing that ought to be done—that the title should be declared void, but that it should be done under such conditions that it could be said that the Senator from Illinois had been given a fair hearing.

As to what ought to happen, as to what the judgment ought to be, as to what our conclusion should be when we finally came to it, I had no doubt after reading the evidence, and I have never had any doubt since.

Mr. McCUMBER. This resolution, Mr. President, ought not to pass in the form in which it is written. A resolution declaring the attitude of the Senate under circumstances of the kind mentioned in this instrument it seems to me to be quite proper at this time.

Mr. President, I am a friend of the President of the United States, both a personal and a political friend, a friend before the convention and a friend after the convention. I would have done him no injustice before, nor would I stand idly by and see an injustice done him at the present time.

I have never been in the habit of deifying anything human or assuming that any man was not capable of making a mistake. I think a President of the United States does make a mistake whenever he attempts to influence votes one way or the other upon a question of the right of a Senator to a seat in this body. I believe equally the ex-President or any other man who, knowing that a case is before the Senate, every Member of which is sworn to do his duty as he sees it, is never justified in attempting to influence that Senator any more than he would be justified in attempting to influence a judge upon the bench.

I further believe that the great press of the country when it threatens the seat of any Senator who has the courage of his convictions is guilty of a more gross wrong than either the President or any other individual. In making such a threat against any Senator for the purpose of compelling him to surrender his convictions to their particular wishes the press commits an offense against the Senator, against the accused, and against the country.

But, Mr. President, I do believe that we are justified at this time in saying to the world that the Senate has confidence in its own integrity; that it has confidence in its own desire to do what is right; that it has confidence in its own purpose to make the laws for the Government in accordance with the dictates of its own conscience and its best judgment. That is the function of the Senate of the United States.

Mr. BORAH. Mr. President——

Mr. McCUMBER. And when any President, I do not care for what purpose, steps in and seeks to control the Senate in the manner that is indicated here—and I will use the words of the resolution—"that any attempt on the part of any President of the United States to exercise the powers and influence of his great office" for the purpose of controlling that which is wholly within the jurisdiction of the Senate of the United States, ought in appropriate words of the Senate to be checked. We know that that has been the custom of the Executive for the last 10 years, and the press of the country has justified the Executive in exercising a greater power over legislation and other matters before Congress than was ever contemplated by the framers of the Constitution.

The Senate of the United States has been on the pillory for 10 years, and anyone who did not follow the advice of the President of five, six, and seven years ago was subject to execution. I believe that the Senate ought to reassert itself; that it ought to have the courage to assert its exclusive functions, and not to be controlled by the Executive; and the Executive ought to understand the constitutional limits of his authority as written in the Constitution of the United States; and that each of the great departments of this Government ought to proceed and be secured in the performance of its own particular duty without influence or force being brought upon it by any other department of the Government.

I therefore, Mr. President, am going to ask, because I am perfectly willing to vote for a proper resolution, that an amendment be made which will add, after the word "Senate," these words:

Or any other matter within the exclusive jurisdiction of the Senate.

I think the President has just as much right to use his influence in reference to the right of a Senator to a seat in the Senate of the United States as he has to use his influence in a matter of confirmation of one of his appointees, and no more. In either case we act as judges upon the evidence submitted, and justice should be blind to everything but the evidence.

Mr. BORAH. Or upon the reciprocity question.

Mr. McCUMBER. Just one moment. I would move to strike out the latter part of the resolution, which reads "and ought to be severely condemned." I do not think under the history of this country for the last 10 years we ought to condemn severely that which has grown into a sort of custom and which through the influence of the press of the country has come to be regarded by the people of the country as a proper function of the Executive; but I believe with that stricken out and making the resolution the mere declaration of a principle that will clearly indicate our position it might then properly pass.

Mr. BORAH. Mr. President, it is never very difficult for a man to declare that he believes himself to be honest. I doubt very much if it will add particularly to the dignity of the Senate throughout the country if we ourselves declare that we still think we are honest and that we have capacity to legislate. Just as sure as we proceed we will proceed along the lines upon which we have been proceeding for the last quarter of a century, and that is that the executive department and the legislative department will be constantly cooperating and dealing with one another in reference to legislation in all matters which concern either department.

If we would cease doing it and operate upon our own responsibility alone it would be much better notice to the country than to continue to violate the rule and once in a while pass a resolution that we think we can get along by ourselves.

Mr. BAILEY. Mr. President, I shall detain the Senate but a moment.

The Senator from Idaho seemed impressed with the view that what I have said about the President's unwarranted interference in the late contest from Illinois necessarily involved some reflection upon the Senators whose names he mentioned in that letter.

I avoided any comment upon those Senators for two reasons. First, although I had not discussed it with him, I felt sure that the Senator from Idaho had examined that testimony before he ever expressed his opinion about that case.

My acquaintance with the other Senators whose names the President felt at liberty to mention is not such as to warrant me speaking for them, but I am sure that they must have known something about the evidence before they pledged the President to make a speech upon the case. Therefore, I was willing to assume that they, like the Senator from Idaho, had procured one of the few available volumes of that evidence. I know—and I learned that within an hour—that the Senator from Iowa [Mr. CUMMINS] had one of them, but he did not find it possible to obtain it before he left the city of Washington, and he taxed the good offices of the Senator from Idaho to send it to him. But I did not think it proper to assume that those Senators had not made up their minds. The only criticism against them which I think the record warrants is that they permitted the President to talk with them upon a matter of that kind.

I agree that we have fallen into the evil habit of conferring with the President upon all matters and taking, I will not say instruction, because that would be offensive, but taking his advice upon those matters which relate to us alone.

I hope the time will come again, and maybe it will come again, when we will go back to the rule which prevailed with some, at least, under Madison's administration. I would not vouch for the accuracy of it, but it is related that on one occasion Madison sent for John Randolph, of Roanoke, to come to the White House, and when Randolph reached there Madison began to ply him with an argument upon some matter pending in the House of Representatives, of which Randolph was then a Member. Randolph drew himself up and in that shrill voice for which he was peculiar he said: "Mr. President, the Constitution of the United States makes the Executive and the Congress separate, and damn me if I do not intend to keep them separate as far as I am concerned."

I do not think there was any profanity, I do not think there was even any impiety, in Randolph's emphatic refusal to hear the President further. Madison had no right to attempt to influence a man whom the Constitution, through the preference of the people, had assigned to a different department of the Government.

I hope to see another time when every President who undertakes to talk with a Senator or a Representative upon those matters which the Senators and Representatives ought to decide for themselves will get an answer like that which Randolph made to Madison.

But what I was complaining about in this particular connection was that the President had not read the record. The Senator from Idaho seems to think that the President's expression does not admit of that construction. But the Senator from Idaho must know that if the President had read all there was in the case (and if he had that published volume he would have read all that there was in the case) he would have said that he had read "as much of evidence as he could get at." The very expression which he uses makes it manifest that he had not read the testimony. But, Mr. President, the statement made by the Senator from Idaho, though intended as an exoneration of the President, makes his attitude more pitiful, if possible, still, because, although they were trying to dissuade the ex-President from formulating and printing his assault upon the Illinois Senator, they hardly dealt candidly with him.

I will not say they; I will say the President did not deal with him in perfect candor. He led the ex-President to believe not that it would be an improper thing, as the Senator from Idaho admits it would have been, for the ex-President to try to create a public sentiment which would force the judgment of the Senate, but the President of the United States attempts to impress the ex-President of the United States that the way he was laying down the rule was the best way to play the game, not for justice, not for fairness, not for the dignity either of the President or the Senate, but to win.

That is what the President undertakes to impress upon the mind of the ex-President, and I regret to say—yet I ought not to regret it because I know that nothing else could happen—that when a President of the United States begins to do what he can not openly do, he will find himself enmeshed in just such toils.

Now, Mr. President, I do not believe that these other Senators sought the President as the Senator from Idaho did. The Senator from Idaho sought him with a very laudable purpose. I concede that the Senator from Idaho felt that the publication which the ex-President intended to make was not only hurtful to what he believed was the justice of the cause, but he believed that it was unfair for a man of the ex-President's great reputation to throw the weight of his popularity against the defendant in the Senate. That was a high view to take of it, and I can well not only excuse but I can commend the Senator from Idaho for going to the President to enlist his good offices to prevent that wrong. But he went to him not as the President of the United States, he went to him as the one man whose request would be most potential with the ex-President; in other words, if I may be permitted to interpret the feeling of the Senator from Idaho, it was that if there had been a Senator here more potential with the ex-President than the President he would have gone to that Senator. If there had been a citizen of his acquaintance with whom he felt at liberty to speak on such a subject he would have gone to that citizen.

This resolution does not touch that. Whatever I may think about the matter, I carefully refrained from translating my own opinion on this particular case into the resolution. This resolution does not deny the President as a member of his party the right and even the opportunity to confer with his partisans upon a party question. We leave all that aside. That is the reason why I hope the Senator from North Dakota [Mr. MCCUMBER] will not press his amendment.

There is a line which we must recognize, a line at which the President confers with his partisans, not as the President but as their fellow partisan, and I doubt if it would be possible to administer this Government under party responsibility if we denied the Members of the President's party the opportunity to counsel with him not with respect to what we do as Senators but what we would do as Republicans or Democrats, as the case might be.

Mr. MCCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from North Dakota?

Mr. BAILEY. Certainly.

Mr. MCCUMBER. I think the Senator from Texas did not clearly hear the amendment which I offered. The amendment dealt with those questions which were exclusively within the jurisdiction of the Senate. The question, for instance, of the trial of an impeachment is exclusively a question for the Senate. The question as to whether or not we confirm an appointment is exclusively within the jurisdiction of the Senate. The question of legislation upon which the Executive advises and upon which he can advise generally, and upon which the other branch must act, is not exclusively within the jurisdiction of the Senate. I think the Senator will agree that my amendment is proper.

Mr. BAILEY. I did not hear the word "exclusive."

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. GALLINGER). The hour of 3 o'clock having arrived, the Senate will resume the trial of the impeachment of Judge Robert W. Archbald.

At 3 o'clock and 1 minute p. m. the managers of the impeachment on the part of the House of Representatives appeared at the bar, and their presence was announced by the Sergeant at Arms.

The PRESIDING OFFICER. The Sergeant at Arms will conduct the managers to the seats provided for them within the bar of the Senate.

The managers were conducted to the seats assigned them within the space in front of the Secretary's desk.

The PRESIDING OFFICER. Gentlemen managers, the Senate is now organized for the trial of the impeachment of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, designated a judge of the Commerce Court.

Mr. Manager CLAYTON rose and said: Mr. President, we, as managers on the part of the House of Representatives, are directed by the House of Representatives to appear at the bar of the Senate, which we now do, and demand that process be issued to Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, designated a judge of the Commerce Court, and that he be required to answer at the bar of the Senate the said articles of impeachment.

Mr. CLARK of Wyoming. Mr. President, I offer the order which I send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Wyoming offers an order and asks for its immediate consideration. The order will be read for the information of the court.

The Secretary read as follows:

Ordered, That a summons be issued, as required by the rules of procedure and practice in the Senate when sitting for the trial of the impeachment of Robert W. Archbald, returnable on Monday, the 22d day of the present month, at 12.30 o'clock in the afternoon.

Mr. BACON. Mr. President, I do not know how far it is proper for me to offer an amendment to this order, but it seems to me the time is rather far. I move to substitute Friday of this week for Monday next. It is simply for an appearance.

Mr. CLARK of Wyoming. But, I remind the Senator from Georgia, in the previous case four clear days were allowed, and fixing the date for appearance in this case on Friday would allow only two days; but, of course, the earliest practicable date would be preferable.

The PRESIDING OFFICER. Does the Senator from Georgia move an amendment to the order?

Mr. BACON. I will suggest that possibly the managers on the part of the House might desire to be heard on that question.

The PRESIDING OFFICER. The Chair will be pleased to have any statement from the managers concerning the matter.

Mr. Manager CLAYTON. Mr. President, I am directed by the managers to say that, in their opinion, the notice ought to be issued at an earlier day than that specified in the order which has been suggested, for the reason that when Judge Archbald is served with the process, he then may request a reasonable time to make his answer to the articles of impeachment. There is no reason why this order requiring him to answer at the bar of the Senate should not be forthwith issued. That is the opinion and the suggestion respectfully submitted, on the part of the managers, that this order requiring him to appear here be issued to take effect at an earlier day than that indicated in the order suggested by the Senator from Wyoming.

Mr. CLARK of Wyoming. Mr. President, I ask unanimous consent that the order may be changed to "Friday" instead of "Monday."

The PRESIDING OFFICER. The Senator from Wyoming has the right to modify the order; and the order will be stated as modified.

The SECRETARY. As modified the order reads as follows:

Ordered, That a summons be issued, as required by the rules of procedure and practice in the Senate when sitting for the trial of the impeachment of Robert W. Archbald, returnable on Friday, the 19th day of the present month, at 12.30 o'clock in the afternoon.

The PRESIDING OFFICER. Is there objection to the order as read? The Chair hears no objection, and the order is agreed to unanimously.

Mr. Manager CLAYTON (at 3 o'clock and 5 minutes p. m.). Mr. President, I beg to say on behalf of the managers on the part of the House of Representatives that they will await the further pleasure of the Senate.

The managers on the part of the House of Representatives thereupon retired from the Chamber.

Mr. CLARK of Wyoming. I offer the following order, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The Secretary will read the order.

The Secretary read as follows:

Ordered, That the Senate, sitting for the trial of impeachment of Robert W. Archbald, adjourn until Friday, the 19th instant, at 1 o'clock in the afternoon.

Mr. CUMMINS. Mr. President, I have no objection whatever to this order, but I beg to call the attention of the Chair and of the Senator from Wyoming to the following rule:

IX. At 12.30 o'clock afternoon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following:

* * * * * * *

X. The person impeached shall then be called to appear and answer the articles of impeachment against him.

It would seem to me, therefore, that the court of impeachment must, in any event, reconvene at 12.30 o'clock upon the day required for the appearance.

Mr. CLARK of Wyoming. I desire that that modification be made.

The PRESIDING OFFICER. If there be no objection, the order will be made to conform to Rule IX, making the hour of meeting 12.30 o'clock, and the order will be agreed to as modified.

The order having been agreed to, the Senate, sitting for the trial of the impeachment, stands adjourned until 12.30 o'clock p. m. on Friday, the 19th instant. The Senate will resume its legislative session.

CONSTITUTIONAL RIGHT OF SENATE.

The Senate resumed the consideration of Senate resolution 357 submitted yesterday by Mr. BAILEY.

Mr. BAILEY. Mr. President, I accept the first amendment suggested by the Senator from North Dakota [Mr. MCCUMBER], and rather than to have any differences amongst those who believe some action is appropriate, I will accept the latter amendment also; but before I do it I want to say that I fully understand the old controversy about the right of the Senate to censure the President, a controversy that raged about the person and history of Andrew Jackson. The resolution of censure was finally expunged; but this, I will say, does not condemn this President or any President by name. It really condemns a practice. It declares a certain practice unconstitutional and condemns it. If I had drawn the resolution to expressly condemn President Taft I would have omitted that, knowing the opinions of some leading Senators upon that subject, and I would myself have doubted the wisdom of it. I drew this resolution in the hope that every Senator in this body could support it, and in that hope I will accept both amendments.

Mr. BACON. Mr. President, I desire to suggest to the Senator from Texas that striking out the last words would necessitate the insertion of the word "and" before the word "invades."

Mr. BAILEY. The Senator is exactly right about that. Of course, that would be necessary to make it properly express the idea. First, Mr. President, I will strike out, beginning with the word "and," after the word "Senate," in line 6, down to and including the word "condemned," in line 7, and insert between the word "Constitution" and the word "invades" the word "and." The Senator from North Dakota has an amendment.

The PRESIDENT pro tempore. The modification suggested by the Senator from Texas will be stated. Will the Senator from North Dakota withhold his amendment?

Mr. MCCUMBER. I withhold it, Mr. President.

The SECRETARY. It is proposed to strike out at the end of the resolution the words "and ought to be severely condemned," and after the word "Constitution," in line 6, and before the word "invades," to insert the word "and"; so that if amended——

Mr. BAILEY. Now, in order that the matter may be entirely before the Senate, I hope the Senator from North Dakota will propose his amendment.

Mr. MCCUMBER. The Secretary has the amendment at the desk, and I ask him to read it.

The SECRETARY. After the word "Senate," in line 5, it is proposed to insert "or any other matter within the exclusive jurisdiction of the Senate"; so that, if the amendments are agreed to, the resolution will read:

Resolved, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate, or any other matter within the exclusive jurisdiction of the Senate, violates the spirit, if not the letter, of the Constitution, and invades the rights of the Senate.

Mr. HEYBURN. Mr. President, I would suggest the substitution of the words "would violate" for the word "violates" to avoid the implied charge that these things have been perpetrated. I think, if you are going to declare a principle, it should be impersonal, and if you will declare that these things would violate a certain rule, it will rid it of the charge that it is directed against some act that has been performed.

Mr. BAILEY. Mr. President, I want to be as obliging as possible, but I fear we will have nothing of the resolution left. I want to be frank with the Senator. If this had never been done, I would regard this whole proceeding as unnecessary. The fact that it has been done is the only excuse, or the only reason rather—for it is not an excuse—for adopting any resolution on the subject.

Mr. HEYBURN. Mr. President, I would deprecate the doing of the acts set forth in this resolution, but I also deprecate the idea of one coordinate branch of the Government condemning by a specific resolution another.

Mr. BAILEY. We have eliminated that part——

Mr. HEYBURN. Yes; but if you will substitute the words "would violate" for the present expression "violates" it would carry the spirit forward. I entertain rather positive views in regard to the propriety of a President of the United States doing certain things, but I also condemn in my mind the propriety of a coordinate branch of the Government irresponsibly condemning another coordinate branch.

Mr. BAILEY. Will the Senator permit me?

Mr. HEYBURN. In a moment. If this was crystallized into a responsible act of the branch of the Government authorized

under the Constitution to make charges, then it would be what I term a "responsible act," but this is the mere utterance of an opinion. I now yield to the Senator.

Mr. BAILEY. Mr. President, what I care most for is the assertion of the principle; and while I have felt provoked by this particular circumstance to propose an assertion of the principle, I can understand that Republican Senators who are supporting the President do not want to appear to condemn him. To avoid that, and in the hope that we still can all agree to assert the principle, I will accept the amendment the Senator from Idaho proposes, so that it may read "would violate."

Mr. HEYBURN. I ask the Secretary now to read the resolution as it will then appear.

The SECRETARY. In line 5, it is proposed to strike out the word "violates" and in lieu thereof to insert the words "would violate," so that if amended the resolution will read:

Resolved, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate, or any other matter within the exclusive jurisdiction of the Senate, would violate the spirit, if not the letter, of the Constitution and invade the rights of the Senate.

Mr. BAILEY. Now, Mr. President, in order to make the resolution conform to that amendment, I will ask to strike out the article "the" before the word "President" and insert the article "a," so as to make it read "That any attempt on the part of a President of the United States," and so forth.

The PRESIDENT pro tempore. The Chair will put the question upon the amendment submitted now by the Senator from Texas to perfect the resolution, which amendment will be stated.

The SECRETARY. Before the word "President," in line 1, it is proposed to strike out the article "the" and to insert the article "a."

Mr. SMITH of Michigan. Mr. President, the resolution of the Senator from Texas, if it could be separated from the argument that has accompanied it and the circumstances which surround it——

Mr. BAILEY. Strike out the argument, then, and adopt the resolution.

Mr. SMITH of Michigan. I wish some of it might be stricken out; and, upon reflection, perhaps some of it may be stricken out. However, that will not deter me from saying that, if it were not for the contemporaneous construction of the purposes proposed and the fact that it has followed so close upon the heels of a controverted question, which has occupied the attention of the Senate for weeks and months, I think it might not be so entirely inappropriate, but before I cast my vote I want it known that in the performance of my duty, as a Senator or in either branch of Congress, I have never been influenced by the President of the United States in any way, shape, or manner.

I read all the testimony in the Lorimer case before the President wrote this letter to Col. Roosevelt, and I had no difficulty whatever in obtaining my copy of the testimony. I simply asked for it and received it. I spent the Christmas holidays last year reading it.

Mr. BAILEY. Whom did you ask for it?

Mr. SMITH of Michigan. I asked the then chairman of the committee, Senator Burrows.

Mr. BAILEY. Well, you got a committee copy. That is what I have said.

Mr. SMITH of Michigan. He sent it to me here on the floor and I read it carefully. I am not going to say by my vote on this resolution that the President of the United States did not have it, and that he did not have as much information on this case as other men had, and possibly more.

A careful reading of the letter to Col. Roosevelt does not disclose that President Taft was attempting to influence Senators in their vote. The language in the letter to Col. Roosevelt is that he asked certain Senators to read the testimony. Is that an offense? I know of no impropriety in such a course.

I believe that the Senator from Texas aims at a very worthy end, and if it were his farewell to his associates here it would be entirely worthy of him, but I do not propose to be put in the position of criticizing the President of the United States for anything he has attempted to do with Senators in the settlement of the Lorimer case, and if my voting "yea" on this resolution would be regarded as a personal rebuke I should hesitate a long time before I so voted.

I do not believe the President of the United States could influence the men he has mentioned by name in that letter. I do not believe he could influence the Senator from Ohio [Mr. BURTON], although he is his friend. Every man in this Chamber knows that the Senator from Ohio is an honest man and that he decides public questions for himself. Neither do I believe that he could influence the Senator from New York [Mr. ROOT]. I am certain he did not influence the Senator from Massachusetts [Mr. LODGE], because, as I recollect it, the Senator from Massachusetts did not speak at all on the case. The Senator from Idaho [Mr. BORAH] was not called to the White House in this matter; he went there of his own volition. What for? For the purpose of influencing the President of the United States to write a letter to Col. Roosevelt; and he succeeded in his mission, as the record shows. He did not go there at the President's request; and I think it is a far cry to say that the course of the President of the United States determined the conduct of Senators in a matter of such importance. For my own part, I am unwilling to thus stigmatize his motive, which I believe to have been praiseworthy. He has not undertaken to influence me, and I do not believe he has ever undertaken to influence the Senator from Texas——

Mr. BAILEY. And nobody else has.

Mr. SMITH of Michigan. Nobody has any influence with the Senator from Texas [laughter]; nobody tries to have, because all know that he is well informed and of such sturdy stock that he does his own thinking; and as a humble Senator on this side of the Chamber no one values his public service more highly than I do, but for us to formally sit here all day considering the desirability of building a new constitutional fence of pasteboard around the White House and ourselves fixing limitations within which the President may appropriately walk, is little less than grotesque and purely voluntary.

The PRESIDENT pro tempore. The question is on agreeing to the resolution as modified by the Senator from Texas.

Mr. CUMMINS. Mr. President, I ask for the reading of the resolution as it has been amended.

The PRESIDENT pro tempore. The resolution will be read as modified by the Senator from Texas.

The Secretary read the resolution as modified as follows:

Resolved, That any attempt on the part of a President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate, or any other matter within the exclusive jurisdiction of the Senate, would violate the spirit, if not the letter, of the Constitution and invade the rights of the Senate.

Mr. CUMMINS. Mr. President, the resolution as originally offered by the Senator from Texas was entirely clear; it was incapable of being misunderstood; and I would have voted for it very heartily. I am not so sure with respect to the resolution as it has been amended. It was not long ago that I had occasion to call the attention of the Senate to the invasion which the Executives had been making upon the legislative branch of the Government now for 10 years or more. I pointed out then what seems to me to be the greatest danger of the future, namely, the subordination of the will of the individual legislator to the will of the Executive.

I do not believe that the President of the United States ought to attempt to influence, through his office and his vast power, any Member of the Senate or any Member of the House of Representatives with regard to any duty that he may be called upon to perform. If I may rank impropriety, it is in my judgment a greater impropriety to use the power of his office to induce men in Congress to vote for or vote against a bill which will affect the welfare of ninety millions of people than it is to attempt to influence the judgment of Senators or Members of the House of Representatives with regard to the title of either a Senator or a Member of the House to his seat in Congress.

I recognize that the President has a high function to perform in advising and in recommending legislation through appropriate and honest and open channels, anticipated by the Constitution and provided by the forefathers; but I shall never assent to the new idea, so generally adopted in these days, that it is the party duty of Members of Congress to follow the wishes of the President of the United States because he is the party leader. As for myself, I hold it to be my duty to express my convictions in every vote I cast, free from either the coercion or the influence, not of the President, but of the power of the President.

This resolution, as now sought to be amended, practically says to the country that while we repudiate the effort of a President to use the power of his office to control a vote when the question is concerning the seat of a particular Member or concerning any other subject of which we have exclusive jurisdiction, it is entirely proper for the President to use this power, to use the office which he holds, in order to influence legislation and to direct the course of affairs in that way.

I can not vote for a resolution which makes a discrimination of that kind. I would have been glad to have voted for it in its original form, because it did not involve the influence which it will now involve if passed.

Mr. BAILEY. Will the Senator from Iowa permit me?

Mr. CUMMINS. Certainly.

Mr. BAILEY. I thoroughly agree with the Senator from Iowa that the resolution as drawn ought to have been voted upon without amendment, and it was drawn with reference to that particular question because that is the only question upon which we have the President's word that he has been intervening. Consequently I thought it proper to confine it to that. But I also felt that if it was possible to have a unanimous vote of the Senate asserting that the President ought not to meddle with matters like this it might produce a wholesome effect.

I wish to say to the Senator—I have already said I would not allow any President of my own party or of any other party to undertake to influence my vote on any question—that I do not think this resolution by condemning the other implies that we would not condemn that. The only thing is that this resolution was drawn to fit a particular case. If you can find anything in the record where the President has written a letter saying he was trying to influence Senators on a particular bill I will include that, too.

Mr. CUMMINS. I do not know of any such letter.

Mr. BAILEY. On the ex-President's desk, perhaps, you could find one.

Mr. CUMMINS. But if an oft-repeated statement, repeated during the course of years, is to be accepted, we know that not only the present President of the United States, but the former President of the United States, and possibly some before him, have attempted to secure legislation, not through the ordinary channels of recommendation, but through personal solicitation, and under such circumstances as indicated the withdrawal of favor if the representations were not accepted.

I do not want to criticize either the Chief Executive at this time or the former President, or any President. I do not concur with the suggestion that we have no right to talk with the President of the United States about legislation. I think we have, but there is a vast difference between consulting with him with respect to any duty we have to perform, and recognizing that the power of his office is being exerted upon us in order to accomplish results which he may believe to be wise.

This resolution refers to the power of his office; not to his views as a man, but the power of the office which is overwhelmingly great; and, so far as I am concerned, I intend to do what I can in the future to reestablish the independence and the dignity of the legislative branch of the Government and to restrain the power and the influence of the Executive within proper bounds. It is only because I understood from the Senator from North Dakota that he had offered the amendment which has been accepted by the Senator from Texas, in order that it might be clear that such proceedings as confirmations of nominations and the like were included within this reprimand, and that all other conduct of the Congress or of the Senate might be excluded and thereby we would not condemn the power of the office exercised in order to secure legislation that I have made the observations I have made.

Mr. BAILEY. Mr. President, I wish to say to the Senator from Iowa that I myself do not think it offends against either the letter or the spirit of the Constitution for the President to confer with an individual Senator about an appointment. When the Constitution authorizes the President to make appointments by and with the advice and consent of the Senate, I think the advice might as well be taken in advance of the appointment as not. Of course the consent must be to the appointment, but he makes the appointment by and with the advice and consent of the Senate, and I think there it is permissible. I do not believe, however, it is permissible at any time for him to seek to influence the action of a Senator on any question through the power and influence of his office. I agree with the Senator there.

Mr. CUMMINS. The Senator from Texas and I concur entirely about it. I believe there should be the utmost liberty and freedom of intercourse between the legislative and the executive branches of the Government, but what I mean is this: That no President who values the Constitution of this country or the institutions established under the Constitution can come to the Senate and say to a Senator: "If you do not vote for this measure or that measure you will no longer be recognized as a member of this party." What I mean to say is that a President shall not suggest that if a Senator does not pursue this course or that course, then the favors of the appointing power shall be withheld from him. Those are the things I have in mind, and there are many others of similar character that might easily be enumerated.

Mr. SMITH of Michigan. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Michigan?

Mr. CUMMINS. I do.

Mr. SMITH of Michigan. May I ask the Senator whether he knows of any cases of that kind?

Mr. CUMMINS. I think the Senator from Michigan had better not insist on an answer to that inquiry.

Mr. SMITH of Michigan. I would be very glad to have the answer.

Mr. CUMMINS. Well, then, if the Senator from Michigan wants the answer, I say there have been such instances. I hope that for the harmony of the party to which we both belong he will allow the specific circumstances to remain unmentioned and to be forgotten as rapidly as the human memory can operate.

But to return to this resolution, I really hope that the Senator from North Dakota in his efforts to modify the resolution will not exclude from it those things which I am sure he believes to be just as sacred from improper Executive influence as the subjects which are specifically enumerated.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. This discussion has taken a wide range with reference to the relationship of the executive to the legislative department. The powers under the Constitution of each department are well understood and the duties are pretty well defined, and it is a question of fact before the American public as to whether the executive department has been encroaching upon the legislative department or whether the legislative department has been encroaching upon the executive department.

Before we take this vote I should like, if it will not interrupt the Senator, to read a statement upon this subject. It is from a ripe scholar, a profound student of American institutions, and now an acknowledged leader in public affairs.

Mr. BAILEY. Is he now a candidate for anything?

Mr. BORAH. I am not reading it with a view of discussing the candidacy of the party, but as the view of one who has deeply reflected upon this subject.

Mr. CUMMINS. Will the Senator from Idaho name the title of the book from which he reads? I shall then be able to determine whether I ought to yield or not.

Mr. BORAH. Will not the Senator yield until he knows?

Mr. CUMMINS. I think the Senator from Idaho had better gratify my curiosity in that respect.

Mr. BORAH. I wish to read from Congressional Government, by Dr. Wilson.

Mr. CUMMINS. I yield.

Mr. BORAH. Dr. Wilson says:

> Independently of experience, however, it might reasonably have been expected that the prerogatives of the President would have been one of the most effectual restraints upon the power of Congress. He was constituted one of the three great coordinate branches of the Government; his functions were made of the highest dignity; his privileges many and substantial—so great, indeed, that it has pleased the fancy of some writers to parade them as exceeding those of the British Crown—and there can be little doubt that, had the presidential chair always been filled by men of commanding character, of acknowledged ability, and of thorough political training, it would have continued to be a seat of the highest authority and consideration, the true center of the Federal structure, the real throne of administration, and the frequent source of policies. Washington and his Cabinet commanded the ear of Congress and gave shape to its deliberations; Adams, though often crossed and thwarted, gave character to the Government; and Jefferson as President, no less than as Secretary of State, was the real leader of his party. But the prestige of the presidential office has declined with the character of the Presidents. And the character of the Presidents has declined as the perfection of selfish party tactics has advanced.
>
> It was inevitable that it should be so. After independence of choice on the part of the presidential electors had given place to the choice of presidential candidates by party conventions—
>
> "Tell it not in Gath; publish it not in the streets of Askelon,"
>
> it became absolutely necessary in the eyes of politicians, and more and more necessary as time went on, to make expediency and availability the only rules of selection.
>
> As each party, when in convention assembled, spoke only those opinions which seemed to have received the sanction of the general voice, carefully suppressing in its "platform" all unpopular political tenets, and scrupulously omitting mention of every doctrine that might be looked upon as characteristic and as part of a peculiar and original program, so, when the presidential candidate came to be chosen it was recognized as imperatively necessary that he should have as short a political record as possible, and that he should wear a clean and irreproachable insignificance. "Gentlemen," said a distinguished American public man, "I would make an excellent President, but a very poor candidate." A decisive career which gives a man a well-understood place in public estimation constitutes a positive disability for the presidency; because candidacy must precede election, and the shoals of candidacy can be passed only by a light boat which carries little freight and can be turned readily about to suit the intricacies of the passage.
>
> I am disposed to think, however, that the decline in the character of the Presidents is not the cause, but only the accompanying manifestation, of the declining prestige of the presidential office. That high office has fallen from its first estate of dignity because its power has waned; and its power has waned because the power of Congress has become predominant. The early Presidents were, as I have said, men of such a stamp that they would under any circumstances have made their influence felt; but their opportunities were exceptional. What with quarreling and fighting with England, buying Louisiana and Florida, building dikes to keep out the flood of the French Revolution, and extricating

the country from ceaseless broils with the South American Republics, the Government was, as has been pointed out, constantly busy, during the first quarter century of its existence, with the adjustment of foreign relations; and with foreign relations, of course, the Presidents had everything to do, since theirs was the office of negotiation.

Moreover, as regards home policy also those times were not like ours. Congress was somewhat awkward in exercising its untried powers, and its machinery was new, and without that fine adjustment which has since made it perfect of its kind. Not having as yet learned the art of governing itself to the best advantage, and being without that facility or legislation which it afterwards acquired, the Legislature was glad to get guidance and suggestions of policy from the Executive.

But this state of things did not last long. Congress was very quick and apt in learning what it could do and in getting into thoroughly good trim to do it. It very early divided itself into standing committees which it equipped with very comprehensive and thoroughgoing privileges of legislative initiative and control, and set itself through these to administer the Government. Congress is (to adopt Mr. Bagehot's description of Parliament) "nothing less than a big meeting of more or less idle people."

[Laughter.]

Mr. BACON. When was that? [Laughter.] Not now, I am sure.

Mr. BORAH (reading)—

"In proportion as you give it power, it will inquire into everything, settle everything, meddle in everything."

[Laughter.]

In an ordinary despotism the powers of the despot are limited by his bodily capacity and by the calls of pleasure; he is but one man; there are but 12 hours in his day, and he is not disposed to employ more than a small part in dull business; he keeps the rest for the court or the harem or for society." But Congress "is a despot who has unlimited time, who has unlimited vanity, who has—or believes he has—unlimited comprehension, whose pleasure is in action, whose life is work." Accordingly, it has entered more and more into the details of administration, until it has virtually taken into its own hands all the substantial powers of government. It does not domineer over the President himself, but it makes the Secretaries its humble servants. Not that it would hesitate, upon occasion, to deal directly with the Chief Magistrate himself, but it has few calls to do so, because our latter-day Presidents live by proxy; they are the Executive in theory, but the Secretaries are the Executive in fact.

Mr. HEYBURN. What is the page of that book?

Mr. BORAH. Mr. President, it seems to me we ought to go a little slow in this matter, in view of what may occur in the next few months.

Mr. BACON. Mr. President, I want to say that I hope some of the views expressed there will be entertained by the author after the 4th of March.

Mr. BORAH. I have no doubt they will all be entertained, because every one knows that Dr. Wilson has well-settled views and convictions.

Mr. HEYBURN. Of what kind?

Mr. BORAH. But for fear that we may be called upon to retrace our steps after the Senator from Texas, to the great regret of all of us, shall have left the Senate, we ought to go slowly. I invite your attention to the views of your leader.

Mr. CUMMINS. Mr. President, I have been delighted to hear this extract from the writings of the distinguished candidate of the Democratic Party for President. I assume, however, that he believes that after the 4th of next March the ancient dignity of the presidential office will be restored. I think, however, that inasmuch as he is in favor of the recall of everything, he will be much inclined to recall his estimate of the relative power of the President and of Congress.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. I do.

Mr. O'GORMAN. Did I understand the Senator from Iowa to say that Gov. Wilson has declared himself in favor of the recall of everything?

Mr. CUMMINS. I really meant the recall of all Republican Presidents. I did not intend to speak inaccurately.

Mr. O'GORMAN. I do not think the Senator from Iowa would misrepresent to the country Gov. Wilson's attitude. He has been very accurate in stating his views on certain national problems. He has indicated the policies that he favors and those to which he is not committed. It would of course be an injustice to him to state, as I understood the Senator to remark a moment since, that he favors the recall in all things, because that would be an inaccurate statement to make.

Mr. CUMMINS. Mr. President, I hope the Senator from New York will not take so seriously a suggestion of that sort. I do not remember precisely what Dr. Wilson holds in that regard, but I had in mind his desire for a general readjustment in public affairs.

But to return to the resolution from which we have drifted far: If the resolution referred only to the proper influence of the President in the matters which are mentioned here, I would have no objection to it. But the resolution names that influence which ought not to be exercised by the President under any circumstances or upon any subject. I know very well that he ought to exercise an influence. His recommendations ought to have great weight. His very position entitles him to great consideration. But the power that is mentioned in the resolution is a power that he can not properly exercise upon Senators in the performance of their duties. Therefore it seems to me we ought not to select certain things that come within the jurisdiction of the Senate and say that as to them the President ought not to interfere or meddle, leaving the inference that as to all others he may justly and properly exercise this unwarranted power.

Mr. BURTON. Mr. President, if this resolution were offered under other circumstances or at another time there would be nothing objectionable in it. It states a principle which is universally accepted. It censures the exercise of the powers and influence of the presidential office for the purpose of controlling the vote of any Senator. That seems to imply some degree of compulsion, of undue influence, as by the bribery of patronage.

But how can we disabuse our minds of the idea that this is the aftermath of a controversy relating to a seat in this body which was decisively settled last Saturday? How can we separate this discussion, with its utterances, from alleged acts of the President of the United States during the pendency of the Lorimer case? From this standpoint it seems to me the resolution is altogether objectionable.

I must go rather further than some have gone in this discussion. The relation between the President and Congress is not such as to prohibit him from the freest consultation with any Senator or Representative. He has absolute liberty to offer his advice and suggestions. No impenetrable wall is built up between the Executive and Congress. The hands of the President are not fettered, nor is his tongue tied so that he can not express his opinions, even with earnestness, to any Member of this body or to any Member of the House. And I ask those who are promoting this resolution whether they would have commended the course of the President of the United States if he had kept silent, in view of the great interest and widespread agitation which prevailed relating to the Lorimer case?

The newspapers were discussing it. They were full of paragraphs in regard to it. We were receiving advice from numerous fellow citizens concerning it. An impression prevailed in the country that Mr. Lorimer's selection by the Legislature of Illinois was tainted by corruption. In a way not only was the Legislature of Illinois on trial, but the Senate of the United States. Serious reflections upon our methods of electing Senators were uttered throughout the country.

In view of the mention of my own name in this controversy, I wish right here to say just a word. I think I may speak with entire propriety of a conversation with the President of the United States. He simply asked that I should carefully read the record in the case. There was no urging——

Mr. BAILEY. Did he ask the Senator to make a speech?

Mr. BURTON. I myself stated that I would make a speech after I had read the record in the case. Possibly he may have asked me—I say this in order to be entirely accurate—to make a speech in case I came to a conclusion in regard to it. However, I do not at this moment recall his having made that request.

The request was made some time before the holidays. It is idle to claim here that the President had not the opportunity to obtain knowledge of the case. On the 21st day of December the record of testimony was completely made up. The number of pages was stated by Mr. Beveridge on that day in the discussion on the floor of the Senate. By going to the room of Senator Burrows Members of this body who desired it could obtain a complete copy of the record before the holidays commenced.

It seems to me, Mr. President, the course of our Chief Magistrate was that of the leader of his party.

Mr. BAILEY. Is this a party question?

Mr. BURTON. It is decidedly a party question. No party could allow a Senator to occupy a seat in this body if that seat was obtained by bribery and fraud without a reflection against it, not merely in this body, but from the Atlantic to the Pacific.

The party has the responsibility to purge itself of corruption in elections in any legislative body controlled by it. The President is not alone Chief Magistrate. He is the head of his party. He is the first citizen of the Republic.

Mr. BAILEY. Which head of it now?

Mr. BURTON. I hardly know what the Senator from Texas has in mind, and I think I will not take time to answer that question.

The President's advice is eagerly sought. He is in a position to understand the currents of public opinion. He is peculiarly able to determine what is right, and if he fails to use the great powers of his office he is failing in his duty.

I know it is an ungracious task in any way to speak in the least degree critically of a legislative body, but, Mr. President, this Senate or any other Senate or any House is strong or weak, efficient or inefficient, just in proportion as it meets the great issues of the day. We must concede that many legislative bodies have not proven equal to the great occasions which have confronted them. At such times the Executive looms large.

The Executive has often been a commanding figure and exceeded the normal boundary of his power when Congress cooperated with him. Abraham Lincoln made the remark that he thought it very likely that the Constitution would be subjected to some most severe strains for a time. In that great emergency he often assumed powers which belonged to Congress.

Mr. BAILEY. Mr. President——

Mr. BURTON. I am not contending for a minute that he did in violation of the Constitution.

Mr. BAILEY. Would the Senator——

Mr. BURTON. But at this time and at all times the people of the United States will commend a strong and a forceful Executive.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. BURTON. Certainly.

Mr. BAILEY. I want to be certain that I do not misunderstand the Senator. I understood the Senator to say that in such a time the Executive ought to assume the powers of Congress.

Mr. BURTON. I did not say that. I expressly qualified what I said by stating that I did not believe in any violation of the Constitution, but that at times, as in the case of Lincoln, he went beyond the ordinary constitutional powers of the President.

Mr. BAILEY. We have charged that, but your party have been denying it all the time.

Mr. BURTON. Well, I admit it, and I glory in it. He had to meet the emergencies of the times, and he met them courageously. Your party, or at least a portion of it, commends President Lincoln, who oftentimes went to the very verge of his constitutional prerogatives. Your party, or at least a portion of it, commends Andrew Jackson, who also went to the very verge.

Mr. BAILEY. Will the Senator be good enough to specify a single instance in which Mr. Cleveland went even, as he calls it, to the very verge?

Mr. BURTON. Oh, well, there was the matter of appointments. He paid little attention at times to Congress.

Mr. BAILEY. He had a right to pay no attention to it. To be accurate, that was not going to the verge. He had a right to pay no attention to Congress except to its confirmation of appointments. That does not even strain the Constitution. Will the Senator——

Mr. BURTON. I want to say to the Senator from Texas that I am going into no enumeration of them.

Mr. BAILEY. There is nothing of that kind to be enumerated.

Mr. BURTON. The Senator knows that President Cleveland oftentimes regarded it as incumbent upon him to go ahead, and he exercised certain powers without much regard for the action of Congress.

Mr. BAILEY. So that——

Mr. BURTON. This resolution will, under the circumstances, cast a reflection upon the President.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. BURTON. Here on Saturday we disposed of a case involving a seat in this body. There have been rumors concerning the activity of the President in connection with it.

Mr. O'GORMAN. Mr. President——

Mr. BURTON. I maintain that he not only did no more than his duty, but he would have been wanting if he had not taken any interest in that case.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. I believe the Senator from Texas first had the floor to interrupt me.

Mr. BAILEY. Mr. President, I only wanted to say that when the Senator rises in his place and says a President of the United States has gone to the very verge of violating the Constitution he ought to be able to specify it. I was not a partisan of Mr. Cleveland within the party; in fact, I was a very young man in the House then and the very first one to break with him in the House of Representatives; but I do not believe any man ever occupied that great office who more religiously respected the Constitution of this Republic than Grover Cleveland did. I do not believe the Senator has a right in this place or elsewhere to treat a violation of the Constitution as a matter to be lightly regarded, and I think the Senator ought to be able to specify some case.

Mr. BURTON. The Senator knows very well that President Cleveland regarded it as incumbent upon him to take action in cases in which action is not usually taken except by authority of Congress. If I might repeat a private conversation of his I could state his opinion with reference to the relation between Congress and the President. I prefer not to do so, however. It was made on the very last day of his second term in a conversation with his successor.

Mr. BAILEY. Any association with the Senator from Ohio would beget that kind of opinion in the mind of any man judged by the way he expresses himself here.

Mr. BURTON. I yield to the Senator from New York.

Mr. O'GORMAN. Mr. President, I did not care to interrupt the Senator from Ohio, but having in mind the same thought that was moving the Senator from Texas it does seem to me that when a member of this body makes such a serious statement reflecting upon the conduct of a President of the United States the Senator making the statement should be able to indicate the incident which justifies the statement made here.

Mr. BURTON. What does the Senator from New York say in regard to marching troops into Chicago and his action at the time of the railroad strike?

Mr. O'GORMAN. Is that the incident upon which the Senator from Ohio bases his charge that Grover Cleveland acted in defiance of the Constitution?

Mr. BURTON. I am simply asking the question.

Mr. O'GORMAN. It is the Senator from New York who is asking a question. If that is your justification for the statement reflecting upon the life and character of Grover Cleveland, I leave it to the judgment of the country as to whether the Senator has any justification for the assertion.

Mr. BURTON. I asked the Senator from New York a question, and I should like to have him answer it. I meant no reflection on Grover Cleveland. I expressly disclaimed anything of that kind. His strength as an Executive I admire.

Mr. O'GORMAN. And yet you have declared that as President he acted in disregard of constitutional limitations.

Mr. BURTON. He went to the very verge, I said.

Mr. O'GORMAN. You have indicated the only instance that justified that opinion.

Mr. BURTON. His general reputation for an extreme degree of independence as an Executive justified me, I think, in making the statement. I think both the Senator from New York and the Senator from Texas have been unduly aroused because of the statement I made, which meant no reflection whatever on the character of a Chief Magistrate for whom, although he belonged to another party, I had the greatest admiration.

Mr. TOWNSEND. Mr. President, I am in sympathy with that constitutional provision which creates three separate and distinct departments of government—the legislative, executive, and judicial—and a Senate resolution commending that provision is always in order. But what object is to be obtained by this resolution? As I understand it, it is a protest by a majority of the Senate against coercion on the part of the Executive. It is equivalent to an admission on the part of Senators that they have been improperly influenced by the President and a demand that he shall cease such influence. They object to being coerced. The situation of Senators is quite like that of the bribe taker when he complains of the bribe giver. I can not understand how we can in sincerity and reason pass such a resolution as this, for we will thereby admit that we have been subject or are subject to improper Executive influence. If we are falling short of our full duty and full responsibility, it is certainly our own fault. One familiar with recent events must smile when he listens to complaints of Executive interference with a Congressman's duties. These complaints would indicate that the President was coercing Senators and Representatives into obeying his orders and forcing them to yield up their wills to his. But if we are to believe the newspaper reports national legislators are not waiting for presidential nominees to be elected in order to offer their services, but they are going to these nominees to find out what kind of legislation the candidates want in order that their desires may be fulfilled. It is not a case of yielding, but of voluntary surrender.

I submit, Mr. President, that we might better pass a resolution rededicating ourselves to our sworn duty. There can be no coercion if there is no one to coerce. Let the Senate, without fear or favor, perform its full duty and presidential influence will be ineffectual.

I am in hearty sympathy with the principle of noninterference by one department of government with another, but this resolution will not accomplish that condition. I think the

letter from President Taft to Col. Roosevelt was an unwise and a foolish one to write, but I see nothing in it, nor has anything been produced which proves that improper influence was exerted by the President upon any Senator. Indeed, every Senator mentioned in that letter and every one who has spoken on this subject to-day has denied that the President attempted to influence him in the Lorimer matter, and certainly some of these Senators will not be accused of having so testified because of their friendship for the President. It seems to me as though we are asked to fire blank cartridges at an imaginary object. If any Senators know that they have been improperly influenced by the President let them first resolve to reform themselves before attempting to reform the Executive. The constitutional provision will not be strengthened by adopting the pending measure. I may not properly understand the true nature and object of this resolution, but it seems to me to be an attempt to shift responsibility for wrongdoing, if there be wrongdoing, from the Senate to the President. Presented as it is at this peculiar and particular time it is not accompanied with that presumption of disinterested good faith which should command support, and I shall therefore feel it to be my duty to vote against it.

Mr. CRAWFORD. Mr. President, if no stronger specific reasons can be presented for this resolution than those brought out in connection with the names of certain Members of the Senate in relation to speeches they may have made or conversation they may have had with President Taft in relation to the Lorimer matter, then it seems to me the resolution has very little indeed to justify it.

Others have mentioned what occurred between them and the President in relation to this testimony. My name happened to be connected with the letter, and I simply take the opportunity to say that, as others did, I procured a copy of the testimony from some member of the committee, from whom I can not now name, because I do not remember who it was; but I had a copy of the testimony before the holiday recess, and I remained in Washington during the holidays. I was here some two weeks, and had nothing else to do except to read that testimony, and I did so during that interval. I had read it and in a measure reread it, and made notes upon it, and had blocked out a speech I intended to make to the Senate analyzing it. After all that had been done incidentally I happened to be at the White House, and as a part of a general conversation on other matters the President expressed the wish that I might examine that testimony and take a keen interest in the case, because he thought it one of very great importance.

Now, do incidents of that kind justify a resolution like this, a resolution which implies that the Senate has become so helpless that it must put upon record something to apprise the country that it protests against being controlled by the President of the United States in casting its votes in this body? It seems to me we humiliate ourselves when we place upon the record here language of that kind.

Mr. McCUMBER. Mr. President, may I ask the Senator one question?

Mr. CRAWFORD. Certainly.

Mr. McCUMBER. How did it happen that the request to read the testimony was made only of those Senators who had a conviction on one side of the question?

Mr. CRAWFORD. I know nothing about that. I do not know anything as to how it came about with reference to other Senators, except as they have mentioned it here. I am simply stating how it occurred so far as I am concerned.

And, Mr. President, has it come to this, that when we go to the White House, when we are engaged in incidental conversation with the President of the United States, there must be a padlock on his mouth and a padlock on ours with reference to all public questions that are being considered in the legislative department?

I hope the relations between the legislative department of the Government and the Chief Executive may never be so stilted and so environed and so hedged about that we do not dare even to enter into a conversation with him freely and unrestrainedly about matters that may be pending here for fear we are placing ourselves under undue influence that may not only affect our votes in a general way by perhaps securing information that may be of assistance to us, but which may control our votes.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. CRAWFORD. Certainly.

Mr. BACON. Would the Senator consider it a proper thing for the President of the United States to consult with a Senator as to what verdict he shall give upon the impeachment case we are about to enter upon the trial of?

Mr. CRAWFORD. I do not.

Mr. BACON. You do not think it would be proper?

Mr. CRAWFORD. I do not—to influence the verdict of a Senator in this case.

Mr. BACON. Very well. Is there any more serious impropriety involved in that than there would be in trying to influence a Senator as to what his vote should be in determining the right of a Senator to a seat in this body?

Mr. CRAWFORD. I do not understand, if the Senator will permit me, that the President of the United States undertook to influence any Member of the Senate in his judgment or in his conclusion.

Mr. BACON. I am not taking issue with the Senator upon that and I am not speaking of this concrete case, but I am making that inquiry of the Senator in view of the statement which just fell from his lips that there was no impropriety in the President talking with a Senator and trying to influence him about anything that pertained to his duties in this Chamber. That was practically what the Senator said.

Mr. CRAWFORD. Oh, no.

Mr. BACON. It was with a view to that that I asked the question about the impeachment trial.

Mr. CRAWFORD. I made no statement about the President seeking to influence Senators as to any conclusion. I granted that if the President should undertake to use his great power and patronage by holding a temptation of reward if votes were favorable before a Member of the Senate in order to secure that vote or to hold before him the punishment that might follow by refusing to recognize him in matters of that kind would be an offense; and if we have any offense of that kind to which we may address ourselves here, let us address ourselves to it. But no charge of that kind is laid at the door of the President. During the short time I have been in Washington I have never seen any evidence, so far as my personal experience goes, that any such influence as that has been exercised. I am not a special friend of the President; just now I am at a considerable distance from him politically; but fairness compels me to say that I have never observed in the slightest degree a disposition to exercise influence of that kind over Members of this body.

Mr. BACON. I want to say to the Senator, Mr. President, that my inquiry was not addressed as to what this particular President has done, but was addressed to the general statement which the Senator made as to what would be proper for a President of the United States to do in trying to influence a Senator as to his duties here—any President, not this President.

Mr. CRAWFORD. The Senator misunderstood me if he drew the conclusion that I was justifying any improper influence of any sort upon the part of the President on Members of the Senate; but I do say that general, free discussion, such as may occur between two citizens of this Republic anywhere in relation to public questions, is not an improper attempt to influence when they occur between the President of the United States and a Member of the Senate of the United States. If they are proper elsewhere, they are proper between these officials.

Mr. BACON. Mr. President, replying to the statement just made by the Senator, I want to ask him to consider if that would be proper in the case of an impeachment trial?

Mr. CRAWFORD. That is a different thing entirely.

Mr. BACON. Why so?

Mr. CRAWFORD. I am referring to open public questions that are in the forum for discussion; and I am referring to a discussion that would be proper, and admittedly proper, between a Senator and a private citizen. I say if proper between a Senator and a private citizen, the same discussion would be proper between the President and a Member of this body.

Mr. BACON. Even if it related to an impeachment trial?

Mr. CRAWFORD. I did not say that it would be proper for the Senator to go out and talk with John Doe on the street, discussing the weight of the testimony being heard here in an impeachment proceeding. If it would be, it would be just as proper if he conducted the conversation with the President of the United States.

Mr. BACON. I voted, as the Senator from South Dakota knows, against Mr. Lorimer's right to a seat, so that what I say can not be personal to that controversy; but I want the Senator, if he can do so, to differentiate between the gravity of the case of a Senator's right to his seat to be determined by the Members of the Senate, and the right of a judge to his office, to be determined by the Senate. What makes one any more sacred than the other?

Mr. CRAWFORD. I am not differentiating in saying that, so far as the language of this conversation was concerned, there was no attempt in it, so far as it came within my experience, to use any influence whatever.

Mr. HITCHCOCK. Mr. President, I should like to ask the Senator a question.

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nebraska?

Mr. CRAWFORD. I do.

Mr. HITCHCOCK. I ask whether the Senator approves the language of the President in the letter which has been read here, to the effect that he thought he was going to succeed in lining up the regular Republican Senators to oust Lorimer?

Mr. CRAWFORD. I do not. I knew nothing about that until I saw it in the letter.

Mr. BACON. That is the letter which was supposed to be considered in connection with it.

Mr. CRAWFORD. I am not discussing that part of it. I am simply discussing, so long as my name was connected with it, that particular feature of it, that part which was within my own experience; that is all.

Mr. HITCHCOCK. This is the very gravamen of the case; it is the very center, as I consider it, of this whole case, that the President was engaged in "lining up" Members of the Senate who were to vote upon that important trial. Suppose he used that language in connection with this impeachment proceeding, suppose he had published a letter that he was engaged in lining up the Senators to vote one way or another on the impeachment proceeding, would not that be an evident invasion of the rights of the Senate?

Mr. CRAWFORD. I have not undertaken to discuss the proprieties of this letter in any way, manner, shape, or form. I am simply discussing what occurred so far as it came within my knowledge between the President and myself as a Member of the Senate.

Mr. HITCHCOCK. Yes; but I ask the Senator, does not the letter reveal and demonstrate what it was that the President was actually doing? It is his own admission as to what he was doing.

Mr. CRAWFORD. I think the Senator from Nebraska perhaps construes it as going further than I do; but I do not entirely justify such a letter.

Mr. President, I did not rise to indulge in any extended remarks in regard to this resolution. There is a jealousy, and there always has been jealousy, between the legislative and the executive departments. There is a jealousy between the legislative and the judicial departments. It is well that it is so; it is intended that it should be so, in order that each of these departments might be a check upon the other; but I dare say there is more truth than there is error in what has been read here this afternoon from the textbook written by the distinguished candidate of the Democratic Party for the Presidency—that it has probably been more often true that the legislative department has sought to trench upon the functions of the executive department than the Executive, in these later years, since Andrew Jackson's time, has undertaken to trench upon the legislative.

Mr. McCUMBER. Mr. President, I am ready to vote for any resolution that shall reassert the ancient independence of the Senate of the United States as against Executive usurpation of its functions or its rights. I am willing to vote for a resolution of that character that is entirely distinct and does not connect itself in any way with the Lorimer case. I asked for the amendment of the resolution offered by the Senator from Texas because I could see the danger of a misconstruction of the resolution if we applied it to cases other than those which were exclusively within the jurisdiction of the United States Senate. The word "improper" is not used; the words "improper powers and influence" are not used, but "the powers and influence of his great office."

The President has a right to recommend legislation, and I do not wish a resolution which shall say to me that I can not go to the President and receive his advice and instruction and information that he may have upon matter which he recommends or anything that he believes ought to be made a part of our legislation; but I can see a wide gulf between that and the recommendation or advice of the President upon a question of the right of a Senator to his seat in the Senate of the United States or upon the question of an impeachment trial. I can go to the President, and the President has a right to send for me, to influence me upon legislation which he thinks ought to be enacted; but he has no right, in my opinion, to suggest in any way, shape, or form what his conviction is upon a case like the trial of the right of a Senator to his seat in the United States Senate.

That is a judicial right, and I ought not to be influenced by his opinion. If he has evidence to give in any way, that evidence should come before the Senate and should be digested by the Senate; but the advice of the President should not be received. I am free to say that I think the President went a little outside of his functions as an Executive if he was exercising his influence in any way to line up Republicans on one side or the other; and I would not be his honest friend if I failed to say so.

But, Mr. President, we know that the wishes of the Executive do influence Senators. We saw its effect last year; we felt its effect in the preceding administration in its influence upon legislation far more than during the last administration. I should like to see the Senate more independent in that matter than it has been, and yet, at the same time, I would not advocate a resolution which should say that I can not go to the President, because by reason of his great office he may influence me upon legislation which he has a right to recommend to me in his annual messages.

I felt, therefore, that I should request that this resolution be so worded that it should relate only to those things which are exclusively within the jurisdiction of the Senate and in which the Senate acts more in a judicial than in a legislative capacity. So, Mr. President, I think that the amendment ought to go in; but if anything is to be changed, the word "exclusively" might go out, though I should prefer that it should remain in the resolution.

Mr. JONES. Mr. President, a few days ago, in an address I delivered in the Senate on the Lorimer case, I criticized the President for his action in connection with it. That criticism was based entirely upon the letter which the Senator from Texas has read and upon the statements made therein. It looks to me, however, as if that letter stated the matter possibly a little bit stronger than was actually the case, because those who have referred here to-day to their conversations with the President, it seems to me, have stated nothing that was improper on the part of the President. I think it is but fair that I should say that while I am not honored by being mentioned in the letter the Senator has read, I was spoken to by the President with reference to the matter; but the extent of that was simply this: As the Senator from South Dakota has stated with reference to his interview with the President, I was visiting the President in regard to some other matters, and when I got ready to leave the President asked me if I was considering the Lorimer case.

I told him yes, and he simply made the request that I should look into it very carefully, without asking me for my views or expressing his views, or anything of the sort. Now, I do not believe that that was improper, but it did seem to me——

Mr. BAILEY. What business was it of his whether you looked into it or not?

Mr. JONES. Well, I suppose he was simply interested as any citizen is interested in a matter of that importance.

Mr. BAILEY. Suppose you try that on a judge; suppose, as a citizen interested in a case in his court, you go and tell him that he ought to look into it, and see what will happen. He will put you in jail.

Mr. JONES. The President did not say that I ought to look into it; he said he hoped that I would do so; and that was the extent of it. I do not think there was anything wrong about that. There was no suggestion——

Mr. BAILEY. If the Senator will permit me, the President explains in this letter exactly why he was soliciting Senators. He says, "I want to win."

Mr. JONES. I condemn the President for that letter absolutely; I am simply relating this as merely a statement of what occurred between the President and myself, which, if it had gone no further, I do not really consider would have been improper. I did condemn the President the other day upon the statements made in that letter, which indicate that he went much further with others possibly than he did with me.

Mr. BAILEY. But the Senator said a moment ago that the President merely did it as any other good citizen, and I suggested that if the Senator tried the same experiment on a judge, the judge would not regard that as advice tendered by a good citizen; the judge would regard that as a contempt of his court, especially if you were to follow the suggestion with a statement, such as the President made, and tell the judge you wanted to win that case. The President was not asking the Senator to examine it out of a mere general, indefinite interest in it; he was asking the Senator to examine it because he wanted to win that case, although he was not a party to the record, and had absolutely no right to intervene.

Mr. JONES. As I have said before, in my conversation with the President there was nothing of the kind indicated in the letter here. Of course, if there had been anything of that kind said, I think I should have resented it at once; but I did not consider the suggestion that the President made, so far as it went with me, as anything improper, and I do not think so yet; but the statement in the letter of the President indicates, of course, that he went much further with others.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from California?

Mr. JONES. Certainly.

Mr. WORKS. I should like to ask the Senator from Washington if he knew, either by anything that was said by the President or otherwise, whether the President was for or against Mr. Lorimer at that time?

Mr. JONES. I did not. The President did not indicate to me what his views were or as to whether he had any views.

Mr. WORKS. And the Senator had no knowledge from any other source?

Mr. JONES. I did not.

Mr. WORKS. According to the statement of the President himself, he was trying to "line up" Senators, and they, in their innocence, were not aware of it.

Mr. BAILEY. But he did line up all with whom he talked, his way.

Mr. JONES. I desire to suggest that possibly the President may have gone farther with some than he did with me, because I have stated all that occurred with reference to my conversation with him in regard to this matter.

I desire simply to say further, Mr. President, that when this resolution was first presented I felt like voting for it; in fact, I said to some Members of the Senate that I expected to vote for it; but, on reflection, I am inclined to think that the best course for the Senate and for Senators to take is to show by their action that they do not propose to be influenced by attempts of the Executive to influence them in any of these matters; that it will not impress the country with our opposition to Executive interference by simply passing a resolution condemning the President for trying to influence us; but, if by our action as Senators and as a Senate we show to the country that we are not influenced by Executive interference, there will not be very much Executive interference or attempts at interference upon the part of the Executive.

Mr. BAILEY. Will the Senator permit me to say that it is not enough for a man to show by his conduct that he is not improperly influenced? He owes it to his self-respect to say that he resents every effort to improperly influence him. Our courts would fall into universal contempt if our judges would allow men to come to their chambers in an effort to influence their judgments without regard to the law or the evidence, and then throw their cloaks about them and say, "I did not send the man to jail, although he insulted me and offered me a bribe; but I showed him that I was above it." That is not sufficient.

Mr. JONES. I desire to say to the Senator from Texas that if I had thought the President of the United States had tried to influence me either for or against Senator Lorimer, I would have resented it; but I did not then, and I do not now, consider that he tried to do so, unless possibly the matter is viewed in connection with the letter which the Senator has read, because, as I have stated to the Senator from California, I did not know what the views of the President were in regard to the case and he did not indicate them to me one way or the other. He did not ask me for my views or anything of the sort, but simply, as I was going out, suggested that I look into the matter very carefully.

I will say, in line with some suggestion, I think, made by the Senator from Idaho, that there was an impression at the time the committee made its report—the report being very nearly unanimous—that the Senate might pass upon the matter without any particular discussion. I remember hearing it said that it was the usual custom of the Senate in election cases of this kind, where the report was unanimous, as a matter of course to accept the report, and while this report was not unanimous, it was so nearly so that some suggested that it might pass in the same way. I am not so sure but that possibly the President had heard something of that sort, and that he probably thought it was a matter of so much importance that the Senate ought not to pass upon it in that way.

While, of course, he ought to assume that we would do our duty, yet I did not consider it improper for the President, in an important matter of that kind, simply to express the hope that we look into the matter very carefully.

Mr. BAILEY. Well, the Senator's excuse for the President makes it apparent that the President was trying to influence the action of the Senate in a matter committed exclusively to the Senate.

Mr. JONES. I did not say that the President was acting from those motives. I say, while that is possibly the reason he made the suggestion to me——

Mr. BAILEY. He said so in his speech.

Mr. JONES. As I have said, I condemned the President in my speech the other day because of the statement made in that letter, and I have no excuse for the President acting along the line suggested in that letter.

Mr. BAILEY. Does the Senator believe that the Senate of the United States, with this letter of the President before it in the most formal way, because the President not only used it in a public speech, but the Senate itself has made that speech a public document—yet with all of this in its archives showing that the President not only sent for Senators and tried to talk to Senators about this matter, but that he also wrote a letter in which he said he was trying to "line up" Senators; that he "wanted to win"; and that he was afraid the Senate would not do its duty with reference to the report—with that kind of information a part of the records of the Senate, does the Senator think the Senate of the United States can preserve the respect of the people and pass it sub silentio?

Mr. JONES. As I have stated, I should vote for the resolution as originally introduced by the Senator from Texas, but as modified I am not inclined to support it.

Mr. BAILEY. I think the Senator is right, because we have nowhere in our records, whatever we may have floating through the air and in our minds as rumors, any proof that the President has ever attempted to interfere with the functions of the Senate except in this particular case, and I am absolutely certain we ought to confine it to this particular case.

But I yielded because I thought it was so vital that the Senate declare its resentment against Executive influence that I yielded in the hope that we might get a practically unanimous vote. However, I want to say to the Republican stalwarts or the Republican regulars, as the President calls them, that if they are not willing to do that, then we will see if we can not pass the resolution as originally introduced.

Mr. JONES. Mr. President, as I said before, I would much rather vote for the resolution as originally proposed than with the amendments which have been suggested. I am firmly of the opinion that really the best way for us to assert ourselves in this matter is to show not only as individual Senators, but as a Senate, that we are not going to allow Executive interference, rather than by passing resolutions and then going on just as we have been doing in the past.

Mr. WORKS. Mr. President, I am in favor of the pending resolution because it declares a correct and vital principle. It does not matter very much to me whether it reflects upon somebody or not, because if it does so it can only reflect upon the President, because he has violated that principle.

Senators whose names have been mentioned in connection with this matter say unqualifiedly that they have not been influenced; that they did not even realize that the President was attempting to influence their action; but the President must be judged by what he himself has said. His letter shows exactly what his purpose was. He says in so many words that he was attempting to line up the Senators, the Members of this body, against Mr. Lorimer, and that he was attempting by that means to win.

Now why should we hesitate with respect to this matter in passing this resolution because it may reflect upon the President when we consider what he himself has said with respect to it? This is an extreme case just because it was not ordinary legislation. It was a matter which was within the exclusive jurisdiction of the Senate, a matter over which the President had no control, with which he had no right to deal in any way whatever.

Therefore when we reach that point in the administration of the affairs of this Government where the President of the United States openly confesses that he has attempted to influence the Senate of the United States with respect to a vital matter of that kind, I think it is about time the Senate should take action if it does amount to a rebuke of the President of the United States.

Mr. CUMMINS. I move to amend the resolution by striking out the words "within the exclusive jurisdiction of the Senate" and inserting "relating solely to the duties of Senators."

The PRESIDENT pro tempore. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. It is proposed to strike out the words "within the exclusive jurisdiction of the Senate," and in lieu thereof to insert "relating solely to the duties of Senators."

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Iowa. [Putting the question.] The Chair is in doubt. The Chair will again put the question.

Mr. BAILEY. Let the amendment be again reported.

The PRESIDENT pro tempore. The amendment will again be stated.

The SECRETARY. It is proposed to strike out the words "within the exclusive jurisdiction of the Senate" and in lieu thereof to insert "relating solely to the duties of Senators," so that if amended the resolution will read:

Resolved, That any attempt on the part of a President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate or any other matter relating solely to the duties of Senators would violate the spirit, if not the letter, of the Constitution, and invade the rights of the Senate.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was rejected.

The PRESIDENT pro tempore. The question is on agreeing to the resolution of the Senator from Texas as amended. [Putting the question.] The Chair is in doubt.

Mr. BURTON. Let us have the yeas and nays.

Mr. TOWNSEND. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLARKE of Arkansas (when his name was called). I have a pair with the senior Senator from Rhode Island [Mr. WETMORE]. I do not see him in the Chamber, and therefore withhold my vote.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON], and therefore withhold my vote.

Mr. MARTINE of New Jersey (when the name of Mr. CURTIS was called). I have been requested to announce that the Senator from Kansas [Mr. CURTIS] is paired with the Senator from Arkansas [Mr. DAVIS].

Mr. SHIVELY (when Mr. KERN's name was called). My colleague [Mr. KERN] is unavoidably absent from the Chamber. He is paired with the junior Senator from Tennessee [Mr. SANDERS].

Mr. PAYNTER (when his name was called). Owing to a general pair which I have with the Senator from Colorado [Mr. GUGGENHEIM], I withhold my vote. If he were present, I would vote "yea."

Mr. OLIVER (when Mr. PENROSE's name was called). My colleague [Mr. PENROSE] is absent from the city and is paired with the Senator from Mississippi [Mr. WILLIAMS]. If my colleague were present he would vote "nay."

Mr. DU PONT (when Mr. RICHARDSON's name was called). My colleague [Mr. RICHARDSON] is unavoidably absent from the city. He is paired with the junior Senator from South Carolina [Mr. SMITH]. If my colleague were present he would vote "nay."

Mr. SANDERS (when his name was called). I have a pair with the junior Senator from Indiana [Mr. KERN]. If I were at liberty, I should vote "nay."

Mr. SMITH of South Carolina (when his name was called). I have a general pair with the Senator from Delaware [Mr. RICHARDSON]. I transfer the pair to the Senator from Oklahoma [Mr. GORE] and will vote. I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Louisiana [Mr. FOSTER], who is detained from the city. I therefore withhold my vote.

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. PENROSE]. If he were here and I were at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. HEYBURN. I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. I see he is not present, and I therefore withhold my vote. Were I at liberty I would vote "nay."

Mr. BRADLEY. I am paired with the senior Senator from Maryland [Mr. RAYNER] and therefore withhold my vote.

Mr. HITCHCOCK. I desire to announce that my colleague [Mr. BROWN] is paired with the senior Senator from Oklahoma [Mr. OWEN].

Mr. MARTIN of Virginia. The Senator from West Virginia [Mr. WATSON] is paired with the Senator from New Jersey [Mr. BRIGGS]. If the Senator from West Virginia were present, he would vote "yea."

Mr. BAILEY. Notwithstanding my pair with the Senator from Montana [Mr. DIXON], I have voted; and I desire the RECORD to show that I did that in accordance with an understanding with him on this particular question.

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is unavoidably detained from the Chamber. If he were present I do not know how he would vote on this question.

Mr. OLIVER. The Senator from Rhode Island [Mr. LIPPITT] is unavoidably detained from the Chamber. If he were present and at liberty to vote he would vote "nay." He is paired with the senior Senator from Tennessee [Mr. LEA.]

The result was announced—yeas 35, nays 23, as follows:

YEAS—35.

Ashurst	Fletcher	Newlands	Smith, Ga.
Bacon	Gallinger	O'Gorman	Smith, Md.
Bailey	Gardner	Overman	Smith, S. C.
Bourne	Hitchcock	Percy	Stone
Bryan	Johnson, Me.	Pomerene	Swanson
Chamberlain	Johnston, Ala.	Reed	Thornton
Clapp	McCumber	Shively	Tillman
Culberson	Martin, Va.	Simmons	Works
Fall	Martine, N. J.	Smith, Ariz.	

NAYS—23.

Borah	Crawford	McLean	Root
Brandegee	Cummins	Massey	Smith, Mich.
Bristow	du Pont	Nelson	Smoot
Burnham	Gronna	Oliver	Sutherland
Burton	Jones	Page	Townsend
Catron	Kenyon	Perkins	

NOT VOTING—36.

Bankhead	Curtis	Kern	Poindexter
Bradley	Davis	La Follette	Rayner
Briggs	Dillingham	Lea	Richardson
Brown	Dixon	Lippitt	Sanders
Chilton	Foster	Lodge	Stephenson
Clark, Wyo.	Gamble	Myers	Warren
Clarke, Ark.	Gore	Owen	Watson
Crane	Guggenheim	Paynter	Wetmore
Cullom	Heyburn	Penrose	Williams

So Mr. BAILEY's resolution as amended was agreed to.

HOUR OF MEETING TO-MORROW.

Mr. SMOOT. I move that when the Senate adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock.

The motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. I wish to give notice that I shall ask the Senate to take up House bill 25069, the sundry civil appropriation bill, immediately after the routine business in the morning.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. CLARK of Wyoming. Mr. President, yesterday, in what seemed to be the orderly course of procedure, I introduced a resolution providing for the appointment of a special committee to which should be referred the message and resolution from the House of Representatives in regard to the impeachment proceedings. There was no debate upon the subject at the time; it went through evidently without consideration; but afterwards a difference of opinion developed in the Chamber, some thinking that a committee of that sort was entirely unnecessary and others believing that the time of appointment was inopportune. Therefore, in order that the matter may be before the Senate again, I move a reconsideration of the vote by which the resolution was carried.

Mr. SMITH of Georgia. Mr. President, Senators perhaps are not familiar with the necessity for such a committee, or yesterday did not fully realize the questions that will come up from time to time as we go on that ought to be looked after and planned and resolutions drawn. It would be a great economy of time if this committee should be left in existence. I hope the Senate will retain it.

Mr. ROOT. Mr. President, I wish to join in the hope that the committee may be allowed to stand as originally ordered by the Senate.

The PRESIDENT pro tempore. The question is on the motion to reconsider the vote by which the Senate yesterday adopted the resolution submitted by the Senator from Wyoming [Mr. CLARK].

The motion to reconsider was not agreed to.

TARIFF DUTIES ON WOOL.

Mr. SIMMONS. Mr. President, I desire to give notice that to-morrow after the routine morning business, if I can get recognition from the Chair, I shall move to take up House bill 22195, to reduce the duties on wool and manufactures of wool.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session, the doors were reopened and (at 5 o'clock and 12 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, July 17, 1912, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 16, 1912.

UNITED STATES MARSHAL.

Secundino Romero, of New Mexico, to be United States marshal for the district of New Mexico, under the provisions of section 13 of the act approved June 20, 1910. Mr. Romero's nomination is to succeed Creighton M. Foraker, resigned.

POSTMASTERS.

CONNECTICUT.

Henry L. Porter to be postmaster at Berlin, Conn. Office became presidential July 1, 1912.

GEORGIA.

J. W. Adams to be postmaster at Moultrie, Ga., in place of Hugh M. Pierce. Incumbent's commission expired February 27, 1912.

C. L. Bennett to be postmaster at Eastman, Ga., in place of Henry C. Newman. Incumbent's commission expired January 30, 1911.

Young A. Williams to be postmaster at Greenville, Ga., in place of Pearl Williams, deceased.

MISSOURI.

Jacob W. Schempp to be postmaster at Appleton City, Mo., in place of William E. Burns. Incumbent's commission expired January 13, 1912.

E. S. Wilson to be postmaster at Mexico, Mo., in place of George H. Kunkel. Incumbent's commission expired March 20, 1912.

VIRGINIA.

D. H. Lewis to be postmaster at Chincoteague Island, Va., in place of John W. Field, deceased.

Arthur M. Stimson to be postmaster at Hot Springs, Va., in place of Arthur M. Stimson. Incumbent's commission expired June 29, 1910.

Albert L. Taylor to be postmaster at Parksley, Va. Office became presidential October 1, 1911.

WYOMING.

Icy S. Green to be postmaster at Moorcroft, Wyo. Office became presidential July 1, 1912.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 16, 1912.

UNITED STATES DISTRICT JUDGE.

J. Whitaker Thompson to be United States district judge for the eastern district of Pennsylvania.

MEMBERS OF THE BOARD OF CHARITIES OF THE DISTRICT OF COLUMBIA.

John Joy Edson to be a member of the Board of Charities.
George M. Kober to be a member of the Board of Charities.

PENSION AGENT.

Joab N. Patterson to be pension agent at Concord, N. H.

PROMOTIONS IN THE PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. Anthony J. Lanza to be passed assistant surgeon.
Asst. Surg. Robert Olesen to be passed assistant surgeon.

MEMBERS OF THE EXECUTIVE COUNCIL OF PORTO RICO.

Martin Travieso, jr.
Jose C. Barbosa.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

FIELD ARTILLERY.

First Lieut. Emery T. Smith to be first lieutenant.

INFANTRY.

First Lieut. Charles T. Smart to be first lieutenant.

APPOINTMENTS IN THE ARMY.

GENERAL OFFICER.

Col. George F. Chase to be brigadier general.

MEDICAL RESERVE CORPS.

To be first lieutenants.

Ernest Chester McCulloch.
Robert Henry Duenner.

CORPS OF ENGINEERS.

To be second lieutenants.

Cadet Howard Sharp Bennion.
Cadet Rudolph Charles Kuldell.
Cadet Roscoe Campbell Crawford.
Cadet Earl Grady Paules.
Cadet Bradford Grethen Chynoweth.
Cadet Milo Pitcher Fox.

CAVALRY ARM.

Cadet William Henry Walmsley Youngs.
Cadet Byron Quinby Jones.
Cadet Robert McGowan Littlejohn.
Cadet Harry Albert Flint.
Cadet Pearl Lee Thomas.
Cadet Sidney Vincent Bingham.
Cadet Otto Emil Schultz.
Cadet Isaac Spalding.
Cadet Henry Lytton Flynn.
Cadet Robert Fee Hyatt.
Cadet Harold Marvin Rayner.
Cadet Stephen Marston Walmsley.
Cadet John Traylor McLane.
Cadet George McClellan Chase.
Cadet James Sylvester Mooney.
Cadet Henry William Harms.
Cadet John Earl Lewis.
Cadet John Duncan Kelly.
Cadet Thorne Deuel, jr.
Cadet William Nalle.
Cadet Gustav Jacob Gonser.

FIELD ARTILLERY ARM.

Cadet Russell Lamonte Maxwell.
Cadet Charles Janvrin Browne.
Cadet John Nathaniel Hauser.
Cadet Karl Chris Greenwald.
Cadet Richard Emmanuel Anderson.
Cadet James Albert Gillespie.
Cadet Wesley Moter Bailey.

COAST ARTILLERY CORPS.

Cadet Lee Otis Wright.
Cadet Lewis Andrews Nickerson.
Cadet Philip Ries Faymonville.
Cadet William Coffin Harrison.
Cadet John Shirley Wood.
Cadet Robert Henry Lee.
Cadet David McLean Crawford.
Cadet Oscar James Gatchell.
Cadet Cris Miles Burlingame.
Cadet Raymond Vincent Cramer.
Cadet Sidney Parker Spalding.
Cadet Leonard Lovering Barrett.
Cadet Stephen Harrison MacGregor.
Cadet James Kirk.
Cadet Robert Nall Bodine.
Cadet James Harve Johnson.
Cadet John Henry Lindt.
Cadet Bird Spencer Du Bois.
Cadet Cyril Augustine Phelan.

INFANTRY ARM.

Cadet Thomas Jay Hayes.
Cadet d'Alary Fechét.
Cadet William Hale Wilbur.
Cadet Edgar Staley Gorrell.
Cadet Basil Duke Edwards.
Cadet Davenport Johnson.
Cadet Wade Hampton Haislip.
Cadet William Dean.
Cadet Walter Melville Robertson.
Cadet Harry James Malony.
Cadet John Hartwell Hinemon, jr.
Cadet Charles Nathaniel Sawyer.
Cadet Gilbert Richard Cook.
Cadet Max Weston Sullivan.
Cadet Franklin Cummings Sibert.
Cadet Archibald Vincent Arnold.
Cadet John Nicholas Smith, jr.
Cadet William Gaulbert Weaver.
Cadet Stephen J. Chamberlin.
Cadet William Horace Hobson.
Cadet Walter Glenn Kilner.
Cadet Raymond Oscar Barton.
Cadet Houston Latimer Whiteside.
Cadet Walton Harris Walker.
Cadet Millard Fillmore Harmon, jr.
Cadet Edward Chamberlin Rose.
Cadet Albert Eger Brown.
Cadet Ralph Cadot Holliday.
Cadet Robert Emmett Patterson.
Cadet Adrian Kenneth Polhemus.
Cadet Carl Peterson Dick.
Cadet Charles Chisholm Drake.
Cadet George LeRoy Brown, jr.
Cadet Earl Barlow Hochwalt.
Cadet William Joseph Morrissey.
Cadet Robert Theodore Snow.
Cadet Henry Charles McLean.
Cadet Joseph Edmund McDonald.
Cadet Frank Victor Schneider.

Cadet Frank Joseph Riley.
Cadet Benjamin Franklin Delamater, jr.
Cadet Theodore Willis Martin.

PROMOTIONS IN THE ARMY.

CHAPLAIN.

Chaplain Herbert S. Smith to be chaplain with the rank of captain.

MEDICAL CORPS.

To be captains.

First Lieut. Henry C. Coburn, jr.
First Lieut. Arnold D. Tuttle.
First Lieut. John B. H. Waring.
First Lieut. William R. Dear.
First Lieut. Charles E. Doerr.
First Lieut. Daniel P. Card.
First Lieut. Ralph H. Goldthwaite.
First Lieut. Frederick S. Wright.
First Lieut. Daniel W. Harmon.
First Lieut. James C. Magee.
First Lieut. Corydon G. Snow.
First Lieut. Norman L. McDiarmid.
First Lieut. Clarence A. Treuholtz.
First Lieut. Eben C. Hill.
First Lieut. George H. McLellan.
First Lieut. Alexander D. Parce.
First Lieut. James A. Wilson.
First Lieut. Armin Mueller.
First Lieut. Morrison C. Stayer.
First Lieut. Robert W. Kerr.
First Lieut. Lee R. Dunbar.
First Lieut. Leon C. Garcia.
First Lieut. William S. Shields.
First Lieut. Addison D. Davis.
First Lieut. William H. Smith.
First Lieut. Clarence E. Fronk.
First Lieut. George D. Heath, jr.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Commander Robert E. Coontz to be a captain.

The following-named lieutenant commanders to be commanders:

Raymond De L. Hasbrouck,
Benjamin B. McCormick,
Edward S. Kellogg,
David V. H. Allen, and
Frank H. Clark.

Lieut. Commander Walter S. Crosley, an additional number in grade, to be commander.

The following-named lieutenants to be lieutenant commanders:

William K. Riddle, and
William N. Jeffers.

The following-named ensigns to be lieutenants (junior grade):

Richard S. Galloway,
Samuel L. Henderson,
Carl C. Krakow,
Louis J. Gulliver,
Richard B. Coffman,
Charles S. Keller, and
Louis C. Scheibla.

Asst. Surg. George A. Riker to be a passed assistant surgeon.

Charles A. E. King, a citizen of New York, to be a second lieutenant in the Marine Corps.

Commander Robert L. Russell to be a captain.

Herbert J. Hauser to be an assistant paymaster.

The following-named midshipmen to be ensigns:

Ralph S. Wentworth, and
Raymond G. Payne.

The following-named lieutenant commanders to be commanders:

Edward H. Campbell, and
Henry B. Price.

The following-named midshipmen to be ensigns:

Harold E. Saunders,
Garland Fulton,
Ralph S. Parr,
Samuel J. Zeigler, jr.,
Shirley A. Wilson,
Charles H. McMorris,
Ernest M. Pace, jr.,
John A. Byers,
Virgil C. Griffin, jr.,
Henry M. Kieffer,
William A. Corley,
Benjamin Perlman,
Howard H. Good,
Carroll B. Byrne,
Ernest G. Small,
Carleton H. Wright,
Donald Boyden,
Stanley P. Tracht.
Robertson J. Weeks,
Roscoe L. Martin,
Herman E. Fischer,
Marc W. Larimer,
Willard E. Cheadle,
Edward P. Nickinson,
Thomas L. Gatch,
Harry G. Patrick,
James A. Saunders,
John H. Culin,
Alfred E. Montgomery,
Andrew C. Bennett,
Fred K. Elder,
Eugene P. A. Simpson,
Edward O. McDonnell,
Oliver W. Bagby,
Lawrence P. Bischoff,
James C. Clark,
James C. Montfort,
Robert D. Moore,
Carl C. Gilliland,
Robert D. Brown,
George L. Woodruff,
Mahlon S. Tisdale,
Schuyler Mills,
Edmund A. Crenshaw,
James L. King,
Lawrence K. Forde,
William D. Taylor,
Davis De Treville,
Homer C. Wick,
John P. Dalton,
Robert A. Lavender,
Louis P. Wenzell,
Robert S. Haggart,
Richard E. Byrd, jr.,
Raymond E. Kerr,
Philip Van H. Weems,
George H. Fort,
Lunsford L. Hunter,
Forrest U. Lake,
Ray H. Wakeman,
Robert R. Thompson,
Elliott Buckmaster,
Nelson W. Hibbs,
Walter S. De Lany,
Emory P. Eldredge,
Albert B. Sanborn,
Ellis M. Zacharias,
Clarence Gulbranson,
Wentworth H. Osgood,
Donald F. Patterson,
Harold B. Grow,
Donald W. Hamilton,
Herbert G. Gates, jr.,
Hiester Hoogewerff,
John H. Falge,
Louis E. Denfeld,
Ralph W. Holt,
George W. D. Dashiell,
Harold Dodd,
Whitley Perkins,
Warren A. Shaw,
Robert A. Hall,
Guy C. Hitchcock,
Anton B. Anderson,
William S. Hogg, jr.,
Beriah M. Thompson,
John L. Fox,
Earl R. Morrissey,
Stephen B. Robinson,
William G. Greenman,
Harold H. Little,
Horatio J. Peirce,
Hamilton Harlow,
Hugh C. Fraser,
James L. Abbot,
Thales S. Boyd,
James A. Crutchfield,
Daniel E. Barbey,
Raymond V. Hannon,

George W. Whiteside,
Charles P. Mason,
John J. Brown,
Grady B. Whitehead,
Carl K. Martin,
Campbell D. Edgar,
Harry P. Curley,
Walter S. Haas,
John P. Bowden,
Dewitt C. Ramsey,
Baylis F. Poe,
Emory W. Coil,
Nathan B. Chase,
George W. La Mountain,
Alexander W. Loder,
Harold W. Scofield,
Carroll M. Hall,
Rodes H. Hawkins,
Roscoe E. Schuirmann,
Charles K. Osborne,
Abraham C. Ten Eyck,
Ingram C. Sowell,
Francis E. M. Whiting,
Charles A. Lockwood, jr.,
John K. Richards, jr.,
William H. Burtis,
Stanley G. Womble,
Hans Ertz,
Paul S. Theiss,
Aaron S. Merrill,
John Wilbur,
Charles S. Alden,
Robert E. P. Elmer,
Charles F. Greene,
Hervey A. Ward,
George S. Gillespie,
Garnet Hulings,
Hubert V. La Bombard,
Charles W. McNair,
Edward H. McKitterick,
Otto M. Foster,
Laurence R. Brown, and
Lloyd H. Lewis.

Asst. Surg Alfred J. Toulon to be a passed assistant surgeon.

Asst. Surg. Chandler W. Smith to be a passed assistant surgeon.

Asst. Surg. John B. Pollard to be a passed assistant surgeon.

Machinist Jarrard E. Jones to be a chief machinist.

POSTMASTERS.

ALABAMA.

Belvins S. Perdue, Greenville.

CALIFORNIA.

H. C. Hollenbeck, Soldiers Home.
Samuel F. Jenkins, Richmond.
W. D. Pennycook, Vallejo.

ILLINOIS.

H. B. Chaffin, Clay City.
David Herriott, Morgan Park.

INDIANA.

Joseph W. Morrow, Charlestown.
George E. Spake, Monroeville.

IOWA.

Lawrence J. Finn, Bonaparte.

MARYLAND.

Samuel S. Yingling, Reisterstown.

MICHIGAN.

Lee R. Wallace, Port Austin.

MISSISSIPPI.

George A. McCuen, Brookville.

NEBRASKA.

Joseph A. Storch, Fullerton.
John A. Wood, Ewing.

NEW HAMPSHIRE.

Waldo C. Varney, Alton.

NORTH DAKOTA.

John W. Doles, Stanley.

OHIO.

Oscar O. Gale, Eaton.
Richard Gilson, Steubenville.

SOUTH DAKOTA.

George W. Bowker, Ashton.
Fred C. Bowles, Dell Rapids.
Robert E. Rogers, Faith.

TEXAS.

Thomas S. Hunter, Celina.

WEST VIRGINIA.

Claude Shinn Randall, Shinnston.

WITHDRAWAL.

Executive nomination withdrawn July 16, 1912.

POSTMASTER.

William E. Burns to be postmaster at Appleton City, Mo.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July 16, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou great Spirit, the Father of men, through whom Thou hast poured wisdom, knowledge, strength, and purity in the ages, making the world bright with Thy presence; make us one with Thee in intent and purpose, that we may apply our knowledge unto wisdom, our strength unto purity, and thus reflect in our personality the likeness of our Maker. "Beloved, now are we the sons of God, and it doth not yet appear what we shall be: but we know that, when He shall appear, we shall be like Him; for we shall see Him as He is." For thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that Mr. OVERMAN had been appointed a conferee on the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, in place of Mr. FOSTER, excused.

The message also announced that the Senate had passed the following order:

Ordered, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against Robert W. Archbald, United States circuit judge, and is ready to receive the managers on the part of the House at its bar.

COMMERCIAL STATISTICS.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to incorporate therein an address by Mr. Oscar L. Austin, Chief of the Bureau of Statistics, containing certain valuable and nonpartisan statistics of the Government with reference to our commercial development.

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent to extend his remarks in the RECORD.

Mr. ROBINSON. I did not hear the gentleman's statement as to what it related to.

Mr. MOORE of Pennsylvania. I desire to incorporate as a part of my remarks an address made by the Chief of the Bureau of Statistics, bringing certain valuable and nonpartisan commercial statistics down to date.

Mr. ROBINSON. I have no objection.

Mr. FINLEY. What is the length of the matter which the gentleman desires to print?

Mr. MOORE of Pennsylvania. It will take about three pages of the CONGRESSIONAL RECORD.

The SPEAKER. Is there objection?

There was no objection.

TRAVELERS' BAGGAGE.

Mr. PETERS, from the Committee on Ways and Means, reported the bill (H. R. 24926) to amend paragraph 709 of section 1 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, which was read a first and second time, referred to the Committee of the Whole House on

the state of the Union, and, with the accompanying report (No. 1005) ordered to be printed.

ARKANSAS & MEMPHIS RAILWAY BRIDGE.

The SPEAKER laid before the House the bill (H. R. 17239) to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River, with a Senate amendment thereto.

The Senate amendment was read.

Mr. McKELLAR. Mr. Speaker, I move that the House concur in the Senate amendment.

Mr. MANN. Mr. Speaker, I wish the gentleman would explain the effect of the amendment and the reason for it.

Mr. McKELLAR. This is a bridge bill for a bridge across the Mississippi River at Memphis. The House passed the bill some time in March and it went to the Senate. Since that time, I have been informed, there has been a virtual agreement between the city of Memphis and the county of Crittenden, on the other side of the river, in the State of Arkansas, and the railroad company which is to build the bridge, in reference to the approaches, by which agreement the local authorities are to contribute $50,000 for the building of the approaches to the bridge. It is practically an agreed matter between the local authorities, and I hope the House will concur in the Senate amendment.

Mr. ROBINSON. Does the bill give the public the right to use the bridge?

Mr. McKELLAR. Does the gentleman mean a free bridge?

Mr. ROBINSON. Yes.

Mr. McKELLAR. Oh, no; it is not a free bridge.

Mr. ROBINSON. In addition to contributing the $50,000, the public is required to pay tolls?

Mr. McKELLAR. Yes; it is to be a toll bridge.

Mr. ROBINSON. What is the reason, if the public is required to contribute to the construction, that the terminal company is permitted to charge tolls?

Mr. McKELLAR. As I understand it, the railroad company desires to build a railroad bridge, and it will cost $400,000 or $500,000 additional to make it a general-traffic bridge. Naturally, the company does not care to build a general-traffic bridge. On the other hand, it will be of the greatest advantage to the city of Memphis and the people of Arkansas as well, especially to Crittenden County, to have a general-traffic bridge.

The railroad company is willing to build a general-traffic bridge, but it objects to building the long approach which is necessary on the Arkansas side. As a matter of fact, as the gentleman from Arkansas [Mr. ROBINSON] is probably familiar with the situation, on the Arkansas side there is a good deal of low ground, and it is over this that the fight has been for quite a while, as the gentleman from Arkansas [Mr. ROBINSON] undoubtedly has seen in the Memphis papers. The city of Memphis has agreed to bear a large portion of the $50,000 additional expense that the local authorities are to contribute in order to get a general-traffic bridge. It is largely a question of local importance and convenience.

Mr. ROBINSON. Can the gentleman state whether the county of Crittenden has taken any official action in reference to the matter, or has the agreement been reached by parties purporting to represent the county?

Mr. McKELLAR. Senator CLARKE had a letter from the county judge of Crittenden County saying that it will be satisfactory as the best they could get. Of course, I would greatly prefer that we should have a free bridge and approaches built free; but, as a matter of fact, this seems to be the best we can do under the circumstances, and we think that a general-traffic bridge at this time will be of great benefit, both to the city of Memphis and to the other side of the river, and I am anxious that the bill should pass.

Perhaps the bridge company should pay for the approaches just as provided in the House bill; but it must be admitted that the purpose of the company was simply to build a railroad bridge, and that a railroad bridge merely will be of the greatest value to both Tennessee and Arkansas. And, of course, if we can get, in addition to the railroad bridge, a general-traffic bridge it will be of vastly more importance and benefit to us. After the House bill was passed not only requiring the railroad company to build a separate general-traffic compartment to the bridge at an additional expense of several hundred thousand dollars, but also requiring it to build the long approach on the Arkansas side, the railroad people gave notice that they would not build any bridge at all. So since that time the House bill has simply been lying in the Senate awaiting developments. Recently Mayor E. H. Crump, Mr. C. P. J. Mooney, Mr. T. K. Riddick, Mr. L. P. Berry, Judge Allen Hughes, Judge Frank Smith, Judge Thompson, Mr. Louis Barton, Mr. Lem Banks, and other public-spirited citizens of both Memphis and Crittenden County got together with the representatives of the railroad company—Gen. Luke Wright, Mr. L. P. Miles, Mr. B. L. Mallory, and Mr. Tinsman—and agreed substantially to what is now contained in the bill as amended. All of these gentlemen deserve the greatest credit for their work, and if the bridge is built, as I believe it will be now, it will be due most largely to their splendid efforts. All the Memphis newspapers, too, have given powerful and effective aid to the project. The amendment was drawn by Senator CLARKE of Arkansas, and the Senate passed the bill with this amendment. After consulting with Senator CLARKE I am convinced that the bill can not pass the Senate in any other form and that a conference committee could do no good. I feel sure that the bill as amended will now meet the approval of both the railroad company and those who want the general-traffic bridge, as every material difference has been adjusted, and therefore I hope the House will agree to the amendment.

Mr. SIMS. Mr. Speaker, this bill was reported originally to the House from the Committee on Interstate and Foreign Commerce and was supposed to meet all the requirements of railroad traffic and highway traffic, if there might be any. There was a report by the Secretary of War that it would not interfere with navigation. The bill has not been referred back to the Committee on Interstate and Foreign Commerce, and so Members have not examined it; but it seems to be a local matter in which the people of Crittenden County are interested, and I see no reason why the Committee on Interstate and Foreign Commerce would object to agreeing to the Senate amendment if it meets with the approval of the people who will have to put up the money.

Mr. ROBINSON. Mr. Speaker, Crittenden County is not situated within the district which I represent, but I am now informed that Senator CLARKE, of the State of Arkansas, who has the bill in charge in the Senate, has agreed to the amendment.

Mr. McKELLAR. I will say to the gentleman that Senator CLARKE, from the State of Arkansas, prepared and offered the amendment which was passed in the Senate.

Mr. ROBINSON. Mr. Speaker, I have no objection whatever under those circumstances.

The SPEAKER. The question is on agreeing to the Senate amendment.

The Senate amendment was agreed to.

ANNA R. SCHLEY.

The SPEAKER laid before the House the bill (S. 4568) granting an increase of pension to Anna R. Schley, with a House amendment disagreed to by the Senate.

Mr. RICHARDSON. Mr. Speaker, I move that the House insist on its amendment and agree to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey.

COAL MINING IN WYOMING.

The SPEAKER laid before the House Senate joint resolution 100, authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming, with a House amendment disagreed to by the Senate.

Mr. ROBINSON. Mr. Speaker, I move to further insist upon the House amendment and agree to the conference asked for by the Senate.

Mr. MANN. Mr. Speaker, as I understand, this resolution as it came from the Senate provided that the Secretary of the Interior should have general authority to permit coal mining and the leasing of coal mines. The House amendment, as I recall it, restricted that to a particular case. Am I not right about that?

Mr. ROBINSON. The Interior Department suggested that the legislation should be general.

Mr. MANN. As I understand, the House agreed to the proposition to apply it to a particular case for the reason stated. I shall not object to its going to conference, and I hope there is no disposition on the part of the House conferees to extend that position and make it general.

Mr. ROBINSON. Mr. Speaker, I find on looking at the bill that my recollection is correct. The Senate declined to report a bill of a general character and confined the measure to the Owl Creek Coal Co. The House amended the Senate resolution but did not adopt the suggestion of the Interior Department.

Mr. MANN. Then I was mistaken in it.

The SPEAKER. The question is on agreeing to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER appointed the following conferees on the part of the House: Mr. ROBINSON, Mr. TAYLOR of Colorado, and Mr. MONDELL.

ALLOTTEES, FIVE CIVILIZED TRIBES, OKLAHOMA.

The SPEAKER laid before the House the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," with House amendment thereto disagreed to by the Senate.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House agree to the conference asked for by the Senate.

Mr. MANN. Mr. Speaker, I wish the gentleman from Texas would tell us some of the differences.

Mr. STEPHENS of Texas. Mr. Speaker, I will state that this was a Senate bill. We had a similar House bill pending before the committee. We adopted the House bill. The bill was introduced by Mr. DAVENPORT, the gentleman from Oklahoma, and I will ask that he explain the matter.

Mr. DAVENPORT. Mr. Speaker, the bill has for its purpose the clearing up of the question down there between the Federal and State courts on the one side and the United States Attorney General's office on the other. The act of May 27, 1908, provided that where full-blood Indians inherited lands from deceased allottees the county court, the probate court of the county, having jurisdiction of the estate, should approve the conveyance made by the full blood before it should become valid. The Federal court in Oklahoma and the State court passing upon the question held that if the allottee died before May 27, 1908, and the conveyance was made subsequent to that time, the conveyance was valid, if approved by the county court. The Attorney General of the United States took a different position, and this bill is intended to correct that and clarify the matter so that the titles will be clear.

Mr. MANN. If the gentleman will permit, I remember the bill well. My understanding was the gentleman in charge of the bill at the time the change was made by the House stated it was agreeable to them and to the Senators who were interested in it. Why does it come back to the House with this disagreement to the House amendment as it was passed by unanimous consent with a change that was made and agreed to here?

Mr. STEPHENS of Texas. I can not understand, but the Senate refused to agree to the amendment and asked for a conference.

Mr. DAVENPORT. I was in the Senate at the time and Senator SMOOT suggested that it go to conference and the amendment be presented there.

Mr. MANN. And for the purpose of putting in a new proposition. We understood here and had the right to understand, as so stated by the gentleman, that if the House agreed to the form it was in the Senate was going to agree to it.

Mr. DAVENPORT. I will say to the gentleman I was not on the floor of the House at the time the bill passed and I do not know what the understanding was at the time, but I do know that the amendment offered is an amendment to conform in substance to the act of May 27, 1908, and it ought to be carried in the bill because there should be some authority to approve the conveyances. As it stands it does not require anybody to approve the conveyances and there should be a provision in the bill requiring some court to approve the conveyances before they become valid.

The SPEAKER. The gentleman from Texas moves that the House insist on its amendment and agree to the conference asked for by the Senate.

The question was taken, and the motion was agreed to.

The SPEAKER. The Clerk will report the conferees.

The Clerk read as follows:

Mr. STEPHENS of Texas, Mr. GUDGER, and Mr. BURKE of South Dakota.

SALE OF FUTURES IN COTTON.

The SPEAKER. The unfinished business is the bill (H. R. 56) which is being considered under the five-minute rule. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 56) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

Be it enacted, etc., That certain words used in this act and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows: The word "message" shall mean any communication by telegraph, telephone, wireless telegraph, cable, or other means of communication from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or to any foreign country. The word "person" shall mean any person, partnership, joint stock company, society, association, or corporation, their managers and officers, and when used with reference to the commission of acts which are herein required or forbidden shall include persons who are participants in the required or forbidden acts, and the agents, officers, and members of the boards of directors and trustees, or other similar controlling or directing bodies of partnerships, joint stock companies, societies, associations, and corporations. And words importing the plural number, wherever used, may be applied to or mean only a single person or thing, and words importing the singular number may be applied to or mean several persons or things.

Mr. DUPRÉ. Mr. Speaker, I move to strike out the last word. This is another of the nostrums that legislative quack doctors in and out of this Chamber are seeking to administer to the people from time to time. It is heralded here as a great boon and benefaction to the cotton grower of the South. I venture to predict if by any mischance it should become a law it will prove a worse blow to the cotton industry than even the boll weevil which has devastated our country. One of the cotton exchanges which is sought to be destroyed by this bill is located in my home city. I say the New Orleans Cotton Exchange has been the best friend that the southern farmer has had, and if you destroy it by this bill you make of King Cotton the vassal of Liverpool. That institution, Mr. Speaker, is an honestly conducted institution. It is a legitimate institution. Its methods have been scrutinized by Government authorities and its contracts and general operations have been approved by the present Commissioner of Corporations, Herbert Knox Smith, and I submit to attempt to destroy it by this legislation is a serious mistake. We are told that we should support this bill in the interest of morality and because of a party platform. Well, under the circumstances, with pseudo morality and blanket party platforms on the one side and the Constitution of the United States on the other I choose to take my stand with the Constitution. This bill is distinctly in the teeth of the Constitution. Any man who has read the case of Leland and Ware in Two hundred and ninth United States, decided less than five years ago, must come to the conclusion that it is violative of the fundamental law.

The object of the legislation is pernicious, the bill itself is unconstitutional, and I shall certainly vote against it. And in this connection I ask to read the following excerpt from a telegram received to-day by me:

The cotton producers have had enough adversity to contend with without being assassinated at the hands of their alleged political friends. I want the farmers—the ones who make the cotton, not the ones who make the speeches—to be fully advised of the economic significance of this legislation in order that they may fix responsibility should calamity unhappily befall.

Mr. BURLESON. Whom is the telegram from?

Mr. DUPRÉ. It is from W. B. Thompson, with whom you are well acquainted.

Mr. BEALL of Texas. Of the New Orleans Cotton Exchange?

Mr. DUPRÉ. Formerly president of the New Orleans Cotton Exchange; yes.

I herewith insert the telegram of Mr. Thompson, to which I have referred heretofore in part. The telegram is as follows:

Hon. H. GARLAND DUPRÉ,
Washington, D. C.:

The Beall anticotton futures bill, if enacted, will strike southern prosperity the severest blow it has sustained in many years. It is admitted that some regulation of future trading is needed, but the bill in question is drastic and destructive. To informed or open minds it has been demonstrated that the proposed legislation would prevent American merchants from hedging their spot purchases and sales, and would destroy the American contract exchanges. The inevitable results of such conclusion would be, first, to deprive the cotton producer of the multitude of small competitive markets and buyers which now purchase crop, and in consequence summarily lower the price of cotton; and, secondly, to place the price-making power unreservedly in the hands of a combination of foreign buyers and spinners, who would unquestionably fix it low. I have no interest in the matter except as a citizen of the cotton-producing country who wants to see the commodity bring the highest legitimate price. I have made an earnest study of this question, and I can, with some claim to authority and with the support of absolute conviction, warn the advocates of this bill that if they make it a law they will legislate directly against the price of cotton, and consequently against the welfare of the South. The cotton producers have had enough adversity to contend with without being assassinated by the hands of their alleged political friends. I want the farmers—the ones who make the cotton, not the ones who make the speeches—to be fully advised of the economic significance of this legislation in order that they may fix responsibility should calamity unhappily befall.

W. B. THOMPSON.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] is recognized for five minutes.

Mr. HEFLIN. Mr. Speaker, I have listened with interest, as I always do, to my friend the able Member from Louisiana [Mr. DUPRÉ]. I do not agree with what he has said. The exchange may be good for some of his constituents—those who operate it. The cotton exchanges as operated to-day are very injurious to the cotton producers that I represent, injurious to every cotton producer in the United States.

This bill is in the interest of fair play. It is for the purpose of requiring cotton exchanges to perform their rightful

and legitimate functions in the cotton world. What is the purpose of the cotton exchange, or should be the function of the exchange? It should benefit the producer of cotton. It should help to sell and distribute the cotton crop. Does it do that now? No. Mr. Speaker, as conducted to-day it utterly fails to do that. It deals in a fictitious stuff called cotton, and sells that stuff in unlimited quantities and real cotton is injured by these sales, because real cotton is not required to settle the contracts. They use the word "cotton" in their contracts, but they do not deliver cotton on their contracts. They have no cotton. They do not want any cotton, for it does not require cotton to do the kind of business that they do.

Mr. Speaker, I characterized once before this dealing in cotton as a "dummy performance." A gentleman illustrated to me what he meant by a "dummy saloon." He said, "They sell whisky on Sunday, but in order to sell a drink of whisky they must serve a sandwich with each drink, a sandwich composed of two slices of bread with one piece of red meat in the middle. The bartender discovered that instead of having to go to the baker and butcher for bread and meat he could have some wooden sandwiches painted like brown bread with a red slice painted like meat in the middle; and on Sunday he would put the sandwich on the table when a man would order a drink. In this way these wooden sandwiches were served over and over to thousands of men."

That is the way they do on the cotton exchange. They keep the same old dog-tail cotton and serve it with contracts on which they expect a settlement in money and not in cotton. The man who bought the dummy cotton contract on the exchange did not want the stuff sold him any more than the fellow who bought the whisky wanted the dummy sandwich. They put this exchange cotton back and serve it to you, and to you, and thousands of others. They settle the difference in dollars and dimes. No cotton is demanded, and the farmer is outraged and outlawed by this awful practice. The Scripture tells us that if you sow the wind you will reap the whirlwind. I wish to say that the cotton exchange sells the wind and the cotton farmer reaps the whirlwind. [Applause.] Mr. Speaker, this open and notorious gambling in cotton is the greatest evil that the cotton producers have to contend with. [Applause.]

Mr. DICKSON of Mississippi. Mr. Speaker, I shall support this bill for more reasons than one. I have some acquaintance with the cotton business. I have been all my life a cotton producer. I have been a compress man. I have partly owned, I presume, one of the largest ginneries east of the Mississippi River. I have bought and sold cotton for domestic and foreign accounts, and, also, I have climbed that tree of knowledge which so many have climbed, and I have done some apple eating long ago.

If there is any good in those unbridled institutions—the so-called exchanges and bucket shops—it remains for me to discover it. I have before me some figures here that are somewhat astounding. I find that the city of New Orleans some few years ago—the nearest I could get, because as you know, they no longer publish daily the number of bales sold, either spot or future—received 2,296,971 bales of cotton. At the end of the season it had left only 31,964 bales. The city or port of Galveston received 3,891,695 bales and had 30,820 on hand at the close of the season; the city of Savannah 1,668,633 bales, and it had left only 8,593 bales.

It remains for me to recite a problem for mathematical calculation that I would like to have solved by some Member of this House. The same year the port of New York received 23,108 bales. It sold 90,000,000, and at the end of the season it had left over 169,975 bales—receiving 23,298 and having left over 169,975 bales.

There is no planter, no farmer, who objects to any institution—not a so-called exchange, but one of legitimate purpose and action—for the exchange of cotton. It is for that purpose that they are presumably in existence. If I have a thousand bales and you have the money, you being a spinner and I being a producer, it is perfectly legitimate for you by wire or any other means (which this bill does not prevent) to negotiate a transaction through a broker or in any other way to accomplish the end desired.

But how is it with the usual practice—of some of these institutions, at least? There is no intent or purpose attached to the supposed negotiation when made. As long as Mr. Jones could stand up and say, "I buy," and Mr. Brown could muster his forces and say, "I sell," there stood the producer and the manufacturer confounded in mind, confused, knowing not what the result might be, knowing that in some cotton exchanges, and especially the latter one referred to a moment ago, the transactions carried on were in no sense bona fide, but represented only that instinct of gambling which so largely prevails in the human race. I say "gambling" with no invidious reference to anyone who, consciously or unconsciously, is doing this great injustice to the people who raise this great staple, but, nevertheless, my friends, it is nothing but gambling.

In some of the institutions mentioned the vast volume of cotton received and the small amounts remaining at the close of the season but indicate the sincerity that prevails; and the millions of bales by them or through them as a medium disposed of lend to a great degree the sentiment of approval in the transactions which are consummated through them as a means of bringing the consumer and the producer together for the exchange of cotton and not wind. [Applause.]

It was once said by a distinguished friend of mine in my native county that you could not spin wind. There are men on the cotton exchange to-day, I doubt not, who have never seen one bale of cotton unless it was some first bales shipped from somewhere—a premium bale, the first gathered for the season—who would not know a package of that staple if they met it in the road. Yet these meet around the ring in this exchange, and one says, "I bet that such and such a month will bear a middling price of so much." The other accepts the challenge and bets that it will not be worth that much. That is called one selling and one buying. Upon this is predicated largely, in the cotton world, the price of that great staple for that day.

Thus these speculators by themselves are dominated by a sole opinion obedient to the gambling instinct which in them lies, and whichever can marshal the strongest force of aiders and abettors dominates the market in put and call regardless of the existence of the material substance itself. During these transactions not one fiber more or less is brought into existence or is destroyed in earth, yet we see as a result the property which belongs to others emasculated in price and the hardships resultant from these transactions brought to the homes, the firesides, the schools of this land which educate and erect the standards of civilization in the youth of the land, and poverty and woe is the heritage of him who in the sweat of his brow produced these commodities and he must bend beneath the burden which the heartlessness of these transactions heaps upon his shoulders, requiring him, Atlaslike, to bear the onus of America's commercial world to a great extent.

I am likewise in sympathy with our brethren North and West engaged in the grain business, who are made the victims of avarice and are held beneath the heels of those whose greed for gain and gold admits no conscience into the temple of their souls nor sympathy for those who toil that they may reap. I shall vote with my brethren of the West when their bill, identical with the one which is pending, bearing the name of my friend BEALL of Texas, is presented, and with voice and influence will, to the extent of my ability, promote the accomplishment of all that their measure demands and needs.

To give an illustration of the unsettled and unsettling conditions attaching to these fictitious market values by gambling made, I recall in 1894 or 1895, in the month of January or February, July cotton about the ring sold and fluctuated from 17.55, then 13.02—$20 a bale in a single month. But when July came cotton sold at 10.18, a difference of $37.50 a bale. Yet the hand and wand of no magician had snatched from existence one single bale nor with a magic of mystery had taken from existence and being one fiber of cotton. In the six or seven months' speculation they had taken from him who toils and exchanged the locus of the value thereof to the pocket of him who, in Scriptural language, "toils not, neither does he spin."

This commodity did not belong to them—neither to him who sold nor to him who bought. It belonged to him who produced it and on which he predicated his hopes for physical existence, for the education and maintenance of family and fireside. Can there be justification therefor? I think not.

Thus this cotton, this dog-tail, this spook cotton, raised on Kirk Alloway farm, stands ever as a menace to the true merit of that staple which alike shelters the bodies of mankind and adorns the human race.

When our friend says on the exchange to the other, "I will sell," and the other says, "I will buy," what substance is there to put up, either to be bought or sold? It is a barter of opinion, pure and simple. It is a bet against time and tide, wind and weather, by those who, like the child of fortune, homeless and wandering, floating upon the face of circumstance, aimlessly drifts on the sea of luck. The world is no gainer, whichever wins; the world receives no increment of value as the result of the transaction with him who has lost.

But, on the other hand, the spinner, by a large majority, objects to this modus operandi; there is no basis for his calculations. He knows not to-day what to-morrow will bring forth, though the quantity of cotton in existence may be approximately certainly known. The farmer knows equally as little and consequently is the sufferer, for in the hazard and risk of these processes of gambling the spinner buys with a margin to secure

the risk of a probable loss, and the farmer stands that subtraction from the sum of his efforts through that year.

If these fictitious transactions did not exist and the media for their promotion included not the assistance of the great mail and other facilities for the transmission of information and the abolition by force of law of all transactions that carried not with them the intent to fulfill, the spinner would receive that which he needs to spin and weave—not money—and the farmer would transfer for a legitimate price, placed upon the basis of supply and demand, and receive recompense for his labor without sustaining the speculative world in fiction and fancy as he leans upon his hoe, which, phantom like, follows him from furrow to home, guards him through the night with haunt and dread that poverty result, and from the transactions about these rings of delusion will drive his progeny from school, the sheriff to his door, and himself to an earlier grave.

I have no objection to a legitimate exchange where cotton can be exchanged from producer to consumer. I would not thwart one transaction or effort upon the part of these institutions where honesty of intent and purpose lie behind every transaction, for it is not necessary in the legitimate exchange of commodities between men that either must suffer. Frequently it is beneficial, and oftener than not in the transactions of trade both parties thereto are beneficiaries. He who has the command of the commodity indeed needs the consumer's money. The consumer has the money, but needs the cotton, the wheat, the grain, the rye, and getting it his mills roll on, his business flourishes; he has profited, as has the man "who leans upon the hoe" and gazes upon the ground.

In a hearing before the Agricultural Committee a few years ago, and I quote this from some remarks submitted by Judge SIMS of Tennessee, in whose good judgment I have great confidence, and whose integrity all men recognize, in a colloquy with Mr. MacColl, then the president of the New England Spinners' Association, asked the following question:

Mr. SIMS. I would like to have you define what you mean by the term "speculation."

Mr. MACCOLL. I think that it is very well understood that there is a large number of people connected with the speculation in cotton, raising and depressing the price.

Mr. SIMS. Professional operators?

Mr. MACCOLL. Yes.

Then again, he says:

Mr. MACCOLL. My opinion is that the spinners of this country have used the future market to a very small extent. Lately they have been forced to use it more, but they have not used it to any large extent in years gone by.

Further, and I call strictly your attention to this:

Mr. MACCOLL. There are thousands and thousands of manufacturers who have never bought a bale of futures.

Mr. SIMS. Is it not a fact that the speculators are divided into bulls and bears and that the effect of their operations is nil?

Mr. MACCOLL. If there is no evil in it, it is not worth while for us to waste time about it. We think it has been a tremendous evil in the last three or four years.

Thus, Mr. Speaker, with the president of the great association of spinners of America, with the great mass of thousands multiplied of producers of cotton opposing the fiction in the trade, opposing gambling in the fleecy products of the fields of the South, what else is left for us to do? With only those about the cities, adorned by the towering palaces of America's wealthier classes, clamoring for the continued existence of these life-stealing and heart-breaking institutions in nefarious business engaged, I say there is not contained here anything which in good conscience would prevent my casting my ballot in favor of this measure.

This bill seeks to destroy no cotton exchange, it seeks to interfere with no legitimate transaction where the integrity of intent and purpose are unquestionable for the delivery of the commodity bought and the commodity sold, but it aims to strike down that burden which tends to destroy the value of the world's greatest fiber product. Sixty-six and four-tenths per cent of the cotton of the world is raised in America. The balance is scattered in almost all civilized lands. British India, with the assistance of the imperial treasury of England, raises only 14.9 per cent of the remainder. Egypt, under the domination of Great Britain, produces 6.5. Russia, stretching from Persia to the Arctic, from the city of St. Peter to the Peaceful Sea, produces only 3.1; Brazil, 2.2; and all other lands 2.6 per cent. And yet we, holding a monopoly by reason of conditions climatic, latitudinal, and the peculiar consistency of our soils, propose to permit the destruction of the value of this great commodity, whose tiny fiber binds in indissoluble union the commerce of this country with that of all nations of earth, and the value of which, whatever it may be proclaimed, is written in every language the globe about expressive of value.

Therefore I, for one, Mr. Chairman, am opposed to my Government, directly or by indirection, affording any aid or comfort to those who would strike it down by act of law or the deed of the lawless, and I am opposed to seeing any function of our Government being made a medium of aid and comfort to those who destroy the intrinsic value of that commodity to express the worth of which I could name the entire budget of the Nation almost and write it in letters that would be expressive of a billion dollars. [Applause.]

Mr. RUBEY. Mr. Speaker, I move that all debate on this paragraph close in five minutes.

Mr. FOSTER. Make it close now.

Mr. RUBEY. Then, Mr. Speaker, I will move that the debate on this paragraph close now.

Mr. MANN. Mr. Speaker, I would like to speak to a proposition in this paragraph.

Mr. RUBEY. I will make it five minutes.

The SPEAKER. The gentleman from Missouri [Mr. RUBEY] moves that all debate on this paragraph close in five minutes.

The motion was agreed to.

Mr. MANN. The definition provided in the first section of the bill for the word "message," that it shall mean any communication by telegraph, telephone, wireless telegraph, cable, or other means of communication, covers a very wide latitude, and certainly it would cover the mail. Section 3 of the bill provides:

That it shall be the duty of any person sending any message relating to a contract or to the making of a contract for future delivery of cotton to furnish to the person transmitting such message an affidavit that he is the owner of such cotton, and that he has the intention to deliver such cotton.

Under these two provisions of the bill, if a man wants to write a letter proposing to deliver cotton to an actual purchaser in the future, he must file an affidavit with the clerk of the post office, or some one connected with the post office, before the letter can be transmitted.

If he wants to talk across the State line by word of mouth he must furnish an affidavit to the person that he is talking with. How could absurdity run wilder than that? Every provision in the bill is of a similar character. If this bill should ever become a law, regardless of the merits of the proposition, under the form of the bill what it will accomplish will be to prevent legitimate business, while it will still permit to a large extent the real gambling.

I have had this bill analyzed by one of the ablest men in the country connected with exchanges.

Mr. FOWLER. What is his name?

Mr. MANN. And I say upon my own responsibility, after a careful consideration of the bill, that the bill as drawn, in my judgment, will inure rather to the detriment of legitimate business than to the destruction of the gambling business which the gentlemen desire to see.

The SPEAKER. The gentleman from Louisiana withdraws his pro forma amendment, and the Clerk will read.

The Clerk read as follows:

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton; and the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations. Any person who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than $1,000 nor less than $100, or shall be imprisoned for not more than six months nor less than one month, or by both such fine and imprisonment, and the sending or causing to be sent of each such message shall constitute a separate offense.

Mr. RUBEY. Mr. Speaker, I desire to offer the following amendment.

The Clerk read as follows:

Amend by striking out all of section 2 and inserting in lieu thereof the following—

Mr. FOSTER. Mr. Speaker, the gentleman from Missouri is offering a substitute for this section, and I desire to offer an amendment to the text.

The SPEAKER. Let the substitute be reported, so that we may know what it is.

The Clerk proceeded with the reading of the amendment as follows:

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton, grain, or other farm product without intending that such cotton, grain, or other farm product shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto or any party for whom or in whose behalf such contract is made or acquires the right or privilege to demand in the future the acceptance or delivery of cotton, grain, or other farm product without specifying the grade to be delivered, and being thereby obligated to accept or to deliver such cotton, grain, or other farm product of the grades and quantities specified in said contract, and a settlement of a contract by the payment of a margin shall

constitute prima facie evidence of a violation of this section; and the transmission of any message relating to any such transaction is hereby declared to be an unlawful interference with commerce among the States, Territories, insular possessions, District of Columbia, and with foreign nations. Any person who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than $1,000 nor less than $100, or shall be imprisoned for not more than six months nor less than one month, or by both such fine and imprisonment; and the sending or causing to be sent of such message shall constitute a separate offense.

Mr. MANN. Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Missouri.

The SPEAKER. Does the gentleman from Illinois wish to argue his point of order before the gentleman from Illinois [Mr. FOSTER] offers his amendment?

Mr. MANN. I am willing to argue it any time so that I do not lose my right.

The SPEAKER. The gentleman will not lose his right. The Chair would rather have the whole thing before him at once.

Mr. MANN. If the point of order is made against the substitute it is not possible to offer any other amendment until the point of order is disposed of.

The SPEAKER. The gentleman will state his point of order.

Mr. MANN. My point of order is that the amendment is not germane to section 2 of the bill and is not germane to the bill itself. The present rule is that an amendment must be germane to the bill.

The SPEAKER. From what is the gentleman reading?

Mr. MANN. I am going to read first from Jefferson's Manual, page 240 of the House Manual. Jefferson's Manual says:

> Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so *that they vote* against it themselves.

That was the old rule. Paragraph 7 of Rule XVI, page 384 of the manual, says:

> And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The provision of the bill is, first, the title relates to commerce. The bill all through relates to the transmission of messages relating to cotton. Section 2 of the bill specifically provides that it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale of future delivery of cotton without intent that such cotton shall be actually delivered or received.

The amendment by way of a substitute offered by the gentleman from Missouri [Mr. RUBEY] proposes to make the section read "cotton, grain, or other agricultural products," and the question is, Where the bill describes a particular thing, whether it is germane to add to that a general class of objects? There are many precedents on the subject. Page 385 of the Manual says:

> In determining whether or not an amendment be germane, certain principles are established.
>
> (*a*) One individual proposition may not be amended by another individual proposition even though the two belong to the same class. Thus, the following are not germane: To a bill proposing the admission of one Territory into the Union, an amendment for admission of another Territory (V, 5529); to a bill for the relief of one individual an amendment proposing similar relief for another (V, 5826–5829); to a resolution providing a special order for one bill, an amendment to include another bill (V, 5834–5836); to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth (V, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (V, 5833).
>
> (*b*) A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (V, 5843–5846). Thus, the following are not germane: To a bill for the admission of one Territory into the Union, an amendment providing for the admission of several other Territories (V, 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (V, 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill (V, 5806–5808).
>
> (*c*) A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory (V, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (V, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (V, 5839). But to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane (V, 5848–5849).
>
> (*d*) Two subjects are not necessarily germane because they are related. Thus, the following have been held not to be germane: To a proposition relating to the terms of Senators, an amendment changing the manner of their election (V, 5882); to a bill relating to commerce between the States, an amendment relating to commerce within the several States (V, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (V, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject (V, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (V, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (V, 5884).

There are various propositions stated in the Manual. If this were a bill in reference to cotton, wheat, corn, and oats, it would be admissible as germane to offer an amendment including some other object; because where you provide for a general class or a variety of classes you may add one more, but this bill is directed singly and solely to the subject of cotton, and being directed singly and solely to that one subject, an amendment proposing one other subject is not germane under the rules, and an amendment proposing a class of other subjects is not germane under the rules, as I have cited the precedents.

The amendment offered by the gentleman from Missouri proposes to add one other class and then proposes to add a general variety of classes, making it inimical to the rulings in both particulars.

Mr. FITZGERALD. Mr. Speaker——

The SPEAKER. On which side of the question is the gentleman from New York?

Mr. FITZGERALD. I am on the other side. I wish to speak in behalf of this amendment being in order under the rule.

Mr. MANN. I will reserve my point of order if anybody desires me to.

Mr. FITZGERALD. I wish to discuss the point of order.

Mr. MANN. The gentleman can do both, as far as I am concerned.

Mr. FITZGERALD. I contend that the amendment offered by the gentleman from Missouri is in order under the rule.

The gentleman from Illinois has referred to a number of decisions which I do not question, but which do not apply to the particular case now before the House. Many of them refer to amendments which were offered to paragraphs in appropriation bills, when it was held that as to a particular paragraph in an appropriation bill specifically restricted to a certain matter, an amendment to broaden the scope of that paragraph was not in order.

This is a bill "to prohibit interference with commerce among the States and Territories and among foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States, Territories, and foreign nations." That defines the purpose of this bill, to prohibit interference with commerce among the States by prohibiting the transmission of certain classes of messages; and the classes of messages to be prohibited are the messages that will, under the terms of the bill, interfere with commerce among the States.

In considering and determining whether an amendment be in order to a bill of this character, the primary purpose of the bill must be taken into account. What is the purpose of this bill? It is to prohibit interference with commerce among the States and Territories by prohibiting certain classes of messages. Authority exists for the proposition that I assert, that that being the primary purpose of this bill amendments to carry out that purpose are germane to the bill and in order. I have an authority that is as clear and as applicable to this bill as it is possible to be. I refer to section 5909, page 483, Volume V, Hinds' Precedents:

> 5909. To a bill providing for an interoceanic canal, specifying a certain route, an amendment providing for another route was held to be germane. On January 9, 1902, the Committee of the Whole House on the state of the Union was considering the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans when Mr. Richard W. Parker, of New Jersey, proposed an amendment providing for a canal across the Isthmus of Panama.
>
> Mr. OSCAR W. UNDERWOOD, of Alabama, made the point of order that the amendment was not germane, because, while the bill provided for a canal at Nicaragua only, the amendment provided also for a canal at another place. After debate, the Chairman said:
>
> "The subject matter of this bill—the enterprise upon which the House has entered—is, in the language of the bill—
>
> "'To construct a canal to connect the waters of the Atlantic and Pacific Oceans.'
>
> "The Chair is of the opinion that that is the purpose of the legislation sought; that the question of location is wholly a subordinate one; and that it is perfectly competent for Congress to reject one location and to adopt another. For instance, suppose it was a question of the building of a house for the purpose of storing the records of the Government, and a bill was introduced to locate it on a certain square in this city. Can anybody doubt that the proposition might be amended so as to locate it upon another square?"

The subject matter of the pending bill is to prohibit interference with interstate commerce, and the House has the right to reject one class of messages prohibited and to prescribe another, or to add to or subtract from the class of messages recommended by the committee. In the language of the decision the purpose of the bill is to prohibit interference with commerce, and the character of the messages sent is wholly subordinate. It is more effectively to prevent the interference with interstate commerce than is set out in the bill that the amendment of the gentleman from Missouri is offered.

I desire to call attention to another decision. I refer to section 5919, page 487, Volume V, Hinds' Precedents:

5919. An amendment on the subject of renovated butter was held to be germane to a bill relating to "oleomargarine and other imitation dairy products." On February 11, 1902, the Committee of the Whole House on the state of the Union were considering the bill (H. R. 9206) to make oleomargarine and other imitation dairy products subject to the laws of the State or Territory into which they are transported and to change the tax on oleomargarine, when Mr. Henry D. Allen, of Kentucky, proposed the following amendment:

"SEC. 4. That the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be made from time to time and at such times as he may deem necessary, of all factories and storehouses where butter is renovated; and all butter renovated at such places shall be carefully inspected in the same manner and to the same extent and purpose that meat products are now inspected. The quantity and quality of butter renovated shall be reported monthly. All renovated butter shall be designated as such by marks, brands, and labels, and the words "renovated butter" shall be printed on all packages thereof, in such manner as may be prescribed by the Secretary of Agriculture, and shall be sold only as renovated butter. Any person violating the provisions of this section shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be fined not less than $50 nor more than $500 and imprisoned not less than one month nor more than six months.

"The Secretary of Agriculture shall make all needful sanitary and other rules and regulations for carrying this section into effect, and no renovated butter shall be shipped or transported from one State to another or to foreign countries unless inspected as provided in this section."

Mr. James A. Tawney, of Minnesota, made a point of order that the amendment was not germane.

After debate, the Chairman said:

"The Chair is of the opinion that it is germane, although it is questionable as to whether the jurisdiction is obtained over the proposition without any taxation being connected with it. But the question being one of imitation butter, the Chair is of opinion that this section is germane."

The SPEAKER. The Chair would ask the gentleman from New York a question respecting the decision rendered by Judge Lacey, of Iowa, to which the gentleman from New York has just referred. Was not the reason he came to make that ruling that the bill purported to treat of oleomargarine and other imitations of butter products, and under that phraseology "other imitations of butter products" did he not render that decision respecting renovated butter?

Mr. FITZGERALD. Well, I am not sufficient of a farmer to know exactly, but I believe I understand that renovated butter is not exactly an imitation but a product.

Mr. ROBINSON. The gentleman limits his farming operations to cotton.

The SPEAKER. The Chair would ask the gentleman from New York whether or not Mr. Chairman Lacey did not make renovated butter germane because the language of the bill itself says "oleomargarine and other imitations."

Mr. FITZGERALD. I think he was following the authority to which I have called attention, where the bill proposed to construct a canal to connect the Atlantic and Pacific Oceans, which was before the House.

The SPEAKER. The Chair will ask the gentleman from New York as to that. What was the subject matter of that decision which Gen. Grosvenor rendered? Was it in regard to building the canal from the Atlantic to the Pacific or the place where it was to be built?

Mr. FITZGERALD. Well, he held, as I have called the attention of the Chair to the fact, that the primary purpose was building a canal to connect the two oceans, and that the location was subordinate. The primary purpose of this bill is to prohibit the interference with interstate commerce and——

The SPEAKER. The Chair would like to ask the gentleman a question right there. Is not the title of this bill itself contradictory and misleading?

Mr. FITZGERALD. No; I am about to call the attention of the Chair to another important fact. The bill before the House is H. R. 56. Now, I call the attention of the Chair to the bill H. R. 18323, the title of which is "a bill to prohibit"—and if the Speaker will read the title of the bill he has in hand he will find that there is absolutely no difference—

A bill to prohibit interference with commerce among the States and Territories and with foreign nations and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

The title is identical with the title of the bill which the Speaker has in his hand and which is pending in the House, and the purpose of that bill—18323—is to prohibit interference with commerce among the States and Territories, and the subordinate purpose, as set forth in the bill, is to prevent messages being sent which affect certain contracts for the purchase or sale for future delivery of wheat, corn, or oats. It is clear, the two bills coming from the one committee, that the primary purpose of both bills is to prohibit or prevent interference with commerce between the States, and that the commodities affected are subordinate to the primary purpose of the bill, or rather, the two bills considered by the same committee and reported from the same committee purporting to accomplish the same purpose.

Mr. CANNON. Will the gentleman allow me?

Mr. FITZGERALD. I will yield to the gentleman.

Mr. CANNON. Which bill is under consideration at this time?

Mr. FITZGERALD. House bill 56.

Mr. CANNON. Is that the one about cotton?

Mr. FITZGERALD. Yes.

Mr. CANNON. Then there is one on the calendar, or before the committee, about corn, wheat, and oats?

Mr. FITZGERALD. Yes.

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. And the purpose of the two bills is identical, and so identical that the committee could not find a single word of difference in which to express the purpose of the bill as set forth in the title. If corn, wheat, and oats are germane in one bill, when that is the title, how is it possible that they are not germane to another bill of the same title, the purpose being to prohibit or prevent interference with commerce between the States?

Mr. LONGWORTH. I would like to call the attention of the gentleman to the statement of the committee itself——

Mr. FITZGERALD. That has nothing to do with it. The Chair has never been able to bolster up an unjustifiable decision by resorting to the plea of the special counsel reporting a bill. Even a court would not base its decision upon any such arguments.

Mr. FOSTER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOSTER. Does this debate come out of the time allotted under the five-minute rule?

The SPEAKER. It does not.

Mr. RUCKER of Colorado. That was the question I was going to propound.

The SPEAKER. Suppose the question of order took up the whole hour?

Mr. MANN. The amendment in order would still be voted upon.

The SPEAKER. The Chair thinks not. He thinks it has never been so held. This is a question of order which might in its possibilities take four hours.

A MEMBER. Or four days.

Mr. FITZGERALD. I am not speaking for my entertainment, but I have some views which I wished to submit to the Chair.

The SPEAKER. The Chair would like to ask the gentleman from New York a question.

Mr. FITZGERALD. If the Chair indicates any desire that I should stop I will do so.

The SPEAKER. The title of this bill purports that it is to prohibit interference with commerce among the States, and so forth. Now, as a matter of fact, does not the text of the bill prohibit commerce? Is not the text of the bill right in the teeth of the title of the bill?

Mr. FITZGERALD. Not at all. The theory of this bill is that certain so-called gambling transactions interfere and are destructive of commerce between the States, and those advocating this bill desire to remove what they believe to be obstructions to the proper transaction of business in certain commodities. That is the title; that is the purpose, and nobody will challenge it.

Mr. MADDEN. Will the gentleman yield?

Mr. FITZGERALD. I yield to the gentleman.

Mr. MADDEN. If the purpose of the bill is as stated by the gentleman from New York [Mr. FITZGERALD], how does the Committee on Agriculture get the jurisdiction of it?

Mr. FITZGERALD. That is not material, for the reason that as it is a general bill, the committee having reported it the question of jurisdiction can not be raised. The gentleman knows as well as I do the jurisdiction of the committee under the rules.

Mr. MANN. Will the gentleman yield in that connection?

Mr. FITZGERALD. Yes.

Mr. MANN. The bill was referred to the Committee on Agriculture by the Speaker in both cases. If the Speaker had considered that the main subject was interstate commerce, would he not have referred the bill to the proper committee, considering it was relating to agricultural products——

Mr. FITZGERALD. I think the Speaker did what any other occupant of the chair would have done. For a number of years identical bills have been introduced in this House, and under the régime of the friends of the gentleman from Illinois, for one reason or another, I have never been able to determine just what, they were sent to the Committee on Agriculture, and under the well-established practice of the House that having been done, and not challenged and not objected to, and that

committee having considered and reported the bills in the ordinary course of events, the following Speaker would naturally, there having been no change of the rules, send the bill to the same committee. I believe any other course would have subjected the Speaker to criticism

Mr. MANN. Nobody is criticizing the Speaker. He referred the bill correctly. The principal subject is not commerce. The principal subject is transactions as to agricultural products.

Mr. FITZGERALD. Mr. Speaker, that is the argument I made the other day, to the effect that these messages did not constitute interstate commerce, and I did not know at that time that the gentleman had assented to my position. Of course, if my contention be correct, as it now seems the gentleman from Illinois agrees, this bill is not constitutional.

Mr. MANN. We are both opposed to the bill.

Mr. FITZGERALD. The Speaker sent these bills to the Committee on Agriculture, I assume—I have not asked why or conferred with him—because for a number of years similar bills have been introduced in the House and have been sent to that committee, hearings have been held by that committee, and members of that committee were supposed to be more familiar with the subject than the members of the committee over which the gentleman formerly presided.

Mr. LEVER. Will the gentleman yield?

Mr. FITZGERALD. I yield.

Mr. LEVER. I desire to call the gentleman's attention to the fact that the oleomargarine act, placing a tax on oleomargarine—a bill proposing to raise revenue—which, by right, ought to have gone to the Ways and Means Committee, went to the Committee on Agriculture.

Mr. MANN. The gentleman holds that the object of the bill was to raise revenue?

Mr. FITZGERALD. We have to recognize that certain bills have to go to certain committees because of reasons over which the Speaker has no control. Nobody pretends to question the propriety of the reference, and it does not help out the question as to whether this amendment is in order or not. The primary purpose of this bill being to prohibit acts which it is contended are in interference with commerce between the States, and the same committee having reported two bills with the identical title, one covering a matter that is now before the House and the other covering the commodities to be affected by the amendment now pending in the House, it seems to me there can be no question whatever. The amendment must be germane to this bill.

Mr. LONGWORTH. Just a word in that connection. I would like to call the Speaker's attention to the statement of the committee as to the purpose of this bill.

The SPEAKER. Does the gentleman refer to H. R. 56?

Mr. LONGWORTH. H. R. 56. The only statement in the report as to the purpose of the bill is this statement, which I will read to the Chair:

> The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity.

That is the statement of the committee itself with regard to the purpose of the bill.

Mr. MANN. One word, Mr. Speaker. We had a question very similar to this in the House only a few days ago, when the bill providing for the creation of the department of labor was under consideration in Committee of the Whole last Wednesday. I then offered an amendment to that bill, providing for the appointment of a commission to study subjects provided for in the bill itself in cooperation with the department of labor. The gentleman from Alabama [Mr. UNDERWOOD] made the point of order that the amendment which I offered was not germane to the bill. While I thought the Chair was erroneous, the Chair held that although the two matters related to the same subject, yet the amendment providing for the appointment of a commission was not germane to a bill providing for the creation of the department of labor, and ruled the amendment out of order.

I will not take the time of the Speaker to discuss the cases cited by the gentleman from New York [Mr. FITZGERALD]. They are all referred to in the manual in connection with the cases which he cited; and the cases which he cited, in my judgment, have no relation to the subject now under consideration.

Mr. RUCKER of Colorado. Mr. Speaker, just one word. I have heard a great deal of lore upon precedents in this House concerning this matter. Now, this is a subject sui generis. The question here is not whether it is a product of the soil so much as it is a question of gambling in the future products of the soil. Therefore——

The SPEAKER. Is that the question or not?

Mr. RUCKER of Colorado. I think that is absolutely the question. Both bills here aim at the same proposition.

The SPEAKER. The Chair knows that; but the House at the present time has nothing to do with that second bill that the gentleman from New York cited.

Mr. RUCKER of Colorado. Well, I want to say in regard to that, Mr. Speaker, the illustration that has been given here concerning whether it was a bill in behalf of one man, and therefore an amendment would be in order in behalf of another, does not apply in this case at all, because this is a subject relating to the question of a production of the soil, and cotton is one and grain is another. There surely can be no question between us that there should be any disrelation between the two.

Mr. FITZGERALD. Mr. Speaker, I wish to add one observation, if I may. If the bill H. R. 18323 were pending, which covers wheat and oats and corn, and an amendment were offered to insert the word "cotton," no man in this House would seriously contend that that amendment was subject to a point of order because not germane.

The SPEAKER. No; he would not if he had ever read the decisions. He would not contend it for half a second. It would undoubtedly be competent to offer to that bill that the gentleman refers to an amendment to insert the word "cotton."

Mr. FITZGERALD. Then, Mr. Speaker, it would be very extraordinary if one bill is germane to the subject matter of another and that one in turn not germane to the bill germane to it.

Mr. MANN. Mr. Speaker——

The SPEAKER. The Chair is ready to rule, and does not want to hear any more arguments about it. [Laughter.] The Chair did not mean to be discourteous at all. If the Chair chose to do so, he could find precedents in the action of eminent Speakers whereby he could submit this question to the House and dodge it. Mr. Speaker Blaine, one of the greatest men who ever occupied the Speaker's chair [applause], did that on more than one occasion [laughter], and the Chair has one of the precedents right here before him now. But the Chair is not going to do anything of the sort. The Chair had two or three hours' notice that this question would probably be raised, and the Chair went to work and examined all the precedents, and they all run one way. It does not make any difference what the Chair wants about this bill or what anybody else wants. The only thing for the Speaker to do is either to follow the precedents or to upset them and make a new one. With the merits of the bill he has absolutely nothing to do in ruling on the point of order.

The parliamentary situation is this: The gentleman from Missouri [Mr. RUBEY] offers a substitute for section 2 of the bill, by which substitute he proposes to add wheat, corn, and so forth, to the bill. The proposition, whether brought in as an amendment or in a motion to recommit, which is the same thing precisely, must be germane.

Now, it has been held, with reference to the last suggestion made by the gentleman from New York [Mr. FITZGERALD] that if the other bill—that is, the one treating of futures in wheat, corn, and several other subjects—were pending here, which is general in its character, then we could add to it by way of amendment the item of cotton. There is no question whatever about that, if we pay any attention to the precedents. It has been held, for instance, that if a bill were pending to admit one Territory into the Union as a State we could not add another as an amendment; that situation would be identical with the present situation; but when the proposition was turned around, and there was a bill that proposed to bring more than one Territory into the Union as States, then we could add another Territory to that bunch. All of the decisions run in the same direction. Right or wrong, that is the substance of all the decisions, and there are many of them.

Now, let us apply these precedents to the case before us. What is the subject matter of the section to which the gentleman from Missouri [Mr. RUBEY] is offering an amendment by way of substitute? And what is the subject matter of this bill? The Chair expresses his own opinion, independent of this report, that the only thing talked about or treated in this bill is the question of dealing in cotton futures. The committee must have known what it was up to, or thought it did, when it presented this report. Here is a paragraph from the report:

> The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity. It does not seek to prohibit or to interfere with a single legitimate transaction in cotton.

And so forth.

The precedent that comes nearest to supporting the contention of the gentleman from New York [Mr. FITZGERALD] is one about renovated butter. The title of the bill under consideration then was in reference to "oleomargarine and other imitation dairy products." Evidently the distinguished gentleman from Iowa, Mr. Lacey, who happened to be in the chair at that time, let this amendment about renovated butter come in under the words "imitation of dairy products," because I know enough about butter—and most of the Members of this House do, especially those from the rural districts—to know that renovated butter is essentially an imitation of butter.

The decision which Gen. Grosvenor rendered about the canals was a correct decision, and if I had been in the chair I would have decided the same way myself. The question then under consideration was building a canal to connect the waters of the Atlantic and the Pacific, and the fact that the original bill referred to the Nicaragua route and the amendments proposing the Panama route were mere incidents.

In one case Mr. Speaker CANNON rendered a decision which is in point here. There was a proposition pending in the House to appropriate money to get rid of the boll weevil, and the gentleman from Massachusetts [Mr. GILLETT] offered an amendment to appropriate money to get rid of the gypsy moth. Speaker CANNON ruled that one proposition had nothing to do with the other.

The matter in controversy here is cotton and cotton futures, and nothing else, and the point of order made by the gentleman from Illinois [Mr. MANN] is sustained.

Mr. FOWLER. Mr. Speaker, I offer the following amendment to the bill.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend the bill by striking out the word "cotton" wherever it occurs in section 2 of the bill and substitute the words "agricultural products."

Mr. MANN. I make a point of order against the amendment.

The SPEAKER. The point of order is sustained.

Mr. FITZGERALD. Mr. Speaker, I move to strike out the word "cotton" where it occurs in line 20, line 25, and line 1 on page 3.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out the word "cotton" where it occurs on page 2, lines 20 and 25, and also on line 1, page 3.

Mr. FITZGERALD. Mr. Speaker, there was sufficient room for difference of opinion on the point of order raised to make me acquiesce in whatever decision the Chair made. The Speaker said that it would be easy to find authorities leading one way or the other. I do not find fault with the Chair for deciding the question in the manner in which he did in view of the authorities. But if this House desires to make this bill apply to wheat and corn and oats and other farm products, it can do so without violating the rules of the House and without asking the Speaker to make a ruling which would be in defiance of his honest judgment.

The adoption of the amendment which I offer will take from this section the word "cotton," and that being out of the section it would not be possible to hold that this section would apply only to cotton. It would then be in order to insert in proper places the words "cotton, wheat, corn, or oats."

Mr. RUCKER of Colorado rose.

Mr. FITZGERALD. I can not yield, for I have only five minutes. It is a perfectly proper and legitimate procedure. It will enable this House under its rules, which I have always contemplated were sufficiently liberal to enable the House to do what it wishes if it knows what it wishes and knows how to do it, to do what apparently is the desire of the great majority of the Members of the House. If this amendment be adopted, I shall offer an amendment to insert "wheat, corn, oats, cotton, and other farm products," and I shall test the sincerity of the Members of the House in this manner by giving them an opportunity to record themselves on this amendment as a preliminary step under the rules of the House so to broaden this bill that it will cover other commodities and similar transactions, which are just as offensive to morals and just as detrimental to business as the same transactions are claimed to be with reference to cotton.

Now, Mr. Speaker, it is not necessary to strain the rules; it is not necessary to make ruilngs that can not be justified under the precedents to do what is desired. It is easy to accomplish legitimately what I asssume the House desires.

Mr. HENRY of Texas. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. HENRY of Texas. If the Committee on Rules would bring in a rule making in order the consideration of the bill with reference to wheat, corn, oats, and so forth, would the gentleman from New York help us to put the bill through?

Mr. FITZGERALD. Does the gentleman mean if I would vote for the bill?

Mr. HENRY of Texas. Yes.

Mr. FITZGERALD. I could not vote for it honestly. I do not intend to deceive anybody about my position on these two bills. They cover the same transactions in different commodities. Why the committee segregated cotton from the other products I do not know. Why the committee did not include them all in one bill I do not know. The people in the section from which I come are affected as much by one as the other. They have exchanges of a similar character upon which all of these commodities are dealt in, and it seems to me that gentlemen should not attempt to single out one class as victims of this legislation and let the others go free. I wish to eliminate the abuse in these transactions wherever they may be, but I do not wish to destroy legitimate business. As I have heretofore given my reasons for believing the bills in contravention of the Constitution, I can not vote for either one.

Mr. HEFLIN. Mr. Speaker, I was about to say a moment ago that the hearings before the Committee on Agriculture disclosed the fact that neither the president of the New York Exchange nor the president of the New Orleans Exchange knew how many bales of cotton were actually handled on these exchanges in a single year. We asked these gentlemen, "Do you know how many bales of cotton are delivered on contracts made on your exchanges in one year?" and they answered that they did not. We asked them, "Do you know what percentage of the contracts made on your exchange in a year is fulfilled?" "I do not," came the answer from both exchanges. Then Mr. BEALL said, "Is there any way to get at that?" "I know of no way," said Mr. Nevill, of New York, "except showing our books, and I would not do that."

So, Mr. Speaker, the House has some idea now of what kind of a skin game the cotton producer is up against. The gentleman from Mississippi [Mr. DICKSON] has shown you that the New York Exchange in one year, in 1895 or 1896, when they were required to keep a record, received 23,000 bales, sold 90,000,000 bales, and had 169,000 bales left out of a crop of 10,000,000 bales. [Laughter and applause.]

I can not account for that cotton miracle except upon the reverse of the process employed by the bees in packing honey in the bee gum of old man Thornton in my district. He said, "I had a five-gallon bee gum and we robbed it the other day and got seven gallons of honey and two and a half gallons of honeycomb." Flue Busbee said, "Uncle Jake, you just said that it was a five-gallon gum," and he replied, "By gosh, bees are the out-packinest things you ever seen in this world." [Laughter.]

So, Mr. Speaker, we have these slick-fingered artists of the exchange treating us to a genuine cotton miracle. Nobody but an exchange member could sell 90,000,000 bales of cotton out of a 10,000,000 crop. [Laughter and applause.] It takes the cotton producer of the South 12 months to make a cotton crop of 12,000,000 bales, but these gentlemen on the exchange can, in a few nights with a few chalk marks, make 500,000,000 bales. [Applause.] We have this mysterious and miraculous cotton in competition with actual cotton. One of the gentlemen in the hearings, Mr. Patteson, of Memphis, said that he dealt in manufactured feed stuff. When asked to whom he sold he said to everybody, from the man who wants 1 bushel to the man who wants 50 carloads. I then asked him who fixed the price of his produce, and he answered that he fixed the price himself. And yet gentlemen say, Who will fix the price for the cotton producer if the exchange does not? The cotton producer is denied now the right to say anything about what the price of his cotton shall be. If you take his cotton out of competition with this fictitious stuff, he will have a voice like the wool-grower has in fixing the price of wool, he will have a voice like the hay grower has in fixing the price of hay. As I have said here before, hay and wool have no exchange to fix the price of hay and wool. Why should the cotton producers of the South be compelled to submit to the evils of a gambling exchange? All that I ask at the hands of this House, and I ask it in the name of the cotton producers themselves, is an open market, where real cotton is bought and sold and real cotton is delivered on contracts. [Applause.]

Mr. HARDY. Mr. Speaker, I oppose the amendment offered by the gentleman from New York [Mr. FITZGERALD] if on no other ground than on the old ground that we should beware of the Greeks bearing gifts. We know the purpose of the gentleman is ultimately to succeed in defeating this legislation by one means or another. I favor the bill, and my reasons for favoring it are broad and deep. All legitimate producers are always

and equally entitled to the regard and esteem of the people; the care and consideration of Congress. The fruit grower, the cotton grower, the grain grower produce something and add to the wealth and welfare of the world. The manufacturer, no less than the grain grower or the cotton grower, is a producer, because he also adds to the value of the product and to the wealth and welfare of the world. Transportation agencies are no less producers than diggers of the soil, because they bring to the consumers the products of labor. The merchant is a producer also, because he aids in the distribution of products, a very essential element of their value. The physician is a producer, because he gives strength and health to the toiler. The teacher is a producer, because he trains the mind and body of his brother toiler. The writer is a producer, because he gives mental pabulum for the enjoyment and the mental and moral upbuilding of the human race. The player in the theater is a producer, because he adds to the sum total of the human possessions and enjoyments. So the lawyer, honestly aiding in administering the laws of the country and preserving and protecting the rights of property and of life, is a producer and helps secure the happiness of the whole human race. All these and many others forming the whole body of useful citizenship are entitled to equal consideration and esteem, but there are those who live who are in the class of leeches, who fasten themselves on the body politic and grow fat by sucking the life blood of their victim. They toil not, neither do they spin; yet Solomon, in all his glory, was not arrayed like one of these. They are those who reap where they have not sown, who gather where they have not strewn. If a man must gamble, adding thereby nothing to the sum total of human life or possessions, he had best betake himself to the game of poker. It is fair and even, if played between gentlemen. It is bad enough, but its evil is limited and confined to few. Next to that in objectionable features, perhaps, is horse racing, and that would not be so bad were it not for the throw-offs and the put-up jobs. The Louisiana lottery had its place in the history of our country. It was fair in one respect, in that there was only a certain percentage taken out to pay expenses and large profits. Every ticket holder was given a fair and equal chance to draw a lucky number in the distribution of the prizes left over after the company had taken out its unearned but great percentage of the moneys paid in. We have by law stopped almost all forms of professed gambling—big and small. We have forbidden them at least to be flaunted in the public face.

But this cotton-future gambling is a shell game, pure and simple; it is a bald, barefaced skinning of the whole people.

There is neither justification nor excuse nor mitigation for it, and its place in the economy of this country is that of the gambler who does not give his victim a chance for his life. But being a business in which the constituents of some Members, and worthy Members of this body, are engaged, it finds defenders in this body as any other business would if the welfare of a number of our constituents were involved in it. But if there were no constituents of any Member of this House whose business was substantially the making of a livelihood and growing rich out of this calling, there would be no opposition to this bill to-day. Take away the great cities where stock gambling is rampant—New York, New Orleans, Chicago, St. Louis, and places where men live and thrive upon the losses and desolation wrought by the gambler in the futures of cotton, grain, and other products—I say take away the influences that arise from the industry and there would be absolutely no opposition to this measure. This industry never planted a seed, never spun a thread, never laid a brick, never added a grain to the health, wealth, or welfare of mankind. It is a leech, a vampire, and ought to be killed.

The SPEAKER. The time of the gentleman has expired.

Mr. RUBEY. Mr. Speaker, I move that all debate on this amendment close in five minutes.

The SPEAKER. The gentleman from Missouri moves that all debate on this amendment close in five minutes.

Mr. FOSTER. I move to amend it by making it on this section.

The SPEAKER. The gentleman from Illinois moves as an amendment to the motion of the gentleman from Missouri that all debate on this section close in five minutes.

Mr. HARDY. Mr. Speaker, I ask leave to extend my remarks in the RECORD.

The SPEAKER. That will be done in a moment. The question is on the motion of the gentleman from Illinois.

The question was taken, and the motion was agreed to.

Mr. MANN. Mr. Speaker, I move to amend by making debate close in 30 minutes.

The SPEAKER. The question is upon the amendment offered by the gentleman from Illinois——

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. I would like to inquire whether debate is not already closed on this amendment?

The SPEAKER. Under the rule it is closed if anybody objects to an extension of time.

Mr. FITZGERALD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FITZGERALD. How much time is left?

The SPEAKER. There are 29 minutes left.

Mr. MANN. Mr. Speaker, I move to amend the amendment of the gentleman from Missouri by moving that all debate close in 29 minutes.

Mr. FITZGERALD. It will take a quorum to do that.

The SPEAKER. The gentleman from Illinois offers an amendment to the motion of the gentleman from Missouri that all debate on this section close in 29 minutes.

Mr. FOSTER. Mr. Speaker, I think that the gentleman from Missouri made a motion to close debate upon this amendment, and my motion was that all debate on this section close in five minutes, and the amendment which the gentleman from Illinois offers now is not in order to that amendment.

Mr. MANN. The gentleman from Missouri [Mr. RUBEY] offered a motion that all debate upon the pending amendment close in five minutes; thereupon my colleague moved to amend by making all debate upon the section close in five minutes. That was adopted, but the motion has not been put yet upon the motion of the gentleman from Missouri as amended, and that is still subject to amendment.

Mr. FITZGERALD. Mr. Speaker, I offer to amend the amendment of the gentleman from Illinois by striking out "29" and inserting "immediately."

Mr. MANN. Mr. Speaker, I make the point of order against that that it is an amendment in the third degree.

The SPEAKER. The situation about it is that the gentleman from Missouri [Mr. RUBEY] moved that all debate on the amendment offered by the gentleman from New York close in five minutes. Then the gentleman from Illinois [Mr. FOSTER] offered to amend that by moving that all debate on the section close in five minutes, and that was agreed to.

Mr. MANN. That amendment was.

The SPEAKER. That leaves the amendment of the gentleman from Missouri as amended by the amendment.

Mr. FITZGERALD. That was a motion, not an amendment.

The SPEAKER. The gentleman is right about that—that was a motion. The gentleman from New York is technically correct. That left the motion of the gentleman from Missouri as amended by the amendment of the gentleman from Illinois [Mr. FOSTER] undecided.

Mr. FITZGERALD. Now, the gentleman offered an amendment to that motion, and I offer an amendment to his amendment, which is in the second degree.

Mr. MANN. Certainly not.

Mr. FITZGERALD. The pending motion is the motion as amended.

The SPEAKER. The pending motion is the motion of the gentleman from Missouri [Mr. RUBEY] as amended by the motion of the gentleman from Illinois [Mr. FOSTER], and the gentleman from Illinois [Mr. MANN] offers an amendment to that to close debate in 29 minutes. That is pending. Then the gentleman from New York [Mr. FITZGERALD] moves to strike out "twenty-nine" and insert "immediately," and the vote is on that proposition.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BEALL of Texas. Division, Mr. Speaker.

The House divided; and there were—ayes 49, noes 57.

The SPEAKER. The amendment offered by the gentleman from New York [Mr. FITZGERALD] is rejected.

Mr. FITZGERALD. Oh, no. I move to amend by striking out "twenty-nine" and inserting "ten" minutes. I call the attention of the House to the fact——

Mr. MANN. I make the point of order that the motion is not debatable. The gentleman ought not to violate the rules.

Mr. FITZGERALD. I will not. I ask unanimous consent for one minute.

Mr. FOWLER. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. My point of order is that there has been more than two speeches on this motion.

The SPEAKER. Why, there is nobody trying to make a speech on this motion, unless the gentleman from New York [Mr. FITZGERALD] gets unanimous consent.

Mr. FOWLER. Mr. Speaker, the motion that is before the House now deals with the question of debate upon the amendment, and there has been more than two speeches made upon that amendment.

The SPEAKER. That is true.

Mr. FOWLER. And I make the point of order that the time has expired for debate on that amendment.

The SPEAKER. The time would have expired, and the Chair would have so ruled if the point had been made and the gentleman from Missouri had not offered his motion.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is the time now being consumed being taken out of the hour?

The SPEAKER. It is not. That ruling may be wrong, but the Chair is going to stick to it to-day anyway. [Applause.]

The question is on the motion of the gentleman from New York [Mr. FITZGERALD] to insert "10 minutes" instead of "29 minutes" for the closing of the debate on this section.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for one minute.

Mr. MANN. Mr. Speaker, if the gentleman gets that consent will that time be taken out?

The SPEAKER. It will.

Mr. MANN. If the gentleman will give consent for the same amount of time to the gentleman in charge of the bill——

Mr. FITZGERALD. I have no objection to that.

Mr. MANN. I ask unanimous consent that the gentleman from New York [Mr. FITZGERALD] have five minutes.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the gentleman from New York [Mr. FITZGERALD] and the gentleman from Texas [Mr. BEALL], in charge of the bill, have each five minutes.

Mr. FOSTER. I object.

Mr. FINLEY. I reserve the right to object, Mr. Speaker.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent for one minute. Is there objection?

Mr. RUCKER of Colorado. I object.

The SPEAKER. The gentleman from Colorado objects. The question is on the 10-minute proposition.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. FOSTER. Division, Mr. Speaker.

The House divided, and there were—ayes 44, noes 64.

So the motion was rejected.

Mr. FOSTER. I move to amend by making it 15 minutes.

Mr. MANN. Mr. Speaker, I make a point of order that that motion is a dilatory motion.

Mr. FOSTER. Oh, no.

The SPEAKER. The Chair overrules the point of order.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for one minute.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] moves to close debate on this question in 15 minutes.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for one minute on the motion.

Mr. MANN. He can get it after we close debate.

Mr. FINLEY. Mr. Speaker, I object.

Mr. MADDEN. I object, Mr. Speaker.

The SPEAKER. The gentleman from South Carolina [Mr. FINLEY] objects. The question is on agreeing to the motion to close the debate in 15 minutes.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. FOSTER. Mr. Speaker, I ask for a division. We are going to have a quorum here.

The House divided; and there were—ayes 46, noes 71.

So the motion was lost.

The SPEAKER. The question is on the motion of the gentleman from Missouri [Mr. RUBEY], as amended by the motion of the gentleman from Illinois [Mr. FOSTER], to close debate on this section in five minutes.

Mr. MANN. Mr. Speaker, the motion that is pending is an amendment offered by me to close debate in 29 minutes.

The SPEAKER. That is true. The vote will be taken on the motion of the gentleman from Illinois [Mr. MANN], to close debate on this section in 29 minutes.

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. How long will that 29 minutes take beyond all the time allowed for debate on this bill in the House?

Mr. FLOYD of Arkansas. Will it not consume all of the time?

The SPEAKER. It will consume all of the time.

IMPEACHMENT OF JUDGE ROBERT W. ARCHBALD.

Mr. CLAYTON. Mr. Speaker, I desire to make a privileged report.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] is recognized.

Mr. CLAYTON. It is necessary, Mr. Speaker, to make this statement.

Mr. MANN. Mr. Speaker, the gentleman from Alabama [Mr. CLAYTON] ought to have opportunity to make a report, although we are acting under a rule.

Mr. CLAYTON. I was going to say, Mr. Speaker, that before many minutes shall elapse the Senate will require the presence of the managers on the part of the House before that body, and therefore I desire to make a brief report to the House at this juncture.

Mr. Speaker, as one of the managers, and in behalf of all the managers on the part of the House of the impeachment proceedings, I beg to report to the House that the articles of impeachment prepared by the House of Representatives and preferred against Robert W. Archbald, a United States circuit judge and designated as a judge of the Commerce Court of the United States, have been exhibited and read to the Senate; that the Presiding Officer of that body stated to the managers that the Senate would take order in the premises, and that due notice of the same would be given to the House of Representatives.

SALE OF FUTURES IN COTTON.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN] to close debate on this section in 29 minutes.

The question was taken, and the amendment offered by Mr. MANN was agreed to.

Mr. ROBINSON. Mr. Speaker, I move to strike out the last word.

Mr. FITZGERALD. Mr. Speaker, I ask for a vote on the pending amendment. All debate on the pending amendment is exhausted under the rule, and the first question to be determined is that amendment, before other amendments can be offered.

Mr. MANN. Mr. Speaker, the pending proposition is the motion offered by the gentleman from Missouri [Mr. RUBEY] as amended by the amendment which was just adopted.

Mr. ROBINSON. I move, Mr. Speaker, to strike out the last word.

The SPEAKER. The Chair can not understand what the gentleman from Illinois [Mr. MANN] says.

Mr. MANN. The motion of the gentleman from Missouri [Mr. RUBEY] to close debate on the section, as amended a moment ago, has not been put to the House. The Speaker put only the amendment which I offered.

The SPEAKER. The Chair's recollection is different. The question is on the motion of the gentleman from Missouri as amended by the amendment of the gentleman from Illinois, Mr. FOSTER, as amended by the amendment of the gentleman from Illinois, Mr. MANN.

The question was taken, and the motion of Mr. RUBEY as amended was agreed to.

The SPEAKER. The gentleman from Arkansas [Mr. ROBINSON] is recognized.

Mr. FITZGERALD. Mr. Speaker, I ask for a vote on the pending amendment. All debate is exhausted.

The SPEAKER. The gentleman from New York is correct.

Mr. MANN. Mr. Speaker, I make a point of order that the House has control over the time. The House by a vote has decided that the debate on this section shall end in 29 minutes.

The SPEAKER. That is true, but that has nothing in the world to do with the voting on these amendments.

Mr. FITZGERALD. Yes. Otherwise no other amendment could be offered.

The SPEAKER. The vote is on the amendment offered by the gentleman from New York.

Mr. CLAYTON. Mr. Speaker, there is a message from the Senate that the House ought to receive at this time.

The SPEAKER. Gentlemen will suspend to receive a message from the Senate.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Ordered, That the Secretary notify the House of Representatives that the Senate, sitting as a court of impeachment, take a recess until 3 o'clock post meridian.

SALE OF FUTURES IN COTTON.

The House resumed consideration of the bill (H. R. 56) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

The SPEAKER. The Clerk will report the amendment of the gentleman from New York.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" where it twice occurs in that line. Strike out the word "cotton," in line 25, page 2. Strike out the word "cotton," in line 1, page 3.

Mr. MANN. Mr. Speaker, I make the point of order that the amendment is three amendments and debate can be had upon all three.

Mr. FITZGERALD. It is too late to make that point. I offered this as one amendment. The gentleman can have a division on the vote, but not for debate.

The SPEAKER. It is too late to raise that point now. The question is on the amendment.

Mr. MANN. I ask for a division of the amendment.

The SPEAKER. The gentleman has a right to divide the amendment. The Clerk will report the first substantive proposition.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" where it twice occurs in that line.

Mr. MANN. I ask for a division of the amendment.

The SPEAKER. That is exactly what the Chair has ordered.

Mr. MANN. I know; but it is not what the Clerk has reported.

The SPEAKER. The Clerk will report the amendment to strike out the word "cotton" where it first occurs.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" at the beginning of the line.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 8, noes 87.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors and the Sergeant at Arms will notify absentees. Those in favor of striking out the word "cotton" at the beginning of the line read by the Clerk will vote "aye," those opposed will vote "no," and the Clerk will call the roll.

The question was taken, and there were—yeas 18, nays 209, answered "present" 11, not voting 151, as follows:

YEAS—18.

Buchanan	Dalzell	Olmsted	Whitacre
Bulkley	Dupré	Payne	Wilson, N. Y.
Calder	Estopinal	Peters	Young, Kans.
Connell	Fitzgerald	Redfield	
Conry	Greene, Mass.	Rucker, Colo.	

NAYS—209.

Aiken, S. C.	Finley	Lafferty	Roberts, Mass.
Ainey	Flood, Va.	La Follette	Roberts, Nev.
Alexander	Floyd, Ark.	Langham	Robinson
Anderson, Minn.	Foss	Lawrence	Roddenbery
Anderson, Ohio	Fowler	Lee, Ga.	Rothermel
Austin	Francis	Lee, Pa.	Rouse
Barchfeld	French	Lenroot	Rubey
Barnhart	Fuller	Lever	Russell
Bathrick	Gallagher	Lewis	Sabath
Beall, Tex.	Gardner, Mass.	Lindbergh	Sims
Bell, Ga.	Garner	Linthicum	Sisson
Berger	George	Littlepage	Slayden
Blackmon	Godwin, N. C.	Lloyd	Sloan
Booher	Good	Lobeck	Small
Borland	Goodwin, Ark.	Longworth	Smith, Saml. W.
Bowman	Gould	McCreary	Smith, N. Y.
Brown	Gray	McGillicuddy	Smith, Tex.
Burgess	Green, Iowa	McKellar	Speer
Burke, S. Dak.	Gregg, Pa.	McKinney	Stanley
Burke, Wis.	Gregg, Tex.	McLaughlin	Stedman
Burleson	Gudger	Madden	Steenerson
Burnett	Hamill	Maguire, Nebr.	Stephens, Cal.
Byrnes, S. C.	Hamlin	Martin, Colo.	Stephens, Miss.
Byrns, Tenn.	Hammond	Matthews	Stephens, Nebr.
Candler	Hardy	Mays	Stephens, Tex.
Cannon	Harris	Miller	Sterling
Carlin	Harrison, Miss.	Mondell	Stone
Catlin	Hartman	Moore, Pa.	Sulloway
Clark, Fla.	Haugen	Morgan	Sweet
Clayton	Hawley	Morrison	Switzer
Cline	Hayden	Moss, Ind.	Taggart
Cooper	Heald	Mott	Talcott, N. Y.
Copley	Heflin	Murray	Taylor, Ala.
Cox, Ind.	Helgesen	Neeley	Taylor, Ohio
Cullop	Henry, Tex.	Norris	Thayer
Curry	Hensley	Nye	Thistlewood
Danforth	Hobson	Oldfield	Tilson
Davis, Minn.	Houston	O'Shaunessy	Towner
Davis, W. Va.	Howard	Padgett	Tribble
Dent	Howland	Page	Turnbull
Dickinson	Hull	Pepper	Utter
Dickson, Miss.	Humphrey, Wash.	Pickett	Volstead
Difenderfer	Jacoway	Post	Warburton
Dixon, Ind.	James	Pou	Watkins
Donohoe	Johnson, Ky.	Pray	Webb
Doughton	Kendall	Prince	Wedemeyer
Driscoll, D. A.	Kennedy	Prouty	White
Edwards	Kent	Rainey	Willis
Esch	Kinkaid, Nebr.	Raker	Wilson, Pa.
Evans	Kitchin	Rauch	Witherspoon
Faison	Knowland	Rees	
Farr	Konop	Reilly	
Fergusson	Lafean	Richardson	

ANSWERED "PRESENT"—11.

Browning	Foster	McMorran	Sparkman
Butler	Gillett	Mann	Stevens, Minn.
Fields	Kahn	Needham	

NOT VOTING—151.

Adair	Dodds	Jackson	Pujo
Adamson	Doremus	Johnson, S. C.	Randell, Tex.
Akin, N. Y.	Draper	Jones	Ransdell, La.
Allen	Driscoll, M. E.	Kindred	Reyburn
Ames	Dwight	Kinkead, N. J.	Riordan
Andrus	Dyer	Konig	Rodenberg
Ansberry	Ellerbe	Kopp	Rucker, Mo.
Anthony	Fairchild	Korbly	Saunders
Ashbrook	Ferris	Lamb	Scully
Ayres	Focht	Langley	Sells
Bartholdt	Fordney	Legare	Shackleford
Bartlett	Fornes	Levy	Sharp
Bates	Gardner, N. J.	Lindsay	Sheppard
Boehne	Garrett	Littleton	Sherley
Bradley	Glass	Loud	Sherwood
Brantley	Goeke	McCall	Simmons
Broussard	Goldfogle	McCoy	Slemp
Burke, Pa.	Graham	McDermott	Smith, J. M. C.
Callaway	Griest	McGuire, Okla.	Smith, Cal.
Campbell	Guernsey	McHenry	Stack
Cantrill	Hamilton, Mich.	McKenzie	Sulzer
Carter	Hamilton, W. Va.	McKinley	Talbott, Md.
Cary	Hanna	Macon	Taylor, Colo.
Claypool	Hardwick	Maher	Thomas
Collier	Harrison, N. Y.	Martin, S. Dak.	Townsend
Covington	Hay	Moon, Pa.	Tuttle
Cox, Ohio	Hayes	Moon, Tenn.	Underhill
Crago	Helm	Moore, Tex.	Underwood
Cravens	Henry, Conn.	Morse, Wis.	Vare
Crumpacker	Higgins	Murdock	Vreeland
Curley	Hill	Nelson	Weeks
Currier	Hinds	Palmer	Wilder
Daugherty	Holland	Parran	Wilson, Ill.
Davenport	Howell	Patten, N. Y.	Wood, N. J.
Davidson	Hughes, Ga.	Patton, Pa.	Woods, Iowa
De Forest	Hughes, N. J.	Plumley	Young, Mich.
Denver	Hughes, W. Va.	Porter	Young, Tex.
Dies	Humphreys, Miss.	Powers	

So the amendment was rejected.

The following pairs were announced:

For the session:

Mr. UNDERWOOD with Mr. MANN.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. BARTLETT with Mr. BUTLER.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. GLASS with Mr. SLEMP.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FORNES with Mr. BRADLEY.

Until further notice:

Mr. YOUNG of Texas with Mr. WILSON of Illinois.

Mr. ADAIR with Mr. AMES.

Mr. ALLEN with Mr. BARTHOLDT.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. ASHBROOK with Mr. CRUMPACKER.

Mr. AYRES with Mr. CURRIER.

Mr. BRANTLEY with Mr. DE FOREST.

Mr. CLAYPOOL with Mr. DODDS.

Mr. COLLIER with Mr. WOODS of Iowa.

Mr. CURLEY with Mr. DRAPER.

Mr. DAUGHERTY with Mr. FOCHT.

Mr. DIES with Mr. GARDNER of New Jersey.

Mr. FERRIS with Mr. GUERNSEY.

Mr. GOLDFOGLE with Mr. HAYES.

Mr. HAMILTON of West Virginia with Mr. HENRY of Connecticut.

Mr. HAY with Mr. HOWELL.

Mr. HELM with Mr. JACKSON.

Mr. HOLLAND with Mr. MCGUIRE of Oklahoma.

Mr. HUGHES of New Jersey with Mr. MCCALL.

Mr. HUGHES of Georgia with Mr. MCKENZIE.

Mr. JOHNSON of Kentucky with Mr. MCKINLEY.

Mr. JONES with Mr. MARTIN of South Dakota.

Mr. KONIG with Mr. MURDOCK.

Mr. KORBLY with Mr. PATTON of Pennsylvania.

Mr. FOSTER with Mr. KOPP.

Mr. MCDERMOTT with Mr. POWERS.

Mr. MOON of Tennessee with Mr. PORTER.

Mr. PATTEN of New York with Mr. REYBURN.

Mr. SAUNDERS with Mr. RODENBERG.

Mr. SHARP with Mr. SELLS.

Mr. SHERLEY with Mr. SIMMONS.

Mr. SULZER with Mr. J. M. C. SMITH.

Mr. THOMAS with Mr. VREELAND.

Mr. TOWNSEND with Mr. WEEKS.

Mr. TUTTLE with Mr. YOUNG of Michigan.

Mr. AYRES with Mr. WILDER.

Mr. SCULLY with Mr. BROWNING.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FIELDS with Mr. LANGLEY.

Mr. BOEHNE with Mr. CARY.

Mr. CALLAWAY with Mr. MICHAEL E. DRISCOLL.
Mr. CANTRILL with Mr. HANNA.
Mr. MCCOY with Mr. HIGGINS.
Mr. COVINGTON with Mr. HUGHES of West Virginia.
Mr. SHACKLEFORD with Mr. WOOD of New Jersey.
Mr. SHERWOOD with Mr. MOON of Pennsylvania.
Mr. HUMPHREYS of Mississippi with Mr. ROBERTS of Nevada.
Mr. GRAHAM with Mr. VARE.
Mr. RANDELL of Texas with Mr. SMITH of California.
Mr. ELLERBE with Mr. CRAGO.
Mr. JOHNSON of South Carolina with Mr. GILLETT.
Mr. LEGARE with Mr. LOUD.
Mr. LITTLETON with Mr. DWIGHT.
Mr. PUJO with Mr. MCMORRAN.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. CARTER with Mr. KAHN.
Mr. SHEPPARD with Mr. BATES.
Mr. GOEKE with Mr. HEALD.
Mr. RUCKER of Missouri with Mr. DYER.
Mr. HARRISON of New York with Mr. HAMILTON of Michigan.
Mr. KINDRED with Mr. GRIEST.
Mr. SPARKMAN with Mr. DAVIDSON.
Mr. PALMER with Mr. HILL.
Mr. ADAIR with Mr. HINDS.
Until August 1:
Mr. Cox of Ohio with Mr. ANTHONY.
Commencing to-day and until further notice:
Mr. GARRETT with Mr. FORDNEY.

Mr. BROWNING. Mr. Speaker, did the gentleman from New Jersey, Mr. SCULLY, vote?

The SPEAKER. He did not.

Mr. BROWNING. I have a pair with the gentleman, and I wish to withdraw my vote of "no" and answer "present."

The name of Mr. BROWNING was called, and he answered "Present," as above recorded.

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "no" and be recorded as "present."

The Clerk called the name of Mr. MANN, and he answered "Present," as above recorded.

The result of the vote was then announced as above recorded.

The SPEAKER. The Clerk will read the next amendment.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" where it occurs the second time in the line.

The question was taken, and the amendment was lost.

The SPEAKER. The Clerk will read the next amendment.

The Clerk read as follows:

Page 2, line 25, strike out the word "cotton."

The question was taken, and the amendment was lost.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Page 3, line 1, strike out the word "cotton."

The question was taken, and the amendment was lost.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. How much time remains now under the rules?

The SPEAKER. Twenty-nine minutes.

Mr. MANN. Mr. Speaker, I move to strike out the last word. I have made a memorandum of analysis of H. R. 18323, which is identical with the bill under consideration, except that the present bill relates to cotton and the other bill relates to grain. I wish to call the attention of the House for a moment to some of the provisions in the bill H. R. 18323.

First. Section 2 of the bill creates two broad offenses; first, sending any message offering to make or enter into a contract for the purchase or sale for future delivery of wheat, corn, and oats without intending that such wheat, corn, or oats shall be actually delivered or received; second, offering to make or enter into a contract whereby any party acquires the right or privilege to demand in future acceptance or delivery of wheat, corn, or oats without being thereby obligated to accept or deliver such wheat, corn, or oats. The latter describes accurately the "put and call" trading. It is at the present time practiced on few of the leading grain exchanges, and nowhere is it a prominent feature of the business. The Chicago Board of Trade has absolutely forbidden it on this exchange, and other exchanges have done likewise. We have, however, on this exchange a system of trading in indemnities, which system is lawful under the statutes of this State and is necessary to the safe handling of grain products. This form of trading, however, would be absolutely condemned by this bill. Let me illustrate this: Suppose A, in Chicago, at the close to-day has offered 1,000,000 bushels of wheat to B, at Liverpool, at $1 per bushel; he will not get an acceptance of his offer by cable until the following morning. If B, however, does accept A's offer the contract is made whereby A is obligated to sell and deliver 1,000,000 bushels of wheat to B at $1 per bushel. To safeguard himself against the contingency that B may accept his offer by the following morning and that the price of wheat has risen to $1.02, or higher, per bushel, A will purchase from some trader an option for 1,000,000 bushels of wheat. If B rejects A's offer, A loses his insurance premium. If he accepts it and the price in the meantime has risen higher than the indemnity price, A calls upon the seller of the indemnity to deliver him the wheat.

Under the second clause of section 2 this form of trading, which is so absolutely essential to the merchandising of grain, will be absolutely forbidden, and the person who practices it is liable to imprisonment for doing a thing prompted by common business prudence.

Second. The first offense described in section 2 has to do with the ordinary and regular system of future trading as practiced upon the leading exchanges. As the section reads now it would have no effect whatever, because every trade made upon any legitimate exchange contemplates the actual delivery of the commodity. This section accurately describes a transaction in a bucket shop, where delivery is never contemplated or possible, but not to future trading upon the exchanges. What the framer of this bill is driving at is to compel every man who buys or sells grain for future delivery to keep his contract open until the time for delivery comes, and to prevent the system of "set-off" which, in the case of the Chicago Board of Trade *v.* Christie (198 U. S., 236; 49 Law ed., 1031), was held to constitute a delivery as then carried on under the rules existing on the Chicago Board of Trade. The inquiry becomes pertinent here whether any statute should compel a man to hold a contract open beyond a time when he finds that his judgment was wrong, and that the maintenance of the contract will involve him in further loss.

Another of the many objections which can be urged against this provision of section 2 arises under the following state of facts, which happens not once but thousands and thousands of times during the course of a year: Suppose A, a grain dealer in Decatur, Ill., is purchasing grain freely from the farmers; the only way he can safely buy all the grain that is offered to him is by hedging each purchase on the Chicago Board of Trade as fast as he takes the grain into the elevator; in other words, every 5,000 bushels he buys from the farmer he immediately sells 5,000 bushels for future delivery on the Chicago Board of Trade. Within a month or so, however, he finds that because of some local condition he can get a better price for that cash grain in New Orleans than he can in Chicago, and being an enterprising and prudent business man, he ships the grain to New Orleans and sells it there. When he sells it in New Orleans he will buy back his hedge on the Chicago Board of Trade.

Now, section 2 of this bill, in connection with the last few lines of section 3 which provide that the failure to deliver or receive the grain shall be prima facie evidence that there was no intention to deliver or receive such grain when the contract was made, would render the grain dealer at Decatur liable to a penitentiary sentence for adopting this course. I mean by this that the mere fact that he did not actually deliver the grain in Chicago, would be prima facie evidence whereby the case would go to the jury for their determination as to his original intent. In your judgment is it right and just that a business man should be exposed to the verdict of a jury composed largely of men who are absolutely ignorant of the grain business because he had adopted this prudent method of conducting his business?

Let me give another illustration of the absurdity of the proposed bill. Here is a miller who has purchased 100,000 bushels of wheat at $1 per bushel to grind into flour. The illustration is equally pertinent to the case of a feeder of live stock who has purchased several hundred thousand bushels of corn to fatten cattle. The miller concludes that the price of wheat is going to decline which will cause the price of flour which is made from the wheat to decline; moreover, the cattle dealer sees a declining market for cattle; neither desires to speculate and therefore they hedge the amount of wheat or corn they have on hand upon some produce exchange. Now, it is perfectly evident that the miller can not deliver wheat on that contract, nor can the live-stock feeder deliver corn; what they do is to ship the finished product to market and when they have merchandised such finished product they buy in their hedge. Under the operation of this proposed bill, both the miller and the live-stock feeder would be in the shadow of the penitentiary.

There are illustrations almost without number whereby this bill can be shown to interfere with the most legitimate forms of commerce without reaching those particular forms of speculative trading which in the minds of its framer were considered

undesirable. It does not touch the man who stands in the pit and buys and sells for his own account, because over those transactions the Federal Government would have no control. It is not admitted for a moment that the position of this man is in any degree less legitimate or less necessary than the man outside of the exchange, but it is a fact that a large part of the transactions on the exchanges for the account of persons away from the exchange and who used the telegraph, telephone, and mails to execute their trade are the most legitimate hedging transactions, which Members of Congress generally admit to be perfectly legitimate; and yet this bill seeks, if not to prevent such transactions, at least to fetter them so that they could not be commercially carried on.

There are so many features of this proposed bill which, in matter of form, are easily seen to be not simply unwise, but absolutely futile to effect the objects sought by the proposer, that anyone familiar with the business could take up hours in pointing out its defects. I have said enough, I trust, to indicate a few of the features which are objectionable. Under the bill as now drafted a legitimate exchange could live, although the difficulties would be almost insuperable; but is it necessary, in order to eradicate some few minor defects in the system of future trading, to destroy the whole institution?

ANTICOTTON-FUTURES BILL.

Mr. ROBINSON. Mr. Speaker, this measure, designed to prohibit interstate communications relative to cotton futures, should be amended so as to include other agricultural products. I am in favor of the bill, but would like to see its terms applicable to all agricultural products. A part compliance with the promises of a platform pledge differs from a total breach of it *only in degree*. The Democratic platform adopted at Baltimore touching upon this subject is as follows:

> We believe in encouraging the development of a modern system of agriculture by a systematic effort to improve the conditions of trade in farm products so as to benefit both the consumers and producers, and as an efficient means to this end we favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges or others.

It is clear that the platform is directed against dealings in futures in all agricultural products, and that to limit the reform to one product is but a partial compliance. I understand that the reason given by those in charge of the legislation for not embracing all agricultural products in the bill is that such a course might combine opposition to the measure from all the stock exchanges and occasion the defeat of this bill. The argument is not sound. The application of the principle to one agricultural product alone, in my judgment, can not be justified. Those who favor the legislation touching grain and other agricultural products might be induced to oppose the bill for the very reason that it does not embrace the products in which they are most directly concerned. To embrace all agricultural products in one bill would concentrate the support of all the friends of such legislation and force a direct issue that can not be avoided.

During the last Congress we passed almost unanimously through this House a bill very similar to the one under consideration. The fact that its provisions were limited to cotton and that it did not apply to other agricultural products was used at the other end of the Capitol to prevent its consideration and passage there.

The pledge in the Democratic platform will be only partially fulfilled by the passage of this bill. Unless I am assured that it is the purpose of those in charge of the legislation to secure the speedy consideration of the Rubey bill or some other measure including other agricultural products, I shall, if the opportunity can be secured, vote to amend this bill so as to make it respond to the Baltimore platform. In all probability the parliamentary situation will prevent this. I hope the House will insist on considering the bill by Mr. RUBEY, of Missouri, relating to futures in grain.

Mr. Speaker, while I should like very much to see this legislation comply fully with the terms of the Democratic platform and relate to all agricultural products, still I realize the parliamentary situation, and I am in favor of the bill in the form in which we are now considering it, unless an opportunity is afforded of amending the bill, as I have heretofore stated. I desire to call the attention of the member of the committee in charge of the bill to one feature of it which is not satisfactory, and that is that the affidavit which a person desiring to send messages relating to the purchase and sale of cotton intended for future delivery is permitted to file under the provisions of the bill relates solely to messages being sent or to be sent. I desire to suggest to the gentleman in charge of the bill and to others interested whether it be not necessary and advisable to adopt an amendment which will require the statement in the affidavit that the messages that have heretofore been sent—that is, the messages sent before the affidavit was made—have not violated the provisions of this legislation and did not come within the prohibited messages. In other words, on page 4 of the bill, in line 6, after the word "stating," insert the following words:

> That no message relating to any such contract, or offers to contract, as are described in section 2 of this act, has been sent, or caused to be sent, by this affiant, and.

Unless some such amendment be adopted the making of the affidavit may afford a certain means of evasion. To illustrate: A speculator has the bona fide intention at the time he makes the affidavit of complying with its provisions. He does not intend, when he makes the affidavit, to send any message during the next six months relating to a contract for futures. After he makes the affidavit he changes his intention and does in fact send such a message. He is indicted. Would that constitute a false statement in the affidavit? Probably not, because the affidavit could only express the intention of the affiant at the time he was sworn, and his obligation might be regarded as a mere promise and not as a statement of fact. In order to prevent the sending of prohibited messages after the making of the affidavit, subsequent affidavits should embrace the declaration that no prohibited messages have been sent.

This suggestion is submitted in a sincere desire to improve the bill and to make its provisions effective. It is, of course, desirable to relieve persons engaged in legitimate transactions from the obligation of making an affidavit every time they send an interstate message relating to the purchase or sale of the commodities which come within the provisions of the legislation. The affidavit that no such messages will be sent is inadequate. It should also contain the statement of fact that no such messages have been sent. In order to make the affidavit enforceable it should relate to past or present acts and not to future acts alone, which, to say the least, will be difficult of enforcement.

Commencing on line 14 is found the provision:

> Any person who knowingly shall make false statements in any affidavit provided for in this act shall be punishable—

And so forth.

Would it constitute a false statement if the person desiring to send messages relating to the purchase or sale of commodities in good faith, intending at the time of the making of the affidavit not to violate his promise, should subsequently alter his plans and send messages that are prohibited? This question can be obviated by inserting, after the word "stating," in line 6, page 4, the following words:

> That no message relating to any such contract or offers to contract, as are described in section 2 of this act, has been sent or caused to be sent by this affiant, and.

It is questionable whether or not you can make this promise—and an affidavit that one will not do a thing is nothing more than a promise—whether you can make this promise that one will not send such messages, enforceable under this bill. If we want to relieve those who are engaged in legitimate transactions of inconvenience, it will be necessary to adopt this amendment or some similar amendment; otherwise I do not think the affidavit will accomplish any valuable purpose. I suggest that to the consideration of the gentlemen who are in charge of the bill, and if it be deemed desirable I will offer that amendment in the event opportunity is afforded, which, under the parliamentary status, I can see is quite doubtful.

Mr. MANN. Will the gentleman yield for a question concerning affidavits?

Mr. ROBINSON. Certainly.

Mr. MANN. Does the gentleman think it is within the power of Congress to require an agent of the telegraph company to take an affidavit without charge?

Mr. ROBINSON. I think it is exceedingly doubtful whether Congress or any other legislative body can require any person or agent to perform any service for nothing.

Mr. MANN. And yet it is required under this bill.

Mr. ROBINSON. I observe that.

Mr. MANN. It says he is required to do it; that is all it says. He administers the oath.

Mr. ROBINSON. I am heartily in sympathy with the purpose of this legislation. I believe it is directed against a great evil, but I do think if the affidavit is to be of any value it should be amended so that if the affiant makes a false statement he can be punished for that false statement. If he says he will not send and has no intention at the time he makes that statement of sending prohibited messages you certainly can not punish him for changing his intention after that. That is as clear a statement of the proposition as I can make.

Federal legislation directed against dealings in futures in agricultural products has been a subject of discussion for

almost a quarter of a century. In the past it has been proposed to invoke the taxing power of the Government to prevent it. In the legislation now under consideration the alleged evil is sought to be abolished through the exercise of the power of Congress to regulate interstate and foreign commerce. I am not unmindful of the objections which have been urged against legislation of this character. The principal objections urged are that the bill is unconstitutional, that it is not enforceable, and that it will needlessly interfere with legitimate business.

THE LEGISLATION IS CONSTITUTIONAL.

The objection that the bill is unconstitutional does not seem to me to be sustained. The power must exist either in the States, in the exercise of their police powers, or in the Government, in the exercise of its power to control interstate and foreign commerce, to regulate these transactions. If it be conceded, as suggested by the gentleman from New York [Mr. FITZGERALD], that under the decision of the Supreme Court in Chicago Board of Trade *v.* Christy (198 U. S., 236), Ware & Leland *v.* Mobile County (209 U. S., 405), Clews *v.* Jamieson (182 U. S., 461), Leloup *v.* Port of Mobile (127 U. S., 640), it is competent for the State, in the exercise of its police powers, to forbid contracts for the sale of futures, and that such statutes are not in derogation of the power of Congress over interstate and foreign commerce, it still does not preclude, in my judgment, the conclusion that Cohgress has the power, under the commerce clause, to deal with agencies of interstate communication—the mails, telegraph and telephone lines—and to prevent the transmission of messages relating to such forbidden contracts. I have some doubt as to the constitutionality of the bill, but I shall cheerfully support it and leave the courts to determine that issue.

It is true that no accurate and complete definition of interstate commerce has been made by the courts. They have dealt with the question from the standpoint of the issues involved in the many cases which have been considered. The trend of all the authorities is that the Federal power over interstate commerce is plenary, and that it extends to the means and agencies of interstate commerce. The Lottery case and subsequent decisions upholding it, while not conclusive of the constitutionality of the bill, are strongly in favor of it.

The sole question involved in the case cited by the gentleman from New York [Mr. FITZGERALD], Ware & Leland *v.* Mobile County (209 U. S., 405), was whether the statute of Alabama levying a license on persons buying and selling futures for speculation or on commission was an attempt to regulate interstate commerce. The court indicated that while brokers were not common carriers, telegraph companies are. The most that can be said concerning this case is that it holds that the contracts themselves are not interstate commerce. We need not declare that the messages forbidden are commerce. We have plenary power over interstate telegraph and telephone lines as instrumentalities of commerce and can forbid them from transmitting messages of an objectionable character. The Supreme Court has held that the telegraph is an instrument of commerce and that telegraph companies are subject to the regulation of Congress. Why should not the same rule apply to interstate telephone lines?

THE MERITS OF THE MEASURE.

The plank in the Baltimore platform declaring for the suppression of the pernicious practice of gambling in agricultural products by organized exchanges or others is to be heartily approved. While the complete compliance with that platform demands that all agricultural products be embraced, still I shall support this bill even though it relates only to cotton. Let me assign briefly some reasons which impel me to support this legislation.

First, the transactions sought to be suppressed have no relation to legitimate business. There is no effort to interfere with the purchase or sale of any commodity for any purpose. The bill does not prevent speculation in actual cotton. If it becomes a law, cotton can still be bought and sold for every purpose for which it may now be bought and sold. The only requirement is that the transactions shall be bona fide sales and purchases and relate only to the actual commodity.

Second. It is immaterial whether the net result of future transactions has been to increase or depress the price of cotton. The governing consideration is that dealings in futures have no legitimate place in modern trade and exert a baneful influence on commerce. Careful students of the subject generally seem to agree to the conclusion that transactions in futures bear a relationship to the price of the actual commodity. The sale of enormous quantities of fictitious cotton may "break the market" and cause a decline in prices, while the purchase at another time of large quantities of futures may cause a rise in price. The fluctuations thus produced are not occasioned by natural causes. Consequently power is acquired by those who dominate the "market" to amass enormous fortunes by simply buying or selling what they do not own and what, in fact, does not exist.

Third. The argument that the exchanges will suffer or be compelled to radically reform their methods does not convince me that the legislation is bad. I can not believe that to suppress the transactions aimed at in this bill will do more to the exchanges than to restore them to sound and legitimate business control; but if it be true that the measure will prove far-reaching in this regard, I will still support it, and that without hesitation. If exchanges are to be nurseries for gamblers, they must go. Dealings in futures have all the elements of a game of chance, and have come to be designated as gambling by many who pursue them.

Fourth. They are also a means of oppressing the poor. This results both directly and indirectly. Directly when the man of meager means, in the hope of getting rich quick, dissipates his possessions and his earnings in the great vortex of speculation. Indirectly when he who toils in the field observes the product of his labor manipulated by those who sit in rug-spread offices and gamble in the products of his toil.

The demand for this legislation comes primarily from the workers—the farmers and the spinners. Opposition comes only from the exchanges. My voice and my vote are with the workers.

The SPEAKER. The time of the gentleman has expired.

Mr. MADDEN. Mr. Speaker, this bill has some very extraordinary provisions, one of which is that a man who seeks to enter into business transactions for the purchase of cotton is required to say in advance that the transaction is a legitimate and legal one. I do not believe that the Congress of the United States ought to be engaged in any attempt to force anybody to swear in advance that he is going to enter upon a legal transaction. The transaction itself ought to speak for its legality. How can anyone tell whether a transaction is to be legal or not in advance? It seems to me that a man ought to have the right to send a telegram to some other man in the United States and try to buy or offer to sell any kind of commodity, and that he ought not to be required to state when he sends that telegram that he intends to carry out the purpose for which the telegram is sent. Why, we would not be able to transact any kind of business if this policy were pursued in all the business relations in the country. It might just as well be said that a man could not offer to buy a house and lot, and that he could not send a telegram in reference to the purchase of a house and lot unless he stated in advance that what he proposed to do was legitimate and legal. To prosecute a man for failing to make an affidavit that he proposed to enter upon a legitimate business transaction it seems to me to be not a function of the Government of the United States, and I am inclined to believe that Congress could be engaged in a better business than trying to regulate the conduct of the legitimate affairs of the country in any such way as this bill proposes. If a man has sold a million bushels of grain, as my colleague said, to Liverpool, he would not under this bill be allowed to hedge against the rise of the price of that grain between the day it was shipped and the day it was received in Liverpool, and the price might be decidedly different on the day the ship arrived at Liverpool from the price of the grain on the day it began its journey. If this bill is passed we are regulating the exchanges of the United States, preventing those exchanges from making quotations and transacting business, and we are leaving the whole regulation of the commodity and its price to the exchanges of the world outside of America where we have no jurisdiction over them.

I think the people who are interested in raising and selling cotton, if this bill should become a law, would find themselves very much worse off than they are now. I do not believe that the cotton raisers would refuse to enter into combinations to hold their cotton for a higher price. There is nothing in this bill to prevent that. If there is an intention to prevent combinations of any kind to regulate the price, it ought to apply to the cotton raiser just as well as to the cotton buyer or the cotton seller.

Mr. BURLESON. I would like to ask the gentleman a question.

Mr. MADDEN. Certainly.

Mr. BURLESON. I would like to ask the gentleman if he thinks a conspiracy or combination can be entered into between 5,000,000 people and be made effective?

Mr. MADDEN. I do not understand that there are 5,000,000 people engaged in the raising of cotton.

Mr. BURLESON. There are more than 5,000,000 people engaged in the cultivation of cotton.

Mr. MADDEN. The people who control cotton in the South, or wherever it is grown, have organizations through which they assemble their cotton in warehouses and hold it for a time when they are assured that they can sell it for a higher price than they could sell it for if it was not so held.

Mr. BURLESON. And I want to assure the gentleman that never has one of those organizations or combinations proven effective.

Mr. FOSTER rose.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] is recognized for five minutes.

Mr. FOSTER. Mr. Speaker, I believe that the people generally should and desire to encourage legitimate business of every kind. I see no objection to any man who owns and desires to sell a million bushels of corn or a thousand bales of cotton to be delivered some time in the future at a certain price. I see no objection to a man who desires to buy a million bushels of grain or a thousand bales of cotton or any commodity and having it delivered at a future time, but I do not believe it is encouraging the legitimate business of the country to go onto the board of trade and put up your money and bet whether cotton will go up 2 cents a pound or down 2 cents a pound in the next three months. I do not believe that it encourages the grain raisers of this country and I do not believe that it helps the consumer of bread in this country for men to go on the board of trade in Chicago, New York, or any other city and bet their money that grain will go up or down, as the case may be, in the next 30 days. These men have no intention of delivering the property, but really bet as to what the price will be. And so I think that this bill which is under consideration at this time permits legitimate transaction in the buying and selling of cotton, but will have a good effect in stopping gambling on boards of trade.

But I would like to see this bill go further and include other farm products, so that there might not be that gambling in those commodities, too. You take the traders in the city, those who speculate on the board of trade, and they can not always speculate among themselves, because if they do it is only trading dollars. They must reach out into the country and gather in what they call the "lambs" and shear them and get a crop of "wool" to replenish the treasury of each and every one of them. And so we see all over this country encouragement coming from these traders, holding out great inducements and issuing market letters as to what the market is likely to do. If he is trading on the board of trade, if he is what is called a "bull," he is always saying that the price in 30 days is going to be higher, and the proper thing to do to make money is to buy wheat or some other commodity, as the case may be. If he is a bear, he believes the price will go down.

I do not know, but I suppose between the bulls and bears on the board of trade there is about as much money made on one side as there is on the other. Sometimes I have thought that the bulls would "bull" the price for a little while, and then they would get what they could from the bears, and the lambs would think the prices were going up and they could make a lot of money, and they would put up their cash and the price would go down, and the "lambs" out in the country would get "sheared."

So let us have honest, legitimate trading. Let us encourage honest trading, but let us stop the gambling in cotton, wheat, oats, or any other farm product. [Applause.]

Mr. SIMS. Mr. Speaker, the object and purpose of the bill now under consideration is to mitigate and minimize the evils growing out of what is commonly called and known as dealing in "cotton futures."

It is claimed by the opponents of the bill that the dealing in cotton for future delivery is a legitimate and necessary business, and that to prevent the buying and selling of cotton for future delivery will be an irreparable injury to both the producer and manufacturer of cotton. As thus stated, I am wholly in accord with the position of the apponents of this bill I will not if I know it support any bill that has for its object and purpose the prevention of sales and purchases of cotton for future delivery. I think speculation by way of buying and selling any product, whether agricultural or manufactured, whether for immediate consumption or for the purpose of holding the product for a time, hoping thereby to make a profit by an advance in price, is entirely legitimate and a benefit to producer and consumer alike.

The cotton crop of the United States matures and is gathered almost entirely during the months of September, October, and November, while it takes the whole 12 months of the year to manufacture the cotton thus harvested in 3 months. If it was wholly unprofitable for anyone to buy cotton except the manufacturer, he would have the cotton producer at his mercy.

Cotton, as a farm product, differs from almost all other crops grown on the farm. It is the only great crop produced that has no consumptive farm value. Cotton, without going through some form of manufacture, which the grower can not, as a rule, give it, can not be used by the grower for any purpose whatever. Corn, wheat, rye, oats, hay, and many other farm products can be used by the grower profitably on the farm where such articles are produced, without going through any stage of manufacture whatever, but cotton, without passing through some form of manufacture, which the farmer is not prepared to give it, can not be used for any purpose by the producer.

The great market effect of this condition with respect to cotton must not be overlooked. By reason of this fact the entire crop of cotton is a weight upon the money supply of the country, as every bale must be sold in order that the producer may realize any benefit from it whatever.

This is not the case with wheat, rye, oats, corn, or hay. While I have not examined the statistics and can not, of course, claim absolute accuracy, I am confident that if cotton is excluded at least 50 per cent of all other farm products can be consumed profitably without going through any stage of manufacture that is not or can not be furnished by the producer. Therefore it must follow that cotton is twice as sensitive to market conditions, both natural and artificial, as are the other products of the farm.

The corn grown and used by the farmer on his farm is never in any sense an actual weight upon the market. He does not have to sell it in order to utilize its value to him. This is true with all products of the farm which are consumed in whole or in part without passing through any stage of manufacture. But if a farmer grows only one bale of cotton on a 500-acre farm, he must sell it in order to realize any benefit from it. Cotton thus having no home farm consumptive uses is wholly an article of active trade and commerce and is thus necessarily affected by supply and demand, interest rates, insurance, commissions, and trade charges to an extent exceeding that of any of the other great crops of the country by at least 100 per cent. Therefore the cotton producer must necessarily be much more a victim to the evils of market manipulation of his crop than is possible for the growers of the other great staple crops of this country. While this is true, I do not want to be understood as being opposed to any legislation looking to the eradication of the evils of future dealing in any and all farm products. I am only pointing out to the House why I think it is more imperative to pass legislation of this kind with reference to cotton as a separate and distinct measure. I shall join in like efforts as to grain and other farm products.

Mr. Speaker, as I have said before, I have no objection to the buying of cotton to be delivered in the future. I think it ought to be encouraged. I am neither a cotton grower nor spinner; but I find myself passing by a farm and see 10 bales of cotton on that farm. I ask the owner, "Are you going to sell that cotton?" He tells me no. Says he does not need the money, and that he is going to hold his cotton for six months; that he believes it will be worth more money then than at the time I offer to purchase. That farmer by his action becomes an investor and holds his cotton off the market at a time when it might aid in depressing the price. He is a benefactor to all other farmers who are not able to hold their cotton, and who are thus benefited by the action of their brother producer, although this farmer by holding his cotton may at the end be the six months have to sell for less than he could have realized by selling to me.

Now, suppose this farmer instead of holding his cotton had dumped it on the market at that time; he would have aided to that extent the declining prices then prevailing, and by so doing he would have injured every other farmer in the United States who was compelled to sell his cotton. But this farmer, being out of debt and having money ahead, can sell his 10 bales of spot cotton and buy 10 bales for six months' future delivery on a market in part depressed by his inaction, and possibly make a profit out of his deal for himself on his futures. But his unfortunate brother farmers who could not hold were injured by him, but can not in any way share in the advance in futures, as they are not, as a rule, able to thus speculate even if so inclined. But the opponents of this bill advise all farmers to sell their actual farm-grown cotton, and thus depress the market for both spots and futures, and instead of holding farm-grown cotton buy Wall Street cotton and hold it.

Mr. Speaker, it is this Wall Street cotton that this bill is inimical to, and it will in no wise affect adversely the farm-grown cotton.

Now, Mr. Speaker, let us suppose that the farmer I have mentioned sells his 10 bales of cotton to me. I am neither producer nor manufacturer. I am a speculator pure and simple. I think cotton will advance, and, so believing, I buy this cotton

and pay the farmer $500 for it. I receive it, place it in storage, and hold it six months. What is the market effect of my action? I take 10 bales of cotton that would have been sold on the market out of the channels of trade, and thus make the supply of actual spot cotton pressing for sale less to that extent. The logical effect on the spot-cotton market is beneficial, and not only to the extent of the value of the 10 bales thus removed from sale, but upon every bale in all markets of the world. So I, although simply a speculator, have been a benefactor to every seller of spot cotton the world over. And at the end of the six months I may sell the 10 bales for a profit exceeding the interest on the money invested and be benefited by this pure speculative transaction. This was real, legitimate speculation and consisted in buying real, farm-grown cotton and holding it off the market at a time when the natural and unavoidable conditions were such that millions of bales of cotton were being pressed for sale in excess of the demand of the spinners or their ability to purchase. This bill will not prevent nor is it intended to prevent any such speculation.

Now, let us take the other side of the question. The Wall Street cotton grower says: "Do not buy that 10 bales of farm-grown cotton; you will have to pay $500 for it and be out of the use of that $500 for six months. But, instead, buy 10 bales of Wall Street cotton for six months' future delivery from me and I will only require you to put up as margin $2 per bale, or only $20 on the 10 bales instead of the $500 you will have to pay the farmer for his farm-grown cotton, and you will have $480 left of the $500 which you can invest in any other way that you desire; but if you desire, for the $500 you will have to pay for the 10 bales to the farmer, I will sell you 250 bales of Wall Street cotton for six months' future delivery." The Wall Street advocate goes on to argue with me that he will never call on me for anything more than the $500 unless cotton for future delivery should decline to an amount exceeding the $500, or exceeding $2 per bale, and even if it should I am told I will be called on for only $2 more per bale, and in no conceivable circumstances will I ever be called on to put up the $50 per bale I have to pay the farmer. The Wall Street cotton producer explains to me that if spot cotton goes up in six months so that I will make a profit on my $500 investment, being on only 10 bales, that my profits on 250 bales of futures will be twenty-five times as great. He further explains to me that if the market goes against me on my future deal that I can always sell out and stop my losses; that if I held spot cotton that it could not be used by anyone but a manufacturer; that if my 10 bales of farm-grown cotton begins to decline that I can not sell it at all, but will have to hold it until the manufacturers of spot cotton use up their supplies on hand. But that if I will buy his Wall Street grown cotton for future delivery, that inasmuch as his cotton is never used by spinners or manufacturers—in fact is never used at all for any purpose that farm-grown cotton can be used—that this Wall Street cotton can be sold at any time on five minutes' notice by telegraph or telephone or by any other means of communication; that it does not have to be inspected, weighed, or sampled; that in fact nothing has to be done that would have to be done if farm-grown cotton was being dealt in.

Mr. Speaker, the speculative spirit, get-rich-quick spirit, or, to be plain and candid and to use a term we all understand, the gambling spirit, seems to be inherent in all of us, and nine times out of ten the real speculator in actual farm products, by such arguments as I have detailed above, can be changed into a "gambler" in farm products, or rather a gambler in the name of farm products.

Mr. Speaker, if the evil of gambling in the name of farm products was confined to the individuals who gamble, barring the moral effects upon the public, we as a legislative body might excuse ourselves from any effort to prevent it. But if the evil effects of this character of transaction reaches out and takes in hundreds of thousands, yea millions, of producing farmers who are in no way parties to these transactions, I deem it our highest duty to exert our utmost efforts within constitutional limitations to abate the evil or to destroy it, root and branch, if we can do so. Therefore the next step, to proceed in logical order, is to ascertain whether or not the selling of cotton for future delivery, as conducted on the cotton exchanges in New York and New Orleans, is beneficial or injurious to the producers and manufacturers of cotton in this country.

It is impossible to sell more cotton for future delivery than is purchased for future delivery. Such a statement needs no demonstration; it is axiomatic. So, if these transactions were natural and conditions were equal and no law of economics violated, the effect of each sale would be neutralized by the effect of the purchase which made the sale possible. If these pretended contracts were intended to be executed by actual receipt and delivery of the cotton specified under terms and conditions equally fair and just to both seller and purchaser, their effect on the market would be nill. The future market, on the face of it, is always exactly balanced as the purchases and sales are and must be exactly equal in pounds, bales, and prices.

If delivery of each and every bale was actually intended and actually followed, it would make no sort of difference how often the same contract was transferred from one party to another, it could not and would not have any unnatural effect on the market any more than for a stock raiser in April to make a written contract to sell to a packer 100 head of beef steers to be delivered in the following December. This contract might be passed from one party to another a thousand times during that period of time and it would have no greater effect than if the same cattle had been sold and delivered a thousand times. Nor will a warehouse receipt for 1,000 bales of cotton have any unnatural effect on the cotton market if transferred a hundred times by way of sale and delivery, simply because the purchaser can look at the warehouse receipt and from it see just what kind of cotton is covered by the receipt, how many bales middling and weight of each, how many bales above middling and weight of each, how many bales below middling and weight of each. The warehouse receipt is simply an evidence of title to existing property. The contract is to deliver by the seller to the buyer 100 bales of cotton in the future, and although the cotton had not been planted, if both parties intended in good faith to execute the contract, and if, in fact, execution of such contract was the rule and not the rarest kind of an exception, no unnatural or injurious effects would follow. Mr. Speaker, if all contracts for future services or future deliveries of property were as often violated, or, to state it in another way, were as rarely executed as are contracts for future delivery of cotton made on the cotton exchanges. commerce and trade would be destroyed.

It is true that the margin of $2 per bale put up by buyer and seller of futures is forfeited and retained as damages to anyone who refuses to increase his margin when called on to do so; but if all kinds of contracts in business were as often broken as are those in cotton futures the claims for damages resulting therefrom would not so far compensate for such breaches of contracts as to permit the necessary business relations of commerce to continue.

Mr. Speaker, these contracts for cotton futures are made on the basis of middling cotton, so far as quality is concerned, and a bale is arbitrarily fixed at 500 pounds. A minimum contract is for 100 bales, or 50,000 pounds, and is made subject to the seller's option, who can deliver to the holder of the contract in month of delivery 50,000 pounds of middling cotton or any other kind of cotton other than middling deliverable on contracts on the exchange where the contract is made. There are now about 20 grades of cotton, as I now recall the facts, that are deliverable on contracts in the New York Cotton Exchange, so that the seller can deliver to the buyer the whole number of bales of any one kind of cotton deliverable under his contract, or he can deliver some of all grades deliverable. All the seller is compelled to do is to deliver 100 bales of cotton subject to delivery under his contract.

But if the cotton is above middling the seller does not have to deliver 50,000 pounds, but only enough pounds to equal in value 50,000 pounds of middling cotton. He may also deliver the whole 100 bales of cotton grading below middling, but in doing so he must deliver more than 50,000 pounds. He must deliver enough of this lower grade to be equal in value to 50,000 pounds of middling cotton. It would seem, in all fairness to the purchaser of one of these contracts, that he should get the actual market value of his 50,000 pounds of middling cotton at the time of the delivery provided for in the contract where other than middling is delivered, so that he would at least have as much cotton in market value as his contract called for in specific terms, so that the buyer could sell the cotton at least for as much as he was forced to give for it under the terms of the contract. But, Mr. Speaker, under the rules of the New York cotton exchange this is not the case.

Under the seller's option privilege he naturally will always deliver the grades of cotton least desirable to hold and in least demand at the time of delivery. Instead of determining the actual market value of the grades delivered other than middling, under the rules of the New York Exchange, the seller is permitted to deliver at a price fixed by a committee of the exchange, it may be 6, 8, or 10 months prior to the date when the actual delivery has to be made. This is called the system of fixed differences. If the differences were made by the com-

mittee in accordance with actual market conditions existing at the time the committee acted these variations may not remain the same for one month. If the revision committee fixed these differences in the month of September and a great tropical storm, as is often the case, visits the Gulf States, it will cause so great a damage to the quality of the cotton in the fields as to cause a much larger per cent of the crop to run below middling than was the case when the differences were fixed as to cause a wide decline in all grades below the contract grade by reason of the great increase of low-grade cotton. In such a case the seller would naturally deliver the lower grades, as he could get them at a lower price compared to middling than is provided in his contract, so that if the buyer should on the day of delivery sell this low-grade cotton he would suffer a loss. Naturally those who want farm-grown cotton for manufacturing purposes will steer clear of any such market as the New York Cotton Exchange provides. The rules of the New York Cotton Exchange makes that market attractive to any and all kinds of overvalued grades of cotton for purposes of delivery on contracts.

The small cash margin required to be put up by buyers and sellers of cotton on the New York and New Orleans exchanges for future delivery is conclusive proof that actual delivery is not expected. If middling cotton for a month, six months ahead of month of sale is as low as 10 cents per pound, the value of a 500-pound bale would be $50, and $2 cash margin would be only 4 per cent of the value of the cotton. That 4 per cent cash margin is the only guaranty the member of the cotton exchange who buys or sells the cotton has that the seller will deliver or that the purchaser will accept the delivery and pay for the cotton except the solvency of the parties to the transaction. Anybody, by mail, telegraph, or otherwise, under ordinary conditions can trade in futures by putting up the cash margin required, without any reference to his solvency. It is the rule if the market for the month dealt in is going down the purchaser is called on to increase his margin by putting up more cash. This call is usually made before his margin is exhausted, and if the purchaser does not increase his cash margin the member of the exchange who executed the order will sell out the contract before the cash margin is entirely exhausted, and the new purchaser takes the place of the one who was sold out on account of failure to respond in cash margin when called to do so.

Now, Mr. Speaker, it is not an unusual thing for the price of cotton futures to fluctuate as much as a dollar a bale in one hour's time. In fact, on the opening of the exchange at 10 a. m. the price of futures often opens a dollar higher or lower per bale than they closed the day before. Now, would any safe, conservative banker loan money on actual cotton within 4 per cent of its cash value, with the borrower 500 or 1,000 miles away, and depend on the borrower protecting the bank by telegraph or telephone in case of violent fluctuations in the price of spot cotton? This is exactly what the member of the exchange does for the dealer in cotton futures.

It is clear that if any man who was buying cotton from a man whose solvency he did know and had to rely on a deposit in money in some bank to guarantee the actual delivery of the spot cotton six months ahead of the date of the contract he would require a much larger deposit in cash than $2 per bale. It must be clear to anyone that from the fact that the contract for future delivery of cotton is wholly at the option of the seller, and naturally operates to his advantage, that it is just as certain and as inevitable that these contracts are to the disadvantage of the purchasers of cotton for future delivery who want actual farm-grown cotton for purposes of manufacture.

Mr. Speaker, however we may view these contracts for future delivery of cotton under the existing rules of the New York and New Orleans exchanges, the conclusion is forced upon us that at least 90 per cent of all who sell these contracts have no purpose or desire to deliver actual cotton, even as per the advantageous terms of the New York contract; and it is equally clear that even a greater percentage of all persons who buy those contracts for future delivery of cotton have no purpose or desire to accept delivery of actual cotton as provided for in their contracts. Therefore it must follow that at least 90 per cent of all sales and purchases of cotton for future delivery in these exchanges are not made with any expectation or desire that actual cotton will be delivered and accepted in execution of said contracts. The hope and purpose of both parties to these trades is that the fluctuations in the price of futures will be in his direction, and that he may buy in or sell out his contract so as to make a profit before the month arrives in which the contract could be complied with by the terms of same.

The purchaser's expectation is to make a profit by getting the money put up as a margin by the seller, and a seller expects to make money by getting the margin, or part of it, put up by the purchaser. He has no thought of acquiring actual cotton and delivering it on his contract, but only hopes that the quotations for the future month he has dealt in will so decline as to enable him to buy in his contract for less than he sold it, and thus make a profit, which is paid out of the cash margin put up by the unfortunate purchaser. No wealth is created nor was any expected to be created. Such dealings are on all fours with the card table—the money of the players changes hands during the game and some players will have more money than they commenced with, but others will have exactly that much less.

Future dealings settled by the margin money put up are nothing more than gambling transactions as between the parties to them, but as to the growers and manufacturers of cotton they are much worse than the gaming table. The card gambler never injures anyone not a party to the game, but the cotton-future gambler affects adversely thousands and millions of cotton growers who are not parties to these future contracts.

The cotton exchanges open at 10 o'clock in the morning. Ten o'clock in the morning at New York means 9 o'clock in much the greater part of the cotton-growing belt of the United States. The moment the first price is made in futures in New York it is flashed over the wires to every spot-cotton dealer in the United States, and these quotations continue to be sent out every few minutes during the day; that is, until 3 o'clock p. m., when the exchanges close. If futures open firm and higher, purchasers of spot cotton are active in making purchases of farmers or anyone else who has actual cotton to sell. If the quotations for futures are considerably higher, the purchaser of spots may and often does advance the price he is paying for actual cotton.

But, on the other hand, if futures open lower and dull the purchaser of spots reduces his prices and is indifferent as to buying even at the reduced prices. As a rule cotton is delivered at country shipping points in the forenoon and usually sold before 1 o'clock p. m., and the market for spots is controlled absolutely by the sales of futures, as no spot quotations are posted by the cotton exchanges until 2 o'clock p. m., after the future market has been open for four hours and only one hour before the closing of the exchanges.

So, Mr. Speaker, it must be plain to anyone who makes an investigation of this subject that while the cotton-future gambler in his dealing has his eyes only on the cash stakes put up in the name of margins, his gambling in the name of cotton does have a very material effect on the prices of actual spot cotton in the hands of the grower or the manufacturer.

If no one but the professional cotton gamblers would patronize those exchanges they would largely cease to exist, but on account of the inherent disposition of man to speculate and gamble there seems to be an inexhaustible supply of men who think they can make money in future dealing and thus get rich quick and spend the rest of their days in easy living, so that a large crop of "lambs" are thus produced for fleecing by the professionals. These lambs are the innocent cause of all the evils growing out of future dealings in farm products.

At times when there are prospects of a short crop the facts are exaggerated, as crop-damage stories nearly always are, and these lambs begin to buy cotton futures from the professionals in New York and New Orleans. Nobody but a professional will sell to them. A lamb, and especially one in the South, never sells cotton futures. He always buys. He lives where he hears the tales of woe from the farmers morning, noon, and night. When he goes to make his purchases he never purchases only a few bales so as he can margin his trade heavily. He never thinks that futures can go down between the time of his purchase and the month of delivery. He usually thinks he knows all about cotton because he lives in the South, and he thinks these New York people, who have no knowledge of the crop conditions, with which he is familiar, are at a great disadvantage in dealing with him—a real, genuine cotton expert. So he goes in heavily and buys all he has the money to margin. He reasons there is no use in making two bites of a cherry. He will get rich in his first plunge and in a single trade. After the crop of lambs are sufficiently large on the bull side, the professionals in Wall Street, who like good country mutton, decide it is time to "make a killing." So some fine morning a big professional who has been selling cotton right along to these "sure-thing" lambs gets up and offers to sell 10,000 bales in any month. He has been in the public prints before—he is a Theodore Price or a Dan Sully. No other professional wants it. No bid is offered. This bit of market gossip is flashed over the wires to ever cotton broker and dealer and bucket shop in the land.

The effect is electrical. Futures begin to decline rapidly, margins are called, and the lambs become panicky, and orders

burn up the wires to sell cotton futures at the market, down goes the price, and when it has sufficiently declined the professionals sell back to the poor deluded lambs the contracts they had purchased from them, and thus scoop in all the margin money the poor little bulls had put up, and then immediately the market steadies, and the professionals, having made "their killing," retire with no cotton or cotton contracts to bother them, but in possession of all the money put up as margins for cotton they sold, that was never intended to be delivered when sold. The crop-damage reports may have been real, and may get worse, but it did not prevent the manipulation of the market by the professionals, to the loss and ruin of new, inexperienced men, with a little money in hand, who think they can make many hundred per cent by dealing in cotton futures. Almost hundreds of cases have occurred where young men of good family and good character have been so crazed with the idea of getting rich quick that they have used funds not their own, and have become criminals and involved honored and respected families in financial ruin in order to save a son from a felon's cell. All laws are made for the protection of society, and it seems to me that it is our duty to protect the young men of our country from such temptation by refusing the use of the mails and the facilities of interstate commerce in aid of gambling transactions in farm products, which is so injurious to the producer and so demoralizing to the young men of our land and no benefit to any legitimate industry entitled to the equal protection of the laws.

Mr. OLMSTED. Mr. Speaker, is all the debate in favor of the bill?

The SPEAKER. The Chair did not pay much attention to that, as to whether gentlemen were in favor of the bill or against it.

Mr. OLMSTED. Everybody who has spoken seems to be in favor of the bill. I am opposed to it.

The SPEAKER. The Chair will recognize the gentleman for two minutes.

Mr. OLMSTED. That is rather short.

The SPEAKER. That is all the time there is left.

Mr. OLMSTED. Then I will yield my time.

Mr. HEFLIN rose.

The SPEAKER. There are only two minutes remaining. The Chair will recognize the gentleman from Alabama [Mr. HEFLIN] for two minutes.

Mr. HEFLIN. Mr. Speaker, It is really refreshing to those of us who come from the cotton belt, that section that produces two-thirds of the cotton of the world, to hear these gentlemen protest against our efforts to regulate the cotton exchanges, because they say that such regulation will injure the people that we represent.

The farmers of the cotton belt are almost unanimous in their demand for this legislation; but as I listened to the speeches made by the gentlemen who come from the exchange centers I was uneasy lest they convince some of you that these exchanges were instituted purely and wholly, singly and solely, for the benefit of the cotton producers. [Laughter and applause.] The cotton producer simply wants cotton used to fill contracts that name cotton. Men handling contracts that name cotton must call on the man who has real cotton to fill cotton contracts. Is there anything unfair about that? The exchange must become a real cotton exchange, where real buyers and real sellers transact legitimate business. Then the law of supply and demand will govern, as it should, an open, legitimate, and competitive market. That is all we want, gentlemen; and in closing this debate I ask you to vote for this meritorious measure. [Applause.]

Mr. BEALL of Texas. Mr. Speaker, I ask unanimous consent to correct two typographical errors in the bill: First, on page 4, line 21, to substitute the word "of" in place of the word "or."

The SPEAKER. The Clerk will report the request.

The Clerk read as follows:

Page 4, line 21, substitute the word "of" in place of the word "or."

Mr. SABATH. Mr. Speaker, have we reached section 4?

Mr. MANN. No; we are making a request for unanimous consent.

The SPEAKER. The gentleman from Texas asks unanimous consent to make the typographical correction which has been stated. Is there objection?

Mr. FITZGERALD. Reserving the right to object, I wish to ask the gentleman a question. Under the operation of the rule under which this bill is being considered it is impossible even for the friends of the bill to perfect it without unanimous consent. Is not that true?

Mr. BEALL of Texas. Unfortunately it is true, because the gentleman from New York [Mr. FITZGERALD] consumed a very considerable part of the time.

Mr. FITZGERALD. I consumed 10 minutes.

The SPEAKER. If there be no objection, this amendment will be agreed to.

There was no objection.

Mr. BEALL of Texas. Then, on page 6, in line 16, I ask unanimous consent to strike out the word "my" and insert the word "by."

The SPEAKER. The Clerk will report the request.

The Clerk read as follows:

Page 6, line 16, strike out "my" and insert "by."

Mr. MANN. Mr. Speaker, there are two prints of this bill. I should like to inquire where this is in the print of the bill which I have.

Mr. BEALL of Texas. Near the end of section 6. "Or at which it is caused to be delivered my mail," should be "by mail." I am not sure that the mistake occurs in the original bill, but it does occur in the printed copy.

Mr. COOPER. Mr. Speaker, I desire to ask the gentleman from Texas if the word "in," in line 19, page 6, ought not to be stricken out and the word "is" inserted. That is a typographical error, is it not?

Mr. MANN. What is the language? There are two prints of the bill.

Mr. COOPER. It reads:

That the Postmaster General, upon evidence satisfactory to himself that any person in sending through the mails of the United States——

The SPEAKER. The Chair has not yet submitted the previous request. If there be no objection, the word "my" will be changed to the word "by" in the place suggested by the gentleman from Texas [Mr. BEALL].

There was no objection.

Mr. FITZGERALD. Mr. Speaker, is debate ended on this bill?

The SPEAKER. Debate is ended; yes.

Mr. FITZGERALD. I ask for the regular order.

The SPEAKER. The regular order is on the engrossment and third reading of this bill.

Mr. BEALL of Texas. I ask unanimous consent that the word "in" be stricken out and the word "is" substituted at the commencement of section 7.

The SPEAKER. Is there objection?

There was no objection.

Mr. COOPER. In line 19, page 6, there is a typographical error—"in" for "is."

Mr. FITZGERALD. I shall not agree that it is a typographical error. I object. It is manifest that we can not properly consider this bill to-day.

The SPEAKER. Does the gentleman from New York object?

Mr. FITZGERALD. I object.

Mr. ROBINSON. Mr. Speaker, I desire to submit a request that I be permitted to offer an amendment, of which I have heretofore spoken.

The SPEAKER. The Clerk will first report the amendment offered by the gentleman from Arkansas [Mr. ROBINSON].

The Clerk read as follows:

Insert on page 4, line 6, after the word——

Mr. MANN. I object to the reading of the amendment, and call for the regular order.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to offer an amendment. I did not know that the time had expired.

Mr. BURLESON. We would like to know what the amendment is.

Mr. MANN. Mr. Speaker, I call for the regular order.

The SPEAKER. The regular order is the engrossment and third reading of the bill.

The question was taken, and the bill as amended was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question now is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. FITZGERALD and Mr. MANN) there were—95 ayes and 25 noes.

So the bill was passed.

On motion of Mr. BEALL of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers

in the case of John S. Swanke, invalid-pension case, Sixtieth Congress, no adverse report having been made thereon.

EXTENSION OF REMARKS.

Mr. DICKSON of Mississippi. Mr. Speaker, I ask unanimous consent to extend my remarks on the cotton bill.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to extend his remarks on the cotton bill. Is there objection?

There was no objection.

Mr. ROBINSON. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken on the cotton bill may have five legislative days in which to extend their remarks.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that all gentlemen who have spoken on the bill may have five legislative days in which to extend their remarks. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Ordered, That the Senate, sitting for the trial of impeachment of Robert W. Archbald, adjourn until Friday, the 19th instant, at 12.30 o'clock in the afternoon.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station, an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof.

INTERNAL-REVENUE ACT RELATING TO MANUFACTURE OF CIGARS.

Mr. PETERS. Mr. Speaker, I ask unanimous consent that the House consider the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909.

The Clerk began the reading of the bill.

Mr. MANN. Mr. Speaker, I make the point of order that the bill can not be read in the House. The gentleman should make a motion to go into Committee of the Whole House on the state of the Union.

The SPEAKER. The point of order is well taken.

Mr. PETERS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the consideration of the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909.

The question was taken, and the motion was agreed to; accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. BYRNS of Tennessee in the chair.

The Clerk began the reading of the bill.

Mr. PETERS. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Massachusetts asks uanimous consent to dispense with the first reading of the bill.

Mr. MANN. Mr. Chairman, this is a very short bill, and I think it ought to be read.

The CHAIRMAN. Objection is heard and the Clerk will proceed.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, be, and the same is hereby, amended to read as follows:

"SEC. 3392. All cigars weighing more than three pounds per 1,000 shall be packed in boxes not before used for that purpose containing, respectively, 5, 10, 12, 13, 25, 50, 100, 200, 250, or 500 cigars each; and every person who sells, or offers for sale, or delivers, or offers to deliver, any cigars in any other form than in new boxes as above described, or who packs in any box any cigars in excess of or less than the number provided by law to be put in each box, respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of tax than that required by law, shall be fined for each offense not more than $1,000, and be imprisoned not more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers from boxes packed, stamped, and branded in the manner prescribed by law: *Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe: *And provided further*, That every manufacturer of cigarettes shall put up all the cigarettes that he manufactures or has manufactured for him and sells or removes for consumption or use in packages or parcels containing 5, 8, 10, 15, 20, 50, or 100 cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon, and shall properly cancel the same prior to such sale or removal for consumption or use, under such regulations as the Commissioner of Internal Revenue shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom."

Mr. PETERS. Mr. Chairman, the provision of this act which is new is contained on page 2 of the bill, in lines 14 to 22, inclusive, and reads as follows:

Provided further, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe.

Mr. Chairman, it has been the custom since cigars were first made in this country that the operatives should be allowed a certain number of cigars for their own use. Up until last September they have been allowed to take from the tobacco which they have given them to roll the cigars a certain amount to experiment with, to find out just the manner in which the cigars should be rolled which they were to make. They have also determined by smoking the tobacco whether it is of a proper strength and quality to use in the grade of cigars they were to make. The inexperienced employees were also taught how to roll cigars from this tobacco. The cigars allowed the operatives were not put in stamped boxes and no tax was paid upon them.

It has grown up as a custom that the factories will allow their operatives to take out a certain number of cigars—about three each day and six on Saturdays. This was permitted because in certain factories there were rules prohibiting smoking, either for hygienic reasons or because women and children were employed there The use of "smokers" had been the universal custom from the time the industry started until last September, when the Treasury Department made a ruling that no "smokers" should be allowed. There was a ruling made September 1, 1911, and a later one on September 15, and one on December 30 of the same year—printed in the hearings—all having the same object in view, to curtail the use of "smokers." Immediately the operatives began to feel that they had been deprived of what custom had given them, which they had come to regard as a part of their daily wage. Therefore bills were introduced by several Members having in view extending to the operatives by statute the privilege which had been enjoyed by them all along under the practice of the Internal Revenue Department up to last year.

Your Committee on Ways and Means gave an exhaustive hearing to the subject, and there appeared before it the representatives of the employees from many of our cities, and some of the manufacturers. Among those who addressed the committee were Mr. Henry Abrahams, president of the Massachusetts Central Labor Union, of Boston, Mass., Mr. Thomas F. Tracy, second vice president of the Cigar Maker's International Union of Boston, Mass., and representatives of the cigar makers of New York, Florida, and Connecticut. It was agreed upon by all parties, by both the manufacturers and the employees, that this custom was so well established that both parties desired to see it continued. The only point which was made against it was made by the Commissioner of Internal Revenue, who objected to it because of the fear that continuing this exemption would enable a certain amount of tobacco to be taken out without paying a duty upon it; but after carefully considering the evidence your committee felt justified in reporting the bill which we now have before us. It was felt that the privilege had been in existence so long that its legal recognition was no more than fair to men and to the manufacturers, and there was no reason to suppose that it would be abused by men of such high integrity as are found among those engaged in the manufacture of cigars.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. PETERS. Certainly.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman explain what the provision beginning on line 22, page 2, relating to cigarettes and the method of packing them has to do with the legitimatizing of the custom of employees having an allowance of 21 cigars a week?

Mr. PETERS. That is in the law at the present time and there is no change made in the section to which the gentleman refers by this bill. The only change made is embodied in the provision commencing "*Provided further*," on line 14, and ending with the word "prescribe," on line 22. The provisions to which the gentleman refers are in the present law.

Mr. MOORE of Pennsylvania. The only change contemplated by the committee in the bill is the legitimatizing of the custom of making this allowance of cigars to the employee?

Mr. PETERS. That is exactly it.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

Mr. PETERS. Certainly.

Mr. TILSON. May I ask a general question? In this hearing before the committee in which the gentleman says both the manufacturers and the employees were represented, did they arrive at an agreement and is this bill presented here to-day satisfactory to both the manufacturers and the employees?

Mr. PETERS. The provisions of this bill met the demands of both the manufacturers and the employees as presented to the committee. This particular bill was not up for consideration at the time of the hearing. It became necessary to draw a new bill and meet some objections made to the bills which the committee was then considering, and I drew this bill and introduced it for the committee.

Mr. TILSON. But the provision changing the law was agreed upon?

Mr. PETERS. That provision meets the wishes of both parties.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. PETERS. Certainly.

Mr. CANNON. How many employees are there in the United States making cigars?

Mr. PETERS. I was coming to that in a minute. In the year 1909, which is the most recent year for which the statistics are available, there were on an average 139,578 employees in the United States in the cigar factories. This does not include clerks or salaried persons.

Mr. CANNON. If I understand this bill, it would allow each employee to have 21 cigars a week, where the tobacco was imported or where any kind of a tax was paid upon it, free of the tax. Is that right?

Mr. PETERS. For personal consumption and experimental purposes.

Mr. CANNON. Now, has the gentleman taken into consideration the question of allowing all clerks in dry goods houses, all employees who make up goods into clothing—in other words, have this law extended so that everybody might be accommodated and freed from the tax who is engaged in the handling or making up of various products?

Mr. PETERS. It is only the intention of the committee by this bill to legalize what has been the recognized custom of the cigar trade for many years, and they have not gone beyond that.

Mr. CANNON. If it be a good custom, and I am not expressing any opinion about it; but if it is good for 135,000 employees who make up tobacco, why is it not good for 5,000,000 or 10,000,000 employees that they should also be relieved of the burden for consuming that which they handle? What I want to get at, without expressing any opinion, is, did the committee consider the proposition that I have referred to of extending similar privileges to everybody who is engaged in any kind of industry?

Mr. PETERS. The committee certainly did not consider the question of extending the privileges of this act beyond those people who have already had this advantage.

Mr. CANNON. Why not? Is the act vicious; is the act bad in principle?

Mr. PETERS. The reason why we should not do it is that we are merely legalizing a custom which already exists. We are not making any new exemptions from taxation and not extending the exemption.

Mr. CANNON. A custom is legal itself if it be a good custom under common-law definition; then why is it necessary for this legislation if it be a custom?

Mr. PETERS. If the gentleman would be so good as to read the three rulings of the Treasury Department, made last September and December, to which I have referred, he will see that it is necessary to legalize this custom if it is to be continued.

Mr. CANNON. A custom if it is a good custom is the law, and if it is no longer a custom there is no necessity for this legislation. Is not that it?

Mr. PETERS. It was a custom until the rulings of the Treasury Department forbade it.

Mr. CANNON. Well, why not extend its advantages and have the burdens of taxation taken off of all the people equally?

Mr. PETERS. I have just explained why it makes legal a custom which has been in existence for 100 years or more. I will submit at this point a summary statement giving certain statistical facts in regard to the number of people employed in the manufacture of cigars and the revenue duties collected thereon.

The returns for the year 1909—most recent year available—show:

Average number of employees in cigar factories, wage earners only—does not include clerks or salaried people—139,578.

Of whom there were:

Men over 16 years of age, 69,392.

Women over 16 years of age, 66,338.

Children under 16 years, 3,848.

The internal-revenue tax on 1,000 cigars is $3.

The average cigar maker produces approximately 30,000 cigars annually, thus producing a revenue of $90. If he consumed 21 cigars a week, or 1,092 a year, the revenue would be decreased by a little over $3.

Estimating that 80 per cent of men over 16 smoke, they would consume in a year about 60,000,000 cigars.

On which there would be a revenue tax of 66,000 times $3 uncollected, or $180,000.

The maximum total loss is, then, $180,000.

Total internal-revenue tax on tobacco, 1911, $67,005,950.56.

Of which there was collected on cigars alone, $22,673,008.31.

These figures show the extremely trifling amount which these exemptions would affect in regard to the total amount of revenue received, and when we come to consider that 21 cigars a week has been allowed to those in the trade ever since the inception of the industry, you will see that the total amount of revenue which would be lost by this act would be inconsiderable indeed.

Mr. JAMES. There is no loss of revenue, because there has never been any revenue collected heretofore.

Mr. PETERS. The gentleman is entirely correct.

Mr. WHITE. May I ask the gentleman a question?

Mr. PETERS. Certainly.

Mr. WHITE. Does the gentleman include stogies in the use of the word "cigars"?

Mr. PETERS. I suppose they are included in the revenue department as cigars.

Mr. WHITE. They are not specifically referred to in cigars, and I desired to know whether they were included in the gentleman's statistics.

Mr. PETERS. I suppose so. I obtained these statistics from the Census Bureau. They have not yet been printed, and details are not, therefore, available.

Mr. SPARKMAN. I suppose, of course, the necessity for this legislation grows out of the recent ruling of the Commissioner of Internal Revenue?

Mr. PETERS. There were three rulings made in 1911 in the closing months, which took away from the operatives the privilege of smokers which heretofore existed, which made some action necessary.

Mr. SPARKMAN. All the other Commissioners of Internal Revenue from the beginning of the Government down to the present time made no such ruling; in other words, had recognized that practice?

Mr. PETERS. It was universally recognized until the recent ruling was made.

Mr. SPARKMAN. And the sole purpose of the present bill is to legalize the custom that has grown up under that practice for a good many years—a century, as you say?

Mr. PETERS. The sole purpose is to legalize the custom which had been recognized since the commencement of the trade.

Mr. SPARKMAN. I would like to make the suggestion that I think your bill is simply more conservative than the custom that has grown up in the factories where the clear Habana cigars are made. I think the operatives there have been accustomed to take as much as 25 cigars a week. You provide for 21?

Mr. PETERS. We have done so. The custom has itself much to commend it. It gives an opportunity for the inexperienced to try their hand at preparing cigars. It gives an opportunity for the manufacturer to have his tobacco tested by his operatives and to find the exact value of that tobacco for the purpose which he wishes to make of it, and, in addition, this custom has become so general that the attempt to abolish it has brought forth strong objections and considerable hardship on the part of the men employed in this business.

Mr. BOWMAN. Will the gentleman yield?

The CHAIRMAN (Mr. BYRNS of Tennessee). Will the gentleman from Massachusetts yield to the gentleman from Pennsylvania?

Mr. PETERS. With pleasure.

Mr. BOWMAN. I see in the report of the committee, in the last paragraph of the letter signed by Commissioner Cabell, the following statement:

The only method by which a manufacturer may safely supply his employees with "smokers" is to pursue the course adopted by some of the large manufacturers, who for years have supplied their cigar makers and other employees with "smokers" from packages that have been marked, branded, and stamped in accordance with the law and regulations.

Does not the gentleman think it is better to have that practice followed by all the manufacturers?

Mr. PETERS. The manufacturer will not do that. We prefer to legalize the old custom.

Mr. BOWMAN. Does not the gentleman think that if they open it up in this manner it will be open to further abuse?

Mr. PETERS. The committee does not think so. The custom had been in use for years, and there was not brought to the committee any instance of an attempt to defraud the Government. The committee has full confidence in the intentions of the manufacturers and operatives, and I am sure if the gentleman had been at the hearings he would have seen from the representatives of the operatives who were there that no advantage would be taken of the provisions of this bill.

Mr. Chairman, in its effort to reestablish this custom your committee report the bill and hope for speedy and favorable action by the House.

I reserve the balance of my time.

Mr. PAYNE rose.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] is recognized.

Mr. PAYNE. Mr. Speaker, it is true this bill has received the approval of the manufacturers, although disapproved by some of them who prefer to do their business in a straight, legal way, according to the present law. Of course, the cigar makers are in favor of it, because it furnishes them cheaper cigars to smoke, and some manufacturers are in favor of it because it saves the tax on cigars, and they are able to mix up in some way the tax on the cigars and the wages of the employees and get a little benefit out of it. And for that reason both of them are in favor of the bill.

The practice was prohibited by the old law, because they thought it was necessary in framing the old law to provide some safety for the high revenue that was exacted upon manufactured cigars. The manufacturers were charged with the amount of tobacco and with the probable number of cigars it would make, and that was one check which the Commissioner of Internal Revenue had upon them, and one means that he had to exact the full tax.

The tobacco goes into the manufacture of cigars, as you all know, and the cigars can not come out of the factory unless they are put up into boxes, and the internal-revenue authorities close the boxes so they can not be opened without breaking the tax stamp that is pasted upon the box.

Now, this practice of free cigars for employees grew up in contravention of the law. The men would take tobacco and make it up into cigars and smoke them while they were doing their work. Probably no great amount of tobacco was consumed in this way. The proprietors and manufacturers allowed it to be done, and the cigar makers, of course, were anxious to have the practice continued. But, like all such practices, it got a little over the borders of moderation, and they began to take home with them the cigars on which no revenue tax had been paid. The practice increased and the number of cigars taken out increased from time to time until the practice became a serious drag on the revenue, the commissioner said $1,000,000 per year.

It was on account of this fact that the Commissioner of Internal Revenue, if I remember the hearings correctly, about two years ago, decided to enforce the law.

Mr. SPARKMAN. It was last year, in September.

Mr. PAYNE. Since that time he has enforced the law, and has required that no cigars should go out of the factory. If I remember correctly the evidence taken by the committee some time ago, it was to the effect that no cigars should be used in the factory and smoked unless the internal revenue was paid according to law. That was very strict.

When that regulation was put into effect, of course there was a muttering of discontent, and finally it grew to such importance that the workmen and employees appeared before the Committee on Ways and Means during the present year and, as my friend says, a number of bills were introduced to relieve this situation. The committee had the Commissioner of Internal Revenue appear before them, and he was examined fully upon this subject. He was asked if the revenue could be protected if legislation of this sort were enacted. He said he thought that if permission were given to exempt from the payment of the tax only such cigars as were smoked upon the premises by the employees it would not make any great inroad upon the revenue, and in his opinion it would be sane legislation. I do not know whether he said just that, but, adopting the language of the day, I will include that word "sane."

This arrangement was made, of giving 3 cigars a day to each employee, or 21 during the week. He said that if these employees were allowed to take the cigars from the premises without their being packed in boxes and stamped and the revenue paid upon them, you might just as well take the revenue tax off of cigars and tax something else in order to raise revenue. He put it in one sentence as strongly as that. Perhaps that was a little stronger than he meant it to be. But at any rate, he said it would result in a great loss of revenue if that practice were legalized.

That is the reason I am opposed to this bill in its present form. I do not object to allowing the makers of cigars to use such tobacco as is given them by their employers on the premises, but I do object to having the cigars made from it taken away, because that opens the door to temptation to those employees and to fraud on the revenue. I am afraid that if the employees are allowed to get the cigars out of the shop they will not always be inclined to use them for their own personal use. There will probably be people outside who will be tempted to buy the cigars of them. Of course the United States Government can not follow these employees beyond the doors of the factory to see whether the cigars are used in that way or not. The espionage by the Government authorities is in the factory. Beyond that they have no control over the revenue, and it is not safe to let the cigars go out in a wholesale manner.

I do not know whether the gentleman's calculations are correct or not as to the number of employees and the number of cigars that are to be used. I do not know whether the employees would use all the 21 cigars allowed in a week or not. I know that a calculation was made in the committee, and the number ascertained was enormous, and the amount of revenue was much larger than $185,000, as we calculated it then. I have not looked at it since. I have not had the report of the hearings, but I recall it was much larger than $185,000.

Now, why not amend this bill, and confine it to cigars used upon the premises by these employees, and not allow them to take any out, and not endanger the revenue? Why should you endanger the revenue against the protest of the Commissioner of Internal Revenue, who has the collection of the revenue under his jurisdiction? I think a very simple amendment to this bill would guard against that, and then, as far as I am concerned, I should not have any objection to its passage, although I believe, going away back to the foundation, that we ought not to make any exemption, and we ought not to allow anybody any special privilege in regard to these things. I am against special privileges, whether to rich people or poor people, whether to the laboring man or the capitalist. I do not believe in special privileges to anybody. I hear a great many people talk glibly about special privileges, and then see them go and vote to give special privileges to a special class.

I know that in the manufacture of beer in breweries employees are allowed to drink all the beer they can drink on the premises, but they are not allowed to take it out in bottles or in cans and drink it somewhere else, or peddle it out to other people to drink.

Bear in mind that the only safeguard the Government has is, in the first place, in weighing in the tobacco into the factory; then, after that is done, to see that the proper amount of cigars come out of the factory and pay the tax. If you allow them to come out in any way except in boxes properly stamped, you run the risk of losing the revenue and of giving some one free cigars, as against all the other citizens of the United States. Confine it to the employees in the cigar factory, and do not go outside of that.

I do not care to talk longer upon this, Mr. Chairman, because I have said, perhaps, all I want to say, and because I understand the gentleman from Wisconsin wishes to make an hour's speech.

Mr. SPARKMAN. I should like to ask if the Government does not require 1,000 cigars out of 25 pounds of tobacco?

Mr. PAYNE. Yes; that is the minimum. They require that as a minimum, and if they make any more cigars than that, they can not go out of the factory unless they pay a tax on them by putting them in boxes and paying for the stamps.

Mr. SPARKMAN. The gentleman has admitted that this practice has been going on for a great many years.

Mr. PAYNE. It has grown into a practice.

Mr. SPARKMAN. How will the Government lose by legalizing a practice that has been going on? In other words, how will it lose that which it has never been collecting?

Mr. PAYNE. It was because the revenue was diminishing on these things, and the commissioner found he was not collecting the proper amount of revenue, that he called attention to the law and the strictness of it, and enforced it.

Mr. SPARKMAN. I read the hearings very carefully, and I do not recall that the commissioner found that he was losing or that the practice was growing to any extent at all.

Mr. PAYNE. You will remember that his experience was such under that old practice that he protested most vehemently against changing the law and allowing them to take the cigars out of the factory.

Mr. SPARKMAN. Right or wrong, this present commissioner did that which his predecessors never did. He did it, not because the practice was growing, but because he thought it ought to be stopped.

Mr. PAYNE. There is no question but that he was right on the law, and right in the interest of collecting revenue, and his attention was called to it for that purpose.

Mr. COOPER. It is true, I believe, that this practice of smoking three cigars a day or taking them out is a very old custom; but does not the gentleman from New York think that the language of the pending bill is sufficient to prevent any abuse? It provides, in line 15, page 2—

That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon.

Now follows the language to which I wish to direct the gentleman's attention:

Such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe.

Would not that language, which confers plenary powers on the Secretary of the Treasury to pass rules and requirements to be observed by these employees, suffice to prevent abuse?

Mr. PAYNE. I do not think so, for this reason: If my friend from Wisconsin will allow me to make a personal example, I think if he was administering it that he would let the cigars go off the premises, and if I was administering it I would not allow them to go off. I want to call the gentleman's attention to this suggestion: Suppose, in line 16, after the word "use," we insert the words "on the premises of the manufacturer," so that it will read "that each employee of the manufacturer of cigars shall be permitted to use on the premises of the manufacturer for personal consumption and for experimental purposes," and so forth.

Mr. COOPER. But I can see how an employee might want to take home a cigar to smoke after supper, the same as does the man who has ample money to pay for cigars. It strikes me that there is no great hardship coming to the Government of the United States, nor to anybody else, by permitting the employee to take the cigar home and smoke it.

Mr. PAYNE. The officials of the revenue department do not agree with the gentleman on that.

Mr. COOPER. The internal-revenue official thinks that there will be a loss of revenue. But if the internal-revenue officials and the Secretary of the Treasury get together and formulate rules and regulations so that an employee can not take out more than three cigars, I do not see how it could make any difference to the revenue whether they are smoked on the premises or taken home and smoked. Under proper rules and regulations the interests of the Government will not be injuriously affected.

Mr. PETERS. I wish to call the attention of the gentleman from New York to the fact that the rules in certain factories prohibit smoking on the premises for hygienic reasons, and it would be impossible to provide that they must be smoked on the premises.

Mr. PAYNE. That makes the privilege all the worse. If the proprietors want it done, they could arrange a room for the smoking of the cigars. There is no hardship in that, and I do not think that we ought to injure the revenue every time some one comes along and says that it would be more pleasant to have it done thus and so. I think that it is conceding a good deal to concede what has been done already.

Mr. COOPER. The gentleman from New York speaks about injuring the revenue. Is it not a fact that from the beginning the receipts from the tax on tobacco have increased constantly?

Mr. PAYNE. Oh, certainly.

Mr. COOPER. And yet this practice has been going on.

Mr. PAYNE. The consumption has increased; there is no doubt about that. The legitimate consumption in the factory has increased and also the carrying away of cigars has increased, and still the revenue is increased, because the consumption has increased. We are a country of generous smokers. Mr. Chairman, I reserve the balance of my time.

Mr. MANN. Mr. Chairman, I have the very highest regard for the opinion of the gentleman from New York [Mr. PAYNE] in reference to the revenue. I am inclined to believe that the custom which has prevailed for many years in the cigar manufacturing business might well continue to prevail, although it is a pure case of special privilege to a few and a direct subsidy to the employees. If the gentlemen on the other side of the aisle can overcome their consciences without hesitation after just passing a platform against special privileges, then passing a bill almost immediately to provide a special privilege and grant a subsidy, I am not going to stand in the way.

Mr. PAYNE. Has the gentleman overlooked the fact that passing the platform and passing the bill had a connection, each one of them, with votes and voters? I do not mean to say that any gentleman was influenced by any such consideration, but it does have a direct bearing on both.

Mr. FITZGERALD. No consideration at all but the public welfare.

Mr. JAMES. Is that what inspired the gentlemen on the Ways and Means Committee to support the bill, the gentleman from Connecticut [Mr. HILL] and others?

Mr. PAYNE. The gentleman from Kentucky is entitled to his own judgment in individual cases.

Mr. REILLY. Mr. Chairman, I am strongly in favor of this bill, which embodies the salient features of several bills that have been introduced, one of which I had the honor of presenting. The principal point in the bill and the one in which the cigar makers and manufacturers are interested is that which exempts from the revenue tax 21 cigars a week for each employee for his own use, consumption, or experimental purposes.

The arguments presented against the bill by the department are not good and will not stand up against strict scrutiny as to facts or motives. While the object of the department may be to secure all the revenue possible, the fact that until the great Tobacco Trust had secured control of so many factories no effort had been made to collect the tax on the "smokes," so called, might lead one to suspect that the trust factories were entirely in harmony with the rule to enforce the tax in the belief that it would put an end to the practice and save to trust uses a small quantity of tobacco used in making the free smokes—in other words, another phase of trust avarice.

For more than 100 years, or since the beginning of the cigar-making industry, cigar makers have been permitted to make, in their own time, and without charge for stock, cigars for their own use and consumption. These have been commonly known as "smokers." The stock used generally has been the tobacco that is not fit to be used in cigars that are offered for sale, or, in others words, the tobacco has been damaged stock. The cigar manufacturer has never objected to this custom, which has really become an unwritten law in the business, but a comparatively recent ruling of the Commissioner of Internal Revenue has made it obligatory on the part of the manufacturer to pay for all "smokers" made by the cigar makers. This drastic ruling has caused great dissatisfaction. The manufacturers are opposed to it as well as the men. The men look upon it as a right, established by long custom, and they will not be deprived of it. In my opinion, the ruling is uncalled for, and the men, believing that an established privilege is being denied them, will still continue to have their "smokes," and this implies no dishonesty on the part of the men.

The Government is not out a dollar by this custom, for the tobacco used by them would not be manufactured into cigars upon which the tax would be paid. This bill provides that a very reasonable number, namely, 3 a day, or not to exceed 21 per week, be allowed each employee. This provision as to the number has the approval of manufacturers and cigar makers alike. My bill was introduced by me at the request of several large cigar manufacturers in my district, and as this bill embodies the main feature of mine and the only one of interest to the cigar makers and manufacturers I give it my hearty approval.

As most clearly proving the justice of this measure I desire to quote from the statement made before the Ways and Means Committee by President G. W. Perkins, of the Cigar Makers' International Union. Among other things Mr. Perkins said:

The cigar maker, in order to become proficient in the making of cigars so as to get the best possible results and to produce cigars that would smoke properly and give proper satisfaction, out of necessity had to test them by actual smoking of his own work. Tobacco is perhaps the most peculiar in its nature of any plant grown. It has to be handled properly by the cigar maker in order to give the best results. The cigar maker can better judge the manner in which to make cigars properly by personally smoking one, and in doing so is helping not only the customer but the manufacturer as well. Tobacco is one of the hardest things in the world to correctly judge. Almost any other commodity can be judged by the test of seeing, feeling, and tasting, while tobacco has to be seen, felt, tasted, and smoked before a correct judg-

ment can be reached. Thousands of manufacturers located everywhere experience great difficulty in correctly judging tobacco. They have asked the cigar maker to roll it, smoke it, and pass judgment on the quality of the tobacco. This is particularly true in the smaller shops. Thousands of times that thing has been asked of me. These two facts—that is, the testing of the workmanship and the tobacco by actual smoking at the request of the manufacturer—inaugurated the so-called smoker privilege, which has existed in our country for about 100 years. We did not start it. This privilege grew out of a commercial necessity, which exists to-day to a greater extent, if anything, than it ever did in the past. The few smokes the cigar makers get are of greater benefit to the consumer and to the manufacturer than to the cigar maker.

This is the best evidence of putting in the bill the "experimental purposes" provision and shows the benefit of the proposed measure to the manufacturer and consumer.

That there will be no abuse of this exemption is assured by the character of the average cigar maker. I quote from the testimony of Mr. Sol. Sontheimer, of Hartford, Conn., an experienced and reputable cigar maker, on this point:

At no time in my experience—and I have worked as a cigar maker for 35 years at the bench—can I recall a single internal-revenue commissioner that has so construed the law that would practically deprive us of a custom that has been in existence for something like 100 years. We cigar makers that work at the bench have a sense of propriety. Particularly is this true in teaching and telling our colleagues what we presume to be the fair conduct in relation to their employer's property, because we are aware of the fact that to abuse that privilege might possibly lead up to a point where grave complications might arise and we be denied those privileges. For that reason, to teach amongst the craft that particular point upon which I am trying to lay stress, that we cultivate the idea of honesty in the removal of this product, as a result of which the commissioner claims the Government loses a large amount of revenue.

I have a number of letters from different manufacturers in New England. I am working for one that employs something in the neighborhood of 100 cigar makers, and he, like all other manufacturers that I have come in contact with in New England, favors some legislation along this line, such as the Reilly bill.

There is every reason in justice why this bill should pass; there is no good reason yet shown why it should not; and I feel confident this wise and very moderate provision will soon be on the statute books.

Mr. MANN. I would be willing to confess that if there were no voters and no other persons involved I would not be in favor of the bill, because there would be no occasion for its passage.

Mr. Chairman, I would like now to make an inquiry. A few moments ago the gentleman from Wisconsin [Mr. BERGER] desired to address the House upon some subject, where he was entitled to speak in Committee of the Whole House on the state of the Union when considering a revenue bill. I understand that my friend from Texas [Mr. HENRY] prevailed upon the gentleman from Wisconsin to withhold his address this afternoon. I promised at the very first opportunity to get the gentleman from Wisconsin an opportunity to address the House. I did that in my capacity as floor leader upon this side of the House representing in that respect to a certain extent the gentleman from Wisconsin.

Mr. SABATH. And his party?

Mr. BERGER. No; not his party.

Mr. FITZGERALD. I did not understand that the gentleman from Illinois contended for an instant that he represented the party that caucuses in the person of the gentleman from Wisconsin.

Mr. MANN. I do not attend the caucuses of the party; although the gentleman from Wisconsin and myself, as nominal heads of parties in the House, frequently confer. [Laughter.]

Mr. FITZGERALD. And conspire against us.

Mr. MANN. Mr. Speaker, I wish to make an inquiry of the gentleman from Texas as to what his purpose is when we get into the House, for the balance of the afternoon, after the House finishes this bill?

Mr. HENRY of Texas. Mr. Chairman, I will state that I had one or two special rules that I would like to present, but only one in particular that I shall insist upon, and that is a resolution broadening the powers of the Committee on the Merchant Marine and Fisheries in regard to the investigation of the Shipping Trust.

Mr. MANN. To that I have no objection, but I do not think it would be fair to the House to bring up at this time rules in reference to other matters.

Mr. HENRY of Texas. I shall withhold all other special rules this afternoon.

Mr. MANN. May I inquire further whether there will be any objection after we get back into the House this afternoon to at that time granting an hour to the gentleman from Wisconsin, to be consumed on Thursday next?

Mr. HENRY of Texas. None in the world. I have assured the gentleman from Wisconsin that I would be glad to have him get the hour next Thursday, and there will be no difficulty about it.

The CHAIRMAN. The Clerk will read the bill for amendment under the five-minute rule.

The Clerk proceeded with the reading of the bill.

Mr. PAYNE (interrupting the reading). Mr. Chairman, I ask unanimous consent that the second reading of the bill be dispensed with and that we now proceed to amend it.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the second reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 2, line 16, after the word "use," insert the words "on the premises of the manufacturer."

Mr. PAYNE. Mr. Chairman, I do not care to say anything further on that amendment.

Mr. FITZGERALD. Would not the effect of this amendment be to practically defeat the purpose of the bill?

Mr. PAYNE. Not at all. It reverts to the original practice in the shops, which has grown into an abuse.

Mr. FITZGERALD. Have they not now adopted regulations that prevent the smoking on the premises in many instances?

Mr. PAYNE. They had not at the time of the hearings.

Mr. LONGWORTH. Oh, I think so. I think there are a number of factories that do not permit smoking on the premises; more than 50 per cent, as I remember.

Mr. PETERS. Mr. Chairman, this amendment would nullify the purposes of the bill. According to the testimony of the witnesses before the committee, in many factories no smoking is permitted at the present time, on account of the welfare of the employees. Women are employed as well as men, and hygienic conditions have rendered it necessary in the modern factories to prevent smoking, and this amendment, if adopted, would do away in great part with the benefits of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

Mr. SABATH. Mr. Chairman, I offer the following amendment as a new section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert at the end of the bill as a new section the following:

"It shall be unlawful after the passage of this act to issue or give away with any cigars or cigarettes offered for sale any trading stamps or premium. Anyone violating this section shall be fined for each and every offense not more than $1,000 or by imprisonment not more than six months, or both."

Mr. PETERS. Mr. Chairman, I make the point of order on the amendment. I will reserve the point of order if the gentleman wishes to speak on it.

Mr. SABATH. Mr. Chairman, in the last 10 years the Tobacco Trust through its foster child, the United Cigar Stores Co., by the adoption of a scheme which is, in fact, nothing more or less than doing business under false representation, has, as no doubt you are aware, driven out of business in all the large centers the majority of the independent and small cigar manufacturers and dealers. Not that they manufacture better cigars or sell them at a lower price, but because through a certain misleading method which they have adopted, known as the "profit-sharing" plan, they have led the public to believe that they are giving them part of their profits by issuing to each customer with each and every purchase certain coupons and certificates which will entitle them, after they accumulate a large number, to a very valuable present or premium, while, in fact, Mr. Chairman, the value of these coupons and certificates is very small, and frequently, after such misled customer has smoked himself nearly to death, he will receive an article which is of no value to him. But inasmuch as the large percentage of the American people insist on being humbugged and fooled the scheme has enabled the United Cigar Stores Co. to so intrench itself that the independent honest dealer or dealers have no chance to compete against this giant monopoly.

In my own city I have seen hundreds of old and crippled men and feeble women who formerly secured a livelihood by engaging in the business of selling tobacco and cigars driven out of business by the unfair and unjust competition of this vicious monopoly.

To-day the independent dealers of this country are at the mercy of this combination, as it is impossible for them to compete with this trust, as they, the small independent dealers, living in the vicinity of their places of business, conduct their business honestly and do not and could not afford to practice tricks and deceit upon the community, as the unscrupulous trust managers do, who care not what they do as long as they secure business, and can show an increase of business to the board of directors.

The amendment that I have offered will, I believe, in a great measure, if adopted, put a stop upon this method of doing business and will give the independent dealers a chance and an opportunity to exist, as it will put them on equal terms with the trust, believing that the independent dealers and small cigar manufacurers can compete with the United Cigar Co. and can give the people better cigars, better tobacco for the same price that the United Cigar Stores can. My reason in believing this is based on the fact that in the majority of instances the trust has rented the most prominent corners, for which it is obliged to pay tremendously high rents, and pays its officers extremely high salaries, thereby being under heavy expense, where, on the other hand, the independent small cigar dealer or manufacturer is not obliged to do so and can do business on a smaller margin. Not having to pay these enormous rents and high salaries, it is plainly evident that it is not necessary for him to make as great a profit and enables him to give a better article at the same price, as the trust must sell a poorer grade with which to give their "profit-sharing" coupons and certificates, and to provide for large dividends.

I feel confident that if these trust-owned stores would be deprived of this special advantage, be prevented in continuing these misleading offers, and be obliged to do business on the same basis, that within a very short space of time all those who have been obliged to give up their places of business would again return and be in a position to earn a fair living for themselves and those dependent upon them. By accepting my amendment we will eliminate a great deal and put a stop to the abuses on the part of the great Tobacco Trust. I hope that the gentleman from Massachusetts will not press his point of order, hoping that he will recognize and appreciate the fairness of my amendment.

Mr. LONGWORTH. Will the gentleman yield for a question? I did not hear very well the gentleman's amendment when read. Does his amendment include coupons?

Mr. SABATH. That is what I meant—trading stamps and coupons.

Mr. LONGWORTH. I mean the coupon that is placed inside the package as well as the coupon or the trading stamp that is handed outside the package.

Mr. SABATH. I do not know whether that hurriedly drawn amendment provides for coupons, but that was my intention.

Mr. LONGWORTH. The gentleman knows there are two different ways of working this thing. One is by a coupon which is placed inside the package and the other is by a trading stamp which is handed to the purchaser at the time of his purchase.

Mr. SABATH. I believe my amendment would cover both of those cases.

Mr. LONGWORTH. The gentleman intends to cover both cases?

Mr. SABATH. I do; that is my intention.

Mr. PETERS. Mr. Chairman, there is a bill before the House at this Congress containing the provisions of the amendment offered by my colleague from Illinois. I am obliged to insist upon my point of order, as I fear that the amendment offered by the gentleman from Illinois would, if it were accepted and put in the bill, seriously jeopardize its passage at this time, and I have too much at heart the granting of this relief to the employees of the cigar factories to take any chances of defeating the bill by adding this amendment.

Mr. SABATH. Well, the gentleman has not stated his point of order on which he relies.

Mr. PETERS. My point of order is that it is not germane to the bill.

Mr. SABATH. I think it is germane to the bill. It adds simply another provision to the bill.

The CHAIRMAN. The Chair holds that the amendment offered by the gentleman from Illinois is not germane to the bill, and therefore sustains the point of order made by the gentleman from Massachusetts.

Mr. PETERS. Mr. Chairman, I move that the committee do now rise and report the bill to the House with a recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BYRNS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 24741, and had directed him to report the same back to the House with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. PETERS, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. PETERS. Mr. Speaker, inasmuch as several gentlemen have asked to extend remarks, I ask unanimous consent that remarks on this subject may be extended in the RECORD if submitted within five legislative days.

Mr. PAYNE. Mr. Speaker, reserving the right to object, I do not know whether I ought to allow this to be done or not. I am not in favor of electioneering in the CONGRESSIONAL RECORD. However, out of good nature, I will not object.

The SPEAKER. The request is that all Members shall have the right to publish remarks in the RECORD for five legislative days.

Mr. MANN. Mr. Speaker, I shall have to object.

INVESTIGATION OF SHIP LINES, ETC.

Mr. HENRY of Texas. Mr. Speaker, I offer a privileged resolution (H. Res. 587) from the Committee on Rules.

The SPEAKER. The gentleman from Texas [Mr. HENRY] offers a privileged resolution (H. Res. 587), which the Clerk will report.

The Clerk read as follows:

House resolution 587 (H. Rept. 1010).

Resolved, That the Committee on the Merchant Marine and Fisheries be, and is hereby, empowered and directed to make a complete and thorough investigation of the methods and practices of the various ship lines, both domestic and foreign, engaged in carrying our over-sea or foreign commerce and in the coastwise and inland commerce, and the connection between such ship lines and railroads and other common carriers, and between such lines and forwarding, ferry, towing, dock, warehouse, lighterage, or other terminal companies or firms or transportation agencies, and to investigate whether any such ship lines have formed any agreements, understandings, working arrangements, conferences, pools, or other combinations among one another, or with railroads or other common carriers, or with any of the companies, firms, or transportation agencies referred to in this section, for the purpose of fixing rates and tariffs, or of giving and receiving rebates, special rates, or other special privileges or advantages, or for the purpose of pooling or dividing their earnings, losses, or traffic, or for the purpose of preventing or destroying competition; also to investigate as to what methods, if any, are used by such ship lines, foreign or domestic, and railroads and other common carriers, or of any of the companies, firms, or other transportation agencies referred to in this section, to prevent the publication of their methods, rates, and practices in the United States; also to investigate and report to what extent and in what manner any foreign nation has subsidized or may own any vessels engaged in our foreign commerce; also to investigate and report to what extent any vessel lines and companies, or any of the companies, firms, or transportation agencies referred to in this section, engaged in our foreign or coastwise or inland commerce, are owned or controlled by railway companies, by other ship lines or companies, or by any of the companies, firms, or transportation agencies referred to in this section, or by the same interests and persons owning or controlling railroad companies, ship lines, or other common carriers, or any of the companies, firms, or transportation agencies referred to in this section; and said committee shall further investigate whether the conduct or methods or practices of said foreign steamship lines are in contravention of our commercial treaties or in violation of our laws, and what effect said methods and practices have on the commerce and freight rates of the United States; and shall further investigate what effect such combinations, agreements, understandings, working arrangements, and practices of railroads and our coastwise and inland shipping lines, or of railroads and such shipping lines and any of the companies, firms, or transportation agencies referred to in this section, or of railroads and over-sea shipping lines, whether domestic or foreign, if any are found to exist, have on the commerce and freight rates of the United States, and whether the same are in violation of the laws of the United States.

SEC. 2. That said committee shall report to the House all the facts disclosed by said investigation and what legislation, if any, it deems advisable in relation thereto.

SEC. 3. That said committee, or any subcommittee thereof, is hereby empowered to sit and act during the sessions or recess of Congress at such place or places as may be found necessary and to require the attendance of witnesses, the production of books, papers, rates, tariffs, and other documents, by subpœna or otherwise, to swear such witnesses and take their testimony orally or in writing.

SEC. 4. That said committee is hereby authorized to employ such counsel and experts and clerical and other assistance as shall be necessary to perform its duties hereunder.

SEC. 5. That the Speaker shall have authority to issue subpœnas for witnesses, upon the request of the committee, during the recess of Congress in the same manner as during the sessions of Congress.

Mr. HENRY of Texas. Mr. Speaker, I suppose gentlemen do not desire any explanation, inasmuch as the resolution is plain and speaks for itself. Still, if any Member is not satisfied with it, I will be glad to explain it.

Mr. MANN. I think it would be well to explain it generally.

Mr. HENRY of Texas. I will state in general terms that this is simply amendatory of resolution No. 425, and broadens that resolution to the extent that it takes into consideration certain wharf, dock, warehouse, and lighterage companies in order that the Committee on the Merchant Marine and Fisheries may investigate their affairs in connection with other matters that the House directed them to investigate under H. Res. 425. It broadens that resolution to that effect and that only. That is all there is to the resolution. I will be glad to answer any question about it.

Mr. ROBINSON. The former resolution related only to the shipping itself?

Mr. HENRY of Texas. Yes.

Mr. RODDENBERY. Mr. Speaker——

The SPEAKER. The gentleman from Georgia is recognized.

Mr. RODDENBERY. Mr. Speaker, this resolution calls for an investigation which is something in the nature of a commission, to make inquiry and report. We have the Immigration Commission, which was appointed some five years ago, designated to make an investigation and report on needed immigration legislation, spending about a million dollars of the public money. They have investigated and reported, and the committee of the House, as well as of the Senate itself, has acted on the report of the commission in part, and has now reported to this body a bill carrying into effect some of the recommendations of the report of that committee or commission. About June 1 I introduced a resolution, which was referred to the Committee on Rules, asking them to report out a special rule calling for the consideration at this session of the immigration bill. And before going into further commissions and investigations, I would like to inquire of the gentleman what investigation the Committee on Rules has made touching the resolution introduced by myself as well as by the gentleman from Alabama [Mr. BURNETT], who reported the bill, looking to the bringing in of a special rule, for consideration before the House of the bill for further restricting alien immigration as reported by the committee?

Mr. HENRY of Texas. Mr. Speaker, of course the gentleman will understand that this resolution relates to the shipping-trust investigation which has already been ordered. In regard to the bill to which the gentleman refers and the special rule, I will say that the Committee on Rules is giving very careful consideration to his rule, as they always do to anything coming from the gentleman from Georgia. And we will be sure to deliberate most carefully about it, and the bill will have every consideration to which it is entitled, coming as it does from the gentleman from Georgia.

Mr. RODDENBERY. Does the gentleman think that the consideration will be so long that it will not get out at this session of Congress?

Mr. HENRY of Texas. I would not like to make any prophecy in regard to that matter. It is an important matter and certainly will be carefully considered.

Mr. RODDENBERY. Has the committee reached any conclusion that they will bring in a special report for the consideration of that bill?

Mr. HENRY of Texas. I will state that several conclusions have been arrived at by different members of the committee, and the chairman of the committee is endeavoring to bring the members together. As soon as we can assemble a quorum of the committee, the bill, as I have said, shall be thoughtfully considered.

Mr. RODDENBERY. None having been taken——

Mr. HENRY of Texas. I will state that I shall not be unmindful of the views of the gentleman from Georgia when we take up the bill.

Mr. RODDENBERY. I appreciate the great consideration the gentleman in the future will give and the views he has expressed as to that resolution, but I want to earnestly suggest to the gentleman that after the Government has spent nearly $1,000,000 in getting a report through the commission, and after a committee of the House has reported the bill, before we extend further commissions and investigations we ought to give the public some legislation on this very important question.

I am not disposed to interpose any objection to this measure, but I merely wanted to bring it to the attention of the distinguished chairman of the Committee on Rules and let the House understand, if it is true, that the gentleman's committee would probably bring out a rule for the consideration of this immigration bill.

Mr. HENRY of Texas. Mr. Speaker, I am glad to have this public declaration on the part of the gentleman from Georgia in order that public acknowledgment may be made and his views shall not be overlooked or forgotten.

Mr. RODDENBERY. Of course, if the gentleman in any exigency should lose his equipoise and find himself in deep darkness, and should desire some enlightment, and my committee duties and other official Representative duties do not prevent and my social duties do not interfere, I should be glad to appear before the committee in perfect solemnity of heart and with all the dignity that should attach to a United States Congressman and proceed to enlighten the committee. [Laughter.]

Mr. HENRY of Texas. I wish to say, Mr. Speaker, that the committee has never forgotten for a moment that the gentleman from Georgia is the very first Member for whom we should send when we get into any difficulty and need enlightenment.

Mr. RODDENBERY. I lament that the gentleman has not proceeded far enough to discover that he needed that enlightenment and information heretofore. [Laughter.]

Mr. HENRY of Texas. I observe it now. Mr. Speaker, I call for a vote on the resolution.

The SPEAKER. The question is on the adoption of the resolution.

The question was taken, and the resolution was agreed to.

LEAVE TO ADDRESS THE HOUSE.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. HENRY of Texas. Yes.

Mr. MANN. Mr. Speaker, I ask unanimous consent that on Thursday next the gentleman from Wisconsin [Mr. BERGER] be permitted to address the House for one hour immediately after the reading of the Journal.

Mr. HENRY of Texas. Mr. Speaker, I hope that request will be granted.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that on next Thursday, immediately after the reading of the Journal, the gentleman from Wisconsin [Mr. BERGER] shall be permitted to address the House for one hour. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6176. An act for the relief of Gibbes Leykes;

S. J. Res. 119. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela; and

S. J. Res. 122. Joint resolution providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald.

Mr. MANN. Mr. Speaker, I desire to suggest the absence of a quorum.

Mr. HENRY of Texas. I hope the gentleman will withhold for a moment.

Mr. MANN. Mr. Speaker, I will withdraw my point of order as to the absence of a quorum.

HOUSE BILL WITH SENATE AMENDMENTS REFERRED.

Under clause 2 of Rule XXIV, House bill with Senate amendments of the following title was taken from the Speaker's table and referred to the Committee on the District of Columbia:

H. R. 20840. To provide for deficiencies in the fund for police and firemen's pensions and relief in the District of Columbia.

LEAVE TO PRINT.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent that there be printed in the RECORD an address by Dr. Hannis Taylor, former minister to Spain, on the subject of the American Commonwealth and Its Relation to the East and West. I will state that it is a very short address, but a very valuable one, on present conditions, and so forth.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent to print in the RECORD an address by Dr. Hannis Taylor. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I remember the other day that the distinguished gentleman from Georgia gave notice that he would hereafter object to any request for unanimous consent to extend remarks in the RECORD for the purpose of injecting political material. I rise to ask if this is a political matter?

Mr. HENRY of Texas. I will say to the gentleman that it is not. It is a very scholarly discussion of the subject.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. REILLY. Mr. Speaker, I ask unanimous consent to extend remarks on the bill H. R. 25741, the smokers' bill, just passed.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

Mr. OLMSTED. Mr. Speaker, I desire to print in the RECORD an address delivered by William D. Guthrie before the Pennsylvania Bar Association at its annual meeting at Cape May, June 25, 1912, on the subject of Constitutional Morality.

The SPEAKER. The gentleman from Pennsylvania [Mr. OLMSTED] asks unanimous consent to print in the RECORD a speech by Mr. Guthrie on Constitutional Morality. Is there objection?

Mr. ROBINSON. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Pennsylvania if this speech is of a political nature? The title of the speech seems to be somewhat obscure.

Mr. JAMES. Has that anything to do with the views of the Bull Moose candidate for President? [Laughter.]

Mr. OLMSTED. I will state that I have not read it through; but, so far as I have read it, it contains no politics. It does, however, make some references to criticisms which have been made of decisions of the Supreme Court.

Mr. MANN. The decisions of the Supreme Court of the United States are considered to be political on the other side of the Hall.

The SPEAKER. Is there objection?

There was no objection.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend and revise my remarks on the bill H. R. 25741.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] asks unanimous consent to extend and revise his remarks in the RECORD. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 47 minutes p. m.) the House adjourned until to-morrow, Wednesday, July 17, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 21721) granting pensions to Volunteer Army nurses of the Civil War, reported the same without amendment, accompanied by a report (No. 1006), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 22002), supplementing the joint resolution of Congress approved April 30, 1908, entitled "Joint resolution instructing the Attorney General to institute certain suits," etc., reported the same with amendment, accompanied by a report (No. 1008), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, reported the same without amendment, accompanied by a report (No. 1009), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LEVY, from the Committee on Claims, to which was referred the bill (H. R. 5769) for the relief of Frank Klein, reported the same with amendment, accompanied by a report (No. 1002), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 13016) for the relief of the West Kentucky Coal Co., reported the same without amendment, accompanied by a report (No. 1003), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 20385) to reimburse Charles S. Jackson, reported the same without amendment, accompanied by a report (No. 1004), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MOORE of Pennsylvania: A bill (H. R. 25779) creating a Panama Canal trade commission, and to enable the commercial, agricultural, and industrial interests of the United States to derive advantages from the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. STERLING: A bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States; to the Committee on the Judiciary.

By Mr. BELL of Georgia: A bill (H. R. 25781) to amend section 77 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. RAINEY: A bill (H. R. 25782) to establish in the Department of Agriculture a bureau of farm power; to the Committee on Agriculture.

By Mr. TILSON: A bill (H. R. 25783) authorizing the admission of ex-soldiers and ex-sailors of the War with Spain to the Temporary Home for ex-Union Soldiers and Sailors in the District of Columbia; to the Committee on the District of Columbia.

By Mr. STANLEY: Resolution (H. Res. 632) appropriating $1,000 for an investigation to ascertain whether there have been violations of the antitrust and other acts by the United States Steel Corporation and other corporations; to the Committee on Accounts.

By Mr. RUBEY: Resolution (H. Res. 633) providing for the consideration of H. R. 18323; to the Committee on Rules.

By Mr. RODDENBERY: Joint resolution (H. J. Res. 338) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States; to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Joint resolution (H. J. Res. 339) authorizing and directing the Secretary of State to confer with Great Britain and other nations with a view to their participation in the cost of construction and maintenance of the Panama Canal and the neutralization thereof; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FAIRCHILD: A bill (H. R. 25784) to correct the military record of Cleveland W. Goff; to the Committee on Military Affairs.

By Mr. FRANCIS: A bill (H. R. 25785) granting a pension to Margaret A. Trimmer; to the Committee on Invalid Pensions.

By Mr. HARRISON of Mississippi: A bill (H. R. 25786) granting an increase of pension to Arthur J. Martin; to the Committee on Pensions.

By Mr. HEFLIN: A bill (H. R. 25787) for the relief of Fannie Hoffman; to the Committee on War Claims.

Also, a bill (H. R. 25788) for the relief of Fannie Hoffman; to the Committee on War Claims.

By Mr. HUGHES of New Jersey: A bill (H. R. 25789) for the relief of William M. Grosvenor; to the Committee on Military Affairs.

By Mr. KINKEAD of New Jersey: A bill (H. R. 25790) for the relief of Melvin W. Sheppard; to the Committee on Claims.

By Mr. LANGHAM: A bill (H. R. 25791) granting a pension to Sarah E. Couch; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 25792) for the relief of William A. Steward; to the Committee on Military Affairs.

Also, a bill (H. R. 25793) granting a pension to George F. Parker; to the Committee on Pensions.

Also, a bill (H. R. 25794) granting a pension to Matthew Flynn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25795) granting a pension to Ella McGuigan; to the Committee on Pensions.

Also, a bill (H. R. 25796) granting a pension to John Henry Allen; to the Committee on Pensions.

Also, a bill (H. R. 25797) granting a pension to J. C. Shimer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25798) granting an increase of pension to Eliza A. Rittenhouse; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 25799) granting an increase of pension to George A. Bates; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 25800) granting a pension to Catherine Patterson; to the Committee on Invalid Pensions.

By Mr. UTTER: A bill (H. R. 25801) granting an extension of letters patent to Charles H. Matteson; to the Committee on Patents.

By Mr. WEDEMEYER: A bill (H. R. 25802) granting a pension to Alice S. Carey; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of A. B. Klar and 15 others, of Canal Dover, Ohio, against passage of a parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. BARTHOLDT: Memorial of the National Anti-Third Term League against election to office of President or Vice President of the same person for more than two terms and

proposed single term of six years; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. DIFENDERFER: Memorial of the Order of Independent Americans of Pennsylvania, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. DONOHOE: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. DYER: Petition of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Central Council of Social Agencies, of St. Louis, Mo., favoring passage of Senate bill 1, providing a bureau of health; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Antikamnia Chemical Co., of St. Louis, Mo., against passage of the Wright bill, a bill imposing a tax upon the production, etc., of habit-forming drugs; to the Committee on Ways and Means.

Also, petition of the Schmetzer Arms Co., of Kansas City, Mo., against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

Also, petition of the Charles F. Luehrmann Hardwood Lumber Co., of St. Louis, Mo., relative to shippers having the same opportunity to go to court to correct mistakes as the carriers; to the Committee on the Judiciary.

Also, petition of the American Embassy Association, favoring passage of House bill 22589, for legation and consular buildings; to the Committee on Foreign Affairs.

Also, petition of Mary F. Manis, of St. Louis, Mo., favoring passage of the Roddenbery-Simmons antiprize-fight bill so amended as to prohibit films of prize fights being sent from one State to another; to the Committee on Patents.

Also, petition of the Liquor Dealers' Benevolent Association of St. Louis, Mo., against passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of the Wagner Electric Manufacturing Co., of St. Louis, Mo., against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

By Mr. HUGHES of New Jersey: Petition of the American Truth Society, of Paterson, N. J., against passage of bill to celebrate 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. KINKEAD of New Jersey: Petition of citizens of New Jersey, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of the National Shorthand Reporters' Association, favoring civil-service laws affecting court reporters; to the Committee on the Judiciary.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in the patent laws; to the Committee on Patents.

By Mr. MAGUIRE of Nebraska: Petition of citizens of the first district of Nebraska, favoring regulation of express rates, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. McMORRAN: Petition of citizens of the State of Michigan, against passage of a parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. MOTT: Petition of the American Embassy Association, favoring passage of House bill 22589, for improvement of foreign service; to the Committee on Foreign Affairs.

Also, petition of the Shorthand Club, of New York, against passage of the Slemp bill (H. R. 4036) to provide reporters for United States district courts; to the Committee on the Judiciary.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

By Mr. SABATH: Memorial of the First Bersorssien Congregation and Congregation Anehir Odessa, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. WILSON of New York: Petition of the Shorthand Club, of New York, against passage of the Slemp bill (H. R. 4036) to provide official shorthand reporters for United States district courts; to the Committee on the Judiciary.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in the patent laws; to the Committee on Patents.

By Mr. YOUNG of Texas: Petition of citizens of Gilmer and adjacent territory in Texas, favoring preservation of the old Smithsonian weather records; to the Committee on Agriculture.

SENATE.

WEDNESDAY, *July 17, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

Mr. HEYBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Idaho suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dillingham	Martine, N. J.	Smith, Ariz.
Bacon	Fletcher	Massey	Smith, Ga.
Borah	Gallinger	Myers	Smith, S. C.
Brandegee	Gardner	O'Gorman	Smoot
Bristow	Gronna	Overman	Stone
Bryan	Heyburn	Page	Sutherland
Burnham	Hitchcock	Paynter	Swanson
Burton	Johnson, Me.	Percy	Thornton
Chamberlain	Johnston, Ala.	Perkins	Tillman
Clapp	Jones	Pomerene	Warren
Clark, Wyo.	Kenyon	Reed	Wetmore
Crawford	McCumber	Root	Williams
Culberson	McLean	Shively	Works
Cummins	Martin, Va.	Simmons	

Mr. THORNTON. I announce the necessary absence of my colleague [Mr. FOSTER] on account of illness. I make this announcement for the day.

The PRESIDENT pro tempore. Fifty-five Senators have answered to their names. A quorum of the Senate is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 56. An act to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations;

H. R. 22913. An act to create a department of labor; and

H. R. 25741. An act amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

S. 338. An act authorizing the sale of certain lands in the Colville Indian Reservation in the town of Okanogan, State of Washington, for public-park purposes;

S. 1152. An act granting an increase of pension to Mary Bradford Crowninshield;

S. 4745. An act to consolidate certain forest lands in the Paulina (Oreg.) National Forest;

S. 5446. An act relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908;

S. 6084. An act granting pensions and increase of pensions to certain soldiers of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation;

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes;

H. R. 17239. An act to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River;

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station an additional sum in accomplishing such exchange, or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof;

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 220. A joint resolution to grant American citizenship to Eugene Prince.

RECLAMATION OF WET LANDS (S. DOC. NO. 877).

Mr. WILLIAMS. Mr. President, I hold in my hand a document on the subject of the reclamation of wet lands in the United States, being resolutions of the National Drainage Congress in convention at New Orleans, April 10 to 13, 1912, with an address of M. O. Leighton, Chief Hydrographer, United States Geological Survey, on the national aspect of drainage.

I ask unanimous consent that it may be published as a Senate document.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Mississippi?

Mr. HEYBURN. We on this side could not hear the statement the Senator made.

Mr. WILLIAMS. Let the statement be read from the desk.

The SECRETARY. Resolutions of the National Drainage Congress, in convention at New Orleans, April 10 to 13, 1912——

Mr. HEYBURN. I have no objection.

The PRESIDENT pro tempore. Without objection, the paper will be printed as a Senate document.

REPORTS OF COMMITTEES.

Mr. MARTINE of New Jersey, from the Committee on Claims, to which was referred the bill (H. R. 7650) for the relief of I. S. Rogers and J. L. Worthley, reported it without amendment and submitted a report (No. 929) thereon.

Mr. BORAH, from the Committee on Education and Labor, to which was referred the bill (S. 6172) to regulate the method of directing the work of Government employees, reported it with amendments and submitted a report (No. 930) thereon.

Mr. JOHNSTON of Alabama, from the Committee on Military Affairs, to which was referred the bill (S. 3228) to correct the military record of Job Metts, submitted an adverse report (No. 931) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. SMITH of South Carolina, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 7071) to establish an agricultural plant, shrub, fruit and ornamental tree, berry, and vegetable experimental station at or near the city of Plainview, Hale County, in the State of Texas, reported it without amendment.

Mr. HEYBURN, from the Committee on Public Lands, to which was referred the bill (H. R. 12375) authorizing Daniel W. Abbott to make homestead entry, reported it without amendment and submitted a report (No. 933) thereon.

Mr. TOWNSEND, from the Committee on Claims, to which was referred the bill (S. 1154) for the relief of F. W. Theodore Schroeter, reported it with an amendment and submitted a report (No. 934) thereon.

He also, from the same committee, to which was referred the bill (H. R. 20873) for the relief of J. M. H. Mellon, administrator, James A. Mellon, Thomas D. Mellon, Mrs. E. L. Siverd, J. M. H. Mellon, Bessie Blue, Mrs. Simpson, Annie Turley, C. B. Eyler, Luella C. Pearce, John McCracken, A. J. Mellon, J. J. Martin, Eugene Richmond, Springdale Methodist Episcopal Church, Heidekamp Mirror Co., James P. Confer, jr., W. P. Bigley, W. J. Bole, and S. A. Moyer, all of Allegheny County, Pa., reported it without amendment and submitted a report (No. 935) thereon.

He also, from the same committee, to which were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were postponed indefinitely:

S. 6033. A bill for the relief of the sufferers of the *Maine* (Rept. No. 936); and

S. 3658. A bill for the relief of J. N. Whittaker (Rept. No. 937).

Mr. ROOT, from the Committee on Foreign Relations, to which was referred the joint resolution (S. J. Res. 103) directing the Secretary of State to investigate claims of American citizens growing out of the late insurrection in Mexico, to determine the amount due, if any, and to press them for payment, reported it with an amendment and submitted a report (No. 938) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 16191. An act to convey certain real estate in the village of Jonesville, Hillsdale County, Mich. (Rept. No. 939);

H. R. 1248. An act to authorize the Secretary of the Interior to convey a certain frame building (Rept. No. 940); and

H. R. 24598. An act for the relief of Jesus Silva, jr. (Rept. No. 941).

Mr. CHAMBERLAIN, from the Committee on Public Lands, to which was referred the bill (H. R. 2875) to provide for the exchange of national forest timber in New Mexico for private lands lying within the exterior limits of the Zuni National Forest, reported it without amendment and submitted a report (No. 942) thereon.

PROTECTION OF NURSERY STOCK.

Mr. CHAMBERLAIN. From the Committee on Agriculture and Forestry I report back favorably, with an amendment in the nature of a substitute, the bill (S. 4468) to regulate the importation and interstate transportation of nursery stock; to enable the Secretary of Agriculture to appoint a Federal Horticultural Commission, and to define the powers of this commission in establishing and maintaining quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes, and I submit a report (No. 932) thereon. I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

Mr. SMOOT. I should like to ask if it is a very long bill. It is the desire to go on with the sundry civil appropriation bill this morning.

Mr. CHAMBERLAIN. The bill is a little long, but it is a measure of the greatest urgency. It is for the purpose of preventing the importation into this country of infested nursery stock and fruit. It is desired by the California people at this time, because they are threatened with what is known as the Mediterranean fly. That is a fruit pest which operates on fruit very much as the boll weevil operates on cotton in the South. The larvæ of the pest are in the fruit itself, and develop into a very destructive pest when they once become prevalent. Owing to the urgency of the situation, the people out there are very anxious to have something done.

Mr. SMOOT. It is a Senate bill?

Mr. CHAMBERLAIN. It is a Senate bill, but a favorable report has been made on a similar bill in the House of Representatives, and it is pending there now.

Mr. SMOOT. I shall not object to the consideration of this bill, but I shall object to any further unanimous consent being given for the consideration of a bill when reported this morning.

The PRESIDENT pro tempore. The bill will be read, if there be no objection.

The SECRETARY. The amendment of the committee is to strike out all after the enacting clause and insert:

That it shall be unlawful for any person to import or offer for entry into the United States any nursery stock unless and until a permit shall have been issued therefor by the Secretary of Agriculture, under such conditions and regulations as the said Secretary of Agriculture may prescribe, and unless such nursery stock shall be accompanied by a certificate of inspection, in manner and form as required by the Secretary of Agriculture, of the proper official of the country from which the importation is made, to the effect that the stock has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests: *Provided*, That the Secretary of Agriculture shall issue the permit for any particular importation of nursery stock when the conditions and regulations as prescribed in this act shall have been complied with: *Provided further*, That nursery stock may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe: *And provided further*, That nursery stock imported from countries where no official system of inspection for such stock is maintained may be admitted upon such conditions and under such regulations as the Secretary of Agriculture may prescribe.

SEC. 2. That it shall be the duty of the Secretary of the Treasury promptly to notify the Secretary of Agriculture of the arrival of any nursery stock at port of entry; that the person receiving such stock at port of entry shall, immediately upon entry and before such stock is delivered for shipment or removed from the port of entry, advise the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or the District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, of the name and address of the consignee, the nature and quantity of the stock it is proposed to ship, and the country and locality where the same was grown. That no person shall ship or offer for shipment from one State or Territory or District of the United States into any other State or Territory or District, any nursery stock imported into the United States without notifying the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, immediately upon the delivery of the said stock for shipment, of the name and address of the consignee, of the nature and quantity of stock it is proposed to ship, and the country and locality where the same was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

SEC. 3. That no person shall import or offer for entry into the United States any nursery stock unless the case, box, package, crate, bale, or bundle thereof shall be plainly and correctly marked to show the general nature and quantity of the contents, the country and locality where the same was grown, the name and address of the shipper, owner, or person shipping or forwarding the same, and the name and address of the consignee.

SEC. 4. That no person shall ship or deliver for shipment from one State or Territory or District of the United States into any other State or Territory or District any such imported nursery stock the case, box, package, crate, bale, or bundle whereof is not plainly marked so as to show the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where such stock

was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

SEC. 5. That whenever the Secretary of Agriculture shall determine that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term "nursery stock" as defined in section 6 of this act may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests, he shall promulgate his determination, specifying the class of plants and plant products the importation of which shall be restricted and the country and locality where they are grown, and thereafter, and until such promulgation is withdrawn, such plants and plant products imported or offered for import into the United States or any of its Territories or Districts shall be subject to all the provisions of the foregoing sections of this act: *Provided*, That before the Secretary of Agriculture shall promulgate his determination that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term "nursery stock" as defined in section 6 of this act may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests he shall, after due notice, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney.

SEC. 6. That for the purpose of this act the term "nursery stock" shall include all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

SEC. 7. That whenever, in order to prevent the introduction into the United States of any tree, plant, or fruit disease or of any injurious insect, new to or not theretofore widely prevalent or distributed within and throughout the United States, the Secretary of Agriculture shall determine that it is necessary to forbid the importation into the United States of any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products from a country or locality where such disease or insect infestation exists, he shall promulgate such determination, specifying the country and locality and the class of nursery stock or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products which, in his opinion, should be excluded. Following the promulgation of such determination by the Secretary of Agriculture, and until the withdrawal of the said promulgation by him, the importation of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the said promulgation from the country and locality therein named, regardless of the use for which the same is intended, is hereby prohibited; and until the withdrawal of the said promulgation by the Secretary of Agriculture, and notwithstanding that such class of nursery stock, or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products be accompanied by a certificate of inspection from the country of importation, no person shall import or offer for entry into the United States from any country or locality specified in such promulgation any of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products named therein, regardless of the use for which the same is intended: *Provided*, That before the Secretary of Agriculture shall promulgate his determination that it is necessary to forbid the importation into the United States of the articles named in this section he shall, after due notice to interested parties, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further*, That the quarantine provisions of this section, as applying to the white-pine blister rust, potato wart, and the Mediterranean fruit fly, shall become and be effective upon the passage of this act.

SEC. 8. That the Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine the fact that a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States, exists in such State or Territory or District; and the Secretary of Agriculture is directed to give notice of the establishment of such quarantine to common carriers doing business in or through such quarantined area, and shall publish in such newspapers in the quarantined area as he shall select notice of the establishment of quarantine. That no person shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the notice of quarantine except as hereinafter provided. That it shall be unlawful to move or allow to be moved any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. That it shall be the duty of the Secretary of Agriculture to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District; and the Secretary of Agriculture shall give notice of such rules and regulations as hereinbefore provided in this section for the notice of the establishment of quarantine: *Provided*, That before the Secretary of Agriculture shall promulgate his determination that it is necessary to quarantine any State, Territory, or District of the United States, or portion thereof, under the authority given in this section, he shall, after due notice to interested parties, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney.

SEC. 9. That the Secretary of Agriculture shall make and promulgate such rules and regulations as may be necessary for carrying out the purposes of this act.

SEC. 10. That any person who shall violate any of the provisions of this act, or of the rules or regulations herein provided for, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court: *Provided*, That no common carrier shall be deemed to have violated the provisions of any of the foregoing sections of this act on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such from one State, Territory, or District of the United States into or through any other State, Territory, or District; and it shall be the duty of the United States attorneys diligently to prosecute any violations of this act which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

SEC. 11. That the word "person" as used in this act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

SEC. 12. That for the purpose of carrying out the provisions of this act there shall be appointed by the Secretary of Agriculture from existing bureaus and offices in the Department of Agriculture, including the Bureau of Entomology, the Bureau of Plant Industry, and the Forest Service, a Federal horticultural board consisting of five members, of whom not more than two shall be appointed from any one bureau or office, and who shall serve without additional compensation.

SEC. 13. That there is hereby appropriated, out of the moneys in the Treasury not otherwise appropriated, to be expended as the Secretary of Agriculture may direct, for the purposes and objects of this act, the sum of $25,000, which appropriation shall become immediately available.

SEC. 14. That this act shall become and be effective from and after the 1st day of October, 1912, except as herein otherwise provided.

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. SUTHERLAND. I should like to hear the first part of section 10 again read.

Mr. GRONNA. Mr. President, I do not intend to object to the bill; but I desire to ask those who are most interested in it, especially the Senator from California, if it should not be amended?

The PRESIDENT pro tempore. The Senator from Utah has asked that the first part of section 10 be again read.

Mr. GRONNA. Mr. President——

The PRESIDENT pro tempore. The Senator from North Dakota will be recognized when that has been done.

Mr. GRONNA. I do not understand that unanimous consent has been given for the consideration of the bill.

The PRESIDENT pro tempore. It has not; and the Chair has asked whether there is objection to its present consideration?

Mr. WARREN. Mr. President, I wish to reserve the privilege of objecting if the bill is going to lead to debate. I do not think we have time to discuss it. I would be glad if it could be considered without debate, if it is worthy of it.

Mr. SUTHERLAND. I should like to have the part of the bill indicated by me again read.

The PRESIDENT pro tempore. The Senator from Utah asks for the rereading of the first part of section 10. The Secretary will read as requested.

The Secretary read as follows:

SEC. 10. That any person who shall violate any of the provisions of this act, or of the rules or regulations herein provided for, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court.

Mr. SUTHERLAND. That is sufficient, Mr. President. I object to the consideration of the bill.

The PRESIDENT pro tempore. Objection is made, and the bill goes over.

Mr. CHAMBERLAIN subsequently said: I desire to have the bill that was reported by me from the Committee on Agriculture and Forestry a few moments ago referred back to the committee. We may be able to make some amendments that will meet the objections of Senators.

The PRESIDENT pro tempore. Without objection, the bill will be recommitted to the Committee on Agriculture and Forestry.

INCITEMENT OF INSURRECTION IN CUBA AND MEXICO.

Mr. SMITH of Michigan. From the Committee on Foreign Relations I desire to report back with amendments Senate resolution 335 authorizing the Committee on Foreign Relations to investigate whether any interests in the United States have been or are now engaged in inciting rebellion in Cuba and Mexico, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution.

The PRESIDENT pro tempore. The Chair will call the attention of the Senator from Michigan to the fact that the resolution authorizes an expenditure of money. Is it intended that it shall be taken from the contingent fund?

Mr. SMITH of Michigan. Yes.

The PRESIDENT pro tempore. The Senate will act upon the amendments reported by the Senator from Michigan and then the resolution will necessarily go to the Committee to Audit and Control the Contingent Expenses of the Senate. The amendments will be stated.

The SECRETARY. After the word "associations" insert the word "or." After the word "corporations" strike out "or other interests in" and insert "domiciled in or owing allegiance to," and in line 7, to strike out "and" and insert "or," and in line 15, after the word "sit," to insert "wherever necessary," so as to make the resolution read:

Resolved, That the Committee on Foreign Relations or a subcommittee thereof is hereby authorized and directed to inquire, investigate, ascertain, and report whether any persons, associations, or corporations, domiciled in or owing allegiance to the United States have heretofore been or are now engaged in fomenting, inciting, encouraging, or financing rebellion, insurrection, or other flagrant disorder in Cuba or Mexico against the lawful, organized Governments of those countries.

Resolved further, That said committee or a subcommittee thereof is hereby empowered to summon witnesses, to send for persons and papers, to administer oaths, and to take and secure whatever testimony and evidence may be required to ascertain and report upon the matters aforesaid; and said committee or a subcommittee thereof is hereby authorized for the purposes aforesaid to sit wherever necessary and act as well when Congress is not in session as when in session.

Resolved further, That the said committee is hereby directed to report the result of its said investigation and inquiry to the Senate during the first month of the next session of Congress; and the expenses incurred by such investigation and inquiry shall be paid from the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

The amendments were agreed to.

The PRESIDENT pro tempore. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GARDNER:

A bill (S. 7317) to provide increased quarantine facilities at the port of Portland, Me.; to the Committee on Commerce.

By Mr. MYERS:

A bill (S. 7318) to accept the cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park, and for other purposes (with accompanying paper); to the Committee on Public Lands.

By Mr. WORKS:

A bill (S. 7319) to authorize the sale and issuance of patent for certain land to H. W. O'Melveny; to the Committee on Public Lands.

By Mr. CHAMBERLAIN:

A bill (S. 7320) granting an increase of pension to Israel Wood (with accompanying papers); and

A bill (S. 7321) granting an increase of pension to Luther Thompson (with accompanying papers); to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 7322) for the relief of the estate of Oliver D. Greene; and

A bill (S. 7323) for the relief of Bernard G. Dingler and others, lately laborers employed by the United States military authorities under the Quartermaster's Department at San Francisco, Cal.; to the Committee on Claims.

By Mr. ASHURST:

A bill (S. 7324) granting a pension to Adam Lang; to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7325) for the extension of H Street east from Eighteenth Street north to Oklahoma Avenue (with accompanying paper);

A bill (S. 7326) for the extension of Maryland Avenue east of Fifteenth Street to M Street NE.; and

A bill (S. 7327) for the extension of Eighteenth Street east from Benning Road to K Street north; to the Committee on the District of Columbia.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $39,000 for completing the reestablishment of the light and fog-signal station marking Thimble Shoal, Chesapeake Bay, Va., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. OLIVER submitted an amendment proposing to appropriate $13,000 for installing mechanical stokers and otherwise improving the boiler plant at Frankford Arsenal, Philadelphia, Pa., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to lie on the table and be printed.

HOUSE BILLS REFERRED.

H. R. 56. An act to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations, was read twice by its title and referred to the Committee on the Judiciary.

H. R. 22913. An act to create a department of labor was read twice by its title and referred to the Committee on Education and Labor.

H. R. 25741. An act amending section 3392 of the Revised Statutes of the United States as amended by section 32 of the act of August 5, 1909, was read twice by its title and referred to the Committee on Finance.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. I move that the Senate proceed to the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

Mr. SIMMONS. Mr. President, is it in order to move a substitute for that motion?

The PRESIDENT pro tempore. It is not in order under the rules of the Senate.

Mr. SIMMONS. Then I ask for the yeas and nays on the motion.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate proceed to the consideration of the sundry civil appropriation bill, and, on that motion, the Senator from North Carolina demands the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. WETMORE (when his name was called). I desire to ask whether the senior Senator from Arkansas [Mr. CLARKE] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. WETMORE. I have a general pair with that Senator, and, in his absence, withhold my vote.

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. PENROSE]. If he were present, I should vote "nay."

The roll call was concluded.

Mr. CULBERSON (after having voted in the negative). As my pair, the Senator from Delaware [Mr. DU PONT] has not voted, I withdraw my vote.

Mr. BAILEY. I again announce my pair with the Senator from Montana [Mr. DIXON], and therefore withhold my vote. I further desire the RECORD to show that this announcement is to stand until the Senator from Montana finds it possible to return to the Senate.

Mr. LIPPITT. I have a general pair with the senior Senator from Tennessee [Mr. LEA]. I transfer that pair to the junior Senator from Michigan [Mr. TOWNSEND], and will vote. I vote "yea."

Mr. HEYBURN. I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. I inquire if he has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. HEYBURN. Then I transfer that pair to the senior Senator from South Dakota [Mr. GAMBLE], and will vote. I vote "yea."

Mr. BURNHAM (after having voted in the affirmative). I have a general pair with the junior Senator from Maryland [Mr. SMITH]. As he has not voted, I withdraw my vote.

Mr. WETMORE. I have already announced my pair with the senior Senator from Arkansas [Mr. CLARKE], but I transfer that pair to the Senator from New Mexico [Mr. CATRON], and will vote. I vote "yea."

Mr. BRADLEY. I am paired with the senior Senator from Maryland [Mr. RAYNER], and therefore withhold my vote.

Mr. SHIVELY. I wish to announce that my colleague [Mr. KERN] is unavoidably absent from the city on important business. He is paired with the junior Senator from Tennessee [Mr. SANDERS].

Mr. CHAMBERLAIN. I desire to announce for the day that the Senator from Oklahoma [Mr. OWEN] is paired with the Senator from Nebraska [Mr. BROWN].

Mr. SMITH of South Carolina (after having voted in the negative). When my name was called I inadvertently voted. I am paired with the junior Senator from Delaware [Mr. RICHARDSON], but I transfer that pair to the Senator from Oklahoma [Mr. GORE] and will allow my vote to stand.

Mr. MARTINE of New Jersey. I desire to announce the pair of the Senator from Arkansas [Mr. DAVIS] with the Senator from Kansas [Mr. CURTIS]. I make this announcement for the day.

Mr. BRIGGS (after having voted in the affirmative). I desire to inquire if the senior Senator from West Virginia [Mr. WATSON] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. BRIGGS. I have a general pair with the senior Senator from West Virginia, but I will transfer that pair to the Senator from New Mexico [Mr. FALL] and allow my vote to stand.

The result was announced—yeas 35, nays 28, as follows:

YEAS—35.

Borah	Crawford	Lippitt	Root
Bourne	Cummins	Lodge	Smith, Mich.
Brandegee	Dillingham	McCumber	Smoot
Briggs	Gallinger	McLean	Stephenson
Bristow	Gronna	Massey	Sutherland
Burton	Guggenheim	Nelson	Warren
Clapp	Heyburn	Oliver	Wetmore
Clark, Wyo.	Jones	Page	Works
Crane	Kenyon	Perkins	

NAYS—28.

Ashurst	Johnson, Me.	Overman	Smith, Ariz.
Bacon	Johnston, Ala.	Paynter	Smith, Ga.
Bryan	Martin, Va.	Percy	Smith, S. C.
Chamberlain	Martine, N. J.	Pomerene	Stone
Fletcher	Myers	Reed	Swanson
Gardner	Newlands	Shively	Thornton
Hitchcock	O'Gorman	Simmons	Tillman

NOT VOTING—31.

Bailey	Culberson	Gamble	Rayner
Bankhead	Cullom	Gore	Richardson
Bradley	Curtis	Kern	Sanders
Brown	Davis	La Follette	Smith, Md.
Burnham	Dixon	Lea	Townsend
Catron	du Pont	Owen	Watson
Chilton	Fall	Penrose	Williams
Clarke, Ark.	Foster	Poindexter	

So Mr. WARREN's motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. STONE. Mr. President, I desire to ask a parliamentary question.

The PRESIDENT pro tempore. The Senator from Missouri will state it.

Mr. STONE. I wish to inquire whether the action of the Senate in taking up the appropriation bill at this stage will have the effect of displacing the unfinished business that would come up at 1 o'clock?

Mr. WARREN. It will not.

The PRESIDENT pro tempore. In the opinion of the Chair, it does not interfere with the unfinished business, which will come up automatically at 1 o'clock under the rule.

Mr. WARREN. I ask unanimous consent that the formal first reading of the bill be dispensed with and that it be read for amendment, the committee amendments to be first considered.

Mr. CUMMINS and Mr. SIMMONS addressed the Chair.

The PRESIDENT pro tempore. The Chair will state the request. The Senator from Wyoming asks unanimous consent that the formal reading of the bill be dispensed with, and that it be read for amendment, the committee amendments to be first considered. Is there objection?

Mr. SIMMONS. I object.

The PRESIDENT pro tempore. The Senator from North Carolina objects.

Mr. WARREN. The Secretary, then, may proceed with the reading of the bill.

Mr. LODGE. Mr. President, a point of order.

The PRESIDENT pro tempore. The Senator will state it.

Mr. LODGE. As the bill will be read formally now, it will not have to be read again for amendments?

The PRESIDENT pro tempore. The Chair would concur in that view.

Mr. BACON. We on this side could not hear the colloquy, Mr. President.

Mr. SIMMONS. We could not understand what was said.

Mr. LODGE. I said that if the bill was read formally it would not have to be read again for amendments.

The PRESIDENT pro tempore. It would not.

Mr. LODGE. There is no question about that.

The PRESIDENT pro tempore. The reading of the bill will be proceeded with.

Mr. HEYBURN. Mr. President, I do not understand that this is one of the readings required, so that it may be dispensed with or any other action may be taken in regard to it. The third reading of the bill comes after the bill goes into the Senate, and not as in Committee of the Whole. It has been read twice in the Senate, and it is entirely within the province of the Senate——

Mr. LODGE. My point was that having the bill read formally does not delay it.

Mr. HEYBURN. Not at all. I merely want the RECORD to show that we are not acting under a misconception as to the reading of the bill.

PURCHASE OF MONTICELLO.

Mr. CUMMINS. I rise to ask unanimous consent for the present consideration of Senate joint resolution 92, which was before the Senate yesterday morning.

Mr. WARREN. Mr. President, the Senator is not going about it in just the right way to ask the unanimous consent of the Senate to displace the appropriation bill. He should first ask me to yield. So far as I am concerned, if the joint resolution will only take a moment or two and no debate will be involved, if I have the privilege of doing so, I will yield for the purpose of its consideration.

Mr. CUMMINS. It will take no time, I am sure.

Mr. LODGE. What is the joint resolution?

Mr. CUMMINS. Just a moment. I intend to offer a concurrent resolution to take the place of the joint resolution, which will remove every objection that has been or could be suggested to it, I think. It is a resolution which provides for the appointment of five Senators and, if the House of Representatives concur, five Members of the House to inquire as to the wisdom and the cost of acquiring for the United States the home of Thomas Jefferson.

The only objection made yesterday morning was that the preamble seemed to commit Congress to the very purpose for which the inquiry is sought. In the concurrent resolution which I shall submit I have omitted the preamble entirely, and if it is agreed to I shall move to indefinitely postpone the joint resolution.

The PRESIDENT pro tempore. Does the Senator from Wyoming yield to the Senator from Iowa?

Mr. WARREN. I can not yield unless the matter can be disposed of without any extended debate, because it is only a short time until another matter will come up.

Mr. CUMMINS. I assure the Senator from Wyoming that if it leads to any considerable debate I will do just as I did yesterday morning—withdraw it, because I do not intend that it shall interfere with the progress of the appropriation bill.

Mr. LODGE. Mr. President, I was not here yesterday when this matter came up, but it seems to me that it will necessarily involve some discussion, for it is apparently a scheme to take the property of somebody who does not want to sell it, as I understand. I should like to know a little more about it than I know now before I enter upon the scheme.

Mr. CUMMINS. Senators sit here and see resolutions of this sort—resolutions of inquiry—pass daily. Of course, if there is objection to-day, that is the end of it for the present.

Mr. LODGE. I do not object.

Mr. CUMMINS. But, if there is objection now, I intend to press it to a conclusion at some other time.

Mr. LODGE. I do not object, but there will necessarily be some debate.

Mr. CUMMINS. Oh, a great deal of debate if the committee was called upon to report either way, but no debate, it seems to me, based simply upon the appointment of a committee to inform the Senate and the House. There is no objection, I believe, Mr. President.

The PRESIDENT pro tempore. Is there objection?

Mr. WARREN. Reserving the right to object, if the concurrent resolution leads to debate, I do not object.

The PRESIDENT pro tempore. The Chair lays before the Senate the joint resolution indicated by the Senator from Iowa, which will be read by title.

The SECRETARY. A joint resolution (S. J. Res. 92) providing for the purchase of the home of Thomas Jefferson, at Monticello, Va.

Mr. CUMMINS. I offer the concurrent resolution which I send to the desk.

The Secretary read the concurrent resolution (S. Con. Res. 24), as follows:

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate be, and is hereby, authorized to ap-

point a committee of five Members of the Senate to act in cooperation with a similar committee to be appointed by the Speaker of the House of Representatives, to inquire into the wisdom and ascertain the cost of acquiring Monticello, the home of Thomas Jefferson, as the property of the United States, that it may be preserved for all time in its entirety for the American people.

The concurrent resolution was considered by unanimous consent and agreed to.

Mr. CUMMINS. I move that the joint resolution be indefinitely postponed.

The motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary proceeded to read the bill, and read to the end of line 6, on page 4.

Mr. REED. Are there two different copies of the bill? I have been trying to follow the reading by the Clerk, but my copy does not seem to correspond with the one he has.

The PRESIDENT pro tempore. The Clerk has been directed to read the bill in full.

The reading of the bill was resumed and continued to line 18, page 52.

Mr. CLAPP. Mr. President, will the Senator in charge of the pending appropriation bill yield to me for a moment?

Mr. WARREN. For what purpose?

Mr. CLAPP. Some days ago unanimous consent was given, at the suggestion of the Senator from Montana [Mr. MYERS], that the Indian appropriation bill might again be considered as to two items. It will take but a moment.

Mr. WARREN. It is in the nature of the completion of an appropriation bill, is it not?

Mr. CLAPP. It is to complete the Indian appropriation bill.

Mr. WARREN. If it will lead to no debate, Mr. President, I shall be glad to dispose of that measure in the order of business, and I yield for that purpose.

The PRESIDENT pro tempore. Without objection, the Senator from Minnesota will be recognized for the purpose stated by him.

INDIAN APPROPRIATION BILL.

Mr. CLAPP. Calling attention to page 29 of the Indian appropriation bill (H. R. 20728), I will state that, in line 5, the Senate struck out the committee amendment inserting the word "four" in place of the word "two" and inserted "two hundred and fifty." I ask to reconsider the vote by which the amendment of the Senate was agreed to.

The PRESIDENT pro tempore. The Senator from Minnesota moves to reconsider the vote by which the Senate amended the bill in the manner he has indicated. The Secretary will state the amendment.

The SECRETARY. On page 29, line 5, before the word "hundred," the Senate rejected the amendment proposed by the Committee on Indian Affairs to strike out "two" and to insert "four," and, after the word "hundred," the Senate inserted "and fifty," so as to read:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $250,000.

Mr. CLAPP. That was the action of the Senate. I move to reconsider the vote by which that amendment was adopted.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Minnesota.

The motion was agreed to.

Mr. CLAPP. Now, Mr. President, I move that the amendment reported by the committee be adopted, substituting the word "four" for the word "two," in line 5, on page 29, and striking out the words "and fifty."

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. CLAPP. On the same page, in lines 16 and 17, the Senate disagreed to the committee amendment inserting the words "and fifty." I move to reconsider the vote by which those words were stricken out.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 29, in line 16, after the word "hundred," an amendment was agreed to striking out the words "and fifty."

Mr. CLAPP. I move to reconsider the vote by which the amendment was rejected.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Minnesota.

The motion was agreed to.

Mr. CLAPP. I now move that the amendment reported by the committee inserting the words "and fifty," after the word "hundred," in line 16, be agreed to.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 29, line 16, after the words "one hundred," insert the words "and fifty," so as to read:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Blackfeet Indian Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, $150,000, etc.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. CLAPP. That is all I have to offer.

Mr. GAMBLE. Mr. President, there was a committee amendment on page 6 in regard to an appropriation of $75,000 to take care of the accounting and disposition of claims of licensed traders and other bona fide claimants. It was stricken out on a point of order made by the senior Senator from Kansas. I discussed the matter with the Senator before he left the city. He is now out of town. With his consent, I intended to offer an amendment to modify it in the amount proposed to be appropriated.

My attention has just been called to the unanimous-consent agreement for the reconsideration of this bill. I supposed it had been reconsidered generally, and I intended to offer that amendment. I simply make this suggestion to put my position right with the senior Senator from Kansas, and shall not offer the amendment, because I consider that to do so would be a violation of the unanimous-consent agreement.

Mr. CLAPP. The amendment ought to have been adopted, and were it not for the unanimous-consent agreement I would have a number of amendments of my own which I would offer.

Mr. GAMBLE. I think it is of the utmost importance, and it ought to have been agreed to.

The PRESIDENT pro tempore. Does the Senator now desire action on the bill?

Mr. CLAPP. I move the passage of the bill as amended.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MYERS. Mr. President, I wish to thank the Senate very sincerely for its very great courtesy in reconsidering the vote on the Indian appropriation bill in behalf of matters pertaining to Montana. I assure the Senate that its courtesy is very greatly appreciated by the Senators from Montana.

COTTON STATISTICS.

Mr. LA FOLLETTE. I submit a conference report on House bill 19403, with an accompanying statement.

The PRESIDENT pro tempore. The Senator from Wisconsin presents a report, which will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 2.

ROBERT M. LA FOLLETTE,
J. W. BAILEY,
S. GUGGENHEIM,
Managers on the part of the Senate.

W. C. HOUSTON,
JOHN H. SMALL,
E. D. CRUMPACKER,
Managers on the part of the House.

The PRESIDENT pro tempore. Does the Senator from Wisconsin desire to have the statement printed in connection with the report?

Mr. LA FOLLETTE. I do.

The PRESIDENT pro tempore. That order is made.

The statement is as follows:

STATEMENT.

The managers on the part of the Senate at the conference of the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton submit the

following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report: The House bill provided for the collection of certain statistics monthly; the Senate amended the bill to provide for the collection of the statistics quarterly. The conferees on the part of the Senate agreed to recede from these amendments and agree to the bill in the form in which it passed the House.

ROBERT M. LA FOLLETTE,
J. W. BAILEY,
S. GUGGENHEIM,
Managers on the part of the Senate.

Mr. BACON. I am not familiar with this matter. My colleague, I know, is very much interested, and so is the Senator from South Carolina [Mr. SMITH], and as neither of them is present, I do not know if the matter has been submitted to their judgment or not. I was simply about to suggest that we await their presence before taking final action.

Mr. LA FOLLETTE. I am very confident, Mr. President, that the amendments which were incorporated in the bill in the Senate did not and would not have the support of the Senators named by the Senator from Georgia, and that the bill as now agreed to, striking out those amendments, would meet their approval. However, if the Senator desires——

Mr. BACON. I have every confidence in the opinion of the Senator, but unless——

Mr. LA FOLLETTE. The change in the bill is simply this: The bill as passed by the House provided that certain cotton statistics should be made and published monthly. The Senate amended the bill by providing instead that the statistics should be published quarterly. The House conferees objected to the amendment adopted by the Senate on the ground that it was not so favorable to the cotton growers as it would be to have the statistics printed monthly. That reasoning appealed to the conferees on the part of the Senate, and they receded and agreed to the contention of the House.

Mr. BACON. I have no doubt of the statement of the Senator that the recommendations of the conferees will be acceptable to my colleague and the Senator from South Carolina and others who are interested in the same subject, who have given it attention and consideration. I see that my colleague has just entered the Chamber, and I will ask that the matter be submitted to him. It was on the question of agreeing to the conference report which the Senator from Wisconsin has just submitted and which I suggested should be allowed to remain without action until my colleague and the Senator from South Carolina were present.

Mr. SMITH of Georgia. Upon what subject?

Mr. LA FOLLETTE. Upon the subject of cotton statistics. The Senate conferees receded from the amendments adopted in the Senate and agreed to the bill as passed by the House.

Mr. SMITH of Georgia. That is thoroughly agreeable to me.

Mr. LA FOLLETTE. I was very certain it would be.

Mr. BACON. Then I withdraw any objection.

The PRESIDENT pro tempore. The question is on agreeing to the report of the committee of conference.

The conference report was agreed to.

Mr. LA FOLLETTE. I ask that the conference report lie on the table and be printed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25096) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The PRESIDENT pro tempore. The reading of the bill will be resumed.

The Secretary resumed the reading of the bill, beginning at line 19, on page 52, and continued to the end of line 20, on page 73.

THE PANAMA CANAL.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. Mr. President, at the time I moved that the Senate should proceed to the consideration of this bill I stated that it was not my intention, if I could do so without losing its place as the unfinished business, to have it interfere with appropriation bills and other privileged matters. Therefore I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business may be temporarily laid aside.

Mr. SIMMONS. I object.

The PRESIDENT pro tempore. The Senator from North Carolina objects.

Mr. BRANDEGEE. If any Senator desires to discuss the bill at present, of course I will yield the floor myself.

The PRESIDENT pro tempore. The consideration of the unfinished business will be proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. LODGE. Mr. President, I desire to say something in regard to this question of tolls in the Panama Canal, which was taken up the other afternoon and discussed here somewhat.

(At this point Mr. LODGE yielded for the transaction of certain routine business, which appears under its appropriate headings.)

Mr. LODGE. I yield to all morning business. No morning business seems to have been done to-day, and so I yield to all there is to do now.

Mr. WARREN. Mr. President, I wish to give notice that I will ask to-morrow, immediately upon the close of the routine morning business, to take up for further consideration the sundry civil appropriation bill.

Mr. SIMMONS. Mr. President, I believe that appropriation bills and bills to raise revenue are of equal——

Mr. LODGE. Mr. President, how did I lose the floor?

The PRESIDENT pro tempore. The Senator from Massachusetts has not lost the floor.

Mr. SIMMONS. The Senator had yielded to me. He yielded to everybody else.

Mr. LODGE. I thought the Senator had taken the floor in his own right.

Mr. SIMMONS. I understood that the Senator yielded to me.

Mr. LODGE. I do, with pleasure.

Mr. SIMMONS. I started to say, Mr. President, that I believe bills to appropriate public moneys and bills to raise revenue are of equal dignity under the rules of the Senate. I wish to give notice that to-morrow, immediately after the routine morning business, I shall move to take up what is known as the wool bill, and the President pro tempore having decided to recognize the Senator from Wyoming to take up the appropriation bill as against me to take up the wool bill to-day, I trust that he will extend to me the same favor of preference on to-morrow.

Mr. WARREN. Mr. President, in reply to the Senator from North Carolina, I beg to differ with the Senator in this: It is true that under our rules, in the same paragraph, after mentioning appropriation bills, revenue bills are mentioned. Thus revenue bills are mentioned as second to appropriation bills. The Government must authorize the wherewith to conduct business, just as a moment ago it was decided that an appropriation must be provided for before a certain matter could be put in motion or seriously considered.

Therefore I shall not concede that revenue bills stand on exactly the same footing as do the appropriation bills.

Mr. SIMMONS. Mr. President, by the same token, in view of the fact that there can be no money to appropriate until there are taxes levied to collect moneys, I should think that a bill to raise revenue ought to have priority over a bill to appropriate the revenue so raised.

Mr. BRANDEGEE. Mr. President, the regular order.

Mr. WARREN. Unfortunately, the measure the Senator has in charge is not to raise revenue, but to reduce revenue.

Mr. BRANDEGEE. I ask for the regular order.

Mr. SIMMONS. Unfortunately, the Senator's proposition is not a proposition to raise money.

The PRESIDENT pro tempore. The regular order is demanded. The Senator from Massachusetts is entitled to the floor.

Mr. LODGE. Mr. President, some time ago I started to say something in regard to the question of tolls charged on vessels passing through the Panama Canal, which was under discussion here the other afternoon when I was unfortunately absent. I now renew the attempt. The question of canal tolls has arisen in connection with representations made by the Government of Great Britain in regard to our rights in fixing tolls. It so happened that I was in London when the second Hay-Pauncefote treaty was made, and, although the draft was sent from this country, that treaty was really made in London and should properly be called the Lansdowne-Choate treaty. I mention this merely to show that I had some familiarity with the formulation as well as the ratification of that treaty. When the treaty was submitted by the President to the Senate it so happened that I had charge of it and reported it to the Senate.

The second Hay-Pauncefote treaty, as Senators will remember, embodied in substance the amendments which the Senate had made to the first Hay-Pauncefote treaty. England had refused to accept those amendments and then the second treaty was made embodying in principle all for which the Senate had contended.

When I reported that treaty my own impression was that it left the United States in complete control of the tolls upon its own vessels. I did not suppose then that there was any limitation put upon our right to charge such tolls as we pleased upon our own vessels, or that we were included in the phrase "all nations." But I see very plainly, Mr. President——

Mr. BACON. Will the Senator permit me before he passes from that point?

The PRESIDING OFFICER (Mr. CUMMINS in the chair). Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. I do.

Mr. BACON. I happened to be here at that time myself and also to be on the Foreign Relations Committee with the Senator. I want to ask the Senator if he can recall that either in the committee or in the Senate there was at any time an assertion of the opinion of Senators that that was the construction of the treaty. Does the Senator recall that that ever was asserted?

Mr. LODGE. You mean that we should have the right to determine the tolls?

Mr. BACON. Yes.

Mr. LODGE. I do not recall now that the question was ever raised.

Mr. BACON. I do not think it was.

Mr. SMITH of Georgia. On page 16, if the Senator will allow me, of pamphlet 85——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the junior Senator from Georgia?

Mr. LODGE. I yield to the Senator from Georgia. What pamphlet is it?

Mr. SMITH of Georgia. It is Document No. 85 of the Fifty-seventh Congress. This was a motion offered apparently in the Senate in connection with the treaty of December 13, 1900, which, after being amended by the Senate, I understand was not approved by Great Britain. On page 16 it seems that this amendment was offered:

> The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

I find that the Senate even rejected this, voting yeas 27, nays 43. I wanted to ask the Senator——

Mr. LODGE. That refers to the first treaty.

Mr. SMITH of Georgia. Yes.

Mr. BACON. That I had in mind, of course. If I recollect aright it was Senator Bard's amendment. I will not stop to explain it now, but my vote in favor of it was not on the ground that I favored free ships. But in view of the Senator's statement that he reported the bill, which was a fact, and indicating his familiarity with it, I wanted to ask him what his then construction of it was, whether he could recall that in the process of the making of that treaty, either while it was in committee or in the Senate, it was ever asserted by anyone as the proper construction of that treaty.

Mr. LODGE. I do not remember that any construction either one way or the other was asserted.

Mr. BACON. I do not either. I quite agree with the Senator in that regard, and it was for that reason that I asked the question.

Mr. LODGE. I mentioned merely my own impression, which was that it left the fixing of tolls to us, but it is very clear to anyone on the simple reading of the clause that the interpretation is open to doubt. I think on the face of the words either view can fairly be taken. Such being the case, Mr. President, I do not wish anything done by which this Government could ever be exposed to the suggestion even of not acting in good faith under a treaty. I think we should be most punctilious, even if there is nothing more than a doubt about a word, in carrying out the treaty strictly to its letter.

It is, of course, also true, as the Senator from New York [Mr. ROOT] pointed out, that if we should undertake simply to make our ships free, we should raise a question which would then, under our treaties of arbitration, necessarily go to The Hague.

Mr. CHAMBERLAIN. May I interrupt the Senator?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Oregon?

Mr. LODGE. I do.

Mr. CHAMBERLAIN. Is the Senator addressing himself now to the treatment of our vessels engaged in foreign commerce, or do his remarks apply, and are they intended to apply, to the coastwise trade?

Mr. LODGE. I mean all American vessels. For the purposes of this treaty, it does not make any difference what trade they are engaged in.

Mr. CHAMBERLAIN. Whether in the coastwise or the foreign trade?

Mr. LODGE. Not the slightest, I think.

Mr. SMITH of Georgia. I call the Senator's attention——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. I yield to the Senator from Georgia.

Mr. SMITH of Georgia. I desire to say, Mr. President, that in calling the Senator's attention to this matter I do it because I really want the benefit of his discussion and his opinion. I find in One hundred and ninety-fifth United States, page 332, in the case of Olsen *v.* Smith, the Supreme Court of the United States seemed to recognize an entire difference between our coastwise vessels and vessels engaged in foreign business, and they held that even under the Clayton-Bulwer treaty to give special privileges to a coastwise vessel was not violative of our agreements with Great Britain, as the coastwise trade was limited to American vessels, and for that reason a concession to them could not violate the right of any English vessel. It would seem that if that opinion is sound we would have no embarrassment about extending special privileges to coastwise vessels, and that they would occupy a position entirely different from our vessels engaged in foreign trade. I only wanted to call the Senator's attention to that opinion.

Mr. LODGE. I am very glad the Senator has done so.

Mr. SMITH of Georgia. If the Senator will permit me, I will say just one word more. I do not wish to discuss this subject at all elaborately, and I will detain him only a moment.

This last treaty especially emphasizes the preservation of our neutrality agreement with England under article 8 of the Clayton-Bulwer treaty, and asserts in substance that it is not intended to interfere with the general principles therein enunciated. In article 8 it is stated that the canal shall be open to citizens and subjects of the United States and Great Britain on equal terms——

Mr. LODGE. Where does the existing treaty refer to the Clayton-Bulwer treaty?

Mr. ROOT. In the preamble.

Mr. LODGE. Oh, in the preamble. Yes; I remember that.

Mr. SMITH of Georgia. In the preamble.

Mr. LODGE. But, Mr. President, in my opinion, for the purposes of this treaty, there is no distinction to be drawn between American vessels engaged in coastwise traffic and American vessels engaged in foreign trade. There is no such distinction in the treaty. It says "the vessels of all nations."

Of course, the decision in the United States Supreme Court does not bind Great Britain and would not prevent this question from going to The Hague. Under our treaties of arbitration, in my judgment, nothing could prevent this question from going to The Hague, if we live up to the existing treaties of arbitration which we have with 26 other powers. If it goes to The Hague, I think we may take it as decided now. It is not likely that the United States would ever get a favorable decision from that tribunal on a question where the interests of Europe are on one side and those of the United States on the other. But, Mr. President——

Mr. SMITH of Georgia. Is it not very clear——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. I do.

Mr. SMITH of Georgia. Is it not almost beyond doubt that the United States would lose?

Mr. LODGE. Unquestionably. Therefore, Mr. President, in the first place, I desire to observe the treaty. If there is any doubt about it, I desire to observe it in the most punctilious manner. In the second place, if we put in free ships we are simply running ourselves into a prejudged award, which may take the form of refunding all other payments made by other nations or compel large payments by ourselves.

But the English note, as I understand it, which was submitted to us, goes a step further. It undertakes to suggest that we can not, if we choose, pay the tolls of our own vessels, because if we pay the tolls of the American vessels it amounts to giving them free passage. Of course, paying the tolls would cost the United States nothing, no more than if the passage was made free; it amounts to giving them free passage through the canal.

This proposition I regard, Mr. President, as a totally different thing from the question of the right of giving free passage to our own vessels, and I for one will never admit that any foreign power has the right to say what we shall give to our

shipping or our railroads or anything or anybody we please, if we choose to give it. That is a domestic question for us and for nobody else to settle. If we saw fit in that way to give American vessels the benefit of the canal which we have built and paid for, we have a clear right to do it, and we violate no treaty injunction by doing it.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from South Dakota?

Mr. LODGE. I do.

Mr. CRAWFORD. I ask the Senator if that does not violate the maxim that you can not do indirectly what you are prohibited from doing directly?

Mr. LODGE. Because, Mr. President, the proposition is that all ships shall pay the same tolls. Now, if the American ships pay the same tolls, nobody can go behind that and ask where the money came from.

Let me call attention to certain facts in that connection.

Through the Suez Canal pass, of course, the vessels of the Peninsular & Oriental Steamship Co., a great British company, which carries on a vast traffic with India and the East. The canal tolls paid by this great British line in 1907 aggregated £333,000. The subsidies aggregated £332,784.

For 1910 the tolls were £357,000 and the subsidies £297,000.

The North German Lloyd, which passes through the Suez Canal, was paid a Government subsidy of $1,385,000, which substantially paid all the Suez Canal tolls of the great German Fleet passing back and forth through that canal.

The French subsidies to the three French lines amounted to $1,145,000. "In some instances"—I am quoting now from the report of the Commissioner of Navigation—"the nations make direct appropriations for the payment of the tolls by their vessels in the Suez Canal." For instance, "the Russian budget in 1909 carried an item of 650,000 rubles ($334,750) to pay the tolls of the merchant steamships of the Russian Volunteer Fleet."

Austria pays all the tolls of her vessels passing through the Suez Canal, and other countries—Sweden and Japan among them—pay a large proportion of the tolls of their vessels.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from South Dakota?

Mr. LODGE. I yield.

Mr. CRAWFORD. Were these tolls paid in express terms as tolls?

Mr. LODGE. They were paid in the case of Austria and Russia in express terms as tolls. The appropriations were made for tolls. I merely want to show what is done in the case of the Suez Canal.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Minnesota?

Mr. LODGE. Yes.

Mr. CLAPP. It was stated here the other day with reference to England, at least, that these payments were in the nature of rebates, as subsidies for carrying the mail, I think. When the Senator says it is an appropriation for tolls, is he advised as to whether there is any consideration for the tolls moving the Government to the appropriation of the tolls, or is it a direct effort to simply relieve the ships of the burden of the tolls?

Mr. LODGE. It is an appropriation to relieve the ships. If the Senator desires, as it is all here in the report of the Commissioner of Navigation, I will read it. It is done specifically.

In some instances the appropriation is made in terms to pay the Suez tolls, as the Russian budget in 1909 carried an item of 650,000 rubles ($334,750) to pay the tolls of the merchant steamships of the Russian Volunteer Fleet. In 1909 the tonnage of that company was 130,200 net tons, so the Government grant was equal to $2.57 per net ton. At that time the Suez Canal dues were at the following rates: Seven francs seventy-five centimes ($1.50) per net ton on ships with cargo and 5 francs 25 centimes ($1.01) on ships in ballast. At the same time a charge of 10 francs ($1.93) was made on adult passengers, while children between 3 and 12 years old were charged at half rates, and no charge was imposed on children under 3 years. The Russian Government, accordingly, provided for the payment of canal charges not only on the tonnage of the ship, but also on the men, women, and children carried on board.

Mr. CLAPP. Yes; but does the report in this case disclose the purpose?

Mr. LODGE. It discloses that appropriations are made for tolls. They are made exactly and in precise words for tolls; they are adjusted so as to pay them precisely, not only on the tonnage, but on the passenger.

Mr. CLAPP. Yes; that is true; but does it exclude any other idea? Is the information before the Senate——

Mr. LODGE. Absolutely excluding any other idea.

Mr. CLAPP. That is what I wanted to get at.

Mr. LODGE. There are no services whatever rendered by the ships to their governments in return.

Mr. REED and Mr. BRANDEGEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield, and, if so, to whom?

Mr. LODGE. I yield to the Senator from Missouri.

Mr. REED. I noticed the language the Senator from Massachusetts read contained the words "the Russian volunteer fleet." Does the Senator understand that that is some fleet which is attached to the war vessels of the Russian Government and subject to be called upon?

Mr. LODGE. The Russian Government may have some right of calling on them in time of war, as we have of calling on the American steamship line.

Mr. REED. The inquiry was brought about by the thought that possibly there might be some circumstance of that kind which would enable the Russian Government to claim that this was a special benefit paid for by them in consideration of the service of this fleet, or its liability to service, in time of war; and I thought perhaps the Senator could enlighten me upon that point.

Mr. LODGE. I think not, Mr. President; I think it is specific. It is as clearly stated as possible. The Commissioner of Navigation says, to begin with:

About 25 per cent of the Suez Canal tolls on foreign merchant vessels are now paid in one form or another from the treasuries of the nations whose flags those vessels fly, respectively.

Mr. BRANDEGEE and Mr. STONE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield, and to whom?

Mr. LODGE. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. The Senator from Massachusetts will not claim, will he, nor does the Commissioner of Navigation claim, that any part of such mail subsidies or bounties as may be appropriated or paid by the British Government, is for the specific purpose of reimbursing their vessels for the tolls paid for passing through the Suez Canal?

Mr. LODGE. I did not say it was. I said that, as a matter of fact, they did it, but I did not say they did it specifically for that purpose.

Mr. STONE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. I do.

Mr. STONE. The Senator from Massachusetts has stated that the Russian Government, for example—and I think he possibly named one or two others—paid tolls out of the treasury of the nation exacted on vessels of Russian register passing through the Suez Canal. The inquiry I make is to this effect: Whether the Senator can tell the Senate if the tolls paid in the first instance, presumably by the owners of the vessels passing through the Suez Canal, are covered into the Russian treasury, and whether, if that be true, the Government of Russia merely refunds that money to such vessels?

Mr. LODGE. The Russian Government does not own the Suez Canal. Those are for outright payments. I do not think Russia is even a stockholder.

Mr. STONE. It has no interest whatever in it.

Mr. LODGE. I do not think it has. I can not tell accurately. The principal stockholder is Great Britain, of course.

Mr. STONE. I am aware of that fact.

Mr. LODGE. And I think the remainder of the stock is distributed very widely among smaller stockholders.

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Washington?

Mr. LODGE. Certainly.

Mr. JONES. I merely wish to state that my recollection is that, either in the same report from which the Senator has read or in a later report, the Commissioner of Navigation states that the Spanish Government is now preparing to take care of the tolls that steamship lines being established to go through the Panama Canal will be required to pay.

Mr. LODGE. That must be in a later report. I do not think it is here. I am obliged to the Senator for the suggestion.

Mr. JONES. I know there is a suggestion of that kind in one of the reports of the Commissioner of Navigation.

Mr. LODGE. Now, let me call attention to some details in order to show that there is no misapprehension about it—that it is not attempted to do it under another form. Take Austria. Austria provides an annual subsidy of 4,700,000 crowns for the Austrian Lloyd Steamship Co., but it contains another article, which is given here in German, which says that the company is also to receive for the passage of the Suez Canal on lines 9, 10, and 11, an amount equal to the tolls paid. The Commissioner of Navigation says:

Of course this means that the Austrian treasury, besides the subsidies, will pay annually the tolls on the following Austrian merchant voyages through the Suez Canal.

* * * * * * *

In the case of Sweden, the Swedish royal foreign office on May 26, 1908, advised the American minister at Stockholm:

"The maritime navigation company (Svenska Ostasiatiska Kompaniet) receives from the State, for the years 1907–1911, a subvention of 1,850,000 crowns to insure a regular service between Sweden and the ports of the extreme Orient. This subvention has been calculated in a manner to represent the amount of the tolls paid by the ships of the company for passing the Suez Canal."

Mr. President, I do not bring out these facts for the purpose of advocating subsidies or anything of that character; I bring them out to show that in the Suez Canal, where there is precisely the same provision, beginning in the concession to De Lesseps in 1854, for equality of tolls among all nations, it has never been considered for a moment a breach of that agreement for any nation to pay the tolls of its own vessels going through the canal, if it sees fit to do so.

How could it be otherwise? The Austrian-Lloyd steamships go through the Suez Canal and pay the tolls. Is Great Britain to stand up and say, "We can not permit those tolls to be paid by the Austrian Government; those vessels are having an undue privilege"? Austria would say to England or to any other power which for one moment attempted to do that, "What we give our vessels or what arrangements we make with our steamship companies or with any domestic institution is our affair. If the money is received for the toll, you have no right to go behind it and ask where the money came from."

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from South Dakota?

Mr. LODGE. Yes.

Mr. CRAWFORD. If we concede that it would be a violation of the treaty for Austria or the United States or any other government to make provision by which its vessels engaged in a local business within its own territory could go through such canal free, does it not follow that a provision of that kind in a treaty, recognized everywhere as the highest form of law and the most sacred form of obligation, could not be overridden by some municipal regulation, call it domestic, if you please, but which, in effect, rendered nugatory the provision of the treaty?

Mr. LODGE. Mr. President, I confess it is difficult for me to comprehend that such an attitude should be taken. We will assume, for the purposes of argument, that we have agreed that the same tolls shall be charged to vessels of the United States as to all other vessels. When vessels of other countries begin to go through the canal and we learn that Austria appropriates money for the tolls for her vessels, have we a right to turn around to Austria and say, "You must not do that; it is an evasion of the terms of the treaty, because you are paying the tolls of your vessels"? Those are not the terms of the treaty. The terms of the treaty are that the tolls collected from all vessels shall be the same.

Mr. NELSON and Mr. CHAMBERLAIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield, and, if so, to whom?

Mr. LODGE. I yield to the Senator from Minnesota.

Mr. NELSON. Mr. President, I desire to call the attention of the Senator from Massachusetts to the fact that the subsidies, to which the Senator has referred as being granted by foreign nations, relate only to particular lines that are carrying the mails or to cases where it is sought to establish a line between different points, while the larger share of the commerce is carried on in what are called "tramp" vessels, which are never subsidized.

I want to call the Senator's attention further to the fact, that in our coastwise trade American ships have an absolute monopoly. I can not travel from one port to another on the Atlantic coast or anywhere else in this country except in an American ship. If I travel in any other, I or the ship would have to pay a fine of $200. They have a complete monopoly of the whole trade. They not only have a monopoly of the merchandise they carry from port to port, which is all right enough; but, if I am stranded in one of the coast towns on the Atlantic coast, and want to go to another port along the coast, if no American ship is available and I happen to take a foreign ship which chances to be at hand, there is a fine of $200 imposed on the ship; and, of course, the ship will not stand it, but the man who has to travel in that way will have to pay the fine. In view of all those privileges, to give all these vessels the free privilege of the Panama Canal, built by the funds of the American people, seems to me utterly unfair and unjust. We are simply adding another burden, another bonus, another privilege to American shipping. The only statutory monopoly we have in this country is the coastwise trade; and this proposition is to add to the power of that monopoly, and nothing else.

Mr. LODGE. Mr. President, the Senator entirely misapprehends the point I am endeavoring to make. I am not arguing in favor of advantages to the American coastwise traffic or even to the few American vessels engaged in foreign business, which have no protection whatever. The point I am trying to make is, that I do not think any foreign government has the right to come in here and dictate to us whether we shall or shall not, if we so choose, pay the tolls on American vessels. They have the right to protest if we make our vessels free; but when they go beyond that and try to say what we shall do in the matter of domestic legislation, I, for one, would like to enter my protest against it.

Mr. FALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from New Mexico?

Mr. LODGE. I do.

Mr. FALL. Merely to make a suggestion to the Senator from Massachusetts. Suppose you should read into the Hay-Pauncefote treaty with reference to tolls the following language:

The tolls or dues shall be collected, without any exceptional favor, from all vessels in like circumstances.

Then, would the Senator entertain the same objection which he is now discussing with reference to our right to evade, if not to violate, the treaty?

Mr. LODGE. Mr. President, of course if the language of the treaty were other than it is we should have a different interpretation. I am dealing with the language of the treaty as it is.

Mr. FALL. I am dealing with the proposition of law that, in construing a statute which is ambiguous, you can consider other statutes in connection with it upon the same subject.

Mr. President, there is something more than merely the strict wording of the Hay-Pauncefote treaty, it seems to me, to be considered here. For instance, there is the Panama treaty, under which we have constructed the Panama Canal; and back of that Panama treaty the ratification and sale by Panama to the United States Government for $40,000,000 of the concession under which the French undertook to construct the canal, which concession was ratified by Panama in its grant to the United States of the right to build the canal.

If the Senator will permit me, if he will examine article 8 of the treaty of the United States with Panama, of 1903, he will find that by that article—

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Co. and the Panama Railroad Co. as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Co. to sell and transfer to the United States its rights, privileges, properties, and concessions—

That is, the rights, privileges, properties, and concessions of the New Panama Canal Co.—

as well as the Panama Railroad and all the shares or part of the shares of that company.

And public lands, which were not necessary to the construction of the canal which had been granted by Colombia by the concession referred to and here ratified, were to be the property of the Republic of Panama.

In that same treaty not only is the transfer and the original concession, constituting the basis of our title to this property, ratified by terms, but also the Hay-Pauncefote treaty is referred to and ratified.

In the original concession, for which we paid $40,000,000 and which is the basis of our title—and I might mention incidentally, because of the failure of Colombia to ratify a treaty which would give the United States the power to acquire that canal property, which it did not have under the concession itself—because of that failure it is understood that the rebellion in Panama ensued, and Panama did what Colombia refused to do—allow this concession to be transferred to a foreign Government.

Under the original concession, article 14 of the concession for the building of the Panama Canal provides distinctly as to the tolls to be collected:

That they shall collect these dues, without any exceptional favor, from all vessels in like circumstances.

We bought this and paid for it, and then took a deed from Panama ratifying this concession in these words, and also ratifying the Hay-Pauncefote treaty. It seems to me that, considering them altogether, there is no question about not only the lack of right in the United States to adopt these tolls but that it would be an evasion of the strict terms, which should be read into the Hay-Pauncefote treaty, for us to do by indirection what we can not do directly.

Mr. LODGE. Mr. President, I was on the committee which had charge of the Panama treaty to which the Senator refers, and gave some attention to it at the time. So I am not unfamiliar with its provisions. It does not seem to me to alter the case. The point I am making is not whether I think or do not think we ought to make the canal free; it is not whether, on the merits of the case, we should remit the tolls or give American ships money to pay the tolls; that is a question to be

decided on its merits. My proposition is simply this: That I deny wholly the right of any outside power to come here and tell us what arrangements we shall make with our own shipping. They may protest against exemption from all tolls; I grant that, although the clause in the treaty is doubtful; and that they may fairly take us before The Hague court; but if we are to admit that a foreign Government can say to us what arrangements we shall make with our own shipping, it seems to me there is absolutely no limit to the domestic questions which may be carried before The Hague court for decision, and no limit to the power foreign Governments may exercise over us.

Mr. BACON. Will the Senator permit me there?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. Certainly.

Mr. BACON. If there were a reference to The Hague, it would not be as to what we would be permitted to do in the regulation of our own shipping or in the exaction of tolls from it, but it would be a question as to what would be the resulting right to other nations if we did certain things in favor of our own shipping. That, I think, would be the question.

Mr. LODGE. Exactly.

Mr. BACON. And not the question as to whether we had a right to make any particular provision as to our own shipping. The question would be the consequential right which flows to them.

Mr. LODGE. Out of this, of course, grows the inevitable inference that if foreign nations can prevent our paying the tolls of our vessels, if we see fit to pay them, what is there to prevent us saying to them when we fix the tolls, "You have no *right to pay* the tolls of your vessels going through the canal. That is not putting them on an equality; that is an exceptional favor that you would grant to this Austrian line or this Russian line or this English line." Suppose we should say to Great Britain, if they were to send great ships through the Panama Canal such as ply between Liverpool and New York, "You made a free gift of the *Mauretania* and the *Lusitania* to the Cunard Co.; you made them a loan of £4,000,000 to build those ships, and then you gave them a subsidy that pays the interest on it"; and suppose we should undertake to say, "You must not do that; we can not have vessels going through the canal under those conditions"; why, Mr. President, no nation would tolerate such treatment for a moment. Our power to fix the tolls does not give us the power to go behind and inquire who is paying the tolls. Of course it does not; and I say if we have not the power to go behind the actual payment and cross-question Austria and England and the other powers as to how the tolls on their ships are paid, they have not the right to come in here and ask who is paying the tolls on our ships. That is what I resent.

I am not prepared to say it is a good thing for us to make the canal free to our ships or that they should not pay tolls. I had hoped the canal might be of some benefit to our shipping; but I have come pretty well to the conclusion that it is not the intention of this Government ever to help American shipping; in fact, it is now apparently expected that we should throw the coastwise shipping open to all the world. No other nation admits everybody in their coastwise trade; but, however that may be, I do protest against the doctrine that what we do to our shipping in regard to tolls or anything else is a matter for a foreign government to regulate.

Mr. PERCY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Mississippi?

Mr. LODGE. I do.

Mr. PERCY. I understood the Senator made the statement that no other country throws open its coastwise trade to foreign countries. Is he not mistaken about that in regard to England? Is not the coastwise trade of England thrown open to vessels of the world?

Mr. LODGE. I do not think so; I think they have restrictions in favor of English vessels.

Mr. PERCY. That is my impression in regard to it.

Mr. LODGE. Certainly there are coastwise restrictions in the case of every other country except England, and England restricts by light dues and port dues and rules of Lloyds, which amount to the same thing.

Mr. BACON. Does the Senator mean, in the case of England, the coastwise trade between England and the various parts of the empire?

Mr. LODGE. Oh, no; I simply mean the coastwise trade of Great Britain and Ireland.

Mr. BACON. That is a very small matter in point of territory.

Mr. LODGE. Oh, that coastwise trade of Great Britain and Ireland is very large, indeed.

Mr. BACON. I say in point of territory it is very restricted.

Mr. LODGE. In that respect; yes.

Mr. BACON. Of course, if you include the whole British Empire, that would be very vast.

Mr. LODGE. I did not mean to include the colonies of England in her coastwise trade.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. I do.

Mr. REED. If it be true, as maintained by some, that if this Government were to pay subsidies to our ships passing through the canal equal to the tolls collected and that foreign governments could object to that as a discrimination, or, rather, as a violation of the terms of this treaty, would it not follow for this reason that this Government would then be in a more unfortunate condition with reference to the canal it built than any other nation? Other nations do pay subsidies to their ships, and would it not permit the other nations to pay subsidies to their ships and deny us the right they would exercise?

Mr. LODGE. Absolutely. I agree with that statement.

Mr. REED. I say that because I am inclined to concur with the Senator in his analysis of this legal question, although I am very far from being convinced that we ought to pay any subsidy.

Mr. LODGE. That is another question.

Mr. REED. Yes.

Mr. LODGE. It is not a question which I am attempting to discuss now. But I wanted to draw the distinction between the question of making our ships free through the canal, which I believe is open to question under the treaty and therefore should not be attempted, and the right of this Government, if it chooses, to grant to its ships the amount of the tolls. As to the second question, I can not see that any foreign government has the right to enter into it at all. It is for us to determine, and if we determine it is not wise to do it, very well; but if we determine that it is wise to do it, I hold it is nobody's business but our own.

Mr. REED. The Senator will pardon me a further word. It seems to me a good deal would depend upon the form in which it was done. If in a bill fixing tolls we were to provide that in the event of American vessels going through the canal there should be remitted to them the amount of the tolls, it would present one question; but if we were to provide what tolls should be charged and then if we were to provide in a separate bill that there should be paid to all American vessels carrying freight going through the canal certain sums, and if those sums happened to be the same as the tolls, it seems to me it would be very difficult for any foreign government to raise the question.

But if in the same bill, manifestly for the purpose of remitting the tolls, we were to provide for an absolute remission, it seems to me it would be a different question. I do not know whether I make myself plain.

Mr. LODGE. Certainly.

Mr. REED. I think a great deal depends upon the form in which it is put, and in my humble capacity I state it without committing myself to that doctrine.

Mr. LODGE. I think the question lies as the Senator stated it before; that to attempt otherwise would be to admit that they had a control over the canal that we did not exercise.

Now, of course, this grows out of a very simple thing. This whole excitement has arisen out of the fact that there is one country, and only one country, in the world which is situated in regard to the canal just as we are, and that is Canada. England is not worrying over her own merchant marine. Her great merchant marine is not going to be affected by whether our ships go through free or whether they pay tolls. The trouble is the Canadian voyage. If our ships should have an advantage the Canadian business would probably come in American vessels to American ports, and then by American railroads in bond back to Canada. The Canadians do not like that, and they would rather not pay a subsidy to equalize it, if that should happen. That is the cause of all this.

I am not finding any fault with them. I do not find fault that they should look after their own. I wish we did it a little better.

But I desired to make protest against this attempt to go beyond the question of our right to fix tolls equal for ourselves as well as for everybody else, which is a question that concerns others, and our right to pay tolls for our own vessels, which is a domestic question and does not concern anybody but ourselves, and in that I wish to protest against any foreign interference.

Mr. HITCHCOCK. I did not quite clearly understand the Senator. When he speaks of our own vessels, does he refer only to vessels engaged in the coastwise trade?

Mr. LODGE. I refer to all American vessels, no matter what they are engaged in. They are all alike.

Mr. HITCHCOCK. Does he refer to vessels engaged in the international trade in competition with others?

Mr. LODGE. All American bottoms. The American coastwise trade is well taken care of now.

Mr. HITCHCOCK. Does the Senator think that the United States has any greater right to grant free passage to vessels in our coastwise trade than it has to American vessels in the international trade?

Mr. LODGE. Before the Senator came in I stated that I did not see any distinction that could be drawn.

Mr. McCUMBER. Before the Senator from Massachusetts takes his seat I should like to ascertain if I understand him correctly as holding the proposition that no nation can interfere with the internal arrangements of another nation with reference to its own shipping, and whether he concedes that under the Hay-Pauncefote treaty Great Britain could remit to British ships the amount of the tolls that would be collected under the proposed treaty?

Mr. LODGE. Unquestionably. Great Britain can pay the tolls on every ton of British or Canadian tonnage that goes through our canal.

Mr. McCUMBER. Directly?

Mr. LODGE. I mean that the tolls, of course, would have to be paid into the treasury of the canal.

Mr. McCUMBER. But remitted?

Mr. LODGE. Remitted.

Mr. McCUMBER. If that is true, then any party to this contract can evade its purpose.

Mr. HITCHCOCK. I want to draw the distinction——

Mr. LODGE. One moment. I do not think so. Our promise is of equal tolls. We do not promise as to who shall pay those tolls or where they shall come from, or whether one nation shall help its shipping and another not. We simply say the tolls shall all be equal.

Mr. HITCHCOCK. I wish to call attention to the fact that while we obligated ourselves in the treaty to charge equal tolls to all countries, neither Great Britain nor any other country is under any obligation of that sort, and would not, therefore, be bound to any such obligation. How can the Senator——

Mr. LODGE. Great Britain has nothing to do with the tolls we charge.

Mr. HITCHCOCK. No. Yet the Senator stated that in his opinion Great Britain could pay the tolls on her vessels through the canal and therefore we could pay the tolls on our vessels.

Mr. LODGE. Certainly.

Mr. HITCHCOCK. Now, as a matter of fact that is not true, because Great Britain has entered into no obligation not to do so, whereas we have entered, as is claimed by Great Britain, into such an obligation.

Mr. LODGE. That is exactly what I deny. I deny that we agreed not to pay the tolls on our vessels if we saw fit.

Mr. HITCHCOCK. The Senator may deny that, but we have agreed not to charge any other tolls to foreign vessels than we do to our own.

Mr. LODGE. Then we come precisely to the position stated by the Senator from Missouri a few moments ago, that we have a more contracted right in our own canal than any other nation on earth.

Mr. HITCHCOCK. But the Senator realizes that the consideration which Great Britain gave for the new treaty was the abandonment of the Clayton-Bulwer treaty. That is the only consideration she gave. She gave no promise as to what she would do with her own shipping or what she would do with the Panama Canal tolls.

Mr. LODGE. Nobody did.

Mr. HITCHCOCK. We, however, in order to get rid of the Clayton-Bulwer treaty, did make a stipulation as to tolls, and Great Britain claims that, on her interpretation of that promise, we can not discriminate. It does not seem to me that we are in the same position that a foreign country is——

Mr. LODGE. I do not think we do discriminate.

Mr. HITCHCOCK. Because we have made a promise, and the other has made none.

Mr. LODGE. I do not think they are bound, and I do not think we are bound.

Mr. HITCHCOCK. But the Senator must see there is a difference, a distinction. We have made a promise, and they have made none.

Mr. LODGE. We have made a promise that all tolls shall be equal to all nations; that is all.

Mr. HITCHCOCK. But Great Britain has made no such promise.

Mr. LODGE. That is all we promised.

Mr. HITCHCOCK. My point is that Great Britain is not bound as we are bound. On any theory——

Mr. LODGE. Great Britain, of course, has not made a promise, because the canal is not hers.

Mr. HITCHCOCK. Yes; and probably it is not in point to say that Great Britain might refund the money——

Mr. LODGE. What I say is that we do not violate that promise if we pay our own tolls.

Mr. HITCHCOCK. The Senator will perceive that is a question which will have to be settled at The Hague.

Mr. LODGE. I do not agree to that at all. It is a domestic question.

Mr. HITCHCOCK. Does the Senator deny——

Mr. LODGE. If we were to declare that no American vessels should pay any tolls, then I grant you it would be a question as to the interpretation of the treaty to go to The Hague. I do not think the other is. I think the other is a domestic question, not within the purview of the treaty at all.

Mr. HITCHCOCK. But suppose, instead of saying that American vessels should pay no tolls, we pay them; that we shall say American vessels shall pay the same tolls as vessels of other countries, and then we will refund the money. Would we not be doing indirectly exactly what we have agreed not to do directly?

Mr. LODGE. Of course we should be subsidizing our vessels to that extent.

Mr. HITCHCOCK. Would we not be refunding the very money that we had collected?

Mr. LODGE. Certainly.

Mr. HITCHCOCK. And, certainly, we would be doing indirectly what we have agreed not to do directly.

Mr. LODGE. Of course we should be doing it.

Mr. McCUMBER. I do not see that the Senators are making any headway.

The PRESIDENT pro tempore. The Senator from North Dakota has the floor.

Mr. McCUMBER. Mr. President, the committee has reported to this body a bill which relieves coastwise vessels from the payment of tolls. The question first to be decided, therefore, is whether or not under the Hay-Pauncefote treaty and the agreement we made with Panama we have any moral or legal right to so discriminate. That is to be determined before we begin to consider the proposition of whether or not we can in some way evade it.

If the subject of the Panama Canal had no history whatever, Mr. President, prior to the Hay-Pauncefote treaty—if that instrument were the first declaration with reference to the American policy of an Atlantic and Pacific canal—I could not understand how anyone could construe paragraph 1 of article 3 in any way that would not include the United States in its provisions:

This paragraph reads:

> 1. The canal shall be free and open, in time of war as in time of peace, to vessels of commerce and of war of all nations on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise.

The phrase "of all nations on terms of entire equality" can not on any logical theory be construed to mean all nations but the United States.

If it is difficult for me to comprehend how any such strange construction could be placed upon the instrument itself, without a history, that difficulty becomes insurmountable when we take into consideration the declared policy of this Government during the long years of diplomatic correspondence, the many treaties, the consistent declarations of this Government through its executive and its legislative departments, the debates in Congress on the very subject of whether the word "all" included this Government, the effort to so amend that treaty so that the United States would be at liberty to discriminate in favor of its coastwise trade—when we consider all of these there is left no room for the slightest doubt, not only of the understanding of this country but of the understanding of the entire world, as to the proper construction of this paragraph.

DECLARED POLICY OF THE UNITED STATES.

I purpose to go back into the history of the events leading up to the adoption of the Hay-Pauncefote treaty with a view of presenting to the Senate the historical American attitude with reference to any canal that might be constructed by any State or any people connecting the oceans at the Isthmus of Darien. I will not, however, take up the time of the Senate in the details of the incidental questions—the colonizations of the new world which made the subject of an isthmian canal a living question, or any of the subordinate questions which incidentally involved the discussion of that subject.

As early as March 3, 1835, a resolution passed the Senate in the following words:

Resolved, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the Governments of other nations, and particularly with the Governments of Central American and New Granada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific Oceans, by the construction of a ship canal across the Isthmus which connects North and South America, and of securing forever, by such stipulations, the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established to compensate the capitalists who may engage in such undertaking and complete the work.

This is one of our early declarations that any canal that might be established should be established on terms of absolute equality to all vessels of the world.

This keynote, "the free and equal right to all nations," is a phrase that has been reiterated again and again in all our diplomatic correspondence concerning an isthmian canal.

Following this and on the 12th day of December, 1846, a treaty of amity, navigation, and commerce was drawn up and signed by the representatives of the United States and New Granada, now Colombia. The thirty-fifth article of this agreement provides:

And this equality of favors (relating to the equal treatment of American commerce with that of Granadan commerce) shall be made to extend to the passengers, correspondence, and merchandise of the United States in their transit across the said territory from one sea to the other. The Government of New Granada guarantees to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of product, manufacture, or merchandise of lawful commerce belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is under like circumstances levied upon and collected from the Granadan citizens.

I want to call attention to the words of President Polk in presenting this treaty. In his reference to it in his message to Congress he says:

In entering into the mutual guaranties proposed by the thirty-fifth article of the treaty, neither the Government of New Granada nor that of the United States has any narrow or exclusive views. The ultimate object, as presented by the Senate of the United States in their resolution to which I have already referred, is to secure to all nations the free and equal right of passage over the isthmus. If the United States, as the chief of the American nations, should first become a party to this guaranty, it can not be doubted—indeed, it is confidently expected by the Government of New Granada—that similar guaranties will be given to that Republic by Great Britain and France. Should the proposition thus tendered be rejected, we may deprive the United States of the just influence which its acceptance might secure to them, and confer the glory and benefits of being first among the nations in concluding such an arrangement upon the Government either of Great Britain or France. That either of these Governments would embrace the offer can not well be doubted, because there does not appear to be any other effectual means of securing to all nations the advantages of this important passage but the guaranty of great commercial powers that the isthmus shall be neutral territory. The interests of the world at stake are so important that the security of this passage between the two oceans can not be suffered to depend upon the wars and revolutions which may arise among different nations.

In a letter written to the Secretary of State, Mr. Clayton, on September 25, 1849, by our minister to France, he quotes an interview he had with Lord Palmerston. In the discussion of this question, in which he undoubtedly acted under the authority of his Government and represented its views, he stated:

That the United States sought no exclusive privilege or preferential right of any kind in regard to the proposed communication, and their sincere wish, if it should be found practicable, was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality for all

That is the ancient declaration of this country, and it is a declaration that has followed our policy all the way through down to and including the adoption of the Hay-Pauncefote treaty.

Again, he says:

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.

That while they aimed at no exclusive privilege for themselves, they could never consent to see so important a communication fall under the exclusive control of any other commercial power.

Following this, in 1849, the Secretary of State, Mr. Clayton, in a letter to Mr. Lawrence, again defines the attitude of the United States toward Great Britain on the subject of the canal. In this letter our Secretary of State approaches Great Britain for the purpose of securing a canal through Nicaragua under the joint protection of both Governments.

He says:

If, however, the British Government shall reject these overtures on our part, and shall refuse to cooperate with us in the generous and philanthropic scheme of rendering the interoceanic communication by way of the port and river of San Juan free to all nations upon the same terms, we shall deem ourselves justified in protecting our interests independently of her aid and despite her opposition or hostility.

The Secretary then cited a treaty which had been obtained for this Government by Mr. Heis from the Nicaraguan Government, using that as a club to compel Great Britain to enter into the agreement which she afterwards entered into in the Clayton-Bulwer instrument.

Senator Davis, in commenting upon this incident, states as follows—and certainly we never have had a Senator who was a more thorough scholar or historian than Senator Davis:

This paper was submitted to the British Government. It was an explicit and peremptory demand for an agreement that would give to Nicaragua the freedom of exit to the sea through the San Juan River for a ship canal that should be open to all nations on equal terms and protected by an agreement of perfect neutrality.

In the origin of our claim to the right of way for our people and our products, armies, mails, and other property through a canal which our citizens had contracted with Nicaragua to build, we offered to make it neutral ground, and denied to our Government the exclusive right to use and control it.

We went further and, with a treaty in our hands in which Nicaragua had granted us exclusive rights and powers for building and owning a canal, we refused to ratify it, but laid it before Great Britain as an argument to induce that Government to withdraw her protectorate over the Mosquito Indians, who then claimed to hold the mouth of the San Juan de Nicaragua in lawful and independent sovereignty under the protection of Great Britain.

So, Mr. President, we were not only the moving spirit in securing the Clayton-Bulwer treaty, establishing therein a declaration of neutrality and the free use of any ship canal, but previous to that time we had declared that we would enter into no agreement, nor would we adopt any policy, that would give us independently or in connection with any other country an exclusive control of a canal.

Following this, again, in 1857 Lord Napier suggested the plan of a joint protectorate of any transoceanic canal through the Isthmus of Darien by Great Britain, France, and the United States. Mr. Cass, replying to that suggestion, stated:

It is important that they (the canals) should be kept free from the danger of interruption by the Governments through whose territories they pass or by hostile operation of other countries engaged in war.

While the rights of sovereignty of the local Governments must always be respected, other rights also have arisen in the progress of events involving interests of great magnitude to the commercial world and demanding its careful attention, and, if need be, its efficient protection.

In view of these interests and after having invited capital and enterprise from other countries to aid in the opening of these great highways of nations, under pledges of free transit to all desiring it, it can not be permitted that these Governments should exercise over them (the canals) arbitrary and unlimited control, and close them or embarrass them without reference to the wants of commerce or the intercourse of the world.

Equally disastrous would it be to leave them at the mercy of every nation which, in time of war, might find it advantageous, for hostile purposes, to take possession of them and either restrain their use or suspend it altogether.

Further commenting on this subject, Senator Davis in his report says:

Thus the United States in the beginning, before the Clayton-Bulwer treaty, took the same ground that is reached in the convention of February, 1900, for the universal decree of the neutral, free, and innocent use of the canal as a world's highway, where war should not exist and where the honor of all nations would be a safer protection than fortresses for its security. From that day to this these wise forecasts have been fulfilled and Europe has adopted, in the convention of Constantinople, the same great safeguard for the canal that was projected by Mr. Cass in 1857.

After the Clayton-Bulwer treaty had been adopted misunderstandings arose between this country and Great Britain as to its construction and intendment. It was claimed on the part of the United States that this treaty superseded any claim of sovereignty by Great Britain over the Mosquito Indians in that section of the country at the mouth of the San Juan River, in which an English colony was located, and that it established the complete sovereignty of Nicaragua over all this territory. Great Britain refused her assent to this construction. Neither party, however, ever claimed any misunderstanding as to the intent of both Governments to maintain a neutral canal, as free to the use of the world as though nature had made the passageway.

Lest either nation might assume to annul the Clayton-Bulwer treaty, each one took the precaution to enter into new agreements with Nicaragua, which bound that State to insure the free use of any canal she might either authorize to be built or should herself construct in her territory. Neither of them attempted to secure any special privileges.

On February 11, 1860, a treaty was drawn up between Great Britain and the Republic of Nicaragua providing for an isthmian canal. In this agreement the British Government agrees to extend her protection to all such routes of communication as may be constructed and to guarantee the neutrality and innocent use of the same. And on the other side the Nicaraguan Government agreed as follows:

No hire or other charges or tolls shall be imposed on the conveyance or transit of the persons or property of subjects of Great Britain or of subjects or citizens of any other country across the said routes of communication than are or may be imposed on the persons and property of citizens of Nicaragua.

Great Britain has never claimed or demanded exclusive control for her own vessels, but in all her treaty stipulations with either Nicaragua or any other Government in that vicinity she has insisted that the world should have exactly the same opportunities that she herself might enjoy.

Then the United States did not wish to be behind Great Britain, and a few years thereafter, and on the 21st day of June, 1867, the United States entered into an agreement with Nicaragua in almost the same words. Article 14 of this treaty provides:

The Republic of Nicaragua hereby grants to the United States and to their citizens and property the right of transit between the Atlantic and Pacific Oceans through the territory of that Republic, on any route of communication, natural or artificial, whether by land or by water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both Republics and the respective citizens.

Article 15 of this treaty provides:

No tonnage or other duties shall be imposed or levied by the Government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended, bona fide, for transit across the said routes of communication, and not for consumption within the Republic of Nicaragua.

Remember that the South American nations have rights here as well as Great Britain and the United States. They must necessarily have more or less of a coastwise trade. This treaty related to the authority of the citizens of the United States in the construction of a canal.

In agreeing to the Hay-Pauncefote treaty it was the purpose of the United States to place itself exactly in the same position it would have been in had the canal been constructed by France, by Nicaragua, or any other Central American State. We claimed no special privileges because the money represented our investment. It was believed that the tolls charged and the charges derived specially by the United States would compensate us for the investment.

Senator Davis, in his report on the Hay-Pauncefote treaty, declared its purposes in concise language and asserted boldly that the United States was to obtain no other privileges than those granted to the nations of all the world.

He states:

No American statesman, speaking with official authority or responsibility, has ever intimated that the United States would attempt to control this canal for the exclusive benefit of our Government or people. They have all, with one accord, declared that the canal was to be neutral ground in time of war, and always open, on terms of impartial equality, to the ships and commerce of the world.

Special treaties for the neutrality, impartiality, freedom, and innocent use of the two canals that are to be the eastern and western gateways of commerce between the great oceans are not in keeping with the magnitude and universality of the blessings they must confer upon mankind. The subject rather belongs to the domain of international law.

The leading powers of Europe recognized the importance of this subject in respect of the Suez Canal, and ordained a public international act for its neutralization that is an honor to the civilization of the age. It is the beneficent work of all Europe, and not of Great Britain alone. Whatever canal is built in the Isthmus of Darien will be, ultimately, made subject to the same law of freedom and neutrality as governs the Suez Canal, as a part of the laws of nations, and no single power will be able to resist its control.

The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888, without discrediting the official declarations of our Government for 50 years on the neutrality of an isthmian canal and its equal use by all nations, without discrimination.

To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.

But the location of the canal belongs to other governments, from whom we must obtain any right to construct a canal on their territory, and it is not unreasonable, if the question was new and was not involved in a subsisting treaty with Great Britain, that she should question the right of even Nicaragua and Costa Rica to grant to our ships of commerce and of war extraordinary privileges of transit through the canal.

It is not reasonable to suppose that Nicaragua and Costa Rica would grant to the United States the exclusive control of a canal through those States on terms less generous to the other maritime nations than those prescribed in the great act of October 22, 1888; or if we could compel them to give us such advantages over other nations, it would not be creditable to our country to accept them.

On the question of the canal being built with our own money, and any special rights to be derived from that fact, Senator Davis says:

I especially call the attention of those Senators who insist that by reason of our investment we should claim some special privilege to the report upon which the Senate acted when they ratified the Hay-Pauncefote treaty:

That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. If the canal, as property, is worth more than its cost we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us. In any view it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration.

The Suez Canal makes no discrimination in its tolls in favor of its stockholders and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people in order to secure a very great profit on the investment.

In time of war, as in times of peace, the commerce of the world will pass through its portals in perfect security, enriching all the nations, and we of the English-speaking peoples will either forget that this grand work has ever cost us a day of bitterness, or we will rejoice that our contentions have delayed our progress until the honor has fallen to our grand Republic to number this among our best works for the good of mankind.

Now, I call the attention of Senators to the first annual message of President Cleveland. In this message, speaking on the same subject, he says:

Whatever highway may be constructed across the territory dividing the two greatest maritime areas of the world must be for the world's benefit, a trust for mankind, to be removed from the chance of domination by any single power, nor become a point of invitation for assault or a prize for warlike ambition.

Senator Morgan made a minority report, and although he differed with the majority upon the question of the point of location, that eminent scholar and historian agreed entirely with the report of the majority when he said:

The treaty under consideration is for the avowed purpose of removing any objection that may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the United States, without impairing the general principle of neutralization established in Article VIII of that convention.

That general principle, as it is modified or specially defined in this treaty, is all that is left of the Clayton-Bulwer treaty, as now being in continuing force.

Again he says:

Then this convention, in Article II, proceeds to define and formulate into an agreement, intended to be world-wide in its operation, "the general principle of neutralization" established in Article VIII of the Clayton-Bulwer treaty, on the basis of the treaty of Constantinople of October, 1888, relating to the Suez Canal.

Nothing is given to the United States in Article II of the convention now under consideration, nor is anything denied to us that is not given or denied to all other nations.

Now, what is this article 8 of the Clayton-Bulwer treaty which we have practically adopted and declared to be the principle upon which the United States should proceed in the construction of this canal? It is as follows:

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but, also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

We guaranteed under that article not only that we would not discriminate or allow such discrimination between Great Britain and the United States, but that the same treatment should be accorded to every other foreign nation as would be accorded to those two, and thus specifically brought ourselves within the provision of "all" nations of the world.

Mr. President, is it possible, in the light of all these discussions, in the light of the history of the case, in the light of these reports, and in the light of the open discussion on the floor of the Senate, when no man on the floor of the Senate, during all of the time this Hay-Pauncefote treaty was before this body, was ever bold enough to claim that the treaty was open to the construction that the word "all" did not include the United States, that any man can now state that the United States is not included in the stipulations of the treaty? If we so intended, was it not our moral duty, a duty we owe to our own national honor and to every other nation of the world, to make that declaration clear and explicit?

We not only failed to make such claim, but by a vote of 43 to 27 we declared against any such policy. We met the question that was presented to us in the consideration of that treaty fairly and squarely. Let us see. While the matter was under consideration, Senator Bard offered the following amendment:

Strike out all of Article III and substitute the following: "Article III. The United States reserves the right in the regulation and management of the canal to discriminate in respect to the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade."

The Senate had the opportunity to declare then and there whether the United States, as a party to this solemn obligation, would insist on those rights or whether it would renounce them, and by a vote of 43 to 27 the Senate of the United States, the only body in conjunction with Great Britain that could

make the law, renounced that claim forever; and it is too late for us now to come in and claim that we can evade it by any character of a subterfuge. In the face of this can we honorably claim that there was a secret understanding?

Mr. BACON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. Certainly.

Mr. BACON. If the Senator will permit me, I think he could state it a little stronger than he did when he used the word "renounced." We were then engaged in the making of a new treaty with Great Britain, and, of course, if Great Britain would have agreed to that arrangement it would have been a legitimate contract and covenant between the two. What the Senate of the United States then did was to decline even to make that demand upon Great Britain. We declined to say that we would contend for that. We not only by that action in fact recognized that there was an obligation of that kind under the Clayton-Bulwer treaty, but we declined to contend that that should be surrendered by Great Britain and that a new contract should be made, to which they would not have agreed.

I wish to say, if the Senator will pardon me a moment, in this connection, as I am one of those recorded as voting in favor of the Bard amendment, that my idea at that time was not that any part of the merchant marine of the United States should have free transportation or free right of passage through the canal, but I was standing simply upon the ground that I thought the United States should have the right to control whatever tolls were imposed and discriminate in favor of our own citizens if we saw fit to do so. I do not wish myself to be considered as being committed by that vote to the principle of free passage for American ships in the canal.

Mr. McCUMBER. I think the vote was clearly a declaration of our intent and purpose not to demand free tolls for our own coastwise trade. That is all that I am citing it for.

Mr. BACON. That would be true; and further than that, not to discriminate, that even if we charged tolls we would charge no greater tolls for the ships of foreign countries than for the ships of our own country.

Mr. McCUMBER. Certainly.

Mr. President, in the face of this can we honorably claim that there was a secret understanding or a secret purpose in our minds to claim a construction directly opposed to what we had declared in our vote should not be our policy? If so, we were neither honest with ourselves nor with the world.

Touching the consideration of this treaty, the benefits to be derived by the United States, and the right surrendered by Great Britain—and a right surrendered is always an important consideration—Senator Davis says:

> Great Britain consents to remain under the prohibitions of article 1 of the Clayton-Bulwer treaty, namely, that she shall not have authority to construct or control a canal, and consents that the United States shall be released from that obligation.

Clearly, Mr. President, does this not carry such a valuable consideration, such an important consideration, that we would be in honor and in duty bound to recognize its obligatory force? Before this Hay-Pauncefote treaty was entered into Great Britain already had a treaty with Nicaragua and, I think, another with Costa Rica, granting her or her citizens the right to construct a canal. If the United States had said to Great Britain, when we construct a canal with our money we will grant free tolls to our coastwise trade, but will not allow you to have free tolls for your coastwise trade on the eastern and western shores of Canada, I think Great Britain would have hesitated a long time before she would have surrendered her right to construct a canal in conjunction with Canada or in conjunction with any of the Central American Republics if she had desired so to do. She was interested not in dollars and cents as a measurement of coastwise trade to the same extent that we are, and in the same degree, but she was interested in the same manner that we were interested in having the same charges of tolls for her Canadian coastwise vessels placed upon an equality with ours.

Senator Davis continued:

> If this convention is ratified Great Britain could not negotiate with Costa Rica or Nicaragua or any other American State for any right to build, own, control, manage, regulate, or protect a canal to connect the oceans, while the United States is left free to enter upon and conclude such negotiations.

Mr. President, having secured the surrender by Great Britain of all of her treaty rights now and hereafter to either construct or be a party to or own or control any highway across the Isthmus, upon the consideration directly that we would treat the vessels of all countries exactly the same without the slightest discrimination, I say that we are in honor bound to stand by our agreement.

It has been suggested here, Mr. President, that neither Great Britain nor any other country could engage in our coastwise trade and therefore they would necessarily have no interest. But a vessel from Vancouver can engage in coastwise trade; a vessel from Victoria can engage in coastwise trade. A vessel loaded with lumber from Victoria can be taken to New York. A vessel from Seattle can take its cargo of lumber to New York. We by disregarding this treaty and allowing our own coastwise vessels to go free through the canal give a preferential right to our coastwise trade, not as against the coastwise trade of any other country, but as against any foreign competing vessel entering our ports.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Kansas?

Mr. McCUMBER. I yield to the Senator.

Mr. BRISTOW. I desire to correct the Senator in the statement that a vessel carrying lumber from Vancouver to New York would be coastwise trade. It is not so designated in our legislation.

Mr. McCUMBER. I did not say so.

Mr. BRISTOW. I understood the Senator to say it.

Mr. McCUMBER. No; I did not. I said that while a vessel from Victoria to New York would not be coastwise trade, a vessel from Seattle to New York would be coastwise trade, and allowing one free tolls you allow the coastwise trade a preference over the other foreign vessels, and to that extent you disregard the stipulations of your treaty.

Mr. BRISTOW. The Senator simply misstated it. He said it would be coastwise trade. He did not mean it, I understand.

Mr. McCUMBER. I do not think I said it.

Mr. President, an attempt has been sought here in an argument to establish the fact that we have authority to do indirectly that which we can not do directly. I think the Senator from New York [Mr. O'GORMAN] is anxious to take the floor, and I will not take up that subject this afternoon; but I do desire to discuss it at some time in the future before this measure is disposed of.

Mr. O'GORMAN obtained the floor.

Mr. HITCHCOCK. If the Senator from New York will allow me, I think this is a matter of such importance that we ought to have a quorum, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nebraska suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cummins	Lodge	Shively
Borah	Dillingham	McCumber	Simmons
Bourne	du Pont	Martin, Va.	Smith, Ariz.
Bradley	Fall	Martine, N. J.	Smith, Ga.
Brandegee	Fletcher	Massey	Smith, S. C.
Briggs	Gallinger	O'Gorman	Smoot
Bristow	Gamble	Oliver	Stephenson
Bryan	Gronna	Overman	Stone
Burnham	Heyburn	Page	Sutherland
Catron	Hitchcock	Paynter	Swanson
Chamberlain	Johnson, Me.	Percy	Thornton
Clapp	Johnston, Ala.	Perkins	Townsend
Clark, Wyo.	Jones	Pomerene	Warren
Crane	Kenyon	Reed	Wetmore
Crawford	La Follette	Root	Williams
Cullom	Lippitt	Sanders	Works

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is absent on this roll call and was absent on the other roll calls of the day because he is unavoidably detained from the city.

The PRESIDENT pro tempore. Sixty-four Senators have answered to their names. A quorum of the Senate is present. The Senator from New York.

Mr. O'GORMAN. Mr. President, I do not share in the doubt which seems to prevail among certain Members of the Senate as to the true construction that should be placed upon the language of the Hay-Pauncefote treaty. In my opinion there is not a line in that treaty that should prevent the United States from exempting American ships from the payment of tolls while going through the Panama Canal. If the contrary view should prevail, the American people would be much surprised that so little regard for American rights was manifested at the time of the adoption of the Hay-Pauncefote treaty, because if the view alluded to be the correct one, it must follow that while the United States has expended $400,000,000 of American money in the construction of this canal, its citizens must be denied the rights that are enjoyed by the subjects of Great Britain and of every other foreign power, although the only Government under this treaty that has assumed a specific burden is the Government constructing the canal—the Government of the United States. England assumes no burden under this treaty; the other nations of the world that may come in and make use of the canal assume no specific burdens beyond the payment

of the tolls and the agreement looking to the neutralization of the canal itself.

There is nothing in this treaty that can prevent England from remitting every cent of tolls paid by English ships going through the canal; there is nothing in the treaty to prevent any foreign power from remitting by subsidy or otherwise, or reimbursing by subsidy or otherwise, every dollar expended by its subjects by way of tolls. Under the construction placed upon this treaty by Senators who have spoken the only power in all the world that is hampered and shackled in its duty to its own citizenship is the one country that has expended $400,000,000 in the construction of this vast enterprise. If the view suggested by the Senator from North Dakota [Mr. MCCUMBER] be a correct one, the American people may well exclaim that their rights were neglected when the Hay-Pauncefote treaty was adopted, because there can be no question in any legal mind that every foreign power may do with respect to its own shipping passing through the Panama Canal what it is said America can not do with respect to American shipping; but I do not believe that that construction urged by the Senator who has just taken his seat is a true or a correct one.

Copious extracts from textbooks on international law and chapters from the history of diplomatic relations in America may be interesting but they are not always illuminating. This treaty must find its construction in the language employed within the four corners of the treaty; and I assert, with every confidence, that under the treaty the United States may do as it will with respect to the shipping of this country. Let me call your attention to the language:

ARTICLE I. The high contracting parties [England and the United States] agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

This is generally spoken of as the Clayton-Bulwer treaty.

In order that historical facts may be remembered, I might pause at this point to remind the Senator from North Dakota [Mr. MCCUMBER] that England has no moral right or justification in her present attitude. If it were conceded that she has some claim, some technical right to interpose this objection, it comes with a poor grace from a nation that from time to time has professed the greatest regard for the United States. England, as I have already stated, has not contributed a penny to this gigantic enterprise. In a period of political timidity the people of these United States, faithless for the time being to the Monroe doctrine, hesitated about projecting and carrying out this enterprise until Great Britain gave its approval. Ten or more years before 1850 the United States by treaty relations with the Central American States, and particularly with the then Republic of New Grenada, procured the necessary permission to construct a canal. England, hearing of it, insisted upon being a party to the enterprise. Under the belief that England would supply the funds, would furnish the money necessary, the Clayton-Bulwer treaty of 1850 was signed; but that England repeatedly violated the provisions of that treaty can not be seriously disputed by any student of the diplomatic history of England and of the United States during the past 60 years.

The Clayton-Bulwer treaty for years was regarded as obsolete; it had been violated by England and ignored by the United States. That was the position in 1901, 51 years afterwards, when negotiations were commenced which resulted in the Hay-Pauncefote treaty. The Clayton-Bulwer treaty and the subsequent negotiations, covering a period of some years, were based upon the notion that the canal was to be built on alien soil; and in all the negotiations alluded to by the Senator from North Dakota there was never a suggestion, until 1901, that the Panama Canal would be constructed by the United States on territory of the United States. As an American, I can not but express my regret that the Government at that time so signally failed in a rigid observance of the Monroe doctrine as to permit Great Britain or any other foreign power to say, in substance, "The United States of America, with its then 80,000,000 people, can not construct an enterprise of great and vast importance on its own territory at its own expense without securing the approval of Great Britain."

To resume the language of the treaty:

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

That language I have just read is free from doubt. It says, in substance, that the Government of the United States will possess and enjoy all the rights of ownership, except as indicated in the treaty—subject only to the provisions of the present treaty—the United States will enjoy exclusive control and power over the canal.

Now we proceed to article 3:

The United States adopts—

I call your attention to the use of the word "adopts"—

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th of October, 1888, for the free navigation of the Suez Canal; that is to say—

This is one of the rules adopted by the United States by virtue of the express command of the treaty—

the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

The United States adopts the rules; the United States makes the rules, and then the treaty proceeds to say that—

The canal shall be free and open to the vessels of commerce and of war of all the nations observing these rules,

indicating at once, as it is clear to my mind, a distinction between the government that makes the rules and the government that observes the rules. To repeat:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation—

That is, one of the nations observing the rules—

or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

I do not see room for doubt as to the construction that should be placed upon so much of article 3 as I have already read. In substance, it provides that the United States will adopt certain rules, and that there shall be equality observed among the nations observing those rules which have been prescribed by the United States.

If we were to concede that the United States was placed on an absolute equality with other nations, it would even then follow that this treaty would not be violated by the United States extending to our coastwise vessels exemption from tolls, because the language is:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects.

The words "so that there shall be no discrimination" necessarily qualify the preceding words "on terms of entire equality"; and the paramount thought is that there will be no discrimination practiced among those nations observing the rules which are laid down by the United States.

There can not be discrimination unless there is an interference with competition; there can never be discrimination where there is not now and where there has not been competition. There is no competition between American vessels engaged in the coastwise trade and foreign vessels, and therefore, in that aspect alone, there would be no violation of the treaty, even though generally the views of the Senator were correct. But if the vital proposition that I advance to you should not be correct—and that proposition, to be clear, is that the nations referred to in subdivision 1 of article 3 do not embrace the United States, because they are confined to the nations observing the rules which the United States have prescribed—if you are to give this a strict reading and a narrow and unreasonable interpretation, every time an American man of war passes through our canal you would have to pay a toll, because the language is:

The canal shall be free and open to the vessels of commerce and of war of all nations.

Who will claim that it was necessary for the United States publicly to declare that our canal would be open to our own vessels of war? And yet, unless you draw a distinction between the United States and all the other nations, you must say that there was some reason for the United States declaring that her own vessels of war could use her own canal. That is a preposterous suggestion which can not find lodgment in any mind in this body.

Mr. WARREN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Wyoming?

Mr. WARREN. Will it disturb the Senator if I ask him a question?

Mr. O'GORMAN. Not at all.

Mr. WARREN. I am much interested in the remarks of the Senator from New York, and they are along the line of my own thought. I want to ask him what would be the worst that could happen if we were wrong and should enact the legislation proposed and the matter should go to The Hague? Would it not be at the utmost simply to return the money we had collected?

Mr. O'GORMAN. That would, in my judgment, be the extreme penalty; but I do not believe Great Britain would ever attempt to make this the subject of inquiry by The Hague court, because she would be without moral support, and she would be giving the lie to her professions of sincerity and good will of a century.

Mr. WARREN. I agree with the Senator, but in legislation as in business it is always best to look at both sides and to know what the relations might be and what the alternatives. It seems to me that the worst that could happen would be, after collecting the tolls and enjoying for a time the use of the money, to find that we might be compelled to return all or some portion of it; and that would be the extreme penalty.

Mr. O'GORMAN. And that would bring its compensation, because it would inevitably lead to the denunciation of this treaty and its abrogation.

Mr. WARREN. And an entire settlement as to all questions.

Mr. O'GORMAN. Certainly.

Mr. WARREN. Yes. It strikes me that that is the natural working out of the problem.

Mr. O'GORMAN. Now, will Senators let me call their attention to another circumstance?

Mr. LODGE. Will the Senator allow me to interrupt him on another point—the matter of warships? I said nothing about it while I was speaking. The Senator from New York says very justly that the provision is as to ships of commerce and war. We must pay the toll on our own warship going through the canal.

Mr. O'GORMAN. If this narrow, unfounded, and unreasonable interpretation is to prevail.

Mr. LODGE. If that is to apply. But if we pay the toll on our own warship, the money goes into our own Treasury and the warship goes through free, practically, does it not?

Mr. O'GORMAN. That would be the effect.

Mr. LODGE. I mean that is the effect. The warship goes through free. Why is it not indirectly a violation of the treaty and of good faith to let our warship go through free? That is only a point which I thought worth considering.

Mr. O'GORMAN. The second paragraph of subdivision 1 of article 3 reads as follows:

> The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

Now, if the view advanced by the Senator from North Dakota be true, this is a prohibition on the conduct of the United States. The United States can never blockade its own canal. This canal, upon which we have expended almost half a billion dollars, is to be kept open even as a means of transit for the war vessels of an enemy bent upon doing destruction upon our coasts. Who is there in the Senate who will assert that under this treaty we are not at liberty, for our own defense and in protection of our own citizens, to blockade that canal whenever the public welfare demands it? That is a right reserved to us, but enjoyed by no other nation; and that must follow if my previous proposition be a correct one—that the nations spoken of in subdivision 1 of article 3 do not embrace the United States.

As I have pointed out, the right of absolute ownership is recognized in the United States by this treaty, subject only to such rules as the United States adopts under the language of the treaty, and then the treaty as to neutralization is enforceable against all nations observing the rules prescribed by the United States.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Connecticut?

Mr. O'GORMAN. Certainly.

Mr. BRANDEGEE. The Senator from New York read the first two lines of the second paragraph of article 3 of the treaty, but did not read the following, to wit:

> The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

The first two lines, which the Senator did read, provide that "the canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it." If the United States is not subject to these rules, why was it thought necessary, in the language I have read, to specifically exempt the United States from a prohibition against policing the canal?

Mr. O'GORMAN. I can not imagine that it will be claimed that that is an exclusive right, and in my judgment it is quite consistent with the general right of ownership and control asserted by the United States.

Mr. BRANDEGEE. If the United States is not governed by these rules, it would have the right to blockade the canal, would it not?

Mr. O'GORMAN. I have asserted that, and I would be surprised to hear a Senator in this body declare that in the face of an enemy the United States was powerless to shut out war vessels bent upon doing destruction to our commerce and our people.

Mr. BRANDEGEE. The right to blockade does not apply simply where we are at war with somebody else. This provision here is that the canal shall be free and open to the ships of all nations observing the rules. I understand the Senator claims that we are not one of the nations which are to observe any of these rules.

Mr. O'GORMAN. We make the rules, and we insist upon uniformity in their observance by the nations making use of our canal.

Mr. BRANDEGEE. But is it the Senator's position that we make these rules and enforce them against all other nations and that we alone are at liberty to violate them?

Mr. O'GORMAN. No; we do not violate them. We are not bound by the language of the treaty to observe the rules now referred to. That duty rests upon the other nations. We make the rules. The other nations observe them and thus are permitted to use our canal. That is the precise language of the treaty. We build the canal and permit the nations of the world to use it on certain terms which they must respect.

Mr. BRANDEGEE. The Senator does not think we ourselves are bound to observe any of the rules?

Mr. O'GORMAN. No further than our obligations go. One of the rules is that we will work no discrimination among these foreign nations. We must observe that requirement, and in return for that the foreign nation making use of our canal will pay the reasonable toll charges and will subscribe to the doctrine of the neutralization of the canal. But we are untrammeled in all our rights except where specific restraint is placed upon us, and the only restraint in substance is that we shall work no discrimination among the nations of the earth in allowing their vessels to use our canal. When we put all foreign nations on the same basis as regards tolls, we do all that can reasonably be required of us. Under the view contended for on the floor this morning England's rights in the Panama Canal are superior to ours, although England has not contributed a dollar to the enterprise.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Oregon?

Mr. O'GORMAN. Certainly.

Mr. CHAMBERLAIN. I think that is exactly the position which was taken by the Senator from Massachusetts [Mr. LODGE], if I understood him correctly, because he stated when he reported the treaty to the Senate that he did not understand that "all nations" included the United States.

Mr. O'GORMAN. He distinctly stated that if he had understood that that interpretation was possible he would never have reported this treaty. As chairman of the Committee on Foreign Relations he reported the treaty and believed that the United States might do as Congress saw fit with respect to our own citizens.

Mr. CHAMBERLAIN. So he did. And now, if I understand him correctly, notwithstanding the fact that that was his view at the time the treaty was reported, he yet favors the abandonment of our rights, and in solving the doubt that ought to be solved in favor of the United States he solves it in favor of Great Britain, so that this matter may go to The Hague with the impression given it by the Senate that we have solved the doubt against our own people.

Mr. PAGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Vermont?

Mr. O'GORMAN. Certainly.

Mr. PAGE. I well remember the brief discussion I had with the Senator from New York [Mr. O'GORMAN] before our committee in regard to this matter; and I think I was quite persistent in asking him why, if we meant "all other nations," we did not put in the word "other" and make ourselves understood.

But, it seems to me, there is another fact that should be considered in connection with what the Senator from Oregon has just said; that is, that we discussed this whole proposition in 1901, when the treaty was before the Senate. I observe that the senior Senator from Georgia at that time moved, as I have it here, to strike from the preamble the words "without impairing the general principle of neutralization," and so forth, and also to strike out all of sections 3 and 4.

But the point I wish to raise, and especially to call the attention of the Senator from New York to, is that at the time the amendment was being considered Mr. Bard—who, I think,

was then a Senator from California—moved to strike out article 3 and substitute the following:

ART. III. The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

This amendment, after discussion before the Senate at that time, was voted down by a vote of 43 to 27. In the discussion, if I remember correctly, it appeared that if we had not done this we could not have made the treaty with Great Britain at that time.

Mr. O'GORMAN. Is it not possible, as stated by the Senator from Massachusetts, that the reason that change was not made was because he and his associates believed that the United States, the owner of the canal, the Nation that prescribed the rules for others to follow, was not bound by the terms she imposed upon others, except in so far that she would work no discrimination among foreign nations with respect to the use of the canal?

Mr. PAGE. Mr. President, if I may be allowed to reply, that may be correct. But it seems to me we are foreclosed when it is shown by the RECORD that after a long debate, and after having this matter brought up and discussed at that time as it is being discussed now, we abandoned our position by a vote of almost two to one—43 to 27.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Connecticut?

Mr. O'GORMAN. Certainly.

Mr. BRANDEGEE. I do not desire to intrude upon the Senator's time, for I know he is in a hurry. But I intended, at the close of the speech of the Senator from North Dakota [Mr. MCCUMBER], to call the attention of the senior Senator from Georgia to page 4 of the views of the minority in the House report on the House bill, where the following is stated:

With further reference to the Bard amendment, we have been granted authority to quote from a letter recently written by Senator Bard, in the course of which he states:

"When my amendment was under consideration it was generally conceded by Senators that even without that specific provision the rules of the treaty would not prevent our Government from treating the canal as part of our coast line, and consequently could not be construed as a restriction of our interstate commerce, forbidding the discrimination in charges for tolls in favor of our coastwise trade, and this conviction contributed to the defeat of the amendment."

He states there that "it was generally conceded by Senators that even without that specific provision the rules of the treaty would not prevent our Government from treating the canal as part of our coast line."

Mr. O'GORMAN. That is in accord with the recollection of the Senator from Massachusetts.

Mr. BRANDEGEE. I wanted to ask the Senator from Georgia how it accorded with his recollection of what was generally conceded among Senators, if he recalls.

Mr. BACON. Mr. President, I am very glad to respond definitely to the Senator; but my recollection is very much in accord with what has been stated by the Senator from Massachusetts as his—that there was really little or no expression upon the subject. I have no recollection of any such general consensus of opinion, and I am very frank to say that I myself have never been of that opinion. I was not then, and I am not now.

Mr. O'GORMAN. Which opinion?

Mr. BACON. That under the general terms of the treaty that right would exist without the adoption of the Bard amendment.

Mr. O'GORMAN. The Senator thinks it would?

Mr. BACON. I think it would not. I repeat that I do not recall that there was much said on the sbject, and in that respect the recollection of the Senator from Massachusetts agrees with mine.

My own recollection of my mental attitude is simply this: I myself voted for the Bard amendment, not because I had ever been in favor of the free passage of ships through the canal, but because at that time, when we were making a treaty, when we were fixing terms which, if agreed to, would be binding upon both parties, I was of the opinion that if we could do so it would be to our interest to make the best terms we could, which would leave us as free as practicable to manage the canal according to our own judgment and our preferences as to favor to our own ships or foreign ships.

I think the Senator will find there were other amendments for which I voted, though I have not had an opportunity to look the matter over carefully. My general recollection is, however, that there was one which gave the right of fortification and defense, as to which I was also of the same mind, believing that if we could get an agreement with Great Britain to that effect it was to our interest to secure to ourselves as perfect and as complete control of the canal in all particulars as was practicable or possible.

Therefore I voted on that side, not with a view to the free passage of our own ships through the canal, but with the view that if we saw fit to discriminate in favor of them in any degree we should be at liberty to do so—in other words, that we should be free to do as we thought best thereafter.

I always have recognized, however, or at least I always have been of the opinion since then, and was at that time, that the intent and understanding of the treaty was that we did not secure what I attempted to secure by voting for those two amendments. There may be others. I have not had the opportunity to look into the matter of late, but I recollect those two amendments.

Mr. WORKS and Mr. BURTON addressed the Chair.

Mr. O'GORMAN. I yield to the Senator from California.

Mr. WORKS. The Senator from Connecticut has anticipated what I was about to say by reading from the records a statement made by Senator Bard with respect to his amendment and the reason why it was voted down.

I simply wish to say that I have in my hand the original letter of Senator Bard making that statement—that the reason for voting down his amendment was that it was generally regarded by the Senate as unnecessary, and that that construction should be placed upon the treaty irrespective of any amendment of that kind.

Mr. CLAPP. Will the Senator yield to me for a moment?

Mr. O'GORMAN. Yes.

Mr. CLAPP. In answer to the suggestions of the Senator from Vermont [Mr. PAGE], I will say that I think it was quite generally understood then that the reason for voting down the proposition to authorize the fortification in express terms was that under the treaty we had the right to fortify without that particular provision. I know I was here at the time, although I do not recall all of the speeches. But while some of us voted insisting in some instances that these things should be explicit and in others voting with the majority upon the ground that they were covered anyhow, I believe, both with reference to the coastwise trade and especially with reference to the question of fortification, that many of the votes cast against those express provisions were cast upon the theory that without them we nevertheless had the right to do them.

Mr. O'GORMAN. That the provisions were unnecessary?

Mr. CLAPP. Yes; that they were unnecessary.

Mr. O'GORMAN. In that connection, Mr. President, I wish to observe that if the views advanced by the senior Senator from Ohio yesterday be correct with respect to the construction of this treaty, then you declare that whatever may be the emergency, the United States can not fortify the canal; and no matter how great may be the menace from an enemy, we must permit the enemy to use our canal to aid in working havoc upon our coasts and upon our people.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Ohio?

Mr. O'GORMAN. I do.

Mr. BURTON. I have not my remarks before me; but if the Senator from New York will do me the honor to read them carefully, he will find that no such inference as that could be derived from them.

Mr. O'GORMAN. I understood that the Senator from Ohio and my own colleague declared, either yesterday or the day before, that we could not exempt our own shipowners from paying tolls through the canal without violating this treaty; and I take issue on that proposition.

Mr. BURTON. I stated that both in regard to the coastwise and the foreign trade. I am confident in that opinion. But as regards fortifying the canal, I made a statement that is quite the contrary of that ascribed to me by the Senator.

Mr. O'GORMAN. I am asserting my view and my opinion that if it be conceded that the remission of tolls to our shipowners works a violation of this treaty, then it must follow that we can not fortify the canal.

Mr. BURTON. Then, as I understand, the statement of the Senator from New York is based on an inference that the assertion of equality of tolls and the denial of the right to remit the tolls necessarily carries with it the inference that there can be no policing of the canal, no protection of it, and that in time of war we are helpless against the ships of an enemy.

Mr. O'GORMAN. I have spoken in vain if I have not made it clear to Senators that my proposition is that under the treaty the United States is in exclusive control of and power over the canal, subject only to the granting to foreign nations of the right to make use of it for the purposes of transit without discrimination as among themselves; and that therefore this rule,

which relates to the nations observing these terms, does not embrace the United States. The United States prescribes, creates, and establishes the rule; and the treaty itself makes a manifest distinction between the creator of the rule and those who under its express terms are required to observe it.

Mr. BURTON. Mr. President, I was unfortunately absent until a few moments ago, and I did not hear all the remarks of the Senator from New York. What I expressly desire to understand, however, is his view on this subject: Does a rule against discrimination in favor of our own domestic shipping, and our foreign shipping as well, by implication prevent us from fortifying the canal or exercising preference for our own ships in time of war?

Mr. O'GORMAN. Yes; because if the Senator's view is to prevail it must follow that the inhibition placed upon the various nations embraces and is applicable to the United States. If that narrow view be adopted, it will follow that even as to the United States the canal can never be blockaded. There is no affirmative declaration of the right of the Nation or any nation to fortify it, and it must be found in the general right residing in the United States to exercise all powers of ownership and dominion, except in the one respect to which I have called the attention of the Senator.

Mr. BURTON. I must maintain that there is an absolutely vital distinction between the two, based on the difference between a state of peace and a state of war, between commercial ships and warships.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. O'GORMAN. I do.

Mr. LODGE. In connection with the matter of fortification, the original treaty, the first Hay-Pauncefote treaty, contained, in article 2, section 7, a provision that—

No fortifications shall be erected commanding the canal or the waters adjacent.

That was left out of the second treaty, and purposely left out. The first treaty also included the amendment put in by the committee and agreed to by the Senate:

It is agreed, however, that none of the immediate foregoing conditions and stipulations in sections Nos. 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

I know that the omission of the prohibition of fortifications in the second treaty was considered all sufficient.

Mr. CUMMINS. Mr. President, I was absent from the Chamber a moment ago, and therefore it may be that without my knowledge the Senator from New York has referred to what I am about to suggest. I do it to emphasize what he has already said.

If these rules are applicable to the United States—that is, if the phrase "all nations" embraces the United States—then I suggest that rule 3 is also mandatory upon us.

Mr. O'GORMAN. That would follow.

Mr. CUMMINS. It provides:

Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary.

I should like to ask the Senator from Ohio, or any other Senator who takes his view of the case, whether, in the event of a war in which the United States is one of the belligerents, it would be a violation of this treaty if one of our ships should take on supplies in or about the canal?

Mr. BURTON. Mr. President, I answer the question most emphatically "no," because a state of war suspends treaties. There are certain rights that are secured by treaties which, if not abrogated, are at least suspended by a condition of war.

Mr. CUMMINS. Why, Mr. President, it is a state of war that is provided for in the treaty.

Mr. LODGE. Surely the Senator from Ohio does not mean to suggest that if we have a war with Japan or Germany that suspends a treaty between us and Great Britain.

Mr. BURTON. No; I thought that was clearly understood—that it is a treaty with the country with which we are at war.

Mr. LODGE. I do not understand that the Senator from suspends a treaty between us and Great Britain.

Mr. CUMMINS. If the United States were at war with any country, under the terms of this treaty, if we observed it according to the rule laid down by the Senator from Ohio, we would be a belligerent, and we would no more be permitted to supply our ships in the Canal Zone than would the ships of the other belligerent.

I also call the attention of the Senator from New York to the further provision:

No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

If the United States is within the phrase "all nations," then that provision would apply upon us in the event of a war between us and any other country in the world. I simply mention this because I think the conclusions of the Senator from New York are absolutely unanswerable.

Mr. HEYBURN. I should like to make an inquiry of the Senator from Iowa. Can it be possible that any construction could be placed upon the treaty that would prevent us from disembarking troops on our own territory between the two ends of the canal or loading or unloading munitions of war upon our territory on the land?

Mr. CUMMINS. If the phrase "all nations" includes the United States, then in the event of a war between the United States and any other country we would be denied those privileges and those rights in the canal, according to the terms of the treaty.

Mr. HEYBURN. Suppose a war existed between the United States and some nation that was not a party to the treaty.

Mr. CUMMINS. Under the terms of the treaty, as interpreted by the Senator from Ohio, that would make no difference whatsoever.

Mr. HEYBURN. Is there not some basis for interpreting the treaty so that it would not include our Government within the term "all nations"?

Mr. CUMMINS. I think it is a conclusive reason for not interpreting the treaty in that way.

Mr. O'GORMAN. Mr. President, to resume, there were six rules laid down in the Hay-Pauncefote treaty which were to be observed by all foreign nations. Free and uninterrupted use of the canal for the purposes of commerce and of war constitutes the first paragraph which I have read. Your attention has been called to the substance of one or two of the other paragraphs; but it must be clear if any one of these rules is applicable all the six rules are applicable; and with respect to the question as to whether they are applicable to the United States, as has been very aptly pointed out by the Senator from Iowa, under the third rule the United States could not revictual its vessels or supply its vessels with stores in its own canal—the most extraordinary proposition I think that has ever been advanced in this body.

Under the fourth rule the United States, in its own canal, could not embark or disembark troops. I insist that under the language of this treaty it was never understood or expected that any of these restrictions or inhibitions would apply to the United States. The people of this country never believed that they were expending a vast amount of money to construct a canal in the regulation of which we were impotent without the consent of Great Britain.

The junior Senator from Georgia [Mr. SMITH] during the day called attention to the fact that in the preamble of the treaty some reference is made to article 8 of the Clayton-Bulwer treaty of 1850. If you refer to article 8 of the Clayton-Bulwer treaty you will find that it has little or no application. If it has any application at all, it is confined to the words recited in the preamble of the Hay-Pauncefote treaty, which speak of the observance of the general principle of neutralization established in article 8 of the Clayton-Bulwer treaty.

That everything in article 8 can not be invoked now is apparent from the circumstance that in the Clayton-Bulwer treaty by article 8 it was contemplated that England as well as the United States would guarantee the neutralization of the canal, which canal, by the by, as I have already stated, was to be built through foreign territory. Under the Hay-Pauncefote treaty England assumes no responsibilities respecting the protection of the neutralization of the canal. All those responsibilities were assumed by the United States, and the canal is being constructed on United States territory. The comments made by the junior Senator from Georgia, therefore, should not be permitted to interfere with the force of the suggestions I have made as to the true construction and interpretation that should be placed upon the Hay-Pauncefote treaty.

Now, it may not be proper to go beyond the purely legal aspects of this problem, and up to the present I have endeavored to confine myself to a legal consideration of the import and the meaning of the words employed. Yet there are other considerations of importance, though perhaps not bearing at all upon the question of the true interpretation. Free tolls in the canal is the doctrine of the Democratic Party of the United States. We believe that free tolls make for cheap food and for ultimate benefit to the consumer. We want through that canal the highest and best development of competition. We are against the railroad organizations of this country placing their hands upon that canal and making it a part of their corporate assets. We believe the canal is but an extension of our national highway. Although we have spent, as I have

said, upward of $400,000,000 in the construction of that canal, we have spent much more than $400,000,000 in the development of the waterways of this country during the past 50 years. We have not been taxed as citizens of the United States for making use of the increased facilities of our national highways. Unless there is some reason for abandoning that policy we should permit American citizens, the owners of American ships, to make use of this extension of our coast line without subjecting them to a tax which would be entirely inconsistent with the policy of the Government in the past.

It may well have excited some surprise that Great Britain, with all her professions of friendship for this country, would seek to control and restrict our efforts on a plea which can not be invoked against herself, because, as I have said, under the treaty, which reflects no credit upon the treaty-making branch of our Government, England assumes no obligation whatever. There is no mutuality of obligation. She can subsidize every British vessel going through the canal, and yet under this treaty we could not complain if England did that. We could not complain if any other foreign nation did that. Spain has already legislated to reimburse Spanish ships for the tolls they may pay going through our canal. We can not complain. Those countries have the right to do that. But is it possible that the right possessed by every other nation on earth with respect to our canal is denied to our own citizens by a composition or convention called a treaty not remarkable for its precision of expression or for respect for the Monroe doctrine, that great principle upon which our institutions have prospered?

One might suppose that Great Britain in taking this extraordinary, unreasonable, unfriendly attitude must have been moved by some sinister purpose or impulse. I do not believe Great Britain is much concerned as to whether we allow American ships to go through the canal without the payment of toll or not. I believe, however, that the railroads of Canada and the railroads of the United States have been enabled to secure the cooperation of the British foreign office to embarrass this Government in the attempt we are now making for wholesome legislation to keep railroad-controlled ships off the canal that competition may live and thrive and that this national enterprise shall not be handed over to the railroad organizations of the United States.

The railroad corporations have been incorporated for railroad purposes; and they have destroyed competition wherever they have been permitted to secure control of competing water transportation facilities.

Reference was made to-day to the declarations of ex-President Cleveland and other Executives. They have all been unanimous in the thought that the building of a great canal connecting the two oceans would make for competition, wholesome competition, in transportation. To secure that great end, in my judgment, it is necessary to resort to what may seem drastic legislation, but which I believe is the only cure of an evil great in its importance and in its possibilities for injury to the American people.

Mr. President, with respect to the immediate proposition before us, I entertain no doubt that as a matter of governmental policy we should exempt from the payment of tolls all American shipping going through the canal. I am confident that such action by the American Congress would not violate the language and can not violate the spirit of the treaty that has been invoked against us.

Mr. BACON. Before the Senator takes his seat I should like to ask him a question, with his permission. I am asking it for information. The Senator is on the committee, and doubtless has given this matter serious consideration. I am not on it, and I have not had the opportunity to have the information which the committee has doubtless secured and which has not yet fully developed in this discussion.

The Senator has alluded to the importance of this proposed provision in the law as it will affect the question of the power and ability of the railroad companies to control this water transportation. The question which I ask the Senator, not arguendo but for information, is whether a provision giving generally to all American ships the right to free passage through the canal is essential in order to prevent a monopoly by the railroad companies or whether that end will be accomplished by simply prohibiting railroad-owned ships from doing so?

I am frank to say to the Senator that I am fully in sympathy with the desire to prevent railroad companies, through the ownership of ships going through the canal, from monopolizing that route of commerce. If it be true that in order to defeat that it is necessary that all American ships have the right of free passage, it is certainly a very strong argument in favor of it. Therefore I desire to know from the Senator whether that is essential or whether the end will be accomplished by prohibiting railroad-owned ships from going through.

Mr. O'GORMAN. Mr. President, I believe that both things are essential. It was the judgment of some of the committee that considered this problem that monopoly might be prevented by extending the jurisdiction of the Interstate Commerce Commission over water transportation, and that the matter might be controlled by regulation as the Interstate Commerce Commission now attempts to regulate railroad rates and traffic.

Two of the most experienced members of that commission testified before our committee that as a result of their observation and study of railroad regulation the only certain method of preventing a monopoly by the railroads was to prohibit a road from having any interest, direct or indirect, in water transportation in any part of the United States; and my study has confirmed the wisdom of that view. As an instance, every foot of railroad in the United States east of the city of New York is now controlled by one corporation. Years ago it was made up of numerous small companies. They were absorbed from time to time until the entire system covering every foot of railroad track in New England is now under the control of one corporation. The one competing condition with the railroads of New England was water transportation by Long Island Sound, by boats running to New Haven, Bridgeport, New London, Providence, and Boston.

There are 37 boats doing an extensive business in Long Island Sound, supposedly competing with the New England railway system, known as the New York & New Haven Railroad. Of the 37 boats, 35 are owned and controlled by the railroad and 1 or 2 independent boats are attempting to survive under a cutting competition, which in a short time will drive them out of business.

The city of Bridgeport is one of the most important cities in New England—a great manufacturing city. The tracks of the New Haven Railroad run through that city about half a mile back from the water front. Every pound of merchandise going in and out of that city must go either by the tracks of the New Haven road or by boat to or from Bridgeport. The city of Bridgeport does not own one foot of frontage on the Sound—every foot of it is owned by the railroad. You must patronize that one railroad whether you travel by rail or by boat; and I believe it is the only place in the United States, and perhaps the only time in the history of traffic conditions in the United States, where the charge by water is as great as that by land. It is known to every student of economics that the cost of water transportation is much cheaper than is that of transportation by rail; but with the tremendous business done along Long Island Sound by the boats owned by this railroad, they exact and compel and receive from the consumer the same rate by boat that they get by rail.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Oregon?

Mr. O'GORMAN. Certainly.

Mr. CHAMBERLAIN. I desire to ask the Senator from New York if it is not a fact that it developed before his committee that practically the same condition which he has so ably discussed as existing in New England exists on the Pacific coast, and that the transcontinental lines not only fix the transcontinental rates, but that they control the boats running between points along the northwest coast and the Isthmus of Panama?

Mr. O'GORMAN. It is a common condition all over this country; and it is for that reason, I believe, that the judgment expressed by the two members of the Interstate Commerce Commission, Mr. Lane and Judge Prouty, should prevail. They declare, as the result of years of observation and experience, that the only wholesome legislation Congress can now enact in respect to this matter is to prohibit railroad-controlled boats using the Panama Canal or the waterways of the country.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Missouri?

Mr. O'GORMAN. Certainly.

Mr. REED. Could the Senator tell us what proportion of the coastwise trade is now carried in boats that are controlled by railroad companies?

Mr. O'GORMAN. My impression is that a very considerable quantity of the coastwise trade, surely a majority of it, is now controlled by the railroads of the country; but if the legislation of which I speak is enacted, that condition will cease.

Mr. REED. One further question. Could the Senator tell us to what extent the coastwise trade is now controlled by one management, so that it may be said to what extent it approaches a monopoly of management or a combination of management?

Mr. O'GORMAN. I have a strong belief on the subject, Mr. President, but I have no exact information available. My

belief is that the railroads have an injurious influence upon water transportation because of their control of it to-day, and that the sooner a change is made divorcing rail transportation from water transportation, the better it will be for the people of the country, and perhaps for those interested in such industries. I am not opposed to railroads. They have contributed much to the growth of our country. I shall never fail to defend them when they are right, but I am unalterably opposed to the creation of monopolies.

Mr. REED. One further question, with the indulgence of the Senator. The Senator's view, I take it, is that railroad-controlled boats should not be permitted to use the Panama Canal on the same terms that other boats are permitted to use it, or that they should be perhaps excluded altogether?

Mr. O'GORMAN. That they should be entirely excluded.

Mr. REED. Would it not be necessary to add to that provision a further provision that no vessels controlled by any company that is engaged in any combination to control rates shall also be excluded?

Mr. O'GORMAN. The proposed legislation might well be improved by the suggestion made by the Senator from Missouri.

Mr. PERCY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Mississippi?

Mr. O'GORMAN. I do.

Mr. PERCY. I understood the Senator from New York to say that he thought the only method of preventing a monopoly of shipping through the canal by the railroads was by prohibiting railroad-owned vessels from going through the canal. I should like to ask him if he does not think that railroad monopoly would be absolutely prevented, and much better shipping facilities be given, by amending the coastwise navigation laws to the extent of permitting vessels of all nations to carry passengers and freight from a port or ports on the Atlantic coast to a port or ports on the Pacific coast through the Panama Canal. I will call the Senator's attention to the fact that in quoting the statement of the Interstate Commerce Commission he said it was their opinion that the only method of preventing railroad monopoly was by prohibiting railroad-owned vessels from operating through the canal. In reply to the question which I have propounded to the Senator, the Interstate Commerce Commissioners said that unquestionably that provision would absolutely prevent any monopoly by the railroads. I would like to ask the Senator's opinion on that question.

Mr. O'GORMAN. If, upon reflection, I could be persuaded that it would be as effective a means as the one I propose to make monopoly impossible, I would give it the same hearty support that I am urging in behalf of my own proposition.

Mr. BACON. Mr. President, I shall not ask the Senator to reply now to the question I am about to ask, if for any reason he desires to desist from further remarks, but it is a matter of very grave importance to those of us who are not on the committee and who have not had an opportunity to obtain the information that has been given to the committee to get definite suggestion and opinion upon this particular subject. The question that has been discussed this afternoon is as to the policy, to say nothing of the power, of the United States in permitting all vessels engaged in the coastwise trade to pass free of toll through the canal. The Senator from New York has very ably discussed that question, and we have all been very much entertained and enlightened with the views expressed by him; but in the latter part of the remarks of the learned Senator he went on to apply the matter of the free passage of the coastwise American ships through the canal as one additional argument, through the application of which the monopoly of the railroads would be defeated. What I want to get from the Senator—I repeat I will not insist upon an answer now, but I hope during the debate we shall have a discussion of the question—is this: We will all concede, for the purpose of this branch of the argument, that in order to break up the monopoly of the railroads railroad-owned ships should not be allowed to go through the canal. Eliminating that feature from consideration now, the question upon which I desire to have information, and which I hope will be fully discussed, is, Does the free passage of coastwise American ships, other than railroad-owned ships, through the canal have any connection with the question of the monopoly of the trade by the railroads?

Mr. O'GORMAN. It is an additional assurance of free competition and of cheap goods. If, for instance, American coastwise boats are permitted to go through the canal without paying toll, it will become necessary for the railroads competing with the canal to reduce their rates proportionately to meet the price at which goods carried by such bottoms through the canal will reach the consumer. They are not necessarily associated, but both contribute to the one most desirable end of promoting the welfare of the ultimate consumer, and not to allow our conduct to be governed or controlled by regard for class or special interests.

Mr. BACON. I understand that argument, of course. It very naturally appears to be so, that the free passage of American coastwise ships through the canal, if there is competition between them, will necessarily reduce rates. Recognizing that, I come back to the question—because that is the important question, whether or not—I concede it may tend to reduce railroad rates, because they have to come in competition with ships passing through the canal; but to come back to the question, Does it affect the question of monopoly by the railroads? I am asking, I repeat, not as a matter of argument, but for the purpose of getting the views of the distinguished and learned Senator.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Idaho?

Mr. O'GORMAN. Yes.

Mr. BORAH. I am a member of the Committee on Interoceanic Canals, but there is a good deal as a member of the committee that I have not been able to settle in my own mind, and one proposition about which I would like to ask the opinion of the Senator, if he desires to give it or has an opinion upon it, is, What will be the effect of denying to our railroads the right to own ships when we are face to face with the proposition that the Canadian railroads will own ships and utilize them through this canal?

Mr. O'GORMAN. Unquestionably it would affect the railroad-owned ships of the world. If we deny the right to our own railroads to control ships, the same rule and policy would apply to Canadian railroad-owned ships or to English railroad-owned ships.

Mr. BORAH. As a general proposition that is true; but we would be in a most difficult position to make a practical application of and to execute it, would we not?

Mr. O'GORMAN. At any time a foreign railroad-owned ship appeared for the purpose of passing through the canal, the United States officers there could make their own inquiry and investigation, and if they were satisfied that the ship about to enter the canal was controlled by a railroad company, directly or indirectly, they would prevent the ship from passing through. Of course, the statute might be evaded; but——

Mr. BRISTOW. Mr. Presient——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Kansas?

Mr. O'GORMAN. I yield to the Senator from Kansas.

Mr. BRISTOW. I should like to suggest, if the Senator will permit me, that ships owned by the Canadian railways can not engage in the coastwise trade of the United States unless they are ships of American register; if ships of American register, they would sail from American ports; and the Canadian railroads having termini in the United States are subject to the supervision of the Interstate Commerce Commission and would come under the same rules and the same statutes as would the American railroads.

Mr. BORAH. Mr. President, just a word. I should like to suggest to the Senator from Kansas, who is very familiar with this proposition, suppose we do deny the right of the railroads to own ships, we will at some time or other, I presume, have to put them under the regulation and control of the Interstate Commerce Commission, or some other commission, or else they will have a monopoly of their own and a combination of their own. They will have to be supervised and regulated and controlled at some time or other in their traffic and in their rates, the same as we regulate the railroads, will they not?

Mr. BRISTOW. Well, if a monopoly be organized by the steamships that ply between the Atlantic and the Pacific coasts of the United States through the canal, it ought to be dealt with the same as any other monopoly of transportation, and I am perfectly willing, so far as I am concerned, for any provision to go into this bill that will look to the prevention of such monopoly and the maintenance of competition on the sea between the carriers by sea; but, because such a thing might be, it can not be a justification for permitting a monopoly that now exists to continue, a monopoly between the railroads and the steamship lines which are owned by them and which are presumed to compete with them.

Mr. BORAH. That is quite true; I am in accord with what the Senator says as to preventing a monopoly which now exists to continue; but it will not be very effective if we simply transfer the seat of power from one organization to another.

Mr. BRISTOW. I thoroughly agree with the Senator as to that, and shall be glad to join with him or any other Senator in endeavoring to anticipate such a possible combination, which is very much more difficult, I will say, by sea than by land, because, if I am not intruding upon the time of the Senator from

New York, the sea is open. Any company can charter a vessel—they need not necessarily have great wealth—and can use the water, because the water is the open highway; but no company, unless it be backed by tremendous wealth, can conduct a transcontinental railway or use such a railway in the carrying of commerce.

The railway is by its very nature a monopoly, while the sea is open. All one has to do is to purchase or hire a ship and put it on the water to seek commerce wherever it is to be found. So that a monopoly by sea is very much more difficult to organize and maintain, but it is not impossible, and the Senator from Idaho can be no more desirous than am I to provide against that contingency, if it appears to be a danger.

Mr. BORAH. It is not only not impossible, but it is entirely probable that it will happen. I do not see how the fact that the highway is open would be of very much avail against a combination which could drive others off the highway, whatever its width or latitude might be, by reason of the rates which they would fix until they did drive the others off the sea.

Mr. BRISTOW. That is——

Mr. O'GORMAN. I might say there is no doubt that to-day there is something of a monopoly in water transportation. There is a monopoly that embraces most of the ocean steamship lines, that embraces a large part of our coastwise traffic, and in time it will have to be corrected. But we can not work a cure of all the evils at one time or in one bill. If we succeed in accomplishing what we are trying to do with this legislation we will be making some progress, and our efforts will be effective when we take up the problem suggested by the junior Senator from Idaho [Mr. BORAH]. I now yield to the junior Senator from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS. I wish to ask for information, and I want to ask the question of the Senator from New York, because in addition to being a member of this committee and an able Senator he has been an able judge.

It is clear to my mind that under the provisions of this treaty we have no right to make any discrimination by charges against the vessels of any other nation. It is also clear to my mind that whether this treaty be an unfortunate one or not—and I agree with the Senator from New York that it was unfortunate and that our own interests as a nation were neglected when it was entered into—we must still construe it within the four corners of the instrument itself.

But I am not clear upon this point, and upon it I desire information. It is whether or not the exemption of our coastwise vessels would be a discrimination.

Now, I find, if the Senator from New York will pardon me, a case which has been referred to previously, but not any part of it was read. It is to be found in One hundred and ninety-fifth United States and is the decision of the Supreme Court in the case of Olsen against Smith. In this case American vessels in the coastwise trade were exempted from certain pilotage charges imposed by the State of Texas.

The case went up on several points, but only one of them affects the particular matter we are now discussing, and although this is the decision of the United States Supreme Court and, of course, is not internationally binding, it seems to me a great deal of regard might be paid to the principle announced in this decision.

Now, the language of the court is this:

> Nor is there merit in the contention that, as the vessel in question was a British vessel coming from a foreign port, the State laws concerning pilotage are in conflict with a treaty between Great Britain and the United States, providing that "no higher"—

This is the language of the treaty—

> no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States.

That is the language of the treaty. Now, here is the language of the court proceeding with it:

> Neither the exemption of coastwise steam vessels from pilotage, resulting from the law of the United States, nor any lawful exemption of coastwise vessels created by the State law, concerns vessels in the foreign trade, and therefore any such exemptions do not operate to produce a discrimination against British vessels engaged in foreign trade and in favor of vessels of the United States in such trade. In substance, the proposition but asserts that because by the law of the United States steam vessels in the coastwise trade have been exempt from pilotage regulations, therefore there is no power to subject vessels in foreign trade to pilotage regulations, even although such regulations apply without discrimination to all vessels engaged in such foreign trade, whether domestic or foreign.

Now, if this national principle of law be internationally sound, and even if under this treaty we can make no discrimination, the question which suggests itself to my mind is whether the exemption of coastwise vessels would be a discrimination; whether it could be a discrimination against foreign vessels of any sort, because foreign vessels of no kind can engage in the coastwise trade. Upon that point I should like to have the opinion of the Senator from New York.

Mr. O'GORMAN. I did state some time since, and I now repeat, a principle in harmony with the decision of the Supreme Court in the case of Olsen *v.* Smith in One hundred and ninety-fifth United States. There can not be discrimination unless there is an interference with competition, and there can be no competition between a foreign ship and a local ship engaged in the coastwise trade. Therefore, on principle as well as on authority, the proposition made by the Senator from Mississippi seems to be well sustained and should dispose of all doubt with respect to the provision affecting coastwise trade.

APPENDIX A.

CLAYTON-BULWER TREATY OF APRIL 19, 1850.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans by the way of the River San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua to any port or place on the Pacific Ocean, the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States, and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's most honorable privy council, knight commander of the most honorable Order of the Bath, and envoy extraordinary and minister plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICTLE 1.

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal, agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE 2.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

ARTICLE 3.

In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

ARTICLE 4.

The contracting parties will use whatever influence they respectively exercise with any state, states, or governments possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such states or governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE 5.

The contracting parties further engage that, when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments or either Government, if both Governments, or either Government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon the passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE 6.

The contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other states may share in the honor and advantage of having contributed to a work of such general interest

and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE 7.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any state through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking, it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE 8.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other state which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE 9.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done at Washington the 19th day of April, A. D. 1850.

JOHN M. CLAYTON. [L. S.]
HENRY LYTTON BULWER. [L. S.]

APPENDIX B.

HAY-PAUNCEFOTE TREATY OF 1901.

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America,

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honorable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1.

The high contracting parties agree that the present treaty shall supersede the aforementioned convention of April 19, 1850.

ARTICLE 2.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE 3.

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed October 28, 1888, for the free navigation of the Suez Canal; that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

ARTICLE 4.

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the beforementioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

ARTICLE 5.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate at Washington the 18th day of November, A. D. 1901.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

Mr. WILLIAMS. I desire to say, in justice to the Senator from New York, because I did not want to keep him any longer on his feet than necessary, that my main object in asking him to yield—I had heard his speech—was in order to have the exact language of the Supreme Court go to the country in the speech he is making.

Mr. McCUMBER. Mr. President, the hour is late, and I shall not resume any debate on this question. But I want to answer very briefly one of the arguments that was made, not so much by the Senator from New York as in a colloquy between the Senator from New York and the Senator from Iowa, as to whether or not under the treaty stipulation we would have the right to land and revictual our men-of-war, and so forth, in the canal.

I do not think that question has been fairly and squarely met and answered. If my construction of this treaty is right, if the construction is correct which was placed upon it by the Members of the Senate when they adopted it, and which was voiced in every argument that was uttered, then there is but one answer, "No; that can not be done."

There was one piece of mother earth, the canal and its zone, which should be free from war. It was neither a place where war could be conducted, nor a place where munitions of war could be landed, nor a place where the belligerents of either side, whether the United States or any other country, could take any part in a conflict. It was intended to be a zone of peace, which should be acknowledged by all the world as sacred ground.

I claim here that if we are not correct, then the theory stated by the Senator from New York, if I understood him correctly, is the proper one, viz, that if a German railway owned a ship we could discriminate against that ship because it was a railway-owned ship, and we could discriminate against a Canadian ship because it was a railway-owned ship.

If the construction as claimed by the Senator from New York is correct, then, if we should apply the same regulation to all railroad-owned ships, we undoubtedly would have that authority. But I ask, candidly, if any Senator believes that under the provisions of this treaty we could say to Great Britain or Germany or any other country: "If you have a ship that is owned by one of your railways we can discriminate against it

and treat it differently than we would any other ship owned by a citizen of your country"? I do not believe it.

We ought to consider this treaty just as it is, Mr. President, and keep within its four corners in determining what it says. But in construing it, if it is open to doubt, we have a right to consider all of its history and all its surroundings at the time of its adoption, while keeping within the limits of its provision.

Let me ask Senators this question, after reading one section of the treaty:

The canal shall never be blockaded, nor shall any right of war be exercised, nor any act of hostility be committed within it.

Does that apply to the United States? Does it mean that no acts of war can be committed within it except by the United States? Does it mean that it shall not be blockaded except by the United States? Or is the United States included in the inhibition? And if the United States is included within the inhibition of that section, it must be included also in every other section. That it is is clearly evident from what follows. Let me read it, then, including what follows:

The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

If the United States would have that authority anyway, if the United States would have unlimited authority over the canal as its own property, why was it necessary, after declaring that no acts of war or of hostility should be committed within it and that it should not be blockaded, to insert a provision, in order to take the United States especially without that restriction, that the United States should have liberty to do certain things that were consistent and proper and naturally followed ownership?

All of the argument that I have heard has been an argument against the propriety of ever having adopted a treaty of this character. That may have been proper argument at the time; but we did adopt the treaty, and we adopted it to get rid of another treaty which held us within certain limitations.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. I yield, Mr. President.

Mr. CUMMINS. Inasmuch as I take it the Senator from North Dakota is now really replying to suggestions of my own, I beg to submit to him this consideration: Undoubtedly the provision just read by the Senator from North Dakota does apply to or govern the United States, because it refers to a condition of the canal itself. It is a provision about the thing itself. It applies to the United States in just the same way as though it had been provided so that the locks in the canal should be not less than 110 feet wide. Of course, if such a provision had been put into the treaty, it would have bound everybody connected with it, because it controls the thing itself.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from New Mexico?

Mr. McCUMBER. I do.

Mr. FALL. In line with what the Senator has suggested in reference to the necessity for the abrogation of the Clayton-Bulwer treaty by the Hay-Pauncefote treaty, I wish to suggest to him that at the time of the adoption of the Clayton-Bulwer treaty Great Britain was directly interested in Central America and near the Isthmus of Panama by the ownership of British Honduras and the Mosquito Coast, and at that time the United States had absolutely no interest there whatsoever; and even yet Great Britain retains a certain sovereignty over a portion of the Mosquito Coast.

Mr. McCUMBER. Mr. President, I want to ask the Senator from Iowa if he believes this provision was intended to apply to the United States as well as to foreign countries:

No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

Is it the Senator's claim that the other provision which I read did include the United States, but this provision does not include it?

Mr. CUMMINS. In my opinion the provision just read by the Senator from North Dakota does not apply to the United States.

Mr. McCUMBER. Then, Mr. President, when the Hay-Pauncefote treaty was signed does the Senator think, after reading the arguments and the diplomatic correspondence, that it was the intention of the two countries entering into that agreement that the United States should have the advantage of using it for war purposes, for blockading it against other countries, having her munitions of war there, and using it as a base for war supplies; and does the Senator believe that any other country which was interested in that canal would have signed an agreement that it was denied even the right to either blockade or the right to commit any acts of hostility within 3 marine leagues of the mouth of the canal at either end, and at the same time that the other belligerents should be allowed to use it for hostile purposes, without any ability to protect itself, and that such other country should even go to the extent of binding itself not to take any steps against it?

Mr. CUMMINS. I answer that by saying that undoubtedly other nations were willing to so agree. Undoubtedly Great Britain did so agree. The United States bought this tract of land 10 miles wide and paid for it with its own money. It was to build the canal. I can not believe it was in thought then that the United States should have no right whatsoever in this canal not enjoyed by all the other nations of the world.

Mr. BORAH. Mr. President——

Mr. McCUMBER. In just one moment. The Senator differs entirely with Senator Davis when he presented the report and with his argument when he declared most emphatically that that was our contention; that we claimed no other or further right than that which was necessary to protect the canal itself; the fact of our investment of the money expended there was to be paid back to us in the tolls which should be charged and in the other benefits that we should derive from it was our recompense for the outlay, and that outside of those tolls and outside of those benefits we were to be placed exactly in the position of every other country in the world. That was the contention of Senator Davis when he presented the report. That was the argument that was made in support of the new treaty which should supersede the old one. I was in the Senate at that time and I do not remember of any Senator ever disagreeing with him upon that proposition.

Mr. CUMMINS. I have no other information than is contained in the language of the treaty itself. If the purpose of the United States in executing this treaty was as just suggested by the Senator from North Dakota, that purpose was very inaptly and inefficiently expressed.

Mr. REED. Mr. President——

Mr. McCUMBER. There is where we finally land. Instead of giving the fair construction which these words demand we fall back, in our argument every time, upon the proposition that we ought not to have made such an agreement. But, Mr. President, we did make such an agreement, and the agreement is as clearly expressed as the English language can make it.

Mr. CUMMINS. Mr. President, I can convince the Senator from North Dakota in a very little time that the treaty does not make the provision which he has just recited as being the views of the then Senator from Minnesota, Mr. Davis; but I will defer that until another day, when I shall hope to discuss somewhat historically the treaty before us.

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Missouri?

Mr. McCUMBER. I yield to the Senator.

Mr. REED. I wish to ask the Senator this question: He states that he was a Member of the Senate when this treaty was adopted, and, as I understand him, maintains that the provisions of the treaty with reference to a maintenance of the neutrality of the canal binds this Government the same as all other governments. I want to ask him if at the time he voted for the treaty he contemplated this possible situation: A Japanese fleet at the western end of the canal aiming to pass through the canal and bombard New York? Did he contemplate the idea that we were building a highway through which they should pass to our principal city, and did he think at the time he voted for the treaty that we would be obliged to allow that fleet to pass through our canal unmolested, not to touch it or attempt to stop it until it was 3 marine leagues from the eastern end of the canal?

Mr. CUMMINS rose.

Mr. REED. I am addressing my question to the Senator from North Dakota.

Mr. CUMMINS. I want to supplement the question of the Senator from Missouri——

Mr. REED. Certainly.

Mr. CUMMINS. With the further suggestion that under the treaty, if it applies, we would be compelled to allow the supposed Japanese fleet to have 24 hours' start of any ship of our own that we might pass through the canal.

Mr. REED. And to victual and recoal on the way. Did the Senator from North Dakota contemplate a situation of that kind, and did the Senate of the United States contemplate it?

Mr. McCUMBER. Mr. President, when the treaty was adopted we had before us the rules and regulations concerning

the Suez Canal. We adopted and embodied in the treaty practically the same rules. We adopted so far as they applied here the same rules with reference to the passage of ships through this canal. The Suez Canal is to-day held sacred by all nations against any acts of war. No acts of war are allowed within 3 leagues. If any war vessel passes through that canal, it must not delay, it must not revictual, or do anything on its voyage to help itself or injure its enemy; and it makes no difference though Great Britain holds the control of the canal and its stock; it binds her warships the same as it binds other warships in the matter of revictualing or committing any act of violence within a certain zone. That which has operated so successfully in the Old World will operate equally successfully on this side of the world.

I had not the least fear then and I have no fear now that the Japanese Government would violate the terms of this agreement, though made with another Government. If she did violate it, then, of course, we would be justified in protecting ourselves in times of war to meet whatever exigencies might arise and by whatever means that might be necessary.

Mr. SMITH of Georgia. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. I do.

Mr. SMITH of Georgia. If the Senator will allow me a moment before he takes his seat. I heard a part of the Senator's speech in connection with what he was just saying. Did the Senator call the attention of the Senate to the fact that when the treaty was here in 1900 a provision was added by the Senate covering this subject, and the treaty was rejected by Great Britain and came back with just that one provision left in?

Mr. McCUMBER. Yes.

Mr. SMITH of Georgia. The Senator discussed that?

Mr. McCUMBER. I had not discussed it, but I recall it very well.

Mr. SMITH of Georgia. That is found on page 9.

Mr. BRANDEGEE. I ask unanimous consent that the treaties which are found in the hearings conducted by the Panama Canal Committee on the Isthmus, as shown on pages 264 to 274 of the book which I send to the desk, may be printed in the RECORD. Those are the treaties about which the discussion centers, and I think that the public would be interested in seeing what they are.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from Connecticut? The Chair hears none.

The matter referred to is as follows:

GREAT BRITAIN—INTEROCEANIC SHIP CANAL.

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN FOR FACILITATING AND PROTECTING THE CONSTRUCTION OF A SHIP CANAL BETWEEN THE ATLANTIC AND PACIFIC OCEANS, AND FOR OTHER PURPOSES.

[Concluded Apr. 19, 1850; ratification advised by the Senate May 22, 1850; ratified by the President May 23, 1850; ratified by Her Britannic Majesty June 11, 1850; ratifications exchanged July 4, 1850; proclaimed July 5, 1850.]

By the President of the United States of America—A proclamation.

Whereas a convention between the United States of America and Her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific Oceans, and for other purposes, was concluded and signed at Washington on the 19th day of April last, which convention is, word for word, as follows:

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND HER BRITANNIC MAJESTY.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans, by the way of the River San Juan de Nicaragua, and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean; the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States; and Her Britannic Majesty on the Right Hon. Sir Henry Lytton Bulwer, a member of Her Majesty's most honorable privy council, knight commander of the most honorable Order of the Bath, and envoy extraordinary and minister plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

ARTICLE I. The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ART. II. Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

ART. III. In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local government or governments through whose territory the same may pass, then the persons employed in making the said canal, and their property used, or to be used, for that object, shall be protected, from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatsoever.

ART. IV. The contracting parties will use whatever influence they respectively exercise, with any State, States, or Governments possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ART. V. The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ART. VI. The contracting parties in this convention engage to invite every State, with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ART. VII. It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object; and the said persons or company shall, moreover, have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim, over every other person, persons, or company, to the protection of the Governments of the United States and Great Britain, and be allowed a year, from the date of the exchange of the ratifications of this convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ART. VIII. The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America; and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which

is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ART. IX. The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof, we, the respective plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done at Washington, the 19th day of April, A. D. 1850.

[L. S.] JOHN M. CLAYTON.
[L. S.] HENRY LYTTON BULWER.

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the 4th instant, by John M. Clayton, Secretary of State of the United States, and the Right Hon. Sir Henry Lytton Bulwer, envoy extraordinary and minister plenipotentiary of Her Britannic Majesty, on the part of their respective Governments:

Now, therefore, be it known that I, Zachary Taylor, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 5th day of July, in the year of our Lord 1850 and of the independence of the United States the seventy-fifth.

[L. S.] Z. TAYLOR.

By the President:
J. M. CLAYTON, *Secretary of State.*

GREAT BRITAIN—INTEROCEANIC CANAL.

TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN TO FACILITATE THE CONSTRUCTION OF A SHIP CANAL.

[Signed at Washington, November 18, 1901; ratification advised by the Senate, December 16, 1901; ratified by the President, December 26, 1901; ratified by Great Britain, January 20, 1902; ratifications exchanged at Washington, February 21, 1902; proclaimed, February 22, 1902.]

By the President of the United States of America—A proclamation.

Whereas a convention between the United States of America and the United Kingdom of Great Britain and Ireland, to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that convention, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 18th day of November, 1901, the original of which convention is word for word as follows:

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, King and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, King and Emperor of India, the Right Honorable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I. The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

ART. II. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ART. III. The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof for the purposes of this treaty, and in time of war as in time of peace shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

ART. IV. It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

ART. V. The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and thereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, A. D. 1901.

[SEAL.] JOHN HAY.
[SEAL.] PAUNCEFOTE.

And whereas the said convention has been duly ratified on both parts, and the ratification of the two Governments were exchanged in the city of Washington on the 21st day of February, 1902:

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 22d day of February, A. D. 1902, and of the independence of the United States the one hundred and twenty-sixth.

[SEAL.] THEODORE ROOSEVELT.

By the President:
JOHN HAY, *Secretary of State.*

PANAMA—SHIP CANAL.

CONVENTION BETWEEN THE UNITED STATES AND THE REPUBLIC OF PANAMA FOR THE CONSTRUCTION OF A SHIP CANAL TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS.

[Signed at Washington, November 18, 1903; ratification advised by the Senate, February 23, 1904; ratified by the President, February 25, 1904; ratified by Panama, December 2, 1903; ratifications exchanged at Washington, February 26, 1904; proclaimed, February 26, 1904.]

By the President of the United States of America—A proclamation.

Whereas a convention between the United States of America and the Republic of Panama to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans was concluded and signed by their respective plenipotentiaries at Washington on the 18th day of November, 1903, the original of which convention, being in the English language, is word for word as follows:

ISTHMIAN CANAL CONVENTION.

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries—

The President of the United States of America, John Hay, Secretary of State, and

The Government of the Republic of Panama, Philippe Bunau-Varilla, envoy extraordinary and minister plenipotentiary of the Republic of Panama, thereunto specially empowered by said Government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I. The United States guarantees and will maintain the independence of the Republic of Panama.

ART. II. The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea 3 marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of 3 marine miles from mean low-water mark, with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described, and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra, and Flamenco.

ART. III. The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority

ART. IV. As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the

rivers, streams, lakes, and other bodies of water within its limits for navigation, the supply of water or water power or other purposes, so far as the use of said rivers, streams, lakes, and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal.

ART. V. The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

ART. VI. The grants herein contained shall in no manner invalidate the titles or rights of private-land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States, in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation, and protection of the said canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said canal or the Panama Railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed, or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ART. VII. The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights, or other properties necessary and convenient for the construction, maintenance, operation, and protection of the canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States, may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal and railroad. All such works of sanitation, collection, and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominee, shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of 50 years, and upon the expiration of said term of 50 years the system of sewers and waterworks shall revert to and become the properties of the cities of Panama and Colon, respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances, whether of a preventive or curative character, prescribed by the United States, and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States, the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

ART. VIII. The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Co. and the Panama Railroad Co. as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Co. to sell and transfer to the United States its rights, privileges, properties, and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

ART. IX. The United States agrees that the ports at either entrance of the canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected customhouse tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation, and protection of the main canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the canal and for other works pertaining to the canal.

ART. X. The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the railways and auxiliary works, tugs and other vessels employed in the service of the canal, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works.

ART. XI. The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ART. XII. The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

ART. XIII. The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone, and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ART. XIV. As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

ART. XV. The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments, who shall render the decision. In the event of the death, absence, or incapacity of a commissioner or umpire, or of his omitting, declining, or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the commission or by the umpire shall be final.

ART. XVI. The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention, and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies, or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention, and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies, and misdemeanors within said zone and auxiliary lands.

ART. XVII. The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise, and for all vessels passing or bound to pass through the canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ART. XVIII. The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ART. XIX. The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ART. XX. If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ART. XXI. The rights and privileges granted by the Republic of Panama to the United States in the preceding articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates, or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

ART. XXII. The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Co. and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Co., or any extension or modification thereof; and it likewise renounces, confirms, and grants to the United States, now and hereafter, all the rights and property

reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of 99 years of the concessions granted to or held by the above-mentioned party and companies, and all right, title, and interest which it now has or may hereafter have in and to the lands, canal, works, property, and rights held by the said companies under said concessions or otherwise and acquired or to be acquired by the United States from or through the New Panama Canal Co., including any property and rights which might or may in the future, either by lapse of time, forfeiture, or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Co., the Panama Railroad Co., and the New Panama Canal Co.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama, and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Co. shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ART. XXIII. If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of States, so as to merge her sovereignty or independence in such Government, union, or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ART. XXV. For the better performance of the engagements of this convention and to the end of the efficient protection of the canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ART. XXVI. This convention, when signed by the plenipotentiaries of the contracting parties, shall be ratified by the respective Governments, and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the city of Washington the 18th day of November, in the year of our Lord 1903.

[SEAL.] JOHN HAY.
[SEAL.] P. BUNAU VARILLA.

And whereas the said convention has been duly ratified on both parts and the ratifications of the two Governments were exchanged in the city of Washington on the 26th day of February, 1904:

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this 26th day of February, in the year of our Lord 1904 and of the independence of the United States the one hundred and twenty-eighth.

[SEAL.] THEODORE ROOSEVELT.

By the President:
JOHN HAY, *Secretary of State.*

Mr. BRANDEGEE. I move that the Senate adjourn until to-morrow morning at 11 o'clock.

The motion was agreed to; and (at 5 o'clock and 12 minutes p. m.) the Senate adjourned until to-morrow, Thursday, July 18, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July 17, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, upon the profound faith, hope, and love personified in Thy son Jesus Christ, who dignified and made sacred honest toil as the carpenter's son, spake as never man spake, lived like a king and died like a God, burst the bars of the tomb and exemplified the life and immortality of the soul, taught us the way, the truth, and the life, we base the longings, hopes, and aspirations of all that make life dear. And we most fervently pray that we may follow in our daily life His sublime example and prove ourselves worthy sons of our God and our Father. Amen.

The Journal of the proceedings of yesterday was read and approved.

CLARA DOUGHERTY, ETC.—DUPLICATE ENGROSSED BILL.

Mr. JOHNSON of Kentucky. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

House resolution 634.

Resolved, That the Clerk be directed to request the Senate to furnish the House of Representatives with a duplicate engrossed copy of the bill (S. 2748) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 14; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of the Union Station, in said District; the original having been lost or mislaid.

The SPEAKER. The gentleman from Kentucky asks unanimous consent for the present consideration of the resolution. Is there objection?

There was no objection.

The resolution was agreed to.

RADIO COMMUNICATION ON CERTAIN OCEAN STEAMERS.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that the conference report on the bill (S. 3815) to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910, be taken up and agreed to.

The SPEAKER. Of course everybody knows that this is Calendar Wednesday, and ordinarily the Chair would not entertain this proposition; but the Chair takes it that all the rules of the House are to be construed by the rules of common sense. The session is approximating its close, and these matters have to be considered. If there be no objection, this matter will be taken up now, and the Clerk will report it.

Mr. ALEXANDER. I ask that the statement be read in lieu of the conference report.

The SPEAKER. If there be no objection, the statement will be read in lieu of the report.

The conference report is as follows:

CONFERENCE REPORT (1007).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3815) to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"That section 1 of an act entitled 'An act to require apparatus and operators for radio communication on certain ocean steamers,' approved June 24, 1910, be amended so that it will read as follows:

"'SECTION 1. That from and after October 1, 1912, it shall be unlawful for any steamer of the United States or of any foreign country navigating the ocean or the Great Lakes and licensed to carry, or carrying, 50 or more persons, including passengers or crew or both, to leave or attempt to leave any port of the United States unless such steamer shall be equipped with an efficient apparatus for radio communication, in good working order, capable of transmitting and receiving messages over a distance of at least 100 miles, day or night.

"'An auxiliary power supply, independent of the vessel's main electric power plant, must be provided which will enable the sending set for at least four hours to send messages over a distance of at least 100 miles, day or night, and efficient communication between the operator in the radio room and the bridge shall be maintained at all times.

"'The radio equipment must be in charge of two or more persons skilled in the use of such apparatus, one or the other of whom shall be on duty at all times while the vessel is being navigated. Such equipment, operators, the regulation of their watches, and the transmission and receipt of messages, except as may be regulated by law or international agreement, shall be under the control of the master, in the case of a vessel of the United States; and every willful failure on the part of the master to enforce at sea the provisions of this paragraph as to equipment, operators, and watches shall subject him to a penalty of $100.

"'That the provisions of this section shall not apply to steamers plying between ports or places less than 200 miles apart.'

"'SEC. 2. That this act, so far as it relates to the Great Lakes, shall take effect on and after April 1, 1913, and so far as it relates to ocean cargo steamers shall take effect on and after July 1, 1913: *Provided,* That on cargo steamers, in lieu of the second operator provided for in this act, there may be substituted a member of the crew or other person who shall be duly certified

and entered in the ship's log as competent to receive and understand distress calls or other usual calls indicating danger, and to aid in maintaining a constant wireless watch so far as required for the safety of life.'"

And the House agree to the same.

JOSHUA W. ALEXANDER,
RUFUS HARDY,
W. E. HUMPHREY,
Managers on the part of the House.
WILLIAM ALDEN SMITH,
THEO. E. BURTON,
FRANCIS G. NEWLANDS,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3815) to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910, submit the following written statement explaining the effect of the action agreed on:

The conferees recommend that the Senate recede from its disagreement to the House amendment to the Senate bill 3815, and that the two Houses agree thereto with the following amendments:

As amended by the House, section 1 applies to steamers of the United States and of foreign countries licensed to carry 50 or more persons, including passengers or crew or both, the amendment makes the bill apply not only to vessels "licensed" to carry 50 or more persons, but to vessels "carrying 50 or more persons" as well.

The bill as amended by the House provides that steamers shall be equipped with an efficient apparatus for radio communication capable of transmitting and receiving messages over a distance of at least 100 miles, day or night, "under all conditions of atmospheric disturbance when it is safe for the operator to work the set."

The conferees agree that the language quoted may be stricken out of the bill wherever it appears.

The conferees agree that the following language shall be added at the end of section 1: "and efficient communication between the operator in the radio room and the bridge shall be maintained at all times."

The House amendment is further amended by providing that the section shall not apply to steamers plying between "places," as well as ports 200 miles apart.

Section 2 is amended by adding the following proviso:

Provided, That on cargo steamers, in lieu of the second operator provided for in this act, there may be substituted a member of the crew or other person who shall be duly certified and entered in the ship's log as competent to receive and understand distress calls or other usual calls indicating danger, and to aid in maintaining constant wireless watch so far as required for the safety of life.

Respectfully submitted.

JOSHUA W. ALEXANDER,
RUFUS HARDY,
W. E. HUMPHREY,
Conferees on the part of the House.

Mr. FOSTER. Mr. Speaker, will the gentleman from Missouri [Mr. ALEXANDER] explain to the House the reasons for changing the language in reference to providing for efficient communication over a distance of at least 100 miles, day or night, under all conditions of atmospheric disturbance, and so forth? As I understand, the bill that passed the House provided that that should be done. Now that provision is stricken out.

Mr. ALEXANDER. The bill as it passed the House had this clause in it: That steamers "shall be equipped with an efficient apparatus for radio communication, in good working order, capable of transmitting and receiving messages over a distance of 100 miles, day or night, under all conditions of atmospheric disturbance, when it is safe for the operator to work the set."

Now, the language "under all conditions of atmospheric disturbance when it is safe for the operator to work the set" was stricken out on suggestion of the Senate conferees. After the bill passed the House I was advised that the language was so restrictive that there was only one concern in the United States that could probably furnish the apparatus, and it was to avoid such a result—that we might throw this industry into the hands of one company—that the conferees agreed that this language should be stricken out.

Mr. FOSTER. I appreciate the gentleman's idea of not wanting to give a monopoly to any one company. The question in my mind was whether striking out the language and putting in the other weakened the requirement.

Mr. MANN. Would not the language if left in be almost impossible to enforce in a criminal statute as a matter of certainty?

Mr. ALEXANDER. Yes; and we wanted to avoid any possible monopoly. We do provide that the apparatus shall be efficient to send messages 100 miles day or night, and we thought that was description enough to insure efficient apparatus.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 17239. An act to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River; and

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uinta Indian Reservation;

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes;

S. 6084. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5446. An act relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908;

S. 4745. An act to consolidate certain forest lands in the Paulina (Oreg.) National Forest; and

S. 338. An act authorizing the sale of certain lands in the Colville Indian Reservation in the town of Okanogan, State of Washington, for public-park purposes.

SENATE BILL AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6176. An act for the relief of Gibbes Lykes; to the Committee on Military Affairs.

S. J. Res. 122. Joint resolution providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald; to the Committee on Appropriations.

S. J. Res. 119. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela; to the Committee on Military Affairs.

DEPARTMENT OF LABOR.

The SPEAKER. To-day is Calendar Wednesday, and the unfinished business is the bill (H. R. 22913) to create a department of labor. The situation is this: After the motion for the engrossment and third reading of the bill was put, the gentleman from Illinois demanded the reading of the engrossed bill.

Mr. MANN. Mr. Speaker, I withdraw my demand for the reading of the engrossed bill.

The SPEAKER. The gentleman from Illinois withdraws his demand for the reading of the engrossed bill, and the question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. WILSON of Pennsylvania, a motion to reconsider the vote whereby the bill was passed was laid on the table.

COMMISSION ON INDUSTRIAL RELATIONS.

Mr. WILSON of Pennsylvania. Mr. Speaker, I move to take up the bill H. R. 21094, a bill to create a commission on industrial relations.

The SPEAKER. The gentleman from Pennsylvania moves to take up the bill H. R. 21094, of which the Clerk will read the title.

The Clerk read as follows:

H. R. 21094. A bill to create a commission on industrial relations.

The SPEAKER. The House automatically resolves itself into Committee of the Whole House on the state of the Union, and the gentleman from New York [Mr. SULZER] will take the chair. [Applause.]

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. SULZER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 21094, and the Clerk will read the bill.

Mr. WILSON of Pennsylvania. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. WILSON of Pennsylvania. Mr. Chairman, this bill proposes to create a commission of nine persons, three of whom shall be employers of labor, three of whom shall be representatives of organized labor, and three from the citizenship at large, for the purpose of investigating industrial relationship existing between employer and employees throughout the country.

There has been a considerable spirit of unrest, not only in this country but all over the world, during the past two or three years. Out of that state of unrest has grown innumerable strikes and threats of strikes. Strikes between labor and capital are like wars between nations. They bring suffering, privation, hardships of every kind and character to those who are engaged in the disputes as well as to the community at large. Men do not engage in strikes purely for the amusement it brings them. Nor do they engage in strikes for what they consider frivolous reasons. Men who have gone through strikes know the hardships that are ahead of them, and consequently are not prone to engage in industrial contests unless they believe they have very important and serious grievances to correct which can not be corrected by other methods.

It follows, then, that with the large number of industrial disputes we have had in recent times growing out of this spirit of unrest that there must be in the minds of wageworkers in our country a feeling that injustice is being done them in some respects and under some circumstances and conditions.

The purpose of this measure is to provide a commission composed of equal numbers of wageworkers and employers, with a balance of disinterested parties, to conduct an investigation into the conditions which have created this spirit of unrest, and to report their findings from time to time to Congress so that it may legislate upon the subject if it deems it necessary or advisable so to do.

The bill provides an appropriation of a sum not to exceed $500,000 for the purpose of carrying on the work for three years' time, the commission expiring by limitation of the bill at the end of a period of three years. When the proper time arrives the committee will offer an amendment to that portion of the bill which it had previously amended, being section 5 as proposed, changing it to read as follows:

That the sum of $100,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the use of the commission for the fiscal year ending June 30, 1913: *Provided*, That no portion of this money shall be paid except upon the order of said commission, signed by the chairman thereof.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. FOSTER. The gentleman states that the committee proposes to offer an amendment appropriating $100,000 instead of $500,000. Is the gentleman of the opinion that this is all that will be required to make the investigation, or will the commission come back to Congress asking for another appropriation?

Mr. WILSON of Pennsylvania. Mr. Chairman, in my judgment it will require more than $100,000 to conduct this investigation, and the purpose of this amendment is to make the appropriation of $100,000 now for the fiscal year ending June 30, 1913. Thereafter the appropriations will depend upon the judgment of the Committee on Appropriations and the House for the two fiscal years following that time.

Mr. FOSTER. Is it the intention of the gentleman from Pennsylvania or the committee, in providing for this commission, that they shall visit any other countries besides the United States?

Mr. WILSON of Pennsylvania. The bill itself provides for an investigation into the methods of collective bargaining, and into any methods which have been tried in any State or any foreign country.

Mr. FOSTER. I notice that.

Mr. WILSON of Pennsylvania. And also—

For maintaining mutually satisfactory relations between employees and employers.

To the extent that it may be necessary to determine or examine into the methods that have been tried, the methods of collective bargaining which have been tried in foreign countries, the authority would be granted to proceed to foreign countries to make that investigation.

Mr. SABATH. Is it not a fact that the bill gives the commission that power in section 2, in lines 18, 19, and 20—

And to authorize its members or its employees to travel in or outside the United States on the business of the commission.

Mr. WILSON of Pennsylvania. That is correct.

Mr. FOSTER. It also provides:

The commission is authorized as a whole, or by subcommittees of the commission duly appointed, to hold sittings and public hearings anywhere in the United States, to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses, and to compel testimony, etc.

In inquiring into the methods which have been tried in any State or foreign country for maintaining mutually satisfactory relations between employees and employers, and in providing that they may sit anywhere in the United States and "inquire into" these conditions, does the gentleman think the commission would have the right to visit foreign countries for that purpose?

Mr. WILSON of Pennsylvania. The right to sit at any place and investigate carries with it the right to send for persons and papers. As a matter of fact, they could not send for persons and papers in a foreign country. They would have to depend upon the courtesies of the people of foreign countries for such information as they might be able to secure.

The commission, as was proposed in the original bill, was to be composed of two employees and two employers and five disinterested parties, making a commission of nine in that way. The committee, believing that it would facilitate the business of the commission to enable it to subdivide properly, proposed to change that and make the component parts of the commission three employers, three employees, and three disinterested parties, so that the commission might readily subdivide itself into three subcommittees and have a representative of each of those elements upon the subcommittee.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. WILSON of Pennsylvania. Yes.

Mr. COOPER. Will not the gentleman from Illinois [Mr. FOSTER] inquire whether this commission will be authorized to hold hearings in Europe?

Mr. FOSTER. The commission is empowered to inquire into certain methods in relation to employers and employees in foreign countries. What I was getting at was whether under that provision the commission has the right to visit foreign countries.

Mr. COOPER. The gentleman will observe in lines 9 and 10, on page 2, that they are limited, so far as their sittings and public hearings are concerned, to the United States.

Mr. FOSTER. I read that to the gentleman from Pennsylvania first and then asked about the other.

Mr. COOPER. It says they inquire into——

Mr. FOSTER. I do not understand it gives them that right.

Mr. COOPER. Suppose they go to Europe.

Mr. WILSON of Pennsylvania. If the gentleman will read lines 18, 19, and 20, on page 2, he will see that authority is given by the bill to members and the employees of the commission to travel in or outside of the United States on the business of the commission; and on page 3 it is provided that it may investigate into methods of collective bargaining; into any methods which have been tried in any State or in foreign countries for maintaining mutually satisfactory relations between employees and employers, so that the authority is given to travel in foreign countries. As a matter of fact, they could not send for persons and papers, but they would have to depend entirely upon the courtesy of those in foreign countries for such information as they might be able to gather there; but they are given permission to travel in those countries, so far as the courtesies of those countries will permit them to investigate.

Mr. FOSTER. Let me ask the gentleman this further question. I know from long experience in the mining industry the gentleman has a great deal of information concerning that great industry. Does the gentleman think that industry, which is important in this country—as this commission is to take up all the industrial conditions of the United States, does the gentleman think that this commission can give the necessary attention to the different problems connected with this industry?

Mr. WILSON of Pennsylvania. The problem itself is an enormous problem, as everyone knows who has investigated the situation. It is a problem which reaches out into every walk of life. There is no situation in life that is not more or less affected by the industrial conditions and situation, so that the commission has an enormous task before it; but being in a position of dividing itself into subcommissions of three or even less

if it so desires, each one of those subcommissions, having some of the component parts of the commission within itself, would be able to do as much on that line as three commissions ordinarily would do and then be able to bring the combined intelligence of all nine members of the commission to a solution of the problem involved after the information had been collected. Now, so far as the mining industry is concerned, which is a very large industry. At the present time, however, a great portion of that industry is being handled industrially through collective bargains. Very recently the anthracite region was included in the collective bargain arrangement, so that there is, I should judge, about 70 per cent of the mining operations in Pennsylvania—which produces half the coal produced in the United States—about 70 per cent of the mining operations in Pennsylvania that are covered by the collective bargain arrangement. The only portions that are not covered by the collective bargain arrangement are the Irwin field, the coke region, the Somerset County field of Pennsylvania. Those are the only ones not covered.

All of Ohio, Indiana, Illinois, Iowa, Missouri, Kansas, Arkansas, Oklahoma, and all coal mines in Texas—lignite is not covered by it—Montana, Wyoming are covered by the collective-bargain arrangement, and part of West Virginia, part of Kentucky, part of Tennessee are not covered by the collective-bargain arrangement, so that the investigation of the problem, so far as the coal mining is concerned in the United States, the problem of collective bargaining, would not be a very large problem for investigation for a commission of this kind, a great bulk of the field being covered by mutual arrangement between employer and employees, in which collective bargaining is entered into; but the method by which these collective bargains are made, the extent to which they go, the effect which they have upon the industrial situation in the coal fields and the effect that industrial situation has upon the entire industrial situation would be matters within the scope of an investigation of this commission.

Mr. FOSTER. Well, is it the gentleman's opinion that this commission, composed of these Members, who are enabled under the provisions of this bill to divide themselves into subcommittees, will be able to go out and make as complete an investigation of this great industry of coal mining in all its different phases—not only coal mining, but quarrying and precious-metal mining and all matters connected with it—as they would under a commission which would give them jurisdiction only of this industry?

Mr. WILSON of Pennsylvania. As a matter of course, the more limited the field in which the commission operates the more fully the work of that commission can be done.

Mr. COOPER. Will the gentleman permit an interruption?

Mr. WILSON of Pennsylvania. Yes.

Mr. COOPER. Why does the gentleman provide for dividing this committee into subcommittees? It strikes me a subcommittee of three employers in a certain field might render a report that would be unsatisfactory, just as a subcommittee of employees in a certain field might do.

Mr. WILSON of Pennsylvania. It provides for a division into subcommittees of three. As the bill originally came to the committee it provided a commission composed of two employers, and two employees, and five disinterested parties. Now, it occurred to the committee that there being cause for this committee to appoint subcommittees, that it would be advisable to increase the number of employers and employees and reduce the number of disinterested parties, so that they would be equal, and it proposes an amendment making a commission composed of three employers, three employees, and three disinterested parties, so that if the commission when organized desires to divide itself into a committee of three there could be on that commission a representative of the employers, a representative of the employees, and a representative of the public at large.

Mr. COOPER. Yes; but if the gentleman will permit this suggestion, this law ought to be mandatory if those are to be subcommittees, that each subcommittee shall contain one member of each of these classes. Otherwise you may have three employers, or three employees, or three of the other class as a subcommittee sometimes.

Mr. WILSON of Pennsylvania. I do not think that is within the possibilities with a commission composed as this commission is composed. And in addition to that, there may be instances, and undoubtedly will be, where a certain line of information is sought by the commission, where only one member of the commission would be necessary to go after that line of information.

Mr. COOPER. I was speaking simply of the matter of the public hearings in the United States. If a subcommittee is to have a public hearing, it ought not to be a subcommittee composed of three of one class.

Mr. WILSON of Pennsylvania. Oh, that is true.

Mr. COOPER. And the law ought to be mandatory that it shall not consist of three of one class. But there is nothing in the bill as now presented which would prevent public hearings in the United States being held by a subcommittee composed of three of one class.

Mr. WILSON of Pennsylvania. No; but it is not likely that a committee would be composed in that way.

Mr. COOPER. It is not likely, but it might occur.

Mr. WILSON of Pennsylvania. It is practically impossible. It certainly is not probable that any subcommittee of this commission would be sent out to investigate any phase of the situation that would be composed entirely of one of the elements mentioned.

Mr. COOPER. But a subcommittee might be sent, and it is contemplated it shall be practically at the outset a subcommittee of three men, and it might be sent to investigate one of the most important subjects which they could consider under this bill, and yet the law leaves it so that two of one class with one of another might be on the subcommittee and one class be entirely unrepresented.

Mr. WILSON of Pennsylvania. That is absolutely true, so far as this bill is concerned.

Mr. COOPER. The law ought not to be drawn in that form. The law ought to be mandatory so as to preclude the possibility of a failure of each of those classes to be represented on each of those subcommittees which in the United States could hold a public hearing for the purpose of submitting evidence to the Congress of the United States. One of the subcommittees hearing this testimony would submit to the other six men its report. The other six men would not have seen the witnesses, and the confrontation of witnesses is of supreme importance always in determining the weight to be given to their testimony. Therefore, I think this law should be amended so as to require by mandatory provision that any subcommittee holding a public hearing in the United States under this law shall have on that subcommittee a representative of each class provided for in the law.

Mr. WILSON of Pennsylvania. The only objection I would have to a proposition of that kind would be that it would prevent the commission from dividing itself into more than three. It prevents the sending of one or two of the members of the commission into some locality to secure certain lines of information that might not be affected by the fact that one or the other of the elements of the commission were not at the hearing.

Mr. MOORE of Pennsylvania. Will the gentleman yield, Mr. Chairman?

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. WILSON] yield to his colleague [Mr. MOORE]?

Mr. WILSON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Does the Bureau of Labor, as at present constituted, have its duties so defined as to cover the purposes stated in section 4?

Mr. WILSON of Pennsylvania. I think not.

Mr. MOORE of Pennsylvania. The gentleman thinks the bureau is not sufficient to meet the purpose of this bill?

Mr. WILSON of Pennsylvania. No. The bureau as at present defined is practically a statistical bureau. This does not propose to any great extent to deal with statistics, or in other words, it is not the primary purpose of this commission to collect statistics. The purpose of this commission is to get at the underlying causes of the discontent that exists throughout the country and which exists in other countries at the present time; to get at the underlying reasons for that discontent; and to investigate the methods by which employees and employers deal with each other, with a view to determining whether those methods have anything to do with that spirit of discontent; and, further, to endeavor to discover whether or not there is some better method of handling the relationship between the employer and the employee than those that exist at the present time.

Mr. MOORE of Pennsylvania. The purpose of my inquiry is to ascertain whether by this bill we are getting at any more direct method of improving labor conditions than already exists. The gentleman knows we have a Bureau of Labor, which he says does not cover the purposes set out in this bill. But the other day we considered a bill creating a department of labor and passed it this morning, and it was passed with a view to alleviating labor conditions. That bill creates certain offices in addition to those already constituted in the Bureau of Labor and the Department of Commerce and Labor. The question is whether by the passage of this bill we are not adding to the red tape of the Government and multiplying offices to such an extent that instead of helping labor we interfere with its progress.

Mr. WILSON of Pennsylvania. In my judgment you are getting away from the red tape. You are getting this proposition of the relationship between employer and employee placed in the hands of nine men whose sole duty it is to investigate that problem, and thereby get away from the red tape of a department and meet actual conditions.

Mr. MOORE of Pennsylvania. But in the passage of this bill, if the department of labor bill also is enacted into law, you will have created three separate agencies in the interest of labor for doing substantially the same thing.

Mr. WILSON of Pennsylvania. Not the same thing, but doing different phases of the work—different parts of the work—and, by the way, I may add right here at this point that the fact of the matter is that labor, which is the basis of all the wealth of the country, the means by which the wealth of the country is made available for use, has not received the attention at the hands of Congress that other interests have received. [Applause on the Democratic side.]

Mr. MOORE of Pennsylvania. The gentleman does not have to argue that labor is the creator of all wealth. That is conceded by every one who thinks upon the subject at all. Labor does receive consideration at the hands of Congress. The conditions of labor, unquestionably, have been improved during recent years. Some gentlemen differ as to whether the improvement is due solely to the influence of labor organizations or whether it is due to other agencies; but we will concede that labor organizations do help to improve the wage standard and the conditions of living.

Some of us assert, however, that there are other considerations that also improve the conditions of labor. I would not have labor confused with regard to its rights. We have been laboring here for several weeks on bills that are termed "labor bills." If the average laboring man grasps the situation, very well; but it seems to me that we, as legislators, ought to make the course of labor as easy as possible, and we ought to pile up the least possible red tape for the confusion of labor.

Now, if the Bureau of Labor does not represent labor we ought to know that. We have a Bureau of Labor now at work. It has been investigating the conditions of labor for years and years. The gentleman has proposed a department of labor bill, which the House passed this morning. That makes a new agency through which labor is to be represented in all general affairs. Now, the purposes of the Bureau of Labor, apparently, are understood, and the purposes set forth in the bill creating the department of labor are understood, and labor does get its recognition. The gentleman now comes forward with a bill and proposes a commission which shall also do the work, apparently, that has been assigned to the Bureau of Labor and to the department of labor. If there is a new purpose in it, that is what I am trying to have the gentleman explain.

Mr. WILSON of Pennsylvania. I have already stated that there is a new purpose in it, and I have stated that purpose as clearly as I can, and if the gentleman does not understand the purpose of this commission the fault lies either with my expression of that purpose or with the gentleman's misunderstanding of my language.

Mr. MOORE of Pennsylvania. There can be no personal differences between the gentleman and myself, of course, because the gentleman is extremely intelligent upon this question of labor and of the rights of labor. Now, may I ask the gentleman this: Will this industrial commission, if created, have the power to put into effect any of the findings that may result from its work?

Mr. WILSON of Pennsylvania. It will have no power to put any findings into effect. It will have the power to report to Congress what its conclusions are; and then, having reported to Congress what its conclusions are, Congress will determine whether or not it will take any action upon the matter.

Mr. MOORE of Pennsylvania. Then, as in the case of the department of labor, the result of the work of the industrial commission will be to publish its views upon the investigations it has made.

Mr. WILSON of Pennsylvania. The work of the commission itself will be to investigate those things that are specifically provided for in the measure. Having investigated them, then it will report to Congress its conclusions upon those investigations. It will then depend upon Congress to take such action as Congress may deem wise in the premises.

Mr. MOORE of Pennsylvania. Then the industrial commission, as proposed, is merely to investigate and report its conclusions upon labor conditions.

Mr. WILSON of Pennsylvania. That is the purpose of it, to investigate into the relationship existing between employer and employee, and the effect that that relationship has upon the spirit of unrest which now exists and has existed for some time among the wageworkers; what the effect of that relationship has upon industry in general and upon the community at large, and the best things that can be devised by the employer and the employee to bring them into a relationship that is for the best interests of the community at large.

Mr. MOORE of Pennsylvania. Then effect can be given to the recommendations of the commission only by act of Congress?

Mr. WILSON of Pennsylvania. That is all. We do not propose to give any legislative power to the commission.

Mr. HOWARD. And can not.

Mr. WILSON of Pennsylvania. There is no power in Congress, in my judgment, to give any legislative power to a commission.

Mr. MOORE of Pennsylvania. Referring to the first section of the bill, which was the subject of the interrogation of the gentleman from Wisconsin [Mr. COOPER], I should like to ask the gentleman from Pennsylvania if he can tell about how many workmen in the United States are organized into labor organizations?

Mr. WILSON of Pennsylvania. Approximately 3,000,000.

Mr. MOORE of Pennsylvania. What is the total number of wage earners in the United States?

Mr. WILSON of Pennsylvania. The toal number of wage earners in the United States is somewhere between 20,000,000 and 25,000,000, I should judge, at the present time.

Mr. MOORE of Pennsylvania. I have heard it estimated at 30,000,000.

Mr. WILSON of Pennsylvania. Thirty million would include not only wageworkers but farmers.

Mr. MOORE of Pennsylvania. Of course, I include agricultural laborers as wage earners. The gentleman from Wisconsin [Mr. COOPER] inquired as to the number of the members of the commission and also as to the possibility of a subdivision of the commission being prejudiced on one side or the other, holding meetings without the knowledge or presence of the entire commission. As the bill reads, it proposes that the commissioners shall be nine in number, three of whom shall be employers of labor, three of whom shall be representatives of labor organizations——

Mr. WILSON of Pennsylvania. Yes.

Mr. MOORE of Pennsylvania. The inference is, of course, that they are to be employees.

Mr. WILSON of Pennsylvania. Yes——

Mr. MOORE of Pennsylvania. May we have it understood that that designation is general; that the expression "representatives of labor organizations" does not exclude those who are employees?

Mr. WILSON of Pennsylvania. "Representatives of organized labor," in the sense in which the expression is used, means that there shall be three men who are connected with trades-union movements, who are members of trades-unions, who are employees or the representatives of employees, just the same as an employer may either be the owner or the representative of the owner of a property. So this provides for representation on that commission from the organized expression of the wageworkers of the country.

Mr. MOORE of Pennsylvania. Carried out literally, it would mean that three members of the commission shall be actual employers of labor?

Mr. WILSON of Pennsylvania. Yes.

Mr. MOORE of Pennsylvania. And three members in addition should be members of labor organizations?

Mr. WILSON of Pennsylvania. Yes.

Mr. MOORE of Pennsylvania. That leaves three still to be appointed, and those three could be wage earners, representing the great mass of wage earners who are not organized in labor unions.

Mr. WILSON of Pennsylvania. They will be, directly or indirectly, employers or employees; there can be no getting away from that. They may be professional men or employers or employees directly. But, either directly or indirectly, every person in the country is an employer or an employee.

Mr. MOORE of Pennsylvania. There are a number of labor organizations, and one or two of them represent the greater number of those who are organized. Suppose a dozen labor organizations should clamor for representation on this proportion of three members of the commission. Does the gentleman think that the bill would prejudice the rights of the representative of the minor labor organizations applying for that place?

Mr. WILSON of Pennsylvania. Oh, that is a matter entirely within the judgment of the President and the Senate as to who are best qualified to carry on the work.

Mr. MOORE of Pennsylvania. One more question and I will not trouble the gentleman further. This bill proposes to spend $500,000 for the purpose of this industrial commission?

Mr. WILSON of Pennsylvania. Yes; but there is a committee amendment which proposes to strike out $500,000 for the three years and making $100,000 for the fiscal year ending June 30, 1913.

Mr. MOORE of Pennsylvania. This bill will create a permanent commission?

Mr. WILSON of Pennsylvania. No; it creates a commission whose term expires by limitation at the end of three years.

Mr. MOORE of Pennsylvania. And it is proposed to spend $500,000 in the investigation which it will make.

Mr. WILSON of Pennsylvania. It will require in the neighborhood of $500,000 to make the investigation as it should be made. It may not take that amount. Hence we propose to amend by making it $100,000 for the coming year, and then leave the matter for further appropriation by Congress, if it shall determine to do so.

Mr. MOORE of Pennsylvania. That would be in addition to what Congress will spend for the Department of Commerce and Labor and for the Bureau of Labor?

Mr. WILSON of Pennsylvania. Oh, yes; and it will be in addition to what we spend for the Army and the Navy and the State Department.

Mr. FITZGERALD. Will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. FITZGERALD. Upon what does the gentleman base his opinion that it will require $500,000 to make the investigation?

Mr. WILSON of Pennsylvania. Because the subject matter is one of the greatest that has ever been investigated by any commission.

Mr. FITZGERALD. That may be; but it does not explain the basis upon which the gentleman makes the estimate.

Mr. WILSON of Pennsylvania. The immigration commission, as I understand it——

Mr. FITZGERALD. That money was wasted.

Mr. WILSON of Pennsylvania. Cost more than $500,000.

Mr. FITZGERALD. Yes; over $700,000, and not a thing of value resulted from the investigation. So far nothing of value has resulted from the Monetary Commission. I hazard the prediction that if you spend $500,000 on this commission the greater part of it will be wasted.

Mr. WILSON of Pennsylvania. The subject matter is one in which everyone is interested.

Mr. FITZGERALD. True.

Mr. WILSON of Pennsylvania. And a complete investigation will place us where we can deal with the matter better than we can at the present time.

Mr. FITZGERALD. Will the gentleman point out any power that Congress has to legislate on the matters?

Mr. WILSON of Pennsylvania. Congress has not the power to legislate on all the matters.

Mr. FITZGERALD. Then why investigate? If Congress has no power, why investigate?

Mr. WILSON of Pennsylvania. Even if Congress had no power to legislate—and in many instances it has—there are many things in which this Government has been making and will continue to make investigations of value, for the information received can be made available for legislation by the various States, if not by the Federal Government. There are a number of things in which legislation can be made effective by the Federal Government—those relating to interstate commerce.

Mr. FITZGERALD. That is what I ask the gentleman to point out.

Mr. WILSON of Pennsylvania. The things affecting Federal employees and the things along that line are thoroughly within the scope of the Federal Government, and then the information which has been secured, if of value at all, will be available for every State in the Union in the enactment of its legislation.

Mr. COOPER. The gentleman has just mentioned as a fact something which I think is not covered by the bill. That is what I want to ask him about. There is no provision in this bill requiring the commission to report anything but its findings and recommendations. There is no requirement here that the testimony shall be published and submitted to Congress.

Mr. WILSON of Pennsylvania. There is no such requirement. If Congress desires that, it can at any time provide for it.

Mr. COOPER. I think that is of the utmost importance. The reports of the British commission and of various other commissions on industrial conditions, of our Monetary Commission on finance and currency, are of very great importance because accompanied by the testimony upon which their reports are based. My own judgment is that this law ought to require the printing of the testimony and its submission to the Congress.

Mr. WILSON of Pennsylvania. I have no objection to that if Congress wants to undertake the printing of the testimony as it is procured from time to time.

Mr. COOPER. It certainly ought to be printed.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. AYRES. I would like to ask the gentleman what, aside from the possible publishing of the testimony taken, this commission could do practically that is not already done by voluntary commissions like the National Civic Federation?

Mr. WILSON of Pennsylvania. Oh, the scope of the National Civic Federation is not large enough. Its authority is not sufficient to enable it to go into this subject matter in a systematic way.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield?

Mr. WILSON of Pennsylvania. I yield to the gentleman from Ohio.

Mr. LONGWORTH. In the event that the bill to create a department of labor becomes a law at this session of Congress, does not the gentleman think the duties given in this bill to the Secretary of Commerce and Labor should be given to the secretary of labor? I refer to the duties prescribed in line 10 on page 1.

Mr. WILSON of Pennsylvania. I think so; yes.

Mr. LONGWORTH. Ought not the bill to provide for that?

Mr. WILSON of Pennsylvania. If the department of labor were now in existence, it should; but if we pass this with the Department of Commerce and Labor stricken out and the department of labor inserted, then, so far as the House is concerned, it would be dealing with a department that does not exist.

Mr. LONGWORTH. Yes; but it could provide for the contingency that in the event there was a secretary of labor those duties could fall upon him.

Mr. WILSON of Pennsylvania. That could be done, but it would be a very easy matter to remedy in the event the department of labor is created before the passage of this act.

Mr. LONGWORTH. But it would take additional legislation.

Mr. WILSON of Pennsylvania. Undoubtedly it would. It is not a very important matter, however, it seems to me.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. HOBSON. I desire to ask a question bearing on the scope of the investigation. Much of the unrest that prevails in labor circles is due to the conditions—the actual physical conditions—of labor, particularly those bearing upon sanitation and the danger and exposure to life and limb. For a long time I have been hoping that the question of the loss of life and the injury to employees would be investigated.

I believe the investigation would bring results that are simply appalling. I want to ask the gentleman if under section 4 this commission would have authority to include in the scope of its investigation the conditions of sanitation, the exposure to life and limb, and the arrangement for compensation of employees?

Mr. WILSON of Pennsylvania. Only in so far as those are incident to the unrest now existing. I want to say to the gentleman that in my judgment he is in error when he assumes that the low wages and the insanitary conditions and matters of that kind are the fundamental causes for a spirit of unrest. As a matter of fact, you find less unrest in those industries where the iron hand of the employer is used for the purpose of keeping the workman in low wages and in poor condition in order to keep them in subjection. The spirit of unrest does not get the opportunity to grow, and there is where there is more danger to our institutions than there is where higher pay exists and there is more unrest.

Mr. HOBSON. I will say to the gentleman I am in thorough accord with him that a condition of acceptance and acquiescence sometimes indicates a subjection that is most unhappy for the employee and for the community and for the people. In this country adequate provision has not been made thus far to protect the health and life and limb of the employee. An investigation of great value could be made that would not require much of the time of this commission, carried on in conjunction with the regular hearings.

A few additional questions asked would bring out the provisions that have been made and the lack of provision for preserving the health, life, and limb; and that additional information would be invaluable to this Congress and to all students of the problems of labor conditions——

Mr. WILSON of Pennsylvania. I quite agree with the gentleman.

Mr. HOBSON. But I think it possibly well to have an amendment in order that it may not be excluded by an interpretation of authority. I believe the authority is perhaps in section 4, which provides for an inquiry into the general conditions of labor and the principal industries; but I would suggest, if the gentleman has no objection, where it speaks of the effect of

industrial conditions on public welfare, and so forth, after the word "therewith," an amendment should be made adding, "to inquire into the conditions of sanitation and exposure of life and limb and the arrangement for compensation."

Mr. WILSON of Pennsylvania. Well, so far as I am concerned, I see no objection to the amendment; but I can not speak for the committee.

Mr. MANN. Is the gentleman from Alabama familiar with the report of the commission recently appointed and recently reporting on the subject of compensation paid?

Mr. HOBSON. I know that part of the question of compensation is under investigation, but that is not an essential part, and I would be willing to leave that out if the gentleman thinks it is superfluous.

Mr. MANN. It seems to me, as we appointed a commission and they made a report and it is likely a bill will be passed when prepared—I hope there will be no excuse against that bill that we are now to make another investigation.

Mr. HOBSON. I will suggest to the gentleman that I will withdraw that part of my suggested amendment, leaving it simply when they are in their hearings that they shall have authority to call on witnesses to state what provisions have been made to protect the health and life and limb of the employees. When we reach that point I will offer that amendment.

Mr. WILSON of Pennsylvania. Personally, I have no objection.

Mr. FOWLER. I understand the gentleman claims that the provisions of the bill are broad enough to go into the question of unrest. And, now, does the gentleman regard it as being broad enough to go into the causes of that unrest?

Mr. WILSON of Pennsylvania. That is what it is proposed to investigate, the causes of the unrest; that is the purpose of the commission; that is the primary purpose, to go into the causes of the state of unrest and find out, if possible, if there is any way by which the relationship between the employer and the employee can be brought to such a position that that spirit of unrest will not find the same kind of expression as it has found, and yet the welfare of both be protected and the welfare of the community at large be protected at the same time.

Mr. FOWLER. Does the gentleman regard the bill as being broad enough to take in the question of blacklisting?

Mr. WILSON of Pennsylvania. Oh, yes; I think so.

Mr. FOWLER. The gentleman thinks he will have no trouble with that question without any amendment?

Mr. WILSON of Pennsylvania. I do not think it will require any amendment. The commission will have power to investigate blacklisting as it affects the industrial situation.

Mr. SMALL. May I interrupt the gentleman?

Mr. WILSON of Pennsylvania. Certainly; I yield.

Mr. SMALL. The gentleman in his report on this bill uses this language:

> That there is widespread unrest among the wage workers of this country is apparent from the large number of trade disputes which have lately occurred or have lately been imminent.

The gentleman in his remarks has also referred to widespread dissatisfaction. Now, in response to the gentleman from Alabama [Mr. HOBSON] the gentleman commented somewhat upon the causes of this unrest, and I would like to have the gentleman from his viewpoint state not only the causes but what is the desire on the part of labor as a remedy for this alleged dissatisfaction and unrest; to what extent higher wages are desired; to what extent the question of sanitation is desired; and in so far as the gentleman may summarize with the matter, to state what the remedies are, if afforded, that will allay this dissatisfaction and unrest to which the gentleman referred?

Mr. WILSON of Pennsylvania. Mr. Chairman, it is exactly the purpose of this commission to find out the causes of this unrest and to discover a remedy if possible.

Mr. SMALL. Mr. Chairman, if the gentleman will permit me, I would suggest that it is rather an anomalous condition to inquire into causes of which we are ignorant and asking a remedy for thoses causes, the remedies for which are unknown. And I think it would be enlightening in this discussion if in voting on this bill to create this commission on industrial relations, we could have some concise explanation of the alleged causes for this alleged unrest and dissatisfaction and all the remedies which it is sought to be provided in order to allay them.

Mr. WILSON of Pennsylvania. Mr. Chairman, there are many causes for the spirit of unrest. There is no one thing that is responsible, and it is the most difficult thing imaginable for any man to undertake to determine without a thorough investigation just the proportion of effect that one cause has and the proportion of effect that another cause has. The causes are so numerous, and there are some things that are considered causes that may not be causes and other things that may be causes that are not considered causes, that in the judgment of this committee it is deemed advisable to appoint a commission to investigate the entire subject matter, and after having determined what the causes are we will then be in a better position to determine the remedy that should be applied.

Mr. SMALL. May I interrupt the gentleman once more?

Mr. WILSON of Pennsylvania. Certainly.

Mr. SMALL. I had supposed that the chief causes of dissatisfaction, where they existed, were the low wages and the conditions of environment of labor at the place or in the industry in which it was engaged, but the gentleman awhile ago stated, as I understood him, that where labor receives its lowest wage—where it was under the iron hand of the employer—that there was less dissatisfaction and less disposition to assert their rights; and, on the contrary, I understood him to state that where wages were highest and conditions were best there was a greater condition of unrest and dissatisfaction. And I would like him to explain a little fuller the meaning of that statement which he made.

Mr. WILSON of Pennsylvania. That statement is based upon human nature. We are all of us like Oliver Twist in that we are continually anxious to have more, and the man who is on the lower rung, who is working for the lowest wages, as a rule, is in such a position physically and mentally that he is not able to struggle for more as can the man who has raised a little higher than the other has.

And the man who is the mudsill, as we may say, is not physically or mentally in a position to struggle, as is the man who is better fed, better clothed, better read, for better conditions and shorter hours. So the actual facts are that in the great iron and steel industry, where the wages are low, and in many other of those industries where the wages are low, you do not find the same sort of unrest that you do in the higher skilled industries where the wages are higher than they are in the iron and steel industry, and where the men have greater ambition and greater desire for a betterment of their conditions than the ones who are lower paid. That is all there is to it. Simply a trait in human character that is found everywhere.

Mr. SMALL. Would it not be entirely consistent, then, if we are to appoint a committee to inquire into a condition that we do not know and the remedies for which we do not know? Would it not be consistent to enlarge this bill so as to include in it all ranks of life? Let us broaden it so as to include all the dissatisfied among all our population, whether employer or employee or idlers.

Mr. WILSON of Pennsylvania. If the problem was a problem that seriously affected the State, then there would be wisdom in the gentleman's proposition, but the problems that this is proposed to deal with does seriously affect the State. It is a problem that affects the entire country—the problem of the relationship of our industries between employer and employee—and hence the desire to investigate into those conditions.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WILSON] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman have time in which to conclude his remarks.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the time of the gentleman from Pennsylvania be extended until he concludes his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. NYE. Mr. Chairman, I was going to see if I could suggest a little help to the gentleman from Pennsylvania in answering the former question of the gentleman from North Carolina [Mr. SMALL] in reference to the purpose of this bill. If the gentleman will permit me just two or three minutes—two minutes, perhaps—I want to give my idea of this whole subject: That information is the first essential to all advance in civilization; that communication between man and man is the path of civilization; that much of our trouble and unrest and discontent comes from the fact that man does not know his fellow man, and that the basic purpose of this bill in investigating in this country and in the world will have a marked tendency, and must have, to bring man closer to man, to establish a greater bond of humanity, and to deal with the vital industrial problems of this age. They are not only industrial, but they are also social, and they are political.

I am very happy to support this bill. I would like to see the workingmen's compensation bill passed first, but as I can not do that—it is hung up for some reason—let us pass this one now. I want both of them.

Mr. CANNON. Which is the bigger horse of the two?

Mr. MANN. Let us hear the gentleman's opinion.

Mr. NYE. I do not want to make a speech. I do not want to trespass upon the gentleman's time, but I will make a speech on the general questions of the day at any time.

Mr. WILSON of Pennsylvania. Mr. Speaker, I have no desire to go further into the purposes and intents of this bill. In my judgment it will do considerable good. I have no idea that it will solve all the problems existing between employer and employee. Those I scarcely hope to see solved in my time; but I do believe that it will have a tendency toward the solution of those problems. It will have the tendency of bringing the employer and the employee together on common ground. My experience has been that when you are able to get the employer and the employee together on common ground, realizing that while their interests are not identical, they are mutual in seeing to it that the largest amount of production is secured with the least possible expenditure of labor, and that their interests diverge only when it comes to the point of determining the share that shall go to each in the common production—when, I say, you can get them together with that kind of a spirit—you have done considerable toward the solution of the problem. And this bill, if enacted into law, will tend to show the employer and the employee alike the necessity of getting together and thrashing out their differences over the table instead of in the industrial battlefield of strikes. [Applause.]

Mr. COOPER. Mr. Chairman, will the gentleman permit me just one question there at the end?

Mr. WILSON of Pennsylvania. Yes.

Mr. COOPER. It does seem to me, Mr. Chairman, to be of vital importance that the testimony which is taken by this commission or by any of its subcommittees at the public hearings in the United States shall be returned with the reports of the commission for the consideration of Congress.

Now, let me call the gentleman's attention to the language of this bill. The third section provides:

That said commission may report to the Congress its findings and recommendations from time to time.

Suppose there shall be a minority report and a majority report, what will Congress know concerning the facts upon which these reports are based unless it has also a record of the testimony?

Mr. WILSON of Pennsylvania. I may say to the gentleman that I have no objection to any amendment that authorizes the publication of the hearings. I have no objection whatever to that.

Mr. COOPER. The last sentence in section 4 of the bill, page 3, is this:

The commission shall seek to discover the underlying causes of dissatisfaction in the industrial situation and report its conclusions thereon.

Suppose there is a majority report and a minority report. The House will know nothing about the testimony upon which this disagreement occurs. What decision can Congress render? What action can it take when confronted simply by a majority report and a minority report, both based upon evidence which Congress has not seen?

Mr. FITZGERALD. What provision is there in this bill for any minority report? The provision that the commission shall report its conclusions does not make very much room for a minority report.

Mr. COOPER. Has the gentleman from New York served in Congress so long and never heard of a majority and of a minority recommendation by different members of the same committee? This bill provides that the committee shall submit its findings and recommendations. The gentleman from New York anticipates perfect unanimity.

Mr. FITZGERALD. I should hope there would be.

Mr. COOPER. But there may not be.

Mr. FITZGERALD. No; there may not be.

Mr. COOPER. For instance, take the Ballinger investigation. When that was first proposed the resolution provided that there should be hearings before the committee or any subcommittee. The resolution was so drawn that these hearings might have been in secret. Then an amendment was carried to make all hearings public. Thereupon there were no subcommittee hearings, but hearings only by the full committee.

Mr. FITZGERALD. I scarcely think the gentleman's statement is parallel, because there has been no suggestion here that there should be any secret hearings.

Mr. COOPER. No; but I am only stating what occurs sometimes when such proceedings are not properly guarded. In the Ballinger investigation the whole committee heard each witness. Not only that, but the committee kept a record of the testimony, and that was printed and made available for Congress. But there was a majority and a minority report. Without a record of the evidence, what would Congress have known about the facts as presented by the witnesses, the majority of the committee of investigation having submitted a report with findings of fact and recommendations and a minority having done likewise?

Mr. FOSTER. Is it not usual that the evidence taken by these committees is printed, and that if the printing is not provided for in the bill Congress afterwards authorizes the printing of the testimony?

Mr. COOPER. There should be no delay in submitting the testimony to Congress. There is no reason why it can not be printed and submitted with each report. The committee will have the evidence and consider it for some time before making their report. The evidence could all be printed and accompany the report of the committee when that is presented.

Under the ordinary rule of statutory construction—that the mention of one thing is the exclusion of another—the committee would have a right to say that as by this bill they are expressly authorized to report their findings and recommendations, that therefore they are not authorized to report anything else. Certainly they ought to be required to submit the testimony with their report.

Mr. FOSTER. I fully agree with the gentleman that that ought to be done.

Mr. COOPER. Of course it ought to be done, and the law ought to be mandatory and be made so now.

Mr. FOSTER. I suppose that would be done.

Mr. COOPER. The testimony will make a record of surpassing importance for the consideration not only of the people of this day but of future generations.

Mr. MOORE of Pennsylvania. Mr. Chairman, of what value would that printed testimony be if the cause of unrest was due to some concrete proposition—that is to say, a question as to the raising or lowering of wages?

Mr. COOPER. The testimony would be before the committee and then submitted to the House, as to what are the wages, what are the different grades of workmen? What does each receive? What are the surroundings? Are there proper sanitary arrangements? Are wages paid weekly, semimonthly, or monthly? Do they make collective bargaining in that particular industry? All of these facts and a thousand others would be not only before the committee, but before the House, and they most assuredly ought to be before the body which is to judge upon the merits of the recommendations made by the commission. I sincerely hope that the gentleman from Pennsylvania [Mr. WILSON] will consent to an amendment instructing the committee to report the testimony with its report.

Mr. WILSON of Pennsylvania. As I said before, I have no personal objection to an amendment which will make it clear. The judgment of the committee was that that power existed anyway under the bill, but I have no objection to an amendment which will make it clear.

Mr. FOSTER. Does not the gentleman think this testimony ought to be reported from time to time? Of course at the end of the term of the commission the testimony would be available, but it ought to be published from time to time, because they are authorized to report from time to time.

Mr. COOPER. I think so, most assuredly. I shall support the bill with great pleasure, because I deem its enactment into law to be of the utmost importance.

The questions to be considered by the commission go to the very fundamentals of society to-day. There is unrest here, and there is unrest in free-trade England, a fact demonstrating that the tariff question is not the only one involved. No; the tariff question does not cover it. There is unrest everywhere in the industrial world. We have been merely skimming the surface in our attempts to find a remedy. No question can be satisfactorily solved until the truth is known to those who are called upon to solve it. What are the facts and all of the facts that constitute the great industrial problems? These must be made known that we may do industrial justice. Therefore, of course, the testimony ought to be printed. One of the greatest curatives of evils—political, social, or industrial—is publicity. This testimony ought to be promptly published, and be as open as the day. Public opinion will correct evils and allay the unrest when the facts are made known, and they ought to be made known as soon as they are found.

Mr. MANN. Mr. Chairman, with reference to the question of printing, I beg to suggest that there is no provision in the bill authorizing the commission to have printing done. It is quite necessary for any body of nine men who consider any testimony or information presented to it to have the power to have that printing done as it goes along. I had proposed to offer an amendment to the amendment in the bill on page 2. The amendment to the bill reads:

And to rent such offices, to purchase such books, stationery, and other supplies as may be necessary to carry out the purposes for which such commission is created.

I had proposed to offer an amendment by inserting these words "and to have such printing and binding done," so that it would read:

And to rent such offices, to purchase such books, stationery, and other supplies, and to have such printing and binding done as may be necessary to carry out the purposes for which such commission is created.

I consider that that is quite necessary unless it should be understood as authorized by the bill without that, and I fear it would not be so understood.

Mr. FOSTER. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FOSTER. Would the amendment which the gentleman proposes authorize them to report the testimony from day to day?

Mr. MANN. In a moment I will reach that.

Mr. WILSON of Pennsylvania. If the gentleman will pardon me, I want to say that I believe that authority ought to be given to the commission to print, but we supposed that we were giving that authority when we provided that it should have authority to rent offices, purchase books, stationery, supplies, and so forth, to carry out its purposes.

Mr. MANN. The purchase of supplies, I fear, would not be held to be authority to have printing and binding done.

Mr. WILSON of Pennsylvania. I think the gentleman is correct.

Mr. MANN. I do not regard it material one way or the other whether a commission of this sort which takes testimony reports that testimony to Congress or not, because if the testimony is in print the usual custom for years in Congress has been to pass a resolution for the printing of a certain number of copies. That would be required in any case, because if they were required to report the testimony to Congress and it was ordered printed, it would only carry what we call the usual number, which does not amount to as much as one copy for each Member.

Mr. KENDALL. What amount is that?

Mr. MANN. Fourteen hundred copies—300 copies for the use of the House, a number for the Senate, a number for the executive departments, a number for the depositaries of the Government. We had an example of this with reference to the Industrial Commission, the Monetary Commission, and the Immigration Commission, and various other commissions on this subject. The Industrial Commission a few years ago took—I forget how many volumes of testimony, but it was quite a library.

Mr. FOSTER. Nineteen volumes.

Mr. MANN. The Monetary Commission has published a large library, and the immigration report is quite a library. The gentleman from Wisconsin truly states that Congress and the world would not be satisfied with merely having before it conclusions reached by a commission. What they want in addition is the evidence taken by that commission. I take it that this commission will do very much the same thing that the Monetary Commission did. It will have some one investigate the subject of legislation and the relations between capital and labor in New Zealand, for instance, and write a full and complete report on that subject for the use of the commission. The same would be probably true of other countries of the world. I do not understand from this bill that the intention is that which seems to be understood by some gentlemen of the House, that the purpose of the commission is to settle or report conclusions upon everything growing out of the relations between capital and labor in the various industries.

I think the origin of this proposition is somewhat like this: There have been many efforts made, not only in this country but in other parts of the world, to reach some method of trying to avoid strikes and lockouts. In some places there is compulsory arbitration, and in some places there is no control over the subject whatever, and no one undertakes to interfere in the dispute between the employer and the employee. The consensus of opinion of the civilized world is that if there be any method which can be reached by which the employer and the employee may be brought together and thus prevent a lockout or a strike, some such method ought to be pursued. In our country I believe no one at present would be in favor of compulsory arbitration.

We had pending before the Committee on Interstate and Foreign Commerce a bill which was reported to this House at two different Congresses, originally prepared, I think, by Charles Francis Adams, proposing that the President of the United States might appoint arbitrators—though I do not remember that the term was arbitrators, and I think it was not—in case of a dispute or threatened dispute between the employer and the employee.

That bill went through the committee and was reported to the House once while I was chairman of the committee, and once before I was chairman of the committee the purpose being in reporting it—and that was the understanding—that the bill would not be called up for passage, but that it was done to try to concentrate the attention of the country on the subject, to see whether everybody would agree upon some method of trying to avoid these industrial disputes or strikes and lockouts. Of course there is no way of avoiding disputes. Organized labor at that time and organized capital, I think, were both opposed to that bill, each being afraid that the other was in favor of it. That has been the trouble in the past. Capital, employers, have favored some proposition and labor would be opposed to it, because they thought there was something hidden in it, and if labor proposed something capital was opposed to it because it thought some undue advantage might be taken of it.

If I understand the purpose of this bill, it is that this commission after searching the world will endeavor to see whether capital and labor can agree on some method by which somebody is officially authorized to butt in in case of a strike or lockout, or threatened strike or lockout, and see if there is any way of bringing the people together by mediation or by agreement.

Mr. WILSON of Pennsylvania. Or if there is any other way that is better.

Mr. MANN. I think the gentleman from Pennsylvania and I and everybody else will agree that there is no other way of doing it. No one in this House would favor compulsory arbitration, and the majority of the House are not in favor of letting go on forever the disputes between the employer and the employee, with no effort to prevent their terminating in a strike or lockout, with riot and bloodshed. If a commission can be appointed which can suggest to Congress conclusions or an opinion which will warrant Congress in drawing conclusions which will authorize somebody to tender their good offices or in any way seek to bring together the employer and the employee and see if there is a common ground upon which they can stand, certainly that commission will have accomplished a great purpose.

Mr. Chairman, I think we have the time, although I hope there will be some other labor bills called up and passed to-day, to listen for a time to the gentleman from Minnesota, Mr. NYE. I am very anxious to have the gentleman address the House on this general subject, and I hope he will be recognized for that purpose. [Applause.]

Mr. NYE. Mr. Chairman and gentlemen of the committee, it is very kind of the gentleman from Illinois [Mr. MANN] and of you to permit general observations at this time, not altogether germane, perhaps, to this bill, but in a way related to it. I have not often asked the attention of the House, and it is quite possible that I shall not in the future even at all. I am in grave doubt whether my services in the House will be long continued. If they are not, of course it will be a great detriment to the country. [Applause.] But whether I retire early or late, I shall ever prize my membership in this House. The friendship and kindly personal relations I have with Members on both sides of the House will be always gratefully remembered.

I had in mind to make some general observations to-day upon the subject of progress. They are not in any sense personal. I am not going to undertake to advise any man that he shall vote for this man or that man, for this party or that party, but I desire to touch upon some fundamentals which in my mind are to be considered in connection with this great subject of progress. The wise man of old said, "Where there is no vision the people perish." Progress, to my mind, is the recognition of truth and fidelity to truth. It is the vision and obedience to the vision. Civilization has advanced because of great leadership.

Nations of the past have gone down because they forsook the teachings of their great leaders. Inspiration is the light of history. Here and there along the centuries some great self-denying teacher and martyr has illumined the pathway of his fellow men. Moses, who chose rather to suffer affliction with his people than enjoy the luxury of an Egyptian court, was a leader and lawgiver, and to be such he must communicate with the source of all intelligence, of all law, and of all truth, and he must stay in the mountain until he was so imbued with the truth that he could come down and give the law on tables of stone to a benighted, restless, and discontented race. Progress is essentially the work of the individual, and I notice the first and most important thing is self-denial. Man progresses as he learns to overcome, and his individual victory over self is a prophecy of social advancement and of collective progress. I walk past the humble statue of Benjamin Franklin on Pennsylvania Avenue every morning, and I see on the four plain sides of the pedestal four words, "Printer, Patriot, Philanthropist Philosopher," and it has occurred to me that the foundation of the man's greatness was the printer—the useful man, the man who had learned a calling which was useful and industrial. This usefulness and thoroughness in a trade furnished the foundation of his illustrious life and achievements.

It was because of Franklin the printer, Franklin the boy of hardship and poverty, who wrought out of his own mind and soul the possibilities of greatness, that he was able as a philosopher to coax the lightning from the clouds, to make possible a Morse, an Edison, a Marconi, and finally a revolution of the whole industrial world by electrical processes. It was Franklin the *printer who* was the great man. It was Franklin the boy of poverty who was the potential philosopher and patriot. This man who stood by the cradle of the new-born Republic was Franklin the printer. I read in his autobiography the other day of the privations of his childhood, how little he had to eat, but he said, "I got so I could see that man does not live by bread alone, and out of the very poverty of my daily rations I learned that I had a clear head and a healthy body." Alas, the wealth of the rich men to-day as a rule is their poverty, if they could only see it, and the wealth of the poor man may be his poverty. The great men have come up out of tribulation and trials, and God is ever teaching us that great souls and great characters are above their environment; make their own environment.

We have had a Washington with his wealth and a Lincoln with his poverty to teach us that virtue is neither in wealth or poverty, but is in the individual character, and that alone. We are ever learning these things, and to my mind, without a hint of anything that might be deemed sectarian, I take it to be fundamental that the Great Teacher of the world wrought at the carpenter's bench and was obedient to His parents and to the law of His land, and that after His life of toil He had to go through the wilderness of temptation and then, and not till then, He could "return to Jerusalem in the power of the spirit." The great work did not begin till mighty victories over self had been won. Great men and great characters have their foundation in daily toil, daily labors, and the sacredness of daily duty; where the hand and brain work together achievement and character result. Workingmen are, as a rule, the inventors—men of vision. What gave them that vision? They wrought it out by self-denial and toil and much daily drudgery. Obedience to duty, faith in God, and patience with their fellow men gave them clearness of vision. With such vision Isaiah beheld a world without war in which the weapons of brutality and blood were to be transmuted into implements of peace and industry. This world he saw was the real world, the true world; and the Great Revelator Himself when He beheld the new heaven and the new earth saw the real heaven and the real earth.

We see the counterfeit because we are counterfeit. "What I am I see," is an old proverb and a true one. Lincoln had a vision far-reaching, and the more I study our history and our condition socially, industrially, and politically the more I can see it was an unerring vision. He wrought it out of toil and labor, industry and patience. Coming out of the wilderness of obscurity, of pain and poverty, loving all mankind, with reverence for the highest in the universe and patience for the lowest, this man was finally given the vision. Out of much tribulation it came, and what was it? It was a vision, a reflection of the Great Teacher's vision of eighteen hundred years before, that a house divided against itself could not stand. It meant more than the slavery question. In union he saw national life and immortality; in division he saw death and decay.

It meant that an industrial house divided against itself can not stand. It meant that a social house divided against itself can not stand. It meant that a political house divided against itself can not stand. It meant that in that one word "union" lies all essential progress and all essential happiness. It was a true vision.

Wendell Phillips had a vision. The young man in his humble law office in Boston one day hears an outcry upon the street. He looks out to see an old man dragged by the mob, and at that moment Wendell Phillips, the real Wendell Phillips, the true Wendell Phillips, was born; not the Phillips who might have gone to the Senate, not the Phillips who might have adorned his profession, but Phillips the free, brave, courageous, noble man who devoted the rest of his life to the cause of human freedom, and in the forum of public opinion made slavery a crime. He was not popular. He stemmed the tides of popular ridicule and derision. And he worked and wrought, amid hisses, sneers, and jeers, until he and a few of his brave band had planted the true seed of freedom in the American heart and public opinion made possible a free and united people. Phillips was a self-denying prophet and stood for real progress. Some one said if he had his life to live over again—I do not know who he was—he would be a reformer. If he would be a reformer, however, he must not be an officeseeker. I do not know but it is easier for a camel to go through the needle's eye than for a man who is asking office to be a reformer or to be a real advocate of sound progress. [Applause.]

There is too much flimflam, too much hypocrisy, and too much mask on both sides of the House. Men are not free. They are the toys of every wind and wave upon the turbulent political sea, watching and figuring for votes. Beware of the reformer who is a candidate for office, no matter who he is! Phillips did not run for office. He was not popular. He knew human majorities were not infallible, but that right is invincible in the end. Not until a man is ready to leave all for the truth, like the disciples who left their nets by the sea to follow the Master, is he any good as a reformer or an advocate of real progress. It took a divine genius to sweep the money changers from the temple and make His Father's house a house of prayer instead of a den of thieves, and it takes the divine in us to do that now. Man must be before he can do. Society can not be renovated by men who are not themselves renovated.

Now, I do not want to be misunderstood. I believe that the progressive movement in this country and in the world is, at heart, right. It is a political expression of a law of discontent which is essentially progressive; but there is much on the surface of it that is pretentious and emanates from the politician rather than the patriot. At heart I believe it to be right. The great law of heaven is the law of progress, but it is as silent and as noiseless as the melting of the night into the day. It is a growth. "First the blade, then the ear, and then the full corn in the ear."

But we come to times in the history of the world when there is necessarily great transition periods, just as the bud blossoms into the rose all in a moment. So in political history and in industrial history the growth is evidenced at times by transition periods. So we are to-day in a period of great transition and great change, and at the heart of it this change is right. At the center of it the leaven that is working is the leaven not alone of discontent, but the leaven of true advancement. But it does not come by profession; it does not come by noise; it is not spectacular. The label or brand the man may wear is not always reliable. "By their fruits ye shall know them."

The old Romans thought nothing short of an earthquake could ever disturb the great Roman palace, and yet the tiny weeds of an Italian summer insinuated their roots between the great blocks and rent the palace into a heap of ruins. The great forces of the universe are silent. They are as silent as they are mighty, and the law of progress, which is a law of God, is not accelerated by words but by lives and deeds of righteousness. Lincoln's vision was for the ages, for eternity. It was the brother man; it was love. And I want to take the bold ground, and I believe that within a generation after I have uttered the words it will be recognized within this great legislative body, that love is the foundation and the heart and the source of all real government for the people. And in spite of all remedies and all nostrums that may be advocated, we will never reach the true remedy until man shall invoke in the halls of National and State legislation the golden rule as his guide for legislation and conduct. [Applause.] Call it Utopian, call it a dream, call it what you will. The world has moved obedient to the dreams of great men heretofore and may do so yet.

When God does not give us the direct vision to see without dreams, He lets us see by dreams sometimes. He gave Solomon his mighty vision by a dream when a child, and when He appeared to him and asked him what He should give him he answered, not wealth, not power, not length of days, but clearness of vision to discern between good and evil, between right and wrong.

We would have less selfishness in leadership to-day if men would be governed by such visions. We are living in times of industrial unrest. I am in favor of this bill and in favor of this commission. It is all right. As I intimated on the floor a few minutes ago, communication is the pathway of civilization; information is the first step toward advancement. Man must know his fellow man. This is the first essential to real progress. But I tell you we will never reach the true secret until we recognize that the individual man must do the work within himself. Why, we have become blind; we are unable to-day to discriminate between wealth that comes from thrift and industry and virtue and all the qualities of great manhood, and wealth that is predatory and that comes from wrong and greed and crime. We do not seem to be able to discern between the two. We can not discern between combinations for economy and combinations for monopoly. We have failed to discern between right and wrong, and we are to-day in the midst of confusion.

I have thought it proper and have felt moved to say what I have said to-day because I believe that no Government for the people can very long endure unless we recognize the golden rule. I made a few remarks here once on law and lawbreakers, and when I got through a good friend of mine in the House, who, I guess, thought it was impracticable, as most people do, said,

"Why, you would found the Government on the decalogue." I said, "Yes; I would found it on the decalogue and on the Sermon on the Mount. I would found it on eternal righteousness." And I am willing to-day to lay down all personal and political ambition I have to follow the true leader in this country, whoever he may be, who is willing to face martyrdom and personal defeat that the Government may be permanently established on the Ten Commandments and the Sermon on the Mount. [Applause.]

You may boast as much as you will, and you may prate on this floor as much as you will about this theory and that theory, this party and that party, this leader and that leader, and yet away down at the heart of the American people they are asking for greater unselfishness. They are asking for human kindness and the bread of brotherhood.

I have not agreed with the leadership of organized labor on one or two bills here—important bills. I never can, as I view it now, stand for them. I believe they are based on coercive policies that are detrimental and injurious to the permanent welfare of labor, as well as subversive of good feeling between man and man. But I do believe that along the lines of the workingmen's compensation bill, and this bill, and other bills, such as those for shortening the hours of labor and the betterment of labor conditions and the recognition of greater value in labor, lies the true path of legislation; and I feel confident that out of legislation of this character will yet come better conditions, but with them will come that deeper law, written in the hearts of men, a law which forever says, "As ye would that men should do to you, do ye even so to them"—the golden rule.

I know that it is very popular to flatter the people. I have all faith and confidence in the people. But as I view history, the leverage of human advancement has been leadership largely. Lincoln had great and supreme confidence in the people, and yet with his vision, reaching far into the future and involving supposedly at that time his defeat, when he had that vision he appealed to whom? The people of the western prairies, to the men who broke the prairies and felled the forests and built the highways, the pioneers of the West.

And, thank God, there was found to be, in that great, plain mass of the people, a balance of good sense and patriotism which led them to give Lincoln the verdict. It is true they sent Douglas to the Senate then, but two years later they sent Lincoln to the White House and to immortal fame. The political destiny of the New World hung at that moment on the great, common, practical, useful people of the western prairies of Illinois. [Applause.]

But, mind you, it took the fire of an inspired soul to arouse the latent wisdom and patriotism of that great people. It took a man so closely united to his fellow men that what he said went to their hearts. This means the progress of a race and the progress of a world; that is what has given us the work of a Moses, a Paul, a Socrates, and the great men of history—the fact that they could appeal and did appeal to that which was best in their fellow men, and they found a response.

So, I say, that in our last resort we must depend upon the people. But I do not care anything about the cheap talk of the people being invincible. "Vox populi, vox Dei" is not true unless it be a godlike people who speak.

The advance of civilization has been the advance of the people as a whole, but it is by individual advancement that the whole advances. "Work out your own salvation" is the law. Our hope is with the people. Our strength as a Nation is in them. It is not in the Washingtons and the Lincolns and the great men. The mountain peaks rise above the common level, but the common level is of the same stuff. So there is in the common heart love and reverence for the Washingtons and Lincolns. That is what gives strength to this Republic—something of the Washington and Lincoln in us all. The meanest man is born to greatness. It is latent but is there. Society may be moved and governed by passion, and, for this reason, must be restrained by constitutions and laws. These are voluntary and necessary restraints which we all need and without which human governments fall. Stability is essential to progress. But leadership is a great lever of progress; not so much, perhaps, as in former times, because intelligence is more generally disseminated, but nevertheless the leader has his important work in our day and country.

There are three great obstacles to human progress—prejudice, greed, and cowardice. I do not know but you might resolve them all into one, and that is ignorance.

All progress finds its obstacle in ignorance. The crowning, sublime, and divine glory of the greatest Teacher who ever trod this earth of ours was that, nailed to the cross, crowned with thorns, and ready to yield his last mortal breath, He said, "Father, forgive them, for they know not what they do." But if we were to subdivide this general cause which is ignorance and be specific, I should say that prejudice, greed, and cowardice are the great obstacles to progress. Prejudice! Why, we have to unlearn most of that we think we know in this world before we can start right. Our very learning is ignorance. There is an arrogance and a conceit in the learning of our day which does not tally with the condition of the mind of the child. The Great Teacher said, "Except ye become as little children, ye shall in no wise enter the kingdom of heaven"—that is to say, truth, the kingdom of real knowledge, the kingdom of real understanding. Humility is the path to greatness. Lincoln understood it, and the great martyrs who have gone to the stake and died for their fellow men knew that not in arrogance, not in conceit, but in humility was to be found the basis of great character and great manhood. The most learned are often the most ignorant and the last to enter the real kingdom.

We are prejudiced in a thousand ways. We do not know our fellow men. The Great Teacher ate with publicans and sinners that he might pour upon them the light of his healing gospel and lift them to a higher plane. We do not enter the shops and toil with the men at the forge and mill or help to bear their burdens. We have little concern for their suffering and their discouragements.

I rode on an elevated train in the city of New York one hot day a year ago, and I saw the little children sleeping out on the fire escapes, because they were almost dying of heat. I said to myself, I ought not to ask to have a dollar in the bank while such suffering exists among my fellow men.

> Inasmuch as ye have done it unto one of the least of these ye have done it unto me.

We are absorbed in the means of living—the tools and outward appliances of life—more than the life itself. The very wealth of the country thus becomes its poverty. We can never get back of that wonderful parable that I cited once here on this floor, of the man whose ground brought forth so plentifully. Some one came to the Great Teacher and said:

> Speak to my brother that he divide the inheritance.

But the Master said:

> Who made me a divider of the inheritance?

One trouble with all our contention is that, after all, it is a contention for material things. It is a contention of the rich and it is a contention of the poor for the material things, for the meat that perishes and not for the bread of life by which the soul gains access to its eternal God.

Well, the Teacher said, "Who made me a divider over you?" "Beware of covetousness, for a man's life consisteth not in the abundance of the things he possesseth." Then he gave the parable of the rich man whose ground brought forth plentifully. He was an egotist. He had put God out of the universe. He said to his great lordly self, "Where shall I bestow all my fruits?" His barns were not large enough, and he said, "I will tear down my barns and build greater, and there will I bestow my fruits, and then I will say to my soul, take thine ease, eat, drink, and be merry, and so forth, for thou hast much goods laid up for many days." He was laying it up, you see, for himself for future days. To say this man was conceited hardly expresses it. "My ground, my fruit, and my barns. I will store up these fruits for my own future if others starve." Alas, he could not bring down a ray of sun nor a drop of dew or rain; he could not stay the early frost; he had not got it in his heart even probably to sufficiently pay the poor toilers who had helped to fill his barns in the midday sun. Thank God, his wealth was his poverty, and the poor man, who worked for less no doubt than he deserved, to fill this man's barns was the richer man of the two. He had a larger soul and faced the future with more hope than this human hog whose greed and avarice had brought him to such miserable poverty of soul. [Applause.]

And what was the judgment? "Thou fool, this day will I require thy soul of thee." Then, whose are these goods? In other words, as I interpret the parable, "Thou fool, I will have thy soul"; I will have kindness to thy fellow man; I will have love for thy fellow man; otherwise thou must die, because all thou hast to show for the years thou hast spent here is the ability to eat and drink. Thou art a fool, and thy soul shall be required of thee.

It is a lesson for the Nation. We have built here upon the foundation of wealth, and God will tear it down unless men are mindful that love is the soul of this great Republic of ours. [Applause.]

The *Titanic* was a monument to speed and luxury. It went down with all its precious freight, but those on board a ship passing a few days later saw one of the women from the steer-

age in the icy embrace of death holding up in her frozen arms the dead child she had sheltered to the last. One lesson of love is worth all the *Titanics* and all the warships you can build while a nation lives. [Applause.] One hero helping the mother and child, the aged and the crippled, into the lifeboat, and then going bravely and unselfishly down to death is worth all the mountains of our material wealth and all the millions God has given us in these days of plenty and prosperity. [Applause.] A monument to speed and luxury! I remember when I thumbed an old schoolbook as a little boy in a country school—and I never had an opportunity to get much further—I wrote some copy, or tried to write, but I think I must have written it mighty poor or but a few times, because I can not write any now—I wrote the proverb, "The more haste the less speed." Speed! We are confusing speed with progress. The more haste the less speed. Be content to work as God works. Then progress will be wholesome, sane, and sure. We worship human leaders. We must have a human idol, but the best of these idols fall shattered at our feet. We are learning not to enshrine our heroes till after they are dead. It is not safe to enshrine a hero until he is dead. While human leadership is essential, and the more unselfish the man the greater the leadership, yet we are learning that our destiny and the destiny of this great Republic do not depend on any particular leader. Thank God for it. Why, they quarreled in the olden time, in Paul's time, about leaders. These were of Paul and these were of Apollos.

And Paul rebuked it. He said, Paul may plant and Apollos water; but God giveth the increase. Do not forget that. The newly created wealth, the wealth born to-day, the wealth from soil and mine and sea is God's and God's alone, for the earth and the fullness thereof are His. There never was such fullness in any other land in the history of mankind as there is in this. There never was such a land of plenty, such a land where all true industry might find a just reward, if we but believed and had faith in our ability to so order it; a land of prosperity beyond the dreams of man. What is the trouble?

Years ago they wrote into the Declaration of Independence something about the inalienable rights to life, liberty, and the pursuit of happiness, and the Nation in its history has had its parallel really of those different stages. First, life. The Nation was born, born in revolution. Second, liberty. It was liberty that came out of thick darkness of civil conflict, from 1861 to 1865—life and liberty of a nation.

It was not until we had stricken off the manacles from the slave and emerged from the thick darkness of that mighty struggle that we began to think and study this third principle or stage of progress, the pursuit of happiness; and we are only now on the eve of that great era in which man is learning, thank God, slowly but nevertheless surely, that the pursuit of happiness is not the pursuit of wealth. It is the pursuit of an untroubled and unselfish and loving state of the human soul in which man is willing that his neighbor shall share in the prosperity and the bounties of God, in which he shares. That is the pursuit of happiness. Even now it begins to dawn anew on this Republic, and inspite of strife—party strife, industrial the common man, and will yet leaven all humanity. Our problem since the war has been the problem of production, but the pursuit of happiness now bids us stop and inquire whether distribution is right and just, whether we should not readjust our industrial system upon the basis of greater justice to the man who is down. [Applause.]

That is the question that concerns us all.

Mr. Chairman, I have spoken wholly offhand and somewhat disconnectedly, and I am very grateful for the patient attention of the House. I may ask to revise these remarks. Possibly I may have conveyed some erroneous impressions in what I have said; but I say this in conclusion, Utopian as it may seem, impractical and dreamy as it may seem, that this Nation was founded not alone on the idea of liberty, but the possibility of the individual soul, the infinite possibility of the individual. That is where the everlasting greatness of the great Teacher appears in the light of history, in that He realized the possibility of the individual soul, and in no land under God's blue sky, in no age, has civilization reached a better vision than we have in this country. strife, social strife—the leaven of righteousness is working in Imperfect, sadly imperfect yet, but the hope of the ages. In spite of all the unrest and turbulence upon the surface, at the center the Master speaks, and as the Master was called when the ship was in the storm to still the tempest, so all that is needed for good government here and now, whoever is President, for real and permanent prosperity, is the spirit of the Master which is forever saying, Do unto others as ye would that they should do unto you. [Applause.] Peace be still.

The verdict of the world has always been wrong. Cowardice has been in high places. Pilate sat on the throne, with truth manacled and in chains before him, and a good, loyal, clear-visioned wife saw the danger and warned him. But no; Pilate did just what you and I do when we stop to count votes back in the district that we come from. He consulted the people. He worshiped numerical majorities, forgetting that one with God is a majority. He could not distinguish between that which is heaven born and potential—the inner soul of the people—and the passion and hate of the ignorant, and the world's humiliation and disgrace followed, because a coward sat on the bench, a coward who feared the people. Yes; he feared the people. He feared that which was worst in the people, not that which was best, but nevertheless he feared that in the people which was more at the surface, and the world's great Teacher went to the cross.

The world's verdict has always been wrong. I expect that in this House I am practically through, but I tell you one thing, that the brave and fearless men on either side this Chamber who follow the lamp of conscience without counting votes at home are the hope of all progressive legislation, whether the administration be Republican or Democratic. [Applause.] Only the man who will stand, if right demands it, against that which seems to be popular, and true as the needle to the pole follow duty's path, deserves a name in history. Better have one day here and speak the truth that God has given you than dwell here half a century to be the toy of every shifting and momentary passion of men. [Applause.]

The world's verdict has been wrong in every age. No great pioneer of truth has been received in his day. They have endured chains and dungeons, persecutions and, finally, death in defense of the truth, because the people of their day were not up to the leadership of the day. It will be so, but not always, I hope, for I have the feeling that here there will be such a universal predominance of good fellowship and brotherhood as to render it impossible that a great man shall be denied in his day. But the world's verdicts have been wrong.

I read somewhere the other day among some old papers that I fished out in my library a poem, which I wish I had, and if I had known I was going to speak to-day I would have brought it here. It is about the world's real victors. They are, after all, the vanquished. The world gave them no crown. He pictured the real hero as the man who meets defeat for the right. He "Sang the hymn of the conquered, who fell in the battle of life, the hymn of the wounded, who died overwhelmed in the strife."

It was written by a man by the name of Story; I think he was the son of Judge Story. He was an artist. He pays a tribute to the obscure hero, the man who is not dying and selling his soul for a little fame or wealth for to-day but who stands heroically in the path of duty, trusting God and his own better nature for his reward. [Applause.] I close with his last lines, worthy of more than a passing thought in these times of ours:

I stand on the field of defeat,
In the shadow, with those who are fallen and wounded and dying, and there
Chant a requiem low, place my hand on their pain-knotted brows, breathe a prayer,
Hold the hand that is helpless, and whisper, "They only the victory win,
Who have fought the good fight, and have vanquished the demon that tempts us within;
Who have held to their faith unseduced by the prize that the world holds on high;
Who have dared for a high cause to suffer, resist, fight—if need be, to die."
Speak, History! Who are Life's victors? Unroll thy long annals, and say,
Are they those whom the world called the victors—who won the success of a day?
The martyrs, or Nero? The Spartans who fell at Thermopylæ's tryst,
Or the Persians and Xerxes? His judges or Socrates? Pilate or Christ?

[Loud applause.]

[Mr. KINKEAD of New Jersey addressed the committee. See Appendix.]

The CHAIRMAN. The gentleman from New Jersey [Mr. KINKEAD] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request to extend his remarks in the RECORD?

There was no objection.

Mr. NYE. Mr. Chairman, I ask leave to revise and extend my remarks in the RECORD.

There was no objection.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may be allowed to extend my remarks in the RECORD.

There was no objection.

Mr. HUGHES of New Jersey. I ask unanimous consent to extend my remarks in the RECORD on the subject of the bill now before the committee.

There was no objection.

Mr. MANN. The gentleman from Pennsylvania [Mr. OLMSTED] would like permission to extend his remarks in the RECORD.

There was no objection.

Mr. SABATH. I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

[Mr. SMALL addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, if I thought the creation of this industrial commission would be of advantage to a single laborer in the United States, apart from those who will be employed upon the commission, I would gladly vote for this bill; but as I view it, in the light of legislation already enacted and in view of the existence of a Bureau of Labor and the passage of a bill creating a Department of Labor, both of which are to do the work that this commission is now called upon to do, I regard the measure as expensive and unnecessary. I agree with the argument of the gentleman from North Carolina [Mr. SMALL], who has gone into this question thoroughly and from the viewpoint of a careful legislator and representative of the people. It is said that a commission of this kind will be able to give to the country information with regard to the causes of unrest. We know what the causes of unrest are. Every one of us has a sort of instinct that we understand what are the causes of unrest. The manufacturer knows, and the laborer and the farmer knows. What everyone interested wants to know is how a remedy may be provided for the causes of unrest that already exist. No remedy is suggested by the creation of this commission. The men to be appointed upon it shall have it in their power to send for books and papers, put witnesses on the stand, and, instead of allaying the unrest, foment it. The country has had enough investigations. The Democratic Party has deemed it wise to use the money of the people of the United States in a series of investigations into all sorts of questions. Now, upon the presumption that it is in the interest of labor, it is proposed to take $500,000 of labor's money and spend it to obtain information that the country already possesses. I asked the gentleman from Pennsylvania [Mr. WILSON] awhile ago whether the commission would have any power, after it learned the causes of unrest, to enforce any recommendation it might make, and he answered "No," as he answered "No" with respect to the Department of Labor which was under discussion the other day. What, then, is the purpose of this commission? What good can it do? It will send for books and papers, and it will put witnesses upon the stand, and it will halt men who are doing business, it will call up the men in the mills and the men who are earning their wage and take their time telling of their troubles, which are now very generally understood.

Conditions in this country now, by reason of the various investigations already underway, are such that the business man is unable to tell just how to do business—and let me tell you I speak in the interest of the wage earner in the country, whether organized or unorganized, when I speak in behalf of the business man.

Labor is the creator of all wealth. That is true, but labor can create wealth in a shack, in a swamp, if labor wants to remain there. My estimate of labor is that it wants to get away from its separate environment and obtain some of the other benefits that come from association in life, and association means a combination of effort which ultimately leads to some one, labor leader or manufacturer, becoming the head of the concern. Now, then, if labor is to be profitably employed, business must have a show; the manufacturer must have a chance to give employment to labor, or the laborer, if he cares to leave his position as a laborer, may himself become an employer and give an opportunity to earn wages to those who desire the opportunity.

If we are to deal with this bill solely upon the ground that it might help us bring together the employer and the employee, let us see where this industrial commission leads. It is to have no power except to investigate and disturb existing conditions. It is to investigate and inquire into such labor troubles as exist. Is it to stop a strike that is causing unrest and taking the wage-earning power away from the workingman and stopping the wheels of industry? No; it has no such power; it is simply to tell of the unrest that results from such a condition. And, pray, what good is that to the man who wants the wage to pay for his daily bread? The gentleman from Pennsylvania [Mr. WILSON] says that after all this is a question of human nature. Then how are you going to regulate it by law or by a commission? A strike is on. The employee contends that he has been unfairly treated by the superintendent of the employer. Where does this commission serve to bring together those who differ as to the treatment of the hands by the superintendent of the mill? The commission hears that a strike is on; it visits the locality at the expense of the laboring man; it sits there in dignity and sends for witnesses, has the books and papers presented, spends the time and money of the Government, to make its inquiry. Does it stop the strike; does it improve the conditions in the mill of which the workmen complain? Or let us take another case.

The men say that a wage of $2.50 is not sufficient and they want $3 a day. They strike to obtain the higher wage. Has this commission any power to enable them to obtain that higher wage? Will it give any assistance to those who are striving to better their financial condition? Why, the commission will simply tell what the world is full well advised upon. It does not have any power to change the wage conditions. The employer contends that he is paying all that the business will enable him to pay, and the employee says that the business is able to pay more than the wage that is paid. What are you going to do about it? Now, pray tell me wherein the industrial commission, costing the people $500,000, will benefit either the employer or the employee to the extent of a single cent or will add in any particular to the bringing of those two elements together. I said if I thought this bill would benefit labor I would vote for it, but as I see it now it means only the creation of another commission that will add to rather than allay the unrest that prevails.

Mr. DONOHOE. Will the gentleman yield for a question?

Mr. MOORE of Pennsylvania. I will yield to the gentleman.

Mr. DONOHOE. I was going to ask my friend and colleague whether he considers organized labor is working a benefit or an injury to the cause of labor.

Mr. MOORE of Pennsylvania. I consider organized labor a decided benefit to the labor of the country.

Mr. DONOHOE. What is the attitude of organized labor toward this measure?

Mr. MOORE of Pennsylvania. The attitude of organized labor, as explained by the gentleman from Pennsylvania [Mr. WILSON], is favorable to this measure, and I have asked the gentleman from Pennsylvania [Mr. WILSON] how many men are organized in this country out of the 30,000,000 wage earners, and the gentleman answers, what is the fact, that the total number of organized wage earners out of the 30,000,000 is 3,000,000.

Mr. DONOHOE. As those 3,000,000 are well versed in labor matters and doing good work in its cause, would not a measure advocated by them be beneficial to all labor?

Mr. MOORE of Pennsylvania. I will answer the gentleman by asking whether he is in favor of the creation of this commission by putting only the organized-labor men on and leaving the 27,000,000 other wage earners, including the farmers of the country, out of consideration?

Mr. DONOHOE. I believe that all labor is in favor of this measure.

Mr. MOORE of Pennsylvania. The gentleman understands that all labor whatsoever is in favor of this measure, and I am glad to have the gentleman come in under that standard.

It is not necessary to prolong a statement of this kind. Industrial commissions are not new in this country. We had an industrial commission created by the act of 1898, 14 years ago, that went over this country taking testimony, sending for persons, books, and papers, to find out the conditions that prevailed in regard to labor, agriculture, and immigration. We had as a result of their work 19 very profuse volumes of statistics, which no one, including the laboring men of this country, has ever read. We have had a commission on immigration and have spent a great deal of the money of the people endeavoring to find out whether we can improve the immigration conditions that prevail in the United States. Nearly a million of dollars was spent by that commission, with the result that we are now receiving volumes of testimony, statistics, and figures, upward of 40 in number, which, perhaps, will never be read by any individual in the United States save the proof reader. The question is whether labor is benefited by investigations and inquiries of this kind. If the real purpose of the gentlemen on the other side, particularly of my distinguished friend from Pennsylvania [Mr. WILSON], who so well represents organized labor upon this floor, is to bring the employer and employee together, it can be done better by some other measure than that which means from the time of the passage of this bill that inquisitors are again to go into the industrial establishments of the country and possibly widen the breach between capital and labor. [Applause.]

Mr. WILSON of Pennsylvania. Mr. Chairman, I ask for the reading of the bill.

Mr. SLAYDEN. Mr. Chairman——

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. SLAYDEN. Mr. Chairman, I shall not abuse the patience of the House very long. Unfortunately I was out during a part of the time that my friend from New Jersey, Mr. KINKEAD, was making his impassioned appeal for his carnivorous constituency in New Jersey.

Mr. MANN. Will the gentleman be willing to yield, stating how much time he desires, in order that a request may be submitted to close debate on the bill? How much time does the gentleman want?

Mr. SLAYDEN. Not over three or four minutes, anyhow.

Mr. WILSON of Pennsylvania. Mr. Chairman, I ask unanimous consent that all general debate on this bill close at the conclusion of the remarks of the gentleman from Texas [Mr. SLAYDEN]—not later than 10 minutes.

Mr. SLAYDEN. I shall not consume 10 minutes; but you can put it in that way if you so desire.

Mr. WILSON of Pennsylvania. Five minutes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WILSON] asks unanimous consent that general debate on this bill be closed at the expiration of the time of the gentleman from Texas [Mr. SLAYDEN]. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Chairman, I heard just enough of the remarks of the gentleman from New Jersey to indicate that in an effort, earnest, honest, and commendable, to secure relief for his constituents from the high cost of living he has suggested that one of the important and principal products of that section of the country from which I come, that portion which I partly represent, shall be thrown open to the unrestricted competition of the world.

Now, Mr. Chairman, that seems to me an unfair application of the tariff laws and of the principle of assessing a customs tax. I stand for a reduction of all tariff laws to the lowest possible figure consistent with the raising of an adequate revenue for the support of an economically administered Government. But I am not willing that the people whom I represent should have their interests stricken down in behalf of any other section of the country.

Mr. CURLEY. Will the gentleman yield?

Mr. SLAYDEN. I have only five minutes. Wait until I get through, and if I have any more time I will yield to you. I am not willing that we should have to make the entire sacrifice in order to lower the cost of living. The people who produce cattle are just as important in this country as any other. The fact that there is a great trust, or a number of great trusts, known as the "Beef Trusts," which dominate this trade, is taken advantage of to try to create a prejudice against the cattle growers themselves. God knows the cattle growers would like to be exempt from the exactions of the Beef Trusts, and if the gentleman from New Jersey [Mr. KINKEAD] or any other Member can suggest any feasible and quick method of exterminating these trusts I will give him my word I will immediately enlist under his banner for that crusade.

Mr. KINKEAD of New Jersey. Mr. Chairman, may I ask my friend how much revenue the United States Government derives from the importation of beef?

Mr. SLAYDEN. Not a great deal, I suppose.

Mr. KINKEAD of New Jersey. Not a dollar, Mr. Chairman.

Mr. SLAYDEN. Not a great deal.

Mr. Chairman, the gentleman read some figures from some publication, I believe, of the Department of Agriculture, to show that there was no scarcity of beef cattle in this country.

Mr. KINKEAD of New Jersey. Oh, no, Mr. Chairman, if the gentleman will allow me. My statement proved that something like 574,000,000 pounds of beef and 1,053,000,000 pounds of pork were exported from this country abroad, and my conclusion would have been, if I had been permitted to conclude, that the way to abolish the Beef Trust, assuming that it is acting in good faith with the Department of Justice to-day, I having been assured by Mr. Wickersham that before the 1st day of August the trusts will submit to him a plan resolving themselves into their constituent companies—I say to my friend from Texas that if they are "on the level" in this thing, if they are square—and I am going to assume that they are square until I have more than a mere suspicion in my soul to the contrary—I will say to him that if this dissolution occurs, then the only way on earth to put down to his people and to my people beefsteaks at an honest and a reasonable figure is to take the duty off of every pound of beef that comes into this country, whether from Mexico, or Canada, or Argentina, or Australia.

Mr. SLAYDEN. Mr. Chairman, I suppose that is the conclusion that the gentleman did not get a chance to make in his own speech. [Laughter.]

Mr. KINKEAD of New Jersey. Well, I yielded to the gentleman.

Mr. SLAYDEN. And I yielded to the gentleman, too.

I repeat, Mr. Chairman, that the people whom I represent ought not to be made the victims of the wide and violent hostility toward the trusts. Again I say to the gentleman that I am ready to do all that I can in cooperation with him and others in the suppression of the trusts.

Mr. KINKEAD of New Jersey. If the gentleman will permit me, Mr. Chairman, I stated to him, and I thought he understood me, and said it as loudly as my poor lungs would allow, that I was glad that in Fort Worth on the 18th day of May they sold cattle for 9½ or 9¼ cents a pound. I am glad of that, very glad of that; and they can continue to sell their cattle at 9½ cents a pound, and I hope that that is a fair return on their investment. But I say to my friend from Texas—and I believe he will bear me out in this, representing, as he does, a cattle-raising community—that if he finds that the farmers are able to raise the cattle that they sell for 9¼ cents a pound for 5 or 6 cents a pound, they occupy the same position toward the American consumer, the same unjust, indefensible position, that I claim the Beef Trust occupies to-day. We are content to give them an honest profit on their production, and glad to see them get it; but I do not think that the gentleman from Texas or any other man in this House, representing a cattle-raising community, should ask that they receive an unjust price for the cattle which they raise, an unfair price, and a dishonest price.

Mr. SLAYDEN. Mr. Chairman, I do not think——

Mr. LONGWORTH. Mr. Chairman, I trust that the gentleman from Texas will be able to give a categorical answer to that question. [Laughter.]

Mr. SLAYDEN. I do not think that the cattle raisers of Texas have ever received, or expect to receive, an unfair price in the markets. They are compelled to sell the bulk of their cattle to the trusts. The gentleman from New Jersey [Mr. KINKEAD] says the trusts have the power to fix the price that they pay to the cattle raiser. I contend that if they have the power that they are alleged to have, they will never fix a price that is too liberal.

I believe that the high price obtained for cattle from the ranges is due to the scarcity of cattle. I am assured of that fact by gentlemen who are engaged in the business, by men who live in the vicinity where the cattle are raised, and by gentlemen who are only interested in the prosperity of their neighbors, that there is now a scarcity of cattle on the plains of Texas and New Mexico and Colorado.

What the supply may be in other sections of the country I do not know. I am not myself a producer of cattle, but I do know that, taking it one year with another, good seasons and bad seasons, taking it on the average, the cattle producers have not had an unfair profit, have not had a too liberal return for their investment.

Mr. KINKEAD of New Jersey. Will the gentleman yield at that point?

Mr. SLAYDEN. Yes.

Mr. KINKEAD of New Jersey. In the month of May there was exported from the harbor of New York 25,000,000 pounds of beef. Now, I say to the gentleman that I believe there is a scarcity of cattle in Texas, Colorado, and Montana, due to conditions of which he and I are aware. They are no longer able to range their cattle on land that belongs to the Government.

Mr. SLAYDEN. Unfenced and free.

Mr. KINKEAD of New Jersey. Unfenced and free, as the gentleman rightly says; and he knows that the cost of feeding cattle is greater to-day than it ever was before. But I will say to my friend that the condition that confronts his people and the people of Colorado and Montana is the direct result of the operations of the Beef Trust, that he and I know controls the price in the market.

Mr. SLAYDEN. I think the gentleman is, to some extent, mistaken. The fact that we no longer have a free range accounts for the increased cost of producing cattle.

Mr. WILSON of Pennsylvania. I should like to ask the Chairman if those five minutes are not about up.

Mr. SLAYDEN. Just one sentence, Mr. Chairman. I want to set my friend from New Jersey right in one particular. The cost of raising cattle has enormously increased. The trust is not responsible for the fact that these Western States have settled up and that land is higher, and that the interest on the

investment is greater. It is because people have gone in there. They raise too many people in New Jersey, and they have gone out west.

Mr. KINKEAD of New Jersey. There can not be too many people raised in New Jersey, because they are a blessing to the rest of the world wherever they go; but I agree with the gentleman as to his other proposition in the main.

Mr. WILSON of Pennsylvania. I call for the reading of the bill.

The Clerk read as follows:

Be it enacted, etc., That a commission is hereby created to be called the Commission on Industrial Relations. Said commission shall be composed of nine persons, to be appointed by the President of the United States, not less than two of whom shall be employers of labor and not less than two of whom shall be representatives of organized labor. The Department of Commerce and Labor is authorized to cooperate with said commission in any manner and to whatever extent the Secretary of Commerce and Labor may approve.

The following committee amendment was read:

Page 1, line 6, after the word "States," insert the words "by and with the advice and consent of the Senate."

The amendment was agreed to.

The following committee amendment was read:

Page 1, line 7, strike out the word "two" and insert in lieu thereof the word "three."

Mr. CANNON. Mr. Chairman, I want to be heard a moment touching that amendment. I am inclined to think that the bill as introduced was to be preferred, rather than the bill as proposed to be amended by this amendment. It is as follows:

Said commission shall be composed of nine persons to be appointed by the President of the United States, not less than two of whom—

Is the original bill—

shall be employers of labor, and not less than two of whom shall be representatives of organized labor.

As proposed to be amended the bill provides that not less than three of them shall be employers of labor, and not less than three of them representatives of organized labor. That leaves three others for the President to appoint not employers and not of organized labor. Who he would appoint I do not know. But after all is said and done, 3,000,000 people in organized labor and less than 1,000,000 employers, making 4,000,000 out of 95,000,000, are to be represented by the six men in these two classes of three each if the committee amendment is agreed to. Organized labor and employers represent only 4,000,000 people out of 95,000,000. There are many laborers besides those in organized labor, American citizens, people in all kinds of production. Now, certainly they have some right to representation. I do not see that 4,000,000 people ought to have two-thirds of the membership of this commission. Therefore, it seems to me that the bill had better stand as it was originally introduced. After all is said and done, no man lives to himself. I have always stood indorsing organized labor. I have always said that if I lived in the sweat of my face, under existing conditions I would agree with my fellows in making a contract. Perhaps an equally advantageous contract could not be made if they would go singly. I doubt if it could be made with profit and safety and justice through the single individual, as he would go to make his contract alone.

But after all, labor that is not organized labor, labor on the farm, labor in clerical positions, labor in jobbing houses, labor in retail establishments, labor everywhere is just as honorable as if it were organized and entitled to just as much right to be represented on this commission as others have.

Every man has the right as long as he obeys the law to do what he pleases. A good many of us would be in a bad fix if we did not have that right. A man has the right to be a bear if he wants to be as long as he obeys the law.

Now, I doubt the wisdom of taxing 95,000,000 people for this commission unless it will perform a real service. I sometimes tliink we are running commission mad. I recollect the other industrial commission which resulted in the publication of 19 volumes, and there is a wonderful lot of essays in the 19 volumes. I have examined it. I doubt if I call up, however, one by one the gentlemen of this House and ask them to state truthfully—I doubt if there is a majority in this House that knows that there was any commission of that kind; and I doubt if there is a small minority that ever read any considerable portion of that report. It is a wonderfully able report.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BUCHANAN. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Illinois be extended five minutes.

The CHAIRMAN. The gentleman from Illinois asks that the time of his colleague be extended five minutes. Is there objection?

There was no objection.

Mr. CANNON. If this commission is to be a useful commission it should represent fairly well the American people. Now, I have no complaint against the three commissioners of employers, in the event that this commission is adopted, and three from the organized labor; they would probably be wise men. I have never occupied any time in this House attacking the employers, a million of them. They serve a useful purpose. Under the changed conditions of production there have got to be employers, and they are really employees of those they employ. We are all employees in the broad sense. We are employees of the whole people. The lawyers are the employees of their clients, and so on. At the same time employers are employees. Now, I am not going to call them Gradgrinds. I am not going to abuse them for organizing trusts unless they are found guilty. I believe in the Sherman Antitrust Act, and I believe in the enforcement of the law against trusts. I voted for the Sherman Antitrust Act and stand ready to vote for apt and proper amendments to it. But let us have a commission one less employer and one less of organized labor, as the gentleman who introduced this bill, Mr. HUGHES, proposed when he introduced it. That will give four, and it will give six for the 90,000,000 people who are not in a technical sense employers and are not in organized labor.

Therefore, for one, I shall not vote for this committee amendment.

So far as the employees are concerned, the best expression of the employees' desires and sentiments and wishes is found where those employed associate themselves together in the form of an organization or trades-union. If the employees are to be represented on that commission, then the representatives should come from that best expression of the employees, organized labor. Hence I believe that this should be amended to be three instead of two.

The CHAIRMAN. The question is on the adoption of the amendment.

The question was taken; and on a division (demanded by Mr. CANNON) there were 81 ayes and 11 noes.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

Page 1, line 8, strike out the word "two" and insert in lieu thereof the word "three."

Mr. WILSON of Pennsylvania. Mr. Chairman, there are two distinct reasons why this was made three members all round. There are three recognized elements in society so far as it affects industries in the different lines. The employee, the employer, and the public at large. Now, it is fit, if a commission is to be appointed to investigate the industrial situation, that each of these elements should be equally represented on that commission.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read section 2.

The Clerk read section 2, as follows:

SEC. 2. That the members of this commission shall be paid actual traveling and other necessary expenses and in addition a compensation of $10 per diem while actually engaged on the work of the commission and while going to or returning from such work. The commission is authorized as a whole, or by subcommittees of the commission, duly appointed, to hold sittings and public hearings anywhere in the United States, to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses and to compel testimony, and to employ such secretaries, experts, stenographers, and other assistants as shall be necessary to carry out the purposes for which such commission is created, and to authorize its members or its employees to travel in or outside the United States on the business of the commission.

The Clerk read the following committee amendment:

After the word "created," in line 15, page 2, insert "and to rent such offices, to purchase such books, stationery, and other supplies as may be necessary to carry out the purposes for which such commission is created."

Mr. MANN. Mr. Chairman, I offer the following amendment to the committee amendment.

The Clerk read as follows:

Page 2, line 16, after the word "supplies," insert a comma and the following: "and to have such printing and binding done."

Mr. WILSON of Pennsylvania. Mr. Chairman, I have no objection to that amendment.

The question was taken, and the amendment to the amendment was agreed to.

Mr. COOPER. Does that amendment proposed by the gentleman from Illinois cover printing of testimony? It is to cover such printing as may be necessary for the purposes of the commission, but the commission is not authorized to have the printing of the testimony done.

Mr. WILSON of Pennsylvania. In my judgment it would cover the entire printing of the hearings.

Mr. MANN. I have no doubt it would.

Mr. WILSON of Pennsylvania. It is the language used when committees are authorized to have printing and binding done.

Mr. COOPER. I did not know but that it was worded so that it would not permit the testimony to be printed.

Mr. CANNON. Mr. Chairman, this is a pretty broad authority that this commission is given, to investigate in the United States or anywhere in the world. With that statement I desire to call attention to the committee amendment:

And to rent such offices, to purchase such books, stationery, and other supplies, as may be necessary to carry out the purposes for which such commission is created.

It will have authority to rent offices in Washington, offices in New York, offices in San Francisco, offices in London, or elsewhere. It is a pretty broad provision. It is true that there are only $100,000, as I understand it, that are to be appropriated for the first year, but $500,000 is contemplated before the work is finished, and if this commission carries on as broad an investigation as they are authorized to do, $500,000 will be but a drop in the bucket. I would be glad to know whether or not it is contemplated to have offices in foreign countries. However, I suppose no gentleman could answer that question because we do not know who will be on the commission. Is it supposed to be probable or possible that offices in foreign countries will be rented?

Mr. WILSON of Pennsylvania. Mr. Chairman, it is not contemplated that offices shall be secured in foreign countries. It is contemplated that offices might be secured in the city of Washington, and also that there might possibly arise occasions, when it is necessary to have hearings elsewhere than in the District of Columbia, where it would be necessary to rent rooms in which to hold hearings. Beyond that there was nothing contemplated.

Mr. CANNON. But my friend and myself both before this commission performs may be with the angels. Nobody can say what this commission will do. I call attention to the fact that it can rent offices anywhere, and it is expressly authorized so to do. I call attention to the query of whether it is not wise to limit the power to rent offices.

The CHAIRMAN. The question is on the adoption of the amendment as amended.

The question was taken, and the amendment was agreed to.

Mr. SMALL. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 2, line 19, strike out the words "or outside."

Mr. SMALL. Mr. Chairman, the language of the bill is as follows:

And to authorize its members or its employees to travel in or outside the United States on the business of the commission.

The amendment that I offer is to strike out the words "or outside," which will simply authorize members or employees to travel in the United States. The purpose of the amendment is this: If they send members or employees into foreign countries, it will of necessity be for the purpose of obtaining information. They will have no authority to compel the attendance of witnesses, nor will any purpose be subserved by sending members or employees to other countries except to get such information as has already been collated and published in such countries, and all such information already obtained in other countries will be accessible to this commission by correspondence or by application or in some other way. I think this bill ought not to contain any provision which will give color to any junket trip on the part of its members or employees, unless some essential and necessary benefit can be secured by it. It will involve large expense, encroach upon the appropriation which is made for the use of this commission, and I think the words "or outside" ought to be stricken out, so that the commission, so far as traveling is concerned, will be limited to the United States, leaving still open to them the opportunity of obtaining such information as is accessible in other countries, which can be obtained in other ways, instead of sending its members or employees to such countries.

Mr. WILSON of Pennsylvania. Mr. Chairman, it seems to me that to strike out the words proposed to be stricken out would cripple to a considerable extent the commission and the work which it is proposed to have it undertake. All of the information that is available or that might be available in foreign countries is not available in such form as that it can be reached through correspondence. If you strike that provision from the bill, then neither a member of the commission nor any of its employees can be sent into any foreign country for the purpose of getting information which might be valuable for us in arriving at a determination of the best methods of handling our industrial situation. We ought to have the very best that the world affords, and in order that we may have the best that the world affords this commission or such of its members as it may deem necessary or its employees ought to have the privilege of going to other countries to investigate the industrial situation as they find it there, with a view of securing the best that may be secured, and with the further purpose of avoiding mistakes which other countries may have made. I hope the amendment will not be agreed to.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 3. That said commission may report to the Congress its findings and recommendations from time to time, and shall make a final report not later than three years after the date of the approval of this act, at which time the term of this commission shall expire, unless it shall previously have made final report, and in the latter case the term of the commission shall expire with the making of its final report; and the commission shall make at least one report to the Congress within the first year of its appointment and a second report within the second year of its appointment.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 23, after the words "later than," strike out "three years" and insert "one year."

Mr. MOORE of Pennsylvania. Mr. Chairman, this amendment contemplates closing up the work of the commission within one year. The chairman of the committee, the gentleman from Pennsylvania [Mr. WILSON], has indicated that he intends to ask for only $100,000 in order to do the work during the first year. My contention is that the work of the commission can very well be completed within one year and we ought to save the remaining $400,000 of the people's money.

Mr. WILSON of Pennsylvania. Mr. Chairman, in my judgment, the work proposed by this bill could not be accomplished and completed within one year; in fact, it will hurry any commission to complete the work in three years and complete it properly. I hope that the amendment will not be adopted.

The question was taken, and the amendment was rejected.

Mr. RAKER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 23, page 2, by inserting, after the word "report," the following: "And said final report shall be accompanied by the testimony taken and the proceedings had by the commission or any subcommittee thereof.

Mr. RAKER. Mr. Chairman, I want to call the attention of the chairman of the committee to the fact that the purpose of this is to avoid any question, and that all the testimony had by the commission, as well as any subcommittee of the commission, should be made a part of the official report, so that Congress and those interested may have the full testimony, so as to judge themselves as to the conclusions reported, and I believe it will have a good effect to give the commission authority to have all this testimony printed, and that the proceedings should accompany the final report. That is what the proposition is.

Mr. WILSON of Pennsylvania. Mr. Chairman, it seems to me that any amendment such as that instead of making it obligatory upon the commission to submit the hearings with its report if it becomes obligatory upon the commission to print the hearings that is all that should be asked. There is no necessity for its accompanying the report. As a matter of fact, it would be very much more valuable if the hearings were printed from time to time, and made available as printed, instead of waiting until the report was made.

Mr. RAKER. That is the very purpose of the amendment—to have it appear at some place that all the testimony and proceedings had should be printed, and when the final report is made in the meantime all the testimony may be had, so that anyone might go over the report and the conclusions and determine whether or not they have been properly drawn from the testimony.

Mr. WILSON of Pennsylvania. I hope the amendment in the form in which it is presented will not be agreed to, and that later on an amendment may be agreed to that will authorize the printing of the hearings from time to time.

Mr. COOPER. Mr. Chairman, I will detain the committee but a moment. Permit me to suggest an amendment to the gentleman from Pennsylvania which I think will meet with his approval, or rather two amendments. In line 22, page 2, after the word "recommendations," insert the words "and submit the testimony taken," so that the sentence will read: "That said commission may report to the Congress its findings and recommendations and submit the testimony taken from time to time."

And in line 23, after the word "report," add the words "accompanied by the testimony not previously submitted," so that there will be definite times fixed when the commission must report the testimony, otherwise you will have nothing requiring the testimony to be reported. These amendments are in accordance with my suggestions early in the debate.

Mr. WILSON of Pennsylvania. Mr. Chairman, I think the amendment suggested by the gentleman from Wisconsin very much more acceptable than the one offered by the gentleman from California.

Mr. RAKER. Mr. Chairman, I would accept the amendment; it is simply in different language, but it is intended to cover the same thing. I have no objection to the amendment offered by the gentleman from Wisconsin.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment in lieu of the amendment offered by the gentleman from California, which the Clerk will report.

The Clerk read as follows:

Line 22, page 2, after the word "recommendations," insert the words "and submit the testimony taken."

The question was taken, and the amendment was agreed to.

Mr. COOPER. Mr. Chairman, I offer another amendment to follow the next line.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 23, on page 2, after the word "report," insert the words "accompanied by the testimony not previously submitted."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the commission shall inquire into the general condition of labor, especially in the principal industries of the United States, and especially in those which are carried on in corporate forms; into existing relations between employers and employees; into the effect of industrial conditions on public welfare and into the rights and powers of the community to deal therewith; into the growth of associations of employers and of wage earners and the effect of such associations upon the relations between employers and employees; into the extent and results of methods of collective bargaining; into any methods which have been tried in any State or in foreign countries for maintaining mutually satisfactory relations between employees and employers; into methods for avoiding or adjusting labor disputes through peaceful and conciliatory mediation and negotiations; and into the scope, and methods, and resources of existing bureaus of labor and into possible ways of increasing their usefulness. The commission shall seek to discover and to point out the underlying causes of dissatisfaction in the industrial situation.

The CHAIRMAN. The Clerk will report the committee amendments to page 3 of the bill.

The Clerk read as follows:

Page 3, line 7, strike out the comma after the word "labor" and the word "especially" immediately following the comma.

The amendment was agreed to.

The Clerk read as follows:

Page 3, line 20, strike out the word "and" at the end of the line.

The amendment was agreed to.

The Clerk read as follows:

Page 3, line 21, strike out the word "and" following the word "scope."

The amendment was agreed to.

The Clerk read as follows:

Page 3, lines 23 and 24, strike out the words "And to point out."

The amendment was agreed to.

The Clerk read as follows:

Page 3, line 25, insert the following after the word "situation": "And report its conclusions thereon."

The amendment was agreed to.

Mr. SMALL. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 3, line 8, amend by adding after the words "United States" the words "including agriculture."

Mr. WILSON of Pennsylvania. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURLEY. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 3, line 20, by inserting after the word "negotiations" the words "and compulsory methods.

Mr. CURLEY. Mr. Chairman, in presenting this amendment providing for investigation of compulsory methods of settling labor disputes, as set forth in H. R. 21094, being a bill to create a commission on industrial relations, I desire to say that the methods of settling strikes and labor disputes by peaceful and conciliatory mediation and negotiation have not proven the success that it was generally hoped for. We have had some very severe strikes in our own State of Massachusetts, where, probably, there is in operation to-day one of the most successful boards of arbitration and conciliation that is to be found anywhere in the entire country. We have a strike situation at New Bedford, in Massachusetts, where 14,000 operatives went on a strike on Monday last against conditions obtaining in the textile industries. The State board of conciliation and arbitration endeavored by every lawful and peaceful method to avoid that labor dispute.

And what is true of Massachusetts is likewise true of nearly every other section of the country. I realize that the majority of leading labor leaders are opposed to the proposition of compulsory settlement of labor disputes and that many of the leading capitalists are likewise opposed to the settlement of disputes by compulsory methods. But, Mr. Chairman, the facts remain that after bad blood has been engendered in consequence of a labor dispute and they strike, the participants are not ones who are likely to lie down together and settle their differences. And if one insists on his right to refrain from being a party to the settlement of those differences, then the State itself should have sufficient power to insist on a reasonable and equitable adjustment that they must accept.

From 1881 to 1905 there were 36,757 strikes in the United States of America. From 1881 to 1900, 330,500 employees were thrown out of employment by strikes or lockouts. Now, then, Mr. Chairman, as to what it represents to the State, as well as to invested capital, it has been proven that voluntary conciliation and arbitration between disputants—the employer and employee—have been an absolute failure.

Now, if this commission proposes to expend a sum of money to investigate this proposition, I believe they should go to the root of it and consider the feasibility of recommending and investigating the question of compulsory arbitration.

One of the best works written upon this particular proposition is written by Henry Demorest Lloyd, who deals with the situation in New Zealand, a country without strikes, although a very small country. But, nevertheless, it is a country in which it was necessary to adopt legislation providing for the compulsory settlement of disputes in consequence of a water-front strike.

The following is a list of some of the strikes in this country:

Massachusetts railroad strike, 1834: Riots, militia called out to suppress the disturbance.
Philadelphia weavers, 1842: Very disorderly.
Philadelphia brickmakers, 1843: Much rioting and destruction of property.
Great railroad strike, 1877: Rioting and burning, troops overpowered by mobs, 12 men killed at Baltimore and many more at Pittsburgh, millions of property destroyed.
Gould railroad strike, 1886: Violence and destruction.
New York street car strike, 1889: Riotous conduct, one striker shot.
Buffalo strike, 1892: Riots, troops, bloodshed, entire State militia called out.
Homestead strike, 1892: Riots, Pinkerton's battle, many lives lost; much property destroyed, 40 nonunion men poisoned at their meals.
Coal Creek Valley miners' strike, Tennessee, 1892: Fighting and burning, State troops called out.
Silk workers' strike, Paterson, N. J., 1894: Rioting and mob violence.
Great coal miners' strike in 11 States and 1 Territory, 1894: Whole counties terrorized, strikers intrenched in open insurrection, much property destroyed, troops powerless to preserve order, shooting, eviction, dynamite assassination, kidnaping, torture, pitched battles, many lives lost.
Chicago strike, 1894: Mobs, riots, troops, loss of life and property.
Brooklyn street car strike, 1895: Rioting and destruction.
Philadelphia street car strike, 1895: Some disturbance and destruction.

Justice demands that this incessant warfare between capital and labor cease, since its continuance is more destructive to society than the individuals involved.

The right to compulsorily arbitrate existing differences is evidenced in our courts every day where civil and criminal cases are heard and the machinery of the law constantly invoked to enforce the degrees of our courts.

It is contended by those who oppose compulsory arbitration of industrial disputes that the findings of a board of conciliation and arbitration with the power to enforce its findings might prove a severe hardship to one or the other of the interested parties despite the fact capital and labor would enjoy equal representation upon the board, whereas neither is represented specifically at court, yet the mandates of the tribunal are respected and obeyed.

When nations differ to-day it is customary to submit for adjudication the question involved to The Hague tribunal rather than indulge in strife; then where is the justice or logic in permitting differences between employer and employee to be settled in the primitive and abhorrent method which now obtains?

In 15 years, from 1881 to 1896, the Commissioner of Labor estimated that the wage loss through strikes and lockouts was $51,814,000 and the employers' losses $30,701,000.

Consider the sufferings and hardships entailed by this huge loss, realize that conditions are not growing more Utopian, and appreciate the necessity and value of this amendment.

The spirit of the times is for cooperation, and the necessity for labor and capital to be upon most friendly terms must be apparent to every man.

Labor is necessary to capital, and capital is necessary to labor; and the law should have the right in the interest of society, when one is treating the other unjustly, to establish the line of demarcation.

The failure of voluntary arbitration in the United States is attested by the fact that between 1881 and 1905 but one and six-tenths of 1 per cent of labor disputes were settled by this method.

The primary purpose of the New Zealand conciliation and arbitration act was to promote industrial peace by the substitution of orderly hearings by impartial State tribunals rather than by the violent and brutal methods common to strikes and lockouts.

Since the adoption of compulsory arbitration in New Zealand there have been no strikes, sweatshops have been abolished, wages increased, and peace, happiness, and prosperity general in the country.

It has been demonstrated that victory by either side is not proof that the side which loses in a strike was wrong or that the side which won was right, but that capital has rights, as has labor, which must be conserved for the good of all.

The custom now common of discharging men in anticipation of their intention to organize or seek redress upon any proposition has been prevented by the New Zealand act, which grants the aggrieved parties the right within six weeks after the strike or lockout to appeal to the court, get full consideration and redress, and the court can stop the strike which it was denied the chance to prevent.

Thus, compulsion assures peace and liberty, freedom to work, to contract, and to live happily in the enjoyment of the fruits of honest capital and honest industry.

The Massachusetts State Board of Arbitration in 1896 settled 16 out of 29 cases, and if they possessed compulsory powers they would have unquestionably settled every case presented.

The primary purpose of government is the promotion of peace and happiness, and the righting of any economic wrong by peaceful methods should be within the power of the Government.

Mr. WILSON of Pennsylvania. Mr. Chairman, the gentleman from Massachusetts [Mr. CURLEY] and I can not agree on the idea of compulsory arbitration. Many of us, in fact most of us, are perfectly willing that compulsion should be used, provided that it is used on the other fellow and that we are the beneficiaries of it.

Mr. HUGHES of New Jersey. Mr. Chairman, I move to close debate on this section and all pending amendments thereto.

Mr. WILSON of Pennsylvania. Mr. Chairman, the gentleman can not take me off the floor by a motion to close debate in that way.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WILSON] will continue.

Mr. WILSON of Pennsylvania. I simply want to call attention to the fact that this section provides for the investigation of all methods, including compulsory arbitration, so that the gentleman's amendment is unnecessary.

Mr. CURLEY. Where is that contained?

Mr. WILSON of Pennsylvania. That is in this language:

Into the extent and results of methods of collective bargaining; into any methods which have been tried in any State or in foreign countries for maintaining mutually satisfactory relations between employees and employers.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Massachusetts [Mr. CURLEY].

The question was taken, and the amendment was rejected.

Mr. ESCH. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Wisconsin [Mr. ESCH] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add, at the end of section 4, the following:

"And furnish such information and suggest such laws as may be made a basis for uniform legislation by the various States of the Union in order to harmonize conflicting interests and to be equitable to the laborer, the employer, the producer, and the consumer."

Mr. ESCH. Mr. Chairman, when State legislatures are asked to pass laws in the interest of labor, liberalizing trade conditions, objection is at once raised that such legislation would handicap the manufacturers of that State to such an extent that it would injure their business and give it to manufacturers of an adjoining State. The argument is always made that the equality of competitive conditions would thereby be destroyed. The only way to obviate that would be by uniform legislation in the States. I believe that this commission, for which we are appropriating so much money, should give to the country the utmost that it possibly can. We ought to get the most out of it that we possibly can. This amendment is not new matter. It is taken verbatim from the act of June 18, 1898, which created the Industrial Commission.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Illinois?

Mr. ESCH. Yes.

Mr. MANN. Is there any other case where Congress has appointed a commission to formulate laws to be passed by the respective States?

Mr. ESCH. This is only a suggestion.

Mr. MANN. Have we ever before appointed a commission to suggest laws to be passed by the different States?

Mr. ESCH. I know of no other instance except the act creating the Industrial Commission, and it seems to me great good would be accomplished if this amendment were incorporated in the bill.

Mr. WILSON of Pennsylvania. Mr. Chairman, it is practically impossible for any report of any Federal commission to be foisted upon any State as a basis for State legislation. The State exercises its own judgment.

I move, Mr. Chairman, that all debate on this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WILSON] moves that all debate on this section and pending amendments thereto be now closed.

Mr. RODDENBERY. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. RODDENBERY. The point of order is that the gentleman from Pennsylvania, out of the time of the gentleman who offered an amendment, can not rise and obtain the floor and discuss the amendment, and then submit a motion to close debate and have it considered.

The CHAIRMAN. The Chair recognized the gentleman from Pennsylvania.

Mr. RODDENBERY. I hope I can be recognized.

The CHAIRMAN. After this amendment is disposed of the gentleman can be recognized.

Mr. RODDENBERY. Is not the motion to close debate?

The CHAIRMAN. After this amendment is disposed of the motion to close debate will be in order.

Mr. HUGHES of New Jersey. No; only to close debate on this paragraph and all amendments thereto.

Mr. CANNON. This amendment ought to be disposed of before that.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that it is not in order to present the motion of the gentleman from Pennsylvania to close debate at the same time that the committee is going on to vote on a pending amendment. I ask recognition for the purpose of offering an amendment.

Mr. WILSON of Pennsylvania. May I ask how many amendments are expected to be proposed?

Mr. RODDENBERY. I have one amendment.

Mr. HOBSON. I have an amendment which I am willing to submit without discussion.

The CHAIRMAN. The Chair agreed to recognize the gentleman from Georgia [Mr. RODDENBERY] to offer his amendment after the disposition of the amendment offered by the gentleman from Wisconsin [Mr. ESCH]. The question now is on the amendment offered by the gentleman from Wisconsin.

Mr. FOSTER. There is a motion pending offered by the gentleman from Pennsylvania [Mr. WILSON] to close debate on this amendment and all amendments to this section.

Mr. MANN. I call the attention of the Chair to the rule of the House, paragraph 6 of Rule XXIII:

The committee may, by the vote of a majority of the Members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph.

The CHAIRMAN. The question is on the motion of the gentleman from Pennsylvania [Mr. WILSON] to close all debate on this section——

Mr. HUGHES of New Jersey. And all amendments thereto.

The CHAIRMAN. And all amendments thereto.

The question being taken, on a division (demanded by Mr. RODDENBERY) there were—ayes 56, noes 14.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Georgia makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and six Members, a quorum of the committee. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ESCH].

The question being taken, the amendment was rejected.

Mr. HOBSON. Mr. Chairman, I offer the following amendment, which the chairman of the Committee on Labor accepts.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Alabama.

The Clerk read as follows:

On page 3, in line 12, after the semicolon following the word "therewith," add the following:

"Into the conditions of sanitation and safety of employees, and the provisions for protecting the life, limbs, and health of the employees."

The amendment was agreed to.

Mr. RODDENBERY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend section 4, page 3, by inserting after the word "employees," in line 12, the following:

"To inquire into the effect on employer and employee of the importation and immigration of pauper labor from foreign countries, and especially the extent and effect of such importation and immigration since the report of the late immigration commission."

Mr. RODDENBERY. Mr. Chairman——

The CHAIRMAN. No debate is in order.

Mr. RODDENBERY. I desire to submit a request.

Mr. MANN. I make the point of order that the gentleman has not offered his amendment at a place where there is any such word in the line. The Clerk read it—

after the word "employees," in line 12.

There is no such word in line 12.

The CHAIRMAN. There is no word "employee" in line 12.

Mr. RODDENBERY. It should be line 10.

The CHAIRMAN. The gentleman from Georgia says it should be line 10 instead of line 12.

Mr. RODDENBERY. Mr. Chairman, I desire to address myself to the subject of this amendment for five minutes, and I ask unanimous consent for that opportunity.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to address the committee for five minutes. Is there objection?

Mr. WILSON of Pennsylvania and other Members. Regular order!

The CHAIRMAN. Objection is made.

Mr. HARDWICK. Who made the objection?

The CHAIRMAN. Several Members called for the regular order.

Mr. HARDWICK. No one stood up and objected.

The CHAIRMAN. The Chair will again submit the request. The gentleman from Georgia [Mr. RODDENBERY] asks unanimous consent to address the committee for five minutes. Is there objection?

Mr. WILSON of Pennsylvania. I demand the regular order.

The CHAIRMAN. The gentleman from Pennsylvania objects. The question is on the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

Page 4, add a new section, section 5, as follows:

"SEC. 5. That a sum sufficient to carry out the provisions of this act, not to exceed $500,000, is hereby appropriated out of any money in the Treasury of the United States not otherwise appropriated."

Mr. WILSON of Pennsylvania. Mr. Chairman, by direction of the committee, I offer the following substitute for the committee amendment.

The Clerk read as follows:

SEC. 5. That the sum of $100,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the use of the commission for the fiscal year ending June 30, 1913: *Provided*, That no portion of this money shall be paid except upon the order of said commission signed by the chairman thereof.

Mr. FITZGERALD. Mr. Chairman, I offer the following amendment to the substitute.

The Clerk read as follows:

Add to the substitute: "*Provided*, That no person employed hereunder by the commission shall be paid compensation at a rate in excess of $3,000 per annum."

Mr. WILSON of Pennsylvania. I have no objection to that.

The amendment to the substitute was agreed to.

The CHAIRMAN. The question now is on the adoption of the substitute as amended.

The substitute as amended was agreed to.

Mr. WILSON of Pennsylvania. Mr. Chairman, I move that the committee do now rise and report the bill with the several amendments to the House, with the recommendation that the amendments be agreed to, and that the bill do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SULZER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 21094) to create a commission on industrial relations, and had directed him to report the same to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

Mr. WILSON of Pennsylvania. Mr. Speaker, I move the previous question on the bill and amendments to its final passage.

The motion was agreed to.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

Mr. RODDENBERY. Mr. Speaker, I demand a separate vote on each amendment.

Mr. HEFLIN. I make the point of order, Mr. Speaker, that the Chair submitted the question if there was a separate vote demanded on any amendment and none was made, and that the Chair was about to put the question in gross. The gentleman from Georgia is too late.

The SPEAKER. Oh, no.

Mr. RODDENBERY. I withdraw the demand, Mr. Speaker.

The SPEAKER. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was read the third time.

Mr. RODDENBERY. Mr. Speaker, I offer the following motion to recommit with instructions.

Mr. FOSTER. Mr. Speaker, I would like to know if the gentleman from Georgia is opposed to the bill.

The SPEAKER. Is the gentleman from Georgia opposed to the bill?

Mr. RODDENBERY. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Is it necessary to be opposed to the bill in order to submit a motion to recommit?

The SPEAKER. It is necessary for the Speaker to ascertain in order to give preference to some person who is opposed to it, provided there is any such person in the House.

Mr. RODDENBERY. Until such question arises, is it in order for a Member offering a motion to recommit to be called upon to state his position?

The SPEAKER. It is the duty of the Speaker to ask any person offering a motion to recommit if he is opposed to the bill.

Mr. RODDENBERY. The rules of the House, Mr. Speaker, require me to reverse my attitude on the bill; and I am opposed to it.

The SPEAKER. The Clerk will read the motion to recommit.

The Clerk read as follows:

Mr. RODDENBERY moves to recommit the bill to the committee with instructions that it report back forthwith the following amendment:

"Amend, section 4, page 3, by inserting after the word "employees," in line 10, the following: 'to inquire into the effect on employer and employee of the importation and immigration of pauper labor from foreign countries, and especially the extent and effect of such importation and immigration since the report of the late Immigration Commission.'"

Mr. MANN. Mr. Speaker, I make the point of order that the motion is not in order in that it proposes an amendment that is not germane to the bill. There is nothing in the bill in reference to pauper labor or immigration, and it introduces an entirely new proposition.

The SPEAKER. The Chair thinks that the motion to recommit is in order. Section 4 is very comprehensive.

The question is on the motion to recommit with instructions.

The question was taken, and the motion to recommit was rejected.

The SPEAKER. The question now is on passing the bill as amended.

The question was taken, and the bill as amended was passed.

On motion of Mr. WILSON of Pennsylvania, a motion to reconsider the vote by which the bill was passed was laid on the table.

ORDER OF BUSINESS.

Mr. HOUSTON rose.

The SPEAKER. The gentleman from Tennessee is recognized.

Mr. WILSON of Pennsylvania. Mr. Speaker, I desire to call up H. R. 18787.

The SPEAKER. The Chair has recognized the gentleman from Tennessee.

Mr. HOUSTON. Mr. Speaker, I ask unanimous consent to submit a conference report on the bill H. R. 19403, for printing under the rule.

Mr. MANN. Mr. Speaker, I think that had better go over until to-morrow.

Mr. HOUSTON. Mr. Speaker, I want to offer it only that it may be printed.

Mr. MANN. Let the gentleman from Tennessee wait until the gentleman from Pennsylvania calls up his other bill.

The SPEAKER. The gentleman from Illinois objects.

Mr. HOBSON. Mr. Speaker, I move that the House do now adjourn.

Mr. WATKINS. Mr. Speaker, we have already had three days taken up by the Committee on Labor, and other matter is being crowded out. I make the point of order that there is no quorum present.

The SPEAKER. The Speaker must rule according to the rules of the House. The gentleman from Pennsylvania is recognized.

Mr. WILSON of Pennsylvania. Mr. Speaker, I call up the bill H. R. 18787——

Mr. WATKINS. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. If the gentleman from Louisiana will wait until the gentleman from Pennsylvania states what he desires, the Chair will take up the question raised by the gentleman from Louisiana.

Mr. WILSON of Pennsylvania. Mr. Speaker, I call up the bill H. R. 18787, relating to the limitation of the hours of daily service of laborers and mechanics upon a public work of the United States and of the District of Columbia, and so forth.

The SPEAKER. The gentleman from Louisiana makes the point of order that there is no quorum present.

Mr. HEFLIN. Mr. Speaker, I move that the House do now adjourn.

Mr. WILSON of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILSON of Pennsylvania. If this bill is required to be considered in Committee of the Whole, would the calling of it up in the House at this time give consideration of it on next Wednesday?

The SPEAKER. It would not. The Chair looked up that very point with reference to what might have been raised as a point of order here to-day, and he might as well state his own conclusion now as at any other time. If the bill should get into the Committee of the Whole, and then the committee rise, even having been in session only half a minute, and report it back to the House, it would then be the unfinished business.

Mr. WILSON of Pennsylvania. Then, Mr. Speaker, I ask that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

Mr. HEFLIN. Mr. Speaker, I move that the House do now adjourn.

Mr. MANN. I think there is a quorum present. The friends of labor will vote that motion down.

The SPEAKER. The gentleman from Alabama moves that the House do now adjourn.

The question was taken.

Mr. WILSON of Pennsylvania. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Pennsylvania demands the yeas and nays.

Mr. WILSON of Pennsylvania. Mr. Speaker, I will withdraw that demand and ask for a division.

The SPEAKER. The question is on the motion to adjourn, and the gentleman from Pennsylvania demands a division.

The House divided, and there were—ayes 78, noes 61.

Mr. WILSON of Pennsylvania. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Pennsylvania demands the yeas and nays. Those who favor ordering the yeas and nays will rise and stand until counted. [After counting.] Forty-three gentlemen have risen, a sufficient number, and the yeas and nays are ordered. The question is on the motion to adjourn, and the Clerk will call the roll.

Mr. MANN. And the friends of labor will vote "no."

The question was taken; and there were—yeas 20, nays 175, answered "present" 9, not voting 185, as follows:

YEAS—20.

Alexander	Claypool	Hammond	Richardson
Broussard	Cravens	Heflin	Saunders
Burnett	Davenport	McCreary	Stephens, Miss.
Cannon	Davis, W. Va.	Moore, Pa.	Turnbull
Clark, Fla.	Dent	Page	Watkins

NAYS—175.

Aiken, S. C.	Dyer	James	Rothermel
Ainey	Edwards	Johnson, Ky.	Rouse
Allen	Esch	Kendall	Rubey
Anderson, Minn.	Evans	Kent	Rucker, Colo.
Anderson, Ohio	Faison	Kinkaid, Nebr.	Russell
Ashbrook	Farr	Kinkead, N. J.	Sabath
Austin	Fergusson	Konop	Sells
Barnhart	Fitzgerald	Korbly	Sims
Bathrick	Floyd, Ark.	Langham	Slayden
Beall, Tex.	Foss	Lee, Pa.	Small
Bell, Ga.	Fowler	Levy	Smith, N. Y.
Berger	Francis	Lindbergh	Speer
Booher	French	Littlepage	Stanley
Borland	Gallagher	Lobeck	Stedman
Bowman	Gardner, Mass.	Longworth	Stephens, Cal.
Brantley	George	McDermott	Stephens, Tex.
Brown	Glass	McGillicuddy	Sterling
Buchanan	Godwin, N. C.	McKellar	Stone
Bulkley	Goldfogle	McKinney	Sulloway
Burgess	Good	Madden	Sulzer
Burke, Wis.	Goodwin, Ark.	Maguire, Nebr.	Sweet
Byrns, Tenn.	Gould	Maher	Switzer
Calder	Gray	Martin, Colo.	Talcott, N. Y.
Candler	Gregg, Pa.	Matthews	Taylor, Colo.
Carlin	Gregg, Tex.	Mays	Thayer
Carter	Gudger	Morgan	Towner
Clayton	Hamlin	Morrison	Townsend
Cline	Hardy	Moss, Ind.	Tribble
Connell	Harrison, N. Y.	Neeley	Tuttle
Conry	Haugen	Norris	Underhill
Cooper	Hawley	Nye	Utter
Covington	Hayden	Oldfield	Volstead
Cox, Ind.	Hayes	O'Shaunessy	Webb
Cullop	Heald	Padgett	Wedemeyer
Curley	Helgesen	Pepper	Weeks
Curry	Henry, Conn.	Pickett	Whitacre
Danforth	Hensley	Porter	White
Davis, Minn.	Hobson	Post	Willis
Dickson, Miss.	Holland	Raker	Wilson, N. Y.
Difenderfer	Houston	Rauch	Wilson, Pa.
Dixon, Ind.	Howard	Reilly	Woods, Iowa
Donohoe	Hughes, N. J.	Robinson	Young, Kans.
Doughton	Hull	Roddenbery	Young, Tex.
Driscoll, D. A.	Jacoway	Rodenberg	

ANSWERED "PRESENT"—9.

Browning	Gillett	McMorran	Peters
Fields	Hardwick	Mann	Riordan
Foster			

NOT VOTING—185.

Adair	Ferris	La Follette	Rainey
Adamson	Finley	Lamb	Randell, Tex.
Akin, N. Y.	Flood, Va.	Langley	Ransdell, La.
Ames	Focht	Lawrence	Redfield
Andrus	Fordney	Lee, Ga.	Rees
Ansberry	Fornes	Legare	Reyburn
Anthony	Fuller	Lenroot	Roberts, Mass.
Ayres	Gardner, N. J.	Lever	Roberts, Nev.
Barchfeld	Garner	Lewis	Rucker, Mo.
Bartholdt	Garrett	Lindsay	Scully
Bartlett	Goeke	Linthicum	Shackleford
Bates	Graham	Littleton	Sharp
Blackmon	Green, Iowa	Lloyd	Sheppard
Boehne	Greene, Mass.	Loud	Sherley
Bradley	Griest	McCall	Sherwood
Burke, Pa.	Guernsey	McCoy	Simmons
Burke, S. Dak.	Hamill	McGuire, Okla.	Sisson
Burleson	Hamilton, Mich.	McHenry	Slemp
Butler	Hamilton, W. Va.	McKenzie	Sloan
Byrnes, S. C.	Hanna	McKinley	Smith, J. M. C.
Callaway	Harris	McLaughlin	Smith, Saml. W.
Campbell	Harrison, Miss.	Macon	Smith, Cal.
Cantrill	Hartman	Martin, S. Dak.	Smith, Tex.
Cary	Hay	Miller	Sparkman
Catlin	Helm	Mondell	Stack
Collier	Henry, Tex.	Moon, Pa.	Steenerson
Copley	Higgins	Moon, Tenn.	Stephens, Nebr.
Cox, Ohio	Hill	Moore, Tex.	Stevens, Minn.
Crago	Hinds	Morse, Wis.	Taggart
Crumpacker	Howell	Mott	Talbott, Md.
Currier	Howland	Murdock	Taylor, Ala.
Dalzell	Hughes, Ga.	Murray	Taylor, Ohio
Daugherty	Hughes, W. Va.	Needham	Thistlewood
Davidson	Humphrey, Wash.	Nelson	Thomas
De Forest	Humphreys, Miss.	Olmsted	Tilson
Denver	Jackson	Palmer	Underwood
Dickinson	Johnson, S. C.	Parran	Vare
Dies	Jones	Patten, N. Y.	Vreeland
Dodds	Kahn	Patton, Pa.	Warburton
Doremus	Kennedy	Payne	Wilder
Draper	Kindred	Plumley	Wilson, Ill.
Driscoll, M. E.	Kitchin	Pou	Witherspoon
Dupré	Knowland	Powers	Wood, N. J.
Dwight	Konig	Pray	Young, Mich.
Ellerbe	Kopp	Prince	
Estopinal	Lafean	Prouty	
Fairchild	Lafferty	Pujo	

So the motion to adjourn was not agreed to.

The Clerk announced the following pairs:

For the balance of the day:

Mr. BLACKMON with Mr. HUMPHREY of Washington.

Ending August 1:

Mr. Cox of Ohio with Mr. ANTHONY.

Until further notice:

Mr. AYRES with Mr. BARCHFELD.

Mr. BURLESON with Mr. BARTHOLDT.

Mr. BYRNES of South Carolina with Mr. BURKE of South Dakota.

Mr. FINLEY with Mr. CURRIER.
Mr. DOUGHERTY with Mr. CATLIN.
Mr. DENVER with Mr. COPLEY.
Mr. DICKINSON with Mr. DALZELL.
Mr. DOREMUS with Mr. DE FOREST.
Mr. DUPRÉ with Mr. DODDS.
Mr. ESTOPINAL with Mr. FAIRCHILD.
Mr. GARNER with Mr. FOCHT.
Mr. GRAHAM with Mr. FULLER.
Mr. HAMILL with Mr. GREENE of Massachusetts.
Mr. HARRISON of Mississippi with Mr. HAMILTON of Michigan.
Mr. HELM with Mr. HARTMAN.
Mr. HENRY of Texas with Mr. HOWLAND.
Mr. KITCHIN with Mr. KENNEDY.
Mr. LAMB with Mr. KNOWLAND.
Mr. LEE of Georgia with Mr. LAFEAN.
Mr. LEVER with Mr. LAWRENCE.
Mr. LEWIS with Mr. MCGUIRE of Oklahoma.
Mr. LINTHICUM with Mr. MCKENZIE.
Mr. LLOYD with Mr. MCKINLEY.
Mr. MURRAY with Mr. MCLAUGHLIN.
Mr. POU with Mr. MARTIN of South Dakota.
Mr. RAINEY with Mr. MONDELL.
Mr. RANSDELL of Louisiana with Mr. MOTT.
Mr. REDFIELD with Mr. MURDOCK.
Mr. SHACKLEFORD with Mr. NEEDHAM.
Mr. SISSON with Mr. OLMSTED.
Mr. SMITH of Texas with Mr. PATTON of Pennsylvania.
Mr. STACK with Mr. PLUMLEY.
Mr. STEPHENS of Nebraska with Mr. PRAY.
Mr. TAGGART with Mr. ROBERTS of Massachusetts.
Mr. TAYLOR of Alabama with Mr. J. M. C. SMITH.
Mr. WITHERSPOON with Mr. TAYLOR of Ohio.
Mr. JONES with Mr. PAYNE.
Mr. WOOD of New Jersey with Mr. HUGHES of Georgia.
Mr. UNDERHILL with Mr. WILDER.
Mr. ANSBERRY with Mr. BURKE of Pennsylvania.
Mr. YOUNG of Texas with Mr. WILSON of Illinois.
Mr. PETERS with Mr. MCCALL.
Mr. FLOOD of Virginia with Mr. DRAPER.
Mr. FOSTER with Mr. KOPP.
Mr. RUCKER of Missouri with Mr. DYER.
Mr. DIES with Mr. GARDNER of New Jersey.
Mr. FERRIS with Mr. GUERNSEY.
Mr. HAMILTON of West Virginia with Mr. HENRY of Connecticut.
Mr. TALBOTT of Maryland with Mr. PARRAN.
Mr. PATTEN of New York with Mr. REYBURN.
Mr. SHARP with Mr. SELLS.
Mr. SHERLEY with Mr. SIMMONS.
Mr. SCULLY with Mr. BROWNING.
Mr. FIELDS with Mr. LANGLEY.
Mr. BOEHNE with Mr. HOWELL.
Mr. SHERWOOD with Mr. MOON of Pennsylvania.
Mr. MCCOY with Mr. HIGGINS.
Mr. CANTRILL with Mr. HANNA.
Mr. CALLAWAY with Mr. MICHAEL E. DRISCOLL.
Mr. HUMPHREYS of Mississippi with Mr. ROBERTS of Nevada.
Mr. ELLERBE with Mr. CRAGO.
Mr. JOHNSON of South Carolina with Mr. GILLETT.
Mr. LEGARE with Mr. LOUD.
Mr. LITTLETON with Mr. DWIGHT.
Mr. PUJO with Mr. MCMORRAN.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. CARTER with Mr. KAHN.
Mr. SHEPPARD with Mr. BATES.
Mr. GARRETT with Mr. FORDNEY.
Mr. ADAIR with Mr. HINDS.
Mr. PALMER with Mr. HILL.
Mr. SPARKMAN with Mr. DAVIDSON.
Mr. KINDRED with Mr. GRIEST.
Mr. RANDELL of Texas with Mr. SMITH of California.
Mr. THOMAS with Mr. VREELAND.
For the session:
Mr. SLAYDEN with Mr. TILSON.
Mr. COLLIER with Mr. WOODS of Iowa.
Mr. HOBSON with Mr. FAIRCHILD.
Mr. BARTLETT with Mr. BUTLER.
Mr. ADAMSON with Mr. STEVENS of Minnesota.
Mr. UNDERWOOD with Mr. MANN.
Mr. GLASS with Mr. SLEMP.
Mr. RIORDAN with Mr. ANDRUS.
Mr. FORNES with Mr. BRADLEY.

Mr. SISSON. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is not recorded.

Mr. SISSON. I desire to vote "aye."

The SPEAKER. Was the gentleman in the Hall?

Mr. SISSON. I was not.

The SPEAKER. The gentleman does not bring himself within the rule.

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote of "no" and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

LIMITATION OF DAILY SERVICE OF LABORERS AND MECHANICS.

Mr. WILSON of Pennsylvania. Mr. Speaker, I desire to call up the bill H. R. 18787.

The SPEAKER. The House resolves itself automatically into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 18787, and the gentleman from Alabama [Mr. CLAYTON] will take the chair.

Mr. CLAYTON took the chair amid applause.

The CHAIRMAN. The House is now in the Committee of the Whole House on the state of the Union for the purpose of considering the bill H. R. 18787, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia.

Mr. WILSON of Pennsylvania. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CLAYTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, and had come to no resolution thereon.

LEAVE OF ABSENCE.

Mr. FLOOD of Virginia, by unanimous consent, was granted leave of absence for four days, on account of important business.

ADJOURNMENT.

Mr. WILSON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p. m.) the House adjourned until Thursday, July 18, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. GUDGER, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 25714) to amend "An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes," reported the same without amendment, accompanied by a report (No. 1015), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLARK of Florida, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash., reported the same without amendment, accompanied by a report (No. 1017), which said bill and report were referred to the Committee of the Whole House in the state of the Union.

Mr. BURNETT, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 25624) providing for the sale of the old post-office property at Providence, R. I., by public auction, reported the same without amendment, accompanied by a report (No. 1016), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 25751) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and for other purposes, reported the same with amendment, accompanied by a report

(No. 1012), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 4838) to amend section 96 of the "act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same without amendment, accompanied by a report (No. 1013), which said bill and report were referred to the House Calendar.

Mr. HOUSTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 25520) to amend section 107 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same without amendment, accompanied by a report (No. 1014), which said bill and report were referred to the House Calendar.

Mr. STERLING, from the Committee on the Judiciary, to which was referred the bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States, reported the same without amendment, accompanied by a report (No. 1018), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 24739) to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army, reported the same with amendment, accompanied by a report (No. 1011), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 13283) granting a pension to Catherine Hudson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15108) granting a pension to Lizzie M. O'Sullivan; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16764) granting a pension to Niels Pederson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17818) granting a pension to John E. Smith; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18180) granting a pension to James B. Mulford; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 22384) granting a pension to Mary B. Guillow; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BLACKMON: A bill (H. R. 25803) to define and punish perjury in oaths used in the land offices of the United States of America; to the Committee on the Judiciary.

By Mr. KINKEAD of New Jersey: A bill (H. R. 25804) to suspend the levying and collection of taxes or duties upon cattle, swine, and sheep, and beef, mutton, lamb, pork, and other meats intended for use as human food; to the Committee on Ways and Means.

By Mr. HOWARD: A bill (H. R. 25805) to promote the efficiency of the Marine Band; to the Committee on Naval Affairs.

By Mr. LEVY: A bill (H. R. 25806) to provide for the entry under bond of exhibits of arts, sciences, and industries; to the Committee on Ways and Means.

By Mr. TAYLOR of Colorado: A bill (H. R. 25807) granting certain lands to the city of Grand Junction, Colo.; to the Committee on the Public Lands.

By Mr. BORLAND: A bill (H. R. 25808) to provide for furnishing modern, approved, and efficient artificial limbs and apparatus for resection to persons injured in the United States service; to the Committee on Military Affairs.

By Mr. MATTHEWS: A bill (H. R. 25809) to prevent the desecration of the flag of the United States of America, and prohibit the display of foreign flags and the red flag, except in subordination to the same; to the Committee on the Judiciary.

By Mr. PETERS: A bill (H. R. 25810) authorizing the War Department to test upon ships a device for hoisting and lowering lifeboats at sea; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: A bill (H. R. 25821) to amend an act entitled "An act to set apart a certain tract of land in the State of California as forest reservations," approved October 1, 1890, by changing the north and west boundaries of said tract and excluding therefrom certain lands, and to attach and include a part of said excluded lands in the Stanislaus National Forest and a part thereof in the Sierra National Forest; to the Committee on the Public Lands.

By Mr. CRAVENS: Resolution (H. Res. 635) providing for two additional clerks to the Committee on Enrolled Bills; to the Committee on Accounts.

By Mr. SMITH of New York: Resolution (H. Res. 636) amending the rules of the House; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BORLAND: A bill (H. R. 25811) to refund to Ryley-Wilson Grocer Co. penalty collected on corporation tax; to the Committee on Claims.

By Mr. CLINE: A bill (H. R. 25812) granting an increase of pension to Elizabeth Lane; to the Committee on Invalid Pensions.

By Mr. COOPER (by request): A bill (H. R. 25813) for the relief of Bishop T. Raymond; to the Committee on Claims.

Also, a bill (H. R. 25814) granting a pension to Elizabeth Cumming; to the Committee on Invalid Pensions.

By Mr. FLOYD of Arkansas: A bill (H. R. 25815) granting a pension to Louvisa McClure; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25816) granting a pension to Mrs. Charles H. Crist; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 25817) granting a pension claim to Robert M. McCormick; to the Committee on Claims.

By Mr. MATTHEWS: A bill (H. R. 25818) for the relief of Patrick H. McGee; to the Committee on Military Affairs.

By Mr. NEELEY: A bill (H. R. 25819) for the relief of the estate of Levi Fellers, deceased; to the Committee on War Claims.

By Mr. PATTON of Pennsylvania: A bill (H. R. 25820) granting an increase of pension to William M. McIntosh; to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 25822) granting a pension to Elizabeth F. Brubaker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25823) granting an increase of pension to Sarah R. Stutler; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of Polish Society No. 565, State of Indiana, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Memorial of the Chamber of Commerce of Cleveland, Ohio, favoring appropriation for the Department of State for an increase in the efficiency of the Bureau of Trade Relations; to the Committee on Appropriations.

Also, petition of C. B. Feasel and 13 others, of Dalton, Ohio, against passage of a parcel-post law; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Memorial of the Shorthand Club of New York, against passage of the Slemp bill relative to court reporters; to the Committee on the Judiciary.

By Mr. BUTLER: Petition of Horace C. Hanbow, of Philadelphia, Pa., favoring passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of Brookhaven Grange, No. 1173, Patrons of Husbandry, of Wallingford, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Farmers' Council, No. 953, Order Independent Americans, of Marshallton, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. CATLIN: Memorial of the United Garment Workers of America, Local Union No. 67, of St. Louis, Mo., favoring passage of House bill 23673, known as the seamen's bill; to the Committee on the Merchant Marine and Fisheries.

Also, memorial of the board of directors of the Merchants' Exchange of St. Louis, Mo., favoring passage of Senate bill 6810, known as the Pomerene Senate substitute bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of St. Louis, Mo., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. CLINE: Papers to accompany bill granting an increase of pension to Elizabeth Lane; to the Committee on Invalid Pensions.

By Mr. DYER: Memorial of the Board of Directors of the Merchants' Exchange of St. Louis, Mo., favoring passage of Senate bill 6810, known as the Pomerene Senate substitute bill; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the Washington Chamber of Commerce, concerning legislation for the District of Columbia; to the Committee on the District of Columbia.

By Mr. KINKEAD of New Jersey: Petition of William C. Meehan, of Jersey City, N. J., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ROBINSON: Papers to accompany House bill 24193; to the Committee on the Public Lands.

By Mr. SABATH: Memorial of Odessa Unter Varin, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. WILLIS: Memorial of the Chamber of Commerce of Cleveland, Ohio, favoring the continuance of the Bureau of Trade Relations in the Department of State and asking an appropriation therefor; to the Committee on Appropriations.

SENATE.

THURSDAY, *July 18, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on the request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 21094) to create a Commission on Industrial Relations, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 3815) to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910.

The message further requested the Senate to furnish the House with a duplicate engrossed copy of the bill (S. 2748) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 774, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station in said District, the original having been lost or mislaid. (H. Res. 634.)

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore (Mr. GALLINGER) presented a resolution adopted by the Wholesale Grass Seed Dealers' Association Convention, held at Chicago, Ill., June 25, 1912, favoring the enactment of legislation to prohibit the admission of certain adulterated seeds and seeds unfit for seeding purposes without the proposed Senate amendment to section 4, which was ordered to lie on the table.

Mr. PERKINS. I present a large number of petitions in the forms of telegrams signed by 800 members of the Chamber of Commerce of San Francisco and other representative citizens of California, praying that legislation as to tolls on American vessels passing through the Panama Canal shall be such as to insure free competition, and remonstrating against any action which would limit an American vessel, irrespective of ownership, in the amount of coastwise cargo she can carry when engaged in transoceanic trade, and declaring dangerous and unjust the concluding provision of paragraph 1, section 11, of the canal bill, which reads as follows:

That no such railroad owned or controlled ship shall pass through the canal unless at least 50 per cent of its cargo, in tonnage, is destined to or shipped from oriental or European ports.

I move that the petitions lie on the table.

The motion was agreed to.

Mr. SMITH of Arizona. I present resolutions adopted by members of the Mohave County Medical Society, of Arizona, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

KINGMAN, ARIZ., *May 30, 1912.*

To Hon. MARCUS A. SMITH,
United States Senate, Washington, D. C.:

At a meeting of the Mohave County Medical Society, held on May 28, 1912, the following resolutions were adopted and are respectfully submitted:

Whereas Senate bill No. 1, known as the Owen bill, is soon to be voted upon; and

Whereas a very large proportion of the deaths throughout the country are due to preventable causes, a condition that is a disgrace to modern civilization, and needs corrective measures; a country's most valuable asset is the health of its citizens, and its most important product is its children; therefore does it behoove us to see that the health of our citizens is maintained and our children given their rightful energies by means of sanitary conditions;

Whereas it has been fully demonstrated that preventive medicine has made it possible to save lives by organized and coherent efforts, such as the world has witnessed in Cuba and the Panama Canal Zone, without which organization such efforts would have been futile. We believe that this stands as an example of what could be expected within our borders, by limiting preventable diseases if the efforts of our physicians were directed by proper organization such as the Owen bill contemplates;

Whereas our Government has appropriated vast sums of money for curtailing diseases among horses, cattle, hogs, and plants, and no adequate sum for the conservation of the health of its citizens; and

Whereas the opponents of the Owen bill have claimed that the intent of the measure is to make a "medical trust" which will preclude a citizen from employing a medical advisor of choice; we refute this argument of the patent medicine vendors and of those sects professing to heal, who have no knowledge of sanitary conditions, and will not report contagious diseases as set forth in our health laws. And inasmuch as the object of this bill is to prevent disease and is of a strictly sanitary nature, without any reference whatever to the treatment of disease, it is evident that their argument is selfish, and purely mercenary without any idea of public welfare: Therefore be it

Resolved, That the Mohave County Medical Society petition the honorable Senators for the State of Arizona to give the Owen bill their most hearty support.

W. H. BUCHER, M. D., *President.*
A. M. COWIE, M. D., *Secretary.*

Mr. FLETCHER presented a petition of members of the Wholesale Grocers' Association of Jacksonville, Fla., praying for the passage of the so-called weight or measure branding bill, which was referred to the Committee on Interstate Commerce.

Mr. CULLOM presented a petition of Columbian Division, No. 519, Brotherhood of Locomotive Engineers, of Chicago, Ill., and a petition of the Illinois State Legislative Board, praying for the enactment of legislation granting to the publications of fraternal associations the privileges of second-class mail matter, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of sundry employees of the National Printing & Publishing Co., of Chicago, Ill., remonstrating against the enactment of legislation to increase the postal rates on printed matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of Proviso, Ill., praying for the enactment of legislation to prohibit the use of insignia or garb of any denomination in the Indian public schools, which was referred to the Committee on Indian Affairs.

Mr. PENROSE presented resolutions adopted by members of the Aero Club of Pennsylvania, favoring the enactment of legislation for the regulation and control of the navigation of the air by all forms of air craft and for the issuance of licenses under governmental supervision, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented a memorial of the Record Publishing Co., of Derry, N. H., and a memorial of the Inquirer Job Printing Co., of Cincinnati, Ohio, remonstrating against the establishment of a parcel-post system, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of members of the Illinois Manufacturers' Association, remonstrating against the enactment of legislation to define and punish contempt of court, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. WORKS, from the Committee on Public Lands, to which was referred the bill (H. R. 23043) to patent certain semiarid lands to Luther Burbank under certain conditions, reported it without amendment and submitted a report (No. 944) thereon.

He also, from the same committee, to which was referred the bill (S. 5068) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes,

reported it with amendments and submitted a report (No. 945) thereon.

Mr. HEYBURN. In regard to the last bill reported by the Senator from California [Mr. WORKS], I would not like to have it appear that it is a unanimous report. I may file a report on behalf of those members of the committee who do not agree to the bill.

Mr. SMOOT, from the Committee on Printing, to which was referred S. Res. No. 356, submitted by Mr. SMITH of Michigan on the 13th instant, providing for the printing of 18,000 additional copies of Senate Document No. 806, Sixty-second Congress, second session, reported it with an amendment.

Mr. MARTIN of Virginia, from the Committee on Claims, to which was referred the bill (H. R. 4512) for the relief of Mary Beal, reported it without amendment and submitted a report (No. 946) thereon.

He also, from the Committee on Commerce, to which was referred the bill (S. 6763) to authorize the cities of Bangor and Brewer, Me., to construct or reconstruct, wholly or in part, and maintain and operate a bridge across the Penobscot River, between said cities, without a draw, reported it with an amendment and submitted a report (No. 947) thereon.

Mr. CLARK of Wyoming, from the Committee on the Judiciary, to which was referred the bill (S. 7252) to amend section 107 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported it without amendment.

Mr. NELSON, from the Committee on Commerce, to which was referred the bill (H. R. 21963) to make Fort Covington, N. Y., a subport of entry, reported it without amendment and submitted a report (No. 948) thereon.

Mr. CULBERSON, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 11149) to authorize the Secretary of the Treasury to convey to the city of Sulphur Springs, Tex., certain land for street purposes, reported it without amendment and submitted a report (No. 949) thereon.

IMMIGRATION STATION AT HAMPTON ROADS, VA.

Mr. LODGE. From the Committee on Immigration I report back favorably with amendments the bill (S. 7130) to provide for the establishment of an immigration station at Hampton Roads, in the State of Virginia, and the erection of a public building on a site to be selected for said station. I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CULBERSON. I did not hear the amount appropriated.

The PRESIDENT pro tempore. Two hundred and fifty thousand dollars.

Mr. SWANSON. It will be covered by the immigrant fund.

Mr. LODGE. It is the same amount that was used for the establishment of an immigrant station at Baltimore and at New Orleans. There is no doubt that we need this station at Hampton Roads. The bill should be amended to remove it from the immigrant fund, because that no longer exists.

Mr. OVERMAN. I am not going to object to the consideration of the bill, but did I understand that the money is to be paid out of the immigrant fund?

Mr. LODGE. The immigrant fund was abolished some years ago.

Mr. OVERMAN. That is what I understood.

Mr. LODGE. It is to be paid out of any money in the Treasury not otherwise appropriated.

Mr. OVERMAN. I understand that the immigrant fund is now covered into the Treasury.

Mr. LODGE. It is now covered into the Treasury.

Mr. WARREN. Reserving the right to object if the bill leads to any debate, I will consent to its consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The amendments were, in line 10, after the word "appropriated," to insert the words "out of any money in the Treasury not otherwise appropriated"; in line 11 to strike out the words "which sum shall be paid from the immigrant fund" and insert "and"; and after the word "sum," in line 12, to strike out the word "to" and insert "shall," so as to make the bill read:

Be it enacted, etc., That the Secretary of Commerce and Labor be, and he is hereby, authorized and directed to establish an immigration station at Hampton Roads, in the State of Virginia, and to cause to be erected, on a site to be selected, a public building to temporarily accommodate and care for immigrants arriving at said place.

SEC. 2. That the sum of $250,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the erection of said building, and said sum shall include purchase of land and dock room necessary for said station and building, heating and ventilating apparatus, elevators, and approaches.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

IRRIGATION DITCH IN HAWAII.

Mr. CLAPP. Some weeks ago the Committee on Pacific Islands and Porto Rico reported the bill (H. R. 11628) authorizing John T. McCrosson and associates to construct an irrigation ditch on the island of Hawaii, Territory of Hawaii. The bill was brought up for passage and read. It was objected to in its then form by the junior Senator from the State of Washington [Mr. POINDEXTER] and the junior Senator from Kansas [Mr. BRISTOW]. The bill has been referred back to the committee and the objections of the Senator from Washington and the Senator from Kansas have been considered and met.

I report the bill back with an amendment and ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was, on page 9, line 9, after the word "revenues," to insert the words "in connection with all other revenues of the company."

Mr. STONE. What does the bill accomplish?

Mr. CLAPP. It is a bill to authorize an irrigation project in Hawaii, Territory of Hawaii. The bill was reported and brought up for consideration and read, and the Senator from Washington and the Senator from Kansas objected to the form of it. It was referred back to the committee. Their objections were considered and met by the amendment which has been offered.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

THE "TITANIC" DISASTER.

Mr. SMOOT. From the Committee on Printing I report back Senate resolution 355, submitted by the Senator from Michigan [Mr. SMITH] on the 13th instant, with an amendment to strike out all after the resolving clause and insert a substitute. I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution.

The amendment was to strike out all after the resolving clause and insert:

That 500 additional copies of Senate Document No. 726, Sixty-second Congress, second session, Hearings on the Titanic Disaster, be printed for the use of the Senate folding room.

The amendment was agreed to.

The resolution as amended was agreed to.

PUBLIC BUILDING AT FORT FAIRFIELD, ME.

Mr. SWANSON. From the Committee on Public Buildings and Grounds I report back favorably without amendment the bill (S. 6596) to provide for the purchase of a site and the erection of a public building thereon in the town of Fort Fairfield, in the State of Maine (S. Rept. 943), and I ask unanimous consent for its immediate consideration.

Mr. WARREN. Mr. President, I do not think we ought to transact all our business in the morning hour. I shall not object to the consideration of this bill, but I will feel constrained to object to the continuous passage of bills in the morning hour.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the United States post office and customhouse, in the town of Fort Fairchild, county of Aroostook, State of Maine, the cost of said site and building, including the abovementioned apparatus, not to exceed the sum of $60,000.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULBERSON:

A bill (S. 7328) granting an increase of pension to Charlotte R. Wynne (with accompanying paper); to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 7329) for the relief of Job S. Beals; to the Committee on Claims.

A bill (S. 7330) for the relief of James Boyle, alias James Black; to the Committee on Military Affairs.

A bill (S. 7331) granting a pension to James Murphy; to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 7332) granting a pension to R. H. Catlett (with accompanying paper); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 7333) granting an increase of pension to George W. Cook; to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 7334) for the relief of Elijah Watts (with accompanying paper); to the Committee on Military Affairs.

By Mr. FLETCHER:

A bill (S. 7335) for the relief of James D. Butler (with accompanying paper); to the Committee on Claims.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. CHAMBERLAIN submitted an amendment proposing to appropriate $10,000 for additional cost of the post-office building at Albany, Oreg., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to lie on the table and to be printed.

Mr. SMITH of Michigan submitted an amendment providing that all persons employed in or under the Bureau of Lighthouses upon work relating to the establishment of changes in aids to navigation shall have had at least three years' actual service afloat in the handling and piloting of vessels, etc., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to be printed, and, with the accompanying paper, ordered to lie on the table.

He also submitted an amendment providing that retired officers of the Navy shall be eligible for appointment as lighthouse inspectors, etc., intended to be proposed by him to the sundry civil appropriation bill, which was ordered to be printed, and, with the accompanying paper, ordered to lie on the table.

Mr. POMERENE. I submit an amendment intended to be proposed by me to the sundry civil appropriation bill, which I ask to have printed and lie on the table, and for the information of the Senate I ask that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed, to lie on the table, and to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. POMERENE to the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913.

On page 101, after line 5, insert the following:

"PENSION BUREAU.

"Three hundred thousand dollars, or so much thereof as may be necessary to employ, temporarily, extra clerks by the Commissioner of Pensions to aid him in the work incident to the adjudication of pension claims filed under the act entitled 'An act granting a service pension to certain defined veterans of the Civil War and the War with Mexico,' approved May 11, 1912, at salaries not to exceed $1,200 each; and in order to facilitate said work the Commissioner of Pensions is authorized to employ clerks heretofore employed in other departments of the Government service, or others who may be sufficiently skilled to do the required work, without complying with the requirements of the civil-service laws: *Provided, however,* That none of said extra clerks shall continue in the service beyond the fiscal year of this appropriation without further legislation, or, by reason of said employment alone, be eligible for transfer to the service in other departments, or be continued longer than may be necessary to do the work hereby provided for."

Mr. SHIVELY. I submit an amendment intended to be proposed by me to the sundry civil appropriation bill, which I ask to have printed, printed in the RECORD, and that it lie on the table.

There being no objection, the amendment was ordered to be printed, to lie on the table, and to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. SHIVELY to the bill (H. R. 25069) making appropriation for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, viz:

On page 98, after line 5, insert the following:

"*Provided,* That no allowance or disallowance heretofore made shall preclude an officer or enlisted man of the United States or Volunteer Army, or his next of kin or personal representative, from applying for and receiving any pay and allowances which may be due him under a decision of the Supreme Court of the United States or under a decision of the Court of Claims where no appeal is taken therefrom: *And provided further,* That in the settlement of claims for pay and allowances on account of services of commissioned officers in the volunteers or militia during the Civil War the accounting officers of the Treasury shall credit as service in the Army of the United States within the meaning of the Army pay laws all service rendered from date of enrollment to date of muster as of the grade stated opposite the officer's name on the muster rolls: *And provided further,* That in cases where such officer was duly promoted and appointed to fill a vacancy due to a casualty of the service at any time during the Civil War his pay shall be held to commence from the date his predecessor's pay ceased, provided it be shown by the records or other satisfactory evidence that service was rendered by such officer for which no payment has been made, or that service was rendered in a higher grade than paid for, and that such officer was present with his command during the time for which pay is claimed, or, if absent, that such absence was caused by disability or capture by the enemy; all payments made as of any lower grade to be deducted, and all laws in conflict herewith are hereby repealed."

PUBLICITY OF CAMPAIGN CONTRIBUTIONS.

Mr. BORAH submitted an amendment intended to be proposed by him to the bill (H. R. 23349) providing for publicity of contributions and expenditures for the purpose of influencing or securing the nomination of candidates for the offices of President and Vice President of the United States, which was referred to the Committee on the Judiciary and ordered to be printed.

WITHDRAWAL OF PAPERS—JOSEPHUS EWING.

On motion of Mr. GUGGENHEIM, it was

Ordered, That the papers accompanying S. 5297, Sixty-second Congress, second session, granting an increase of pension to Josephus Ewing, be withdrawn from the files of the Senate, no adverse report having been made thereon.

WITHDRAWAL OF PAPERS—GEORGE MILLHOLLAND.

On motion of Mr. SHIVELY, it was

Ordered, That the papers accompanying the bill granting an increase of pension to George Millholland, S. 538, Sixty-second Congress, first session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

WITHDRAWAL OF PAPERS—EMMA D. M'MANUS.

On motion of Mr. SHIVELY, it was

Ordered, That the papers accompanying the bill granting an increase of pension to Emma D. McManus, S. 3078, Sixty-second Congress, first session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

METROPOLITAN COACH CO.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 2904) to confer upon the Commissioners of the District of Columbia authority to regulate the operation and equipment of vehicles of the Metropolitan Coach Co.

Mr. JONES. I move that the Senate disagree to the amendments of the House of Representatives, ask a conference with the House on the disagreeing votes, and the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and the President pro tempore appointed Mr. JONES, Mr. KENYON, and Mr. PAYNTER conferees on the part of the Senate.

SUNDRY CIVIL APPROPRIATION BILL.

The PRESIDENT pro tempore. Is there further morning business?

Mr. SIMMONS and Mr. WARREN addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. SIMMONS. I ask that the Senate proceed——

The PRESIDENT pro tempore. The morning business has not yet closed.

Mr. SIMMONS. I thought the Chair announced that the morning business was concluded.

The PRESIDENT pro tempore. Are there concurrent or other resolutions?

[Mr. MARTIN of Virginia submitted a report from the Committee on Claims and one from the Committee on Commerce, which appear under their appropriate heading.]

The PRESIDENT pro tempore. Is there further morning business?

Mr. WARREN. Mr. President——

The PRESIDENT pro tempore. If not, the morning business is closed.

Mr. SIMMONS. Mr. President——

Mr. WARREN. I move to take up House bill 25069, the sundry civil appropriation bill.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent to proceed to the consideration of House bill 25069, the sundry civil appropriation bill. Is there objection?

Mr. SIMMONS. Mr. President, I object.

Mr. WARREN. I move, then, that the bill be taken up.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. The Chair will state the motion. The Senator from Wyoming moves that the Senate proceed to the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes. The question is on agreeing to the motion of the Senator from Wyoming.

Mr. SIMMONS. On that I ask for the yeas and nays. I wish to call up the wool bill.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BURNHAM (when his name was called). I have a general pair with the junior Senator from Maryland [Mr. SMITH]. I do not see that Senator in the Chamber, and I therefore withhold my vote.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON]. I do not know how he would vote. If he were present I would vote "yea."

Mr. THORNTON (when Mr. FOSTER's name was called). I wish to announce the absence of my colleague [Mr. FOSTER] on account of illness. He is paired with the Senator from Wyoming [Mr. WARREN]. I make this announcement for the day.

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. I do not see him in the Chamber. I will therefore withhold my vote.

Mr. SANDERS (when his name was called). I am paired with the junior Senator from Indiana [Mr. KERN], and will therefore not vote.

Mr. WILLIAMS (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. PENROSE]. I transfer that pair to the Senator from Indiana [Mr. SHIVELY], and will vote. I vote "nay."

The roll call was concluded.

Mr. LIPPITT. I have a pair with the senior Senator from Tennessee [Mr. LEA]. If he were here and I were at liberty to vote, I should vote "yea."

Mr. WETMORE (after having voted in the affirmative). I have a general pair with the senior Senator from Arkansas [Mr. CLARKE]. I voted inadvertently, not noticing his absence, and therefore I will withdraw my vote.

Mr. CULLOM. I have a general pair with the junior Senator from West Virginia [Mr. CHILTON]. I transfer that pair to the Senator from New York [Mr. ROOT], and will vote. I vote "yea."

Mr. HEYBURN. I have a general pair with the Senator from Alabama [Mr. BANKHEAD]. I transfer that pair to the Senator from Massachusetts [Mr. CRANE], and will vote. I vote "yea."

Mr. BRADLEY. I desire to transfer my pair with the Senator from Maryland [Mr. RAYNER] to the senior Senator from Washington [Mr. JONES] and vote. I vote "yea."

Mr. BRANDEGEE (after having voted in the affirmative). When I voted I did not notice the absence from the floor of the junior Senator from New York [Mr. O'GORMAN]. I am paired with that Senator, and therefore withdraw my vote.

Mr. BRIGGS. I have a general pair with the senior Senator from West Virginia [Mr. WATSON]. As he has not voted, I withhold my vote.

Mr. MARTINE of New Jersey. I am requested to announce the pair existing between the Senator from Arkansas [Mr. DAVIS] and the Senator from Kansas [Mr. CURTIS]. I desire this announcement to stand for the day.

Mr. CHAMBERLAIN. I desire to announce that the Senator from Oklahoma [Mr. OWEN] is paired with the Senator from Nebraska [Mr. BROWN]. I make this announcement for the day.

The result was announced—yeas 37, nays 27, as follows:

YEAS—37.

Borah	Cummins	La Follette	Smith, Mich.
Bourne	Dillingham	Lodge	Smoot
Bradley	du Pont	McCumber	Stephenson
Bristow	Fall	McLean	Sutherland
Burton	Gallinger	Massey	Townsend
Catron	Gamble	Nelson	Warren
Clapp	Gronna	Oliver	Works
Clark, Wyo.	Guggenheim	Page	
Crawford	Heyburn	Perkins	
Cullom	Kenyon	Poindexter	

NAYS—27.

Ashurst	Hitchcock	Overman	Smith, Ga.
Bacon	Johnson, Me.	Paynter	Stone
Bryan	Johnston, Ala.	Percy	Swanson
Chamberlain	Martin, Va.	Pomerene	Thornton
Culberson	Martine, N. J.	Reed	Tillman
Fletcher	Myers	Simmons	Williams
Gardner	Newlands	Smith, Ariz.	

NOT VOTING—30.

Bailey	Crane	Lea	Sanders
Bankhead	Curtis	Lippitt	Shively
Brandegee	Davis	O'Gorman	Smith, Md.
Briggs	Dixon	Owen	Smith, S. C.
Brown	Foster	Penrose	Watson
Burnham	Gore	Rayner	Wetmore
Chilton	Jones	Richardson	
Clarke, Ark.	Kern	Root	

So Mr. WARREN's motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

Mr. WARREN. Mr. President, if I have kept a right account, the reading of the bill on yesterday proceeded to the top of page 74. I inquire if that is correct?

The PRESIDENT pro tempore. The Chair is so informed. The Secretary will resume the reading of the bill at that point.

Mr. WARREN. Mr. President, this bill contains 200 pages and carries appropriations aggregating $115,000,000, or about that amount. I now ask unanimous consent that the Senate proceed with the consideration of the remainder of the bill without the formal reading and that the amendments of the committee may be considered as we proceed.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent that the further formal reading of the bill may be dispensed with.

Mr. SIMMONS. I object.

The PRESIDENT pro tempore. The Senator from North Carolina objects. The Secretary will resume the reading of the bill at the point reached on yesterday.

The Secretary resumed the reading of the bill, beginning with line 1, page 74, and continued down to the end of line 16, on page 91.

Mr. REED. I have been trying to follow the reading of the bill, but it is so rapid and so informal that I can not understand it well enough to follow the text. I should like to inquire where the clerk is reading.

The PRESIDENT pro tempore. The clerk has reached page 91, line 17, the Chair is informed.

Mr. REED. I should like to have the bill read so that I can follow the reading.

The reading of the bill was resumed and continued to line 21, on page 106, the last paragraph read proposing to appropriate $20,000 for the opening of Indian reservations.

Mr. HEYBURN. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. HEYBURN. At what stage will an amendment be appropriate to the portion of the bill just read?

The PRESIDENT pro tempore. The Chair would suggest that after the reading of the bill has been completed, the reading proceeding for the purpose of information to the Senate, that presumably the committee amendments will first be considered, and then amendments from the floor will be in order.

Mr. HEYBURN. As in Committee of the Whole?

The PRESIDENT pro tempore. As in Committee of the Whole.

Mr. HEYBURN. I merely wanted the RECORD at this point to show that the inquiry was made and answered by the Chair.

Mr. REED. Mr. President, the Chair states that presumably the committee amendments will first be considered. Does the Chair mean to say by that that there has been any agreement or arrangement to that effect?

The PRESIDENT pro tempore. Not so far as the Chair is concerned. The Chair simply states what is the usual custom of the Senate.

Mr. REED. My reason for the inquiry was the remark of the Senator that he was making the inquiry now in order that there might be a record; and I would not want to have it go by common consent that that is to be the method. I think it may become important in the consideration of this bill whether we are to proceed that way or not.

The PRESIDENT pro tempore. The Chair will state to the Senator that no agreement has been made nor has any suggestion been made to the Chair.

Mr. REED. So, it is clear.

Mr. HEYBURN. It may be proper for me to state that I made the inquiry in view of the fact that the chairman of the committee renewed his request this morning with reference to the consideration of committee amendments and asked for unanimous consent; and I thought it right that this proceeding should contain some record of the fact that we were proceeding under that order or rule of business.

The PRESIDENT pro tempore. The reading will continue.

The Secretary resumed the reading of the bill, and read to page 121, line 5.

Mr. STONE. Mr. President, I make the point that there is no quorum.

The PRESIDENT pro tempore. The Senator from Missouri makes the point that there is no quorum present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	McCumber	Shively
Bacon	Cummins	McLean	Smith, Mich.
Borah	Dillingham	Martin, Va.	Smoot
Bourne	du Pont	Martine, N. J.	Stephenson
Bradley	Fall	Massey	Sutherland
Brandegee	Fletcher	Nelson	Swanson
Briggs	Gallinger	Newlands	Thornton
Bryan	Gamble	Overman	Tillman
Burnham	Gronna	Page	Townsend
Catron	Heyburn	Percy	Warren
Clapp	Johnston, Ala.	Perkins	Wetmore
Clark, Wyo.	Jones	Poindexter	Works
Crane	Kenyon	Pomerene	
Crawford	La Follette	Root	
Culberson	Lodge	Sanders	

Mr. SHIVELY. I desire to state that my colleague [Mr. KERN] is unavoidably absent from the Chamber, and that he is paired with the junior Senator from Tennessee [Mr. SANDERS]. I wish this statement to stand for the day.

The PRESIDENT pro tempore. Fifty-seven Senators have answered to their names. A quorum of the Senate is present. The reading of the bill will be proceeded with.

The Secretary resumed the reading of the bill, at page 121, line 6, and read to page 161, line 11.

THE PANAMA CANAL.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I ask unanimous consent that the unfinished business be temporarily laid aside that the pending appropriation bill may be proceeded with.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business be temporarily laid aside.

Mr. SIMMONS. Mr. President, I object.

The PRESIDENT pro tempore. The Senator from North Carolina objects, and the unfinished business is before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. Mr. President, a day or two ago in the discussion of this bill the senior Senator from New York [Mr. ROOT] in giving his views as to the construction of the treaty and the consequences involved in a possible award of The Hague tribunal against the construction advocated by the junior Senator from New York [Mr. O'GORMAN], stated that if the decision of The Hague tribunal should be against the contention that we could exempt our domestic coastwise shipping from tolls then we would be under obligation to repay to the foreign ships from which we had collected it all the tolls collected during the time between the opening of the canal and the decision. The question was raised, I think, by the Senator from South Dakota [Mr. CRAWFORD] as to the possible amount of those tolls. There was no definite information in the testimony at that time about it, although the special commissioner appointed by the President in relation to matters concerning the Panama Canal had estimated that in round numbers in 1915 the total annual tonnage through the canal would be something like 10,250,000 tons. Of course at a dollar a ton, which has been the rate that has been most talked about as being a fair rate, that would be a collection of ten and a quarter million dollars in tolls from vessels passing through the canal in that year.

In view of the fact that there was no more definite estimate than that, and from that statement of Prof. Johnson it was not clear what portion of the total tonnage estimated would be domestic or port to port, sometimes called coastwise tonnage, and what proportion of that tonnage would come from the vessels of foreign nations, I asked him to give me the figures separately, and I send——

Mr. FLETCHER. Mr. President——

Mr. BRANDEGEE. Will the Senator excuse me just a moment? I send to the desk and ask that the Secretary may read the inclosed letter just received from him and also the table which he has prepared, after the Senator from Florida has asked the question that he desires to ask.

Mr. FLETCHER. I wish to ask the Senator in this connection what is the estimate as to the cost of maintenance of the canal. I understand the tolls to be estimated at something like ten million and a quarter a year. Outside of any question of interest on the money invested there, I should like to inquire what estimate there is as to the actual expense of maintenance.

Mr. BRANDEGEE. I will give the Senator those figures as soon as this letter has been read.

The PRESIDENT pro tempore. The Secretary will read, as requested.

The Secretary read as follows:

ISTHMIAN CANAL COMMISSION,
Washington Office, July 17, 1912.

Senator FRANK B. BRANDEGEE,
United States Senate, Washington, D. C.

MY DEAR SENATOR BRANDEGEE: I inclose a memorandum separating into three divisions the estimated tonnage of shipping that will use the Panama Canal in 1915, 1920, and 1925. The tonnage for each year is divided into (1) American shipping employed through the canal in the coastwise trade, (2) American shipping employed in carrying through the canal foreign commmerce of the United States, and (3) foreign shipping using the canal to carry the foreign commerce of the United States and the commerce of foreign countries with each other.

It will be seen from the memorandum that about four-fifths of the tonnage of the ships using the Panama Canal will be under foreign flags.

Very truly, yours, EMORY R. JOHNSON.

Classification of estimated shipping using the Panama Canal in 1915, 1920, and 1925.

	1915	1920	1925
Coast-to-coast American shipping	1,000,000	1,414,000	2,000,000
American shipping carrying foreign commerce of the United States	715,000	905,000	1,150,000
Foreign shipping carrying commerce of the United States and foreign countries	8,785,000	11,025,000	13,850,000
Total	10,500,000	13,344,000	17,000,000

Mr. STONE. Mr. President, I should like to ask the Senator from Connecticut if he is advised upon what authentic data the author of this letter predicates that table. Is it a mere estimate, a mere guess, or has he something tangible upon which to make the estimate?

Mr. BRANDEGEE. I think that is a very pertinent inquiry, Mr. President. The fact is that this gentleman, who is especially competent as an investigator along these lines as a political economist and expert on trade conditions, occupies a chair in the University of Pennsylvania. He is the same Dr. Johnson who was employed by the Canal Commission some years ago, who investigated the same matters contained in his present report and who brought them down to 1909, perhaps. I think that was the date. It may have been 1905. At any rate the President appointed him to carry on his work and bring it down to date.

I do not think that the estimates are mere guesses. Of course they are estimates of conditions that have not yet arisen, and of course are not pretended to be anything more than his conclusions from all the evidence that he could get access to. He has made——

Mr. STONE. If the Senator will pardon me——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Missouri?

Mr. BRANDEGEE. Certainly.

Mr. STONE. Does Dr. Johnson undertake to inform the chairman of the committee as to the sources of information upon which he predicates this table?

Mr. BRANDEGEE. When the Senator asked his last question I was about to say that his estimates are based upon exhaustive investigations both here and in the commercial centers and seaports of the world as to the actual movements of vessels during long periods of time in the past and as to the present use of the Suez Canal. All the facts and figures that can be shown with regard to the amount of business the Suez Canal had when it was first opened, the percentage of the ocean-borne commerce that was done by steam vessels as compared with that done by sailing vessels, the increase from year to year of the tonnage through the canal and the comparison of that tonnage with the tonnage through all the other canals of the world, the rates of toll charged when the Suez Canal was opened and the estimates and expectations that were held by experts at that time as to what that traffic would develop—all those things have been methodically compiled. The entire report has not yet been completed or printed. It was designed, in my opinion, not so much for the use of Congress—because at that time I do not think it was expected that Congress would attempt to fix the tolls—but it was designed, I assume, for the

use of the President or the commission to which Congress was expected to delegate the duty of fixing the tolls.

So I say the entire completed work of the professor is not available for Congress at present, but realizing that the discussion would necessitate the results of his investigation upon certain features of his report, he has taken the liberty to publish in advance of his entire report certain chapters of his report, which will later be made to Congress or the President, I do not remember which. Those have been forwarded to me and have been heretofore printed as a Senate document and laid upon the desk of every Senator and are in the document room. Anyone who reads either or both of them will see that the investigation has been exceedingly thorough. But like every other matter that is not yet determined into actuality it is simply his best judgment upon his investigations. Of course, no more importance will attach to it than to the investigation of any other skilled scholar having all the knowledge available upon the subject.

In answer to the inquiry of the Senator from Florida [Mr. FLETCHER], I read now from page 10 of the minority views of the Committee on Interstate and Foreign Commerce in the House, which cites the majority report. It states not as a citation, but in reference to it, as follows:

> The careful and detailed estimates of Col. Goethals show that the total annual cost of the operation and maintenance of the canal, including the cost of sanitation and civil government, will not exceed $4,000,000, and that it is hoped to realize a profit from the sale of supplies, etc., to bring this down to $3,500,000. (See committee hearings, pp. 410, 411, 415, and 417.)

Of course, those are the House hearings.

> Analyzing the figures of Prof. Johnson, we find that a toll of $1 per net register ton would bring in a total annual revenue during the first year, exclusive of passenger tolls, of $10,500,000. Subtracting the interstate-commerce traffic (American coastwise), which Prof. Johnson estimates at 1,160,000 tons, we would still have an annual revenue of $9,340,000, more than double the operating expenses, with the tonnage annually increasing.

Does that answer the question of the Senator from Florida?

Mr. FLETCHER. That answers the question, Mr. President. I did not know but that the Senator might have some other figures than these. I read this report, but I did not know but that the Senator's investigation might have caused him to reach a different conclusion as to these estimates.

Mr. BRANDEGEE. No, Mr. President. The testimony of Col. Goethals both on the Isthmus before the Committee on Interoceanic Canals and before the same committee here was to that effect. I simply read it from that document because I found it more accessible than the other. I could not take it from the other without hunting through the index.

Mr. HITCHCOCK. Those figures do not include the cost of military occupation, I assume.

Mr. BRANDEGEE. Oh, no; it says simply the cost of operating the locks, putting vessels through, and the cost of the necessary sanitation on that portion of the zone which will need to be sanitated.

Mr. HITCHCOCK. I understand that it does include the cost of civil government there.

Mr. BRANDEGEE. Oh, yes.

Mr. HITCHCOCK. But not military.

Mr. BRANDEGEE. The cost of civil government of course will be very light after the locks of the canal are in operation, unless it should be the policy of Congress to induce immigration into the zone and try to settle it up. The opinion of the War Department and of Col. Goethals and, I think, of a majority of the Senate committee was that it would be the wisest policy not to attempt to settle up that zone, which was acquired primarily for canal purposes, but to denude it so far as possible of settlers; and that then there would be less danger from disease, less danger from public enemies, and less cost to the Government to operate. But that is a separate question. I do not care, unless the Senator wants me to do so, to enter upon the discussion of that feature of it at this time.

Mr. CUMMINS and Mr. STONE addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Iowa?

Mr. BRANDEGEE. I yield to the Senator from Missouri. I did not see that the Senator from Iowa had risen.

Mr. STONE. Oh, no; let the Senator from Iowa proceed.

Mr. BRANDEGEE. Then I will yield to the Senator from Iowa.

Mr. CUMMINS. I was called from the Chamber and just a moment ago returned as the Senator from Connecticut was stating the probable revenue. I only want to ask whether the revenue is estimated on the basis of $1 for a net registered ton?

Mr. BRANDEGEE. Yes. I will state for the information of the Senator that I was reading an extract from the views of the minority of the committee in the House, and it was based, as the Senator says, upon the assumed arbitrary unit of $1 per net registered ton.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Missouri?

Mr. BRANDEGEE. Certainly.

Mr. STONE. Did I understand the Senator from Connecticut in his last statement to quote from some estimate that the revenue to be derived from the canal the first year would approximate $10,000,000?

Mr. BRANDEGEE. Yes, Mr. President; that was the statement contained in the minority report of the House committee based upon the statement of Prof. Johnson, to whom I have referred. It was that, in his opinion, in 1915, the first year of the opening and operation of the canal, there would be—I see the exact figure is 10,500,000 net registered tons of domestic and foreign commerce going through the canal; and if we collect a toll of $1 per net registered ton it would equal ten and a half million dollars as the total amount of receipts from tolls on vessels passing through the canal.

Mr. STONE. Is not that higher in 1915 than the estimate given in the statement accompanying the letter which the Senator just had read from the Clerk's desk?

Mr. BRANDEGEE. I could not tell the Senator. He can ask the Secretary to read the statement of Prof. Johnson again.

Mr. STONE. I looked at it a moment ago.

Mr. BRANDEGEE. The statement I sent to the desk is dated as of to-day. The other statement was made several weeks, if not months, ago, and it may be that Prof. Johnson has modified his view since then.

Mr. STONE. Somewhat; not very much.

I wish to call attention to this fact: If the estimates made by Dr. Johnson are reliable, then what I am about to call attention to is a fact. We have had some discussion here, particularly from the Senator from New York [Mr. ROOT], who led off in it—and I think his view was concurred in by others—that if free tolls so-called should be admitted to American vessels passing through the canal, and the question raised by that should be referred to The Hague court and decided against us, we would have to refund to vessels of other countries passing through the canal in the interval between the opening and the decision of the court whatever had been collected. There was a question raised before the Senate as to the probable amount that would have to be refunded, if refunded at all. I think the Senator from Iowa [Mr. CUMMINS] suggested that it would exceed $15,000,000 or $20,000,000.

Mr. CUMMINS. I said $15,000,000 to $25,000,000.

Mr. STONE. Between $15,000,000 and $25,000,000. The Senator from New York insisted that a hearing of this importance between these two great nations and a controversy of this character before that court would probably require 5 to 10 years in its consideration before the decision should be reached. Now, if Prof. Johnson's estimate is correct, it will be much more than that and much more than the amount suggested by the Senator from Iowa. It is important to know, therefore, something about the accuracy of this estimate in that view of the case.

Mr. CUMMINS. Mr. President——

Mr. STONE. Just a moment, if the Senator pleases. I took the table a moment ago and attempted to strike an average between the extremes; that is to say, an average between the estimated revenue to be received in 1915 and the estimated revenue to be received in 1925, covering a period of 10 years, and the average, as I make it (I am certainly approximately correct), would be $10,200,000 annually. If it would require five years to dispose of this arbitration before the court at The Hague tolls would have been collected amounting to $51,000,000. I suppose from that ought to be deducted the amount contained in the table, as the amount that would be collected from American vessels going through, with the tolls imposed upon them as upon foreign vessels, but that is comparatively small, as stated by Dr. Johnson. The amount we would have to refund at the end of five years, if that estimate is correct, would be in the neighborhood of $45,000,000.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Iowa?

Mr. BRANDEGEE. Certainly.

Mr. CUMMINS. In making the estimate I did not give full reliance to the estimate of Dr. Johnson. I think he is rather sanguine with regard to the volume of business that will pass through the canal in the next five years. I also, as the Senator from Missouri will remember, said that controversy, if it goes to The Hague, to which I do not agree, should be settled within from three to five years, and that therefore, in my opinion, the

extreme amount we would be called upon to pay would be more than $25,000,000.

Of course it is a mere estimate. Nobody can tell what volume of business will pass through this canal, as I will endeavor to show when I come to consider the question of tolls. It depends entirely upon the action of our competitors as to what business will pass through the canal.

Mr. NELSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Minnesota?

Mr. BRANDEGEE. Certainly.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. NELSON. I desire to present and move the adoption of the conference report on the river and harbor bill, and if it is necessary to make a request in connection with it, I ask that the unfinished business be temporarily laid aside.

Mr. LODGE. That is not necessary.

The PRESIDING OFFICER (Mr. SMITH of Michigan in the chair). The Senator from Minnesota presents a conference report, which will be read by the Secretary.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21477) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 12, 28, 35, 93, 105, 106, 107, 156, 183, 184, 185, 186, 188.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 7, 9, 10, 15, 16, 17, 18, 19, 20, 23, 25, 26, 27, 29, 31, 32, 33, 34, 36, 38, 40, 42, 43, 45, 46, 47, 48, 53, 54, 55, 56, 58, 59, 62, 63, 64, 65, 67, 68, 69, 70, 71, 73, 74, 77, 79, 81, 82, 83, 84, 87, 88, 89, 90, 92, 94, 95, 98, 108, 109, 110, 111, 112, 117, 118, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 154, 155, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 178, 179, 181, 187; and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Pollock Rip Channel through the shoals lying near the entrance to Nantucket Sound, Mass., in accordance with the report submitted in House Document No. 536, Sixty-second Congress, second session, $125,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "five hundred thousand dollars" and insert in lieu thereof the words "three hundred thousand dollars"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In the proposed amendment strike out all after the words "five thousand dollars"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "five hundred thousand" and insert in lieu there of the words "three hundred thousand"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the proviso contained in the proposed amendment insert the following: "*Provided*, That the land required for making said cut-offs, or easements therein, shall be furnished free of cost to the United States, and the United States shall be released from all claims for damages arising from the proposed diversion of the stream"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: In lieu of the language proposed, insert the following: "Improving Elk and Little Elk Rivers, Md.: Completing improvement in accordance with the report submitted in House Document No. 770, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $4,040"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "*Provided*, That the provisions of section 11 of the river and harbor act of March 3, 1899, are hereby made applicable to the Potomac and Anacostia Rivers, and hereafter harbor lines in the District of Columbia, or elsewhere on said rivers, shall be established or modified as therein provided; and all laws or parts of laws inconsistent with this proviso are hereby repealed: *Provided further*, That hereafter the officer in local charge of the improvement shall have authority, with approval of the Chief of Engineers, United States Army, when no public building is available, to rent suitable offices, to be paid for pro rata from the appropriations for works in his charge: *And provided further*, That the proviso in the act of June 3, 1896, entitled 'An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes,' under the item 'Improving Potomac River, Washington, D. C.' is hereby repealed"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: ", printed in House Document No. 589, Sixty-second Congress, second session, and the foregoing appropriation shall be devoted to that purpose; for the improvement and maintenance of said inland waterway, $100,000; in all, $600,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "six months from the date of the approval of this act," and insert in lieu thereof the words "one year from February 27, 1912"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That the provision in the river and harbor act approved March 3, 1905 (33 Stat., p. 1128), granting Louis M. Tisdale the right and authority to construct and operate a channel through Mobile Bay, and to construct and maintain wharves, piers, anchorage and turning basins, and other similar structures in said bay, is hereby revived and reenacted: *Provided*, That the said provision is hereby so amended as to vest in the South Mobile Terminal Co., its successors and assigns, all the rights, privileges, and authority thereby granted to the said Louis M. Tisdale, subject to all the terms and conditions of said act, upon full and complete assignment and transfer of all such rights, privileges, and authority of said Tisdale to the said South Mobile Terminal Co.: *Provided also*, That the said provision is hereby further amended so as to extend the time for completing the work therein authorized for a period of five years from the approval of this act: *And provided also*, That the right to alter, amend, or repeal this act, in so far as it relates to this franchise, is hereby expressly reserved"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: ", of which amount $120,000 may be applied to the purchase or construction of a suitable dredging plant: *Provided*, That the U. S. dredge Barnard may be transferred back to the improvement from which it was transferred by act approved February 27, 1911, and the balance remaining on hand of the $60,000 authorized by the act of February 27, 1911, to be expended for the repair and modification of the U. S. dredge Barnard, may be expended for the purchase or construction of the dredging plant herein authorized"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "The Secretary of War may appoint a board of three engineer officers whose duty it shall be to examine and report upon the following harbors and channels in Texas, at or near Galveston, to wit: Galveston Harbor and Channel, Texas City Harbor and Channel, Port Bolivar Harbor and Port Bolivar Channel leading thereto, all with a view to securing a depth of 35 feet"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of

the language stricken out insert the following: "And the said board shall also report whether the waters lying between Harbor Island and the mainland may be exempted from the operation of the laws relating to navigable waterways of the United States"; and the Senate agree to the same.

Amendments numbered 49, 50, 51, 52: That the House recede from its disagreement to the amendments of the Senate numbered 49, 50, 51, 52, and agree to the same with an amendment as follows: In lieu of all the words contained in this paragraph, after the words "heretofore authorized," insert the following: ", and for an accurate instrumental survey of the river as recommended in the Annual Report of the Chief of Engineers for 1911, $425,000; continuing improvement and for maintenance by open channel work, $15,000; in all, $440,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: In lieu of the language of the proposed amendment insert the following: "For improving the Arkansas River, in Arkansas: For protecting the north bank thereof, in the bend in front of the Crawford County Levee, south of Van Buren, in sections 8, 9, and 10 in township 8 north, range 30 west, which shall be considered extraordinary emergency work, $30,000. This appropriation shall be expended as soon as practicable in accordance with plans to be prepared by the Chief of Engineers of the War Department"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Ohio River: For the raising and strengthening of the levees in the city of Cairo, Ill., on the Ohio and Mississippi Rivers, and in the Cairo drainage district, which shall be considered extraordinary emergency work, $250,000: *Provided*, That the city of Cairo shall expend, or cause to be expended, the same amount for the same purpose"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "For the raising and strengthening of the levees in the city of Mound City, Ill., on the Ohio River, which shall be considered extraordinary emergency work, $20,000 on the condition that the city of Mound City shall furnish an equal amount for the same purpose"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the language proposed insert the word "three"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That in view of the existing emergency $4,000,000 of the money hereby appropriated is set apart for the repair and construction of levees"; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "The traveling expenses of the civilian members of the Mississippi River Commission, and of the Assistant Engineer of the Board of Engineers for Rivers and Harbors, when on duty, shall be computed and paid in the same way as the traveling expenses of the Army members of said commission, and of said board"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "Bayou Sara" and insert in lieu thereof the words "Baton Rouge, La., and between Bessie, Lake County, Tenn., and Memphis, Tenn.," and strike out the words "twenty thousand" and insert in lieu thereof the words "thirty thousand"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "*Provided*, That cooperation from the localities benefited may be required in the prosecution of the said project in case any comprehensive plan is hereafter adopted by Congress for an apportionment of expense generally applicable to river and other projects in which any improvement now or hereafter adopted confers special or exceptional benefit upon the localities affected: *Provided further*, That nothing herein contained shall postpone the expenditure of the amount hereby appropriated or any further appropriation for said project without action by Congress"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows: In the proposed amendment strike out the word "eighty-five" and insert in lieu thereof the word "twenty-five"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Stockton Harbor, San Joaquin River, Cal., by dredging McLeod Lake and Fremont Channel, with a view to securing a permanent channel depth of 9 feet, in accordance with the report submitted in House Document No. 581, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $11,000"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Tillamook Bay and Bar, Oreg.: For maintenance, $5,000"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In the proposed amendment strike out the word "eight" and insert in lieu thereof the word "seven"; and after the word "dollars," in the next line, add the following: "And the Secretary of War shall submit a report whether any saving can be effected, and, if so, how much, by a more rapid prosecution of this improvement"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That the Secretary of the Treasury be, and is hereby, authorized and directed to pay, upon vouchers approved by the former chairman of the National Waterways Commission, from any moneys in the Treasury not otherwise appropriated, the sum of $4,000, or so much thereof as may be necessary, for the expenses of the National Waterways Commission necessarily incurred for clerical and stenographic services in publishing hearings (S. Doc. No. 274) and completing the final report (S. Doc. No. 469); and the books, maps, charts, and other material relating to waterways remaining in possession of the National Waterways Commission shall be turned over to the Engineer School, Washington Barracks, D. C., under the direction of the chairman of the Committee on Commerce of the Senate and the chairman of the Committee on Rivers and Harbors of the House of Representatives; and all similar material relating to railways shall be turned over to the Interstate Commerce Commission"; and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "SEC. 7. Unless otherwise expressed, the channel depths referred to in this act shall be understood to signify the depth at mean low water in tidal waters, and the mean depth during the month of lowest water in the navigation season in rivers and nontidal channels; and the channel widths specified shall be understood to admit of such increase in width at the entrances, bends, sidings, and turning places as may be necessary to allow of the free movement of boats." And transfer the paragraph to page 62, immediately after section 6; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: Before the word "Whenever," in line 1 of the proposed amendment, insert "Sec. 8." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 9." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 10." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the language proposed insert on page 60, in line 17, after the word "survey," the following: ": *Provided further*, That the Chief of Engineers may, at his discretion, increase to not to exceed nine the number of engineer officers constituting said board: *And provided further*, That a majority of said board shall be of rank not less than lieutenant colonel"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 11." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "SEC. 12. In order to make possible the economical future development of water power the Secretary of War, upon recommendation of the Chief of Engineers, is hereby authorized, in his discretion, to provide in the permanent parts of any dam authorized at any time by Congress for the improvement of navigation such foundations, sluices, and other works, as may be considered desirable for the future development of its water power." And transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Buffalo Harbor, N. Y., with a view to increasing the width of the entrance of the inner harbor to 400 feet by removing the Government south pier at the mouth of Buffalo River; also with a view to increasing the width of Black Rock Harbor and the entrances thereto," and transfer the same to page 45, preceding line 1; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In line 1 of this amendment, after the word "River," insert the word "Connecticut," and transfer said amendment to page 44, after line 24; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with the following amendment: In line 2 of said amendment, after the word "thereof," insert a period and strike out the balance of the amendment; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Salmon River, N. Y., at and below Fort Covington"; and the Senate agree to the same.

Amendment numbered 119: That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That a preliminary investigation be made to determine whether a system of impounding reservoirs at the headwaters of the Allegheny, Monongahela, and Ohio Rivers and their tributaries is needed and practicable to provide sufficient water during dry seasons to operate the present and proposed system of locks and dams in these rivers, and to what extent the Federal Government, on the basis of their benefit to navigation, is justified in cooperating with local communities which may be interested in the construction of such reservoirs primarily for the purpose of flood prevention, and the feasibility of operating such reservoirs for the double purpose of flood prevention and improving navigation; and that this investigation be conducted by a board of three engineer officers, to be designated by the Chief of Engineers, United States Army; and that the results of this investigation be reported to Congress, with such additions as may be made thereto by the said Chief of Engineers, not later than December 7, 1912; and that for this purpose the sum of $5,000, or so much thereof as may be needed, be, and the same is hereby, appropriated"; and the Senate agree to the same.

Amendment numbered 139: That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: ", and inland waterway between Charleston and McClellanville by way of Alligator Creek and Sewee Bay"; and the Senate agree to the same.

Amendment numbered 147: That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows: In lieu of the language proposed insert: "Escambia and Conecuh Rivers, Ala. and Fla., from River Falls to the mouth in the Gulf of Mexico"; and the Senate agree to the same.

Amendment numbered 153: That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Black River, Ark., near Buttermilk Bank, with a view of protecting the bank in the interests of navigation"; and the Senate agree to the same.

Amendment numbered 157: That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment as follows: In the proposed amendment strike out the word "Little"; and the Senate agree to the same.

Amendment numbered 177: That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Padilla Bay, Skagit County, Washington, with a view of ascertaining the desirability of modifying or relocating the navigable channels in said bay"; and the Senate agree to the same.

Amendment numbered 180: That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Channel connecting Admiralty Inlet with Crockett Lake, Washington"; and the Senate agree to the same.

Amendment numbered 182: That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 13." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

KNUTE NELSON,
JONATHAN BOURNE,
F. M. SIMMONS,
Managers on the part of the Senate.

M. SPARKMAN,
JOSEPH E. RANSDELL,
GEORGE P. LAWRENCE,
Managers on the part of the House.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. NELSON. Mr. President, I desire merely to make a brief statement. The river and harbor bill when it came here from the other House carried a cash appropriation of $24,062,520.50, and provided for continuing contracts to the amount of $2,200,000, or an aggregate in cash and continuing contracts of $26,262,520.50. The Senate added to the bill by amendment $8,054,010 and struck out $233,000 of the amount proposed by the House. So the net increase made by the Senate in the bill was $7,821,010. The total of the bill as it went into conference was $34,083,530.50. The net reductions effected by the conferees amount to $824,160. Therefore the bill in its present form, as agreed to by the conferees, carries $33,259,370.50, instead of $34,083,530.50, which it carried as it came to the conferees; in other words, the net reduction effected by the conferees was $824,160.

I will say that in all the important amendments of the Senate no reductions were made; it was only in a few isolated cases that reductions were made. Wherever reductions were made in the appropriations for harbors Senators interested were consulted, and no changes were made without their consent. I therefore move the adoption of the report.

Mr. SIMMONS. Mr. President, I merely desire to ask the chairman of the Committee on Commerce if he has the figures showing the Senate increases after deducting the emergency appropriations for the Mississippi River?

Mr. NELSON. I will say that the bill as it came over from the other House carried three and a half million dollars for

the improvement of the Mississippi River; the Senate added to that two and a half million dollars, so that the bill carries $6,000,000 for the improvement of the Mississippi River. If it had not been for that large appropriation for the Mississippi River arising out of the peculiar flood conditions existing this year in the Mississippi Valley, the bill would have been much more moderate in amount. Ordinarily in later years river and harbor bills have carried from three to four million dollars for the Mississippi River. This year the bill carries in round numbers $6,000,000 for the improvement of that river. An appropriation of a million and a half dollars was made some three months or more ago in a joint resolution, and that sum will be deducted from the $6,000,000 appropriated in the bill.

Mr. NEWLANDS. Mr. President, I should like to call the attention of the Senator from Minnesota to amendment numbered 106 to the river and harbor bill, an amendment which passed the Senate, as follows:

SEC. 2. That the Secretary of War shall cause the Chief of Engineers of the Army and the Board of Engineers for Rivers and Harbors to report to Congress, in which shall be included a preliminary report not later than December 1, 1912, upon the saving, as well as other advantages, which can be accomplished by the adoption of the continuing contract system, the rapidity with which projects should be completed, upon methods of standardization by which the waterways of the country may be improved uniformly in proportion to their capacities and to the existing or probable demands of general commerce, and also report upon one or more systematized schemes of such improvement, involving all waterways heretofore examined, together with any natural or artificial channels essential for the utilization thereof, whether heretofore examined or not; also upon all projects heretofore adopted, the further improvement of which is not desirable or the expenditure upon which is out of proportion to the benefit derived therefrom. Such report may include other related information pertaining to the uses or control of the waters of the country, and the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated for such examination and report.

I ask the Senator from Minnesota what disposition was made of that Senate amendment?

Mr. NELSON. The disposition made of it was that the House conferees refused to agree to it. The bill was in conference for over two months. The first meeting of the conferees was held on the 18th day of May, and we only finished the consideration of the bill yesterday. Amendment No. 106 was the last amendment which troubled the committee of conference. I can say to the Senator from Nevada that the Senate conferees did their utmost to retain the amendment in the bill. We struggled along with it as best we could, but finally found that the House conferees would not yield on that point. Although we proposed to reduce the appropriation from $100,000 to $50,000, they refused to yield; and we felt, after all the struggle, that we could not afford to delay the bill any longer. As a matter of fact, in the interest of public business and in the interest of the improvements to rivers and harbors which are now going on, this bill ought to have been passed before the 1st of July; and I think the effect of its delay will probably cause the Government, in one way or another, more damage in amount than was saved by the eight hundred and odd thousand dollars which the bill was reduced in conference.

I sympathize with the Senator from Nevada in his amendment, and I assure him that the Senate conferees did all that they could well do to retain the amendment in the bill.

Mr. NEWLANDS. Mr. President, I am satisfied that the Senate conferees made every effort to retain this amendment, which received the approval of the entire Committee on Commerce of the Senate. I ask the Senator from Minnesota whether the objection was to the amount of the appropriation or to the object sought to be attained by the amendment?

Mr. NELSON. The objection was not at all to the amount, for when we offered to reduce the amount from $100,000 to $50,000 it did not seem to make any difference. The objection was to the substance of the amendment.

There were three objections. First, it was contended that a part of the provisions of the amendment were already in the existing law, and, second, that a part of it was already contained in certain provisions in other portions of the bill. The most serious objection to the amendment, however, was to that portion of it which required a reexamination and reinvestigation of all existing projects. That was the one thing, perhaps, more than anything else, to which objection was raised.

Mr. NEWLANDS. Mr. President, while I am entirely satisfied with the efforts of the Senate conferees to secure the acceptance of the Senate amendment, I greatly regret that the opportunity has been lost of putting upon the statute books the most effective amendment that has probably been introduced in years in a river and harbor bill; an amendment that is intended to promote economy and efficiency; that is intended to give the Engineer Corps of the Army the power to plan a system of connected and related waterways of the country, just as full and comprehensive in its character as are the plans of our railways; an amendment which was intended to rescue the river improvements of the country from the spoils system which has so long prevailed—a system which we have entirely done away with, so far as public offices and public patronage are concerned, but which still remains to afflict us in matters relating to public works, enterprises relating to public buildings, and the rivers and harbors of our country.

This is a question which has been before the American people for many years. It has been urged persistently by river and harbor congresses, by waterway associations, in political conventions, and has found form in our national platforms.

I am amazed that the House of Representatives has failed to respond, not only to the public opinion upon this question, but to the express declarations of the platforms of both political parties. The Republican platform of four years ago pledged that party to carry out the declarations of Mr. Roosevelt regarding the waterways, and this was a prominent feature of his recommendations. The Democratic platform was even more explicit, for it called for large and comprehensive work in the development of our waterways through the organization of a board of experts authorized by law, with the aid of an ample fund, insuring continuous work and providing for the coordination of the various scientific services of the Government and the cooperation of the Nation with the States in this work.

The only opposition to this policy that has manifested itself anywhere is manifested in Congress itself. We have had hard work making progress with it in the Senate; but we have made a steady advance, as was demonstrated by the adoption by the Senate of this amendment. So far as the House of Representatives is concerned, however, it remains still attached to the system of spoliation—the system of pothole appropriations, controlled by the Representatives of various districts, through which they secure nomination and office; a system which is cynically regardless of the ultimate purposes to be obtained, the development of a system of waterways fitted for transportation, and not a system of waterways designed to secure the expenditure of public moneys in the interest of men seeking office.

Mr. President, the Senator from Minnesota says that the question of the amount was not the objection, for when the Senate conferees proposed to reduce the amount from $100,000 to $50,000 it seemed to make no difference; so that we have the purpose of this amendment opposed in this conference.

What are the facts with reference to the Engineer Corps? Many of us have been disposed to criticise the Engineer Corps for lack of initiative. We have complained that it never yet has presented a full and comprehensive plan to Congress for a system of waterways. I shared in that complaint and in that criticism, until finally my attention was called by a prominent officer of the Engineer Corps to the fact that in almost every river and harbor bill the Engineer Corps of the Army has been expressly forbidden by the terms of the river and harbor bill itself to report upon anything except the matter submitted to them by the bill, so that the Engineer Corps of the Army was itself in chains, imposed by Congress in aid of the spoils system that has so long prevailed. Finally a year ago the Chief of Engineers of the Army concluded to act outside of the mere matters submitted to him in previous bills by Congress, and he ventured the suggestion in the mildest of terms—a suggestion which I shall incorporate in the RECORD—that if Congress desired a plan for a related system of waterways, the Corps of Engineers was ready to furnish it; and he indulged in an argument in its favor. It was upon that suggestion that I framed this amendment. It received the careful consideration of the Senator from Ohio [Mr. BURTON], and the Senator from Oregon [Mr. BOURNE], was improved in its general form and character, passed the committee, and was inserted in the bill.

Now, we find that the suggestion of the Engineer Corps of the Army is rejected and that the Engineer Corps of the Army is still in chains. In what contrast has our action been with reference to the great question of irrigation and the great question of the development of the Panama Canal. Upon the question of irrigation we passed a short act of 8 or 10 sections, absolutely giving the Secretary of the Interior the power, upon the approval of any project, to perfect the plans and go on with the work, the only limitation being that no expenditures and no contracts should be made unless the moneys for their payment were in the irrigation fund. You know how that work has progressed since 1902, steadily and continuously and outside of the spoils system, with substantial and satisfactory results achieved within a space of 9 or 10 years.

Then, when we came to the Panama Canal we planned big there; we authorized large expenditures and gave the Engineer Corps of the Army practically a free hand. We are now approaching the completion of that great enterprise. Yet we have expended upon the rivers of this country a sum much larger

than has been expended upon both irrigation works and the Panama Canal without any substantial results in the betterment of our waterways as instrumentalities of transportation. They have been largely thus far the means through which money has been drawn from the Treasury to be expended in the various districts of public men. That perhaps is too severe a statement, for I realize that under the able leadership and direction of the Senator from Ohio, as chairman of the Committee on Rivers and Harbors of the House of Representatives, improvements have been made in the methods of administration; improvements have been made by the creation of Army boards authorized to pass in judgment upon the various projects that were presented, and, finally, a kind of public opinion has been created in Congress to prevent the passage of any bill relating to a project which has not received the approval of the Engineer Corps and of the various boards; but the struggle to accomplish what has been accomplished was a hard one, and now, when we are about to get what public opinion demands and what our party platforms demand, we are defeated by the action of the Representatives of the people.

The responsibility for this does not rest upon the country at large or upon public opinion; it does not rest upon the Executive of the Nation, either Mr. Roosevelt or Mr. Taft, both of whom have made recommendations in this direction; it does not rest upon the Secretary of War, whose judgment coincides with action of this kind; it does not rest upon the Engineer Corps of the Army; it rests upon Congress. This is one of the things so constantly occurring that are impairing the confidence of the people in their own Representatives and inducing them to consider seriously the direct assumption, through the initiative, the referendum, and the recall, of the powers of government.

Mr. President, I wish to enter my protest against the action of this conference committee, and at the same time to express my appreciation to the chairman of the committee, the Senator from Minnesota, and his Senate associates for the determined stand which they made for this amendment.

I now ask unanimous consent to insert in the RECORD the statement to which I have referred of the Chief of Engineers of the Army, taken from his annual report of 1911.

The PRESIDING OFFICER. In the absence of objection permission is granted.

The statement referred to is as follows:

Under existing law reexaminations of existing projects are made by the Board of Engineers for Rivers and Harbors in compliance with resolutions by either the Committee on Commerce of the Senate or the Committee on Rivers and Harbors of the House of Representatives; but these reexaminations are subject to the limitation that no enlargement of the scope of the project can be considered, so that desirable extensions of projects can not be recommended. It is believed that a similar provision of law authorizing the Chief of Engineers to cause a reexamination of projects, at least those not heretofore passed upon by the Board of Engineers for Rivers and Harbors, would be in the public interest. Projects reported under the provisions of section 7 of the river and harbor act of March 3, 1899, as unworthy of further improvement by the United States or considered by the Chief of Engineers as in need of revision could in this way be fully investigated, local interests could be heard, and formal report thereon made for the consideration of Congress. It would seem advisable in connection with any such reexamination to grant authority to consider and report upon any modifications in the nature of enlargements in scope of projects believed to be desirable, when such modifications are recommended by district officers or otherwise brought to the attention of the department.

If desired by Congress, for its consideration in providing for new works, reports could be submitted by the Board of Engineers for Rivers and Harbors and the Chief of Engineers upon the relative importance of the various improvements recommended as worthy of being undertaken by the United States, the order in which the works should be taken up, and the rapidity with which they should be completed, upon methods of standardization by which the waterways of the country could be improved uniformly in proportion to their capacities and to the existing or probable demands of general commerce, or even report upon a systematic scheme of such improvement embracing all waterways, whether heretofore examined and reported upon or not.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. NELSON. I ask that the statement which I send to the desk may be printed in the RECORD immediately following the adoption of the conference report.

The PRESIDING OFFICER. In the absence of objection, that order will be made.

The statement referred to is as follows:

Statement of result of conference on rivers and harbors bill.

Cash appropriations in House bill		$24,062,520.50
Contracts authorized		2,200,000.00
Total of bill as it came from House		26,262,520.50
Total of Senate amendments added	$8,054,010.00	
Reductions made in House items by Senate	233,000.00	
Net increase by Senate		7,821,010.00
As bill came to conference		34,083,530.50

Senate amendments in which reductions were made.

	House bill.	Amount to which increased in Senate.	Amount to which reduced by conferees.	Amount of reduction.
Pollock Rip Channel, Mass. (No. 2)	New.	$250,000	$125,000	$125,000
Jamaica Bay, N. Y. (No. 8)	New.	500,000	300,000	200,000
Delaware River, Pa., N. J., Del. (No. 13)	$1,000,000	1,500,000	1,300,000	200,000
Elk River, Md. (No. 21)	New.	8,200	4,040	4,160
Waterway, Norfolk to Beaufort (No. 24)	500,000	700,000	600,000	100,000
Anastasia Island, Fla. (No. 34)	New.	15,000	Cut out.	15,000
St. Marys River, Mich. (No. 66)	200,000	400,000	300,000	100,000
Columbia River at The Dalles (No. 91)	600,000	800,000	700,000	100,000
Valdez, Alaska (No. 93)	New.	55,000	Cut out.	55,000
Report on continuing-contract system, etc. (No. 106)	New.	100,000	Cut out.	100,000
Total				999,160

Items increased by conferees.

	House bill.	Senate bill.	Amount increased to by conferees.	Amount of increase.
Examination Mississippi River (Senate amendment) (No. 76)	New.	$20,000	$30,000	$10,000
Trinity River, Tex. (No. 52)	$435,000	355,000	440,000	5,000
Total				15,000

House items reduced by Senate and restored by conferees.

	House bill.	Senate bill.	In conference.	Amount restored.
Connecticut River above Hartford (No. 6)	$25,000	Struck out.	$25,000	$25,000
Winyah Bay, S. C. (No. 28)	62,000	$12,000	62,000	50,000
Trinity River, Tex. (No. 52)	435,000	355,000	440,000	80,000
Passaic River, N. J. (No. 12)	5,000	Struck out.	5,000	5,000
Total				160,000

House items reduced by Senate and not restored.

	House bill.	Senate bill.	Amount of reduction.
Youghiogheny River, Pa. (No. 18)	$75,000	Struck out.	$75,000
Broad Creek River, Del. (No. 19)	17,520	$14,520	3,000
Total			78,000

Bill as it came to conference		$34,083,530.50
Reduction by conferees	$999,160.00	
Additions by conferees	175,000.00	
Net reduction		824,160.00
Amount of bill as reported by conferees		33,259,370.50

THE PANAMA CANAL.

The Senate, as in Committee of the Whole, resumed consideration of the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Has the Senator from Connecticut yielded the floor?

Mr. BRANDEGEE. I did not intend to yield the floor, but I will say to the Senator from Michigan, if he desires to speak now and it suits his convenience to do so, I will be glad to yield to him.

Mr. TOWNSEND. I do not care to interrupt the Senator.

Mr. BRANDEGEE. It will be no interruption. If it is more convenient for the Senator to make his remarks now, I am perfectly willing to yield the floor.

Mr. TOWNSEND. I do not care particularly to speak at this time. I will inquire about how much time the Senator expects to occupy?

Mr. BRANDEGEE. I have no set remarks; I have a few scattered remarks to make, but I can make them just as well later if it will accommodate the Senator.

Mr. TOWNSEND. I would just as lief the Senator would proceed.

Mr. BRANDEGEE. Very well. Mr. President, it is difficult to discuss in one speech a bill of this kind in its entirety. It contains so many different subjects of great importance that it seems to me it should not be discussed in all its different features at one time. I think it tends to distract the attention of those who want to understand each particular proposition clearly before they make up their minds to vote for it; and, as soon as such general speeches as Senators care to make upon the bill have been concluded, I think the better and more orderly way would be to ask that the bill be read for amendment, and, perhaps, that the committee amendments should be first considered. The bill has been read in its entirety, the formal reading of the bill having been completed, and it is printed in the RECORD, and I think very shortly the time will arrive when I shall ask the Senate to proceed to its consideration for amendment.

One of the first questions that then will come up upon which I anticipate a difference of opinion will be whether the canal when completed shall be administered by a single officer, in the nature of a governor of the canal or of the Canal Zone, or whether that management and operation and responsibility shall be delegated to a commission. There were differences of opinion in the committee about that, the majority of the Senate committee favoring a commission of three, while I think the House committee was nearly unanimous for a single administrator.

Then comes, I think, in section 5 of the bill, the question of tolls. Mr. President, of course to those who want to bestow the right of free passage through the canal upon American ships, either those engaged exclusively in the coastwise trade or also those engaged in the foreign trade, the question involved in the treaties is essential. While I have views about the treaties, those views do not enter into the determination of the question with me, because I do not want to confer free passage upon American ships of any kind. I have never had that in mind, and I think the Canal Commission has never had it in mind, as will appear in the testimony of Col. Goethals given before various committees, both on the Isthmus and here in Washington. They have always based their estimates of the receipts of the canal upon the theory that we were to charge every vessel that went through there what was stated under the treaty to be a just and reasonable price for the work done. So that while I have views about the treaties, they are merely academic questions with me, so far as my vote is concerned.

I take the view of this canal that it is a great undertaking of an international character, the Clayton-Bulwer treaty providing that it should be the joint project of Great Britain and the United States and the Hay-Pauncefote treaty eliminating Great Britain as a joint partner in the enterprise and giving us exclusive jurisdiction of the control and operation of the canal. I regard it—it being, of course, admittedly the greatest work of human hands in any age of the world's history—as having, so to speak, moved the Straits of Magellan approximately 4,000 miles to the northward

It seems to me that the saving to the coastwise, the port-to-port, trade of this country, conducted by American vessels, to which by this expenditure of $400,000,000, together with its maintenance and armament and defense forever, the canal has been dedicated, a saving of 8,000 miles of travel and all the expense of fuel and maintenance and pay of crew involved in that shortening of time, is a sufficient favor to have been conferred by the General Government upon this particular interest, which already has the additional favor of an absolute monopoly in the coastwise trade.

I for one, while I have the utmost charity of feeling toward any other view, toward any person who differs with me about it, do not consider that because I happen to think it is fairer that each vessel, whether owned by an American or a foreigner, which avails itself of this great advantage which it had never had before, and, availing itself of it, pays to the Government of the United States a sum such as some commission or the President or the proper person shall fix to reimburse, to a certain extent at least, the Government or help to pay the interest upon this tremendous sum of money of the people raised by taxes upon the property of all the people—I have never thought that I entertained any unpatriotic view because I favored the collection of that small, reasonable sum from these ships, which already have this exclusive market and this great favor conferred upon them. Because the Government of Great Britain takes the same view that I have always held and which the commission has held and which I think prevailed until, I will not say this propaganda but this demand arose from those who own ships and those boards of trade and chambers of commerce throughout the country which are naturally influenced in favor of free passage—because I have taken that view and Great Britain takes that view later on in the construction of the treaty I do not think there is anything unpatriotic about trying to make the ships for which this is to a large extent a special favor, for their benefit, pay their own way instead of asking the American people—everybody—to whom it may be no special benefit, to be taxed for them, whereas in my opinion it is a special benefit to the class I have mentioned.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Oregon?

Mr. BRANDEGEE. Certainly.

Mr. CHAMBERLAIN. I desire to submit to the Senator whether or not the argument he is now making for charging tolls on vessels engaged in the coastwise trade would not be equally applicable to vessels plying the Mississippi River, passing through the locks of that river, or to the traffic up and down the Columbia River or the Sacramento River or through the Great Lakes, where the Government maintains systems of canals and locks? Now, the moneys which have been appropriated from time to time by the Congress of the United States for the construction of these locks and dams and for the improvement of these rivers, and the improvement of harbors as well, is in the nature of a general tax taken from the people of the whole country, and the traffic that goes through the canal between ports on the Atlantic and ports on the Pacific is just as much interstate traffic as the traffic which goes up and down the Mississippi River or any other of these streams through the canals and locks constructed by the Government.

I should like to ask the Senator from Connecticut, if the reasoning which he is now urging upon the Senate is to apply, inasmuch as the people are taxed for the construction of the Panama Canal, would it not reverse what has been the policy of this Government for a hundred years to compel a charge to be levied upon vessels passing through the rivers and harbors of the country?

Mr. BRANDEGEE. Mr. President, that is the claim of those who believe in free passage for our American coastwise vessels. In my judgment it is not well founded, but I will say to the Senators interested in this matter that I think there is almost nothing new to be said on this subject. If Senators care to inform themselves about the claims of both sides, and if they will take the CONGRESSIONAL RECORD of this session and look at the House debates, commencing at page 7219, I think they will find there is almost nothing new left to be said on the subject.

I certainly do not propose to take the time of the Senate to rehearse all the views which are already upon record, contained in the reports of the House committee, the majority and the minority reports; contained in the testimony before the House Committee on Interstate and Foreign Commerce and in the testimony before the Committee on Interoceanic Canals of the Senate on the House bill which we are now considering, and in the volume of testimony taken by the Committee on Interoceanic Canals at Ancon, in the Canal Zone, on October 28, 1911, known as Senate Document No. 191.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from California?

Mr. BRANDEGEE. Certainly.

Mr. WORKS. The Senator from Connecticut has made a statement of the advantage that would accrue to American ships by reason of the shortening of the distance resulting from the construction of the canal. That advantage would accrue also to foreign ships to the same extent?

Mr. BRANDEGEE. To whatever extent they use the canal.

Mr. WORKS. Then no advantage is given American ships over foreign ships in that respect?

Mr. BRANDEGEE. I do not think so. I think it is given to all the ships that find it an advantage to go that way rather than through the Suez Canal.

As I said before, it has been my opinion until this session—and it is still my opinion, and was before this session, and I think the opinion of most people whom I have heard talk about it—that all vessels ought to be charged. The object of this legislation was to open the canal, start it running, charge all vessels alike, so much per ton, and after a few years, basing action upon the experience of what will then have been the past, and what is now the prognostication for the future, have some firm facts under our feet upon which to stand and base our future course.

Mr. CUMMINS and Mr. CHAMBERLAIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Connecticut yield, and to which Senator?

Mr. BRANDEGEE. I yield to the Senator from Oregon.

Mr. CHAMBERLAIN. I yield to the Senator from Iowa.

Mr. CUMMINS. In view of the question put to the Senator from Connecticut by the Senator from Oregon, I should like to ask him a further question. Suppose the Government of the United States were to yield, as I think it ought to yield, to a very urgent demand for the construction of a railroad in Alaska, from one of the ports to the interior coal fields. It would be built from taxes collected from the people of the United States.

Does the Senator from Oregon think that if we were to do that we ought to transport the freight over it without charge; and if he does not, what is the difference between charging for freight over a governmental railway and charging for freight over a governmental canal?

Mr. CHAMBERLAIN. Does the Senator from Iowa ask me that question?

Mr. CUMMINS. I really propounded it to the Senator from Oregon through the Senator from Connecticut.

Mr. BRANDEGEE. I pass it along.

Mr. CHAMBERLAIN. I simply say there is this great difference, Mr. President, between the two situations as put by the Senator from Iowa.

The waterways of this country, or many of them, are maintained for the purpose of regulating the rates by rail. There are waterways improved in this country at the expenditure of vast sums by the Government which are practically not used, but ready to be used whenever it becomes necessary to utilize them for the purpose of regulating freight rates.

Now, so it is with the Panama Canal. My opinion is if vessels engaged in the coastwise trade are permitted to go through the canal free of tolls the immediate effect will be the reduction of freight by the transcontinental railways and the regulation of freight rates by the transcontinental companies, while the construction of a railroad in Alaska would have no such effect. That would be the construction of a great public improvement principally for the development of a particular section of the country, as I understand, while on the Isthmus the construction of the Panama Canal is for the purpose largely of regulating transcontinental rates on freight.

Mr. BRANDEGEE. The hearings before the committee are filled with the views and claims of all parties to this controversy, and not only both sides of this controversy, but all that could be learned from everybody who desired to appear on all the other controverted features of the bill.

I am glad to say this sort of debate we are having now in my opinion simply illustrates the almost hopelessness of trying to get anywhere on a single proposition when we are confronted with a bill involving a dozen different propositions. Of course if Senators have read this record, as the committee has heard the testimony, they have made up their minds about it. What I am saying I am not saying with any idea of trying to make any Senator come to my opinion about any of these things, but I thought it was my duty to state very briefly and informally the convictions I have come to, without attempting to convert anybody. But the minute I try to make a statement of my position in regard to tolls—and then I was coming to other things—I am asked a series of questions which would take me over the whole field.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Oregon?

Mr. BRANDEGEE. Certainly.

Mr. CHAMBERLAIN. I have read the reports to which the Senator a while ago called attention, and I have been particularly edified by his industrious efforts to reach out and ascertain the truth of this whole discussion; and I commend the efforts of the Senator both then and now.

But from the Senator's argument now, Mr. President, it seems to me he places this largely upon the same basis that Col. Goethals does. If I read his testimony correctly he thinks the Panama Canal ought to be a paying proposition, and not only ought it to pay for the actual expense of maintenance, but in the end it ought to realize enough to reimburse the Government for the amount actually expended in its construction.

I do not believe, Mr. President, that that is the understanding of the people of this country, any more than that some system of tolls ought to be charged on other highways for the purpose of reimbursing the Government for the amount of money expended in that construction.

I ask the Senator now if it is his idea that tolls ought to be placed at such a figure, both on American shipping, whether coastwise or not, and on other commerce, as would be sufficient to reimburse the Government for the amount of moneys expended in construction, as well as the moneys paid out for maintenance.

Mr. BRANDEGEE. No, Mr. President; it is not. I will reply to the Senator's several questions if I can recollect them; but before I do that I want to ask unanimous consent to put into the CONGRESSIONAL RECORD at this point the suggestions and recommendations made by Col. Goethals to the committee on the Isthmus, which appear in the hearings, beginning on page 2 and going down to the bottom of page 5, as marked.

Mr. BACON. Mr. President, I would suggest that while the Senator need not take time to read the matter in detail, he might state the substance of it, so that we may have the benefit of it in the course of the discussion.

Mr. BRANDEGEE. There is so much of this testimony that, of course, I hate to cumber the RECORD with it, or to bore other Senators by rehearsing it; but the Senator from North Dakota [Mr. MCCUMBER] has asked that the Secretary read this recommendation of Col. Goethals. Probably that will take no longer time than it would take me to pick out what I consider the essential parts of it. Therefore I will send it to the desk, and ask that it be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

SUGGESTIONS AND RECOMMENDATIONS.

The estimated date for the completion of the canal was based on the report of the International Board of Engineers, submitted in 1906, and was fixed at January 1, 1915. In the meantime the work advanced more rapidly than had been anticipated, and it became apparent that it would be possible to pass vessels through the canal at least a year earlier than this date. Becoming aware of this contingency and realizing the necessity for commerce to adjust itself to the new conditions, the shipping interests of the world raised the question of canal tolls in July, 1910, and urged an early settlement. Attention was called to the fact that at least 18 months' notice of the rates should be given in order that steps might be taken in time to change routings that would follow if the canal were used. If rates are such as to warrant the adoption of the new route, commerce will adjust itself to its utilization as soon as possible; if not, the old channels will continue to be followed. Inquiry not only confirmed this statement, but developed the fact that the organization of new companies for use of the canal was contemplated, provided the established rates should be sufficiently attractive. It was developed also that two years' advance notice was desired in order to permit the building of the necessary ships.

It is of course desirable to put the canal in use as early as possible, not only to secure a financial return, but also to have everything in good running order, so as to insure the passage of the fleets of the world for which Congress has made provision, without confusion or delay.

To determine, then, the approximate date when the canal would be ready for use and to report what steps, if any, should be taken to expedite the work, a board was convened, composed of those charged with the work in progress and contemplated. Based upon the report of this board, announcement was made that all the concrete in the locks at Gatun would be laid by June 1, 1912, and in the locks on the Pacific side by October 1, 1912; that, assuming the gates were completed by June 1, 1913, as stipulated by the contract, the locks would be ready for use on this date if the operating machinery were installed; that the work on the spillway at Gatun would be completed to the elevation of 50 feet by April 1, 1912, and the entire dam would be finished by the close of the dry season of 1912–13; that the excavation through Culebra Cut would be completed by July 1, 1913, if no more material due to slides had to be removed than was estimated at that time; and that the exterior channels would be sufficiently advanced to pass the shipping that would use the canal.

It was desirable, therefore, that legislation should be provided without delay for the establishment of tolls, and should be sufficiently flexible to permit of ready change should conditions arise to warrant it. After the enactment of the necessary legislation, and before fixing the rate, data should be prepared showing the amount of traffic that might be expected, upon which to base the rate, and rules for measuring ships should be formulated so as to determine the charges to be made for various vessels.

A year has elapsed since the report upon which the statements heretofore made were based, and though an increase due to slides was made in the estimated amount of material to be removed from the Culebra Cut, this increase gives no grounds for changing the date; moreover, after the completion of the locks dredges can be passed into the cut, and the remaining material can be removed more economically and to better advantage. Though the division engineer can not complete all the concrete work on the Gatun Locks by the time first estimated, and now fixes the date as January 1, 1913, this will not interfere with the erection of the gates (the concrete needed for this purpose being practically in place) nor cause any delay to the work as a whole. Progress made in the construction of the dam confirms the promise of its completion. The division engineer adheres to the date heretofore announced for completing the locks on the Pacific side. The erection of the gates has not progressed as contemplated by the contract, but the shop work is well advanced, and by increasing the erecting force there should be no delay on this account.

The assistant chief engineer has taken all steps necessary to insure the delivery and erection of the operating machinery and lighthouses and anticipates completing them on time. The contract recently made for the emergency dams calls for completion of the last one by June 15, 1913.

The need for legislation looking toward the fixing of tolls is therefore urgent. Time can be saved in making public announcement of the rates to be charged by compiling, in advance of legislative action, the data of the amount of traffic that will probably use the canal and the formulation of rules by which the tonnage of ships is to be determined. Steps to this end have been taken.

Another matter needing attention is the organization of the operation of the canal and for the government of the Canal Zone. These

two are intimately connected. Existing law provides for the construction of the canal; also for the exercise of the military, civil, and judicial powers necessary for the government of the Canal Zone during a period which has already elapsed.

As the work nears completion it is intended to concentrate the construction until what remains will be in immediate charge of the directing office, thereby reducing the costs and, as far as possible, the overhead charges. It is believed that a more satisfactory operating force can be secured by the selection of suitable men from the present organization. There has been considerable criticism because of the high wage scale that exists, but this is due to the fact that it was difficult to obtain men when the work started on account of the bad reputation of the country and also because of the temporary character of the work. Complaints are made constantly because the salaries are disproportionate to responsibilities and because of the lack of uniformity in the percentage of excess over the wage scale for similar labor in the States. After the inauguration of the scale it was not considered advisable to make any reduction, and rearrangements were made from time to time as necessities required, but inequalities still exist. Conditions are different now; the Chief Sanitary Officer declares the death rate of the zone to be "much lower than that for most parts of the United States," and the general health of about 8,000 white Americans in the zone to be "fully as good as it was in the United States"; also, continuance in employment can be assured. It is believed that a lower wage scale can be put into effect for operating the canal and that the necessary force can be secured from the men who will remain in the service during the next year or two. This is an important consideration, since it is essential that the cost of operation shall be reduced to a minimum consistent with efficiency. With the operating organization provided for, steps can be taken to adopt a salary and wage scale, after which there can be created from the construction force one for operation without delay or confusion.

The total outlay for maintaining the canal will be for wages of the force engaged in its operation, the expense of engineering work connected therewith, and the cost of sanitation and civil administration. It is difficult to foresee the uses to which the land in the zone may be put. There are, all told, within the limits of the zone 436 square miles, of which about 73 square miles are in private ownership and 363 square *miles* owned by the Government (i. e., either by the commission or the Panama Railroad Co.); of the latter, 96 square miles are occupied by the canal. A large part of the Government land will be required for military and naval purposes, and it is not unlikely that additional lands will be required by other departments of the Government. The position of the Republic of Panama and its two cities with respect to the zone makes it necessary in the interest of harmony that the Spanish laws now in force shall obtain. The rules and regulations for the government of the zone made effective subsequent to the Fifty-eighth Congress should be approved and changes should be authorized to meet new conditions as they arise.

Under existing law lands may be leased for a period not exceeding 25 years, with the understanding that the cost of all improvements shall be reimbursed to the lessee in case the lands are needed for other purposes. It is generally the rule that land taken for governmental purposes is never sufficient and must always be extended, and from experience gained in the prices agreed upon for lands taken for canal purposes the improvements are always expensive. For the most part the configuration of the ground is not suitable for exteusive farming; material obstacles tend to hinder agricultural development; a perpetual title can not be assured, and the Spanish system of taxation must be continued to avoid friction on account of unfair competition with the Panamans. The inducements offered are not likely to attract Americans. Other occupants are not desirable. The town sites already established are populated by laborers, a class which should be repatriated after work can no longer be given them, and the growth of such towns should be discouraged. The greater the amount of land leased and the number of town sites established and occupied, the greater will be the cost of sanitation and civil government. For several years to come at least it is believed that the best policy will be to keep all Government lands for Government purposes. Whatever military force is located on the Isthmus will be charged with its own sanitation. The reservation of all lands for governmental use would result, therefore, in minimum costs for these two items.

The Canal Zone occupies a unique position among the outlying possessions of the United States, and on this account requires special treatment. The construction of the canal is the original purpose for which it was obtained, and to this purpose everything within the zone is made subordinate. In the same way, after its completion, everything must be subordinated to the operation of the canal. Assuming that the canal is being built for the benefit of the commerce of the world, it nevertheless is a military asset to the United States, and conditions may arise in which the military necessities of the Nation will become paramount. It is essential, therefore, that an entity should be established or created and so organized that any contingency can be promptly met as soon as it rises. In other words, while during certain periods the operation of the canal is for commercial purposes, entirely separate and distinct from the military, there are times when the military necessities must predominate.

Every known precaution has been taken to insure the safety of the locks. Accidents to locks have in nearly every case resulted from misunderstood signals in the engine room. To avoid any possibility of accident which might render the canal useless the authorities should assume charge of all vessels during their transit of the locks; under such conditions any damage that may result to the vessels should be assumed by the Government, and legislation looking to this end is necessary.

The revenues of the canal should go to pay not only the operating expenses, but to repay the capital invested. Every legitimate means for increasing the revenue should therefore be adopted. The Government should have coal and fuel oil on hand for its own vessels, and these commodities should be sold to shipping using the canal. These should be supplied at an established rate and purchased after advertisement. The existing commissary, manufacturing plant, and laundry should be continued for the benefit of Government forces and to furnish supplies and service to shipping. A wireless telegraph station should be established for commercial as well as military purposes. The canal authorities should be authorized to sell tools and appliances needed by ships and to make repairs as may be necessary while ships are in the vicinity of the canal. A dry dock should be built with dimensions conforming to the locks. Both the dry dock and machine shops would be available for use by the Navy. If this policy is to be adopted, early legislation is needed in order that the construction necessary to make it effective may be undertaken without delay.

Mr. BRANDEGEE. Now, Mr. President, recurring to the inquiry of the Senator from Oregon as to why the Panama Canal should not be treated in the same way and subject to the same general governmental policy that our internal waterways and coastways and harbors are treated by the Government, it seems to me that there is no analogy whatever between those two matters. Some people say that the Panama Canal should be considered as simply a continuation of our coast; that it is a strip of water connecting our Atlantic coast with our Pacific coast. Of course that is not so. It is a strip of water connecting the Atlantic Ocean with the Pacific Ocean, just as the Straits of Magellan now connect the two oceans, removed 4,000 miles nearer American soil, but still 2,000 miles removed from American soil. We have built no canal in our own country or in our own sovereignty. We have a treaty which permits us to build and operate the canal in a foreign country, and while we have the sole right to the possession, and exclusive possession and operation of it, the Government of Panama retains the sovereignty of it.

The language of the treaty is peculiar. We can do everything in relation to canal purposes that we could if we had the sovereignty, but Panama retains the sovereignty. We have built a canal on foreign shores, and to say that simply because it is a great canal and is of advantage to our ships that want to go from our Pacific coast to our Atlantic coast, and vice versa, therefore it should be treated as one of our internal waterways, it seems to me is not in point at all.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Nebraska?

Mr. BRANDEGEE. Certainly.

Mr. HITCHCOCK. Is not the Senator mistaken in saying that Panama retains the strip of land through which the canal runs?

Mr. BRANDEGEE. I do not think I am.

Mr. HITCHCOCK. I understand that Panama gave up the sovereignty of the strip in which the canal passes.

Mr. BRANDEGEE. No; I think the Senator is mistaken, if he understood it that way. The treaty itself will speak about that, however. It is right here, and I will look it up as soon as I take my seat.

Mr. HITCHCOCK. For a few miles on either side of the canal Panama cedes the sovereignty to the United States.

Mr. BRANDEGEE. I think not.

Mr. HITCHCOCK. That was exactly the issue between Colombia and the United States. We demanded of Colombia that she should give up the sovereignty of this strip and upon that point her statesmen declared that they lacked the power to yield the sovereignty, and therefore could not enter into the treaty with the United States.

Mr. BRANDEGEE. That is just what I claim, that Panama took the same position and retained the sovereignty.

Mr. HITCHCOCK. On the other hand, Panama being a little Republic created for the purpose very promptly ceded the sovereignty to the United States.

Mr. BRANDEGEE. I will put in the provision of the treaty as soon as I take my seat and let the treaty speak for itself. As for that matter, I am perfectly certain that Panama retained its sovereignty and we have a right to do everything that we need to do there in the construction of a canal. However that may be, it is not material.

Mr. PAGE. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Vermont.

Mr. PAGE. I should like to ask the Senator from Connecticut, in this connection, if the exact language of the treaty is not that while we have all the rights of sovereignty, so far as this particular strip of land is concerned, we do not have the sovereignty in the respect named in the treaty.

Mr. BRANDEGEE. I would not say that that was the exact language of the treaty, but that is the exact substance of it, as I recall it. I thought myself, when I looked at it, that it was rather a peculiar provision, but we got the substance of what we wanted, and we were willing to defer to the patriotic sentiment that that Government would naturally have about yielding to a foreign power the sovereignty within its own territorial limits.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Oregon?

Mr. BRANDEGEE. I do.

Mr. CHAMBERLAIN. I call the attention of the Senator to the treaty between the United States and the Republic of Panama, article 2, which provides:

ART. II. The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land

under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea 3 marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of 3 marine miles from mean low-water mark, with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant.

As I understand it, that is the only exception.

The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

I think you will find that Col. Goethals, either in the statement that was just read or in the testimony before one or other of the committees, spoke about the disposition of the soil.

Mr. PAGE. May I interrupt the Senator there?

Mr. BRANDEGEE. I will say to the Senator that I assume he is reading from the CONGRESSIONAL RECORD.

Mr. CHAMBERLAIN. Yes.

Mr. BRANDEGEE. I am reading from the convention between the United States and the Republic of Panama for the construction of a ship canal to connect the waters of the Atlantic and Pacific Oceans, signed at Washington November 18, 1903, and I read from article 3, as published on page 269 of the Senate committee hearing on the Canal Zone, as follows:

ART. III. The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Mr. HITCHCOCK. That is it.

Mr. CHAMBERLAIN. It seems to me that those two provisions not only cede this strip to the Government of the United States, but that Panama absolutely surrenders to the Government of the United States jurisdiction and sovereignty over the strip.

Mr. BRANDEGEE. It does not seem so to me at all. It seems to me as though Panama granted to the United States the rights, so far as the construction of the canal are concerned, which the United States would have if it were sovereign, but it does not say it is sovereign.

But, as I said, I do not want to be drawn into these side passages, because that is of no consequence whatever, in my opinion; it has no relevancy to the question which the Senator from Oregon propounded to me. I am trying to differentiate——

Mr. CHAMBERLAIN. If the Senator will pardon me——

Mr. BRANDEGEE. I yield to the Senator.

Mr. CHAMBERLAIN. I think it is important here, because the Senator has insisted that there was no parallel between waterways in our own country and the construction of the Panama Canal, and I have insisted that the waterways in our country are within our own boundary and that the construction of the Panama Canal is through land which practically belongs to the United States and over which Panama has ceded jurisdiction.

Mr. BRANDEGEE. As I view it, Mr. President, we simply have a right to build a canal and maintain it there under the treaty, just as a railroad when it has condemned land. I suppose if we abandon that canal and fail to maintain a canal there the United States would never claim that the 10-mile strip is a part of this territory or its possessions.

To be sure they own land there in fee, but they acquired it by treaty. I say, however that may be, the fact remains that this canal is built through a strip of land 2,000 miles removed from continental United States on the Isthmus of Panama below Central America, between Central and South America, and it seems to me to be a wild stretch of the imagination to say that when it was to a large extent constructed for military and naval purposes, in addition to commercial purposes, it should be treated on the basis of the declared policy of the Government as to the administration of its internal waterways and coast harbors.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Kansas?

Mr. BRANDEGEE. I do.

Mr. BRISTOW. Speaking of the possible abandonment on the Isthmus of the strip which we now own and control, is it not a fact that we have acquired practically all the real estate on, or we make provision in this bill to acquire all the real estate in, this strip from private holders and make it a part of our own possessions—Government land?

Mr. BRANDEGEE. I am listening to the Senator.

Mr. BRISTOW. Have we not done that?

Mr. BRANDEGEE. I did not know the Senator had concluded. Certainly, Mr. President, we acquired it. It is a complicated matter. It has all been gone into before the committee. When we took over the French company and made the treaty with the Government of Panama, we acquired various properties and rights which the old company had, and we have some rights under other treaties now.

I wish to call attention of the Senator from Kansas to the fact that the mere possession or ownership of the fee of land by this Government or by one of its citizens in a foreign country does not give this Government or its citizens any sovereignty.

It holds it subject to the country where it is located. The fact that our Government may own a thousand acres of land within the Republic of Panama and adjoining the central line of the canal does not of itself give us any governmental rights there. The only rights we have there are those which we acquire by the treaty.

Mr. BRISTOW. But we do not own this land in a foreign country subject to the sovereignty of that foreign country. It is subject to our own sovereignty.

Mr. BRANDEGEE. The Senator knows very well—and I say with all due respect to him, one of his grievances is that while our citizens in Colon own pretty much all the city, it is all subject to the taxing laws of the Government of Panama, and our people owning the land there, being in the minority, are subjected to the local tax laws and pay for all the public improvements there in the city of Colon. So agitated was the Senator, if I may say so without violating the confidence that he imparted to me, he would like to see the treaty amended so that we could exchange with the Panaman Government certain lands for which we have no particular use and they could cede to us these lands which would be of use to us by allowing our people to govern themselves there.

Mr. BRISTOW. Yes; I am free to say that one of my objections to the treaty was that we permitted a foreign government to have a municipal dominion within our own territory. I think it was a very grave mistake.

But, again, the Senator suggested that this was a strip of land 2,000 miles from our country, and that it was acquired for certain purposes. The Hawaiian Islands are 2,000 miles from our shore and still we are expending money there improving harbors, and so forth. It seems to me that there is practically no difference in the relationship of the Panama Canal Zone and the Hawaiian Islands or Porto Rico, as far as sovereignty goes.

Mr. BRANDEGEE. The question of the sovereignty, as I said before, I regard as immaterial. Now, as to the views of Prof. Johnson upon this question of——

Mr. REED. Before we leave that question, if it will not disturb the Senator——

Mr. BRANDEGEE. Not at all.

Mr. REED. I want to call attention to the fact that there are two separate provisions contained in this treaty with reference to the rights of the United States. I think by paralleling them we will get a clearer view of what was intended with reference to the question of sovereignty. Article 2 contains the language——

Mr. BRANDEGEE. What page is the Senator reading from?

Mr. REED. I am reading from page 269 of Senate Document 191, Sixty-second Congress, second session. Article 2 contains the following language:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed.

Then follows a description more in detail.

The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals.

Then follows more description:

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described, etc.

Now, that is a grant of property; that is a property grant.

Mr. BRANDEGEE. No; it grants the use, occupation, and control of the property.

Mr. REED. Yes; but that use, occupation, and control is a property right, a property grant. It is such a grant as could be made and would be made by a sovereign to some person or

government with relation to property, the sovereignty of which still remains in the grantor. If we stopped there the contention of the Senator from Connecticut would be fully sustained by the text of the treaty.

But now we come to article 3, a separate article, dealing with a separate question. We have already dealt with the question of property, a property question, the right to take, the right to improve, the right to condemn, the right to acquire property interests, and to utilize the property rights. We pass over that now, all of it being contained in article 2, to article 3, and we find that we are dealing with a different subject matter, and what is that subject matter?

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II.

I go back a moment. It grants—

All the rights, power, and authority within the zone mentioned and described in article 2 of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Now, article 2 deals with property rights and article 3, it seems to me, deals with sovereignty rights; and when the Government of Panama grants to the United States all such rights and powers as it would have if it were the sovereign, that language means no more and no less than if it would say, "We hereby grant to you the full right of sovereignty." That is made plainer by the language which follows:

To the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Mr. President, if the Government of Panama grants to the United States all of the powers the United States would have if sovereign, that in itself makes the United States sovereign, but when it follows that and excludes itself from any acts of sovereignty, it must be true, it seems to me, that as the sovereignty is always vested somewhere, in some government, if the Government of Panama makes a grant which excludes it from the exercise of any sovereignty, then that does not leave this strip of ground without any sovereignty; it must be somewhere; and as sovereignty is abdicated by the Government of Panama and in favor of the Government of the United States, there can be no question, in my opinion, but that we are the undisputed sovereign of that tract of land.

You can not conceive of a piece of ground occupied by human beings upon which there is a civilization without having a sovereignty, and as the Government of Panama has excluded itself from sovereignty by these words and has granted all of the rights to this Government that it would possess if it were a sovereign, this Government becomes ipso facto the sovereign.

Mr. BRANDEGEE. Mr. President, I totally disagree with the Senator from Missouri in that matter. I will put in the RECORD later, as soon as I can find it, a letter written by President Taft, who was then Secretary of War, to one of the canal authorities in relation to this very question of the construction of the treaty, giving the view entertained by him. It is all in the hearings here. This question was discussed before the committee on the zone. If I recall the President's words, they were that Panama retains simply the titular sovereignty; that we have the actual rights of sovereignty, the right to govern it, and so forth, but they retain the titular sovereignty. That is my view of it.

Mr. REED. In other words, the Senator, I take it, would liken it to a deed to a piece of property in which the naked title was retained in trust by somebody else, but you never can find a deed of that kind which retains even the naked title that contains the language of entire repudiation of any right on the part of the trustee. You can not find such a deed that has in it language to the entire exclusion of any rights on the part of the trustee.

I am sure the Senator knows that we are simply trying to get at this as it is. I think it is a fundamental question in discussing this case. I have great respect for any opinion that the President may have given at the time of these negotiations. But these matters are always settled by the language of the instrument itself, and I do not know how you can have a repudiation of all acts and powers of sovereignty and at the same time retain sovereignty. I do not know how you can do it.

Mr. BRANDEGEE. As I said before, Mr. President, of course I do not expect to change the Senator's opinion, and I have no quarrel with him about it. I am willing he should retain that view of it.

Mr. REED. I am trying to change the Senator's view.

Mr. BRANDEGEE. When I quoted the President's view I did not do it with any idea of having Senators think I wanted them to defer to the opinion of that distinguished lawyer, if they had a contrary opinion, but simply in passing to state that that question had been considered, and when he was Secretary of War he had taken that view and so written to the commission.

From my point of view I can not conceive that there is any signification whatever in the language of article 3, in which the Republic of Panama grants to the United States all the rights, power, and authority within the zone which the United States would possess and exercise if it were the sovereign of the territory, unless it were not the sovereign. But be that as it may, the Senator from Missouri says this is the fundamental question in the whole matter. I do not agree with him on that, either.

Mr. REED. I said a fundamental question.

Mr. BRANDEGEE. Very well; I do not consider it so. I am trying to get away from it, because I do not consider it so. I simply say that I do not think the canal ever was thought to be upon the basis of dredging out a harbor or dredging out a river in the promotion of our interstate commerce; but I have considered the canal to be in no respect different from the Straits of Magellan, except that it was to move those straits nearer to the United States and except that in order to pass through those straits we had to use mechanical devices. That is all the difference that I think exists. I think if we had gone down to the Straits of Magellan and put in machinery there, if it had been necessary, to connect the Atlantic and Pacific Oceans, there would then be no parallel between that operation and the administration of our internal waterways. I am simply saying that is my view of it. So I, from the beginning, have been in favor and still am in favor of making that canal as free of access to every vessel in the world as it may be. I am in favor of treating it as a great arm of the sea. I am in favor of giving it its broadest international significance, of administering it in a way not only to promote the commerce of the whole world and to induce more frequent coming to both our coasts by not only our own commerce but the commerce of the whole world, but to administer it in a way, so far as possible, to secure the good will of the whole world and to avoid any international complications or animosities. I think that will be done if we shall proceed as I have indicated.

The senior Senator from Missouri [Mr. STONE] has indicated that even the views of Prof. Johnson are not entitled to great weight, who has devoted years and years to the investigation of this subject and has availed himself of all the information that is on file anywhere of all the tolls and counts and the passages of vessels between particular ports, the frequency of their voyages and their destinations, and the proportion of cargo carried hither and thither, who has availed himself of everything that is in the libraries and the archives of the bodies of commerce of the world. It must be admitted that his conclusions are not infallible. The Senator from Missouri evidently does not give them great weight. I do not know how much weight to give them. At the best they are the scientific guessings of a man who has devoted his best efforts to analyzing all the evidence available as his prophecy for the future.

I say I would open this canal upon the same terms to all the vessels of the world. I would allow the President or some commission appointed by him to run it. I would give them the authority to fix the tolls.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Iowa?

Mr. BRANDEGEE. I do.

Mr. CUMMINS. May I interrupt the Senator from Connecticut to make a brief statement?

Mr. BRANDEGEE. Certainly.

Mr. CUMMINS. Something that I said a few moments ago might be used as a basis for the impression that I question the correctness of Prof. Johnson's statement.

Mr. BRANDEGEE. I referred to the Senator from Missouri [Mr. STONE].

Mr. CUMMINS. I understand that. I have the very highest regard for Prof. Johnson's opinions in this matter. I believe he is better qualified to express an opinion with regard to the volume of traffic that may pass through the Panama Canal than is any Senator, because he has given so much more study to the subject; but the error into which we may fall if we accept his view implicitly is this: His view does not take into account the adjustment of tolls at varying rates as against our competitors. For instance, suppose the Suez Canal should cut its rates in half, that would make a great difference in Prof.

Johnson's estimate; suppose the transcontinental railways should reduce their rates by half, that would make a very great difference in the amount of traffic passing through the canal. I call this to the attention of the Senate now, because we ought to consider carefully what Prof. Johnson said. I, for one, believe that we shall have to adjust our rates on the business in which we compete with the Suez Canal according to rates maintained by the Suez Canal. I believe we shall have to adjust our rates on business destined to our western coast in order to allow competition with our transcontinental railroads. I believe we shall have to adjust our rates on business destined to the western coast of South America according to the cost of doing business around Cape Horn. Therefore, the factors taken by Prof. Johnson in his investigation and upon which he gave his estimates, valuable as they are, must necessarily be variable factors if we attempt to meet the competition of the rest of the world in fixing rates through the Panama Canal.

I feared that something I said a few moments ago might lead the Senate to believe that I did not give proper credit to Prof. Johnson's deductions. I want to be clearly understood about that, because I think that he has as intelligent and learned a view as anyone whose statement upon the subject I have ever read.

Mr. BRANDEGEE. Mr. President, I agree to a great deal of what the Senator from Iowa has said. What I was saying was not intended to be any criticism upon him or upon the senior Senator from Missouri nor any intimation as to their good faith or as to their opinion of Prof. Johnson; I was simply endeavoring to show that, no matter how much a man may have investigated this subject or how well qualified he may be to form an opinion now, it is at best a scientific guess and the estimate of a great many variable and complicated things which may happen in the future.

I want to call the attention of Senators to the fact that Prof. Johnson's testimony upon all these questions is to be found in the Senate committee hearings, beginning a little before page 25 and running along after that point. He discusses these questions, of course simply giving his best judgment. Col. Goethals is in favor, and I am in favor, whether rightly or wrongly, of what he believes to be the wisest course. Possibly it may turn out to be the wrong course, but it is a safe course, it seems to me, to say nothing about free passage to anybody at present and authorize the President or a commission or somebody that can have the benefit of this testimony and then of their own studies to fix the tolls on all vessels that go through the Panama Canal, and run the canal a year and see what happens, ascertain whether the canal receipts are such as would indicate that the rate is low enough to attract business from our competitor, the Suez Canal, and with authority to raise and lower rates within definite limits, allowing them some discretion so as to adjust the rates along the lines of a sliding scale as the immediate needs might demonstrate was proper.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from North Carolina?

Mr. BRANDEGEE. I do.

PROPOSED VOTE ON WOOL, SUGAR, AND EXCISE BILLS.

Mr. SIMMONS. Mr. President, I have asked the Senator from Connecticut to yield to me only for a moment in order that I may make a request.

I realize fully the embarrassment and inconvenience of the present situation in the Senate, and I am anxious, if possible, to reach some agreement by which that situation may be relieved. I desire to ask Senators on the other side of the Chamber if it is not possible for us to enter into an agreement providing for a vote upon the wool bill, the sugar bill, and the excise bill at some early day?

Mr. SMOOT. Mr. President, I am positive there is no disposition on the part of Senators on this side of the Chamber to delay a vote upon those bills; and I ask unanimous consent that on Thursday, July 25, 1912, immediately upon the conclusion of the routine morning business, the Senate shall proceed to the consideration of the bill (H. R. 22195) to reduce duties on wool and manufactures of wool, and that before adjournment on that day we shall vote upon any amendment that may then be pending, any amendments that may be offered, and upon the bill, through the regular parliamentary stages, to its final disposition.

I should also like to give notice that I shall follow this request by asking unanimous consent for a vote on what are known as the sugar bill and the excise bill.

Mr. SIMMONS. I suggest to the Senator from Utah whether he had not better insert in the agreement the word "calendar," so as to read "on that calendar day"?

Mr. SMOOT. Of course I am perfectly willing to insert "calendar day" in the motion, although "that day" means the calendar day.

Mr. SIMMONS. I think it would probably be better to say "calendar day."

Mr. SMOOT. I will accept the suggestion and make it read "calendar day."

The PRESIDENT pro tempore. The suggested unanimous-consent agreement will be stated from the desk.

The Secretary read as follows:

"It is agreed by unanimous consent that on Thursday, July 25, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 22195) to reduce the duties on wool and manufactures of wool, and before adjournment on that calendar day will vote upon any amendment that may then be pending, any amendments that may be offered, and upon the bill—through the regular parliamentary stages—to its final disposition."

The PRESIDENT pro tempore. Is there objection?

Mr. McCUMBER. Mr. President, I desire to ask the Senator from Utah [Mr. SMOOT] if he would have any objection to fixing an hour certain at which the vote might be had on the bill on that day?

Mr. SMOOT. There was some objection to fixing an hour to vote, and I thought it better to leave it merely the calendar day rather than to fix an hour.

Mr. McCUMBER. I think many Senators would like to know what time of the day the bill will be voted on in order that they may be certain to be present at the time; and I ask the Senator from Utah if he would have any objection to providing that the vote shall be taken on or before 6 o'clock on that day?

Mr. SMOOT. I am afraid there would be objection to that request. So far as I am personally concerned, I would not object, but I am positive there would be objection to fixing an hour.

Mr. WARREN. Mr. President, I should like to have the proposed unanimous-consent agreement again read. I did not hear it.

The PRESIDENT pro tempore. The proposed unanimous-consent agreement will again be read at the request of the Senator from Wyoming.

The Secretary again read the proposed unanimous-consent agreement.

The PRESIDENT pro tempore. Is there objection?

Mr. REED. Mr. President, I understand that if we give unanimous consent to this proposition it is upon the understanding that unanimous consent of a similar character will be given with reference to the sugar bill and the excise bill?

Mr. SMOOT. That is the understanding.

Mr. HEYBURN. And the cotton bill?

Mr. SMOOT. That has not been received by the Senate as yet.

Mr. HEYBURN. Yes; but when it comes in.

Mr. REED. With that understanding I do not object.

The PRESIDENT pro tempore. Is there objection?

Mr. HEYBURN. Mr. President, it might be well for us——

Mr. SIMMONS. Mr. President, pardon me, but to avoid any trouble about that, would it not be well to unite all of these bills in one request?

Mr. SMOOT. I am perfectly willing now to present the other requests for unanimous consent and ask that they be read.

Mr. HEYBURN. I merely want to make a suggestion, to avoid leaving the matter to subsequent construction. While it is true the cotton bill is not yet over here, there is tacit understanding that when it comes over it will be subject to the same action.

Mr. SMITH of Michigan. Mr. President, the suggestion of the Senator from Utah, which will necessarily precipitate the tariff bills into this body at a time when they can not be very thoroughly discussed, must be for the purpose of enabling the appropriation bills to be considered without further delay and to the end that we may have an early adjournment?

Mr. SMOOT. I sincerely hope and trust, Mr. President, that that will be the result.

Mr. SMITH of Michigan. I hope that that will be the result. If these bills are not to be gotten out of the way on that theory, they ought to be thoroughly discussed.

Mr. SMOOT. Then I offer the order which I send to the desk providing that a vote be taken upon all three of the bills and ask that it be read.

The PRESIDENT pro tempore. The Senator from Utah, then, withdraws the first request for unanimous consent for the time being?

Mr. SMOOT. Yes; I withdraw my original request for unanimous consent.

The PRESIDENT pro tempore. The Senator from Utah now offers a request for unanimous consent, which will be stated.

The Secretary read as follows:

"It is agreed by unanimous consent that on Thursday, July 25, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 22195) to reduce the duties on wool and manufactures of wool, and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill—through the regular parliamentary stages—to its final disposition.

"And, further, it is agreed by unanimous consent that on Saturday, July 27, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 21213) to amend an act entitled 'An act to provide revenue, equalize duties,' etc. (known as the sugar bill), and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill—through the regular parliamentary stages—to its final disposition.

"And, further, it is agreed by unanimous consent that on Friday, July 26, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 21214) to extend the special excise tax now levied with respect to doing business by corporations to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by individuals and copartnerships, and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill—through the regular parliamentary stages—to its final disposition."

The PRESIDENT pro tempore. Is there objection to the request?

Mr. STONE. I desire to ask a question. If unanimous consent is given to enter that order, I should like to know whether it would preclude the right of a Senator, if he so desired, during the consideration of the so-called sugar bill on Friday to offer the excise bill as an amendment? I ask that because the agreement proposes that the following day, Saturday, shall be set apart for the consideration of the excise bill.

Mr. SMOOT. Mr. President, did the Senator ask for a ruling of the Chair, or did he ask what the opinion of Senators may be upon that?

Mr. STONE. Well, I will ask what the opinion of the Senator is upon it?

Mr. SMOOT. Mr. President, my opinion is that under the unanimous-consent agreement an amendment proposing to attach the excise bill to the sugar bill on Friday would be out of order.

Mr. STONE. Well, I should like a ruling of the Chair in answer to the parliamentary inquiry.

The PRESIDENT pro tempore. The Chair will not undertake to decide a parliamentary question in advance, but the Chair will venture to express the opinion that if unanimous consent is given to consider a certain well-recognized bill, a motion to substitute a bill on an entirely different subject would not be in order.

Mr. STONE. I did not say to substitute; I said to offer it as an amendment.

The PRESIDENT pro tempore. That would be an amendment in the nature of a substitute.

Mr. STONE. Oh, no.

Mr. BAILEY. It would be offered as an addition.

The PRESIDENT pro tempore. An addition; the Chair begs pardon.

Mr. BACON. I desire to suggest that it would not be within the province of the Chair to make a ruling at this time.

The PRESIDENT pro tempore. The Senator is right.

Mr. BACON. That is an impossibility.

The PRESIDENT pro tempore. The Chair would like to suggest——

Mr. BACON. The only thing the Chair can do now is to indicate what his opinion may be, and from that may be drawn a conclusion as to what his ruling will be; but certainly the Chair can not now make a ruling.

The PRESIDENT pro tempore. The Senator from Georgia is right. It was a mere suggestion upon the part of the Chair.

Mr. BACON. And I desire to say furthermore in regard to the matter while opinions are being expressed that, although no ruling can now be made, certainly under the rules of the Senate there is no limitation to the power of amendment, except so far as general parliamentary law may be invoked that a matter is not germane or otherwise pertinent to the particular subject in hand; but the question of the unanimous consent can not affect that parliamentary situation.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. If the Senator will permit the Chair a moment, the Chair was laboring under a misapprehension. The Chair understood the Senator from Missouri to suggest that the excise bill would be moved as a substitute for the sugar bill. Of course, the Chair can not make a ruling until the motion is actually made.

Mr. BACON. And so far as the question of its being an amendment or a substitute is concerned, a substitute is only an amendment; it is one form of amendment.

The PRESIDENT pro tempore. The Chair understands that.

Mr. BACON When adopted, it takes the place of the original proposition and becomes the original proposition. It is a radical amendment; that is the difference between it and a partial amendment; but, none the less, it is an amendment and has all the incidents, features, rights, privileges, and possibilities of an amendment.

The PRESIDENT pro tempore. The Chair so understands.

Mr. HEYBURN, Mr. LODGE, and Mr. STONE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Idaho.

Mr. STONE. I desire, Mr. President, to be perfectly frank about it——

Mr. LODGE. Mr. President, I thought I was recognized.

The PRESIDENT pro tempore. The Senator from Idaho first addressed the Chair and was recognized.

Mr. HEYBURN. I rise to suggest that if we fix a date certain to vote upon the excise bill, it ought not to be in order to bring it up at an earlier time, either in the nature of an amendment or as a substitute. It would not be strictly in accordance with the spirit of the unanimous-consent agreement to do that. I make that suggestion so that the question ought not to arise.

Mr. LODGE. Mr. President, I was about to make the same suggestion as that just made by the Senator from Idaho. If we had only a unanimous-consent agreement providing for a vote on the wool bill and the sugar bill, of course it would be open to any Senator to move the excise bill as an amendment to either bill; but when we make a third unanimous-consent agreement to consider that particular bill, if that bill is then moved as an amendment to one of the previous bills, we nullify the third unanimous-consent agreement of the Senate.

Mr. JONES. Mr. President, I desire, in connection with the request made by the Senator from Utah [Mr. SMOOT], to couple with it a request that on Monday, July 29, after the routine morning business, the Senate proceed with the consideration of the bill providing for a Territorial government for Alaska, and to conclude the consideration of that bill on that day; otherwise, I shall object to the unanimous-consent agreement.

Mr. WARREN and others. Do not do that.

Mr. JONES. Unless some disposition is made of the bill providing for a Territorial government for Alaska, I shall have to object.

Mr. SMITH of Michigan and Mr. SMOOT addressed the Chair.

The PRESIDENT pro tempore. The Senator from Michigan.

Mr. SMOOT. Allow me to suggest to the Senator from Washington——

The PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. SMITH of Michigan. Mr. President, I am as anxious as is the Senator from Washington to dispose of the Alaska civil government bill. It is on the calendar, and I propose to bring it up at the earliest opportunity. I think, however, that, in the interest of that bill, unanimous consent as requested ought to be granted. I believe that if we get these controverted points out of the way and can go to the calendar, the Alaska bill will receive earlier consideration than it otherwise would, and I am very anxious indeed that the bill shall be considered.

Mr. WARREN. Mr. President, I want to ask my colleague from Washington [Mr. JONES] to consider this: I am as anxious as he is to get the matter of which he speaks under consideration; but there will be any amount of time for that and all other matters on the calendar before it would be possible to compose the differences of the two Houses on the several pending appropriation bills now in conference and yet to go to conference. If you delay the appropriation bills, you must understand that you can count on not less than 30 days from the time you pass the appropriation bill that is now before us—we must remain in session that length of time—before there is any possibility of finally arriving at the time when all the appropriation bills may pass and secure the signature of the Presi-

dent. I shall join the Senator in endeavoring to secure consideration at a later time for the bill to which he has referred; but I do not believe it is best to load too heavily the present proposition, which already covers three important matters.

Mr. JONES. Mr. President, I desire to say that I know the Senator from Michigan [Mr. SMITH] is very anxious to have the Alaska government bill considered, and that he is using every effort to have that measure brought to a vote by the Senate. I have been here long enough, however, to know how these matters go and to know that when we get the tariff bills, which are generally recognized as very important matters, out of the way, some other matters which are very important locally, but not very important generally, are likely to fall by the wayside. I am going to insist, so far as I am concerned, that the Senate take action upon the Alaska bill; but, with the assurances I have from various Senators now with reference to the matter, I will not embarrass the request for unanimous consent with the suggestion I made a moment ago, and so I withdraw the objection.

The PRESIDENT pro tempore. Is there objection?

Mr. STONE. Mr. President, I want to state frankly that it was my intention, if no one else did it, inasmuch as the sugar bill is to be taken up in advance of the excise bill, to offer the last-named bill as an amendment to the sugar bill. I had supposed that under the terms of the agreement as drawn any amendment would be in order; but, to put it beyond question, I submitted the inquiry I made. The Chair, so far as the Chair went, intimated that the ruling would be against the right to offer the excise bill under the proposed unanimous-consent agreement as an amendment to the sugar bill, and Senators upon the other side——

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. STONE. Certainly.

Mr. SIMMONS. I did not understand the Chair to make that intimation. I understood the Chair to hold that a substitute would not be in order.

Mr. STONE. Nevertheless——

The PRESIDENT pro tempore. If the present occupant of the Chair shall be presiding at that time, he will consider the matter when it is presented to him; but at present he would not feel like making any definite ruling.

Mr. STONE. I understand that; but, so far as the Chair went, it was along the line I have suggested, and three or four leading Senators on the other side have stated that the amendment suggested would not be in order under the agreement.

Mr. President, I am perfectly willing and anxious to have the first request for unanimous consent relating to the woolen bill agreed to; I am perfectly willing and anxious to have the order relating to the sugar bill and the excise bill agreed to; but I do not feel disposed to allow an advanced consideration of the sugar bill and have it voted down, as it probably will be by the majority on the other side, and then be confronted with the argument that there was no Treasury need, no financial requirement of the Government, for the passage of the excise bill. My contention is that, if the sugar bill as it came from the other House should be adopted, the loss of revenue growing out of that should be supplemented by the excise bill and would put those of us who are in favor of the passage of these bills at a disadvantage if they should be taken in the order named.

Now I will ask the Senator from Utah if he is willing to agree to either one of two propositions—to place the excise bill in advance of the sugar bill, or, secondly, to have it understood that the excise bill may, if desired, be offered as an amendment to the sugar bill?

Mr. SMOOT. Mr. President, I think the logical way to consider the bills is to consider the sugar bill first. If that is defeated, and the present rates on sugar are maintained, I think myself there will be no necessity for the passage of the excise bill. But to reverse them I think would be absolutely wrong.

I want to be frank with the Senator from Missouri, and to say that the understanding I have is that the bills shall be voted upon just as the order has been presented. I would not ask that they be voted upon as a matter of unanimous consent unless they are voted upon just as they have been presented. Nor do I think it would be proper, under the proposed unanimous-consent agreement, for the Senator to offer the excise bill as an amendment to the sugar bill, for the reason that in the proposed unanimous-consent agreement we agree to vote upon that particular proposition on the day following.

Mr. STONE. Mr. President, I am going to ask the Senator from Utah to consent to this suggestion, for I do not wish to object. I am as anxious as I can be to have these measures taken up and disposed of. But I want it done in a way that I think is fair to those of us who support the measures, and I think they ought not to be presented in a way that puts us at a disadvantage.

I suggest to the Senator that this request be left unacted upon and pending until to-morrow morning, so that we may have some consultation in regard to it.

Mr. SMOOT. Of course, if the Senator desires to object, I have no——

Mr. STONE. I am asking the Senator to consent to that course.

Mr. SIMMONS. Mr. President, I hope the Senator from Utah will adopt that course. I was just going to suggest it when the Senator from Missouri rose.

Mr. SMOOT. Then, Mr. President, I will withdraw the request.

The PRESIDENT pro tempore. The Senator from Utah withdraws the request for unanimous consent.

Mr. CLAPP subsequently said:

As I came into the Senate there was some talk of a unanimous-consent agreement. When the Payne-Aldrich tariff bill was passed in 1909, a corporation-tax amendment was brought in here which in terms exempts the trusts and combinations from the payment of the tax, which is purely an excise tax for the privilege of being a corporation.

I shall feel constrained to object to any unanimous-consent agreement that is so framed that at some point an amendment can not be offered to the Payne-Aldrich tariff bill, repealing the exemption of the trusts and combinations from the corporation tax.

Mr. LODGE. Every one of the bills mentioned in the proposed unanimous-consent agreement is in that position.

Mr. CLAPP. I thought so until I heard the question of the Senator from Missouri as to whether or not the excise bill could be put in as an amendment to the sugar bill.

Mr. LODGE. That question related to a specific bill, as to which there was another unanimous consent.

Mr. CLAPP. That is all right. I understood the suggestion of the Senator from Missouri was that this agreement might be so framed that only the bills as they now stand could be voted upon.

Mr. LODGE. Oh, no.

Mr. CLAPP. And I want to give notice that the unanimous-consent agreement must be so framed that——

Mr. BACON. Mr. President, there is a good deal of conversation on the floor; and while the Senator generally speaks in a loud tone, he turned in the opposite direction, and I did not catch the exact point of his remarks.

Mr. LODGE. It is all over.

Mr. CLAPP. It is all over; but I will state it again, if the Senator desires.

When I came into the Senate I heard the Senator from Missouri discussing a proposed unanimous-consent agreement as though the agreement would preclude an amendment to the sugar bill. It occurred to me that the agreement was being so framed that perhaps it would preclude amendments generally to the bills as they now stand. I therefore gave notice that I could not consent to the agreement unless it permitted an amendment repealing the exemption of the trusts from the payment of the corporation tax incorporated in the Payne-Aldrich bill three years ago.

Mr. SIMMONS. Mr. President, I should like now to inquire from Senators on the other side of the Chamber——

Mr. BRANDEGEE. Mr. President, have I the floor?

The PRESIDENT pro tempore. The Senator from Connecticut has the floor. Does the Senator from Connecticut yield to the Senator from North Carolina?

Mr. BRANDEGEE. I yield for a parliamentary inquiry.

Mr. SIMMONS. I wish to make a request.

Mr. BRANDEGEE. I yield for that purpose.

Mr. SIMMONS. I now wish to inquire of the Senators on the other side of the Chamber if it will be possible to enter into a unanimous-consent agreement to vote upon the wool bill?

Mr. SMOOT. I think, Mr. President, the only proper course is to do what we started to do—to vote upon all the tariff bills. I would not feel like saying to the Senator that we could vote upon the wool bill independently. I should very much prefer to leave the matter open, as requested, for further consideration.

RADIO COMMUNICATION.

Mr. SMITH of Michigan submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3815) to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910, having met, after full and free confer-

ence have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following:

"That section 1 of an act entitled 'An act to require apparatus and operators for radio communication on certain ocean steamers,' approved June 24, 1910, be amended so that it will read as follows:

"'SECTION 1. That from and after October 1, 1912, it shall be unlawful for any steamer of the United States or of any foreign country navigating the ocean or the Great Lakes and licensed to carry, or carrying, 50 or more persons, including passengers or crew or both, to leave or attempt to leave any port of the United States unless such steamer shall be equipped with an efficient apparatus for radio communication, in good working order, capable of transmitting and receiving messages over a distance of at least 100 miles, day or night.

"'An auxiliary power supply, independent of the vessel's main electric power plant, must be provided which will enable the sending set for at least four hours to send messages over a distance of at least 100 miles, day or night, and efficient communication between the operator in the radio room and the bridge shall be maintained at all times.

"'The radio equipment must be in charge of two or more persons skilled in the use of such apparatus, one or the other of whom shall be on duty at all times while the vessel is being navigated. Such equipment, operators, the regulation of their watches, and the transmission and receipt of messages, except as may be regulated by law or international agreement, shall be under the control of the master, in the case of a vessel of the United States; and every willful failure on the part of the master to enforce at sea the provisions of this paragraph as to equipment, operators, and watches shall subject him to a penalty of $100.

"'That the provisions of this section shall not apply to steamers plying between ports or places less than 200 miles apart.'

"'SEC. 2. That this act, so far as it relates to the Great Lakes, shall take effect on and after April 1, 1913, and so far as it relates to ocean cargo steamers shall take effect on and after July 1, 1913: *Provided*, That on cargo steamers, in lieu of the second operator provided for in this act, there may be substituted a member of the crew or other person who shall be duly certified and entered in the ship's log as competent to receive and understand distress calls or other usual calls indicating danger, and to aid in maintaining a constant wireless watch so far as required for the safety of life.'"

And the House agree to the same.

WILLIAM ALDEN SMITH,
THEO. E. BURTON,
FRANCIS G. NEWLANDS,
Managers on the part of the Senate.

JOSHUA W. ALEXANDER,
RUFUS HARDY,
W. E. HUMPHREY,
Managers on the part of the House.

The report was agreed to.

LAND IN CITY OF WASHINGTON.

The PRESIDENT pro tempore laid before the Senate the request of the House of Representatives to be furnished with a duplicate engrossed copy of the bill (S. 2748) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 west front by the full depth thereof of lot No. 14, all of said property in square No. 774, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District (H. Res. 634); and there being no objection, the request was ordered to be complied with.

CORBETT TUNNEL, WYOMING—VETO MESSAGE (S. DOC. NO. 878).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read:

To the Senate:

For the reasons stated in the letter of July 12 of the Secretary of the Interior, which accompanies this message, I return without approval Senate bill 4862, entitled "An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of constructing the Corbett Tunnel of the Shoshone irrigation project."

I do this because I think this legislation is of retroactive character and imposes on certain of the reclamation settlers an additional burden over and above the contract price of the work done, increasing that price by a double payment of part of what was due under the contract from the reclamation fund to the principal contractors. At the time when the work was begun and continued there was no law which relieved the subcontractor or the material man from the necessity of looking after the collection of what the contractor owed him, or which imposed on the Government or the reclamation authorities the duty of seeing to it that the money paid under the principal contract was used by the principal contractor to pay his subcontractors or material men. To require that this additional amount should now be included in the assessment upon the lands is by law to increase a contract burden by a change of the character of the liability after it has been assumed and fixed. This is retroactive and is legislation in its nature unjust to the reclamation settlers.

WM. H. TAFT.

THE WHITE HOUSE, *July 18, 1912.*

The PRESIDENT pro tempore. The question is, Shall this bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. MYERS. Mr. President, I ask unanimous consent that the President's message and the accompanying document be printed and lie on the table, subject to be called up by me at a later day.

The PRESIDENT pro tempore. The Senator from Montana asks unanimous consent that the President's message and the accompanying document be printed and lie on the table. Is there objection? The Chair hears none.

HOUSE BILL REFERRED.

H. R. 21094. An act to create a commission on industrial relations was read twice by its title and referred to the Committee on Education and Labor.

ANNIE R. SCHLEY.

Mr. McCUMBER. Mr. President, on Monday, the 15th instant, conferees were appointed by the Chair on the bill (S. 4568) granting an increase of pension to Annie R. Schley. One of the conferees was the Senator from Oklahoma [Mr. GORE]. The Senator from Oklahoma left the city the day after, I think, and will not be back for some time. Therefore I ask that the senior Senator from Indiana [Mr. SHIVELY] be appointed to fill his place.

The PRESIDENT pro tempore. Without objection, that order will be made.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. Mr. President, I wish to give notice that I shall ask the Senate to proceed with the consideration of the sundry civil appropriation bill to-morrow, immediately after the routine morning business.

VOTES ON EXCISE, WOOL, AND SUGAR BILLS.

Mr. SIMMONS. Mr. President, I desire to inquire of the Senator from Utah if he would not consent to change the order in the unanimous-consent proposition he submitted a little while ago, so as to allow a vote upon the excise measure before the sugar bill.

Mr. SMOOT. After consultation with a number of Senators interested in this proposition, I find there is no objection to that program, and therefore I offer the order I send to the desk.

The PRESIDENT pro tempore. The Senator from Utah submits an order, which will be read.

The Secretary read as follows:

"It is agreed by unanimous consent that on Thursday, July 25, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 22195) to reduce the duties on wool and manufactures of wool, and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill, through the regular parliamentary stages, to its final disposition.

"And, further, it is agreed by unanimous consent that on Friday, July 26, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 21214) to extend the special excise tax now levied with respect to doing business by corporations to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by individuals and copartnerships, and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill, through the regular parliamentary stages, to its final disposition.

"And, further, it is agreed by unanimous consent that on Saturday, July 27, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 21213) to amend an act entitled 'An act to provide revenue, equalize duties,' etc. (known as the sugar bill), and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill, through the regular parliamentary stages, to its final disposition."

The PRESIDENT pro tempore. Is there objection?

Mr. JONES. Mr. President, with the assurance given me with respect to my request in connection with the bill I then mentioned, I shall not object.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

THE PANAMA CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I wish to call the attention of the Senate very briefly——

Mr. BACON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Georgia?

Mr. BRANDEGEE. Certainly.

Mr. BACON. I did not make the point of order because I realized that the unanimous-consent agreement was a matter in which we are all very much interested, but I do wish to give notice that hereafter I shall ask for the observance of the rule that no Senator shall interrupt the Senator on the floor by another matter.

Mr. LODGE. I ask the Senator from Connecticut to yield to me for a moment.

Mr. BRANDEGEE. I yield to the Senator from Massachusetts.

Mr. LODGE. Without detaining the Senate to read it, I send to the Secretary's desk an extract from the report of the Liverpool Shipowners' Association in regard to Suez Canal tolls, which I should like to have printed in the RECORD; and, also, two or three extracts from one of the London newspapers on the same subject.

The PRESIDENT pro tempore. Without objection, the order will be made.

The matter is as follows:

LIVERPOOL SHIPOWNERS' ASSOCIATION AND SUEZ TOLLS.

The Liverpool Steamship Owners' Association is the largest shipping organization in the world. Its membership includes the owners of 4,174,403 tons of British steamships, or over 22 per cent of all the steam tonnage under the British flag.

The report of the association of its last annual meeting, February 1, 1912, contains the following:

"Suez Canal: The following resolution was adopted unanimously at the imperial conference:

"'This conference is of opinion that the dues levied upon shipping for using the Suez Canal constitute a heavy charge and tend to retard the trade within the empire and with other countries, and invites the Government of the United Kingdom to continue to use their influence for the purpose of obtaining a substantial reduction of the present charges.'"

Mr. McKinnon Wood, in supporting the resolution, expressed the entire sympathy of the British Government with the views expressed by Mr. Fisher on behalf of Australia in moving the resolution, and assured the conference that the British Government would never allow its interests as shareholders to deter it for one moment from pressing for such reductions in the dues as were at all possible. He further pointed out that as the representation of the British Government on the board of the Suez Canal Co. was only about one-tenth, the most the Government could do was to exercise its influence in bringing about the reduction in the dues so urgently needed.

In view of the position taken up by the Government, the association, continuing the practice it has followed for a number of years in its annual reports, gives the following summary of the Suez Canal figures to date:

Great Britain received in dividends on its shareholding in the canal company during last year £1,129,260. Great Britain has now received upward of £17,000,000, as against its original investment, 35 years ago, of £4,000,000. This extraordinary return from the capital invested has been obtained from dues which exceed by 100 per cent the cost of working the canal. These dues are as to 60 per cent collected from British ships, and therefore, although the whole of the £1,000,000 received yearly by this country is treated as dividend, it is in fact derived as to 60 per cent from a most onerous tax levied on our trade with the East.

The trade are unwilling payers of this onerous tax and, as Mr. McKinnon Wood has made it clear that the British Government are unwilling receivers, the association would submit that the time has now come when means should be found, and without waiting for the conversion of the other shareholders, by which at least £600,000 of the dividends unwillingly received by the British Government should be applied in the general relief of the British trades suffering from the tax.

[From the London Morning Post, January 2–3, 1912.]

The Committee on Foreign Commerce of the House of Representatives has been to Panama to inspect the progress made on the canal and to determine the tolls to be paid by ships passing through it. The committee has just returned, and its members are agreed that tolls should range between 2s. and 4s. per ton for vessels flying foreign flags, but that a preference should be accorded to the American mercantile marine. The majority, it is said, go so far as to advocate the free use of the canal to American vessels engaged in the coastwise trade.

This second proposal, of course, does not really concern other countries, since the coasting trade of the United States is already restricted to native shipping. But foreign nations, and especially Great Britain, will be directly affected by any system of tolls so arranged as to give a preference to American vessels engaged in foreign traffic.

EQUAL TREATMENT FOR ALL.

Sir Owen Philipps, whose name is prominently before the public as the head of the largest shipping combination in the world, said: "I hope that the American Nation may see their way to make the passage across the Panama Isthmus as free as the ocean, and so lead to the canal doing the maximum amount of good to the trade of the world. But if they should decide to fix the tolls, as mentioned in your paragraph, at something between 2s. and 4s. a ton it is of the utmost importance to British shipping that the vessels of all nations should be treated exactly alike. As regards American ships trading exclusively between United States ports on the Atlantic and the ports of that country on the Pacific—trade which is exclusively confined to steamers built in the United States—British vessels would not be adversely affected if in this case only United States ships were allowed to pass through the canal free of dues.

"The present cost of running American ships is undoubtedly very considerably more than the cost of running British ships. But I do not think that is any argument to justify exceptional treatment being accorded to United States vessels going through the Panama Canal except those in the coasting trade, as it is quite possible a few years hence the position may be entirely reversed."

NO EFFECT ON BRITISH SHIPPING.

"A proposal of this sort raises the whole question of treaty relationship," remarked another authority on shipping matters. "There are certain people in America who think it is absolutely impossible for such a preference to be given, more particularly because of the pledges which the United States Government gave when she intimated her intention to construct the canal. But after all is said and done, from the point of view of foreign shipping, I think it is a relatively small matter. It sounds, perhaps, as though the preferential treatment would do a great deal for American shipping, but, as a matter of fact, it will do very little. Practically all the United States shipping is nowadays engaged in the coastwise business, and whether under this legal monopoly they are able to carry goods from New York and San Francisco a little cheaper does not matter to us in the least. Any reduction of the canal dues will only enable the shippers to compete with the transcontinental railways of the United States. That, I believe, is the point of the whole thing."

Mr. BRANDEGEE. At the same time, I ask unanimous consent to insert in the RECORD the letter I send to the desk, with the accompanying resolution, which has to do with the question of allowing vessels in which a railroad may have any interest to go through the canal.

The PRESIDENT pro tempore. Without objection, that order will be made.

The matter referred to is as follows:

COTTON GOODS EXPORT ASSOCIATION OF NEW YORK,
July 17, 1912.

Hon. FRANK B. BRANDEGEE,
United States Senate, Washington, D. C.

SENATOR: I have the honor to hand you herewith copy of resolution passed by the board of directors of the Cotton Goods Export Association of New York, in relation to H. R. 21969, Calendar No. 771, an act to provide for the operation, etc., of the Panama Canal, and ask your attention to it.

Very respectfully, HOWARD AYRES, *Secretary.*

Copy of resolution passed by the board of directors of the Cotton Goods Export Association of New York, July 17, 1912.

Whereas it is of the utmost importance to merchants and manufacturers of the United States doing business with oriental countries to have suitable and adequate freight accommodation for merchandise exported and imported; and

Whereas the opening of the Panama Canal should provide means for increasing the shipping facilities of a growing trade: Therefore be it

Resolved, That the use of that waterway should be as free of restrictions as possible; that such a restriction as is made in lines 12 to 16, inclusive, beginning at the word "*Provided*," of section 11 of the Senate draft of H. R. 21969, Calendar No. 771, is so destructive of opportunity for freight employment of vessels coming under the other provisions of the section and the whole bill as to prohibit the building and operation of vessels for that route and trade; that all necessary protection against abuse of the privileges of the canal by such vessels is given by other parts of the bill and other laws; that the Senate of the United States be requested, in the interest of the merchants and manufacturers of the United States trading with the Orient, to strike out of the bill section 11, lines 12 to 16, the words: "*Provided further*, That no such railroad owned or controlled ship shall pass through the canal unless at least 50 per cent of its cargo, in tonnage, is destined to or shipped from oriental or European ports."

Mr. BRANDEGEE. Mr. President, as I was saying some time ago, in view of these contending theories, in view of these differences of opinion about the treaties, in view of the fact that we can have no positive knowledge in advance of what is going to happen in the canal after it is open for business and business has gone on for a year or two, it seems to me the most sensible thing to do, the thing that certainly we could make no mistake about and never could be blamed for doing, would be to open the canal to all vessels that want to go through it and charge them all a just and reasonable price for the service we render to them in putting them through.

After operating the canal a year or two years and figuring up the amount of tolls received from the vessels, with some experience as to whether or not we might have to reduce the

tolls to get the business as against our competitor, the Suez Canal, we would be in a better position to judge as to whether it was necessary to attempt to give—even if we could do so under the treaties—free tolls to American shipping or free tolls to American vessels engaged in the foreign trade, which, if we can give free tolls, need the free tolls and the help much more than the domestic shipping, which already has a monopoly of the market, secure from competition with foreigners, and is fairly prosperous at the present time.

If it were left to me to decide, I would not even inquire into the ownership of a vessel that appeared in the Atlantic or the Pacific Ocean and asked for passage through the canal any more than I would inquire into the ownership of a vessel that appeared in the harbor of New York. I would say, in relation to vessels in which a railroad might have some interest, "I will not pass a law to absolutely debar every vessel in the country in which a railroad may be interested, with which it competes, from going through an American canal on which we have spent $400,000,000 any more than I would debar the railroad-owned steamships that may be upon the high seas from coming into an American port."

To say that no steamship in which a railroad has any interest shall go through the canal would put every steamboat that is owned or held by a corporation at the absolute mercy of any railroad that wanted to go into the market and buy 10 shares of the stock of the company. Any railroad that had a grievance against a competing steamship line could go into the market and buy a small interest in it. Railroad ownership of 1 share would be enough, under section 11 of the House bill, to absolutely debar the vessels of that line from the use of the canal.

Mr. BRISTOW. Mr. President——

Mr. BACON. Mr. President, there is so much conversation in the Hall that I am sure it must be annoying to the Senator who is addressing the Senate. It is very difficult for us to hear him.

The PRESIDENT pro tempore. The Senator from Georgia makes the point of order that there is so much confusion in the Senator Chamber that it is difficult for the Senator from Connecticut to be heard. The Chair sustains the point of order, and requests Senators to preserve order.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Kansas?

Mr. BRANDEGEE. Certainly.

Mr. BRISTOW. I desire to suggest to the Senator that I think he misreads the House bill. He has a copy of it there. I should like to call his attention to the fact that the bill as it passed the House does not have the effect he suggests, but the amendment inserted by the Senate committee does have that effect. The House bill did not do so, because the penalty in the House bill was on the railroads that bought the shares of steamship stock, not on the steamship lines.

Mr. BRANDEGEE. Very well. But in either case, Mr. President, I would not for a year or two inquire into the ownership of vessels that went through. I assume that the American Congress would not want, if it could, to debar all vessels in which its own railroads might be interested from going through the canal, while at the same time allowing the railroad-owned vessels of foreign powers to go through the canal.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut further yield to the Senator from Kansas?

Mr. BRANDEGEE. I yield.

Mr. BRISTOW. The provision of the bill forbids only the railroad-owned ships that compete with the roads from going through the canal. How could an English railroad-owned steamship compete with the railroad that owned it in traffic through the canal?

Mr. BRANDEGEE. I do not know. But I say if an American railroad has some interest in a steamship line or a steamboat, with which it may compete under the language of this bill—and any railroad that owns a steamboat line may compete with it if it wants to transfer the operations of its steamboat line so as to make it compete—I say if that is so, why should we adopt a policy which would result in letting the foreign railroad-owned steamboats into the canal while keeping out our own?

I call attention to the statement of Dr. Johnson before the Senate committee. I will read briefly and rapidly some of his views.

Dr. Johnson said, on page 26 of the Senate committee hearings:

> The canal will perform two functions—one of aiding of commerce and the other of aiding our Navy and our military establishment. The canal, it seems to me, may properly be required to carry itself as a commercial highway. Our expenses at the canal per annum will be $4,000,000 for the operation and maintenance of the canal and the government of the zone. The interest on our investment will be eleven and a quarter millions more, making fifteen and a quarter million dollars for operation and interest. The military establishment on the Isthmus will cost nearly as much more, apparently. I do not think the canal revenues should be required to meet the military expenditure of perhaps $14,000,000 to $15,000,000 per annum. But the expenses for maintaining the canal as a commercial route, including the interest on the investment, may properly be derived from the canal tolls.
>
> Senator BRISTOW. Why would you charge the interest on the investment in the construction of this canal any more than you would on the investment in the improvement of rivers and harbors to commerce?
>
> Dr. JOHNSON. The Panama Canal is a world highway; and certainly the use of that world highway by the shipping of other people than those of the United States should be charged for in proportion to the service rendered by the canal. When we come to American shipping, there are two general problems involved. The canal will be the most expensive work that we have ever put through. The time has come, in my judgment, when we can not wisely continue indefinitely to finance such great public works as the Panama Canal out of the general budget, if revenues can be secured without limiting the usefulness of such a public work and without burdening the commerce that is benefited.
>
> As I said in my introductory remarks, I do not believe a toll of 5 or 6 per cent of the freight rate will be burdensome, or that it will restrict the use of the canal. It will be wise to adopt and adhere to business principles in our canal-toll policy.
>
> Senator BRISTOW. Now, as far as the use of the canal by foreign countries in handling their own commerce with foreign countries is concerned, it seems to me that there is no argument against charging a toll. They ought to pay for the use of this highway which we with our money have constructed, and they ought to pay us a fair rate for its use. Then, as I understand, the question as to whether or not any rate shall be charged for American commerce depends upon whether we feel justified in spending as much money as we have without levying some toll or contribution on the commerce—our own commerce that passed through the canal; and, necessarily, if we thought that we should levy some charge in order that the commerce might bear some of this burden, the amount of the charge which would be justified would be a subject for consideration, would it not?
>
> Dr. JOHNSON. Yes. Of course, you are now considering this as a purely national question, and not with reference to any international questions that may be involved.
>
> Senator BRISTOW. Yes. You suggested that the President should be authorized to fix the tolls. Why should they not be fixed by law?
>
> Dr. JOHNSON. The tolls should be fixed and should be changed from time to time, with reference to traffic and revenue, and should be dealt with administratively rather than by formal statute. The canal should be so operated as to be of maximum service to the commerce of the United States and the trade of the world, and the administration of it should not unnecessarily be hampered by rigid statutes. It will be better, if Congress deems it wise to do so, to give the Executive latitude in the operation and management of the canal.

Now, as to the question of interest in steamboats by railroads with which they do or may compete, on page 31 Senator BRISTOW asked:

> Senator BRISTOW. Your last remark in your formal statement was that the Congress should not undertake to regulate the kind of vessels that should use the canal, or the relation between the vessels that use the canal and the railroads, or modify in any way the interstate-commerce law. Why did you make that statement? Because you do not believe it ought to be done or——
>
> Dr. JOHNSON. The first consideration, I think, is that of not endangering the enactment of the canal bill.
>
> Senator BRISTOW. Suppose it might endanger it not to put that in, as to the relationship between the steamship and railroad companies?
>
> Dr. JOHNSON. In that case I should hope Congress would remain in session until it had wisely worked out an act amending the interstate-commerce law.
>
> Senator BRISTOW. There are some who believe, you know, that the question as to the relations of the steamships that use the canal with the railroads is just as vital as the tolls or any other feature of the canal legislation.
>
> Dr. JOHNSON. I think they are extremely important. I believe that a careful investigation should be made as to the actual relation of steamship companies to each other and to the railroads, and the situation found to exist should be carefully dealt with by law. I am doubtful if Congress now possesses the necessary information, but I believe it has set machinery at work to secure the information. It is my thought that the regulation of carriers by water should be as carefully worked out as the regulation of carriers by land; but that is such a large and complicated question that it would seem wiser not to tie up the canal bill until that question can be solved.
>
> Senator BRISTOW. But the canal bill must deal with that question, in the opinion of a great many, and it is just as essential to deal with that as it is to deal with any other phase of commerce by way of the canal, and it appears to me that this is the opportune and proper time rather than to defer it. You might just as well defer any other important matter relating to the canal.
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> Dr. JOHNSON. I know, Senator, there are those that share that feeling, but I think Congress is now ready to act upon the government of the zone; upon authorizing the President to fix the tolls and to mold the canal-construction force into an operating force. Congress has the information on those problems, but on the question of amending the interstate-commerce law and providing for the regulation of carriage by water, I doubt whether Congress has, or will have at this session, the requisite data.
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> Senator BRISTOW. By the regulation of carriers by water you mean one to another?
>
> Dr. JOHNSON. And to the railroads?
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> Senator BRISTOW. Yes; that is a question of opinion whether we have sufficient information for that now——
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> Senator JONES. It is a question of principle or policy rather than regulation.
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> Senator BRISTOW. I think it is both a question of policy and opinion.
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> Senator PAGE. Would it not seem likely that the combination of these different matters in one bill would necessarily defer the passage of the rate bill and zone government?
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> Dr. JOHNSON. That, I think, is a fact, Senator PAGE, and that is the chief reason why I raised the question. I wish to urge upon the committee the necessity for action upon the canal bill at this session

and not to endanger this bill by endeavoring to solve what all must admit is a highly controversial question.

Senator JONES. But it is a very important question in connection with the charging of tolls, is it not?

Dr. JOHNSON. I do not think it is, Senator JONES. I think it is rather a question of policy as regards the regulation of rail and water carriers. You have to decide whether to attempt forcibly to separate the ownership of rail and water lines or to permit the railroad-owned lines to use the canal under Government regulation.

There are those who believe that prohibiting railroad companies from owning and operating steamship lines will be followed by active competition among numerous coastwise carriers and that the facilities resulting will be larger than they will be if the railroads are permitted to own steamships and run them through the canal. On the other hand, there are those who point out the fact that on the Pacific coast at the present time most of the lines are under railroad control, that a large part of the lines on the Atlantic seaboard are under railroad control, and that the policy of prohibiting the railroads from owning ships using the canal may result in the canal being used to but slight extent for traffic between our seaboards. The choice is between a policy of regulation and a policy of prohibition. The situation is further complicated by the fact that the water frontage at terminals is largely controlled by the railroads, and it would be difficult for independent lines to come in and get a footing. It is a big and complicated question. I think we all appreciate that, and I hope Congress will face it fairly and squarely, but I do hope that Congress will not try to solve that question before it enacts the canal bill.

Senator BRISTOW. Why do you think a railroad company wants to own a steamship line that competes with it?

Dr. JOHNSON. It does not want to own a line that competes with it.

Senator BRISTOW. Well, they do! do they not?

Dr. JOHNSON. They own lines that complement their services.

Senator BRISTOW. Do they not own lines that compete with them?

Dr. JOHNSON. You doubtless have in mind the Old Colony Steamboat Co. and the Pacific Mail and lines of that kind. I do not think the New Haven road owns and runs the Old Colony Line as a competing line; nor do I suppose the Southern Pacific owns the Pacific Mail to run it as a competing line. In general, the railroads have extended their services on the ocean and on the lakes both to control competition and to develop more complete transportation facilities. That policy has enabled them to control transportation rates by water, to a large extent, as well as by rail, and it unquestionably calls for legislation. Whether it calls for legislation to compel separate ownership of the two carriers or not is a question upon which I do not wish to express a final opinion at the present time.

Senator BRISTOW. Do you think that a railroad company should be permitted to own a steamship line that competes with itself?

Dr. JOHNSON. I do not think that any steamship line that competes with a railroad company is owned by a railroad company. Common ownership of rail and water lines eliminates competition.

Senator BRISTOW. Suppose, as a matter of fact, it was demonstrated that it did own such a line that was competing with itself; do you think the Government ought to permit that?

Dr. JOHNSON. I should permit it and regulate it.

Senator BRISTOW. Why would you permit a railroad to purchase or establish a steamship line competing with itself for traffic?

Dr. JOHNSON. As I said before, I do not think there is such a situation.

Senator BRISTOW. That would be a question of fact. I think it could be demonstrated that such conditions do acutally exist, but I will not go into the question of determining the fact, but assume that the fact does exist; if it does not exist, of course, then, the question falls; but if it does, why would you permit it to own a steamship line that competes with itself and then regulate its operation? What would be the object of it?

Dr. JOHNSON. To secure maximum transportation facilities for the public, which, of course, must also be the object of legislation. Congress will have to determine whether the prohibition of the common ownership of rail and water lines will result in more efficient and more extensive transportation facilities than can be secured by the permission of the common ownership of rail and water lines and the regulation of them by public authority.

Senator BRISTOW. Do you think that competition in transportation is desirable?

Dr. JOHNSON. Regulated competition, I think, is desirable.

Senator BRISTOW. Do you think it is possible for a man to compete with himself for the same traffic?

Dr. JOHNSON. I do not think a man does compete with himself for the same traffic.

Senator BRISTOW. Of course; he does not, but you said you would permit him to compete with himself and then regulate him in that competition.

Dr. JOHNSON. I would permit the railroads to own water lines and subject both the rail and water lines to the same regulation. I come to that conclusion, Senator, because I believe that there is very little real competition in rates among steamship lines. We have all come to agree that where there are several railroads serving the same section, it is necessary to regulate their charges and, to some extent, their services. We recognize that they have the power to introduce a large degree of monopoly into their rate making. I think practically the same situation exists among several steamship lines running between common termini. The facts are well enough known now to enable one to say that practically all the steamship lines operating under those conditions—several lines between common termini—are members of conferences; that their rates are common and subject to agreement, and that, while monopoly has not been so completely established between carriers by water as between carriers by rail, monopoly conditions are increasing among carriers by water. Such being the fact, it would seem wise to provide for the regulation of regular steamship lines upon the same principles as have been found effective in the regulation of rail carriers.

I agree that this question of rates charged by steamship lines in interstate and foreign commerce by these common carriers ought to be put under the jurisdiction of the Interstate Commerce Commission. I think the time is coming when it will be just as necessary to do that as it has been to put the railroads under that jurisdiction. But I say for a year or two, until Congress can get more information than it now has, I would open the canal to everybody who will pay the price of going through it; and if at any time any abuse occurs by reason of the ownership or interest of any railroad in any steamship line I would put those steamship lines immediately under the jurisdiction of the Interstate Commerce Commission, with authority to fix just and reasonable rates and authority to order that any practice or abuse which was improper or against the interests of the public should cease forthwith. If the Interstate Commerce Commission has been able to be of any use in regulating what is a monopoly a great deal more absolute, the railroads, I think it will be of equal efficiency with the steamboats. I can see no inherent impossibility or even difficulty in a commission determining from adequate investigation, with sufficient help and statistics before it, what would be a just and reasonable rate on either package or cargo freight from the city of New York via the canal to San Francisco than there is in determining what would be a just and reasonable rate per carload or otherwise upon a train running from New York to Chicago.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Kansas?

Mr. BRANDEGEE. Yes.

Mr. BRISTOW. The Senator will admit that Commissioners Lane and Prouty do not agree with him in that view.

Mr. BRANDEGEE. Later on I think I will insert in the RECORD the testimony of Commissioners Prouty and Lane in relation to this subject, and if any Senator will say to me that he is willing to cast his vote on this question on his deductions from that testimony I shall have no quarrel with him about his vote. I will simply say that in substance neither one of them would say that he would advise any member of the committee or of Congress to vote for section 11 of the House bill, to the restoration of which the Senator from Kansas has dedicated himself, in the Senate, if it is possible to do so. Judge Prouty stated perfectly frankly and decisively that, so far as the ownership of steamboats on the Lakes by the New York Central, the Western Transit Co.'s boats, or the steamboats on Long Island Sound owned by the New England Navigation Co., which in turn is owned by the New York, New Haven & Hartford Railroad Co., he would not advocate the dismemberment of that railroad ownership from that steamship ownership, and thought that both the shippers and the receivers of freight were better served now than they would be under separate ownership. He did say that if it was to be done over again he would not let that concentrated condition and joint ownership come about, but as it existed he thought more damage would be done in the attempt to dissolve it and taking the chance of what might be substituted in the place of it. I agree with him on that. That, however, I do not think will be a serious matter of contention here. There is no demand at all comparable with the opposition in New England to this legislation which would divorce the Sound steamboats from the New York, New Haven & Hartford Railroad Co.

The question here in the canal bill, which will be controverted and upon which there is a fair difference of opinion, is whether it is necessary now to say that no railroad which has an interest in a steamboat line with which it may compete shall be allowed to send its vessels through the Panama Canal. Whether we shall say that, or whether we shall allow them all to go through now, either with or without supervision and regulation by the Interstate Commerce Commission, and the minute any bad practice or ill effect is felt bring them under the control of the Interstate Commerce Commission.

I say in all these matters I think it is wiser to open the canal with the greatest freedom. I do not believe that one party, whether it be an ocean line steamship company or a railroad, transcontinental or otherwise, will put steamboats on that canal without others doing the same thing. For my part I regard the Southern Pacific, with its ownership of the Pacific Mail, practically as a double-track railroad. The parallel is by water. Farther south the freights naturally separate themselves into such classes of freight as prefer the all-rail route, and the bulkier kinds of freight that prefer the cheaper water route. As far as I am concerned, I should think it would be perfectly safe to let all the transcontinental railroads build their own parallel steamship lines, and then with joint rail and water lines compete system by system with each other and with the freight steamship companies of the world.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Missouri?

Mr. BRANDEGEE. With pleasure.

Mr. REED. Apropos of what the Senator has just said, does the Senator think that they now compete with each other in fact?

Mr. BRANDEGEE. That who compete?

Mr. REED. The railroads.

Mr. BRANDEGEE. No; I think that Government regulation is probably to a large extent inconsistent with competition.

Mr. REED. If the railroads do not compete as railroads, does the Senator think that with road-built boat lines they would then compete as railroads and as boat lines any more than they do now?

Mr. BRANDEGEE. I am not sure that they would, but the situation would be no worse. I think if they were regulated by the Interstate Commerce Commission no injury could flow from it, if the rate was just and reasonable.

Mr. REED. I was directing my interrogatory to the remark of the Senator that he thought we ought to allow them all to use the canal and all compete. If they do not compete as railroads why would they compete as railroads and as boat lines all combined under the same ownership that the railroads now hold by?

Mr. BRANDEGEE. I suppose there is some competition among them, of course, now, and would be, according to the better service and the class of boats that were put on, and so forth; but, of course, if they were placed under the control of the Interstate Commerce Commission they would compete within very narrow limits. If there was a maximum rate beyond which they could not charge or a minimum rate below which they were not allowed to cut rates in competition, the competition would be, as it is among the railroads now, within very narrow limits.

Mr. REED. The Senator speaks of competition. Is it not a fact that for all practical purposes to-day these transcontinental roads only compete in the sense that each of them tries to get all the business it can at the same price charged by the others? There is no real competition in prices or rates.

Mr. BRANDEGEE. I think perhaps the Senator is more familiar with that matter than I am. He is a western man and I am an eastern man, and I have had very little knowledge of the transcontinental railroads; but I assume it makes very little difference to a shipper in New York, whether it is to Chicago or to San Francisco, which route he ships by over the rails. If the time is equal the charge is about the same.

Mr. REED. As far as I am concerned, if the Senator will allow me just a word, I am not willing to strike down the principle of competition and to substitute for it the principle of regulation.

Mr. BRANDEGEE. Did the Senator ask me a question?

Mr. REED. No; I was rather making my remark supplementary or explanatory of my question. I say I am not willing to strike down the principle of competition and substitute for it the principle of regulation. Certainly on land we can go much further with the proposition of regulation than we have gone up to this time. If we are to substitute regulation for competition, then it is perfectly patent we must get at a basis where the actual investment of all the transportation companies has to be ascertained and the fair value of their physical property determined, and the regulation must be upon a basis which starts from that fixed point.

To my mind the regulation of the Interstate Commerce Commission up to this date—and I speak with due respect for that commission—has been a lamentable failure. It has helped to reduce certain evils, but it has gone far from the eradication of those evils. I have little respect for that kind of regulation which after extending for 10 or 15 years still permits a condition where goods can be shipped across the continent and then back half way, or nearly half way, across the continent in the opposite direction cheaper than they can be shipped directly to the intermediate point. That kind of regulation is not the kind I am looking for in this bill or in any other.

Mr. BRANDEGEE. As I was saying, Mr. President, my idea is, in brief, to open this canal with as little restriction as possible, the effect of which we may not foresee; and Congress being in session every year twice a year, generally, and sometimes all the year, if any abuse appears there after a year or two years' demonstrated experience, I think Congress can be relied upon to correct it.

Mr. President, I have said a great deal more than I thought I would say and occupied more time than I intended, but I have been interrupted somewhat.

While we were down on the canal taking testimony there was a bill prepared which I had printed for the use of the committee and which I send to the desk and ask unanimous consent that it may be inserted in the RECORD. It is a bill which was drawn by the law officer of the Panama Canal Commission and represents his views of the shortest and most concise measure that could be put into operation with the fewest complications of any. I simply insert it for what it is worth to anybody in this matter.

The PRESIDENT pro tempore. Without objection, that order will be made.

The bill referred to is as follows:

A bill to provide for the government of the Canal Zone, the construction and operation of the Panama Canal, and for other purposes.

Be it enacted, etc., That the zone of land and land under water of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal now being constructed thereon, which zone begins in the Caribbean Sea 3 marine miles from mean low-water mark and extends to and across the Isthmus of Panama into the Pacific Ocean to the distance of 3 marine miles from mean low-water mark, excluding therefrom the cities of Panama and Colon and their adjacent harbors located within said zone, as excepted in the treaty with the Republic of Panama dated the 18th day of November, 1903, but including all islands within said described zone and in addition thereto the group of islands in the Bay of Panama named Naos, Perico, Culebra, and Flamenco, and any lands and waters outside of said limits above described which are now necessary or convenient, or from time to time may become necessary or convenient, for the construction, maintenance, operation, sanitation, or protection of the said canal or of any auxiliary canals, lakes, or other works necessary or convenient for the construction, maintenance, operation, sanitation, or protection of the said enterprise, the use, occupancy, or control whereof were granted to the United States by the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on the 26th day of February, 1904, shall be known and designated as the Canal Zone, and the canal to be constructed thereon shall be known and designated as the Panama Canal.

SEC. 2. That, subject to the provisions of this act, all the military, civil, and judicial powers of the United States in the Canal Zone are hereby vested in the President of the United States, including the power to make all laws, rules, or regulations necessary for the government of the Canal Zone, and for the construction, maintenance, and operation of the Panama Canal, as well as all the rights, powers, and authority granted to the United States by the terms of the treaty described in section 1 of this act.

The power and authority hereby conferred upon the President may be exercised by him through such person or persons as he may designate from time to time, and in such manner as he may direct, for the government of the Canal Zone and the maintenance and protection of the inhabitants thereof in the free enjoyment of their liberty, property, and religion, and for the construction, maintenance, and operation of the Panama Canal. All orders and regulations with respect to the government of the Canal Zone heretofore made by the President, or pursuant to his directions and authority, are ratified and confirmed, without prejudice to the power of the President to revoke or amend the same in accordance with the authority granted to him by this act. And the President in his discretion may create and organize a civil and political establishment for the government of the Canal Zone, with power to sue and be sued, and with such other governmental powers as to him may seem necessary and convenient to carry out the purposes of this act; and he may alter, reorganize, abolish, or re-create any such establishment when in his judgment it is necessary to do so.

SEC. 3. That, for the purposes described in this act, the President is authorized to detail, appoint, or employ, or cause to be detailed, appointed, or employed, such person or persons as he may deem necessary from time to time, with such duties, powers, jurisdiction, and official designations as to him may seem proper, and to dismiss or provide for the dismissal of such person or persons; and the compensation of each and all of such persons shall be fixed by the President or by his authority from time to time. Any of the persons appointed and employed as aforesaid may be persons in the military or civil service of the United States, but the amount of the official salary paid to any such person shall be deducted from the amount of the salary that may be provided for them under the provisions of this act.

Authority is hereby given to the President, and those acting for him, for the procurement, use, and maintenance of each and everything necessary for the complete construction, maintenance, and operation of the Panama Canal.

SEC. 4. That from and after such time as the President may designate the powers and authority heretofore conferred upon the Isthmian Canal Commission shall be exercised by such person or persons as may be appointed, detailed, or designated by the President in accordance with the provisions of this act; and thereafter the Isthmian Canal Commission shall cease to exist.

SEC. 5. That the President is hereby authorized to prescribe charges or tolls for the use of the Panama Canal and to alter and change such charges from time to time. The charges, other than passenger tolls, for the use of the canal may be based upon registered tonnage, displacement tonnage, cargo tonnage, or otherwise, and when based upon registered tonnage shall not exceed $1.50 per net ton, nor be less than 50 cents per net ton, vessels of the United States and vessels of the Republic of Panama excepted. Nor shall any rate of charge be prescribed which is less than the estimated proportionate cost of the actual maintenance and operation of the canal, subject, however, to the provisions of Article XIX of the convention between the United States and the Republic of Panama entered into November 18, 1903, and the right of the United States to pass its own vessels, troops, materials, merchandise, and supplies without the payment of any charge.

SEC. 6. That the President shall provide a method for the determination and adjustment of all claims on account of damages resulting from the injury or destruction of vessels or other property when being handled by the United States, its agents, officers, or employees, in passing through any of the canal locks, and such compensation when found to be due shall be paid out of any moneys appropriated or allotted for the maintenance and operation of the canal. In case of disagreement between the Government authorities and the owners of the property so damaged or destroyed in respect to the validity of the claim or the extent of the same, the claimants may institute suit in the circuit court of the Canal Zone against the Canal Zone Government, and the issues shall be determined therein as in ordinary civil cases; and if a judgment in favor of the claimants is rendered therein, the amount due the claimants thereunder shall be paid to them as herein provided for in the settlement of claims, and no execution shall issue on such judgment.

SEC. 7. That the President is further authorized to establish, maintain, and operate dry docks, repair shops, yards, docks, wharves, warehouses, storehouses, and other necessary appurtenances and facilities for the purpose of providing coal and other materials, labor, repairs, and supplies to and other needs of passing vessels, in accordance with appropriations made from time to time by Congress, as a part of the

maintenance and operation of the said canal; and the moneys received in the ordinary course from the conduct of such business may be extended and reinvested for such purposes without being covered into the Treasury of the United States; and such moneys are hereby appropriated for such purposes, and monthly reports of such receipts and expenditures shall be made to the President by the person or persons in charge, and annual reports shall be made to the Congress.

SEC. 8. That the judicial power in the Canal Zone shall be vested in one circuit court and such inferior courts as the President may constitute. The judge of the circuit court shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for the term of four years and until his successor is appointed and qualified, unless sooner removed by the President. He shall receive a salary of per annum and such other allowances as may be given to officials of his class on the zone. In the event of the absence or incapacity to act of the judge so appointed, a judge pro tempore may be appointed by the President, who shall receive such compensation for his services as the President may prescribe. No person holding a judicial office shall at the same time have executive or legislative power.

The records of existing courts and all causes and proceedings pending therein at the time of the approval of this act, except as herein otherwise provided, shall be transferred to and continued in the new courts herein provided for and authorized, at such time and in such manner as may be provided by order of the President. For the purpose only of enabling the existing supreme court of the Canal Zone to determine finally any causes and proceedings which may be pending therein when this act takes effect, the President may continue the said court in existence and retain the judges thereof in office for such time as may seem to him necessary.

The circuit court of appeals of the fifth circuit of the United States shall have jurisdiction to review, revise, modify, reverse, or affirm the final judgments and decrees of the circuit court of the Canal Zone, and to render such judgments as in the opinion of the said appellate court should have been rendered by the trial court, in all actions and proceedings in which the Constitution, or any statute, treaty, title, right, or privilege of the United States is involved and a right thereunder denied; and in cases in which the value in controversy exceeds $1,000, or in which the title or possession of real estate exceeding in value the sum of $1,000, to be ascertained by the oath of either party or by other competent evidence, is involved or brought in question, and also in criminal causes wherein the offense charged is punishable as a felony. And such appellate jurisdiction may be exercised by said circuit court of appeals on appeal or writ of error in the same manner, under the same regulations, and by the same procedure as nearly as practicable as is done in reviewing the final judgments and decrees of the district courts of the United States.

SEC. 9. That in all criminal prosecutions in the Canal Zone, involving capital punishment or imprisonment for life, the accused shall enjoy the right of trial by an impartial jury.

SEC. 10. That all laws and treaties relating to the extradition of persons accused of crime in force in the United States, to the extent that they may not be in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama, with respect to the Canal Zone, shall extend to and be considered in force in the Canal Zone, and for such purposes, and such purposes only, the Canal Zone shall be considered and treated as an organized territory of the United States.

SEC. 11. That this act shall be known and referred to as the Panama Canal act.

Mr. BRANDEGEE. Now I yield the floor.

Mr. TOWNSEND. Mr. President, I realize that the Senate has been in session a long time and Senators are undoubtedly weary. I would not ordinarily attempt to make a speech at such a time, but this is a question of considerable importance and other matters are pressing hard upon us. I take it that this bill will be laid aside to-night until appropriation measures have been disposed of, and this is my excuse for inflicting myself upon you at this late hour.

It is unnecessary at this time to discuss at length the wisdom or unwisdom of constructing the Panama Canal. No enterprise has ever been undertaken by the United States which has received such universal approval as has the proposition to fulfill Columbus's dream of sailing directly from the Occident to the Orient. Some few may question the means which were employed in securing the right and opportunity for this country to construct this waterway, but no one denies the wisdom or the patriotism of its construction.

The physical canal is practically an accomplished fact. The seemingly almost insuperable obstacles of nature have been overcome; the lofty heads of the Cordilleras which for ages towered above two oceans have, by the mighty hand of American enterprise, been brought low. Uninhabitable marshes and unoccupied valleys and hills have been made the beds of deep lakes which will float the largest ships of the sea. The mosquito breeding, fever-infected zone which afforded a grave to thousands of employees of the French Canal Co. has been made one of the most healthful places on the globe. Indeed, the heretofore impossible has been accomplished, and this country and the world are now contemplating the near-by day when this stupendous work shall be dedicated to the practical uses for which it was constructed.

The canal has been dug through American territory acquired from a foreign country for the very purposes to which it has been applied. Due to treaty relations with Great Britain it was necessary for the United States to do more than acquire the right of way from the Republic of Panama. Said treaty relations were entered into in 1850. They dealt with the possibility of canal construction across the Isthmus by private enterprise and provided for united protection of any canal which might be built. The treaty prohibited fortification by either signatory power and denied to each country the right to secure any special benefits not enjoyed by the other. All attempts at canal construction having failed, it was proposed in 1900 that the United States should undertake the enterprise. It was to do the work, pay all the expense, both of construction and of operation and maintenance. It is possible that the United States could have dug and operated the canal under the Clayton-Bulwer treaty if it had been willing unselfishly to have assumed all responsibility, to pay all bills, and then give Great Britain and all other countries demanding the same privileges the right to use the waterway on the same terms as the United States used it; but under that treaty the United States could not fortify property which would cost it $400,000,000; it could not grant any special privileges to its own people. The provisions of the treaty of 1850 rendered canal construction by the United States unwise and impracticable, hence the necessity for abrogating that treaty and the making of a new one.

In 1901 the Hay-Pauncefote treaty was entered into and in express terms it superseded the Clayton-Bulwer treaty of 1850, and now, the work of construction being about completed, we have reached the point where a permanent government for the zone and for the operation and maintenance of the canal is an imperative and immediately pressing duty. From the time the United States acquired from the French company the Panama Railroad property and from Panama the 10-mile strip upon which the canal has been constructed the government of that strip and the operation of the enterprise have been controlled by a military form of government under the direction of the President. It seems to be the general opinion of Senators that we should now relieve the President from supreme responsibility and establish by congressional action a formal and complete government, and while I consent to this opinion, I have serious doubts as to the wisdom of changing governmental conditions on the Isthmus until the canal has been put in successful operation by those who have made its construction possible and who know from actual experience what kind of government is suited to existing conditions and what methods of operation are best calculated to its success.

Your committee has given much attention to this subject and has with patient interest listened to men who professed to know much about it, and many of them did know about it, and some of them were more concerned about their own interests than they were about the construction and operation of a canal in the interest of our country.

As to the question of whether the government which we shall establish shall be administered through a governor or a commission of three members the committee was divided; a majority, however, having decided for a commission, it has been so reported. Personally, I am greatly in favor of a single head of canal government. I realize that several men have exerted great influence on the Canal Zone, and I sympathize with those Senators who wish to provide places for these useful men, and under any form of government some of them would be found indispensable and would be retained; but the canal was not undertaken for the purpose of giving men jobs nor for retaining them in positions if their services were no longer needed.

If one lesson has been taught in the canal work which has been more indelibly impressed upon the country than any other, it has been that a commission composed of many members with equal authority is most detrimental to economy, progress, and efficiency. This has been and is a big work, but it is staged in a small area. It is wisely proposed to confine, at least for the present, the canal strip to canal purposes exclusively, and our governmental activities will be limited to the operation of the canal and to the government of those people necessary to its operation. When the canal is completed we will not need a high-priced governor to look after the health conditions of the zone and another high-priced governor to look after civil conditions and still another high-priced governor to look after the operation of the canal and secure its protection. One man such as Col. Goethals should, under the President, be held responsible for all officers on the zone. He would engage such other assistance as would be needful, and there would be no petty jealousies or bickerings, no divided responsibilities. Not until Col. Goethals was given practical control was the greatest progress made and the greatest achievements accomplished, and I am not now pleading for Col. Goethals. When the canal is in operation any one of several men who have rendered great and distinguished service at the Isthmus would be competent and satisfactory to act as governor of this great work. Any one of them would wisely guard the sanitary conditions, the commercial interests, the fortifications, and the canal operations; and he would do it through proper men who would be responsible to him, and for the performance of which duties the United

States Government would hold him responsible. In this regard I prefer the provision of the House bill to the Senate amendment.

This Government had two objects in view when it undertook to construct the Panama Canal. One was to benefit commerce, the other was to provide for the national defense, and no rational man supposes that it did not have in contemplation an especial benefit to American commerce, an especial aid to American defense. Great Britain will never claim that we entered upon the construction of this great work on American territory uninspired by a purpose to improve our purse and strengthen our arm. We build the canal; we pay the cost; we protect it against injury; we preserve its neutrality; we secure its sanitation; and we have promised to treat all nations equally, fairly, and equitably. It is evident to me that the nation which undertakes to do these things is exempted from the term "all nations," and we are clearly entitled to charge such tolls upon the foreign tonnage using the canal as we may determine, subject only to the proviso that they are just and equitable, and that no discriminations are permitted.

It is insisted by some distinguished lawyers that the Hay-Pauncefote treaty forbids us to impose tolls upon foreign canal shipping if we permit our coastwise boats to pass through the canal free, but it seems to me there can be no good reason, and I say this respectfully, for at least none has been shown to me, for such belief. Certain it is that no foreign boat can now engage in our coastwise trade—in our interstate commerce—nor could they do so when this treaty was made, and if we now permit our American boats engaged in our coastwise trade and with which no foreign boat is allowed under existing law to compete to pass without charge through the canal, are we discriminating against English or German or other foreign tonnage when we impose tolls upon it? How is the foreigner affected by this alleged discrimination? We are not changing his relations to the American, for we are in this particular case dealing with commerce with which the former has not now nor will he have after the completion of the canal anything to do. This is a purely local matter, and unaffected so far as the foreigner is concerned by the canal. If all of our transcontinental commerce now carried by the railroads was transferred to water carriers through the canal without tolls, would any foreign boat be denied any advantage which it now enjoys, or which it could enjoy through the canal under the existing law as to coastwise traffic, which law it is not proposed to change?

I listened the other day with a great deal of interest to the Senator from Ohio [Mr. BURTON] in his discussion of this proposition, and it seemed to me that either he had a misunderstanding of the conditions or else I was ignorant in reference to them. He contended that the Hay-Pauncefote treaty under which we are now operating forbade the favoring of American commerce using the canal, because of the obligation imposed upon the United States to preserve its neutrality, and in answering my question as to what he meant by "neutrality," I fear, as I have said, that he did not have in mind the conditions at the Isthmus as they existed in 1850, when the Clayton-Bulwer treaty was made, and in 1901, when the last treaty was entered into.

It is needless to discuss in detail the circumstances which in 1850 revived the old desire for a canal. It is sufficient that such a desire was strongly revived at that time. The year before the United States had made a contract with Nicaragua whereby the latter granted to an American company the right to construct a canal via the San Juan River and Lake Nicaragua between the two oceans. It should be borne in mind that Great Britain was not favorable to this contract. She claimed an interest in and protectorate over the Mosquito Coast, and insisted that she had rights in Costa Rica and Nicaragua. The United States did not admit these British claims, but nevertheless she had to consider them, and they were influential in causing the Clayton-Bulwer treaty of 1850. The possibility of a canal built by private capital through alleged British territory was being considered. Another company was contemplating a waterway via Panama. Under these conditions it was finally agreed that neither Great Britain nor the United States should take or hold or enjoy any benefits in any canal built by private enterprise which the other did not have. Understand that the then pending proposition of a Nicaragua canal was not for one to be built by Great Britain or by the United States, and all the provisions contained in the Clayton-Bulwer treaty prohibiting the fortification, not of a canal which either country owned but fortifications in the vicinity of the canal, must be taken into consideration in order to determine exactly what the relations were between the United States and England at the time of the making of the treaty of 1850.

The very fact that there was a prohibition in that treaty against fortification by either country of a canal built by private capital shows conclusively to me that the United States was influenced somewhat by the Monroe doctrine, then more in dispute than now. We were insisting that the rights of Great Britain in Central America, in Nicaragua, on the Mosquito coast, and in Costa Rica were at least questionable; we were insisting that England had no right to claim authority there, but she was anxious to preserve her alleged rights in Central America. In 1901 no such conditions existed. The Monroe doctrine was unquestioned, and Great Britain laid no claim to property in Central America. She laid no claim to any right at the Isthmus, where the Nicaragua Canal was to have been built or where the Panama Canal is now being built. Therefore the term "neutralization," as used in the Clayton-Bulwer treaty, to which the Hay-Pauncefote treaty refers in express terms, applied to war conditions, to conditions upon which the canal could be used by belligerents. Its meaning then was limited, but has been somewhat enlarged, not, however, so as to include conditions of isthmian commerce, except as the same are guaranteed against hostile attack in time of war, and the terms "equality" and "equity" apply to its use in times of peace, to commerce unembarrassed by any conditions of war.

The canal can not be used at this time, I repeat, under authority or permission of the United States by belligerents, either as a rendezvous, a base of supplies, or place of safety. In matters of warfare the canal is to be neutral, and the United States has engaged to keep it so. The treaty of 1901 refers to the general principle of neutrality as established in article 8 of the treaty of 1850, and to that treaty and the circumstances and conditions which caused its creation and surrounded its making must we go for an interpretation of neutrality as used in the Hay-Pauncefote agreement.

In order to understand it, we have to consider the conditions in 1850 and in 1901. But it has seemed to me that the question whether we are included in the term "all nations," when we apply the treaty to our coastwise trade, has been settled by the Supreme Court.

A case reported in the One hundred and ninety-fifth United States, that of Olesen against Smith, is directly in point. That was a case growing out of the pilotage laws enacted by the State of Texas. It appears that Texas had a law which permitted United States boats, and especially boats that were owned in the State of Texas, to come into the harbor of Galveston without a pilot, but imposed a pilotage charge on foreign vessels coming in. It is not necessary to recite all the provisions of that law. It is sufficient to state that they provided that foreign boats should employ pilots. In other words, it was a compulsory pilotage law, but excepted Texas boats from its operation. We have a treaty with Great Britain which states in express terms that—

> no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States.

This boat which came into the harbor in 1904 was a British boat. She refused to take on a pilot, and the pilot, who, under the law, was entitled to his pay, he being the first to offer his services, and having been refused, brought this action in court.

In that case the treaty was pleaded in defense. It was also pleaded that the law affected interstate commerce, and with interstate commerce the State of Texas had nothing to do. The court very properly held on this point, as we all know it must have held, that inasmuch as the Federal Government had not acted, the State of Texas could exercise that right and it had constitutionally exercised it. But in reference to the defense that the Texas law was in violation of the harbor treaty with Great Britain, the court held it was not in such violation, although the terms of the treaty were more clear and specific than the terms of the Hay-Pauncefote treaty. In rendering its opinion on this point of that case the court said:

> Nor is there merit in the contention that, as the vessel in question was a British vessel coming from a foreign port, the State laws concerning pilotage are in conflict with a treaty between Great Britain and the United States, providing that "no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States."
>
> Neither the exemption of coastwise steam vessels from pilotage, resulting from the law of the United States, nor any lawful exemption of coastwise vessels created by the State law, concerns vessels in the foreign trade, and therefore any such exemptions do not operate to produce a discrimination against British vessels engaged in foreign trade and in favor of vessels of the United States in such trade. In substance, the proposition but asserts that because by the law of the United States steam vessels in the coastwise trade have been exempt from pilotage regulations, therefore there is no power to subject vessels in foreign trade to pilotage regulations, even although such regulations apply without discrimination to all vessels engaged in such foreign trade, whether domestic or foreign.

That is the interpretation which the Supreme Court of the United States has placed upon a similar treaty, holding that, inasmuch as our coastwise trade can not be participated in by

a foreign boat, therefore any regulation which we may see fit to make touching that trade can not possibly be a discrimination against a foreign boat.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Iowa?

Mr. TOWNSEND. Certainly.

Mr. CUMMINS. I am in entire agreement with the Senator from Michigan with respect to the proper construction of the treaty. I believe, and presently will try to show from my standpoint, that we have a right under the treaty to discriminate in favor of our shipping. Nevertheless I can not put my conclusion upon the opinion of the Supreme Court which the Senator has just read, and I want to suggest to him what I believe to be a distinction.

The Supreme Court in the case just cited decided it upon the assumption that the traffic was not competitive; that the coastwise business along the shores of Texas did not compete with the foreign business carried on by the British vessel.

That is not true of the Panama Canal in reference to its coastwise business. While no British ship can engage in the coastwise business, the British ship is nevertheless in competition with the American ship in business on the coasts of America. For instance, suppose an American ship should leave New York, filled with steel rails, destined for San Francisco, the market being in San Francisco. At the same time a British ships leaves Liverpool, filled with steel rails, also destined for San Francisco. These two ships and their cargoes are in competition with each other. The price at which the cargoes can be sold in the market, it being a common market, depends to some extent upon the charge made for its passage through the Panama Canal. The instance I cite could be indefinitely extended.

So I can easily conceive that if a case under the treaty of 1901 ever reaches the Supreme Court of the United States it could readily make the distinction I have suggested between such a case and the one decided in One hundred and ninety-fifth United States.

I submit this to the Senator from Michigan for such consideration as it may deserve.

Mr. TOWNSEND. I myself have considered that point, and yet I can see no distinction in principle between the court case I have cited and the case made by the Senator from Iowa. I am obliged to the Senator for calling my attention to it.

The pilotage charge is also a charge upon commerce. Suppose, in the case cited here, it had been a cargo of rails, such as the Senator suggested, from New York to Galveston. Suppose at the same time a cargo of rails went from England to Galveston, and in one case—that of the American boat—it was not charged with tolls, but the English boat was. It is a burden upon the traffic to charge for pilotage the same as it would be to impose tolls.

Mr. CUMMINS. I agree to that. I believe if a case such as has been suggested had been the case before the Supreme Court and that point had been made under the evidence in the case, the decision would have been precisely as I think it must be if the two cargoes are passed through the Panama Canal.

Mr. TOWNSEND. I can see no difference in the two cases. I do not know whether the point made by the Senator was raised in the Texas case or not. I do know that there was a case that was decided under a provision very similar to the provision in the Hay-Pauncefote treaty, one prohibiting any discrimination, and I do know that England apparently acquiesced in our courts decision.

Mr. CUMMINS. I do not make any distinction between the treaty under which the case was decided and the treaty that we are now considering, because I think in substance they are the same.

Mr. TOWNSEND. I think so.

Mr. CUMMINS. They are the same in so far as this point is concerned. They are not the same, in my judgment, in so far as the subject matter covered by them is concerned. But the point was not made in the case. The court considered it apparently upon the hypothesis that there was no discrimination, because there was no competition and could be no competition.

Mr. TOWNSEND. Of course it was based purely upon the theory that no American goods, no American commerce, could be carried in the coastwise trade or from port to port in foreign bottoms under our coastwise laws.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Connecticut?

Mr. TOWNSEND. I am very glad to yield.

Mr. BRANDEGEE. Mr. President, I hesitate to interfere with the Senator's remarks.

Mr. TOWNSEND. The Senator need not hesitate.

Mr. BRANDEGEE. But it has been suggested to me that it is desirable to hold an executive session this afternoon. The chairman of the Committee on Post Offices and Post Roads has asked me if it would be agreeable to the Senator to conclude his remarks to-morrow afternoon, so that the Post Office Committee may have a meeting and report out the appropriation bill.

Mr. TOWNSEND. If the Senate will indulge me, I will be through in a very few minutes. I would rather finish to-night. I want to accommodate the Senate, but I can finish very soon if there are no interruptions, and I will not invite interruptions.

Some Senators who readily admit that we have the right under the treaty of 1901 to remit tolls on our coastwise shipping passing through the canal, do not believe that we have the right to pass free of tolls boats of American registry engaged in trade between the United States and a foreign country, and I can see better grounds for this belief than in the case of our domestic shipping. But if my heretofore expressed opinion that "all nations," as used in article 3 of the treaty, excludes the United States, which is the owning, constructing, operating Nation—the Nation which provides the rules, and hence is responsible for the canal and its operation—then certainly we have the right to retain a benefit which common sense and common justice would warrant.

But the same gentlemen who would deny us the right to pass our merchantmen through the canal free of tolls insist that we can pass our warships through without charge. They contend that to admit the former under the treaty we would have to interpolate words and meaning which the letter of the treaty does not contain, but the same is equally true as to vessels of war. Gentlemen will use reason in interpreting the provision as to war vessels, but refuse to apply it in the case of vessels of commerce, although these two classes of ships are found in the same paragraph of the treaty, joined by the conjunction "and."

It is generally admitted that nearly every foreign nation grants a subsidy to its boat lines engaged in foreign commerce, and it has been reported that some of the foreign countries are already making legal provision for paying to ships passing through the canal whatever tolls may have been paid to the United States. Will anyone contend that our Government could not do the same things to American boats? If this could be done indirectly by repayment, will it be contended that it can not be done directly?

But a majority of the committee, having in mind the desirability of building up our merchant marine, and wishing to satisfy, as far as possible, the objections of Senators who do not read the treaty as some of us do, has inserted in the bill a provision that the American boat engaged in the foreign trade in order to receive free passage through the canal must enter into a contract to the effect that in case of war or other emergency such vessel may be appropriated and used by the United States. Under the clear and undisputed terms of the treaty this proposed condition would constitute a class of boats which could be passed without tolls, and no discrimination would be practiced.

Mr. McCUMBER. Mr. President, may I ask the Senator one question?

Mr. TOWNSEND. I hope it will not be a long one.

Mr. McCUMBER. Just one question.

Mr. TOWNSEND. Very well.

Mr. McCUMBER. If the United States were to pay tolls for its warships to whom would the United States make the payment?

Mr. TOWNSEND. To the United States, of course. And to whom would the United States pay back the rebate or refund?

Mr. McCUMBER. Would that be a payment—the United States paying it to itself?

Mr. TOWNSEND. It seems to have been so argued; and some distinguished Senators argue with a good deal of reason that the Government can collect the tolls and then repay them and by so doing can keep within the letter and spirit of the treaty. No; I do not think that we should pay tolls on our battleships, nor do I believe that a true interpretation of the treaty contemplated it, neither do I believe it was contemplated when that treaty was made that our merchantmen should be compelled to pay tolls if our Government saw fit to exempt them.

I desire to offer every proper encouragement to the building and operating of American ships, and free tolls would, I believe, contribute materially to this end.

Section 11 of the proposed bill deals with the class or ownership of vessels which may be operated through the canal. I have already stated that one of the objects for constructing

the canal was to aid commerce—our commerce. It may accomplish this purpose by furnishing additional facilities for transportation. Certain traffic will naturally seek the water and by so doing will relieve congested railroad traffic and permit greater expedition and better facilities for that character of traffic which almost of necessity must be carried by the railroads.

Water transportation, if kept free and unmonopolized, will reduce rail rates and keep them reasonable, and this will be true not only at points where rail and water are directly competitive, but it will affect rates in the somewhat remote interior. I shall not attempt to cite cases and quote rates proving this proposition, but shall content myself by saying that water competition, active or potential, affects rail rates directly for more than a hundred miles from the water, and when the canal is completed self-preservation will compel the rail carriers to reduce their rates to all interior points. Where free and sufficient water transportation facilities exist direct and indirect competing rail transportation is reasonable. We need no commerce commission to keep railroad rates reasonable where water competition exists. The water carrier is the best and most effective rail-rate regulator. The great question therefore is how to operate the canal so as to secure the greatest competition, not only between boats operating through it, but with rail carriers as well.

I think I can undersand why transcontinental railroads have been unfriendly to the construction of the Panama Canal. It will in a measure interfere with their carrying monopoly. It will compel them to compete with water carriers unless they can directly or indirectly control the waterway. It will compel them to improve their carrying facilities or to reduce their rates, and probably it will do both. Naturally one would think that a railroad company would not care to own a boat line competing with itself. It does not seem reasonable that it would buy a boat and use it to lessen its own business; and it would not. Its object may be consistent with greater and cheaper transportation facilities, but it is difficult for me to understand how.

This is a new highway, and we have now an opportunity to start it free from the possibilities of railroad domination. It will be more difficult to expel railroad boats from the canal when they are once lawfully there than it is to keep them from entering at all.

The legitimate field for railroad operation is wide and it should not be permitted to participate in our coastwise traffic. So far as our internal affairs are concerned it would be well to confine our common carriers strictly and exclusively to transportation—the railroads on the land, the boats on the water. They never ought to have been permitted to engage in any kind of business other than that for which they were chartered, and no charter should have been granted for any other purpose than that of transportation.

This principle generally applied would affect lines already established and great disturbance to business without adequate compensation might result from the divorcement of water and rail carriers now, but so far as the canal is concerned—and that is the business we have in hand—there are no existing complications, and we have a splendid opportunity to demonstrate the effect of water transportation unaffected by railroad influence. The demonstration will be worth while, and if it proves what I expect it will, there will be time enough to make its application general.

I would not be understood as condemning the ownership of a boat line by a railroad where the former is but an extension of the rails of the latter across the water, and so any railroad which desires to engage in the foreign trade through the canal should be encouraged to do so.

I realize that much of what I have said thus far in reference to section 11 has been largely academic and void of demonstrated argument, but the transportation problem is familiar to all. The tendency of large carriers to destroy small ones has been a part of our national history. Monopoly is easily possible to the strong railroad, and where no legal restraints exist that condition is almost always realized, and whatever may be our policy hereafter we have not yet abandoned all hope for water competition, and that, notwithstanding the disappointing condition of railroad competition. Indeed, it is known that we have no real railroad competition now, so far as rates are concerned, nor have we had since the Interstate Commerce Commission began to fix rates. On the water it is different, at least so far as coastwise traffic is concerned. Anyone with sufficient capital can build and operate a boat and he may carry for what he pleases; he may charge nothing, if he chooses. Every independent boat line, every tramp steamer, is a factor in keeping rates reasonable.

The railroad-owned boat engaged in the coastwise trade and plying between our east and west coasts through the canal would have an advantage over any independent boat in that it would be backed by the capital and influence of the railroad, and that influence would naturally be exerted for its owner, the railroad. It would be for the railroad's interest to increase its earnings, and this could not be done if its traffic was diverted for any great length of time to the water carrier. A boat owned by the railroad and engaged primarily in the foreign trade could, so far as its owners were concerned, carry coastwise traffic at less than cost if by so doing it could lessen the number of water competitors, for eventually these owners would regain whatever they had temporarily lost; but if at this time we serve notice upon the prospective shipowners of the United States that we propose to give the railroads and the capital back of them the right to enter the canal on equal terms with all others, we may be quite sure that the railroads will not need to establish unprofitable rates, for no independent boats will be built; no competitors will appear.

I know of but one line of railroad-owned boats now in existence which would use the canal in coastwise trade if permitted to do so. It is an undoubtedly profitable and useful line and it can continue in the same business which it now follows. Its capable manager—for whom I have great respect for his ability and for his evident fairness—says he does not care to engage in the coastwise trade except incidentally in connection with his foreign business; that he desires to build four large ships, to be splendidly equipped, but that he can not obtain the money with which to build these ships if this incident of interstate traffic is denied him. Nothing could more clearly demonstrate capitalistic railroad domination of the means to adequate transportation than this admission, and I as a representative of the American people feel that it is my duty to prevent as far as within me lies this grip of monopoly upon a waterway which has cost the country so much and for which its expectations are so great. We may lose the opportunity for securing these four large boats, but we will, I believe, obtain many times four boats from nonrailroad sources.

At the proper time I propose to offer an amendment to the bill providing that any American boat of whatever ownership may engage in that part of our coastwise traffic, which can be carried on between continental United States and our insular possessions or dependencies—between the United States and Hawaii or the Philippines or Porto Rico. The reason for excluding railroad-owned boats from participating in the coastwise trade of the United States proper do not seem to me to apply to traffic between the United States and these islands or to that between the islands themselves. Those boats which do or can compete with the railroads should not be owned by those railroads.

The bill provides that a railroad-owned boat engaged in the foreign trade may do a coastwise trade en route to and from the foreign country, providing that not less than 50 per cent of its traffic is destined to or from the foreign country, but that is not a good or practical provision. No possible harm can come to any existing line from the prohibition which I propose. No property will be confiscated. No vested right will be disturbed. Any man or company, excepting a railroad company, can embark in the steamboat business through the canal, and I have heard of but one railroad company which proposed to operate a boat line through the new waterway. Is it not the part of wisdom, in view of our past experience, to keep this great new enterprise free from railroad influence until at least it shall have been demonstrated that independent boats will not be furnished in sufficient tonnage to meet the demands of traffic?

I shall not be surprised if less tonnage passes through the canal than is now predicted, and yet its construction will be amply justified, especially if monopoly is not permitted. I expect to see better facilities furnished, more tracks laid, quicker time made, and lower rates charged by the railroads. Such has been our history in similar cases, and it makes no difference to the people whether the canal shall furnish better and cheaper transportation by its actual use, or whether its influence upon the rail carriers shall bring to pass the same results over the railroad. It is satisfactory transportation rates and facilities we have in mind as one of the two great objects for building the canal. But if by any means the roads can control the water, then we may be sure that this great expenditure of money for building and operating the canal will have been squandered, so far as benefits to commerce are concerned. Surely it is best to take no chances in a matter of such mighty importance to the country.

I have no doubt that it will be urged here that we can direct the Interstate Commerce Commission to fix the rates and regulations which railroad-owned boats may charge and under which they may operate through the canal, but I am opposed to that; first, because the commission has more than it can do well now and, second, because water competition will cease when Govern-

ment rate fixing begins. It is possible that we will some day reach the time when boats will be treated as railroads are, so far as prescribing rates and regulations are concerned, but that time is not yet, and in the meanwhile let us see what can be accomplished by competition uninfluenced by monopoly.

What I said at the beginning in reference to tolls was general and applied to all nations, but permit me to advert briefly to the special case of Canada. It is urged that if the toll gates swing free to United States boats, but will open to Canadian boats only upon the payment of tolls, that the Dominion will retaliate at the Canadian Soo, the Welland and St. Lawrence Canals. I can not so believe, and I would not violate either the letter or the spirit of our treaty relations with our neighbor on the north, although her present administration seems actuated by something less than the truest feelings of amity and good will toward us. Our existing treaty with Canada gives that country no right to participate in our coastwise traffic. It does provide, however, that both nations can on equal terms use the Canadian and American Soo locks and canals; the American St. Clair Canal, the Detroit River artificial channel, the Welland and the St. Lawrence Canals. The benefits to the two countries are mutual. There is actual and real reciprocity in this treaty, and no benefits from any other sources than those inhering in the mutual use of the Great Lakes, the Welland Canal, and the St. Lawrence River, were contemplated.

It is true that until our new Soo lock, which is in process of construction, is completed, lake traffic would be retarded if we were denied the use of the Canadian Soo locks for some of our large boats, but our treaty with the Dominion will not have terminated before our new lock will be done and Canada will have no just cause to abrogate the treaty if we live up to our part of the contract, and we will. We will be just to all nations, and in this instance "all" will include our own.

I want the time to come when there shall be no tollgates on land or lake or sea in the way of commerce between Canada and the United States; but that time will come, if it ever comes, when the two countries, without dissembling, but in truth and sincerity, shall ask and receive genuine reciprocity in all matters pertaining to trade and commerce. In the meanwhile, without disturbing the status quo of our treaty or traffic relations with Canada, we should proceed, as she and all other nations would do under similar circumstances, viz, to promote the general welfare of our own people.

It is possible that free passage of American-owned boats will not inure to the benefit of the people, and I confess that if the effect was simply upon the cargoes in the ships thus passed through the canal I should be inclined to believe that the shipowner would be the sole beneficiary of our bounty, but the effect will not be so circumscribed. Free ships will have a tendency to encourage the building and operating of more ships, and this result will, through competition, have a tendency to materially reduce rates to such an extent that the consignee—the consumer—will get the benefit. But the boat rates must be met by the rail rates. This fact has been made eloquent by every act of the railroad companies since the canal project was started. It is because of this fact that railroad managers want a controlling hand in canal affairs. They know that this completed enterprise will be more potent in reducing rates and in furnishing adequate facilities than all the orders of the Interstate Commerce Commission and all the decrees of the courts. We may not be able to balance all influences and segregate those which are properly due to the canal, but we may be sure that the lower rail rates will inure to the benefit of the people, as they should, because it was their genius which conceived this enterprise, it was their money and energy which constructed it, and it will be their patriotism which will maintain and operate it.

HOUR OF MEETING TO-MORROW.

Mr. BRANDEGEE. I should like to ask if any hour has been fixed for meeting to-morrow other than 12 o'clock?

The PRESIDENT pro tempore. The Chair is not aware of any.

Mr. BRANDEGEE. I move that when the Senate adjourns to-day it be to meet at 11 o'clock in the morning.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 7 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 21 minutes p. m.) the Senate adjourned until to-morrow, Friday, July 19, 1912, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 18, 1912.

COMMISSIONER OF CORPORATIONS.

Luther Conant, jr., of New York, to be Commissioner of Corporations in the Department of Commerce and Labor.

ASSISTANT SECRETARY OF THE TREASURY.

Sherman Page Allen, of Vermont, to be Assistant Secretary of the Treasury in place of A. Piatt Andrew, resigned.

RECEIVER OF PUBLIC MONEYS.

Harry H. Price, of Casper, Wyo., to be receiver of public moneys at Douglas, Wyo., vice Nathaniel Baker, transferred to register.

REGISTER OF THE LAND OFFICE.

Nathaniel Baker (now receiver of public moneys at Douglas, Wyo.) to be register of the land office at Douglas, vice John W. Price, resigned.

POSTMASTERS.

COLORADO.

Edwin R. Heflin to be postmaster at De Beque, Colo. Office became presidential July 1, 1912.

ILLINOIS.

William W. Austin to be postmaster at Effingham, Ill., in place of William W. Austin. Incumbent's commission expired February 13, 1911.

Samuel W. Baird to be postmaster at Carlyle, Ill., in place of Samuel W. Baird. Incumbent's commission expired January 31, 1911.

Marion T. Capel to be postmaster at Carriers Mills, Ill. Office became presidential January 1, 1912.

John W. Campbell to be postmaster at Morrisonville, Ill., in place of John W. Campbell. Incumbent's commission expired March 31, 1912.

Henry J. Cheesman to be postmaster at Princeville, Ill., in place of Henry J. Cheesman. Incumbent's commission expired January 31, 1912.

Edwin P. Edsall to be postmaster at Grafton, Ill., in place of Edwin P. Edsall. Incumbent's commission expired December 11, 1911.

Robert R. Hilling to be postmaster at Manito, Ill., in place of Robert R. Hilling. Incumbent's commission expired December 11, 1911.

Winfield S. Hopkins to be postmaster at Granville, Ill., in place of William E. Hawthorne. Incumbent's commission expired January 13, 1912.

Thomas G. Laws to be postmaster at Coffeen, Ill., in place of Thomas G. Laws. Incumbent's commission expired February 20, 1911.

James H. Miles to be postmaster at Riverside, Ill., in place of Cornelius Sullivan, removed.

William S. Rice to be postmaster at Carmi, Ill., in place of William S. Rice. Incumbent's commission expired May 14, 1912.

William P. Richards to be postmaster at Jerseyville, Ill., in place of William P. Richards. Incumbent's commission expired April 23, 1910.

Fred M. Stoddard to be postmaster at Ramsey, Ill., in place of Fred M. Stoddard. Incumbent's commission expired January 10, 1911.

Charles E. Tanner to be postmaster at Minier, Ill., in place of Charles E. Tanner. Incumbent's commission expired January 31, 1912.

Arch L. Wade to be postmaster at Farina, Ill., in place of Arch L. Wade. Incumbent's commission expired January 10, 1911.

Arthur E. Wasson to be postmaster at Franklin Park, Ill. Office became presidential July 1, 1912.

Edwin L. Welton to be postmaster at Centralia, Ill., in place of Edwin L. Welton. Incumbent's commission expired January 28, 1911.

Lawrence C. Wines to be postmaster at Maywood, Ill., in place of Harrison P. Nichols, deceased.

IOWA.

Edwin H. Wilson to be postmaster at Cedar Falls, Iowa, in place of J. W. Jarnagin, resigned.

KENTUCKY.

Alfred R. Dyche to be postmaster at London, Ky., in place of Lee B. McHargue, removed.

MINNESOTA.

George F. Kramer to be postmaster at South St. Paul, Minn., in place of Andrew J. Davis, removed.

Frank Withrow to be postmaster at Stillwater, Minn., in place of William E. Easton. Incumbent's commission expired March 31, 1912.

MISSOURI.

L. H. Johnson to be postmaster at Kennett, Mo., in place of George T. Dunmire. Incumbent's commission expired February 18, 1911.

NORTH DAKOTA.

William H. Workman to be postmaster at Bowman, N. Dak., in place of Mathilde Lowden, removed.

OREGON.

J. P. Morelock to be postmaster at Wallowa, Oreg., in place of Jesse E. Tulley, resigned.

PENNSYLVANIA.

Alfred Evans to be postmaster at Kane, Pa., in place of R. K. Godding, deceased.

J. W. Houck to be postmaster at Clymer, Pa., in place of J. W. Houck. Incumbent's commission expired May 14, 1912.

SOUTH DAKOTA.

Leonard T. Hoaglin to be postmaster at Platte, S. Dak., in place of Leonard T. Hoaglin. Incumbent's commission expired May 22, 1912.

William P. Joseph to be postmaster at Wagner, S. Dak., in place of William P. Joseph. Incumbent's commission expired May 22, 1912.

VIRGINIA.

Gay R. Cochran to be postmaster at The Plains, Va., in place of Clarence C. Middleton, resigned.

WISCONSIN.

Charles J. Linquist to be postmaster at Rio, Wis., in place of Charles J. Linquist. Incumbent's commission expired May 6, 1912.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 18, 1912.

UNITED STATES ATTORNEYS.

James W. Freeman to be United States attorney for the district of Montana.

John C. Swartley to be United States attorney for the eastern district of Pennsylvania.

Homer N. Boardman to be United States attorney for the western district of Oklahoma.

Oliver D. Street to be United States attorney, northern district of Alabama.

RECEIVERS OF PUBLIC MONEYS.

Thomas V. McAllister to be receiver of public moneys at Jackson, Miss.

Harry H. Price, receiver of public moneys, Douglas, Wyo.

REGISTER OF LAND OFFICE.

Nathaniel Baker, register of the land office, Douglas, Wyo.

ASSISTANT SECRETARY OF THE TREASURY.

Sherman Page Allen, Assistant Secretary of the Treasury.

POSTMASTERS.

ALABAMA.

James L. Carwile, Ashland.
Walter W. Harkins, Fayette.
John T. Stewart, Wylam.

CALIFORNIA.

Frank J. Grillo, Angels Camp.
Hugo J. Schumann, Soledad.

COLORADO.

John A. Murphy, Las Animas.
Wesley W. Parshall, Durango.

IDAHO.

Blanche S. Rowe, Burke.

ILLINOIS.

William W. Austin, Effingham.
Samuel W. Baird, Carlyle.
John W. Campbell, Morrisonville.
Marion T. Capel, Carriers Mills.
Henry J. Cheesman, Princeville.
Edwin P. Edsall, Grafton.
Robert R. Hilling, Manito.
Winfield S. Hopkins, Granville.
Thomas G. Laws, Coffeen.
William S. Rice, Carmi.
William P. Richards, Jerseyville.
Fred M. Stoddard, Ramsey.
Charles E. Tanner, Minier.
Arch L. Wade, Farina.
Arthur E. Wasson, Franklin Park.
Edwin L. Welton, Centralia.
Lawrence C. Wines, Maywood.
Louis Wolfram, Des Plaines.

INDIANA.

Andrew F. Gugsell, Jasper.

IOWA.

J. V. Williams, Union.

KENTUCKY.

W. A. Coffey, Columbia.
John B. Harvey, Madisonville.
Robert L. Jones, Morganfield.
William L. Kimbrough, Guthrie.
Lewis M. Lebus, Cynthiana.
Frank W. Stith, Falmouth.

MAINE.

John W. Mathews, Berwick.

MASSACHUSETTS.

Fred A. Hanaford, South Lancaster.
George L. Minott, Gardner.
Charlotte L. Parker, Osterville.

NEBRASKA.

Jules Haumont, Broken Bow.

NEVADA.

T. W. O'Connor, Virginia City.

OHIO.

Owen Livingston, Richwood.
Charles A. Schumacher, Dresden.

SOUTH DAKOTA.

J. M. Miller, Colome.

WITHDRAWAL.

Executive nomination withdrawn July 18, 1912.

POSTMASTER.

William W. Middleton to be postmaster at The Plains, Va.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July 18, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou great Creator, Father soul, to whom we are indebted for all things, continue, we beseech Thee, Thy blessings unto us as individuals and as a Nation, that we may think clearly, act wisely, do justly, love mercy, and walk humbly with our God, remembering that "The path of the just is as the shining light, that shineth more and more unto the perfect day." And Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE TO PRINT.

Mr. BROUSSARD. Mr. Speaker, I ask unanimous consent to print in the RECORD a memorandum on the jurisdiction of courts with respect to the orders of the Interstate Commerce Commission, by John B. Daish.

The SPEAKER. The gentleman from Louisiana [Mr. BROUSSARD] asks unanimous consent to print in the RECORD a paper written by John B. Daish on some phase of the Interstate Commerce Commission. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House a personal request, which the Clerk will read.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., July 16, 1912.

THE SPEAKER,
House of Representatives, United States.

DEAR MR. SPEAKER: I desire to have leave of absence, for one week, on account of illness.

Very truly, yours, THOMAS PARRAN.

The SPEAKER. That request ought to be dated back two days. The letter came to the Speaker, and in the multiplicity of letters that come it got misplaced in some way. The Chair does not want to do the gentleman from Maryland [Mr. PARRAN] an injustice. Without objection, the leave of absence is

granted and is dated back to the 16th, covering these roll calls that were had on Tuesday and yesterday.

There was no objection.

Mr. MORGAN, by unanimous consent, was granted leave of absence until August 7, on account of important business.

Mr. HUGHES of Georgia, by unanimous consent, was granted leave of absence indefinitely, on account of illness.

Mr. HAMILTON of West Virginia, by unanimous consent, was granted leave of absence indefinitely on account of illness.

ELECTION OF SERGEANT AT ARMS.

Mr. CULLOP and Mr. HEFLIN rose.

The SPEAKER. The gentleman from Indiana is recognized.

Mr. CULLOP. I will yield to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Before the gentleman proceeds, I would like to report to the House that a caucus was held yesterday, and Mr. Charles F. Riddell was unanimously chosen as Sergeant at Arms, to fill out the unexpired term of Mr. U. Stokes Jackson. Mr. Speaker, I move his election at this time.

The SPEAKER. Is there another nomination? If not, the question is on the election of Charles F. Riddell as Sergeant at Arms, to fill the unexpired term of the Hon. U. S. Jackson, deceased.

The question was taken, and Mr. Riddell was elected.

Mr. Riddell appeared before the bar of the House, and the oath of office was administered to him by the Speaker.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed, with amendments, bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 20728. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1913.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 24, providing for an inquiry as to the purchase of the home of Thomas Jefferson, at Monticello, Va.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 338) authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public-park purposes.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 5446. An act relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908;

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation; and

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate concurrent resolution of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. Con. Res. 24. Providing for an inquiry as to the purchase of the home of Thomas Jefferson at Monticello, Va.; to the Committee on Rules.

The SPEAKER. The gentleman from Wisconsin [Mr. BERGER] is recognized for one hour.

Mr. BERGER. Mr. Speaker, Fourth of July orators tell us that there are no classes in America, that in this country "men are born free and equal," and that the Declaration of Independence says so. And there are still some persons in this country who believe that this being a Republic there are no classes.

ARE THERE CLASSES IN AMERICA?

It is true that interesting historical document, the Declaration of Independence, says that "all men are born free and equal." But that was not so, even at the time when the sentence was written. It is less so now.

Men are not born equal. They do not live as equals. They do not die as equals.

The child of the rich is surrounded by comforts and luxury, even before it is born. It is raised with tender care. Danger and sickness are kept away from it. It has every advantage that our civilization affords. Unless killed by an accident or by yielding to the temptations which wealth afford, these children of fortune grow up to a ripe old age, honored and respected by everybody and especially their children, who expect to inherit their wealth and their privileges.

How about the child of the poor? It is born in want and misery which had their beginning long before the child was born. More than half of the poor die before they are a year old. The child that survives and grows up to manhood or womanhood leads a life of toil and misery, filled with temptations of all kinds, which often lead to crime and prostitution. Old age means beggary or the poorhouse—at best, the aged poor are a great burden to their children. Many prefer an early grave.

Now, where is the equality of birth? Or during life, or even at the deathbed?

And do we have classes in America?

IS THERE EQUALITY BEFORE THE LAW?

We are told, however, that equality in the Declaration of Independence means equality before the law.

I fail to see it there, either.

There is equality before the law when both parties are rich or both parties are poor. There is no equality in the case of a poor person against a rich person or against a wealthy corporation. Rich people will have the best lawyers, while a poor man may, if he has a good case, get a pettifogger on a half share.

Let us watch a common police court on any day. Two men—one looking prosperous, the other looking poor—are arrested for a similar offense. Each is fined $10 and costs. The prosperous man will put down his $10 and walk out smilingly. The other man can not pay and is sent up to the house of correction. Now, it is clear to any observer that the poor fellow is deprived of his liberty, not on account of his misdemeanor but because he did not have $10.

MOST ALL LEGISLATION IS CLASS LEGISLATION.

Do we have classes in America?

Supposing a man out of work is picked up in some alley or under some bridge. He was trying to spend the night there, because he does not have the money for a night's lodging. The next morning he is fined and deprived of his liberty as a vagrant, because he did not have any money to pay for a lodging. In other words, in our country it is a crime to be without money.

We not only have classes, but most all of our legislation is class legislation—by the ruling class or its agents.

We have a plutocracy—we are ruled by the wealthy class.

CLASS STRUGGLE IS AS OLD AS CIVILIZATION.

The existence of classes is nothing new, of course. The class struggle is many thousand years old. It began with civilization. It is therefore foolish to accuse the Socialists that they are trying to "create classes"—that we incite class antagonism and class hatred.

We want to abolish classes, class antagonism, and class hatred.

If in former centuries, however, the working class meekly submitted to oppression and deprivation, there was some reason for it. There were not enough of the world's goods to go around to suffice for everybody. Naturally, therefore, the stronger took the first choice for themselves and their kin, and the people got the leavings, if there were any.

The economic basis has changed.

NO ECONOMIC REASON FOR THE EXISTENCE OF CLASSES HAS DISAPPEARED.

We have secured control over the forces of nature to such a degree as to bring the possibilities of comfort and well-doing within the reach of everybody, at least in civilized countries. With the present machinery of production it is within the power of society to supply all the reasonable wants of every man, woman, and child living.

And if there should not be enough of any product, we could easily multiply it infinitely, provided every man would do his reasonable share of work; and, provided also, that society would apply all the machinery at its disposal.

Then we could all have plenty. And the work time of every worker could be shortened considerably. In all probability it need not be half of what it is now.

In order to accomplish this, however, the working class must have its own representation. The proletarians of America must have a political party of their own to give expression to their

own needs and wants, just as the working class of every other civilized country has its own political party.

CAN NOT HONESTLY REPRESENT MORE THAN ONE CLASS.

The working class has nothing to hope for from either the Republican Party or the Democratic Party. The representatives of these parties may be, and very often are, very cultured and accomplished gentlemen. Most of them are personally honest. However, they represent the capitalist system; and the more honest and consistent they are the more loyal they are to their class.

And the two parties may fight about the spoils of this system, but neither of them is willing to change the economic basis of the present society.

It is, therefore, only natural that every law passed by the Republican or Democratic Parties benefits the capitalist class, or some group of it, in some manner—even laws that obviously seem to favor the workers, like the workmen's compensation act.

WHAT THE TWO OLD PARTIES REPRESENT.

Political parties are simply the expressions of economic interests.

The Republican Party is the favorite organization of the big capitalists. Why? Because it stood for a great deal of "business" during the late Civil War, and because, by its high-tariff proclivities and its banking laws, it has given a strong impetus to the profits of the manufacturers and bankers. [Applause on the Democratic side.]

For a generation it was considered the conservative business man's party of the country.

The Democratic Party, in its great majority, stood for the economic and political interests of the slave owners before the Civil War. After the war it naturally has become the dominant party of the South, where the former slave owner is slowly getting to be a manufacturer, a banker, or a capitalist. Up North the Democratic Party, not having any great economic interests to express, soon fell into the hands of corrupt machines, at least in the large cities. Thus we have Tammany in New York, the Cook County Democracy in Chicago, the Rose Democracy in Milwaukee, and other benevolent graft institutions. It naturally also became the favorite organization of the liquor interests in the Northern States. [Applause on the Republican side.]

The capitalist class, therefore, is just as willing to deal with the Democratic Party as with the Republican Party. While the latter is conservative, the Democratic Party is, to all intents and purposes, reactionary, especially on the industrial field; it would like to go back to the days before the war. Being behind the time in most things, it is especially ignorant and brutal in regard to the labor question, as the laws of many Southern States prove.

WHY THEY "DEARLY LOVE THE WORKINGMAN."

However, the workingmen of this country have votes, and that is the reason why the Democrats have in recent years discovered that they "dearly love the workingman." [Laughter on the Republican side.]

That is the reason why we have passed a few labor laws in this House. Of course, these laws have not passed the Senate nor the scrutiny of the Supreme Court; however, they will do in that form as campaign food on the eve of a presidential election.

Of course none of these laws will add a single sandwich to the daily fare of the many millions of workingmen and working women. None of these laws will take care of the old invalids of industry or help along the young. Every civilized country on the globe has done a great deal in that direction of late.

Not we. Nowhere is human life as cheap as in America.

KILL MORE WORKMEN EACH YEAR THAN SOLDIERS IN ANY YEAR OF THE CIVIL WAR.

That most of this waste of human life is wholly unnecessary is shown by Dr. John Randolph Haynes, special commissioner on mining accidents of the State of California, in a paper which was originally read before a joint session of the American Association for Labor Legislation and the American Economic Association on December 30, 1911, and is now printed as a Senate document.

Dr. Haynes says that 35,000 workmen are annually slain in the United States while engaged in their daily occupations, and that, if the wounded and crippled in industry are added, Mr. Mercer, of the Minnesota Employers' Compensation Commission, was not far wrong when he claimed that industry in our country now kills and cripples more each year than did bullet and shrapnel in any year of the Civil War.

Coal mining, according to Dr. Haynes, is the most hazardous of all American industries, killing outright from 3,000 to 5,000 and killing and seriously injuring from 8,000 to 10,000 each year. The United States kill more coal miners than all the rest of the world combined.

The following table shows the casualties of employees on American railroads in comparison with those of other countries. The figures are for yearly accidents, based on five-year averages, from 1905 to 1909, inclusive. The table is taken from a statement made by the gentleman from Maryland [Mr. LEWIS] and appears in Senate Document No. 90 of the Sixty-second Congress:

	Number of employees to 1 killed.	Number of employees to 1 injured.
1. United States	421	19
2. Germany	1,016	431
3. France	1,068	517
4. Switzerland	1,071	26
5. United Kingdom	1,351	134
6. Norway	2,125	340
7. Austria	2,205	160

However, as long as cheap trades for votes can be made with so-called "union labor leaders"—giving the working class nothing, and promising twice as much for next year—both the Democratic and the Republican Parties believe themselves safe.

Mr. ANDERSON of Ohio. Mr. Speaker, has the gentleman the statistics at hand to show how many more railroad employees there are in this country than in the other countries he mentions?

Mr. BERGER. I have none at hand, but if I had them that would not change the result any, because the statistics I quote give the proportion of the number of killed or maimed to the total number employed, and that proportion remains the same, no matter how many there are.

"A DIFFERENCE WITHOUT A DISTINCTION."

The only trouble just now is to make the workmen believe that the Democrats are different from the Republicans.

Mr. HOBSON. Will the gentleman yield for a question?

Mr. BERGER. After I have developed my theme, I will yield with pleasure. I say the two old parties are so much alike that they are hard up for an issue.

Mr. GARNER. How about the "bull moose" party?

Mr. BERGER. I shall make a few remarks about that species also, if the gentleman will give me time. [Laughter.]

Of course there is still that old stand-by—the tariff—God be thanked. And Mr. Woodrow Wilson, being a profound man—a man of the type of that other profound gentleman, Grover Cleveland—has declared that the tariff is to be the issue.

But how is it to be done this time?

The Republicans declared themselves to be in favor of a "downward revision." The Democrats are in favor of a "tariff for revenue," but they cautiously add in their platform that they do not want to harm any industry.

Now what does that mean?

If it means anything at all it means that the Democrats do not want to harm any owners of factories, because the South is waking up industrially. The South is beginning to have numberless "infant industries" that want protection. The Democratic Party must take care of these infants.

WILL PROF. WILSON NOW MAKE HIS OWN PLATFORM?

In other words, while Andrew Carnegie and Judge Gary and other northern trust magnates are willing to give up the protective tariff because their Pittsburgh and Chicago infants have grown up to some size—thank you—and they are well able to take care of themselves even in England or Germany, the southern manufacturers are beginning to demand a protective tariff—on cotton products first, of course.

That is natural enough—the South is just about 50 years behind the rest of the country in economic development.

But since that is the case, how is the good professor expecting to make good on the tariff as an issue in the coming election? Is he going to have a platform of his own—a platform other than was adopted in Baltimore, and for which the "peerless leader" stood sponsor?

Mr. Wilson will have to do so if he wants a demarcation of some kind between the old parties. As it is, the names of the two parties could be exchanged in both platforms and nobody would notice the difference.

HOW THE MIGHTY BRYAN HAS FALLEN!

Nothing is left of the great anticapitalist war cry for which Bryan was so well known in 1896. One can readily see that Mr. Bryan of 1912 is a different man—he got to be quite a capitalist himself, and that fact unconsciously changed his point of view.

The 16 to 1 silver issue has been dropped, and that is sensible enough. But nothing is said about nationalization of railroads, either—and the Federal judiciary is not even mentioned.

And what is even more remarkable for a "progressive platform," we can not find a word about direct legislation.

The initiative and referendum and the imperative mandate were conveniently shelved as "State issues," although the national platform is unquestionably the place to enunciate the national principles of a party.

EVERYTHING SHELVED THAT LOOKED "PROGRESSIVE."

And queerly enough even the recall of the judiciary is forgotten—a question that has been agitated very much of late and for which the Democrats in Congress have stood like heroes when they wanted to put "Taft into a hole" on the question of admitting Arizona and New Mexico to statehood. [Applause.]

It may be that Mr. Bryan expected to be a candidate himself and he wanted all the votes in sight, including the dissatisfied conservatives. Otherwise these omissions are hard to explain for a "progressive" platform.

MIGHT VOTE WITH EYES SHUT.

One might say, however, the platforms of the old parties are seldom read and even more seldom carried out. The main thing, then, is the personnel of the candidates.

But just at that point there is really no difference if one is to vote an old-party ticket. One might just as well shut his eyes and vote. The result would be absolutely the same.

ALL THREE ENJOY THE SUPPORT OF THE TRUSTS AND THE BOSSES

All of the candidates are honest men personally, as the term is understood in business and society nowadays. None of the candidates has ever been accused of any wrong other than "stealing convention delegates"—willing and ready to be stolen.

Mr. Roosevelt, who wants to start a party on the issue "Thou shalt not steal" and on business principles, should know that political graft is the very application of business principles to politics.

Furthermore, he also has openly been accused in the Senate of trying to buy delegates both this year and in 1904.

Moreover, the three candidates of the two old parties all enjoy the support of the trusts, the bosses, and the political machines.

HAIL TO GROVER CLEVELAND II!

Mr. Wilson, the Democratic candidate, has probably more support of that kind than any of the rest. Although a so-called progressive, he has with him Boss Murphy, of Tammany; Boss Smith, of New Jersey; Boss Sullivan, of Illinois; and Boss Taggart, of Indiana; their machines, and what they stand for. He was also jubilantly hailed by the reactionary capitalist element of both parties as a "second Grover Cleveland," and was warmly indorsed by every reactionary paper. Belmont and Ryan are his warmest supporters. Wilson's election will not only perpetuate the power of the bosses and their machines, but also inaugurate another era of reaction and "high finance" as we had under Grover Cleveland.

Mr. Wilson looks like a strong candidate owing to the fact that the country is restive and eager for a change, because the average voter foolishly believes that it is within the power of the administration to make good times or bad times at will, and almost everybody is dissatisfied. The evils and shortcomings of the social fabric and of the present economic system are laid at the doors of the administration that happens to be in power. This desire of the average citizen for a change is in favor of Mr. Wilson.

MR. WILSON HAS A "PAST"!

On the other hand, Mr. Wilson is very much handicapped by his past. Mr. Wilson has written books, and, being a recent convert to the cause of progressivism, his works stand out against him. Mr. Wilson has not only attacked the south European and Slavonic immigration, but he has also denounced organized labor.

He once declared that he preferred a Chinese coolie to an American trade-union man, because the former were more law-abiding and more industrious and worked cheaper—or words to that effect. As recently as 1909 he denounced union labor as "unprofitable labor." Mr. Wilson may have changed his mind, but he will have to explain, and the candidate that must explain is in a very poor position. His behavior during the late strikes in New Jersey will also require explanation.

MR. TAFT HAS MOST ALWAYS BEEN AN APPOINTEE.

It is unnecessary to tell where Mr. Taft stands. It is as natural for a man of his type to be allied with men like ROOT, CRANE, GUGGENHEIM, and Hammond as it is for a duck to take to the water. Until Mr. Taft ran for the office of President he had never gone to the common people for any indorsement. He is the son of a former Attorney General and minister to Austria. He was appointed assistant corporation attorney of Cincinnati, appointed a Federal judge, appointed a commissioner to the Philippine Islands, appointed a Secretary of War, and finally appointed the "heir of my policies" by Theodore Roosevelt.

Mr. Taft knows the history of the Republican Party as the favorite organization of the big capitalists. And he wants that party to remain the favorite.

EVOLUTION OF REPUBLICAN PARTY.

Moreover, the Republican Party has no other reason for existence than to serve capitalism. It has accomplished one great historical fact—it has freed the negro. That was done, not for humanitarian reasons, but because chattel slavery was incompatible with modern capitalism.

Modern capitalism rests upon wage labor. The Democratic Party of 1860 failed to understand this simple fact—and that is the reason why the Republican Party was founded and grew up to be just what it is now.

It was the party of William Lloyd Garrison, Wendell Phillips, and Abraham Lincoln. And it became just as naturally the party of John Sherman, Senator Aldrich, and Richard Ballinger.

That Mr. Taft has the support of many big political bosses and capitalist exploiters goes without further explanation.

WHERE MR. ROOSEVELT STANDS.

The opposition in the Republican Party is represented by the ex-President, Theodore Roosevelt. Where Mr. Roosevelt stands on all the great questions of the day nobody seems to know. I doubt whether Mr. Roosevelt knows himself, because with his brilliant but very erratic mind Mr. Roosevelt may revise and change all of his principles and convictions by to-morrow afternoon. [Laughter and applause.]

At this time it does not appear that he will play much of a part if he does, unless he is satisfied to be the pathfinder of a new organization which is on its way to nowhere in particular.

ROBIN HOOD "PROGRESSIVES."

But a glance at some of the "honest progressives" who are now setting out to purify politics will at once demonstrate that Robin Hood's famous assemblages of outlaws had nothing on the company that are now rallying around Theodore Roosevelt.

There is, for instance, little Tim Woodruff, veteran of the famous "Old Guard" of Albany in bygone days, and such a doubtful asset generally that two years ago Mr. Roosevelt ousted him from the position of a State chairman of New York.

Then there is Boss Flinn, of Pittsburgh, a reactionary from head to heel, soaked and saturated in the municipal corruption of that smoky inferno.

And Lucius Littauer, of Gloversville, N. Y., a reactionary to the backbone; mixed up in post office several years back.

And George W. Perkins, of Morgan and the Steel Trust.

Furthermore, Medill McCormick, of the Harvester Trust and the Chicago Tribune. Comment is really superfluous. [Applause.]

In short, all three candidates are well supported by the organization of their class.

THE TARIFF AND LABOR.

As to the tariff issue as such, this issue is to the working class exactly what every other capitalist issue is. The workingmen are interested in the tariff—as the tariff is now—as consumers only.

The tariff does not protect labor; at the same time any sudden change would be disastrous. It is mainly a manufacturer's issue—until labor really gets its share of the protection.

The tariff is not responsible for the trusts; there are trusts in England, where they have free trade. Moreover, the trusts are now in favor of free trade.

THE REAL ISSUE FOR THE WORKING CLASS.

With us the great issue is the difference between what a workingman in this country produces on the average and what he gets.

It is a class issue; it is the great issue of the working class. In 1909, in the 268,000 factories of this Nation, 6,600,000 wage earners added $1,290 apiece for every worker employed.

Did those workers receive the value they put into the product? Not at all. They received $518 apiece.

The other $772 went to the employers and landowners. This surplus value went to the capitalist class as such—to the landowners, the bankers, and employers, and the holders of special privileges of some sort or another.

Wherever this surplus value goes it goes to some individuals or groups of the capitalist class in some form—either as profit, rent, interest, insurance, and so forth.

ONE REASON FOR THE INCREASED COST OF LIVING.

In 1909 the number of factory wage earners was 6,615,046, an increase of 21 per cent in 5 years and of 40.4 per cent in

10 years. Women have constituted exactly 19.5 per cent of the factory population in each of the three last censuses. Children constituted 2.5 per cent.

Wage earners do not increase relatively in anything like the proportion that salaried employees do. The gain of the former in 10 years has been 40.4 per cent; of the latter 117 per cent.

It is true of all highly developed countries that the number of persons employed to handle, sell, and promote the sale of commodities increases far more rapidly than the number of persons who make things. This will help to explain the rise in the cost of living.

The number of wage earners does not increase proportionately with the increase of capital.

INCREASE OF OFFICE POPULATION.

Capital has increased 45.4 per cent in 5 years and 105.3 per cent in 10 years. Big capital now controls industry, and the figures are truly amazing.

In 1904 nine-tenths of 1 per cent of the establishments turned out 38 per cent of the product, and in 1909 1.1 per cent turned out 43.8 per cent of the product. Each of these establishments produced values in excess of $1,000,000, and there were 1,900 of them in 1904 and 3,061 in 1909.

Counting the establishments producing more than $100,000 in values annually, it is shown that in 1904 11.2 per cent of the total of 216,180 establishments turned out 79.3 per cent of the total product, and that in 1909 11.5 per cent of the total of 268,491 establishments turned out 82.2 per cent of the total.

The other 88.5 per cent of the establishments had to be satisfied with the leavings of 17.8 per cent of the product.

The average salary drawn in 1899 was $1,046; in 1909, $1,187. These salaries are not classified in this report, as similar salaries are classified in the report of the Interstate Commerce Commission. It is therefore impossible to tell just what rank of employees drew the increase. There is plenty of evidence, however, from common observation that the average poorly paid clerk or accountant has had no raise in the last 10 years.

THE RELATIVE SHARE OF THE WORKER IS GETTING SMALLER.

Wage earners received more money in 1909 than they did in 1904. Their average in the former year was $477, in the latter year $518, a difference of $41 or about 79 cents a week. The figures of wages are not yet classified for men, women, and children, and so we can not tell where the greater rate of increase has gone, though the probability is that it has gone to the men.

The value added to production (that is, the value of the product less the cost of materials) averaged $1,150 for each wage earner in 1904. It now averages $1,290. But the relative share of the worker in the value of his product is less than it was in either 1899 or 1904.

Here are the comparative figures:

Year.	Wages.	Net production.	Worker's share.
			Per cent.
1899	$426	$1,025	41.6
1904	477	1,150	41.5
1909	518	1,290	40.1

INSECURITY OF EMPLOYMENT.

One of the particularly brutal elements of capitalism is shown by the figures for the seasonal variations in the amount of employment in the various great industries. Capital can not keep its workers employed.

When it wants them it wants them bad; and when it does not want them, they may go and starve. In some of the industries the variation in the state of employment is only moderate.

In printing and publishing, for instance, the lowest number of wage earners employed at any time constituted 93.3 per cent of the largest number employed.

But in brick and tile making the minimum represented only 36.5 per cent of the maximum, and in canning and preserving only 12.9 per cent.

Even in the great steel and iron industry the number employed in March was 25 per cent less than that employed in December. Throughout the whole industrial scheme seasonal unemployment is a necessity under capitalism.

NUMBER OF CAPITALISTS SMALL; WORKINGMEN ARE MANY.

Moreover, another fact must be taken into consideration. The capitalist class numbers only about 4 per cent of the population, the middle class 24 per cent, and the working class 72 per cent.

WE LOOK UPON TARIFF ISSUE AS A SHAM BATTLE.

Under these circumstances, is it surprising that we look upon the agitation for a low tariff or for a high tariff as a shameless humbug when we compare its importance with the question of the exploitation of labor?

Is it surprising that we look upon the return of tariff issue as simply a sham battle to divert the attention of the workingmen from the main issue?

WORKINGMEN'S LABOR BOUGHT IN OPEN MARKET.

And the real issue is this:

Under the present system, which we call in political economy the capitalist system, the workingman's labor has become a mere ware in the market.

And since the man's labor can not be separated from the man, the workingman himself has become a commodity, whose time is bought and sold. The workingman, or rather his labor power, is subject to the same conditions as every other ware, especially to the conditions of supply and demand and to competition.

The workingman's labor—that is, his time—is bought now in the open market by the highest bidder on the one hand, from the lowest seller on the other.

And the employers—who are really the master class—care only to buy the workingman's time when he is young, strong, and healthy. When he is sick, or when he gets old, the employer has no use for him.

NOT IN BUSINESS FOR CHARITY.

The employer is not in business for the sake of charity. He is in business in order to make profits—to make money.

And because of this, we can see that our so-called free workers are sometimes worse off—from the purely economic point of view—than the blacks were under slavery before the war.

The negro was property and represented about a thousand dollars in value—sometimes more, sometimes less—he was property which the master owned. Therefore, the master, if he had any sense, took good care of his human chattel. The master was eager to have the slave as long and in as good condition as possible. When he became sick, or when he died, the master lost money.

The case is entirely different with the white workingman, the so-called free workingman. When the white man is sick, or when he dies, the employers usually lose nothing.

WORST EMPLOYER SETS THE PACE.

And high tariff, or tariff for revenue only, or free trade, "have nothing to do with the case."

The fact is that the capitalist, the average employer of today, is more concerned about a valuable horse, about a fine dog, about a good automobile, than he is about his employee, or about his employee's family.

In most cases, the employment is absolutely impersonal. The employer does not know his employee by name, or even by number. This is invariably the case with a stock company where the shareholders are scattered all over a city, a State, or all over the country, sometimes over Europe.

Nor can any individual capitalist or employer, no matter how charitably inclined he may be, change anything in these conditions. A business or corporation that should try to run its plant on a charity basis would not last long.

As a matter of fact, under the present system it is usually the worst employer who sets the pace. The employer who can fleece and skin his workingmen best is best equipped for the fight in the open market. He can produce his goods the cheapest.

COMPETITION AND LABOR.

Thus competition has come to have a fearful meaning to the working class.

On the one hand it compels the employers to get their labor as cheaply as possible, on the other hand it compels the workingmen to compete with one another for jobs. Competition among the workers has become, therefore, a cutthroat competition. It is a question as to who is to live and who is to starve. It is often a question as to whether a man is to stay with his family or to become a tramp.

And the tariff has nothing to do with that question, either.

There is always free trade in labor.

WOMAN AND CHILD LABOR.

In many cases now the laborer is compelled to disrupt his family and send his wife and children to the shop or factory.

For this is the great curse of machinery—or rather of the individual monopoly of machinery—that capital can be coined out of women, and even out of infancy. Thus not alone are men turned into wares, governed by demand and supply, but they are also made to scramble for a precarious living with the wives, sisters, and children.

The evil of child labor is especially glaring down South, where my Democratic friends rule absolutely.

Lewis W. Hine, while taking photographs of the employees of the Gulf coast canneries for the National Child Labor Committee, says that he personally interviewed 13 children from 3 to 5 years old, 25 from 6 to 8, and 15 from 9 to 11, and that he counted in all 125 boys and girls whom he judged to be from 3 to 11 years of age.

No human being knows how many children under 10 are employed in the canning industry in the United States or in the numberless industries carried on in tenement houses in our great cities. But everyone at all familiar with the subject knows that there are thousands.

THE DEMOCRATIC SOUTH LEADS IN INFANT LABOR.

In six Southern States nearly 1,000 children from 7 to 11 years old were found at work in cotton factories by agents of the United States Labor Bureau, whose investigation covered only about one-fourth of the cotton industry of these States.

It is conservative therefore to estimate that 5,000 children from 7 to 11 years old are prolonging their infancy in the cotton mills of the South.

And yet this is the economic basis of the wage system.

THE SOCIALIST VICE.

Therefore we say the wage system was a step in the evolution of freedom, but only a step. Without trades-unionism and labor associations, the wage system would produce a social state lower than that of feudalism.

Social freedom, complete justice, can be accomplished only by the collective ownership and democratic management of the social means of production and distribution.

We realize that all this can not be brought about by a single stroke—by a one day's revolution. But we know that all legislation, in order to be really progressive and wholesome, must move in that direction—must be in accordance with the modern economic progress.

THE ONLY PARTY KEEPING STEP WITH THE TIME.

And the only party that is in accordance with the trend of the time is the Socialist Party. That is the reason why all the "progressives" are simply trying to appropriate some of our minor planks.

With the Socialists political issues are of minor consequence; economic issues are of paramount importance.

DIRECT LEGISLATION ONLY A CHANGE IN THE MECHANISM.

We refuse to be diverted or led astray by mere political reforms like the initiative, referendum, and recall. Each in itself is a good enough reform. Each of them has been agitated for a long time by the Socialists and forms a part of our program to-day.

Mere changes in the mechanism of expressing the will of the people are, however, of secondary importance when compared with any change in the economic conditions of the people.

We want the initiative. But we want much more, to secure an old-age pension for every workingman and workingwoman of 60 and over.

We stand for the referendum. But insurance against being out of work is of much more value.

We agitate for the recall. But State help for orphans—at least for those who have no father—and assistance for working women during the period of child bearing, is infinitely more useful to the race than the right to recall a judge.

The bourgeois reformer, even when well meaning, does not understand us. He lacks our class consciousness.

A GROWN-UP NATION WEARING ITS BABY CLOAK.

Of the political reforms a new Constitution is most important. As long as we have the old Constitution, thorough social reforms are almost impossible.

No matter how good and beneficial a law may be, it will, as a rule, be declared unconsitutional by the Supreme Court. Our Constitution was framed at a time entirely different from ours, and for entirely different conditions—and good laws suited to the present conditions are really unconstitutional.

When our Constitution was framed this was a Nation of frontier farmers and hunters, with a few merchants in the seaports.

There was no machinery used. There was no manufacturing to speak of. There were no railroads; no telegraphs.

There were no millionaires and no proletarians. There were no corporations in the present sense—a corporation in those days meant a city.

And there were no trusts, of course.

If Washington, Jefferson, Madison, and Hamilton could get up from their graves to-day they would not know the country. We live in a different world.

And yet we have to wear the same political cloak. We must live under the same Constitution.

In other words, a grown-up nation has to wear its baby cloak. It does not fit anywhere, and has been torn and patched in the most ridiculous way by "decisions of the Supreme Court," in order to make it do, yet, anybody who dares to suggest a new suit is considered a traitor by the "interests."

A NEW CONSTITUTION OR A BLOODY REVOLUTION.

But we must have a new Constitution or we shall have a bloody revolution. Yet, though political reforms are necessary, they are of little account when compared with the necessity of changes in order to keep step with the development of economic conditions.

THE TRUSTS AND THE PEOPLE.

The economic changes are upon us.

We see the trusts not only doing away with competition, but also asking for Government interference and for Government regulation of prices.

In other words, we have the spectacle of the trusts surrendering part of their ownership and practically offering that part of the ownership to the people.

Thus the trusts, or at least some of the trusts, are willing to part with their ownership because they feel that their business has ceased to be a private concern. Because the trusts feel that their business has become a public utility of the most public and utilitarian sort.

WORKING CLASS BECOMING REVOLUTIONARY.

But the change is also coming from the other side.

The great majority of the people have no interest in keeping up the present system. And especially the working class is bound to become revolutionary as a class.

Our workingmen to-day build a few palaces and many hovels. The workingmen live in the hovels and the few capitalists in the palaces.

Our workingmen in the woolen mills make a small amount of fine clothes and millions of yards of shoddy. The workingmen wear the shoddy and the rich idlers wear the fine clothes.

Workingmen and their children have to go down into the mines, workingmen and working women and their children have to go into dingy, ill-ventilated factories and workshops and toil from 8 to 12 hours a day. They must ruin their health by overwork, so that a few people who have the money may ruin their health by too much leisure.

The majority now degenerates through poverty so that the small minority shall be able to degenerate through luxury.

THE RULING CLASS OF FORMER DAYS.

Again, I say, the great majority have no interest in keeping up the present system.

There is this also: In former epochs the ruling class was by far the abler and stronger—physically and mentally.

In former years a few nobles, clad in iron—and trained and accustomed to warfare—could hold in subjection 20 times their number of common people.

The ruling class only was at that time in the possession of the wisdom of the world—whatever wisdom the world had then.

The ruling class at that time also had in its favor the belief that this system was God-ordained. and that anybody rebelling against it was a rebel to God.

THE RULING CLASS OF TO-DAY.

Things are different nowadays.

The working class not only builds the houses, ships, and machines, but the working class also teaches in the public schools and colleges, and writes and prints our literature. Not only the man who sets up the type for the papers and the books, but also the man or woman who writes them usually belongs to our class.

The capitalist class depends upon us for a living, for information, and for defense.

The ruling class surely has no better fighting qualifications than we. It is our class that has to furnish most of the men in case of war, although the capitalists may start the war and buy the bonds. Even in order to hold the working class in subjugation, the capitalists have to hire such workingmen as are for sale to do the fighting for the rulers.

We deny that the capitalist class is our superior in any way.

And as long as the public schools exist, and men and women are learning how to read and write, no priest or clergyman will ever be able to make us believe again that this system is God-ordained. We will never believe that it is God-ordained that a trust magnate shall have fifty or sixty million dollars a year, or more, and that his employees should earn $1.75 a day on the average.

AND WE ARE MANY.

Moreover, we have the ballot. No subjected class in history every had the same political basis as the ruling class. The modern proletariat is the first.

On election day my vote is as good as Rockefeller's. And we are many and the capitalists are few.

NO OTHER PARTY HAS GROWN LIKE OURS.

In short, the future belongs to the working class. Nothing can stop us. All we have to do is to organize our forces. There is no other party that has grown like ours during the last four years.

WHY WE ADVOCATE REFORMS.

And, I want it understood, the Socialist Party, while it is revolutionary in its final aim, is none the less distinctly evolutionary and constructive in its method. We welcome all kinds of reforms that are real reforms—not political baits.

Social reforms of all kinds are welcomed by the Socialist for many reasons.

In the first place, by reforms we can stop the increasing pauperization and consequently also the enervation of the masses of the people. If real reforms are seriously taken up and carried out with determination they uplift the masses to a considerable extent.

But the main reason for our favoring social reforms is that such reforms, if logically carried out, offer the possibility of a peaceful, lawful, and orderly transformation of society.

THE SOCIALIST PARTY IS THE ONLY TRUE REFORM PARTY.

The Socialist Party, therefore, is the only true reform party in existence. We agitate for the organization of the masses. And organization everywhere means order.

We educate, we enlighten, we reason, we discipline.

Besides order we bring also law, reason, discipline, and progress to men and women who have been torn from their old conditions by capitalism—and who would become Apaches.

THE APPEAL OF THE SOCIALIST.

It is, therefore, absolutely false to represent our Socialist Party as destructive, as intending to overthrow and annihilate society, as an appeal to the brute passions of the masses.

Just the opposite is true.

Our Socialist Party wants to maintain culture and education and carry them to the homes of every worker of the land.

Our party wants to guard this Nation from destruction and bring it to a level hitherto unknown in history.

We appeal to the best in every man, to the public spirit of the citizen, to his love of wife and children. [Applause.]

BOTH REPUBLICANS AND DEMOCRATS HAVE VOTED FOR THE SO-CALLED LABOR BILLS.

Mr. ANDERSON of Ohio. I have always had great admiration for the gentleman from Wisconsin, knowing him to be very generous and liberal minded in all matters; but I want to ask him if he does not give the Democratic Party credit for the passage of the eight-hour bill, the Child's Bureau bill, anti-injunction bill, the bill for jury trials in indirect contempts, the department of labor bill, the industrial-commission bill, and various other measures that are considered progressive and are wanted by the laboring class?

Mr. BERGER. Mr. Speaker, I have said before that these political reforms are of minor importance as far as the working class is concerned, and that social reforms are paramount. The eight-hour bill sounds good, but this House has passed several eight-hour bills since 1868.

Mr. ANDERSON of Ohio. I ask the gentleman if he does not give the Democratic Party credit for the passage of these measures?

Mr. BERGER. I will say that the Democratic Party has introduced some fair-looking bills in the House in the Sixty-second Congress, and that the Republicans, being also good politicians, have, as a rule, almost unanimously voted for them. None of these bills really changed economic conditions.

Mr. ANDERSON of Ohio. The gentleman is mistaken about our starting it. I ask him if it is not a fact that we have passed it?

Mr. BERGER. Both sides passed these bills. Even the Socialist Party voted for them unanimously every time. [Applause.]

NONE OF THESE BILLS ADD TO THE STANDARD OF LIVING OF THE WORKING CLASS.

Mr. ANDERSON of Ohio. Then the gentleman must concede that it is good legislation.

Mr. HOBSON and Mr. FITZGERALD rose.

The SPEAKER. To whom does the gentleman yield?

Mr. BERGER. To every one, one after the other.

The SPEAKER. The gentleman must indicate the Member to whom he yields first.

Mr. BERGER. I will yield first to the gentleman from Ohio [Mr. ANDERSON], then to the gentleman from Alabama, and then to the gentleman from New York, and afterwards to every other Member who may want to ask a question.

Mr. ANDERSON of Ohio. I think the gentleman will admit that the Democratic Party has passed more bills in the interest of labor than have been passed by this House in the last 20 years.

Mr. BERGER. I do not admit that. I said the Democratic Party has voted for some so-called labor bills, but so did the Republican Party, and so did the only representative of the Socialist Party in Congress.

Mr. ANDERSON of Ohio. Then he admits that this is good legislation?

Mr. BERGER. I admit that some bills that have been passed in this session are fair bills as far as they go. Otherwise I should not have voted for them. They do not, however, add to the standard of living of the American working class. They are of ridiculously small importance, considering the magnitude of the labor question.

SOCIALIST HOUSE WOULD NOT HAVE WASTED TIME.

Mr. ANDERSON of Ohio. If the House had been Socialistic it would undoubtedly have voted for the same bills.

Mr. BERGER. If the House had been Socialistic it would not have wasted time with insignificant palliatives of that kind, because it would have taken up legislation of a million times greater importance.

WOULD PENSION THE VETERANS OF INDUSTRY OUT OF THE SURPLUS THEY CREATE.

Mr. ANDERSON of Ohio. If the House had been Socialistic, would it have passed the Sherwood pension bill?

Mr. BERGER. No; because we would have pensioned not alone the old soldiers but everybody who——

Mr. ANDERSON of Ohio. Mr. Speaker, just one question more. The gentleman said that if the Socialistic Party had been in power they would have pensioned everybody. I want to ask the gentleman who said the party would not have supported the Sherwood pension bill pensioning the defenders of this great country, that it would refuse to pension the soldiers but would pension everybody, Members of Congress as well as everybody else, where would the gentleman get the money to pension everybody?

Mr. BERGER. Mr. Speaker, I wanted to say that by pensioning everybody who did some useful work in their earlier manhood or womanhood it would be needless to pension the old soldiers. The old soldiers have done some useful work besides being soldiers in a war. I honor every man who went to the war to free the black man and to save the Union, but I honor just as much the men and women who are fighting for civilization every day—the men and women who are making our civilization possible.

Official figures show that 35,000 are annually slain in the industries of the country, not counting the hundreds of thousands that are the victims of occupational diseases.

Do you not think that a man who works for the welfare of the Nation on the battle field industry is taking as many chances as the man going to war? And that the worker is doing more necessary work than the soldier?

Moreover, the old working people who will get the pensions will have paid for them during the time they worked. In fact, they will have paid for the pensions many times over before they get them.

As I stated before, in 1909 every workingman and working woman added about $1,290 worth to the Nation's wealth and received on the average only $512 in wages.

The pensions should be paid from the surplus value the capitalist class is getting.

Mr. ANDERSON of Ohio. The gentleman said he would pension everybody.

Mr. BERGER. Everybody who needs it—every aged worker in every field of industry. Members of Congress only if they should be in want at the age of 60. [Applause.]

Mr. ANDERSON of Ohio. Then the gentleman modifies his statement. He does not mean to pension the Rockefellers and the Carnegies.

AS TO THE EIGHT-HOUR BILL.

Mr. FITZGERALD. Will the gentleman yield?

Mr. BERGER. I will yield to the gentleman from New York.

Mr. FITZGERALD. Does not the gentleman from Wisconsin know that until the Democrats got control of the House of Representatives neither the Republicans nor Democrats nor Socialists could get a chance to vote for an eight-hour bill?

Mr. BERGER. I do not know anything of the kind.

Mr. FITZGERALD. If the gentleman will permit me to inform him, I have served in the House 14 years, and until the Democrats got control of it an eight-hour bill could not be reported into a Republican House from the committee.

Mr. BERGER. And I want to inform the gentleman from New York, if I may, that the first eight-hour bill was passed in 1868 by a Republican House. [Applause on the Republican side.] As a Socialist and trades-union man I have, of course, no more love for one capitalist party than for the other, but I want to be fair.

Mr. MILLER. That was before the time of the gentleman from New York.

Mr. FITZGERALD. And the Republican Attorney General so construed it as to make it absolutely valueless. [Applause on the Democratic side.]

Mr. BERGER. Well, we do not know how this bill may be construed by a Democratic Attorney General and by the Supreme Court. [Applause on the Republican side.]

Mr. FITZGERALD. If there is a Democratic administration, there will be no fault found with it.

Mr. BERGER. Then the gentleman thinks the Supreme Court decides questions of law according to politics?

THE DEMOCRATIC SOUTH AND THE PROTECTIVE TARIFF.

Mr. BUCHANAN. Will the gentleman yield?

The SPEAKER. Does the gentleman from Wisconsin yield to the gentleman from Illinois?

Mr. BERGER. I believe I should yield now to the gentleman from Alabama [Mr. HOBSON]. He asked first.

Mr. HOBSON. I know the gentleman has a logical turn of mind, and the gentleman's party prides itself on its unanswerable logic. I simply want to ask the gentleman to point out the logic of his reference to alleged southern support for the principle of protection. The gentleman will recall that he pointed out that in the North, the Central North and the Middle North, the industries there have grown to stupendous proportions——

Mr. BERGER. I hope the gentleman from Alabama will not make a speech. My time will soon be up.

Mr. HOBSON. I am coming to the question. The gentleman stated that the South was coming to stand for the principle of protection in order to protect their infant industries against competition. I will ask him how could they get protection against the giant industries within, and since they can get no protection from these, what effect can the tariff have in protecting the South when we already have the giant industries of the North in direct competition with them?

Mr. BERGER. We look at the tariff from the point of view of political economy. We know that agricultural countries subsidize manufacturers by a tariff in order to encourage them to build factories and invest their capital. From this capitalist point of view a high tariff is always necessary at first to protect young industries.

The North developed factories first. Naturally the North asked for protective-tariff legislation first, and got it. Now, just as naturally—and I do not blame the South—the South is trying to get high-tariff legislation for the manufacturers of the South, and I do not blame the gentleman from Alabama——

Mr. HOBSON. I hope the gentleman will come to my question and not depart from it or try to escape from it. The South might logically desire to be protected against any strong competition, but the South can not be protected against strong competition that already exists in the great industries of the North, stronger than any industries abroad. Therefore, why should the South desire to get protection against competition on the outside that is not as dangerous as the competition that exists on the inside?

Mr. BERGER. I can only answer the gentleman from Alabama from my point of view, which is the point of view of modern economics. As I see it, the South still has the advantages of position for certain industries.

For instance, cotton is raised right there, and the cotton factory of the South saves the freight, of course. Furthermore, the South has cheap labor, unorganized labor, colored labor; it also has longer hours than the North. Then, you have woman and child labor—in some cases children from 3 to 11 years old are at work. ["Oh, no!"]

Well, in many Southern States that is the case in the cotton and in the canning industries. I do not mean to say that there is child labor in every industry in the South. For some work women and children are not strong enough.

"TEN MINUTES."

Mr. HOBSON rose.

Mr. BERGER. Mr. Speaker, I am not quite through.

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that his time be extended for 15 minutes.

Mr. MILLER. Make it 30 minutes.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the time of the gentleman from Wisconsin be extended for 15 minutes.

Mr. GREENE of Massachusetts. Mr. Speaker, I ask that it be made 30 minutes.

Mr. HEFLIN. Mr. Speaker, I shall object to an extension of over 10 minutes.

The SPEAKER. Is there objection to extending the gentleman's time for 30 minutes?

Mr. ALEXANDER. Mr. Speaker, I object to a longer extension than 10 minutes.

Mr. MANN. Mr. Speaker, then I ask unanimous consent that the time of the gentleman be extended for 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois that the gentleman from Wisconsin proceed for 10 minutes? [After a pause.] The Chair hears none.

Mr. HOBSON. Mr. Speaker, I was just going to say to the gentleman that all of those elements of production to which he has referred and which he has enumerated are true; that the South has advantages, but they tend——

Mr. CANNON. Mr. Speaker, I ask unanimous consent that the time of the gentleman from Alabama [Mr. HOBSON] be extended for 10 minutes. [Laughter.]

The SPEAKER. The gentleman from Illinois asks unanimous consent that the time of the gentleman from Alabama be extended for 10 minutes. Is there objection?

SOUTHERN MANUFACTURERS MAY COMPETE AT THE EXPENSE OF THE RACE.

Mr. HOBSON. Mr. Speaker, I will not need that. I thank the gentleman from Illinois, but the gentleman from Wisconsin—the strong logician who has given us this admirable discussion—has not given a satisfactory answer. The things he enumerates would tend to relieve the South from the need of protection instead of explaining its alleged desire for protection. There is no such desire, and there is no logical foundation of the oft-repeated allegation that the South has come to advocate high protection.

Mr. BERGER. I will say to the gentleman from Alabama that if it were not for the elements mentioned even a high tariff could not protect the South, but with those elements in existence the South may try, for a while at least, to successfully compete with the giant trusts. Of course it is a fight at the expense of humanity—at the expense of the race. Moreover, very soon the war will be found unprofitable and the combatants will unite.

As a confirmation of my statement that the South is beginning to ask for protection, the gentleman need only read over some of the discussions on the various tariff bills introduced by the Democrats themselves.

WHAT MR. BUCHANAN WANTS TO KNOW.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. BERGER. Certainly.

Mr. BUCHANAN. Mr. Speaker, the gentleman in his speech spoke of the working class and the capitalist class.

Mr. BERGER. And I hope the gentleman from Illinois knows that there are such classes in existence.

Mr. BUCHANAN. I shall not take issue with the gentleman in regard to that at this time, but I want to ask his definition of these classes. Does the gentleman define the working class as being composed of those who work for wages alone? I want to give the gentleman an example of what some would call a business man.

Mr. BERGER. Oh, I do not want a speech from the gentleman just at this time.

Mr. BUCHANAN. And I do not want to make a speech either. In my locality we have a man who is running a grocery store. His wife and daughter work in that grocery store. He also works long hours, early and late. He is in fact a workingman. Does the gentleman agree that a man who operates a business of that sort is a workingman or a capitalist?

THE THREE CLASSES OF MODERN SOCIETY.

Mr. BERGER. Mr. Speaker, of course our present society does not only divide into two classes; there are three classes. We have the working class, the middle class, and the capitalist class. The lines are not very closely drawn in our century and our country. In some cases the workingman may have a little business on the side, or a capitalist may draw his income in the form of a salary, but as a whole it is safe to describe the division between classes as originating from the way a person derives his or her income.

The workingman or working woman derives his or her income through work for daily, weekly, or monthly wages, or, when

working in schools and offices, through working for an annual salary. It is always work for pay—either work with hands or with brains, or with both, that gives the wageworker his status in society.

The middle class derives its income from rents and profits, either by buying and selling, or by employing a small number of men, women, and children.

The capitalist class derives its income in the same way on a large scale, besides controlling the means of transportation and communication, most of the natural resources, and the banks.

Of course different men have made different demarcations. But all agree that the smallest class in number but greatest in power is the capitalist class which controls the capital of the country—that part of the surplus value which is now used to create more surplus value instead of being used to give comfort to the people.

AS TO MEMBERSHIP IN THE SOCIALIST PARTY.

Mr. BUCHANAN. Does the Socialist Party confine its membership to the working class? Is it not a fact that it has some wealthy men in it?

Mr. BERGER. Oh, every honest man, even a capitalist, may become a member of the political party of the working class if he agrees to aid us in the emancipation of the working class. We must be satisfied, however, that the man is honest in his intentions to help us to bring about a complete change of the present system by sane and legal methods. [Applause.]

GOOD MEN DANGEROUS IN BAD PARTY.

Mr. BUCHANAN. I want to ask if the gentleman does not believe that Abraham Lincoln, who was the leader of the Republican Party during the war at the time the slaves were freed, would also exercise his influence if living to strike the shackles from the industrial slaves of to-day?

Mr. BERGER. He would, if he lived to-day. Lincoln would, in my opinion, be a Socialist, if he lived to-day.

Mr. BUCHANAN. Then, after all, it is not so much in the party as the men who control the party.

Mr. BERGER. No. Men are the second consideration, principles are paramount. Good men are necessary, of course, to carry out these principles. But good men are useless or dangerous in the wrong party.

IF YOU WANT TO RIDE HORSEBACK, YOU WILL NOT TAKE A DONKEY.

Mr. BUCHANAN. Is it not a fact in this country, where the workingmen have the ballot, their troubles are largely due to their own inactivity in politics, and if they would exercise their united influence in politics it would put them in the position of controlling any party for themselves?

Mr. BERGER. Mr. Speaker, the party must be worth controlling. It must stand for what a certain class or a certain group wants that party to stand, and must be made up accordingly.

Mr. BUCHANAN. And would not any party serve their purpose if the working people would control them?

Mr. BERGER. No! No! No! If you want to ride horseback, you will not take a donkey. [Laughter.] The two old parties represent certain groups and certain interests of the capitalist class. Both of these parties are made up accordingly. They can never represent the working class.

The Democratic Party and the Republican Party have certain principles, certain ideas for which they stand. Their aim, their platform is capitalistic. They could not abolish the present system of exploitation without abolishing themselves. You can not expect a tiger to eat grass nor a gray wolf to live on berries. [Laughter.]

HONEST CAPITALIST LEADERS ARE LOYAL TO CAPITALIST INTERESTS.

The more honest the leaders of the old parties are, the more they will try to abide by the principles of their platform; the more loyal will they be to the capitalistic interest, which they represent.

GOAL OF SOCIALIST PARTY.

Mr. CLINE. Mr. Speaker, I understood the gentleman to say in his address that the Socialist Party was in favor of common ownership of most of the agencies of production and distribution.

Mr. BERGER. For the collective ownership and the democratic management of the social means of production and distribution.

Mr. CLINE. I want to understand to what extent you carry that doctrine, and who and how are the beneficiaries to derive the profits of it.

Mr. BERGER. Well, the Socialist Party stands for the collective ownership of the social means of production and distribution.

Mr. CLINE. How are you going to evolve the system?

A NATURAL AND SCIENTIFIC ORGANIZATION OF SOCIETY.

Mr. BERGER. We believe that everything that is necessary for the life of the Nation, for the enjoyment of everybody within the Nation, the Nation is to own and manage. Therefore we shall take over the trusts, railroads, mines, telegraphs, and other monopolies of national scope. Everything that is necessary for the life and development of the State the State is to own and manage. There are certain business functions that the State will have to take care of, like interurban lines, for instance. Everything that is necessary for the life and development of a city the city is to own and manage, like, for instance, not only street cars and light and heating plants, but also abattoirs, public bake shops, the distribution of pure milk, and so forth. Everything that the individual can own and manage best the individual is to own and manage. That is simple enough.

In other words, the trust as a business has reached a stage where it is unsafe in private hands; it is a menace to the Nation as long as it is in private hands. It can only be managed by the Nation for the profit of everybody. The same holds good for certain private monopolies in cities, as far as the cities are concerned.

THE NATION COULD GET THESE PROPERTIES EASIER THAN THE TRUSTS GOT THEM.

Mr. CLINE. How are you going to change the present economic basis? Give us a concrete statement of that proposition.

Mr. BERGER. That is easy enough. We could surely get the trust properties in the same way as the trusts got them. The trusts paid for their properties almost entirely in watered stock, preferred and common. We can give the best security in existence to-day—United States bonds.

Mr. CLINE. Have the Government buy them?

Mr. BERGER. Have the Government buy the trust properties. Why not? But pay only for the actual value. That will be paid for out of the profits of these trusts in a very short time.

MR. BARTHOLDT MAKES A STATEMENT.

Mr. BARTHOLDT. Will the gentleman yield?

Mr. BERGER. Yes, sir; for a question.

Mr. BARTHOLDT. I merely wish to make a correction here. It may not be important to the gentleman from Wisconsin, but it is of some importance to the people who are to judge between the two parties—the Democratic and the Republican Party. I wish to say that the original eight-hour law was placed upon the statute books by the Republican Party, signed by a Republican President; that since that time a bill which has recently been passed has been reported three times to this House by a Republican Committee on Labor and was passed twice by a Republican House and was hung up in the Senate. I merely state that as a correction.

Mr. BERGER. That is not a question, though.

Mr. DYER. It is information, though.

MR. ANDERSON ASKS ONE MORE QUESTION AND GETS AN UNEXPECTED ANSWER.

Mr. ANDERSON of Ohio. Mr. Speaker——

The SPEAKER. Does the gentleman yield to the gentleman from Ohio [Mr. ANDERSON].

Mr. BERGER. I will.

Mr. ANDERSON of Ohio. For just a short question. I have always taken a great interest in matters of labor legislation——

Mr. MANN. We agree to that; do not tell us that.

Mr. ANDERSON of Ohio. Speaking of the eight-hour bill, the gentleman claimed that he voted for all labor measures. Now, the bill went to the Senate and was amended, and when it came back was the gentleman present and did he vote for that bill, or was not he in Indianapolis?

Mr. BERGER. Supposing I did go to the national convention of the Socialist Party. I was surely doing as good work in Indianapolis for the welfare of the country as I do here. It was fully as important that I should attend a convention of the Socialist Party as to vote for some of the demagogical and insincere bills put up here by the party of the gentleman from Ohio [Mr. ANDERSON], in order to catch the labor vote for capitalism and the Democratic Party. In fact, it was more important for me to be in Indianapolis.

MR. MANN'S FINE MEMORY.

Mr. ANDERSON of Ohio. That does not answer the question.

Mr. MANN. The gentleman from Wisconsin may not have been here, but the gentleman from Ohio certainly was not. [Applause and laughter.]

The SPEAKER. The time of the gentleman has expired.

Mr. BERGER. I thank you one and all, gentlemen. [Loud applause.]

STATISTICS OF COTTON.

Mr. HOUSTON. Mr. Speaker, I desire to call up the conference report on the bill (H. R. 19403) authorizing the Director of the Census to collect and publish the statistics of cotton.

The SPEAKER. The Clerk will report the conference report.

The conference report is as follows:

CONFERENCE REPORT (NO. 1019).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 2.

W. C. HOUSTON,
JNO. H. SMALL,
E. D. CRUMPACKER,
Managers on the part of the House.

ROBERT M. LA FOLLETTE,
J. W. BAILEY,
S. GUGGENHEIM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, submit the following written statement in explanation of the effect of the action agreed upon and recommended as to each of the said amendments in the accompanying conference report:

Amendments Nos. 1 and 2: The bill as passed by the House provides for the collection of certain cotton statistics monthly; the Senate amendments Nos. 1 and 2 provide for the collection of those statistics quarterly each year. Those were the only amendments made by the Senate, and the Senate recedes from them and leaves the bill as originally passed by the House.

W. C. HOUSTON,
JNO. H. SMALL,
E. D. CRUMPACKER,
Managers on the part of the House.

Mr. HOUSTON. Mr. Speaker, I move that the House concur in the conference report.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21477) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 2004) to confer upon the Commissioners of the District of Columbia authority to regulate the operation and equipment of the vehicles of the Metropolitan Coach Co., asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JONES, Mr. KENYON, and Mr. PAYNTER as the conferees on the part of the Senate.

LEAVE TO PRINT.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent to insert in the RECORD some brief extracts from a recent issue of the American Anti-Socialist giving the opinions of Thomas Jefferson on socialism and giving the opinion of the gentleman from Wisconsin [Mr. BERGER], as expressed at a recent convention of his party, as to what is likely to happen to small farmers under socialism. I also ask to print in the RECORD a recent article from the American Anti-Socialist, containing information of what to read and where to get it, on the subject of socialism. Both articles are very short.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] asks unanimous consent to insert in the RECORD certain articles which he has named.

Mr. BERGER. What is the nature of these articles?

Mr. RAINEY. The nature of them is antisocialistic. It gives Thomas Jefferson's opinion about socialism; it gives the extracts from the speech of the gentleman [Mr. BERGER] on the subject of socialism——

Mr. BERGER. Where?

Mr. RAINEY (continuing). Which recently was reported in the Chicago Daily Socialist, and which I think you made at the last convention of your party, and which would show what would be likely to happen to small farmers under socialism. And I am also asking to insert in the RECORD, in connection with your speech, a line of books to read on the subject of socialism, which recently appeared in the American Anti-Socialist, so that we can have both sides of it.

The SPEAKER. Is there objection?

Mr. AUSTIN. I object.

Mr. RAINEY. Does the gentleman from Tennessee [Mr. AUSTIN] believe in socialism?

Mr. Speaker, I ask unanimous consent to read these articles in the House.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY] asks unanimous consent for sufficient time in which to read the articles which he desires to have inserted in the RECORD.

Mr. AUSTIN. I object.

Mr. RAINEY. Then I ask unanimous consent to extend my remarks in the RECORD on the subject.

Mr. AUSTIN. I object.

Mr. RAINEY. I have no objection to the objection of a man who is in favor of the Water-Power Trust.

ORDER OF BUSINESS.

Mr. HENRY of Texas. Mr. Speaker, I offer a privileged report from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 637 (H. Rept. 1028).

Resolved, That the following bills shall be considered as privileged and having the same status for consideration as bills coming from committees having leave to report at any time, the consideration thereof, however, not to interfere with appropriation bills, tariff bills, or conference reports, to wit: H. R. 23673, a bill to abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen; H. R. 16692, a bill to provide American registers for seagoing vessels wherever built and to be engaged only in trade with foreign countries and with the Philippine Islands and the islands of Guam and Tutuila, and for the importation into the United States free of duty of all materials for the construction and repair of vessels built in the United States, and for other purposes; H. R. 15357, a bill to regulate radio communication; H. R. 24025, a bill to amend sections 4400 and 4488 of the Revised Statutes, relating to inspection of steam vessels, and section 1 of an act approved June 24, 1910, requiring apparatus and operators for radio communication on certain ocean-going steamers; H. R. 23676, a bill to regulate the officering and manning of vessels subject to the inspection laws of the United States; H. R. 22871, to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto; H. R. 22593, a bill to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors.

The SPEAKER. The gentleman from Texas [Mr. HENRY] is entitled to 20 minutes and the gentleman from Pennsylvania [Mr. DALZELL] to 20 minutes.

Mr. MANN. Not yet.

Mr. HENRY. Not unless the previous question is ordered, Mr. Speaker, and I have not called for the previous question yet. I will yield to the gentleman from Illinois [Mr. MANN] first.

The SPEAKER. The gentleman from Texas is entitled to an hour.

Mr. MANN. Will the gentleman from Texas strenuously object to an amendment including the bill (H. R. 24119) to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes? Among other things, it is a bill designed to prevent the introduction into the United States of the Mediterranean fly and the potato-blight disease that is very prevalent in some parts of the world.

Mr. HENRY. Reported by the Committee on Agriculture?

Mr. MANN. Yes; reported by the Committee on Agriculture, with a unanimous report.

Mr. HENRY of Texas. I shall not object to that.

Mr. MANN. Some gentlemen are very anxious to have it considered, if there is any chance.

Mr. HENRY of Texas. Mr. Speaker, I shall make no objection. If the gentleman wants to make a request to include it, it will be all right.

Mr. MANN. Mr. Speaker, I ask to amend the resolution by adding to the description of the bills, at the end of the description, H. R. 24119, with its title.

The SPEAKER. Will the gentleman please send that bill up?

Mr. MANN. It is No. 223 on the Union Calendar.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Add, at the end of the rule, "H. R. 24119, to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes."

Mr. HENRY of Texas. Mr. Speaker, I move the previous question on the resolution and amendment.

The SPEAKER. The gentleman from Texas [Mr. HENRY] moves the previous question on the resolution and amendment thereto.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Is it in order, Mr. Speaker, to ask the gentleman at this time whether he will agree to the offering of an amendment to include the immigration bill?

Mr. HENRY of Texas. Mr. Speaker, I ask for the previous question. We will have 20 minutes on a side for debate after the previous question is ordered. There has been no debate.

The SPEAKER. The gentleman from Texas moves the previous question.

The previous question was ordered.

The SPEAKER. The gentleman from Texas has 20 minutes and the gentleman from Wisconsin [Mr. LENROOT], in the absence of the gentleman from Pennsylvania [Mr. DALZELL], will have 20 minutes.

Mr. HENRY of Texas. Mr. Speaker, unless some one asks for an explanation, I think we might as well vote on the resolution.

Mr. RODDENBERY. Mr. Speaker, the gentleman seems to have ample time at his disposal for discussion of the rule. I should like to have 10 minutes of time, from either side. If the gentleman from Texas can not yield me 10 minutes, I should be glad to have 10 minutes from the gentleman from Wisconsin.

Mr. HENRY of Texas. The gentleman from Missouri [Mr. ALEXANDER] desires time to make a statement.

Mr. ALEXANDER. I have no objection to giving the gentleman from Georgia five minutes.

Mr. HENRY of Texas. I will yield five minutes to the gentleman from Georgia.

The SPEAKER. The gentleman from Georgia is recognized for five minutes.

Mr. RODDENBERY. Mr. Speaker, the adoption of this rule is undoubtedly for the purpose of facilitating legislation; but I desire to call the attention of the House, and especially of the Democratic side, to the fact that included in this special rule are some measures of recent origin, the necessity for whose consideration is likewise of recent origin. Some of them have not been considered before any committee in their present form until recently.

We find in the Republican platform of 1896 language committing that party to the passage of a law to protect American labor against the pauper immigrants from Europe. In that platform this party declares that the reading and writing test is one of the ways of attaining the desired end. The Republican Party has passed through the Senate just such a bill, and it is now formally before this House.

In 1896 the Democratic platform said in words:

We hold that the most efficient way of protecting American labor is to prevent the importation of foreign pauper labor to compete with it in the home market.

There is a bill which has been reported from a Democratic committee of this House for more than two months carrying into execution that pledge of the Democratic platform of 1896. Sixteen years ago, when our party put that language in our platform, we were without power to perform. To-day, for the first time, the Democratic Party is in a majority in the House of Representatives, and a Democratic committee has reported to this House a bill carrying into effect our pledges to the people on this question. The Republicans, with much tardiness, have performed their part in the Senate. The best evidence of whether we will keep our pledges to the people on this question when we get the three branches of the Government is by our action now to show them that we perform our pledges when we have control of one branch of the Government. Do you propose now to bring in these special rules, and yet leave out the fulfillment of this platform pledge as embodied in a bill reported by your committee and now pending in this House?

The American Federation of Labor, the Junior Order of United American Mechanics, the Farmers' Educational and Cooperative Union of America, the Order of Patriotic Sons of America, and dozens of other patriotic organizations in this country have burdened the records of our Congress with a hundred thousand petitions calling for this legislation.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield?

Mr. RODDENBERY. If the gentleman's friends who are controlling the time will yield me five minutes, I will gladly do so.

Mr. BARTHOLDT. I have no control over the time.

Mr. RODDENBERY. I decline to yield. Does the Democratic Party think that because of alien pressure working on our Rules Committee and through other agencies it can defer this legislation now and still have the friends of this bill understand that we propose to enact it? I say to my Democratic friends, deal honestly and squarely. Do not dodge in the face of a presidential election. Do not try to please the foreign immigrationists by putting it off and then appease the friends of the bill by telling them "We will take it up later on." Rise, like the party of Jefferson should rise, to meet the issue. If we are ever going to protect America against the influx of the foreign horde, go now, when we have the power and do it.

Mr. GOLDFOGLE. Will the gentleman yield?

Mr. RODDENBERY. I can not, although I would be glad to if I had the time. Let no gentleman think that we will permit this bill to die in committee and deceive either its friends or its foes. Let no special manipulation defer this vital and burning problem in utter defiance of the will of the people and of our platform pledges and not expect to be answerable for it. This is wise legislation. The masses of the people in this country demand it. Our social conditions demand it. Economical conditions demand it. Moral betterment demands it. The commission which has published 40 volumes has reported in full more than a year ago that they recommend this legislation. How much longer do you propose to defer it? [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Missouri [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, it is not my purpose to detain the House by any discussion of the rule. If any Member of the House wishes to inquire with reference to any of the bills included in the rule, if it is a bill that comes from the Committee on the Merchant Marine and Fisheries, I should be glad to answer. Of the bills from this committee, the one known as the seamen's bill is the first.

Mr. MADDEN. Will the gentleman explain what that bill provides?

Mr. ALEXANDER. Generally it provides for better conditions at sea for American seamen; undertakes to abolish the law which punishes seamen for desertion. It provides that the crew space on vessels shall be increased from 72 cubic feet to 100 cubic feet—that is, for vessels hereafter constructed. It provides that hereafter a certain percentage of the crew of the vessel shall be able seamen, and the percentage shall be increased each year thereafter until 75 per cent of the deck crew shall be able seamen. It provides that treaties with foreign countries which provide that we shall enforce their law with regard to the arrest of deserting seamen shall be repealed.

Mr. MANN. Will the gentleman yield?

Mr. ALEXANDER. Yes.

Mr. MANN. The bill which the gentleman refers to has 17 sections and covers 18 pages and is a House Calendar bill. What is the gentleman's purpose with reference to debate on the bill? Of course the gentleman can move the previous question on that bill if this rule is adopted.

Mr. ALEXANDER. I have had an interview with the gentleman from Massachusetts [Mr. GREENE] with reference to general debate. My intention is to ask unanimous consent to a certain limited time for general debate and then for consideration of the bill under the five-minute rule.

Mr. MANN. Does the gentleman expect to ask in the House for unanimous consent to consider the bill under the five-minute rule? The gentleman understands that under this rule there is no consideration of the bill under the five-minute rule.

Mr. ALEXANDER. I expect to ask for unanimous consent that general debate on the bill shall be limited to one hour or one hour and a half, one-half of the time to be controlled by myself and the other half by the gentleman from Massachusetts.

Mr. MANN. I think more time would likely be desired on this side.

Mr. ALEXANDER. And then for the bill to be considered under the five-minute rule until its consideration is concluded, and then the previous question to be considered as ordered on the bill and pending amendments.

Mr. MANN. Then the gentleman is willing to consider the bill for amendment?

Mr. ALEXANDER. Certainly.

Mr. MANN. Under the rule of the House it would not be so considered.

Mr. ALEXANDER. That is what I intend to ask when I ask to agree upon the time for general debate.

Mr. MANN. I have no doubt there will be an agreement to that.

Mr. ALEXANDER. We feel very grateful to the Committee on Rules and to the House for the privilege of calling these bills up.

Mr. MADDEN. Will the gentleman state whether this bill applies to lake ships as well as to ocean-going ships?

Mr. ALEXANDER. Yes; but it does not affect them much because the cargo vessels have very small crews. Mr. Speaker, I yield back the balance of my time.

Mr. HENRY of Texas. Mr. Speaker, I hope the gentleman from Wisconsin will now use some of his time.

Mr. LENROOT. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, I have no disposition to criticize the Committee on Rules for reporting in this rule. We have reached that stage in the proceedings of the House where bills of high privilege have mainly been disposed of, and we have reached that stage in the proceedings of the House where ordinarily in the history of the House we have come to the point where bills on the calendar may be reached and considered. It has been the effort in the House ever since I have been here at different times to get some bill up, having the right of consideration, for the purpose of shutting out everything else. I have never been in favor of any of those propositions. In the past, whenever an effort has been made and I have had the opportunity, I have called the attention of the House to the fact that making a certain bill privileged meant that no other bills would be considered.

We have a rule of the House that applies and especially applies to this stage of the proceedings in the House. I refer to paragraph 4 of Rule XXIV, applying to every day:

> After the unfinished business has been disposed of the Speaker shall call each standing committee in regular order and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration.

With another provision, paragraph 5 of the same rule:

> After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill.

Under this rule it is within the power of the House on any day to reach for consideration any bill that it desires to.

Mr. HENRY of Texas. Mr. Speaker, as I understand the gentleman, he said that at this stage of the session the Speaker could order the committees called, that bills might be taken up. Is it not a fact that he could have the committees called at any time?

Mr. MANN. The gentleman does not quote me correctly. I did not say that at this stage in the proceedings the Speaker could call the committees. I said that that rule applied every day, but that at this stage of the proceedings the rule was especially in point and applicable.

Mr. HENRY of Texas. But it could be put into effect at any stage of the session.

Mr. MANN. No. Theoretically it could, but practically it could not, because under other rules privileged bills cut that out; and under the rule which the gentleman has now reported, if agreed to, the rule which I have read is not worth the paper that it is written upon, because the moment a gentleman makes a motion to take up one of these other bills it cuts out the right to call committees.

The SPEAKER. The Chair would like to ask the gentleman a question for his own information.

Mr. MANN. Certainly.

The SPEAKER. Does the gentleman contend that this subdivision 4 of Rule XXIV empowers the Speaker to shut out privileged bills?

Mr. MANN. Certainly not; but there are no privileged bills pending before the House seeking for recognition from the Speaker at this stage of the session, and we have reached that point of the proceedings of the House where this rule would bring before the House the bills on the calendar as called up by committees, and after an hour pending the call of committees it is within the power of a Member of the House to move to go into the Committee of the Whole for any bill on the Union Calendar.

The SPEAKER. The Chair will take the privilege of suggesting to the gentleman that there are already two bills made privileged, barring conference reports, made so by special order of the House, and if this rule is adopted then it makes this other bunch of bills and resolutions privileged.

Mr. MANN. I am also calling that to the attention of the House.

The SPEAKER. But there are already two to my recollection.

Mr. MANN. Oh, there are several bills on the calendar that are privileged, but none of them now seeking recognition from the Speaker, and this morning if it were not for this rule being presented now the call of committees would now be proceeding under the demand for the regular order.

The SPEAKER. That is absolutely true.

Mr. MANN. This order when it is entered makes privileged a number of bills, bills that will occupy the rest of this session, in all probability, even if the session lasts, as it now looks probable, until the end of September. Meanwhile we have on the calendar a number of bills which gentlemen are very anxious to pass. There is a bill reported from the Committee on the Judiciary fixing the compensation of clerks of the United States courts, which ought to be taken up for consideration and passed in some shape. There is a bill to amend the immigration laws in relation to alien seamen and stowaways that ought to be taken up for consideration and passed. There is a bill to authorize the Secretary of the Navy to pay cash bonuses for valuable suggestions in the naval plants of the Government, which ought to be considered.

There is a bill granting to civil employees of the United States the right to receive compensation for injuries sustained in the course of their employment, of great value to the employees of the Government, and that bill ought to be considered.

The SPEAKER. The time of the gentleman has expired.

Mr. LENROOT. I yield the gentleman five minutes additional.

Mr. MANN. There is a bill to establish a qualified independent government for the Philippines and to fix the date when such qualified independence shall become absolute and complete, and for other purposes. For it I do not demand consideration, but if I were in favor of that bill, as gentlemen are supposed to be on the other side of the aisle, I would want to have a chance to call it up, but if this resolution passes that bill is buried a thousand feet deep. There are a large number of bills, I think over 100 bills on the Union Calendar, 70 to 80 bills on the House Calendar, which might be reached in the ordinary course of business with the right on the part of committees to call up bills reported from the committees on the House Calendar, and the right of the House to call up for consideration any bill on the Union Calendar, but the bills that are not included in this resolution might well be placed in a category where all hope is lost. There is a bill in reference to the immigration question——

Mr. RODDENBERY. Will the gentleman yield?

Mr. MANN. In just a moment—and that accounts for this rule. I am perfectly willing to meet the immigration question. [Applause on the Republican side.] I do not believe myself in a literacy test, but I am perfectly willing to have it brought up in the House and to have it fought out on the floor of the House, but the gentleman from Georgia desires to have that done as he stated, if he has not he meant to, that if this resolution passes, that bill is buried mountains deep, never to emerge again to the surface. Now I yield to the gentleman.

Mr. RODDENBERY. If the southern and eastern members of the Democratic Party on this side who have told their constituents at home they were in favor of this immigration bill will stand up with me and the gentleman to get a yea-and-nay vote on the defeat of this resolution, I will make every effort I can to get them to vote it down, so we can get up the immigration bill; and I would urge my friend on the other side to get his people to have a yea-and-nay vote——

Mr. MANN. We will have a yea-and-nay vote; anybody can have a yea-and-nay vote.

Mr. RODDENBERY. I fear my friend will have better success on his side than I will on mine, but the people will know in November.

Mr. MANN. I suggest to the gentleman from Georgia——

The SPEAKER. The time of the gentleman has again expired.

Mr. LENROOT. I yield two minutes additional to the gentleman.

Mr. MANN. I would suggest to the gentleman from Georgia, whom I have found is one of the gentlemen new in the House who makes some use of the rules and his rights under the rules, that there is no difficulty about getting a yea-and-nay vote——

Mr. RODDENBERY. My leaders are against it.

Mr. MANN (continuing). And it does not require the gentleman to stand up to get a yea-and-nay vote. All the gentleman from Georgia has to do is to suggest to the Speaker, after the question is put, that there is no quorum of the House present.

Mr. RODDENBERY. Then, Mr. Speaker, desiring to get a quorum here on this question, I move now——

Mr. MANN. I suggest to the gentleman he might not get a roll call. If the gentleman is sincere, he will not ask for a quorum at this point.

Mr. BUTLER. I suggest the gentleman from Georgia leave it to the gentleman from Illinois, and the chances are it will be well done.

The SPEAKER. The gentleman from Georgia has not the floor, and neither has the gentleman from Pennsylvania.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from South Carolina [Mr. LEVER].

Mr. LEVER. Mr. Speaker, this rule makes privileged the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto.

For 50 years, Mr. Speaker, the Federal Government has been committed emphatically to the policy of aiding, developing, and encouraging agriculture.

This is the fiftieth anniversary of the passage of the first Morrill Act in 1862, an act establishing the agricultural colleges of the United States. Twenty-five years after that time the Hatch Act was passed, which provided for the establishment of agricultural experiment stations in each of the States whose duty it should be to engage in research work relating to agriculture. Since that time there have been three, I believe, important supplementary acts increasing the appropriations for these two funds. We have spent in the last 50 years for the agricultural college and experiment stations in the neighborhood of $67,000,000. We have expended this enormous sum of money in gathering together information touching agriculture. The purpose of the bill made privileged under this rule is to disseminate through the agricultural colleges to the people themselves on the farm the information that we have been gathering for the last half century. It is proposed in section 4 of the bill to appropriate to each State annually the sum of $10,000, provided that the State through legislative action has established within its agricultural college a department to be devoted to extension and demonstration work and home economics.

Beginning with the fiscal year 1914 the additional sum of $300,000 is appropriated annually and divided among the States in proportion to their rural population, conditioned upon each of the States appropriating a like amount, and the State receiving annually of this additional sum only so much as it is willing to duplicate, up to the point of its pro rata share of $300,000. This additional appropriation of $300,000 is increased each year $300,000 for a period of 10 years, when the bill ripens, and the total appropriation, provided the States duplicate it at the end of that time, will amount to $3,480,000 annually.

Mr. RODDENBERY rose.

Mr. LEVER. I yield to the gentleman from Georgia [Mr. RODDENBERY].

Mr. RODDENBERY. I am heartily in favor of the gentleman's bill, but providing in the same rule for the immigration bill would in no way hurt his bill, would it?

Mr. LEVER. I do not know that it would.

Mr. RODDENBERY. We want to vote against the resolution and send it back and get the immigration bill put in it according to Democratic promises to the country.

Mr. LEVER. I desire to say in respect to this bill, in which I am particularly interested, the Democratic platform recently adopted at Baltimore emphatically and in terms indorses the bill.

Mr. CLINE. I would like to make an inquiry of the gentleman from Georgia [Mr. RODDENBERY].

The SPEAKER. The time of the gentleman from South Carolina [Mr. LEVER] has expired.

Mr. HENRY of Texas. Mr. Speaker, I will ask that the gentleman from Wisconsin [Mr. LENROOT] use more of his time. I have only two more speeches on my side.

Mr. LENROOT. I yield one minute to the gentleman from Oklahoma [Mr. MORGAN].

[Mr. MORGAN addressed the House. See Appendix.]

Mr. RODDENBERY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] moves that the House do now adjourn.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. RODDENBERY. Division, Mr. Speaker.

The House divided; and there were—ayes 4, noes 51.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

Mr. HENRY of Texas. I ask a call of the House.

Mr. RODDENBERY. I desire to get Members over here so that they can find out what is going on.

The SPEAKER. The gentleman from Texas [Mr. HENRY] moves a call of the House.

The motion was agreed to.

The SPEAKER. The ayes have it. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. When the names of the Members are called, they will answer "present."

Mr. CULLOP. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CULLOP. I understood the Chair to announce that on this vote the Members will vote "present." Will not the vote be "yea" by those in favor of the motion to adjourn, and "nay" by those opposed?

Mr. MANN. Oh, that matter was disposed of before the gentleman raised this point.

The SPEAKER. Anyhow, it does not provide for the question of adjournment. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Draper	Kopp	Powers
Adamson	Driscoll, M. E.	Lafean	Pujo
Akin, N. Y.	Dwight	Lamb	Randell, Tex.
Ames	Ellerbe	Langham	Reyburn
Andrus	Fairchild	Langley	Riordan
Ansberry	Ferris	Lawrence	Roberts, Mass.
Anthony	Finley	Lee, Ga.	Roberts, Nev.
Bartlett	Flood, Va.	Legare	Rouse
Bates	Focht	Levy	Rucker, Colo.
Boehne	Fordney	Lewis	Rucker, Mo.
Bradley	Fornes	Lindsay	Scully
Brantley	Gardner, N. J.	Linthicum	Shackleford
Broussard	Garrett	Littleton	Sheppard
Brown	Glass	Lloyd	Sherley
Burke, Pa.	Goeke	Loud	Sherwood
Burleson	Gould	McCall	Simmons
Callaway	Graham	McCoy	Slayden
Campbell	Gregg, Tex.	McGuire, Okla.	Slemp
Cantrill	Griest	McHenry	Smith, J. M. C.
Carter	Guernsey	McKellar	Smith, Cal.
Cary	Hamilton, Mich.	McLaughlin	Smith, N. Y.
Collier	Hanna	McMorran	Stack
Cooper	Hartman	Macon	Stephens, Miss.
Covington	Hay	Maher	Taggart
Cox, Ohio	Hayes	Martin, S. Dak.	Talbott, Md.
Cravens	Helm	Moon, Pa.	Talcott, N. Y.
Curley	Henry, Conn.	Moon, Tenn.	Taylor, Ala.
Currier	Higgins	Moore, Tex.	Thistlewood
Curry	Hill	Morse	Thomas
Dalzell	Hinds	Mott	Tilson
Daugherty	Howard	Murdock	Underwood
Davidson	Hughes, Ga.	Nelson	Vare
De Forest	Hughes, W. Va.	Nye	Vreeland
Denver	Humphreys, Miss.	Olmsted	Wilder
Dickinson	Jackson	Palmer	Wilson, Ill.
Dies	Johnson, S. C.	Parran	Wood, N. J.
Difenderfer	Kindred	Patten, N.Y.	Young, Tex.
Dodds	Kinkead, N. J.	Peters	
Doremus	Konig	Plumley	

The SPEAKER. The roll call shows 223 Members present, a quorum.

Mr. HENRY of Texas. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. Further proceedings under the call are dispensed with.

Mr. HENRY of Texas. Mr. Speaker, I believe some other gentlemen desire to speak.

Mr. LENROOT. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has seven minutes remaining.

Mr. HENRY of Texas. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has four minutes.

Mr. HENRY of Texas. I will ask the gentleman from Wisconsin to use some of his time.

Mr. LENROOT. I yield four minutes to the gentleman from Georgia [Mr. RODDENBERY].

Mr. RODDENBERY. Mr. Speaker, let no Member of the House misunderstand the significance of adopting this rule. A vote for this rule consigns to oblivion and to defeat for this

session the bill restricting immigration, notwithstanding the fact it has been reported by a Democratic committee, and now on the calendar for two months.

A vote against the adoption of this rule now is not a vote against these special orders, but is simply equivalent to an instruction to the Committee on Rules to report back this same rule with the anti-immigration bill made a special order therein. Let no gentleman think that he can say to those who have been advocating the passage of this immigration bill that he voted for the rule, but would have been glad to vote for a special rule containing the immigration bill, if he could, because Members know and the country will know that to vote down this rule does not defeat the special order at this time, but merely delays it so that consideration of the immigration bill can be placed in it. It will then be reported back to the House and we can not only vote on the questions now in the rule which we favor, but we can keep the plighted faith of the Democratic platform of 1896. Thus at the first opportunity we will carry out our word to the people. Since the day that Democratic platform was written we have not been in the majority until now. That party only is worthy of public trust when it keeps with honor its pledges to the people. I appeal to my colleagues to demonstrate our fidelity on this vote.

Mr. HENRY of Texas. Will the gentleman yield?

Mr. RODDENBERY. If the gentleman will yield me one minute of time, I will gladly yield.

Mr. HENRY of Texas. I have not the time, or I would.

Mr. RODDENBERY. I yield to the gentleman anyway.

Mr. HENRY of Texas. The gentleman says that he is in favor of platform demands. What does he say to the platform demand of 1896 and several others in favor of liberal pensions to the soldiers of all the wars?

Mr. RODDENBERY. I am in favor of them, and have voted for them since I have been in Congress, but never knowingly have I voted for a pension steal, and our platforms have never declared for that. And, Mr. Speaker, I want to counsel with my Democratic brethren as an humble Member of the House, and I want to say to you that so far as I am concerned I shall not be for this immigration bill at home and then dodge it or fail to perform the promises made to the people when I have a chance here in Congress to get the bill up for consideration. If you can do that, that is for the individual conscience of every Member. Let us join now the favorable action of the Senate and pass this bill. We need not pass bills in this House about the tariff and about the high cost of living, for the Republicans in the Senate will kill those bills or the President will veto them; but we have an opportunity now to pass something that the people want, that we know the Senate has passed, and which our platform demands. If we want to legislate for the constituencies who have sent us here, now is the opportunity to do it. This immigration question is vital to our civilization, and a refusal to go on record by defeating a yea-and-nay vote will not deceive the people.

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. HENRY of Texas. I yield one minute to the gentleman from Pennsylvania [Mr. WILSON].

Mr. WILSON of Pennsylvania. Mr. Speaker, the five bills proposed to be considered under this rule are all good bills. One of them, the bill providing for free ships, is a party declaration. The other four are measures providing for safety of travel at sea, and one of those four not only provides for safety of travel at sea, but provides for freedom to the sailor, which he has never had. He is the only class of our citizens who at the present time is obliged to fulfill a civil contract to labor.

That bill has been before Congress for at least 18 years in one form or another. In addition to that both party platforms recently adopted declare for the principles involved in that bill, and I hope gentlemen will not put any obstruction in the way of the consideration of the bill. [Applause.]

Mr. HENRY of Texas. I now yield three minutes to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP was recognized.

Mr. DUPRÉ. Before the gentleman begins, will he yield for a question?

Mr. CULLOP. Yes.

Mr. DUPRÉ. I would like to know if, in the numerous bills covered by this rule, there is included the bill by the gentleman from South Carolina, Mr. LEVER, to prohibit gambling in grain?

Mr. CULLOP. No; I regret that it is not. Mr. Speaker, one of the bills provided for consideration under this rule is H. R. 22593, reported favorably by the Committee on Interstate and Foreign Commerce. The utility of this bill and its importance will readily be seen. It is an amendment to the interstate commerce law, authorizing the Interstate Commerce Commission to investigate and determine the physical valuation of the railroads of the country engaged in interstate commerce. It is one of the planks in the Baltimore platform, and is one of the propositions not only before the party but before this House, and is of more importance to the American people to-day for the adjustment of freight rates than any other proposition that will be before this Congress.

The Interstate Commerce Commission in their reports have requested this kind of legislation for some time back, and are advocating it now. I want to call the attention of Members of this House to the importance of immediate action on this measure. It has been by some one stated that for every dollar that goes into the Public Treasury under the administration of the present tariff laws $5 is collected and appropriated to the special interests as a tribute from the American people. For every dollar that is unjustly wrung from the American people to-day by the tariff $5 is wrung from the American people by the injustice employed in the fixing of railroad rates.

The basis now adopted is as follows: First, to pay the operating expenses; second, to pay the interest upon the bonds; and, third, to pay a reasonable dividend on the stock, both genuine and watered. It is the only business in this country to-day, as it is managed, that pays a dividend upon its bonded indebtedness and its stock, a proposition unreasonable and unjust and one that necessarily is indefensible as a business proposition. Now, the proposition is that the physical valuation shall be determined by the Interstate Commerce Commission for the purpose of adopting a basis and that the rates shall be regulated upon what is actually invested and not upon the watered stock and the bonded indebtedness. Double dividends are now paid as a result of the present methods employed. For every dollar of bonded indebtedness capital stock is issued and held by the owners of the railroad, and to earn sufficient to pay on the amount represented by both is a double charge, and is indefensible and it works a hardship on the people; and this legislation is for the purpose of furnishing a remedy for this evil and to do justice to the producers and consumers of our country. The public demands it, common justice requires it, and duty to our constituents requires of us a full, fair, and earnest consideration of the proposition that the enterprise, industry, and thrift of the country may be fairly rewarded and encouraged. This subject is so important that it affects every citizen of the Republic, whether he be producer or consumer, whether he be rich or poor, and it behooves us as the representatives of a great people to take immediate steps to remedy this great evil and secure relief from its blighting effects. Transportation rates affecting all kinds of business and all classes of persons can never be equitably and fairly regulated until such a measure as this is enacted into law, that the commission may proceed in this all-important matter intelligently, taking as its basis the actual value of the properties involved and not their imaginary values, as is now used for a basis for the fixing and collecting of transportation rates. It is perhaps one of the saddest commentaries on the abuse of the conduct of great business in this country that the public has tolerated for these many years to be wrung from the public the excessive and unjust charges of transportation companies. They perform an important function in our commerce. Their earnings have been multiplied by exacting charges to pay dividends on watered stocks, for which there has been no investment and for which there is no property representation and never has been any. This evil interferes with the expansion of every industrial and domestic concern in the whole country; it restrains production and limits consumption; it increases the cost of living and diminishes the amount of wage the toilers receive. They are earning for the holders of their stocks, representing no investment, no property, no upbuilding of the country's wealth, large dividends at the expense of the honest business, the real investor, the actual producer, and the ultimate consumer. He must pay the toll and be subjected to the injustice foisted upon him by the system to swell the coffers of the promoter, the stock gambler, and the exploiter of the public through the medium employed by the "high financier," who thrives in his illegitimate business at the expense of honest business employing legitimate business methods.

To collect tolls for transportation sufficient to pay interest on bonds and dividends on stocks constitute a double charge. Both the bonds and stock represent one and the same investment. Either the amount represented by the bonds went into the property or it was a net rake-off to the owners, and if the latter the public should not be charged to pay dividends on it, and if the former, then it is represented by the capital stock, and to earn sufficient to pay a reasonable dividend on the capital stock covers both, or, in other words, all of the actual invest-

ment. Again it is a familiar fact that railroads are rich when rates of transportation are to be fixed and miserably poor when to be assessed for taxation. If this bill becomes a law and the value of all railroad properties is officially ascertained, then such ascertainment can be used both for fixing rates and taxation for public purposes, and will prove in this respect of incalculable benefit to the public. If such valuation is fair to fix rates for transportation, the amount the public must pay for service, it is equally as fair for public taxation, and the rule should work both ways and be used to answer both purposes. The companies could not complain over the adoption of such a rule. They could not in good conscience refuse to pay taxes for public purposes on a valuation which they adopt to fix the rates they charge the public for service.

Again, the adoption of this measure will enable the public to know, through the efforts of the Interstate Commerce Commission in ascertaining the real values, who are the owners of railroad stocks, bonds, and securities; also the duplication of directors and the holding companies, the manipulation of stocks, and the efforts and opportunities to restrict and prevent competition of parallel lines, and the inducements for such action. It will enable the commission to secure justice to the shippers of the country and tend to promote a healthy and prosperous condition of the transportation companies, to the end they will do a legitimate business on a legitimate basis, and the general public will be the real beneficiary as the result thereof. It will facilitate the prosperity of the country and inspire confidence in the business world and strengthen business stability in our commercial affairs and establish a standard of justice between the shippers and carriers of the country which will redound to the great good of the entire country. Let us keep our pledge to the people and do our duty to the business world in order that faith may be maintained in our promises to legislate in the interest of the common welfare.

Mr. LENROOT. Mr. Speaker, it is not often that the facts and circumstances are such that I, as a member of the minority of the Committee on Rules, have felt in a position to defend in any degree the action of the majority of that committee. But in this particular instance the facts are such that I think fairness compels me to state that the criticisms that have been directed against the majority for the bringing in of this rule are not well founded; that the Committee on Rules in the action it has taken has not had any ulterior purpose or motive.

Now, Mr. Speaker, it is very apparent that in the remaining days of this session this House can not consider all the bills upon the calendar. A large number of resolutions providing for the consideration of certain bills were pending before the Committee on Rules. The majority of the committee brought before the committee certain of these resolutions and the committee has acted upon them, and you find their action in this resolution now before you. The committee, I believe, has taken such bills as it believed were of great importance to the country, bills that would not receive consideration if they were not made privileged. Now, it is true that there are other bills proposed of equal importance, and I would be glad as a member of the Committee on Rules to make those bills privileged. The immigration bill that the gentleman from Georgia [Mr. RODDENBERY] has been discussing I, as a member of the Committee on Rules, should be glad to vote to make privileged. It is an important bill.

Mr. GARDNER of Massachusetts and Mr. BUTLER rose.

Mr. LENROOT (continuing). Whatever my position may be on that or any other bill, I believe a bill of great importance ought to come to the floor of the House and Members vote for or against it. Now I will yield to the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. Does the gentleman mean to say that all of these bills included in this rule are of more importance than the immigration bill?

Mr. LENROOT. I do not, but I do say that the bill with reference to the physical valuation of railroads is more important than the immigration bill.

Mr. KENDALL. Is it in the rule?

Mr. LENROOT. It is in the rule.

Mr. BUTLER. Will the gentleman tell me what prospect there is, if he knows, of getting any consideration of what is known as the Burnett immigration bill?

Mr. LENROOT. I do not know, but I do know this, that unless you do get that bill privileged there is no prospect, probably, of its consideration at all, and if the gentleman from Georgia [Mr. RODDENBERY], instead of making the assaults that he has upon the floor here this afternoon upon the Committee on Rules, had directed one-half of that activity to the Committee on Rules in endeavoring to get favorable action upon a rule to consider that bill, he might have been more successful. But so far as I know, the gentleman did not appear before the Committee on Rules at all with reference to that.

The SPEAKER. The time of the gentleman from Wisconsin has expired. All time has expired. The question is on adopting the resolution.

Mr. RODDENBERY. Mr. Speaker, may I submit a motion to recommit with instructions so as to include the immigration bill in the rule?

The SPEAKER. The gentleman can not move to recommit a resolution from the Committee on Rules.

Mr. RODDENBERY. Mr. Speaker, for the first timo since I have been a Member I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. It is based upon a remark made by the gentleman from Wisconsin [Mr. LENROOT].

Mr. HENRY of Texas. Mr. Speaker, I make the point of order that the gentleman's remarks are out of order. After a motion to adjourn, nothing else is in order except the disposition of this rule.

Mr. RODDENBERY. No other motion to adjourn can be made.

Mr. HENRY of Texas. There was a motion to adjourn, and nothing else is in order except a vote upon the resolution.

The SPEAKER. No other motion would be in order, but the Chair is inclined to think that a Member has a right to rise to a question of privilege, if he thinks he has been maltreated.

Mr. RODDENBERY. Mr. Speaker, without imputing to the gentleman from Wisconsin any intention of reflecting upon me, as a matter of fact, his remarks that I have made no effort toward getting consideration by the Committee on Rules of the immigration bill reflects on my conduct. In a moment I desire to state, as a matter of privilege, that when I first came to Congress I introduced an immigration bill of this character, but more restrictive in many respects. After the present bill was reported favorably and on the 1st of June I introduced a resolution and had it referred to the Committee on Rules, asking that the immigration bill be made privileged and a special order for immediate consideration. On the 6th of June I addressed a letter to the gentleman, Mr. HENRY, the chairman of the committee, asking its consideration, which I now read.

Mr. HENRY of Texas. Mr. Speaker, I make the point of order that the gentleman does not state any question of personal privilege.

The SPEAKER. The Chair thinks he did. The Chair was not listening very particularly to the remarks of the gentleman from Wisconsin, but the gentleman from Georgia states that the gentleman from Wisconsin said that he had not done anything to get a rule from the Committee on Rules with reference to the immigration bill.

Mr. LENROOT. Mr. Speaker, in order that the gentleman may understand what I said, I am very clear that my remark was that if he had devoted one-half of the activity before the Committee on Rules that he had upon this floor, he would probably have had some result.

The SPEAKER. The gentleman from Georgia has the floor.

Mr. GARDNER of Massachusetts. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. Mr. Speaker, I make the point of order that unless the gentleman from Georgia had called the gentleman from Wisconsin to order at the time the remark was made a question of personal privilege is only in order after the reading of the Journal to-morrow morning.

The SPEAKER. The Chair does not think that the point of order is well taken. The Chair thinks that a Member is entirely within his rights when he is jealous of his reputation. The Chair is not passing upon whether the gentleman's reputation has been damaged, but the gentleman from Georgia thinks it has, and he is stating his case, and the Chair holds that he has a right to state his case.

Mr. RODDENBERY. Mr. Speaker, I desire now to read the letter which I addressed to the Hon. ROBERT L. HENRY, on June 6, 1912:

HOUSE OF REPRESENTATIVES,
Washington, D. C., June 6, 1912.

Hon. ROBERT L. HENRY, M. C.,
House of Representatives, Washington, D. C.

DEAR MR. HENRY: On Saturday, June 1, I presented a resolution providing for a special rule directing the consideration by the House, as a special order, of a bill reported from the Committee on Immigration, further restricting alien immigration. The resolution having been referred to the Committee on Rules I should be pleased to have a favorable report of the resolution from your committee as early as possible. If it is the judgment of the committee that a hearing should be had on the rule, I should be pleased to be advised, as I would like to be present when the hearing is had and serve the committee in any way that I may in obtaining a favorable report.

Very truly, yours,

S. A. RODDENBERY.

And to this hour I have not been accorded a respectful acknowledgment of the communication by the distinguished chairman, much less a hearing. No gentleman can now question my activity or diligence.

Two years ago I addressed a similar request to the gentleman from New York [Mr. PAYNE], then chairman of the Committee on Ways and Means, respecting consideration of a tariff bill, and I did get from him a respectful reply. I challenge the gentleman from Texas to say that he has not consulted with the gentleman from Illinois [Mr. SABATH] and other eminent opponents of restricting immigration who want to stifle this bill, and that he has not already agreed tentatively that his committee will not report it until December. Mr. Speaker, I have concluded.

Mr. HARDY. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HARDY. The gentleman is not addressing himself to the point of order.

The SPEAKER. The Chair thinks the point of order is well taken.

Mr. RODDENBERY. Mr. Speaker, I have concluded.

Mr. HENRY of Texas. Mr. Speaker, I ask for one moment, inasmuch as the gentleman has asked for a reply, in order that I may make it.

Mr. BUTLER. Mr. Speaker, I demand the regular order.

The SPEAKER. Has the gentleman any question of privilege?

Mr. HENRY of Texas. Yes.

The SPEAKER. The gentleman will state it.

Mr. HENRY of Texas. The privileged question is this, that the chairman of the Committee on Rules has no recollection of ever having received a letter from the gentleman from Georgia, and if he will send a copy of the letter or another original he shall have a very prompt reply.

Mr. RODDENBERY. Oh, I am opposed to a funeral any time after a month after the death.

Mr. HENRY of Texas. I will be glad to reply to the gentleman at any time.

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, that was agreed to.

The SPEAKER. The Chair thinks it has not been agreed to; it may have been agreed to by the gentleman from Texas.

The question was taken, and the amendment was agreed to.

Mr. ALEXANDER. Mr. Speaker, the rule and the report relating to the radio-communication bill refers to the number of the House bill. At the time I introduced the resolution which is embodied in the rule the House bill was pending, and afterwards the House bill was laid on the table, and the Senate bill is now pending on the Unanimous Consent Calendar.

Mr. MANN. Is that the radio bill?

Mr. ALEXANDER. That is the radio bill, and I ask unanimous consent that Senate bill 6412 be substituted for the House bill.

The SPEAKER. The gentleman asks unanimous consent to correct the number of the bill. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the corrected number.

The Clerk read as follows:

Change the bill H. R. 15357, a bill to regulate radio communication, to the bill S. 6412, a bill of the same import.

The SPEAKER. The question is on agreeing to the amended resolution.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. RODDENBERY. Division, Mr. Speaker.

Mr. GARDNER of Massachusetts. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. The Chair will count. [After counting.] Two hundred and two gentlemen are present, a quorum.

Mr. RODDENBERY. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman demands the yeas and nays. Eleven gentlemen have arisen—not a sufficient number.

So the resolution as amended was agreed to.

Mr. RODDENBERY. Mr. Speaker, is it too late to ask for a reading of the engrossed copy of the resolution?

The SPEAKER. Yes; it has already passed.

Mr. MANN. It is a House resolution and does not have to be engrossed.

The SPEAKER. It does not require an engrossed copy, and anyhow, if it had to be engrossed, it is too late, because the vote has been announced.

LAWS RELATIVE TO SEAMEN.

Mr. ALEXANDER. Mr. Speaker, I call up the bill H. R. 23673 for present consideration.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 23673) to abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that the first reading of the bill be dispensed with.

The SPEAKER. The gentleman from Missouri asks unanimous consent that the first reading of the bill be dispensed with.

Mr. MANN. Mr. Speaker, reserving the right to object, let us see whether we can not reach an agreement.

Mr. ALEXANDER. And pending that request I also ask unanimous consent that the bill be considered in the House as in Committee of the Whole, and that two hours be given to general debate on the bill, and that following that the House proceed to the consideration of the bill under the five-minute rule.

The SPEAKER. This bill is on the House Calendar. The request of the gentleman is that this bill be considered under general debate for two hours and then it shall be considered under the five-minute rule. Is that the request of the gentleman?

Mr. ALEXANDER. Yes.

Mr. GREENE of Massachusetts. Mr. Speaker, reserving the right to object, I will state that I do not think that two hours' time will be sufficient. I have requests from gentlemen who desire to speak upon the subject that will take more than half of that time. I think there should be at least two hours' debate on the subject on a side.

Mr. ALEXANDER. I think general debate ought to be concluded this afternoon. I will agree to an hour and a half on a side, which will take us up to 6 o'clock, one half of that time, of course, to be controlled by the gentleman from Massachusetts and the other half by myself.

Mr. HUMPHREY of Washington. The gentleman knows that this is a bill of great length, which practically revises the navigation laws of the United States in a great many respects, and the gentleman further knows that this particular bill as it is now written was considered in our committee but a very short time, and I think we ought to have a reasonable length of time for debating this bill, and it will take two hours on a side to go through and take up the various portions of this bill and discuss them so that the House may have some knowledge of it.

Mr. ALEXANDER. My experience is the House does not get much information with reference to a bill under general debate, and I desire that it may be considered fully under the five-minute rule.

Mr. MANN. Will the gentleman yield? Following what the gentleman has just stated, if general debate on this bill is closed by unanimous consent and the gentleman's request is agreed to to consider the bill under the five-minute rule, is it the expectation of the gentleman that he will be fairly liberal in debate under the five-minute rule?

Mr. ALEXANDER. I think so. There is no disposition to cut it off.

Mr. MANN. It is far more important in the consideration of a bill.

Mr. ALEXANDER. That is my notion, unless I see evidence of a disposition to kill time and filibuster.

Mr. MANN. I can assure the gentleman that I think there will be no such disposition.

Mr. ALEXANDER. I have no wish to speak under the general debate myself at all.

Mr. HUMPHREY of Washington. I think it is especially desirable that we should have plenty of time under the five-minute rule. I agree with the gentleman from Illinois [Mr. MANN] on that point.

Mr. ALEXANDER. That is one reason I do not want to consume so much time under the general debate.

Mr. HUMPHREY of Washington. I would like the assurance from the gentleman that we will have plenty of time to take up and consider amendments.

Mr. MANN. We have that assurance from the gentleman now.

Mr. ALEXANDER. I do not wish to use this bill as a buffer to keep other bills from being considered under the rule.

Mr. MANN. There is no disposition to do that. Why not have three hours of general debate?

Mr. ALEXANDER. I will do that, although I would rather have two.

Mr. MANN. General debate can close to-day.

Mr. GREENE of Massachusetts. I will accept that proposition.

Mr. MANN. Why not agree that general debate will close to-day?

Mr. ALEXANDER. In three hours.

Mr. LEVER. Make it 6 o'clock.

Mr. MANN. The gentleman has it within his power to move to adjourn at any time.

Mr. ALEXANDER. But I do not want to violate the spirit of the agreement.

Mr. GREENE of Massachusetts. If I find there is not enough call for time, I will gladly yield.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that there be three hours' general debate, and at the conclusion of the general debate the bill be considered under the five-minute rule.

Mr. MANN. In the House as in the Committee of the Whole.

Mr. ALEXANDER. In the House as in the Committee of the Whole.

Mr. MANN. Under the five-minute rule in the House as in the Committee of the Whole.

Mr. ALEXANDER. That it be considered under the five-minute rule is a part of the request.

The SPEAKER. The gentleman from Missouri [Mr. ALEXANDER] asks unanimous consent that general debate on this bill shall proceed for three hours, one half to be controlled by himself and the other half by the gentleman from Massachusetts [Mr. GREENE] and that after that the bill shall be considered under the five-minute rule.

Mr. CANNON. Will the gentleman allow me? When does he expect to vote upon the bill?

Mr. MANN. It will probably get up on Monday.

Mr. CANNON. I presume after to-day it will go over until the first of the week. Do you propose to read it under the five-minute rule to-day?

Mr. ALEXANDER. Not to-day.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The gentleman from Missouri [Mr. ALEXANDER] is recognized.

Mr. ALEXANDER. Mr. Speaker, I yield 20 minutes to the gentleman from Texas [Mr. HARDY], who is chairman of the subcommittee.

The SPEAKER. The gentleman from Texas [Mr. HARDY] is recognized for 20 minutes.

[Mr. HARDY addressed the House. See Appendix.]

REPRINT OF INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to request unanimous consent to have a reprint made of the bill H. R. 20728, the Indian appropriation bill, together with the Senate amendments thereto.

The SPEAKER pro tempore (Mr. CONNELL). The gentleman from Texas [Mr. STEPHENS] asks unanimous consent to have a reprint made of the Indian appropriation bill. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LAWS RELATIVE TO SEAMEN.

Mr. ALEXANDER. Mr. Speaker, it is not my intention to discuss this bill at this time, if at all, under the general debate, and I am going to ask the gentleman from Massachusetts [Mr. GREENE] to use some of his time. Before doing so, however, I desire to call attention to one paragraph in the views of the minority. I quote from the views of the minority:

> This bill is one of great importance, being practically a revision or a repeal of a large portion of the most important of our navigation laws. It is to be regretted that the majority of the subcommittee having the bill in charge has attempted to play politics in its consideration.

I wish to say that if there has ever been any political complexion to the consideration of this bill it has entirely escaped my notice. There is a difference of opinion between the members of the committee as to the wisdom of some of the sections of this bill, but if they are inspired by party considerations I have no knowledge of that fact. And again:

> The bill in its present form has never been considered by the full committee and no opportunity given to do so except in the most perfunctory way.

I think that also is an injustice to the committee. Ample opportunity was given for the consideration of this bill after it was reported back by the subcommittee, and no effort was made to shut off consideration by the committee; and if the bill was not considered more fully than the gentlemen who make this statement think it should have been considered, it was their fault, and not the fault of the committee. I have been present at every meeting of that committee, but these gentlemen can not say as much. Again, the minority say:

> The bill was referred to the subcommittee, who practically rewrote the bill. This committee held many meetings to consider it, but while outside interested parties were invited to these meetings and participated in framing the bill, the minority members of the committee were not permitted to be present.

The gentlemen are in error in that statement. There never was a time when this bill was considered by the subcommittee that any other persons were present than the members of the subcommittee, except one occasion. The shipping interests and the representatives of the seamen thought if they could get together before the subcommittee they might agree; and, adopting their suggestion, one night the gentleman from Texas [Mr. HARDY], chairman of the subcommittee, notified the representatives of the shipping interests, Mr. Livingston, the president of the Lake Carriers' Association, and others, and the representative of the seamen, Mr. Furuseth, along with other gentlemen, that they might be present. They appeared and discussed the bill back and forth until midnight. I think the gentleman from Washington [Mr. HUMPHREY] was present at that meeting. Nothing came of that meeting. They did not agree on the provisions of the bill. That is the only occasion on which any representative of the shipping interests or seamen was present when the subcommittee considered this bill.

I simply make this explanation that this statement may not prejudice the House in the consideration of the bill. Whether the gentlemen were invited to be present at these subcommittee meetings or not, I leave to the gentleman from Texas [Mr. HARDY] to say. I was made a member of the subcommittee by the action of the committee and attended as many meetings as I had notice of.

Mr. LEVY. Mr. Speaker, I would like to ask the gentleman if he understands that this bill will relieve the shipping interests of the country of the present onerous navigation laws?

Mr. ALEXANDER. In what respect?

Mr. LEVY. By relieving us of the onerous laws that we now have. Will it not make it worse? Will it not drive our vessels from the sea?

Mr. ALEXANDER. I think it is a grave error to pass the bill if that is so.

Mr. LEVY. This is the first opportunity I have had to examine this bill.

Mr. ALEXANDER. I think if the gentleman studies the bill he could answer that himself.

Mr. LEVY. That is the reason I am interrogating the gentleman.

Mr. ALEXANDER. I do not think it would.

Mr. LEVY. Does the gentleman think it will be a relief?

Mr. ALEXANDER. I think it will. That is, if the seamen are entitled to any consideration at the hands of Congress. I do not look at this question wholly from the standpoint of the shipowner.

Mr. LEVY. Our navigation laws are now very severe.

Mr. ALEXANDER. Yes; and I would not add any unnecessary burden to the shipping interests of the country.

Mr. LEVY. I thought the gentleman's committee was trying to relieve us of some of the onerous laws.

Mr. WILSON of Pennsylvania. From a competitive standpoint it does relieve the shipping interests.

Mr. GREENE of Massachusetts. Mr. Speaker, I listened to the remarks of the gentleman from Missouri, the chairman of the committee [Mr. ALEXANDER], who preceded me, and I am somewhat surprised at the statements that he made here, for the reason that I was not called in as a member of the minority of the committee to the subcommittee meetings to consider this bill. If I recollect correctly, upon my motion in the committee, the chairman of the committee was added to the subcommittee, and a few days afterwards I met the chairman in the hallway of the Office Building, and he said to me that he did not think that the minority members of the committee, naming the gentleman from Washington [Mr. HUMPHREY] and myself, were using him right; that there were some features of the bill that he did not approve of; but we were not present at the meetings of the subcommittee to aid him in securing these amendments to the bill. I stated then, and I state it now, that I was not notified of the meetings of the subcommittee on this bill, and was not present at those meetings, because I received no notice of the meetings of the subcommittee to consider the bill.

Mr. HARDY. Mr. Speaker, will the gentleman yield?

Mr. GREENE of Massachusetts. Certainly.

Mr. HARDY. I think I can make a statement respecting its matter with which the gentleman will not differ from me. It is true that myself and other members of the subcommittee met and talked this measure over personally for hours several times, but we never undertook to report this measure until I had notified the minority members of the subcommittee and asked them to meet with the full subcommittee and discuss the bill fully.

I admit I do not think they came, but there was no report until after the gentleman himself and the other Members of the minority had been notified of the meeting of the subcommittee. It is just as if in caucus or in the cloak room I might have had private conversations as I do with the other Members of the majority, but that bill was not reported back to the whole committee until after the gentleman himself had been notified of the meeting of that subcommittee to discuss and offer amendments, and I think some of them did come.

Mr. GREENE of Massachusetts. There were several bills before the subcommittee which were considered, bills of various kinds, but this bill brought up here to-day I never was invited to consider, nor was my colleague, Mr. HUMPHREY of Washington, as I have been informed by him.

Mr. HARDY. I will say to the gentleman he is absolutely mistaken in——

Mr. GREENE of Massachusetts. I decline to yield until I get through with my statement.

Mr. MADDEN. I suggest to the gentleman it is raining outside and you can not dry this linen, even if you wash it.

Mr. GREENE of Massachusetts. I know that, but there is the question of fair dealing, and the statement in this minority report is correct that we received no notice whatsoever from the subcommittee that this bill was to be considered, and to confirm my statement I state what the chairman of the committee told me himself, that Mr. HUMPHREY, my colleague, and myself were not attending the subcommittee meetings, and we ought to be there in order—if we wanted amendments to this bill we ought to be there to sustain him in securing some amendments to the bill.

Mr. ALEXANDER. Will the gentleman yield?

Mr. GREENE of Massachusetts. I do.

Mr. ALEXANDER. I would simply say this. There had been several meetings of the subcommittee before I met the gentleman in the corridor and chided him for not being present.

Mr. GREENE of Massachusetts. And did not I reply to the gentleman that I had not been invited?

Mr. ALEXANDER. He said to me that he had not been invited and to get after Mr. HARDY about it.

Mr. GREENE of Massachusetts. And I was not invited.

Mr. HARDY. I will state if the gentleman never received the invitation before we reported that bill there is something deficient in the mail, and if he will go back and look over his mail I think he will find the notice.

Mr. GREENE of Massachusetts. I attend all meetings of the committee, and I think the gentleman will bear out my statement, when I am in the city. I attended all the meetings of a subcommittee when I have been invited, but on this bill I was not invited, nor was my colleague, Mr. HUMPHREY, invited in for the consideration of the bill——

Mr. HARDY. Let me say this matter was thrashed over in the committee. I do not think there was any question there but what he and Mr. HUMPHREY had been invited to the last meeting of the subcommittee. Was there any question as to your being invited as to the last meeting of the committee——

Mr. HUMPHREY of Washington. I do not think this is a matter of testimony or that it is material to testify.

Mr. HARDY. I do not think it is material, but as we have gone into it——

Mr. HUMPHREY of Washington. If the gentleman will permit me for a moment, I do not think it is material to the issue of this bill as to what the majority did in relation to it any further than the fact that the minority Members did not have an opportunity to consider this bill that they should have had in the way of making amendments. I want to take occasion to exonerate the chairman of this committee. I am perfectly satisfied that the chairman of this committee did not know that the subcommittee had been meeting without inviting the other members of the committee, and he was a member of it himself. This condition did happen, that the subcommittee had meetings and they did practically agree upon the bill, and what I objected to was their bringing in the bill to which there was given very little consideration at the time.

Mr. HARDY. Did the gentleman receive notice to attend the meeting of the subcommittee at which the bill was finally agreed on and reported.

Mr. HUMPHREY of Washington. My recollection is I did receive one notice to attend a meeting.

Mr. HARDY. That is all I claim.

Mr. HUMPHREY of Washington. This fact is true, that bill was reported before we had an opportunity to read it, except in the committee, and at the time that bill was reported there was no man except those on the subcommittee who knew what it contained.

Mr. HARDY. The gentleman has stated all I claimed, that before we reported that bill he received notice to attend the meeting.

Mr. GREENE of Massachusetts. Mr. Speaker, I would not have made as much of a statement as I have done if the chairman himself had not stated that we had taken the wrong position in making the statement in the minority report, but I believe the statement in the minority report is fully justified, and while I have expressed a great many times absolute confidence in the chairman of the committee, still the fact remains that the chairman of the subcommittee in some manner or for some reason, why I do not know, ignored entirely the minority in the consideration of this bill.

Mr. HARDY. Yet I object to the statement that the chairman of the subcommittee ignored the minority.

Mr. GREENE of Massachusetts. You did not ignore us on the bill of minor importance that you had under consideration.

The bill itself is a bill that changes the whole policy of the Government in relation to the manning of vessels. There are some very good features in it. As to the changes that are made that affect the foreign shipping, it is a matter of grave doubt as to whether it would be wise for us to make such a radical interference with foreign shipping. That, I suppose, will be determined after the bill is put into effect. We are experiencing in another body a little difference of opinion in regard to our views as to the use of the Panama Canal. Certainly if foreign Governments object to the use of a canal which we built with our own money, which we intend to use for the development of our merchant marine—if after we have built a canal and wish to use it ourselves, and prescribe the uses of it for our own vessels, objection is made by foreign Governments, certainly objection will be made by foreign Governments to our endeavoring to control the management and the policy of manning foreign vessels and in the management and control of their seamen employed on the vessels which they build and own. It may be wise. I trust it is wise. The probability is that this bill will at least pass this House, but it possibly may not be enacted into law. But I have grave doubts as to whether this will be of advantage to the American seaman. I will admit it may be an advantage to the foreign seaman, because no foreign seaman is to-day on anywhere as near as good footing as the American seaman is, and many of the features in this bill are distinctively in the interest of seamen of other nations.

There is one statement that I would make in regard to the cost of building American ships in American shipyards as against the building of foreign ships in foreign shipyards. For years we have had on the statute books, and it was in the Dingley law and also in the Payne-Aldrich Act, a provision that all materials going into the construction of a ship built for the foreign trade should be admitted free of duty. But the question of wages paid in the foreign shipyards and the wages paid in the American shipyards can not be met by any such proposition as that.

I have not before me the scale of wages paid in American shipyards in comparison with wages paid in foreign shipyards, but it is a well-known fact to one who will read history that the wages in the American shipyard are more than double what they are in the foreign shipyards, and to that element of wages largely the greater cost of construction is due. And however much we may attempt to escape that feature of the cost of the vessel, still it is that feature that has driven from our shipyards the building of vessels for the foreign trade and in addition the wages paid on the foreign vessel compared with those paid on the American vessel have operated against the American-built vessels, and make the features I have referred to the vast difference to the cost of the vessel itself and the cost of its maintenance.

All these propositions that may be submitted here will not tend to decrease the cost of maintaining an American vessel, but will rather add to the cost by increasing the expense of nearly every vessel in the trade. If any advantage comes to the American sailor there will no man be more gratified than myself. But to attempt to care for the foreign sailor to the detriment of the American sailor, I think is a proposition to which the American Congress should not give its assent. This bill provides for the taking care of foreign sailors and prescribing by American law what the foreign sailors shall do. If it should come to a point of affecting his wages and increasing his pay so as to make a direct advantage to the American

sailor, to that part I would certainly agree. But by inserting these features to the disadvantage of the American sailor by bringing the greater competition from the foreign sailor in the American trade, I believe is in that respect a distinct disadvantage.

Mr. HARRIS. Will the gentleman from Massachusetts [Mr. GREENE] yield? I wish to ask a question of the gentleman from Pennsylvania [Mr. WILSON].

Mr. GREENE of Massachusetts. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. HARRIS], who wishes to ask the gentleman from Pennsylvania [Mr. WILSON] a question; then I will yield 30 minutes to my colleague from Washington [Mr. HUMPHREY].

Mr. HARRIS. Mr. Speaker, I would like to ask the chairman about section 13 of this bill, and how far the language of that bill is intended to go?

Mr. WILSON of Pennsylvania. What section?

Mr. HARRIS. Section 13, to the effect that every vessel sailing out of a port of the United States shall carry one or two or more American boys as apprentices. Now, that language is pretty general. If it is as broad as your other thought, which means any ship of any nation, I want to know whether you mean to expatriate the American boys and drive them into the foreign trade? How far is that language intended to go?

Mr. WILSON of Pennsylvania. It is intended to apply to every sailing or steam vessel of the United States, and I may say it is the intention of the committee to offer an amendment to that section, which was omitted in making the report on the bill, the amendment being as follows:

Amend, line 15, on page 16, by inserting between the word "sailing" and the word "or" in said line the words "vessels engaged in the foreign or off-shore trade," so that it will read:

"That every sailing vessel engaged in the foreign or off-shore trade or steam vessel of the United States."

It is meant to apply solely to vessels of the United States.

Mr. HARRIS. Why not limit it to the United States, so that there will be no misunderstanding about it? You now say "any ship."

Mr. WILSON of Pennsylvania. That is the purpose of it.

Mr. LONGWORTH. Mr. Speaker, before the gentleman from Washington [Mr. HUMPHREY] proceeds I would like to ask the gentleman from Massachusetts [Mr. GREENE] whether I understood him correctly to say that the passage of this bill would increase the cost of maintaining American ships?

Mr. GREENE of Massachusetts. Yes.

Mr. LONGWORTH. To what extent?

Mr. HUMPHREY of Washington. I can answer that question for the gentleman.

Mr. GREENE of Massachusetts. I yield, Mr. Speaker, to the gentleman from Washington [Mr. HUMPHREY] 30 minutes.

Mr. MADDEN. Mr. Speaker, I suggest the absence of a quorum. I think on an important measure like this we ought to have the Members of the House present, so that everybody will understand what we are discussing. I make the point of no quorum.

Mr. RICHARDSON. I move that the House do now adjourn.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. RICHARDSON] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker pro tempore announced that the noes seemed to have it.

Mr. RICHARDSON. A division, Mr. Speaker.

The House divided; and there were—ayes 1, noes 17.

Mr. MADDEN. Mr. Speaker, I make the point of no quorum.

Mr. CARLIN. Mr. Speaker, I make the point of order that the motion is dilatory.

The SPEAKER pro tempore. Business having intervened, the point is overruled.

Mr. RODDENBERY. Mr. Speaker, I move a call of the House.

Mr. MADDEN. Mr. Speaker, it is evident that there is no quorum present, and there is nothing to do but have a call of the House. I move a call of the House.

The motion was agreed to.

The SPEAKER pro tempore. A call of the House is ordered. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Austin	Brown	Cantrill
Adamson	Barchfeld	Browning	Carter
Akin, N. Y.	Bartlett	Burgess	Cary
Ames	Bates	Burke, Pa.	Catlin
Anderson, Ohio	Berger	Burleson	Clark, Fla.
Andrus	Boehne	Calder	Collier
Ansberry	Bradley	Callaway	Conry
Anthony	Broussard	Campbell	Copley
Covington	Hamilton, Mich.	McCall	Rucker, Mo.
Cox, Ind.	Hamilton, W. Va.	McCoy	Saunders
Cox, Ohio	Hanna	McDermott	Scully
Currier	Hardwick	McGuire, Okla.	Sells
Curry	Hartman	McHenry	Shackleford
Dalzell	Haugen	McKellar	Sheppard
Daugherty	Hawley	McKenzie	Sherley
Davenport	Hayes	Macon	Sherwood
Davidson	Heald	Maher	Simmons
De Forest	Helgesen	Martin, S. Dak.	Slayden
Denver	Helm	Matthews	Slemp
Dickinson	Henry, Conn.	Miller	Smith, J. M. C.
Dies	Higgins	Moon, Pa.	Smith, Cal.
Difenderfer	Hill	Moon, Tenn.	Smith, N. Y.
Dodds	Hinds	Moore, Tex.	Sparkman
Doremus	Howell	Morgan	Stack
Draper	Hughes, Ga.	Morse	Stephens, Tex.
Driscoll, M. E.	Hughes, W. Va.	Mott	Stevens, Minn.
Dwight	Humphreys, Miss.	Murdock	Sulloway
Ellerbe	Jackson	Needham	Sulzer
Estopinal	Johnson, Ky.	Nelson	Sweet
Evans	Kindred	Olmsted	Taggart
Fairchild	Kinkead, N. J.	Palmer	Talbott, Md.
Ferris	Knowland	Parran	Talcott, N. Y.
Finley	Konig	Patten, N. Y.	Taylor, Colo.
Flood, Va.	Kopp	Peters	Thayer
Focht	Lafean	Plumley	Thomas
Fordney	Langham	Post	Tilson
Fornes	Langley	Powers	Underwood
Gardner, N. J.	Lee, Ga.	Pray	Vare
Garrett	Legare	Prince	Vreeland
George	Lenroot	Pujo	Whitacre
Glass	Lewis	Randell, Tex.	Wilder
Goeke	Lindsay	Redfield	Wilson, Ill.
Goldfogle	Linthicum	Reyburn	Wilson, N. Y.
Gould	Littleton	Riordan	Wood, N. J.
Graham	Lloyd	Roberts, Nev.	Young, Mich.
Gregg, Tex.	Lobeck	Rouse	Young, Tex.
Guernsey	Loud	Rucker, Colo.	

The SPEAKER pro tempore (Mr. CONNELL). The call shows 202 Members present, a quorum.

Mr. RODDENBERY. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER pro tempore. Further proceedings under the call are dispensed with. The Doorkeeper will open the doors.

Mr. GREENE of Massachusetts. I yield 30 minutes to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Speaker, I trust that I may have quiet in the room, because it is too warm to speak against much confusion.

The bill under consideration is entitled "A bill to abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen."

I may say to the Members present that during my almost 10 years of service upon the Committee on the Merchant Marine and Fisheries I believe this is the most important bill that has been reported by that committee. I think it means more to the American merchant marine; but, first, I want to point out to the Members of the House that it does not affect American sailors. This bill is intended solely for the benefit of foreign sailors. So do not let any man in this House waste any sympathy upon the American sailor with the idea that he is going to be relieved by this bill, because it does not affect the American sailor so far as the abolition of imprisonment is concerned.

In the first place, this Government some years ago abolished imprisonment in the coastwise trade. It is true, much to my regret, that the statute is still upon our books providing for the imprisonment of seamen in the foreign trade if an American sailor deserts in a foreign port. But I want to take occasion to say to the House that there has not been an American sailor imprisoned in the last 5 years, and I doubt if there has been a chain upon an American sailor in the last 10 years. So that all this talk about freeing the American sailor is for the purpose of arousing your sympathy, in order that you may vote for other portions of the bill.

To demonstrate the correctness of what I say, in the hearings, on page 31, I asked Mr. Walter McArthur, of San Francisco, editor of the Coast Seaman's Journal, the following question:

How many American citizens are there employed in the foreign trade?

He replied:

In the foreign-going trade of the United States? Not more than 5 per cent.

The foreign trade of this country that is carried in American bottoms amounts to only 7 per cent, and of that 7 per cent that is carried in American bottoms less than 5 per cent of the sailors are American sailors, and of what few are left practically all of them are in the ships that run under the subsidy

act of 1891. So that this bill will not free any American sailor, because there are no American sailors to be freed by it, and because of the further fact that the statute now upon our books in relation to imprisonment in the foreign trade has been practically a dead letter for many years. I will say for the minority of the committee that they could at any time have had reported out of that committee by unanimous report any bill confining its provisions to American sailors and American ships; but the purpose of this bill, as I said before, is to assist the foreign sailor. In other words, you may look at this bill and read it through and study it and you will find that the whole purpose and intent of it is to hold out inducements to the foreign sailor who comes into an American port to desert.

I am not going to undertake to argue whether that is a good thing or not, but that is what this bill intends to do. I want to take this bill up and discuss the bill itself.

In the first place, I want to take it up by sections, because, as I said a moment ago, it is too warm to attempt to make a speech, except about the bill itself. I hope all of the Members have copies before them, and I call their attention, first, to page 2, line 11. There we provide how ships shall be manned. It says:

And in all merchant vessels of the United States the sailors shall, while at sea, be divided into at least two and the firemen into three watches.

Now, I see no particular objection to that provision of dividing firemen into three watches in the deep-sea trade and perhaps in the coastwise trade in some places. But on the Great Lakes there is no complaint from the firemen. They are not asking for three watches. If you do this you increase the number of firemen on those vessels. On the other hand the evidence before the committee is that the firemen on the Great Lakes are perfectly satisfied with two watches; that they are compelled to be on the vessel, and they would as soon work as be idle that portion of the time; and so you simply add a third to the number of firemen that will have to be employed on these ships.

Mr. MANN. Will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. MANN. Under the language in that section referring to vessels "at sea," does that apply to the Great Lakes?

Mr. HUMPHREY of Washington. It was the opinion of the committee, and also of the attorney representing the Great Lakes, that it did. The Great Lakes attorney appeared before us and filed a brief. I intend at the proper time to offer an amendment making an exception of the lakes and inland waters of the United States, as far as firemen are concerned.

Mr. MANN. If it applies to vessels on the Great Lakes and vessels that travel only in the daytime across the lakes, would it require them to have three watches of firemen regardless of the fact that it would be impossible to put them all in service?

Mr. HUMPHREY of Washington. I think so; why not?

Mr. MANN. I am asking for information.

Mr. HUMPHREY of Washington. I think it would. That is one reason why I think the requirement is unnecessary.

Mr. MANN. I did not suppose that that provision of the bill applied to the Lakes, because my understanding of it was that a provision of law relating to the merchant marine which said "at sea" meant at sea, and not on the lakes or inland waters.

Mr. HUMPHREY of Washington. I think "at sea" means anywhere afloat unless specifically excepted.

Now, I want to call attention of Members to another section of the bill—and this is characteristic of the bill all through. I want to say in explanation to gentlemen present that I had but little opportunity to be present when this bill was considered or to offer amendments. I think if I had had the opportunity to attend the meetings of the subcommittee that some suggestions I might have made would have been accepted. I hope that some will yet be accepted by the committee.

Now, take section 3, line 7, page 4. It reads as follows:

SEC. 4530. Every seaman on a vessel of the United States shall be entitled to receive, within 48 hours after demand therefor, from the master of the vessel to which he belongs one-half part of the wages which shall be due him at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended; and all stipulations to the contrary shall be held as void.

I want to call the attention of Members to this fact, that while the majority of the committee pretend they want to favor the American sailor and make him a man, all through the bill they take away his power to contract, the power to sell his labor as he sees fit. In one instance they claim that he shall be treated as a man and in another as a ward.

And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall then be due him, as provided in section 4529 of the Revised Statutes: *Provided*, That notwithstanding any release signed by any seaman under section 4552 of the Revised Statutes any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require.

Whether or not that is a good requirement with reference to American ships, I want to call attention to the proviso:

Provided further, That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement.

How does it concern the people of this country whether foreign ships pay one-half of the wages due in each port or not? Why should we tell the foreign shipowner what kind of a contract he shall make in a foreign country? Why should we say to the foreign shipowner, "You may make a contract that is legal in your own country, but when it comes to this port it is illegal"?

Mr. COOPER. Will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. COOPER. In reply to that specific question, is it not of some importance to the people of the city of New York, for instance, whether a sailor lands in New York with $20 in his pocket or without a penny and entirely destitute?

Mr. HUMPHREY of Washington. Certainly; but he does not have to land. What occasion is there for a sailor to land? Suppose he has made a contract to the contrary, why should we violate it?

Mr. COOPER. I suppose the gentleman has heard of the habit of sailors to land whenever they get a chance.

Mr. HUMPHREY of Washington. Certainly; and that is the main purpose of this bill. It runs all through it. The purpose is to induce him to leave the ship. It throws out inducements to him to desert; so it provides that when he gets into any port he can go and demand his wages. Why should we tell Germany or any other foreign country how to run their ships when it does not concern the life or property of the American citizen?

Mr. HARDY. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. HARDY. Do not the provisions that put the sailor on a foreign vessel in an equal position with an American sailor on an American vessel when in our ports enable him to get the wages of our seamen and raise the wages of the foreign seamen coming into our ports, thereby putting us on an equal footing and enabling us to compete with the foreign shippers and prevent them from having cheap pauper labor bound down to them in such way that when they bring them here they can take them back as they came? In this way do we not prevent the foreign shipping from having the benefit of pauper labor if they have it?

Mr. HUMPHREY of Washington. If the gentleman thinks the condition of the foreign sailor has anything to do with the merchant marine, I will ask him the question that he asked of a witness in the hearings. He asked one of the witnesses if imprisonment of the sailor destroyed the American merchant marine, why has not the imprisonment of the foreign sailor destroyed the foreign merchant marine?

Mr. HARDY. The seamen's representatives before us answered my question that so long as seamen coming here on foreign vessels were bound down to their pauper wages there was no chance of elevating their condition, and therefore no chance of the American sailor retaining good wages and competing with them.

Mr. HUMPHREY of Washington. What the gentleman intends to say is that he believes that by raising the wages of the foreign seamen in the American ports he will raise wages all over the world.

Mr. HARDY. We believe in equalizing the wages by raising the wages of the foreign seaman who competes with our seaman. I would rather raise the foreign seaman to the wage condition of our seaman than lower the wage of our seaman to that of the foreigner.

Mr. HUMPHREY of Washington. Just wait one moment. I want to finish the answer. Here is what this bill proposes to do: It proposes to hold out an inducement, as I have said, to every foreign sailor that comes into an American port to desert his ship; and then places him in a position where he can not be forced to go back on the ship unless his wages are increased. That is the purpose of this bill, and the gentleman agrees with me. Everyone who has studied this bill agrees with me that that is the purpose of the bill, namely, to induce the foreign sailor to desert and demand higher wages before he goes back upon the ship.

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. Not at this time. Here is the situation: If we could control this situation all over the world, there might be some force in that statement; but we can not control the wages upon a ship that goes from Europe to South America, or that comes from the Orient to this country, or that sails anywhere, except it touches one of our ports.

What will be the result? The result will be that the British ship—which we will take for an illustration—coming to this country, if the crew deserts, will take a crew from the United States, which for the sake of the argument, may be a high-priced crew; but this crew will be immediately discharged in the home port of the ship. Every vessel will bring the cheap crew coming to our ports. The result of that will be that the highest rates anywhere for carrying freights will be from this country to foreign ports, while between foreign ports and from foreign ports to this country the rate will be cheapened; so that we propose by this bill—if there is anything in that argument at all—to increase the rate of freight to get our goods to foreign countries and to lower the freight rates between other countries and from other countries to this.

Mr. HARDY. Mr. Speaker, if the gentleman will yield a little further, I admit we can not control the wages between Europe and South America; but the gentleman admits that every seaman in this country favors this bill, because it will raise the wages of seamen coming into this country, does he not?

Mr. HUMPHREY of Washington. No; I do not.

Mr. HARDY. I have never seen a seaman opposed to it.

Mr. HUMPHREY of Washington. If there is any force in the argument that is made that the foreign sailor is complaining because he is imprisoned; if there is any truth in other complaints that they are outraged and made slaves, then why not abolish servitude, so far as the American ship is concerned, and so far as the American seaman is concerned? Would not the foreigner, wanting to be a free man, have then every inducement to go on an American ship, and would he not become an American citizen? All he would have to do to escape the slavery we hear so much about would be to leave the nation that enslaves him and come to the one that has made him free.

Mr. WILSON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. Not now. I do not have a great deal of confidence in the complaint of these gentlemen who want the United States to legislate for the seamen of other countries when those seamen are content to sail under the flag of those countries and do not attempt to become American citizens.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. MADDEN. The gentleman from Texas [Mr. HARDY] a short time ago, when he was making a speech upon this subject, stated that the wages of the sailor was fixed according to the ports in which they were engaged.

Mr. HARDY. Where they were employed.

Mr. HUMPHREY of Washington. That would carry out what I said—that the rates would be high here and lower everywhere else.

Mr. MADDEN. How would that affect the American sailor? For example, if wages in Liverpool, Bremen, or Havre, or Hamburg were lower than they are in New York City, would not sailors coming from those ports desert in New York, and would the sailors that were employed in New York then get a higher standard of wages than those that come from abroad?

Mr. HUMPHREY of Washington. Here is what would be the result if this bill is passed, so far as the sailor is concerned. Whenever he went upon a ship at an American port he would receive—theoretically that is—higher wages until that vessel reached a foreign port, when he would be immediately discharged or his wages reduced. All foreign ships in their home ports would sign their crews for the round trip. The seaman who had regard for his contract, who signed for the round trip, would keep his contract and stay with the ship, but the sailor who had no regard for the contract he made and no sense of duty, who knew he could take advantage of the American laws, would desert in our ports, and the result of it would be that the foreign ships would retain the good sailors, those who had the manhood to keep their contract, those who were too honest to practice a fraud upon those that employed them, while we would get those who cared nothing for their contracts; our ports would be filled with deserters; under this bill we would get the scum of all the seas.

Mr. HARDY. Will the gentleman yield right there? Would not that same argument apply with reference to holding by criminal process or by arrest anybody else to any contract when once made for service on land as well as at sea?

Mr. HUMPHREY of Washington. I am perfectly willing to join with the gentleman in abolishing any imprisonment of American sailors. Now let us proceed a little further with the bill. On page 5, commencing at line 4, there is a minor matter to which I wish to call attention of the House.

Mr. HARDY. Will the gentleman answer one question? The gentleman says he is willing to join in abolishing imprisonment of American sailors. Do you still want the American Government to lend itself to a continuation of the imprisonment of foreign sailors on its shore?

Mr. HUMPHREY of Washington. I am not prepared to say as to that. I am strongly inclined to think that punishment for desertion ought to be abolished the world over, but I think we ought to do it in an orderly and decent way, and I do not think we ought to pass a bill of this kind without notice to other nations with whom we have treaties on the question. I think it might be wise to enter into negotiations with other countries. I would be mighty glad indeed if we could strike out the provisions of this bill upon that point and insert a section directing or requesting the President, through diplomatic channels, to take up this question for settlement with foreign nations. I do not think there is any such emergency when we have no American sailors; when we are legislating entirely for foreign sailors that we should rush this bill through in this manner.

Mr. HARDY. I want to see if I understand the gentleman's idea. I understand he is in favor of the principle of abolishing this imprisonment, but that he is opposed to the manner of it.

Mr. HUMPHREY of Washington. I want to call attention to section 4. It says:

> Upon a complaint in writing, signed by the first and second officers or a majority of the crew of any vessel while in a foreign port, that such vessel is in an unsuitable condition to go to sea because she is leaky or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies—

And then:

> Or that her provisions, stores, and supplies are not or have not been during the voyage sufficient or wholesome, thereupon, in any of these or like cases, the consul or a commercial agent who may discharge any of the duties of a consul, shall cause to be appointed three persons of like qualifications with those described in section 4557, who shall proceed to examine into the cause of complaint, etc.

Now, I submit, is not that provision a little bit too drastic? If it were upon a majority of the crew and one of the officers, I would have no objection to it, but here it proposes to put that entirely within the hands of the crew. The crew of a ship—and I am speaking in all respects—are the laboring men upon the ship—those employed to run it. This places the control of that vessel entirely in the crew. Should not the owners of the vessel have some representation, some part, in the control of it? Should not the officers have some authority? That is, however, only one of the minor defects of the bill. Now I want to call the attention of the House to some of the other portions of this bill. Take section 10, which is quite long; but I hope the House will follow me in reading it, because it describes the various things that shall be done, and all the provisions apply to foreign ships. Here is what it says about foreign ships that come to American ports:

> SEC. 10. (a) That it shall be, and is hereby, made unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order or note or any other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment shall in no case, except as herein provided, absolve the vessel, or the master or the owner thereof, from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment he shall, for every such offense, be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than $500.
>
> (b) That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages he may earn to his grandparents, parents, wife, sister, or children.

That all applies to foreign ships. Listen to this:

> (c) That no allotment shall be valid unless signed by and approved by the shipping commissioner. It shall be the duty of the said commissioner to examine such allotments and the parties to them and enforce compliance with the law.

How could the shipping commissioner in this country enforce compliance with such law when the agreements were made in a foreign country between citizens of two foreign countries or two citizens of the same country?

Now, I do not know that I have any objections to such rules for American citizens, but here is the way section 10 ends:

> (e) That this section shall apply as well to foreign vessels as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation.

Now, then, take this case: Suppose an English shipowner makes a contract with an English subject to make a round trip on an English vessel, and he advances him a portion of his wages. Are

we going to say as soon as that ship comes into our port that it shall be a crime and that the man who did it is subject to imprisonment, and that you can tie up that vessel while the matter is being investigated; and if the officer of the vessel is found guilty that we shall imprison him in this country for six months for making a legal contract in his own country with a citizen of that country?

Go still further and suppose an English shipowner makes a contract with a German subject, a contract that is legal in both countries. Are we going to say that contract shall be a crime when they come into American ports and that we will take from a foreign ship these foreigners and imprison them for making it? Upon what theory can we justify it? If it was in any way affecting the safe navigation of the vessel, if it affected directly the interests of any American citizen, I can see how we might possibly attempt to justify ourselves in such action. But are we going to do this without any reason except that we do not believe that these foreign nations are not properly treating their own sailors? Do you think any self-respecting nation is going to permit us to say what is and what is not a legal contract made in their own country between two of their own citizens, or permit us to punish their subjects for the making of such contract? I think we would be assuming a big and dangerous undertaking; and even if we carried it out it would benefit no one.

Mr. HOBSON. I was going to ask the gentleman if he had looked up the question of possible retaliation from foreign powers.

Mr. HUMPHREY of Washington. No; I have not.

Mr. HOBSON. And the possible restrictions that they make upon American seamen in their ports?

Mr. HUMPHREY of Washington. No; I have not, because I have never been able to believe that Congress would pass any bill containing such absurd and dangerous legislation as this.

Mr. ALEXANDER. Will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. ALEXANDER. I think if the gentleman will take the time to study the statute to which this is an amendment he will find that it only relates to contracts made in American ports and not to contracts abroad.

Mr. HUMPHREY of Washington. It does not so show on the face of the bill.

Mr. ALEXANDER. Study the statute it amends if you want to get an intelligent view of it.

Mr. HUMPHREY of Washington. Regardless of what the statute may now be, if you enact this bill it does make such contracts made abroad illegal just the same as if made in this country. If it is intended to limit this bill to contracts made in American ports the bill should so state.

Mr. ALEXANDER. I do not think it does.

Mr. HUMPHREY of Washington. Now, then, I want to call the attention of the House to the most important section in the bill, in my judgment, section 12:

SEC. 12. That no vessel, except those navigating rivers exclusively and except as provided in section 1 of this act, shall be permitted to depart from any port of the United States unless she has on board a crew not less than 75 per cent of which, in each department thereof, are able to understand any order given by the officers of such vessel, nor unless 40 per cent in the first year, 45 per cent in the second year, 50 per cent in the third year, 55 per cent in the fourth year after the passage of this act, and thereafter 65 per cent of her deck crew, exclusive of licensed officers, are of a rating not less than able seaman—

I call attention to that expression of "not less than able seaman"—

Provided, That no such vessel carrying passengers, except those navigating rivers and harbors exclusively—

So that this portion of the bill applies to all vessels except those which are excluded—

shall not be permitted to depart from any port of the United States unless she shall have a sufficient crew to man each lifeboat with not less than two men of the rating of able seamen or higher.

The SPEAKER pro tempore. The time of the gentleman from Washington [Mr. HUMPHREY] has expired.

Mr. GREENE of Massachusetts. Mr. Speaker, I yield 15 minutes more to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Further it says:

No person shall be rated as an able seaman unless he is 19 years of age or upward and has had at least three years' service on deck at sea or on the Great Lakes. Any person may make application to any board of local inspectors for a certificate of service as able seaman, and upon proof being made to said board by affidavit, under rule approved by the Secretary of Commerce and Labor, showing the nationality of the applicant and the vessel or vessels on which he has had service and that he has had at least three years' service on deck at sea or on the Great Lakes, the board of local inspectors shall issue to said applicant a certificate of service, which shall be retained by him and be accepted as prima facie evidence of his rating as an able seaman.

Now, I want to explain this expression "able seaman." I want it distinctly understood that I am in favor of doing anything that will increase the safety of life at sea, but I contend under that provision that it will not in any way increase the efficiency of the men who handle lifeboats.

Now, to start with, as I understand, the crew upon a vessel is divided into three parts—those in the engine room, those in the steward's department, and those on deck. Those upon the deck are called "able seamen." Am I right about that, Captain?

Mr. HOBSON. Yes.

Mr. HUMPHREY of Washington. But the term "able seaman" in itself means nothing, so far as the man being able to man a lifeboat is concerned, or any small boat or any of the equipment for life-saving at sea in time of emergency. An "able seaman" may not know any more, after three years' service at sea, in actually handling a lifeboat than if he had spent those three years in plowing corn. It is in the hearings that a captain, who was at the time an officer of the vessels, made seven trips around the Horn and never saw a lifeboat launched.

Now, if "able seaman" meant that the man knew something about the handling of a lifeboat, if it meant what it seems to mean on its face, that he was experienced in seamanship, that he knew how to handle a lifeboat, I would be entirely willing that this provision should be made. But the "able seaman," going upon one of the modern steamships, does what? When the steamer goes out he helps to haul in the gangplank and put down the hatches and such things as that. He washes the deck, and paints the woodwork, and polishes the brasswork, and does other work, but he never handles a boat or an oar, and he might be three years at sea or on the Great Lakes and know nothing whatever about the handling of a small boat. As a matter of fact, the only experience that any of the crew have in any department on these great steamers is that secured by means of the drill required by law, and they drill the steward's department and the firemen's department just the same as they do the "able seamen" on deck.

Mr. WILSON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. In a moment. As a matter of fact, so far as the hearings go and so far as I have been able to ascertain by talking to the seamen, the firemen know more about the handling of a rowboat than do the "able seamen," and make better lifeboat crews, the difference being that as a rule they are stronger and younger men than the "able seamen." They all get the same training, and that is one reason why I make objection to the report that has been filed by the majority in regard to this bill. They cite a long list of vessels in the back of this report, and then they give the lifeboats and tell the number of men who are sent to each lifeboat, the department of the vessel to which they belong, and then end up by saying there are very few seamen in these boats, thereby giving the impression that only the "able seamen" are competent to handle the lifeboats when, as a matter of fact, the fireman or the cook or the waiter on the vessel is generally just as good seamen as the deck hands.

The "able seaman" does not know anything more about handling a boat than does the cook or the fireman. It being true that the "able seaman" knows no more about it than the fireman and the cook and those in the steward's department, why should you limit it to "able seaman" when a man goes to get a position upon a vessel, under the claim of protecting life at sea and protecting property? Why should it be limited to "able seamen"? Why should we not include the firemen, who know just as much about it as the seamen, or the men in any other department?

I am going to offer an amendment, and I hope the gentlemen on that side will accept it. I am going to offer an amendment to add to the definition of "able seaman" this qualification, that he shall satisfy the local inspector that he is capable of handling a lifeboat. No man ought to be permitted to go as an "able seaman" unless he has that ability and experience. I say the gentleman in charge of this bill will not go any further than I will in protecting life and property at sea, but I am opposed to passing legislation here in favor of any one class of people unless it is to the advantage of the public to do it.

Now, I will yield to the gentleman from Pennsylvania.

Mr. WILSON of Pennsylvania. The gentleman says that the occasions where seamen have handled boats are on the drills which they have?

Mr. HUMPHREY of Washington. Yes; on these great steam vessels.

Mr. WILSON of Pennsylvania. Yes; on these great vessels. Now, does not the gentleman believe that a seaman having three years' experience with these drills would be much more competent to handle one of these lifeboats than would a man fresh from the land service who had never been at sea?

Mr. HUMPHREY of Washington. He probably would, but again he might not. There are men to-day who have been three years on one of these great steamers who, except for the fact that they are less liable to seasickness than new men would be, know no more about the handling of a boat than does the man who, as I said a moment ago, has worked in a cornfield.

Mr. WILSON of Pennsylvania. One of the requirements or purposes of this bill is to have them trained or drilled, so that they will know more.

Mr. HUMPHREY of Washington. Oh, that is one of the purposes of the bill, but it did not get in the bill. That is the difficulty. If the gentlemen who have charge of the bill had permitted a little more study to be made of it, and had let the minority members attend the subcommittee meetings, they would not have made some of the mistakes that have been made in the drafting of this bill.

Mr. WILSON of Pennsylvania. I will say to the gentleman that there has been a careful study of this bill by the committee for the past 16 or 18 years.

Mr. HUMPHREY of Washington. Oh, that is all true enough; but as to this particular bill, in the way it is written now, I never saw it until it was reported to the committee by the subcommittee, and, according to my recollection, it was reported out of the full committee within 10 minutes after it was called up. I had never read it through and never had a chance to read it through before it was reported.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Washington yield to the gentleman from Missouri?

Mr. HUMPHREY of Washington. Yes.

Mr. ALEXANDER. I would say to the gentleman that this bill was prepared before the *Titanic* disaster. That disaster has brought sharply to the public attention the necessity for the use of lifeboats and familiarity on the part of seamen with lifeboats. So far as I am concerned, I shall have no objection to adopting the suggestion of the gentleman.

Mr. HUMPHREY of Washington. I shall be very glad to have the gentleman's assistance, and I hope every man in this House will join with me and define an "able seaman" so it will mean something. I hope instead of saying "service on deck at sea" we will say "service at sea," because a fireman is just as good a sailor as the man on deck. Let us get as many good men on these vessels as we can. Instead of saying "on deck" let us say "at sea," and with the additional provision that he shall know how to handle a lifeboat. Then you will have competent men on your vessels. Let us enact a law that will make the words "able seaman" mean what it once did—that he is a man trained in seamanship; that he is capable of handling a lifeboat; that his experience and character is such as to guarantee that in an emergency he will give first-class service in saving life and property at sea.

Mr. HARDY. Has the gentleman investigated the laws of other nations with reference to the term "able seamen," and has he found any such qualification or definition as he suggests put in any definition of an able seaman anywhere in the world?

Mr. HUMPHREY of Washington. No; I have not, and it does not make any difference. I know the term "able seaman" as it used to be. There are no able seamen now under the old definition, and whether they exist or not, now is the time to define the term. It will not do any harm.

Mr. HARDY. Is not the gentleman rather of the opinion that under the definition he would make now he would find no able seamen at all.

Mr. HUMPHREY of Washington. No. Every man who has been running upon these steamers for the last three years in the fireman's department or steward's department or on deck can qualify as an able seaman; and, as I said awhile ago, I decidedly object to passing a bill here that discriminates against the firemen and the other departments in favor of the men on deck, because they are all equally competent to handle lifeboats, and they are all entitled to the same consideration. This bill attempts to limit "able seamen" to the deck department, regardless of the fact that the other departments have just as competent seamen.

Under the definition I propose for "able seamen" the number would not only be more than doubled, but they would be "able seamen" in fact, and not as now, perhaps, only in name.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. MOORE of Pennsylvania. Does the gentleman understand that section 12 excludes from this service those employed on inland waterways?

Mr. HUMPHREY of Washington. It excludes from service anybody except a man who has had three years' experience at sea on deck, or on the Great Lakes. I am glad the gentleman has made the suggestion to me. The bill as now drawn excludes fishermen, and they are the best sailors in the world. There is no other who can possibly compare with the fishermen in that respect, but under this bill unless a man complied with the definition of an able seaman he could not go on deck as a sailor, and fishermen, the best boatmen in the world, would be excluded.

Mr. MOORE of Pennsylvania. I call the gentleman's attention to section 2, which provides for the steamboat service on the Mississippi River. In addition to that I also call his attention to the fact that on the Chesapeake and Delaware Bays and other large bodies of water in the United States there are men who are certainly able seamen.

Mr. HUMPHREY of Washington. I want to call the attention of the House for a moment to the language test. If it was proposed to limit the language that shall be spoken upon American ships I think that is a proposition that might profitably be considered, but here we say that a Japanese vessel shall carry only Japanese crews. When a vessel comes into the port of Seattle from Japan, her Japanese crew can demand the wages then due them and then desert. They do desert. Japanese sailors have become Americanized in that particular.

Mr. MADDEN. How about the Chinese?

Mr. HUMPHREY of Washington. The Chinese sailors do not desert, first, because they are watched, and, further, a Chinaman almost universally regards his contract. If a Chinaman makes an agreement that he will go the round trip, he will go the round trip; but the Japanese sailor deserts. Now, suppose a Japanese ship comes into an American port and the crew desert, as they have every inducement to do under this bill. Then that vessel is not permitted to depart from that port under penalties prescribed until it gets a Japanese crew who can understand the Japanese language. Where are they going to get that crew of Japanese? One of our vessels goes over to Japan and the crew deserts. That vessel has to get an American crew there. The same is true of Germany, of England, of all the countries of the world that come to our ports; they must have a crew that speaks the language of its officers or they will not be granted clearance papers.

Now, as we have but 10 ships on the deep sea, and have but a few sailors in the world, does it become this country of ours that has not had enough wisdom to get a merchant marine of her own, or had enough wisdom to keep the flag on the ocean, to pass an act without entering into negotiation with the other nations of the world, without any notice to them to tell them what contracts they shall make with their sailors, how they shall pay them, what men they shall employ, what language they shall speak, and what tests shall be made of their efficiency? We do all this for all. The provisions I have just read apply to the foreign sailor and foreign ships. No good can come from the passage of such law and no self-respecting nation will submit to it. We have no right to say to other nations how they shall conduct their business when it does not affect American interests.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. WILSON of Pennsylvania. Does not the gentleman believe that the United States has a perfect right to pass a law to regulate ships in its own ports, whether the ship belongs to foreign countries or to its own country?

Mr. HUMPHREY of Washington. I will admit that the Nation has the power under certain conditions, I will not say the right.

Mr. HARDY. Will the gentleman yield for another question?

Mr. HUMPHREY of Washington. No; I can not yield until I get through with this section. Now, I call attention of Members of the House to this paragraph:

> The collector of customs may, upon his own motion, and shall, upon the sworn information of any citizen of the United States setting forth that this section is not being complied with—

That is, the contracts, language test, the experience the crew shall have, all these various requirements I have just read—

> cause a muster of the crew of any vessel to be made to determine the fact; and no clearance shall be given to any vessel failing to comply with the provisions of this section.

Now, what does that mean? We have to-day a strike of the sailors on some of our ships in the port of New York and some of the other eastern ports. As to the merits of that strike I know nothing whatever; I am taking it simply as an illustration. Suppose to-day we had on the statute books this provision, any American citizen could tie up every vessel that comes into the port of the city of New York.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. HUMPHREY of Washington. Not just now. Because it says that any American citizen may file an affidavit which shall cause a muster of the crew of any vessel to determine these facts: Whether they speak the right language, to see if they have made contracts for advanced payments, to see if they are able seamen, and to see if two able seamen are provided for each lifeboat—all the various provisions just read. I asked Gen. Uhler the other day how long it would take to cause a muster of one of these crews.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GREENE of Massachusetts. Mr. Speaker, I yield 10 additional minutes to the gentleman from Washington.

Mr. HUMPHREY of Washington. He estimated the time all the way from 5 to 24 hours, to go through and make the examination. Now, is that a safe power to place in any man's hands?

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. HUMPHREY of Washington. In a moment. I want to call attention to the further fact that there is no penalty for the man that may make a false affidavit. He may make any affidavit he pleases. A great passenger vessel, with thousands of people on board, carrying the United States mails, every hour worth thousands of dollars, just ready to sail, and here comes a man with an affidavit and ties up the vessel perhaps a day or more. I do not think that is fair legislation. I do not think it is just to the public or just to the shipowner or to anybody. I do not think the seamen want any such law. I can not believe that any fair-minded man is in favor of this section as it stands.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. HUMPHREY of Washington. Yes.

Mr. WILSON of Pennsylvania. Is the gentleman aware of the fact that the British Board of Trade has that power?

Mr. HUMPHREY of Washington. Oh, the board of trade, yes; but this puts it in the hands of any American citizen.

Mr. WILSON of Pennsylvania. That is true, but the British Board of Trade acts on the complaints of the British subject.

Mr. HUMPHREY of Washington. But you say any American citizen may compel a muster of the crew. Now, suppose, for an illustration, that a man wanted to tie up the shipping in the port of New York. All that he has to do is to file an affidavit in regard to every vessel that comes into port. There is no penalty whatever if the affidavit is false. He could have the affidavits ready, and one man alone could tie up all the shipping of all countries that came into the port of New York.

Mr. WILSON of Pennsylvania. There is no penalty except the penalty that generally applies to false swearing or perjury. The same laws that apply to perjury in other cases would apply to this.

Mr. HUMPHREY of Washington. Mr. Speaker, I do not know whether or not my distinguished friend is a lawyer, although he has a very good legal mind, but I will say to him that he is probably aware of the fact that an affidavit is not perjury unless it is expressly made so by statute.

Mr. HARDY. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. HARDY. The gentleman objects to this bill because it undertakes in the United States to interfere with contracts legal in the country in which they are made. Does not the gentleman very strenuously advocate the passage of a law which would forbid the entrance into our ports of foreign vessels because they have made combinations that might be legal in their own country?

Mr. HUMPHREY of Washington. Yes; but I would not place it in the power of any one citizen to do it. I simply am in favor of it after they have had a trial in court and the decree has been entered up finding them guilty not of violating a law made between themselves, but of violating a law of this country directly affecting the interests of this country.

Mr. HARDY. Again, it is not the principle, but the manner of its exercise to which the gentleman objects.

Mr. HUMPHREY of Washington. I have no objection to making foreign ships obey the law, but I do not believe in placing it in the power of one man to destroy the shipping business of this country.

At the proper time, if the section stays in, I shall offer an amendment making a false affidavit perjury and prescribing suitable punishment therefor.

There is just one other section to which I desire to call attention, and then I shall be through, and that is section 13, which is as follows:

SEC. 13. That every sailing or steam vessel shall carry in her crew a boy or boys, native of the United States, or one whose father or mother is a naturalized citizen of the United States, as follows: If she be 300 registered tons or more, but less than 1,500 registered tons, at least one boy; if she be 1,500 tons register or more, at least two boys or apprentices. Any vessel leaving any port of the United States without the boy or boys required by this section shall be liable to a penalty of $100 for each offense: *Provided*, That this penalty shall not apply if, after reasonable diligence, the boy or boys required by this section could not be obtained

My objection to that section is that it does not mean anything—absolutely nothing. A boy is not required to do anything. The shipowners are not required to teach him anything. They are not required to pay him anything. That section is simply nothing; only that much writing on a piece of paper, signifying nothing. I am in favor of the American boy going to sea, and if we are going to have a provision of that kind, let us have one that means something, one that will require American boys to be trained in seamanship.

I desire to say just one word in regard to the "able-seamen" clause as affecting the Great Lakes. If you adopt this provision in regard to "able seamen" and require two able seamen at each lifeboat, on a great many American vessels you will double the crew, and on some of them you will increase it three times. These men will have nothing to do whatever except to occupy space and wait for a possible disaster when they will be called upon to handle a lifeboat. There is no need of these extra "able seamen" even to handle lifeboats, because you have your firemen's and your stewards' departments, and the men there are as capable of handling a lifeboat as the "able seaman." I will give you one illustration. There is a vessel on Puget Sound called the *Camano*, which runs from Everett to an island a few miles distant. Under the recent regulations adopted since the sinking of the *Titanic*, that vessel would have to carry either 10 or 12 lifeboats during the wintertime. She has a maximum capacity of 180 passengers. She is never more than a few minutes from shore. Her entire crew consists of six men. Under this bill this little passenger vessel, with six men in her crew, would be compelled to carry 16 or 20 men on deck alone for the sole purpose of handling the lifeboats. The occasion for the use of all of them would not arise once a century. This in a varying degree would be true upon all vessels in the coastwise and lake traffic.

Mr. MANN. Mr. Speaker, if the gentleman is through, will he yield for a question?

Mr. HUMPHREY of Washington. Certainly.

Mr. MANN. In reference to section 1 of the bill, it provides for the number of hours of labor while a vessel is in port, and then provides:

Whenever the master of any vessel shall fail to comply with this section the seamen shall be entitled to discharge from such vessel and shall, upon demand, receive wages then earned.

Would it be practical under that by collusion to obtain entry into the United States of foreigners who under the immigration laws could not get in?

Mr. HUMPHREY of Washington. I made that suggestion and asked a member of the Committee on Immigration to study that point. The gentleman is here now. I do not know whether he gave it his attention or not. As far as I am concerned I am not prepared to say.

I desire to call attention to this one other point made by the people upon the Pacific coast about paying wages in every port touched. In a vessel running from Seattle to Alaska, the vessel would stop at Ketchikan, and there the seamen would be entitled to one-half of their wages. It would then go on to Skagway, and there they could demand half of what was left, and so from port to port so that very little would be left when it arrived at its final destination. It is claimed that this is a very great inducement for seamen to desert in Alaskan ports, as good jobs are usually easy to find. Under this bill the shipowner claims that it would be practically impossible to maintain good service to Alaska during the summer months.

I thank the House for its patience and consideration. [Applause.]

Mr. Speaker, I would ask permission to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman? [After a pause.] The Chair hears none.

Mr. ALEXANDER. Mr. Speaker, I would like to ask the gentleman from Massachusetts how many speeches he has on that side?

Mr. GREENE of Massachusetts. I can not tell at the present time; some gentlemen who are not present now have spoken to me.

Mr. ALEXANDER. We have only one more on our side and I would be very glad if the gentleman would consume the balance of his time.

Mr. GREENE of Massachusetts. I yield five minutes to the gentleman from Massachusetts [Mr. HARRIS].

Mr. HUMPHREY of Washington. May I ask how much time has been consumed on either side?

The SPEAKER pro tempore. The gentleman from Massachusetts has 21 minutes left and the gentleman from Missouri 62 minutes.

Mr. GREENE of Massachusetts. The gentleman had better consume some of his time.

Mr. ALEXANDER. We want to get through by 6 o'clock and Mr. WILSON is going to cut his remarks short.

Mr. HUMPHREY of Washington. Mr. Speaker, so far as abolishing the punishment for desertion is concerned, there has not been a time in the last five years that a bill of that kind would not have been reported unanimously from the Committee on Merchant Marine and Fisheries. So far as increasing the safety at sea is concerned or improving conditions for the seaman, I want to say to the gentlemen on that side of the aisle that I will join with them in any bill that will do that; and when we come to the reading of this bill for amendment under the five-minute rule, I have several amendments that I desire to offer which will tend to increase the safety at sea and also to help the sailor, and I want you gentlemen to join me and we will see whether this bill is really introduced for that purpose or not.

The two gentlemen from California [Mr. KENT and Mr. RAKER] came forward to indorse this bill. Whether they intended to indorse all of it I do not know, but I desire them to understand that if they do they are not working for the benefit of the American sailor but for the Japanese sailor.

This bill will help to drive the few remaining American ships from the sea. It is certain that every American vessel on the Pacific, unless it is the line that has just started to run under the subsidy act of 1891, would soon go under a foreign flag. The great vessels of the Pacific Mail that have so long and *against such* odds carried the Stars and Stripes on the Pacific will haul down that banner immediately after this bill is written on the statute books and take the flag of Japan, and so will the *Minnesota*, that has the distinction of being the only unsubsidized American vessel afloat running in the foreign overseas trade. But this is only a portion of the injury that will come to the Pacific coast. All foreign vessels in the deep-sea trade that now come to Seattle and Tacoma and other Puget Sound ports will certainly leave these ports and make Vancouver, British Columbia, a terminus. Do you suppose that these foreign vessels are going to submit to the foolish, unreasonable, burdensome, and even insulting regulations made by this country if this bill should pass when they can escape them all in a port just as convenient for them in all things in a country where treaty regulations and national comity are observed? Why should these foreign vessels come to Seattle, where their crews can demand their pay, where they can desert without fear, where any American citizen by the mere filing of an affidavit without any fear of punishment, if such affidavit be false, can indefinitely delay them in their departure for any voyage? Who will be benefited by this being done, by driving these vessels under foreign flags and to foreign ports? Absolutely no one. There are no American sailors upon the Pacific Ocean in the deep-sea trade, either upon American ships, except its officers, or upon foreign ships. We would add all this burden to American commerce, to American shipping, without benefiting a single American citizen.

Mr. HARDY. Mr. Speaker, will the gentleman yield?

Mr. HUMPHREY of Washington. For a question; yes.

Mr. HARDY. Does it make any difference to us whether the flag is the Japanese or the American if the crew is all Japanese?

Mr. HUMPHREY of Washington. Mr. Speaker, I know that the gentleman has said that a great many times. So far as I am concerned, as long as every other vessel on the Pacific Ocean employs oriental crews, under every other flag, I would rather have the American vessels remain under the American flag, employ American officers, pay them American wages, and be at the call of this country in time of war than to force them under the Japanese flag without in any way benefiting anyone but Japan.

I deem it especially unfortunate just at this time that hostile legislation to American shipping should be agitated. With the opening of the Panama Canal, with the hope of that canal free for American ships, American shipping is enjoying a prosperity it has not known for 50 years. In addition to the canal there are other causes that are helping to revive this industry. The shipbuilder to-day is getting most of his material for less than his foreign competitor, notably his steel.

Many other facts have recently been brought to light also that have given the friends of American shipping encouragement. The Merchant Marine League of Cleveland, Ohio, had for some years made a most earnest and in many ways a successful fight looking to the upbuilding of our merchant marine, but in making this fight it had antagonized some interests and made some enemies, I regret to say, even in the Halls of Congress. About two years ago a resolution was adopted in the House that called for an investigation of the methods of this league. The result of that investigation was as surprising to its enemies as it was gratifying to its friends. No selfish motive was found for the activity of this league, but, on the contrary, its interest was proven to be entirely disinterested and patriotic. While this fact pleased all those who had indorsed its work or who had been associated with it, the result following this investigation was much more valuable and far-reaching. The original purpose of that investigation was soon practically forgotten. The energetic secretary of the league soon began to furnish evidence of conditions that were far more interesting to the committee and to the country than the unfortunate personal controversy in which he had become involved with some Members of Congress.

This investigation gave him the opportunity to reach the public and to prove to the country what he had long asserted to be the fact, that the regular foreign shipping lines that come into the ports of this country, both upon the Atlantic and the Pacific, that carried 97 per cent of our shipping were all formed into pools, conferences, rings, and combines; that these lines fix freight and passenger rates from the ports of this country to all the ports of the world by agreement; that there was not the slightest competition between these lines. These facts were so clearly demonstrated by the evidence there produced that since that time not even the subsidized newspapers in this country that had especially defended these combinations have dared deny them. It stands to-day as a fact admitted by everyone who has given the matter consideration.

It was at this hearing that the secretary of the league for the first time brought to public attention in this country the report of the royal commission on shipping rings made by the British Parliament. This report, by the admission of the foreign shipowners themselves, fully proved every statement that the secretary of the league had made concerning this monopoly of foreign ships. This same hearing also uncovered some of the many iniquities practiced by the conference of foreign ships that completely monopolize the trade between this country and South America. There was brought to the attention of the public the condition in relation to the coffee trade especially, a subject that has since been considerably exploited and exposed by Members of Congress and by the press. Original written rebate contracts in regard to this coffee trade, in direct violation of the antitrust law of this country, between New York merchants and this South American conference, were produced before the committee and copies published in the hearing. Upon the evidence secured at this hearing I made a speech on the floor of the House, and the facts that I stated in relation to this foreign steamship combine attracted attention throughout the entire country. This investigation also largely brought out the facts that has caused the Government to bring the suits now pending to dissolve these foreign shipping combines and to prevent them from entering our ports if they are convicted of violating our antitrust laws. It was also largely upon the facts uncovered at this hearing that led me to introduce in the House a bill to prohibit any vessel the use of our ports if it was found to belong to one of these illegal combinations.

This bill was reported unanimously by the Committee on Merchant Marine and Fisheries, and a few days ago, after considerable discussion, passed the House by unanimous consent. The facts brought out at that investigation have interested the public to such an extent that it will eventually cause the destruction of the giant foreign shipping monopoly that has grown rich by levying its unearned millions upon American commerce. Fate, like Providence, if they be not one and the same, "often moves in mysterious ways its wonders to perform." By this attack upon the Merchant Marine League the opportunity was given it to do more effective work for the cause for which it had so long been fighting than ever before. This opportunity was quickly seized upon and used to the fullest extent by the efficient and patriotic secretary of the league, Mr. John A. Penton, of Cleveland.

With some knowledge of the work that has been done in this country for the last decade in behalf of our merchant marine, I pay to Mr. Penton only a well-deserved and well-earned tribute when I say that he has done more within the last few years than any other man in America to create a public sentiment in favor of restoring the American flag to the sea.

The *Titanic* disaster is referred to in the report on this bill. It was to be expected that this awful calamity would be used as an argument in favor of this legislation. But there is nothing in that sudden and awful tragedy, that shocked a civilized world, that gives any reason for the passage of this bill. There was no showing that this vessel was not sufficiently manned or that her crew was not competent. Neither is there any evidence

that if her entire crew had been so-called "able seamen" that the result would have been any different or that an additional life would have been saved. Indeed, the truth is that in those hours of awful peril and panic the fact that so many were saved was due largely to the brave and heroic efforts of her passengers. To them belongs the greatest credit. That the *Titanic* was not efficiently equipped is unfortunately true. It is also true that not another instance of a great ship sinking in a perfectly quiet sea will probably occur again in a thousand years. It is also true that under ordinary circumstances—that is, an ordinarily rough sea—that lifeboats would have been absolutely useless. If any officer should attempt to use them in a rough sea, except at the last moment and as a last resort, he would be guilty of a crime. But, notwithstanding that fact, let us require that all over-sea vessels be equipped with lifeboats sufficient to handle all persons that she may ever have on board.

The speed at which the *Titanic* traveled was inexcusable. The method of her construction was monstrously criminal. In the construction of the *Titanic* is the foundation of the tragedy. She was not better equipped for saving life because it was believed that there could not arise any necessity for such equipment. She was sent at tremendous speed in dangerous waters in spite of repeated warnings because it was believed that she was unsinkable. The primary crime in connection with that unparalleled disaster of the sea was the faulty building of the ship. Not in faulty plans, but in faulty construction. I have taken occasion to talk with expert constructors in regard to this disaster, and they all assure me that the vessel was not properly built; that the work was not properly done; that the vessel was not properly inspected and tested. It is said, as a fact, that her water-tight bulkheads were never properly tried, and if they had been that their weakness and worthlessness would have been demonstrated.

Naval experts have assured me that if the *Titanic* had been so constructed as to pass the naval test prescribed by this country in the construction of our vessels that the injury she received would not have sunk her. They assure me that there is not a vessel on the ocean constructed upon plans that have been approved by our Navy Department that would have been sunk by a similar injury. All American vessels crossing the Atlantic to-day were constructed upon plans approved by the Secretary of the Navy. For 20 years the American line of vessels so constructed has not lost a passenger nor even a mail sack. There is an illustration of real safety at sea, and this safety is largely to be found in the construction of the vessel and not in the equipments and provisions made to save life and property when the vessel is wrecked.

The construction of a nonsinkable vessel is not impossible. It will soon be accomplished. It would be wrong, indeed, to discourage attempts in this direction because of the faulty construction and the criminal and negligent inspection that caused the *Titanic* not to be so.

In the shadow of that great calamity, in sympathy and in hysteria, all kind of plans have been proposed to prevent such disasters in the future, and almost everybody has been condemned for what occurred. Bills of merit and bills without merit have been introduced in Congress with the supposed intent of producing greater safety at sea. Some of them were sincere in purpose and some, I regret to say, were intended only to secure a little newspaper notoriety. It is worthy of attention that we condemn everybody but ourselves. But does Congress stand blameless for this great tragedy? Are we without fault when we have placed ourselves where we can only compel other nations to properly equip their vessels to protect our own citizens and find it impossible to compel proper construction in the first place? Has Congress honestly tried in the last few years to bring about a condition of highest safety at sea for American citizens and American interests? Congress has repeatedly failed in recent years to increase the pay under the act of 1891 that would have given us American vessels on the high seas that would not have gone down under such injury as that received by the *Titanic*. If we had provided such ships we could at least have had the satisfaction of knowing that we had done our full duty to protect American lives and American property at sea. But Congress has always failed to do this for fear, forsooth, that some American citizen might make too much money for the sake, as claimed, of saving a few paltry dollars. The sum total of all that we would have paid if all these bills had been written upon our statute books is not for a moment to be weighed against a single one of the many noble lives that were sacrificed when the *Titanic* went to her doom. Since we have failed to perform this high duty to American citizens and to American interests and have intrusted it to foreign nations it hardly becomes us to grow hysterical over their failure to properly perform it and in denouncing them attempt to conceal our own neglect. In other words, if we are to have the greatest safety at sea we can only secure it by building, equipping, owning, and running our own vessels.

Again, we can never get American sailors upon the sea until we get American ships upon the sea. We can not have sailors without ships. What we need to-day is fewer laws upon our statute books and more ships upon the ocean.

We have now more laws and fewer vessels than any other great nation of the world. All other countries constantly struggle to upbuild their merchant marine. We continually strive to destroy ours, and this bill is another and a long step in that direction. Some day we will awake to the costly folly of sending out of this country—of paying to other nations—more than a quarter of a billion dollars annually to carry our commerce, of paying that vast sum mostly to labor for work that should be done by American labor. Some day we will pay more fully than we have already done the fearful penalty of placing the life of our citizens and the carrying of our commerce and the prosperity and the safety of our country in the care and keeping of other nations. Let us hope that some day before we learn it in the awful lesson of war that Congress will awake to the necessity for action in reference to this matter. Let us hope that some day not far distant Congress will forget parties and partisanship, politics and prejudice, and cowardice and sectionalism, and remember only our country and our country's good and will pass a law, not to destroy, but to upbuild our merchant marine, a law that will give us safety at sea, a law that will give us American sailors, a law that will cause our ships once more to traverse all the highways on the ocean, and the Stars and Stripes once more to fly in all the ports of the world.

As I said a few moments ago, I am willing to join the gentlemen upon that side of the House in doing anything that will protect life at sea, but I do hope that in going through this bill that it will be considered by the House, and that proper amendments will be adopted for that purpose.

Mr. AYRES. Will the gentleman yield for a question?

Mr. HUMPHREY of Washington. Certainly.

Mr. AYRES. To return to the gentleman's statement about putting the American flag upon the sea again, what kind of laws would the gentleman suggest which would build up the American merchant marine?

Mr. HUMPHREY of Washington. Well, I thought everybody in this House and a good many people throughout the United States knew my views upon that question. I have occupied so much of the time of the House in trying to state them and written so many articles for magazines trying to tell my position that I am astonished if the gentleman does not know.

Mr. AYRES. Well, a twice-told tale is interesting.

Mr. HUMPHREY of Washington. Well, I can tell the gentleman in a moment what I would do to build up the American merchant marine. I would do what every nation upon the earth has done that has a merchant marine. I would follow the example of those people who have made a success and placed their flags upon the seas and not attempt to return to something that is obsolete and long since discarded by every civilized nation in the world. I refer to free ships, a policy that has been discarded; I refer to subsidizing the mail lines for carrying the mails of the country as a policy of success. I might say to the gentleman, which he probably knows, that there is not a first-class vessel upon any ocean under any flag to-day carrying mails for any government upon schedule time but what receives a subsidy from that government, and how do we expect, with our high-priced labor, with the high cost of operation of ships, without paying any subsidy, to do what no other nation has been able to do with cheap ships and cheap labor? [Applause on the Republican side.]

Mr. GREENE of Massachusetts. I yield five minutes to the gentleman from Massachusetts [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I want to supplement the remarks of the gentleman who has just closed in regard to the rating of able seamen, which seems to be in the minds of the committee an important matter upon the question of boat handling in case of wreck. I hope the gentleman will so amend the measure that the expression "able seamen" will not be left in this bill with its old maritime significance. It would prevent the taking into the service of lots of young men who along our seaboard States have been upon the water, have learned to hand, knot, reef, and steer and the actual handling of a boat in any kind of weather who yet have not been at sea on deck for three years and yet who want to go into the merchant service and who would be most competent men, in fact no better men could be found to handle boats at sea than

just those men, and still they would be unable to qualify. I could go from the point of Florida to Eastport, Me., and find men who can handle lifeboats better than most men who go to sea who have never had three years' sea service on deck. They are used to boats and these young men are men who want to enter the service and ultimately get the rank of able seamen and who would probably never enlist in the merchant service under this bill. Take the men along the shores of Cape Cod, along the shores of New Jersey, who handle lifeboats, and possibly some who are in the Life-Saving Service. There is the sort of men who can handle a lifeboat, and when we are agitated about the *Titanic* disaster we want to remember that accident occurred under conditions which were remarkable. It was a great disaster at sea but you had a smooth sea with a chance to get your boats out, and if they had had the ordinary motion of the water at sea there would not have been 1 boat in 10 of those that would have gotten away safely.

Mr. HUMPHREY of Washington. Not one of them.

Mr. HARRIS. Especially where they had to be lowered 70 feet to the water, and it is not the man who serves three years on a deck of a steamer but it is the man who has spent all of his time, perhaps from his boyhood, in handling small craft in the rough waters of the coast but who can not rate as able seamen under the provisions of the bill, and I hope that language will be amended to cover those cases.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 19403. An act authorizing the Director of the Census to collect and publish statistics on cotton.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. R. 23515. An act granting pensions and increases of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 17239. An act to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River;

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station, an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof; and

H. J. Res. 220. Joint resolution to grant American citizenship to Eugene Prince.

EXTENSION OF REMARKS.

Mr. RAINEY. Mr. Speaker, I want to ask unanimous consent to print in the CONGRESSIONAL RECORD an article which appeared recently in the American Anti-Socialist on the subject of socialism, together with the list of books on the subject of socialism.

Mr. MANN. Mr. Speaker, I do not know I should object to the request if the request was made so that anyone could hear what the gentleman says or if the Chair would state what the request is.

Mr. RAINEY. It is to print in the CONGRESSIONAL RECORD an article which appeared recently in the Anti-Socialist on the subject of socialism, together with a list of books on the subject of socialism. Both articles are very brief, and I desire to have them printed in connection with the speech of the gentleman from Wisconsin [Mr. BERGER].

Mr. MANN. I have no objection.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned to meet to-morrow, Friday, July 19, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting estimate of appropriation incident to the temporary removal of the force employed in the customhouse at Boston, Mass. (H. Doc. 874), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. STEPHENS of Mississippi, from the Committee on Claims, to which was referred the bill (S. 4860) to satisfy certain claims against the Government arising under the Navy Department, reported the same with amendment, accompanied by a report (No. 1026), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill (H. R. 17256) to fix the status of officers of the Army detailed for aviation duty, and to increase the efficiency of the aviation service, reported the same without amendment, accompanied by a report (No. 1021), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 25764) to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry, reported the same with amendment, accompanied by a report (No. 1022), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, to which was referred the bill (H. R. 15626) to provide for the proper deed of conveyance to real estate in the District of Columbia when the United States contributes to its purchase or condemnation, reported the same with amendment, accompanied by a report (No. 1027), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DUPRÉ, from the Committee on the Judiciary, to which was referred the bill (H. R. 25342) to amend section 90 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and for other purposes, reported the same without amendment, accompanied by a report (No. 1024), which said bill and report were referred to the House Calendar.

Mr. SULZER, from the Committee on Foreign Affairs, to which was referred the joint resolution (H. J. Res. 327) requesting the President of the United States to direct the Secretary of State to issue invitations to foreign Governments to participate in the Fourth International Congress on School Hygiene, reported the same without amendment, accompanied by a report (No. 1023), which said bill and report were referred to the House Calendar.

Mr. EVANS, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 333) to authorize the loan of obsolete Springfield rifles, etc., to the Historical Pageant Committee, Philadelphia, Pa., reported the same without amendment, accompanied by a report (No. 1020), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PEPPER: A bill (H. R. 25824) to direct the Attorney General to take an appeal to the Supreme Court of the United States from a decree entered by the District Court of the United States for the District of Delaware in the suit of the United States against the E. I. Du Pont De Nemours & Co. and others, and extend the time for taking such appeal, and for other purposes; to the Committee on the Judiciary.

By Mr. CARY: A bill (H. R. 25825) for the establishment of a uniform system of weights and measures in the United States; to the Committee on Coinage, Weights, and Measures.

By Mr. SABATH: A bill (H. R. 25826) prohibiting the transmission of messages regarding horse racing; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: A bill (H. R. 25827) to reserve rights of way for development of power in patents granted

for allotted or surplus Indian lands, and for other purposes; to the Committee on Indian Affairs.

By Mr. STEENERSON: A bill (H. R. 25828) to prevent monopoly in the coastwise trade between the Atlantic and Pacific ports of the United States via the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. SPARKMAN: A bill (H. R. 25829) to permit second homesteads in certain cases, and for other purposes; to the Committee on the Public Lands.

By Mr. LAMB: A bill (H. R. 25830) to provide for the purchase of a site and the erection of a building thereon at the city of West Point, State of Virginia; to the Committee on Public Buildings and Grounds.

By Mr. FOSS (by request): A bill (H. R. 25831) to prevent accidents on the ocean; to the Committee on the Merchant Marine and Fisheries.

By Mr. FAISON (for the Committee on the Merchant Marine and Fisheries): A bill (H. R. 25832) to establish fish-hatching and fish-culture stations in various States in the United States; to the Committee on the Merchant Marine and Fisheries.

By Mr. HARRISON of New York: A bill (H. R. 25833) to amend an act entitled "An act to prohibit the importation and use of opium for other than medicinal purposes," approved February 9, 1909; to the Committee on Ways and Means.

Also, a bill (H. R. 25834) imposing a tax upon and regulating the production, manufacture, and distribution of certain habit-forming drugs; to the Committee on Ways and Means.

By Mr. LINDBERGH: Resolution (H. Res. 638) to provide for the appointment of a standing committee to be known as the Committee on Industrial Relations; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 25835) granting a pension to Rebecca Getz; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 25836) granting an increase of pension to Elizabeth Emery; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 25837) granting an increase of pension to Isabella Chiles; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 25838) for the relief of heirs of Joseph Sivley, deceased; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 25839) to correct the military record of Ramon Padilla; to the Committee on Military Affairs.

Also, a bill (H. R. 25840) to correct the military record of Juan Ocaña; to the Committee on Military Affairs.

By Mr. GOOD: A bill (H. R. 25841) granting an increase of pension to William Lyers; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 25842) to correct the military record of Elijah Dicerson; to the Committee on Military Affairs.

Also, a bill (H. R. 25843) granting an increase of pension to David Gruber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25844) granting an increase of pension to Richard Starr; to the Committee on Invalid Pensions.

By Mr. HARRIS: A bill (H. R. 25845) for the relief of James A. Jenks, jr., and Susie E. Haswell; to the Committee on Claims.

By Mr. HAYDEN: A bill (H. R. 25846) granting a pension to Thomas J. Riley; to the Committee on Pensions.

By Mr. HOWELL: A bill (H. R. 25847) granting an increase of pension to Thomas S. Gunn; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 25848) for the relief of Mary G. Lane; to the Committee on War Claims.

By Mr. KAHN: A bill (H. R. 25849) for the relief of John Brodie; to the Committee on Claims.

By Mr. LANGLEY: A bill (H. R. 25850) for the relief of A. Landreth; to the Committee on War Claims.

Also, a bill (H. R. 25851) granting a pension to Henry Mason; to the Committee on Pensions.

Also, a bill (H. R. 25852) for the relief of the legal representatives of William Harris; to the Committee on War Claims.

By Mr. MANN: A bill (H. R. 25853) granting a pension to Henry Kline; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 25854) granting a pension to Augusta Friedlin; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 25855) granting a pension to Ella A. Robison; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25856) granting a pension to Martha Jane Bell; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of St. Clara Society, No. 201, of Chicago, Ill., protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of Rev. Charles C. Eyster and official board of the Oak Chapel Methodist Episcopal Church, Wooster, Ohio, protesting against the restoration of the Army canteen; to the Committee on Military Affairs.

By Mr. BYRNS of Tennessee: Papers to accompany bill for the relief of heirs of Joseph Sirley, of Madison County, Ala.; to the Committee on War Claims.

By Mr. CALDER: Petition of the Imperial Chemical Manufacturing Co., of New York, protesting against the passage of the Richardson bill (H. R. 14060); to the Committee on Interstate and Foreign Commerce.

Also, petition of the Daughters of Liberty of Brooklyn, N. Y., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Allied Printing Trades Council of New York, protesting against the passage of Senate bill 6850, a parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Hebrew Veterans of the War with Spain, New York, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the United Spanish War Veterans, favoring legislation pensioning widows and orphans of the Spanish-American War; to the Committee on Pensions.

Also, petition of the M. B. Brown Printing & Binding Co., New York, protesting against the passage of any parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the National Association of Piano Merchants of America, protesting against the passage of any bill affecting price maintenance; to the Committee on Patents.

Also, petition of the Philadelphia Chamber of Commerce, favoring investigation of all foreign and domestic fire insurance companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Naval Militia, New York, favoring passage of House bill 2588, relative to placing the Naval Militia on the same basis as the National Guard; to the Committee on Naval Affairs.

By Mr. CARY: Petition of the Grand Lodge Free and Accepted Masons of the State of Wisconsin, favoring passage of House joint resolution 271, relative to placing insignia on tombstones in national cemeteries; to the Committee on Military Affairs.

By Mr. FLOYD of Arkansas: Papers to accompany bill for the relief of Louvisa McClure, widow of James McClure, late of Company I, Second Regiment New York Cavalry; to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of Frank M. Bunch, president Board of Trade of the City of Chicago, in opposition to any legislation restricting speculative dealing in grain; to the Committee on Agriculture.

By Mr. KINKEAD of New Jersey: Petition of citizens of Jersey City, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of Simpson-Crawford Co. and the Fourteenth Street Store, New York, protesting against the passage of Senate bill 6850, providing for a parcel-post system; to the Committee on the Post Office and Post Roads.

Also, petition of the St. Augustine Board of Trade, St. Augustine, Fla., favoring passage of bill turning the powder-house lot over to the city of St. Augustine for a public park; to the Committee on Military Affairs.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Nebraska, favoring passage of legislation giving the Interstate Commerce Commission further power toward regulating express rates and classifications; to the Committee on Interstate and Foreign Commerce.

By Mr. REILLY: Petition of the St. Augustine Board of Trade, St. Augustine, Fla., favoring passage of bill turning the

powder-house lot over to the city of St. Augustine as a public park; to the Committee on Military Affairs.

By Mr. REYBURN: Petition of the St. Augustine Board of Trade, St. Augustine, Fla., favoring legislation making a public park of the powder-house lot; to the Committee on Military Affairs.

By Mr. SULZER: Petition of the St. Augustine Board of Trade, St. Augustine, Fla., favoring passage of bill giving the powder-house lot as a public park; to the Committee on Military Affairs.

Also, petition of the Shorthand Club, of New York (Inc.), protesting against passage of House bill 4026, providing for appointment of shorthand reporters for United States district courts; to the Committee on the Judiciary.

Also, petition of the Washington Chamber of Commerce, Washington, D. C., urging action on legislation relative to the District of Columbia; to the Committee on the District of Columbia.

By Mr. YOUNG of Texas: Petition of the Van Zandt County Union, of Texas, favoring passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Van Zandt County Union, of Texas, favoring legislation creating a legal tender for debt, to be circulated independent of the banking system; to the Committee on Banking and Currency.

SENATE.

FRIDAY, *July 19, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

LEASE OF POWER SITES (S. DOC. NO. 880).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of the Interior, transmitting in response to a resolution of February 5, 1912, certain information relative to the number of power sites which have been leased within and without forest reservations, the quantity of power available in each, the length for which leases have been made, the amount of power sold, and the revenues derived therefrom, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

CIVIL-SERVICE EMPLOYEES FROM NEW HAMPSHIRE (S. DOC. NO. 879).

The PRESIDENT pro tempore laid before the Senate a communication from the Civil Service Commission, transmitting, in response to a resolution of the 14th ultimo, a statement of the number of persons in the departments and independent offices in Washington, D. C., appointed from the State of New Hampshire, which was ordered to lie on the table and to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 19403) authorizing the Director of the Census to collect and publish statistics of cotton, and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented a petition of Journeymen Barbers' Local Union No. 117, of Moline, Ill., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

He also presented a petition of Local Division No. 580, International Brotherhood of Locomotive Engineers, of Chicago, Ill., and a petition of Local Division No. 32, International Brotherhood of Locomotive Engineers, of Aurora, Ill., praying for the enactment of legislation granting to the publications of fraternal associations the privileges of second-class mail matter, which were referred to the Committee on Post Offices and Post Roads.

LEWIS LEMERT.

Mr. JONES, from the Committee on Military Affairs, to which was referrerd the bill (S. 2024) for the relief of Lewis Lemert, submitted an adverse report (No. 950) thereon, which was agreed to, and the bill was postponed indefinitely.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

Mr. LODGE. I introduce a bill which I ask may be read twice by its title and referred to the Committee on Claims, with the request that it may be included by the committee in the resolution referring cases to the Court of Claims for adjudication.

The bill (S. 7336) for the relief of the stockholders of the First National Bank of Newton, Mass., was read twice by its title and referred to the Committee on Claims.

By Mr. SWANSON:

A bill (S. 7337) to provide for the purchase of a site and the erection of a building thereon at the city of West Point, State of Virginia; to the Committee on Public Buildings and Grounds.

By Mr. TOWNSEND:

A bill (S. 7338) to create the coast guard by combining therein the existing Life-Saving Service and Revenue-Cutter Service; to the Committee on Commerce.

By Mr. ROOT:

A bill (S. 7339) to provide for the entry under bond of exhibits of arts, sciences, and industries; to the Committee on Finance.

By Mr. JOHNSON of Maine:

A bill (S. 7340) granting an increase of pension to Willard R. Merrill; and

A bill (S. 7341) granting an increase of pension to Albert T. Wharton (with accompanying papers); to the Committee on Pensions.

By Mr. ROOT:

A joint resolution (S. J. Res. 123) authorizing the President of the United States to invite foreign governments to send representatives to the Fourth International Congress on School Hygiene; to the Committee on Foreign Relations.

OMNIBUS CLAIMS BILL.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to lie on the table and to be printed.

AMENDMENT TO DEFICIENCY APPROPRIATION BILL.

Mr. CRANE submitted an amendment proposing to appropriate $1,500 for one-half of the cost of construction of a sidewalk on Revere Street, bordering the property of the Government at Fort Banks, Mass., etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

THE FOREST SERVICE.

Mr. OVERMAN submitted the following resolution (S. Res. 362), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That a committee of five Senators, to be appointed by the Presiding Officer of the Senate, is hereby authorized and directed to inquire into and investigate all expenditures in the Forest Service of the Department of Agriculture, to report to the Senate thereon, and for this purpose they are authorized to sit during the sessions or recesses of Congress, at such times and places as they may deem desirable or practicable; to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses, to conduct hearings and have reports of same printed for use, and to employ such clerks, stenographers, and other assistants as shall be necessary, and any expenses in connection with such inquiry shall be paid out of the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

ALLOTTEES OF THE FIVE CIVILIZED TRIBES

Mr. GAMBLE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the House amendment and agree to the same with the following amendment:

"*Provided*, That no conveyance of any interest by a full-blood heir of inherited allotted land heretofore or hereafter

made shall be valid unless approved by the county court, sitting in probate, of the county where the deceased allottee was a resident at the time of his death."

ROBERT J. GAMBLE,
MOSES E. CLAPP,
WILLIAM J. STONE,
Managers on the part of the Senate.
JOHN H. STEPHENS,
J. M. GUDGER, Jr.,
CHARLES H. BURKE,
Managers on the part of the House.

The report was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On July 17, 1912:

S. 7015. An act to provide American registry for the steamer *Damara;* and

S. 23. An act to authorize the extension of Underwood Street NW.

On July 19, 1912:

S. 4913. An act to provide for the payment of drainage assessments on Indian lands in Oklahoma.

PENOBSCOT RIVER BRIDGE, MAINE.

Mr. MARTIN of Virginia. Mr. President, there is a little matter for which I desire consideration and which will occupy but a few moments. I ask unanimous consent for the present consideration of Senate bill 6763.

The PRESIDENT pro tempore. The Senator from Virginia asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (S. 6763) to authorize the cities of Bangor and Brewer, Me., to construct or reconstruct, wholly or in part, and maintain and operate a bridge across the Penobscot River, between said cities, without a draw.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment of the Committee on Commerce was, in section 1, page 1, line 8, after the word "part," to insert "upon plans to be approved by the Secretary of War," so as to make the section read:

That the city of Bangor and the city of Brewer, both being municipal corporations organized under the laws of the State of Maine and located in the county of Penobscot, on opposite sides of the Penobscot River, in said State of Maine, and the successors in interest of said cities, are hereby authorized to construct and reconstruct, wholly or in part, upon plans to be approved by the Secretary of War, and maintain and operate a bridge and necessary and convenient approaches thereto and abutments and piers therefor across and in said Penobscot River, substantially in the location of the present highway bridge between said cities, without having or constructing any draw or other means therein for the passage of navigation or shipping other than what may pass between the approaches and piers and under the spans of such bridge as the same may be constructed or reconstructed.

The amendment was agreed to.

The next amendment was, on page 2, after line 9, to strike out:

SEC. 2. That such portion of the said Penobscot River and so much of its waters as lie upstream from and under the bridge authorized by this act, and under and between the respective approaches, abutments, and piers of said bridge as the same are now or may be hereafter constructed or reconstructed in substantially the present location, be, and the same are hereby, declared for the purposes of this act and for the purposes of the bridge authorized by this act to be not navigable waters of the United States within the meaning of the laws of Congress to regulate the construction or relating to the maintenance or operation of bridges over navigable waters and for the preservation and protection of such waters.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SUNDRY CIVIL APPROPRIATION BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. WARREN. I ask the Senate to take up House bill 25069, the sundry civil appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The PRESIDENT pro tempore. The Secretary will resume the reading of the bill at line 12, page 161, the point reached yesterday in the reading.

The reading of the bill was resumed and concluded.

Mr. HEYBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Idaho suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Kenyon	Root
Bacon	Culberson	Lodge	Shively
Bailey	Cullom	McCumber	Smith, Ariz.
Borah	Cummins	Martin, Va.	Smith, Ga.
Bourne	Dillingham	Martine, N. J.	Smith, Mich.
Bradley	Fall	Massey	Smith, S. C.
Brandegee	Fletcher	Myers	Smoot
Bristow	Gallinger	Oliver	Stone
Bryan	Gamble	Overman	Sutherland
Burnham	Gardner	Page	Swanson
Burton	Gronna	Paynter	Thornton
Catron	Heyburn	Perkins	Tillman
Chamberlain	Johnson, Me.	Poindexter	Warren
Clapp	Johnston, Ala.	Pomerene	Wetmore
Clark, Wyo.	Jones	Reed	Works

Mr. THORNTON. I announce the absence of my colleague [Mr. FOSTER] on account of illness, and I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Sixty Senators have answered to their names. A quorum is present.

The first amendment of the Committee on Appropriations was, under the head of "Executive," on page 2, after line 16, to insert:

To enable the President to secure information to assist him in the discharge of the duties imposed upon him by section 2 of the act entitled "An act to provide revenues, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, and the officers of the Government in administering the customs laws, including such investigations of the cost of production of commodities, covering cost of material, fabrication, and every other element of such cost of production, as are authorized by said act, and including the employment of such persons as may be required for those purposes; and to enable him to do any and all things in connection therewith authorized by law, $225,000.

Mr. WARREN. I ask unanimous consent to pass over the first amendment to the bill, and I ask the Secretary to proceed to state the next amendment.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent to pass over the first amendment on page 2, beginning in line 17. Is there objection? The Chair hears none.

The next amendment was, under the head of "Under the Treasury Department," subhead "Public buildings," on page 9, line 15, after the word "limit," to strike out the sum "$1,000" and insert "$15,000," so as to make the clause read:

Greenville, N. C., post office: For commencement of building under present limit, $15,000.

The amendment was agreed to.

The next amendment was, at the top of page 11, to insert:

Kansas City, Kans.: For rental of temporary quarters pending the completion of the extension authorized at Kansas City, Kans., $5,000.

The amendment was agreed to.

The next amendment was, at the top of page 15, to strike out "New York, N. Y., appraisers' stores: For removing the board of appraisers to the second floor and installing metal conduits and wiring, fire-alarm system, controllable standpipe or sprinkler system, and inclosing elevator shafts, $75,000," and in lieu thereof to insert:

New York, N. Y., appraisers' stores: For installing metal conduits and wiring, fire-alarm system, controllable standpipe or sprinkler system, inclosing elevator shafts, and providing the building with outside fire escapes on each of the four sides, $75,000.

The amendment was agreed to.

The next amendment was, at the top of page 17, to insert:

Philadelphia, Pa., Mint building: For a new roof along Spring Garden Street side, $15,000.

The amendment was agreed to.

The next amendment was, on page 24, line 16, after the word "contract," to strike out the sum "$625,000" and insert "$650,000," so as to read:

For repairs and preservation of public buildings: Repairs and preservation of customhouses, courthouses, and post offices, quarantine stations and marine hospitals, buildings and wharf at Sitka, Alaska, buildings not reserved by the vendors on sites acquired for buildings or the enlargement of buildings, and other public buildings and the grounds thereof, including necessary wire screens, under the control of the Treasury Department, exclusive of personal services, except for work done by contract, $650,000.

Mr. OVERMAN. As I understand, by unanimous consent we are now considering only committee amendments.

Mr. WARREN. We are now considering committee amendments. That is all we have to consider, because the reading of the bill has been completed.

Mr. OVERMAN. The question is whether other amendments can now be offered.

Mr. WARREN. I think we should first consider the amendments of the committee.

Mr. OVERMAN. I myself think so, but the way we have been doing is rather informal, and, therefore, I make this inquiry. I do not know whether we are going to first consider committee amendments, as we formerly have been doing, or whether the bill is now subject to all amendments.

Mr. WARREN. I will say, for the information of the Senate, that the chairman prefers to go on through with the committee amendments, including such small formal matters which have since been submitted to the committee, as may be reached in the reading of the bill. When that is done, the bill will be open to amendment by all Senators.

Mr. OVERMAN. I am in perfect accord with that, and I merely wanted to have an understanding about it.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The next amendment was, on page 25, line 16, after the word "repairs," to strike out the sum "$440,000" and insert "$465,000," so as to make the clause read:

Mechanical equipment for public building: For heating, hoisting, plumbing, gas piping, ventilating, and refrigerating apparatus, electric-light plants, vacuum cleaning systems, interior pneumatic-tube, conduit, wiring, call-bell, and signal systems and repairs to the same, for all public buildings, including buildings not reserved by the vendors on sites acquired for buildings or the enlargement of buildings under the control of the Treasury Department, exclusive of personal services, *except for work done by contract*, and including not exceeding $40,000 for marine hospitals and quarantine stations, and not exceeding $9,000 for the Treasury, Butler, and Winder Buildings, at Washington, D. C., and including not exceeding $10,000 for maintenance, changes in and repairs of pneumatic-tube system between the appraiser's warehouse at Greenwich, Christopher, Washington, and Barrow Streets and the new customhouse in Bowling Green, Borough of Manhattan, in the city of New York, including repairs to the street pavement and subsurface necessarily incident to or resulting from such maintenance, changes, or repairs, $465,000.

The amendment was agreed to.

The next amendment was, on page 26, line 3, after the word "Massachusetts," to strike out "$17,000" and insert "$20,000," so as to make the clause read:

Electrical protection to vaults, public buildings: For installation and maintenance of electrical burglar-alarm devices authorized by the sundry civil appropriation act approved March 3, 1903, including the post office and courthouse at Chicago, Ill., and the post office and subtreasury at Boston, Mass., $20,000.

The amendment was agreed to.

Mr. WARREN. Mr. President, I ask at this time unanimous consent that the Secretary in completing the bill shall be authorized to correct all totals so that they may represent the sum of the various amendments adopted.

The PRESIDENT pro tempore. Without objection, that order will be made.

The next amendment was, on page 26, line 16, after the word "exceeding," to strike out the sum "$142,920" and insert "$144,700," so as to read:

General expenses of public buildings: To enable the Secretary of the Treasury to execute and give effect to the provisions of section 6 of the act of May 30, 1908 (35 Stat., p. 537, pt. 1): For additional salary of $1,000 for the Supervising Architect of the Treasury for the fiscal year 1913, for the specific salaries for the personal services in the office of the Supervising Architect of the Treasury, set forth under said office in the legislative, executive, and judicial appropriation act for the fiscal year 1913 (not exceeding $144,700).

The next amendment was, in the item of appropriation for "General expenses of public buildings," on page 26, line 25, before the words "per annum," to strike out "$2,200" and insert "$2,500," so as to read:

For compensation of computers and estimators, at rates of pay from $1,600 to $2,500 per annum.

The amendment was agreed to.

The next amendment was, in the item of appropriation for "General expenses of public buildings," on page 28, line 16, after the sum "$656,920," to insert the following proviso:

Provided further, That hereafter members of the field force of the office of the Supervising Architect, including supervising superintendents, superintendents, junior superintendents, and inspectors of the several classes, may be detailed to the District of Columbia for temporary duty in connection with the office of the Supervising Architect.

The amendment was agreed to.

The next amendment was, on page 29, after line 6, to strike out:

The act entitled "An act authorizing the Secretary of the Treasury to obtain plans and specifications for public buildings to be erected under the supervision of the Treasury Department, and providing for local supervision of the construction of the same," approved February 20, 1893, commonly known as the Tarsney Act, is repealed: *Provided*, That contracts heretofore entered into under said act shall not be affected by this repeal, and architectural services rendered under such contracts shall be paid for from the appropriation for "Architectural competitions, public buildings," available at the time payment for the particular service rendered is due.

Mr. REED. Mr. President, that amendment proposes to repeal the Tarsney Act. I should like to ask the chairman of the committee why that is proposed?

Mr. OVERMAN. It is proposed by the House to repeal that act.

Mr. REED. The statement of amendments is proceeding so rapidly that I did not understand the amendment. I am informed this amendment restores the Tarsney Act.

The PRESIDENT pro tempore. Without objection the amendment is agreed to.

The next amendment was, under the subhead "Life-Saving Service," on page 32, line 9, to increase the appropriation for pay of crews of surfmen employed at the life-saving and lifeboat stations, including the old Chicago station, etc., from $1,960,000 to $2,031,620.

The amendment was agreed to.

The next amendment was, under the subhead "Revenue-Cutter Service," on page 32, line 15, after the word "engineers," to insert "two civilian instructors," so as to read:

For expenses of the Revenue-Cutter Service: For pay and allowances of captain commandant and officers of that rank, senior captains, captains, lieutenants, engineer in chief and officers of that rank, captains of engineers, lieutenants of engineers, two constructors, cadets, cadet engineers, two civilian instructors, and pilots employed, and rations for pilots.

The amendment was agreed to.

The next amendment was in the item of appropriation for the expenses of the Revenue-Cutter Service, on page 33, line 7, after the words "St. Marys River," to insert "for temporary leases and improvement of property for revenue-cutter purposes," so as to read:

For maintenance of vessels in enforcing the provisions of the acts relating to the anchorage of vessels in the ports of New York and Chicago, and in the Kennebec River, and the movements and anchorage of vessels in St. Marys River; for temporary leases and improvement of property for revenue-cutter purposes; not exceeding $5,000 for the improvement of the depot for the service at Arundel Cove, Md.; not exceeding $150 for medals for excellence in marksmanship; contingent expenses, including wharfage, towage, dockage, freight, advertising, surveys, labor, and all other necessary miscellaneous expenses which are not included under special heads, $2,260,000.

The amendment was agreed to.

The next amendment was, on page 33, after line 15, to strike out:

No additional appointments as cadets or cadet engineers shall be made in the Revenue-Cutter Service unless hereafter authorized by Congress.

Mr. REED. Mr. President, what is the meaning of that? The words stricken out are:

No additional appointments as cadets or cadet engineers shall be made in the Revenue-Cutter Service unless hereafter authorized by Congress.

Mr. WARREN. Mr. President, there seemed to be a move, which did not have momentum enough to carry it through, to do away with the Revenue-Cutter Service, and consequently these lines were put in by the other House. Subsequent consideration of that matter, certainly the consideration given to it by the committee of the Senate, seemed to indicate that the time had not come to do away with the Revenue-Cutter Service, so we struck those lines out in order that the conferees on the part of the Senate may compare the information they have with the information the other House has, to see whether or not that provision should be retained.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WARREN. I desire to offer an amendment, on behalf of the committee, to the paragraph now under consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 33, line 15, it is proposed to strike out "$2,260,000" and insert in lieu thereof "$2,280,000."

Mr. OVERMAN. I inquire is that for the purpose of correcting a total?

Mr. WARREN. No; that covers an addition. The matter was overlooked in some of the papers when we were preparing the bill; it is an addition of $20,000 to the amount for the Revenue-Cutter Service.

Mr. OVERMAN. Is that estimated for?

Mr. WARREN. Yes; in fact, more than that was estimated for. There is also $10,000 to be added in the next item.

Mr. OVERMAN. What is the reason for adding that $20,000 to the item of $2,260,000?

Mr. WARREN. If the Senator wishes we can refer back to the papers, but it is a clear case. If they are to pay all the

stated accounts that must be paid, the additional amount will be required.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WARREN. I also offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 33, line 19, it is proposed to strike out "$165,000" and insert "$175,000," so as to read:

For repairs to revenue cutters, $175,000.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the subhead "Engraving and Printing," on page 35, after line 4, to insert:

Hereafter the proviso of the act of July 1, 1898 (30 Stats. L., 604), directing that all bonds, notes, and checks shall be printed on hand-roller presses shall not apply to checks, the backs and tints of all United States bonds, the backs and tints of all United States paper money, and the backs and tints of bonds and paper money issued by any of the insular possessions of the United States, any or all of which shall be printed from intaglio plates and on such plate printing presses as may be directed by the Secretary of the Treasury, said presses to be operated by plate printers, except that checks and tints may be printed by any desired process: *Provided*, That the backs of all United States paper money shall be printed from four-subject plates, and the faces of all internal-revenue stamps now printed from intaglio plates on hand-roller or power plate printing presses shall continue to be printed from intaglio plates on hand-roller or power plate printing presses, as the Secretary of the Treasury may determine, said presses to be operated by plate printers: *Provided further*, That should the Secretary of the Treasury decide to print on the aforesaid power plate printing presses any of the classes of work hereinbefore permitted to be printed on such presses, not more than one-fifth of the total number of hand-roller presses required to produce the estimated quantity of such work in any fiscal year shall be displaced in such fiscal year: *Provided further*, That the Secretary of the Treasury may, in his discretion, apply motors to hand-roller presses that are now, or may hereafter be, operated in the Bureau of Engraving and Printing, but such presses, if equipped with motors, shall be regarded as hand-roller presses within the meaning of this act.

The amendment was agreed to.

The PRESIDENT pro tempore. The next amendment will be stated.

Mr. HEYBURN. I should like to ask a question. My attention was distracted. What was done with the amendment on pages 35 and 36?

The PRESIDENT pro tempore. It was agreed to.

Mr. HEYBURN. I should only agree to it for the reason that it is a small step in the direction of correcting a wrong existing.

The next amendment was, under the subhead "Miscellaneous objects, Treasury Department," on page 37, line 7, after the word "violations," to strike out the sum "$140,000" and insert "$150,000," so as to read:

Punishment for violations of internal-revenue laws: For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws or conniving at the same, including payments for information and detection of such violations, $150,000.

The amendment was agreed to.

The next amendment was, on page 39, after line 9, to insert:

Special witness of destruction of United States securities: For pay of the representative of the public on the committee to witness the destruction by maceration of Government securities, at $5 per day while actually employed, $1,565.

Mr. HEYBURN. I ask the chairman of the committee whether that should not be so amended as to provide for a superintendent of the laundry in which the money of the United States is being laundered under the existing system. I inquire whether the word "maceration" would include that.

Mr. WARREN. That is taken care of in another place. The item that we insert here is not new, but is one which was inadvertently left out on the House side.

Mr. HEYBURN. I recognize it as not being new, but what I had in mind was the statement, I think official or semiofficial in its character, in regard to laundering the money. I believe that term is used officially.

Mr. WARREN. I think the Senator will find, before the completion of the bill, or if he will read it now, that that is provided for otherwise.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 40, line 22, after the word "employed," to strike out the sum "$2,450,000" and insert "$2,570,000," so as to read:

For operating force for public buildings: For the pay of such personal services as the Secretary of the Treasury may deem necessary in connection with the care, maintenance, and repair of all public buildings under the control of the Treasury Department (except as hereinafter provided), together with the grounds thereof and the equipment and furnishings therein, and of sites for public buildings, including assistant custodians, janitors, watchmen, laborers, and charwomen; engineers, firemen, elevator conductors, coal passers, electricians, dynamo tenders, lampists, and wiremen; and for the mechanical labor force in connection with said buildings, including carpenters, plumbers, steam fitters, machinists, and painters, but in no case shall the rates of compensation for such mechanical labor force be in excess of the rates current at the time and in the place where such services are employed, $2,570,000.

The amendment was agreed to.

The next amendment was, on page 41, line 25, after the word "contract," to strike out the sum "$800,000" and insert "$900,000," so as to read:

Furniture and repairs of furniture: For furniture and repairs of same, carpets, and gas and electric light fixture, for all public buildings, exclusive of marine hospitals, mints, branch mints, and assay offices, under the control of the Treasury Department, and for furniture, carpets, gas and electric fixtures for new buildings, exclusive of personal services, except for work done by contract, $900,000.

The amendment was agreed to.

The next amendment was, on page 42, line 23, after the words "assay offices," to strike out the sum "$1,550,000" and insert "$1,600,000," so as to read:

Operating supplies for public buildings: For the purchase of fuel, steam, light, water, water meters, ice, lighting supplies, electric current for lighting and power purposes, telephone service for custodians' forces, removal of ashes and rubbish, snow and ice, cutting grass and weeds, washing towels, etc., and for miscellaneous items for the use of the custodians' forces in the care of public buildings and the grounds thereof, and in the care of the equipment and furnishings in such buildings: and for miscellaneous supplies for the operation (not including repairs) of the mechanical equipment, including heating, hoisting, ventilating and plumbing systems and apparatus, and electric-lighting plants for all public buildings under the control of the Treasury Department, including new buildings and the customhouse at Washington, D. C., but not including any other public building within the District of Columbia, and exclusive of marine hospitals, quarantine stations, mints, branch mints, and assay offices, $1,600,000.

The amendment was agreed to.

The next amendment was, on page 43, line 25, after the words "bounty laws," to insert "for purchase and exchange of typewriters," so as to read:

Suppressing counterfeiting and other crimes: For expenses incurred under the authority or with the approval of the Secretary of the Treasury in detecting, arresting, and delivering into the custody of the United States marshal having jurisdiction dealers and pretended dealers in counterfeit money and persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States and of foreign governments, as well as the coins of the United States and of foreign governments, and other felonies committed against the laws of the United States relating to the pay and bounty laws, for purchase and exchange of typewriters, and for no other purpose whatever, except in the protection of the person of the President of the United States, $135,000.

The amendment was agreed to.

The next amendment was, on page 44, after line 19, to insert:

To enable the Secretary of the Treasury to pay to the National Irrigation Congress, to assist in defraying the expenses of the twentieth annual meeting of said congress, to be held at Salt Lake City, Utah, commencing September 30, 1912, $10,000.

Mr. WARREN. I move to amend the amendment by striking out, on page 44, line 21, the word "National" and inserting "International" in its place.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, under the subhead "Customs Service," on page 44, line 23, after the word "customs," to strike out the sum "$4,650,000" and insert "$5,000,000," so as to read:

To defray the expenses of collecting the revenue from customs, $5,000,000, being additional to the permanent appropriation for this purpose for the fiscal year ending June 30, 1913.

The amendment was agreed to.

The next amendment was, on page 45, after line 15, to strike out:

Section 3687 of the Revised Statutes of the United States is repealed, to take effect from and after June 30, 1913.

The amendment was agreed to.

The next amendment was, on page 45, after line 19, to strike out:

The President is authorized to reorganize the customs service and cause estimates to be submitted therefor on account of the fiscal year 1914 bringing the total cost of said service for said fiscal year within a sum not exceeding $10,150,000 instead of $10,500,000, the amount authorized to be expended therefor on account of the current fiscal year 1912; in making such reorganization and reduction in expenses he is authorized to abolish or consolidate collection districts, ports, and subports of entry and delivery, to discontinue needless offices and employments, to reduce excessive rates of compensation below amounts fixed by law or Executive order, and to do all such other and further things that in his judgment may be necessary to make such organization effective and within the limit of cost herein fixed; such reorganization shall be communicated to Congress at its next regular session and shall constitute for the fiscal year 1914 and until otherwise provided by Congress the permanent organization of the customs service.

Mr. REED. I wish to inquire of the chairman of the committee why the provision is stricken out which authorizes the reorganization of the customs service.

Mr. WARREN. There are two paragraphs. The first one refers to the continuing annual appropriation of $5,500,000. The first part of the next paragraph is to authorize the President to make a reorganization, but the latter part of it carries with it a power that the committee on consideration believed ought to be curtailed. Hence they struck out those paragraphs so that in conference there might be an assembling of the wisdom of both sides and the information to see, if any legislation should be deemed necessary, whether it could be less drastic.

Mr. REED. Do I understand that the committee is not opposed to the principle but think it is too drastic, and their purpose is in conference to agree upon some modified form?

Mr. WARREN. The committee is in harmony with the idea to economize if possible, but it did not consider, with the information which came later, that the language of the House should go unchanged.

I will say to the Senator from Missouri that a thing of this kind comes like lightning from a clear sky to those who are brought under it, it not having been contemplated, and is not known until it comes out in the bill when printed in the House. Then follows testimony from the other side, which was not then before the House; hence they come to the Senate, and therefore it is often necessary, even when we are in harmony on the main issue, to strike out the language in order to get it in conference. If we pass any language here just as it has been passed upon the other side, then we are bound by it, of course.

Mr. REED. With the understanding that that is the position of the committee, I have no objection. I think something of that kind ought to be done.

The amendment was agreed to.

The next amendment was, under the subhead "Public Health and Marine-Hospital Service," on page 47, line 12, after the words "medical officers," to strike out "$200,000" and insert "$225,000," so as to make the clause read:

For pay of acting assistant surgeons (noncommissioned medical officers), $225,000.

The amendment was agreed to.

The next amendment was, on page 47, line 15, after the word "expenses," to insert "including the expenses of medical officers when officially detailed to attend meetings of associations for the promotion of public health," so as to make the clause read:

For freight, transportation, and traveling expenses, including the expenses of medical officers when officially detailed to attend meetings of associations for the promotion of public health, $30,000.

Mr. OVERMAN. Mr. President, this seems like a small matter, but I do not think we ought to pay the traveling expenses of these medical officers to go up and down the country attending meetings of all the associations in the States. When a medical officer is sent on official duty to any point it is all right, but we should not provide here so as to allow the medical officers to attend every little State association, to go to some watering place. They hold their associations all over the country at such places. One will be held in Asheville, N. C.; another in San Francisco; and they are held all over the country. I do not think that the public health of the country will be helped by this payment by the taxpayers of the expenses of some medical officer to take a trip to Asheville or some other watering place. I do not think it ought to be allowed.

Mr. SMOOT. The Senator no doubt remembers that all such appropriations for the Forestry Service and the Geological Survey have already been stricken from the bill. But this item carries $30,000 for the promotion of the public health among other things. The act of July 1, 1902, requires the holding of annual conferences of the health authorities of the States and Territories and the District of Columbia with the Public Health and Marine-Hospital Service, and in addition authority for calling of conferences of State and Territorial boards of health, and upon application of not less than five State and Territorial boards of health, quarantine authority must call a conference.

Mr. OVERMAN. It is not confined to that. The language is:

For freight, transportation, and traveling expenses, including the expenses of medical officers when officially detailed to attend meetings of associations for the promotion of public health.

Any sort of an association is included.

Mr. SMOOT. No.

Mr. OVERMAN. Any sort of an association to be held is included under this language.

Mr. SMOOT. No; only conferences for the promotion of the public health.

Mr. OVERMAN. All these associations are for the promotion of public health. There is a tuberculosis association, an osteopath association, and every kind of association for the promotion of public health. Therefore, when you provide that they shall have their expenses paid to attend these associations, they will attend them and have a good time. The other doctors pay their expenses and are glad to go. They go to San Francisco, they go to Denver, they go to Asheville, to this place and that place, just to have a good time, and they all pay their expenses. Why should the Government pay the expenses of medical officers to attend all these associations? If there was to be one association held for the promotion of public health by the Government itself, that would be all right, and full authority is granted for that in the language put in by the House.

Mr. WARREN. Mr. President, I sympathize in some degree with what my colleague on the committee says, but unfortunately we are in a conflict of legislation. As the Senator says, this provides for transportation and traveling expenses to conferences and conventions. In the District of Columbia appropriation bill, lately passed, there was a provision which prevents the payment of all expenses of this nature. Hence, almost every department and bureau has assailed the committee, asking that that particular department or bureau's privilege be restored. We so far have not consented to it except in two cases, this one of the medical officers who, under the law, have to travel, and we felt that it was a dangerous project to refuse it. The other case is that of the Bureau of Mines, where the information has to be carried to the miner as he is at the mine, the rescue cars, and so forth. I will say to the Senator that this one and the other relating to mines are the only two provided for.

Mr. OVERMAN. All the medical officers under the Public Health and Marine-Hospital Service are included, and there may be hundreds of associations to attend.

Mr. WARREN. We do not increase the amount.

Mr. OVERMAN. Then, contract the language so that they can go to only one association a year.

Mr. SMOOT. I think there are more conferences than one a year held under the law. I call the Senator's attention to the fact, also, that the amount has been greatly reduced. The Public Health and Marine-Hospital Service say it will be impossible to get along with less than this amount. The quarantine authorities attend these conferences, which are compelled to be held under the law.

Mr. OVERMAN. The associations are compelled to be held?

Mr. SMOOT. Yes.

Mr. OVERMAN. How compelled to be held?

Mr. SMOOT. They are compelled under the act of July 1, 1902, which provides an annual conference, and oftener if requested by five States or Territories. I will say that they are very important gatherings, as is demonstrated by the reports published of the meetings.

Mr. OVERMAN. The men generally who gather there have not their expenses paid.

Mr. SMOOT. No; outside of the Government service they have not, unless the State——

Mr. OVERMAN. If these officials want to go let them go and pay their own expenses.

Mr. SMOOT. As to the others, they pay their own expenses, unless the States and boards of health of the different States pay their expenses. As to that I am not advised.

Mr. OVERMAN. We do not pay their expenses in my State. They generally go without having their expenses paid for them, and they are glad to go, and they have a good time. The meeting of the assocition is held in some watering place, and they not only have a good time, but the meeting is beneficial to the public. What I complain of is that they do not pay their expenses and that the Government should pay the expenses of all these officers for the purpose of going to these associations. There is no provision limiting it to one association.

Mr. SMOOT. The amount appropriated is only $30,000.

Mr. OVERMAN. But $30,000 would pay the traveling expenses to a good many associations.

Mr. SMOOT. I am not really positive that members of the medical associations of the different States have not their expenses paid either by the medical association of the State or by the State itself.

Mr. OVERMAN. This would allow them to go to every State association in the United States that meets in a State, not only to a national association. They could go to the national association, but every State has an association, and these officers can have their traveling expenses paid to go all over this country, from California to Maine, and attend every association in the country.

Mr. REED. Take a vacation.

Mr. OVERMAN. Yes; take a vacation; that is what it is; and to have a good time.

Mr. NEWLANDS. May I ask the Senator from North Carolina, in view of the fact that the National Government has entered upon this question of public health and is expending a large amount of money, aggregating nearly half a million dollars, and has practically entered upon a system of cooperation with the various State and municipalities in the work of advancing the public health, creating a kind of chain between the State, municipal, and National Governments, does he not think it wise to use some method and go to some expense?

Mr. OVERMAN. It is always reaching out for money. Everybody wants to reach out for money.

Mr. NEWLANDS. It is simply with a view of bringing them together so that they can exchange ideas and really accomplish something under this scheme for the improvement of the public health. Will we accomplish our purpose unless we bring these people together?

Mr. OVERMAN. We have accomplished it heretofore. These men have been going about and delivering lectures, but now they want their expenses paid. I do not want to criticize the board at all, but it seems to me that the taxpayers of the country ought not to pay the expenses of these doctors in traveling all over this country to the different associations to have a good time. I object to it. I ask the Senate to disagree to the amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the committee on page 47.

Mr. SMOOT. I ask the Senator whether he desires to strike out the whole provision? The House provided "for freight, transportation, and traveling expenses, $30,000."

Mr. OVERMAN. We know what the House language means, and if we had not known it we would not have agreed to it; but you propose to add "including the expenses of the medical officers when officially detailed to attend meetings of associations for the promotion of public health."

The language of the House means necessary traveling expenses when the superintendent sends a doctor down about yellow fever, or one is sent to this or that place. It is right, when they are sent out for the public benefit, of the health of the country, that their expenses should be paid, but here you add including expenses to attend associations. How many associations? What association? Where and when? I think the House language is sufficient to pay the traveling expenses when they are sent out upon public business.

Mr. WARREN. Will the Senator allow me? The bill in the House was made up before the District appropriation bill was finished. If the Senator will look at the inhibition in the District bill he will see why it was necessary to put in this language.

Mr. OVERMAN. I do not understand why the District bill has any connection with this bill.

Mr. WARREN. In the District bill there is legislation which covers all the departments.

Mr. OVERMAN. General legislation on the District of Columbia appropriation bill to cover all departments of the Government! That is very strange.

Mr. WARREN. With all deference to the members of that subcommittee and our own committee, of which the Senator from North Carolina is a conspicuous and industrious member, I do not think they had any business to put that kind of legislation in that kind of a bill, but they did it.

Mr. OVERMAN. I am very much surprised to learn that. I should like to know what the provision is.

Mr. REED. That is what I rose to inquire.

Mr. WARREN. The provision prohibits payment of any expenses of officers or employees of departments of the Government attending meetings. It makes a very sweeping inhibition.

Mr. OVERMAN. And this is intended to repeal that?

Mr. WARREN. One moment. When the House made up the bill and put in the language exactly as it appeared—

For freight, transportation, and traveling expenses, $30,000—

I assume they did not intend to cripple the service. Now, as this bill would leave it, it inhibits all the departments in Washington except those that are excepted in this bill, this one and the Bureau of Mines. I believe they are the only two. We have here any amount of testimony from the other departments, for instance, from the Geological Survey. They make a very good case. I thought that since the Senate had given its consent and it had become a law to inhibit these traveling expenses, we would try it for a year, but I hesitated; and I think the members of the committee agreed with me, against a law regulating these medical offices. As there was a conflict of law, we felt that we ought to give them liberty where they were officially detailed as they are here to attend these meetings.

Mr. OVERMAN. I think we all recognize that it has been a crime the way the people in all these departments have been traveling at public expense all over the country. Now, since we have the inhibition in the District appropriation bill, let it stay there. Do not repeal it by a provision in another bill after we adopted that provision.

Mr. SMOOT. I do not believe the Senator would think it fair to have a prohibition put in this bill, as was in the District appropriation bill, preventing the Government of the United States from paying the traveling expenses of its medical officers, compelled as they are to go to all parts of the United States. The law requires that they shall hold these meetings. That is why the exception has been made in this case.

I was in total accord with the Senator in putting in the District appropriation bill a provision prohibiting the expenses being paid of Government employees to attend the meetings of ordinary congresses held in all parts of the country. But we found that where medical officials were detailed to attend a health conference the law prohibits the payment of their traveling expenses, and to obviate that this provision was put in the bill by the committee.

Mr. OVERMAN. Does the Senator think when the law requires them to go to a certain place the language put in the bill by the House is not sufficient to indicate that all their expenses shall be paid?

Mr. SMOOT. Yes; I think the law that we put into the District appropriation bill prevents the payment of their traveling expenses, no matter where they may be sent officially.

Mr. OVERMAN. It provides that where they are sent officially they shall be paid their traveling expenses.

Mr. SMOOT. If the amendment is allowed to remain, it will provide for the payment.

Mr. WARREN. If you strike out the provision recommended by the committee, there will be no authority to pay their traveling expenses, although they are required to go.

Mr. OVERMAN. The language of the bill as passed by the House I propose to leave in——

Mr. WARREN. If the Senator will allow me to read the section in the District appropriation bill, he will then see the point. It is rather peculiar, and I think it will give him more light. Section 8 of that bill reads:

No money appropriated by this or any other act shall be expended for membership fees or dues of any officer or employee of the United States or of the District of Columbia in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association—

Now, if the Senator will notice—

unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation.

Therefore we provide in a general appropriation bill specifically for that and for mining and let the other stand, so far as we are presenting the bill from the committee to the Senate.

Mr. SMOOT. The Senator must also remember that we are not increasing the appropriation a cent. We can not say just how much of this $30,000 will be used for that purpose, but it will be only a very small portion indeed. However, under the law just read by the Senator from Wyoming, it would be impossible to pay them unless we specifically provided for it in this appropriation bill.

Mr. OVERMAN. I think the law is a good law as we made it, because there have been hundreds of thousands of dollars paid out as we know to these people for traveling expenses, even paying association fees. I did not know that was in the District of Columbia appropriation bill. I do not think it has any place there, but it is the law to-day. With the language here in the House bill, "for freight, transportation, and traveling expenses," if you will put in there "for any association provided by law" I am willing to accept it, but with your broad language you can send them to any sort of an association and pay their expenses anywhere to every State, and have them make a junketing trip sometimes.

Mr. GRONNA. I move to amend the committee amendment by adding after the word "attend," in line 17, the word "annual," and after the word "of," in the same line, to add the word "national," so as to read:

Detailed to attend annual meetings of national associations.

Mr. REED. It is impossible to hear on this side.

The PRESIDENT pro tempore. The proposed amendment to the amendment will be stated by the Secretary.

The SECRETARY. In the committee amendment, on page 47, line 17, it is proposed before the word "meetings" to insert the word "annual," and before the word "associations," in

the same line, to insert the word "national," so that if amended the paragraph will read:

For freight, transportation, and traveling expenses, including the expenses of medical officers when officially detailed to attend annual meetings of national associations for the promotion of public health, $30,000.

Mr. WARREN. I wish the Senator would drop the second part, "national," because they might want to attend international associations. I have no objection to the first part of the amendment, the insertion of the word "annual," if the Senator will withdraw the other one.

Mr. GRONNA. I will withdraw the second part of the amendment to the amendment.

The PRESIDENT pro tempore. The question is upon the amendment submitted by the Senator from North Dakota to the amendment of the committee.

Mr. REED. Let the amendment be reported as changed.

The PRESIDENT pro tempore. The amendment to the amendment will be stated as modified.

The SECRETARY. Simply before the word "meetings," in line 17, insert the word "annual."

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question is now upon the amendment as amended.

Mr. OVERMAN. I offer an amendment to the amendment. It is to add:

Provided, That not more than $3,000 shall be paid for traveling expenses.

Mr. REED. It is not limited to traveling expenses.

Mr. WARREN. The Senator would not have it apply to traveling expenses, because they have to travel under duty. The Senator means to apply it to attending conferences, does he not?

Mr. OVERMAN. I do.

Mr. WARREN. Let the Secretary report the amendment to the amendment.

The PRESIDENT pro tempore. The proposed amendment to the amendment will be reported.

The SECRETARY. At the end of the paragraph add the following proviso:

Provided, That not more than $3,000 shall be paid for the traveling expenses of such medical officers when detailed to attend such annual meeting.

Mr. ROOT. Mr. President, I hope that amendment to the amendment will not be agreed to. The attendance upon such meetings is an absolute necessity to enable medical officers to keep up with the profession. The medical men in private life never fail to keep up with the progress of their science by attending such meetings, and the science of the medical officers employed by the United States has been worth hundreds of millions of dollars within the last few years.

The Senator from North Carolina will remember of what value to his State it has been to be relieved from the necessity of constant quarantine against yellow fever because the medical officers of the United States were abreast of their profession. The meetings of the men who have been studying, reading, experimenting, and engaged in hospital practice in order that they may communicate their knowledge to each other and stimulate each other by association and discussion constitute one of the most effective and valuable elements in the advance of the profession. We should not be niggardly in our treatment of a subject of great public importance like this, a subject in which medical officers of the United States have reflected honor and credit upon our country and have conferred untold blessings upon mankind.

Mr. OVERMAN. Mr. President, I indorse every word the Senator from New York has said.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from California?

Mr. OVERMAN. I do.

Mr. WORKS. I am accused sometimes of being opposed to the increase of the efficiency of the medical service of the Government. That is quite a mistake. So long as we are dependent upon that means of preserving the public health we should make it just as efficient as possible. No Member of the Senate is more ready than am I to support legislation that will bring about that result. The opposition that I have made heretofore has not rested upon any such theory as that. Therefore, if the limitation of the amount of $3,000 is going to cripple the efficiency of the service, I should certainly be disposed to oppose that limitation. I think a great work is to be done through what is called the medical department of the Government in the way of sanitation, and certainly along those lines there should be the greatest possible efficiency.

The PRESIDENT pro tempore. The question is on the amendment to the amendment submitted by the Senator from North Carolina [Mr. OVERMAN].

Mr. OVERMAN. Mr. President, I will repeat that I indorse what the Senator from New York [Mr. ROOT] has said; but since the adoption of the amendment of the Senator from North Dakota, I do not see how it can take any more than $3,000 to enable these physicians to attend meetings of national associations. Therefore I withdraw the amendment to the amendment.

The PRESIDENT pro tempore. The amendment of the Senator from North Carolina is withdrawn. The question is on the amendment of the committee as amended.

The amendment as amended was agreed to.

The next amendment was, on page 48, line 3, after the words "Hygienic Laboratory," to strike out the sum "$14,900" and insert "$20,000," so as to make the clause read:

For maintaining the Hygienic Laboratory, $20,000.

The amendment was agreed to.

The next amendment was, on page 48, line 20, after the words "In all," to strike out the sum "$1,656,745" and insert "$1,686,845," so as to make the clause read:

In all, $1,686,845, which shall include the amount necessary for the medical inspection of aliens, as required by section 17 of the act of Congress approved February 20, 1907.

The amendment was agreed to.

The next amendment was, at the top of page 49, to insert:

Marine Hospital Sanatorium, Fort Stanton, N. Mex.: For milk house and cold storage, $4,000.

The amendment was agreed to.

The next amendment was, on page 49, after line 2, to insert:

Honolulu Quarantine Station, Hawaii: For sewerage system and latrines, $35,000.

The amendment was agreed to.

The next amendment was, on page 49, line 7, before the word "Portland," to insert "Eastport and," so as to read:

Quarantine Service: For the maintenance and ordinary expenses, exclusive of pay of officers and employees, of quarantine stations at Eastport and Portland, Me.

The amendment was agreed to.

The next amendment was, on page 50, line 11, after the words "in force," to strike out the sum "$100,000" and insert "$500,000: *Provided*, That a detailed report of the expenditures hereunder shall annually hereafter be submitted to Congress," so as to make the clause read:

Prevention of epidemics: To enable the President of the United States, in case only of threatened or actual epidemic of cholera, typhus fever, yellow fever, smallpox, bubonic plague, Chinese plague, or black death, to aid State and local boards, or otherwise, in his discretion, in preventing and suppressing the spread of the same, and in such emergency in the execution of any quarantine laws which may be then in force, $500,000: *Provided*, That a detailed report of the expenditures hereunder shall annually hereafter be submitted to Congress.

Mr. REED. Mr. President, I desire to ask the chairman of the committee why that radical increase, five times as much as was provided for in the bill as it came from the House, is proposed?

Mr. WARREN. Mr. President, I do not wonder that the Senator from Missouri asks that question. I should do so if I were in his place. I will state to the Senator that the large increase proposed is because of later estimates with reference to the bubonic plague. It is claimed that the bubonic plague is already prevalent to some extent in Porto Rico, and that cases have also been found in Cuba. The desire is to guard every point where ships arrive so as to prevent rats coming ashore, and in that way to quarantine our country against this disease. It is an emergency, and the money will not be spent unless it is necessary to expend it.

Mr. REED. That is satisfactory to me.

The amendment was agreed to.

The next amendment was, under the head of "Under Smithsonian Institution," on page 52, line 5, after the word "expenses," to strike out the sum "$250,000" and insert "$350,000"; and, in line 7, after the word "publications," to insert "and $1,500 for the purchase of a fireproof and burglar-proof safe, with triple time lock, for the office of the disbursing agent for the Government branches under the direction of the Smithsonian Institution, including the necessary expenses of installation," so as to make the clause read:

For continuing the preservation, exhibition, and increase of the collections from the surveying and exploring expeditions of the Government, and from other sources, including salaries or compensation of all necessary employees, and all other necessary expenses, $350,000, of which sum $5,500 may be used for necessary drawings and illustrations for publications and $1,500 for the purchase of a fireproof and burglar-proof safe, with triple time lock, for the office of the disbursing agent for the Government branches under the direction of the Smithsonian Institution, including the necessary expenses of installation.

The amendment was agreed to.

The next amendment was, on page 53, after line 8, to strike out:

Hereafter all plans and specifications for construction of buildings and bridges in the National Zoological Park shall be prepared by the municipal architect of the District of Columbia.

Mr. WARREN. Mr. President, I have an amendment to offer there, and I now give notice that I shall offer it later. I also desire to give notice that I shall move that the bill be again taken up immediately after the Senate adjourns as a court of impeachment.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. GALLINGER). The hour of 12.30 o'clock, to which the Senate, sitting as a court in the impeachment of Judge Robert W. Archbald, adjourned, has arrived. The Sergeant at Arms will make the opening proclamation.

The SERGEANT AT ARMS. Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence on pain of imprisonment while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, designated a judge of the United States Commerce Court.

The PRESIDING OFFICER. The Secretary will now call the names of those Senators who have not been sworn, and such of those Senators as are now present in the Chamber will advance to the desk and take the oath.

The Secretary called the names of Senators who had not been heretofore sworn, and there were no responses.

Mr. CLARK of Wyoming. I offer the order which I send to the desk, and ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The Senator from Wyoming offers an order, which the Secretary will read.

The Secretary read as follows:

Ordered, That the Secretary inform the House of Representatives that the Senate is sitting in its Chamber and ready to proceed with the trial of the impeachment of Robert W. Archbald.

The PRESIDING OFFICER. Without objection, the order will be agreed to.

Mr. CLARK of Wyoming. Mr. President, I offer the order which I send to the desk, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The Senator from Wyoming offers an order, which will be read.

The Secretary read as follows:

Ordered, That the Presiding Officer on the trial of the impeachment of Robert W. Archbald, circuit judge of the United States, be, and is hereby, authorized to sign all orders, mandates, writs, and precepts authorized by the rules of procedure and practice in the Senate, when sitting on impeachment trials, and by the Senate.

The PRESIDING OFFICER. Without objection, the order is agreed to.

Mr. CULBERSON. I call the attention of the Chair to Rule IX, and suggest that the oath to the returning officer provided for by that rule be administered.

Mr. ROOT. Mr. President, the suggestion of the Senator from Texas is, of course, in due order, but I should think it would be suitable to await the arrival of the managers on the part of the House before taking any further proceeding in the cause.

Mr. CULBERSON. The rule provides that this oath shall be administered at 12.30 o'clock. It makes no reference to the presence of the managers on the part of the House.

The PRESIDING OFFICER. The Chair will venture to make the suggestion that the return has not yet been made, and the oath is to be administered after the return has been made, as the Chair understands.

At 12 o'clock and 37 minutes p. m. the Assistant Doorkeeper announced the managers on the part of the House of Representatives.

The PRESIDING OFFICER. The managers on the part of the House of Representatives will be conducted to the seats assigned them in the area in front of the Secretary's desk.

The managers were conducted to seats provided in the space in front of the Secretary's desk on the left of the Chair, namely, Hon. HENRY D. CLAYTON, of Alabama; Hon. EDWIN Y. WEBB, of North Carolina; Hon. JOHN C. FLOYD, of Arkansas; Hon. JOHN W. DAVIS, of West Virginia; Hon. JOHN A. STERLING, of Illinois; Hon. PAUL HOWLAND, of Ohio; and Hon. GEORGE W. NORRIS, of Nebraska.

The PRESIDING OFFICER. The Sergeant at Arms will notify the counsel for the respondent.

At 12 o'clock and 39 minutes p. m. the respondent, Robert W. Archbald, and his counsel, A. S. Worthington, Esq., and Robert W. Archbald, jr., Esq., entered the Senate Chamber and were conducted to the seats assigned them in the space in front of the Secretary's desk, on the right of the Chair.

The PRESIDING OFFICER. The Secretary will read the Journal of the proceedings of the last session of the Senate while sitting in the trial of the impeachment of Robert W. Archbald.

The Secretary read the Journal of proceedings of the Senate sitting for the trial of the impeachment, of Tuesday, July 16, 1912.

The PRESIDING OFFICER. The Secretary will read the return of the Sergeant at Arms to the summons directed to be served.

The Secretary (Mr. Charles G. Bennett) read the following return appended to the writ of summons:

SENATE OF THE UNITED STATES,
OFFICE OF THE SERGEANT AT ARMS.

The foregoing writ of summons, addressed to Robert W. Archbald, and the foregoing precept, addressed to me, were duly served upon the said Robert W. Archbald, by delivery to and leaving with him true and attested copies of the same at 236 Monroe Avenue, Scranton, Pa., the residence of Robert W. Archbald, on Wednesday, the 17th day of July, 1912, at 11 o'clock and 30 minutes in the afternoon of that day.

DANIEL M. RANSDELL,
Sergeant at Arms United States Senate.

The PRESIDING OFFICER. The Secretary will now administer to the Sergeant at Arms an oath in support of the truth of his return.

The Secretary (Mr. Charles G. Bennett) administered the following oath to the Sergeant at Arms:

I, Daniel M. Ransdell, Sergeant at Arms of the Senate of the United States, do solemnly swear that the return made by me upon the process issued on the 16th day of July, 1912, by the Senate of the United States, against Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, and designated a judge in the Commerce Court, is truly made, and that I have performed such service therein described. So help me, God.

The SERGEANT AT ARMS. I do so swear.

The PRESIDING OFFICER. The Sergeant at Arms will make proclamation.

The SERGEANT AT ARMS. Robert W. Archbald, Robert W. Archbald, Robert W. Archbald, circuit judge of the United States and designated as a judge of the United States Commerce Court: Appear and answer to the articles of impeachment exhibited by the House of Representatives against you.

The PRESIDING OFFICER. Counsel for the respondent are informed that the Senate is now sitting for the trial of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit and designated a judge of the Commerce Court, upon articles of impeachment exhibited by the House of Representatives, and will hear his answer thereto.

Mr. WORTHINGTON. Mr. President, the respondent is here in person and by counsel, and enters a formal appearance, which I will hand to the Secretary.

The PRESIDING OFFICER. It will be read.

The Secretary read as follows:

IN THE SENATE OF THE UNITED STATES,
SITTING AS A COURT OF IMPEACHMENT.

UNITED STATES *v.* ROBERT W. ARCHBALD.

The respondent, Robert W. Archbald, having been served with a summons requiring him to appear before the Senate of the United States at their Chamber in the city of Washington, on Friday, July 19, 1912, at 12.30 o'clock in the afternoon, to answer certain articles of impeachment presented against him by the House of Representatives of the United States, now appears in his proper person and also by his counsel, Robert W. Archbald, jr., and Augustus S. Worthington, who are instructed by this respondent to apply to this court for a reasonable time for the preparation of his answer to said articles of impeachment.

R. W. ARCHBALD.

JULY 19, 1912.

The PRESIDING OFFICER. The paper will be placed on file.

Mr. WORTHINGTON. Now, Mr. President, I submit a motion on behalf of the respondent.

The PRESIDING OFFICER. The Secretary will read the motion.

The Secretary read as follows:

IN THE SENATE OF THE UNITED STATES,
SITTING AS A COURT OF IMPEACHMENT.

UNITED STATES *v.* ROBERT W. ARCHBALD.

The respondent, by his counsel, now comes and moves the court to grant him the period of — days in which to prepare and present his answer to the articles of impeachment presented against him herein.

R. W. ARCHBALD, Jr.
A. S. WORTHINGTON.

JULY 19, 1912.

Mr. CLARK of Wyoming. Mr. President, I submit the following order, and ask for its adoption.

The PRESIDING OFFICER. The proposed order will be read.

The Secretary read as follows:

Ordered, That the respondent present his answer to the articles of impeachment at 12 o'clock and 30 minutes post meridian, on the 24th day of July, 1912.

The PRESIDING OFFICER. Senators, are you ready for the question?

Mr. WORTHINGTON. Mr. President, I should like to state that that time seems very short to the counsel for the respondent in view of the number of articles of impeachment which are here and the customs which have been followed heretofore in cases of this kind, and also because of certain circumstances which exist in this case, which I wish to bring to the attention of the court.

In the preliminary hearing which was had on this matter, which occupied a good deal of time and the report of which covers several hundred pages, the respondent was aided not only by the counsel here present, but by two other members of the bar who reside and practice law at Scranton, in which city most of the circumstances arose which are to be investigated in this trial. One of those gentlemen, Mr. Martin, is now lying on his back in a hospital after a surgical operation, from which he is recovering. The other, on account of serious illness, is unable to be here, and is in such a situation that we can not now confer with him.

It was for that reason that in the motion which we made we left blank the number of days which we were to have, to be filled at the pleasure of the court.

I had hoped we might get 20 days for that purpose. As I calculate the time proposed to be given by the order which has just been presented by a member of the court, it would give us but five days, which, I think, would be entirely insufficient, in view of the fact that one of those days is dies non.

On behalf of the respondent and his counsel, I therefore respectfully ask that we be given at least 20 days for the purpose indicated.

Mr. Manager CLAYTON. Mr. President, with the permission of the court I desire to express in a brief way the views of the managers.

After a conference had this morning, the managers reached the conclusion that perhaps four or five days would be ample time to afford the accused the opportunity of fully answering all the articles of impeachment in this case.

With the indulgence of the court, I desire to say that this matter of the impeachment of Judge Archbald has had a thorough sifting on the part of the Committee on the Judiciary of the House of Representatives, at which hearing Judge Archbald was present every day in his own proper person and by his counsel. Among the counsel so present every day were the distinguished gentleman who has just addressed the Chair, Mr. Worthington, and Mr. Robert W. Archbald, jr. The other two gentlemen were there a part of the time, and perhaps all of the time. It appeared on that hearing that Mr. Worthington was the chief counsel. In fact, on that hearing Mr. Worthington conducted nearly all of the cross-examination and made most of the suggestions to the committee.

On the 8th day of the present month the articles of impeachment in this case were presented to the House of Representatives and printed in the RECORD of that date. On the 11th day of the present month the same articles were debated in the House of Representatives, and were there adopted with practical unanimity.

The managers think there is nothing by way of surprise contained in the articles of impeachment. We believe Judge Archbald and his counsel are well informed as to every charge set forth in the articles of impeachment. We think five days—or four days, if one day be excluded on account of its being dies non juridicus—are quite sufficient for Judge Archbald to answer these articles of impeachment. Their nature is fully understood. The testimony which induced the House to adopt these articles is perfectly familiar to the counsel, and perfectly familiar to the accused.

Therefore, on behalf of the managers, I desire to say that we think the time fixed by the resolution which has been proposed by the Senator from Wyoming is sufficient to afford the respondent ample opportunity to make appropriate answer and to do full justice to him in the premises.

Mr. WORTHINGTON. May I add a word, Mr. President?

The PRESIDING OFFICER. Certainly.

Mr. WORTHINGTON. It may not be known to the members of the court that during all my professional life I have resided in this city and have practiced law here. The two gentlemen——

Mr. BACON. Mr. President, I am requested by some Senators who sit in the rear of the Chamber to ask that the counsel be requested to speak in a louder tone.

Mr. WORTHINGTON. I had stated that during my whole professional life I have resided and practiced law in the city of Washington. Mr. Archbald, jr., who is here with me, has practiced law in Philadelphia. The other two gentlemen were associated with us because they lived in Scranton, practiced law in Scranton, and knew the people and the concerns that are involved in this investigation.

While it is true, as Mr. Manager CLAYTON has stated, that I was ordinarily the spokesman of the counsel who represented Judge Archbald before the Judiciary Committee, it was only because these gentlemen were at my elbow, and could furnish me with information at any moment when it was needed of things that I knew nothing about.

Let me say, in addition to that, that the learned manager is mistaken in supposing that there is nothing in these articles of impeachment which surprises counsel for the respondent. As a matter of fact, there are things here, as to which I have had no opportunity to confer with anybody until this morning, which did surprise me, and as to which I never heard until within a few days.

I have gone over the records of previous impeachment trials, of which there are eight or nine, and I believe there is none in which the time for answering was so short as that within which we are here required to answer these 13 articles of impeachment, every one of them differing as to the nature of the charge and as to the facts which are involved.

Mr. CLARK of Wyoming. Mr. President, in behalf of the committee which directed me to present the order, I desire to say that they were aware of the fact that the time was perhaps a little shorter than is usual; but they were somewhat controlled in their action by the fact that the three succeeding days each and all are set aside by the unanimous-consent agreement entered into yesterday for other business. Therefore in presenting the order the time was cut from six days to four.

The PRESIDING OFFICER. Is there objection to the order?

Mr. McCUMBER. Mr. President, it seems to me the time is rather short, and I would ask the Senator who introduced the order if he would object to having the 31st day of July designated as the return day?

Mr. CLARK of Wyoming. The Senator who introduced the order has no personal views whatever upon it. He will be perfectly satisfied with whatever action the Senate, sitting as a court, may see fit to take.

Mr. McCUMBER. To bring the matter to a point where the Senate may act upon a later date, I move to amend the order so that it will read "the 31st day of July."

The PRESIDING OFFICER. The amendment will be stated.

Mr. Manager CLAYTON. Mr. President, may I be permitted to make a remark in this connection?

The PRESIDING OFFICER. The Manager will permit the amendment to be stated.

Mr. Manager CLAYTON. Certainly.

The SECRETARY. It is proposed to strike out the word "twenty-fourth," and in lieu to insert the word "thirty-first," so that if amended it will read:

Ordered, That the respondent present his answer to the articles of impeachment at 12 o'clock and 30 minutes post meridian, on the 31st day of July, 1912.

Mr. Manager CLAYTON. Mr. President, I desire to say that in the last proceeding of this nature before the Senate, in the case of Judge Swayne, seven days were accorded to the accused in which to make his answer. The articles of impeachment in that case, according to my recollection, involved as many if not more things or acts than are involved in this case, or at any rate were fully as many, and seven days was deemed in that case quite sufficient.

I do insist most respectfully on the part of the managers that to postpone it to the time designated in the amendment offered by the Senator from North Dakota would not be doing justice to the views of the House or justice to the views of the managers.

Therefore, the managers respectfully ask that the original proposition offered by the Senator from Wyoming be the action of the Senate.

Mr. LODGE. Mr. President, the time suggested in the resolution offered by the Senator from Wyoming seems to me rather short. We have, as the Senator from Wyoming has stated, three unanimous-consent agreements which carry us from the 24th to the end of that week. I would suggest, therefore, as a modification of the amendment offered by the Senator from North Dakota, that the date be fixed on Monday, the 29th, which is the earliest day possible after the unanimous-consent agreements.

Mr. McCUMBER. I will accept that suggestion and embody it in my amendment.

The PRESIDING OFFICER. The amendment as now proposed will be stated.

The SECRETARY. Strike out the words "the twenty-fourth" and insert in lieu "Monday, the twenty-ninth."

The PRESIDING OFFICER. The question is upon the amendment.

Mr. BACON. Mr. President, I should like to know the attitude of the managers in reference to the proposed date.

Mr. Manager CLAYTON. Mr. President, the managers direct me to say that they are of opinion that 10 days are more than are requisite to do full justice to the accused in this case, and they are of opinion that the time fixed in the original proposition, as offered by the Senator from Wyoming, will afford the accused ample opportunity in which to make his answer; for it must be known, Mr. President, that then perhaps some other proposition may be made by the accused. This matter of the pleadings ought to be settled at an early day. The judge himself is learned in the law. His counsel is learned in the law. They are fully apprised of the nature of these accusations. This is simply now a requirement as to when he shall make his formal answer, no more and no less. I think that the five days afford ample opportunity for the formal answer to be presented to the Senate, and the managers are of that opinion.

Mr. WORTHINGTON. Mr. President, I dislike to continue debate. If the answer to be made in this case were merely a formal answer we could do it now, if all we had to do was to say not guilty. But according to the precedent that is not the form of practice that has been adopted in these impeachment trials. The answers have had more the appearance of an answer in a bill of equity than of a defense in criminal cases. We expect to follow that precedent, and when we answer to answer fully. In order to do that it is important that we should have time to do it properly.

In the one precedent which was referred to by the distinguished manager who has just taken his seat, the last case that was tried here, the time was fixed seven days there because the counsel for the respondent asked that they be given only seven days. Congress was then approaching the 4th of March. It was in February, as I remember, and it was all important to all parties, if the matter was to be finished, that it must proceed at an early date in order to get through by the 4th of March.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from North Dakota. The Chair is of the opinion that under the rule the yeas and nays have to be taken.

Mr. BAILEY. Mr. President, before the roll is called I want to submit this suggestion: If the answer should be made within the time provided in the order, nothing further will be done, for the reason that the three days immediately following have already been appropriated by the Senate to the consideration of certain tariff bills. If those three days are to be thus occupied, then no good purpose would be served by requiring the answer to be made immediately before those orders that would not be equally served by an answer on Monday immediately succeeding them.

Mr. Manager CLAYTON. Mr. President, may I make a suggestion?

Mr. BAILEY. I think I am going to anticipate the manager. I was going to say that, of course, if the answer is made as here required, then the managers on the part of the House would have those three days in which to prepare their replication; and I take it for granted that that is one of the reasons why the managers are anxious that the time shall be fixed as at first suggested.

Personally I am not willing to compel the counsel of the defendant to answer before he says he can be ready. When this answer is made, whether there shall be a replication of the House or not will, of course, depend upon the nature of the answer; but when this answer is made the issues will be practically joined, and I think those issues ought to be presented as fairly and as fully as possible.

I do not believe that the saving of three days can warrant us in forcing an answer before the attorney says he can make it in the proper way.

I am all the more willing, Mr. President, to give these three days, because I am one of the Senators who believe this matter ought to be tried before the Senate adjourns, and it will be tried if I can have my way before an adjournment. The convenience or the comfort of Senators can not be considered in a matter of this kind. I would rather stay here the additional 3 days or 10 days to have it tried in a way that shall leave no reason on the part of either the counsel for the respondent or the managers of the House to complain that the Senate has hurried them in an unfair way.

I dislike to see even a vote taken on a question of this kind. It looks to me like the Senate, composed largely of lawyers, would know what is a reasonable time to answer to the 13 counts in this indictment. But the Senators themselves are not more capable of judging that than the honorable managers of the House, all of whom are lawyers, with such reputation and distinction as to have won for themselves a place upon the great law committee of the House. But I would rather err in giving three days too much than to err in giving three days too little.

Mr. BACON. Mr. President, I feel extremely reluctant to urge anything which would look as if it were inconsiderate. I would be very glad if there could be an agreement between the managers and the learned counsel for the accused in order to avoid the very matter that the Senator from Texas suggests. It is an unpleasant thing at the outset to have a yea-and-nay vote taken, in which there may be some unfortunate variances. Therefore I suggest that the managers and the counsel endeavor to agree upon a day in order to relieve the Senate of the embarrassment of having to decide a question of this kind.

I will only say before taking my seat that, if possible, if the earlier date were fixed, and if upon that date the counsel had not been able to properly prepare and finish the answer, additional time could be, and doubtless would be, granted.

Mr. Manager CLAYTON. Mr. President, I have just conferred with my brother managers and have reached a conclusion that the managers on the part of the House, for the reasons which have been suggested in this discussion, ought to accede to the amendment which was offered by the Senator from Massachusetts to the amendment offered by the Senator from North Dakota, and that is that Monday, the 29th day of the present month, be fixed as the time and the day for the answer to be made by the respondent in this case.

The PRESIDING OFFICER. Does the Senator from North Dakota accept the amendment of the Senator from Massachusetts?

Mr. McCUMBER. I accept it.

The PRESIDING OFFICER. The order as it would read if amended will be stated.

The Secretary read as follows:

Ordered, That the respondent present the answer to the articles of impeachment at 12 o'clock and 30 minutes post meridian on Monday, the 29th day of July, 1912.

The PRESIDING OFFICER. Without objection, the order will be unanimously agreed to.

Mr. CLARK of Wyoming. I offer the following order.

The PRESIDING OFFICER. The order will be read.

The Secretary read as follows:

Ordered, That the managers on the part of the House be allowed until the 1st day of August, 1912, at 1 o'clock in the afternoon, to present a replication, or other pleading, of the House of Representatives to the answer of the respondent. That any subsequent pleadings, either on the part of the managers or of the respondent, shall be filed with the Secretary of the Senate, of which notice shall be given to the House of Representatives and the respondent, respectively, so that all pleadings shall be closed on or before the 4th day of August, 1912.

Mr. Manager CLAYTON. Mr. President, the managers see no objection to anything contained in that proposed order. They understand, however, that should any occasion arise which may make it necessary for them to ask for a change or modification of anything therein contained, the Senate then will give their request for the change or modification its attention and will do whatever is right in the premises.

Mr. CLARK of Wyoming. Mr. President, I desire to modify the order so that it will read on the 3d of August instead of the 4th, the 4th of August coming on Sunday.

The PRESIDING OFFICER. Without objection, that modification will be made.

Mr. Manager CLAYTON. I do not exactly understand the effect of that change.

Mr. CLARK of Wyoming. The effect of the change makes it the 3d instead of the 4th, the 4th being on Sunday.

Mr. Manager CLAYTON. Yes.

Mr. CLARK of Wyoming. It was hastily dated since the last order was made.

Mr. Manager CLAYTON. There can be no objection to that.

The PRESIDING OFFICER. Without objection, the order will be agreed to unanimously.

Mr. BACON. Mr. President, I have been instructed by the special committee to present to the Senate the following order, and I ask that it be adopted.

The PRESIDING OFFICER. The Senator from Georgia submits an order, which will be read.

The order was read, as follows:

Ordered, That in all matters relating to the procedure of the Senate sitting in the trial of the impeachment of Robert W. Archbald, circuit judge of the United States, whether as to form or otherwise, the managers on the part of the House or the counsel representing the respondent may submit a request or application orally to the Presiding Officer, or, if required by him or requested by any Senator, shall submit the same in writing.

In all matters relating immediately to the trial, such as the admission, rejection, or striking out of evidence, or other questions usually arising in the trial of causes in courts of justice, if the managers or counsel for the respondent desire to make any application, request, or objection, the same shall be addressed directly to the Presiding Officer, and not otherwise.

It shall not be in order for any Senator to engage in colloquy or to address questions either to the managers on the part of the House or the counsel for the respondent, nor shall it be in order for Senators to address each other, but they shall address their remarks directly to the Presiding Officer.

The PRESIDING OFFICER. Without objection, the order is agreed to unanimously.

Mr. BACON. Mr. President, I wish to make a suggestion, if permitted to do so.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. BACON. It is true that this is a court of impeachment, but it remains the Senate, and all the precedents show that in the proceedings of an impeachment trial the Senate is always spoken of as the Senate, not as the court.

Mr. Manager CLAYTON. Mr. President, if the Senate does not desire the further attendance of the managers at this time, we respectfully beg leave to withdraw.

Mr. CLARK of Wyoming. I offer the following order.

The PRESIDING OFFICER. The order will be read.

The order was read, as follows:

Ordered, That the proceedings of the Senate sitting in the trial of impeachment of Robert W. Archbald be printed daily for the use of the Senate as a separate document.

The PRESIDING OFFICER. Without objection, the order will be agreed to unanimously.

Mr. CLARK of Wyoming. I move, Mr. President, that the Senate, sitting for the trial of the impeachment, adjourn until *Monday, the* 29th day of July, at half past 12 o'clock postmeridian.

The motion was agreed to; and (at 1 o'clock and 19 minutes p. m.) the Senate, sitting for the trial of the impeachment, adjourned until Monday, July 29, 1912, at 12.30 o'clock p. m.

The managers on the part of the House and the respondent and his counsel withdrew from the Chamber.

THE PANAMA CANAL.

Mr. WARREN. I ask the Senate to continue the consideration of the sundry civil appropriation bill.

Mr. BRANDEGEE. Mr. President, I rise to a parliamentary inquiry. It is whether the unfinished business, having been superseded by the impeachment proceeding, the unfinished business should not be laid before the Senate now and then temporarily laid aside.

The PRESIDENT pro tempore (Mr. GALLINGER). The Chair observed the fact that the hour of 1 o'clock had arrived, but did not feel at liberty to interrupt the impeachment proceedings. He will now lay the unfinished business before the Senate. It will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. Before asking unanimous consent to lay the unfinished business aside temporarily, I desire to ask unanimous consent to have printed in the RECORD——

Mr. KENYON. Mr. President, I rise to a point of order. We are utterly unable to hear what is said.

The PRESIDENT pro tempore. The point of order is sustained. The Senate will be in order. Senators will take their seats and refrain from audible conversation. The Senator from Connecticut will proceed.

Mr. BRANDEGEE. I desire to ask unanimous consent to have printed in the RECORD a document entitled "History of Amendments Proposed to the Clayton-Bulwer Treaty," prepared in the office of the Secretary of State and sent to the Committee on Foreign Relations. I think it will be of much value in connection with the discussion of the bill.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and that order will be made.

The matter referred to is as follows:

[Senate Document No. 746, Sixty-first Congress, third session.]

A BRIEF HISTORY OF THE AMENDMENTS PROPOSED AND CONSIDERED SINCE THE ACTION OF THE SENATE ON THE FORMER CANAL TREATY WITH GREAT BRITAIN, AND WHICH HAVE RESULTED IN THE TREATY NOW SUBMITTED.

[Prepared in the Department of State and sent by Mr. Hay to the Senate Committee on Foreign Relations.]

The Senate's amendments to the former treaty required (first) that there should be in plain and explicit terms an express abrogation of the Clayton-Bulwer treaty; (second) that the rules of neutrality adopted should not deprive the United States of the right to defend itself and to maintain public order; and (third) that other powers should not in any manner be made parties to the treaty by being invited to ahere to it.

For a better understanding of the scheme of the new treaty, it may be well briefly to advert to the objections suggested by Great Britain to these several amendments.

AS TO THE ABROGATION OF THE CLAYTON-BULWER TREATY.

Lord Lansdowne's objections were as to the manner of doing this and as to the substance. It was insisted that in the negotiations which led to the making of the former treaty no attempt had been made to ascertain the views of the British Government on such complete abrogation, and that the Clayton-Bulwer treaty being, as it claimed, an international compact of unquestionable validity, could not be abrogated without the consent of both parties to the contract.

There was in this connection an apparent misconception on the part of His Majesty's Government in respect to the proper function of the Senate in advising the ratification of a treaty with amendments proposed by it. It seemed to be regarded as an attempt on the part of the Senate to accomplish by its own vote, as a final act, the abrogation of an existing treaty, without an opportunity for full consideration of the matter by the other party. It was overlooked that the Senate was simply exercising its undoubted constitutional function of proposing amendments to be communicated to the other party to the contract, to ascertain its views upon the question, and it was hoped by the President—and the hope was expressed in submitting the treaty as amended by the Senate to the British Government—that the amendments would be found acceptable by it. Failing this, there was a full opportunity for His Majesty's Government, by counter propositions, to express its views on this and the other amendments, and so by a continuous negotiation to arrive, if possible, at a mutually satisfactory solution of all questions involved. Nevertheless, in view of the great importance of the Senate's amendments, taken together, it was deemed more expedient by Lord Lansdowne to reject them, but to leave the door open for fresh negotiations, which might have a more happy issue; and he earnestly deprecated a final failure of the parties to agree, and emphatically expressed the desire of his Government to meet the views of the United States on this most important matter.

The principal substantial objection to the Senate's amendment, completely superseding the Clayton-Bulwer treaty, was that if this were done the provisions of article 1 of that treaty, which had been left untouched by the original Hay-Pauncefote treaty, would be annulled, and thereby both powers would, except in the vicinity of the canal, acquire entire freedom of action in Central America, a change which Lord Lansdowne thought would certainly be of advantage to the United States, and might be of substantial importance.

AS TO THE RIGHT OF THE UNITED STATES, NOTWITHSTANDING THE NEUTRAL RULES ADOPTED BY THE TREATY, TO DEFEND ITSELF BY ITS OWN FORCES, AND TO SECURE THE MAINTENANCE OF PUBLIC ORDER, COVERED BY WHAT WAS GENERALLY KNOWN AS THE DAVIS AMENDMENT.

His Majesty's Government criticized the vagueness of the language employed in the amendment and the absence of all security as to the manner in which its ends might at some future time be interpreted, but thought that, however precisely it might be worded, it would be impossible to determine what might be the effect if one clause permitting defensive measures and another clause (which has now been omitted) prohibiting fortification of the canal were allowed to stand side by side in the same convention.

This amendment was strenuously objected to by Great Britain as involving a distinct departure from the principle of neutrality which had theretofore found acceptance by both Governments, inasmuch as it would, as construed by Lord Lansdowne, permit the United States in time of peace as well as in time of war to resort to whatever warlike acts it pleased in and near the canal, which would be clearly inconsistent with its intended neutral character and would deprive the commerce and navies of the world of the free use of it.

It was insisted that by means of the amendment the obligation of Great Britain to respect the neutrality of the canal under all circumstances would remain in force, while that of the United States, on the other hand, would be essentially modified, and that this would result in a one-sided agreement by which Great Britain would be debarred from any warlike act in or near the canal, while the United States could resort to any such acts, even in time of peace, which it might deem necessary to secure its own safety.

Moreover, it was insisted that by this amendment, in connection with the third amendment, which excluded other powers from becoming parties to the contract, Great Britain would be placed at a great disadvantage as compared with all other powers, inasmuch as she alone, with all her vast interests in the commerce of the world, would be bound under all circumstances to respect the neutrality of the canal, while the United States, even in time of peace, would have a treaty right to interfere with the canal on the plea of necessity for its own safety, and all other powers not being bound by the treaty could at their pleasure disregard its provisions.

AS TO THE AMENDMENT STRIKING OUT THE ARTICLE IN THE TREATY AS SUBMITTED TO THE SENATE, WHICH PROVIDED FOR AN INVITATION TO THE OTHER POWERS TO COME IN AND ADHERE TO IT.

This was emphatically objected to because if acquiesced in by Great Britain she would be bound by what Lord Lansdowne described as the "stringent rules of neutral conduct" prescribed by the treaty, which would not be equally binding upon the other powers, and it was urged that the adhesion of other powers to the treaty as parties would furnish an additional security for the neutrality of the canal.

In the hope of reconciling the conflicting views thus presented between the former treaty as amended by the Senate and the objections thereto of the British Government, the treaty now submitted for the consideration of the Senate was drafted.

The substantial differences from the former treaty are as follows:

First. In the new draft of treaty *the provisions superseding the Clayton-Bulwer treaty as a whole,* instead of being parenthetically inserted, as by the former Senate amendment, was made the subject of an independent article and presented as the first article of the treaty. It was thus submitted to the consideration of the British Government in connection with the other substantial provisions of the treaty which declared the neutrality of the canal for the use of all nations on terms of entire equality.

Second. *By a change in the first line of article 3, instead of the United States and Great Britain jointly adopting as the basis of the neutralization of the canal the rules of neutrality prescribed for its use as was provided by the former treaty, the United States now alone adopts them.*

This was regarded as a very radical and important change and one which would go far toward a reconciliation of the conflicting views of the two Governments.

It relieves Great Britain of all responsibility and obligation to enforce the neutrality of the canal, which by the former treaty had been imposed upon or assumed by her jointly with the United States, and thus meets the main stress of the objection which seemed to underlie or be interwoven with her other objections to the former

Senate amendments. The United States alone as the sole owner of the canal, as a purely American enterprise, adopts and prescribes the rules by which the use of the canal shall be regulated, and assumes the entire responsibility and burden of enforcing, without the assistance of Great Britain or of any other nation, its absolute neutrality.

It was also believed that this change would be in harmony with the national wish that this great interoceanic waterway should not only be constructed and owned, but exclusively controlled and managed, by the United States.

Third. The next important change from the former treaty consists in *the omission of the words "in time of war as in time of peace" from clause 1 of article 3.*

No longer insisting upon the language of the Davis amendment—which had in terms reserved to the United States express permission to disregard the rules of neutrality prescribed, when necessary to secure its own defense, which the Senate had apparently deemed necessary because of the provision in Rule I that the canal should be free and open "in time of war as in time of peace" to the vessels of all nations—it was considered that the omission of the words "in time of war as in time of peace" would dispense with the necessity of the amendment referred to, and that war between the contracting parties, or between the United States and any other power, would have the ordinary effect of war upon treaties when not specially otherwise provided, and would remit both parties to their original and natural right of self-defense and give to the United States the clear right to close the canal against the other belligerent, and to protect it and defend itself by whatever means might be necessary.

Fourth. *In conformity with the Senate's emphatic rejection of article 3 of the former treaty, which provided that the high contracting parties would, immediately upon the exchange of ratifications, bring it to the notice of other powers and invite them to adhere to it, no such provision was inserted in the draft of the new treaty.*

It was believed that the declaration that the canal should be free and open to all nations on terms of entire equality (now that Great Britain was relieved of all responsibility and obligation to enforce and defend its neutrality) would practically meet the force of the objection which had been made by Lord Landsdowne to the Senate's excision of the article inviting the other powers to come in, viz, that Great Britain was placed thereby in a worse position than other nations in case of war with the United States.

Fifth. *The next change from the former treaty is the omission of the provision in clause 7 of article 3, which prohibited the fortification of the canal, and the transfer to clause 2 of the remaining provision of clause 7, that the United States shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.*

The whole theory of the treaty is that the canal is to be an entirely American canal. The enormous cost of constructing it is to be borne by the United States alone. When constructed, it is to be exclusively the property of the United States and is to be managed, controlled, and defended by it. Under these circumstances, and considering that now by the new treaty Great Britain is relieved of all the responsibility and burden of maintaining its neutrality and security, it was thought entirely fair to omit the prohibition that *"no fortification shall be erected commanding the canal or the waters adjacent."*

Sixth. It will be observed that, although the words "in time of war as in time of peace" had been omitted from clause 1 of article 3 upon the theory that the omission of these words would dispense with the necessity of the Davis amendment, and that war between the United States and any other power would have the ordinary effect of war upon treaties and remit both parties to their natural right of self-defense, the same words are retained in the sixth clause of article 3, which provides that the plant, establishment, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed part of it for the purposes of this treaty, and "in time of war as in time of peace" shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness.

It was considered that such specific provision was in the general interest of commerce and of civilization, and that all nations would regard such a work as sacred under all circumstances.

It was hoped that the changes above enumerated from the former treaty would practically reconcile the conflicting contentions of the two Governments and would lead to the much-desired result of an entire concurrence of views between them.

With the exception of these changes care was taken in the draft of the new treaty to preserve the exact language, which had passed both the Senate and the British Government without objection, and, as is believed, without criticism.

The hope that the changes thus made had effectually met the British objections to the former treaty as amended by the Senate was almost realized.

The proposed draft of the new treaty was transmitted to Lord Lansdowne, and after mature deliberation he proposed on the part of His Majesty's Government only three substantial amendments.

He recognized the weighty importance of the change by which Great Britain was relieved of all responsibility for enforcing the neutrality and maintaining the security of the canal, and that all this burden was solely assumed by the United States. He also appreciated the importance of the other proposed changes in the direction of harmony.

Under this modified aspect of the relations of the two nations to the canal, he was not indisposed to consent to the abrogation of the Clayton-Bulwer treaty if the "general principle" of neutrality, which was reaffirmed in the preamble of the new treaty as well as of the former one, should be preserved and secured against any change of sovereignty or other change of circumstances in the territory through which the canal is intended to pass, and that the rules adopted as the basis of neutralization should govern, as far as possible, all interoceanic communication across the Isthmus. He referred in this connection to articles 1 and 8 of the Clayton-Bulwer treaty.

He therefore proposed, by way of amendment, the insertion of an additional article, on the acceptance of which His Majesty's Government would be inclined to withdraw its objection to the formal abrogation of the Clayton-Bulwer treaty.

The amendment thus proposed by him was in the following language, viz:

"In view of the permanent character of this treaty, whereby the general principle established by article 8 of the Clayton-Bulwer treaty is reaffirmed, the high contracting parties hereby declare that the rules laid down in the last preceding article shall, so far as they may be applicable, govern all interoceanic communication across the Isthmus which connects North and South America, and that no change of territorial sovereignty or other change of circumstances shall affect such general principle or the obligations of the high contracting parties under this treaty."

This proposed article was regarded by the President as too far-reaching for the purpose in view, and as converting the vague and indefinite provisions of the eighth article of the Clayton-Bulwer treaty, which contemplated only future treaty stipulations when any new route should prove to be practicable, into a very definite and certain present treaty, fastening the crystallized rules of neutrality adopted now for this canal upon every other interoceanic communication across the Isthmus, and as perpetuating in a more definite and extended form, by a sort of reenactment of the eighth article, the embarrassing effects of the Clayton-Bulwer treaty, of which the United States hoped to be relieved altogether.

He believed that now that a canal is about to be built at the sole cost of the United States for the equal benefit of all nations, it was sufficient for the present treaty to provide for that one canal, and that it was hardly within the range of possibility that the United States would ever build more than one canal between the two oceans.

The President was, however, not only willing, but desirous, that the "general principle" of neutralization referred to in the preamble of this treaty should be applicable to this canal now intended to be built, notwithstanding any change of sovereignty or of international relations of the territory through which it should pass. This "general principle" of neutralization had always in fact been insisted upon by the United States, and he recognized the entire justice of the request of Great Britain that if she should now surrender the material interest which had been secured to her by the first article of the Clayton-Bulwer treaty, which might result in the indefinite future should the territory traversed by the canal undergo a change of sovereignty, this "general principle" should not be thereby affected or impaired.

These views were communicated to His Majesty's Government, and as a substitute for the article proposed by Lord Lansdowne the following was proposed on the part of the United States:

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligations of the high contracting parties under the present treaty."

Upon a full exchange of views, this article proposed by the United States was accepted by Great Britain and becomes article 4 of the treaty now submitted. It is thought to do entire justice to the reasonable demands of Great Britain in preserving the general principle of neutralization and at the same time to relieve the United States of the vague, indefinite, and embarrassing obligations imposed by the eighth article of the Clayton-Bulwer treaty.

During the discussions upon this article it was suggested that although no particular route was mentioned in the proposed treaty as the route to be traversed by the canal, yet as the canal had been so commonly mentioned as the "Nicaragua Canal," and the intended treaty as the "Nicaragua Canal treaty," it might possibly be claimed that the treaty did not apply to a canal by the Panama route, or by any other possible route. But it had always been intended by the President that the treaty should apply to the canal which should be first constructed, by whichever or whatever route, and to remove the apprehention referred to and to exclude all possible doubt in the matter, it was agreed that the preamble should be amended *by inserting in the preamble after the word "oceans" the words "by whatever route may be considered expedient."*

His Majesty's Government at first strenuously objected to the absence from the treaty of any provision for other powers coming in, so as to be bound by its terms. It protested against being bound by what it regarded as stringent rules of neutrality which should not be equally binding upon other powers.

Lord Lansdowne accordingly proposed the following amendment, viz:

"To insert in rule 1 of article 3, after the word 'nation,' the words 'which shall agree to observe these rules,' and in the following line, after the word 'nation,' the words 'so agreeing,' so as to make the clause read:

"'1. The canal shall be free and open to the vessels of commerce and of war of all nations *which shall agree to observe these rules,* on terms of entire equality, so that there shall be no discrimination against any nation *so agreeing,'"* etc.

The President, however, could not consent to this amendment, because he apprehended that it might be construed as making the other powers parties to the contract and as giving them contract rights in the canal, and that it would thus practically restore to the treaty the substance of the provision which the Senate had struck out as article 3 of the former treaty. He believed also that there was a strong national feeling against giving to the other powers anything in the nature of a contract right in an affair so peculiarly American as the canal; that no other powers had now any right in the premises or anything to give up or part with as consideration for acquiring such a contract right; that they are to rely on the good faith of the United States in its declaration to Great Britain in this treaty; and that it adopts the rules and principles of neutralization there set forth. These rules are adopted in the treaty with Great Britain as a consideration for getting rid of the Clayton-Bulwer treaty, and the only way in which other nations are bound by them is that they must comply with them if they would use the canal.

It was also apparent that the proposed amendment if accepted would make rule 1 more objectionable than the third article of the former treaty, which was stricken out by the Senate's amendment, for that only invited other powers to come in and become parties to the contract *after ratification,* whereas the proposed provision would rather compel other powers to come in and become parties to the contract *in the first instance* as a condition precedent to the use of the canal by them.

Upon due consideration of these suggestions, and at the same time to put all the powers upon the same footing, viz, that they could use the canal only by complying with the rules of neutrality adopted and prescribed, an amendment to Lord Lansdowne's amendment was proposed and agreed upon, viz:

"To strike out from his amendment the words 'which shall agree to observe' and substitute therefor the word 'observing,' and in the next line to strike out the words 'so agreeing' and to insert, before the word 'nation,' the word 'such.'"

This made the clause as finally agreed upon and found in the treaty as now submitted for the consideration of the Senate:

"The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation," etc.

Thus the whole idea of contract right in the other powers is eliminated, and the vessels of any nation which shall refuse or fail to observe the rules adopted and prescribed may be deprived of the use of the canal.

One other amendment proposed by Lord Lansdowne was regarded by the President as so entirely reasonable that it was agreed to without discussion. This was the insertion at the end of clause 1 of article 3 the words: *"Such conditions and charges of traffic shall be just and equitable,"* and the word "convention," wherever it occurs, has been changed to "treaty."

It is believed that this memorandum will put the Senate Committee on Foreign Relations in full possession of the history of all changes in the treaty since the action of the Senate on the former amendment.

No. 1.

Lord Pauncefote to the Marquis of Lansdowne.

WASHINGTON, *December 24, 1900.*
(Received Jan. 7, 1901.)

MY LORD: I have the honor to transmit to your lordship a copy of a note which I have received from the United States Secretary of State, formally announcing to me, for the information of Her Majesty's Government, the ratification of the Nicaragua Canal treaty by the Senate on the 20th instant, with three amendments.

Mr. Hay, after giving the text of those amendments, states that he has instructed the United States ambassador in London to express to your lordship the hope of his Government that the amendments will be found acceptable to that of Her Majesty.

I have, etc.,
PAUNCEFOTE.

[Inclosure 1 in No. 1.]

Mr. Hay to Lord Pauncefote.

DEPARTMENT OF STATE,
Washington, December 22, 1900.

EXCELLENCY: I have the honor to inform you that the Senate, by its resolution of the 20th December last, has given its advice and consent to the ratification of the convention, signed at Washington on the 5th of February last by the respective plenipotentiaries of the United States and Great Britain, to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans and to remove any objection which might arise out of the convention commonly called the Clayton-Bulwer treaty, with the following amendments:

1. After the words "Clayton-Bulwer convention" and before the word "adopt" in the preamble of article 2, the words "which convention is hereby superseded" are inserted.

2. A new paragraph is added to the end of section 5 of article 2 in the following language:

"It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order."

3. Article 3, reading "The high contracting parties will, immediately upon the exchange of the ratifications of this convention, bring it to the notice of the other powers, and invite them to adhere to it," is stricken out.

4. Article 4 is made article 3.

I inclose a printed copy of the convention as signed (see United States No. 1, 1900), and a copy of it showing its reading as amended by the Senate.

I have instructed Mr. Choate to express to the Marquis of Lansdowne this Government's hope that the amendments will be found acceptable to that of Her Majesty.

The supplementary convention which I signed with you on the 5th May last, prolonging the time within which the ratifications of the convention of the 5th February last shall be exchanged, for a period of seven months from the 5th August last, has been consented to by the Senate without amendment.

I have, etc.,
JOHN HAY.

[Inclosure in No. 1.]

Convention of February 5, 1900, as amended by the Senate.

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 5 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And Her Majesty the Queen of Great Britain and Ireland, Empress of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., Her Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present convention, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ART. 2. The high contracting parties, desiring to preserve and maintain the "general principle" of neutralization established in article 8 of the Clayton-Bulwer convention, which convention is hereby superseded, adopt, as the basis of such neutralization, the following rules, substantially as embodied in the convention between Great Britain and certain other powers, signed at Constantinople, the 29th October, 1888, for the free navigation of the Suez Maritime Canal; that is to say:

1. The canal shall be free and open, in time of war as in time of peace, to the vessels of commerce and of war of all nations, on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof for the purposes of this convention and in time of war as in time of peace shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

7. No fortifications shall be erected commanding the canal or the waters adjacent. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

ART. 3. The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty, and the ratifications shall be exchanged at Washington or at London within six months from the date hereof, or earlier, if possible.

In faith whereof the respective plenipotentiaries have signed this convention and thereunto affixed their seals.

Done in duplicate at Washington, the 5th day of February, in the year of our Lord 1900.

JOHN HAY.
PAUNCEFOTE.

No. 2.

The Marquis of Lansdowne to Lord Pauncefote.

FOREIGN OFFICE, *February 22, 1901.*

MY LORD: The American ambassador has formerly communicated to me the amendments introduced by the Senate of the United States into the convention, signed at Washington in February last, to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans.

These amendments are three in number, namely:

1. The insertion in article 2, after the reference to article 8, of the Clayton-Bulwer convention, of the words "which convention is hereby superseded."

2. The addition of a new paragraph after section 5 of article 2 in the following terms:

"It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order."

3. The excision of article 3, which provides that—

"The high contracting parties will, immediately upon the exchange of the ratifications of this convention, bring it to the notice of other powers and invite them to adhere to it."

Mr. Choate was instructed to express the hope that the amendments would be found acceptable by Her Majesty's Government.

It is our duty to consider them as they stand, and to inform your excellency of the manner in which, as the subject is now presented to us, we are disposed to regard them.

It will be useful, in the first place, to recall the circumstances in which negotiations for the conclusion of an agreement supplementary to the convention of 1850, commonly called the Clayton-Bulwer treaty, were initiated.

So far as Her Majesty's Government were concerned, there was no desire to procure a modification of that convention. Some of its provisions had, however, for a long time past been regarded with disfavor by the Government of the United States, and in the President's message to Congress of December, 1898, it was suggested, with reference to a concession granted by the Government of Nicaragua, that some definite action by Congress was urgently required if the labors of the past were to be utilized, and the linking of the Atlantic and Pacific Oceans by a practical waterway to be realized. It was further urged that the construction of such a maritime highway was more than ever indispensable to that intimate and ready intercommunication between the eastern and western seaboards of the United States demanded by the annexation of the Hawaiian Islands and the prospective expansion of American influence and commerce in the Pacific, and that the national policy called more imperatively than ever for the "control" of the projected highway by the Government of the United States.

This passage in the message having excited comment, your excellency made inquiries of the Secretary of State in order to elicit some information as to the attitude of the President. In reply, the views of the United States Government were very frankly and openly explained. You were also most emphatically assured that the President had no intention whatever of ignoring the Clayton-Bulwer convention, and that he would loyally observe treaty stipulations. But in view of the strong national feeling in favor of the construction of the Nicaragua Canal, and of the improbability of the work being accomplished by private enterprise, the United States Government were prepared to undertake it themselves upon obtaining the necessary powers from Congress. For that purpose, however, they must endeavor, by friendly negotiation, to obtain the consent of Great Britain to such a modification of the Clayton-Bulwer treaty as would, without affecting the "general principle" therein declared, enable the great object in view to be accomplished for the benefit of the commerce of the world. Although the time had hardly arrived for the institution of formal negotiations to that end, Congress not having yet legislated, the United States Government, nevertheless, were most anxious that your excellency should enter at once into *pourparlers* with a view to preparing, for consideration, a scheme of arrangement.

Her Majesty's Government agreed to this proposal, and the discussions which took place in consequence resulted in the draft convention which Mr. Hay handed to your excellency on the 11th January, 1899.

At that time the joint high commission over which the late Lord Herschell presided was still sitting. That commission was appointed in July, 1898, to discuss various questions at issue between Great Britain and the United States, namely, the fur-seal fishery, the fisheries off the Atlantic and Pacific coasts, the Alaskan boundary, alien-labor laws, reciprocity, transit of merchandise, mining rights, naval vessels on the Great Lakes, definition and marking of frontiers, and conveyance of persons in custody. But serious difficulties had arisen in the attempt to arrive at an understanding, and it had become doubtful whether any settlement would be effected.

In reply, therefore, to a request for a speedy answer with regard to the convention, the Marquis of Salisbury informed Mr. White, the American chargé d'affaires, that he could not help contrasting the precarious prospects and slowness of the negotiations which were being conducted by Lord Herschell with the rapidity of decision proposed in the matter of the convention. Her Majesty's Government might be reproached with having come to a precipitate agreement on a proposal which was exclusively favorable to the United States, while they had come to no agreement at all on the controversy where there was something to be conceded on both sides.

Shortly afterwards Lord Herschell intimated that the difficulties in regard to the question of the Alaskan boundary seemed insuperable, and that he feared it might be necessary to break off the negotiations of which he had hitherto had the charge. Upon this Lord Salisbury informed Mr. White that he did not see how Her Majesty's Government could sanction any convention for amending the Clayton-Bulwer treaty, as the opinion of this country would hardly support them in making a concession which would be wholly to the benefit of the United States, at a time when they appeared to be so little inclined to come to a satisfactory settlement in regard to the Alaskan frontier.

The last meeting of the joint high commission took place on the 20th February, 1899. Except for the establishment of a *modus vivendi* on the Alaskan frontier, no progress has been made since that date toward the adjustment of any of the questions which the high commissioners were appointed to discuss.

It was in these circumstances that the proposal for a canal convention was revived at the beginning of last year.

On the 21st January your lordship reported that a bill, originally introduced in 1899, had been laid before Congress, empowering the President to acquire from the Republics of Costa Rica and Nicaragua the control of such portion of territory as might be desirable or necessary, and to direct the Secretary of War, when such control had been secured, to construct the canal and make such provisions for defense as might be required for the safety and protection of the canal and the terminal harbors.

It was probable that the bill would be passed, and it was clear that additional embarrassment would be caused by an enactment opposed to the terms of the proposed convention, and in direct violation of the Clayton-Bulwer treaty. On the other hand, your lordship's information led to the confident expectation that the convention as signed would, if agreed to by Her Majesty's Government, be ratified by the Senate.

In these circumstances Her Majesty's Government consented to reopen the question, and after due consideration determined to accept the convention unconditionally, as a signal proof of their friendly disposition and of their desire not to impede the execution of a project declared to be of national importance to the people of the United States.

Your Excellency stated that the United States Government expressed satisfaction at this happy result and appreciation of the conciliatory disposition shown by Her Majesty's Government.

The convention was forthwith submitted to the Senate for ratification, and on the 9th March the committee charged with its examination reported in favor of ratification, with the insertion, subsequently adopted, after section 5 of article 2, of a paragraph containing provision that the rules laid down in the preceding sections should not apply to measures for the defense of the United States by its own forces and the maintenance of public order. This alteration was discussed by the Senate in secret session on the 5th April, but no vote was taken upon it nor upon the direct question of ratification.

The bill empowering the President to construct and provide for the defense of the canal passed the House of Representatives by a large majority on the 2d of May. The Senate, however, postponed consideration of the bill, although favorably reported by the Committee on Interoceanic Canals.

After the recess, during which the presidential election took place, the discussion was resumed in the Senate. On the 20th of December the vote was taken, and resulted in the ratification of the convention with the three amendments which have been presented for the acceptance of His Majesty's Government.

The first of these amendments, that in article 2, declares the Clayton-Bulwer treaty to be "hereby superseded."

Before attempting to consider the manner in which this amendment will, if adopted, affect the parties to the Clayton-Bulwer treaty, I desire to call your excellency's attention to a question of principle which is involved by the action of the Senate at this point.

The Clayton-Bulwer treaty is an international contract of unquestionable validity, a contract which, according to well-established international usage, ought not to be abrogated or modified, save with the consent of both the parties to the contract. In spite of this usage, His Majesty's Government find themselves confronted by a proposal communicated to them by the United States Government, without any previous attempt to ascertain their views, for the abrogation of the Clayton-Bulwer treaty.

The practical effect of the amendment can best be understood by reference to the inclosed copy of the articles of the treaty, Nos. 1 and 6, which, assuming that the United States Government would undertake all the obligations imposed by article 4 of the treaty, contain the only provisions (printed in italics) not replaced by new provisions, covering the same ground, in the convention.

Under article 1 of the Clayton-Bulwer treaty the two powers agreed that neither would occupy or fortify or colonize, or assume or exercise any dominion over any part of Central America, nor attain any of the foregoing objects by protection afforded to or alliance with any State or people of Central America. There is no similar agreement in the convention. If, therefore, the treaty were wholly abrogated, both powers would, except in the vicinity of the canal, recover entire freedom of action in Central America. The change would certainly be of advantage to the United States, and might be of substantial importance.

Under the other surviving portion of the treaty (part of article 6) provision is made for treaties with the Central American States in furtherance of the object of the two powers and for the exercise of good offices should differences arise as to the territory through which the canal will pass. In this case abrogation would, perhaps, signify but little to this country. There is nothing in the convention to prevent Great Britain from entering into communication, or exercising good offices, with the Central American States, should difficulties hereafter arise between them and the United States.

The other two amendments present more formidable difficulties.

The first of them, which reserves to the United States the right of taking any measures which it may find necessary to secure by its own forces the defense of the United States, appears to His Majesty's Government to involve a distinct departure from the principle which has until now found acceptance with both Governments—the principle, namely, that in time of war as well as in time of peace the passage of the canal is to remain free and unimpeded, and is to be so maintained by the power or powers responsible for its control.

Were this amendment added to the convention the United States would, it is presumed, be within their rights, if at any moment when it seemed to them that their safety required it, in view of warlike preparations not yet commenced, but contemplated or supposed to be contemplated by another power, they resorted to warlike acts in or near the canal—acts clearly inconsistent with the neutral character which it has always been sought to give it, and which would deny the free use of it to the commerce and navies of the world.

It appears from the report of the Senate committee that the proposed addition to article 2 was adopted from article 10 of the Suez Canal convention, which runs as follows:

"Similarly, the provisions of articles 4, 5, 7, and 8[1] shall not interfere with the measures which His Majesty the Sultan and His Highness the Khedive, in the name of His Imperial Majesty, and within the limits of the firmans granted, might find it necessary to take for securing by their own forces the defense of Egypt and the maintenance of public order.

"In case His Imperial Majesty the Sultan, or His Highness the Khedive, should find it necessary to avail themselves of the exceptions for which this article provides, the signatory powers of the declaration of London shall be notified thereof by the Imperial Ottoman Government.

"It is likewise understood that the provisions of the four articles aforesaid shall in no case occasion any obstacle to the measures which the Imperial Ottoman Government may think it necessary to take in order to insure by its own forces the defense of its other possessions situated on the eastern coast of the Red Sea."

It is, I understand, contended in support of the Senate amendment that the existence of the above provisions in the Suez Canal convention justifies the demand now made for the insertion of analogous provisions in regard to the proposed Nicaragua Canal.

But the analogy which it has been attempted to set up fails in one essential particular. The banks of the Suez Canal are within the dominions of a territorial sovereign, who was a party to the convention, and whose established interests it was necessary to protect, whereas the Nicaragua Canal will be constructed in territory belonging not to the United States, but to Central American States, of whose sovereign rights other powers can not claim to dispose.

Moreover, it seems to have escaped attention that article 10 of the Suez Canal convention receives most important modification from article 11, which lays down that "the measures which shall be taken in the cases provided for by articles 9 and 10 of the present treaty shall not interfere with the free use of the canal." The article proceeds to say that "in the same cases the erection of permanent fortifications contrary to the provisions of article 8 is prohibited."

The last paragraph of article 8, which is specially alluded to, runs as follows:

"They (i.e., the agents of the signatory powers in Egypt) shall especially demand the suppression of any work or the dispersion of any assemblage on either bank of the canal the object or effect of which might be to interfere with the liberty and the entire security of the navigation."

The situation which would be created by the addition of the new clause is deserving of serious attention. If it were to be added, the obligation to respect the neutrality of the canal in all circumstances would, so far as Great Britain is concerned, remain in force; the obligation of the United States, on the other hand, would be essentially modified. The result would be a one-sided arrangement under which Great Britain would be debarred from any warlike action in or around the canal, while the United States would be able to resort to such action to whatever extent they might deem necessary to secure their own safety.

It may be contended that if the new clause were adopted, section 7 of article 2, which prohibits the erection of fortifications, would sufficiently insure the free use of the canal. This contention is, however, one which His Majesty's Government are quite unable to admit. I will not insist upon the dangerous vagueness of the language employed in the amendment, or upon the absence of all security as to the manner in which the words might, at some future time, be interpreted. For, even if it were more precisely worded, it would be impossible to determine what might be the effect if one clause permitting defensive measures, and another forbidding fortifications, were allowed to stand side by side in the convention. To His Majesty's Government it seems, as I have already said, that the amendment might be construed as leaving it open to the United States at any moment, not only if war existed, but even if it were anticipated, to take any measures, however stringent or far-reaching, which, in their own judgment, might be represented as suitable for the purpose of protecting their national interests. Such an enactment would strike at the very root of that "general principle" of neutralization upon which the Clayton-Bulwer treaty was based, and which was reaffirmed in the convention as drafted.

But the import of the amendment stands out in stronger relief when the third proposal is considered. This strikes out article 3 of the convention, under which the high contracting parties engaged, immediately upon the convention being ratified, to bring it to the notice of other powers and to invite their adherence. If that adher-

[1]Article 4 guarantees that the Maritime Canal shall remain open in time of war as a free passage even to the ships of war of belligerents, and regulates the revictualing, transit, and detention of such vessels in the canal.

Article 5 regulates the embarkation and disembarkation of troops, munitions, or materials of war by belligerent powers in time of war.

Article 7 prohibits the powers from keeping any vessel of war in the waters of the canal.

Article 8 imposes on the agents of the signatory powers in Egypt the duty of watching over the execution of the treaty and taking measures to secure the free passage of the canal.

ence were given, the neutrality of the canal would be secured by the whole of the adhering powers. Without that adherence it would depend only upon the guarantee of the two contracting powers. The amendment, however, not only removes all prospect of the wider guarantee, but places this country in a position of marked disadvantage, compared with other powers which would not be subject to the self-denying ordinance which Great Britain is desired to accept. It would follow, were His Majesty's Government to agree to such an arrangement, that while the United States would have a treaty right to interfere with the canal in time of war, or apprehended war, and while other powers could with a clear conscience disregard any of the restrictions imposed by the convention, Great Britain alone, in spite of her enormous possessions on the American continent, in spite of the extent of her Australasian colonies and her interests in the East, would be absolutely precluded from resorting to any such action, or from taking measures to secure her interests in and near the canal.

I request that your excellency will explain to the Secretary of State the reasons, as set forth in this dispatch, why His Majesty's Government feel unable to accept the convention in the shape presented to them by the American ambassador, and why they prefer, as matters stand at present, to retain unmodified the provisions of the Clayton-Bulwer treaty. His Majesty's Government have, throughout these negotiations, given evidence of their earnest desire to meet the views of the United States. They would on this occasion have been ready to consider in a friendly spirit any amendments of the convention, not inconsistent with the principles accepted by both Governments, which the Government of the United States might have desired to propose, and they would sincerely regret a failure to come to an amicable understanding in regard to this important subject.

Your lordship is authorized to read this dispatch to the Secretary of State and to leave a copy in his hands.

I am, etc.,

LANSDOWNE.

[Inclosure in No. 2.]

Articles 1 and 6 of convention between Her Majesty and the United States of America relative to the establishment of a communication by ship canal between the Atlantic and Pacific Oceans, signed at Washington, April 19, 1850:

ARTICLE 1. The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; *agreeing that neither will ever* erect or maintain any fortifications commanding the same, or in the vicinity thereof, or *occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising dominion over the same.* Nor will Great Britain or the United States take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered, on the same terms, to the subjects or citizens of the other.

ART. 6. The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated; *and the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of the said canal, the Governments of Great Britain and the United States will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal and to strengthen the bonds of friendship and alliance which exist between the contracting parties.*

CORRESPONDENCE RESPECTING THE TREATY SIGNED AT WASHINGTON NOVEMBER 18, 1901, RELATIVE TO THE ESTABLISHMENT OF A COMMUNICATION BY SHIP CANAL BETWEEN THE ATLANTIC AND PACIFIC OCEANS.

[Printed in British Blue Book. "United States, 1902, No. 1."]

No. 1.

Lord Pauncefote to the Marquis of Lansdowne.

WASHINGTON, *April 25, 1901.*

MY LORD: Since the rejection by His Majesty's Government of the amendments introduced by the Senate in the interoceanic canal convention of the 5th of February, 1900, Mr. Hay has been engaged in framing a new draft, which, as I understand, he has drawn up after consultation with prominent Senators, and which he trusts will be acceptable to His Majesty's Government.

Mr. Hay has handed me a copy of the draft, which I have the honor to forward herewith for your lordship's consideration.

I have, etc.,

PAUNCEFOTE.

[Inclosure in No. 1.]

Draft of convention relative to the construction of an interoceanic canal.

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty the King of Great Britain and Ireland, Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1. The high contracting parties agree that the present convention shall supersede the aforementioned convention of the 19th April, 1850.

ART. 2. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present convention, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ART. 3. The United States adopts, as the basis of the neutralization of said ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal; that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations, on terms of entire equality, so that there shall be no discrimination against any nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purpose of this convention, and in time of war as in time of peace shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

ART. 4. The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London, at the earliest possible time within ——— months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this convention, and thereunto affixed their seals.

Done, in duplicate, at Washington the ——— day of ———, in the year of our Lord 1901.

No. 2.

The Marquis of Lansdowne to Mr. Lowther.

FOREIGN OFFICE, *August 3, 1901.*

SIR: The draft convention dealing with the question of the interoceanic canal, forwarded in Lord Pauncefote's dispatch of the 25th April, has been most carefully examined.

I inclose, for your information, the accompanying copy of a memorandum explaining the views of His Majesty's Government, which I have authorized Lord Pauncefote, should he think proper, to communicate to Mr. Hay.

His Majesty's Government have approached the consideration of this important question with a sincere desire to facilitate the progress of the great enterprise in which both Governments take such interest. They feel confident that the United States Government will give them credit for the friendly spirit in which Mr. Hay's proposals have been examined and that they will recognize that if it has been deemed necessary to suggest amendments at one or two points it has been because they are considered requisite for the purpose of bringing about the conclusion of a treaty which shall be accepted as equitable and satisfactory by the public of both countries.

I am, etc.,

LANSDOWNE.

[Inclosure 1 in No. 2.]

[Memorandum.]

In the dispatch which I addressed to Lord Pauncefote on the 22d February last, and which was communicated to Mr. Hay on the 11th March, I explained the reasons for which His Majesty's Government were unable to accept the amendments introduced by the Senate of the United States into the convention, signed at Washington in February, 1900, relative to the construction of an interoceanic canal.

The amendments were three in number, namely:

"1. The insertion in article 2, after the reference to article 8, of the Clayton-Bulwer convention, of the words 'which convention is hereby superseded.'

"2. The addition of a new paragraph after section 5 of article 2 in the following terms:

"'It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.'

"3. The excision of article 3, which provides that 'the high contracting parties will, immediately upon the exchange of the ratifications of this convention, bring it to the notice of the other powers and invite them to adhere to it.'"

2. The objections entertained by His Majesty's Government may be briefly stated as follows:

(1) The Clayton-Bulwer convention being an international compact of unquestionable validity could not be abrogated or modified save with the consent of both parties to the contract. No attempt had, however, been made to ascertain the views of Her Late Majesty's Government. The convention dealt with several matters for which no provision had been made in the convention of February, 1900, and if the former were wholly abrogated both powers would, except in the vicinity of the canal, recover entire freedom of action in Central America, a change which might be of substantial importance.

(2) The reservation to the United States of the right to take any measure which it might find necessary to secure by its own forces the defense of the United States appeared to His Majesty's Government to involve a distinct departure from the principle of neutralization which until then had found acceptance with both Governments, and which both were, under the convention of 1900, bound to uphold. Moreover, if the amendment were added, the obligation to respect the neutrality of the canal in all circumstances would, so far as Great Britain was concerned, remain in force; the obligation of the United States, on the other hand, would be essentially modified. The result would be a one-sided arrangement, under which Great Britain would be debarred from any warlike action in or around the canal, while the United States would be able to resort to such action even in time of peace to whatever extent they might deem necessary to secure their own safety.

(3) The omission of the article inviting the adherence of other powers placed this country in a position of marked disadvantage compared with other powers; while the United States would have a treaty right to interfere with the canal in time of war, or apprehended war, and while other powers could with a clear conscience disregard any of the restrictions imposed by the convention of 1900, Great Britain alone would be absolutely precluded from resorting to any such action or from taking measures to secure her interests in and near the canal.

For these reasons His Majesty's Government preferred, as matters stood, to retain unmodified the provisions of the Clayton-Bulwer convention. They had, however, throughout the negotiations given evidence of their earnest desire to meet the views of the United States, and would sincerely regret a failure to come to an amicable understanding in regard to this important subject.

3. Mr. Hay, rightly apprehending that His Majesty's Government did not intend to preclude all further attempt at negotiation, has endeavored to find means by which to reconcile such divergences of view as exist between the two Governments, and has communicated a further draft of a treaty for the consideration of His Majesty's Government.

Following the order of the Senate amendments, the convention now proposed—

(1) Provides by a separate article that the Clayton-Bulwer convention shall be superseded.

(2) The paragraph inserted by the Senate after section 5 of article 2 is omitted.

(3) The article inviting other powers to adhere is omitted.

There are three other points to which attention must be directed:

(*a*) The words "in time of war as in time of peace" are omitted in rule 1.

(*b*) The draft contains no stipulation against the acquisition of sovereignty over the Isthmus or over the strip of territory through which the canal is intended to pass. There was no stipulation of this kind in the Hay-Pauncefote convention; but, by the surviving portion of article 1 of the Clayton-Bulwer convention, the two Governments agreed that neither would ever "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America," nor attain any of the foregoing objects by protection offered to, or alliance with, any State or people of Central America.

(*c*) While the amendment reserving to the United States the right of providing for the defense of the canal is no longer pressed for, the first portion of rule 7, providing that "no fortifications shall be erected commanding the canal or the waters adjacent," has been omitted. The latter portion of the rule has been incorporated in rule 2 of the new draft, and makes provision for military police to protect the canal against lawlessness and disorder.

4. I fully recognize the friendly spirit which has prompted Mr. Hay in making further proposals for the settlement of the question, and while in no way abandoning the position which His Majesty's Government assumed in rejecting the Senate amendments, or admitting that the dispatch of the 22d February was other than a well-founded, moderate, and reasonable statement of the British case, I have examined the draft treaty with every wish to arrive at a conclusion which shall facilitate the construction of an interoceanic canal by the United States without involving on the part of His Majesty's Government any departure from the principles for which they have throughout contended.

5. In form the new draft differs from the convention of 1900, under which the high contracting parties, after agreeing that the canal might be constructed by the United States, undertook to adopt certain rules as the basis upon which the canal was to be neutralized. In the new draft the United States intimate *their* readiness "to adopt" somewhat similar rules as the basis of the neutralization of the canal. It would appear to follow that the whole responsibility for upholding these rules, and thereby maintaining the neutrality of the canal, would henceforward be assumed by the Government of the United States. The change of form is an important one; but in view of the fact that the whole cost of the construction of the canal is to be borne by that Government, which is also to be charged with such measures as may be necessary to protect it against lawlessness and disorder, His Majesty's Government are not likely to object to it.

6. The proposal to abrogate the Clayton-Bulwer convention is not, I think, inadmissible if it can be shown that sufficient provision is made in the new treaty for such portions of the convention as ought, in the interests of this country, to remain in force. This aspect of the case must be considered in connection with the provisions of article 1 of the Clayton-Bulwer convention, which have already been quoted, and article 8 referred to in the preamble of the new treaty.

Thus, in view of the permanent character of the treaty to be concluded and of the "general principle" reaffirmed thereby as a perpetual obligation, the high contracting parties should agree that no change of sovereignty or other change of circumstances in the territory through which the canal is intended to pass shall affect such "general principle" or release the high contracting parties, or either of them, from their obligations under the treaty, and that the rules adopted as the basis of neutralization shall govern, so far as possible, all interoceanic communications across the Isthmus.

I would therefore propose an additional article in the following terms, on the acceptance of which His Majesty's Government would probably be prepared to withdraw their objections to the formal abrogation of the Clayton-Bulwer convention:

"In view of the permanent character of this treaty, whereby the general principle established by article 8 of the Clayton-Bulwer convention is reaffirmed, the high contracting parties hereby declare and agree that the rules laid down in the last preceding article shall, so far as they may be applicable, govern all interoceanic communications across the Isthmus which connects North and South America, and that no change of territorial sovereignty, or other change of circumstances, shall affect such general principle or the obligations of the high contracting parties under the present treaty."

7. The various points connected with the defense of the canal may conveniently be considered together. In the present draft the Senate amendment has been dropped, which left the United States at liberty to apply such measures as might be found "necessary to take for securing by its own forces the defense of the United States." On the other hand the words "in time of war as in time of peace" are omitted from rule 1, and there is no stipulation, as originally in rule 7, prohibiting the erection of fortifications commanding the canal or the waters adjacent.

I do not fail to observe the important difference between the question as now presented to us and the position which was created by the amendment adopted in the Senate.

In my dispatch I pointed out the dangerous ambiguity of an instrument of which one clause permitted the adoption of defensive measures while another prohibited the erection of fortifications. It is most important that no doubt should exist as to the intention of the contracting parties. As to this, I understand that by the omission of all reference to the matter of defense the United States Government desire to reserve the power of taking measures to protect the canal, at any time when the United States may be at war, from destruction or damage at the hands of an enemy or enemies. On the other hand, I conclude that, with the above exception, there is no intention to derogate from the principles of neutrality laid down by the rules. As to the first of these propositions, I am not prepared to deny that contingencies may arise when, not only from a national point of view, but on behalf of the commercial interests of the whole world, it might be of supreme importance to the United States that they should be free to adopt measures for the defense of the canal at a moment when they were themselves engaged in hostilities.

It is also to be borne in mind that, owing to the omission of the words under which this country became jointly bound to defend the neutrality of the canal, and the abrogation of the Clayton-Bulwer treaty, the obligations of Great Britain would be materially diminished.

This is a most important consideration. In my dispatch of the 22d February I dwelt upon the strong objection entertained by His Majesty's Government to any agreement under which, while the United States would have a treaty right to interfere with the canal in time of war, or apprehended war, Great Britain alone, in spite of her vast possessions on the American Continent and the extent of her interests in the East, would be absolutely precluded from resorting to any such action, or from taking measures to secure her interests in and near the canal. The same exception could not be taken to an arrangement under which, supposing that the United States, as the power owning the canal and responsible for the maintenance of its neutrality, should find it necessary to interfere temporarily with its free use by the shipping of another power, that power would thereupon at once and *ipso facto* become liberated from the necessity of observing the rules laid down in the new treaty.

8. The difficulty raised by the absence of any provision for the adherence of other powers still remains. While indifferent as to the form in which the point is met, I must emphatically renew the objections of His Majesty's Government to being bound by stringent rules of neutral conduct not equally binding upon other powers. I would therefore suggest the insertion in rule 1, after "all nations," of the words "which shall agree to observe these rules." This addition will impose upon other powers the same self-denying ordinance as Great Britain is desired to accept, and will furnish an additional security for the neutrality of the canal, which it will be the duty of the United States to maintain.

As matters of minor importance, I suggest the renewal of one of the stipulations of article 8 of the Clayton-Bulwer convention by adding to rule 1 the words "such conditions and charges shall be just and equitable," and the adoption of "treaty" in lieu of "convention" to designate the international agreement which the high contracting parties may conclude.

Mr. Hay's draft, with the proposed amendments shown in italics, is annexed.

LANSDOWNE.

AUGUST 3, 1901.

[Inclosure 2 in No. 2.]

Draft of treaty relative to the construction of an interoceanic canal.

The United States of America and His Majesty, the King of the United Kingdom of Great Britain and Ireland, etc., being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty the King of Great Britain and Ireland, etc., the Right Honorable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE 1. The high contracting parties agree that the present *treaty* shall supersede the aforementioned convention of the 19th April, 1850.

ART. 2. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present *treaty*, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ART. 3. The United States adopts, as the basis of the neutralization of said ship canal, the following rules, substantially as embodied in

the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal; that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations *which shall agree to observe these rules*, on terms of entire equality, so that there shall be no discrimination against any nation *so agreeing*, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. *Such conditions and charges of traffic shall be just and equitable.*

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof for the purposes of this *treaty*, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

ART. 3–A. *In view of the permanent character of this treaty whereby the general principle established by article 8 of the Clayton-Bulwer convention is reaffirmed, the high contracting parties hereby declare and agree that the rules laid down in the last preceding article shall, so far as they may be applicable, govern all interoceanic communications across the Isthmus which connects North and South America, and that no change of territorial sovereignty, or other change of circumstances, shall affect such general principle or the obligations of the high contracting parties under the present treaty.*

ART. 4. The present *treaty* shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within —— months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this *treaty*, and thereunto affixed their seals.

Done in duplicate at Washington, the —— day of ——, in the year of our Lord 1901.

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No. 3.

The Marquis of Lansdowne to Mr. Lowther.

FOREIGN OFFICE, *September 12, 1901.*

SIR: I have to inform you that I have learned from Lord Pauncefote that Mr. Hay has laid before the President a memorandum a copy of which was forwarded to you in my dispatch of the 3d August.

Mr. McKinley regarded, as did Mr. Hay, the consideration shown to the last proposals of the United States Government relative to the interoceanic canal treaty as in the highest degree friendly and reasonable.

With regard to the changes suggested by His Majesty's Government, Mr. Hay was apprehensive that the first amendment proposed to clause 1 of article 3 would meet with opposition because of the strong objection entertained to inviting other powers to become contract parties to a treaty affecting the canal. If His Majesty's Government found it not convenient to accept the draft as it stood, they might perhaps consider favorably the substitution for the words "the canal shall be free and open to the vessels of commerce and of war of all nations which shall agree to observe these rules" the words "the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules," and instead of "any nation so agreeing" the words "any such nation." This, it seemed to Mr. Hay, would accomplish the purpose aimed at by His Majesty's Government.

The second amendment in the same clause, providing that conditions and charges of traffic shall be just and equitable, was accepted by the President.

Coming to article numbered 3–A, which might be called article 4, Mr. Hay pointed out that the preamble of the draft treaty retained the declaration that the general principle of neutralization established in article 8 of the Clayton-Bulwer convention was not impaired. To reiterate this in still stronger language in a separate article, and to give to Article 8 of the Clayton-Bulwer convention what seemed a wider application than it originally had, would, Mr. Hay feared, not meet with acceptance.

If, however, it seemed indispensable to His Majesty's Government that an article providing for the contingency of a change in sovereignty should be inserted, he thought it might state that:

"It is agreed that no change of territorial sovereignty or of the international relations of the country traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty."

This would cover the point in a brief and simple way.

In conclusion, Mr. Hay expressed his appreciation of the friendly and magnanimous spirit shown by His Majesty's Government in the treatment of this matter, and his hope that a solution would be attained which would enable the United States Government to start at once upon the great enterprise which so vitally concerned the whole world, and especially Great Britain, as the first of commercial nations.

I am, etc.,

LANSDOWNE.

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No. 4.

The Marquis of Lansdowne to Lord Pauncefote.

FOREIGN OFFICE, *October 23, 1901.*

MY LORD: I informed the United States chargé d'affaires to-day that His Majesty's Government had given their careful attention to the various amendments which had been suggested in the draft interoceanic canal treaty, communicated by Mr. Hay to your lordship on the 25th April last, and that I was now in a position to inform him officially of our views.

Mr. Hay had suggested that in article 3, rule 1, we should substitute for the words "the canal shall be free and open to the vessels of commerce and of war of all nations which shall agree to observe these rules," etc., the words "the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules," and in the same clause, as a consequential amendment, to substitute for the words "any nation so agreeing" the words "any such nation." His Majesty's Government were prepared to accept this amendment, which seemed to us equally efficacious for the purpose which we had in view, namely, that of insuring that Great Britain should not be placed in a less advantageous position than other powers, which they stopped short of conferring upon other nations a contractual right to the use of the canal.

We were also prepared to accept, in lieu of article 3–A, the new article 4 proposed by Mr. Hay, which, with the addition of the words "or countries" proposed in the course of the discussions here, runs as follows:

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty."

I admitted that there was some force in the contention of Mr. Hay, which had been strongly supported in conversation with me by Mr. Choate, that article 3–A, as drafted by His Majesty's Government, gave to article 8 of the Clayton-Bulwer treaty a wider application than it originally possessed.

In addition to those amendments, we proposed to add in the preamble, after the words "being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans," the words "by whatever route may be considered expedient," and "such ship canal" for "said ship canal" in the first paragraph of article 3, words which, in our opinion, seemed to us desirable for the purpose of removing any doubt which might possibly exist as to the application of the treaty to any other interoceanic canals as well as that through Nicaragua.

I handed to Mr. White a statement showing the draft as it originally stood and the amendments proposed on each side.

I am, etc.,

LANSDOWNE.

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No. 5.

Lord Pauncefote to the Marquis of Lansdowne.

WASHINGTON, *November 18, 1901.*

MY LORD: I have the honor to transmit to your lordship herewith a copy of a communication from Mr. Hay, dated the 8th November, formally placing on record the President's approval of the various amendments made in the draft of the new interoceanic canal treaty in the course of the negotiations, and particularly set forth in your lordship's dispatch to me of the 23d October.

I have, etc.,

PAUNCEFOTE.

[Inclosure in No. 5.]

Mr. Hay to Lord Pauncefote.

WASHINGTON, *November 8, 1901.*

EXCELLENCY: Upon your return to Washington I had the honor to receive from you a copy of the instruction addressed to you on the 23d October last by the Marquis of Lansdowne, accepting and reducing to final shape the various amendments in the draft of an interoceanic canal treaty, as developed in the course of the negotiations lately conducted in London, through Mr. Choate, with yourself and Lord Lansdowne.

The treaty, being thus brought into a form representing a complete agreement on the part of the negotiators, has been submitted to the President, who approves of the conclusions reached and directs me to proceed to the formal signature thereof.

I have, accordingly, the pleasure to send you a clear copy of the text of the treaty, embodying the several modifications agreed upon. Upon being advised by you that this text correctly represents your understanding of the agreement thus happily brought about, the treaty will be engrossed for signature at such time as may be most convenient to you.

I have, etc.,

JOHN HAY.

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No. 6.

Lord Pauncefote to the Marquis of Lansdowne.

WASHINGTON, *November 19, 1901.*

MY LORD: I have the honor to report that, by appointment with Mr. Hay, I yesterday went to the State Department, accompanied by Mr. Wyndham, and signed the new treaty for the construction of an interoceanic canal.

I have, etc.,

PAUNCEFOTE.

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No. 7.

[Telegraphic.]

Lord Pauncefote to the Marquis of Lansdowne.

WASHINGTON, *December 16, 1901.*

Canal treaty ratified by 72 votes to 6 in Senate to-day.

Mr. BRANDEGEE. Now I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

Mr. WARREN. I ask that the amendment on page 53 be stated.

The PRESIDENT pro tempore. The Chair will call the attention of the Senator from Wyoming to the fact that the amendment on page 52, line 18, has not been acted on.

Mr. WARREN. I understood that it had been agreed to.

The PRESIDENT pro tempore. It will be stated.

The SECRETARY. On page 52, line 18, it is proposed to strike out "$362,500" and in lieu thereof to insert "$462,500," so as to read:

In all, for the National Museum, $462,500.

Mr. BACON. I have been unavoidably out of the Chamber on account of duty upon the special committee connected with the impeachment proceedings. I simply want to ask the Senator from Wyoming if this matter relates to the suggestion which has come from the Smithsonian Institution as to what is needed in that regard?

Mr. WARREN. This covers a portion of the suggestion that came from there, and they are all of them within the estimates.

Mr. BACON. I took the liberty of making the inquiry because I had been asked to give some attention to it, but my other duties necessarily prevented me from doing so.

Mr. WARREN. The Senator will notice that the figures here represent the amount raised.

The amendment was agreed to.

The next amendment was, on page 53, to strike out lines 9 to 12, inclusive, in the following words:

Hereafter all plans and specifications for construction of buildings and bridges in the National Zoological Park shall be prepared by the municipal architect of the District of Columbia.

The amendment was agreed to.

The next amendment was, under the head of "Interstate Commerce Commission," on page 55, line 7, after the words "per day," to strike out the sum "$200,000" and insert "$250,000," so as to make the clause read:

For the payment of all authorized expenditures under the provisions of the act of February 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto," including such stenographic and clerical help to the chief inspector and his two assistants as the Interstate Commerce Commission may deem necessary and allowances in lieu of subsistence while away from official headquarters to persons whose traveling expenses are authorized by said act to be paid at not to exceed $4 per day, $250,000.

The amendment was agreed to.

The next amendment was, under the head of "Under the War Department," subhead "Armories and arsenals," on page 55, after line 9, to insert:

Augusta Arsenal, Augusta, Ga.: For increasing the water supply and fire protection, $5,100.

The amendment was agreed to.

The next amendment was, on page 55, after line 11, to insert:

Frankford Arsenal, Philadelphia, Pa.: For dredging the Frankford Arsenal Creek, bordering on the Frankford Arsenal grounds, $10,000.

The amendment was agreed to.

The next amendment was, at the top of page 57, to insert:

Military posts: For continuing the construction of the necessary accommodations for the seacoast artillery in the Philippine Islands, $250,000.

The amendment was agreed to.

The next amendment was, on page 57, after line 3, to insert:

Keithley-Overton Railroad, Philippine Islands: For the construction and equipment of a railroad from Camp Overton to Camp Keithley, Mindanao, P. I., provided that the total cost of same shall not exceed $200,000, $50,000.

The amendment was agreed to.

The next amendment was, on page 57, after line 8, to insert:

Additional land, Fort Sam Houston, Tex.: For purchase of the tract of land now being leased from George W. Brackenridge, for drill purposes, consisting of 310 acres, more or less, lying just north of the newly purchased ground of the military reservation of Fort Sam Houston, Tex., and extending to the country road recently completed around the reservation, $70,000.

The amendment was agreed to.

The next amendment was, on page 57, after line 15, to insert:

Bridge at Fort Riley, Kans.: For the construction of a steel bridge across the Kansas River, at Fort Riley, Kans., to render accessible the drill ground for the Cavalry at Smoky Hill Flats, $50,000.

The amendment was agreed to.

The next amendment was, on page 57, after line 19, to insert:

Grant of land by the State of Wyoming for enlargement of military reservation, Fort Mackenzie, Wyo.: The grant by the State of Wyoming by act of its legislature approved February 21, 1905, of title to and jurisdiction over the northeast quarter and northwest quarter of southeast quarter of section 18, township 56 north, range 84 west, of the sixth principal meridian, in the county of Sheridan and State of Wyoming, for the enlargement of the military reservation of Fort Mackenzie, in said State, is hereby accepted; and the State is hereby permitted to select and have patented to it, in compensation for said grant, an equal area of any of the unoccupied, nonmineral, untimbered public lands subject to entry within the State of Wyoming.

The amendment was agreed to.

The next amendment was, on page 58, after line 9, to insert:

Water system, Schofield Barracks, Territory of Hawaii: From the unexpended balance of the appropriation for "Water and sewers at military posts," fiscal year 1912, there is hereby reappropriated and made available during the fiscal year ending June 30, 1913, for the construction of the water system for the military reservation and post of Schofield Barracks, in the Territory of Hawaii, the sum of $175,000, or the entire unexpended balance, if less than that sum.

The amendment was agreed to.

Mr. OVERMAN. Mr. President, going back to page 57, one amendment agreed to there reads as follows:

Keithley-Overton Railroad, Philippine Islands: For the construction and equipment of a railroad from Camp Overton to Camp Keithley, Mindanao, P. I., provided that the total cost of same shall not exceed $200,000, $50,000.

Is it proposed that we shall spend $200,000 to build a railroad from one point to another in the Philippine Islands?

Mr. WARREN. The amount is limited to that amount. We are now paying over $150,000 a year to transport necessary Army supplies over this route. It seems a matter of the greatest economy that we should construct this road.

It has been recommended continuously by the War Department, and has been examined thoroughly. Formerly it was thought the expense would be $800,000 or $900,000.

Mr. OVERMAN. What is the distance?

Mr. WARREN. It is about 22 miles.

Mr. OVERMAN. Does the Senator think we can build a railroad of that length in the Philippines for $200,000?

Mr. WARREN. It is a narrow-gauge road.

Mr. OVERMAN. And equip it?

Mr. WARREN. Yes; sufficient to carry supplies, and so forth, of the Army.

Mr. OVERMAN. I understand it is for the benefit of the Army now, not the Philippine Islands.

Mr. WARREN. Entirely so; although without doubt it could be disposed of, if built, for other uses to good advantage.

Mr. BACON. The Senator indicates that the cost of this road is a relative saving compared with our present expenditures. What about the operation of the road?

Mr. WARREN. The operation of the road would show a very great economy, more so than in the building. Of course, the operation of the road is a matter of a few men where the operation now is at the cost of many men, in addition to the animals that are employed.

Mr. BACON. Is it designed to be entirely a military road?

Mr. WARREN. It is to be owned or operated by the military establishment. It will run on the property of the United States.

Mr. BACON. What does the Senator mean by being owned by the military?

Mr. WARREN. It is to be built by the money we appropriate for the Army. Of course it will be United States property, and it is to be under the control of the Army.

Mr. BACON. But the title is what I speak of. The Senator spoke of it as being owned.

Mr. WARREN. The title to the railroad would be the same as the title to a military post.

Mr. BACON. Of course, the Senator does not mean that we now own the ground upon which the road is to be located.

Mr. WARREN. Most of the route is located on land which came to the United States through its Philippine connections, and where the road goes over private lands the damage has been estimated and is included in this cost.

Mr. BACON. Mr. President, of course I am not on the Appropriations Committee, and I have not the information which the learned Senator from Wyoming has; but having visited that country myself, and having been around different parts of it, it seems to me the demand for the construction of railroads on account of military purposes would not be limited to this railroad. If we are going to start on this business——

Mr. WARREN. Has the Senator from Georgia been over this particular route?

Mr. BACON. I have not, and I am speaking generally. I visited those islands some years ago—not, of course every part of them, but from one military post to another—and I have some general idea about the necessity for intercommunication. It is only that that I had in my mind when I said that if we started upon the project of building railroads in all places in those islands where intercommunication between different military posts may be more economical if made by railroad transportation than it can be if made by other methods of transportation, we are entering upon a pretty wide field. I have no doubt that this may be the place where it is more important to have such communication than it would be at other places. I am ready to concede that in advance of a statement to that effect, which I presume the Senator from Wyoming will undoubtedly make, because if it were not of more importance it would not be selected for this purpose; but it is simply the general proposition of the construction of railroads in those islands for military purposes that struck me as being a new departure, so far as I know. Is not this the first time such a project has been undertaken?

Mr. WARREN. When the Senator has finished I shall explain the matter.

Mr. BACON. Well, of course, I supposed the Senator would indicate whether this was a new departure.

Mr. WARREN. I will say to the Senator from Georgia that the Government of the United States has been for a number of years engaged in obtaining railroads in as many portions of the Philippines as have been found practicable, as the Senator knows, through certain guaranteed bonds the islands have issued. By reason of that most of the military posts, so far as the building of railroads is concerned, are well provided for. This particular route—and I might say to the Senator that I have been over the ground on horseback with a number of others—goes from Overton on the water up to Keithley, which is high on the mountain plains surrounding Lake Lanao, and is in the very center of the Moro country. At the time when I visited the Philippines, which was in 1905, the then Secretary of War, now President of the United States, arranged that as many Senators and Members of Congress as could should cross over that line. The proposition then was to spend perhaps seven or eight hundred thousand dollars to build a railroad because we could get no one else to take hold of the project. It was so entirely a military matter that the capitalists who were building the other railroads could not be interested. At that time the transportation was costing considerably over $200,000 a year. There has been an estimate made annually for several years, and particularly for the last two years the matter has been very earnestly and exhaustively examined under the governor and general officer who presides over that island. By the use of Moro labor, which has been found to be even more valuable and efficient for some uses than that of the Filipinos, it has been finally estimated by one of the able engineer officers of the Army that for somewhere between $165,000 and $200,000 a narrow-gauge railroad may be built on comparatively easy grades. That will not only include the railroad right of way, but also a right of way beside it from Overton, where we receive from the water transportation our supplies, up to the military posts which are in the mountains.

With that showing it seemed to the committee that it would be false economy to spend almost as much each year in freight expenditures as we should be required to expend in building the road. It is not a matter upon which snap judgment has been taken, but the reports in reference to it are voluminous and convincing, I will say to the Senator.

In my opinion, when that road shall have been built there can be developed a good deal of business. I believe the road can eventually be disposed of by the Government to private parties when it shall have been established; but whether it can be so disposed of or not, it is certainly in the line of economy for the Government to build it. It is not a new proposition that the Government may build its own small, short lines of transportation. We have done it in a number of places. In several large posts the Government builds and owns the entire railroad system, and railroad corporations build to the reservation lines to connect; also the Government builds and owns railroads from wharves to storehouses, in order to transport supplies cheaply.

Mr. BACON. But I should like to ask the Senator this: We have had in times past a large frontier where we had military posts between which communication was difficult and expensive.

Mr. WARREN. Let me say to the Senator, there is nothing that is even comparable with this particular case. It is sui generis.

Mr. BACON. Yes; but what I had in mind was to inquire of the Senator whether there had ever been a single instance in the past history of this Government when we had built a railroad for the purpose of cheapening or facilitating intercourse between different military posts in this country?

Mr. WARREN. This is not between military posts. It is to supply from the water or ocean navigation transportation to a military post. We have done the same thing on a smaller scale in other cases. We have railroads to various places to reach warehouses from the water. You will find it in California, and you will find it in many other places.

Mr. BACON. I have misunderstood the Senator. I understood him to say that this was to reach a military post in the interior.

Mr. WARREN. So far as one terminal is concerned the road will start at the water where the freight is received for those military posts.

Mr. BACON. Yes. Now——

Mr. WARREN. But it is not intended simply to connect two military posts.

Mr. BACON. I understand; but that part of it is not material. The Senator from Texas [Mr. CULBERSON] suggests that it is to connect two camps; I do not know how that may be; but the point I am making is that in our large and long experience we have never done that in our own country. I am not going to make any point to have a record vote on it or anything of that kind, but I am very frank to say that it does not meet my approval. Of course I am only one, and when I say that I do not mean to exaggerate in any degree the exact limitations of my approval or disapproval; it is simply the disapproval of one Senator. I am not in favor, Mr. President, of our going into enterprises of this kind, either in this country or anywhere else, and much less am I in favor of going to remote parts of the earth to build a railroad, to be operated by the United States Government, with its officials and with its almost certain facilities for abuse of opportunity, to speak of it in the mildest language.

I wish very much, Mr. President, we had the attention of the Senate on this subject. It is certainly a most radical departure. It is one which will lead to complications in the future. What are we going to have there? Are we going to have a corps of civil railroad men operating a railroad?

Mr. WARREN. Oh, Mr. President, it is a mere matter of a couple of locomotives and sufficient cars to receive the freight and to handle it, exactly as is done in many places now where the Government owns its locomotives and owns its railroads for short distances, in order to deliver its own freight. In the last year nearly 8,000 tons of freight had to be moved in that country, and it cost $20 a ton to move it.

Mr. BACON. What character of freight was that?

Mr. WARREN. Freighting with horses and mules.

Mr. BACON. The Senator misunderstands me. I asked what was the character of the freight?

Mr. WARREN. General supplies, food, clothing, and so forth, for military uses.

Mr. BACON. Well, Mr. President, it seems to me that furnishes an object lesson—another one of the many presented to us, although there are many more which could be presented but are absolutely unknown—of the folly of our undertaking, without any compensation or the hope of it in the future, to establish an empire on the other side of the world. I do not know whether this matter has been considered by the House of Representatives. Of course, ordinarily, under the rule, we are not permitted to discuss matters which occur in the other House, but here is a House bill and here is an amendment proposed to be put upon it by the Senate committee.

The Senator from Wyoming says that this matter has been recommended by the department for years. It is true I have never been on either the Military Committee or on the Appropriations Committee, but if it has ever before been suggested in the Senate I have never heard of it. While, as I have said, I have never been on either of these committees, and have never been on the Philippines Committee, this is a subject in which I have always taken the very deepest and keenest interest from its very inception. From the time, immediately after the Spanish-American War, when it was proposed that we go into this hair-brained undertaking, nothing has ever come up in the Senate, the name "Philippines" has never been mentioned, that my attention has not been attracted to it because of my long-continued interest in the subject.

I regret very much that the committee has seen proper to recommend this. A railroad is a permanent establishment. The building of one railroad leads to the building of others; the building of railroads leads to the organization of officials; the organization of officials leads to appointments and all those things which grow out of such a proposition. While I am not now in a position to effect and possibly could not effect anything if I were to attempt to do so, I sincerely hope that this proposition may not be enacted into law.

I can not reconcile myself, Mr. President, to the idea that we are to be for all time with this "body of death" hanging to us. That is what the possession of the Philippine Islands is—it is a "body of death." It is inconsistent with our institutions. It is an impossibility that those people shall ever be assimilated as a part of the country in which our institutions prevail; it is an impossibility that they can ever be a part of us or upon equal terms with us in any way; it is an impossibility that we can ever get back a part of the interest upon the principal that we have spent as to those islands, to say nothing of the hundreds of millions of dollars—and I am not speaking exaggeratedly—the hundreds of millions of dollars, the many hundreds of millions of dollars, they have cost us. I recollect, Mr. President, hearing the former Senator from Massachusetts, Mr. Hoar—if I am not in error in my recollection—I have heard him say on the floor of the Senate, when he was a member of it, that it had already cost us seven or eight hundred million dollars; and Mr. Hoar was a man not prone to make careless statements.

Mr. CLAPP. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. BACON. I do.

Mr. CLAPP. I am heartily in sympathy with the attitude of the Senator from Georgia, but I will say to him that the statement was $600,000,000. That, however, was many years ago.

Mr. BACON. Yes; that was many years ago, and I presume by this time it has reached a thousand million dollars. I should like to know how many dollars have ever gone into the United States Treasury or how many dollars have ever come into the pockets of any of the people of the United States in the way of legitimate trade or return on account of those islands.

I am not favorable, Mr. President, to a continuation of this policy and a further development of it. It may be that it costs more now to carry this freight by mules and horses than it would if the railroads were constructed, but the carrying of freight by mules and horses is a temporary matter while the construction of a railroad is a permanent matter.

I think, Mr. President, the statement of the Senator that it costs under the present arrangement the amount of money indicated by him to carry the comparatively small amount of freight necessary for supplying military posts in the Mindanao country carries upon its face a suggestion of the fact that there is waste and extravagance, if nothing worse, in the conduct of that business; and every rail that we put down is going to be that much more of an influence to make perpetual this burden upon us, to make it more likely that forever we are to have hung upon us what, I repeat, is a "body of death," and has been nothing else from the beginning.

I am not going to ask for any vote on the amendment, Mr. President, but it has got to be considered elsewhere, and I hope it will be so considered that it will never become a part of the law.

Mr. OVERMAN. Mr. President, I opposed this amendment in the committee for many of the reasons which the Senator from Georgia more ably and more lucidly than I could possibly state them has expressed. I introduced a resolution in the Senate at the beginning of the session asking the Secretary of War to report to Congress how much money had been spent in the Philippine Islands. I never could get a report on that resolution. For some reason the committee will not make a report on it. I remember also that in the last Congress I introduced a resolution asking how much money had been spent in the Philippines, but it sleeps the sleep of death in the committee. Prior to that time there was a similar resolution introduced asking how much money had been spent, but it also slept the sleep of death. We can not get any report as to the amount that has been spent; we do not know what that amount is, but we are safe in saying that we have already spent a billion dollars over there. No man knows how we have spent it or where we have spent it; and now we are going into the railroad business.

Mr. CULBERSON. Mr. President, do I understand the Senator to say that there has been a failure to answer a resolution of the Senate?

Mr. OVERMAN. I introduced a resolution more than two months ago, and I understand the late lamented Senator from Georgia, Mr. Clay, also introduced a similar resolution, but we never have been able to get a report as to how much money we have spent in the Philippine Islands.

Mr. CULBERSON. What I want to know is, did the resolution pass the Senate?

Mr. OVERMAN. The resolution was referred to the Committee on the Philippines, but there has been no report on it; and that has been the case with every resolution introduced on that subject in the Senate since I have been here. We can not get the information, but we know the cost of those islands to the United States has been a thousand million dollars.

Mr. CULBERSON. I notice the Senator from Idaho [Mr. HEYBURN] is present in the Chamber; he is a member of the Philippines Committee, and probably can throw some light upon whether or not this resolution is going to be reported out.

Mr. HEYBURN. Mr. President, the suggestion is rather indefinite; so much so that it is not possible for me to make any statement in regard to the status of that resolution. Of course its status is easily ascertainable. A telephone message to the committee room or to the chairman of the committee, who was on the floor a few moments ago, might elicit the desired information.

Mr. CULBERSON. I invited the attention of the Senator from Idaho to the matter, because the chairman of the committee, the Senator from Colorado [Mr. GUGGENHEIM], was not on the floor when I spoke.

Mr. HEYBURN. Of course, I would require time enough to ascertain the facts; I would not care to state them from general recollection.

Mr. CULBERSON. I thought the Senator had them in his mind.

Mr. HEYBURN. I believe I have them in my mind; but I do not have them in my mind so accurately as to justify me making a statement on the floor.

Mr. OVERMAN. I would be very much obliged if the Senator would look after the resolution and see that it is reported.

Mr. HEYBURN. I will be glad to look into the matter.

Mr. OVERMAN. Mr. President, I understand that it now costs to transport this freight $160,000 a year. I understand that the trail over which this freight is carried crosses mountains and that is where it is proposed to build a railroad. I think the Senator said the railroad was to be 20 miles long, that it is not to be on a level plain, but is to be constructed over mountains. I suppose they are going to have a cog railroad, something like they have on Pike's Peak, although I do not know, as I am not familiar with the country.

Mr. WARREN. The Senator misunderstood me. The railroad will not run over mountains, in the manner he indicates, but will start at the sea level and go to an elevation of some thousands of feet. The Senator may call them mountains if he chooses; however, there is no range of mountains there such as we have in this country, but, rather, a high plain where it is proposed to construct the railroad to the top of the hills or mountains that surround Lake Lanao.

There is no cog railroad projected, but a narrow-gauge railroad, and by making it cover a distance of, say 22 miles, although the distance, as the crow flies, is only 14 or 15 miles, the grade can be lessened, so that a steam railroad could operate successfully and economically.

Mr. OVERMAN. Although I am not an engineer, I will venture the assertion that a road only 20 miles long reaching an elevation of a thousand feet could not be built for $200,000, whether it be a narrow-gauge road or any other kind of a road.

We are entering upon the policy of the Government of the United States building a railroad in the Philippine Islands. I do not think we ought to do that; I do not think this Government has any business building railroads in the Philippine Islands, which we expect some of these days to give up. I say we have spent enough money there now, and I would rather go on spending the $160,000 to transport that freight 20 miles than to start the building of a railroad reaching an elevation of a thousand feet in 20 miles. It will cost, in my opinion, to build such a railroad a million dollars. I think the estimate given to the committee is an underestimate. It is proposed that the railroad shall not exceed in cost $200,000, but when the $200,000 has been spent they will come here again for another $200,000, and so on. It takes sometimes a hundred thousand dollars to build a mile of railroad across the mountains. The Senator says these hills are a thousand feet high, so I think they are pretty large hills.

Mr. WARREN. Mr. President, the road has been carefully surveyed and can be built on a grade of about 2 per cent. Of course, I have no more interest in this question than has the Senator from North Carolina, and I know he will take it good-naturedly when I say that he is creating a bogy man to fight. There will be no part of this $50,000 used until they know that the road can be built within the limit of cost, except the expense of securing bids.

Heretofore I have refused even to ask that the proposition be considered. When the first estimates were made I considered they were too high, or, rather, that the total cost was above what I thought it expedient to spend; but this year, after years of study out there and the development of the country in a way that has rendered the procurement of supplies easier and has resulted in the breaking in, if I may use that term, of Moros as laborers, the proposition has been put on a reasonable basis. I think the Senator should not state that it will cost a million dollars or $2,000,000 to build the road.

Mr. OVERMAN. I am not sure what it will cost, for I am not an engineer, but usually such projects start at a low estimate, which is increased from year to year, as the Senator knows.

Mr. WARREN. Sometimes that is true; but in this case, as I have said, there have been nearly two years of investigation, and the last reports, which carry the items of cost even to the spikes to be used, come from the most conservative engineers of the Army, and I have been convinced that we can get the road built inside of the limit proposed; but if we can not, I

think there will be no part of the amount expended except, perhaps, in advertising for bids.

Mr. OVERMAN. The Senator knows, he and I having served on the Military Committee together, that there has not been a time when the department has not been asking for large sums of money for this purpose and that purpose, and consistently I have been fighting the spending of money in the Philippine Islands, except where it was necessary, as I believed, for fortifying what they call Corregidor Island; but as to going out into the interior and building railroads and other roads, I have always objected to that. We have been building roads over there.

Mr. WARREN. Mr. President, while the Senator from North Carolina and I may differ on the question of expenditures in the Philippines, and while the Senator from Georgia may be entirely right as to the burden of the Philippines, yet I do not believe we greatly differ when it comes to a question of putting our affairs there on a business basis of strict economy. We are there and we are not going to get out of there at once. The military posts are built; our troops are there, and freight is being received and taken over the roads. The railroad can be built very quickly, and in a year—certainly in less than two years—it would stand us nothing; it would be clear to us, for it will have paid for itself. If we are to give up the public property in the Philippines we are supposed to get something for it, and nothing would be better or more productive to those who might buy the property than a road of this kind.

Mr. OVERMAN. I gather from what the Senator says that it may be in the nature of a commercial proposition. We are proposing to build a railroad from the seacoast to a camp, and the Senator said, as I understood him—and I want to know if I am wrong—that probably we are going to establish a trade across the mountains with the Moros. So really back of it all—I am not charging the Senator with such a purpose—is there not probably something of the idea that they want to get a railroad over there to establish commercial relations with those people and make it a traffic line?

Mr. WARREN. I will say to the Senator there is nothing of that kind contemplated. I presume the Senator would not like to see us, after building the road, smother the country and not try to develop it. If that road shall result in developing the country, so much the better.

Mr. OVERMAN. But I do not propose to spend the money of the taxpayers of this country to develop the Philippine Islands in the interior.

Mr. WARREN. Would the Senator rather expend it for mules and horses which die along the line and find that because he does not want to build a railroad he is a great many thousand dollars out?

Mr. OVERMAN. I would rather spend for 10 years $160,000 a year buying mules and horses for the Government than to enter into the railroad business in the Philippine Islands. I do not know how long we are going to be there, but I should like to get away as soon as possible.

Mr. BACON. Especially, if the Senator will permit me, because there is no possible guaranty that this will be an end of it, but, on the contrary, there is every evidence to believe it is but an entering wedge for an expenditure which almost certainly will exceed the amount proposed, and there is no telling by how much it will exceed it.

Mr. WARREN. There is no way of meeting assertions of that kind. The committee has examined this matter as closely as possible, and, if my reputation is worth anything, I will say, so far as the presentation of this matter is concerned, that the estimate has been made fairly and squarely to cover the expenditure. So far as any influence I may have is concerned, I should not want a dollar expended, except perhaps for advertising for bids, unless the road can be built within the limit provided.

Mr. OVERMAN. I know the Senator would not make a statement unless it were true, because whatever he says is always true; but it is a very remarkable statement that it takes $160,000 a year to carry supplies for a little Army post 20 miles away.

Mr. WARREN. Why, Mr. President, "a little Army post" does not express it at all. It is a large Army post.

Mr. OVERMAN. How many men are stationed there?

Mr. WARREN. Not only is that a large Army post, but at the time I visited that country there were two posts on the margin of the lake.

Mr. OVERMAN. How many men are in that post?

Mr. WARREN. I should have to refer to the official list, of course, to ascertain that.

Mr. OVERMAN. Are there 10,000?

Mr. WARREN. Oh, no.

Mr. OVERMAN. Well, are there 5,000?

Mr. WARREN. Probably there are not half of 5,000.

Mr. OVERMAN. Well, 2,500 men then; we will take that. It costs $160,000 to transport freight 20 miles to a place where there are only 2,500 men. I can not understand that.

Mr. WARREN. Well, $20 a ton would amount to something.

Mr. OVERMAN. How many tons—we would have to find out how many tons.

Mr. WARREN. About 8,000 tons in the last year.

Mr. CULBERSON. Mr. President, as a member of the Committee on Appropriations, I, like the Senator from North Carolina [Mr. OVERMAN], opposed the adoption of this amendment in the committee. There is no question that the expenditures of the United States are extraordinary and in many cases, in my judgment, wholly unnecessary.

The former Senator from Rhode Island, Mr. Aldrich, when a Member of this body declared that the expenditures of the Government could be reduced $300,000,000 annually without injury to the public service. Now, whether that be an exaggeration or not, it certainly contains some proof that our expenses are far greater on the part of the Government than they should be.

Recognizing this fact, the House of Representatives at this session has begun a reduction of expenditures. The clerk of the Committee on Appropriations of that body has advised me that in the supply bills so far passed by the House of Representatives at this session the House has reduced expenditures more than $52,000,000 annually, as compared with the appropriations of last year.

Now, when we take up the sundry civil bill what do we find the House has done toward reducing expenditures in this bill alone? According to its report, it has reduced the expenditures in this bill as compared with the appropriations of last year something in excess of $33,000,000.

The Senate Committee on Appropriations has met that in a sense by bringing in a bill which reduces expenditures in this bill as compared with last year $27,000,000 and upward. But it has not met the House fully and fairly with reference to this particular bill. It has increased the expenditure of the Government in this bill alone over the bill as passed by the House by $5,545,000.

Not content, as I believe and as I assert, with unnecessarily expending money in the United States proper, it has in this amendment provided for the expenditure of $200,000 to begin the construction of a railroad in the Philippines, which ultimately of course will not belong to the United States; and, like the Senator from North Carolina [Mr. OVERMAN] and the Senator from Georgia [Mr. BACON], I protest not only with reference to a large number of items—which I will point out before the bill passes—by which the Senate committee has increased the bill over the House, but that we are going out of the United States proper and starting upon an era of permanent improvements in the Philippine Islands by engaging in the extraordinary and dangerous practice of the Government building and owning a railroad.

The PRESIDING OFFICER (Mr. LODGE in the chair). The Secretary will state the next amendment.

Mr. OVERMAN. I move that the amendment which we have been discussing be disagreed to.

The PRESIDING OFFICER. The amendment has already been agreed to.

Mr. OVERMAN. I understand; but that was done informally.

Mr. WARREN. The Senator can move to reconsider the vote by which it was agreed to.

Mr. OVERMAN. I move to reconsider the vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment on page 57, lines 4 to 8, inclusive, was agreed to.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. OVERMAN. I hope the amendment will be rejected.

Mr. CULBERSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum being suggested, the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Johnston, Ala.	Perkins
Bacon	Crawford	Jones	Pomerene
Bailey	Culberson	Kenyon	Root
Borah	Cullom	Lippitt	Simmons
Bourne	Cummins	Lodge	Smith, Ariz.
Bradley	Fall	McCumber	Smith, Ga.
Brandegee	Fletcher	McLean	Smith, S. C.
Bristow	Gallinger	Martin, Va.	Smoot
Bryan	Gamble	Martine, N. J.	Stephenson
Burnham	Gardner	Massey	Stone
Burton	Gronna	Myers	Sutherland
Catron	Guggenheim	Oliver	Swanson
Chamberlain	Heyburn	Overman	Thornton
Clapp	Hitchcock	Page	Warren
Clark, Wyo.	Johnson, Me.	Paynter	Wetmore

The PRESIDING OFFICER. Sixty Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment of the committee, on page 57, to insert the matter embraced in lines 4 to 8, inclusive.

Mr. OVERMAN. On that I call for the yeas and nays.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. The Senator from North Carolina asks for the yeas and nays. Is there a second?

Mr. BACON. Mr. President, I understand the Senator from Kansas addressed the Chair, and it would seem that the call for the yeas and nays should be deferred until he got through.

The PRESIDING OFFICER. The present occupant of the chair thinks that when a Senator asks for the yeas and nays it is proper to put the request.

Mr. BACON. I will not stop to discuss that now; but I do think that it is an improper practice, for the reason that the yeas and nays might be called upon a matter which would remain before the Senate for two or three weeks, and the purpose of the Constitution in requiring the yeas and nays is that those who are present and are going to vote on the question shall, at the demand of one-fifth of those who are present and going to vote, be required to go on record.

The PRESIDING OFFICER. In the opinion of the Chair, when a Senator asks for the yeas and nays, the first thing to be done is to determine whether there is a second to the request.

Mr. OVERMAN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. OVERMAN. I do not understand that a call for the yeas and nays prevents any Senator from speaking thereafter.

The PRESIDING OFFICER. Not in the least. The question is, Is there a second to the demand for the yeas and nays?

The yeas and nays were ordered.

Mr. BRISTOW. I should like to inquire why the money that is to be expended for a railroad in the Philippine Islands should not be paid out of the Philippine treasury instead of out of the United States Treasury.

Mr. WARREN. That will probably be the ultimate outcome; but, under the relations between the two, that could not be done now, because for the present the railroad will be in the exclusive ownership of the United States and for its exclusive use.

I want to say to the Senator and to all Senators who were not in the Chamber when this matter was being discussed, that this is a matter of building what you might call a switch track from the sea, where the freight is received, to the military posts that are on Lake Lanao. This is restricted to an expenditure of $200,000. We have statements that have been almost years in preparation from the best engineers of the Army which state it can be built inside of $200,000. We are now expending from $150,000 a year to two hundred and odd thousand dollars a year for hauling freight over that road. So it is a matter of economy, and the road will pay for itself inside of two years.

Mr. BRISTOW. It seems to me that expenditures for permanent improvements in the Philippine Islands ought to be paid for out of the Philippine treasury.

Mr. WARREN. It must come from there ultimately, but there is no way now by which it can be handled in that manner. It would be like an emplacement for fortifications. Everyone contemplates that those fortifications, when we turn them over to the Philippine Government, will be paid for by that Government, but now they are paid for by the United States, as the Senator knows.

Mr. HITCHCOCK. I should like to ask what is to become of this railroad? Is it to be open for public travel or simply for the use of the Government?

Mr. WARREN. That is getting a little ahead of what we are now contemplating. As the Senator knows, the United States Government and the Philippine Government have their arrangements, and, in my judgment, they have conducted business very well in the last few years. The building of this road and its present use would be exclusively, we will say, by the United States. But I have no doubt when the road is opened it would be the same as any other highway or railroad—there will be arrangements made by its management under which the civil government of the Philippines will undoubtedly participate.

For instance, this very section of country in which it is proposed to build this road is presided over by a brigadier general of the United States Army as the departmental commander. The same officer is civil governor of Mindanao. There seems to be no difficulty in the management there; and that will take care of itself, of course.

Mr. HITCHCOCK. I think it is a very serious matter for us to enter upon a system of Government-owned railroads in the Philippine Islands, and upon that question Congress has distinctly spoken that it would not enter upon such a policy.

Mr. WARREN. The Senator, I think, was not in the Senate Chamber when I stated that the Philippines were proceeding to get railroads in other ways, as the Senators know, through the guaranty of bonds, and so forth. But this proposed road is of the nature of those short stub or spur railroads that are owned now by the Army and Navy, which extend from the sea to the warehouses or to a camp or a post, as the case may be.

Mr. HITCHCOCK. It strikes me that that is a considerable railroad.

Mr. WARREN. It will cost $200,000.

Mr. HITCHCOCK. It is to be 20 miles in length, I understand, and there now being a law which provides for the construction of railroads in the Philippine Islands by permitting the Philippine Government to guarantee the interest upon the bonds, suggests to me that where there is any legitimate need for a railroad and any profitable use for a railroad, it will be built.

Mr. WARREN. Do you think they would build a railroad for the Government between a loading point and a post?

Mr. HITCHCOCK. If the Government is now expending, as the Senator says, over $100,000 a year in freight transportation, and the road could be built for $200,000 by private capital, and could secure from the Government $100,000 a year for the transportation of freight, I believe private enterprise would build it, particularly as the bonds would be guaranteed by the Philippine Government.

Mr. WARREN. I wish I had the faith that the Senator has with regard to how easily capital can be had for those remote regions in those remote islands.

Mr. HITCHCOCK. I believe I express the strong sentiment of this country against having the Government make permanent investments of this character, unless a better showing is made as to the need for them.

Mr. REED. Mr. President, may I ask a question for information? I was unavoidably out of the Chamber when the Senator made his explanation and when this question was discussed. For my own information I want to ask whether the railroad is to be a part of our defense system—our military system—in the Philippine Islands?

Mr. WARREN. In the sense that it is a means of transportation from the sea to our troops; yes.

Mr. REED. Is this intended to be a permanent post, or is it simply a post that is maintained there to keep the peace in the islands until such time as we shall relinquish our control?

Mr. WARREN. It is a permanent post. It is in the Moro country, where, as I presume the Senator knows, there are different tribes, and where in early times there were all kinds of differences and all kinds of government. They had war between themselves, one upon another. It was the most dangerous country we had to enter when we took the islands. Our work there has been perhaps the most successful of our work anywhere in bringing about relative peace and turning the inhabitants into various lines of industry. It is purely a matter of economy.

As I stated before, surely the chairman of the committee has no more interest in the matter than any other Senator. But at present we are bound to spend not $100,000, as the Senator from Nebraska states, but from $150,000 to $200,000 a year for freight to this post. At one time it was over $200,000 a year. The lowest offer they have now for the next year or two is $20 a ton, and the lowest estimate they can make is 7,500 tons a year, which would be an even $150,000 for the wagon transportation over this route.

If by the expenditure of $200,000 we can at once almost obliterate that charge and bring it down to a mere nominal one, it seems to me good economy, whatever may become of the road after the Government has finished using it for the part of the Army located there.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER (Mr. OLIVER in the chair). Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. LODGE. I thought the Senator had finished. I did not know the Senator had the floor.

Mr. REED. Has there been any estimate or request in reference to this matter from the War Department?

Mr. WARREN. The Senator, I think, was out during my statement.

Mr. REED. I was out. I am sorry to take the time of the Senate.

Mr. WARREN. In the first place, these estimates were made as early as 1904 or 1905. When the so-called Taft party went to the islands the local authorities were so anxious about the matter that they arranged a trip, and a number of Senators and Members—myself included—went across that country on horseback and examined it thoroughly and spent a night at Lake

Lanao. The estimates then called for between $700,000 and $800,000. The War Department asked then that we build the road. But it seemed too much, and in my service on the Military Affairs Committee and also on the Committee on Appropriations I was not then ready to take up the enterprise.

But later on, I think during the last year, the War Department has had another estimate made by what it believes to be one of the most capable men in the service, one of the Army engineers.

The estimates for this road have been made annually ever since 1905, I think. The War Department has not only an estimate made, but in its evidence before the committee, through its head and bureau chief, it insisted that if we wanted economical management we should provide this railroad.

Mr. REED. Just one further question. Generally the internal improvements of the islands are now being taken care of by the islands themselves, are they not, our Government guaranteeing the bonds?

Mr. WARREN. Certain of them are; yes.

Mr. REED. If this proposed road is for the maintenance of the peace of the islands and is also in the nature of a permanent improvement, why should it not be paid for by the government of the islands, instead of by this Government?

Mr. WARREN. This is a matter of a different nature. As I say, it is for the exclusive use of the Government at present and may be said to be for the purpose of controlling the very people that would be taxed if the road were paid for by local taxation.

Mr. LODGE. Mr. President, I only wanted to say a single word in regard to the nature of the proposed road. It is a road which is proposed to be built in the island of Mindanao. The island of Mindanao is the great island on the southern border of the archipelago. It has no connection with Luzon. It is hundreds of miles away from Manila and from all that region where the commercial railroads are. It is the island of the Moros, who are Mohammedans in religion, and who are a wild and more or less dangerous people, under the government of their own datos or sultans.

The prospect of the road having any commercial value—which I recognize under present conditions would be almost a crime—is so slight that I think it need not be regarded. The island is largely a tropical wilderness. It is absolutely necessary to maintain a military post there. This is a mere means of communication for the safety of the military post, and for the cheap transportation of supplies thereto.

Having had familiarity for a good many years with Philippine matters, I simply wanted to emphasize the point that this is a matter that in no way concerns the commercial development of the islands, in which the other railroad system is involved.

Mr. REED. Mr. President, if I may, I should like to ask the Senator a question. The Senator appears to be very well posted upon the character of this island, as he is upon all questions upon which he speaks.

Mr. LODGE. I was for 15 years chairman of the Committee on the Philippines, and therefore picked up some knowledge of the islands.

Mr. REED. If the island is inhabited by barbarians and savages, and has no commercial possibilities, I should like to inquire why we are maintaining an Army post there, and why we should build railroads. Why do we not get out and turn it over to these Mohammedans?

Mr. LODGE. I did not say it had no commercial possibilities; far from it. I think very likely it has considerable commercial possibilities, now that we have established and maintained peace there. It is part of the archipelago. It is necessary, in the interest of all the islands, to have good order preserved there, which now is preserved there, and which undoubtedly is leading to some commercial development. I was speaking of the general condition of the island.

Mr. HITCHCOCK. I should like to ask the Senator a question. It has been stated that practically the only business of this railroad will be for military purposes.

Mr. LODGE. So I understand.

Mr. HITCHCOCK. The Senator from Wyoming has stated that the number of tons carried over the road annually will be 7,000 tons. Figuring 20 tons to the car, that is 350 carloads a year. Is the Senator in favor of building a railroad to carry less than 1 carload a day?

Mr. LODGE. Mr. President, I am in favor of building the railroad as an adjunct to a military post. My point, which seems to have escaped the Senator from Nebraska, was that this was not a commercial enterprise. It is a matter of military protection. I thought the Senator from Nebraska was haunted by the idea that in the remote future somebody might make some money out of it, and I wanted to disabuse his mind of the idea that there was any possibility of such a crime as that being contemplated. I do not think anybody is going to make any money out of it. It is a matter of military protection.

Mr. BACON. I should like to make an inquiry of the Senator. If for any reason we should have occasion to abandon that post, or that island, either, does the Senator think we could dispose of the road at an advantageous price?

Mr. LODGE. Why, certainly, because it would be of governmental value. Nobody with any commercial sense would build a road there. It is proposed to be built for the protection of the military post and for military purposes, and it would be valuable to any Government which took over the islands.

Mr. WARREN. Will the Senator from Massachusetts yield to me for a moment?

Mr. LODGE. Certainly.

Mr. WARREN. That country was considered important enough, both as to government and as to future development, for the Spanish nation to maintain communication through it. In fact, they carried through it to the lake, on mules and horses, at great expense, the materials for two steamboats, and constructed them on the lake. When we had our differences with Spain we captured and sunk those boats. Since then we have raised them, and they are now plying on the lake. It is not a country that is incapable of development, because it has great natural resources. But if peace is to be maintained there, and one tribe is to be kept from annihilating another, there must be some strong hand of government there.

Mr. LODGE. Mr. President, if the Senator from Wyoming will allow me, he does not differ with me in my proposition that this road is primarily a military adjunct?

Mr. WARREN. Not at all; it is entirely so.

Mr. REED. What is the objection to letting one tribe of that kind of people annihilate the other?

Mr. LODGE. No doubt something may be said for that view.

Mr. WARREN. The Senator from Missouri seems to be more bloodthirsty than he was before he went to Baltimore.

Mr. REED. Oh, no, Mr. President. I am just trying to qualify myself for association with some of the gentlemen who did not go to Chicago.

Mr. WARREN. That is useless.

Mr. FLETCHER. I understood the chairman of the committee to state that in 1904 the War Department estimated that the expenditure required here was about $800,000. If we have had a saving of $600,000 since 1904, may we not get some further advantage if we postpone the matter another year or two?

Mr. WARREN. That is begging the question. In the first place, I alluded to 1904 in a loose manner. When the estimates are as carefully made as they are now, with every item shown, an argument of that kind does not have any effect.

Mr. BACON. I understand the question to be upon the adoption of the amendment.

The PRESIDING OFFICER. The question is upon the adoption of the amendment recommended by the committee, beginning with line 4, on page 57. The yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN], and noticing his absence I withhold my vote.

Mr. CULLOM (when his name was called). I am paired with the junior Senator from West Virginia [Mr. CHILTON] and withhold my vote.

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. He is not present and I therefore withhold my vote.

Mr. LIPPITT (when his name was called). I have a general pair with the Senator from Tennessee [Mr. LEA]. If he were present, and I were allowed to vote, I would vote "yea."

Mr. CHAMBERLAIN (when Mr. OWEN'S name was called). The Senator from Oklahoma [Mr. OWEN] is paired with the Senator from Nebraska [Mr. BROWN]. I make this announcement for the day.

Mr. SMITH of South Carolina (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. RICHARDSON]. I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote. I vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the Senator from Louisiana [Mr. FOSTER], and although I have his assurance that on all such matters I can vote, I will for the present withhold my vote.

Mr. WETMORE (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. CLARKE],

and I withhold my vote. If I were at liberty to vote, I would vote "yea."

The roll call was concluded.

Mr. BRADLEY (after having voted in the affirmative). When I voted I forgot that I am paired with the senior Senator from Maryland [Mr. RAYNER]. I withdraw my vote.

Mr. MCCUMBER (after having voted in the affirmative). I am informed that my pair, the senior Senator from Mississippi [Mr. PERCY], has not voted. That being the case I will transfer my pair with that Senator to the Senator from Michigan [Mr. TOWNSEND] and I will allow my vote to stand.

Mr. DILLINGHAM (after having voted in the affirmative). I ask leave to withdraw my vote, as I see that the Senator from South Carolina [Mr. TILLMAN] is not in the Chamber. I am paired with that Senator.

Mr. SHIVELY. I desire to announce that my colleague [Mr. KERN] is unavoidably absent from the Senate. He is paired with the junior Senator from Tennessee [Mr. SANDERS]. I desire this announcement to stand for the day.

Mr. CULBERSON (after having voted in the negative). Has the Senator from Delaware [Mr. DU PONT] voted?

The PRESIDING OFFICER (Mr. LODGE in the chair). The Senator from Delaware [Mr. DU PONT] has not voted.

Mr. CULBERSON. I withdraw my vote, as I have a general pair with that Senator.

Mr. MARTINE of New Jersey. I desire to announce the pair of the Senator from Arkansas [Mr. DAVIS] with the Senator from Kansas [Mr. CURTIS]. I make this announcement for the day.

The result was announced—yeas 28, nays 25, as follows:

YEAS—28.

Bourne	Crawford	Jones	Perkins
Bristow	Cummins	Lodge	Poindexter
Burnham	Fall	McCumber	Root
Burton	Gallinger	McLean	Smith, Mich.
Catron	Gamble	Massey	Smoot
Clark, Wyo.	Gronna	Oliver	Sutherland
Crane	Guggenheim	Page	Works

NAYS—25.

Ashurst	Johnson, Me.	Pomerene	Smith, S. C.
Bacon	Johnston, Ala.	Reed	Stone
Bryan	Kenyon	Shively	Swanson
Chamberlain	Martin, Va.	Simmons	Thornton
Clapp	Martine, N. J.	Smith, Ariz.	
Fletcher	Myers	Smith, Ga.	
Hitchcock	Overman	Smith, Md.	

NOT VOTING—41.

Bailey	Curtis	Lea	Sanders
Bankhead	Davis	Lippitt	Stephenson
Borah	Dillingham	Nelson	Tillman
Bradley	Dixon	Newlands	Townsend
Brandegee	du Pont	O'Gorman	Warren
Briggs	Foster	Owen	Watson
Brown	Gardner	Paynter	Wetmore
Chilton	Gore	Penrose	Williams
Clarke, Ark.	Heyburn	Percy	
Culberson	Kern	Rayner	
Cullom	La Follette	Richardson	

So the amendment of the committee was agreed to.

The PRESIDING OFFICER. The Secretary will continue the reading of the bill.

The next amendment was, on page 58, after line 19, to insert:

Purchase of land, Vancouver Barracks, Wash.: For the purchase of lands necessary and suitable for a target range for Vancouver Barracks, Wash., $25,750.

The amendment was agreed to.

The next amendment was, on page 61, after line 16, to insert:

China or White Hall Cemetery, Pennsylvania: The Secretary of War is hereby authorized and directed to sell for cash, by advertisement or private sale, as in his judgment may best subserve the interests of the United States, and to make the required conveyance, all the right, title, and interest of the United States in and to that certain parcel of land situate on the northwesterly side of China Hall public road leading to Bristol, in the township of Bristol, county of Bucks, State of Pennsylvania, containing 1 acre, more or less, conveyed to the United States by deed of George Randall and wife, dated the 30th day of August, 1864.

The amendment was agreed to.

The next amendment was, on page 62, after line 3, to insert:

Cave Hill Cemetery, Louisville, Ky., purchase of additional land: For the purchase of additional land in Cave Hill Cemetery, at Louisville, Ky., for the burial of soldiers of the Union Army in the late Civil War and in the War with Spain, $25,656.80.

The amendment was agreed to.

The next amendment was, on page 62, after line 8, to insert:

Florence Cemetery, South Carolina: For the construction of a rostrum at the national cemetery at Florence, S. C., $5,000, or so much thereof as may be necessary in the discretion of the Secretary of War.

The amendment was agreed to.

The next amendment was, on page 64, line 24, after the sum "$57,500," to insert "*Provided*, That $500 of the above sum is hereby made available to defray the expense of the removal of the body of Lieut. Col. George Pomutz, adjutant and lieutenant colonel, during the Civil War, of the Fifteenth Regiment Iowa Volunteer Infantry, from St. Petersburg, Russia, to Arlington Cemetery, Virginia, also to include disinterment, transportation, and reinterment at Arlington," so as to make the clause read:

Disposition of remains of officers, soldiers, civilian employees, etc.: For the expenses of interment, or of preparation and transportation to their homes or to such national cemeteries as may be designated by proper authority, in the discretion of the Secretary of War, of the remains of officers, including acting assistant surgeons, and enlisted men of the Army active list; for the expenses of interment, or of preparation and transportation to their homes, of the remains of civil employees of the Army in the employ of the War Department who die abroad, inclusive of Alaska, or on Army transports; for the expenses of removal of remains from abandoned posts to permanent military posts or national cemeteries, including the remains of Federal soldiers, sailors, or marines interred in fields or abandoned private and city cemeteries; and in any case where the expenses of burial or shipment of the remains of officers or enlisted men of the Army who die on the active list are borne by individuals, where such expenses would have been lawful claims against the Government, reimbursement to such individuals may be made of the amount allowed by the Government for such services, to be paid out of the funds appropriated by this act, but no reimbursement shall be made under this act of such expenses incurred prior to the 1st day of July, 1910, $57,500: *Provided*, That $500 of the above sum, etc.

Mr. WARREN. I move to amend the amendment by adding, in line 3, page 65, after the word "Infantry," the words "also consul of the United States."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 65, after line 6, to insert:

Reimbursement of the government of the Philippine Islands: To reimburse the government of the Philippine Islands for expenses incurred in the disinterment, preparation for shipment, and transportation of the remains of the late Orman K. Osbon, member of Company F, Thirty-sixth Regiment United States Volunteers, buried in the Catholic cemetery at Bolinao, island of Luzon, to San Francisco, for burial in the national cemetery, $75.

The amendment was agreed to.

The next amendment was, on page 66, after line 2, to insert:

Monuments or tablets in Cuba and China: For repairs and preservation of monuments, tablets, roads, fences, etc., made and constructed by the United States in Cuba and China to mark the places where American soldiers fell, $1,000.

The amendment was agreed to.

The next amendment was, under the subhead "National military parks," on page 68, after line 13, to strike out:

The unexpended balance, not exceeding $5,950, of the appropriation of $150,000 for the Union Naval Monument is reappropriated and made available for bronze portraits, with granite pedestals, of brigade and division commanders.

The amendment was agreed to.

The next amendment was, on page 68, after line 17, to strike out:

Hereafter vacancies occurring in the membership of the several commissions in charge of national military parks shall not be filled, and the duties of the offices thus vacated shall devolve upon the remaining commissioners or commissioner for each of said parks: *Provided*, That as vacancies occur hereunder the Secretary of War shall become ex officio a member of the commission effected with full authority to act with the remaining commissioners or commissioner, and in case of the vacation of all the offices of commissioner in any one park hereunder the duties of such commission shall thereafter be performed under the direction of the Secretary of War.

The amendment was agreed to.

The next amendment was, under the subhead "Under Engineer Department," on page 69, line 16, after the word "improvements," to strike out the sum "$70,000" and insert "$150,000, including not to exceed $4,500 for maintenance of the road in the forest reserve leading out of the park from the east boundary, and not to exceed $1,500 for maintenance of the road in the forest reserve leading out of the park from the south boundary"; and in line 21, after the words "Secretary of War," to strike out "and to be immediately available"; so as to make the clause read:

Yellowstone National Park: For maintenance and repair of improvements, $150,000, including not to exceed $4,500 for maintenance of the road in the forest reserve leading out of the park from the east boundary, and not to exceed $1,500 for maintenance of the road in the forest reserve leading out of the park from the south boundary, to be expended by and under the direction of the Secretary of War: *Provided*, That no portion of this appropriation shall be expended for the removal of snow from any of the roads for the purpose of opening them in advance of the time when they will be cleared by seasonal changes.

The amendment was agreed to.

The next amendment was, on page 70, after line 2, to insert:

For widening and improving surface of roads, and for building bridges and culverts, from the belt-line road to the western border; from The Thumb Station to the southern border; and from the Lake Hotel Station to the eastern border, all within Yellowstone National Park, to make such roads suitable and safe for animal-drawn and motor-propelled vehicles, $77,000.

Mr. HITCHCOCK. I wish to inquire of the chairman of the committee what the expression "motor-propelled vehicles in the Yellowstone Park" means? I notice that this appropriation of $77,000 is for the purpose of making roads "suitable and safe for animal-drawn and motor-propelled vehicles." I

understood that Government regulations prohibit motor-propelled vehicles in the parks.

Mr. WARREN. That is true, but let me say to the Senator that the belt line in the park is, of course, surrounded by a large portion of the park, practically unused and untraveled except as to the roads of entrance from north, south, east, and west. Then there is a forest reserve still outside of and almost entirely surrounding the park. The travel from the south, east, and west, as well as from the north, is becoming heavy, and there is nothing there, as to the first three mentioned, but wooden waterway bridges and sluices and narrow, incomplete roadways. These roads are narrow and must be repaired, and in repairing it is thought best to make them wide enough so that they can be utilized hereafter for motors from the outer park lines to the inside much-traveled belt line, but not yet on the belt line. This has been recommended by the committee after consideration of the Interior Department and the War Department replies to Senate resolutions.

While the Secretary of the Interior expressed himself as opposed to motors on the belt line in the park at present, he says he believes that the time will come when motors may be admitted, after roads have been properly reconstructed.

This proposed widening, however, covers but a small fraction, considering the total number of miles of traveled roads. It goes from the edge of the timber reserve to the belt line in three different directions that are very much traveled.

Mr. HITCHCOCK. The regulations will still remain in force against automobiles in the park?

Mr. WARREN. Oh, yes; there is no present change proposed in that regard.

The amendment was agreed to.

The next amendment was, on page 70, after line 9, to insert:

Crater Lake National Park, Oreg.: For the construction of a wagon road and the necessary bridges through Crater Lake National Park, Oreg., together with a system of tanks and water-supply pipes to provide for sprinkling, in accordance with the recommendations contained in the report of the War Department published as House Document No. 328, Sixty-second Congress, second session, to be expended under the direction of the Secretary of War, $100,000.

The amendment was agreed to.

The next amendment was, on page 72, line 3, after the words "for official use," to strike out "$27,000" and insert "$30,000," so as to make the clause read:

For improvement, care, and maintenance of various reservations, including purchase, maintenance, and driving of horse and vehicle for official use of the officer in charge of public buildings and grounds, and of other necessary vehicles, for official use, $30,000.

The amendment was agreed to.

The next amendment was, on page 72, line 15, after the word "embankment," to insert "and constructing roads, paths, and shelters," and in line 16, after the word "shelters," to strike out "$25,000" and insert "$75,000," so as to make the clause read:

For grading, soiling, seeding, and planting that portion of Potomac Park west of the railroad embankment, and constructing roads, paths, and shelters, $75,000.

The amendment was agreed to.

The next amendment was, on page 73, after line 2, to insert:

For commencing the improvement of Montrose Park, and for its care and maintenance, $10,000.

The amendment was agreed to.

The next amendment was, on page 73, after line 4, to insert:

For commencing the improvement of Meridian Hill Park, $25,000.

The amendment was agreed to.

The next amendment was, on page 75, after line 21, to insert:

Telegraph to connect the Capitol with the departments and Government Printing Office: For care and repair of existing lines, $500.

The amendment was agreed to.

The next amendment was, on page 78, line 8, after the word "commission," to strike out "$5,000" and insert "$8,800," so as to make the clause read:

Commission of Fine Arts: To meet the expenses made necessary by the act approved May 17, 1910, entitled "An act establishing a Commission of Fine Arts," including the purchase of periodicals, maps, and books of reference, to be disbursed, on vouchers approved by the commission, by the officer in charge of public buildings and grounds, who shall be the secretary and shall act as the executive officer of said commission, $8,800.

The amendment was agreed to.

The next amendment was, on page 80, line 7, after the word "mouth," to strike out "in completion of contract authorization," so as to make the clause read:

Improving Siuslaw River, Oreg.: For continuing improvement by jetty construction at the mouth, $35,000.

The amendment was agreed to.

The next amendment was, on page 81, line 2, after the word "improvement," to strike out "in completion of contract authorization," so as to make the clause read:

Improving Chicago River, Ill.: For continuing improvement, $28,000.

The amendment was agreed to.

The next amendment was, on page 81, line 5, after the word "improvement," to strike out "in completion of contract authorization," so as to make the clause read:

Improving Columbia and Lower Willamette Rivers, below Portland, Oreg.: For continuing improvement, $200,000.

The amendment was agreed to.

The next amendment was, on page 81, line 8, after the word "improvement," to strike out "in completion of contract authorization," so as to make the clause read:

Improving Harbor at Conneaut, Ohio: For continuing improvement, $100,000.

The amendment was agreed to.

The next amendment was, on page 81, line 15, after the word "sea," to strike out "in completion of contract authorization," so as to make the clause read:

Improving Delaware River, Pa. and N. J.: For continuing improvement of 35-foot channel from Allegheny Avenue, Philadelphia, Pa., to the sea, $450,000.

The amendment was agreed to.

The next amendment was, on page 81, line 21, after the words "north jetty," to insert "in completion of contract authorization," so as to make the clause read:

Improving Grays Harbor, Wash.: For continuing improvement of Grays Harbor and Bar Entrance by extension of north jetty in completion of contract authorization, $655,000.

The amendment was agreed to.

The next amendment was, on page 81, line 24, after the word "improvement," to strike out "in completion of contract authorization," so as to make the clause read:

Improving Hillsboro Bay, Fla.: For continuing improvement, $200,000.

The amendment was agreed to.

The next amendment was, on page 82, line 2, after the word "improvement," to strike out "in completion of contract authorization," so as to make the clause read:

Improving harbor at Hilo, Hawaii: For continuing improvement, $100,000.

The amendment was agreed to.

The next amendment was, on page 83, line 5, after the word "improvement," to strike out "$31,400" and insert "$160,000," so as to make the clause read:

Harbor of refuge at Point Judith, R. I.: For continuing improvement, $160,000.

The amendment was agreed to.

The next amendment was, on page 83, line 11, after the word "ocean," to strike out "in completion of contract authorization," so as to make the clause read:

Improving St. Johns River, Fla.: For continuing improvement from Jacksonville to the ocean, $350,000.

The amendment was agreed to.

The next amendment was, on page 83, line 14, after the word "channel," to strike out "over" and insert "through," so as to make the clause read:

Improving San Pablo Bay, Cal.: For continuing improvement of channel through Pinole Shoal, $122,000.

The amendment was agreed to.

The next amendment was, on page 83, line 18, after the word "improvement," to strike out "in completion of contract authorization," so as to make the clause read:

Improving South Haven Harbor, Mich.: For continuing improvement, $40,000.

The amendment was agreed to.

The next amendment was, on page 84, after line 24, to insert:

International Waterways Commission: For continuing the work of investigation and report by the International Waterways Commission, authorized by section 4 of the river and harbor act approved June 13, 1902, $20,000.

Mr. HITCHCOCK. I should like to ask if the work of that commission has not been practically finished?

Mr. WARREN. We are informed that it has not been finished. It is nearing completion. The chairman of the board—Gen. Ernst, I believe, is the chairman—stated to the committee that he would endeavor to finish it within this amount, and perhaps save some portion of this appropriation. There is much paper work yet to be done, and some of the monuments and landmarks are not yet up.

Mr. HITCHCOCK. What monuments does this Waterways Commission erect?

Mr. WARREN. Monuments are erected oftentimes to make a point on the water. Monuments on land oftentimes are used in triangulating into some water point, and monuments are erected on islands and river and lake borders.

Mr. CULBERSON. Can the Senator give us the personnel of the commission as it is now organized?

Mr. WARREN. I do not know that I have it at hand now, but I shall obtain it in a moment or two.

Mr. BURTON. Mr. President——

Mr. CULBERSON. This is not the Canadian commission. This is the International Waterways Commission.

Mr. WARREN. Yes.

Mr. CULBERSON. I understand that they have nothing to do with the erection of monuments.

Mr. ROOT. Mr. President, the International Waterways Commission, which was created under congressional legislation, was charged under the boundary treaty with the work of laying out and marking the boundary between the United States and Canada on the Great Lakes.

Mr. WARREN. That is, the water part of it.

Mr. CULBERSON. That is an entirely different commission, I think.

Mr. WARREN. No; the Senator is thinking of another commission, which evidently has been confounded with this one. This is the earlier commission, and is presided over—the American part of it—by Gen. Ernst.

Mr. HITCHCOCK. Does the Senator mean to say that the commission operating between Canada and the United States is called the International Waterways Commission?

Mr. WARREN. I understand it is a commission as arranged between the two Governments to carry out treaties.

Mr. HITCHCOCK. I supposed that was called the joint commission, not the international commission. I supposed the international commission was the commission we had investigating——

Mr. WARREN. We have another commission, called the International Joint Commission, of which Mr. Tawney, formerly of the House of Representatives, is a member, and of which one of our beloved former Members, now dead, was a member; but, as I said, that is entirely different.

Mr. HITCHCOCK. Can the Senator give me the personnel of that commission?

Mr. WARREN. I can not now, just at this moment.

Mr. BURTON. I do not remember the name of the third member. The original members were Gen. Oswald H. Ernst; Mr. George Clinton, a lawyer, of Buffalo, N. Y.; and Mr. George Wisner, an engineer, of Detroit, Mich. Mr. Wisner is now deceased, and a professor of engineering in Cornell University was appointed in his place.

I will state that this commission is somewhat confused with the latter one. It was appointed under the act passed in 1902, paragraph 4 of the river and harbor act of that year, and commenced its work in 1905. It has had to do with quite a number of important investigations, such as the effect upon the water level of the Great Lakes of the diversion caused by the Chicago Drainage Canal. It was specifically authorized and directed to investigate upon the feasibility of constructing a dam at the lower end of Lake Erie.

Mr. HITCHCOCK. What is the title of that commission?

Mr. BURTON. It is called the International Waterways Commission.

Mr. HITCHCOCK. The same title?

Mr. WARREN. No; not the same title. I now can give the membership: Chairman, Brig. Gen. O. H. Ernst, United States Army (retired); George Clinton, Buffalo, N. Y.; E. E. Haskell, Cornell University, Ithaca, N. Y.; secretary, W. E. Wilson, Buffalo, N. Y.

The Canadian members are: Chairman, Sir George C. Gibbons, K. C., London, Ontario; Louis Coste, Ottawa, Ontario; William J. Stewart, Ottawa, Ontario; and their secretary is Thomas Côté, Ottawa, Ontario.

Mr. HITCHCOCK. Is that called the International Waterways Commission?

Mr. WARREN. It is the International Waterways Commission. That is the official title.

Mr. HITCHCOCK. Then we have another one operating under the same name.

Mr. GALLINGER. The title of the latter commission is "The International Joint Commission" as laid down in the Congressional Directory, and I think that is correct.

Mr. CULBERSON. Can the Senator in charge of the bill give us a statement as to the expenditures of this International Waterways Commission last year?

Mr. WARREN. The appropriations have been $20,000 a year.

Mr. CULBERSON. This commission has been in existence since 1902, I understand, when the law was passed. That is 10 years, and it has not concluded its labors yet.

Mr. BURTON. I will state that it commenced its work in 1905. There was a delay by the British or Canadian Government in making the appointment of its members of the commission, there being some difference of opinion as to the exact scope of their work. The Canadian Government thought that they had a right to submit certain disputed questions pertaining to the boundary waters near the Pacific coast, while our Government thought their jurisdiction was limited to the Great Lakes and the St. Lawrence and connecting waters. Their work was not commenced before the year 1905, and perhaps not until a little later. I will say for the commission they have performed some very important duties.

Mr. CULBERSON. Is not the International Joint Commission now performing practically the same duties, so far as Canada is concerned, as this International Waterways Commission?

Mr. WARREN. It is entirely different. This was for the waters and islands, which one witness described as islands in the river that were as the books on the table. When the Senator is through I should like to have read a part of the letter of Gen. Ernst, which throws some light upon the work.

Mr. CULBERSON. Has the chairman of the committee any information as to when the labors of this commission will be concluded? It is admitted that it has been in existence now for six years.

Mr. WARREN. The Senator says that upon what authority?

Mr. CULBERSON. I say it upon the statement of the Senator from Ohio [Mr. BURTON].

Mr. WARREN. That is probably correct. The chairman of the committee was unadvised as to the time, although knowing that it preceded the other one.

Gen. Ernst says here:

> I was not called before the House Appropriations Committee when they were preparing the bill, and therefore had no opportunity to answer any objections which might be raised to the item. Indeed, I am not perfectly certain as to what those objections are, but it is my understanding that there are two.
>
> One is that the commission has had time enough to complete its work. In answer to this I can only say that any delays which may have occurred have been unavoidable. They are only such as must always occur where two independent coordinate bodies, like the two sections of an international commission, are working together. All of the work has been completed except that relating to two subjects, the regulation of Lake Erie and marking the international boundary. In spite of all efforts to hasten the work it will require one year and perhaps part of another to complete the relocation and marking of the boundary.
>
> The other objection is, as I understand it, that the work may well be transferred to the new international joint commission and completed by them. This is not possible for a variety of reasons. In the first place, it is almost wholly technical engineering work, and in its present incomplete condition could not be transferred, even to the most competent engineers, without great loss of time and waste of labor already put upon it. In the second place, the new commission is organized upon a different footing from the old one. The personnel of the latter is, by law, two-thirds of it engineers, while the new commission has not a single engineer member. It is no reflection upon the new commission to say that they are not competent to do the work. Finally, article 4 of the treaty between the United States and Great Britain, dated April 11, 1908, of which I inclose a copy, provides that "the existing international waterways commission" shall do this boundary work; that is, the work must be done by a commission of whom the majority are engineers. To transfer it to the international joint commission would be to violate the treaty.
>
> It seems to me that aside from the injury to the work itself which must result from a sudden stoppage, there is here a question of international courtesy. We first invited Great Britain to join us in creating the International Waterways Commission, and later on we joined with her in a treaty assigning to them an important piece of work. Are we at liberty to put a sudden stop to that work, by simply refusing to go on with it, without warning to her?

Mr. CUMMINS. Mr. President, I should like to ask the Senator from Wyoming what is the pay of these commissioners.

Mr. WARREN. I could not tell the Senator that without looking it up.

Mr. CUMMINS. Do we pay them by the year or by the day?

Mr. WARREN. Of course the retired officer of the Army is getting, so far as I know, only his retired pay.

Mr. CUMMINS. Is this appropriation intended to pay them?

Mr. WARREN. It is to pay their employees and such members, doubtless, as are not provided for otherwise.

Mr. CUMMINS. The Senator does not know how much we are paying or how much of the time they are actually employed?

Mr. WARREN. I have not the details here, Mr. President.

Mr. CUMMINS. I think the chances are that all of them except the officer of the Army give most of their time to other occupations.

Mr. WARREN. Of that the chairman would hardly know, as they are all strangers to him, living at distant points.

Mr. CUMMINS. This is not intended to be a criticism, but I have no doubt that they have been paid a great deal more than they ever earned, not simply because they are all eminent men, but because they are paid for a great deal of time that they do not give to the work of the United States. They all ought to be paid by the day and ought to render such an account as to show the time actually expended.

Mr. HITCHCOCK. I should like to ask the chairman of the committee, in view of the assurances which have been given to him for an early report, whether he would be willing to add to this paragraph "final report to be made within one year, or before June 30, 1913"?

Mr. WARREN. If this were a commission entirely on our own land and immediately and only under our own orders, I would probably not object; but here is a commission one-half of which are subjects of another country, and I do not believe it would be competent for us to express it in that way. Of course, we might express a desire for an early completion, but I hardly think we ought to make a drastic order of that kind in an international matter.

Mr. HITCHCOCK. I think such a hint to the commission would be wise.

Mr. WARREN. Make it a hint, but not an order, then.

Mr. HITCHCOCK. I think one of the crying evils, if not scandals, of our Government has been the appointment of such commissions at high salaries with little work and with no supervision, and they are allowed to run along from year to year and from ocean to ocean and to extend their own time.

It seems to me when Congress makes this appropriation, after having received, as the Senator from Wyoming states he has received, an assurance that the final result can be reached within a year, we may well——

Mr. WARREN. No; the Senator must have had his attention attracted elsewhere when I read the letter. Gen. Ernst states that he hoped to accomplish it within a year, or, at least, in the early part of another year.

Mr. HITCHCOCK. I understood the Senator to say before that time.

Mr. WARREN. I said before reading the letter that Gen. Ernst hoped to do it inside of a year, and I still say that; but he qualifies the statement in his letter.

Mr. HITCHCOCK. Undoubtedly, if there were some supervision somewhere, the work could be expedited a great deal. I believe this is one of the cases when a suggestion of this sort would be proper. I therefore move to amend the amendment by adding "the final report to be made within one year."

I want to say by way of explanation, Mr. President, that that can be later amended by Congress if necessary. Being inserted in an appropriation bill, I believe it will produce the desired result.

The PRESIDING OFFICER. The amendment proposed by the Senator from Nebraska to the amendment of the committee will be stated.

The SECRETARY. On page 85, line 3, in the committee amendment, after the numerals, it is proposed to insert a comma and the words:

The final report to be made within one year.

Mr. ROOT. Mr. President, I hope the Senator from Nebraska will not press that amendment. I think it would be regarded as a discourtesy to these gentlemen, who are of very high character, on the American side of the commission and by the Canadian members of the commission. We have not any evidence at all that they have not been entirely diligent in the performance of their work. Senators will realize that, although the boundary lines between the adjacent countries are established, as the population increases and the country in the neighborhood of the boundary becomes more thickly settled and communication and commerce increase it becomes continually necessary to make more definite the position of the line. A line passing through a wilderness might well be described in general terms, but when people come to build their homes and to carry on their business it must be marked out on the surface of the earth with certainty and particularity.

All along the three thousand and odd miles of boundary between the United States and Canada we have been reaching that position. A few years ago it was found very essential that measures should be taken to mark out on the surface of the earth with certainty the lines between New York and Canada. A treaty was made for that purpose and different agencies were availed of to do that work according to the nature of the line which was to be established. For some part of the line surveyors were to be employed, and for the part of the line which passes through the waterways of the Great Lakes both countries agreed that the existing commission, which was very familiar with the waterways and which was composed of two engineers and one lawyer, was the best agency that could be adopted for the purpose of doing the work. If we had not taken that we would have had to create a new agency to do it; but we had these gentlemen; so we formally agreed to impose upon that existing commission the duty of marking out this line. They are empowered by the treaty—

To ascertain and reestablish accurately the location of the international boundary line, beginning at the point of its intersection with the St. Lawrence River near the forty-fifth parallel of north latitude, as determined under articles 1 and 6 of the treaty of August 9, 1842, between the United States and Great Britain, and thence through the Great Lakes and communicating waterways to the mouth of Pigeon River, at the western shore of Lake Superior in accordance with the description of such line in article 2 of the treaty of peace between the United States and Great Britain, dated September 3, 1873, and of a portion of such line in article 2 of the treaty of August 9, 1842, aforesaid, and as described in the joint report dated June 18, 1822, of the commissioners appointed under article 6 of the treaty of December 24, 1814, between the United States and Great Britain, with respect to a portion of said line and as marked on charts prepared by them and filed with said report, and with respect to the remaining portion of said line as marked on the charts adopted as treaty charts of the boundary under the provisions of article 2 of the treaty of 1842, above mentioned, with such deviation from said line, however, as may be required on account of the cession by Great Britain to the United States of the portion of Horse Shoe Reef, in the Niagara River, necessary for the lighthouse erected there by the United States in accordance with the terms of the protocol of a conference held at the British foreign office December 9, 1850, between the representatives of the two Governments and signed by them, agreeing upon such cession; and it is agreed that wherever the boundary is shown on said charts by a curved line along the water the commissioners are authorized in their discretion to adopt in place of such curved line a series of connecting straight lines, defined by distances and courses and following generally the course of such curved line, but conforming strictly to the description of the boundary in the existing treaty provisions, and the geographical coordinates of the turning points of such line shall be stated by said commissioners, so as to conform to the system of latitudes and longitudes of the charts mentioned below.

I ask the attention of the Senator from Nebraska particularly to this part of the treaty—

And the said commissioners shall, so far as practicable, mark the course of the entire boundary line, located and defined as aforesaid, by buoys and monuments in the waterways and by permanent range marks established on the adjacent shores or islands, and by such other boundary marks and at such points as in the judgment of the commissioners it is desirable that the boundary should be so marked.

Then they are to indicate the marks on the charts.

Mr. President, the establishment of this line and the establishment of monuments and range lines is of very great importance, because there arise questions of jurisdiction, the seizure of persons violating the laws on either side of the line, the limit to which fishermen may go, and a great number of acts which relate to the jurisdiction of the different countries. It is an inconspicuous and uninteresting thing to do, but nothing is of greater importance to the carrying out of this series of treaties which provide for fixing with definiteness and certainty the line between the sovereignty of Canada and the sovereignty of the United States.

The two countries have agreed to avail themselves of the agency of this commission to lay out this portion of the line. In view of the difficulties that exist, the questions to be discussed and settled, and the enormous range of country over which they act, I do not think we ought to assume that they have been negligent or dilatory in the performance of their duty; and I should be very sorry to see the Senate put into this appropriation bill anything which tended to express a judgment of that nature.

Mr. HITCHCOCK. Could the Senator suggest any other language which would indicate to the commission that Congress would like to have a report made within a definite time?

Mr. ROOT. Mr. President, I think this discussion will be suggestion enough to gentlemen of the character that compose this commission.

Mr. HITCHCOCK. The Senator realizes that when a commission of this kind is appointed without any time limit, with absolutely no suggestion that there is any haste whatsoever, it has been our universal experience that they have dragged on year after year, with great deliberation, to say the least. The very argument which the Senator from New York makes as to the importance of having these boundary lines demarked and laid out and defined and monumented is an argument in favor of doing it now, and not permitting it to drag along indefinitely through the years.

Mr. ROOT. I think we well might put in a provision directing the American commissioners to make a report.

Mr. GALLINGER. Mr. President, I have such a provision written and hope the Senator from Nebraska will accept it. It is as follows:

Provided, That report as to the progress of the work be made by the American commissioners to Congress at the beginning of the next session.

Mr. HITCHCOCK. In view of the fact that this discussion will also be taken in connection with that, I accept that amendment.

Mr. WARREN. The committee has no objection.

Mr. CULBERSON. Mr. President, I have remarked frequently, since I have had the honor to be a Member of this body, on the number of commissions which have been appointed to assist the Government of the United States in carrying out its obligations and otherwise performing its functions; but I do not believe that I have ever seen commissions so directly the duplicate of each other as are the two commissions which are now under discussion. I want to emphasize that by asking the reporter to put into the CONGRESSIONAL RECORD what appears in the edition of the Congressional Directory of April, 1912, at page 265, about the International Waterways Commission and what appears at page 267 of the same publication under the head of "The International Joint Commission," the duties of each of which have reference to the boundary lying between the United States and Canada, each of them having American commissioners and Canadian commissioners, each of them having an office at the expense of the Government of the United States, one in the Westory Building and the other in the Southern Building.

The PRESIDING OFFICER. Without objection, permission to do so is granted.

The matter referred to is as follows:

INTERNATIONAL WATERWAYS COMMISSION.

[Room 606 Westory Building, 605 Fourteenth Street. Phone Main 7343.]

Brig. Gen. O. H. Ernst, United States Army (retired), chairman, 1321 Connecticut Avenue; George Clinton, Prudential Building, Buffalo, N. Y.; Prof. E. E. Haskell, Cornell University, Ithaca, N. Y.; W. E. Wilson, Federal Building, Buffalo, N. Y., secretary.

CANADIAN MEMBERS.

Sir George C. Gibbons, K. C., London, Ontario, chairman; Louis Coste, Ottawa, Ontario; William J. Stewart, Ottawa, Ontario; Thomas Côté, Ottawa, Ontario, secretary.

THE INTERNATIONAL JOINT COMMISSION.

[Southern Building, Fifteenth and H Streets. Phone Main 3764.]

Created by treaty with Great Britain, and having jurisdiction over all cases involving the use or obstruction or diversion of waters forming the international boundary or crossing the boundary between the United States and Canada.

UNITED STATES SECTION.

Hon. James A. Tawney, Winona, Minn, chairman; Hon. Frank S. Streeter, Concord, N. H.; Hon. George Turner, Spokane, Wash.; L. White Busbey, Washington, D. C., secretary.

CANADIAN SECTION.

Th. Chase Casgrain, K. C., Montreal, Quebec, chairman; Henry A. Powell, K. C., St. John, New Brunswick; Charles A. Magrath, Ottawa, Ontario; Lawrence J. Burpee, Ottawa, Ontario, secretary.

Mr. CULBERSON. I want further to emphasize the fact that the first of these commissions has been in existence since 1905, while the new commission has only just about begun its labors.

I hope, Mr. President, that the amendment suggested by the Senator from Nebraska [Mr. HITCHCOCK], as amended by the Senator from New Hampshire [Mr. GALLINGER], may have the effect of expediting this work, and that at least we may have an opportunity of getting rid of one of these commissions, which are nothing more, in my judgment, however you may disguise it by technicalities, than duplicates one of the other.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire [Mr. GALLINGER] to the amendment of the committee. Without objection, the amendment to the amendment is agreed to, and the amendment as amended is agreed to.

Mr. WARREN. Mr. President, before leaving this matter, I ask permission to have printed in the RECORD in full the letter of Gen. Ernst, of which I read a part.

The PRESIDING OFFICER. Without objection, the matter will be printed as requested.

The letter referred to is as follows:

INTERNATIONAL WATERWAYS COMMISSION,
OFFICE OF CHAIRMAN AMERICAN SECTION,
Washington, D. C., June 6, 1912.

Hon. FRANCIS E. WARREN,
Chairman Committee on Appropriations,
United States Senate.

MY DEAR SIR: Among the estimates submitted by the War Department for the coming year was an item of $20,000 for the support of the International Waterways Commission. This item has been omitted in the sundry civil bill, where it is usually carried, and that bill will reach the Appropriations Committee of the Senate without it.

I was not called before the House Appropriations Committee when they were preparing the bill, and therefore had no opportunity to answer any objections which might be raised to the item. Indeed, I am not perfectly certain as to what those objections are, but it is my understanding that there are two.

One is that the commission has had time enough to complete its work. In answer to this I can only say that any delays which may have occurred have been unavoidable. They are only such as must always occur where two independent coordinate bodies, like the two sections of an international commission, are working together. All of the work has been completed except that relating to two subjects, the regulation of Lake Erie and marking the international boundary. In spite of all efforts to hasten the work, it will require one year and perhaps part of another to complete the relocation and marking of the boundary.

The other objection is, as I understand it, that the work may well be transferred to the new International Joint Commission and completed by them. This is not possible, for a variety of reasons. In the first place, it is almost wholly technical engineering work, and in its present incomplete condition could not be transferred even to the most competent engineers without great loss of time and waste of labor already put upon it. In the second place, the new commission is organized upon a different footing from the old one. The personnel of the latter is by law two-thirds of it engineers, while the new commission has not a single engineer member. It is no reflection upon the new commission to say that they are not competent to do the work. Finally, article 4 of the treaty between the United States and Great Britain, dated April 11, 1908, of which I inclose a copy, provides that "the existing International Waterways Commission" shall do this boundary work. That is, the work must be done by a commission of whom the majority are engineers. To transfer it to the International Joint Commission would be to violate the treaty.

It seems to me, that aside from the injury to the work itself which must result from a sudden stoppage, there is here a question of international courtesy. We first invited Great Britain to join us in creating the International Waterways Commission, and later on we joined with her in a treaty assigning to them an important piece of work. Are we at liberty to put a sudden stop to that work by simply refusing to go on with it without warning to her?

I have had no time to consult my colleagues, but I venture to urge on their behalf, as I do on my own, that the item of $20,000 for the International Waterways Commission be placed in the sundry civil bill by the Senate.

Yours, very respectfully, O. H. ERNST,
Brigadier General, United States Army, Retired,
Chairman of American Section, International Waterways Commission.

Mr. WARREN. Before proceeding to the next amendment, I wish to offer an amendment on behalf of the committee to come in on page 86, at the end of line 10.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. On page 86, after line 10, it is proposed to insert:

Columbia Hospital: The preparation of plans and specifications for a new building for Columbia Hospital for Women and Lying-in Asylum, for which appropriation was made in the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes," approved June 26, 1912, and the expenditure of said appropriation shall be under the direction and supervision of the president of the board of directors of Columbia Hospital and of the Superintendent of the Capitol Building and Grounds.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the subhead "Medical Department," on page 92, line 3, after the words "Central Branch," to strike out the sum "$40,000" and insert "$48,000," so as to make the clause read:

For repairs, including the same objects specified under this head for the Central Branch, $48,000.

The amendment was agreed to.

The next amendment was, on page 92, line 6, after the words "In all," to strike out the sum "$432,360" and insert $440,360," so as to make the clause read:

In all, $440,360.

The amendment was agreed to.

The next amendment was, on page 92, after line 19, to insert:

For sewage disposal plant, $20,000.

The amendment was agreed to.

The next amendment was, on page 92, after line 20, to insert:

For repairs to barracks, $8,500.

The amendment was agreed to.

The next amendment was, on page 92, after line 21, to insert:

For increase and improvement of water supply, $3,000.

The amendment was agreed to.

The next amendment was, on page 92, in line 25, after the words "In all," to strike out the sum "$401,000" and insert "$432,500," so as to make the clause read:

In all, $432,500.

The amendment was agreed to.

The next amendment was, on page 94, line 12, after the words "Central Branch," to strike out the sum "$40,000" and insert "$42,000," so as to make the clause read:

Mountain Branch, Johnson City, Tenn.: For current expenses, including the same objects specified under this head for the Central Branch, $42,000.

The amendment was agreed to.

The next amendment was, on page 94, line 24, after the words "In all," to strike out the sum "$291,500" and insert "$293,500," so as to make the clause read:

In all, $293,500.

The amendment was agreed to.

The next amendment was, on page 95, line 3, after the words "Central Branch," to strike out the sum "$23,000" and insert "$24,000," so as to make the clause read:

Battle Mountain Sanitarium, Hot Springs, S. Dak.: For current expenses, including the same objects specified under this head for the Central Branch, $24,000.

The amendment was agreed to.

The next amendment was, on page 95, line 16, after the words "In all," to strike out the sum "$163,000" and insert "$164,000," so as to make the clause read:

In all, $164,000.

The amendment was agreed to.

The next amendment was, on page 96, after line 14, to strike out:

Hereafter vacancies existing or vacancies occurring in the membership of the Board of Managers of the National Home for Disabled Volunteer Soldiers shall not be filled until the whole number of members of such board is reduced to five, and thereafter the number of members constituting said board shall not exceed five.

The amendment was agreed to.

The next amendment was, on page 96, line 21, after the words "Volunteer Soldiers," to strike out the sum "$3,969,660" and insert "$4,012,160," so as to make the clause read:

In all, for National Home for Disabled Volunteer Soldiers, $4,012,160.

Th amendment was agreed to.

The next amendment was, under the head of "Under the Department of the Interior," subhead "Public buildings," on page 98, line 20, after the word "exceeding," to strike out the sum "$7,500" and insert "$10,000," so as to make the clause read:

Repairs of buildings, Interior Department: For repairs of Interior Department and Pension Buildings, and of the old Post Office Department Building, occupied by the Interior Department, including preservation and repair of steam-heating and electric-lighting plants and elevators, $30,000, of which sum not exceeding $10,000 may be expended for day labor, except for work done by contract.

The amendment was agreed to.

The next amendment was, on page 98, after line 21, to insert:

Repairs and renewal of plumbing, and so forth, Pension Office Building: For repairing and renewing plumbing and rearranging toilet rooms in the Pension Office Building, and the construction of necessary sewer and connections therefor, $20,000.

Mr. OVERMAN. I think we ought to strike out the words "and so forth." It seems that the words "Repairs and renewal of plumbing" are sufficient. The words "and so forth" might mean decorations of the building or anything else; there is no telling how the money might be expended.

Mr. WARREN. I do not know that I object to the suggestion of the Senator, except that in renewing the plumbing they may have to tear out the woodwork and would have to replace it, and, of course, that would involve painting.

Mr. OVERMAN. I said decorations. The word "repairs" would cover anything, I think, that is necessary—"repairs and renewal of plumbing."

Mr. WARREN. The words "general repairs" might be inserted instead of the words "and so forth."

Mr. OVERMAN. I think the words "and so forth" cover a great deal.

Mr. WARREN. I move, then, to strike out the words "and so forth" and to insert the words "and general repairs."

Mr. OVERMAN. Very well.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. It is proposed in the committee amendment to strike out the words "and so forth," in line 2, and to insert after the word "plumbing" the words "and general repairs."

Mr. WARREN. My attention is called to the fact that the paragraph starts with the word "Repairs." Therefore I suggest that the paragraph ought to begin with the words "Renewal of plumbing and general repairs."

The PRESIDING OFFICER. The amendment to the amendment as proposed to be modified will be stated.

The SECRETARY. It is proposed to modify the amendment to the amendment so as to read:

Renewal of plumbing and general repairs, Pension Office Building.

Mr. OVERMAN. Striking out the words "and so forth."

The PRESIDING OFFICER. Striking out the words "and so forth." The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the Committee on Appropriations was, on page 99, after line 2, to insert:

New roof, Pension Office Building: For the installation of a new roof and the replacing of skylights on the Pension Office Building, $25,000.

The amendment was agreed to.

The next amendment was, on page 99, after line 5, to insert:

Improvement of electric-light plant for the Department of Interior buildings: For labor and material required in the construction of a concrete or brick tunnel or conduit to connect the Patent Office and the old Post Office Department Buildings under F Street NW., between Seventh and Eighth Streets, is hereby authorized, $3,500.

The amendment was agreed to.

The next amendment was, on page 99, after line 11, to insert:

Patent Office, interior court building: For excavation of the interior court of the Patent Office Building and the construction of a suitable building thereon for the use of the Patent Office, $220,000.

Mr. HEYBURN. Mr. President, I should like to inquire does that refer to what we call the old Patent Office, the Interior Department?

Mr. WARREN. It does. There is a very large inside court there that is now perfectly useless except for light. It is proposed, first, to excavate down to the foundation of the building, which will allow for two stories before the light is interfered with at all, and then to draw the other lines up and erect a building in that area with a light shaft all around it.

Mr. HEYBURN. I had in mind the proposition that we should change the name; that is, that we should speak of that building by its real name. It was once the Patent Office, but it is not connected with the Patent Office; it is the Department of the Interior.

Mr. WARREN. That is true; but the Patent Office occupies the greater portion of the building, while the Interior Department occupies several other buildings. I think eventually the Interior Department will be somewhere else in a large building and this building will be occupied entirely by the Patent Office. So I think we should not change the name.

Mr. HEYBURN. I only made the suggestion. They have moved all of the old exhibits and files in connection with the Patent Office out of the building.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 99, after line 15, to insert:

Patent Office Building, repairs and improvement: For replacing defective windows and plumbing and for necessary painting and repairs incident to the work in the Patent Office Building, $50,000.

The amendment was greed to.

The next amendment was, on page 100, after line 4, to insert:

For 22 marble pedestals for statuary in the Capitol Building, to replace the temporary wooden pedestals now in use, $3,725.

The amendment was agreed to.

The next amendment was, under the subhead "Public lands service," on page 101, after line 6, to strike out "Salaries and commissions of registers: For salaries and commissions of registers of district land offices, at not exceeding $3,000 per annum each, $280,000," and insert:

Salaries and commissions of registers and receivers: For salaries and commissions of registers of district land offices and receivers of public money at district land offices, at not exceeding $3,000 per annum each, $560,000.

Mr. REED. Mr. President, the item which that amendment replaces carries $280,000, so that there is an apparent increase there from $280,000 to $560,000.

Mr. WARREN. Let me say to the Senator that in the paragraph following other amounts are reduced accordingly, so that the total difference is finally only a trifle over $100,000; in fact, it would not be that when followed to its real application, because there would be required the detail from the general roll of an expensive clerk in place of each one of the receivers. If the Senator will allow me, he will find in what follows that there is a corresponding reduction.

Mr. REED. I was not quite through with my question. I notice in the language that is stricken out, which I read a day or two since, but have not had an opportunity to read just now, that the House endeavored to abolish certain offices; the office of receiver of public moneys for the land districts was to be abolished and the duties performed by a register. There are some other changes. I take it that the House made that proposition after due consideration with an idea toward the introduction of some economy. I am unwilling to vote for this amendment unless some reason is given for changing the plan of the House of Representatives; and I should like to know why their work is to be superseded in this way. Incidentally, while the Senator is on his feet, I want to know if this amendment does not work, or at least permit, a change in salary in some of the offices?

Mr. WARREN. It changes no officer's salary. The House provision does away with one officer and provides that his place may be taken by a clerk. Undoubtedly it would require two clerks in many of the offices, and in the mind of those who understand the management of the land offices the proposed change would not effect an economy.

I will say, with all due respect to the House of Representatives, that they had reasons for putting in the language. They did so because at one time there was a report from the department submitted along that line, and it is nothing against the Members of the other House to say that many of them are not from the public-land States, and so would not have personal knowledge on the subject. Where there are a register and receiver the purpose is that one may attend to what you might call the general paper work and the other to the finances, both to act as a court upon land matters, and either to act for both in case of the other's absence. The provision of the House

bill would do away with the receiver and leave only one officer. A moment's reflection shows that you can hardly expect that it would be within human endurance for one man to be all day long, every day, always, except Sundays and holidays, on duty there. In doing away with the register, it is proposed to put a clerk, with a salary running from $1,500 up to $2,500, in his place. That means that in place of the receiver, who is, generally speaking, a lawyer, and usually acquainted with the lands in the State within which he works, there would be a civil-service clerk from Washington, who would know, of course, very little of the country and the conditions, and who could hardly be as well versed in the business as could the receiver. Another thing: This clerk would draw full salary, whether the business warranted it or not, whereas the register and receiver are paid according to the business of the office, $500 each per annum being the minimum and $3,000 each the maximum.

We have been rather industrious in Congress in the last year, I am glad to say, in trying to liberalize, in some respects, the land service, but in doing so we have doubled the duties of some of the officers and that will naturally somewhat increase the expense.

Provided the registers were made of cast iron and could every day during the long days be in service—and while it is only proposed to put one clerk in place of the receiver, they will have to provide a second clerk—and provided all were maximum offices, the greatest possible saving would not exceed $110,000. On the other hand, the probability is that it would take a second clerk, and the new arrangement would cost more than the original method of handling the work.

But aside from all that, the register and receiver, constituting a court, certainly ought to be preferable to one man as a court.

I do not believe this House proposition, Mr. President, has a single friend in the public-land States where there are large land offices. It would be, in my judgment, most unfortunate for the Government and more unfortunate for the homesteaders and settlers of the country to adopt the House provision. If you want to put a wall around the entire West and prevent its development, then enact the kind of legislation that is here proposed, but if you want to develop that country and have it in return fill the coffers of the older part of the country with what wealth they accumulate give each man a chance for his life and give these settlers an opportunity to go before a tribunal in which the Government may have confidence and in which the people themselves may have confidence.

Mr. POMERENE. I desire to ask the Senator from Wyoming a question. I notice that the amendment proposed by the committee provides for the payment of the registers and receivers by salary.

Mr. WARREN. No.

Mr. POMERENE. May I ask the Senator——

Mr. WARREN. The Senator is mistaken. The law now provides, and always has provided, that the stated salary of a receiver and that of a register is $500; but each has the privilege of earning, if the fees of a certain nature are sufficient, $3,000. If the Senator will examine it he will find that the receivers of public moneys are to receive not exceeding $3,000 per annum. That is the same old limit. This Senate amendment puts the law back as it is now, and as it is now those registers and receivers receive all the way from $500 to not exceeding $3,000.

Mr. POMERENE. I have not had an opportunity to examine this matter, but I noticed that under the provision as it came from the House the registers and receivers were required to account for the fees received. Do they still have to account for those fees, except as indicated by the Senator?

Mr. WARREN. Certainly. All fees above $3,000 are turned in. It is a broad question whether, if this House provision should prevail, they could not demand $3,000, whether they earn $1,000 or $1,500, and, according to my analysis of it, we would not save any money; we would lose in the long run.

Mr. HEYBURN. Mr. President, the question is not one of saving money. It is one of securing an adequate public service. The duties of the register and receiver are identical except as to the keeping of accounts. The most important duties performed by those officers are in connection with the determination of the rights of parties to the public lands upon which they file. The greater part of the time of those officers is devoted to hearing the testimony in regard to the right to enter land, whether as an ex parte proposition or in contests between two applicants for the land.

The receiver is invested with the duty of keeping the accounts, receiving the money, and accounting for it. That is comparatively a minor part of the duties. The register keeps, not the financial accounts, but the account of the proceedings in the land office. But whenever there is a contest they are alike invested with the power to hear the testimony and sit together as a court for the purpose of determining facts in dispute.

Now, sometimes, in the natural order of things, the register is better equipped to hear those controverted questions and determine them. In some cases it happens that the receiver is better equipped for the performance of that duty. But when they sit together they comprise a very good court, because it has for some years been the practice of the department to appoint lawyers to the position of register of the land office, and to-day I have personal knowledge of the fact that a number of registers of our land offices are attorneys at law, equipped to sit in any court of ordinary jurisdiction and determine intelligently controverted facts. I do not believe anyone would be appointed to-day who was not known to be competent to determine legal questions. There has been in a very few cases a waiver in the case of the receiver, because it was necessary to have a man of some financial ability and with a fair knowledge of accounts and accounting.

Now, it is proposed to substitute for the receiver of public moneys a bonded clerk. I do not know where the idea originated or why it originated. In the land offices in what we call the active part of the public-land States the fees exceed the maximum, and the work is far beyond the capacity of the register and receiver combined, and those of us from public-land States know that in a number of instances the department has, after thorough investigation, allowed extra clerks in addition to the register and receiver, for the performance of these duties.

Mr. WARREN. Every office is to have one now.

Mr. HEYBURN. I did not intend to refer to this bill, but Senators may. There is, however, a demand coming up from all of the land offices in public-land States for additional clerical help to formulate and make effective the work of the register and receiver, sitting as they do sometimes for one or two weeks to hear contests over the right to enter public lands.

These are real trials. The Government does not now make adequate provision for the hearing and determination of these cases. It is inclined to select cheap quarters, upstairs rooms, in inaccessible places, because they can be obtained at a low rate of rental.

I wish to take this occasion to make a suggestion in that connection. Lands are applied for by old people as well as by young people, but when young persons apply for the entry of lands and contests arise their witnesses are more apt to be old people, and often decrepit people, than not. I have in mind a land office which has been maintained up very steep and difficult stairs for years. I have had my attention called to the fact that at some hearings it was not possible for witnesses, because of their age and crippled condition, to get up those stairs.

No response comes from the department when those matters are presented to it; no favorable attention is given to it. It ought to be written in the law that all land offices should be on the street or ground floor. These hardships may seem of small importance to people dealing with large questions and at a distance from the scene of action, but they are of very great importance.

Only recently I received a number of communications protesting against the location of a land office in which more than the maximum amount of business is transacted every year, because at some hearings it had been impossible to secure witnesses to attend in the room where the hearing was conducted because of their infirmity or age.

I merely call attention to this to show how little consideration is given to the party in interest. You might imagine from the propositions that come to us that these land offices were maintained for the sole and exclusive benefit of the land officers; and that is about the way they are, now. The question is not how can those who have enforced business at the land offices be served, but it is how is it possible to secure cheap men to secure cheap services, at a low compensation? It is high time we awakened up to it. The public lands and their disposal and the settlement of controversies affecting them constitute a large part of the Government's business.

Another evil has grown up. Congress provides that these controversies shall be settled by the court, consisting of the register and receiver of the land office. The executive department of the Government in its subordinate branches, if I may so term them, has undertaken to supplant the method provided by Congress by substituting what they call special agents to perform the duty of responsible officers—not bonded and responsible agents, but agents selected by no one knows whom; agents about whom no one knows anything; agents who are as inaccessible as the old Council of Ten; agents who sit in secret and act in secret and devious ways. They are sought to be substituted for responsible tribunals, in which Congress provides these cases shall be heard, and a special agent can to-day

overrule a register and receiver without any difficulty; and when the contestant, whose interests are at stake, goes to the department and requests the privilege of inspecting or having knowledge of the facts upon which the special agent acted, he is refused, and he is refused without any explanation, except that the information they have, upon which they are going to act in determining his title, is purely for their own use and not available to the parties whose interests are being determined.

That is the position you will be confronted with if you will go to the Interior Department or any of its branches to-day and ask for a report upon a controversy involving the right to purchase lands of the United States.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Missouri?

Mr. HEYBURN. Certainly.

Mr. REED. The remarks of the Senator are very enlightening—to me at least. I should like to ask him how long this system which he has just described has been in vogue?

Mr. HEYBURN. It commenced to grow about the time an order was issued suspending all entries upon public lands.

Mr. REED. Why?

Mr. HEYBURN. Because at that time the system of special agents had become a real thing.

Mr. REED. About what time was that order issued? I do not know.

Mr. SMITH of Arizona. It was a department order, was it not?

Mr. HEYBURN. That order was issued about seven years ago.

Mr. REED. If that condition of affairs exists—and the Senator says it does, and I, of course, accept his statement without question; I know he would not make it unless he was thoroughly informed——

Mr. HEYBURN. Oh, I have letters to back the statement.

Mr. REED. I do not question that at all. I wanted to ask the Senator what remedy he had to propose. Of course, from our side of the Chamber we would say that the whole department responsible for it ought to be removed from office, every man jack of them; but from his standpoint I want to ask what legislative remedy will meet it, and whether it can not be met by an amendment to this bill, because if it exists I want to help the Senator to remove it.

Mr. HEYBURN. Mr. President, the proposition now is to stop further leaks in justice. It is to prevent the extension of a bad system. I do not think it would be profitable to attempt to do it on the basis of criticizing a system that has been publicly in operation. I am merely citing these instances as an illustration of why we should not extend a bad system by cutting off one-half of a court now having jurisdiction.

The remedies that may be now or hereafter suggested must stand on their merits. I am speaking now against the proposed amendment to this bill, which attempts to further cripple the rights and the method of obtaining the rights of the settlers upon the public domain. It would be a long hour were we to enter upon the other field.

Mr. REED. The Senator speaks of the amendment. Does he refer to the amendment brought in by the committee or to the bill as passed by the House?

Mr. HEYBURN. I refer to the amendment in the House bill. Let me make it plain, if the Senator has not from experience come in contact with it.

I have already stated the present system of a court that is constituted of the register and receiver of the land office, both of them familiar with the public-land laws and their administration. The House bill proposes to abolish one of the judges of that court, and to substitute for him a clerk, not with the judicial powers with which the receiver is invested, but with a sort of critical jurisdiction, with the function of criticizing the only remaining judge and harassing him. That is what it amounts to.

The House bill proposes to abolish the office of receiver of public moneys. In the public-land States where the reclamation projects are in vogue, and kindred systems of opening and developing the public lands, the receiver of public moneys performs a most useful function. He is indispensable to the carrying out of that class of public-land disposal. It is proposed to confer upon a clerk part of the duties now resting upon the receiver, and to force the remaining part of them upon the register, thus increasing the duties of an already overburdened official at the expense of efficiency and at the expense of accommodation to those who are entitled to access to these public-land offices.

It is not claimed that this is being done in the interest of the settler upon public lands. It is claimed that it is being done in the interest of the convenience of the law officers whose duty it is to administer the law according to the law. That is the difficulty. I assure the Senator from Missouri and all Senators that no argument can be made in favor of the abolition of this office having in mind the convenience, aye, the necessity, of those who go upon the public lands, honestly seeking for the right to obtain them which the law guarantees to them.

I sincerely hope no plea in the interest of economy will be interposed at the expense of the settlers upon the public domain and those having controversies before the Land Department.

Mr. REED. Mr. President, that is a very lucid statement; but I fail to see how the House bill as reported would have the effect of continuing the system that the Senator so ably denounces, of Secret Service or special agents going out and doing this work, and then the department withholding from the parties in interest the information upon which they acted.

Mr. HEYBURN. If the Senator will permit me there, perhaps I can make my reply more pointed. The House bill proposes to substitute a clerk, who will be a special agent, for the conservative receiver of the land office. It proposes to enlarge the spy system by substituting for the receiver of the land office—who, in nearly every case of which I have knowledge, is a man of ripe judgment and long years of experience—a clerk to be appointed under a system that is part of the system of which I have complained.

Mr. REED. May I ask the Senator to point out the language under which the House proposes to enlarge a spy system? I fail to get it. I am trying very hard to get it.

Mr. HEYBURN. I will point out the language. It is on page 101, commencing with line 14. If the Senator will give this close attention, he will have no difficulty in seeing it:

The office of receiver of public moneys for land districts, from and after the 30th day of June, 1912, is abolished—

That is the responsible, conservative office. That is abolished—

and all the powers, duties, obligations, and penalties at that time lawfully imposed upon such receivers and upon registers of land offices shall, from and after that date, be exercised by and imposed upon such registers—

That is putting an additional burden upon an already overburdened officer—

And such registers shall, in addition to the duties thus imposed, have charge of and attend to the sale of public and Indian lands within their respective districts, as provided by law—

That is an additional duty—

and official regulation, and shall be accountable under their official bonds for the proceeds of such sales—

That is the duty now resting on the receiver—

and for all fees, commissions, and other moneys received by them under any provision of law or official regulation. Instead of the office of receiver of public moneys hereby and herein abolished—

Now we come to the new creation—

the Secretary of the Interior may appoint or designate a chief clerk for any land office, who shall receive such salary, not exceeding $2,000 per annum, payable from the appropriation for contingent expenses of land offices, as the Commissioner of the General Land Office may authorize.

There is a man of indefinite character and uncertain salary who is there at the mercy of the Commissioner of the General Land Office, to be paid such compensation as the commissioner may think he is entitled to, and to be changed as often as the commissioner may choose to change him.

Mr. REED. Is not that the way the registers are appointed?

Mr. HEYBURN. That is putting a subordinate clerk of uncertain tenure in the place of a responsible judicial officer. You might just as well undertake to confer the jurisdiction of the judge on the bench upon the clerk of the court, and then make the clerk of the court subject to the conditions that are imposed in this provision.

Mr. REED. I understand that point that the Senator makes. But is not the clerk appointed by the same authority and in the same way that the register or receiver is appointed?

Mr. HEYBURN. No; the register or receiver is appointed by the President of the United States and confirmed by the Senate. He is subject to the investigation of this body as to his fitness and qualifications. This clerk is appointed at the will of the Commissioner of the General Land Office, is removable by him, and is subject only to the approval of that officer. He is also a thousand dollars a year cheaper man than the man whom we now have. We have a $3,000 man, and we can get pretty good men for $3,000. They must pass the scrutiny of the President of the United States and of the Senate of the United States before they enter upon their duties. This provision proposes to substitute for such a man an ordinary chief clerk.

The salary of the clerk is payable, not out of the Treasury of the United States, but out of the contingent expense account

of the Land Office, as the Commissioner of the General Land Office may authorize.

And such chief clerk shall perform such duties as may be directed by the register of the land office for which he is appointed or by official regulations, including the receipt of moneys.

That is to say, he may be taken entirely from out the jurisdiction of the register, who is the responsible bonded head officer, and be placed under the sole jurisdiction of the Commissioner of the Land Office; and he may thereby become the spy, the antagonist, the critic of the head of the land office. They have put that reservation strictly upon this officer so that they can at any time antagonize him with the register of the land office.

He shall, during the absence of such register, or in case of a vacancy in the office of such register, exercise all the powers, perform all the duties, and be subject to all the obligations and penalties imposed upon such register by law or official regulation.

The register now is governed by law in regard to the disposition of public lands. But this amendment in the House bill provides that he may be governed by the regulations of the Commissioner of the General Land Office. The special agents now pay no attention to the law. They are governed by the regulations of the land office, which in many cases are constituted of mere instructions, "Go and do this," or "Go and do that."

A little further: In case of the absence of the register of the land office this $2,000 clerk may be substituted to perform the duties of the register, which may be the conduct of a hearing involving millions of dollars' worth of property. These officers do not deal entirely with small questions or small values. They deal with questions involving intricate principles of law and millions of dollars of value or investment. And yet it is proposed to transfer the jurisdiction to hear and determine that kind of controversy to a clerk of the register of the land office merely to make a showing that something has been saved.

Now, I am not speaking for something new; I am speaking in favor of the old-established custom and law that has been in force not only through Republican administrations, but has been in force for a lifetime through both Republican and Democratic administrations. The proposition in the bill as passed by the House is absolutely new and untried. This is not a time to indulge in such experiments.

Mr. REED. Mr. President——

Mr. HEYBURN. I desire just a moment to finish reading that portion of the bill which relates to this subject:

But such clerk shall, before entering upon the duties of his office, execute to the United States a bond in such penal sum as the said Secretary may prescribe, with approved security, for the faithful performance of his official duties; and such clerk shall be accountable under his official bond for such proceeds arising from the sale of public or Indian lands within his district, and for such fees, commissions, and other moneys as may come into his hands under any law or official regulation or direction.

Then it provides:

Provided, That all the fees and commissions now allowed by law to both such registers and such receivers shall, after the 30th day of June, 1912, be paid to and accounted for by such registers, in the manner prescribed by law and departmental regulations, and in like amounts in which they are now required to be paid to and accounted for by such receivers, but the compensation of such registers shall in no case exceed $3,000 per annum, as now provided by law.

That is the substitute that they propose for existing law, under which these courts were organized more than 40 years ago, and under which the law has been administered until the interference that I have suggested through the special agents, and under which it should be exercised and administered to-day.

I am not going to defend any existing condition because it originated in one administration or another, but the evil that exists would be emphasized by the adoption of this provision. Conditions that are bad enough now would be made worse by it. Instead of having the benefit of the conservative judgment of two trained men, and they are trained men as a rule, in dealing with land laws, instead of having the benefit of that kind of a court, we would have one man authorized to administer the law subject to rules and regulations, and the interference of a clerk.

We have in our land office now a register and receiver and a clerk, all rendered necessary because of the volume of business that is transacted there.

I sincerely hope, unless the Senator has given this matter the attention that I know he would give to a public question upon which he was called upon to act responsibly, that he will not urge anything against this much of a redemption against existing evils.

Mr. REED. Mr. President, I simply want to say that I am very greatly obliged to the Senator for his very clear explanation of present conditions. I would almost be inclined to believe that some one of the Members of the present administration or some former administration interested in the perpetuation of the spy system and increasing it had drawn this House proposition. I am sure it was not the intention of the House——

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Texas?

Mr. REED. Certainly.

Mr. CULBERSON. May I suggest to the Senator from Missouri that the House provision is based upon a recommendation of the Secretary of the Interior?

Mr. REED. I was about to come to that. I was in the act of saying that I took it that if this House provision does in any way tend to perpetuate a spy system, it must have been put in by the House upon the recommendation of some department chief.

However, the matter is now I think quite plain, and I am content. I only want to beg the Senator, who has given this matter great attention, to bring in a bill at the proper time which shall abolish this iniquitous spy system which he states was inaugurated some six years ago and has been perpetuated. I think it ought to be wiped out, and I think his knowledge of the question is such that it will enable him to bring in the kind of a measure that ought to be passed.

Mr. CULBERSON. Mr. President, the question of economy involved in this amendment has been rather minimized, as I understand it, by the Senator from Idaho, but nevertheless I want to invite the attention of the Senate to the fact that this provision of the bill is based upon the recommendation, as I said a moment ago, of the Department of the Interior, after very careful consideration, and upon which they believe that there will be a reduction of the expenditures of the Government without detriment to the public service.

The Senate committee amendment which I voted against in committee and to which I am still opposed, on page 101, seeks to increase the appropriation by $280,000.

The Senator from Wyoming called attention to the fact in that connection that subsequently there was a reduction made, which is true, and it appears at page 103 of the bill, the reduction being from $490,000, as carried by the House, to $410,000, as provided by the Senate committee, making there a reduction of $80,000, which, subtracted from $280,000 on the succeeding page, will show the net saving to the Treasury as provided by the House measure; and that, too, Mr. President, when the House concedes, under the recommendation of the Secretary, with whom I am not personally acquainted, but who is represented to be a man of ability and integrity, that this amount can be saved to the Government without detriment to the public service.

I thought that much ought to be injected into this debate just here in the interest and in defense of the House proposition.

Mr. WARREN. The Senator is mistaken about that being the amount and the only amount, because the shortest way to get at that is this: They seek to do away with 93 receivers, at $3,000 each, and put 93 clerks in.

Mr. CULBERSON. At $2,000.

Mr. WARREN. At $2,000 each, which at best is only $93,000, but at present the registers are not all receiving $3,000 per annum or $2,000 or possibly $1,000, because their pay is based upon fees.

Mr. CULBERSON. I am only speaking with reference to the two pages, not to the actual expenditure. The Senate, on page 102, increases the appropriation by $280,000, and on page 103 reduces the House appropriation by $80,000, leaving a substantial increase on the part of the Senate over the bill as passed by the House.

Mr. WARREN. But in the language of the amendment they provide for these clerks, taking it out of another fund. They are to be taken from Washington and sent out there. So the amount is not as it seems in dollars and cents.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore Does the Senator from Texas yield to the Senator from New Mexico?

Mr. CULBERSON. Certainly.

Mr. FALL Possibly, as the State of Texas owns all of her public lands herself and has nothing to do with the public lands of the United States except as situated in the other States of the Union, the Senator from Texas does not understand or has not had his attention called to the fact that this is not money which you are saving to the taxpayers of the United States. You are not collecting this revenue or paying these salaries from the general revenues of the United States.

Mr. CULBERSON. I understand. It is being paid out of the money received from the sale of public lands.

Mr. FALL. Not at all.

Mr. WARREN. It is paid from fees for the work the men do.

Mr. FALL. It is being paid out of the money paid by every homestead applicant, every desert-land applicant, who makes an application or a final proof for a piece of land on the public domain. It is not paid by the taxpayers at all, but it is paid in fees now.

Mr. WARREN. By the labor of the register and receiver.

Mr. FALL. Certainly. There is very much more paid into the Treasury than is paid out, and unless the amount is paid in by those people making these applications not one cent is paid out. The registers and receivers, in other words, do not draw $3,000 a year flat salary, but, as has been explained by the chairman of the committee and others, they only draw a proportion of it, and can draw no more. If they collect $10,000 in fees the balance is covered into the Treasury.

Mr. OVERMAN. Suppose they did not collect $3,000, would that be covered into the Treasury?

Mr. FALL. The minimum salary is $500. The United States obligates itself to pay to each one of these officers $500 per annum.

Mr. OVERMAN. And all these fees go back into the Treasury?

Mr. FALL. They go back into the Treasury to hold the money there. If you are going to discharge one of these officials, which I would not agree to do, for the reasons I will give to the Senate, then return the money to the people who pay in these fees. Reduce the fees by one-half for applications and final proof in the entry of land, and then you will be doing somebody some good.

Mr. OVERMAN. Would not that be better?

Mr. FALL. It would be except for one reason, and that is we do not want land-contest cases decided by one official in the respective land districts, and coming here be decided by one official of the United States Government who knows nothing about it. As long as we can try our contest cases before two, we at least have a double opportunity to get justice. We do not want to leave these contest cases to any one man.

Mr. CULBERSON. I am not specially familiar with the land system of the United States. I invite the attention of the Senator to the fact that these bonds are conditioned upon the faithful accounting of proceeds arising from the sale of the public or Indian lands of the district.

Mr. FALL. Those are extraordinary cases where a sale of such public land is ordered directly. I think I can safely say to the Senator that there has been no such sale of land made within the State of New Mexico, formerly the Territory of New Mexico, in 27 or 28 years, to my knowledge. These fees are entirely fees collected from the applicants, the settlers, the homesteaders, and the entrymen on the public domain.

Mr. CULBERSON. Those fees belong to the Government of the United States, and go into the Treasury of the United States as a common fund.

Mr. FALL. They are collected by the register and receiver, respectively, under a schedule providing that the register's fees for an application shall be so much and the receiver's fees shall be so much. Then, as the Senator says, they are covered into the Treasury of the United States. Out of those fees so collected the respective officers may have in salary as much as $3,000 per year, not more.

Mr. CULBERSON. The salaries of these registers and receivers are paid——

Mr. FALL. Not by the State of Texas.

Mr. CULBERSON. No; not by the State of Texas, but they are paid out of the Treasury of the United States.

Mr. WARREN. No; they are taken out only as the money comes in. They do not go into the United States Treasury.

Mr. FALL. Only the excess goes into the United States Treasury.

Mr. WARREN. The excess over $3,000 goes into the Treasury; it is taken by the officer as receiver and accounted for.

The PRESIDENT pro tempore. The question is on the amendment.

Mr. JONES. I was out when this question came up. I desire to offer an amendment, to come in at the close of line 13, page 101.

The PRESIDENT pro tempore. The Senator from Washington offers an amendment to the amendment of the committee, which will be reported.

The SECRETARY. At the end of line 13, after the numerals and before the period, insert the following proviso:

Provided, That on or after July 1, 1913, the President is hereby authorized, by Executive order, to cover into the classified service all registers and receivers, and whenever he shall act under the authority hereby given the advice and consent of the Senate shall be unnecessary to the appointment of such registers and receivers, and the salaries of such officials may be fixed by the President at not more than $3,000 per annum.

Mr. WARREN. I make a point of order against the amendment to the amendment.

The PRESIDENT pro tempore. On what ground does the Senator make his point of order?

Mr. WARREN. That it is general legislation.

The PRESIDENT pro tempore. The point of order is sustained.

Mr. JONES. This whole subject is general legislation.

Mr. WARREN. Not at all, as we make it in the bill; it is an appropriation.

Mr. JONES. What is offered as a substitute for lines 7, 8, and 9 and lines 14, 15, and 16, and so forth, is all legislation.

Mr. WARREN. Not at all. What is offered by the Senate committee is to maintain the law as it now exists. The House provision proposes to change the law, and the Senate committee has recommended that it be stricken out.

The PRESIDENT pro tempore. The point of order is sustained. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 101, after line 13, to strike out:

The office of receiver of public moneys for land districts, from and after the 30th day of June, 1912, is abolished, and all the powers, duties, obligations, and penalties at that time lawfully imposed upon such receivers and upon registers of land offices shall, from and after that date, be exercised by and imposed upon such registers; and such registers shall, in addition to the duties thus imposed, have charge of and attend to the sale of public and Indian lands within their respective districts, as provided by law and official regulation, and shall be accountable under their official bonds for the proceeds of such sales, and for all fees, commissions, and other moneys received by them under any provision of law or official regulation. Instead of the office of receiver of public moneys hereby and herein abolished, the Secretary of the Interior may appoint or designate a chief clerk for any land office, who shall receive such salary, not exceeding $2,000 per annum, payable from the appropriation for contingent expenses of land offices, as the Commissioner of the General Land Office may authorize, and such chief clerk shall perform such duties as may be directed by the register of the land office for which he is appointed, or by official regulations, including the receipt of moneys, and he shall, during the absence of such register, or in case of a vacancy in the office of such register, exercise all the powers, perform all the duties, and be subject to all the obligations and penalties imposed upon such register by law or official regulation; but such clerk shall, before entering upon the duties of his office, execute to the United States a bond in such penal sum as the said Secretary may prescribe, with approved security, for the faithful performance of his official duties; and such clerk shall be accountable under his official bond for such proceeds arising from the sale of public or Indian lands within his district, and for such fees, commissions, and other moneys as may come into his hands under any law or official regulation or direction: *Provided*, That all the fees and commissions now allowed by law to both such registers and such receivers shall, after the 30th day of June, 1912, be paid to and accounted for by such registers, in the manner prescribed by law and departmental regulations, and in like amounts in which they are now required to be paid to and accounted for by such receivers, but the compensation of such registers shall in no case exceed $3,000 per annum, as now provided by law.

The amendment was agreed to.

The next amendment was, on page 103, line 11, after the word "typewriters," to strike out the sum "$490,000" and insert "$410,000," so as to read:

Contingent expenses of land offices: For clerk hire, rent, and other incidental expenses of the district land offices, including the exchange of typewriters, $410,000.

The amendment was agreed to.

The next amendment was, on page 103, after line 23, to insert:

To enable the Commissioner of the General Land Office to temporarily employ additional clerks as follows: Twelve clerks, at $1,200 each; 12 clerks, at $1,000 each; 12 copyists, at $900 each; in all, $37,200.

The amendment was agreed to.

The next amendment was, on page 104, line 18, after the words "General Land Office," to strike out "instead of $250,000 made available for that purpose for the fiscal year 1912," and insert "and not exceeding $25,000 additional for expenses of hearings held by order of the Commissioner of the General Land Office, to determine whether alleged fraudulent entries are of that character or have been made in compliance with law," so as to read:

Depredations on public timber, protecting public lands, and settlement of claims for swamp land and swamp-land indemnity: To meet the expenses of protecting timber on the public lands, and for the more efficient execution of the law and rules relating to the cutting thereof; of protecting public lands from illegal and fraudulent entry or appropriation, and of adjusting claims for swamp lands, and indemnity for swamp lands, including not exceeding $25,000 for clerical services in bringing up and making current the work of the General Land Office, and not exceeding $25,000 additional for expenses of hearings held by order of the Commissioner of the General Land Office, to determine whether alleged fraudulent entries are of that character or have been made in compliance with law, $500,000.

The amendment was agreed to.

The next amendment was, on page 105, after line 6, to insert:

Purchase of motor boat, Alaska: To enable the Commissioner of the General Land Office to purchase a motor boat for use in the District of Alaska in the investigation of unlawful cutting of timber from the

public lands, the inspection of timber cut under permit, and the examination of alleged illegal entries, to be immediately available, $5,000.

Mr. SMITH of Arizona. Mr. President, I do not claim to know much about Alaska, but I do know, from some 30 years' experience, something about the frontier of the United States. I should like to ask the chairman of the committee as to the necessity of any appropriation to investigate the unlawful cutting of timber in Alaska and the inspection of timber cut under a permit. I do not know of any market open to the sale of timber in Alaska to which those isolated people themselves are not entitled, and certainly the few people in that enormous territory should at least be free from the inspection of the Interior Department.

As the people of Arizona are under that inspection, I feel some sympathy for the people of Alaska. I can not understand why there was any necessity in a sparsely settled country like Alaska for the Interior Department to prohibit the cutting of timber for domestic purposes. Although it may be possible that it would be necessary to prevent their sending timber to some other country, certainly it would not be necessary to do so as to the United States.

Mr. WARREN. Mr. President——

Mr. SMITH of Arizona. Just a word, and I will conclude. For instance, take my Territory, or State, rather. I have fallen in the habit of calling it a "Territory," because we have lived under a Territorial government for many years. There we have timber in many places within easy reach. I believe I am within the truth when I say that, while we stand in the presence of growing timber, ripe timber, and rotting timber, the timber we use comes largely from Seattle, or at least from the extreme northwest part of the United States, burdened with the great freight rates from there. So, in the case of Alaska, with only a few people compared with its enormous extent, to appropriate $5,000 for a motor boat to enable a Government officer to see that some man is not cutting timber to build a fire or build a bridge across a creek, except under the supervision of the Interior Department, appears to me to be absurd. I believe that the people of Alaska ought to be left free for 20 years, at least, to work out their destiny without the intervention of a lot of spies and policemen.

Mr. SMOOT. Mr. President, I simply desire to call the Senator's attention to the fact that the timber to which reference is made in the bill is cut for mining purposes.

Mr. SMITH of Arizona. Then, they ought to get it free.

Mr. SMOOT. That is, of course, a question of policy, and it has been decided otherwise; but I suppose if it were given free to the great mining companies up there we would find in the public press all over the United States a hue and cry that the Guggenheims were destroying the timber of Alaska for mining purposes. If a man in Alaska wants to build a home timber is given to him under free permit. No citizen in Alaska who desires to use it for his own purposes is ever refused a free permit for cutting timber.

Mr. SMITH of Arizona. How far does he have to go to get it?

Mr. SMOOT. To the nearest place where it is possible to cut it.

Mr. SMITH of Arizona. How far is that from the man who gives the permit? That is the point I make.

Mr. SMOOT. I will say, Mr. President, that the forest reserves in Alaska are divided into districts, and a man would go to the supervisor of that particular district in which he lives to get a permit.

Mr. CLARK of Wyoming. But, Mr. President, as I understand, this amendment does not refer to forest-reserve timber; it refers to timber on the public lands; otherwise it would not be under the jurisdiction of the Secretary of the Interior. I should like to ask the chairman of the committee, or any other Senator who knows, even if we concede for the sake of the argument, which I do not concede, that these investigations ought to be had, can anybody tell me the necessity of this particular expenditure? If, as the Senator from Utah says, it is to guard the cutting of timber by the great mining companies, certainly this motor boat would not be necessary for that purpose, because the places where those companies are located are easily accessible.

Mr. SMOOT. Mr. President, in some periods of the year perhaps they are accessible, while in other seasons they are not; but as I understand a motor boat is almost necessary there.

Mr. CLARK of Wyoming. Why?

Mr. SMOOT. In order to reach the different districts in which the timber is cut.

Mr. CLARK of Wyoming. To reach what particular districts?

Mr. SMOOT. Wherever the timber may be cut.

Mr. CLARK of Wyoming. Where is it cut? That is what I want to find out.

Mr. SMOOT. In different parts of Alaska.

Mr. CLARK of Wyoming. I want to find out whether there is any reason for this item making an appropriation for a motor boat. I am asking for information.

Mr. SMOOT. The boat, of course, would be used along the inland watercourses, and I think the testimony given before the committee states specifically the necessity for it.

Mr. CLARK of Wyoming. That is the information I want.

Mr. WARREN. Mr. President, replying to my colleague, I desire to say that the Commissioner of the General Land Office was before the committee. As I recall, he stated that this was to facilitate transportation and avoid delays. If the officers of the department are to travel over the country, their business would be greatly expedited by having motor boats along the coast, where, as the Senator knows, there are many inlets, rivers, bays, and so forth. It is only a matter of $5,000.

Mr. CLARK of Wyoming. I know it is a matter of only $5,000, but the appropriations for this particular purpose are increasing year by year. We have increased the appropriation in regard to timber depredations, and it seems to me that, with the great sums we appropriate for this general purpose, every time a specific object is sought to be attained we ought not to appropriate particularly for that. It is only $5,000, but if they need a motor boat I suppose they are authorized to purchase it under the general appropriation.

Mr. WARREN. That is the trouble. They are not authorized to do so. I care nothing about the matter, but on the ground of necessity, if they are to travel, a boat is the cheapest and best way of getting from place to place, and under the rulings of the auditors they would not be able to buy a motor boat under any appropriation they already have.

Mr. SMOOT. Mr. President, I desire to call attention to the testimony before the committee. Mr. Dennett, Commissioner of the General Land Office, stated:

> As you know, in Alaska the timber on the public domain can be sold, somewhat under the same conditions under which it is sold in forest reservations. They can not do that in the public domain in the United States. Our agents have to travel about a great deal, and there is a great necessity for the purchase of that boat. We have two agents in Alaska. The transportation facilities there are very poor, not so much in themselves as in the delays, as it is necessary sometimes for a man to wait a week until a boat comes. We asked the House for $5,000 to purchase a launch for use in that service.
>
> Senator PERKINS. Those delays might be obviated. Where do you keep the boat?
>
> Mr. DENNETT. On the Yukon and on the Tanana, where we have to go.
>
> Senator PERKINS. They run steamers on the coast, you know.
>
> Mr. DENNETT. Yes; this is for use inland. I am told by Mr. Sheridan that there is about 4,000 miles of river that we can traverse by means of a boat like this.
>
> Senator PERKINS. I was in the Alaska trade for 30 years, so that I know all about it.

Mr. CLARK of Wyoming. Mr. President, it appears that there are four or five thousand miles that this one boat would be expected to travel to reach places where it is needed; but we all know that during the season of navigation on the Yukon the boats are frequent and make regular trips, and, so far as weeks intervening between a trip is concerned, you could not get this boat from one end of that river to the other in a week or two weeks; but——

Mr. SMOOT. I do not know that they would make a trip of that extent at one time.

Mr. CLARK of Wyoming. I suppose it would be a little more comfortable for the special agent to travel in a $5,000 yacht than it would be to take the regular boats.

Mr. KENYON. Mr. President, I simply wish to inquire of the Senator from Utah if he knows how the investigations with reference to the unlawful cutting of timber are carried on now?

Mr. SMOOT. Timber is sold in Alaska at so much per thousand stumpage. As I understand, in the past there has been great delay in cases where applications have been made for the purchase of timber, and this is to hasten the examination and cut down expenses, as the department says, in connection with the sale of timber.

Mr. REED. Mr. President, I think it is quite plain from this discussion that there is a great necessity for this boat. I think the Commissioner of the General Land Office needs this boat, not for the purpose of protecting timber but for other purposes. It is about on a par with some of the automobiles and carriages being operated at Washington for Government use, but which at the same time are used principally for the pleasure of the people who happen to hold the offices to which such carriage or vehicle is assigned.

Mr. SMOOT. I desire to say to the Senator that I do not believe the Commissioner of the General Land Office ever was in Alaska, and I do not know that he ever will go to Alaska.

Mr. REED. I did not mean the commissioner himself, but whoever it is up there working under him, who needs this boat.

Mr. SMITH of Arizona. Mr. President, I think the Senator from Missouri and I could possibly agree on the matter if the provision should read that this boat shall not be used in the investigation of the unlawful cutting of timber in that country or for any other purpose mentioned in the section. Then they might get the boat and use it as they pleased, but I do not want it used as a means of following a man who has a permit down the river or up the river 400 miles to see whether he has actually performed what the permit requires.

Mr. OVERMAN. Does not the Senator think we had better give them an extra appropriation for skates for use on the river in the wintertime?

Mr. REED. It occurred to me that some means of getting around over the ice would be quite as appropriate.

Mr. SMITH of Arizona. An ice boat would do.

Mr. REED. But, talking about this matter seriously, just for a moment, it is true that in every department of the Government, State, National, and municipal, the first thing a man wants is a position; the next thing he wants is an increase of salary; and the next thing he wants is a vehicle furnished by the public to ride about in. This is only $5,000, and we hear the expression, "it is only $5,000," or "it is only a hundred thousand dollars," or "it is only a quarter of a million dollars," when we are discussing these questions, as though we were only speaking about a peck of potatoes or something of inconsequential value.

I am in hearty accord with the sentiments expressed by the Senator from Arizona [Mr. SMITH]. I think we are spending a great deal more money in keeping citizens of the United States from using a little firewood than all the firewood they would consume is worth. With a vast domain such as we have in Alaska, the rigors of the climate, the inaccessibility of the Territory, the hardships which must be borne by those who go there, when it comes to such a matter as a little timber that a man may desire for his home, or for fuel, I feel inclined to let him have it.

Mr. SMITH of Arizona. And without a permit.

Mr. REED. Without a permit; and without any red tape or anything of that kind.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Washington?

Mr. REED. Just one word to finish the sentence, and then I will yield.

I have been informed that in the State of Arizona, for instance, nearly all the timber in that State has been set aside in Government reservations; and there it grows and dies and rots, and people are obliged to import their lumber from distant points and pay exorbitant prices for it; and all this in the name of conservation. In my opinion, the best way to conserve the resources of America is to turn the native resources of this country over to American citizens to build homes upon. I would rather have one good farm with a farmhouse on it, and a farmer and his wife and family of children, than I would to have 10,000 acres of land going to waste. I think there has been a great deal of nonsense about this matter of conservation. When it comes to buying fast motor boats for somebody merely to ride around through the waters of Alaska to see whether some poor fellow has cut down a tree to build a fire or to help build a home, I think we are going to the limit of absurdity. I say, again, I think somebody wants a boat to ride in more than he wants a boat to capture timber thieves.

Mr. POINDEXTER. Mr. President——

Mr. REED. I yield for a question, or I yield the floor, either.

Mr. POINDEXTER. I do not want to take the floor from the Senator from Missouri. I do not know why the Senator from Missouri seems to assume that the purpose of this motor boat is to enable the officers of the General Land Office to catch some poor fellow who is cutting timber with which to build a fire. I do not apprehend there will be any serious objection, or any objection at all, to a man doing that.

Furthermore, I am not sure that I understood the Senator correctly, but I understood him to say that he agreed entirely with the Senator from Arizona when he said that he would advocate a policy of turning over all the resources of the country to be taken by anybody who wanted to come along and take them. Did the Senator say that?

Mr. REED. No. If I made any statement so broad as that, I did not intend to do so. I think the Senator from Washington misapprehended me. I was talking about individuals who might help themselves to a little of the growing timber. I was not talking about mining companies going in and taking the natural resources of the country that are in the mines and veins of the earth.

Mr. POINDEXTER. Then, there is another question that is pertinent to that. In carrying out his policy of encouraging the building of homes and the opening of the public lands for homestead, I ask the Senator if he thinks that policy would be furthered in any way by allowing steamboat companies, for instance, operating lines of steamers on the Yukon River, which are compelled to use wood as fuel, to denude the public lands of timber?

Mr. REED. Oh, no.

Mr. POINDEXTER. And to leave them so denuded for some homesteader to settle on after the timber has been cut off? The great mining companies use a great deal of the wood of that country. Some are very large and very wealthy companies and use a vast amount of wood in thawing out the ground in which the mining operations are carried on. I ask the Senator if he would throw open the public timber in that vicinity free to those people; and, if not, how is that going to be prevented and regulated unless some United States official is there to see that the law is enforced?

Mr. REED. Mr. President, all of those interrogatories are entirely outside of any policy which I advocate or anything I have said. I have been talking about actual settlers and individuals. The question has already been asked here very pointedly where this boat could be used and where the timber was which was to be protected, and nobody was able to answer. I am not in favor of allowing mining companies to go in and seize the mineral deposits of those Territories, or of allowing them to slaughter our forests; I am talking about the system of espionage that follows every individual as he goes through the Territory and requires him to go perhaps hundreds of miles to get a permit. I am talking about the lack of any necessity for this motor boat; and there has been no necessity for it shown. I take it that the large mining companies of which the Senator speaks are operating at well-known places, and that there is no necessity of any motor boat to reach them, but that a Government inspector is now in the vicinity and properly should be.

Mr. FALL. Mr. President, I think, in fairness, that I should say that possibly the Senator from Missouri did not hear a portion at least of the evidence taken before the committee which was read by the Senator from Utah [Mr. SMOOT] as to the necessity for this boat. I can not say that I am very thoroughly impressed with the necessity of buying a motor boat; I think, possibly, in view of the fact that the Alaskan waters are very often closed by ice, to buy a flying machine might be more appropriate; but nevertheless, in fairness to the commissioner who asks this appropriation, I think possibly it might be well enough at this point to call the attention of the Senator to his statement as to the purpose for which it is needed. He says:

> The work in Alaska is increasing. As you know, in Alaska the timber on the public domain can be sold, somewhat under the same conditions under which it is sold in forest reservations.

That is, by law now existing.

> They can not do that in the public domain in the United States. Our agents have to travel about a great deal, and there is a great necessity for the purchase of that boat. We have two agents in Alaska. The transportation facilities there are very poor, not so much in themselves as in the delays, as it is necessary sometimes for a man to wait a week until a boat comes in.

One of the passenger boats, I presume.

> We asked the House for $5,000 to purchase a launch for use in that service.

Then he goes on to say in answer to a question by the Senator from California [Mr. PERKINS]:

> Where do you keep the boat?
> Mr. DENNETT. On the Yukon and on the Tanana, where we have to go.

Mr. HEYBURN. Mr. President, continually during this discussion reference has been made to the miners' use of timber as though the miner was a vandal. Where there is one mining company there are hundreds of miners. The mining company is the least difficult to control of all those who go into a country. The mining company does not come along until after hundreds of miners have gone down in despair because of their failure, after an honest effort, to find a mine or to make one.

The first thing a miner who goes into the country does is to provide himself with a shovel, and then with wood for fuel and cooking purposes. Then he goes to work with a pick and shovel, with a little bit of charcoal to make fire—so as to sharpen tools.

Then he goes to work with pick and shovel, and it is weeks or months or years before he has any occasion to use timber. If he is placer mining he never has occasion to use it, except for

fuel and building purposes or for flumes or sluice boxes. He will hew out the sluice boxes by hand or he will whipsaw them; and if anyone ever saw two men whipsawing lumber out of the log he will not try to take anything away from them.

Then, if he has a lode claim or ledge, he will start perhaps to sink on it, and he must have timber to timber his shaft as he goes down to keep it from falling in on him. If he is developing his claim by a tunnel he must make timbers, hew them out by hand, and put them in the mine to keep the shaft from caving in on him. That goes on for months and years and years, and the man or two men together work there under those circumstances.

The idea of the Government charging them for timber for those purposes is too barbarous to consider. All that a man would use would not pay the salary of one of these rangers for a month, and yet he is to be there subject to be pounced upon; and not only that, but perhaps to be taken hundreds of miles to be tried before some commissioner because he was making the necessary use of timber immediately around him on this small scale. Those are the men whom it is proposed to run down with this motor boat.

Around the mouth of the Yukon River, the delta of the Yukon River—and that is spoken of as being one of the fields in which to use this boat—there is a bird reserve. Mark that, Senators. There is a bird reserve in Alaska covering all of the delta of the Yukon River, twice as large as some of the States. If a man wanted to go on to the Yukon River in this boat, he must go through this bird reserve. Whoever heard of any part of the Government being authorized to create or to maintain a bird reserve! And yet we are at a large expense in maintaining and protecting, I suppose, with this boat, a bird reserve in Alaska, covering the mouth of the Yukon River—an area, I repeat, as big as a State. Go and look at the map of the United States in the cloakroom and you will find it there on that map as one of the reservations.

Mr. SMITH of Arizona. Are they any particular kind of birds, if the Senator will permit me an interruption?

Mr. BRANDEGEE. Canary birds.

Mr. HEYBURN. Canary birds, I suppose. That is suggested to me by my friend on my right. Birds of rare plumage, that are supposed to ride on this boat. These men would probably go up there and luxuriate, drifting around, admiring the birds, eating the ducks that are ripe—all on this motor boat. That motor boat therefore would probably take up a permanent station about the mouth of the Yukon River, in the bird reserve, and remain there all the year round. The agents would not hear of some man 700 miles up above, along toward Circle City and that country, actually mining and using a little wood to keep himself warm and to prevent the earth around him from caving in on his mine.

There are operating on the Yukon River no large mining companies that are using any timber of the United States. I only wish there were. Instead of putting up signs warning people out of Alaska, why do they not give them a bounty, a bonus, for coming there? The Government of the United States could afford to give them free transportation and free sustenance and free maintenance in Alaska in order to get somebody to go there.

We are now putting up warning signs instead of beckoning to the people to come and making it possible for them to come. We are sending a motor boat up there among those poor, distressed, poverty-stricken, struggling American citizens for somebody to ride around with a little gilt cord around his cap to boss them.

Mr. SMOOT. Mr. President, I merely want to call the Senate's attention to the fact that there are steamers of all sizes going up the Yukon River. There has been in the past quite a business of men cutting timber and selling to these boats. That is going on to-day all the time, and I think the motor boat will be used for that rather than to lie around any bird reserve at the mouth of the Yukon River.

Mr. SMITH of Arizona. How are they going to use the boat for transportation? The agents will not let them get the coal.

Mr. SMOOT. They are steamers that do not belong to the United States. They are tramp steamers. People come in there from all over the country, and I think if they are going to use American timber they ought to pay at least the stumpage price for it.

Mr. HEYBURN. Will the Senator pardon me? I just want to mention an actual occurrence.

Some years ago the boats on the Coeur d'Alene River cut their fuel on the banks of the river; that is, it was cut by other persons and sold to them. So some one told the Government it was losing money. They were building up a civilization that has brought into that country a great many million dollars, but the Government did not take that into consideration.

They said, "Here is a man who is apparently prospering, and let us stop him." So they sent an agent out there, and he said to the steamboat company, "Where are you getting the wood that you use in your boilers?" The reply was, "We are buying it from men who cut it on the river." Then they were asked, "Well, you have been cutting timber on this mountain side?" "Yes; that is, the man we buy it from has been cutting it there." Then the agent asked, "Why do you not use the dead timber?" and the reply was, "There is no dead timber around here."

The agent looked around upon the hillside, and viewed a tamarack which he called a larch, and he said, "Why do you not cut that timber up there?" One of the men said, "If you will give us a written order permitting us to use that timber, we will give you no more trouble." That agent gave them an order that that tamarack might be cut—it was in winter, when the leaves were off—and they cut down the finest, sound, growing tamarack timber that there was in that whole country. That is about the grade of intelligence we meet in dealing with this question and in dealing with these agents.

Mr. REED. Mr. President, I want to ask the Senator from Utah a question. He has stated that there are so many boats plying up and down that stream that they are denuding the banks of timber. If there are so many boats going up there to get the timber and using it for fuel and the whole forest is being consumed, it seems to me it is wholly unnecessary for the Government to buy a boat. There are plenty of boats there already.

Mr. SMOOT. Mr. President, the boat is not purchased for the purpose of hunting a market for the Alaskan timber. The boat is purchased for the purpose of protecting the timber that is there, so that whenever it is used the Government will get the benefit of it.

Mr. SHIVELY. That is, Mr. President, the Government issues permits to cut timber, and the agent, after issuing the permit, wants the boat and needs the boat to follow the person to whom the permit has been granted. It has been suggested here that the Government loses four or five days' time because of the irregularity of these other boats. As I undertand, this would be a device by which the agent could start at once, and a man with a permit could not get out of sight.

Mr. SMOOT. Of course it is only a theory that the Senator is advancing. It never works out in practice the way the Senator has put it.

The PRESIDENT pro tempore. The question is upon the amendment——

Mr. WARREN. I will first perfect the amendment. I move to strike out, in line 12, the words "to be immediately available."

The PRESIDENT pro tempore. The Secretary will report the proposed amendment to the amendment.

The SECRETARY. In line 12, it is proposed to strike out the words "to be immediately available."

The amendment to the amendment was agreed to.

Mr. REED. Mr. President, we could not hear the amendment to the amendment.

Mr. WARREN. It was to strike out the words "to be immediately available." That has become unnecessary now that it is after the 1st of July.

The PRESIDENT pro tempore. The question now is upon the amendment as amended.

Mr. REED. On that I ask for the yeas and nays.

Mr. WARREN. Mr. President, that, of course, as the Senator knows, brings us to a point where I will be obliged to ask that the bill be laid aside for the present. I give notice that I shall ask to take it up to-morrow immediately after the morning business.

Mr. REED. I did not ask for the yeas and nays for that reason. I think there is a quorum present.

The PRESIDENT pro tempore. Does the Senator from Wyoming propose to lay the bill aside?

Mr. WARREN. I supposed the Senator from South Carolina [Mr. SMITH] was going on this afternoon, but I now understand he is not. If not, we might lay aside the amendment that has just been under discussion and proceed with the rest of the bill.

Mr. REED. I was going to suggest that course. I did not intend to obstruct the consideration of the bill. I merely wanted a vote on this matter. If the Senator is content to lay it aside, that course is entirely satisfactory to me.

Mr. WARREN. I ask that it may be laid aside and that we may proceed with the consideration of the other amendments.

Mr. CULBERSON. Mr. President, the Senate has been in session since 11 o'clock, and it is now practically 5 o'clock. It seems to me we ought to adjourn.

Mr. WARREN. Does the Senator think we can shorten up the speeches to-morrow enough to make up for the time we may lose to-night?

Mr. CULBERSON. I suggest to the Senator from Wyoming that it is time to adjourn, as we have been in session for six hours.

Mr. WARREN. Mr. President, on that statement, understanding that the Senator is going to assist me in vigorous work to-morow to finish the bill—for it will be Saturday, and I should very much like to finish it—I will move that the Senate adjourn.

Mr. SMOOT. I ask the Senator to withhold the motion for a moment.

Mr. WARREN. Certainly.

HOUR OF MEETING TO-MORROW.

Mr. SMOOT. I move that when the Senate adjourns to-day it be to meet to-morrow morning at 11 o'clock.

The motion was agreed to.

THE PANAMA CANAL.

Mr. SMITH of South Carolina. Mr. President, I desire to give notice that to-morrow, immediately after the conclusion of the routine morning business, I shall submit some remarks on the Panama Canal bill. I desire to give this notice now, instead of going on with my speech this afternoon.

Mr. WARREN. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 55 minutes p. m.) the Senate adjourned until to-morrow, Saturday, July 20, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July 19, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

"Bless the Lord, O my soul; and all that is within me, bless His holy name. Bless the Lord, O my soul, and forget not all His benefits." It is He that hath made us and not we ourselves; we are His people and the sheep of His pasture. Without Him we can do nothing; with Him we may accomplish all things. Fill our hearts with brotherly love that we may enter into the work of this day with malice toward none and charity for all, doing whatsoever our hands findeth to do with might, leaving the results with Thee. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

Mr. POU. Mr. Speaker——

Mr. SIMS. Mr. Speaker——

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] is recognized.

TRANSPORTATION OF PRIZE-FIGHT PICTURES.

Mr. SIMS. Mr. Speaker, I wish to call from the Speaker's table the bill S. 7027, an act to prohibit the interstate transportation of pictures of prize fights, and for other purposes. The Committee on Interstate and Foreign Commerce having reported a similar bill, I am authorized by that committee to make this motion. I ask that it be laid before the House.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 7027) to prohibit the interstate transportation of pictures of prize fights, and for other purposes.

Be it enacted, etc., That it shall be unlawful for any person to deposit or cause to be deposited in the United States mails for mailing or delivery, or to deposit or cause to be deposited with any express company or other common carrier for carriage, from one State or Territory or the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or to bring or to cause to be brought into the United States from abroad, any film or other pictorial representation of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purposes of public exhibition, or any record or account of betting on the same.

SEC. 2. That it shall be unlawful for any person to take or receive from the mails, or any express company or other common carrier, with intent to sell, distribute, circulate, or exhibit any matter or thing herein forbidden to be deposited for mailing, delivery, or carriage in interstate commerce.

SEC. 3. That any person violating any of the provisions of this act shall for each offense, upon conviction thereof, be fined not more than $1,000 or sentenced to imprisonment at hard labor for not more than one year, or both, at the discretion of the court.

The SPEAKER. The question is on the third reading of the Senate bill.

Mr. MANN. Mr. Speaker, this bill has never been considered in the House at all. I think it is due to the House to know what it provides for.

Mr. SIMS. I am perfectly willing to explain it.

Mr. MANN. Are you going to have any amendments to it?

Mr. SIMS. No; it is a Senate bill.

Mr. MANN. But it is subject to amendment.

Mr. SIMS. Mr. Speaker, this bill in all respects is similar to one that has been reported in the House, with the exception of the punishment provided, and which was introduced by the gentleman from Georgia and reported by the Committee on Interstate and Foreign Commerce of the House and is now on the calendar. The House bill was introduced by the gentleman from Georgia [Mr. RODDENBERY]; and as he is thoroughly familiar with the bill on the same subject, and the Senate bill being identical with it, I will yield to the gentleman from Georgia [Mr. RODDENBERY] such time as he may want in which to explain the bill to the House.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] is recognized for such time as he desires, not exceeding an hour.

Mr. SIMS. How much time does the gentleman want?

Mr. RODDENBERY. Five minutes.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] is recognized for five minutes.

Mr. RODDENBERY. Mr. Speaker, I was not giving attention to the remarks of the gentleman from Tennessee [Mr. SIMS], but I gather at this moment that the bill S. 7027 is up for consideration. It is a Senate bill, the House having reported a similar bill from the Committee on Interstate and Foreign Commerce, which bill, in its material points, was introduced by me some time ago. This legislation is similar to Federal legislation covering kindred questions. I presume the House is thoroughly familiar with the purpose and object of the bill. It is to prevent the transportation in interstate commerce of films and pictorial representations of prize fights—the type of fights which have been outlawed by nearly all the States of the Union, as lotteries had been outlawed by the several States before like Federal legislation was enacted touching the transportation through interstate commerce of tickets, lottery advertisements, and other gambling schemes.

I will state that the bill, with the slightest deviation, follows existing legislation now on the statutes touching interstate transportation and transmission, both through these channels and the Post Office Department, of such matter as is demoralizing and objectionable.

This bill does not go so far as to prevent newspaper accounts and reports of these contests, however much some Members might be disposed to let it go that far. Now, to illustrate, the situation, which may not have been brought to the attention of some Members, is that when the Congress exercised supervision over the Territories of Arizona and New Mexico it prevented these contests under their Territorial government, but they now having been admitted to the Union there is no statute in the State of New Mexico restrictive or prohibitive of these brutal combats, nowithstanding the fact that the other States have prohibited them. It is therefore within the power of one of our States to permit these inhuman and uncivilized contests, and, consequent thereon, that they be disseminated in moving-picture shows and other exhibitions throughout the entire country.

One word further: There is one question that gentlemen might raise, and that is that the authorities in the several States, counties, and municipalities can, by prohibitive legislation, prevent the display of these pictures and thus the result be accomplished. Theoretically that is true. But the same would be true of the transmission in the mails and the carriage in commerce of lottery tickets, of gold-brick schemes, of devices for the prevention of conception, and other things that Congress has taken cognizance of under its postal and commerce powers. And so the House in passing the Senate bill does nothing in this regard than to apply similar legislation to the transportation of prize-fight films, prize-fight pictures, and these contests, as has been applied to other objectionable institutions and items that otherwise could be transmitted by express, by mail, and through other means of commerce.

I would be glad to yield to a Member for any question on the measure, but this is all I desire to submit.

Mr. MANN. Will the gentleman yield for a question?

Mr. RODDENBERY. Yes.

Mr. MANN. Under the terms of this bill would there be any difficulty in persons manufacturing films sending a man along the route and leaving them at such places as were desired? Films are not bulky.

Mr. RODDENBERY. I will state to the gentleman that there is nothing in this bill that covers the point made by the gentleman from Illinois.

Mr. MANN. Ought it not to be covered? Would it not be very easy to get around this bill by simply having a man go along to the railroad stations and leave these films?

Mr. RODDENBERY. It would, and my personal opinion is, although I am not a member of the Committee on Interstate and Foreign Commerce, that such an amendment would strengthen the bill. I will say this to the gentleman from Illinois, that if it does not impair its consideration by the Senate, I think it would be very opportune to so amend it. However, if such an amendment should not be adopted, the bill would not be without the most salutary results, for many reasons, one of which in particular I will undertake to state.

Mr. MANN. I do not think such an amendment would impair the prospects of the bill passing at all. I have not the amendment here now, but I did suggest to the gentleman from Georgia the other day that if he had an amendment that would cover it in a few words I would approve of it.

Mr. RODDENBERY. I had the good fortune to see the gentleman's amendment on another occasion, and I have no objection to accepting it.

Mr. MANN. I have not the amendment here, and I thought perhaps the gentleman from Georgia had it among his papers.

Mr. RODDENBERY. No; I have not. But if the amendment referred to is not adopted the present bill would still be salutary and effective. It is well known that one of the chief inducements and incentives to these prize fights now is the sale of the films under contracts, and the fact they could not be transmitted in commerce and through the mails would so depreciate that aspect of the prize-fight business that the bill would be very vital in its wholesome effects. I should be glad to have the bill most effective for accomplishment of its purpose and would favor the amendment suggested.

I call the attention of the House to the fact that the recent prize fight which was had in New Mexico presented, perhaps, the grossest instance of base fraud and bogus effort at a fair fight between a Caucasian brute and an African biped beast that has ever taken place. It was repulsive. This bill is designed to prevent the display to morbid-minded adults and susceptible youth all over the country of representations of such a disgusting exhibition.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Georgia yield to the gentleman from Ohio?

Mr. RODDENBERY. I do.

Mr. SHARP. I wish to ask the gentleman if he thinks it more indefensible for a white man and a black man to engage in a prize fight than for two white men to engage in such a conflict?

Mr. RODDENBERY. The act as a matter of moral conduct is the same. It differs in degree. No man descended from the old Saxon race can look upon that kind of a contest without abhorrence and disgust.

Mr. SIMS. Mr. Speaker, the gentleman from Georgia has fully explained the bill. The object of it is to prevent demoralizing pictures from being exhibited all over the country—pictures which do not do any good, and might do much harm.

I desire to ask if the gentleman from Illinois [Mr. MANN] wishes to consume any time?

Mr. MANN. I would like to have some time.

Mr. SIMS. How much time does the gentleman wish?

Mr. MANN. Five minutes.

Mr. SIMS. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized for five minutes.

Mr. MANN. Mr. Speaker, I am quite in accord with the desire to prevent the transportation of films or any other matter relating to prize fights.

However, I would like to ask the gentleman in reference to another part of the bill. The bill first makes it unlawful to transport from one State to another these films and other pictorial representations, and then it provides—

> Or to bring or cause to be brought into the United States from abroad any film or other pictorial representation of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purposes of public exhibition, or any record or account of betting on the same.

Mr. SIMS. Is the gentleman reading the original bill, or the bill as amended, or the Senate bill as introduced?

Mr. MANN. I asked for a copy of the bill, and I received a copy of it as amended, probably. How does it provide now, under the language that I have read, if it still remains in the bill in that way?

Mr. SIMS. As reported by the House, it reads as follows:

> SECTION 1. It shall be unlawful for any person to deposit or cause to be deposited in the United States mails for mailing or delivery, or to deposit or cause to be deposited with any express company or other common carrier for carriage, from one State or Territory of the United States or the District of Columbia, to any other State or Territory of the United States or the District of Columbia, or to bring or cause to be brought into the United States from abroad, any film or other pictorial representation of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purposes of public exhibition, or any record or account of betting on the same.
>
> SEC. 2. It shall be unlawful for any person to take or receive from the mails, or any express company or other common carrier, with intent to sell, distribute, circulate, or exhibit, any matter or thing herein forbidden to be deposited for mailing, delivery, or carriage in interstate commerce.
>
> SEC. 3. And person violating any of the provisions of this act may be proceeded against by indictment and tried and punished, either in the district in which the unlawful matter was deposited for mailing or carriage, or to which it is carried, or in which it is delivered; and any person violating any of the provisions of this act shall for each and every offense, upon conviction thereof, be fined not more than $1,000 or sentenced to imprisonment at hard labor for not more than one year, or both, at the discretion of the court.

Mr. BUTLER. Where is that bill?

Mr. MANN. I ask to have the bill reported again, Mr. Speaker. It is only a short bill.

The SPEAKER. The Clerk will report the bill again, without objection.

There was no objection.

The bill was again read.

Mr. MANN. Mr. Speaker, I examined this bill when it came over, and the House bill. A moment ago I received a copy of the Senate bill as introduced in the Senate. The question I was going to raise was eliminated by the action of the Senate. I hope the bill may pass.

The SPEAKER. The question is on the third reading of the Senate bill.

Mr. MURRAY rose.

Mr. SIMS. Does the gentleman from Massachusetts want any time?

Mr. MURRAY. I do.

Mr. SIMS. Then, Mr. Speaker, I yield five minutes to the gentleman from Massachusetts [Mr. MURRAY].

The SPEAKER. The gentleman from Massachusetts [Mr. MURRAY] is recognized for five minutes.

Mr. MURRAY. Mr. Speaker, I had hoped that the gentleman from Tennessee [Mr. SIMS], while this matter was being considered, might refer to the consideration of the bill that we had on the 1st day of July, as outlined in the CONGRESSIONAL RECORD at page 8551. Some of the Members of the House may remember that on that day the gentleman from Tennessee [Mr. SIMS] sought to have the bill taken from the Speaker's table, as has been done at this time, in order to put this bill through quite speedily. I had received on that day a telegram from a resident of the congressional district that I represent inquiring about the status of this legislation, and I had gone to the gentleman from Georgia [Mr. RODDENBERY] with a request for information in order that I might reply to the request of a constituent whom I represent here. I had hoped on that occasion that there might be a long enough delay in the consideration of the matter so that I might advise my constituent about the course of the legislation.

I was very sorry that I could not convince the gentleman from Tennessee [Mr. SIMS] that that was a proper and reasonable request, and that he insisted upon the consideration of the measure at that time. As he did so, I had to make use of the only parliamentary weapon that was available to me, namely, to suggest to the Speaker pro tempore [Mr. ALEXANDER] the absence of a quorum, which I did. I was very sorry to read in the CONGRESSIONAL RECORD the next morning a remark attributed to the gentleman from Tennessee [Mr. SIMS], as follows:

> Mr. Speaker, I desire to call up a bill on the Speaker's table, to prevent the shipping through the mails and in interstate commerce of moving-picture films of prize fights, especially the one between a negro and a white man to be held in New Mexico on the 4th of July next, and the point of order is made by the gentleman from Massachusetts [Mr. MURRAY] to defeat the present consideration of that bill, as it will be too late to get it passed before that date if not considered now.

Mr. Speaker, I am very sorry, I say, that the gentleman from Tennessee [Mr. SIMS], in the course of this discussion to-day, has not seen fit to set the RECORD right and to assure the Members of the House of what he now knows to be true, if he did not know it at the time that he made that remark—that my sole purpose in suggesting the absence of a quorum on the 1st of July was not to defeat the present consideration of this

legislation, nor in order to postpone the consideration of it, except so long as it might be necessary to do in order for me to get a reply to a reasonable request for information from one whom I was trying here to represent.

I have no opposition to offer to this legislation. I do not know that it is altogether necessary. I do know that in my own Commonwealth of Massachusetts, and in the city of Boston, from which I come, we are able under our local laws, under our statutes, and our municipal ordinances to regulate such things as moving pictures of prize-fight exhibitions.

We do not need to occupy the time of the National Congress to regulate such matters, and I doubt very much whether there is any State in this Union that needs to have the time of this Congress taken up in the regulation of its internal affairs. I wonder what it is that causes men from the Southland, who in this Hall have always insisted upon the doctrine of State rights, to arise and urge with such great seriousness that legislation of this kind be passed? I do not believe it is necessary for the National Government to invade the States of the Union and tell them what they shall and shall not do in this situation; and I suggest to Members that we might in these days be giving our attention to problems of much more concern to the American people than this one, rather than to allow men here to demagogue along certain lines. [Applause.]

Mr. SIMS. Mr. Speaker, I wish to say in respect to what the gentleman from Massachusetts [Mr. MURRAY] has said, that I am confident he has stated the facts just as they were. I do not now remember just what happened at the time. I knew that if the bill was not considered at that time it could not possibly become a law before the 4th of July, which was the time set for this contest in New Mexico. I want to state further that I was being bombarded by letters and telegrams requesting me to get the matter acted on, which accounted for my anxiety at the time. I did not want to misrepresent the gentleman, and if anything I said did misrepresent him, I am exceedingly glad to correct it. I have nothing to suggest, except this, that the gentleman from Massachusetts has never had charge of a piece of legislation like this, when letters and telegrams come in floods from every direction. He does not know, perhaps, just how a man feels under such circumstances. What I did was at the direction of the Committee on Interstate and Foreign Commerce, and I felt even a greater responsibility than I would have felt if I had been acting on my own account.

Mr. BATHRICK. Will the gentleman yield?

Mr. SIMS. I do.

Mr. BATHRICK. I desire to know if in the bill, as reported from the Senate, in lines 9 and 10, the words "or any record or account of the same" were included?

Mr. SIMS. The Senate bill is on the Speaker's table and has been read twice. I have no copy of it here, but my recollection is that those words are contained in it.

Mr. BATHRICK. I request that information from the Clerk.

Mr. MANN. A moment ago, when the Clerk read it, I was comparing it with the bill I had in my hand, and I thought the words were not in the Senate bill; but I have just examined the Senate bill, and they are there. I think they ought to be stricken out.

Mr. BATHRICK. Mr. Speaker, a point of order.

Mr. SIMS. I do not want to yield the floor, Mr. Speaker. How much time have I left?

The SPEAKER. The gentleman has used 25 minutes, and has 35 minutes left.

Mr. BATHRICK. Mr. Speaker, I desire to know if amendments are in order.

The SPEAKER. If anybody can get the floor, he can offer amendments.

Mr. SIMS. The only reason I personally object to this amendment is that, with the great amount of privileged business of the greatest importance that is before the Senate, I doubt very much whether an amendment can be considered in the Senate. I suppose the gentleman has reference to the mere reporting of bets as a news item.

Mr. BATHRICK. That is what I have reference to, and I consider it vicious. A newspaper man, in the performance of his ordinary work of news gathering, if these words are permitted to remain in the bill, can be arrested and receive all of the penalties prescribed in the bill for those who distribute the prize-fight films.

The SPEAKER. Does the gentleman yield to the gentleman from Ohio?

Mr. SIMS. Not for the purpose of offering an amendment.

The SPEAKER. For the purpose of making remarks?

Mr. SIMS. Yes. How much time does the gentleman want?

Mr. BATHRICK. I only want about two minutes.

Mr. SIMS. I yield to the gentleman for two minutes.

Mr. BATHRICK. Mr. Speaker, in lines 9 and 10 of this bill are these words:

Or any record or account of betting on the same.

I am entirely in accord with the moral purpose of preventing the dissemination of immoral literature or films exhibited for the purpose of making money on prize fights, but I protest against a bill which will permit the full penalty which is prescribed for an infraction of this law, if it pass, being inflicted on a newspaper man who transmits accounts by mail or otherwise of bets on a prize fight in a State where that prize fight is entirely legal under the laws of that State. And I desire to offer an amendment striking out of lines 9 and 10 the words "or any record or account of betting on the same."

The SPEAKER. The gentleman does not yield for the purpose of offering an amendment.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. SIMS. How much time does the gentleman want?

Mr. MANN. Five minutes.

Mr. SIMS. I yield to the gentleman from Illinois five minutes.

Mr. MANN. Mr. Speaker, when the gentleman yielded to me before the Clerk had read the bill I thought this language was not in the bill as the Clerk read it. However, I was mistaken. The words "or any record or account of betting on the same" are in the bill. The bill, which is a Senate bill, makes it unlawful to bring into the country, or to cause to be brought into the country, any record or account of betting on a prize fight, and then makes it unlawful for any purpose to take or receive from the mails any matter which is covered by section 1, which would be the importation or bringing into the country of a record of betting on a prize fight, and makes that a fineable offense; so that under the terms of the bill, unless amended, any person who receives a foreign newspaper which contains any record of a prize fight, or any betting on a prize fight, and who takes it out of the mail is made subject to a penalty of not more than $1,000 or imprisonment at hard labor for not more than one year.

Mr. FOSTER. Is that the amendment as passed by the Senate?

Mr. MANN. That bill was reported into the House by the committee and was passed in the Senate, and now the question is whether we will pass it and make it a law. The purpose of the bill is to prevent taking films—moving pictures—of prize fights and passing them from one State to another. It never was the purpose of the bill, or ought not to have been, to prevent a person taking out of the mails a Canadian newspaper or a London newspaper which contains some notice of a prize fight.

Mr. SIMS. The gentleman does not insist that this bill will prohibit a thing of that sort?

Mr. MANN. Why, absolutely.

Mr. SIMS. Just read it:

Which is designed to be used or may be used for purposes of public exhibition, or any record or account of betting on the same.

It must be the intention to publish the same.

Mr. MANN. It says:

Any film or other pictorial representation of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purposes of public exhibition, or any record or account of betting on the same.

The limitation about using it for purposes of public exhibition is a limitation on the films and not a limitation upon the other. That is as clear as can be. There is no use of leaving that in the bill. The gentleman ought to be willing to permit an amendment striking it out.

Section 2 of this bill is clearly unconstitutional unless the court shall construe it to mean that what it does not say. Section 2 of the bill covers intrastate commerce, when we have no power over anything except interstate commerce. I hope the gentleman will yield or will himself offer an amendment to strike out of the end of section 1 the words—

Or any record or account of betting on the same.

Mr. SIMS. Mr. Speaker, I can not see how the country is to be benefited by reading the records of bets upon prize fights in this country or in any other country; and if it does prevent such records being published, well and good. We are legislating for the whole country. I do not see that there is anything very wrong in prohibiting a newspaper in this country from publishing records of bets on prize fights, be they between white men or between colored men or between white and colored men.

Mr. MANN. Mr. Speaker, I quite agree with the gentleman in a bill to prohibit newspapers enjoying the second-class mail

privilege from being deposited in the mail when they contain any record of betting on prize fights or anything whatever about prize fights. But this bill makes it an offense to receive the paper. It could not make it an offense to mail a foreign paper from a foreign land, because we have no control over the mailing of it. It makes it an offense to take it out when it is addressed to one.

Mr. BUTLER. That is true, because section 2 begins with the language that it shall be unlawful to send or receive.

Mr. SIMS. I fail to catch that idea when the bill says it shall be designed to be used or may be used for purposes of public exhibition.

Mr. BUTLER. But that does not relate to subsequent statements.

Mr. SIMS. A man can not commit a crime unintentionally.

Mr. BUTLER. I understand; and I do not believe the gentleman intends to impose a penalty upon an innocent person, but why not make the bill plain? It is not intended to punish a man who innocently receives a newspaper which contains the account of a prize fight or the betting on a prize fight. Let me suggest to the gentleman to amend his bill so as to make it perfectly plain. We all want to vote for the bill.

Mr. SIMS. Its language is taken from existing laws with reference to other matters. I do not think there is any great danger of anybody going to prison wrongfully, or of even being prosecuted, and, as I say, I have no idea that if an amendment, however innocent or harmless it may be, is put upon this bill that it will receive consideration at the other end of the Capitol.

Mr. BUTLER. The purpose of the bill is to strike at transportation. Is there a law which prohibits the exhibition of prize-fight pictures in the District of Columbia and the Territories over which we have control?

Mr. SIMS. I do not remember now.

Mr. BUTLER. Is it not important to prevent the exhibition of these films in the District of Columbia, and not to try alone to prevent the transportation of them from State to State?

Mr. BATHRICK. Mr. Speaker, will the gentleman yield?

Mr. SIMS. Certainly.

Mr. BATHRICK. Does not the gentleman know that in the rush and hurry of getting out a daily newspaper, with the numerous employees, that they are liable to transgress this law, and that they will be repeatedly liable to the penalties prescribed therein if this bill is passed as it stands?

Mr. SIMS. Mr. Speaker, I will ask the gentleman from Illinois [Mr. MANN] what his amendment is; I know what the amendment of the gentleman from Ohio [Mr. BATHRICK] is.

Mr. MANN. The amendment is to strike out the words "or any record or account of betting on the same."

Mr. SIMS. They are both practically the same. Mr. Speaker, I do not want to pass a bill that is unenforceable or put in words which my friend from Illinois thinks will cause any trouble to his friends who publish a paper, or to my friend from Ohio or elsewhere, and I will move to amend the bill so as to strike out the words in line 2, page 2, "or any," and all of line 3.

Mr. MANN. That is at the end of section 1.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend Senate bill, page 2, by striking out, in lines 2 and 3, the words "or any record or account of betting on the same."

Mr. BUTLER. Will the gentleman allow me to ask him another question?

Mr. SIMS. Certainly.

Mr. BUTLER. I desire to ask if there is no law on the books prohibiting the exhibition of these films in the District of Columbia and the Territories over which we have control why not amend the bill now so that these exhibitions may be prohibited? Does not the gentleman think this is the proper time?

Mr. SIMS. That is another and entirely different subject.

Mr. BUTLER. It will be possible to obtain these films, although we may pass this law. It is the exhibition, I understand, we desire to prevent.

The SPEAKER. The question is on agreeing to the amendment to the Senate bill, which the gentleman from Tennessee has offered.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Speaker, I would ask the gentleman from Tennessee whether an amendment in the sixth line of the bill, after the word "carriage," would be acceptable, to insert the words "or to send or carry," so that it would read:

That it shall be unlawful for any person to deposit or cause to be deposited in the United States mails for mailing or delivery, or to deposit or cause to be deposited with any express company or any other common carrier for carriage, or to send or carry from one State or Territory of the United States, etc.

I want to add the words "or to send or carry."

Mr. SIMS. I have no objection to that amendment, since it is going to the Senate. I think it is a proper one.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend the bill by inserting, after the word "carriage," in line 6 of the Senate bill, the words "or to send or carry."

The question was taken, and the amendment was agreed to.

Mr. FOWLER. Mr. Speaker, I desire to ask the gentleman from Tennessee if this bill is broad enough to prohibit reports of prize fights between man and man, between man and animal, and between animals?

Mr. SIMS. It has nothing to do with prize fights between man and "animals" or between animals, if there are any such occurrences.

Mr. FOWLER. Mr. Speaker, I understand that the bill does have to do with prize fights.

Mr. SIMS. No; it has to do with films; pictures of prize fights.

Mr. FOWLER. I desire to know whether the language of the bill is not as follows: On page 1, beginning with line 8, it says:

Or other pictorial representation of any prize fight or encounter of pugilists under whatever name.

It does deal with reports of prize fights, and are these prize fights between men, or are they between animals and men, or between animals alone?

Mr. SIMS. Mr. Speaker, as I am not an expert on prize fights, I can not answer the gentleman from Illinois.

Mr. FOWLER. Well, Mr. Speaker, I know that any man or any set of men who engage in prize fights are nothing more than animals for the time being, but what I desire to know is if the language of the bill will be broad enough to include reports on prize fights of whatever character, whether prize fights between man and man, whether prize fights between man and animals, or fights between animals? I want to make the bill broad enough to include reports of bull fights. The transportation through the mails of pictorial films of such prize fights ought to be prohibited. "Bull fighting" is certainly demoralizing, as much so as prize fighting between pugilists; both ought to be prohibited.

Mr. SIMS. I yielded for a question, and not for a speech.

Mr. FOWLER. I am asking the gentleman——

Mr. SIMS. I will say to the gentleman I will not accept the amendment or agree to it. How much time have I remaining?

The SPEAKER. The gentleman has 20 minutes remaining.

Mr. SIMS. I could not accept an amendment.

Mr. FOWLER. I want to ask the gentleman once more, between what character of living beings is the report of prize fighting referred to in this bill intended to apply?

Mr. SIMS. I will leave to the gentleman to judge from the language of the bill what kind of beings it refers to.

Mr. FOWLER. Does the gentleman decline to answer?

Mr. SIMS. I am not an expert on that, and I can not give the information.

Mr. FOWLER. The bill is ambiguous in reference to that point.

Mr. SIMS. It may be to the gentleman from Illinois.

Mr. FOWLER. It is from the gentleman who has charge of the bill I am seeking information.

Mr. SIMS. And I am unable to give it.

Mr. BUTLER. Mr. Speaker, I do not intend to delay the passage of this measure. I am opposed with all the vigor that is in me to the exhibition of these prize-fight films to men, women, and children. Is it not possible to amend this bill so as to prevent their exhibition in the District of Columbia and the Territories, over which we have control, and if there is no law to prevent the exhibition of such films, let us make the law now. The injury comes in the exhibition of these films and not in their transportation.

Mr. SIMS. Mr. Speaker, I have agreed to two amendments, which I think are sufficient.

Mr. BUTLER. I do not wish to press it on the gentleman, but I believe that we should amend the bill so as to prevent the exhibitions.

The SPEAKER. The question is on agreeing to the amended Senate bill.

Mr. BUTLER. Mr. Speaker, will the gentleman yield to me to offer such an amendment?

Mr. SIMS. No, Mr. Speaker; I can not yield for any further amendments.

Mr. BUTLER. I know I am powerless in my effort for good.

The SPEAKER. The question is on agreeing to the amendment to the Senate bill.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on the third reading of the amended bill.

The bill was read a third time.

Mr. FOWLER. Mr. Speaker, I would like recognition for the purpose of offering an amendment to the bill.

The SPEAKER. The parliamentary situation is this: The gentleman from Tennessee [Mr. SIMS] has an hour, and he can parcel out the time to suit himself or use the entire hour, and nobody can offer an amendment as long as the gentleman from Tennessee has the floor during that hour.

Mr. SIMS. Mr. Speaker, I ask for the previous question on the bill and all amendments.

Mr. FOWLER. Mr. Speaker, I desire, then, to make a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. Then is it possible in the American Congress that a man can call up a bill, utilize all the time, and prevent any other Member from offering an amendment to the bill?

The SPEAKER. The practice is that when a bill is called up like this that the man in charge of it has an hour. He can do as he pleases with that hour. Of course, within the rules he can move the previous question on it the first thing, or he can reserve the previous question until the last thing in the hour, and he can shut anybody out from offering an amendment during the hour. Now the gentleman from Tennessee [Mr. SIMS] moves the previous question.

Mr. SIMS. Mr. Speaker, I move the previous question on the bill as amended to final passage.

Mr. FOWLER. Then under what stage can an amendment be offered to the bill?

The SPEAKER. If the previous question is ordered, it can never be offered. If the previous question is voted down, then, when the gentleman from Tennessee gets through with his hour and any other gentleman gets the floor, he can move any sort of an amendment he pleases.

Mr. SIMS. Mr. Speaker, I move the previous question.

The previous question was ordered.

Mr. FOWLER. Mr. Speaker, I desire to make a motion to recommit the bill, with the following amendment, which I send to the Clerk's desk, to the committee from which it came, with the following instructions——

The SPEAKER. It never came from any committee.

Mr. FOWLER. It came from the Senate and was not referred to any committee in the House. I desire, Mr. Speaker, to move to commit this bill to the Committee on Claims with the following instructions, which I have sent to the Clerk's desk.

Mr. RODDENBERY. I make a point of order.

The SPEAKER. The gentleman from Georgia will state it.

Mr. RODDENBERY. The point of order is that it is not in order to make a motion to recommit a Senate bill from the Committee on Commerce in the Senate, as a substitute for the House bill, to the Committee on Claims.

Mr. FOWLER. Mr. Speaker, I think that under the rules there can be only one motion to recommit.

The SPEAKER. The gentleman misstates his motion, but, of course that is a small matter. It is not a motion to recommit, but a motion to commit. The gentleman has a right to move to commit to any committee in the House.

Mr. FOWLER. I move to commit it, then, Mr. Speaker, to the Committee on Interstate and Foreign Commerce, with the instructions which I have sent to the Clerk's desk.

The SPEAKER. The Clerk will report the motion to commit.

The Clerk read as follows:

Commit the bill to the Committee on Interstate and Foreign Commerce with instructions to report it forthwith to the House with the following amendment:

On page 1, line 8, after the word "fight," by adding the following: "Whether between men, or between men and animals, or between animals."

The SPEAKER. The question is on the motion to commit.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. FOWLER. A division, Mr. Speaker.

The House divided; and there were—ayes 1, noes 45.

Mr. FOWLER. Mr. Speaker, I raise the point of order that there is no quorum present.

The SPEAKER. On this vote the yeas are 1 and the noes are 45, and the gentleman raises the point that there is no quorum present. Evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of committing this bill to the Committee on Interstate and Foreign Commerce will, as their names are called, vote "yea," and those opposed will vote "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 5, nays 198, answered "present" 21, not voting 165, as follows:

YEAS—5.

Candler	Stephens, Miss.	Stephens, Nebr.	Stone
Fowler			

NAYS—198.

Aiken, S. C.	Dupré	James	Ransdell, La.
Ainey	Edwards	Johnson, Ky.	Redfield
Alexander	Esch	Kendall	Rees
Allen	Estopinal	Kennedy	Reilly
Anderson, Minn.	Evans	Kent	Richardson
Anderson, Ohio	Faison	Kitchin	Roberts, Mass.
Ashbrook	Farr	Knowland	Robinson
Austin	Fergusson	Konop	Roddenbery
Barnhart	Fitzgerald	Korbly	Rodenberg
Bathrick	Francis	Lafferty	Rothermel
Beall, Tex.	French	La Follette	Rouse
Bell, Ga.	Fuller	Lamb	Rubey
Berger	Gallagher	Lawrence	Russell
Booher	Garner	Lever	Sabath
Borland	George	Lewis	Sells
Bowman	Godwin, N. C.	Lindbergh	Sharp
Brantley	Good	Linthicum	Sims
Broussard	Goodwin, Ark.	Littlepage	Sloan
Buchanan	Gould	Lloyd	Small
Bulkley	Gray	Lobeck	Smith, Saml. W.
Burgess	Green, Iowa	Longworth	Smith, Tex.
Burke, Wis.	Greene, Mass.	McGillicuddy	Stanley
Burnett	Gregg, Pa.	McKinley	Stedman
Byrns, Tenn.	Gregg, Tex.	McKinney	Steenerson
Cannon	Gudger	McLaughlin	Stephens, Cal.
Catlin	Hamlin	Madden	Stephens, Tex.
Clark, Fla.	Hammond	Maguire, Nebr.	Sterling
Claypool	Hanna	Martin, Colo.	Sulloway
Clayton	Hardy	Matthews	Sulzer
Cline	Harris	Mays	Sweet
Connell	Harrison, Miss.	Mondell	Switzer
Conry	Hartman	Morrison	Taylor, Colo.
Cooper	Haugen	Murray	Taylor, Ohio
Copley	Hawley	Neeley	Thayer
Cox, Ind.	Hay	Nye	Towner
Crago	Hayden	Oldfield	Townsend
Cravens	Hayes	O'Shaunessy	Tribble
Cullop	Heald	Padgett	Turnbull
Curley	Helgesen	Page	Tuttle
Curry	Henry, Tex.	Patton, Pa.	Underhill
Dalzell	Hensley	Payne	Volstead
Davenport	Hobson	Pepper	Watkins
Davis, Minn.	Holland	Pickett	Webb
Davis, W. Va.	Howard	Porter	Whitacre
Dent	Howell	Post	White
Dickinson	Howland	Pou	Willis
Dickson, Miss.	Hughes, N. J.	Prince	Wilson, Pa.
Dixon, Ind.	Hull	Prouty	Witherspoon
Doughton	Humphrey, Wash.	Rainey	
Driscoll, D. A.	Jacoway	Raker	

ANSWERED "PRESENT"—21.

Blackmon	Gillett	Mann	Wood, N. J.
Browning	Hardwick	Needham	Woods, Iowa.
Butler	Houston	Sparkman	Young, Kans.
Dyer	Kahn	Stevens, Minn.	
Fields	McDermott	Thistlewood	
Foster	McMorran	Weeks	

NOT VOTING—165.

Adair	Driscoll, M. E.	Lafean	Randell, Tex.
Adamson	Dwight	Langham	Rauch
Akin, N. Y.	Ellerbe	Langley	Reyburn
Ames	Fairchild	Lee, Ga.	Riordan
Andrus	Ferris	Lee, Pa.	Roberts, Nev.
Ansberry	Finley	Legare	Rucker, Colo.
Anthony	Flood, Va.	Lenroot	Rucker, Mo.
Ayres	Floyd, Ark.	Levy	Saunders
Barchfeld	Focht	Lindsay	Scully
Bartholdt	Fordney	Littleton	Shackleford
Bartlett	Fornes	Loud	Sheppard
Bates	Foss	McCall	Sherley
Boehne	Gardner, Mass.	McCoy	Sherwood
Bradley	Gardner, N. J.	McCreary	Simmons
Brown	Garrett	McGuire, Okla.	Sisson
Burke, Pa.	Glass	McHenry	Slayden
Burke, S. Dak.	Goeke	McKellar	Slemp
Burleson	Goldfogle	McKenzie	Smith, J. M. C.
Byrnes, S. C.	Graham	Macon	Smith, Cal.
Calder	Griest	Maher	Smith, N. Y.
Callaway	Guernsey	Martin, S. Dak.	Speer
Campbell	Hamill	Miller	Stack
Cantrill	Hamilton, Mich.	Moon, Pa.	Taggart
Carlin	Hamilton, W. Va.	Moon, Tenn.	Talbott, Md.
Carter	Harrison, N. Y.	Moore, Pa.	Talcott, N. Y.
Cary	Heflin	Moore, Tex.	Taylor, Ala.
Collier	Helm	Morgan	Thomas
Covington	Henry, Conn.	Morse, Wis.	Tilson
Cox, Ohio	Higgins	Moss, Ind.	Underwood
Crumpacker	Hill	Mott	Utter
Currier	Hinds	Murdock	Vare
Danforth	Hughes, Ga.	Nelson	Vreeland
Daugherty	Hughes, W. Va.	Norris	Warburton
Davidson	Humphreys, Miss.	Olmsted	Wedemeyer
De Forest	Jackson	Palmer	Wilder
Denver	Johnson, S. C.	Parran	Wilson, Ill.
Dies	Jones	Patten, N. Y.	Wilson, N. Y.
Difenderfer	Kindred	Peters	Young, Mich.
Dodds	Kinkaid, Nebr.	Plumley	Young, Tex.
Donohoe	Kinkead, N. J.	Powers	
Doremus	Konig	Pray	
Draper	Kopp	Pujo	

So the motion to commit was rejected.

The Clerk announced the following pairs:
For the session:
Mr. SLAYDEN with Mr. TILSON.
Mr. BARTLETT with Mr. BUTLER.
Mr. UNDERWOOD with Mr. MANN.
Mr. ADAMSON with Mr. STEVENS of Minnesota.
Mr. GLASS with Mr. SLEMP.
Mr. RIORDAN with Mr. ANDRUS.
Mr. FORNES with Mr. BRADLEY.
Until further notice:
Mr. AYRES with Mr. AMES.
Mr. BURLESON with Mr. BARTHOLDT.
Mr. BYRNES of South Carolina with Mr. BURKE of South Dakota.
Mr. COVINGTON with Mr. CRUMPACKER.
Mr. DAUGHERTY with Mr. DANFORTH.
Mr. DIFENDERFER with Mr. DE FOREST.
Mr. DONOHOE with Mr. DODDS.
Mr. DOREMUS with Mr. FAIRCHILD.
Mr. FLOYD of Arkansas with Mr. FOCHT.
Mr. GOEKE with Mr. FOSS.
Mr. GOLDFOGLE with Mr. HAMILTON of Michigan.
Mr. HAMILL with Mr. HUGHES of West Virginia.
Mr. HARRISON of New York with Mr. KINKAID of Nebraska.
Mr. HEFLIN with Mr. LAFEAN.
Mr. HELM with Mr. LANGHAM.
Mr. HUGHES of Georgia with Mr. MCGUIRE of Oklahoma.
Mr. HUMPHREYS of Mississippi with Mr. MCKENZIE.
Mr. JONES with Mr. MARTIN of South Dakota.
Mr. KINKEAD of New Jersey with Mr. MOORE of Pennsylvania.
Mr. KONIG with Mr. MURDOCK.
Mr. LEE of Pennsylvania with Mr. POWERS.
Mr. MCKELLAR with Mr. PLUMLEY.
Mr. MAHER with Mr. PRAY.
Mr. MOORE of Texas with Mr. ROBERTS of Nevada.
Mr. Moss of Indiana with Mr. J. M. C. SMITH.
Mr. RUCKER of Colorado with Mr. SPEER.
Mr. SAUNDERS with Mr. THISTLEWOOD.
Mr. SHACKLEFORD with Mr. UTTER.
Mr. SMITH of New York with Mr. VARE.
Mr. TAGGART with Mr. WEEKS.
Mr. WILSON of New York with Mr. WILDER.
Mr. COLLIER with Mr. WOODS of Iowa.
Mr. SHERWOOD with Mr. WOOD of New Jersey.
Mr. DENVER with Mr. YOUNG of Michigan.
Mr. RANDELL of Texas with Mr. SMITH of California.
Mr. THOMAS with Mr. VREELAND.
Mr. PALMER with Mr. HILL (with mutual privilege of transfer).
Mr. SPARKMAN with Mr. DAVIDSON.
Mr. KINDRED with Mr. GRIEST.
Mr. ADAIR with Mr. HINDS.
Mr. GARRETT with Mr. FORDNEY.
Mr. SHEPPARD with Mr. BATES.
Mr. CARTER with Mr. KAHN.
Mr. HARDWICK with Mr. CAMPBELL.
Mr. ANSBERRY with Mr. BURKE of Pennsylvania.
Mr. YOUNG of Texas with Mr. WILSON of Illinois.
Mr. PETERS with Mr. MCCALL.
Mr. CALLAWAY with Mr. MICHAEL E. DRISCOLL.
Mr. LITTLETON with Mr. DWIGHT.
Mr. JOHNSON of South Carolina with Mr. GILLETT.
Mr. ELLERBE with Mr. CRAGO.
Mr. GRAHAM with Mr. FULLER.
Mr. LEGARE with Mr. LOUD.
Mr. PUJO with Mr. MCMORRAN.
Mr. CANTRILL with Mr. HANNA.
Mr. MCCOY with Mr. HIGGINS.
Mr. HOUSTON with Mr. MOON of Pennsylvania.
Mr. FLOOD of Virginia with Mr. DRAPER.
Mr. FOSTER with Mr. KOPP.
Mr. RUCKER of Missouri with Mr. DYER.
Mr. FERRIS with Mr. GUERNSEY.
Mr. DIES with Mr. GARDNER of New Jersey.
Mr. HAMILTON of West Virginia with Mr. HENRY of Connecticut.
Mr. TALBOTT of Maryland with Mr. PARRAN.
Mr. SCULLY with Mr. BROWNING.
Mr. SHERLEY with Mr. SIMMONS.
Mr. PATTEN of New York with Mr. REYBURN.
Mr. BOEHNE with Mr. CARY.
Mr. FIELDS with Mr. LANGLEY.
Mr. FINLEY with Mr. CURRIER.
Ending August 1:
Mr. Cox of Ohio with Mr. ANTHONY.
Ending July 25:
Mr. TALCOTT of New York with Mr. MOTT.
Balance of the day—July 19:
Mr. SISSON with Mr. YOUNG of Kansas.
The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will unlock the doors. The question is on agreeing to the amended Senate bill.

The question was taken, and the Senate bill as amended was passed.

The title of the bill was amended so as to read: "A bill to prohibit the importation and the interstate transportation of films or other pictorial representations of prize fights, and for other purposes."

On motion of Mr. SIMS, a motion to reconsider the vote whereby the bill was passed was laid on the table.

By unanimous consent, at the request of Mr. SIMS, a similar House bill (H. R. 24962) to prohibit the interstate transportation of pictures of prize fights, and for other purposes, was laid on the table.

ADJOURNMENT OVER.

Mr. FITZGERALD. Mr. Speaker, I move that when the House adjourns to-day it adjourn to meet on Monday next.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] moves that when the House adjourns to-day it adjourn to meet Monday next at noon. The question is on agreeing to that motion.

The motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. DAVENPORT, for 15 days, on account of important business.

To Mr. BLACKMON, for 1 day, on account of illness in his family.

To Mr. CLARK of Florida, indefinitely, on account of sickness in his family.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to bills of the following titles:

S. 3815. An act to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910; and

S. 4948. An act to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes."

The message also announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 11628. An act authorizing John T. McCrosson and associates to construct an irrigation ditch on the island of Hawaii, Territory of Hawaii.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6596. An act to provide for the purchase of a site and the erection of a public building thereon in the town of Fort Fairfield, in the State of Maine; and

S. 7130. An act to provide for the establishment of an immigration station at Hampton Roads, in the State of Virginia, and the erection of a public building on a site to be selected for said station.

The message also announced that the President pro tempore had appointed Mr. SHIVELY in place of Mr. GORE as one of the conferees on the bill (S. 4568) granting an increase of pension to Annie R. Schley.

The message also announced that the Senate had passed the following resolution (H. Res. 634):

Resolved, That the Secretary be directed to furnish to the House of Representatives, in compliance with its request, a duplicate engrossed copy of the bill (S. 2748) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District.

The message also announced that the Senate had passed the following order:

Ordered, That the Secretary inform the House of Representatives that the Senate is sitting in its Chamber and ready to proceed with the trial of impeachment of Robert W. Archbald.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 7130. An act to provide for the establishment of an immigration station at Hampton Roads, in the State of Virginia, and the erection of a public building on a site to be selected for said station; to the Committee on Immigration and Naturalization.

S. 6596. An act to provide for the purchase of a site and the erection of a public building thereon in the town of Fort Fairfield, in the State of Maine; to the Committee on Public Buildings and Grounds.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 3815. An act to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910.

HOMESTEADS UPON RECLAMATION PROJECTS.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that the bill (S. 5545) providing for the issuing of patent to entrymen for homesteads upon reclamation projects may retain its place on the calendar.

The SPEAKER. On what calendar?

Mr. TAYLOR of Colorado. It is on the Union Calendar and on the Calendar for Unanimous Consent. I ask that it be referred back to the Committee on Irrigation of Arid Lands, with permission to report at once. By direction of the committee I wish to make a supplemental report. I understand it must take that course.

Mr. MANN. I take it that what the gentleman wants is to have the bill recommitted to the Committee on Irrigation of Arid Lands——

Mr. TAYLOR of Colorado. Yes.

Mr. MANN. And, when reported back, that it retain its place on the Unanimous Consent Calendar.

Mr. TAYLOR of Colorado. Yes.

The SPEAKER. If there be no objection, it will be so ordered.

There was no objection.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I call up the conference report on the bill (H. R. 21477) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and ask for the reading of the report.

The SPEAKER. Does the gentleman ask for the reading of the statement in lieu of the report?

Mr. SPARKMAN. I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Florida asks unanimous consent that the statement instead of the conference report on the river and harbor bill be read.

Mr. MANN. Reserving the right to object, I should like to suggest to the gentleman that the statement consists very largely of tabulated statements, which are less intelligible than the conference report itself, and the statement is about as long as the conference report.

Mr. SPARKMAN. I suggest that we might get unanimous consent to dispense with the reading of either the report or the statement.

Mr. MANN. The gentleman is mistaken about that. There is no possibility of adopting something without having anything read.

The SPEAKER. Which does the gentleman ask to have read?

Mr. SPARKMAN. Let the report be read.

The SPEAKER. The conference report will be read by the Clerk.

The Clerk read the conference report as follows:

CONFERENCE REPORT (NO. 1025).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21477) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 12, 28, 35, 93, 105, 106, 107, 156, 183, 184, 185, 186, 188.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 7, 9, 10, 15, 16, 17, 18, 19, 20, 23, 25, 26, 27, 29, 31, 32, 33, 34, 36, 38, 40, 42, 43, 45, 46, 47, 48, 53, 54, 55, 56, 58, 59, 62, 63, 64, 65, 67, 68, 69, 70, 71, 73, 74, 77, 79, 81, 82, 83, 84, 87, 88, 89, 90, 92, 94, 95, 98, 108, 109, 110, 111, 112, 117, 118, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 154, 155, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 178, 179, 181, 187; and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Pollock Rip Channel through the shoals lying near the entrance to Nantucket Sound, Mass., in accordance with the report submitted in House Document No. 536, Sixty-second Congress, second session, $125,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "five hundred thousand dollars" and insert in lieu thereof the words "three hundred thousand dollars"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In the proposed amendment strike out all after the words "five thousand dollars"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "five hundred thousand" and insert in lieu thereof the words "three hundred thousand"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the proviso contained in the proposed amendment insert the following: "*Provided*, That the land required for making said cut-offs, or easements therein, shall be furnished free of cost to the United States, and the United States shall be released from all claims for damages arising from the proposed diversion of the stream"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment as follows: In lieu of the language proposed, insert the following: "Improving Elk and Little Elk Rivers, Md.: Completing improvement in accordance with the report submitted in House Document No. 770, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $4,040"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "*Provided*, That the provisions of section 11 of the river and harbor act of March 3, 1899, are hereby made applicable to the Potomac and Anacostia Rivers, and hereafter harbor lines in the District of Columbia, or elsewhere on said rivers, shall be established or modified as therein provided; and all laws or parts of laws inconsistent with this proviso are hereby repealed: *Provided further*, That hereafter the officer in local charge of the improvement shall have authority, with approval of the Chief of Engineers, United States Army, when no public building is available, to rent suitable offices, to be paid for pro rata from the appropriations for works in his charge: *And provided further*, That the proviso in the act of June 3, 1896, entitled 'An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes,' under the item 'Improving Potomac River, Washington, D. C.,' is hereby repealed"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24,

and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: ", printed in House Document No. 589, Sixty-second Congress, second session, and the foregoing appropriation shall be devoted to that purpose; for the improvement and maintenance of said inland waterway, $100,000; in all, $600,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "six months from the date of the approval of this act," and insert in lieu thereof the words "one year from February 27, 1912"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That the provision in the river and harbor act approved March 3, 1905 (33 Stat., p. 1128), granting Louis M. Tisdale the right and authority to construct and operate a channel through Mobile Bay, and to construct and maintain wharves, piers, anchorage and turning basins, and other similar structures in said bay, is hereby revived and reenacted: *Provided*, That the said provision is hereby so amended as to vest in the South Mobile Terminal Co., its successors and assigns, all the rights, privileges, and authority thereby granted to the said Louis M. Tisdale, subject to all the terms and conditions of said act, upon full and complete assignment and transfer of all such rights, privileges, and authority of said Tisdale to the said South Mobile Terminal Co.: *Provided also*, That the said provision is hereby further amended so as to extend the time for completing the work therein authorized for a period of five years from the approval of this act: *And provided also*, That the right to alter, amend, or repeal this act, in so far as it relates to this franchise, is hereby expressly reserved"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: ", of which amount $120,000 may be applied to the purchase or construction of a suitable dredging plant: *Provided*, That the U. S. dredge Barnard may be transferred back to the improvement from which it was transferred by act approved February 27, 1911, and the balance remaining on hand of the $60,000 authorized by the act of February 27, 1911, to be expended for the repair and modification of the U. S. dredge Barnard, may be expended for the purchase or construction of the dredging plant herein authorized"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "The Secretary of War may appoint a board of three engineer officers whose duty it shall be to examine and report upon the following harbors and channels in Texas, at or near Galveston, to wit: Galveston Harbor and Channel, Texas City Harbor and Channel, Port Bolivar Harbor and Port Bolivar Channel leading thereto, all with a view to securing a depth of 35 feet"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the language stricken out insert the following: "And the said board shall also report whether the waters lying between Harbor Island and the mainland may be exempted from the operation of the laws relating to navigable waterways of the United States"; and the Senate agree to the same.

Amendments numbered 49, 50, 51 52: That the House recede from its disagreement to the amendments of the Senate numbered 49, 50, 51, 52, and agree to the same with an amendment as follows: In lieu of all the words contained in this paragraph, after the words "heretofore authorized," insert the following: ", and for an accurate instrumental survey of the river as recommended in the Annual Report of the Chief of Engineers for 1911, $425,000; continuing improvement and for maintenance by open channel work, $15,000; in all, $440,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: In lieu of the language of the proposed amendment insert the following: "For improving the Arkansas River, in Arkansas: For protecting the north bank thereof, in the bend in front of the Crawford County Levee, south of Van Buren, in sections 8, 9, and 10 in township 8 north, range 30 west, which shall be considered extraordinary emergency work, $30,000. This appropriation shall be expended as soon as practicable in accordance with plans to be prepared by the Chief of Engineers of the War Department"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Ohio River: For the raising and strengthening of the levees in the city of Cairo, Ill., on the Ohio and Mississippi Rivers, and in the Cairo drainage district, which shall be considered extraordinary emergency work, $250,000: *Provided*, That the city of Cairo shall expend, or cause to be expended, the same amount for the same purpose"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "For the raising and strengthening of the levees in the city of Mound City, Ill., on the Ohio River, which shall be considered extraordinary emergency work, $20,000 on the condition that the city of Mound City shall furnish an equal amount for the same purpose"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the language proposed insert the word "three"; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That in view of the existing emergency $4,000,000 of the money hereby appropriated is set apart for the repair and construction of levees"; and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "The traveling expenses of the civilian members of the Mississippi River Commission, and of the assistant engineer of the Board of Engineers for Rivers and Harbors, when on duty, shall be computed and paid in the same way as the traveling expenses of the Army members of said commission, and of said board"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: In the proposed amendment strike out the words "Bayou Sara" and insert in lieu thereof the words "Baton Rouge, La., and between Bessie, Lake County, Tenn., and Memphis, Tenn.," and strike out the words "twenty thousand" and insert in lieu thereof the words "thirty thousand"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "*Provided*, That cooperation from the localities benefited may be required in the prosecution of the said project in case any comprehensive plan is hereafter adopted by Congress for an apportionment of expense generally applicable to river and other projects in which any improvement now or hereafter adopted confers special or exceptional benefit upon the localities affected: *Provided further*, That nothing herein contained shall postpone the expenditure of the amount hereby appropriated or any further appropriation for said project without action by Congress"; and the Senate agree to the same.

Amendment numbered 80: That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows: In the proposed amendment strike out the word "eighty-five" and insert in lieu thereof the word "twenty-five"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Stockton Harbor, San Joaquin River, Cal., by dredging McLeod Lake and Fremont Channel, with a view to securing a permanent channel depth of 9 feet, in accordance with the report submitted in House Document No. 581, Sixty-second Congress, second session,

and subject to the conditions set forth in said document, $11,000"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Improving Tillamook Bay and Bar, Oreg.: For maintenance, $5,000"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In the proposed amendment strike out the word "eight" and insert in lieu thereof the word "seven"; and after the word "dollars," in the next line, add the following: "And the Secretary of War shall submit a report whether any saving can be effected, and, if so, how much, by a more rapid prosecution of this improvement"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That the Secretary of the Treasury be, and is hereby, authorized and directed to pay, upon vouchers approved by the former chairman of the National Waterways Commission, from any moneys in the Treasury not otherwise appropriated, the sum of $4,000, or so much thereof as may be necessary, for the expenses of the National Waterways Commission necessarily incurred for clerical and stenographic services in publishing hearings (S. Doc. No. 274) and completing the final report (S. Doc. No. 469); and the books, maps, charts, and other material relating to waterways remaining in possession of the National Waterways Commission shall be turned over to the Engineer School, Washington Barracks, D. C., under the direction of the chairman of the Committee on Commerce of the Senate and the chairman of the Committee on Rivers and Harbors of the House of Representatives; and all similar material relating to railways shall be turned over to the Interstate Commerce Commission"; and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "SEC. 7. Unless otherwise expressed, the channel depths referred to in this act shall be understood to signify the depth at mean low water in tidal waters, and the mean depth during the month of lowest water in the navigation season in rivers and nontidal channels; and the channel widths specified shall be understood to admit of such increase in width at the entrances, bends, sidings, and turning places as may be necessary to allow of the free movement of boats." And transfer the paragraph to page 62, immediately after section 6; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: Before the word "Whenever," in line 1 of the proposed amendment, insert "Sec. 8." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 9." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 10." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the language proposed insert on page 60, in line 17, after the word "survey," the following: ": *Provided further*, That the Chief of Engineers may, at his discretion, increase to not to exceed nine the number of engineer officers constituting said board: *And provided further*, That a majority of said board shall be of rank not less than lieutenant colonel"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert: "Sec. 11." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "SEC. 12. In order to make possible the economical future development of water power the Secretary of War, upon recommendation of the Chief of Engineers, is hereby authorized, in his discretion, to provide in the permanent parts of any dam authorized at any time by Congress for the improvement of navigation such foundations, sluices, and other works, as may be considered desirable for the future development of its water power." And transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Buffalo Harbor, N. Y., with a view to increasing the width of the entrance of the inner harbor to 400 feet by removing the Government south pier at the mouth of Buffalo River; also with a view to increasing the width of Black Rock Harbor and the entrances thereto," and transfer the same to page 45, preceding line 1; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In line 1 of this amendment, after the word "River," insert the word "Connecticut," and transfer said amendment to page 44, after line 24; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with the following amendment: In line 2 of said amendment, after the word "thereof," insert a period and strike out the balance of the amendment; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Salmon River, N. Y., at and below Fort Covington"; and the Senate agree to the same.

Amendment numbered 119: That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "That a preliminary investigation be made to determine whether a system of impounding reservoirs at the headwaters of the Allegheny, Monongahela, and Ohio Rivers and their tributaries is needed and practicable to provide sufficient water during dry seasons to operate the present and proposed system of locks and dams in these rivers, and to what extent the Federal Government, on the basis of their benefit to navigation, is justified in cooperating with local communities which may be interested in the construction of such reservoirs primarily for the purpose of flood prevention, and the feasibility of operating such reservoirs for the double purpose of flood prevention and improving navigation; and that this investigation be conducted by a board of three engineer officers, to be designated by the Chief of Engineers, United States Army; and that the results of this investigation be reported to Congress, with such additions as may be made thereto by the said Chief of Engineers, not later than December 7, 1912; and that for this purpose the sum of $5,000, or so much thereof as may be needed, be, and the same is hereby, appropriated"; and the Senate agree to the same.

Amendment numbered 139: That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: ", and inland waterway between Charleston and McClellanville by way of Alligator Creek and Sewee Bay"; and the Senate agree to the same.

Amendment numbered 147: That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows: In lieu of the language proposed insert: "Escambia and Conecuh Rivers, Ala. and Fla., from River Falls to the mouth in the Gulf of Mexico"; and the Senate agree to the same.

Amendment numbered 153: That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Black River, Ark., near Buttermilk Bank, with a view of protecting the bank

in the interests of navigation"; and the Senate agree to the same.

Amendment numbered 157: That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment as follows: In the proposed amendment strike out the word "Little"; and the Senate agree to the same.

Amendment numbered 177: That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Padilla Bay, Skagit County, Washington, with a view of ascertaining the desirability of modifying or relocating the navigable channels in said bay"; and the Senate agree to the same.

Amendment numbered 180: That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment as follows: In lieu of the language proposed insert the following: "Channel connecting Admiralty Inlet with Crockett Lake, Washington"; and the Senate agree to the same.

Amendment numbered 182: That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment as follows: Before the first word of the proposed amendment insert "Sec. 13." and transfer the paragraph as thus amended to its proper place at the end of the bill; and the Senate agree to the same.

M. SPARKMAN,
JOSEPH E. RANSDELL,
GEORGE P. LAWRENCE,
Managers on the part of the House.

KNUTE NELSON,
JONATHAN BOURNE,
F. M. SIMMONS,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The House conferees on H. R. 21477, making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, would respectfully report that they have reached an agreement with the Senate conferees, and recommend that the conference report on the bill filed herewith be adopted.

The river and harbor bill as it passed the House carried cash appropriations in the sum of $24,062,520.50, with a single continuing-contract authorization of $2,200,000 for locks and dams on the Ohio River, or a total for the House bill in cash and authorization of $26,262,520.50. The amount added by amendment in the Senate was $7,821,010, all of which was in cash appropriations, no additional continuing-contract authorizations being provided, making the total as it passed the Senate $31,883,530.50 in cash and $2,200,000 in continuing-contract authorization, a total of $34,083,530.50 for the bill. As a result of the conference the amount involved in the Senate amendments has been reduced from $7,821,010 to $6,996,850, making the total of the bill as it now stands $33,259,370.50 ($31,059,370.50 in cash and $2,200,000 in continuing-contract authorization).

The total number of amendments to the bill adopted by the Senate was 188.

NEW PROJECTS ADDED BY THE SENATE.

Of these amendments, 29 involved the adoption of new projects, nearly all of which were contained in reports received since the date of closing the bill by the House committee, and hence not considered by it or the House.

After careful consideration the House conferees receded from their disagreement to the adoption of the following new projects:

No. of amendment.	Locality.	Amount.
1	South Bristol Harbor, Me.	$3,500
3	New Bedford and Fairhaven Harbors, Mass.	56,610
4	Block Island harbor of refuge, R. I.	30,000
5	West River, New Haven Harbor, Conn.	54,000
7	Mamaroneck Harbor, N. Y.	29,500
15	Leipsic River, Del.	19,600
16	Little River, Del.	14,000
17	Wilmington Harbor, Del.	250,000
22	Aquia Creek, Va.	21,400
25	Cape Lookout harbor of refuge, N. C.	300,000
26	Cape Fear River below Wilmington, N. C.	300,000
29	St. Marys River, Ga. and Fla.	19,450
32-33	Key West Harbor, Fla.	$48,000
34	Charlotte Harbor, Fla.	20,000
36	St. Joseph Bay, Fla.	20,000
62	Allegheny River, Pa.	300,000
64	Manistee Harbor, Mich.	150,000
69	Chicago Harbor, Ill.	350,000
81	Kansas River, Kans.	4,000
82	Los Angeles Harbor, Cal.	327,250
88	Nehalem Bay, Oreg.	100,000
89	Columbia and Lower Willamette Rivers, Oreg. (in lieu of House appropriation on old project, amounting to $155,000)	180,000
90	Oregon Slough, Oreg.	50,000
94	Apoon mouth of Yukon River, Alaska	130,000

The House conferees receded from their disagreement to the adoption of the following-named new projects after amendment, as indicated:

No. of amendment.	Locality.	Amount.
2	Pollock Rip Channel, Mass.: Amount of appropriation reduced from $250,000 to	$125,000
8	Jamaica Bay, N. Y.: Amount of appropriation reduced from $500,000 to	300,000
11	Newark Bay and Passaic River, N. J. Provision relative to consolidation of existing projects and cancellation of existing contracts omitted.	5,000
21	Elk and Little Elk Rivers, Md.: Amount of appropriation reduced from $8,200 to And adoption of project made conditional upon local cooperation.	4,040
85	Stockton Harbor, San Joaquin River, Cal. Adoption of project made subject to the condition that adequate bulkheads and terminals will be provided free of cost to the United States.	11,000

INCREASES IN HOUSE ITEMS.

The following Senate amendments involving increases of appropriations in items already adopted by the House were agreed to by the House conferees in whole or in part, it appearing that additional provision for the respective works would be desirable:

No. of amendment.	Locality.	Amount.
9-10	Absecon Inlet, N. J.: House item increased from $25,000 to. With proviso that if work can not be contracted for at reasonable rates, so much of the amount appropriated as shall be necessary may be used for the construction of a Government dredge.	$190,000
13	Delaware River below Philadelphia, Pa.: The House item of $1,000,000, which was increased by the Senate to $1,500,000, was reduced in conference to	1,300,000
24	Inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: House item increased from $500,000 for purchase of the Chesapeake & Albemarle Canal by $200,000 for the improvement and maintenance of said waterway, which was reduced in conference to $100,000, making in all	600,000
38-39	Gulfport Harbor, Miss.: House item increased from $100,000 to. With authority to secure a suitable dredging plant.	200,000
53-55	Texas coast waterway: House item increased by. To allow for the construction of certain bridges.	12,000
58	Cumberland River above Nashville, Tenn.: House item increased by. To provide for the purchase of certain flowage rights above Dams Nos. 6 and 7.	2,500
66	St. Marys River, Mich.: House item for fourth lock, which was increased by the Senate from $200,000 to $400,000, was reduced in conference to	300,000
68	Warroad Harbor, Minn.: House item increased from $3,200 to	13,200
70-74	Mississippi River, Head of Passes to Ohio River: House item increased from $3,500,000 to. In order to make provision for repair and construction of levees.	6,000,000
79	Missouri River, from Sioux City to Fort Benton: House item increased from $75,000 to	150,000
84	Oakland Harbor, Cal.: House item increased from $100,000 to	130,000
91	The Dalles Canal, Columbia River, Oreg.: House item of $600,000, which was increased by the Senate to $800,000, was reduced in conference to. And the Secretary of War authorized to report whether any saving would be effected by a more rapid prosecution of this improvement.	700,000
92	Columbia River, above Celilo Falls to mouth of Snake River, Oreg. and Wash.: House item increased from $30,000 to	50,000

APPROPRIATION ITEMS ADDED FOR WORKS HERETOFORE ADOPTED.

In two instances the Senate proposed appropriations for works heretofore adopted and not provided for in the House bill. These items appearing desirable, the House conferees receded from their disagreement and agreed to the same:

No. of amendment.	Locality.	Amount.
48	Mouth of Brazos River, Tex	$25,000
77	Reservoirs at headwaters of Mississippi River	15,000

MISCELLANEOUS ITEMS.

Various miscellaneous amendments were passed by the Senate, which, upon investigation, were found to be desirable and were therefore accepted by the House conferees, as follows:

No. of amendment.	
18	House provision of $75,000 for Youghiogheny River, Pa., was omitted by the Senate and agreed to by the House conferees.
19-20	An item of $3,000 for maintenance of Broad Creek River, Del., was stricken out, the House conferees receding from its objection.
27	Shipyard Creek, Charleston Harbor, S. C.: The Senate added a reference to the document in which the report is printed, and made the improvement of the locality conditional upon local assistance.
31	Inland waterway between Savannah, Ga., and Fernandina, Fla.: Item modified by omitting from the House item the words "by the new route between Sapelo and Doboy Sounds by way of Front River."
40	Bayou Terrebonne, La.: Right of way required for improvement to be furnished free of cost to the United States.
46	Sabine-Neches Canal, Tex.: Additional work authorized within the original estimate.
56	Texas coast waterway: Change of route authorized at or near Port O'Connor, Tex., in accordance with the report of the engineers.
59	Reimbursing county of Madison, Ky., for restoration of road near Otter Creek, a tributary of Kentucky River, the amount not to exceed $1,500.
63	Manistee Harbor, Mich.: Appropriation for work of maintenance omitted in view of new project adopted. See amendment No. 64.
65	Improving harbor at Arcadia, Mich., $15,000.
67	Kewaunee Harbor, Wis.: City of Kewaunee released from certain obligations imposed by act of June 25, 1910.
83	Los Angeles Harbor, Cal.: Provision for exchange of lands belonging to the United States and the city of Los Angeles, respectively.
86-87	The House item for Tillamook Bay and Bar, Oreg., was divided into two items.
95	Kahului Harbor, Hawaii: New report on west breakwater ordered.
98	The words "and minor surveys" added to the word "examinations" in the House item.
187	Provision authorizing printing of index to the annual reports of the Chief of Engineers.

The following miscellaneous amendments adopted by the Senate were accepted by the House conferees after amendment:

No. of amendment.	
14	Leipsic River, Del.: Provision for cut-offs Nos. 1 and 5, the expense to be paid from funds on hand, was agreed to with amendment releasing the United States from claims for damages arising from the diversion of the stream.
22	Potomac River: The provisos added by the Senate relative to harbor lines and to rent of office for the local engineer officer at Washington, D. C., were concurred in by the House conferees after amendment to correct three slight clerical and typographical errors.
30	Coosa River, Ala.: Provision for extending the time for beginning work by the Ragland Water Power Co. at Lock No. 4, authorized by the river and harbor act of Feb. 27, 1911; agreed to, after amendment as to the date from which this authority shall take effect.
37	Franchise granted to Louis M. Tisdale by the river and harbor act of Mar 3, 1905, to maintain certain structures in Mobile Bay, Ala., revived, and transfer to the South Mobile Terminal Co. authorized. Item agreed to after amendment making the franchise subject to certain conditions named in the original act.
41	Board for Galveston Harbor, Galveston Channel, Texas City Channel, and Port Bolivar Channel; agreed to with verbal amendments.
45	Board for Port Aransas, Tex.; agreed to with amendment calling for report whether the waters lying between Harbor Island and the mainland may be exempted from the laws relating to navigable waterways of the United States.
49-52	Trinity River, Tex.; $440,000 is appropriated to be expended in accordance with the House provision with the exception that the authorization for two additional locks and dams has been stricken out.
57	Improving Arkansas River near Van Buren, Ark.: An item appropriating $30,000 for protection of bank in front of the Crawford County levee.
60	Ohio River at Cairo, Ill.: Appropriation of $250,000 for aid in levee construction upon condition that the city furnish an equal amount for the same purpose; agreed to, with amendment specifying that the work shall be considered as an extraordinary emergency.
61	Ohio River at Mound City, Ill.: Appropriation of $20,000 for aid in levee construction upon condition that the city furnish an equal amount for the same purpose; agreed to, with amendment specifying that the work shall be considered as an extraordinary emergency.
75	Provision relative to payment of traveling expenses of civilian members of the Mississippi River Commission; amended to include the assistant engineer of the Board of Engineers for Rivers and Harbors.
76	$30,000 is appropriated for a survey of certain overflowed lands on the east bank of the Mississippi River between Brunswick, Miss., and Baton Rouge, La., and Bessie, Lake County, Tenn., and Memphis, Tenn.
78	Missouri River from Kansas City to the mouth: Proviso relative to local cooperation amended and agreed to.
96	National Waterways Commission: To close accounts and dispose of library, etc., $4,000.
97	General provision as to channel depths and widths: Item rewritten and transferred to section 7.
99	General provision as to combining two or more works under one contract, and as to use of appropriation for prosecution of work when insufficient for completion: Item transferred to section 8, but not otherwise modified.
100	General provision authorizing engineer officers to hire transportation in certain cases: Item transferred to section 9, but not otherwise modified.
101	Provision for employment of additional office force by the Chief of Engineers in emergencies: Item transferred to section 10, but not otherwise modified.
102	Provision authorizing an increase in the Board of Engineers for Rivers and Harbors: Senate amendment modified so as to make the increase discretionary and not mandatory, and item transferred to end of section 3 of bill.
103	Construction of building for Engineer School: Item transferred to section 11, but not otherwise modified.
104	Provision permitting development of water power at dams authorized by Congress: Two slight verbal amendments and item transferred to section 12.
177	Padilla Bay, Wash.: Provision authorizing private parties to make certain improvements modified so as to order examination to be made by the United States.
182	Provision authorizing certain printing to be paid from river and harbor appropriations: Item transferred to section 13, but not otherwise modified.

SURVEY ITEMS.

To the list of surveys contained in the House bill the Senate added 59 new items, modified 6 others, and omitted 2 altogether. With slight modifications in certain instances, as indicated, the House conferees agreed to all these with one exception (amendment No. 156—Ohio River, Shawneetown Levee, Ill., a new item which was omitted). Amendment No. 177 was modified in conference so as to make provision for examination and survey.

The several items are as follows:

NEW SURVEY ITEMS AGREED TO.

No. of amendment.	Locality.
108	Wills Strait, Casco Bay, Me.
110	Scituate Harbor, Mass.
111	Breakwater near Narragansett Pier, R. I.
112	Dutch Island Harbor, R. I.
118	Rahway River, N. J.
122	Cabin Branch and Curtis Creek, Md.
123	Huntingfield Creek, Md.
124	Rock Hall Harbor, Md.
125	Breton Bay, Md.
126	Chesapeake Bay, off Pooles Island, Md.
127	Oyster Harbor, Va.
128	Channel at Tangier, Chesapeake Bay, Va.
129	Jackson Creek, Va.
130	Nassawadox Creek, Va.
131	Cape Charles City Harbor, Va.
132	Hampton Creek, Va.
133	Savages Creek, Va.
135	Northwest prong, Bay River, N. C.
136	Meherrin River, N. C.
137	Trent River, from Newbern to Polloksville, N. C.
138	Cape Fear River below Wilmington, N. C., channel to quarantine station.
140	Savannah River at North Augusta, S. C.
142	Channel to Pineland on Pine Island, Lee County, Fla.
144	St. Johns River, Fla., from Lake Harney to Lake Washington.
145	Charlotte Harbor, Fla.
146	Waterway from Pensacola Bay to Wolf Bay, Fla. and Ala.
148	Horseshoe Lake, Holmes Co., Miss.
149	Mouth of Bayou St. John, Orleans Parish, La.
151	Rio Grande River, N. Mex.
152	St. Francis and L'Anguille Rivers, Ark.
154	Kanawha River, W. Va.
155	Harbor at Spring Bay, Illinois River, Ill.
162	Charlevoix Harbor, Mich.
163	Crooked, Burt, and Mullett Lakes, Mich.
164	Grays Reef Passage off Waugoshance, Lake Michigan, in the State of Michigan.
165	Siskiwit River, Wis.
166	Brule Harbor, Wis.
167	Reservoir at Mille Lacs Lake and Onamia Lake, Minn.
168	Guadalupe River, Cal.
169	Crescent City Harbor and vicinity, Cal.
170	Redondo Harbor, Cal.
171	Yaquina Bay and Bar entrance, Oreg.
172	Port Orford Harbor, Oreg.
173	Port Orford Harbor at Graveyard Point, Oreg.
174	Columbia River between Vancouver, Wash., and the mouth of the Willamette River, Oreg.
175	Columbia River, Wash., from and through Rickey and Grand Rapids to the international boundary line.
176	Waterway connecting Similk Bay with Padilla Bay, Wash.
179	North Nasel, and other streams entering Willapa Harbor, Wash.
181	San Juan Harbor, P. R.

NEW SURVEY ITEMS AGREED TO AFTER AMENDMENT.

No. of amendment.	Locality.
113	Buffalo Harbor and Black Rock Harbor, N. Y.
114	Wethersfield Cove, Connecticut River, Conn.
115	Great Chazy River, N. Y.
116	Salmon River, N. Y., at and below Fort Covington.
119	Reservoirs at headwaters of Allegheny, Monongahela, and Ohio Rivers, and their tributaries.
147	Escambia and Conecuh Rivers, Fla. and Ala.
153	Black River, Ark.
157	Wabash River, at Maunie, Ill.
180	Channel connecting Admiralty Inlet with Crockett Lake, Wash.

HOUSE SURVEY ITEMS MODIFIED AND AGREED TO.

109	Beverly Harbor, Mass., including ledge near Essex Bridge.
134	Lumber River, N. C. and S. C., to Turnpike bridge in Hoke and Scotland Counties, N. C.
139	Inland waterway between McClellanville and Winyah Bay and between Charleston and McClellanville by way of Alligator Creek and Sewee Bay, S. C.
141	Tugaloo River, Ga. and S. C., from Panther Creek to Chandlers Shoals.
143	Withlacoochee River, from Port Inglis to the Gulf of Mexico and between Stokes Ferry and Panasoffke, Fla.
178	Willapa River and Harbor, Wash., from Raymond to the sea.

HOUSE SURVEY ITEMS OMITTED.

117	Tarrytown Harbor, N. Y.
150	Texas Coast Waterway near Port O'Connor, Tex.

VERBAL AMENDMENTS.

The following amendments made by the Senate for the purpose of correcting errors or inaccuracies were concurred in by the House:

No. of amendment.	
47	Insertion of word "and" to correct error.
80	Error in addition corrected.
120-121	Curtis Bay Channel, Baltimore, Md. (survey item).
158-161	Mahoning River, Ohio (survey item).

AMENDMENTS FROM WHICH THE SENATE RECEDED.

The Senate receded from its remaining amendments as follows:

No. of amendment.	
6	Connecticut River above Hartford, Conn.: Omission of House item making appropriation of $25,000 for maintenance of improvement.
12	Passaic River, N. J.: Omission of appropriation of $5,000 for maintenance above the Montclair and Greenwood Lake Railroad bridge.
28	Winyah Bay, S. C.: Reduction of $50,000 in the appropriation.
35	St. Augustine Harbor, Fla.: Senate item omitted.
93	Protection of United States buildings and property at Valdez, Alaska.
105	Provision relative to appointment and transfer of officers of the Corps of Engineers.
106-107	New section in regard to standardization of projects, etc., with appropriation of $100,000.
156	Ohio River, Shawneetown Levee, Ill. (survey).
183-186	Renumbering of sections rendered unnecessary by omission of proposed section 2.
188	Provision relative to detail of officers of the Revenue-Marine Service to the Life-Saving Service.

All of which is respectfully submitted.

S. M. SPARKMAN,
JOS. E. RANSDELL,
GEO. P. LAWRENCE,
Managers on the part of the House.

Mr. SPARKMAN. Mr. Speaker, after a short statement covering the report of the conferees on this bill I shall ask its adoption.

As this bill left the House and went to the Senate it carried appropriations amounting to $24,062,520.50, cash appropriations, and $2,200,000 authorization for the Ohio River. As it came from the Senate and went to the conference committee it aggregated $34,083,530.50, the Senate having added to the bill $7,821,010. As a result of the conference the bill has been reduced to $33,259,370.50. In other words, a reduction of a little more than $800,000 in the aggregate of the bill was effected in conference.

A large part of this aggregate, placed in the bill by the Senate, consisted of $2,500,000 for the lower Mississippi River, for the purpose of reconstructing the levees. That was made desirable, if not indispensable, by the recent floods which visited the lower part of that river while the bill was pending in the Senate. The waters rose higher than they had ever risen before, certainly higher than they had been for many years, and breaking through the levees flooded a large section of country, destroying many lives and a large amount of property.

These flood conditions were so serious as to arouse the sympathy of the whole country, which, reaching the Senate, found expression in this amendment appropriating $2,500,000 for the purpose of aiding the people along the banks of the river in reconstructing and strengthening the levees there.

Perhaps I should say just here that Congress has for years been appropriating money for the construction of levees in connection with the States and local interests bordering the lower river.

A great deal of money has been thus expended—something like twenty-six millions by the Government and fifty-eight millions by the bordering States and local interests—but lately the Government engineers have directed their efforts toward revetment rather than levee work, so that less and less of the appropriations made by Congress have been expended of recent years on the latter than on the former. In this arrangement the people directly interested in levees there had acquiesced, and it was the hope of the Committee on Rivers and Harbors when this bill was prepared that participation by the Government in that class of work would soon cease; but this flood came, breaking the levees in many places and destroying both life and property. Under these conditions the Senate thought it advisable to provide liberally for the work of reconstructing these levees. So they added that $2,500,000 to the bill. But for this addition the Senate amendments in the aggregate would not have been unduly large. They would only have amounted to about $5,000,000 more than the amount inserted by the House as we finally agreed to the bill, which is not out of proportion to the aggregate of amendments usually made by the Senate in river and harbor bills. There were inserted by the Senate 29 new projects, the reports on the most of which reached Congress after the river and harbor bill had been reported to the House. A majority of these, I dare say, would have been adopted by the House committee in the preparation of the bill if they had reached us in time, because most of them—indeed, all of them—are worthy projects. A few of them had been submitted before that time, such, for instance, as the Cape Fear River, N. C., below Wilmington; Cape Lookout harbor of refuge; Jamaica Bay, N. Y.; and the Allegheny River; but were not favorably considered by the River and Harbor Committee in the preparation of a bill such as this, which was framed along conservative lines. They were large projects, involving large expenditures, and perhaps not so urgent as others, and we thought they, among a large number of others omitted, could easily wait until another bill, when we could deal more generously with the projects throughout the country. But the Senate, having, of course, the right to amend the bill, saw proper to insert these provisions, and after a lengthy conference between the members of the conference committee, both on the part of the House and of the Senate, during which they were carefully considered, we finally concluded to let them remain in the bill.

Jamaica Bay is a part of New York Harbor, and bids fair to become a very important part of that harbor, which is the most important in the country and should receive every consideration, nor have I found Congress backward in making every provision for its improvement. Whatever it really needs for the purpose of carrying on the great and growing commerce there Congress has ever been ready to give. Another project which came in after the bill had left the House, which we permitted to remain in the bill, and without serious objection, was the Chicago Harbor. This is likewise a very important place. True the commerce is not as large as that of New York, but it is a very large commerce and one that should be encouraged. As the purpose of these appropriations is to benefit commerce we should not be parsimonious when it comes to dealing with such places as New York, Chicago, and other large commercial harbors. But, as I said a moment ago, all the projects adopted by the Senate are important. I do not think there is one in the bill that ought not to be there. Possibly some of them might have been left out of the bill, which we intended to be a conservative measure, but the Senate did not see it that way, or at least did not agree with us so far as these projects were concerned, and as we could not have our way in everything we agreed to the report as it has been submitted to the House.

Mr. HUMPHREY of Washington. Mr. Speaker, will the gentleman yield?

Mr. SPARKMAN. Certainly.

Mr. HUMPHREY of Washington. Referring to page 43 of the bill, I see that three amendments have been inserted, numbered 60, 61, and 62. The first of these is for the purpose, as I understand it, of raising and strengthening the levees about the city of Cairo, Ill., on the Ohio and Mississippi Rivers, and in the Cairo drainage district, $250,000. I wanted to ask whether or not those levees belong to the Government.

Mr. SPARKMAN. They belong to the Government in the same sense that most of the levees belong to the Government. They are supposed to be in the interest of commerce. We have gone ahead and constructed levees along the banks of the Mississippi River upon the theory, so far as we are concerned, that they are, in a measure, aids to commerce.

Mr. HUMPHREY of Washington. What I want to ask is, Did the Government construct the levees?

Mr. SPARKMAN. I understand not. I understand they were constructed by the States or by subdivisions of the States along the banks of the river.

Mr. HUMPHREY of Washington. Is the same thing true for the raising and strengthening of the levees at Mound City, Ill., on the Ohio River?

Mr. SPARKMAN. The same, I believe.

Mr. HUMPHREY of Washington. Am I to understand that it is now the policy of the Committee on Rivers and Harbors to appropriate money to build levees and to strengthen and rebuild them where they have been built by others than the Government, to protect the adjacent country from flood?

Mr. SPARKMAN. In answer to that I will say that we do not undertake in this bill to lay down any policy. In all of these items, and there are three of them—the Mississippi River, Mound City, and Cairo—the appropriations are made upon the theory that they present cases of emergency, that it is work that should be done immediately, all as the result of floods, and, so far as the General Government is concerned, also upon the theory that it is in the interest of navigation. As I said, I do not know just what the policy hereafter is going to be, but we certainly do not intend to establish a precedent upon which similar appropriations may be predicated in the future, nor at any time, for the sole protection of private property.

Mr. HUMPHREY of Washington. Let me ask the gentleman this question: Have we ever made appropriations before under similar conditions?

Mr. SPARKMAN. Oh, I expect so. I do not recall going very far away from the Mississippi River heretofore, nor do we do that in this bill.

Mr. HUMPHREY of Washington. Does the gentleman recall any place where the Government has appropriated money heretofore under similar conditions?

Mr. SPARKMAN. Not for levee work, except in the interest of navigation.

Mr. HUMPHREY of Washington. For the strengthening or the building of levees which were built by others than the Government?

Mr. SPARKMAN. I do not recall any levee work except as just stated.

Mr. HUMPHREY of Washington. I am asking for information. I have not been a member of the Rivers and Harbors Committee for a great many years, and this is the first instance that I have known. It does seem to me that it is a departure from the policy that we have heretofore followed, and unless my memory is at fault we have rejected these very items when they were before our committee.

Mr. SPARKMAN. I do not recall about that.

Mr. RANSDELL of Louisiana. Mr. Speaker, I would like to correct the gentleman on that. I do not think these items were before our committee before.

Mr. HUMPHREY of Washington. The question of this Cairo project certainly was.

Mr. RANSDELL of Louisiana. I do not recall its having been before our committee at any time before. I will say that the reason why it was put on at this time is that it was so closely connected with the Mississippi. We are building levees upon the opposite side. The Mississippi River Commission has for years had jurisdiction up to Cape Girardeau, which is considerably north of Cairo. It has not been building levees on the east bank, and therefore has not contributed to these Cairo levees, but it has been building on this side, and the raising of those levees over there on the other side by the Government has certainly raised it considerably on the Illinois side. Now, that fact was pressed upon the committee very strongly, and the further fact we were building levees just on the opposite side and this is really a part of the levee system of the Mississippi River, though we have not heretofore contributed for these Cairo levees. The situation there was different from many other sections of the country. There the waters of the Ohio come in conjunction with the Missouri and the upper Mississippi and create an entirely different situation from that which prevails anywhere else.

Mr. HUMPHREY of Washington. I understand about these floods, but I think the gentleman must have misunderstood my question. It does not seem to me it is possible—I may be mistaken—about the mayor of Cairo appearing before our committee and explaining this whole situation and asking for an appropriation.

Mr. RANSDELL of Louisiana. That was after our bill had been reported.

Mr. HUMPHREY of Washington. After our bill had been reported.

Mr. RANSDELL of Louisiana. The bill had been reported to the House, and it was before the Senate, and they went before the Senate and they had a hearing and they asked to be heard by us, so that our conferees might fully understand the situation. And they were heard there.

Mr. RANDELL of Texas. I think the gentleman is quite right, and it was way after the bill was in the Senate, and they made a strong showing before us.

Mr. HUMPHREY of Washington. I am not opposing this item in the bill, but I do think it is well to call the attention of the House to the fact that we were now departing from the policy, in my judgment, which we have always pursued; and, as I understand it, we are now beginning to appropriate money for the strengthening and building of levees to prevent floods. Now, I do not know whether that is a good policy or not, but I think we are starting upon a policy which you are not going to limit very long to the Mississippi and Ohio Rivers. I think there are demands coming from other portions of the country, and we will be called upon to take care of flooded districts other than those along the Mississippi. I have always voted in the committee in favor of these appropriations, but I think we ought to start upon this matter with our eyes open, knowing when these items go into the bill we will be placed in the position of having to take care of other flooded countries, a great many of which are not in the Mississippi Valley. Take the floods in the Sacramento River of California, where a tremendous amount of damage——

Mr. SPARKMAN. Does the gentleman desire some time?

Mr. HUMPHREY of Washington. Yes.

Mr. SPARKMAN. I did not mean right now, because I am not through.

Mr. HUMPHREY of Washington. Only a sentence more. I wanted to call the attention of the House to these items and suggest that we ought to know what we are voting on when we adopt them. We are starting now upon a policy that will never end so long as the Republic will last. In a few years we will be spending fifty millions annually to protect communities from floods. We have now definitely abandoned the policy that we appropriate money only for the purposes of navigation.

Mr. HARDWICK. Mr. Speaker, following the line of questions pursued by the gentleman who has just taken his seat; in my district, in the city of Augusta, we have had exactly the same trouble they have had along the Mississippi River. It comes from the periodical flooding of a great section of the country by a great navigable river. I want to know if, in the opinion of the gentleman, in regard to aiding one section of the country, and I am heartily in favor of aiding it, whether the same principle will not apply to other sections of the country that are circumstanced like the Mississippi River?

Mr. SPARKMAN. I will answer yes; but, as a matter of fact, we have never in the building of levees gotten far from the Mississippi River, and I want to call attention to another thing, that although the great political parties of the country—I refer to the Democratic and Republican Parties, not to the proposed new party——

Mr. HARDWICK. Or the Socialist Party?

Mr. SPARKMAN (continuing). In their platforms recently seem to carve out the Mississippi River and segregate it from the balance of the country. I do not think we are very close even now to the adoption anywhere of the policy of levee building without local cooperation.

Mr. HARDWICK. But where there is cooperation, does not the gentleman think there ought to be Government aid?

Mr. SPARKMAN. Oh, no; not in every case. We are not, I think, to get very far from the Mississippi River, and even then should not, I think, go beyond the demands of navigation. If you will examine into the matter, you will find that the appropriations convey the idea that the localities are to contribute an equal or at least some amount. That is what the people along the Mississippi River have been doing for many years. Indeed, they have contributed an aggregate during the years of levy building much greater than that contributed by the Fed-

eral Government. And even with that, as I said a little while ago, we have been trying to get away from levee building. We had started out on the policy of revetting the banks of the Mississippi River at cost of ninety-odd million dollars from Cairo to the Head of Passes.

Much study of the problem of the improvement of the lower Mississippi River, into which study both observation of and experience with that stretch of the river had entered, led the Mississippi River Commission and the Government engineers to the conclusion that revetment work and bank protection were the most potential for the improvement and maintenance of the navigable features of that river. It was believed that by the revetment of the banks at certain localities erosion could be stopped and the washing of the banks into the river prevented, and that by confining the waters at low stages to a relatively small channel the river would be deepened to the required depth without much dredging. It was further believed by the engineers that even during periods of overflow these revetments would hold the banks in place and maintain the integrity of the channel. So that finally it was determined to limit the improvement of this stretch of the river almost exclusively to revetment work, and as the cost of this would be very heavy the people directly interested, recognizing its importance, agreed, as I am informed, that the Government should confine its activities in the improvement there almost, if not exclusively, to that class of work and work of a kindred character. So that two years ago, and in the bill of 1910, we adopted the policy of revetting the banks under a project to cost some ninety-odd millions of dollars, appropriations for which were to be made in annual bills and in such amounts as would complete that great work in a period of about 18 years. This is a large sum of money, to be sure, but it is an important project, and should be completed as early as practicable, considering Treasury conditions and the necessities of other projects and other river and harbor works throughout the country. Hence the advisability of adhering to that policy and only departing from it in cases of great emergency.

Mr. HARDWICK. Just one more question, if the gentleman will permit.

Mr. SPARKMAN. Certainly.

Mr. HARDWICK. I understood the gentleman to say the Mississippi River was the single instance in which the Federal Government had appropriated for building levees.

Mr. SPARKMAN. For building levees.

Mr. HARDWICK. Is the gentleman sure about his facts in reference to that?

Mr. SPARKMAN. I think of none just now.

Mr. HARDWICK. Does the gentleman know that any money has been spent for building levees on the Mississippi River?

Mr. SPARKMAN. Yes; a great deal; and an appropriation has been made in this bill for that purpose.

Mr. HARDWICK. Requiring State or local cooperation?

Mr. RUSSELL. Did the gentleman ask me the question? I will state in my own State the Government has built some levees independent. The county has made up levee and drainage districts and levies a tax upon the benefits to be derived, and they contribute in part to the building of the levee system.

Mr. HARDWICK. I desire to say the committee over which the gentleman presides has been both just and generous to the district which I have the honor to represent here, and I am not complaining.

Mr. SMALL. Not generous, but just.

Mr. HARDWICK. Just and generous both; I will put it that way; but I did not want the statement to go unchallenged on this floor that because specific reference was made in the platforms of the Democratic or Republican parties to the Mississippi River and its improvements that the same principle does not apply and must not apply, in justice and fairness, whenever a navigable river is interstate in its character and where something like approximately the same situation as that in the Mississippi Valley would result unless Federal aid were extended to prevent it.

Mr. SPARKMAN. It is hard to differentiate perhaps, but we have for years confined that class of work practically to the Mississippi River.

Mr. HARDWICK. I do not want the gentleman to foreclose that question against us. For one, I shall contend very strenuously that the principle must be applied equally to every navigable river and to every section of our country.

Mr. GILLETT. Will the gentleman yield for a question?

Mr. SPARKMAN. Certainly.

Mr. GILLETT. Am I right in understanding that the appropriation of $25,000 for the Connecticut River that was in the bill and that was put out in the Senate is now in the conference?

Mr. SPARKMAN. It is.

Mr. GILLETT. Mr. Speaker, I would like to submit a few remarks on that subject, but it is a local question, and therefore I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The question is on agreeing to the conference report.

Mr. RANSDELL of Louisiana. Mr. Speaker, I would like to submit a few remarks. I do want to say something.

The SPEAKER. Has the gentleman from Florida [Mr. SPARKMAN] finished?

Mr. SPARKMAN. Not just yet. I understand the gentleman from Illinois [Mr. MANN] would like to ask some questions.

The SPEAKER. Without objection, the gentleman from Massachusetts [Mr. GILLETT] will be permitted to extend his remarks in the RECORD.

There was no objection.

Mr. NEEDHAM. Mr. Speaker, I make the same request.

The SPEAKER. Is there objection?

There was no objection.

Mr. SPARKMAN. How much time does the gentleman from Illinois [Mr. MANN] desire?

Mr. MANN. I would like to ask the gentleman now a question in reference to amendment No. 37, as to the granting of rights, privileges, and authority to Louis M. Tisdale and the transfer of such to the said South Mobile Co., and so forth. I do not think that really belongs to a river and harbor bill. If so, is it properly safeguarded?

Mr. SPARKMAN. Why, I should think it is not in an improper place in the river and harbor bill. What was the other question? Was it whether it was sufficiently safeguarded?

Mr. MANN. Yes.

Mr. SPARKMAN. We considered this matter very carefully, both when it was before our committee and in the conference committee. We had it up before the House committee, but did not insert it in the bill.

Mr. MANN. That was the trouble. We had no chance to consider it in the House.

Mr. SPARKMAN. Afterwards it was inserted in the Senate. The conferees considered it very carefully, and it remained. We thought it sufficiently safeguarded.

Mr. TAYLOR of Alabama. Mr. Speaker, if the gentleman will permit me, I will try to answer the question. This was taken up in the Senate, and I was requested by the chairman of the Committee on Commerce to come over and give some information in regard to it, and I gave all the information I had. The bill was referred to the War Department, thoroughly sifted there, and reported back in the language it was thought proper to accomplish the legislation. Senator BURTON, of Ohio, then chairman of the River and Harbor Committee of the House, drafted the law as it was enacted in the river and harbor act of 1905.

As a member of the Senate committee the same gentleman considered the report from the War Department and redrafted it in the Senate committee. Every amendment suggested by him seemed to me proper and to fully protect the Government and the interests of commerce. I thought the item as it came from the Senate was sufficient. It appears the conferees of the House did not think so, and they amended it as it now appears in the conference report.

Now, for the gentleman's further information I will state this: The act of 1905 gave a franchise to Louis M. Tisdale and his assigns. He went to work dredging the channel. One of those storms that come sometimes over the Gulf washed away pretty much all the work which had been done. It was delayed perhaps a year; it may be longer. He started the work again, but before the time expired under the original limitation he was unable to go further.

A corporation was organized—I do not know the details of it—called the South Mobile Terminal Co., which was capable financially of carrying the work to a successful termination. And upon their recommendation, after the time seemed to have expired—my opinion is that under the original act the time had not expired—it was submitted to the War Department, and their legal adviser, the Judge Advocate General, gave it as his opinion it was quite a doubtful proposition, and advised that before the South Mobile Terminal Co. undertook to do anything the time had better be extended. My own opinion to-day is that there was nothing making it necessary to extend the time. There was nothing making it necessary to transfer it to the South Mobile Terminal Co., because the original franchise was given to Louis M. Tisdale and his assigns. The first law gave full authority for the assignment, but as there was some question about it the parties interested presented this item as you see it now to the Senate, after the river and harbor bill had passed the House at this session. And while it was being considered by

the Senate, as I have stated before, I was requested to come before the Senate committee and give them some information, which was about what I have given to the gentleman. I will say, further, that the Government improvement at Mobile is quite extensive. The channel at Mobile is 33 miles long; including the outer bar at Fort Morgan it is 40 miles long. It is very difficult to get further appropriation immediately around Mobile, because the main proposition absorbs the attention of the General Government. We could not expect to get a General Government appropriation for this proposition. I do not think it can possibly be furnished unless it is done through parties financially able to conduct it to a completion.

Mr. MANN. Now, if the gentleman will yield for a moment on that point——

Mr. SPARKMAN. Certainly.

Mr. MANN. In 1905 the House passed a river and harbor bill. It went to the Senate. The Senate inserted an item in regard to this, which was finally agreed to in conference. The House knew nothing about it and knows nothing about it to-day——

Mr. TAYLOR of Alabama. No; the gentleman misunderstands——

Mr. MANN. With the exception of the gentleman from Alabama, and possibly he——

Mr. TAYLOR of Alabama. No; you misunderstand.

Mr. MANN. I am stating facts of my own knowledge.

Mr. TAYLOR of Alabama. It was passed in 1905 through the House—the original bill.

Mr. MANN. It was inserted in the original river and harbor bill in the Senate in 1905.

Mr. TAYLOR of Alabama. I think not.

Mr. MANN. Well, I will take the gentleman's statement for it, but I think it was.

Mr. TAYLOR of Alabama. As I remember, Mr. BURTON was then chairman of the Committee on Rivers and Harbors, and he drafted the original bill and it was done in the House.

Mr. MANN. That may be the fact. But now it comes to the House in a proposition inserted in the Senate. We have a Unanimous-Consent Calendar in the House, and there is no difficulty about passing a bill concerning which there is no question. They have a rule in the Senate—Calendar Rule VIII—and under it there is no difficulty in passing a bill concerning which there is no question.

Here is a proposition to give a franchise to somebody to build a channel. Are they going to pay tolls for passing over or through this channel? Is there to be a charge for passing over this channel? Why is a private person or corporation building a channel to the sea, down there, unless there is to be a charge down there? I do not know whether there is to be a charge down there, or what it is, and no one else knows about it.

If the bill is proper, it could have been introduced here by the gentleman from Alabama and reported by the Committee on Rivers and Harbors and placed on the Unanimous-Consent Calendar and passed, or passed on the Private Calendar, without difficulty.

Mr. TAYLOR of Alabama. Will the gentleman allow me to interrupt him?

Mr. MANN. Yes, sir.

Mr. TAYLOR of Alabama. The bill was introduced by "the gentleman from Alabama," but it was not considered by the Committee on Rivers and Harbors. It was introduced by me last December.

Mr. MANN. Is the gentleman a member of the Committee on Rivers and Harbors?

Mr. TAYLOR of Alabama. Yes.

Mr. MANN. There is no doubt but that, if the bill had no question about it, the gentleman from Alabama could easily have had it reported by the committee of which he is a member. There is no doubt about that proposition.

Now, may I ask the gentleman a question in reference to another item?

Mr. SPARKMAN. Certainly.

Mr. MANN. What is the reason for inserting in a number of these appropriating items the language "which shall be considered extraordinary emergency work"?

Mr. SPARKMAN. There were two reasons for that. So far as I am concerned, I wanted to emphasize the fact that it is an emergency, so that it may not set a precedent on which other appropriations in the future can be predicated. Still other members of the conference committee, no doubt, had in mind the proposed and old enactments in regard to the hours of labor, and it was for the purpose of taking this class of work out of the eight-hour law. Whether the provision will have that effect I do not know, but, so far as I am concerned, it was done for the purpose of emphasizing the fact that the conditions presented an emergency, and that the appropriation was not to be considered as a precedent.

Mr. RANSDELL of Louisiana. Mr. Speaker, will the gentleman allow me to make a further answer to that?

Mr. SPARKMAN. Yes; go ahead.

Mr. RANSDELL of Louisiana. As a Representative from the region of the Mississippi River, where both of these items are made to apply, I wish to say that they are applicable solely to levee work. We passed an eight-hour bill, which was signed by the President last month, if I mistake not, under the specific terms of which levees are considered extraordinary emergency work and not subject to the terms of the eight-hour law. That bill does not go into effect until the 1st of January next. Now, levees are in every sense of the term different from every other kind of work that I am acquainted with. We have a great deal of rain on the lower Mississippi River. It rains there more than it does in most other places. We have never been able to devise any machinery entirely suitable for constructing levees. The levees are nearly all built with scrapers and mules. The season for building them is very limited. We are obliged to rush the work just as rapidly as we possibly can when we begin, and it is necessary to work long hours. It costs a great deal more if you have to do that work under the general eight-hour law, and it was to avoid that, to be entirely frank, that this clause was inserted, knowing that it had already been made a part of the general law, which, however, does not go into effect until the 1st of January next.

Let me say further that for many years levees have been considered extraordinary emergency works, and were so considered until a recent decision of the court declared that they were not emergency works, and then it was found necessary to legislate on the subject.

Mr. MANN. Then I understand the gentleman is quite desirous of having an eight-hour law apply at every place except where he himself happens to have interests?

Mr. RANSDELL of Louisiana. Not at all, sir.

Mr. MANN. I will call the gentleman's attention to the fact that on Calendar Wednesday next the unfinished business of the House is a bill to apply the eight-hour law to all river and harbor work, drawn in such language as to include the Army officers and Army engineers and the Mississippi River Commission. If the gentleman is interested in that subject, he had better scan that bill.

Mr. RANSDELL of Louisiana. I will be very glad to scan the bill.

Mr. MANN. Do I understand that all the levee work provided for in this bill, at least $4,000,000 of it on the Mississippi River, is to be considered as outside the eight-hour law?

Mr. RANSDELL of Louisiana. That is my understanding, and it was always considered outside the eight-hour provision until a recent decision of a Federal court.

Mr. MANN. Ordinary levee work is not extraordinary, and there is no more reason why the eight-hour law should not apply to that than why it should not apply to any other work.

Mr. RANSDELL of Louisiana. If the gentleman were familiar with the facts, I think he would have a different opinion. Ordinary work is done where men are protected from the weather, where they can go in houses, where they are perhaps down in a mine, where they can go on with their work day after day. It is a physical impossibility to move dirt when it is wet, and after it rains you have got to wait several days before you can move any more of the dirt. It rains there very frequently, and you are compelled to take time by the forelock and rush that work tremendously, or you would never get it done.

Mr. MANN. That applies no more to levee work than it does when you are constructing the subbasement of a building or preparing to put the foundations in. It is not half as true of levee work as it was with reference to the foundations of the new post-office building over here by the Union Station. Yet we have to apply the eight-hour law to that. I believe in the eight-hour law myself, and I do not believe in evading it as soon as it is passed; and I call the attention of the country to the fact that just the moment the law is placed upon the statute books this House inserts a concealed provision which does not convey any idea of the eight-hour law for the purpose of evading the eight-hour law.

Mr. RANSDELL of Louisiana. I call the gentleman's attention to the fact that the eight-hour law specifically exempts levees from its terms, and it does not go into effect until the 1st of January next, and that is why we put it in here and not with any attempt to evade the terms of the law. The gentleman must state it fairly. He ought not to state it unfairly, but he ought to state the facts.

Mr. MANN. If it is already specifically exempted, why do you put this in here to exempt it again?

Mr. RANSDELL of Louisiana. Because under the terms of that law it does not go into effect until the 1st of January, and we propose this provision to cover the time between now and the 1st of January.

Mr. MANN. If the law does not go into effect until the 1st of January, why do you have to exempt this bill from the operations of it?

Mr. RANSDELL of Louisiana. It seems hard for the gentleman to understand anything. I stated that for years we had been working——

Mr. MANN. I think I understand it——

Mr. RANSDELL of Louisiana. Will the gentleman please let me talk a moment? I do not occupy the time of the House as often as the gentleman from Illinois does, and I should like to make this explanation. I said that for years and years——

Mr. MANN. I took the floor to ask a question, and the gentleman has been talking all the time ever since. I am quite willing he should proceed.

Mr. RANSDELL of Louisiana. Very well; with the gentleman's kind permission I should like to answer his question.

Mr. SPARKMAN. The gentleman from Illinois has not the floor. I have the floor.

Mr. RANSDELL of Louisiana. Will the gentleman from Florida allow me to make a brief answer?

Mr. SPARKMAN. Certainly.

Mr. RANSDELL of Louisiana. The gentleman from Illinois seems trying to mix us up. I should like the House to understand that there was no necessity for a law of this kind until recently, because we built the levees without following the terms of the eight-hour law. We always considered levee building to be emergency work, and acting on that idea paid no attention to the eight-hour law until within a year or two—I forget the exact date—the question was raised in a United States court, and the court held that levee building was not extraordinary emergency work. Therefore, when the general eight-hour law was passed, which is now on the statute books, these levees were exempted from its terms; but as that law does not go into effect until the 1st of January next, it became necessary to make a special exemption in the case of the levee work that we propose to do under this present bill.

Mr. BUTLER. Work that is to be done in the meantime.

Mr. RANSDELL of Louisiana. To take effect in the meantime. That is the only idea.

Mr. GREENE of Massachusetts. Will the gentleman yield to me?

Mr. SPARKMAN. Yes.

Mr. GREENE of Massachusetts. I was not present when the gentleman began his remarks on the bill, and I should like to inquire in regard to amendment No. 2 of the Senate, on page 2, lines 18 to 23. There was an amendment adopted in conference cutting down the amount from $250,000, originally recommended by the engineers, to $125,000 for the Pollock Rip Shoal. The report from the Board of Engineers was not received in time to have the original provision put in the bill when the matter was being considered by the House committee. As I understand it, there was no division of feeling in the House committee as to the importance of this work.

Mr. SPARKMAN. None whatever.

Mr. GREENE of Massachusetts. But the reduction was proposed for the reason that the Chief of Engineers thought it would not be practicable to spend more than $125,000 the present year.

Mr. SPARKMAN. That was the reason it was reduced; yes.

Mr. GREENE of Massachusetts. I wanted to have that clearly understood, because there were a very large number of mariners and men engaged in the coastwise trade who were very much interested in this improvement, which had been considered for a great many years, but was not recommended by the Board of Engineers on the ground that it was impracticable. Yet after a full consideration with a survey it was found to be a very practicable project, and it was thought that $250,000 would not be too great a sum to be provided for commencing the work.

Mr. SPARKMAN. I think it is a very worthy project. We really gave a little more than the engineers said they could spend. They said they could only spend $100,000, but we placed the amount at $125,000.

Mr. GREENE of Massachusetts. But the intention is to use this to begin the work, and as I understand the project has the approval of the committee, so that it may be expected, after this sum is expended, this project may be continued further?

Mr. SPARKMAN. It can be continued from year to year in the river and harbor bill.

Mr. GREENE of Massachusetts. I assume it will be if the work shows that the improvement is worthy of extension.

Mr. SPARKMAN. Yes.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. SPARKMAN. Yes; certainly.

Mr. BUTLER. The appropriation in this bill is $6,000,000 for the use of the Mississippi River, for that one purpose alone of building and constructing levees.

Mr. SPARKMAN. No; that is a mistake. Four million dollare are appropriated for the purpose of constructing levees, expressly provided in this bill, and there are $2,000,000 beyond that, most of which is to be used for revetment work, but some for open channel work.

Mr. BUTLER. Is there a mistake in the print?

Mr. SPARKMAN. No.

Mr. BUTLER. I have it here, Mississippi River, House item, increased from $3,500,000 to $6,000,000. How much of the appropriation is to be used for the construction of levees?

Mr. SPARKMAN. The gentleman will find further down in the bill a statement that in view of the existing emergency $4,000,000 of money hereby appropriated is set apart for the construction and repair of levees.

Mr. BUTLER. That is a Senate amendment?

Mr. SPARKMAN. Yes.

Mr. BUTLER. How much money have we been appropriating heretofore for the construction of levees on the Mississippi River each year?

Mr. SPARKMAN. It is usually put in a lump sum, and a good deal of it has gone for revetment work, while some of it has been used for the construction of levees. I do not know just how much, but about $130,000, I believe, was used for that purpose last year.

Mr. BUTLER. The construction of levees is not a departure from the practice heretofore observed in making these appropriations?

Mr. SPARKMAN. Not at all.

Mr. BUTLER. We have always appropriated for the construction of the levees. Do the States make appropriations for the construction of levees along the river?

Mr. SPARKMAN. They have been doing so, and quite liberally.

Mr. BUTLER. This is simply the Government portion of the construction?

Mr. SPARKMAN. Yes.

Mr. BUTLER. There has been a statement made in the newspapers with respect to a change about to be made in the policy of the Government relative to the construction of these levees; that is, the policy of Congress in its treatment of the river is to be in some way altered or amended. Can the gentleman give me some explanation of that?

Mr. SPARKMAN. I know of no such contemplated change of policy. It was the intention of the engineers and of the Mississippi River Commission, so I am advised, to get away as much as possible from levee building. It appears that the project for that class of work had been very nearly completed, so that it would not have required much more money to complete, but these recent floods coming along makes an emergency, as is stated in the bill, and we appropriated and set apart a larger sum for that purpose than we at first intended to do or would otherwise have done.

Mr. BUTLER. This is not all an emergency appropriation?

Mr. SPARKMAN. Four million dollars of it is.

Mr. BUTLER. Just one question more. Is it possible to estimate how much money will be required to construct these levees along the Mississippi River so as to protect the surrounding country from floods?

Mr. SPARKMAN. Oh, no; that can not be estimated now. I suppose the engineers could do that, but it has not yet been done.

Mr. BUTLER. The engineers then have never been asked to make an estimate.

Mr. SPARKMAN. They have estimated, or the Mississippi River Commission has, and have outlined a certain project, which is nearly completed.

Mr. RANSDELL of Louisiana. Mr. Speaker, I will say to the gentleman from Pennsylvania that in my own time I will explain that.

Mr. GREGG of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. SPARKMAN. Yes.

Mr. GREGG of Pennsylvania. Mr. Speaker, in the rivers and harbors bill, as it originally passed the House, there was an appropriation of $75,000 made for continuing the improvement upon the Youghiogheny River in Pennsylvania. In the Sixty-first Congress an appropriation of $100,000 was made, I believe, for improvements on that river. Work has been started in accordance with the appropriation that was made. Will the

conferees explain to the House why that appropriation was permitted to be dropped from this conference report, in view of the fact that the Government has already expended $100,000, or has appropriated that much and is expending some of that amount? Why did the conferees agree to have that amount stricken from the original appropriation?

Mr. SPARKMAN. For the reason that it did not seem practicable to have the Senate conferees agree with us. I will say to the gentleman that this item, as he has correctly stated, was placed in the House bill by the Rivers and Harbors Committee, and the bill passed the House with the item in it, but the Senate struck it out; and we for a long time refused to recede from our disagreement to the Senate's action. It went on for weeks; yes, months.

Mr. RANSDELL of Louisiana. For two months.

Mr. SPARKMAN. Two months from the first meeting of the conferees, before we finally agreed upon the bill, and that item was the very last that was considered by the conference committee.

It was the earnest desire of the conferees on the part of the House to have that item restored to the bill, but the Senate conferees did not agree to our views and request. It was contended that it lacked merit, and that further appropriation should not be made for it, at least not at this time. I did not agree with them about that, but it seemed necessary to yield to the views of the Senate conferees, else we would have spun out still further the conference deliberations, a thing not desirable, as the various works throughout the country had begun to suffer.

Mr. GREGG of Pennsylvania. Does the gentleman think it is a wise public policy to appropriate $100,000 at one session of Congress and at the next to refuse to appropriate anything at all?

Mr. SPARKMAN. No; perhaps not. I think myself that the appropriations ought to be continued and the work completed, and I think it likely that in the next bill we will take care of it.

I will say further that its omission now was through no neglect on the part of the gentleman from Pennsylvania [Mr. GREGG], because in season and out of season he has been insisting upon that provision in the bill—even a larger appropriation—but we have done the best we could without unduly prolonging the deliberations of the conference committee.

Mr. GREGG of Pennsylvania. What was the reason assigned for the refusal? What reason was assigned for this other than the refusal of the Senate conferees to accept it?

Mr. SPARKMAN. That is a pretty big reason.

Mr. GREGG of Pennsylvania. I think the Members of the House are entitled to know what the reason is.

Mr. SPARKMAN. I stated that they said the project was not, in their judgment, a worthy project, or as worthy as the others in the bill.

Mr. GREGG of Pennsylvania. Had not that question been adjudicated before?

Mr. SPARKMAN. Yes; but they have the right to reopen it at any time, so far as that is concerned. The gentleman will soon have an opportunity to bring it up again.

Mr. Speaker, I wish to congratulate the country and its commercial interest on the fact that we are now so near the final stages to the passage of this bill through Congress and its enactment into law. It may not be the best measure of the kind that ever became a law, but I do claim that it will compare favorably with any of them. It meets, I think, all requirements, and is the third in the series of annual bills commenced when we embarked upon that policy a little more than two years ago, a policy now, I hope and believe, firmly established and one from which we should not seek to depart. Under this policy, pursued as we are now pursuing it, only a few more years will elapse before we will see all our river and harbor improvements carried to completion, the whole constituting a system of navigable waterways better by far than that possessed by any other country in the world.

The SPEAKER. The question is——

Mr. RANSDELL of Louisiana. Mr. Speaker, I want to be heard before a vote is taken upon this bill.

The SPEAKER. The gentleman from Florida has five minutes remaining.

Mr. SPARKMAN. I yield to the gentleman from California [Mr. KNOWLAND].

Mr. KNOWLAND. Mr. Speaker, I desire to take advantage of this opportunity, when the conference report on the river and harbor bill is before the House, to submit some remarks showing the wonderful development of the commerce of Oakland Harbor, Cal., since the first Government appropriation was made, in 1874, and to direct attention to the enterprise being displayed by the municipality of Oakland, which is expending in harbor improvement at the present time $2,500,000, this being but the beginning of a comprehensive plan that will require the ultimate expenditure of many additional millions.

The House conferees have wisely agreed to accept the amendment of the Senate adding $30,000 to the $100,000 carried for Oakland Harbor when the bill left the House. On February 1 of this year there was an unexpended balance to the credit of the Oakland Harbor improvement of $303,937.47. Existing contracts now cover this amount, which, with the $130,000 carried in the present bill added, will make a grand total of $433,937.47 to be expended by the Federal Government on Oakland Harbor during the present year and up to March 4 of next year, when another river and harbor bill will have become a law, providing an additional appropriation.

In view of the large unexpended balance available for Oakland Harbor when I appeared before the members of the River and Harbor Committee during the present session, which large balance prevented any estimates from being submitted by the War Department, I felt particularly gratified that the committee responded to my appeal for an appropriation, thus recognizing what the city of Oakland itself was doing, and realizing the necessity of placing this important port in readiness for the increased commerce anticipated with the opening of the Panama Canal.

The committee likewise granted my request for a resurvey of the harbor looking to the adoption of a new and enlarged project calling for increased depths and greater widths necessary to enable the port to keep pace with the recent rapid growth of Oakland and vicinity—a locality destined to become one of the chief shipping centers of the Pacific coast. The last survey was made as the result of an authorization contained in the river and harbor act of 1908. As a result of that survey the local engineer then in charge, Lieut. Col. John Biddle, recommended the project now under way, which provides for a channel 30 feet deep and 500 feet wide from the bay to the tidal basin, and 25 feet deep and 300 feet wide around the basin, with a depth of 18 feet through the tidal canal.

The Board of Engineers for Rivers and Harbors, located at Washington, disapproved this recommendation in December, 1909. A hearing was obtained before this board, the result of which is set forth in the following telegram to Mayor Frank K. Mott, of Oakland, who, with the chamber of commerce, furnished Oakland's representatives in Congress with much valuable data for use before the board:

WASHINGTON, D. C., *January 31, 1910.*

Mayor FRANK K. MOTT, *Oakland, Cal.:*

Pleased to report that River and Harbor Board of Engineers, as result of hearing last Monday, have reversed their action and indorsed recommendation of Col. Biddle for improvement of Oakland Harbor. This action is rather unusual and can be regarded as great victory. Report must be approved by Chief of Engineers, but think there is little doubt of his approval. Fight will now be taken up with River and Harbor Committee of Congress.

J. R. KNOWLAND.

Since I became a Member of this body, in December, 1904, Congress has appropriated for Oakland Harbor, including the amount carried in the present bill, a total of $1,263,203. This amount is larger by nearly $400,000 than that appropriated for any corresponding period in the history of the improvement. During these eight years Congress has provided for two new surveys. Beginning with 1874, when the Government began the improvement, a grand total of $3,963,803 has been provided by Congress.

Oakland Harbor was developed from what was known prior to 1874 as San Antonio Creek, which waterway had a depth of but 2 feet at low tide, with a tidal range of about 5 feet. The commerce was then insignificant, amounting annually to but 154,300 tons, but has steadily increased with the development of the harbor until to-day the annual freight traffic amounts to over three and a half million short tons, with a total valuation of $138,059,278.

The three principal harbors of California which the Government is improving—which does not include San Francisco Harbor, because no Government project is under way—are Oakland, Los Angeles (formerly San Pedro and Wilmington Harbors), and the harbor at San Diego. The official commercial statistics for these three harbors, contained in the report of the Chief of Engineers for 1911, show that for San Diego Harbor the freight traffic amounted to 398,048 short tons, valued at $22,591,487; and for Los Angeles Harbor 1,709,294 tons, valued at $47,040,588; while Oakland Harbor, as already stated, is credited with 3,575,371 tons, valued at $138,059,278.

When the present river and harbor bill was pending in the House I took occasion to look up the commerce of the various harbors for which appropriations were carried, and found only

eight where the commerce exceeded in actual tons that of Oakland Harbor.

Few localities have displayed a more generous spirit in cooperating with the Federal Government in the matter of harbor improvements. Mayor Frank K. Mott, of Oakland, under whose progressive administration the city has more rapidly advanced than during any similar period in its history, has, from the day he assumed office, demonstrated that he possessed a keen appreciation of the value of Oakland's water front, recognizing it as one of the city's chief assets.

After years of litigation the city finally, through court decisions, legislative acts, and favorable compromises, regained control of substantially its entire water front, which had been under railroad control as the result of unfortunate grants made to a private individual by the town of Oakland in the early fifties and later transferred to a railroad corporation. The water-front improvements now under way by Oakland are as follows:

First. The building of a first-class reenforced concrete wharf at the foot of Livingston Street, which is in the vicinity of the California Cotton Mills. This improvement will cost about $175,000.

Second. The building of a quay wall on the estuary extending from Myrtle Street to Broadway, 3,700 feet in length. It is to be built of concrete and equipped with railway tracks, steel warehouse buildings, and machinery for the rapid loading and unloading of vessels. This improvement also consists of dredging between the quay wall and the Government channel to a depth of 30 feet, which will equal the depth of the channel now being dredged by the Government. This work, it is estimated, will cost, with the purchase of some land, about $1,800,000.

Third. The building of a retaining wall across what is known as the Key Route Basin, on the western water front, and the dredging of the area outside thereof and the reclaiming of the land inside the wall. This improvement is to be quite an extensive one, and is already partially provided for in the present appropriation, about $500,000 having been set aside for the commencement of the work. When the new survey of Oakland Harbor is made, as provided for in this bill, I shall cooperate with Mayor Mott in an effort to induce the Government to include the Key Route Basin in the new Oakland Harbor project and share at least a part of the cost of this improvement.

A belt-railway system is also planned to extend around the entire city front, connecting with every railway that enters the city and also with every wharf, with spurs leading to the various manufacturing plants. There are at present over 1,500 factories located in proximity to the water front, which contains 27 miles of shore line.

The city of Alameda, also located upon this harbor, is awakening to its importance, and Mayor W. H. Noy, who never misses an opportunity to advance the city's interests, has appointed a board of harbor commissioners. In the near future this city will undoubtedly improve the water-front property to which the city has title.

The improvement of Oakland Harbor should be pushed as rapidly as possible. Advantageously located on the continental side of San Francisco Bay, where car and ship can meet, the termini of three transcontinental railroads, Oakland has a wonderful future and will fully utilize all her harbor facilities. The day for the opening of the Panama Canal is rapidly approaching. Now that the House has decided that American ships in the coastwise trade shall be granted free tolls, the result of a fight which was started at a meeting of Pacific coast commercial bodies called at my suggestion in San Francisco in October last, and which fight I continued before the House committee and upon the floor, the commercial importance of the canal to every Pacific coast port has increased, and Oakland intends to hold itself in readiness to make the most of its opportunities, for no locality will offer greater facilities to the shipping of the world.

Mr. GREENE of Massachusetts. Mr. Speaker, since becoming a Member of this House my attention has been called with great frequency by those who are owners of a large percentage of the vessels, steamers, and barges engaged in the coastwise trade on the Atlantic coast, and I have been importuned also by masters of these vessels used in the trade and the Association of Masters, Mates, and Pilots to obtain, if possible, a deeper and more direct channel across Pollock Rip Shoals and to secure, if possible, a removal of a portion of Stone Horse and Bearse Shoals, in Nantucket Sound, along the southern shore of Cape Cod.

Year after year the United States engineers failed to consider or reported unfavorably upon the project without making an examination of the same. I did not become disheartened, although to meet so many rebuffs from official sources was somewhat discouraging, but in each succeeding Congress I reintroduced and presented bills embodying this improvement, and finally these efforts have been rewarded by the appropriation contained in this bill.

By the active cooperation of the maritime interests of the Atlantic coast and continued presentation of the subject to the Board of Engineers for Rivers and Harbors hearings were held and such important facts were developed that the said board recommended that the sum of $250,000 be expended for the purpose of determining whether it would be possible, by placing a steam dredge in Nantucket Sound, to remove the sand bars which from time immemorial have obstructed this great natural water highway of commerce.

A preliminary examination having been made in accordance with the provisions of the river and harbor act of March 3, 1909, it was revealed that by the action of the numberless steamers and large swift sailing craft a natural channel improving the existing waterway had been produced, and this fact led to the belief that the improvement sought was worthy of further exploitation. At the time the subject was considered by the Committee on Commerce of the Senate (the report from the engineer board not being received at the time the river and harbor bill was considered by the Committee on Rivers and Harbors of the House of Representatives), the sum of $250,000 was provided by an amendment to the river and harbor bill as proposed and adopted in the Senate.

Subsequently, owing to the short time to elapse before another river and harbor bill will be presented, it was agreed in conference that not more than $125,000 could be expended the present year, and the amendment reducing the amount to $125,000 has been agreed too. The project has received the hearty indorsement of both branches of Congress, and if the amount provided in the present bill demonstrates the importance of the undertaking and develops the benefits to be derived from the improvement I believe the great maritime interests involved may rest assured that ample provision will be made in the next river and harbor bill for a continuance of the work, and that it will be made a continuing project until the improvement shall be finally consummated. I submit herewith official communications and statements bearing upon the subject, which I believe will be of interest:

[House Document No. 536, Sixty-second Congress, second session.]

NANTUCKET SOUND, MASS.

Letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports of preliminary examination and survey of Nantucket Sound, Mass.:

WAR DEPARTMENT,
Washington, February 12, 1912.

SIR: I have the honor to transmit herewith a letter from the Chief of Engineers, United States Army, dated 10th instant, together with copies of reports from Lieut. Col. J. C. Sanford, Corps of Engineers, and a special board of engineer officers, dated November 16, 1909, and November 21, 1911, with maps, on preliminary examination and survey, respectively, of Nantucket Sound, Mass., made in compliance with the provisions of the river and harbor act of March 3, 1909.

Very respectfully,

H. L. STIMSON, *Secretary of War.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, February 10, 1912.

SIR: I have the honor to submit herewith for transmission to Congress, reports dated November 16, 1909, by Lieut. Col. J. C. Sanford, Corps of Engineers, and November 21, 1911, with maps, by a special board of engineer officers, on preliminary examination and survey, respectively, prepared in compliance with a provision of the river and harbor act of March 3, 1909, as follows:

"Nantucket Sound [Mass.], with a view to the removal of the northerly end of Stone Horse Shoal and of such portions of Bearse Shoal and Pollock Rip Shoal as may be necessary."

The improvement desired by navigation interests, and in which much interest has been manifested, and which will be of unusually great value to navigation if secured, is a straight channel not less than 1 mile wide and 30 feet deep at low water from the Handkerchief Light Vessel, about 5¼ miles southwest of Monomoy Lighthouse, extending northeastward to the whistling buoy near the present northern entrance to the Pollock Rip Slough, to replace the present crooked and in places narrow and dangerous Pollock Rip Channel.

Because of the mobile character of the material on the bottom and the exposed location of the channel it has been impracticable to make at this time a reliable estimate of cost of the desired improvement. Noting that one or more Government-owned dredges adapted to this class of work will probably be available within the next year or so, the board suggests the use of such plant in affording relief at dangerous localities, particularly in the vicinity of Shovelful Lightship, where any widening of the channel will be immediately beneficial to commerce. From such a practical test the most advantageous and economical methods of carrying out the work desired, as well as its probable cost, can be more definitely determined. The board recommends for such a test an appropriation of $250,000, and considers that after such work has been done as can be done for that sum the advisability of further work should receive consideration, and that the fact should be made plain in the act of appropriation that the United States is not committed to a continuance of the improvement beyond such test.

These reports have been referred, as required by law, to the Board of Engineers for Rivers and Harbors, and attention is invited to that board's report herewith, dated December 19, 1911, concurring in the views of the special board.

After due consideration of the above-mentioned reports I concur in the views of the special board and the Board of Engineers for Rivers and Harbors, and therefore in carrying out the instructions of Congress I report as follows: That the improvement by the United States of the north or Pollock Rip Channel through the shoals lying near the entrance to Nantucket Sound, by the use of an available Government-owned plant under a single cash appropriation of $250,000, is advisable in order to enable a more definite determination to be made as to what amount of additional work of improvement is advisable. It is also considered advisable that the act of appropriation should make clear the fact that this improvement is only in the nature of a test, upon the results of which the extent of improvement justified is to be determined.

The vicinity of the proposed work is shown on Coast and Geodetic Survey Chart No. 111.

Very respectfully,

W. H. BIXBY,
Chief of Engineers, United States Army.

The SECRETARY OF WAR.

PRELIMINARY EXAMINATION OF NANTUCKET SOUND, MASS.

WAR DEPARTMENT,
UNITED STATES ENGINEER OFFICE,
Newport, R. I., November 16, 1909.

SIR: In compliance with department instructions dated March 9, 1909, I have the honor to submit the following report on the preliminary examination of the following locality, as required by the river and harbor act of March 3, 1909: "Nantucket Sound [Mass.], with a view to the removal of the northerly end of Stone Horse Shoal and of such portions of Bearse Shoal and of Pollock Rip Shoal as may be necessary."

The numerous and extensive shoals lying eastward and southeastward of the eastern entrance to Nantucket Sound and southward and eastward of the southeasterly elbow of Cape Cod, constitute probably the greatest danger to navigation to be found on any of the coastwise routes of the Atlantic coast of the United States north of Hatteras. In view of the numerous vessels passing around these shoals they are probably a greater menace to navigation than Hatteras. Their dangerous character is shown both by the large number of wrecks annually occurring there and by the large number of light vessels and other aids to navigators traversing the shoals.

From Nantucket Sound to the ocean two channels lead through the shoals. The north or Pollock Rip Channel is the most used, as it is shorter, is somewhat protected from easterly storms by the shoals outside it, and is closer to the shore; but it is quite circuitous and narrow in places and the tidal currents are strong and varying in direction. The second or south channel leads through the shoals in a nearly due east direction from Nantucket (Great Point) Lighthouse. It is somewhat deeper than the Pollock Rip Channel and much wider, but is not so direct for coastwise vessels and carries a vessel much farther from the shore. This channel is considered in the United States Coast Pilot for the Atlantic coast as the dividing line between Nantucket and Monomoy Shoals, the shoals lying to the northward of the channel being called the Monomoy Shoals, while those to the southward are called the Nantucket Shoals. The following description of the Monomoy Shoals in general, and of the shoals particularly named in the river and harbor act, with others lying along the course of the proposed improvement, is taken from the above publication:

"Monomoy Shoals consist of numerous detached shoals of a shifting character with 3 to 18 feet over them, extending about 5½ miles in an easterly and 9½ miles in a southerly and south-southeasterly direction from Monomoy Point. Many parts of these shoals, separated from others by narrow sloughs, have special names and are briefly described below.

"Bearse Shoal is the western and Pollock Rip the eastern part of the shoal extending from three-eighths mile to 3¾ miles eastward of Monomoy Lighthouse. These shoals consist of a series of sand shoals and sand ridges, with 4 to 18 feet over them and deep water between them. The northeastern and southeastern extremities of these shoals lie 4 miles and 3¾ miles ENE. ¾ E. and SE. by E. ¾ E., respectively, from Monomoy Point Lighthouse.

"Broken Part of Pollock Rip, with depths of 15 to 18 feet over it, lies eastward of Pollock Rip, and is separated from it by Pollock Rip Slough, which has a width of about one-half mile and depth of 3½ to 6 fathoms.

"Twelve Foot Shoal, southward of the broken part of Pollock Rip, has 14 to 18 feet over it and lies 5½ miles SE. ½ E. from Monomoy Lighthouse.

"Stone Horse Shoal, Little Round Shoal, and Great Round Shoal are portions of a continuous series of sand shoals and sand ridges with depths of 5 to 18 feet over them lying directly eastward of the entrance of Nantucket Sound and between the two main channels. Stone Horse Shoal and Little Round Shoal lie on the south side of the deep-water channel between them and Pollock Rip. Great Round Shoal lies from 6 to 9½ miles in SSE. direction from Monomoy Point Lighthouse; southward and eastward of this shoal for a distance of about 2½ miles there are numerous shoal spots with depths varying from 17 to 18 feet over them.

"Shovelful Shoal, extending three-fourths mile southward from Monomoy Point, is bare in places and rises abruptly from the deep waters of Butlers Hole.

"Handkerchief Shoal is the extensive shoal, with from 3 to 18 feet over it, lying southwestward of Monomoy Point. It is about 4¼ miles long north and south, and its greatest width is about 2 miles. Its southern end, which rises abruptly from a depth of 8 fathoms to 10 feet, is about one-half mile northward of Handkerchief Shoal Light Vessel and 5¼ miles SW. ¾ W. from Monomoy Point Lighthouse, and is marked by a buoy (nun, red, No. 10). Its northern end rising gradually from 3½ fathoms to 15 feet, lies about 3 miles WNW. ½ W. from Monomoy Point Lighthouse, and is marked by a buoy (spar, black, No. 3). On the eastern edge of the shoal are three buoys, which mark the edge of the narrow channel between it and Shovelful Shoal and Monomoy Point."

No previous preliminary examination of this locality with a view to its improvement has ever been made.

What is desired by those interested in the improvement is the replacement of the present north channel by a straight channel extending from the Handkerchief Shoal Light Vessel in an east-northeasterly direction to the northeast whistling buoy, which lies northerly of the present northern entrance to the Pollock Rip Slough Channel, as shown on a small chart issued by the American Association of Masters, Mates, and Pilots, Volunteer Harbor, No. 4, with printed description and arguments. The width shown on the above-named chart is seven-eighths of a nautical mile, and the depth desired is stated to be not less than 25 feet at mean low water. The present course eastward from the Handkerchief Light Vessel is NE. by E. ½ E. to the Shovelful Shoal Light Vessel about 5 nautical miles; thence ESE. ½ E. to the Pollock Rip Light Vessel about 3¾ miles; thence N. by E. ¾ E. to Pollock Rip Shoal Light Vessel 4¾ miles, passing at a distance of about 2¼ miles the northeast whistling buoy. The angles in the course at the Shovelful Light Vessel and the Pollock Rip Light Vessel are about 56° 15' and 95° 37½', respectively.

The arguments presented for the proposed improvement are many, being based mainly upon the large amount of commerce traversing the locality, the dangers to which this commerce is exposed, and the lessening of these dangers by the proposed channel, and upon the belief that the channel could be dug and maintained at a comparatively small expense, in view of the great improvements made in recent years in dredging on ocean bars, and particularly the small cost per cubic yard of the dredging now being done in the Ambrose Channel, N. Y. Each of these subjects will be examined in turn.

PRESENT AND PROSPECTIVE COMMERCE.

As it is not considered safe for vessels drawing more than about 21 feet to attempt to pass through the north passage, such vessels are now obliged to take the south channel, but Nantucket Sound can not be easily traversed by vessels having a greater draft than 27 feet (see Atlantic Coast Pilot, pt. 3, p. 84), and it is not thought that vessels drawing upward of 25 feet often pass through the sound. For this reason it is believed that with the construction of the proposed channel the present south channel would be very little used. Hence, the statistics of both channels are taken together as indicating the probable amount of use of the proposed channel in case no other artificial channels between Boston and Long Island Sound were constructed.

The Board of Engineers appointed under the river and harbor act of June 13, 1902, to make an examination of the relative merits for harbors of refuge for all proposed or available localities on the south and southeast coast of Rhode Island and Massachusetts stated in their report, dated December 2, 1903 (printed in H. Doc. No. 60, 58th Cong., 2d sess.), that—

"The number of vessels following the route through Vineyard and Nantucket Sounds and along the eastern shore of Cape Cod is estimated to be annually upward of 50,000.

"Practically all of this commerce passes Cape Cod."

The number of vessels now passing the Cape, however, is believed to be considerably less than this, though the average tonnage is constantly increasing. Reports of the keepers of the Pollock Rip Shoals Light Vessel, of the Great Round Shoal Light Vessel, and of the Shovelful Shoal Light Vessel, kindly furnished me by Capt. W. G. Cutler, United States Navy, inspector second lighthouse district, indicate that the total number of vessels of all kinds passing the shoals by both passages in the year August 1, 1908, to July 31, 1909, was 22,841, of which 3,638 were steamers, 3,291 tugs, 8,907 sailing vessels, and 7,005 barges. Comparing these figures with the statistics for Boston Harbor for the calendar year 1907, it would appear that a considerable portion of the sailing vessels given are fishing vessels. The arrival and departure of coastwise vessels at Boston in that year (printed in Annual Report of the Chief of Engineers for 1908, pt. 1, p. 958) are as follows:

Class.	Number.	Gross tonnage.	Average tonnage.
Steamers	4,496	9,954,864	2,214
Sailing vessels[1]	2,918	2,432,250	834
Tugs	4,606	1,398,230	304
Barges	7,212	6,737,604	934
Total	19,232	20,522,948	.....

[1] Excluding fishing vessels.

It will be noted from this table that the total number of tugs and barges is about four times that of sailing vessels. Comparing these figures with those of former years, the change in proportion of the different classes of vessels is noteworthy. In 1902 steamers comprised 20.5 per cent; tugs, 18 per cent; sailing vessels, 24 per cent; and barges, 37.5 per cent. In 1906 the steamers comprised 20.3 per cent; tugs, 20.6 per cent; sailing vessels, 15.8 per cent; and barges, 43.3 per cent. The above figures for 1907 show steamers, 23.4 per cent; tugs, 23.9 per cent; sailing vessels, 15.2 per cent; and barges, 37.5 per cent. A comparison of cargo carried by water to Boston in 1899 and 1905, made by Mr. William Barclay Parsons, chief engineer of the Boston, Cape Cod & New York Canal Co., shows that of the total tonnage carried to Boston in 1899, 53.9 per cent went in steamers and exactly the same in 1905; but, while barges carried but 21.1 per cent in 1899, they carried 31.3 per cent in 1905, and the sailing-vessel tonnage, which accounted for 25 per cent of the whole in the first year, had fallen to 14.8 per cent in the second.

The total amount of cargo passing through the shoals can only be approximated. In 1907 it was estimated by Mr. Parsons that it amounted to 12,000,000 tons of coal and 6,000,000 tons of other commodities. During the same year the total receipts of coal at all New England ports north of Cape Cod which were under improvement by the Government, and which included all ports of importance, amounted to 9,812,911 tons (of 2,000 pounds), all of which, it is believed, passed through these shoals. Definite figures as to other commodities do not exist, but it is believed that 6,000,000 tons is a fair estimate.

The future amount of commerce using this route is largely dependent upon the effect of the construction of new artificial routes for the purpose of enabling the passage around Cape Cod to be avoided. One of these, the Cape Cod Ship Canal, is now under construction, and it is expected by the company constructing it that it will be completed in about three years. Another is the proposed inland waterway between Boston and Long Island Sound via Narragansett Bay and an inland route in southern Rhode Island, for which a survey and estimate are ordered by the river and harbor act of March 3, 1909. It is the expectation of the Boston, Cape Cod & New York Canal Co. that on the completion of their canal all coastwise steamers, tugs, and barges will use the canal instead of passing around the Cape, and that sailing vessels will also use it under certain weather conditions. This expectation, so far as steam vessels and barges are concerned, appears

to be justifiable, provided sufficiently low rates of toll on the canal are fixed. As to sailing vessels, what the effect will be is somewhat problematical. As the canal will shorten the distance between New York and Boston about 67 miles, there is some question whether, on the completion of the canal, sailing vessels will be able to continue their competition in the carrying of coal with tugs and barges, and this will depend largely on whether the tolls are fixed close to the maximum amount that tugs and barges can afford to pay or whether they are made much lower. In any case it is fair to assume that after the completion of the canal the total traffic around Cape Cod will be, in a marked degree, reduced. The effect of the construction of an intracoastal waterway from Boston to New York via Narragansett Bay would be to induce the substitution of lighter barges, more cheaply built and operated, and suited only to inland navigation, for the expensive seagoing barges necessary for navigation around Cape Cod or via the Cape Cod Canal, and the development of the inland route would reduce somewhat proportionately the present coastwise commerce carried on in sailing vessels.

DANGERS TO NAVIGATION.

The dangers to which navigation is exposed in Vineyard and Nantucket Sounds and in passing through the Monomoy Shoals are indicated by the following quotations from the Atlantic Coast Pilot:

"The numerous shoals, strong tidal currents, at certain seasons thick fog, and the large number of sailing vessels there are often encountered beating through the narrow parts of the channel, call for more than the ordinary attention of the navigator. The strongest currents will be encountered in Pollock Rip Slough, between the Handkerchief and Pollock Rip Light Vessels, off East and West Chops, and in Vineyard Sound. In some cases the current sets directly on the shoals and, in a calm, sailing vessels are sometimes obliged to anchor to prevent getting aground."

Statistics as to wrecks which have been removed by the Government give a very good idea as to the dangerous character of the shoals and as to the causes of shipwreck.

Between 1885 and June 30, 1909, 154 wrecks were removed by this office. They consisted of 8 steamers, 2 barkentines, 1 brig, 110 schooners, 19 barges, and 21 unknown. The unknown vessels were large pieces of wreckage forming obstructions, but so far broken up as to have lost their identity. Of the 154 wrecks, 54 were from the Monomoy Shoals (north passage) and are classified as follows: Five steamers, 1 barkentine, 40 schooners, 7 barges, and 1 unknown.

The causes of the 154 wrecks were: Collisions, 35; struck shoals and sank, 19; driven ashore or foundered in gales, 40; burned, 9; unknown causes, 51. The causes of the 54 wrecks on Monomoy Shoals (north passage) were: Collisions, 19; struck shoals and sank, 13; gales, 10; burned, 1; unknown causes, 11.

Between the years 1880 and 1903 there are records in this office of 188 marine disasters on the Monomoy Shoals (north passage), not always, however, resulting in complete loss.

The 188 were: One ship, 2 brigs, 2 barkentines, 169 schooners, 2 sloops, 2 steamships, 1 steam yacht, 2 schooner yachts, 7 barges. Of the 154 wrecks removed, only 1 was in the south passage between Monomoy and Nantucket Shoals.

The length of that portion of the principal sailing route from New York to Boston on or near which the above 154 wrecks were removed is 98⅞ miles, and the length of the north passage through Monomoy Shoals is 13⅜ miles, the latter length being 13½ per cent of the total length. The percentage of wrecks removed in the north passage is, however, 35. Since June 30, 1909, 4 additional wrecks, consisting of 2 schooners and 2 barges, have been removed or reported for removal. The two schooners were wrecked in Vineyard Sound and Nantucket Sound, respectively, due to striking shoals. The two barges were wrecked on Monomoy Shoals, one of these being caused by collision with a steamer and one by striking on a newly formed and unmarked shoal.

The main dangers of passing through the Monomoy Shoals by the present north passage, and which the proposed improvement, it is claimed, would lessen, are due principally to the following, taken in connection with the great number of vessels passing: Narrowness and tortuousness of the channel, fog, tidal currents, adverse winds.

Narrowness and tortuousness of channel.—The present channel from the Handkerchief Shoal Light Vessel to the northeast whistling buoy on the three courses above described varies greatly in the different parts with regard to the width and depth. The narrowest part of the section from the Handkerchief Shoal Light Vessel to the Shovelful Shoal Light Vessel for a depth of 21 feet is about 3,600 feet near its northeastern end, while at the southwestern end there is practically no limit to its width on the southeastern side, the Handkerchief Shoal approaching it closely, however, on the northwestern side. On the course from the Shovelful Shoal Light Vessel to Pollock Rip Light Vessel the minimum width for 21 feet depth is 3,600 feet and the average width about 5,700 feet. For the section through Pollock Rip Slue from Pollock Rip Light Vessel to the northeast whistling buoy the minimum width for 21 feet depth is about 2,000 feet and the average width 3,200 feet. At the northern entrance of Pollock Rip Slue the shoal on the east, known as the broken part of Pollock Rip, has within the past year been found to have advanced in a marked degree westwardly, so that the bell and gas buoys marking the entrance have had to be moved 1,200 feet to the west, thus placing them practically on the sailing course.

The most dangerous points in the sailing course appear to be the turn at the Pollock Rip Light Vessel and the narrow passage through Pollock Rip Slue. So far as straightness is concerned, the proposed channel would be a marked improvement on the present one, largely diminishing the chances of collision in the narrow channels and at the turns.

Fogs.—The statement is made by the American Association of Masters, Mates, and Pilots, Volunteer Harbor, No. 4, that fogs are more prevalent here than on any other part of our coast. It has been impossible for me to verify this, but I think it may be assumed that fogs here interfere with more vessels than on any other part of our coast. The following statement furnished me by Capt. W. G. Cutler, United States Navy, inspector second lighthouse district, gives the hours of fog for the fiscal years 1906 to 1909 at the Pollock Rip and the Great Round Shoal Light Vessels:

Pollock Rip Light Vessel, No. 47:	Hours.
1906	1,065
1907	1,360
1908	1,236
1909	1,185
Average hours per year	1,211

Great Round Shoal Light Vessel, No. 42:	Hours.
1906	917
1907	1,625
1908	1,378
1909	1,119
Average hours per year	1,259

As to the time of year and direction of wind in which fogs are most frequent in this locality, the Atlantic Coast Pilot says:

"Fogs are liable to occur at any time, but are more frequent from April to October than during the remainder of the year. They come very frequently with the easterly and southerly winds; northerly winds carry them away."

Probably a majority of the disasters on these shoals have occurred during fog. Collisions are generally due to the narrowness of the channel, particularly in Pollock Rip Slue, to the sharpness of the turns, and to the large number of steamers and tows passing through in thick weather.

Were the steamers and tows to cease using this channel, as is expected on the completion of the Cape Cod Canal, the danger to sailing vessels from collision would be reduced to a small part of what it is at present. Under present conditions it would also be greatly reduced if all sailing vessels were to use the main or south passage via the Great Round Shoal Light Vessel, by which the route from New York to Boston is lengthened by only about 12 miles.

Tidal currents: Regarding these the Atlantic Coast Pilot speaks as follows:

"Northward of Pollock Rip the general set of the flood is eastward of northeast and of the ebb a little westward of southwest. The current sets in all directions of the compass during the 12 lunar hours without ever being at rest, turning from north to east and from south to west (with the hands of a watch). About 4 miles is the greatest velocity observed. This was on the rips eastward of Nantucket Island. About 3 hours after the currents turn they attain their greatest velocity."

Eldridge's Tide and Current Book, 1894, states that at Pollock Rip Light Vessel the flood current at the time of its greatest velocity runs from west-southwest to west; the ebb current from east-northeast to east. The force and direction of the current is greatly altered by strong, long-continued winds.

Eldridge's chart gives for a point about one-half mile west by south of the Northeast Whistling Buoy an average velocity for the ebb of 1½ miles and for the flood 1½ miles, which is about the same as given by him in the wider part of Nantucket Sound and is much less than for the narrower portions of Vineyard Sound. The greatest danger due to these currents appears to be from the fact that they vary constantly in direction and frequently tend to set vessels on the shoals. This danger would probably be lessened by the proposed channel, both on account of its direction and width.

COST OF CONSTRUCTING AND MAINTAINING PROPOSED IMPROVEMENT.

Letters and printed matter received indicate a belief on the part of the writers that the proposed channel involves a very small amount of dredging. One of them states that it "gives a working channel with a minimum of dredging; in fact, is almost a natural channel."

The description issued by the American Association of Masters, Mates, and Pilots, Volunteer Harbor No. 4, contains the following:

"In the proposed channel there is at present a little more than a mile where the depth of water ranges from 14 to 20 feet, the balance being a natural channel, with depths from 4½ to 8 fathoms, obstructed only by the lumps north of Stone Horse Shoal, which at present have a depth of 21 feet."

The above fairly states the present conditions except as to certain depth figures. There is now a natural channel between Pollock Rip Shoal and Bearse Shoal having a least depth of about 3¾ fathoms and a second narrower and shallower channel through Pollock Rip Shoal parallel to it, both being within the limits of the proposed channel. The chart does not give the depths in the second channel mentioned. The least depth on Pollock Rip Shoal within the limits of the proposed channel is given on the chart as 12 feet. The lumps north of Stone Horse Shoal, as shown on the chart, consist of four small lumps and a narrow shoal about one-third of a mile in length, the least depth on the latter, as shown on the chart, being 12 feet. In spite of the fact, however, that much of the proposed channel is, as stated, a natural channel, a very considerable amount of dredging would be required to secure the width and depth desired. No Government hydrographic survey of this locality having been made by the United States Coast and Godetic Survey since 1906 (possibly not since 1902) the latest chart furnishes only a very approximate idea of the amount of dredging that may be required. (For example, the 1900 chart, the latest hydrography on which is of 1899, shows a depth of 14 fathoms. The latest chart, on which corrections to hydrography to 1906 are made, shows a depth at the same point of 28 fathoms. At another point where the 1900 chart shows 4¾ fathoms the latest chart shows 8¾ fathoms.)

On this latest chart the amount of material shown above the 26-foot plane is between 15,000,000 and 20,000,000 cubic yards, the few soundings allowing only a very rough calculation to be made. The amount of back fill during the work I should expect to be large. Costly seagoing suction dredges would have to be constructed for this greatly exposed work. The material is believed to be sand only. The above statements are made for the purpose of indicating only that the work can not be done at so low a cost as seems to be believed.

The question as to the possibility of maintaining at a reasonable cost the channel when constructed appears in this case to be of much greater importance than in the usual case. The shoals are undoubtedly of a shifting character. A comparison of Coast Survey charts issued from 1860 to the present time shows enormous changes in the channels and in the shape and position of the various shoals.

On the chart of 1860 the principal passage from Butlers Hole (deep water southwest of Shovelful Shoal Light Vessel) to the ocean was due east from Pollock Rip Light Vessel through a 5-fathom passage south of the broken part of Pollock Rip. The chart of 1874 shows this passage closed by the 5-fathom contour, which is continuous from off Chatham around the entire group of the Monomoy Shoals, the distance between the outside and inside 5-fathom curves being but 600 yards, with a depth of 4¾ fathoms between. The 1885 chart shows this distance to be about 800 yards, with 3¾ fathoms between and with several small shoals carrying less than 3 fathoms in the immediate vicinity. The 1888 chart shows this distance to be about 2,500 yards, with a minimum depth of 3¾ fathoms. The 1894 and 1900 charts give the distance as about 900 yards, with a minimum depth of 3¾ fathoms. The 1908 chart gives the extreme distance between the inside and outside 5-fathom contours as about 3,600 yards, with a

minimum depth of 3½ fathoms, but with an intervening hole of 5 fathoms. The position of this easterly passage moved south from its 1860 position, the course from the Pollock Rip Light Vessel changing from due east to about southeast. (This passage is not the main or south passage by the Great Round Shoal Light Vessel.) The minimum depths all occur in the extreme easterly part and appear to be the southerly extension of broken part of Pollock Rip, the shoaling on the inside being much less in depth but extending over a wider area.

On the 1894 chart, along the north side of the deep water extending easterly from Butlers Hole, the 5-fathom curve extends noticeably into these shoals in three arms, which continue through the shoals with lesser depths, forming secondary channels—one close to the shore of Monomoy Island, one almost dividing Bearse Shoal from Pollock Rip Shoal, and one between Pollock Rip Shoal and the broken part of Pollock Rip. The first of these was not shown on the 1860 chart, and the other two were not very prominent; but with the closing of the eastern 5-fathom passage they have increased, until, on the chart of 1900, the passage between Bearse and Pollock Rip Shoals shows a minimum depth of 3¼ fathoms and that between Pollock Rip Shoal and the broken part of Pollock Rip, known as Pollock Rip Slough, carried 4 fathoms, with a distance of only 450 yards between the outside and inside 5-fathom curves. On the 1908 chart this latter passage has shoaled considerably, and shows but two isolated spots exceeding 5 fathoms in depth; it is the passage most used by vessels and is considered safe for 3½ fathoms. As above stated, the broken part of Pollock Rip has recently made out about 1,200 feet to the westward, considerably narrowing the northern entrance.

In 1860 the Shovelful Shoal and Bearse Shoal, as defined by the 18-foot contour, were continuous and separated from Pollock Rip Shoal. In 1874 the first two of these were separated and the last two were joined together, with the southern part of Pollock Rip Shoal broken into a number of smaller shoals, which condition has continued up to the latest chart, but with varying outlines on the successive charts. The Handkerchief Shoal, which is rather more protected from the heaviest waves than the outlying shoals and therefore more nearly continuous in form, had approximately the following areas inclosed within the 18-foot curve (the dates refer to the dates of issue of charts).

	Acres.
1860	1,900
1888	2,660
1894	2,980
1908	3,230

The above shows a continuous increase amounting to 70 per cent in 48 years.

The area of water exceeding 5 fathoms in depth in the eastern extension of Butlers Hole, within which area are stationed the Shovelful Shoal and Pollock Rip Light Vessels, and limited on the west by a line drawn from the northern limit of Stone Horse Shoal to Monomoy Point, is as follows:

	Acres.
1860	3,200
1888	3,000
1894	3,600
1900	3,700
1908	2,670

The measurement of any of the extreme outside shoals would be very unsatisfactory, as these are very much broken up and often indicated as a small circle around a single sounding.

The areas of shoals within the proposed channel on which the depth is less than that proposed are approximately as follows on the various charts:

Date.	Stone Horse Shoal and lumps north of it.	Pollock Rip and Bearse Shoal.	Total.
	Acres.	*Acres.*	*Acres.*
1860	192	1,020	1,212
1874	100	840	940
1885	180	840	1,020
1888	210	910	1,120
1894	260	960	1,220
1900	250	940	1,190
1908	280	1,000	1,280

The following is taken from Eldridge's Coast Pilot, 1890:

"Pollock Rip: During the last 40 years the water upon this dangerous shoal has been gradually increasing in depth. In 1832 some part of it was dry at low tide; in 1842 the least depth at low tide upon it was 3 feet; in 1852, 5 feet; in 1862, 6 feet; in 1872, 7 feet; and in August, 1887, 8 feet. From 1 to 1½ miles to the northward of the Pollock Rip, there are at this date (1890) many ridges of sand or broken rips, which are constantly changing in depth and should be avoided by large or heavy draft vessels.

"Broken part of Pollock Rip: During the last 30 years this broken ground has extended seaward about four-tenths of a mile; the surveys that have been made across it from time to time during that period, show changes in the depth of water in the ship channel.

"Ship channel: In 1852, on a direct course E. by S. ¼ S., from Pollock Rip Lightship, not less than 30 feet of water was found in this channel at low tide. In 1862, 24 feet; in 1872, 20 feet; and in August, 1887, 16 feet.

"Northeast Channel (Pollock Rip Slough Channel): The depth in this channel since 1851, has been constantly changing. A careful survey in August, 1887, shows not less than 17 feet on a direct course N. E. ¼ N. from Pollock Rip Lightship."

Also the following:

"The sand ridges on the northern part of Stone Horse Shoal near Shovelfull Lightship are constantly changing in depth."

From the above statements of changes in the shoals, together with the fact that on the edges of the proposed channel the depths would in many places be as small as 10 feet, and considering the great exposure of these shoals to violent storms, with consequent great movements of sand, it is apparent that the maintenance of this channel would almost certainly be very expensive.

BENEFITS TO BE DERIVED FROM PROPOSED IMPROVEMENT.

One of the benefits to be derived from the improvement is a probable reduction in the number of wrecks occurring annually on these shoals, with frequent loss of life. The annual cost to the Government of removing these wrecks has averaged about $3,269. No reliable information as to the diminution in the number of wrecks which would result from the improvement appears possible, though under present conditions there would undoubtedly be a considerable reduction.

The water distance from New York to Boston would be shortened by about 2 miles, this benefit being very slight as compared with the cost.

Considerable correspondence has been had with parties interested in the improvement and with others with a view to determining what reduction in freight and insurance rates could be expected if the improvement were made.

Regarding freight rates, Capt. R. M. Lavender, port warden, port of Boston, states:

"It is my opinion it would not change the freight rates, as these are at present as low as the common carriers can afford to carry coal."

Capt. John C. Silva, past president American Association of Masters, Mates, and Pilots, of Staten Island, says:

"If it is possible to reduce freight rates in any way on earth, it is by negotiating one channel with but one turn in preference to making three turns over uncertain broken ground in the same short limit of space. I feel that by lessening the number of turns to make we would proportionately lessen the danger of running ashore or of collision on a thoroughfare so very important as this."

The American Association of Masters, Mates, and Pilots, Volunteer Harbor No. 4, states:

"We do not expect any decrease of freight rates, but we are assured by the insurance people that we can expect a decrease in the insurance rate, as this and Hell Gate are considered the two most dangerous points on the coast for insurance."

The following statement as to freight rates and insurance on coal between New York and Philadelphia as points of shipment and Boston as a point of delivery during the years 1906, 1907, and 1908 has been kindly furnished me by Mr. J. S. W. Holton, president Philadelphia Maritime Exchange:

Insurance on approved vessels.

[Rate per $100 of value of cargo and vessel.]

	New York terminals to Boston.			Philadelphia to Boston.		
	Under 10 years old.	Between 10 and 15 years old.	Over 15 years old.	Under 10 years old.	Between 10 and 15 years old.	Over 15 years old.
Apr. 1 to Oct. 31	$0.50	$0.60	$0.75	$0.55	$0.65	$0.80
Nov. 1 to Mar. 31	.75	.75	1.25	.80	.80	1.30

Vessel rates per ton alongside.

[Averages of the highest and lowest rates of the year.]

	New York terminals to Boston.	Philadelphia to Boston.
1906	$0.50 to $0.55	$0.78
1907	[1].60	1.05
1908	[1].55	.63

[1] These rates are from what is known as lower ports. From upper ports they would be from 3 to 5 cents less.

Regarding what reduction can be expected in insurance rates, the Boston Insurance Co. states as follows:

"There are no fixed rates of insurance. We make our rates dependent entirely on the different vessels, the time of year, etc., nor could we promise any reduction on account of the improvements, because the coal business has not been running well, and the different underwriters interested in this class of business feel that the rates are now too low. We would be very glad to have the improvements made, and believe they would lessen the dangers; but the question of future rates would depend entirely on the experience of the business."

The Home Insurance Co., of New York, states:

"I have noted with great interest your remarks, and regret very much that it does not seem possible that any definite answer, such as you would wish to have, can be made to your inquiry. Our company is not engaged in the insurance of sail vessels or their cargoes, but we are interested in other kinds of coastwise shipping. We, with all other underwriters, recognize the dangers of Pollock Rip Shoal and Stone Horse Shoal, and in 20 years' experience I can recall losses owing to these perils aggregating without doubt, I should judge, several hundreds of thousands of dollars, in many of which this company has suffered; but I do not see how it is possible to calculate what percentage of the rate paid for the insurance of a coastwise vessel or her cargo can be directly chargeable to these particularly hazardous locations.

"You will understand that the rates on the various classes of coastwise vessels vary very materially in accordance with the class of vessel, her age, trade, etc. For instance, on an iron or steel tug, with privilege of the north Atlantic coast, the rates would vary from 4 to 7 per cent per annum, based on the age and condition of the vessel. In the case of an ocean barge the rates vary from 5 to 12 per cent, according to age, construction, and route. The rates on coastwise steamships vary from 3 to 8 per cent. All these classes of vessels are customarily insured under an annual policy, the rate paid being for the average for an entire year, and the rates are theoretically based on the outcome of the business for a series of years, modified by competitive conditions, so that it does not seem at all possible to say how much of the rate is chargeable to a specific location or hazard.

"The proposed work in the locality referred to would undoubtedly be of immense value to coastwise shipping; and as every improvement in the conditions of navigation on our coast has been sooner or later followed by a reduction of the insurance premiums on vessels exposed to the hazard in question, it is reasonable to suppose that the improvement

of the location would lead very quickly to a reduction of insurance premiums on vessels trading in the waters affected.

"I regret that I can not give you a more specific answer to your requirement; but, in my opinion, to attempt to estimate in advance a reduction, based on the improvement in question, would be at best a vague conjecture."

The Providence-Washington Insurance Co., of Providence, R. I., states:

"Any improvements in navigable waters which tend to reduce losses necessarily reduce marine-insurance rates. The competition is intense, and the business is done very close to cost; sometimes below.

"In this case the rates might possibly be reduced slightly as soon as the improvements were made; but when the companies found that their losses were materially reduced in consequence of the change, heavier reductions in rates would necessarily follow."

Messrs. Johnson & Higgins, of New York, make the following statement:

"We are unable to answer your question as to what effect this will have on marine insurance, as we do not make the rates, being only brokers. It seems to us that your inquiry should be addressed to underwriters, who alone would be capable of making a definite reply. Incidentally, we might say that we do not believe the removal of this shoal will affect the rates of insurance. These rates are based upon the character of vessels employed and the results shown over several years of experience. We do not know what proportion of wrecks has occurred on Stone Horse Shoal; but we are certain that there are many other dangerous points on the route between New York and Boston and Chesapeake Bay points and Boston which will continue a menace to navigation, and will necessitate the gauging of insurance rates accordingly."

CONCLUSIONS.

The great importance of the coastwise trade between New England and the Middle and Southern States around Cape Cod, were the commerce to remain as it now stands or to increase, would seem to justify a considerable expenditure by the Government on any feasible plan toward reducing the great annual loss of property and life due to the dangers of Monomoy Shoals. As stated above, however, it is believed that the dangers due to the present large commerce, and particularly the danger of collision with steamers and long tows, will be very greatly reduced upon the completion of the Cape Cod Canal, though the exact effect of the construction of this canal is not yet known. Further change in the present conditions of water commerce may be expected if an inland water route between Boston and Beaufort, N. C., is later provided. The proposed channel would be costly of construction. The cost of maintaining it would be undoubtedly large and might be so great as to be impracticable. The question as to whether or not the Government should attempt by dredging to improve the passage through these shoals, either by the proposed channel or in any other way, ought, in my opinion, to await the developments due to the completion of the Cape Cod Canal at least.

It is my opinion, therefore, that this locality, as described in the river and harbor act of March 3, 1909, is not worthy of improvement by the General Government at the present time.

None of the special subjects of inquiry mentioned in the river and harbor act of March 3, 1909, in connection with the matter of preliminary examinations appear to apply to this case.

Very respectfully,

J. C. SANFORD,
Lieutenant Colonel, Corps of Engineers.

The CHIEF OF ENGINEERS, UNITED STATES ARMY
(Through the Division Engineer).

[First indorsement.]

NORTHEAST DIVISION, ENGINEER OFFICE,
Washington, D. C., November 19, 1909.

Respectfully forwarded to the Chief of Engineers, United States Army.

The locality in question is not worthy of improvement by the General Government. It is characterized by shifting shoals, and any artificial channel dredged through these would be unstable, and hence misleading.

While the record of marine disasters on the Monomoy Shoals (north passage) is large, like disasters in the south passage seem decidedly infrequent.

It is thought relief from the danger of rounding Cape Cod would more certainly follow using the somewhat longer course around and outside of Great Round Shoal than attempting to maintain a precarious artificial channel through the Monomoy Shoals.

JOHN G. D. KNIGHT,
Colonel, Corps of Engineers, Division Engineer.

[Third indorsement.]

BOARD OF ENGINEERS FOR RIVERS AND HARBORS,
Washington, D. C., January 3, 1910.

Respectfully returned to the Chief of Engineers, United States Army.

The preliminary examination of Nantucket Sound reported upon within was ordered with a view to the removal of the northerly end of Stone Horse Shoal and of such portions of Bearse Shoal and of Pollock Rip Shoal as may be necessary. After a description of the existing channels in this locality, the present and prospective commerce involved in their navigation, and other related subjects, the district officer reaches the conclusion that the proposed channel will be costly of construction and of maintenance and that the benefits to be expected from the work will not justify the expenditure required to accomplish the proposed improvement. In this opinion the division engineer concurs.

Interested parties having been invited by the district officer to submit their views to the board, Capt. Spinny, representing the American Association of Masters, Mates, and Pilots, came before the board at its meeting of December 7, 1909. From observations covering a period of 20 years, he stated that the tidal currents appear to follow the line of improvement now desired and that, while the shoals in the vicinity of the channel now followed have been more or less shifting, the general thread of the channel has remained comparatively stationary, from which observations he, in common with navigation interests in general, believes that the maintenance of a straight channel as indicated on the map (not printed) submitted by him and forwarded herewith would be a matter of small cost.

As to the correctness of these views the board expresses no opinion. From the statements made and from other information before it, however, the board is of the opinion that the commercial and navigation interests utilizing this channel are of sufficient importance to render it advisable to have more precise information as to tidal currents and as to the cost of constructing and maintaining an improved channel through these shoals than is now available, particularly as the advisability of undertaking the work is dependent largely upon the cost of providing the desired channel and upon the stability of such a channel if constructed. It is therefore recommended that the district officer be authorized to make the necessary surveys to investigate these questions and determine, so far as practicable, the direction of tidal currents, etc., and in connection with his further report it is recommended that he also submit an estimate of cost of the work involved.

It is realized that in order to secure full data regarding the above it may be necessary to extend observations over a considerable period of time.

For the board:

WM. T. ROSSELL,
Colonel, Corps of Engineers,
Senior Member of the Board.

[Fourth indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, January 12, 1910.

Respectfully submitted to the Secretary of War.

This is a report on preliminary examination of Nantucket Sound, Mass., authorized by the river and harbor act of March 3, 1909.

Inviting attention to the report of the Board of Engineers for Rivers and Harbors in the preceding indorsement, I recommend that a survey of the locality, as proposed by the board, be authorized.

W. M. MARSHALL,
Chief of Engineers, United States Army.

[Fifth indorsement.]

WAR DEPARTMENT, *January 13, 1910.*

Approved.

ROBERT SHAW OLIVER,
Acting Secretary of War.

SURVEY OF NANTUCKET SOUND, MASS.

WAR DEPARTMENT,
UNITED STATES ENGINEER OFFICE,
Newport, R. I., November 21, 1911.

SIR: The board of officers constituted by Special Orders, No. 21, office of the Chief of Engineers, August 28, 1911, to consider and report on survey of Nantucket Sound, has the honor to submit the following report:

Upon call of the senior member the board met at the United States engineer office, Newport, R. I., on Tuesday, October 17, 1911, at 11 o'clock a. m. The reports, maps, and other data pertaining to the subject were examined, and on the 18th a duly advertised public hearing was held at the same place. A stenographic report of this hearing is appended. After discussion the board adjourned pending the preparation of a draft of its report. It met again on November 21, when the draft was considered and, with some modifications, was adopted. The full board was present at all meetings and at the hearing.

The provision for examination and survey of the locality as contained in the river and harbor act of March 3, 1909, is as follows:

"Nantucket Sound [Mass.], with a view to the removal of the northerly end of Stone Horse Shoal and of such portions of Bearse Shoal and Pollock Rip Shoal as may be necessary."

The duty of making the preliminary examination under this provision was assigned to Lieut. Col. J. C. Sanford, Corps of Engineers, then in charge of the Newport, R. I., engineer district. His report of November 16, 1909, gives a detailed description of the locality and of the difficulties and dangers of navigation in the general vicinity, with general data relative to winds, seas, and currents, and statistics of commerce. Lieut. Col. Sanford describes the nature of the improvement desired, considers in a general way the cost of making and maintaining the proposed improved channel, and concludes that the locality is not worthy of improvement by the General Government at the present time, on account of the cost of the work, uncertainties of the results, and probability that the difficulties it is sought to remedy will be ameliorated by the completion of the Cape Cod Canal, as well as on account of changes in the conditions of water commerce that may result if the proposed inland water route between Boston and Beaufort, N. C., is later provided. The division engineer, Col. J. G. D. Knight, Corps of Engineers, in indorsement of November 19, 1909, concurred in the view that the proposed improvement was not advisable.

The above report was reviewed by the Board of Engineers for Rivers and Harbors in connection with subsequent representations by persons in favor of the improvement. In an indorsement of January 3, 1910, that board expressed the view that the interests concerned were sufficient to warrant obtaining more detailed and definite information regarding the local conditions and probable cost of the improvement. Additional surveys, observations, and estimates were made under instructions from the Chief of Engineers, and the results have been carefully studied by the board.

The improvement desired by the navigation interests is the creation by dredging of a straight channel not less than seven-eighths nautical mile (1 statute mile) wide and 30 feet deep at low water, from the Handkerchief Light Vessel, about 5½ miles southwest of Monomoy Lighthouse, extending northeastward to the whistling buoy near the present northern entrance to the Pollock Rip Slough. A very large commerce of over 20,000,000 tons annually will be benefited greatly if it be practicable to construct and maintain such a channel. The dangers and difficulties encountered in navigating the present crooked, and in places narrow, channel through the shoals and the benefits to be anticipated from the creation of a broad and straight 30-foot channel in place thereof are well stated in the appended report of the hearing of October 18, 1911. The only opposition to the creation of the proposed channel, so far as the board has learned, has come from persons interested in the success of the Cape Cod Canal, now under construction. They assert that the proposed straight channel through the shoals will be unnecessary after that canal is opened, and that the Government would do better to appropriate money for breakwaters to protect the northern entrance to the Cape Cod Canal than to expend funds for dredging the proposed straight channel. The question of such a breakwater is not before the board. The statement that even after the Cape Cod Canal is opened a large commerce would continue to use the outside route through the Pollock Rip Slough was repeatedly made at the hearing.

The appended estimates of quantities to be dredged and other data have been compiled in compliance with the request of the Board of Engineers for Rivers and Harbors. In a general way they indicate that dredging and maintenance of the proposed channel may be practicable, but the successive surveys available for comparison were made at too long intervals to afford data on which to base reliable conclusions and estimates of cost.

In 1860, 1874, and 1885 the channel is shown extending in an easterly direction from the Pollock Rip Light Vessel, though there was also a northerly channel from this light vessel in 1874 and in 1885. In 1895 and 1908 a northerly channel is the only one shown. There were also various changes between the Pollock Rip Light Vessel and the one near the southern portion of the Handkerchief Shoal during the period covered by the charts, and corresponding changes in the sailing courses and the light vessels marking them. It will be noted, however, that during the period covered by the several published charts referred to a clear channel or passage with over 30 feet depth at low water has existed in a fairly permanent position, extending westward and southwestward from the mean position of the Pollock Rip Light Vessel to that of the Handkerchief Light Vessel, and the general total width of the passage has remained a mile or more, except at the turn in the vicinity of the Shovelful Light Vessel, where the width of channel 30 feet deep and over at mean low tide has been about one-third of a mile. The distance in a northeast direction from deep water south of Bearse Shoal to deep water beyond Pollock Rip has not been more than about 2 miles at any one time, and the line of the shortest course across this shoal portion of the proposed channel has not undergone very radical changes in direction or position, although it has been far from constant in these respects. Especial attention is invited to the comparative chart on which is shown the number of cubic yards of cut and fill in the area covered by the proposed channel found by dividing that area into squares one-third of a mile on a side, and computing the mean depth in each square at the time of each survey.

The available information regarding the material of which the shoals are formed is to the effect that they are largely composed of sand of a character to be easily handled by a suction dredge, but at the hearing on October 18 the view was expressed by one of the speakers that in places below the depth of 6 or 7 fathoms there is hard mud or clay under the sand. It was also stated that rock or bowlders were to be found on Stone Horse Shoal. The narrow and deep channel that has been maintained in the vicinity of the Shovelful Lightship indicates that possibly in that locality the shoals contain harder material than sand. The possibility of clay and bowlders forming part of some of the shoals is indicated by the general characteristics of some of the islands and portions of the mainland of southeastern New England. The exposed location has so far prevented a definite determination of the nature of the material that will have to be dredged to form the proposed channel by borings or otherwise, but the fact that at times the surveys have shown 30 feet or more of water where the depths are now much less indicates that a large part of the yardage to be removed is mobile in character, and hence is probably sand.

Consideration of the above conditions in connection with the other data available leads to the conclusion that the practicability of dredging and maintaining the proposed channel can be determined only by trial on a large scale. The great volume of commerce concerned, certainly over 20,000,000 tons per annum, and the prospects for at least partial success are such as to warrant an expenditure by the General Government for such an attempt. Any widening of the available channel in the vicinity of Shovelful Shoal Lightship by dredging the northern portions of Stone Horse Shoal would be immediately beneficial to commerce, as it would give more sea room at this dangerous turn and would greatly reduce the dangers of collision; this could undoubtedly be secured while the dredging of the complete straight channel was in progress, even if the entire straight channel could not be completed. A much narrower channel through the Pollock Rip near Bearse Shoal than the one proposed could be utilized to advantage by steam vessels under favorable conditions, and the successful creation of such a narrow channel would afford a practical test of the question whether the wider channel could be maintained at reasonable cost by dredging, assisted by the scouring action of the currents.

The United States owns a number of seagoing dredges adapted to this general class of work, and the board has been informed that other works on which they are engaged are now in such shape that one or more of these dredges may be available within the year for practical tests on the Pollock Rip Shoals and vicinity. Such tests, besides producing results immediately beneficial to navigation, would develop beyond conjecture the nature of the material to be handled, the cost of its removal, and whether any changes in the existing types of seagoing dredges are needed for economical and effective work at this locality. If the results so attained should warrant undertaking the dredging of a complete channel, as suggested by those interested in the improvement, the most advantageous and economical methods of carrying out the work, and its cost, would be more definitely known than at present.

We therefore recommend that an appropriation of $250,000 be made for improving the channel through the shoals at the eastern approach to Nantucket Sound in general accordance with this report, the wording of the act to be such as to make it plain that the United States is not committed to the continuance of the improvement beyond the $250,000. After the work has been carried forward to that extent, the advisability of further work should receive consideration

Respectfully submitted.

FREDERIC V. ABBOT,
Colonel, Corps of Engineers.
JOHN MILLIS,
Colonel, Corps of Engineers.
EDW. BURR,
Lieutenant Colonel, Corps of Engineers.

The CHIEF OF ENGINEERS, United States Army.

[Second indorsement.]

THE BOARD OF ENGINEERS FOR RIVERS AND HARBORS,
Washington, December 19, 1911.

Respectfully returned to the Chief of Engineers, United States Army.

This is a report upon survey of Nantucket Sound with a view to improvement in the vicinity of Pollock Rip Shoals, submitted by a special board to whom was assigned the duty of making this investigation. It appears that much interest has been manifested in this improvement, which indicates its importance and its bearing upon general commerce and navigation. The special board states that the improvement desired by navigation interests is a channel not less than 1 mile in width and 30 feet in depth at low water from the Handkerchief Light Vessel about 5½ miles southwest of Monomoy Lighthouse, extending northeastward to the whistling buoy near the present northern entrance to the Pollock Rip Slue, to replace the present crooked and in places narrow channel.

A study of the charts of this locality indicates that the present channel of about 30 feet minimum depth through these shoals has existed for a number of years, but has undergone decided changes in its location, indicating the mobile character of the material on the bottom. The special board finds it impossible to make a reliable estimate of the cost of dredging and maintaining a channel of the dimensions desired by the navigation interests, and concludes that the practicability of the work can be determined only by trial on a large scale. It calls attention to the fact that the United States owns a number of seagoing dredges adapted to this class of work, and that one or more dredges of this type will probably be available within a year for such a test. The prosecution of the work along these lines would produce immediate benefits to navigation, and would definitely determine the nature of the material to be handled, the cost of its removal, and the suitability of these dredges for work of this character. Believing the locality worthy of such a test, the special board recommends an appropriation of $250,000 for this purpose, and stated that the authorization of this trial should not bind the United States to continue the improvement beyond the appropriation recommended at the present time, the advisability of further work to be determined after the results of the test now proposed are made known.

The question of a safe and adequate channel in this vicinity is a very important one to navigation interests. The course suggested by the special board is conservative, comparatively inexpensive, and should determine much more definitely than is now possible the feasibility and desirability of attempting the full improvement desired. This board therefore concurs in the general findings of the special board, and recommends an appropriation of $250,000 for the work proposed. The total amount should be made available in one appropriation. In this case there are no questions of terminal facilities, water power, or other related subjects that have any bearing upon the improvement proposed.

For the board:

WM. T. ROSSELL,
Colonel, Corps of Engineers,
Senior Member of the Board.

OCTOBER 18, 1911—11.10 A. M.

Col. ABBOT. The meeting will please come to order. By Special Orders, No. 21, War Department, Office of the Chief of Engineers, Washington, August 28, 1911, a board consisting of Col. Frederic V. Abbot, Col. John Millis, and Lieut. Col. Edward Burr, Corps of Engineers, was appointed to consider and report on the survey of Nantucket Sound, with a view to the removal of the northerly end of Stone Horse Shoal and of such portions of Bearse Shoal and Pollock Rip Shoal as may be necessary, provided for in the river and harbor act of March 3, 1909. The board was authorized to hold a public hearing, which has just been called to order. The board has before it the technical data necessary to answer the questions of how and where and as to cost. We have asked you gentlemen to come here so that we can learn from you the needs for such a channel, the best figures we can obtain as to how much commerce will use it, how much is passing through there now, and as to the dangers of the present conditions, and any other facts bearing upon the economical side of this question. There is a technical side and an economical side. We have the data for the technical side.

I shall ask Mr. William C. Brewer, of the Boston Chamber of Commerce, to present his matter first, as I know he desires to go to New London by one of the early trains.

STATEMENT OF MR. WILLIAM C. BREWER, OF THE BOSTON CHAMBER OF COMMERCE.

Mr. BREWER. I thank you, Mr. Chairman. First I will say that about the 4th of October the committee on maritime affairs of the Boston Chamber of Commerce received a communication from you to the effect that this matter was under consideration. As soon as was possible the committee sent out notifications to the various maritime interests of Boston, including the ship-owning and the shipbuilding interests, the navigation interests, and the marine underwriters. The earliest possible date at which it was convenient to have a general meeting was yesterday morning. The committee met and before them appeared an unusually large representation of the marine interests. It was the largest representation, I think, in the history of the Boston Chamber of Commerce in such a matter. I merely mention this as showing the interest taken in the project. There was submitted a plan showing the general direction of the channel. In a brief way it was stated about what the cost would be. The testimony then given by shipowners and by masters generally showed the great need for this improvement, great emphasis being laid on the tortuous and dangerous nature of the passage at the present time and the very great need of straightening it. Details were entered into at considerable length showing the use such a channel would be to navigation, how it would facilitate the passage of shipping over the shoals which is now held up by inclement weather at both ends. Everybody there had a chance to speak. Capt. Crowley will speak later as to these details, he being my associate here from the Boston Chamber of Commerce, and will go more into the details. Coastwise shipping companies were represented, most of the marine underwriters, some of the steamship owners, and some of the sailing-vessel owners. There were also presented a number of letters from masters of coastwise steamers, and all testimony given was entirely in favor of this project. There was no dissenting note from anybody. The committee was most anxious to have it go through, and endeavored to find out more definitely what would be the cost of the project, but no figures were submitted by anybody. After the meeting—and this in particular is my duty here—the committee passed a vote unanimously favoring the project.

In order to present this matter to you as effectively as possible and to show the interest taken in the matter by the chamber of commerce, they then passed a vote that the president be asked to appoint a committee to be present at this hearing, and the president appointed myself and Capt. John G. Crowley for that purpose.

STATEMENT OF CAPT. JOHN G. CROWLEY.

Capt. CROWLEY. Mr. Chairman, I was appointed one of the committee to come here. I represent the Boston Chamber of Commerce and also the Coastwise Transportation Co., which has 21,000 tonnage of steamers and 32,000 tonnage of sailing vessels.

Being a master mariner myself and having traveled over Nantucket Shoals as long as any man here, from boyhood, and coming here to speak of this channel, I wish to say that I think this is one of the greatest schemes ever put before the public, as it makes a straight course from the Handkerchief Lightship out to the open sea, and vice versa. We have to make this angle here [indicating on chart], go out to Great Round Shoal and make another turn, encountering the cross currents both ways. If this channel were provided, we would have a straight course through there. Sailing vessels coming down from Boston have to anchor in the channel, it being impossible to come up here [indicating]. We do not have proper anchorage. The *Calvin Olcott* came down here and could not make the angle and had to anchor off there [indicating]. She parted her chains in the storm and was driven ashore, the crew being lost, the life-savers being unable to reach them. Coming from the westward, it is almost impossible in a northwest gale to come down here with a sailing vessel. We have to stop at the Handkerchief; therefore the vessels are late in returning to Boston. With this channel, as proposed, a vessel could come right down on a straight course. This channel through there, with a very small expenditure of money, will give a straight channel—something that is needed more than anything else that I know of at the present time by coastwise and foreign vessels.

Col. ABBOT. What depth is needed, in your opinion as an expert navigator, for this proposed channel to accommodate the deepest draft traffic likely to use it?

Capt. CROWLEY. At the present time, 30 feet. Our largest steamer draws, loaded, about 26 feet.

Col. ABBOT. Is there any place along the route from Long Island Sound to Boston where there is a less depth than 30 feet of practicable navigable width?

Capt. CROWLEY. No, sir.

Col. ABBOT. Any in Nantucket Sound?

Capt. CROWLEY. No, sir.

Col. ABBOT. And by the Cross Rip Lightship you can use 30 feet?

Capt. CROWLEY. Yes; we have to make a sharp turn there. There are one or two points almost east of the lightship also.

Col. ABBOT. That is also a dangerous location?

Capt. CROWLEY. Yes, sir.

Col. ABBOT. How is the exposure there? Is it as dangerous as at Monomoy?

Capt. CROWLEY. No, sir; it is less dangerous.

Col. ABBOT. Why?

Capt. CROWLEY. Because if a vessel starts to go across there she can be held off.

Col. ABBOT. And is that a good reason why you do not need more than 30 feet, as it is narrow at Cross Rip?

Capt. CROWLEY. Yes, sir.

Col. ABBOT. We want to know what you need in depth in order to develop all the benefit we can with this one improvement.

Capt. CROWLEY. Thirty feet is all that is required.

Col. ABBOT. Now, I would be glad to hear anybody else on this same side.

STATEMENT OF CAPT. R. M. LAVENDER, PRESIDENT PILOTS' ASSOCIATION OF BOSTON.

Capt. LAVENDER. Having from my boyhood days navigated Nantucket Shoals, and knowing the conditions that existed there in those days with lighter draft vessels, and also knowing that in later years the channel has grown deeper, and taking into consideration the conditions now, it has been demonstrated, I think, that this channel can easily be kept clear by a little dredging work. It has deepened from 12 to 20 feet now by the constant use of it by steamers. I can vouch for all that Capt. Crowley has said. We know the conditions as they existed and as they exist to-day, and we believe in the project.

STATEMENT OF MR. L. A. SPINNEY.

Mr. SPINNEY. Mr. Chairman, I was sent here as a member of the Pilots' Association and I also appear as a delegate from the Boston Marine Society. I believe that the first record of any active interest in this project was made by the Boston Marine Society; and I have deposited on the stenographer's desk a record of the action taken by that society.

(Submits paper, marked "Exhibit No. 5," copy appended.)

The society is composed of the marine men, including nearly all the men engaged in Boston and Massachusetts in maritime work, going back to the old ships and coming up to the present large steamers. In the year 1908 this project was brought up in the society during the middle of the year. At the November meeting a petition was circulated and by vote of the society the petition was sent to Congressman GREENE, with a request asking him to take the matter in hand. That year, through Congressman GREENE'S advice, the matter was taken up in Washington, and in 1909 an appropriation was secured for this survey. The matter was returned through the department to Col. Sanford. Going by the old surveys, from which the present charts were made, the colonel found several reasons why he did not think the matter was properly to be carried on at this time, due to the expense and other things. The department at Washington gave us a hearing on December 7. At that time the representatives presented their ideas and the matter was returned to the department with orders to prosecute the survey, which was made in August and December of last year. I wish we could have the technical information you have to use, because I believe it would be to our interests. You hear things about there being some opposition to this channel, but you can not quote anyone. I believe the information you have would be to our interest. The water must have been deeper up there than the charts show or else you would have broken water there; there would be a ripple instead of being smooth. I understand a man walked across there in the year 1850. With the tide running three hours out of every six in this channel it has removed a great deal of the sand. It must be much deeper there than the charts show or we would have broken water there. Your survey gives you the exact information.

Col. BURR. Which shoal are you speaking of now?

Mr. SPINNEY. Of Bearse Shoal and Pollock Rip Shoal. There was 12 feet of water there; now there are 25 feet. The volume of sand to be removed was estimated at 15,000,000 cubic yards. I understand from the survey that there is not much more than half of that there now. It seems that time has removed in 20 years a large body of sand That body of sand has been over one-third removed. The tide in that time would remove a sufficient amount of sand to entirely close up the channel if there was any disposition to close it. The tide which cuts this channel may be depended upon to keep it clear to a width of seven-eighths of a mile. The present channel is three-eighths of a mile wide. The strength of the tide runs three hours east-northeast and the other three hours in the alternate direction. When the tide changes it commences to slow up. This great body of sand would close up the channel if it had not tended to make deeper water by some force. They are using the same old channel as formerly, only it is carrying 25 feet of water instead of 12 feet. The increased draft of vessels has brought about a change in the bottom. Your chart shows a change of 4 fathoms, necessitating the moving of the buoy last year. Vessels of 22 or 23 feet draft struck on this slue. The vessels using the channel to-day go in the old channel, disregarding the way in which the buoy has been removed by the *Azalea*, I believe. What information was obtained was obtained in one period of slack water, and the information so gained in that 20 or 30 minutes led to the change of the buoy.

The old channel southwest of the Pollock Rip Lightship is still used. The sand has not moved out from the broken part to where the buoy is now; it is the old 4-fathom lump. The department has never removed a single wreck from this locality. There are hundreds of them there. They have been blown up by dynamite, and sand collects around the wreckage. If you will build a jetty by dumping a shipload of stone, it is reasonable to suppose that if you blow up a wreck with dynamite, when the wreckage rests you will collect some sand. The only lumps you will find there are formed by wreckage. The shoals are not changing except so far as this tide has forced its way through the shoals. There are 6 fathoms of water there now where there was but 3. The tide is bound to cut it out. In 20 years it would make its own channel. There is more traffic through that channel, so far as we can estimate, than almost any other. We have arrived at the conclusion, which I believe will be backed up by the figures, that there is more traffic through there than in any other place, except the port of New York, and even that exceeds only in tonnage; I question if it does in the number of vessels. The channel should extend west-southwest; now we have to go west-northwest, which is very difficult for sailing vessels. We should also look at this question from the humanitarian side. No matter what other relief you may provide, if you provide a canal it must be provided for by tolls. Only a certain class of traffic can use it anyway.

There always has been and there always will be a large class of vessels, sailing vessels, which will use the Pollock Rip Shoals Channel, whether you improve it or not; and you will continue to have loss of life and of property if you do not improve it. I think it would cost less to do this work than it costs the underwriters to pay the expenses of losses. I remember the day when the *Dimmock* and the *Hall* collided. The *Hall* was a total loss. The *Biscayan* collided with the *Goodenow*, and two other vessels were sunk, on March 12, 1908. The underwriters paid for that day more money than it would cost to construct this channel. This channel when dredged will be largely maintained by nature; otherwise the present channel would have been filled up and closed. I do not think there is any question of maintenance. The law which creates the present channel will maintain it. Sailing vessels will use that channel, particularly in the winter time, when any other relief would be closed by the location and geography of the place. Every winter vessels must round the cape to Provincetown, or go to destruction. That being the condition, aside from any other question at all, the channel should be provided for their protection from any gale that may come. If that was the only consideration, the argument would be well made for this improvement. The dangers are not so much from the stranding of a vessel as from collision. A tug with barges meets a tow coming down from the Shovelful. It has to make a sharp turn in there and you have collisions there. With this channel once straightened, the tide will keep it straight, and, I believe, will keep it deep. We could then keep one side of the lightship, and the great danger will have been removed in the minds of those using the channel. The eastern approach is what gives us the trouble.

Col. ABBOT. That is Bearse Shoal?

Mr. SPINNEY. Yes; Bearse Shoal.

The natural action of the tide has removed from one-half to two-thirds of the sand since the former survey. If we are saving every year the lives and property of the men who use the channel, that alone would be worth the constructing of the channel. One of the reasons formerly advanced against this channel was that there was no depot available for supplies. Now, Nantucket Harbor is being improved and supplies can be obtained there. The only other relief is the relief suggested by going through the canal, the Cape Cod Canal, and that involves extra expense, because it is a commercial proposition and must earn money to make it pay. The present rates of freight are so low that they do not allow vessels to pay tolls. This channel will always be used. On the petition for this improvement you will find every underwriter of importance, every insurance company of importance, every steamship company in New England of any importance—in fact, everyone who is called upon to use the channel. The Boston Marine Society, whose record I have handed in, has in its membership the chief interests involved. From all that class of people this improvement has their earnest support. If anyone would like to ask any questions, I will try to answer them.

Col. BURR. What are the freight rates at present?

Mr. SPINNEY. On coal, 60 to 75 cents a ton.

Col. BURR. From where?

Mr. SPINNEY. From Newport News and Chesapeake Bay points to Boston. I have been told by a representative of one of the steamship companies that the minimum rate of tolls through the Cape Cod Canal would be 10 cents a ton. They could not pay that. They are running so close now to the margin of profit and loss that they could not pay 10 cents a ton in tolls for going through the canal.

STATEMENT OF MR. JOHN M. BLANKENSHIP.

Mr. BLANKENSHIP. I represent the Merchants & Miners Transportation Co., which operates a line of steamships from Jacksonville, Fla., into Boston. We have 936 sailings every year over the shoals—over two and one-half times a day. I do not hesitate to say that there is no improvement which could possibly be made on any ground we cover as important as this one. Any delay we have can always be counted as being on the shoals. You know what delays mean to the shipping interests and what they mean to us. I think that channel is what is needed. From what I have read of the subject, it seems that all that is needed is simply to start it. Get an appropriation for a dredge, such as are used on the Savannah River, and start this channel. Nature will keep it going. Our company wishes to go on record as strongly favoring this channel. We have here to-day Capt. Miles Hillary, who will go into this matter more in detail as to the navigating part of it.

Col. ABBOT. Will you file the names and drafts of all your steamships using this route?

Mr. BLANKENSHIP. Yes, sir. We handle 1,000,000 tons of freight a year. I hope it will be twice as big in two or three years.

STATEMENT OF CAPT. MILES HILLARY.

Capt. HILLARY. I will try to give the practical experience of those who use the channel. For instance, leaving Boston in a fog, we can come down here to Chatham without difficulty. The tide is fair. The wind is blowing. We are a little anxious now regarding going across the shoals for fear of collisions. Here the vessels anchor in the course of vessels at such places as the Slough, or around on the other side of Pollock Rip Shoal. We may meet one, two, or three tows, coming or going, with hawsers from one-half to three-fourths of a mile long. One time I had a cargo worth $600,000. The ship was worth $300,000, and I had on board 100 passengers. I laid there waiting for daylight, as I did not care to take a chance of going through for fear of meeting tows in the channel. I had to wait there 12 hours. My passengers were urging me to go on. They were saying, "I am losing my train," "This is the last time I will come on this line," "Do not wait till daylight." Finally I said, "Well, I will start." I heard the bell and looked and saw I had just missed the bow of a tug. I must go full speed through there because of the cross currents of the tide. Perhaps the sound of the bells may be in a zone where I do not hear. I go on and make my turn on the clock. I have been in the towboat business myself. They usually have very skillful men on the towboats. I cleared the turn and then heard another whistle. I do not know which way to go. There are often times when we do not hear. In that way we make our time up to the Shovelful, and so on through the shoal. It is the constant fear that troubles me. I must go full speed again because I am crossing the tide again. We finally arrive at the Handkerchief, where you are relieved. You have fair conditions there.

I have made the trip through there for 10 years nearly, without missing one trip, except one day when I was sick, carrying passengers and freight. I have had these experiences many times. We have here to-day the captain of the *Yale*, and he can verify my statements. I will further show the conditions there. Suppose, now, we are going from the west to Boston. We make the Handkerchief all right. We may have lost 10 hours waiting for the fog to lift. I am afraid of meeting tows more than I am off the shoals. I run along up to there [indicating] without stopping. My running time is 20 minutes. I run 18 *minutes* and hear nothing. I can not run one minute beyond the Shovelful. If I do, I am on the beach. I am afraid. I must judge as to what to do. I have had this experience many times. Afterwards I hear the lightship ringing. Her bell has been in a zone where I could not hear it. If I meet tows, I have to stop, of course. I had to get around there the best way I could. It is a case of another ring, full speed, and I go across that damned Slough, which everybody dreads. We are both cutting off here [indicating]. This is a condition which might occur every day with these fogs. You do not know where your heart is; you say: Your heart is in your mouth. I wish you could see where mine was. I was master of the *Orion* at this time, and was waiting for the sea to go down some. It went down and I started to go ahead and make my turn, and just then I saw a tow and another steamer. The tow and her barges were running wild, and so was the steamer. I had to take a chance and start my wheel and turn between that steamer and Pollock Rip Lightship. I lost my bridge and my pilot house. My mate, who was a Norwegian, said "Jesus, Captain, we are going to eat sand." I could relate these experiences all day, because I have been crossing through there for 20 years.

STATEMENT OF CAPT. N. L. CULLIN.

Capt. CULLIN. I represent the marine departments of the trunk lines carrying 95 per cent of the tonnage of coal coming east. The companies which I represent, which are the Philadelphia & Reading Railroad, the Erie, the Delaware, Lackawanna & Western, the Lehigh Valley, the New Jersey Central, and the Baltimore & Ohio, operate 23 tugs and 164 barges. Their business is entirely with the eastern ports. We go over these shoals 1,950 times a year; that is the record for the year 1910, closing June 30. We carried during that time 2,698,000 tons of coal over the shoals. We take three barges in tow. If we go loaded, we must come back light, so we simply double up our tows going both ways. The Reading Railroad alone ships from 140,000 to 170,000 tons of coal a month over these shoals. That is about 80 per cent of the coal taken into the eastern ports. I will not dwell, though I am a practical man in this line, on the question of digging a channel there, as you have other men here more familiar with that part of the question than I am. I want to say that the companies which I represent are much in favor of this project and are ready to assist in any way they can in order to straighten this channel across these shoals. We must go in and out as well as the steamers. We use the best caution we can, as well as they do. The sailing vessels also must use it. We have to contend with them, because we have a long tow. If it is thick, one flashes up possibly but a very few feet away from us, and it is a serious question very many times how to clear the tows, and it is a wonder that more steamships, schooners, and coal barges do not drop in going over these shoals than there is.

STATEMENT OF CAPT. ALFRED ABBOT.

Capt. ABBOT. I represent the New England Coal & Coke Co., of Boston. We carry over 1,000,000 tons of coal across the shoals every year. Our ships draw 26 feet of water. We approve of this proposed channel. We generally use the Great Round Shoals Channel. We have a great number of delays going through there owing to the cross currents. We would like to have this other channel. It would minimize collisions.

Col. ABBOT. You go around the Great Round Shoal on account of your deep draft?

Capt. ABBOT. Yes, sir. We lose 24 hours often waiting for a chance to go through. We have been detained owing to the cross currents, and if you can not see 2 or 3 miles ahead you can not make it.

Col. ABBOT. Where does your coal come from?

Capt. ABBOT. From Virginia ports.

STATEMENT OF MR. GEORGE H. WOOLLEY.

Mr. WOOLLEY. I represent the Commercial Tow Boat Co., of Boston. Our company is engaged in carrying coal from Virginia ports to Boston. We carry from 150,000 to 175,000 tons of coal per year. Barges arriving at the shoals in a driving wind are handicapped for lack of water and endangered by collisions. Frequently vessels are headed off by the wind, and they are then obliged to anchor, mainly in the channel, which, as the channel is only three-eighths of a mile wide, with other vessels anchored in it, gives vessels passing through it very little room to work in. A new channel will greatly relieve this situation, as then, if the wind should die down, they will have room enough to anchor on either side, which they do not now have. We utilize over 22 feet of water. Great Round Shoal Channel is used almost exclusively. Tows are very often obliged to anchor there for the night, not daring to go out. When morning comes, the weather has changed. Much time is lost in this way. This channel would be a great benefit to everyone using Nantucket Shoals.

STATEMENT OF CAPT. T. E. HAWES.

Capt. HAWES. I represent the International Steamship Co. I was born in Chatham and have been familiar with conditions down there since I was 9 years old. I have seen the channel change. I do not see any reason why the channel proposed would not be a nice channel. I have been on most of the towboats. When we want to go through there we get tangled up with schooners, which puts us in a bad fix. We get tangled up with steamers, too. If they will dredge that channel out it will keep clear itself. The full strength of the tide runs that way. Of course, you get out of Boston, with the wind northeast, and bound to New York, or farther south, and come down by the Capes, and you may get into a snowstorm. Not many want to go in through there; they generally hold up. If you had a straight channel there, you could come down and go right on through. Now you can not do it. Last winter four schooners were lost there. I came down through the slue and was held up by two schooners on their way up on my weather bow. I had to stop to let them go by. The next morning three schooners were piled up on the Stone Horse Shoal. All hands were lost. If this channel was there, they could have gone on down to the Handkerchief and anchored. That is all I have to say.

STATEMENT OF CAPT. J. W. HAMMOND.

Capt. HAMMOND. I am superintendent for and representing the Staples Transportation Co. I was born and brought up in Chatham, and from boyhood have navigated in these shoals. The ground has been pretty well covered by the previous speakers. We send 350,000 tons of coal over these shoals yearly, two-thirds from southern ports and one-third from New York. I have noticed that the channel through Pollock Rip Slue has deepened in 30 years, and it now remains fully as deep as it ever has been. I saw for the first time this morning the chart showing where the proposed channel would be, and I can not indorse it too strongly. I think it is the proper thing to do. Many disasters have occurred from the fact that the course has changed so much. We hardly realize, until we are in it ourselves, how great is the amount of danger involved in the changing course down from the Handkerchief, going off nearly four points one way and then back nearly eight points to make these turns, involving the dangers of cross tides and anchored and navigating shipping. We certainly approve this proposed channel.

STATEMENT OF CAPT. H. L. HOPKINS.

Capt. HOPKINS. I am secretary of the Pilot's Association in Boston and necessarily come in contact with the majority of the men using this passage. I do not think there are any representatives here of one or two of the following concerns. I can say they are in favor of it. We have a number of light vessels running through there with coal, and they want considerable room. The channel is rather narrow. The concerns I refer to are the Chesapeake Steamship Co. and, I think, the Metropolitan Coal Co. They are heartily in favor of this proposed channel. I am in touch with the men using this channel. We endeavored to get through with 14 feet of water several years ago; now that same channel has from 20 to 22 feet of water, showing that it is growing deeper and not shoaler.

STATEMENT OF MR. J. M. CHERRY.

Mr. CHERRY. I represent the T Line for the Lehigh Valley Railroad Co. We have 34 barges which round Cape Cod, with 5 tugs. They haul 435,000 tons of coal annually. I can not speak from the standpoint of a navigating officer—only that of superintendent—but I do know from the reports of our navigating officers that it would be a great improvement to have this proposed channel, and I most heartily indorse it. We have here Capt. D. R. Chase, who will be glad to say something about the navigating end of the business.

STATEMENT OF CAPT. D. R. CHASE.

Capt. CHASE. I do not know as I could explain any more fully or clearly the conditions at that part of Nantucket Shoals than the gentlemen who have preceded me. They seem to have covered the ground pretty well, but having been probably in a different position at times than the rest of the officers, and having been in charge of the barges, which is particularly a unique position, I can say that I have been out on a hawser, as they state, 200 fathoms long. At times we do have them of that length. At times we had only 75 fathoms. That matter is regulated altogether by the conditions. If it was a thick fog, the Lehigh Valley Railroad Co.'s barges would shorten our hawser before we got down to this channel. I have been through there as a master for 12 years, and was a native of Harwich, 7 miles north. I was on the shoals considerably, as a boy, fishing and otherwise.

I do not know where the money can be utilized to any better advantage than in that new channel as proposed; I can not think of any other place, and have often expressed the opinion that when we get down to the Handkerchief and we turn to go out to Pollock Rip, it was a pity that this channel, which seemed to be a natural one, could not be straightened. I have seen the *Ralph M. Hayden* and the *Charlotte Miller* go across there. The straightening of the channel would, in my estimation, greatly reduce the dangers of collisions. Everyone who follows the sea will notice that on easterly winds the vessels are using Vineyard Haven, under Nobska Point; the wind holds them up for a few days, perhaps a week; and then the vessels congregate, and they meet in this narrow channel. I do not see how they ever do keep clear. They remind me of Capt. Charles Barr, who sailed the cup defender, jockeying around for position, only with this difference, their jockeying around was for the purpose of saving human life. I have heard some good things here to-day. There is lots to be benefited by this improvement that has not yet been seen or even thought of. Of course these tows coming down through there are enormous; they represent the big tonnage. We all know these barges must be towed on a hawser. I realize that the schooners seem to be more in the way than the steamers, having no propelling power of their own. This channel will open a direct line, and that is what we need at this time.

I shall give my hearty cooperation to the movement and hope that the improvement will be put through.

Col. ABBOT. Is there anybody else who wishes to speak?

STATEMENT OF MR. CHRISTIAN E. METZLER.

Mr. METZLER. I represent the Philadelphia & Reading Transportation Line. We have in service 11 ocean tugs and 63 barges with a carrying capacity of 100,000 tons on a summer schedule, and a little less on a winter schedule, per month. We carry to New England 1,500,000 tons of coal annually; 300,000 tons goes to Bangor and the Penobscot River. We are heartily in favor of this channel. I know that from September 17 to 20 there were 20 tugs with from 40 to 60 barges anchored, storm bound, in the vicinity of Woods Hole and northwest of the Handkerchief, and I am of the opinion that they were there for two or three days, some of them. If this channel had been in operation they could have started along before they did and some could have gone right through, but they could not get around the lightships at Pollock Rip and Shovelful. The channel would have given them a straight course from the Handkerchief. Many of these boats, coming up that way, especially from the Penobscot River, go out to sea, leaving the cape 40 or 50 miles to the westward. The channel would give them a direct course and I believe if it were in operation it would prevent many of the delays on the shoals. I want to say for the Philadelphia & Reading Transportation Co. that we are heartily in favor of the improvement.

Col. ABBOT. I would like it if you could give me an estimate of the value of one day's delay for one of your tugs with a tow of three barges.

Mr. METZLER. I could better give that if I knew the freight rates on coal. The *Conostoga*, which is somewhat better than any of the rest, made 11 round trips between Philadelphia and New England and back in 78 days, with three barges each way. Sometimes she went to Boston only and sometimes she went as far as Fort Point. Our barges carry from 1,000 to 3,000 tons of coal each. They tow three of these barges and carry probably on an average from 4,000 to 5,000 tons of coal a trip. All things being favorable, they make that trip in three days one way and three days back. We allow 72 hours to come up and 65 hours to come home in fair weather. Oftentimes we are held up four or five days. If a tow can handle from 4,000 to 5,000 tons of coal, bringing the loaded barges up here and taking the empty ones back in six or seven days, the delay of a day means a considerable. The rate for freight on the coal and the expense of running the tug would, of course, figure in it. I do not know what that would be. I am simply what a train dispatcher is on a railroad. I am given the barges and I ship them. The train dispatcher may not know what is in his cars or the rate of freight. It is the same way with me.

Hon. WILLIAM S. GREENE, M. C. I think Capt. Lavender can show the growth of the business and the change in freight rates.

STATEMENT OF CAPT. R. M. LAVENDER.

Capt. LAVENDER. In February, 1865, which, as you all know, was during the War of the Rebellion, we carried coal from Philadelphia to Portsmouth at $4.75 a ton; later it was $4.50, then $2.50. Now it is 60 cents. That is 15 cents over the Boston rates. That goes back to February, 1865.

I think, Mr. Chairman, as to the cost of delays, we have here Capt. Hammond and others who can give that almost to a penny. That channel would be one of the greatest things that ever happened to Boston for people going over these shoals. Capt. Hillary would not have to wait outside for 12 hours if he had a straight channel. That would enable him to navigate that channel on one side. He would know where to find his vessels; he could go through with perfect safety. The proposition, as laid out here, is not much of an engineering problem. I do not think there is anyone more familiar with the question than Mr. GREENE, at one time chairman of the House Committee on the Merchant Marine and Fisheries. This channel will banish the thought of collision. The Government would compel boats to keep to one side going in one direction and to the other side when going in the opposite direction. The only time there would be any danger would be when some man violates the rules or a stranger gets in there. Capt. Hillary would know where he is going to find the ships and would have no trouble, either with his passengers or his company.

Col. ABBOT. Is there anybody else on that side who wishes to speak?

STATEMENT OF MR. GEORGE W. ELDRIDGE.

Mr. ELDRIDGE. I am George W. Eldridge, chart maker. I represent no one but myself and humanity—sailors. I came here to listen and to say a few words, perhaps.

For 50 years we have surveyed Nantucket Shoals. We have surveyed over Pollock Rip and vicinity 18 times. I was born at Chatham and know that country pretty well. I have advocated this plan for more than 10 years. In fact, I believe it absolutely originated in my brain. I have published a book on the tides for 36 years, and for years I have written articles and printed them in that book annually on this very thing. Within 50 years there have been three channels formed in the vicinity of Pollock Rip. I have no doubt, in fact I believe, that all the sand forming Nausett and Monomoy Beaches and Monomoy Shoal comes from the highlands of Cape Cod. The storm waves wash it down and drive it along the shore, down, down, down, forming, as I say, Nausett Beach, Monomoy Beach, and Monomoy Shoal. Shoals are formed by tidal eddies and not by tidal currents. A snow bank is formed by an eddy, or a calm zone in the atmosphere, and sand works in the same way. When I was a boy, I was with my father the first day we threw a line there. The old ship channel was east south one-fourth south of the Fort Point Lightship. It then formed the slue. It broke through. In 1850 I went ashore dry shod on Pollock Rip exactly where this proposed channel is now being considered. In August of this year the depth there was 16 feet. The second channel was the slue of Pollock Rip; the old channel filled up, then came the slue of Pollock Rip. I believe it has deepened from 16 to 24 feet by the action of the propellers of steamers. Some years ago I observed that the water began to deepen right through the main body of Pollock Rip—dry 50 years ago.

I have come to the conclusion that the third channel was being formed. All this sand comes down and turns off to the south. The main body of the current is west-southwest by east-northeast. That is about the lay of this proposed channel. That is the third channel that has been formed across these shoals within my recollection. If dredging is done there now, that will take care of it for years undoubtedly. The channel is very narrow between the Stone Horse and the Shovelful. The Shovelful has been working off sand and narrowing up the channel, as the captains well know. I advocated years ago that the north end of Stone Horse Shoal be cut off. By this plan you will give them a good, wide channel to approach Pollock Rip, and then with this channel across Pollock Rip it would be all right. As to collisions, for 40 years I have been employed as an expert as to collisions. Some 20 years ago William K. Vanderbilt's steam yacht *Alva*, valued at half a million dollars, was sunk in collision with the steamship *H. M. Dimock*, running between New York and Boston. I was in that case, and I have been on some cases of the Philadelphia & Reading Railroad Co. Many millions of dollars and many lives have been lost in this Pollock Rip Channel. Some years ago I wrote a little verse on the subject, reading like this:

"There is a coaster's hell,
And there is a coaster's heaven.
One is Pollock Rip
And the other is Vineyard Haven."

In regard to the Cape Cod Canal, I really do not consider that it enters into this matter at all. I have always considered it a fiasco and have opposed such a canal. All practical mariners do also. I do not believe it will be used to any great extent, for many reasons not necessary to relate here. It has nothing to do with this matter. Vessels will continue to cross the shoals. The American public desires this channel. I do not know any part of the coast where so little money has been spent as Nantucket Shoals. The Government should spend millions of dollars there in aids to navigation and for mariners. They come here now and ask for our opinion. I believe in it, I approve it; it is the thing to do, and it is bound to come. They ought to have it; they deserve it, and I believe it is the thing to do.

STATEMENT OF HON. WILLIAM S. GREENE, M. C.

Representative GREENE. I have been seated here and listened to the remarks made by the gentlemen who use the great water highway, which is as important certainly as any highway on the land, and we are improving highways on the land to-day, and everybody is moving forward in that direction. I have realized more fully than ever before the importance of this project. It so happens that I represent the district which embraces Nantucket, Vineyard Haven, and Marthas Vineyard, and at one time I represented all of Cape Cod. By the growth of the cities, Cape Cod slipped out of my district, and I presume now that Nantucket and Marthas Vineyard will also go in the next reapportionment. This matter is a national question. Some speak of its importance to Boston. It is important to everyone, to every man sailing the sea, whether foreign or domestic, or whether he has schooners, steamers, or barges. My mind went back, as I have been seated here, to the time I went to work in 1858 for a man in the wholesale coal business, and I thought of the freight rates in those days and of the size of the schooners and sloops of those days compared with the vessels, steamers, and barges of the present day. When we engaged a 250 or a 300 ton schooner we were looked upon with astonishment at that date. We were bringing coal to New England. Now the sizes have increased many thousand tons, and the stories told here to-day as to the amount of this commerce, if they are within the facts, would seem like romances.

It seems to me that this project ought to be reported upon favorably and acted upon favorably by the Congress of the United States. We hear in these days a great deal about conservation—conservation of our resources. The most important conservation of all is that of human life, the preservation of the lives of those who are born into the world for the good of the world, as we believe. These children born into the world grow up into men and go down into this dangerous spot and their lives are sacrificed, as they have been—countless thousands of them—in this dangerous spot. That alone, if there was nothing else—never mind the question of the loss of vessels and cargoes—the loss of human life alone ought to make this measure sure. I am glad that this board has the matter under consideration. I happened to be the humble instrument that started it in Congress, and though I may not hereafter represent directly the district that it is in, indirectly I represent every district in the United States; there is no people or land from the Atlantic to the Pacific, from Alaska to the Panama Canal, and out to the Philippine Islands that I do not represent. I am prepared to advocate this project in every way, both before the committees and on the floor of Congress, and I say that this project is not one that affects New England alone, not Boston alone, but it affects every land and every sea and is a project so worthy that it ought to have the support of everyone, regardless of what conditions he may find in his own home or his views of the political questions of the day. It is a national project. I hope your board will report the subject fully and fairly, and I will be glad to examine the report when made. You should relieve the anxiety of these captains and vessel owners.

I have not seen very much of the world; I was never outside of our own land; some time I hope to go across the ocean. I hope to go to the Pacific coast and see the Panama-Pacific Exposition. I want to see all I can. I realize that life has its limitations and that I have not many more years to live, but I was favored with a strong body and I hope to see a great deal more. To-day is the time to do this work; now is the accepted time, and with all the delays that come afterwards in getting appropriations and putting the thing through, we ought to lay the foundation for this improvement secure, and then build the structure, that all the men and all the women of the future generations will praise the work that we do here to-day. [Applause.]

Col. ABBOT. Is there anybody else?

Mr. CHERRY. I would say that our steamers carry between eight and nine thousand tons, our schooners between three and four thousand tons—our transportation company alone.

Capt. CULLIN. You asked the question as to the cost of delay. I say approximately $450 or $500 a day would be lost by a tug waiting to go through the Shoals. With one of our steamers, if delayed, her time is reckoned at 5 cents a ton a day, which would be about $400 for 1 day alone, if she were delayed 24 hours on Nantucket Shoals.

Mr. SPARKMAN. I yield the gentleman from Louisiana such time as I have left.

The SPEAKER. The gentleman from Florida has only four minutes remaining.

Mr. RANSDELL of Louisiana. Four minutes will do me no good. I ask unanimous consent to be heard for 30 minutes on this bill.

SEVERAL MEMBERS. The gentleman can get an hour.

Mr. RANSDELL of Louisiana. I ask for an hour.

The SPEAKER. The gentleman can be recognized for an hour in his own right without asking anybody's consent.

Mr. RANSDELL of Louisiana. But you have been trying to pass the bill, and I did not know I was going to get a chance.

The SPEAKER. Whenever debate shall cease it is the business of the Chair to put the question.

Mr. RANSDELL of Louisiana. All right; I ask to be recognized now to proceed in my own right for one hour.

The SPEAKER. The gentleman from Louisiana is entitled to one hour.

Mr. BARTHOLDT. Will the gentleman yield so I may ask the chairman a question with respect to amendment No. 78, relating to the Missouri River? Is it his understanding that the effect of that amendment is that the localities benefited will not be called upon to pay their share of the local expenses until Congress acts again?

Mr. SPARKMAN. Referring now——

Mr. BARTHOLDT. To the Missouri River amendment.

Mr. SPARKMAN. Oh, certainly; that is the understanding.

Mr. BARTHOLDT. Then, really the effect is the same as if the provision were not in the bill at all.

Mr. SPARKMAN. I agree with the gentleman.

REPORT OF COMMITTEE ON EXPENDITURES ON PUBLIC BUILDINGS.

Mr. CLINE. Mr. Speaker, by the unanimous action of the members of the Committee on Expenditures on Public Buildings, I am directed to present a partial report (No. 1029) and ask to have it received. The committee held hearings and examined witnesses from the Supervising Architect's Office; and upon official documents presented by the Secretary of the Treasury and the testimony of the witnesses is drawn this partial report, signed unanimously by the committee, and I ask to have it received and printed.

The SPEAKER. The gentleman from Indiana asks to have a report signed by all the members of the Committee on Expenditures on Public Buildings——

Mr. MANN. Mr. Speaker, it is impossible to hear what the gentleman says. Unless he talks loud enough for the House to hear, I shall have to object.

The SPEAKER. The gentleman now presents a partial report from the Committee on Expenditures on Public Buildings, signed by every member of the committee, and asks that it be received and printed. That was the gentleman's statement.

Mr. MANN. Why does the gentleman have to present it in the open House? What does he want by that; why does not the gentleman drop it in the basket?

The SPEAKER. Well, that is the proper thing to do, but the gentleman asked unanimous consent——

Mr. MANN. I know, but unanimous consent to present a report to the House may be considered as equivalent to granting it a privileged status. I do not know what the gentleman's reason is—I have no objection, of course.

Mr. CLINE. I might have been under a misapprehension of the practice, but I had assumed that a report from the committee, in order to pass it through the basket without first having recognition, must be based upon a bill of some character or upon a resolution. Now, this report is based simply upon a hearing and upon the official documents from the Secretary of the Treasury, and I asked to have it received for that reason, because the committee is not reporting upon a bill or resolution referred to it. It makes a report signed unanimously, and makes some suggestions by which they believe that the administration of the Supervising Architect's office could be improved.

The SPEAKER. The proper course without asking unanimous consent is to put it in the basket.

Mr. CLINE. I will put it in the basket, Mr. Speaker, if that is the practice.

The SPEAKER. Is there objection to the request?

Mr. MANN. Mr. Speaker, reserving the right to object, if the gentleman desires to have this report introduced and referred to some committee, that is one thing. Making suggestions will not do any good, I concede, unless it is referred to somebody.

Mr. CLINE. I am not asking to have the report referred; I am not asking for a privileged status for the report; I am asking the report be received and printed according to the request of all the members of the committee.

Mr. MANN. I think the gentleman can do that by putting it in the basket.

The SPEAKER. Undoubtedly the rule puts it in the basket, but the gentleman is asking unanimous consent. Is there objection to this unanimous consent?

Mr. MANN. Mr. Speaker, I shall have to object.

The SPEAKER. The gentleman from Illinois objects.

Mr. MANN. The gentleman understands I do not care anything about it except the matter of practice.

The SPEAKER. The trouble about the thing is there is no rule about the practice, and there ought to be one established. The gentleman from Illinois objects to this, and therefore it goes into the basket under the rule.

Mr. CLINE. Mr. Speaker, I am not asking to have this report printed in the RECORD. I am asking to have it printed as any other report from a committee is printed.

The SPEAKER. The gentleman is asking unanimous consent to do that, and the gentleman from Illinois [Mr. MANN] objects.

Mr. CLINE. Then I will put it in the basket.

THE FRIGATE "CONSTELLATION."

Mr. RANSDELL of Louisiana. Mr. Speaker, I yield to the gentleman from Rhode Island [Mr. UTTER].

Mr. UTTER. Mr. Speaker, for some time there has been lying at the naval station in Newport, as an inspiration to the boys being there trained for service in their country's Navy, the old frigate *Constellation*. Lately it has been rumored that she was to be broken up. The Rhode Island Society of the Cincinnati, at its annual meeting on the last Fourth of July, passed certain resolutions in opposition to such a disposition of this noble old vessel, and I ask unanimous consent to extend my remarks in the RECORD by printing those resolutions.

The minutes of the action and the preambles and resolutions are as follows:

SOCIETY OF THE CINCINNATI IN THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
OFFICE OF THE SECRETARY,
New York, N. Y., July 15, 1912.

Resolutions concerning frigate *Constellation*.

At the annual meeting of the Society of the Cincinnati in the State of Rhode Island and Providence Plantations, held, pursuant to law, in the senate chamber of the Colonial State house, Newport, R. I., on July 4, 1912, Mr. Oliver Hazard Perry, of New York, offered resolutions concerning the historic frigate *Constellation*, which were seconded by Bvt. Brig. Gen. Hazard Stevens, former United States Volunteers, and a member of the Boston bar, and unanimously adopted. Mr. Oliver Hazard Perry is a grandson of his namesake, Commodore Perry, of Lake Erie fame, and great-grandson of Dr. Benjamin Franklin. Gen. Stevens received the medal of honor of Congress for most distinguished service in action during the War of the Rebellion.

The preamble and resolutions are as follows:

Whereas it is understood to be the intention of the Secretary of the United States Navy to remove from Newport harbor the historic American frigate *Constellation*, with ultimate intention of destroying the vessel as of no further value; and

Whereas when Congress provided for six frigates to be built to resist the depredations of Algerian corsairs on the commerce of the country, viz, the *Constitution, President, United States, Congress*, and *Chesapeake*, the *Constellation*, 38, as one of these, was built after the accepted model of Mr. Joshua Humphrey, of Philadelphia, and was launched at Baltimore, September 7, 1797, and, with the frigate *Constitution*, is now the last of the beautiful wooden frigates of the old American Navy and is hallowed in the memory of the American Nation for the battles they fought and victories gained in defense of the flag; and

Whereas the record of her achievements may briefly be stated as follows:

Going first to sea in June, 1798, the *Constellation* in August following safely convoyed 60 sail of American merchantmen from Habana to the United States, and early in January, 1799, captured two French privateers—*La Diligente* and *l'Union*.

On February 9, 1799, off the island of Nevis, in the West Indies, the *Constellation*, still under Commodore Thomas Truxtun, met the fine French frigate *l'Insurgents*, 40 guns, and, after a fierce combat of an hour, in which the enemy sustained a loss of 70 men killed and wounded, compelled her to strike, and thus added another first-class frigate to the American Navy.

On February 1, 1800, Commodore Truxtun gave chase to the French frigate *la Vengeance*, 52 guns, off Guadaloupe, and the *Constellation*, closing, fought a terrific night action, losing her mainmast and 25 killed or mortally wounded, the enemy finally escaping in the darkness, when supposed by the Americans to have sunk, and reaching Curacoa in a sinking condition, with 50 killed and 110 wounded and 186 round shot in her hull, an action so glorious that Congress gave Commodore Truxtun a gold medal.

In 1801 the *Constellation*, under the same commanding officer, was the first in the race to the Mediterranean to attack Tripoli, even though she had sprung one of her masts while crossing the Atlantic.

In the War of 1812, although blockaded at Norfolk by a British squadron, her crew greatly annoyed the British.

Her subsequent peaceful cruises and stations are found in the records of the Navy Department.

After the War of the Rebellion, she was sent to Annapolis for the training in seamanship of the United States naval cadets.

In 1878 she went to France with the exhibits for the Paris Exposition, and in 1880 she took provisions to Ireland.

She then went into the naval training service, and since 1890 has been attached to the naval training station in Newport Harbor, where, viewed annually by thousands, she continues a patriotic inspiration to the American people; and

Whereas Narragansett Bay, where she is now at anchor, promises to develop into the naval base of the country, and the cost of maintenance of this frigate is small, and her removal and contemplated destruction would, in all probability, be viewed with deepest regret by the whole Nation as an unnecessary act: Therefore

Resolved, That this society earnestly protests against any contemplated removal or destruction of the frigate *Constellation*, dear to all

Americans, and respectfully requests the President of the United States, as Commander in Chief of the Navy, to issue such order as in his judgment may be desirable or necessary to retain in Narragansett Bay, the Navy's birthplace, this historic American frigate, as an inspiring monument of the American Navy and its splendid achievements;

Resolved, That these resolutions be transmitted to the President of the United States;

Resolved, That a copy be sent to the Senators and Representatives in Congress from this State.

ASA BIRD GARDINER, *President.*
GEORGE W. OLNEY, *Secretary.*

RIVER AND HARBOR APPROPRIATION BILL.

Mr. HUMPHREY of Washington. Mr. Speaker, I ask that the gentleman from Louisiana [Mr. RANSDELL] will yield to me for a statement.

Mr. RANSDELL of Louisiana. I will yield two minutes.

Mr. HUMPHREY of Washington. I do not think it will take two minutes.

Mr. RANSDELL of Louisiana. I yield two minutes to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Speaker, I hope that the gentleman from Louisiana, in his speech, will take up the question to which I am going to refer. That is in regard to the Government now entering into partnership with the local authorities in the construction of levees to prevent floods. In my judgment this is a new departure, and the establishment of a new policy for the Rivers and Harbors Committee and for Congress. I do not believe that the gentlemen who favor this policy will find that they will be able to long confine this policy to the Mississippi River. I am not going to discuss now whether or not it is a wise policy, but I am calling attention to the fact that in my judgment it is a distinct departure, and there will be pressure brought from all portions of this country for the Government to help protect communities from flood. I know that that will be true on the Pacific coast, I know it will be true in my particular district, and I believe it will be true all over the country.

Now, my particular district is an illustration of the general condition. We have a navigable river, one that is being improved by the Government. It is subject to overflow. Three years ago there was an overflow and between three and four million dollars' worth of property destroyed. The farmers themselves construct levees by levee districts under the State law. The State has been asked to help maintain these levees, and the people of that community have been writing and petitioning me to have the Government help take care of those levees, to help protect them from these floods, and if you are going to do that on the Mississippi River there is no logical reason why you should not do it everywhere in the country. As one member of the committee, I certainly will not be controlled by the proposition to limit these flood appropriations to the Mississippi Valley.

The SPEAKER. The time of the gentleman from Washington [Mr. HUMPHREY] has expired.

Mr. HUMPHREY of Washington. So I ask the gentleman to take up this question.

Mr. RANSDELL of Louisiana. Mr. Speaker, I rise to discuss the item in this bill appropriating $6,000,000 for the next fiscal year for the Mississippi River—an increase of $2,500,000 over the sum of $3,500,000 appropriated by the House. This addition was due to the disastrous floods of the Mississippi River which have appalled the Nation, and which occurred after the rivers and harbors bill passed the House. Of the $6,000,000 herein appropriated, $4,000,000 is specifically set aside for the repair and construction of levees, the lines of which were broken in a number of places in Missouri, Illinois, Kentucky, Arkansas, Tennessee, Mississippi, and Louisiana, as the enormous volume of water gathered in the river forced its way south from Cairo to the sea. I do not anticipate that any objection will be made to the action of the House conferees in agreeing to the Senate increase, as I know from your previous generous actions the sympathetic feeling prevailing for the distressed people of the lower valley.

A NATIONAL QUESTION.

The control of the Mississippi River is a question of vital importance to all who live beside its banks, and one of very great concern to all the people of the United States, by reason of the enormous interests involved. That the country is awake to the importance of this truly national subject is evidenced by a Mississippi River plank in both the Republican and Democratic platforms. The national convention of the Republican Party, assembled in Chicago in June, declared in its platform:

The Mississippi River is the Nation's drainage ditch. Its flood waters, gathered from 31 States and the Dominion of Canada, constitute an overpowering force which breaks the levees and pours its torrents over many million acres of the richest land in the Union, stopping mails, impeding commerce, and causing great loss of life and property.

These floods are national in scope and the disasters they produce seriously affect the general welfare. The States unaided can not cope with this giant problem; hence, we believe the Federal Government should assume a fair proportion of the burden of its control, so as to prevent the disasters from recurring floods.

In the platform of the Democratic Party adopted at Baltimore a few weeks ago are found these striking words:

We hold that the control of the Mississippi River is a national problem. The preservation of the depth of its water for the purpose of navigation, the building of levees to maintain the integrity of its channel and prevention of the overflow of the land and its consequent devastation, resulting in the interruption of interstate commerce, the disorganization of the mail service, and the enormous loss of life and property, impose an obligation which alone can be discharged by the General Government.

To maintain an adequate depth of water the entire year, and thereby encourage water transportation, is a consummation worthy of legislative attention and presents an issue national in its character. It calls for prompt action on the part of Congress, and the Democratic Party pledges itself to the enactment of legislation leading to that end.

Moreover, the chief exponent of the National Progressive Party, ex-President Roosevelt, has in several recent public utterances declared unequivocally in favor of national control and prevention of the Mississippi River floods.

Thus we see that the three great political parties clearly recognize the obligation the Nation owes to control the mighty stream which courses through the heart of our Republic. For two centuries the dwellers on its shores have been suffering from floods because the local authorities were too feeble to control them. In view of the terrible toll of this year's overflow, it is hoped that these party declarations will be carried out to the letter. The National Government alone has the resources and the authority to undertake and prosecute to successful completion a gigantic work of this character, and it is expected by the citizens of the lower valley that the next administration—whether it be Republican, Democratic, or National Progressive—will undertake the immediate control of the Mississippi in a businesslike way and give them the protection so much needed and so long deferred.

The first levee was constructed in front of New Orleans in 1717, and there has been a gradual, steady growth ever since, until now levees extend on both banks of the river, except for short distances at the mouths of the Red, the Yazoo, the Arkansas, the White, and the St. Francis, throughout the entire valley as far north as Cape Girardeau, Mo., not including portions of the eastern bank of the river where the highlands come very close to the stream, leaving only a small area adjacent thereto subject to overflow, which has not been leveed. A large portion of the valley was fairly well protected by levees prior to the Civil War, but during that period and the years of anarchy which followed many breaks occurred in the levees and a number of them were washed away. Comparatively no work was done on them for a long period and they were in a very incomplete and weakened condition when assailed by the great flood of 1882. This flood broke the levees in 284 places and overflowed nearly the entire valley. Thereafter a splendid spirit of cooperation developed between the citizens of the interested communities, the States, and the National Government, and a great impetus was given to levee building with the result that at the beginning of this year, 1912, there were 1,496 miles of levees on the Mississippi River, many of which had been completed to the commission grade of 3 feet above the highest water, though it would have required 53,000,000 cubic yards costing about $11,000,000 to complete the entire system to that grade.

NATION'S DRAINAGE DITCH.

Mr. Speaker, there is a great deal of force in what has just been said by the gentleman from Georgia [Mr. HARDWICK] and what was stated a few moments ago by the gentleman from Washington [Mr. HUMPHREY] about flood conditions in their localities, about the necessity of building levees there, and the question of the Government contributing to those levees if it is to build them on the Mississippi River. I shall not attempt to go into an academic discussion of that question at this time. There are too many points which I wish to touch upon in the brief space allotted to me. But I wish to suggest this point to Members of the House: It is very different when you have local floods produced by rains in the vicinity of a local stream from having floods as a result of accumulated waters of 40 per cent of the entire Republic. The floods on the Mississippi River south of Cairo are caused by all the waters that fall between the Alleghenies on the east and the Rockies on the

west. I wish to call the attention of the Members of the House to this map which I had prepared by the Engineer Department. You will notice a yellow line running near the Atlantic coast. If you will follow this line you will observe that it goes up into the State of New York and then passes through Pennsylvania, Maryland, Virginia, North Carolina, and down into Georgia and Alabama, leaving a portion only of those Atlantic States to the eastward of the line.

All to the westward of it sheds the waters that fall thereon into the Mississippi River. It is not generally known that a large portion of the State of New York, a very considerable portion of western Pennsylvania, some even of Maryland, through the Youghiogheny River; a large part of Virginia, through the New and Holston Rivers; a considerable portion of North Carolina, through the French Broad River, and portions of Georgia through several rivers, are drained into the Mississippi. Those are all Atlantic States, and yet they shed water into the Mississippi River, which is obliged to pass the city of Cairo, Ill., and thence for a thousand miles to the Gulf.

Now, if you will jump 2,000 miles across the continent you will find by this map that the western shed of the Mississippi River begins on the eastern edge of Idaho, and all the waters of Montana and practically all those of Wyoming go down into the Mississippi. A considerable area of the Dominion of Canada also flows down through the Missouri River system, and finally enters the Mississippi.

Look along the Great Lakes, gentlemen, and you will find that in New York there is the smallest little strip of territory between the headwaters of the Mississippi and Lake Erie. Look here in Michigan. The watershed of the Mississippi goes practically up to the shores of Lake Michigan, practically up to Lake Superior. Probably 41 per cent of this continent, it is estimated, has its drainage through the Mississippi. Well has that great stream been called the Nation's sewer or drainage ditch.

Now, in all fairness can it be said that you must apply the same reason—the same logic—to such a stream as that and to one referred to by the gentleman from Washington [Mr. HUMPHREY], for instance, though I dare say there is great merit in his, and I am not prepared to say I will not vote for it? I have always been considered too liberal on these measures. There is a vast difference between the floods of that mighty stream and the one discussed by the gentleman from Georgia [Mr. HARDWICK]. It is a well-established principle of common law that a man must so use his own as not to injure his neighbor. I do not blame the people who live on the headwaters of these streams for having their waters poured down on the lower valley. They have a right—an absolute right—to drain through the Mississippi. Nature excavated that ditch, and the waters naturally flow through it.

THE MISSISSIPPI PROPERTY OF REPUBLIC.

That great river is the property of the entire Union; and just as a private person must so use his own as not to injure his neighbor, it is the duty of this great Republic so to use its own property as not to injure the property of the dwellers on that lower valley.

Mr. GREEN of Iowa. Mr. Speaker, will the gentleman yield for a question?

Mr. RANSDELL of Louisiana. Just in one moment. Is it the property of the Republic? Unquestionably it is. No State can legislate in regard to the Mississippi. All the navigable rivers are the property of this Republic for purposes of navigation. No State can even authorize a bridge to be constructed over the Mississippi. No State and no individual can divert any of its waters. It belongs to the United States, and being the property of the Union it certainly is the duty of Congress to legislate in regard to it so as not to injure the people who dwell on its banks. We have that power under Article IV of the Constitution, which provides that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. The Constitution also gives to Congress the power to regulate commerce, to establish post offices and post roads, to lay taxes, to promote the general welfare, and so forth. Now, the power to regulate commerce and establish post offices and post roads surely carries with it the obligation to control and protect the commerce, post offices, and post roads when once established. A great flood, such as that which recently swept down the Mississippi River, practically ruined commerce, even by boat, for there were no landing places for the boats in a great many places; it stopped all carriage of freight, passengers, and mails by rail and post road; it prevented hundreds of thousands of citizens from receiving any mail, or only at long intervals and greatly increased cost to the Government; and destroyed the established order of things and created chaos throughout a vast section. The general welfare was destroyed by these floods, for surely the term "general welfare" may be applied to such a large portion of the Union as the overflowed section of the Mississippi Vallely, with its more than 3,000,000 souls.

When the awful pestilence of yellow fever invaded the land Congress hesitated not to grapple with and eradicate it, for it affected the health and happiness of millions of people. When the bubonic plague appeared on the Pacific coast it was stamped out by the efforts of the Nation's servants, and a vigorous fight is now being made against it in Porto Rico and Cuba. When the foot-and-mouth disease broke out among the live stock of New England Congress took charge at once and completely eradicated it. When our war with Spain demonstrated the necessity of uniting the fleet in both oceans Congress undertook the construction of the Panama Canal, and that colossal work will soon be a reality. When it became apparent that our Western States could not, out of their own resources, reclaim and settle their arid regions in the same manner as other public domain Congress undertook the task, and over $70,000,000 has been expended in reclaiming the desert wastes of the far West, making them bloom like the rose and become prosperous and contented portions of our great Republic.

No one questioned the right or the wisdom of Congress to do any of these things. They were great pieces of statesmanship, which will reflect credit on the Nation. Surely the reclamation of the 17,000,000 acres of overflowed lands in the Valley of the Mississippi is just as necessary from a national viewpoint and will be just as productive of welfare to the Nation as the reclamation of 3,000,000 acres of arid land in the West. Surely the development of this splendid valley and its consequent habitation by fifteen to twenty million souls, producing crops and wealth of various kinds aggregating in value every year more than the total cost of the Panama Canal, is of more importance than even that great work, of which our Nation is so proud. Surely the prevention of the Mississippi's floods, which carry in their wake death and pestilence comparable to yellow fever and the bubonic plague among human beings, and infinitely more fatal to animal life than the foot-and-mouth disease, is more worthy of national endeavor than either of those three most deserving efforts of our national father.

I can not believe that Congress will hesitate to spend the few millions necessary to protect this splendid region and make of it a veritable garden spot—beyond question the richest single asset in the whole Nation.

Now I yield to the gentleman from Iowa.

Mr. GREEN of Iowa. Mr. Speaker, I have two questions that I want to ask of the gentleman. In the first place, it is not claimed, as I understand, that these levees are needed for purposes of navigation.

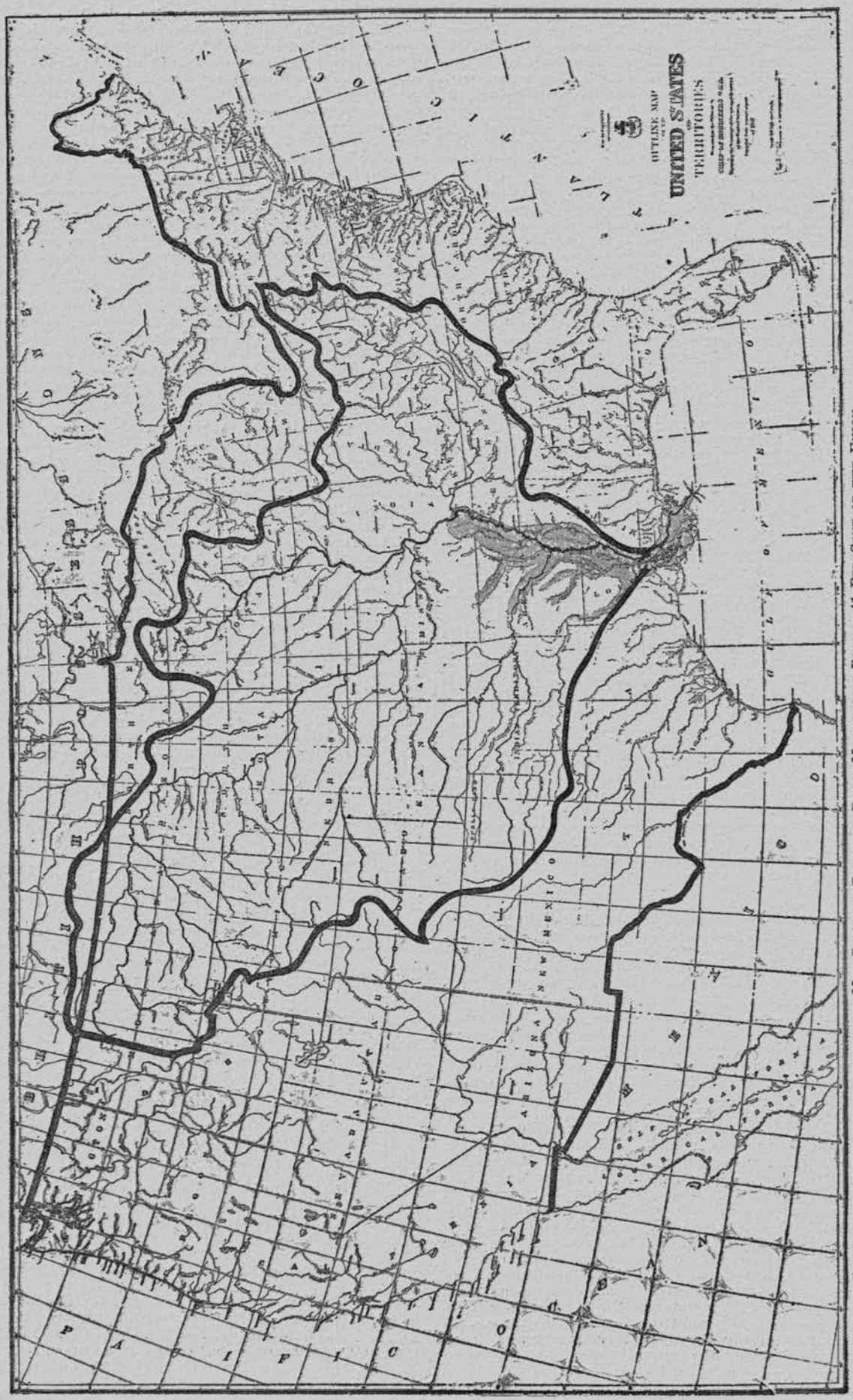
LEVEES NECESSARY FOR NAVIGATION.

Mr. RANSDELL of Louisiana. The gentleman is entirely mistaken. It is claimed that they are needed for purposes of navigation. A number of the best engineers this country has ever produced have said that if there were not a single citizen living along the banks of that river, levees should be built in order to preserve the navigation of the stream. Some of the engineers do not think the levees are needed for navigation, but the Mississippi River Commission, which was placed in charge of that great river by act of Congress in 1879, and which has been spending money thereon for the past 30 years—the first appropriation having been made in 1882—has always declared by a majority of its members that the building of levees is necessary for navigation, and has built them in part for navigation and in part for the protection of the riparian lands.

Mr. GREEN of Iowa. Conceding the correctness of the statement the gentleman has just made, how far up the stream and to what extent up its tributaries does the gentleman think the principle for which he has been contending ought to apply?

Mr. RANSDELL of Louisiana. The Mississippi River Commission, under act of Congress, has been authorized to build the levees up to Cape Girardeau, Mo. It was created by act of Congress approved June 28, 1879, and in 1882 the first direct expenditure of money by the National Government for levees was made under this commission, which appropriated that year about $1,000,000 to assist in rebuilding and strengthening the levees. The commission is composed of seven members appointed by the President—three from the Engineer Corps of the Army, one from the Coast and Geodetic Survey, two engineers from civil life, and one lawyer. Its duties were defined by the act in part as follows:

To take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service.



MAP SHOWING DRAINAGE BASIN MISSISSIPPI RIVER—41 PER CENT OF THE UNION.

Since 1882 the commission received annual appropriations of about two millions a year until 1910, when the sum of four millions was allotted, but this was reduced in the act of 1911 to three millions. With these sums a vast improvement in the navigable channel has been secured, and a depth of 9 feet, with a width of 250 feet, is now maintained at the lowest stages of the river.

LOWER MISSISSIPPI EXCEPTIONAL.

The general idea of Congress, so far as I have been able to ascertain, in legislating in regard to that river was that from the vicinity of Cairo downward a very unusual state of affairs existed. The watershed of the Ohio has more rainfall than that of either the upper Mississippi or the Missouri, and most of the great floods on the river below Cairo come from the Ohio and its numerous tributaries. But we also have the upper Mississippi and the Missouri, with the many rivers that pour into them, all uniting in the lower Mississippi.

I wish to say that it was thought that this vast accumulation of waters from Cairo down made an abnormal condition of affairs, one entirely different from that existing in any other section of the country. And whether or not that was a wise principle to adopt I am not prepared to say, but it has been the policy of this Government for the past 30 years.

Whether that policy will extend to other rivers remains for future Congresses to pass upon. Laws are constantly being changed. Policies of government are changing. We hear a great deal about progress, and perhaps we are going to progress along lines of waterway legislation, as well as other lines. I sincerely hope so. Heretofore, however, this has been considered the one great exception which proves the rule, and Congress has not been appropriating for levees at any other point in this country, so far as I know, except on the Mississippi River.

Let me, in further answer, remind the gentleman that there are some other big streams down in my State in addition to the Mississippi. Louisiana is the best watered State in the Union. Look at the Red River, the course of which you can trace over here into New Mexico. For a long way it is the boundary between Oklahoma and Texas. It runs through the great State of Arkansas and passes through Louisiana for several hundred miles. There are five levee districts along that river. It has a very elaborate system of levees, and sometimes terrific floods, but Congress has never helped to build those levees. The people of Louisiana and Arkansas built them. The same is true in my own congressional district of the Ouachita River. I suppose there are Members of Congress here who do not know there is such a river on the map. It rises way up in the State of Arkansas, accumulates a vast body of water there, is certainly an interstate stream, and yet the people of my congressional district are obliged to build levees out of their own resources to guard themselves against the waters of Arkansas, just as those along the Red are obliged to construct levees to protect their lands against the accumulated waters of New Mexico, Oklahoma, Texas, and Arkansas.

FLOOD DAMAGE.

We are interested in levee questions and floods along several rivers in Louisiana, and they are of the greatest moment, but none of you can conceive what a flood on the Mississippi River is. I know something about it. I have lived there for 30 years. I own property on the banks of that river, and when the awful floods came down upon us like those of the past spring—the greatest on record, when the water at Cairo rose 2 feet higher than ever before in the history of this country—those waters broke through the levees in the vicinity of the city of Cairo, doing enormous damage in the State of Illinois. They broke over into Missouri and Kentucky, doing considerable damage there. They broke their bounds and swept over the fairest portion of Arkansas, and then, gaining headway, in a great avalanche they swept on to the Gulf and again snapped the levees in lower Arkansas, in upper Louisiana, in the Yazoo delta in Mississippi. Again in the southern portion of Louisiana, below the Red River, they swept on, bearing death and destruction in their path. They destroyed many millions of dollars' worth of property—no man can say how much, the most conservative estimate being between $30,000,000 and $40,000,000. They destroyed between 40 and 50 human lives directly, and God knows how many as the result indirectly from exposure and suffering caused by those awful overflows. They destroyed many thousands of animals—horses, mules, cows, sheep, and hogs. They swept away many barns and houses. In some instances the waters poured piles of sand from 1 to 6 feet deep over thousands of acres of land, practically destroying farms which but a short while before were of the greatest value.

You can hardly conceive the damage of a flood like this. Take it in my own State, for instance, in the southern portion, where we plant cane. You have heard much about free sugar this session, and you know something about Louisiana sugar. We produce a great deal of it. The sugar cane is planted only every third year. When the cane is destroyed by a flood like this, no crop can be grown that year, and the loss is not only the loss of the current crop, but the loss of the seed cane for two successive crops. An enormous cost it is. Up in my portion of the State we raise cotton, and some of us attempted to plant cotton, corn, and peas after the waters receded, myself among the number. A letter came yesterday from my manager telling me that the cutworms, which are always much worse after floods, had cut all the corn down twice. Some of you farmers know perhaps what the cutworm is. On my plantation practically the entire corn crop of about 500 acres was planted and destroyed three times, once by the floods and twice by the cutworms, and what is true of my property applies generally in the flooded district. The manager says these worms are the most ravenous things he ever saw, that they are actually eating the grass on the turn rows, and are turning their attention to peas and cotton. Gentlemen, this is a serious question to the people down there. The item of loss is very hard to estimate. I do not bring these things up, however, to appeal to your sympathies. I appeal to your sense of justice. I ask the Congress of the United States to be more liberal than it ever has been before to levees, because it is right, just, and proper that it should be.

STATE AND FEDERAL CONTRIBUTIONS TO LEVEES.

Some gentlemen have asked, What about the local communities; what have they done? I see the gentleman from Pennsylvania [Mr. BUTLER] is not here now. I wish he were. In my State, Louisiana, since 1865 we have contributed for levees on the Mississippi River and the interior streams something over $36,000,000. I can not say what was spent on levees prior to 1865, but upward of $36,000,000 have been contributed by Louisiana and her citizens since that time. During the same period the people of Mississippi, and only a comparatively small portion of that State is subject to overflow, have expended for levee building over $23,000,000. In Arkansas, where, in most places, they have been constructing levees for only the past 18 years, they have paid over $6,000,000 for levees. Hence you see that over $65,000,000 have been contributed by these three States for building levees, and for what purpose? For protecting themselves against their own water? No; but to guard against the water that falls in New York, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, Alabama, and away across the continent in Montana, Wyoming, the Dakotas, the Dominion of Canada, and in all of the Great Lakes and Western States.

Forty-one per cent of this continent has poured its waters down on those people, and they have given over $65,000,000 of their money for building levees to guard against the floods of this immense portion of the Republic. Is that fair? How much has Uncle Sam done in the meantime? He has contributed about $26,000,000 to aid in the construction of these levees from Cape Girardeau south. Is it at all wonderful, my friends, that at this time—following this awful flood, this flood so destructive of life and property—the people down there should ask Uncle Sam to take care of his own property, to guard them against the Mississippi River which belongs to him? It certainly is nothing but right, and I am happy to say that Congress is meeting us in a more liberal spirit than ever before.

Mr. CANNON. Will the gentleman yield?

Mr. RANSDELL of Louisiana. Certainly.

Mr. CANNON. I hesitate to interrupt the gentleman, for I know the House would be glad to hear him even beyond his hour. The gentleman speaks of the contribution of the United States to the levees from Cairo down to the Gulf as being something about twenty-six millions.

Mr. RANSDELL of Louisiana. In round numbers.

Mr. CANNON. In round numbers. What has been the contribution for mattresses and dredging?

Mr. RANSDELL of Louisiana. I can not give the gentleman the exact figures, but for bank revetment it is something like sixteen millions. It is hard to differentiate the various appropriations. There is a considerable fleet of dredge boats used to aid in the navigation of the river—something like 9 or 10—and they assist by dredging the shallow places. The river is confined to its channel by bank revetment as well as by levees.

The last report of the Mississippi River Commission showed in the neighborhood of $14,000,000 for bank revetment to June 30, 1911, and it must have been nearly $2,000,000 since then.

Mr. CANNON. Counting the bank revetment, there is probably something near half and half contributed by the United States and by the States and the people.

Mr. RANSDELL of Louisiana. Possibly! In reality it is about $65,000,000 by the States and local people for levees, and $42,000,000 by Congress for levees and revetments.

Mr. CANNON. What I desire to call to the attention of the gentleman is this: I was down in the Yazoo country for the first time, off the river, a few months ago, and that, as well as the trip down the river from Cairo to New Orleans a year or two ago, was somewhat of an eye opener to me. The gentleman will recall that trip.

Mr. RANSDELL of Louisiana. Yes.

Mr. CANNON. It was a very interesting trip to me, but without that experience I began away back in the early eighties, I think in 1882, to vote for a contribution on the part of the Federal Government for the navigation of the Mississippi River, and as an incident thereto the protection of that magnificent stretch of land from the Mississippi River to the hills, especially on the east, and also the magnificent area on the west. I am perfectly willing to keep at it, and I am quite in harmony with this emergency appropriation of $4,000,000 for the levees, but I am under the impression that, so far as the levees are concerned, if we could have appropriations promptly voted by the Federal Government, and something also by the State governments, on the half-and-half system, it is entirely practical in the next decade to have the levees sufficient, if they are properly policed and watched and maintained, to protect the country upon each side of the Mississippi River. I am under that impression.

Mr. RANSDELL of Louisiana. The gentleman is correct in that, in my judgment.

Mr. CANNON. I think, also, that in the stretch of two decades or three, and it may be earlier than that, from Cairo down to the Gulf, there will be no more thickly populated country than that magnificent bottom. It dwarfs the Nile—yes; a half dozen Niles. Now, I was talking with a gentleman whom I met down there on both trips, and when I was in the Yazoo Valley on that trip I found it wonderful when the danger comes and when life and property is in danger the contributions that the inhabitants make along the river for policing and warding off people who are evilly disposed and getting everybody to the work for the protection of life and property was probably worth more than all the men who could be assembled by the engineers working alone.

Mr. RANSDELL of Louisiana. That is literally true. I have taken part in it myself many a time.

Mr. CANNON. I also express the hope that nothing will ever be done that will entirely relieve the inhabitants of the south Mississippi from vigilance and contributions to their own preservation, hand in hand with the Government, thus insuring navigation and protection. I want to say that much, because it is becoming fashionable—from newspaper reports—to claim that the United States should do all the construction and permanently police and maintain the levees by appropriations from the Treasury, and that the people can fold their arms and repose on downy beds of ease without attention and without care.

LOUISIANA'S LEVEE TAXES.

Mr. RANSDELL of Louisiana. Mr. Speaker, I wish to say I thank the gentleman very much for what I consider his real contribution to this argument. The people throughout the entire valley are assisting in levee building to the best of their ability. I agree with nearly everything he has said. To show that the levee district in which I have the honor to reside, composed of four parishes along the Mississippi River, from the mouth of the Red River to the Arkansas line, proposes to do its part, within the past 10 days its commissioners have gotten permission from the Louisiana Legislature to issue $500,000 of bonds for the purpose of aiding in the construction and enlargement of levees. Now, let me tell you what these people do in the direction of local taxation for levees. We pay a levee tax of 1 per cent on the assessed value on all of our property, real and personal. We pay a levee tax of 5 cents per acre on every acre of land regardless of its value. We pay a levee tax of $1 on every bale of cotton, and cotton is the great staple crop of that country. We pay a levee tax of $100 per mile on every mile of standard-gauge railroad.

I have stated the special tax which is contributed in the levee district in which I live. Gentlemen will understand it is not the congressional district, because we do not divide the levee districts according to congressional districts. My congressional district is composed of 16 parishes, while the fifth Louisiana levee district, where I live, is only four parishes. Each locality in the overflowed sections of the State is set aside by the legislature in a district, according to its needs and the similar interests of its people. There are 17 of these levee districts in the State of Louisiana. They are presided over by boards of commissioners, with local power of taxation. I am not going to go into detail now, as I know the House is getting tired, but to show you how we deal with this question my State every year contributes for levees about $1,500,000. We certainly have been helping ourselves.

Gentlemen, we have never come to Uncle Sam empty handed; we have always gone to him with at least $2 in our hand when we asked him for $1 to help take care of these mighty floods which I have shown were not Louisiana floods, but the waters of the entire Nation. Think of that enormous sum of $1,500,000 every year. Louisiana, bear in mind, is not an overflowed State. Why, some papers indicated a short while ago that the whole State of Louisiana was under water—was overflowed. We have something like 45,500 square miles of territory, and only 14,695 square miles is ever subject to overflow or could get under water, and as great as the floods of this year have been, only 40 per cent of this, or 5,878 square miles, was overflowed. So, you see, only a small percentage of the State is subject at any time to overflow, yet so strong is the levee sentiment there that every dollar's worth of property in that State, even that on the high hills—and some gentlemen may be surprised to know that we have hills—every dollar's worth of property, real or personal, in the State of Louisiana pays a levee tax. A very interesting letter from Maj. F. M. Kerr, chief engineer of Louisiana, is hereto attached as Appendix A.

The people in the Delta sections of Mississippi pay taxes in the same way for levees, and so do those of Arkansas; but, my friends, I say to you that with this overpowering force coming down upon us from the accumulated waters of nearly half the Union, it is your duty to do more to assist us than you ever have done in the past, and I firmly believe you are going to do it. I appeal to you as a matter of justice. We do not contemplate ceasing our efforts to help ourselves, but we are not in position to do much in that overflowed section. Our taxes come from our crops, our crops were destroyed by the flood waters, and we can not go on helping ourselves until we have had a chance to make more crops.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. RANSDELL of Louisiana. Certainly.

COMMERCIAL IMPORTANCE OF MISSISSIPPI.

Mr. SHARP. Several years ago it was my great pleasure to accompany a good many Members of Congress down the Mississippi River to view the improvements already made and those that were expected to follow. I personally was very greatly interested in what I saw there, and the possibilities of the development of the commercial trade along that river. I observe that the gentleman, who is more familiar with this subject than perhaps the rest of the House combined, from his own study of it, has in his argument devoted the most of his time thus far to the position that this great stream furnishes a drainage and is carrying the overflow water of so many other streams. Is it not also true that it differs very greatly from the other streams that have been mentioned here in the sense that it is emphatically a commercial proposition, and that with the improvements we hope will go ahead by congressional encouragement will open up many of the tributaries that now enter into the Mississippi River and afford cheaper transportation? And is it not also true that every dollar practically that is put into these levees in making them permanent in their nature also aids the stream and makes it more navigable and stable?

Mr. RANSDELL of Louisiana. Unquestionably. I believe I stated that some of the very best engineers insist that those levees are essential to the navigation of the stream. I firmly believe it myself. I have myself observed that when there is a crevasse in the levee, and the waters pour out, there is a diminution in the current; and when the current slackens this great sediment-bearing stream, filled as it is with heavy material gathered in the Missouri and from the caving banks all along the river, drops a portion of its load, and you will always find a big sand bar below a crevasse, which causes very poor navigation in the river. Let me give you one little piece of history. I went to Lake Providence to live in 1882. That year we had one of the greatest floods on record. Two hundred and eighty-four crevasses occurred in the levees of the Mississippi River in the spring of that year, and for two or three years thereafter we did not have more than 4 to 5 feet of water over a number of the shallow bars. Several years later, when the breaks had been closed, the navigation began to improve, and for more than a decade we have had an average of 9 feet over these same bars. We have fine navigation in the river now, and we will always have good navigation if we keep the levees up; but if we allow them to go down the bars will show up again as in the past.

DO LEVEES CAUSE BED OF RIVER TO RISE?

There are one or two general questions I would like to discuss, and I will do it for just a few moments. In connection with this river there are many fallacies. People are accustomed to saying that the levees cause the bed of the river to rise higher and higher, and that if we continue to build the levees in a little while the bed of the river will be higher than the surrounding country. That same fallacy was uttered years ago by Abbe Huc, a Jesuit, who traveled in China, about the Hoang-Ho or Yellow River, and so many people have repeated it that it is generally believed.

Now, gentlemen, you must differentiate between the surface plane of the river at flood and the low-water plane of the same river. At my home, Lake Providence, La., the river rises and falls 48 perpendicular feet. At extreme low water it is 48 feet lower than at extreme high water. In the period of low water you look out into a great gully, as it were, with a little narrow stream trickling along at your feet, relatively speaking. But at high water it is a mighty torrent, about 2 miles wide at that point, and its flood plane is higher than the surrounding country by 12 to 16 feet. I have driven along the streets of that town, and as the waves would dash against the levee because of the wind, the spray would splash over into my buggy. But in the low-water season, which prevails for the greater portion of the year, you drive across that levee, and from a quarter to half a mile to the bank of the river, and then look down into a deep gulch there and see the water. There is a vast difference between the two.

Gen. Comstock, late Chief of Engineers, and a very accomplished man, testified before the Commerce Committee of the Senate in 1890 (see Rept. of the Secretary of War for that year, p. 3093) and gave a very interesting account of the views of the engineering world in regard to the rising of the beds of such rivers as the Po, in Italy; the Rhine, in Germany; and the Hoang-Ho, in China. He says:

From the examination of the Po and Rhine it may be concluded that if their beds rise in the leveed portions (which is not entirely certain from the data), it is at so slow a rate as not to be an important factor in the maintenance of a levee system. With levees 10 feet high, if the bed rose at the rate of 1 foot in a hundred years, the cost of raising a line of levees having the length of the present Mississippi system, about 1,300 miles, by this 1 foot would be but about $4,000,000 distributed over the country, or $40,000 per annum, which is a small part of the annual cost of the system. On the Mississippi the records, while not extending over a period long enough to give final results, do not, so far as they go, indicate that the bed has risen.

In regard to the Yellow River he quotes from a letter of Gen. James H. Wilson, United States Army, dated May 6, 1890, as follows:

In conclusion, I do not hesitate to say that I can not but believe that Abbe Huc was entirely mistaken in regard to the silting up of the channel, and that an exhaustive survey would prove beyond a doubt that no such silting as to raise any part of the bed above the adjacent country has ever taken place.

I understand that the present members of the Mississippi River Commission concur with Gen. Comstock's views on this subject. Its secretary, Col. C. L. Potter, Corps of Engineers, United States Army, wrote me on May 22 last:

There is little doubt in my mind that levees, which are regularly held, will not cause any rise in the river bed—probably a lowering.

A member of the commission, Mr. J. A. Ockerson, wrote me on May 7, as follows:

Some years ago the commission undertook an extensive series of observations, covering several hundred miles of river, to determine whether such a thing as a systematic rise of the river bed was going on as the result of levees. This investigation and the results show that an interval of 25 years of time failed to show a general systematic elevation of the bed, but on the contrary the low-water bed in some well-defined cases has been actually lowered several feet.

Another member of the commission, Mr. C. H. West, wrote on May 10:

The bed of the Mississppi River is not rising, but on the contrary the tendency is in the opposite direction—that is, as a result of the control of moderate floods by levees and the limited prevention of caving banks by revetment the crest of the shoals have been depressed and the carrying capacity of the channel increased. With complete confinement of the floods by levees and complete control of caving banks by an extended application of revetment, there can be little doubt that there would follow a decided lowering of the crest of all shoals and also a further increase in the discharging capacity of the channel, which would result in a lowering of the height of the flood planes.

Prof. Willis Moore, Chief of the Weather Bureau, wrote me on May 9:

So far as indicated by the low-water records, the bed of the lower Mississippi River is at substantially the same level as it was 40 years ago. However, there has been much difference of opinion on the subject, and the evidence from the low-water records is not conclusive, owing to the recognized tendency of low water to scour alluvial river beds.

Let me give personal testimony in this connection. When I went to Lake Providence to live, just 30 years ago next month, it was not unusual to see several steamboats stuck on the bars of the river, for the depth was not more than 4 to 5 feet on the shallow places, and the zero marks on the water gauges were then where they are to-day. The Weather Bureau keeps a record of all these great rivers, and it has made no change in its gauges in the last 40 years. To-day you go along the river in the vicinity of Lake Providence at low water and find the bed of the stream apparently as it was then. You find the low-water mark, or zero gauge, the same as it was in 1882, but instead of 4 to 5 feet of depth you find 9 to 10 feet. The river bed is actually lower now than it was then. That seems to me to prove conclusively that there has been no rising, but rather a depression, though, my friends, it is true that the flood plane has risen. And why?

FLOOD PLANE HAS RISEN.

Ask the governor elect of Arkansas [Mr. ROBINSON] if in the great St. Francis Basin—6,700 square miles of area in his State and Missouri—there was not an enormous reservoir only a few years ago which protected the lower valley to a great extent by impounding a tremendous volume of the flood water. Within the past 18 years levees have been built along the front of this basin which hold back the floods. Fine towns have grown up, farms have been developed, railroads have been built—hundreds of miles of them—and peaceful, happy, prosperous communities now exist where 20 years ago was a howling wilderness of waste waters and swamp lands. Moreover, it is true that within the last quarter century there has been a very great increase in the area of lands placed in cultivation in the Valley States, especially Ohio, Indiana, Illinois, Iowa, and Missouri. Many shallow lakes which formerly impounded a large quantity of the spring rains have been drained and put in cultivation, notably, as an illustration, the East St. Louis flats. A very thorough system of farm drainage has been adopted in many places which carries the rain water off the lands almost as rapidly as it falls and rushes it quickly into the adjacent rivers, which in turn carry it rapidly into the Mississippi. And all of these things have the effect of increasing the volume of flood water.

Mr. ROBINSON. Will the gentleman from Louisiana yield?

Mr. RANSDELL of Louisiana. I shall be delighted to do so.

Mr. ROBINSON. The statement of the gentleman from Louisiana in that particular, so far as it relates to the State of Arkansas, is entirely correct. Many hundreds of thousands of acres have been reclaimed from overflow and are now in cultivation. Within the total area of Arkansas less than one-eighth is subject to overflow, but it consists in large part of the most fertile lands in the State. I am entirely in sympathy with the statement made by the gentleman from Louisiana, who knows more about levees than any man living in the United States. The State of Arkansas has been contributing under a system similar, but different in some particulars, from that prevailing in Louisiana to the extent of the ability of the citizens of that State, and while I do not believe the time should ever come when the citizens of this overflowed area should be relieved from the responsibility of contributing a fair share to the support and maintenance of these levees, I do regard this proposition as national in its character, and I believe it is fair that the Federal Government should contribute liberally to the maintenance of these levees. The gentleman from Louisiana has clearly and ably disclosed the relation which the Mississippi Valley sustains to the commerce of the Nation. Its possibilities, if reclaimed to cultivation and made safe from overflow, can not be overstated. The waters which occasion these overflows, as he has said, find their source principally in other States and, gathering volume, are precipitated into the lower river, which is now protected by a system of levees maintained for the greater part by local organizations under State laws. The States bordering on the lower Mississippi have done their best to afford adequate protection. They have levied heavy taxes and in times of threatened floods furnished guards to protect the levees. It is difficult to conceive the anxiety felt by the citizens of the flood district when breaks in the levees occur. Could the history of the recent floods in the lower valley of the Mississippi be accurately written, it would unfold sacrifices and heroism unexcelled. Realizing the peril, when breaks are threatened the people combine every energy and resource to prevent them. Men and women alike volunteer their services and toil unceasingly to prevent disaster. I concur in the opinion that a part of the burden should remain on the localities directly concerned.

I believe, too, that the Federal Government should assume supervision and control of the entire Mississippi River levee system, and if the gentleman from Louisiana has time and the opportunity is afforded, I should be glad to hear him discuss that feature of the subject.

FEDERAL SUPERVISION NECESSARY.

Mr. RANSDELL of Louisiana. I thank the gentleman from Arkansas for his eloquent discussion of this matter. I quite agree with him that it would be wise, eminently wise, for the General Government to have supervision and control of these levees, in order that we might have one central authority without any division of effort or of plan; and I shall do my utmost to bring about that state of affairs, although I wish to say that, so far as the State of Louisiana is concerned, there never has been the slightest friction between our local engineers and the engineers of the United States; but, on the contrary, the most splendid spirit of cooperation and united effort during all the years that we have been building levees together.

It certainly would be wiser, however, if Uncle Sam is going to do more and more of this work, as I believe he is, for us to let him have the supervision and control of these levees. I shall be delighted to see it, and I hope it will be done.

COST OF RECLAMATION BY LEVEES AS COMPARED WITH IRRIGATION.

The present levee system has cost about $91,000,000, as I have shown, and if forty millions additional be expended to complete it, this will make a total of one hundred and thirty-one millions, the expenditure of which will have been extended over half a century. On the basis of 17,000,000 acres protected, this sum of $131,000,000 would mean an average of about $8 per acre. Let us compare this with what it has cost to redeem the arid lands out West. According to a letter of Prof. F. H. Newell, Chief of the Reclamation Service (see Appendix B), about 1,000,000 acres have been reclaimed, and three millions are now in process of reclamation, the expenditure so far being $70,000,000, and the average cost $40 per acre. This is certainly a very favorable comparison for the overflowed section—$8 per acre to protect against floods in the Valley and $40 per acre to irrigate in the arid regions. I heartily favored the national reclamation act, and believe it to be one of our wisest pieces of constructive statesmanship, and just as I believe in its wisdom I also think it would be wise for the Government to reclaim, at so much less cost, the magnificent lands of the Mississippi Valley.

I have estimated that the total cost of reclaiming these valley lands by levees since 1865, including forty millions to be spent hereafter, is $8 per acre. Now, of the ninety-one millions already expended, the National Government has contributed only $26,000,000 and the States the remainder, so that if the Government should now undertake the entire task and expend forty millions additional, aggregating a total expenditure by it for levees of $70,000,000, it would be only $4 per acre contributed for land reclamation in the Mississippi Valley by the National Government, as compared with $40 per acre for reclamation of the arid lands. *Believing that this is a fair proposition, I have introduced a bill providing that Congress shall expend eight millions a year for the next four years, in addition to the sum carried in the pending bill, to complete the levees, and it will be vigorously pressed next session.*

LEVEES FURNISH PROTECTION.

I wish to say a few words on another question that is frequently discussed, and that is: Will the levees do the work? Will they save the country? In my judgment they will, beyond question. The proof of the pudding is in the eating. If we build the levees 3 feet above the flood plane of the river this year and increase the dimensions in proportion, they will be strong enough to resist the pressure, even should the water rise to the very top. It is only a question of money and dirt to accomplish this. During the present flood, the greatest on record, there were no breaks in the upper Yazoo levee district of Mississippi—124 miles in length—which is in charge of Maj. T. G. Dabney, C. E., and none in the Pontchartrain, Orleans, and Lake Borgne districts of Louisiana—208 miles in length—though no one can say what might have happened in those four districts had all of the other levees held and the entire volume of water been kept in the river. It would be prudent to elevate all of the levees at least 3 feet higher than the height attained during this flood, if possible, and proper allowance should also be made for greater elevation at points where the highest flood was prevented by crevasses above them. The problem is not susceptible of exact solution, but some of the most eminent engineers on the river, who have been connected with it for a great many years, think that wherever the levees have been already raised to the Mississippi River Commission grade, adopted several years ago, an increased elevation of 3 feet with proper dimensions would make them impregnable.

The commission grade contemplated for levees was 3 feet above any previous water, 8 feet on the crown, with slopes of 3 to 1 on each side, and a banquette, or additional levee, on the land side, coming within 8 feet of the top, and having a crown of 20 feet. The general plan of the Dabney levees in the Upper Yazoo district was the same height as that of the commission, with a 10-foot crown instead of 8, a slope of 4 to 1 on land side and 3 to 1 on river side, and a banquette 40 feet instead of 20, reaching within 6 feet of the top instead of 8, thereby giving very material increase of volume and strength to the levee. Moreover, there are other details in connection with the Dabney levees, which are very important, and are set out in detail in his letter to me of May 17, 1912, which is published herewith as Appendix C. I would like to see all of the levees raised, as suggested above, and constructed along the lines advocated by Maj. Dabney.

Let it be plainly understood, however, that there is no difference of opinion among the engineers in regard to the wisdom of the Dabney specifications. The only trouble has been that heretofore money was so scarce that the various State engineers, and also the Mississippi River Commission, felt obliged to do the best they could with the limited funds at their disposal. They all realized that the levees would be infinitely safer if constructed as advocated by Maj. Dabney, but were obliged to adopt lesser dimensions owing to insufficient funds, whereas his district could carry out his plans, because it was more fortunate in a financial way, having a larger area of improved lands.

While no exact estimates have been made of the cost of such an enlargement of the levees, as I have indicated, it is thought by conservative engineers that it will amount to between 30 and 40 million dollars, and that an expenditure of that sum will enable the levees to resist any floods which may be expected to come against them.

Even during the great flood of this year the levees protected fully 55 per cent of the valley. The total area of the valley subject to overflow is 29,970 square miles, and the area normally protected by levees is 26,569 square miles, equal to 17,004,160 acres. Of this area 12,390 square miles, equal to 7,929,600 acres, were inundated, and the remainder, amounting to 14,179 square miles, or 9,074,560 acres, was saved from the flood. Hence, it will be seen that the measure of protection was very great, even this year, and warrants the cost of the entire system. It must be borne in mind, also, that not since 1903 has there been a disastrous overflow, although a large percentage of the valley would have gone under nearly every year had not the levees protected it, for the spring freshets of every season rise considerably above the normal banks of the river, and but for the levees would overflow the riparian lands. As a result of the levee system the people of the entire valley received and enjoyed immunity from overflow during each of the nine years from 1903 to 1912, and in the former year, 1903, only 6,820 square miles, or 26 per cent, of the lowland sections was overflowed. Prior to 1903 there were five years of immunity, but in 1897 the floods swept over 13,580 square miles—about 51 per cent of the valley.

The levees have constantly been growing stronger and stronger for the past 30 years, since the great flood of 1882, which inundated practically the entire valley, and it was thought that they would withstand any normal water. However, the flood of this season was not normal but very extreme. The highest point ever before reached on the Cairo gauge was 52.17, while this year it rose to 54 feet, or about 2 feet higher than ever before known. Such a thing may never happen again in a great many years. On the other hand, it might occur at any time, and our people might again suffer at some distant future day just as the people of Paris recently suffered from an inundation of the Seine, of which they little dreamed until it came upon them.

I have lived on the banks of the Mississippi River in the very heart of the overflowed section for 30 years, have been a close student of the river, and especially its levee system during all of those years, and I firmly believe that if we build our levees 3 feet above the flood plane of this year, with a 10-foot crown, a slope of 3 to 1 on the river side and 4 to 1 on the land side, and a 40-foot banquette, and all the incidentals in regard to muck ditch, preparation of the base, and so forth, advocated by the best engineers, our people will be as safe in their property and usual avocations as those of any other section. This may cost thirty-five to forty million dollars, surely not more, and that sum is a bagatelle when one considers the enormous interests involved directly upon these levees, which protect 17,000,000 acres of the finest land on earth, an area greater than the combined extent of Massachusetts, Connecticut, Rhode Island, Delaware, and Maryland; greater than Holland and Belgium; sufficient to support in comfort fifteen to twenty million human beings; and to produce annual crops aggregating four to five hundred million dollars in value. Even at the present time, with its sparse population of about 3,000,000 souls, and in many instances inferior methods of cultivation, the

crops of this valley amount annually to over a hundred million dollars in value of cotton, sugar cane, rice, corn, oats, hay, live stock, and so forth. In its present undeveloped condition it is one of our richest national assets, and when developed—as it surely will be within a few years—when complete protection from the floods is given us, no like section of the country can boast of greater wealth.

CAN FLOODS BE PREVENTED BY RESERVOIRS?

Another subject frequently discussed and much misunderstood in connection with the protection of the lower valley from overflow is that of reservoirs. Theoretically reservoirs as means of controlling floods are all right, but practically I doubt if they will work when applied to the lower Mississippi River. The volume of water is too great to be impounded in any feasible system of reservoirs ever yet devised. Beyond question, if enough land in the various river valleys which pour their floods into the Mississippi were condemned and the rain waters impounded therein the floods could be controlled thereby, but the remedy would be worse than the disease. It would require a large area in Kansas, Nebraska, Missouri, Iowa, Illinois, Indiana, Ohio, Pennsylvania, Kentucky, and Tennessee, where lands are fully twice as valuable as in the lower Mississippi Valley, and the cost thereof would be colossal.

Reservoirs to protect the city of Pittsburgh from overflows, for instance, are entirely feasible, and they can probably be constructed at a reasonable cost—about $20,000,000—with immense benefit to that city, but of no material effect on the Mississippi floods below Cairo. During the great high water of this year there was never any serious flood in the Allegheny River, and Pittsburgh did not suffer in the least. Hence a perfect system of reservoirs on the Allegheny and the other tributaries of the Ohio which empty into it at and near Pittsburgh would have had no restraining effect on this year's floods in the lower Mississippi. The same would apply to reservoir systems located on the upper Mississippi above St. Paul and the Missouri above Sioux City. We received no flood waters this year from the upper portions of either of those rivers, and rarely ever do we suffer from floods at their headwaters. Hence reservoirs thereon would have been of no avail.

The great floods of this year, according to Mr. Willis Moore in the letter above alluded to, were caused by "six rainstorms over the watersheds of the Ohio and lower Mississippi Rivers between March 11 and April 2, the storms following each other at intervals of a little less than four days. At the time that the rains began the lower Ohio and lower Mississippi Rivers were at moderately high stages on account of an Ohio River rise earlier in the month of March. The main floods came from the Ohio and its tributaries, principally the Cumberland, Tennessee, and Wabash Rivers, but there was a considerable increment from the lower Missouri River, the upper Mississippi River below Keokuk, Iowa, and from the Arkansas, White, Ouachita, and Yazoo Rivers. It should also be stated that the winter preceding the floods was an unusually cold one, the soil over the watershed above Cairo was well frozen, and, as a consequence, the run-off from the rains was probably much greater than the normal amount."

Neither of the three big rivers—Ohio, upper Mississippi, and Missouri—was in great flood this year, but they combined their waters at Cairo—an occurrence which rarely happens—and it was the united force of all three which caused the trouble. The rains were not in the headwaters of any of these rivers, but in the lower portions; and I know of no place or places thereon at which efficient reservoirs could have been constructed within the bounds of reasonable cost.

Mr. ROBINSON. Mr. Speaker, I desire to ask the gentleman if he has given consideration to the question of what area would be required to be submerged by reservoirs in order to accomplish the purpose of protecting this flooded area, and I would like to state in that connection that I myself have devoted as much attention as I have been able to give to a study of the subject and have about reached the conclusion that it would require the submerging permanently of almost, if not quite, an area equivalent to the area of the overflow region of the valley in order to protect against floods such as those which the gentleman from Louisiana has been discussing.

Mr. RANSDELL of Louisiana. I think the gentleman from Arkansas is absolutely right. Common sense tells you that if you are going to build reservoirs and take care of a body of water like that, you must make them sufficiently large to contain the amount of water that would otherwise overflow and go over the submerged country.

A letter on that subject was recently written to me by one of the most accurate engineers of the Mississippi River Commission, Col. C. L. Potter, from which I quote as follows:

Some idea of the storage area necessary to hold back a flood equal to that of 1912, so that it would not go over the banks—in other words, to protect the valley without levees—may be had from the following: The total volume of water passing the junction of the Red and Mississippi Rivers in one day at the crest of the recent flood would cover to the depth of 20 feet an area of 200,000 acres, or over 300 square miles.

The idea of attempting to prevent floods by the use of reservoirs is, to my mind, so utterly absurd that I hate to put in an argument against it. Of all the streams of the Mississippi Valley, the only places where land can be had at reservoir prices are at the headwaters of the Mississippi or of the Missouri. In the recent flood there would have been little effect produced on the lower river if the Mississippi had been cut off at St. Paul, and the Missouri at Mandan. There was rainfall enough south of St. Paul to do it all. It is easy enough to hold the rainfall at a point, but you can not hold it at all points. In 1905 I was on a board of engineers on the reservoirs at the headwaters of the Mississippi. I heard a paper mill just below the lowest dam on the Mississippi proper make a complaint that the Engineer office had closed the dam and left them without power to run their mill; and that was true. At the same identical time a town less than 150 miles below registered with us a complaint that the Engineer officer had not closed the dam and thus protected them, as he should, from one of the most disastrous floods they had ever had. Of course they wouldn't believe it, but they had a disastrous flood within 150 miles of the foot of the great system, and with the nearest dam to them closed tight. You can not hold in Montana or Minnesota water that falls as rain in Illinois or Missouri. When you get into the Ohio or the middle or lower Mississippi Valleys, the cost of land for reservoirs is too great to be considered.

Judge Robert S. Taylor, of Indiana, one of the greatest lawyers in America, a member of the Mississippi River Commission for nearly 30 years and our foremost authority on Mississippi River problems, delivered a learned discourse on "Levees, Outlets, and Reservoirs" before the Association for the Advancement of Science, at St. Louis, Mo., December 30, 1903, and speaking of reservoirs (pp. 12 and 13) said:

On the subject of reservoirs little need be said. It is a delightful scheme to think of and talk about. It would beautify the map with lakes throughout the upper valley. It would bring the delights of boating, fishing, and swimming within the reach of millions of us to whom they are now inaccessible pleasures. It would remove all danger of a surplus in the National Treasury for a long time to come, and it might reduce the surplus in the Mississippi River somewhat.

When men think of reservoirs in this connection they commonly locate them in the headwaters of the Mississippi and the Missouri. Unfortunately it is not there that the rains fall that furnish the stuff for great floods, but in the valley of the Ohio and its tributaries. The storms that sweep from the southwest across the Ozark Mountains and on over Kentucky, Illinois, Indiana, Ohio, western Pennsylvania, West Virginia, and Tennessee are the bearers of woe to the people of the alluvial valley. One of the consequences of those rains has been to make the region where they fall so fertile and attractive that it is filled with population, farms, cities, railroads, factories, and all the adjuncts of high civilization. To occupy the country with the reservoirs necessary to hold back a great Mississippi flood would involve an incalculable destruction of property, to say nothing of the cost to build them.

There is one place where it would be possible, in an imaginative sense, to impound a volume of water that would be missed from the river. That place is the St. Francis basin, 6,700 square miles in area. By cutting that area up into subdivisions by dams crossing it at frequent intervals and increasing in height progressively downstream as rapidly as the slope of the land surface would permit a vast storage of water could be secured many feet deep at its lower border. But the only material that can be found there to make the dams is earth. The expense of stone would be scarcely thinkable. And to imprison such a volume of water at the head of such a valley as would lie below it, with only earthen walls to hold it back, would be nothing less than criminal foolhardiness. The best use we can make of the reservoir theory it to keep it to talk about.

The SPEAKER. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana. Mr. Speaker, I ask 10 minutes more.

Mr. ROBINSON. Mr. Speaker, I ask unanimous consent that the gentleman's time be extended for 10 minutes.

The SPEAKER. The gentleman from Arkansas [Mr. ROBINSON] asks unanimous consent that the time of the gentleman from Louisiana be extended 10 minutes. Is there objection?

There was no objection.

Mr. RANSDELL of Louisiana. Mr. Speaker, all of the engineers to whom I have submitted this question tell me they know of no feasible reservoir sites on the lower rivers, and all of them agree that levees, if built sufficiently strong, will give the needed protection.

Prof. Willis Moore, head of the Weather Bureau, was asked by me:

Do you know of any suitable reservoir sites that would store sufficient water to prevent floods on the lower Mississippi, or even appreciably diminish them, and, if so, where?

He answered:

No. The building of levees closed all the natural reservoir sites that had formerly been of assistance in taking care of surplus flood waters.

He doubtless alluded to the St. Francis basin.

The leading discussion on this subject was made by Col. H. M. Chittenden, of the United States Army Corps, which may be found in the proceedings of the American Society of Civil Engineers for September, 1908. He discusses the subject elaborately, and reaches the conclusion that reservoirs are not feasible for protecting the lower Mississippi River from floods.

The principal champion of reservoirs is Mr. M. O. Leighton, chief hydrographer of the United States Geological Survey. I

wrote him on May 3 last asking a number of questions, and annex my letter and his reply thereto as Appendix D. It will be noticed that he argues very eloquently and forcibly for reservoirs, but says:

Personally, I believe that the entire system on both the Ohio and upper Mississippi could be established for about $500,000,000. If a suitable levee system could be established on the lower Mississippi for $60,000,000, as assumed in your letter, there would be no question concerning the propriety of adopting the levee plan if we considered that portion of the river and flood prevention alone. * * *

Summarizing the above, I would say that from the standpoint of the lower Mississippi alone the levee system is far preferable to the reservoir system as to cost and efficiency, but if the whole basin and the interests of all the people be considered, the reservoir system must be the final resort.

Let it be clearly understood that the friends of the levee system are not opposed to reservoirs and would gladly see them constructed wherever it is practical to place one. They realize that some help would come from any water that may be restrained. Their contention merely is that such reservoirs as can be constructed within the bounds of reasonable cost will not afford material relief, that the cost of anything like a complete system of reservoirs would be enormous, probably much in excess of half a billion dollars, and that levees so strong as to be impregnable can be built for less than one-tenth of the cost of the reservoir system. Of course, we would be glad to have both systems, and if the country ever becomes rich enough to construct reservoirs for the protection of both the upper and lower stretches of the rivers, for irrigating the lands thereon, for creating electric power, for assisting in navigation, and for any other purposes, we will gladly see it done, and certainly throw no obstacles whatsoever in the way. Personally, I would be glad to see a commission of five of the best engineers on earth created by Congress to study and report on flood prevention and control not only in the Mississippi Valley but throughout the Union, though I realize it would cost fully a million dollars and require several years to complete.

In conclusion, I wish to thank the Members of the House for their very patient and kind attention to me in this desultory discussion. I invite your earnest attention to the lower Mississippi and its riparian lands—in many respects the greatest river on our continent and well worth your study and interest. It was to obtain control of this mighty stream that Jefferson purchased Louisiana—the brightest jewel in our national diadem. The soil of its valley is described as the geological cream of the American Continent, the top dressing of leafy mold and rich loam washed from the hillsides and ravines of a hundred rivers and deposited by floods on the lands below. The control of these floods is a problem to which the greatest engineers have given their best attention for two centuries, and they are still studying it. This valley constitutes an empire in itself in area and national wealth. No equal part of the globe compares with it in resources and capacity for contributing to the food and clothing, the necessities and happiness of mankind. It certainly merits the fostering care of our national father. I beg of you to see that this care is given. [Applause.]

APPENDIX A.

STATE OF LOUISIANA,
OFFICE BOARD OF STATE ENGINEERS,
New Orleans, La., May 30, 1912.

Hon. JOSEPH E. RANSDELL,
Washington, D. C.

DEAR MR. RANSDELL: Referring to your letter of the 1st instant, I submit the following:

1. The cost of the levee system of Louisiana since 1865, as incurred by the State and levee districts, and the United States since 1882, is $49,100,951.57, of which $20,394,642 was contributed by the State, $15,949,494 by the levee districts, and $12,756,815 by the United States.

Inclosed is a tabulated statement showing the proportions, by periods, borne, respectively, by the State, levee districts, and the United States.

Now, it must be remembered that these figures represent only what has been paid out over the signatures of the State and United States engineers, and includes none of the many thousands of dollars from time to time additionally contributed by the parishes, municipalities, corporations (with special reference to the railroad companies), riparian owners, etc., which it is safe to say can not within the same time possibly have amounted to less than 50 per cent more, or, say, $25,000,000, the cost of the levee system in Louisiana since 1865 to date, therefore, aggregating not less than $75,000,000.

2. The aggregate of the authorized bonded indebtedness of the levee districts of the State is $8,570,000, of which $7,462,500 is at this time outstanding.

3. The cash outlay so far imposed upon the levee districts in consequence of the high water of 1912, estimated upon replies so far had from the districts, aggregates approximately $275,000.

4. Lives lost as a direct consequence of accidents due to crevasses and overflow, none. Several deaths from ill health previously contracted and later exposure did occur, but no authentic statement can really be made in regard thereto.

5. The loss of property in the overflowed area of Louisiana, including failure of crops, will probably aggregate $25,000,000.

6. The area of the alluvial lands subject to overflow in Louisiana is about 14,695 square miles, or about 9,404,800 acres. Of this, from such information as it has so far been possible to obtain, some 38 per cent was subjected to overflow from the high water of 1912. However, if the area that would under any circumstances have been overflowed from backwater and the failure of several of the levee systems to so far reach and protect said area be deducted, this percentage would be reduced to about 20 per cent.

In other words, of the percentage of the area of alluvial lands subject to overflow in Louisiana, overflowed by the high water of 1912, but 18 per cent should be directly charged to the breaches which occurred in the systems.

Again, the percentage of lands at large in Louisiana inundated by the high water of 1912 as compared with the total area of the State—about 45,500 square miles, or 29,120,000 acres—was but about 12 per cent.

In like manner, as above, deducting from this the area that would under any circumstances have been overflowed, as already explained, this percentage would, too, be reduced to about 6 per cent.

To separate the cultivated from the uncultivated area affected is at this time, with the data at hand, not possible.

* * * * * * *

On the score of the value of levees to Louisiana, it might not be uninteresting to note that in 1882 there were over 300 breaches in its lines of levees, the widths of which aggregated over 60 miles. In the year 1882 the assessed valuation of the State was $197,417,125.14. With each recurring season the lines of levees were so generally improved and the number of crevasses attendant upon succeeding high waters so materially reduced that for some 15 years back such a thing became of such rare occurrence and the uplifting of the State annually so responded to the growing sense of security from overflow and its far-reaching and harmful tendencies and effects felt that in 1911 the assessment of the State reached the sum of $546,820,340.

Of this advancement in and enhancement of values over three-fifths of it is embraced in property located in the alluvial lands of the State subject to overflow, still only tentatively protected from the ravages of caving banks and the high waters of the valley.

Reflect, then, as to the possibilities if means were only made available to mattress the caving bends and banks of the river, specially treat unstable foundations, and everywhere build the levees high enough and broad enough * * * say everywhere no less than 3 feet above the high water of 1912.

* * * * * * * *

With regard, and ever at your service, believe me, always,
Yours, very truly,
FRANK M. KERR,
Chief State Engineer.

APPENDIX B.

DEPARTMENT OF THE INTERIOR,
UNITED STATES RECLAMATION SERVICE,
Washington, D. C., June 4, 1912.

Hon. JOSEPH E. RANSDELL,
House of Representatives.

SIR: Replying to your inquiry of May 29, I will answer your questions as follows:

1. Area reclaimed by the work of the Reclamation Service is a little over 1,000,000 acres.

2. The works now partly completed will reclaim a total of nearly 3,000,000 acres.

3. The cost per acre has ranged from $22 to $93, for bringing water to the land, payable in 10 annual installments, the average cost not being far from $40 per acre.

4. The average cost to private landowner for carrying water to his land after the reservoirs and large irrigation canals have been built by the Government has been very small, as the distributing system to the vicinity of the private land has usually been built by the Government in connection with these larger works.

5. Upwards of $70,000,000 have been expended in building the large reservoirs, canals, and other structures for distributing water.

6. Expenditures are being made at the rate of a little less than $1,000,000 per month.

If the above replies do not cover fully your wishes, kindly let me know.

Very truly, yours,
F. H. NEWELL, *Director.*

APPENDIX C.

YAZOO-MISSISSIPPI DELTA LEVEE DISTRICT,
OFFICE CHIEF ENGINEER,
Clarksdale, Miss., May 17, 1912.

Hon. JOSEPH E. RANSDELL, M. C.,
Washington, D. C.

DEAR SIR: I have neglected to answer till now, your letter of May 4, asking for information and suggestions relating to the levees and the Mississippi River flood problem, as my attention has been quite fully occupied with the high water still hanging upon my hands.

I shall now endeavor to answer your interrogations categorically, to the best of my ability.

(1) "How long is it since there was a break in your district?"

Answer. Fifteen years.

(2) "What are the dimensions of your levees, and how do they compare with those in other districts?"

Answer. The Mississippi River Commission adopted a standard cross-section for levees, which has been in turn adopted by all the levee districts except the "Upper Yazoo" levee district.

The United States standard is as follows:

Crown width, 8 feet.
River-side slope, 3 to 1.
Land-side slope, 3 to 1, down to banquette; banquette grade, 8 feet below levee grade; banquette crown, 20 feet with a drop of 2 feet; banquette rear slope, 4 to 1.

The "Upper Yazoo" levee district adopted the following standard levee cross-section:

Crown width, 10 feet.
River-side slope, 3 to 1.
Land-side slope and rear banquette slope, 4 to 1.
Banquette crown, 40 feet wide, with a drop of 2 feet in 40.
(See inclosed diagram of cross-sections.)

Experience has taught me that 3 to 1 is too steep a slope for the land side of the levee, as it often invites and promotes sloughing of the rear slope. I have never had any sloughing on a 4 to 1 slope.

A 40-foot banquette serves four different functions, as, (a) reenforces the levee at the base, where the hydrostatic pressure is greatest; (b) covers with a superincumbent weight of earth the expanse immediately behind the levee, where foundation weakness is most likely

to develop; (c) affords a ready supply of earth for high-water fighting when needed; and (d) by using 25 feet of the outer part of the banquette crown for a roadway, ready access is afforded to all parts of the levee line; and permitting its use as a public highway, under levee board control, has proven a valuable asset to the country at large.

(3) "If there had been no breaks elsewhere this year, do you believe the levees in your district would have withstood the floods?"

Answer. I believe my levee would have held the entire flood this year if there had been no breaks elsewhere; but it would have been at the expense of a long and costly battle, with the issue doubtful. This flood exceeded all previous calculations of ultimate flood elevations, and had all the water been confined between levees I should have had from 1.3 to 2.3 feet higher water than my grade line was intended to resist. I should not have expected weakness to develop in the levee itself, except for the necessity of "topping" some parts of the line with sacks; but a much greater hydrostatic strain on the foundation would have given much more trouble there. The grade line of this levee had been fixed to meet almost exactly the flood stages that were actually present, to wit, 54 feet on the Cairo gauge and 54.6 feet on the Helena gauge. Forty-four feet had been assumed as the ultimate maximum flood elevation at Memphis, and an abnormality there gave us on the upper end of the line, along Horn Lake, 3.55 feet higher water than the previous record stage. This was held, however, without any trouble.

The excess of this year's flood heights over previous floods was on the major portion of this levee from 2.50 to 3.55 feet; only a few miles had less excess than 2.5 feet. The levee proper showed no weakness and required no work. But a great deal of treacherous foundation exists in this district, which alone was the cause of trouble. Wherever such weakness had developed in former high waters permanent and effectual means were used to combat it, and those places caused no concern. But the increased strain due to greater pressure caused many "boils" to break out in new places, some of which appeared to be dangerous. These were all met promptly and kept under control.

(4) "If you answer 'No' to this question, how much higher would your levees have to be in order to withstand such floods as those of this year?"

Answer. My entire grade line must be readjusted for a new anticipated ultimate flood plane. This requires that it be raised from 2.5 to 3 feet in order to give a margin of 3 feet above the highest water, which I consider necessary for permanent security and confidence, which latter is an essential of perfect levee protection.

This will involve about 8,000,000 cubic yards of additional material, which, with increased unit prices for longer haul, will cost about $2,000,000.

(5) "What changes would you suggest in the present levee system, and what would be the approximate cost thereof?"

Answer. I would suggest that the larger cross section used in this district be substituted for the smaller section now in use elsewhere, and that the grade of all levees be made 3 feet above the ultimate highest water. The quantity of material in the larger section is 25 per cent greater than in the smaller. I would recommend that my standard "muck ditch" be used generally, to be enlarged in places, for special reasons. The standard is 12 feet top, 8 feet bottom width, 7.5 feet deep.

I would also recommend that wherever treacherous foundation has developed, or is suspected, that permanent "sublevees" be built around treacherous expanses behind the levee, and water ponded over same of sufficient depth to reduce the hydrostatic pressure to a harmless degree.

This recourse I have found is essential in this district, and indispensable for combating the only vulnerable feature of this levee system.

I have not sufficient specific information of the conditions prevailing in other levee districts to undertake an estimate of the cost of a perfected system of levees throughout the regions of overflow; but, as a rough, and perhaps generous, approximate, should say $40,000,000.

* * * * * * *

GENERAL REMARKS.

The overflowed lands of the lower Mississippi Valley can be protected from floods and fully reclaimed by an adequate system of levees, and by levees alone.

This is purely a question of cost, and of the scientific application of engineering skill.

The only remaining question is whether these lands are worth reclaiming at the price required.

The Hollanders have now on foot a project for reclaiming 478,000 acres from the sea at an estimated cost of $211 an acre. It is not claimed that the Holland land can be made to produce more to the acre than ours can.

While an adequate system of levees for the protection of this country from devastating floods is a manifest and prime necessity, it should not be lost sight of that the fundamental feature of Mississippi River control is bank revetment. Upon bank stability depends both ability to maintain levees and to perpetuate a system of protection by levees, and also the abatement of excessive flood elevations.

It would be unfortunate if the present excitement and enthusiasm which is directed toward renewed levee building should divert attention and effort from this basic necessity of river and flood control.

While the generosity or sense of obligation of the Federal Government may go to any lengths it pleases in providing money for the building and enlargement of the levees, it is, in my opinion, of the first and last importance that specific and certain provision of an unfailing and sufficient annual appropriation be made for bank revetment, and that by the act of appropriation such sum be made solely applicable to this purpose.

* * * * * * *

Very truly, yours,

T. G. DABNEY,
Chief Engineer Yazoo-Mississippi Delta Levee District.

APPENDIX D.

MAY 3, 1912.

Mr. M. O. LEIGHTON,
Chief Hydrographer, Geological Survey,
Department of the Interior.

MY DEAR MR. LEIGHTON: I am studying as carefully as possible all problems connected with the flood system of the Mississippi River. For years I have been a strong believer in the levee system, and see no reason to change even now in spite of the present awful disasters in the valley. If other means than levees can be adopted, however, I would gladly try them, for I realize that unless the levees are made very much stronger than at present they give only a partial measure of protection. You have been a student of reservoirs, and I wish you to write me clearly your ideas on the following points:

1. Is it possible to establish a reservoir system that would impound a sufficient amount of the flood waters of the tributaries of the Mississippi River as to afford much relief in times of great floods like the present?

2. If you answer "yes" to this question, please state specifically where these reservoirs should be located, and how many of them there should be, and what would be the approximate cost thereof.

3. In answering this question I trust you will bear in mind that the records of all floods with which I am familiar have come principally from the Ohio River and its tributaries, and especially the Allegheny, Cumberland, and Tennessee; from the upper Mississippi and its tributaries; from the Missouri River and its tributaries south and east of Sioux City; from the Arkansas, the Ouachita, the Red, and the Yazoo, with their tributaries.

4. It is estimated that the levee system can be made very much stronger than at present, some say sufficiently strong to withstand any floods for $30,000,000. If we assume that it will cost $60,000,000 to perfect the levee system and surely guard against any prospective floods, how would that compare with the cost of an effective system of reservoirs?

Earnestly hoping that you will reply as soon as convenient, and as fully as possible, and thanking you in advance, believe me, with highest esteem,

Very sincerely, yours,

JOS. E. RANSDELL.

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, May 4, 1912.

Hon. JOSEPH E. RANSDELL,
House of Representatives.
(Through the Director, U. S. G. S.)

MY DEAR MR. RANSDELL: I take pleasure in submitting the following reply to your letter of May 3, relative to the practicability and efficiency of reservoirs in preventing disastrous floods in the lower Mississippi Valley.

It is important to emphasize at the beginning of any discussion of this kind that if the value of a reservoir system be appraised according to its benefits in any single respect, such as the prevention of floods, it will rarely occur that any reservoir proposal will stand the test of minute examination. It is equally true that when the appraisal of benefits is confined to one locality or one stretch of river, it will frequently appear that some other method of river control will be quite as efficient and less costly. The justification for any reservoir plan must consist of all the benefits that will be secured along the entire river's course from the dam sites to the sea. It must include, in addition to flood benefits, those of compensation of low-water flow for navigation, water power, and in some parts of the country for irrigation, and it should be mentioned incidentally that the irrigation benefits are not confined to the arid regions, for it is the belief of those who have given thought to the matter that one of the most marked developments in agriculture during the next generation will be the general adoption of irrigation in humid lands. Your inquiry relates to the single purpose of flood prevention and to that portion of the Mississippi below the mouth of the Ohio. Therefore any appraisal of the value of reservoir systems which is confined to that single benefit in that region alone can not fail to be prejudicial to the reservoir principle, and it would be a mistake to reject the reservoir policy on such a standard of efficiency measurement. Unless river control and development be considered as a unit project from source to mouth, and the general rather than the local benefits be placed foremost, it is not likely that reservoir systems will be widely adopted. The foregoing observations are made to qualify the following statements, which relate specifically to the subject of your inquiry.

It is impossible to establish a reservoir system that would impound a sufficient amount of flood water in the tributaries of the Mississippi to always prevent floods in that portion from Cairo to the Gulf. Levees will always be required in the delta country. Reservoirs will prevent great floods on the Ohio and the upper Mississippi, because there are in the tributaries of those two streams sufficient natural reservoir sites to accomplish the purpose. With such systems established floods on the lower Mississippi, which result from the high water on the Ohio and upper Mississippi, could be quite effectively prevented, though a system of low levees would undoubtedly be required at many places in the delta. In the Missouri basin there is a large natural reservoir capacity in the Rocky Mountain region, but this is not sufficient to prevent floods in the Missouri. There is an enormous Missouri drainage area consisting of the Plains country in Montana, the Dakotas, Nebraska, Kansas, Iowa, and Missouri, the run-off from which will in times of great precipitation, or in the event of quick melting of a large accumulated snowfall, create floods in the Missouri and consequently in the lower Mississippi. In the Arkansas basin there is very little reservoir capacity, even in the upper portion. Consequently the run-off from the large area in which there are no reservoir sites might produce floods in the lower Mississippi under the same conditions as above cited for the Missouri. A similar observation applies to the Red River, though to a relatively less extent. The records of past floods in the lower Mississippi indicate that the greater proportion of them have been the result of flood conditions in the Ohio, therefore the correction of floods in the latter stream would relieve the lower Mississippi from an equivalent proportion of its flood damage. Nevertheless the flood menace from the three western tributaries is so great that the levee system must be continued, though it is probable that with the Ohio and upper Mississippi under control a levee system of the present standard height and strength would be effectual. Without such control it is clear to everyone that the present levee system is inadequate. I believe that the foregoing covers points 1, 2, and 3 in your letter.

Concerning point 4: We do not know how much it would cost to secure reservoir control of the Ohio and upper Mississippi. The investigations of the Pittsburgh Flood Commission indicate that all except the very highest floods could be kept below the danger line at Pittsburgh by the expenditure of $20,000,000 for reservoirs in the Allegheny and Monongahela Rivers. These reservoirs would, of course, have a beneficial effect all along the Ohio, but that effect would grow less as the distance below Pittsburgh increases. The cost of complete systems on such rivers as the Kanawha, Cumberland, Green, and Tennessee has not been determined. Personally, I believe that the entire system on both the Ohio and upper Mississippi could be established for about $500,000,000. If a suitable levee system could be established on the lower Mississippi for $60,000,000, as assumed in your letter, there would be no question concerning the propriety of

adopting the levee plan if we considered that portion of the river and flood prevention alone. But if all the other benefits be taken into consideration throughout the entire country affected by the reservoir system, and if we charge off from the prospective cost of that system the cost of extra high and extra strong levees and the locks and dams, the need for which would be obviated in certain places, together with the cost of dredging, which under the present plan must be continued perpetually, and which under the reservoir plan would be obviated, the aforesaid prospective cost of $500,000,000 would be reduced in marked degree. But even if this were not so, a mature consideration of all the benefits of the reservoir system makes me confident that the people of the United States could make no more profitable investment than that required to build the reservoirs, even were the ultimate cost as large as $1,000,000,000.

Summarizing the above, I would say that from the standpoint of the lower Mississippi alone, the levee system is far preferable to the reservoir system as to cost and efficiency, but if the whole basin and the interests of all the people be considered, the reservoir system must be the final resort.

Very respectfully,

M. O. LEIGHTON,
Chief Hydrographer.

Approved, May 4, 1912.

GEO. OTIS SMITH, *Director.*

Mr. GILLETT. Mr. Speaker, I should like to ask the gentleman from Florida [Mr. SPARKMAN] whether, as a result of the conference between the Senate and the House, the $25,000 for the improvement of the Connecticut River above Hartford, which this House passed and which the Senate rejected, is now in the bill, or whether it stays out, as the Senate insisted it should?

Mr. SPARKMAN. The House conferees insisted upon that appropriation and the Senate yielded, and it is now in the bill.

Mr. GILLETT. I am very glad the House prevailed. I appreciate that this is a relatively small item and is not of much concern to the Members generally, but I think the history of it is intrinsically interesting and suggestive, and at the risk of being tedious, I wish to give a summary of it, for there is a widespread belief throughout the country that appropriations for rivers and harbors depend more on influence and pull than on their merits and that the members of the committee can secure for their districts any moderate appropriation which has a reasonable argument behind it. Here is a proposition which has been earnestly pushed by a member of this committee [Mr. LAWRENCE], now the senior Republican member, for 16 years, and yet by an extraordinary complication of delays and mishaps this appropriation of $25,000, which is only a drop in the bucket compared with what we need and ought to have, is the first we have obtained in all these years. I except surveys, for I think more money has been spent in surveying and planning than on any equal extent of river in the world; but this is the first amount given for actual improvement.

About halfway between the prosperous cities of Springfield and Hartford the Connecticut River falls rapidly for several miles over a rocky bed and thereby interrupts navigation, which now ends at Hartford, but which, if it were not for these rapids, could extend, with a depth of about 8 feet, to Holyoke, 8 miles above Springfield. Holyoke, Chicopee, Springfield, and the towns immediately tributary to them have a population well over 200,000. They are busy manufacturing centers which receive and send out enormous amounts of freight and would be peculiarly benefited by water transportation, and an 8-foot channel would be ample for freight boats.

Naturally the enterprising residents of this district have been irritated to see this splendid river flowing past their doors to the sea without carrying a ton of freight when cheap transportation was a crying need. They saw the Government spending large sums to develop streams insignificant compared with ours and watering much smaller communities, and the complaint naturally arose, Why should we not share in the appropriations lavished upon others apparently far less deserving?

This feeling inaugurated a movement back in 1873 which resulted in a survey of the river by Government engineers, but nothing more was attempted until about 1895. Business men took up the cause in earnest, and a society was organized to further navigation and cooperate with their Congressmen. The next year an appropriation was made by Congress for a survey and report, and the engineer in charge, Maj. Leach, made a report most favorable to our claims, recommending that the Government at once undertake the work and estimating that it would cost from $2,000,000 to $3,000,000. Maj. Leach had made no original soundings, and before the Government could adopt and commence the project an appropriation was necessary for the complete survey on which plans for the work could be based; but Maj. Leach's report had been so thoroughly favorable that we anticipated no obstacles and thought we were on the high road to immediate success.

Meanwhile an event occurred in Congress which proved in the end of great influence on our designs. Mr. BURTON, of Ohio, was appointed chairman of the Committee on Rivers and Harbors, and those of you who have been here long enough to remember his predecessor will recall what a revolution he made in the methods of that committee. Before his time there was too much ground for the popular opinion that a Government appropriation was obtained by pull and not by merit, and that the bills were made up by giving appropriations to enough Members to secure a majority of votes without a very careful scrutiny of the relative needs of the different projects, and then the bill was rushed through with no opportunity for amendment and little debate. Under this arrangement every member of the committee was pretty sure to secure what he wanted for his own district. This was all changed under Mr. BURTON. He allowed unlimited debate and amendment, and to pass his bills relied upon his ability to satisfy the House in debate that the items were just and fair.

When our Connecticut River project was brought before this committee, with its new chairman, asking for an appropriation of $25,000 for a board of survey to make a thorough investigation upon which plans could be based, Mr. BURTON was unfavorably impressed by it and strongly opposed it in committee on the ground that Springfield and Holyoke had such exceptional railroad facilities that the saving in freight rates by navigation would not be enough to warrant the expense of the improvement; but after a hot contest we carried a majority of the committee and our clause was put in the bill, and the chairman, when the majority declared against him, acquiesced with good temper and made no further contest.

Then happened, however, the first of our many disappointments. The mill owners at Windsor Locks, who used as a sluiceway for their mills the existing canal, which was made for navigation and which the law compelled them to keep in condition for traffic, with the right to charge toll, were bitterly opposed to any scheme which threatened to take from them their profitable use of the water, and turned to their representatives in the Senate. Senator Platt, of Connecticut, was on the committee to which the House bill came, and without saying anything to our Senators he quietly persuaded his committee to drop our item from the bill. Senators Hoar and LODGE made a vigorous fight upon the floor of the Senate to restore the item, but were beaten by two votes, and so our chance was ended for that Congress, for there was only one river and harbor bill every two years.

In the next Congress we at once took the matter up, and our position was greatly strengthened by the appointment of Mr. LAWRENCE as a member of the Committee on Rivers and Harbors, for you all know even under the new practice each member of the committee has a peculiar advantage in securing appropriations for his district. The Connecticut River flows directly across the State of Massachusetts and is the dividing line nearly all the way between the first and second congressional districts, represented by Mr. LAWRENCE and myself, so that we were equally interested in the navigation problem, and securing a place on the committee for Mr. LAWRENCE seemed to make certain the successful result, which before was probable. Mr. LAWRENCE used his advantage so well and so gained the confidence of Chairman BURTON that while he still disapproved the project, he made no contest about it, and our appropriation again went into the bill and passed the House.

In the Senate the Connecticut Senators again opposed it and tried to defeat it, but this time they failed and we seemed certain of success until Senator Carter, of Montana, dissatisfied with some other provisions of the bill, successfully filibustered against it and made his famous speech of 13 consecutive hours, and thus the whole bill was killed. So we were obliged to wait once more for the next Congress.

This time the bill went through both House and Senate with a few unimportant amendments which the Connecticut Senators secured, and thus in 1902 we succeeded in getting a final survey ordered, for which we had struggled for six years. Maj. Leach's report had concurred so entirely with our wishes that we had little doubt that this board of Army officers would come to the same conclusions, and so we were stunned and our disappointment was bitter when in 1904 they reported that the probable benefits did not warrant the great outlay.

If this had happened under the old conditions, it would not necessarily have prevented the committee from deciding to undertake the work, particularly as this was the only project Mr. LAWRENCE, a member of the committee, ever asked for in his own district. But under the new régime it was fatal. The committee, under Mr. BURTON's lead, had adopted the ironclad rule that they would favor no measure which the Board of Engineers reported against.

And in this connection I wish to say that while this rule has worked most unfavorably to my district, while I believe that in this instance it has worked an injustice and has postponed a public improvement of inestimable value to an energetic and

deserving community, yet nevertheless I still believe the rule is a wise one and, despite the injury it has done me, I would not favor its repeal and a return to the old practice of favoritism and logrolling. The officers of the Army are not infallible. They are likely now and then to make mistakes, as I think they did in this instance, but I have never heard their integrity or qualifications questioned. They are not subject to political influence and are universally admitted to act from pure motives, and it is but fair to them that I should express my recognition that their opposition to this project, like Chairman BURTON'S, was occasioned by no prejudice or improper influence, but by their honest sense of duty, mistaken though I think they were.

When that board of engineers made its report against us a new rivers and harbors bill had been nearly completed, and Mr. LAWRENCE and I, staggered by this unexpected blow, had to consider how our project could be revived. We concluded that the best chance to save something from the wreck and evade the result of the unfavorable report was to try to insert in the new river and harbor bill a provision that the board which had just reported against us should be reconvened and should submit an additional report upon any other methods of making the river navigable, for we had reason to believe that board might favor some project not providing so deep a channel or requiring so large an expenditure as we had demanded. We succeeded in inserting such a provision in the bill, and it happened at just that time our Connecticut friends who had always opposed us were very anxious that the magnificent Hartford Bridge under construction should be built without a draw. That we had always objected to and prevented, but it would not interfere with our light-draft 8-foot navigation under this new project, so we submitted it to the managers of the navigation association at home, and under their instructions we came to an agreement with the Hartford Representatives and Senators that we would permit their bridge to be built without a draw and they should cooperate with us in opening the river to Holyoke.

But this new plan broke against the same obstacle which had halted us before, and the board of engineers reported against even this limited freight navigation. There was left us now only one loophole against complete and final failure, and that was not a hopeful one. It consisted in an appeal to the Board of Review. This permanent board of engineer officers, sitting at Washington, had been created, I always believed, to act as a still finer sieve through which doubtful projects must pass after they had been allowed by the local surveying board, and I do not think they had ever allowed a plan which the first board rejected, but had rejected many which the first board allowed, but it was our only chance, we were convinced of the justice of our case, so we appealed, and the Board of Review, after many hearings, justified us by overruling the previous decision, and deciding that the results of the improvement would justify the expenditure by the Government of a million and a half dollars, but that certain rights at Windsor Locks must first be ceded to the United States. This the owners refused to do, and we found it would require litigation and expense, and it was being considered by influential citizens when the hopes and efforts of many of the men who had been most active for navigation were directed to a new channel.

The fall of the river near Windsor which makes the rapids and obstructs navigation, at the same time creates a vast water power, only a fraction of which is used at Windsor Locks. It occurred to some of the enterprising men who were studying the subject that instead of asking the Government to build a dam for navigation as planned, they might build the dam themselves and thereby develop a large and valuable water power, and by utilizing their dam the Government with the million and a half which it was willing to spend could easily provide the lock and dredging necessary for navigation. The recent discovery that power can be carried long distances by wire has brought to notice many possible water powers before neglected, and this undeveloped and wasted fall of water, halfway between the two industrial centers of Springfield and Hartford, appealed to some of the men who were earnestly and unselfishly working for navigation as an opportunity to accomplish that end and at the same time to make a profitable investment. They felt that these rapids were, to use the famous phrase of Dr. Johnson two centuries ago, not a mere fall of water, but the potentiality of wealth beyond the dreams of avarice. So they appealed to Congress for a charter and for permission to develop water power by a dam which should be so constructed as to furnish with the Government's cooperation the long sought navigation.

This development of water power in navigable streams and the cooperation of the Government and private parties is one of the most important of the questions before Congress. It is quite new because until the discovery of how to transmit power great distances most of these water powers were valueless. I know you gentlemen on the Interstate Commerce Committee and Rivers and Harbors Committee are giving it close study, and I hope you will soon agree upon some general principle applicable to all cases, so that the men wanting to invest their money in such enterprises can begin active cooperation, and more than all so that the navigation projects depending on it can be completed.

The Commerce Committee of the Senate last winter gave a hearing to the parties seeking this charter at Windsor Locks, and influential members of the committee stated publicly during the hearings that while they could not yet tell on what terms the charters would be granted, one fact was certain—that they must provide adequately and unequivocally for the full needs of navigation. And the prospect at last seems excellent that this long-deferred project will soon be developed in the most satisfactory and thorough way.

It was curious and, I thought, significant that at this hearing certain parties at Windsor Locks who have always sneered at navigation and opposed and blocked it in every possible way suddenly became its ardent champions, put in for themselves a rival application for a charter, and were eager to promise everything which the most ardent navigationist could desire. It showed that the cause was progressing; that its necessity was admitted by its bitterest enemies; but it also complicated the situation, because with two parties bidding for the right to build the dam, the committee was uncertain on which to bestow the charter. So that their new profession of zeal for navigation is causing us as much delay as their hostility ever did.

While this contest for the charter has been going on a company in Springfield which anticipates great advantage from river navigation determined to experiment with the present conditions on the river and to bring up coal by boat from the Sound. They found many obstructions, snags, and sand bars between Hartford and Windsor Locks, but by indefatigable perseverance succeeded in bringing up a flotilla of coal barges to their docks in Springfield. They wish to continue the operation, and it is to remove the obstructions to their commerce that the $25,000 in this bill is appropriated. Their enterprise certainly deserves recognition. It is peculiarly gratifying to us who are interested to see that there is actually some commerce on the river, even if it is small and continued under difficulties. It is an earnest of what may be in the near future, and I was exceedingly glad that the engineer officers could be persuaded to recommend this $25,000 on the ground that it not only helped the navigation now on the river but was a necessary part of the larger improvements which we expect will give us general navigation.

It is the first money that has been appropriated in all these years really for the improvement of the river. All the rest has been for surveys and investigation, and although this amount is insignificant the circumstances are favorable; for unless the engineers expected that the larger plan of a power dam—in conjunction with which they have recommended that the United States should spend over a million dollars—for navigation was imminent and likely to soon be developed, they would hardly have been allowed this money simply to restore old conditions. This $25,000 is to be so expended that it will be part of the anticipated navigation. To bring that about we are no longer dependent on the decision of an engineer board, for they have already reported favorably upon it. It awaits now the action of the men who avow that they are ready to begin the enterprise. They say the money is at hand. They have their private selfish interest to stimulate them, and the only obstacle which is delaying us is that the scheme looks so attractive that two rival companies are stretching for it and fighting each other, and until their legal contest is ended or compromised neither can begin. I am hoping that this new hindrance will be soon disposed of, and that the project which has cost so much effort with so little result for so many years is about to be consummated in a more enduring and satisfactory form than any of the first plans.

I had no intention of taking so much time on this subject, which is of more local interest to my district than of general interest, but I am glad of the opportunity to give a connected statement of our efforts for the navigation of our principal New England river, and I think it may also be useful as contradicting the current impression that pull and political influence are all that can gain appropriations. Undoubtedly they still avail, and without work and influence no appropriations will be won; but the old times when the least meritorious project could be carried through by an influential Congressman on the committee regardless of its merits have passed away never, I hope, to return. Here is a case where a member of the committee sought for 16 years one solitary appro-

priation for his district, and though in that time he went from the foot to the top of the committee he could never succeed, simply because the Army engineers who were ordered again and again to investigate as often reported that the improvement though desirable would not warrant the necessary expense.

And the present situation is also of general interest as an indication of the new opportunities the transmission of power over long distances by wire has given both to the United States and to remote localities. Now, the innumerable dams which the Government has constructed and maintained for navigation purposes can, with little additional expense, become great sources of valuable salable power, and in future development private corporations will be glad, for their own profit, to build the dams necessary to make streams navigable and thus save the Government vast expense.

We should speedily adopt principles and rules under which such corporations may act, and I trust one of the first results of this new discovery and new policy may be a huge dam at Windsor Locks, which will distribute power and add to the development of that whole region, and, more important yet, will at last open up navigation to the Sound from that busy industrial center which for so many years has seemed on the point of securing the advantages of river transportation and each time has had its expectations rudely shattered by the veto of the War Department. The War Department has now reported in favor of this new project, capital is ready, two different corporations are contesting for the privilege, and I trust this rivalry may soon be settled, the necessary charter granted, and the long-postponed navigation at last consummated.

Mr. NEEDHAM. Mr. Speaker, I favor the adoption of the conference report. There are several items in the bill which are of great interest to the people whom I have the honor to represent, and I desire to take this opportunity to express my gratification that the bill is soon to become a law, and in doing so I feel called upon to express the appreciation of the people of my district for the consideration shown them as evidenced by several items in this measure.

After a struggle lasting many years, at times presenting many discouragements, the people, not only of my district, but of the whole State of California, will be gratified to realize that provision is made for the improvement of the harbor at Monterey, Cal. The State of California, with its immense coast line, has long been anxious for more harbors, and the inauguration of the project at Monterey, which will result in an additional deep-water harbor on the Pacific coast, will, I am sure, be received with genuine satisfaction by the people of the State which I have the honor in part to represent upon this floor. The making available of this splendid deep-water harbor by the building of a breakwater is destined to play an important part in the commercial development of our State. It means the certain construction within the near future of a cross-State railroad which will be built from the great San Joaquin Valley to the harbor at Monterey. It means an additional outlet for the products of the greatest producing section of the State of California.

Provision is made for the building of a breakwater at Monterey, at a cost of $800,000, upon two conditions—first, that the State of California shall provide $200,000 toward the cost thereof, which condition has already been met by a direct appropriation of the Legislature of the State of California; and, second, upon condition that provisions are made satisfactory to the Secretary of War for the building of a railroad from the San Joaquin Valley to Monterey, which condition, in my opinion, will be met within the near future. This cross-State railroad from the great interior valley of California will carry to tidewater the products of as rich a section as there is in the world, a section of our State which, in the variety of its products, is unsurpassed; a section which produces every known product of the soil and of the mountains immediately adjoining—the richest products of the forest and mine.

The building of the railroad to this newly constructed harbor means a cheaper outlet by reason of the short haul and the consequent decreased freight rate for the lumber and mineral products of our mountains and for all the products of the great valley, including wheat, barley, oats, hay, alfalfa, dairy products, dried fruits, canned fruits, raisins, citrous fruits, wine, and every product of the farm and of the soil. It marks, in my opinion, a new era in the development and prosperity of the State of California.

I am also pleased to know that the conferees have included in the bill amendment No. 119 of the Senate, which is in the following language:

That a preliminary investigation be made to determine whether a system of impounding reservoirs at the headwaters of the Allegheny, Monongahela, and Ohio Rivers and their tributaries is needed and practicable to provide sufficient water during dry seasons to operate the present and proposed system of locks and dams in these rivers, and to what extent the Federal Government, on the basis of their benefit to navigation, is justified in cooperating with local communities which may be interested in the construction of such reservoirs primarily for the purpose of flood prevention, and the feasibility of operating such reservoirs for the double purpose of flood prevention and improving navigation; and that this investigation be conducted by a board of three engineer officers, to be designated by the Chief of Engineers, United States Army; and that the results of this investigation be reported to Congress, with such additions as may be made thereto by the said Chief of Engineers, not later than December 7, 1912; and that for this purpose the sum of $5,000, or so much thereof as may be needed, be, and the same is hereby, appropriated.

Personally I would like to see this amendment go further. However, I realize that this amendment is a new departure in legislation and a recognition of a very important policy, which policy, I trust, will be enlarged and broadened within the near future. The Nation must take a further step in its legislative policy with regard to the waters of our rivers. It must be recognized by advanced legislators that there should be inaugurated a policy of cooperation between the Nation, the State, individuals, and local communities looking toward the conservation of the waters of our streams and a utilization of such waters to beneficial use. To this end there must be inaugurated within the near future a policy which will build storage reservoirs upon the headwaters of our rivers so that these reservoirs may furnish water for the standardization of our navigable streams; and, furthermore, to the end that such waters so stored may be brought to beneficial use in the irrigation of lands which can not be profitably cultivated without irrigation.

A wise progressive policy makes it incumbent upon the Nation to lead the way in legislation which will bring about this cooperative policy of conservation. The provision above quoted, I sincerely trust, is the beginning of a liberal policy which will bring into active cooperation the Nation, the State, and the local community in the wise use of the water of our various streams. It is foolish to further postpone such a policy. It is, to my mind, not only foolish, but it is extravagantly wasteful to continue to do nothing because of a lack of cooperation between these agencies. There has been too great an insistence by Congress that it will do nothing with our streams except to promote navigation. We must recognize that the problems of navigation, flood prevention, storage, and irrigation are so interwoven and so overlap that it is positively essential that the Nation, the State, the individual landowner, and the local community must cooperate, and in this cooperation it is, to my mind, the positive duty of the Nation to lead the way.

We have a situation in the State of California which demands that this cooperative policy be immediately inaugurated. The complete use of the waters of the San Joaquin River and the Sacramento River demands the entering upon this policy without further delay. I am, therefore, gratified that there is such a recognition of this policy contained in this bill, and the friends of this policy will continue this agitation until a full recognition of the policy is obtained and its inauguration recognized by law.

After many years of effort we have, with the active cooperation of the commercial bodies of the great San Joaquin Valley, particularly the traffic association of the Chamber of Commerce of the City of Fresno, succeeded in enlisting the attention of the authorities of the United States to the problems of the San Joaquin River. We have obtained for this river greater consideration from the Engineer's Office of the Government than ever before, and we have brought these problems to a further point looking toward their solution than has hitherto been attained. The problems of this great river demand the building of storage reservoirs upon the headwaters of its tributaries in order that the stream may be standardized for the purpose of flood prevention, navigation, irrigation, and drainage. The improvement of this river by a cooperative policy between the Nation, the State, and the communities tributary to it will be of inestimable value and will result in unprecedented development.

The people whom I have the honor to represent are so deeply concerned in the utilization of the water of the San Joaquin River for the purpose of irrigation and navigation that they will not rest until the river is comprehensibly improved and its water put to all the possible beneficial uses which a wise system of conservation demands.

Mr. SPARKMAN. Mr. Speaker, I yield to the gentleman from Missouri [Mr. RUSSELL].

Mr. RUSSELL. Mr. Speaker, I have neither the time nor the disposition to detain the House or to delay the vote upon this important measure by a lengthy discussion of its provisions, but only desire to express my approval of this bill as a whole and especially to express my own appreciation and the thanks of the constituency that I represent for the liberal spirit shown by the River and Harbor Committee and by this Congress in favorably considering matters of such great importance to the people of the Mississippi Valley. This bill appropriates

$6,000,000 for the improvement of the Mississippi River from the mouth of the Ohio River to the mouth of the Mississippi, $4,000,000 of which will be expended in repairing and constructing levees from Cape Girardeau, Mo., south. This is much more than was ever before appropriated by any Congress for the same purpose.

The recent unprecedented flood from the Mississippi River and the great destruction of life and property wrought by it has convinced us all of the necessity and the importance of this increased appropriation.

There is but one criticism that I would make of the past or present policy of this Government in handling the Mississippi River question, and that is I believe more money should be expended in revetment work, making the banks of the river permanent, and thereby protecting the levees from destruction by caving banks and at the same time protecting the channel of the river from the obstruction that necessarily follows the falling in of acres of the most fertile lands under the sun.

As a near neighbor of Cairo, Ill., residing as I do in the Missouri county immediately across the Mississippi River, I heartily approve of the appropriation contained in this bill for the protection of that growing city and important commercial center, and I congratulate my old-time friend, Capt. THISTLEWOOD, who represents that district so well, for his success in obtaining this just recognition for his city.

I also desire to express my approval and appreciation of the item in this bill providing for the examination and survey of the St. Francis River in Missouri, which the committee kindly placed in the bill at my request.

The Government for many years appropriated money to improve this river, but in the Fifty-ninth Congress, which was before I had the honor to be here, the usual appropriation for this river was discontinued; and I now hope, by this examination and survey, to again get this important local stream restored to its former place as a recognized navigable river.

Mr. Speaker, I favor this bill, and as it is important that levee work should be done at once, so as to protect the country from another possible flood, I hope it will be promptly passed. [Applause.]

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] has two minutes remaining. Does he desire to use that time?

Mr. SPARKMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPARKMAN. Mr. Speaker, has a member of the Committee on Rivers and Harbors who is not a member of the conference committee any time at his disposal? The gentleman from North Caroline [Mr. SMALL] wanted to be recognized. I am willing to yield to him the two minutes I have left if that will answer his purposes.

The SPEAKER. The Chair will first recognize the gentleman from Illinois [Mr. MANN] for one hour.

Mr. MANN. I yield five minutes to my colleague from Illinois [Mr. THISTLEWOOD].

Mr. THISTLEWOOD. Mr. Speaker, there is no section of the country, outside of the section immediately surrounding the city of Cairo, that suffered more from the great flood that visited that western section during March and April of this past year. There is no section of the country that needs the protection that only the United States Government can give to its rivers by the building of levees and of revetment work more than this section.

The city of Cairo is most peculiarly situated, being at the junction of the Ohio and the Mississippi Rivers; two great rivers within themselves that drain with their tributaries more than 27 States. But when you remember that to the Ohio River, not more than 50 miles above Cairo, is added the Cumberland River and the Tennessee River, and a short distance above, the Wabash, in my judgment these three rivers combined discharge more water into the Ohio than comes from the upper Mississippi. And there is some peculiarity about the rapid rise that prevails when these rivers are at flood stage. In 1883 we had the highest water at Cairo ever known since the Government established the Weather Bureau, yet the water of this great flood that has just passed or is passing exceeded the height of that flood by 2 feet; but in the year 1884, making three high-water periods—1882, 1883, and 1884—the Ohio River was 3½ feet higher at Paducah than it was in 1883, the highest water for Cairo up to that period. This great flood that has passed or is passing was 2 feet higher at Cairo than was the flood of 1884, but yet not so high at Paducah, 25 miles above. This recent flood, I think, was the most destructive flood that ever visited the valley of the Mississippi River. The loss of lumber, buildings, corn, hay, alfalfa, wheat, live stock, and other farm products would perhaps amount to $5,000,000 alone in and around Cairo, and that was not the greatest loss. If you could have been with me on that April morning when the Big Four levees gave way, and could have seen, as I saw, streams of people deserting their little cabins with fear and alarm depicted on their countenances, you would know how to appreciate the loss to those poor people who were driven from the drainage district. It was a loss including not only their household furniture, their family supplies, but even their houses were beaten to pieces by the raging waters. What could be more distressing than to see a poor woman with her house about to be swept away, all that she had right there, and perhaps with two or three little children who had become greatly alarmed clinging to her in great fear? I refer to the people who were driven from this drainage district, the workshop of the city of Cairo. They are the laboring classes of people, but they are the producing class, working in the mills and shops and factories, and while their loss was not great, yet in proportion to their ability to meet the loss, it was greater than all the others. The wonder to me is that so few of them lost their lives, but this question can only be explained by the fact that the river rises gradually at first, giving the people a chance to escape by dikes and railroad tracks, and those that were left clung to their buildings, some of them taking refuge in attics until they were picked off by rivermen in skiffs. Is it any wonder that people become alarmed and is it surprising in times of great calamity like this that people are willing to open their pocketbooks and come to the relief of those who have had everything swept away?

While we do not ask any of this appropriation that is allotted to Cairo for the purpose of making restoration, or the rebuilding of homes for the people who lost all, we do ask it that the people may be safeguarded in the future against such losses; that labor may be furnished to them that they may take care of themselves. Without this appropriation from the National Government it is doubtful if we could do this work ourselves. This flood, while it was resisted by the main part of Cairo, entirely suspended traffic, destroyed railroad embankments and bridges, and nearly all means of communication between the high land and the city of Cairo. I think one dollar expended in building up levees good and strong goes further in the end than two dollars expended in temporarily caring for the people. The American people are very charitable, and they rush with open pocketbooks to assist the distressed communities. They are willing to provide for them, but is it not better for the Government to make these appropriations so that this distressing condition will not be likely to occur again?

I think with the $250,000 that you will vote in this bill and the $250,000 that will be raised by the citizens of Cairo, the $20,000 at Mound City with a like amount to be expended by them, we will be able to put the levees surrounding this territory in shape to withstand a much larger flood than this one was. I do not think it would be prudent to say that with this we could bid defiance to the floods in the future. The possibility of floods in the Mississippi Valley is great, and where great rivers come together and where the outlets have been narrowed during high-water periods, it is apt to be many days before the river declines perceptibly. What is the means of protection? I know of nothing else than well-constructed levees built high and wide and strong. I can not say too much about what has been done under the direction of the Mississippi River Commission on the lower part of the river and even above Cairo. If by revetment work or any means we could stop the caving banks along the Mississippi River, we would go a long way in arresting the great and destructive floods. Where the banks cave the earth is carried in sediment but a short distance down the river and deposited again, making an obstruction to navigation and an obstruction to the rapid flowing of the stream. The caving banks are largely where the trouble comes from in filling up the channel of the stream. Wherever there is a caving bank there is sure to be a sand bar but a short distance below it, and there cross currents are caused in the river which in turn starts a cut in another place. I think the engineers who have studied the Mississippi River believe in letting the channel scour out the stream where it can be done and thus make a greater width to the river and to the flow of water in flood times. I would apply two remedies to this condition of the river: Build up the levees and maintain the channel as free from sand bars as it is possible to do. There is not any question but that the bars in the channel of the river have a great deal to do with the stage of the river at all times.

Most of the people who lost their homes and their all in the flooded district were cared for by the citizens of Cairo and of the surrounding country, aided by patriotic National and State Governments. I feel sure that many of them have not gotten back into their own homes yet. We need this appropriation well expended, and I hope that no time will be lost in closing the

gaps that were made by this great flood in and around the city of Cairo.

The question was asked by the gentleman from Washington if there had ever been any money appropriated for improvements on the Ohio River. My recollection is it was not answered, but I remember very distinctly only a few years ago, less than 20, the old town of Shawneetown was nearly wiped away in a great and destructive flood, and the people of the West, especially the Central West, contributed largely to the maintenance of the people who were driven from their homes, and the Government made an appropriation to build and restore their levees which were broken or destroyed.

I believe in levee building. I believe it is the only way the destructive floods can be prevented from doing great damage. The question is often raised why the river increases in height as the years go by during these great floods. If there were no other reason to cite, the very fact that great stretches of territory are being leveed and the water is year by year confined to narrower channels than prevailed years ago. It is not a new thing, Mr. Speaker, for the Government to appropriate money to build levees. The Mississippi River Commission has been in existence for more than 30 years, and a large part of its business year by year has been the building of levees and the closing of gaps along the Mississippi River and its tributaries. Then years ago levees were built opposite the city of Cairo in Missouri, partly by the Government and partly by the levee district, I think, on a half-and-half basis, and this is what the city of Cairo is proposing. We are only asking that the Government shall contribute one-half of this levee enterprise, and I feel that the money will be returned in increased business of the country, increased property interest fourfold to the Government within 10 years. The Government has property of its own in the city of Cairo. They have a Federal building and custom-house which cost in the neighborhood of half a million dollars. They have a marine hospital that cost over $100,000. The Government has large interests in Cairo. It is the head of deep-water navigation. The Government gauge at Cairo is a guide to all the points below us as to the height the river may be expected to rise during any flood and is watched as carefully by the planters around Vicksburg and Greenville and other places along the river as are their own reports. It is a wonderful help to the farming community. It is a great help to the business interests to have this Government river report made daily so that each can calculate and take chances for himself. So this is no new departure for the Government. They have been building levees, or helping to build them, ever since the organization of the Mississippi River Commission, and in some places they build them outright.

This land, embracing the Mississippi Valley, cared for, is the most productive of all land, in my judgment, in the world; and any government would be very neglectful of its duties to its citizens and be wasteful and destructive of its own resources that would permit this great body of land to lie idle because of the expenditure of a few million dollars in levee building. I make no special plea for the city of Cairo beyond the surrounding country. I am just as anxious to see the people of Mr. RUSSELL'S district in Missouri, that is right across the river from us, protected from the flood waters. They are entitled to be protected. They are entitled to have their bank revetments made; and I am sure Mr. RUSSELL, a very active and influential Congressman, will see that the levees on his side are restored and built stronger and higher. Of course all this will be forcing the water up on us, but we are not so selfish as to want to receive all the benefits that levee protection gives to any other section. This is a great country, and this Mississippi Valley is a great body of land. It is said a man is a benefactor who causes two blades of grass to grow where one used to grow. The improvement of this great body of semioverflowed land will do more than to cause two blades of grass to grow; it will cause four. I think we have just begun to reclaim the Mississippi Valley.

There is one thing to be remembered by those who live along small inland streams—the necessity for levee improvement does not there exist for the reason that the water in such streams rises rapidly and soon passes, doing little damage; but when these great rivers fill up, you may calculate that you have a month's water on your hands to carry off. The ordinary outlets of the river are not sufficient to carry it off. If rivers were only intended to be used to drain off the surplus water from the land, there would be, perhaps, as much necessity for their improvement as there is to-day, but the Mississippi River is a great freight carrier. The Mississippi River and the Ohio River combined annually transport many millions of tons of coal, iron, grain, lumber, and all the products which enter into the trade of the country. I have in mind now the immense carrying capacity of some of the coal boats that are running on the Ohio and Mississippi Rivers. The great towboat *Sprague*, in her record-breaking trip down the river, towed 56 barges of coal, of 1,200 tons each, or a total of 67,200 tons. If this coal had been loaded on cars, of 30 tons to the car, it would have extended, coupled up in a solid train, over more than 20 miles of road. The tow, when placed on the river, was 900 feet long and more than 300 feet wide. It only shows the possibility of the Mississippi river as a great freight carrier and freight regulator. I am told that coal can be profitably towed from Pittsburgh to New Orleans on the river now for 75 cents per ton, whereas the cheapest rail rates would be perhaps three times as much. All of this great carrying capacity ought to be used by the Government as much as possible, and one of the reasons why it is not used more, perhaps, is the uncertainty of having a stage of water that will permit of river traffic the year round. If the conditions of the river could be improved to such an extent that we could have every-day transportation, so that a man's property would not be going to waste, or he would not be eating up what he had earned during the period of fair weather and good river conditions, it would be a great and valuable asset to the Government, much more valuable than it is now.

We need to care for the river. We need to protect its banks. We need to prevent the formation of bars, if possible. We need to so manage the river that we can have this transportation, if not all the year, then as nearly so as possible. To do this we must use the river. To do this we must stimulate the raising of products along its banks. We must stimulate the growth of business in and along the river. There is no soil in the world that will produce as much if properly managed as does the bottom lands of the Mississippi. The Mississippi Valley, of which the Mississippi River is the great central figure, produces 75 per cent of the wheat, oats, corn, barley, cotton, live stock, hay, fruits, and other commodities of the United States; and while much is lost through overflow, if the Government will take hold of it and expend annually a sufficient sum to restore the broken levees and to raise those that are not sufficiently high we would hear but little of the loss and destruction of property along its banks. The State of Mississippi, I am told, has the best levee system of any of the Southern States. As an evidence of that fact no breaks occurred in any of its levees this year. They have made it a business to build them high, strong, and to care for them, and under their efficient management it is returning fourfold the money invested.

I do not hesitate to say that the destruction of property measured in dollars and cents, saying nothing about the loss of life, is equal to a sum that if properly expended would make the levees of the Mississippi River almost impregnable and render life and property behind its banks secure.

Mr. MANN. Mr. Speaker, I yield 10 minutes to the gentleman from North Carolina [Mr. SMALL].

Mr. SMALL. Mr. Speaker, I simply wish to make two observations in respect to this bill. First, as to the Mississippi River and the great valley which it drains. I wish to bring to the attention of the House a broad aspect of that subject in order that some plan may be devised by Congress which will avoid the necessity of constant criticism annually levied at the appropriation for that river, as has been the case for many years. Any man who studies the Mississippi River in his first experience with it as a river-and-harbor project will of necessity be prejudiced against it because of the small number of water carriers which traverse it, and the small amount of commerce which is carried upon it, and the slight degree to which its navigability is affected, as compared with the large appropriations which are made for it. I say these considerations together will prejudice the mind of a man who first begins the study of this river in order to determine its merits as a project worthy of improvement. However, in another aspect, when it is considered that from Cape Girardeau to its mouth at the Gulf there is concentrated the drainage of almost one-half in area of our territory, a condition which was so happily explained by the gentleman from Louisiana [Mr. RANSDELL] in his interesting speech, and when the conditions resulting from this great volume of water upon the riparian lands are considered, the fertility and value of those lands, the large population and the wealth of that section, and when we consider, further, that of necessity it is not a local question, is not confined to any State, and is beyond the potential and financial power of any State or of even any section of the Union to take care of, I say we can not avoid the conclusion that it is a project involving national consideration and demanding Federal support.

We have been making appropriations for this great river, particularly for levees and revetment and bank protection, from

Cape Girardeau to the Gulf, for a number of years. The expenditures in a large degree are made and the plans formulated by the Mississippi River Commission; but we have never had and have not to-day any plan by which there is a definite cooperation between the States and the localities along that river and the Federal Government. There is no coordination between the engineers and other assistants furnished by States with the Federal Government. I do not believe that this problem will be properly settled until after due consideration Congress shall enact a law under which the proportion which the States and the Federal Government must contribute shall be established upon some uniform and equitable basis. I believe we should go further and place the entire project under the control of the United States Army engineers, and thereby place the entire responsibility upon them. I think no higher duty can devolve upon the River and Harbor Committee and the friends of the Mississippi River, particularly in its lower section, than to devise some plan for submission to Congress by which this shall be recognized as a great national problem and a national duty, so that each year we may make appropriations upon some equitable scheme of cooperation between the Federal Government and the States of the section immediately affected.

I wish to make only one further observation, Mr. Speaker. I think in many respects this is one of the most valuable bills which has been brought to the House in the new and constructive legislation which it contains. I have only the time to review now one feature.

Criticism is made from time to time by opponents of river and harbor improvement, who say that the expenditures which we make do not develop a sufficient amount of commerce upon our navigable rivers commensurate with the money expended. To some extent this criticism is justified and merited, and it is due to our relying too largely upon the proposition that an improved channel means commerce. It means no such thing. Other conditions must exist before commerce may be expected to develop upon any navigable stream. One of the conditions I wish to advert to for a moment is this: We must have upon our navigable streams adequate water terminals. One of the difficulties in promoting commerce upon our interior rivers, and notably more on the rivers in the Mississippi Valley, tributary to the great Mississippi, has been this lack of adequate water terminals, not only a terminal which shall have sufficient area, but which shall have a modern warehouse equipped with all modern appliances for transferring freight from the water carrier to the warehouse. There must be physical connection between the water terminal and the railroads serving that community or section, and also adequate highways leading to the terminal. Then we should go further, as we have attempted to do in the Panama Canal bill, and compel a system of prorating between the railways and the waterways, so that we may have long-distance shipments, partly by rail and partly by water. It is recognized to-day that one of the principal factors in our success in building up so great a railway transportation system lies in the fact that the railroads have standardized their tracks and equipment and by prorating one with another have built up a system of long-distance traffic so that they embrace the entire country.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. MANN. Mr. Speaker, I yield five minutes more to the gentleman from North Carolina.

Mr. SMALL. Mr. Speaker, if prorating in this way has enabled the railways to build up long-distance traffic, serving the needs of the entire country, why should they not also prorate with the water carriers, and why should not a person having freight for shipment which may be carried partly by water and partly by rail be able to obtain a through contract of carriage so that it may be carried upon both lines and under one common contract or bill of lading?

Mr. Speaker, this bill contains a provision that in every survey authorized in this and in subsequent bills the engineers shall make a report indicating whether there are water terminals, whether they are adequate; if there are water terminals which are not adequate, they shall specify the particulars in which they are inadequate, and, in addition, if there are no water terminals whatever they shall indicate in a general way the proper location of such terminals and the necessity for them. This information will gradually tend to induce Congress to provide that no appropriations shall be available until the States or municipalities shall construct adequate terminals. In my opinion, this would be a just condition. No section is entitled to have a stream or harbor improved, unless they intend to utilize it for commerce, and to this end water terminals are a prerequisite. Not only is that provision in this bill, but there is another even broader, which authorizes and directs the Chief of Engineers during 1912 and 1913 to secure data embracing every navigable stream and harbor in the United States, which has at any time been improved by the Federal Government, and furnish for the information of Congress full data as to the existence or nonexistence of water terminals upon each of those navigable streams and harbors. When that report shall have been submitted and we shall have attached to every subsequent report full information as to the existence of water terminals, then the committee and Congress will be in a position to enforce, if it chooses to do so, the limitation upon appropriations for a navigable stream, requiring that water terminals must be provided before the appropriation shall become effective. In many other respects this bill is exceedingly meritorious, but I shall not attempt to detain you longer with any details as to its merits.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. RUSSELL. Mr. Speaker, I ask the same privilege.

The SPEAKER pro tempore. Is there objection to applying it to all who have spoken?

Mr. MANN. None whatever; and I ask that it may apply.

The SPEAKER pro tempore. If no one objects, it is so ordered.

There was no objection.

Mr. MANN. Mr. Speaker, the river and harbor appropriation bill as it passed the House carried a cash appropriation of $24,062,520.50, and provided for a continuation of contracts in the amount of $2,200,000, or an aggregate amount of $26,262,520.50. That was considered a rather small amount for a river and harbor bill, and we were told that was a result of the Democratic economy plan to cut off all appropriations. If anything was added, the responsibility was to be placed upon the Senate. The Senate added to the bill by amendment $8,054,010 and struck out $233,000, making a net increase of $7,821,010. The total of the bill as it went to conference was $34,083,530.50. The Senate added items of $8,054,010, and the conferees have made a net reduction of all of those items of $824,160—about 10 per cent. The bill in its present form as agreed to by the conferees carries $33,259,370.50. I do not know whether the conferees are quite willing to say that all of these items are proper and should be in the bill or whether we shall hear during the campaign how the House passed an appropriation bill carrying so much and the extravagant Senate added so much and then forced the House to agree to put on those items in order to carry on the Government.

I suppose we will hear that a great many times during the campaign, and yet no man here to-day dares say that any of the items which the Senate added to the bill and which have been agreed to in conference are not proper items to be in the bill. If there is any such man here I will yield him time now to point out the items. Mr. Speaker, the Senate also added to this bill an amendment as section 2 of the bill providing:

SEC. 2. That the Secretary of War shall cause the Chief of Engineers of the Army and the Board of Engineers for Rivers and Harbors to report to Congress, in which shall be included a preliminary report not later than December 1, 1912, upon the saving, as well as other advantages, which can be accomplished by the adoption of the continuing contract system, the rapidity with which projects should be completed, upon methods of standardization by which the waterways of the country may be improved uniformly in proportion to their capacities and to the existing or probable demands of general commerce, and also report upon one or more systematized schemes of such improvement, involving all waterways heretofore examined, together with any natural or artificial channels essential for the utilization thereof, whether heretofore examined or not; also upon all projects heretofore adopted, the further improvement of which is not desirable or the expenditure upon which is out of proportion to the benefit derived therefrom. Such report may include other related information pertaining to the uses or control of the waters of the country, and the sum of $100,000, or so much thereof as may be necessary, is hereby appropriated for such examination and report.

The purpose of that amendment was to provide a systematic control of river and harbor improvements. That item went out in conference, and somebody somewhere in referring to section 2, the amendment inserted by the Senate and not put in the bill, assumed to make remarks something like this concerning the House:

So far as the House of Representatives is concerned, however, it remains still attached to the system of spoliation—the system of pothole appropriations, controlled by the Representatives of various districts, through which they secure nomination and office; a system which is cynically regardless of the ultimate purposes to be obtained, the development of a system of waterways fitted for transportation, and not a system of waterways designed to secure the expenditure of public moneys in the interest of men seeking office.

I do not say that fairly describes the attitude of the Democratic House of Representatives in refusing to agree to this amendment, but I am informed that a certain distinguished Democrat made the statement. Mr. Speaker, there is another item to which I wish to refer. In various items which were

inserted in the bill by the Senate the House conferees have insisted upon inserting these words, "which shall be considered extraordinary emergency work." The House conferees have insisted upon inserting those words in several amendments of the Senate, and those words——

Mr. SPARKMAN. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. SPARKMAN. I would like to say those words first appeared when the Senate amendment made provision for the improvement of the lower Mississippi River. They were afterwards inserted in the three provisions—one for Mound City, another for Cairo, and another for the Arkansas River. Those insertions were made in conference.

Mr. MANN. They must have been made by the House conferees, the Senate conferees could not amend their own amendment.

Mr. SPARKMAN. I say they first appeared in the provision for the improvement of the Mississippi River, and were inserted by the Senate and not by the House. Afterwards the same provision was made in the provision for Mound City and Cairo and the Arkansas. Those were made in conference.

Mr. MANN. I am aware of that. I am glad the gentleman calls it to the attention of the House. I am just going to call attention to one particular item with that statement.

The item in reference to Cairo is $250,000. That was a Senate amendment, and in conference the House conferees insisted upon amending that Senate amendment by inserting in it:

Which shall be considered extraordinary emergency work.

I suppose that language might be read to 90,000,000 of the American people and there would not be 20 of them who would know what it was put there for unless they were informed specifically.

The eight-hour law passed in 1892 says:

The provision that the service and employment of all laborers or mechanics who are now or may hereafter be employed by the Government of the United States is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States whose duty it shall be to employ, direct, or control the services of such laborers or mechanics to require or permit any such laborer or mechanic to work more than eight hours in any calendar day except in case of extraordinary emergency.

Now, the little work that was done at Cairo under the special appropriation we made, with the river rising and threatening to sweep away the levee, was a case of extraordinary emergency, and the extraordinary emergency has passed by and no longer exists. In the eight-hour bill which was passed the other day, and which has become a law, but which only applies to contractors, we put a provision exempting levee construction from operation of that law. But the law now applies to the work on the levee. Most of it in the first place is done directly by the Government, or much of it, and this provision of the law applies, and it has been held that the work on the Mississippi River and the other rivers now being carried on is not a work of extraordinary emergency. And the purpose of inserting that provision in these items was to escape the eight-hour law. We have here a Democratic House one day passing an eight-hour law and the next day passing a law to exempt the appropriation made from the operation of the eight-hour law.

Next Wednesday we will have before this House a bill reported into the House by my colleague from Illinois [Mr. BUCHANAN] which proposes to amend the eight-hour law of 1892 by making it apply to all laborers and to all persons, whether they be laborers, mechanics, Army officers, Mississippi River Commission members, or what not, engaged in constructing, maintaining, or improving a river or harbor of the United States, or in the District of Columbia, and we will be treated to the rare anomaly of this House on next Wednesday passing a law providing that all labor of all kinds upon rivers and harbors shall come under the eight-hour law, when on the Friday preceding they make an appropriation and provide that it shall not be controlled by the eight-hour law, because all of these laws must necessarily provide an exception in case of extraordinary emergency.

Does the Democratic side of the House, which proposes to pass the new bill next Wednesday, believe in it? If so, why do you to-day provide that it shall not operate? The time to do a thing is when you have a chance. This House can now withdraw its insistence upon inserting in these Senate amendments this provision that takes this appropriation out from under the eight-hour law, and that will be effective. Next Wednesday it can pass a bill in the hope that in the course of much business in the Senate between now and March 4 next it will not have a chance to get through the Senate. I shall watch with interest on Wednesday to see whether the distinguished gentlemen on the Rivers and Harbors Committee, who insist that the eight-hour law shall not apply to the appropriations they are now making, will vote or offer to amend the bill next Wednesday which says that it shall apply. There is no extraordinary emergency now in reference to improving the levees on the Mississippi River.

Mr. Speaker, I have listened with interest to what has been said about the improvement of the Mississippi River. I can remember the time, and I am still a very young man, when I could take a little raft and float over all of the area within the site of my father's house on the prairie in Iroquois County, Ill., with the exception of a few little raises of the ground where houses were built. The rest was all under water. That land is all now drained through drainage districts, and tile-drained besides. The water then stood on the ground in little sloughs and swamps every spring until fall in many places. There were many places from which the water never disappeared. Now that water hastens to its great outlet, and the same is true over the mighty expanse of territory drained by the Mississippi River. All of the time we are adding to the land that is drained. Here and there we are cutting off a swamp which has acted as a reservoir for water, until in the course of a few years we probably will have drained all of the natural reservoirs, shallow in depth, which now hold back the water from running quickly to the river. And it is quite true that through these means of drainage we have added a burden to the lower Mississippi River which it is possibly proper and fair that we should at least in part attempt to correct.

Personally, however, I do not believe that under any of the plans which have yet been made it will be practicable to control the Mississippi River. With the enormous amount of water which will be thrown into that river in times of high flood in the future I do not believe it will be possible for the water to reach the Gulf of Mexico between the banks now established or through the channel now laid out and used. That is one of the things we may learn about in the future. Meanwhile, doing the best we can, we will continue to drop a flood of money to prevent the flood of water.

I yield to my colleague from Illinois [Mr. FOWLER].

The SPEAKER pro tempore (Mr. WATKINS). For how long?

Mr. MANN. I do not know how long the gentleman wants to speak.

The SPEAKER pro tempore. The gentleman has the right to speak in his own time.

Mr. SPARKMAN. Mr. Speaker, I want to know about that.

Mr. MANN. How much does the gentleman desire?

The SPEAKER pro tempore. The gentleman has 20 minutes remaining.

Mr. MANN. I yield to the gentleman such time as he may want.

The SPEAKER pro tempore. That is 20 minutes——

Mr. MANN. If he uses it.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. FOWLER] is recognized for 20 minutes.

Mr. FOWLER. Mr. Speaker, I had not intended to say anything on this subject to-day until after the discussion had proceeded at some length. Having lived on the Ohio River for most of my life, I have become interested by force of habit in the commerce of the district lying on the great thoroughfare which forms a part of the Mississippi Valley.

It is well known, Mr. Speaker, that the Mississippi Valley comprises the greatest productive section of any country in the world, larger in area and more fertile than can be found elsewhere. While I have not at hand the data comparing the products of the Mississippi Valley with those of the other portions of the United States, yet it is by far larger than all other parts in the production of agricultural products, taking in the cereals and the animals which are used for burden and for food.

Having associated myself with all of these inspiring elements that exist along one of the greatest rivers of the world, and having my home fixed upon the banks of that splendid river, upon a promontory which gives a beautiful view for miles below and for miles above [applause], and having spread in front of my home in the midst of the river a beautiful island of more than 1,000 acres, fringed with willows and green with rustling corn—Hurricane Island by name, and more fertile than the valley of the Nile—further on across the Ohio, into the misty distance in Kentucky, rising above the horizon, with their lofty peaks kissing the clouds, lies the broken yet picturesque range of the superb Ozark Mountains. Thus surrounded, I naturally take a deep interest in all legislation which has for its object the improvement of these great thoroughfares. [Applause.]

A vast stretch of territory lies on the Kentucky side, starting in just below Caseyville, where the shallows lie, and where

Congress, in its wisdom, has determined to construct a dam and lock system. I have viewed that territory with great alarm, as to what would be its future, because of the ravages of the mighty floods which annually sweep down on that side of the river. A large area of fertile territory there, more than 50 miles long and averaging from 1 to 10 miles wide, is to-day threatened with ruin by overflows of the Ohio River, and is likely to be swept away or cut up by various lagoons worse than it was before it was cleared and converted into fertile farms.

The eloquent speech of the gentleman from Louisiana [Mr. RANSDELL] on the necessity of constructing levees on the Mississippi at the expense of the United States has led me to suggest, Mr. Speaker, that there is as great a necessity for constructing a system of levees on the Ohio River from Evansville to the mouth of the Ohio. A few years ago the district of which I have been speaking was as free from danger, apparently, as the Rocky Mountain system from the overflows of the Ohio River. But to-day there are great and vast holes dug out here and there by these overflows, which are perhaps 100 yards in diameter and from 50 to 75 feet deep. It shows what a wonderful effect the overflows have on the surface of a territory overflowed.

On the Illinois side of the Ohio we have a city with a great wall surrounding it, like one of the walled cities of old, made necessary because of the destructive floods. A few years ago this wall gave way during one of the dreadful overflows, and the mad waters plowed a mighty gap through the city and carried away every house in its wake. It was a most trying moment with the inhabitants, many of whom saved their lives by climbing to the top of this wall and waiting for boats of rescue, while others less fortunate found watery graves. This city, Shawneetown, is now the oldest city in Illinois. Kaskaskia, once the oldest, has long since been destroyed by the overflows of the Mississippi River. Not a vestige of the site of that city remains to-day. Where it once stood lies now far out in the Mississippi River. It is not only our duty to preserve Shawneetown, because it is the oldest town now in Illinois, but it is our duty to protect it because of the necessity of a levee to protect the people and their property from destructive overflows.

Maunie, on the Wabash, is now threatened with destruction because of destructive overflows on that river. I am informed that the force of the water has been so great of late years that the surface of that portion of the town lying near the river has been cut away so that several of the houses have been destroyed and many more are threatened. I am much gratified to know that Congress generously gave the people of that thriving town a survey of the Wabash River at that point, and I feel confident that at the next session of Congress you will make the required and necessary appropriations to repair the damage and prevent the threatened destruction of the town.

Congress has also generously given a survey of the Little Wabash and the Saline Rivers with a view of making the necessary appropriations to dredge, deepen, and straighten the channels of these rivers in order that they may be made more serviceable to the farmers who annually raise wonderful crops in the valleys of these rivers to be transported to the markets. This will help to save the crops from destruction by overflow. Let us do our duty to the farmers.

Mr. Speaker, the continuous drainage of the land once covered with a forest and patched with leaves sufficient to hold in check all waters the year round, and holding fast vast bodies of water in lagoons and lakes, has continued to such an extent that to-day in the Ohio Valley you can scarcely find a piece of territory which has not been converted into fertile fields for farming purposes, with no standing waters, no forests to check their flow; but a free sweep, aided by a fine system of drainage by tiling, now carries that water into the Ohio River, whereby it is conducted into the Mississippi River, down to its destiny, the Gulf. What was a security in the past from these overflows has been converted into a danger to-day, and what was thought to be useless in the expenditure of money for the protection of the farmer in these valleys has been converted into a dire necessity. Mr. Speaker, as the conditions change, the necessity for the appropriation of money to care for these fertile lands becomes greater and grows as time passes.

I was interested in the discussion of my colleague from Illinois [Mr. MANN] when he compared the appropriations which were made by the House for improving the rivers and harbors with that which came back from the Senate. I am aware, Mr. Speaker, that the Senate had made an additional appropriation, and, to speak frankly as a new Member of this House, I believe that much of the increased appropriation was well advised, and for my part I have no objection to it and will vote freely for it. [Applause.]

The cheapest transportation that there is in this country is on the great rivers and lakes. You do away with them and let them fill up and stop the channels of commerce on these great thoroughfares, and then we will have nothing except the railroads, and our experience with railroads is that wherever they do not have competition their rates by some means gradually rise so high that we have to get up on a stool, like a baby at the table, in order to see the top of them. [Laughter and applause.]

If we want to be secure in the rates of transportation, we ought to keep up the rivers and the lakes of this country, so that there will not be a monopoly by one system of transportation. And the way to do that is to adopt a system of dredging our navigable rivers and deepen and widen their channels so that they may be free for all the people, in order that the farmer may have cheap transportation for his products. [Applause.]

In my own district there are a number of such rivers. The Wabash and the Little Wabash are navigable streams, and all that is necessary in order to make them more so, so that they can carry all the wheat and corn that is raised in those fertile valleys, is the appropriation of enough money to dredge them and straighten the channels and widen them so as to give free transportation the year round to boats that ply up and down these streams. The Saline River and a number of smaller rivers are of such a nature that they can be made to carry enough water to give transportation all the year round, and all that is necessary to be done to them is to get active and busy and take care of what God has so graciously given us. [Applause.]

Mr. MANN. I yield the remainder of my time to the gentleman from Florida [Mr. SPARKMAN].

The SPEAKER. Does the gentleman from Florida [Mr. SPARKMAN] desire to use his time?

Mr. SPARKMAN. No; Mr. Speaker, I ask for a vote.

The SPEAKER. The question is on the agreeing to the conference report.

The conference report was agreed to.

VIRGIL GUNNELLS—LEAVE TO WITHDRAW PAPERS.

Mr. HULL, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Virgil Gunnells, Sixty-first Congress, no adverse report having been made thereon.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives, by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills and joint resolution of the following titles:

On July 15, 1912:

H. R. 21259. An act to allow an exchange of certain lands in the Harney National Forest.

On July 17, 1912:

H. R. 17937. An act authorizing the Secretary of War to pay a cash reward for suggestions submitted by employees of certain establishments of the Ordnance Department for improvement or economy in manufacturing processes or plant.

On July 18, 1912:

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

On July 19, 1912:

H. R. 20684. An act providing for the sale of the Lemhi School and Agency plant and lands on the former Lemhi Reservation in the State of Idaho; and

H. J. Res. 220. Joint resolution to grant American citizenship to Eugene Prince.

COST OF OCCUPATION OF PHILIPPINES (H. DOC. NO. 875).

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee on Insular Affairs and ordered to be printed:

To the House of Representatives:

The following resolution was adopted by the House of Representatives January 25, 1912:

Resolved, That the President of the United States be, and he is hereby, requested to submit a statement to the House showing the cost which has accrued to the Government of the United States from the beginning of and as the result of the occupation of the Philippine Islands by the United States.

The cost to the Government of the United States resulting from the occupation of the Philippine Islands, through direct appropriations by Congress, is as follows:

(a) By the act of March 3, 1901, to carry out the obligations of the treaty of November 7, 1900, covering the cession by Spain to the United States of certain small islands belonging to the Philippine Archipelago lying outside the lines described in the treaty of Paris, $100,000.

(b) By the act of March 3, 1903, for the relief of distress in the Philippine Islands, $3,000,000.

(c) By the act of March 3, 1903, for completing the census of the Philippine Islands, $351,925.50.

The total cost accruing to the Government of the United States for the purposes defined by the three acts cited was therefore $3,451,925.50. There has been no other direct exenditure from public funds of the United States solely for and on account of the Philippine Islands not subsequently repaid from Philippine revenues. On the other hand, there was expended from the revenues of the Philippine Islands from 1898 to 1900, in the execution of the direct military purposes of the United States, a total of $4,975,747.52, for which no reimbursement to the Philippines has been made. There is consequently a difference in direct expenditures in favor of the Philippine Islands of $1,523,822.02. Whatever cost has accrued to the United States, in addition to the direct expenditures above cited as a result of the occupation of the Philippine Islands, has resulted from the military and naval operations in and about the archipelago and from the construction of fortifications and naval stations therein. The total amount thus expended can not be determined with any degree of accuracy. In this connection your attention is invited to Senate Documents No. 339 and No. 416, Fifty-seventh Congress, first session, wherein are printed the reports of the Secretary of War in response to a resolution of the Senate of April 17, 1902, which resolution sought to obtain information regarding expenditures on account of the Philippine Islands of the same nature as desired by your resolution of January 25, 1912. These reports of the Secretary of War set forth the data desired for the periods indicated as accurately as was then possible and show the difficulties attending compilation of data of the kind desired and the impossibility of securing accurate results.

The same difficulties, intensified by the changing conditions during the period that has since elapsed, exist to-day and render the problem presented by your resolution practically insoluble.

The cost of the military and naval operations in the Philippines resulting from the occupation of those islands is and must always remain a matter of argument. These operations resulted in part from the War with Spain and in part from the insurrection in the Philippines incident thereto; but the Philippines were not a cause of the War with Spain, nor is it possible to separate the cost of the war in the Philippines from the cost of the war elsewhere, nor the cost of the War with Spain from the cost of the Philippine insurrection. Again, it is impossible to state what part of the cost of the support of the Army and Navy since the conclusion of the Philippine insurrection can be regarded as resulting from the occupation of the archipelago. We maintained a fleet in the Orient for many years. It can not be said definitely that our occupation of the Philippine Islands increased this fleet. The military forces now in the islands would have to be supported at home were they not in the Philippines. On at least two occasions their presence there has resulted in saving to the United States in the cost of sending troops to China for the protection of American interests. It is impossible, in other words, to determine clearly what part of the naval and military expenditures in the Philippines is chargeable to the cost of the islands and what part to the cost of national defense. The cost of fortifications in the Philippines can be more readily computed, but this is an item chargeable clearly to national defense rather than to the occupation of the Philippine Islands. If we had a naval station in those islands, as all persons of whatever view propose, such fortifications are necessary.

Aside from the direct appropriations of Congress cited above, the expenditures incident to military and naval operations, and the support of the United States forces in the archipelago, the Philippine Islands have been in no way a charge against the Treasury of the United States. In other words, with the exceptions named, the Philippine Government has been entirely self-supporting. Moreover, it has been throughout self-supporting in a larger sense than any other territorial possession of the United States. All expenses attached to the collection of revenues, to the administration of the Post Office Department and of the courts, to the survey of the islands, to the conservation of their resources, and to the improvement of their rivers and harbors, and to all similar public works, which elsewhere, as in Porto Rico, Alaska, and the Hawaiian Islands, are a charge against the National Treasury, are and have been paid from the revenues of the Philippine Islands.

WM. H. TAFT.

THE WHITE HOUSE, *July 19, 1912.*

QUESTION OF PERSONAL PRIVILEGE.

Mr. AUSTIN. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. AUSTIN. Mr. Speaker, on yesterday the gentleman from Illinois [Mr. RAINEY] asked permission to print certain statements in the RECORD. I entered an objection to the request, which I had plainly a right to do under the rules of this House. In the noise and confusion the gentleman from Illinois [Mr. RAINEY] made a statement in reference to myself which I did not hear, and that is my reason for calling attention to it to-day. Had I heard his statement, I would have answered it very promptly. I think I owe it to myself and to the constituency that I represent to answer his statement at the earliest possible moment, for fear that my silence might possibly be misconstrued.

Had his statement reached only the ears of the Members of this House I would not trespass upon the valuable time of this House for a personal explanation or a denial. On page 9249 of the RECORD of July 18 the gentleman from Illinois [Mr. RAINEY], after my objection, made this statement:

> I have no objection to the objection of a man who is in favor of the Water Power Trust.

Mr. Speaker, I had hoped that I might serve in Congress without incurring the displeasure or ill will of any man on the floor of the House. I have endeavored to be kind and manly and considerate and courteous to all of my colleagues. I confess that I cherished the hope that I could count every Member of the House my personal friend and that when I served my last term here I could go home feeling that I had the good will and friendship of every Member I had ever served with.

My offending on yesterday consisted in objecting. I think I ought to state why I objected, even though the rules do not require me to make an explanation, and neither is there anything in the rules that would justify any Member of this House in denouncing, or charging wrongdoing, or criticizing any colleague for exercising his rights to object under the rule to a request for unanimous consent. But this trouble began last Monday, on unanimous-consent day. I had on the Unanimous Consent Calendar a local bill (H. R. 24028) in which my constituents were vitally interested. If I were to serve in this House the balance of my life, I can not conceive of any bill or measure fraught with more good or of more importance to the people I represent than the local bill on the calendar of which I have made mention. That bill came here with a unanimous report of a committee composed of 21 members, 14 of whom represent the majority of this Chamber. I believe that every member of that committee is an upright, honorable man and a faithful and efficient Representative. This bill meant the devolopment of an important river—Clinch River—in the district I represent which with that development would carry cheaper transportation for steam and domestic coal to practically every community in the district and to towns and cities far down the Tennessee and the Mississippi Rivers.

It also meant the development of the iron, marble, zinc, and other mineral resources of three or four of the important counties in the district. It carried an expenditure in the end of many million dollars, and the practical improvement of that river by slack-water navigation for more than 100 miles and reaching the important coal fields of eastern Tennessee.

A private company offered to perfect this improvement at its own expense if granted the use of the water power for electric development. Congress had authorized the survey of this river and one of its ablest engineers—Col. Kingman—had made a favorable report for a lock and dam system to cost $1,400,000, with a series of crib dams and navigation for 75 miles. That report was submitted to Congress 12 years ago. Since that time the cost of material and labor has greatly advanced. Here was a private company which proposed to construct these dams of concrete, costing not $1,400,000 but more than $3,000,000, and operate at their expense every lock on that river. It was to save the National Government the cost of the improvement of the river and the perpetual maintenance of the locks and dams.

The men interested in this corporation, a majority of them Tennessee men and my constituents, furnished me with petitions from the people living along the river, asking that favorable action be taken on this bill. When the bill was reached on the

calendar the gentleman from Illinois [Mr. RAINEY] objected. I asked him to withhold his objection, to give me three minutes in which to explain the merits of the proposition, with a view of having him withdraw his objection. That courtesy to me on a local bill was denied.

I believe it is the first time that I have seen that thing happen since I have been a Member of this House, where one colleague declines to withhold an objection to give the Member of Congress—the author of the bill—an opportunity to present a statement in favor of a purely local bill. The gentleman not only denied me that courtesy, but, representing a district eight hundred or a thousand miles away, clothed his objection to a unanimous report on a local bill with a veiled intimation that his opposition was on account of a water-power trust.

Mr. Speaker, if I am here as a Representative favoring a water-power trust which is seeking to take an unfair advantage of the American people, I have violated my oath of office. Not only that, but I have disgraced myself and am no longer worthy to be a Member of the House of Representatives. If I am guilty of this charge, and the gentleman from Illinois will produce his proof, I will tender my resignation as a Member of this House, for I will be no longer worthy of companionship or association with the honorable membership of this body. Neither would I be the kind or character of man who would be a fit Representative of the splendid people who sent me to Congress. If the gentleman has not the proof, then I say he owes it to himself, he owes it to me, he owes it to this House, to do what every honorable, fair man would do under those circumstances, namely, make a retraction.

A brave, honest, and manly man, one worthy of a place in this House, one entitled to the respect and confidence of his congressional associates, will not misrepresent or slander a fellow Member. This is no place for a corrupt or an unfaithful Representative; nor is this a suitable place for a man who is the author of a slander or a falsehood against one of his colleagues.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. The gentleman from Illinois asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. RAINEY. Mr. Speaker, the debate on the conference report on the river and harbor appropriation bill, which has just ended, discloses the fact that the National Government is about to enter upon a new field of river improvement, the building of levees along rivers, or rather, national aid for levees along rivers other than the lower Mississippi River. If the National Government undertakes to protect against floods lands along the lower Mississippi River, there is no reason why the National Government should not also undertake to protect against overflow lands along all of its navigable rivers. We have just passed a river and harbor appropriation bill carrying with it $35,000,000, in round numbers. The demand for river improvement is increasing, and as the demand for river improvement increases the demands of these water-power companies upon the Government to give away in its navigable rivers to them the power that can be developed therein is increasing also. I do not know how much power can be developed in the navigable river in which the gentleman is interested.

Mr. AUSTIN. What does the gentleman mean by saying that I am interested?

The SPEAKER. The gentleman from Tennessee is out of order.

Mr. RAINEY. I did not understand the gentleman's question.

Mr. AUSTIN. The gentleman said that I was interested. I am not interested in any of these propositions except as a Representative.

Mr. RAINEY. The gentleman need not be so nervous about it. The gentleman "doth protest too much."

Mr. AUSTIN. I resent that insinuation.

The SPEAKER. The gentleman from Tennessee must not interrupt the gentleman from Illinois without the consent of the gentleman from Illinois.

Mr. RAINEY. I did not say and I did not mean that the gentleman was personally interested in this enterprise. I do not know that he is and I did not so state, but he has taken a violent interest in this enterprise. I do not know how much power can be developed there, and nobody seems to know. The Government engineers have never reported upon that fact. The report filed here by the committee with the bill does not disclose any facts of that kind, but the statement he has just made—and he complains that I did not permit him to make it before and occupy three minutes in making it—shows that his company——

Mr. AUSTIN. It is not my company.

Mr. RAINEY. Again the gentleman "doth protest too much."

The SPEAKER. The gentleman from Tennessee is out of order. He must not interrupt the gentleman from Illinois without the gentleman's consent.

Mr. AUSTIN. I want the gentleman to stick to the truth.

Mr. RAINEY. His statement shows that this company, mentioned in the bill, in which the gentleman is interested—is the gentleman satisfied with that?

Mr. AUSTIN. I am not interested in the company.

Mr. RAINEY. I did not say the gentleman was.

Mr. AUSTIN. Then stick to the truth.

Mr. RAINEY. The statement made by the gentleman about this company in which his friends are so much interested, and his constituents are so much interested, that he thinks his place in this House is in danger if he does not get it through, discloses the fact that this company down there in his district and in his State is willing to expend the enormous sum of $3,000,000 for the purpose of building a dam there, if the company is given the water power that can be developed thereby.

In addition to that, they are willing to maintain and operate locks along the river and lights and things like that. Now, if that is true, then he has been asking us here to give away to his friends down there in his State and in his district no man knows how many millions of dollars. Now, the cities of this country own nothing valuable except the right to use their streets, and they have been engaged for 50 years in the business of giving away to private companies the right to use their streets. The cities are expected to maintain their streets. The National Government has no valuable right in these navigable rivers except the right to develop the water power therein, and the Government is being asked to give this away and at the same time to expend money in maintaining river channels and banks.

The SPEAKER. The time of the gentleman has expired.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent that I may have five minutes more.

The SPEAKER. The gentleman asks unanimous consent that he may have five minutes additional.

Mr. AUSTIN. Mr. Speaker, I hope it will be granted and that the gentleman will give me proof of his charge.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. RAINEY. The other day there were six of these bills on the calendar. I had no personal feeling against the gentleman and have none now, nor have I against his bills nor against any gentleman who presented any of those bills and who appeared here as the proponent of any of them, but I blocked every one of them and in blocking them on that day I saved the Government at least $25,000,000. And I want to serve notice upon the gentleman from Tennessee and upon everybody else who is interested in these private power bills, or rather whose friends are interested in them, that I propose to block on this floor every one of them as fast as they come up and to fight every one of them until some policy is adopted by this Government whereby a portion of these revenues can be saved for the Government and used for the purpose of developing these rivers and protecting the adjacent land from overflow. Why, it is possible within the next 25 years——

Mr. WEEKS. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. RAINEY. In a moment. It is possible to develop in these United States within the next quarter of a century $600,000,000 worth of water power every year. Is it too much to contend that one-sixth of it, $100,000,000, every year ought to be paid into the Treasury of the United States to be used in developing these rivers, protecting their channels, and incidentally protecting the land on either side of their channels? Is that unreasonable? We devote all the money we derive from the public domain from leases on timber lands and sales of timber land and all public lands to the creation of one great fund for the purpose of reclaiming the arid lands in the West. Is it any stretch of the constitutional powers of this Government to extend that same principle of conservation to our rivers and to stop this practice of giving them away?

Now, I have no personal feeling against the gentleman from Tennessee, but the other day when I blocked the bills of his friends upon this floor he got up in his place and defiantly said:

> The gentleman from Illinois will never as long as he remains in this Congress get another bill through of this character.

Now, I did not know what to do about it, whether I ought to resign and go back home or stay here and try to discharge my

duty as a Member of this House. I finally concluded to stay and to try to discharge my duties as a Member of this body. But the gentleman went further than that——

Mr. AUSTIN. Mr. Speaker——

The SPEAKER. Does the gentleman yield to the gentleman from Tennessee?

Mr. RAINEY. In a moment. The gentleman went further in his threats; and the next time I appeared upon the floor I presented to the House, after the speech of the Socialistic Member [Mr. BERGER] some articles on socialism. I presented the other side of the question as printed in the American Anti-Socialist. I also presented a list of books upon socialism upon the other side of the question and simply asked permission for the enlightenment of the public, and a very considerable number of people are not yet in favor of socialism, to print these extracts in the RECORD, and the gentleman carrying out his threat to make my service in this House useless as much as he could, and extending his sphere of operations beyond what he proposed to do, arose in his place and objected to that.

Now, the Socialists of this country are in favor of consolidating everything, the railroads, water power—everything—into a few hands, believing that then they will be able to take it over easier than otherwise, and you can expect a man who speaks for a water-power trust to be in perfect harmony with the position——

Mr. AUSTIN. Mr. Speaker——

Mr. RAINEY. And so he objected to placing in the CONGRESSIONAL RECORD something which criticized the policy of socialism. Now I do not want to do the gentleman an injustice. I want to say, however, that if I have succeeded in making it odious upon this floor for any man to represent any of these water-power steals in their operations against this Government, if I have succeeded in making that odious, and in making it necessary for gentlemen to get up here and say, I do not belong to—I do not represent—any water-power trust, great or small, then I feel that I have already accomplished much.

The SPEAKER. The time of the gentleman expired.

Mr. RAINEY. And in answer to the gentleman I want to say that I am glad to hear him say he does not represent this water-power trust.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Ordered, That the managers on the part of the House be allowed until the 1st day of August, 1912, at 1 o'clock in the afternoon, to present a replication, or other pleading, of the House of Representatives to the answer of the respondent; that any subsequent pleadings, either on the part of the managers or of the respondent, shall be filed with the Secretary of the Senate, of which notice shall be given to the respondent, respectively, so that all pleadings shall be closed on or before the 3d day of August, 1912.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6763. An act to authorize the cities of Bangor and Brewer, Me., to construct or reconstruct, wholly or in part, and maintain and operate a bridge across the Penobscot River, between said cities, without a draw.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6763. An act to authorize the cities of Bangor and Brewer, Me., to construct or reconstruct, wholly or in part, and maintain and operate a bridge across the Penobscot River between said cities without a draw; to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT.

Mr. FOSTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p. m.) the House, according to its previous order, adjourned to meet on Monday, July 22, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FAISON, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 25832) to establish fish-hatching and fish-culture stations in various States of the United States, reported the same without amendment, accompanied by a report (No. 1030), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAYLOR of Colorado, from the Committee on Irrigation of Arid Lands, to which was referred the bill (S. 5545) providing for the issuing of patent to entrymen for homesteads upon reclamation projects, reported the same with amendment, accompanied by a report (No. 1032), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GODWIN of North Carolina, from the Committee on Reform in the Civil Service, to which was referred the bill (H. R. 25634) to promote efficiency in the Government service, reported the same with amendment, accompanied by a report (No. 1031), which said bill and report were referred to the House Calendar.

Mr. CLINE, from the Committee on Expenditures on Public Buildings, submitted a partial report (No. 1029) on hearings had before said committee, which said report was ordered printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 25857) granting certain lands for a cemetery to the Fort Bidwell People's Church Association of the town of Fort Bidwell, State of California, and for other purposes; to the Committee on the Public Lands.

By Mr. LEVY: A bill (H. R. 25858) to provide for international notes, and for other purposes; to the Committee on Banking and Currency.

Also, a bill (H. R. 25859) authorizing national banks to include national-bank notes in the lawful money reserve; to the Committee on Banking and Currency.

By Mr. HAYDEN: A bill (H. R. 25860) to provide for the payment of election expenses of the first State election of the State of Arizona; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 25861) granting a pension to Philip J. Harice; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 25862) granting a pension to J. S. Collins; to the Committee on Pensions.

By Mr. BURNETT: A bill (H. R. 25863) for the relief of the heirs of E. A. Campbell, deceased; to the Committee on War Claims.

By Mr. DWIGHT: A bill (H. R. 25864) to correct the military record of John Barker; to the Committee on Military Affairs.

Also, a bill (H. R. 25865) granting a pension to Sophronia Foote; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25866) granting a pension to Adaline A. Stanley; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 25867) granting an increase of pension to Berl P. Penny; to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 25868) granting an increase of pension to Mary C. Jimerson; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 25869) granting an increase of pension to Margaret Sheridan; to the Committee on Invalid Pensions.

By Mr. HAYDEN: A bill (H. R. 25870) granting a pension to Mary Jane Tillman; to the Committee on Invalid Pensions.

By Mr. NYE: A bill (H. R. 25871) granting an increase of pension to Hervey A. Humphrey; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 25872) granting an increase of pension to William Willis; to the Committee on Invalid Pensions.

By Mr. SULZER: A bill (H. R. 25873) for the relief of the survivors of the *General Slocum* disaster; to the Committee on Claims.

By Mr. THISTLEWOOD: A bill (H. R. 25874) granting a pension to Dora Ann Neace; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 25875) granting an increase of pension to William H. Jenkins; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the St. Augustine Board of Trade, of St. Augustine, Fla., favoring passage of bill providing that what is known as powder-house lot be turned over to the city of St. Augustine as a public park; to the Committee on the Public Lands.

By Mr. ASHBROOK: Petition of Smith Bros. and 8 others, of Doylestown, Ohio, against passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Memorial of the St. Augustine Board of Trade, St. Augustine, Fla., favoring passage of bill relative to public park for St. Augustine; to the Committee on the Public Lands.

By Mr. BURNETT: Petition of Tombigbee Lodge, No. 426, Brotherhood of Locomotive Firemen and Engineers, against passage of the workmen's compensation bill; to the Committee on the Judiciary.

By Mr. CLARK of Florida: Petition of the Wholesale Grocers of the State of Florida, favoring passage of House bill 22526, the Gould weights-and-measures bill; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of the Chamber of Commerce of Washington, D. C., favoring passage of bills affecting the District of Columbia; to the Committee on the District of Columbia.

Also, memorial of the St. Augustine Board of Trade, of St. Augustine, Fla., favoring passage of bill providing that what is now known as the powder-house lot be turned over to the city of St. Augustine as a public park; to the Committee on the Public Lands.

Also, petition of the Antikamnia Chemical Co., of St. Louis, Mo., against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of St. Louis, Mo., against passage of bill providing celebration of 100 years of peace with England; to the Committee on Foreign Affairs.

Also, petition of Perseverence Lodge, No. 1765, of St. Louis, Mo., favoring passage of Senate bill 180; to the Committee on Appropriations.

Also, evidence to accompany claim of Oscar Grear, Eighth Illinois Volunteer Infantry, War with Spain; to the Committee on Pensions.

By Mr. FULLER: Papers to accompany bill for the relief of Berl P. Penny; to the Committee on Invalid Pensions.

By Mr. KINDRED: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LEWIS: Memorial of Delaware Tribe, No. 43, Improved Order of Red Men, of Brunswick, Md., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of New York Typographical Union, No. 6, and New York Photo-Engravers' Union, No. 1, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. MATTHEWS: Papers to accompany House bill 25818; to the Committee on Military Affairs.

By Mr. O'SHAUNESSY: Memorial of the Society of the Cincinnati, of the State of Rhode Island and Providence Plantations, relative to the preservation of the frigate *Constellation* in Narragansett Bay; to the Committee on Naval Affairs.

By Mr. RAKER: Petitions of John Armstrong Chaloner favoring impeachment of George C. Holt, judge of the Federal court for the southern district of New York; to the Committee on the Judiciary.

By Mr. STEVENS of Minnesota: Memorial of the Minnesota Summer School of Missions favoring passage of law to abolish polygamy in the United States; to the Committee on the Judiciary.

By Mr. SULZER: Petition of the New York Photo-Engravers' Union, No. 1, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Allied Printing Trades Council of New York State against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. WILLIS: Papers to accompany House bill 19961, granting an increase of pension to William Locust; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the St. Augustine Board of Trade, of St. Augustine, Fla., favoring passage of bill to turn over to the city of St. Augustine as a public park the powder house lot; to the Committee on the Public Lands.

SENATE.

SATURDAY, *July 20, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

PETITIONS AND MEMORIALS.

Mr. POINDEXTER presented a petition of members of the Commercial Club, of Walla Walla, Wash., praying for the enactment of legislation to exempt from tolls all American ships passing through the Panama Canal engaged in coastwise traffic, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Rock Cut and Orient, in the State of Washington, praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

Mr. NELSON presented resolutions adopted at the third annual convention of the Loyal Liberty Protective League, of Minnesota, held at Duluth, Minn., remonstrating against the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were referred to the Committee on the Judiciary.

He also presented resolutions adopted by members of the Minnesota Summer School of Missions, favoring the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Corbin, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. POINDEXTER, from the Committee on Mines and Mining, to which was referred the bill (H. R. 17260) to amend an act entitleld "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, reported it with amendments and submitted a report (No. 951) thereon.

Mr. O'GORMAN, from the Committee on Claims, to which was referred the bill (S. 6939) for the relief of Fred R. Payne, asked that that committee be discharged from its further consideration and that it be referred to the Committee on Naval Affairs, which was agreed to.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRADLEY:

A bill (S. 7342) granting an increase of pension to James Griffey (with accompanying papers); to the Committee on Pensions.

By Mr. BANKHEAD:

A bill (S. 7343) to authorize the building of a dam across the Coosa River, Ala., at the place selected for Lock No. 18 on said river; to the Committee on Commerce.

By Mr. GORE (by request):

A joint resolution (S. J. Res. 124) to equalize, in part, allotments of Creek Indians in Oklahoma; to the Committee on Indian Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment proposing to credit in the accounts of Morton E. Crane, secretary and disbursing officer of the Immigration Commission, the sum of $654.29, being the amount disallowed from his accounts by the Auditor for the State and Other Departments, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Immigration and ordered to be printed.

He also submitted an amendment relative to the advancement to higher grades of every permanent officer of the consolidated corps on the active list and below the grade of colonel who has lost in relative rank through the inequalities of promotion and the operation of separate promotion within the three departments, etc., intended to be proposed by him to the Army appropriation bill (H. R. 25531), which was ordered to lie on the table and to be printed.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the

acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts, which was ordered to be printed, and, with the accompanying paper, ordered to lie on the table.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to be printed, and, with the accompanying paper, ordered to lie on the table.

NELLIE ORTON NICHOLS.

Mr. TOWNSEND submitted the following resolution (S. Res. 363), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to Nellie Orton Nichols, widow of David Robinson Nichols, late a private in the Capitol police, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

THE PANAMA CANAL.

Mr. LODGE. I ask that an article by Mr. Winthrop L. Marvin, who is a well-known historian of the American merchant marine, in regard to vessels in the Panama Canal, may be printed in the RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the Boston Herald, Friday, July 19, 1912.]

THE AMERICAN FLAG IN THE PANAMA.

(By Winthrop L. Marvin.)

Whether President Taft and Senator LODGE on the one hand or Great Britain and Senator ROOT on the other are right as to American control of the Panama Canal may be a moot question. But there can be no possible dispute as to the practical results of acceptance of the British contention on the maritime strength of the United States.

The consequences would be worse than a foreign war—not only deep but permanent. The British contention in brief is that we have no right under the Hay-Pauncefote treaty to protect or prefer American ships in the great waterway which American money and toil are constructing. That same contention under other treaties has been successfully enforced against American ships on the high seas for more than 60 years, with the result that Boston, for example, with 482,000 tons of shipping owned and registered in 1855, now has less than 30,000.

The laws of the United States protect a cotton mill or a woolen mill or a shoe shop or a foundry, but they do not protect an ocean ship. That is why the United States has thousands of factories but almost no shipping in ocean commerce. The whole problem of the American merchant marine is summed up in these few words. Under all other flags in a greater or less degree ocean shipping is a protected industry. In this country, the chief protectionist Nation in the world, it is unprotected—the only unprotected industry of all exposed to foreign competition.

Why it is unprotected is a long story going back into history, but a knowledge of this history is essential to an understanding of the real significance of the new and fierce British contention that we have no right to prefer our ships at Panama. Ocean shipping has not always been an unprotected and almost dead industry in this country. The very first real law of the fathers of the Republic under the new Federal Government—framed and passed under the eye of Washington, Adams, Hamilton, Jefferson, and Madison on July 4, 1789—besides providing a tariff "for the encouragement and protection of manufactures," gave American shipping the advantage of a remission of 10 per cent of the customs duties and also preferential tonnage taxes on all foreign goods imported under the American flag.

At that time only 23 per cent of American exports and imports were being conveyed beneath the Stars and Stripes—all the rest under foreign colors, chiefly British, as now. The effect of that law was magical. American registered deep-sea shipping rose from 123,000 tons in 1789 to 667,000 in 1800, and the proportion of American commerce carried by our own sailors from 23 to 89 per cent. This splendid advance continued until the embargo and the approach of the War of 1812. As Mr. H. C. Adams says in Taxation in the United States: "The growth of American shipping from 1789 to 1807 is without parallel in the history of the commercial world."

This preferential policy of the fathers applied to American ocean trade in general, but to encourage long voyages to the East Indies a special and even more vigorous policy was enforced. Tea was then the chief commodity of oriental commerce. A high duty was levied on it if imported in foreign ships, but a low duty if brought direct in American ships by way of the Cape of Good Hope. On a cargo of 100,000 pounds of tea an American ship from China or India would pay about $10,000 in duties, but a foreign ship would pay $28,000. This was intended to be and was prohibitive. It made the China trade as completely our own as our coastwise commerce. The American Institute in 1828 reported that since the passage of that law "not a single pound of tea has been imported which has not been brought in an American bottom."

That was the law which created the merchant princes and the merchant fleets of Salem, Boston, New York, and Philadelphia. A Federal statute lay at the foundation of those chapters of romance.

The new national policy was regarded as resentfully in Great Britain as the present proposal to remit the tolls to American ships at Panama. After the War of 1812, and practically as one of the conditions of peace, the preferential duties were withdrawn against British ships in the direct trade with the United Kingdom. The result was disastrous, or, as McMaster, the historian, says, "wholly favorable to England." But it was a part of a treaty—not the peace treaty, but a special convention—and the British Government held us to it just as it is now endeavoring with distinguished American help to hold us to the strict British interpretation of the Hay-Pauncefote compact. American shipping fell from 800,000 tons in 1816 to 583,000 tons in 1820. Fortunately this ill-starred treaty did not cover all our commerce. American shipowners and sailors were still protected in other trades than the direct trade with Great Britain—and continued protected in part until 1849. By 1828 our registered fleet had again advanced to 757,000 tons, more than 200,000 tons below the fleet of 1810, but sufficient to convey 89 per cent of our foreign commerce.

In 1828 the nonmaritime States, over the protest of shipowners and merchants, foisted on the country a miscalled reciprocity act abolishing preferential duties in general against the ships of all nations that enforced none against our own. Gradually under this act commercial treaties have been made stripping our ocean ships of all preference and leaving this industry at the end unprotected against new forms of foreign aggression. This act of 1828, as Prof. J. R. Soley well says in "The Maritime Industries of America," "has done the United States, especially in South America, a great and lasting injury." "It caused at once an enormous reduction of our registered tonnage, while the proportion of our own carrying trade which we had then maintained for eight years—namely, 90 per cent—began almost immediately thereafter to fall, and it has been falling ever since until it has reached almost the point of extinction." In 1845 we were carrying 81 per cent of our commerce under our own flag; in 1860 only 66 per cent. By this time American ocean shipping had become wholly an unprotected industry.

The Irish famine and its demand for foodstuffs, the California gold discovery, and the Crimean War, between 1847 and 1855, gave a great temporary impetus to our registered tonnage, but the actual decline in our ocean shipping had begun several years before the Civil War. In 1855 no less than 583,000 tons of ships, including 381 square-rigged vessels, were built in the United States. By the year 1859 the output of our yards had fallen to 156,000 tons. The doom of the American merchant marine was written where everyone could read it, several years before the *Alabamas* and *Floridas* were launched and manned by eager British hands—several years before the first shot was fired at Sumter. The war did not destroy our ocean fleet. All the American tonnage burned or sunk by Anglo-Confederate cruisers between 1861 and 1865 exceeded little the loss of the one port of Boston in the years of peace from 1855 to 1861.

It was not war that worked the ruin of the American ocean fleet—it was the same economic policy which the British Government, aided by some American statesmen, now proposes to enforce at Panama. The American diplomatists who framed the fatal commercial treaties of 1828–1861 were honest and patriotic men, but they were fearfully mistaken. When they agreed that all preference should gradually be withdrawn from American ships, our wooden sail fleet was the second largest and incomparably the finest in the world. Those diplomatists and many of our lawmakers believed it to be invincible. But they did not look ahead and see the incoming of the steam engine and the iron hull—and, above all, of the British subsidy.

When the British diplomatists, shrewder and more experienced than our own, had securely tied us hand and foot in the treaty stipulations that we should not shield our ocean shipping by the wonderfully successful American method of preferential duties in any trade, steam navigation was in its infancy. The best experiments had been tried on this side of the Atlantic. Yankee mechanics were of the same blood as Yankee seamen. Left to individual initiative, Americans would unquestionably have triumphed in steam as they had in sail. But there was to be no fair and equal chance. The cards were stacked against us.

As far back as 1834 the British Government had begun the giving of subsidies to steamship lines. In 1840 the first British trans-Atlantic service was established—the Cunard Line, created outright by a grant of $425,000 from the British treasury. This was quickly followed by other subsidized lines to the West Indies, South America, and the Orient. British shipowners, with profits guaranteed, developed engine works and iron-ship yards that built not only mail liners but steam cargo "tramps"—so that the new and potent protection of subsidy, though applied nominally to national postal lines alone, really aided every branch of British shipping. This was the deliberate purpose, as the parliamentary committee on ocean mail contracts said in 1854, "To afford us rapid, frequent, and punctual communication with distant ports which feed the main arteries of British commerce, and with the most important of our foreign possessions, to foster maritime enterprise, and to encourage the production of a superior class of vessels which would promote the commerce and wealth of the nation in time of peace and assist in defending its shores against hostile aggression." In other words, the British subsidy policy on which at least $300,000,000 has been expended up to date was frankly and aggressively protective in its character.

With this formidable British weapon our unprotected ships in foreign commerce, whether of wood or iron, with sail or steam, could not compete. From 1847 to 1856 an effort was made to meet British subsidy by American subsidy on the north Atlantic. It was successful—our steam tonnage surpassed Britain's in growth, speed, and efficiency—until the American subsidy was suddenly canceled by the dominant South in the passionate quarrels that preceded the Civil War. From that time to this every effort to subsidize American ocean ships or prefer them in any way has been defeated by a combination of South and West in Congress. Now our American tonnage actually employed in real foreign commerce has sunk to about 500,000 tons, or less than one-half of the fleet of a century ago, conveying about 8 per cent of American commerce. The remaining 92 per cent is monopolized by the ships of foreign governments, our rivals in trade and possible enemies in war, to which we pay an annual tribute estimated at upward of $200,000,000.

This story of how we Americans have been first outwitted, then beaten, and now nearly destroyed on the ocean is worth telling as a certain forecast of what will happen in the Panama Canal if the British contention is sustained by American lawmakers. The British Government is perfectly well aware of the causes that have prevented and probably will continue to prevent subsidy legislation at Washington. No subject is more keenly followed by the diplomatic corps than this one. A Democratic House has just voted, by a decisive majority, to remit the Panama Canal tolls to American coastwise ships. But the whole world knows that this Democratic House, controlled by men from nonmaritime States, would never grant a dollar of compensatory subsidy to American shipping. If free or repaid tolls to American vessels can be forbidden by the Hay-Pauncefote treaty, the results will be (1) that every American ship engaged in foreign trade through the canal will be run off the route by subsidized foreign competitors, and then (2) that the domestic shipping now covered by the coastwise law will be so discouraged that it will prove inadequate to the trade, and an imperative demand will then arise that this coastwise traffic, too, be opened to foreign shipowners.

These results are as sure as the rising of the sun to-morrow if the British contention is successful at Panama. And every American

citizen in public office or at an editor's desk who now echoes and approves the British demand is helping to pass a sentence of death on what is left of the American merchant marine. It is well that this should be understood in season.

Mr. O'GORMAN. I ask to have printed as a Senate document (S. Doc. No. 881) an address by Mr. Samuel H. Barker, a distinguished citizen of Philadelphia, Pa., and financial editor of the North American, delivered before the American Supply and Machinery Manufacturers' Association at its annual meeting held in Norfolk, Va., May 14, 1912, on the Panama Canal and the restoration of the American merchant marine.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. I ask unanimous consent to take up House bill 25069, the sundry civil appropriation bill.

The PRESIDENT pro tempore. Is there objection to taking up the bill?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

Mr. THORNTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Louisiana makes the point that there is no quorum present. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Dillingham	Martine, N. J.	Reed
Bourne	Fall	Massey	Smith, Ariz.
Bradley	Fletcher	Myers	Smith, Ga.
Brandegee	Gallinger	Nelson	Smith, S. C.
Bristow	Gardner	Newlands	Smoot
Bryan	Heyburn	O'Gorman	Sutherland
Burnham	Johnson, Me.	Oliver	Swanson
Burton	Johnston, Ala.	Overman	Thornton
Chamberlain	Jones	Page	Tillman
Clapp	Kenyon	Percy	Townsend
Crawford	Lodge	Perkins	Warren
Cullom	McCumber	Poindexter	Wetmore
Cummins	McLean	Pomerene	Works

Mr. THORNTON. I announce the absence of my colleague [Mr. FOSTER] on account of sickness. I ask that the announcement may stand for the day.

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment of the committee, on page 105, commencing in line 7, which was amended, and the yeas and nays demanded.

Mr. REED. I wish the Senate to understand the proposition.

The PRESIDENT pro tempore. The Secretary will read the amendment.

The SECRETARY. On page 105, after line 6, the committee proposes to insert:

Purchase of motor boat, Alaska: To enable the Commissioner of the General Land Office to purchase a motor boat for use in the District of Alaska in the investigation of unlawful cutting of timber from the public lands, the inspection of timber cut under permit, and the examination of alleged illegal entries, $5,000.

The PRESIDENT pro tempore. Is the demand for the yeas and nays seconded?

Mr. OVERMAN. Let us take the question by a division.

Mr. REED. If the matter can be passed over just by consent until there is a fuller attendance and then returned to, I will withdraw the demand.

Mr. WARREN. What is the request?

Mr. REED. I suggested that in view of the small attendance in the Senate this morning we do not have a roll call and that this matter be passed over temporarily.

Mr. WARREN. That will be agreeable.

Mr. REED. I withdraw the demand.

The PRESIDENT pro tempore. The Senator withdraws the demand for the yeas and nays, and, without objection, the amendment will be passed over for the present. The next amendment of the committee will be stated.

The next amendment was, on page 106, line 11, after the words "forest-reserve purposes," to strike out the sum "$2,000" and insert "$26,000," so as to make the clause read:

Restoration of lands in forest reserves: To enable the Secretary of the Interior to meet the expenses of advertising the restoration to the public domain of lands in forest reserves, or of lands temporarily withdrawn for forest-reserve purposes, $26,000.

The amendment was agreed to.

The next amendment was, on page 106, after line 21, to insert:

Examination of California lieu selection, 1912 and 1913: To enable the Commissioner of the General Land Office to make field examinations of selected lieu lands in the State of California and to adjudicate the same in the General Land Office, $28,000: *Provided*, That agents or others employed or detailed under this appropriation shall be allowed per diem, subject to such rules and regulations as the Secretary of the Interior may prescribe, in lieu of subsistence, at a rate not exceeding $3 per day each and actual necessary expenses for transportation, including necessary sleeping-car fares.

The amendment was agreed to:

The next amendment was, on page 107, after line 7, to insert:

Protection of national monuments: For the preservation, development, administration, and protection of the national monuments, to be expended under the direction of the Secretary of the Interior: *Provided*, That the salaries paid the custodians hereunder shall not exceed $900 each per annum, $5,000.

Mr. REED. Mr. President, I should like to know a little more about that amendment. Where are these men employed?

Mr. WARREN. There are something like 25 or 30 of them scattered in different parts of the country. Would the Senator like to know in what parts of the country they are employed?

Mr. REED. Well, in a general way.

Mr. WARREN. I have the list here of 28:

Alaska	1
Arizona	6
California	5
Colorado	2
Montana	2
New Mexico	4
Oregon	1
South Dakota	1
Utah	3
Washington	1
Wyoming	2
Total	28

Mr. REED. Is it the business of these men to look after and inspect these monuments, or what is it?

Mr. WARREN. It is to take care of, prevent spoliation, and keep in repair the monuments and whatever the Government may own in connection therewith.

Mr. OVERMAN. What national monuments are there in Wyoming?

Mr. WARREN. One of them is a natural monument that rises some sixteen hundred and odd feet, almost perpendicularly, called the Devil's Tower. There is a space large enough on the top of it for a garden. It never had been scaled until a lady some years ago, on the 4th of July, having spent a month before in investigating, getting spikes, and so forth, finally scaled it. Then, surrounding it are other smaller monuments and matters of extreme interest. So, the United States reserves quite a tract of land. I think there is a building upon the tract. That is probably one of the two monuments situated in Wyoming. It is situated in the northeast corner of the State.

Mr. REED. I should like to inquire if the fact that this lady scaled the monument has made it necessary to engage in keeping a salaried man there?

Mr. WARREN. I did not happen to be one of the committee of entertainment, so I can give the Senator no further information on that point.

Mr. NELSON. Will the Senator from Wyoming yield to me for a minute?

Mr. WARREN. Yes.

Mr. NELSON. My impression is that the monuments referred to in these cases are monuments on which land surveys and boundary surveys rest. I think that is the case with the one in Alaska. It relates to the boundary survey there.

Mr. CULBERSON. If that be true, what is the meaning of the word "development"—to develop these monuments?

Mr. WARREN. I wish to say that the Senator cut me off a little short. There is the petrified forest, which I presume everyone has heard of. There are natural curiosities at various points, and the country has demanded their protection. Congress, so far as it is concerned, has cooperated and the departments have cooperated. It is a small amount. It seems to me that we should do one of two things. We either ought to provide for them or we ought to turn them back into the public domain.

Mr. OVERMAN. Has this appropriation been estimated for?

Mr. WARREN. Oh, yes.

Mr. SMOOT. I call the Senator's attention to the fact that among these 28 national monuments are Montezuma Castle, Petrified Forest, Tumacacori, and Navajo in Arizona; Muir Woods in California; Colorado in Colorado; Lewis and Clark Cavern in Montana; El Morro and Chaco Canyon in New Mexico; total, 9. One of these is an ancient Spanish mission church and 4 are prehistoric ruins of cliff dwellers and other ancient peoples, or inscription rocks; 1 is the so-called petrified forest and 1 the grove of giant redwood trees near San Francisco, Cal. Then there are in Utah the natural bridges, the largest in all the world.

Mr. OVERMAN. Has this appropriation been carried heretofore?

Mr. SMOOT. It has always been carried and estimated for. In order to keep these monuments from desecration, there has always in the past been a keeper employed by the Government to protect them. There are the remains of the cliff dwellers in these national monuments. The appropriation is asked to preserve these great natural monuments and curiosities of the world.

Mr. REED. Mr. President, certainly this is a misnomer, to say the least. These are not monuments; they seem to be natural formations. If they need custodians—and there are 28 of them, hundreds of miles apart—I am unable to see how they can be guarded under this appropriation, because the salaries of the custodians or guards, or whatever they are, are $900 a year, and there are only $5,000 appropriated.

Mr. WARREN. Will the Senator allow me there? The Senator was somewhat amused about the Wyoming Devils Tower. There is no one there to guard that monument, and many of these other monuments have no guard. It is only where the formation or property is such that it might be destroyed by vandals that a guard is considered necessary. The Senator will see at once that with 28 so-called monuments and an appropriation of only $5,000, if salaries of $900 a year were paid to the guards, but few men could be employed. So the guards are put only where the formation would be destroyed or the property of the Government dissipated. Many of them, such as the one I have mentioned, have no one to guard them.

Mr. FALL. Mr. President, I desire to suggest to the Senator from Missouri that the Casa Grande Monument, in Arizona, so called, is included within the limits of a national park; and in the case of certain other of these great curiosities and relics of extinct civilization the President has been authorized by law to provide for their withdrawal from the public lands and include them within national parks or "monuments."

With reference to the Casa Grande in Arizona, for instance, it is an object not only of curiosity but of very great interest. The cliff dwellers' national monument in New Mexico is being investigated by archæologists and those interested from all over the world. In the city of Santa Fe, in the old governor's palace, which has been erected for 300 years, or something like that, they have pictures which has been painted by artists, at great cost to the State of New Mexico, representing the restoration of the cliff dwellings and scenes at this national monument. I can assure the Senator that if he would go to the New Mexico national "monuments" he could spend one, two, or three months certainly with great interest to himself. These matters are interesting to people all over the world.

A similar provision of law has been made in Mexico, and the mounds there, together with other evidences of ancient civilization in Mexico, are protected by the Mexican Government. The same thing is true in Yucatan and Campeche and Chiapas and other districts and States in Central America and South America. It is also true in the case of the pyramids in Egypt. Every civilized country, I think, has its national monuments under one name or another. With us we have found that there was a civilization antedating anything, of course, of which we have any record, and the only evidences on our continent of that civilization are attempted now to be preserved under withdrawals made by the President from the public lands, such as the Casa Grande Monument and the cliff dwellers' monument in New Mexico.

Other natural curiosities are being protected in exactly the same way at a very small annual cost. It has been done for a great many years. For instance, in the matter of the cliff-dwellers' monument there are houses a thousand feet above the bottom of the canyon and seven or eight hundred feet below the top of the canyon, in the sides of the cliff—houses in a good state of preservation containing as many as 34 rooms. No one knows who built them, and no one knows who occupied them. Scattered all over that country for miles are evidences of a civilization of this kind. Prior to the national park being created there the sheep herders and cattle herders and goat herders took charge, in many instances, of these ruins, and turned their goats and their sheep into them, and vandals went in and took the pottery which could be found in these houses and in the mounds surrounding them and destroyed it and carried it out of the country.

Now, these places are being protected under Government supervision, and there are laws on our statute books providing not only for the withdrawal and care of these relics, but prohibiting under penalties any destruction of any of these national monuments.

Mr. REED. Mr. President, that is very entertaining, and I am obliged to the Senator; but I should like to know now how four men are going to guard all these priceless treasures scattered hundreds and even thousands of miles apart? Either the statements made argue too much, or they argue nothing at all. If we——

Mr. SMOOT. Mr. President——

Mr. REED. Just a moment. If we have these wonderful natural deposits and these archeological remains and curiosities scattered over a territory embracing hundreds of miles and if they are of the great value indicated, then four men can not guard them.

Mr. WARREN. O Mr. President, the Senator is laboring under a misapprehension. Under this provision the guards can not receive over $900 a year, but many of them receive only $300. Men are employed who are living near by, and oftentimes they are paid perhaps but twenty, twenty-five, thirty, or thirty-five dollars a month.

Mr. REED. Well, how many have we, as a matter of fact?

Mr. WARREN. I do not know. I know we have 28 of the so-called monuments; but some of them are without guards, and perhaps it is intended to put guards in charge of them.

Mr. SMOOT. I will say to the Senator there are nine of the natural monuments that have to have custodians, and I can name them if the Senator desires.

Mr. REED. I do not care for that.

Mr. SMOOT. Of those nine there are some that are not paid over $300 a year. Men living in the immediate vicinity guard and protect the monuments, so that $5,000 will pay the guards for all of the monuments that need such protection.

Mr. MARTINE of New Jersey. Mr. President, some years ago it was my privilege to visit many of these so-called monuments and freaks of nature in the western portion of our country, and I was thoroughly and wonderfully impressed with the necessity and wisdom of supplying a sufficient patrol or a sufficient number of guards to keep them from spoliation at the hands of vandals. They are not only curiosities, but they are genuine objects of education. My own criticism of this provision is that it is not big enough or broad enough for the splendid results that should follow, and, with the breadth and liberality generally in the make-up of my friend, the Senator from Missouri, I trust he will withdraw his objection and let this item go through.

Mr. REED. Mr. President, I have not made any objection. I asked for information. We have developed the fact, I think, that either this item ought not to be allowed at all, because it is utterly inefficient and insufficient, or it ought to be greatly enlarged or else the statements made here this morning are made under a mistake. I did not object. I asked for information.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, under the subhead "Surveying the public lands," on page 107, line 17, after the words "Secretary of the Interior," to strike out the sum "$450,000" and insert "$700,000," so as to read:

For surveys and resurveys of public lands, under the supervision of the Commissioner of the General Land Office and direction of the Secretary of the Interior, $700,000.

Mr. CULBERSON. Mr. President, I call the attention of the chairman of the committee to the fact, with which, of course, he is entirely familiar, that the amount of $450,000 contained in the bill as it came from the other House is the amount of the appropriation for last year and is the exact amount asked by the department for this year. I do not myself see, speaking as a Senator and as a member of this committee, why there is any necessity to increase the appropriation by $250,000, when the department does not want it and does not recommend it.

Mr. WARREN. The Senator does not state it quite correctly. I think he will recall—for I believe he was in the committee room when that matter was discussed—the fact that this amount is not the amount that they had last year nor the year before. It is less than the estimate of last year and the year before. The Senator is right that in the first official estimate sent from the department they asked for $450,000. The Senator is right that that was the amount last year for the lump sum, but last year there were appropriations of two hundred and odd thousand dollars in addition, naming special localities where the money was to be used, and the year before there was also an additional appropriation of $350,000, naming the points where the money was to be used.

I am inclined to think the Senator was not in the room at the time the matter was explained by the Commissioner of the General Land Office, that in submitting the estimate of $450,000 he knew that amendments had been offered for a similar line of special appropriations—that is to say, localizing the expenditure—and it did not occur to him that he should include the additional amount in the one estimate; but he said that

they would be very badly cramped and that the amount carried by the House bill would not develop the surveys as they should be. Furthermore he laid particular emphasis upon the fact of new States having been admitted in which there are large grants—old Spanish grants—and reservations of the Government on which the work ought to be done very soon, and that there ought to be large amounts expended in those two States in order to enable them to select the grants conferred upon them by the General Government in the admission acts and to make the settlements to which they are entitled; so that this $450,000, without designating any local special amounts would be really much less rather than more than it should be, and therefore much less than the appropriations of past years.

Mr. SMITH of Arizona. Mr. President——

Mr. WARREN. I will say that the chairman of the committee has some amendments to offer to the language of the paragraph.

Mr. SMITH of Arizona. Before that is done I desire to be heard.

Mr. WARREN. Very well.

Mr. SMITH of Arizona. Mr. President, I regret that this appropriation is as small as it is. A condition has existed in the Territorial governments of New Mexico and Arizona that ought to be called to the attention of the Senate. We have something like fifty-odd million acres of unsurveyed lands there. We have suffered as to these surveys, having no representation on this floor. Some of the States which were fortunately situated not only in being represented on this floor, but in being represented with remarkable ability and with remarkable industry, have had nearly all their lands surveyed. We have, I repeat, fifty-odd million acres yet unsurveyed. I find it impossible to ascertain in the department exactly how much land has or has not been surveyed. The Statistical Abstract and the commissioner's report differ so widely that it seems to me that I can not ascertain from what data I can get within a million acres the amount of the surveys in my State. That may be my fault, and I am not complaining of the department or of whomsoever compiled the Statistical Abstract, but what I state is true. I therefore appeal to the Senate for relief, inasmuch as the grants of land that we have received as a new State are so largely unsurveyed, and inasmuch as 47 per cent of the great State of Arizona is now held in reservations, those reservations taking, in my judgment, 90 per cent of the available lands of that State, so that we are relegated to the desert. Nobody will settle on unsurveyed land to-day. They will go, as they are going, to Canada. They will go where there is less friction and more freedom. What is the result? No man will go on that unsurveyed 57,000,000 acres of land, if I mistake not the figures, and take the risk that the location may fall on some unsurveyed reserve or within one of the school sections. So the matter stands without a dollar of appropriation directly for it. In the case of Wyoming and Idaho they had special appropriations of $100,000 or some similar amount in addition to the general appropriation, which was very proper, but the same consideration ought to have been also extended to the other States. I appeal to the Senate not that this should stand at all, but I should like an amendment of at least $75,000 directly appropriated to Arizona, as was the case in reference to Wyoming and Idaho.

Mr. WARREN. Let me say to the Senator that the total amount two years ago was $800,000 altogether, and that was expended.

Mr. SMITH of Arizona. Eight hundred thousand dollars altogether. It ought certainly not to be decreased this year. The Senator from Utah [Mr. SMOOT] knows very well the conditions that have existed in his State in reference to these surveys. My friend from New Mexico [Mr. FALL] has given notice of and had printed an amendment to this bill to at least give us an equal chance with the other States. I think he and I are justified in asking an additional $200,000 to be applied to our States, for they are in such a condition that they can not move until they get it.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from New Mexico?

Mr. SMITH of Arizona. I do.

Mr. FALL. Merely for a suggestion.

Mr. President, in connection with what the Senator from Arizona has said, I want to suggest to him and to other Senators here that New Mexico and Arizona are unable to utilize the lands which are given to all States upon coming into the Union, and which have been given by the Congress of the United States to those new States as they came in, so that they might share equally in the land grants with the other States of the Union. It is impossible for New Mexico and Arizona to avail themselves, or for either of them to avail itself, of the national domain which has been granted in the enabling act passed by the Congress. We have lieu lands; we have lands in lieu of school sections 2, 32, 16, and 36, which are granted to us where those sections were projected in or existed in a forest reserve. We have 8,000,000 acres of land given for the benefit of our schools, the only donation that has ever been made by the United States for free schools in either of these States; but we can not utilize any of that land, any of this great donation. We can not lease the lands or sell them until the surveys are made.

Mr. SMITH of Arizona. The Senator from New Mexico has exactly anticipated and made better than I could have done the argument which I was trying to make. He has suggested, with the proper appreciation of conditions surrounding these States, that Congress ought to double rather than decrease the appropriation for the survey of these lands if they would do justice to us. Before this clause is passed, or after the amendment offered by the Senator from New Mexico shall have been acted on, I shall offer an amendment increasing the appropriation and applying it to Arizona and also to New Mexico.

Mr. FALL. I was simply making the suggestion, Mr. President, that not only was this amount insufficient, but that we were going to ask the Senate to give us at least $100,000 additional to the amount which has been inserted here by the committee for the purpose of enabling these two States to avail themselves of the land grants for public-school purposes. We can not lease nor can we sell those lands until the surveys are made. Out of the ordinary appropriations last year New Mexico's portion was only $30,000. It will require $27,000 to survey for New Mexico alone the lands which the Congress has given to New Mexico, approximately the same amount for Arizona, and with this appropriation as it stands now—the total appropriation last year was about $800,000—with this appropriation of $700,000 the proportionate part Arizona and New Mexico would receive would give them only about $20,000, and it would require their equal proportionment of that amount for three or four years before it would be possible to have the lands surveyed.

Mr. BORAH. I wish to ask the Senator from New Mexico a question. Do I understand that the Senator from New Mexico has offered an amendment?

Mr. FALL. The Senator from Arizona gave notice that he would offer an amendment to increase the appropriation to $800,000.

Mr. SMITH of Arizona. The Senator from New Mexico also has an amendment.

Mr. FALL. Yes. I have an amendment. I will state to the Senator from Idaho that in the House bill as it came here the Senator will notice, on page 107, line 24, I think it is, there is a provision that these moneys—the $700,000—shall first be used for certain purposes and secondly for other purposes, so that New Mexico and Arizona, if this is allowed to stand as it came from the House, would not get one dollar of this entire $700,000, because they would come in under the second head.

I have offered and had printed an amendment which the committee——

Mr. CULBERSON. What State would be the last referred to as enumerated in the acts?

Mr. FALL. They refer to North Dakota, South Dakota, Idaho, Montana. I have a memorandum of them, but I have forgotten the other States.

Mr. WARREN. They have from time to time referred to nearly all the new States.

Mr. FALL. Yes.

Mr. WARREN. But as the Senator knows, and as we ought to confess with a little shame, the Territories until now have not had representatives at one end of the Capitol and have not had votes at the other end, and that may be the reason why they have not been better taken care of.

I agree perfectly with all that the representatives of the new States say, that they require and deserve more than the other States.

Mr. CULBERSON. I will ask the Senator from Wyoming if it is his intention merely to insert in this bill a general amount equal to what was appropriated last year for specific States?

In the hearing before the House committee——

Mr. WARREN. The proposition is not to locate it, but to have all in one general fund. It does not follow, because a State has an extra one year, that is a reason why it should have one this year. It would be a reason why it should not have the same another year rather than that it should have.

Mr. CULBERSON. For instance, last year Alaska had $150,000 extra; Idaho, $150,000; Montana, $100,000; Utah, $155,000—during the four years—and Nebraska, for resurveys.

$50,000 last year. Of course, if it is merely the object of the committee—and I was not present when it was considered or at the hearing—to insert in the bill in the general sum an amount equal to what was used last year for specific States, I have no objection to it.

Mr. WARREN. The amount the Senator from Texas has named covers more than one year.

Mr. CULBERSON. I read it from the book. It covers four years. Nebraska alone had $50,000 last year.

Mr. WARREN. It is the purpose of the committee to appropriate a sum total and to provide in language so that it may apply, as it can apply, where the surveys are most needed. I have an amendment to the language, which I propose to offer.

Mr. SMITH of Arizona. Before the Senator offers his amendment——

Mr. WARREN. Yes.

Mr. SMITH of Arizona. I think there will not be any trouble in agreeing to that; but I wish to move now to strike out "$700,000" and insert "$900,000."

Mr. FALL. "Eight hundred and fifty thousand dollars."

Mr. SMITH of Arizona. Then, I will take $850,000. We can not get along on less. I am informed by the department itself—I have been over to see about it—that in the wintertime they can put a great force in our country, if they have the money, and it is absolutely essential to us that we should have it. I hope the committee will not cut off any part of my proposed amendment. Make it $850,000.

Mr. WARREN. It is true that under the present system of surveys, instead of the system of contracts or salaries, the surveyors who are used in the northern climes in the summer can go to the southern climes in winter, so that a large force can be thrown in there.

These two new States, through their able Senators, are most welcome, not only to me but to the entire Congress, and I am not going to object to the amendment offered, but pending that, I should like to perfect the paragraph.

Mr. FALL. Will the Senator from Wyoming, as far as he can, accept the wording which I shall suggest to the amendment of the Senator from Arizona?

Mr. CULBERSON. Let the amount be agreed upon first.

Mr. WARREN. I have pending an amendment to correct the language of the bill.

The PRESIDENT pro tempore. The Senator from Wyoming offers an amendment to the text of the bill, which will be stated.

The SECRETARY. On page 107, line 24, after the word "ninety," strike out the semicolon and in lieu insert a comma; strike out the comma after the word "and," which follows; strike out the word "second" and the comma which follow the word "and"; strike out the words "except railroad land grants," on the next page, line 1, and insert the same words after the word "of," in line 5.

Mr. SMITH of Arizona. I ask that the amendment as proposed to be amended be read.

The PRESIDENT pro tempore. The amendment as proposed to be amended will be read.

The SECRETARY. So that if amended it will read:

And the acts approved July 3 and July 10, 1890, and to surveying under such other acts as provide for land grants to the several States and Territories, and such indemnity lands as the several States and Territories may be entitled to in lieu of lands granted them for educational and other purposes, which may have been sold or included in some reservation or otherwise disposed of, except railroad land grants.

Mr. SMITH of Arizona. That makes it all right.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

Mr. HEYBURN. I should like to inquire of the Senator from Wyoming as to the purpose of changing the location of the phrase "except railroad land grants." Does that leave any provision for surveying lands within railroad grants?

Mr. WARREN. Oh, yes. It simply does not put it in the preferential place, where it was before; that is all.

Mr. HEYBURN. That is the purpose of changing its location?

Mr. WARREN. That is the purpose, to have it follow rather than to lead the others.

Mr. HEYBURN. Which would, of course——

Mr. WARREN. Change the order.

Mr. HEYBURN. Change the substance.

It is desirable that provision be made for surveying railroad land grants, and I did not know just what purpose the Senator had in mind in that regard.

Mr. FALL. Will the Senator from Idaho yield to me for a moment?

Mr. HEYBURN. Certainly.

Mr. FALL. I think the Senator will find, on reading this provision, that this money, $850,000, now to be appropriated, is to be applied first to those purposes specified and second to other purposes, including the survey of land grants. That is one of the second items.

Mr. HEYBURN. Having that in mind I submitted the inquiry to the chairman. So whatever surplus there may be may be devoted to the survey of railroad land grants. That is desirable. Of course the change of the location of the phrase would be effective in regard to the survey of railroad land grants, as to their preference or order of survey.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. SMITH of Arizona. I move now to strike out "$700,000" and insert "$850,000."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. HEYBURN. Mr. President, I desire to make a statement in connection with the action just taken, in order that the record may be clear.

It was my purpose, and I had given notice of my intention, to offer an amendment to this bill in regard to surveys in the State of Idaho in conformity with the provision contained in the last appropriation act. In the existing law, Public Law 525, there is this provision:

For continuing the survey of public lands in Idaho, including the cost of office work in the surveyor general's office, not to exceed $3,500, $50,000.

I offered on April 3, 1912, an amendment, which was referred to the Committee on Appropriations and printed, which reads as follows:

For continuing the survey of public lands in Idaho, including the cost of office work in the surveyor general's office, not to exceed $5,000, $80,000.

Now, the reason I have not urged the adoption of this amendment is because of the increased aggregate appropriation, and it is proper that the RECORD should show this in order that there may be no further necessity of explaining why the amendment was not pressed which gave Idaho the equivalent of the appropriation of the last fiscal year. I desired to state in connection with it that the aggregate appropriation having been increased $400,000, I think, or about that——

Mr. WARREN. Four hundred and fifty thousand to eight hundred and fifty thousand dollars.

Mr. HEYBURN. Yes; $450,000 to $850,000 gives an additional $400,000 to be apportioned by the surveyor general or by the department under whose control he acts, so that it will be the equivalent of a special appropriation expressly in the interest of Idaho.

Mr. WARREN. Yes; and right here I will say to the Senator there is an unexpended balance of the appropriation of last year and the year before which is now being worked out.

Mr. HEYBURN. I have a statement from the surveyor general of Idaho giving those facts in connection with the unexpended balance; and had it not been that the appropriation was increased so as to amply provide for these States in which the surveys have not been carried forward I would have asked permission to place in the RECORD the statement of our surveyor general.

Just a suggestion for the benefit of the Senator from Arizona. The Senator spoke of the surveys of Idaho as though they were far advanced. Idaho is one of the States in which the surveys are very meager indeed, only a comparatively small portion of the State having been surveyed. It is not to be classed with Colorado or Wyoming or any of those States in which the percentage of surveys is above 90. In Idaho it is below 40.

I wished to make that statement.

Mr. WARREN. I submit an amendment which involves merely a change of language.

The SECRETARY. On page 109, line 6, strike out the words "immediately available" and insert in lieu thereof "available until expended."

The amendment was agreed to.

The next amendment was, on page 109, after line 12, to insert:

For the temporary employment of the following clerks, for the purpose of bringing up arrears of work upon the returns of service in the General Land Office: Four clerks, at $1,200 each; three clerks, at $1,000 each; two copyists, at $900 each; four copyists, at $720 each; in all, $12,480.

The amendment was agreed to.

The next amendment was, on page 110, after line 3, to insert:

The Secretary of the Interior be, and he is hereby, authorized and directed, at the earliest practicable date, to make a survey of the sewer system of the city of Hot Springs, abutting the Hot Springs Reservation, Ark., and to prepare plans and estimate of the cost of increasing the present storm-drainage system as well as the present sanitary-sewer system of the city of Hot Springs, the report of survey, including estimate of cost of the work, to be submitted to Congress as

soon as practicable after the 1st day of December, 1912. The sum of $10,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to cover all expenses incident to the work herein authorized, to be expended under the direction of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, on page 111, line 17, after the words "United States," to strike out "$350,000" and insert "$375,000," so as to make the clause read:

For topographic surveys in various portions of the United States, $375,000.

The amendment was agreed to.

The next amendment was, on page 111, line 19, after the words "United States," to strike out "$300,000" and insert "$325,000," so as to make the clause read:

For geologic surveys in the various portions of the United States, $325,000.

Mr. CLAPP. Mr. President, I am going to move to amend by substituting $450,000 for the $300,000 recommended by the House and $325,000 recommended by the committee. The department advise that they require more for this purpose. I know of my own knowledge that a great many applications are being held up because they have not the money to make the necessary investigations as to the mineral character of the land. It does seem to me, as to this system of holding up the settlement of the farther West, that while some of it may be necessary that portion of it which is due to the failure of Congress to appropriate the necessary funds is not necessary.

I hope the committee will accept the amendment to the amendment.

The PRESIDENT pro tempore. The Senator from Minnesota moves to amend the committee amendment by striking out "$325,000" and inserting "$450,000."

Mr. CLAPP. I will make it $400,000.

The PRESIDENT pro tempore. The amendment to the amendment is to insert $400,000.

Mr. WARREN. I suppose the Senator has satisfied himself that he is within the estimates of the department.

Mr. CLAPP. I am within what ought to have been estimated properly.

Mr. WARREN. I am informed that it is within the estimates.

Mr. CULBERSON. Mr. President, I merely desire to call attention to the fact that last year we appropriated only $300,000 for this item. The House proposes to give the same appropriation, and the Senate committee increased it $25,000. Now it is proposed to increase the amount recommended by the committee to $400,000, which is $100,000 for this item alone more than was given last year.

Mr. CLAPP. That is true, but it is equally true that the department can not and ought not to act upon a large area of our public land until they know the mineral character of those lands, and if it requires more it seems to me that it is our duty to appropriate the money.

Mr. SMOOT. I also call the Senator's attention to the fact that there are patents held up for two or three years for examination as to the mineral character of lands, and they are away behind in their work. It is absolutely necessary to give the increased amount of money to even bring up the work that is in arrears.

Mr. TOWNSEND. May I ask the Senator from Utah why, then, the committee did not make provision for $400,000?

Mr. SMOOT. At the time they thought that perhaps the department could get along with the increase of $25,000 recommended by the committee, and they also thought that perhaps if they increased the amount beyond that it would not be agreed to. But there were a number of the committee who felt that the full appropriation of $450,000 ought to be made.

Mr. HEYBURN. Mr. President, this is an appropfiation that ought not to be required, but unfortunately under the practice of the department it seems to be necessary to furnish money for them to demonstrate the inefficiency of their service; and it is in the interest of enabling them to demonstrate the fact that they ought not to exist that I would vote for the appropriation. It is an innocent-looking provision, it is less than two lines; but it is one of the most far-reaching and disastrous provisions written on the statute books.

The law says that the public lands of the United States containing valuable mineral deposits are open to exploration, location, and purchase by any person a citizen of the United States or who has declared his intention to become such. That is the mining law which has existed since 1866, and it has resulted in the development of all the mineral respurces of this country. But now, within the last three or four years, the practice of the department has been to require all locations to pass the inspection and approval of men called special agents, experts—men who assume or are assumed to have the knowledge and ability to distinguish mineral from nonmineral lands. A greater farce never existed in Government or governmental policy.

The mines of this country have been found where they were and not where they ought to be. No theory in regard to where mines should exist has ever been justified upon test. The Supreme Court of the United States, recognizing the well-established fact, held in Chambers against Harrington, reported in One hundred and fifteenth United States, that a miner or prospector might make a valid location upon that which in his judgment justified his exploration and location of it. The courts undertook to say that he might reasonably believe that the thing upon which he made his location was mineral or would lead to the finding of minerals.

The Supreme Court of the United States very promptly overruled that doctrine and held that no person was or might be under the law authorized to object to the exercise of the right to locate a mining claim upon the judgment of the party making the location. They held that no part of the Government might say that he was not justified in making a location or that it was not reasonable that he should make such a location.

These administrative branches of the Government have undertaken indirectly to overrule the Supreme Court of the United States. The language, as I remember it, in Chambers against Harrington, is that a location may be made whenever the locator has found such evidence of minerals as in his judgment justifies him in making the location. Now, under the provisions of law for which this appropriation is made, they undertake to say that his judgment shall be subjected to the test of the judgment of their special agents, and we are going to give them a large amount of money to continue this iniquity. Perhaps the more money they have the sooner they will run themselves to death. Perhaps the more money they have the sooner they will emphasize this iniquity to the extent that it will be again brought to the attention of the Supreme Court of the United States, and they will receive another admonition.

A miner or prospector—and I regret to say that they are fast passing away and there is no new race of them coming, because the inducements under which they existed are being frittered away—the experienced prospector goes into the mountains, often into regions that have been condemned by the Government as nonmineral, and because of a certain instinct that is embedded in a prospector and in no one else he finds evidence that in his mind justifies him in locating a mining claim. He does not ask anything of the Government in the way of subsistence or compensation for his work, but he backs that judgment by his personal labor. It may be weeks, it may be months, it may be years; he develops it. It may turn out to be of no value, and the only person who has lost anything is this poor prospector, who has expended his labor upon it. It may turn out to be valuable. Perhaps one out of a hundred turn out to be valuable. Then he is entitled to the benefit of his industry and his perseverance.

But I have in mind—and every Senator from the mineral-land States knows of similar conditions—a case where the parties have backed their own judgment to the extent of many thousands of dollars of their own money in addition to a vast amount of labor by their own hands, and along comes one of these men whom we are going to pay out of this large appropriation, and he says, "Your judgment is not good. It is true you have been mining and prospecting for years, but I am just out of a technical college in the East where they teach a man how to find a mine. This thing that you are spending your time and labor upon here has no value and will never develop into a mine. So get off here. You are on the public domain of the United States. You can not remain here to test your judgment." No one takes his place. The spot remains barren and undeveloped, and the prospectors grow discouraged and they go away.

A few days ago there was a very interesting article in one of the western papers on the question of the disappearance of prospectors, and its effect upon the future wealth of the country. I repeat these prospectors have been driven out of the field. They are men of independent character. They will not work under the supervision and control of some forestry officer or inspector or special agent, or whatever he may be termed. They will leave the field undeveloped.

Had the present system and the system proposed to be sustained by this appropriation been in vogue from 1860 up to this day there would have been no Comstock mines; there would have been no mines in Grass Valley and that rich section of California; there would have been no mines in Colorado, or in Idaho, or Montana, because in no instance did the mine crop up out of the ground so that you could commence taking out oré and hauling it to the market or mill. It required long

and dreary years of personal toil and endeavor on the part of the prospector before he could determine whether or not that which he has selected upon which to expend his energies was a mine or would lead to a mine.

I feel impelled to speak these words this morning in connection with the consideration of this question. I have on several occasions in the past 10 years called attention to these facts, but as the generations of legislators come and go it is necessary that they be kept fresh before the minds of those who are to act upon it, and some day they will burst the pod and branch and grow and result in curing this evil. I have grown somewhat disheartened during these years, but still I have faith that the time will come when Senators will give some heed to it. Some perhaps think they need no lesson or admonition in regard to it; it is a familiar subject with them; but there are others to whom the subject is not so new and who must remain here and deal with these questions as they come with each recurring appropriation bill.

I had it in mind to offer an amendment cutting out this service. I had hoped that some of the Senators who have given enough attention to this question to deal with it intelligently would have contributed something toward the amendment of this law and the cure of this evil. But Senators do not give that attention to it to which it is entitled.

Mr. President, it is the attention of Senators who have not grown weary of considering the rights of those people on the frontier that I desire. I have labored long in the years gone by with some and they have probably grown weary of the subject; but, nevertheless, it is a duty to present it. You are making an appropriation of a very large sum of money for the purpose of driving out those of our citizens who find the mines that produce the wealth that supports the country. Without these mines we would be doing business on a credit basis, represented by the promissory notes of the people of this country, with nothing behind them except the hope that you may be able to exchange the promissory note you receive for another promissory note. That is the situation.

You have blessings heaped upon you and you never inquire from whence they come. I would not say that you do not care, I would not say that any Senator of the United States did not care from whence the stability of the money of the country comes, but there is one thing sure, it does not come through crops or industry or enterprise other than mining. When the gold product of this country begins to fall off, as it will if no new mines are discovered in the near future, then you will realize that the fowl which produced the golden egg no longer exists. You will have some eggs on hand but they will not hatch, they will not produce any accretions; there will always be the same number that you had.

We sent you out of the State of Idaho over $200,000,000 in gold. That, with the gold from other States and Territories, constitutes the basis of the money of the country. Take it out from behind the money of the country and where are you? Are you never going to waken up to the fact that the mining industry is the principal industry of this country; that the mines have furnished you with the money with which you buy crops; that they have relieved you against a system of exchanges of commodities and placed you upon a money basis? I have seen audiences sit and look, some as though they did not know, and others as though they did not care where the money came from, but it ought not to be a condition existing in the legislative body of the country.

I am only speaking this in order to catch the attention of somebody who may through the processes of thought and reason realize that the mines are the most important industry in the country, because without them you would have no basis for business transactions of any kind.

I, also, in connection with that want to call attention to the fact that this appropriation is being made for the purpose of destroying the mining industry of the United States, of discrediting the mining industry of the United States, the mines of gold and silver, taking it out of the hands of competent, capable American citizens to discover and develop mines and placing over them a lot of political vultures. That is what they are.

The man who sat upon the dump of a mine in the southwestern portion of the State in which I live and upon which a man had expended $30,000 or $40,000 of his own money, and told him that he was not entitled to any rights there because, in his judgment, the mine that he was seeking did not exist, was a human vulture preying upon the industry, and the rights of an American citizen. I have recalled the incident more than once in this Chamber of one of those mines in the State of Montana, where a number of these, not smart men, except in their own judgment, wanted to put a man in the asylum and take his property away from him because they said that he was expending his energy and wearing out his life in search of a ledge that did not exist, under the impression that he would find a mine, that was afterwards the largest mine in Montana and produced more gold than any other mine in that State. Yet they would have taken that man to the asylum who was driving a tunnel with his own hands. I wonder how many men know what it is to hammer upon a rock and beat your way through hundreds and thousands of feet of solid rock in the hope of finding a mine.

This money is intended to prevent men from doing that and to compel them to submit to the judgment of these political vultures.

Mr. SMITH of South Carolina. Mr. President, I gave notice yesterday afternoon that I would submit some remarks on the Panama bill this morning, and if the Senator in charge of the pending appropriation bill will yield for that purpose, I should like to go on now.

Mr. WARREN. While, Mr. President, it is somewhat unusual to yield for a speech during the consideration of an appropriation bill, I realize that the Senator has been very gracious about the matter, and did not take the time last night, and I yield to the Senator for the purpose indicated.

The PRESIDENT pro tempore. The Chair will suggest that action upon the pending amendment might well be concluded. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 111, line 19, in the committee amendment, it is proposed to strike out "$325,000" and insert in lieu "$400,000."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. WARREN. I wish to say that I expect to proceed with the appropriation bill immediately upon the conclusion of the address of the Senator from South Carolina.

THE PANAMA CANAL.

The Senate as in Committee of the Whole resumed consideration of the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. SMITH of South Carolina. Mr. President, in the early part of this session we had under discussion the proposed treaties of arbitration between Great Britain, France, and the United States. On account of certain amendments that the Senate insisted upon and certain modifications of those treaties they are still not ratified by the three high contracting parties. The clause in the treaties to which the Senate objected was the clause involving the very principle now at issue in the question of our charging tolls in the Panama Canal. The particular clause which was finally objected to and stricken from the treaty by the Senate was in these words:

> It is further agreed, however, that in cases in which the parties disagree as to whether or not a difference is subject to arbitration under article 1 of this treaty, that question shall be submitted to the joint high commission of inquiry, and if all or all but one of the members of the commission agree and report that such differences in the scope of article 1, it shall be referred to arbitration in accordance with the provisions in this treaty.

Senators of both political parties contended that with the adoption of this paragraph it would be giving into the hands of an alien, or foreign tribunal, the settlement of questions which of right belonged to the United States alone. The questions which were referred to as being possible of arbitration, under the adoption of this section, were such as affected the vital interests of America alone. Amongst those cited as being questions which might arise which we would be compelled, under the adoption of that paragraph, to refer to foreigners for adjudication were southern bonds, the right of expatriation, and those questions affecting the vital interests of either of the contracting parties, alone, and not mutually.

The debate on this particular clause is the key to the whole international relation as it now confronts us. The question at issue, reduced to its last analysis, was, Should any country have a right, under treaty or otherwise, to demand that any question purely domestic or which related entirely to the vital interests of one of the contracting parties alone, because a citizen or citizens of the other contracting parties might become financially or commercially interested in it, be submitted to arbitration?

The question of southern bonds and the question of expatriation affect America alone. I quote from the speech delivered by the Senator from Massachusetts [Mr. LODGE] on the 29th of February, 1912, on this point:

> We separate them and take them out from the ordinary class of pecuniary claims. Our reasons for doing so are well known to us and rest on the broad grounds of justice and right. But the world

neither knows nor understands our reasons. Whatever the decision of the high commission might be on this question, I for one do not believe in ever permitting the question of these bonds to go before any outside tribunal. They are our own concern.

In the same connection in the same speech he said:

Are you ready to submit to arbitration the question of the right of expatriation which we have supported, insisted upon, and enforced for more than 50 years?

Continuing, the Senator from Massachusetts said:

Will you arbitrate with Russia the question of her right to discriminate against certain classes of American citizens on the ground of race and religion as we discriminate against certain immigrants on the ground of crime and disease? I am not willing to submit those questions to arbitration, and I will not promise to do so.

I should like to have the attention of the Senator from Massachusetts, because later he changed his position, and I should be glad if he sees fit to explain that change. I am quoting from the Senator's speech on the 29th of February, 1912, in which he said:

It is easy to show that there are other questions not properly arbitral which might be brought before this commission. The tolls to be charged by us in the Panama Canal, which we have built at our own expense, might be brought before a tribunal, in whole or in part composed of foreigners, to be fixed and determined by them.

Further, the Senator said in the same connection:

Our title to the canal or to our territory anywhere is not to be dragged before any arbitral tribunal for examination and determination, and nothing should be subscribed to by us which by any twisting could be construed into a promise that we would submit such a question to any judgment but our own.

The logical deduction from this line of reasoning by the Senator from Massachusetts is to the effect that our judgment, and ours alone, in reference to our title to our canal territory is to be interpreted by us alone. If we decide that our title to this property is such as to make it practically a Territory of the United States in so far as our relations with foreign countries are concerned, then it seems to follow that any law we may make in reference to our own citizens in the use of this property, where it applies strictly to our citizens alone, is not a matter for arbitration.

The only question for us to decide in the Senate in reference to our right to charge or remit tolls to the citizens of the United States is the question of our ownership of this zone. If we determine that the character of our title as a Government in dealing with the Republic of Panama is such that our sovereignty in so far as navigating the waters of the canal are concerned is practically the same as navigating American waters, then no foreign power has any right to demand that it should be submitted to arbitration.

In article 3 of the convention between the United States and the Republic of Panama the following language is used:

The Republic of Panama grants to the United States all the right, power, and authority within the zone mentioned and described in article 2 of this agreement, and within the limits of all auxiliary lands and waters mentioned and described in said article 2, which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Mr. BRADLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Kentucky?

Mr. SMITH of South Carolina. I do.

Mr. BRADLEY. I simply want to make an inquiry. Will the Senator give me the date of the treaty from which he is reading?

Mr. SMITH of South Carolina. That was from the treaty with Panama in 1903. It was subsequent to the Hay-Pauncefote treaty. I will bring that point out.

As will be observed, the extract from the treaty with Panama which I have just read explicitly sets forth that within this ceded zone the United States was given and assumed the exact sovereignty that the original owner of this zone possessed in the full and complete exercise of its sovereignty.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Missouri?

Mr. SMITH of South Carolina. I do.

Mr. STONE. Mr. President, if I caught correctly the reading of the extract the Senator quoted from the speech delivered by the senior Senator from Massachusetts [Mr. LODGE], when the Senate was considering the arbitration treaties, that Senator then declared—and I am asking if my impression is correct—that this Government would not be willing to submit to arbitration any question relating to the tolls to be charged through the canal. Of course, that treaty provided for a particular commission. The Senator from Massachusetts was addressing himself to the proposition as to whether questions of purely domestic concern should be submitted to that commission, and in discussing it, as I understand the reading, the learned Senator then took the ground that he would not be willing to submit the question of tolls in any form in which it might arise to that commission or to arbitration. I understood the Senator from Massachusetts, in his speech the other day on the Panama Canal bill, to hold that under the Hay-Pauncefote treaty and under our arbitration treaty with Great Britain we would be obliged to submit any question arising between Great Britain and this Government to The Hague Court, which, in fact, is but a court of arbitration.

Mr. SMITH of South Carolina. It was for that reason that I called attention to the seeming contradiction in the position of the Senator from Massachusetts, as referred to by the Senator from Missouri [Mr. STONE], and the position taken in his speech from which I have quoted in the RECORD of July 17, where the Senator from Massachusetts is quoted as saying:

It is, of course, also true, as the Senator from New York [Mr. ROOT] pointed out, that if we should undertake simply to make our ships free, we should raise a question which would then, under our treaties of arbitration, necessarily go to The Hague.

Mr. LODGE. Mr. President, will the Senator permit me to interrupt him?

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Massachusetts?

Mr. SMITH of South Carolina. I do.

Mr. LODGE. I made that statement because the question as to our right to exempt American vessels from tolls would be a question arising under the interpretation of a treaty. A question involving the interpretation of a treaty would undoubtedly go to arbitration under our general arbitration treaties now existing. I confess at that moment I thought only of that proposition. Since then the debate has developed a point which I had not thought of, speaking as I then did offhand—the question of the Canal Zone being domestic territory to all intents and purposes. I am not prepared to say now, without further consideration, that we should be bound to submit a purely domestic question of that kind. I have no question, as I argued the other day, that the repayment of tolls to reach the same result of exempting American vessels would not be arbitrable, because that is purely a domestic question. Whether our territorial jurisdiction in the Canal Zone would not bring it within the same class I am not at all sure. I am not prepared to say that it would not, and that the Senator is not correct in the view he is now taking.

While I am on my feet, if the Senator will allow me, there is one other thing I should like to say. I said in my remarks a few days ago that my personal view was that we had the right to exempt American vessels from tolls. I did not go into the matter. I took a somewhat active part in the two Hay-Pauncefote treaties, as they are called. I voted against the Bard amendment. I voted against it in the belief that it was unnecessary; that the right to fix tolls, if we built the canal or it was built under our auspices, was undoubted. I know that was the view taken by the then Senator from Minnesota, Mr. Davis, who was at that time chairman of the committee. I certainly so stated on the floor. Of course the debates are not now a matter of record, but I find that the Senator from California and some other Senators who were present remember very well that the Senator from Minnesota and I both made that statement in explanation of our votes against what was called the Bard amendment. I had that same view in regard to this treaty. I was familiar with the work that was done upon it in London at the time when it was concluded there and finally agreed to, and I was very familiar with it here. Although, as the Senator from Georgia correctly said, the question was not raised at that time, I personally have never had any doubt that the matter of fixing the tolls must necessarily be within our jurisdiction; and when I referred to our going to The Hague as useless I did not mean because our case was not a good one. I meant because in the nature of things we could by no possibility have a disinterested tribunal at The Hague. It would be for the interest of every other nation involved to prevent our fixing the tolls according to our own wishes.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. SMITH of South Carolina. I yield.

Mr. POMERENE. The Senator from Massachusetts has just expressed a reason for his vote against what was known as the Bard amendment. Can the Senator inform us as to whether that was the general sentiment prevailing at that time among the Senators?

Mr. LODGE. I can only say, Mr. President, that that was the view of the chairman of the Committee on Foreign Relations, and it was my view; and, while I may be mistaken, I think on that vote the majority of the Senate followed the Committee on Foreign Relations.

Mr. SMITH of South Carolina. As I understand, the vote was something like 27 to 43.

Mr. LODGE. Yes.

Mr. SMITH of South Carolina. The question of the Bard amendment, to which the Senator refers, was brought up; and on account of its being in executive session, and the debates not being available, I was unable to find any record showing what was the sentiment in that respect.

Mr. LODGE. There is no record that will show that, of course; but I know that was my opinion and the opinion of the chairman of the Committee on Foreign Relations at the time.

Mr. CULBERSON. Will the Senator from South Carolina be kind enough to let me ask a question of the Senator from Massachusetts?

Mr. SMITH of South Carolina. Certainly.

Mr. CULBERSON. The Senator from Massachusetts seems to lay some stress upon the fact that this has grown to be or is now a domestic question. I will ask him, in view of the second article of the Hay-Pauncefote treaty of 1901, which I will read in a moment, if it was not contemplated by that treaty that it might become a domestic question; and yet section 1 of article 3 provides that the canal shall be free and open, and so forth. I will read article 2:

It is agreed that the canal may be constructed under the auspices of the Government of the United States, *either directly at its own cost* or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, *subject to the provisions of the present convention*, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

My inquiry is, Does or does not this treaty in itself show that it was based in part upon the probability that this might be a domestic question, and that the ownership of the canal would be in fact in the United States, making it all the more necessary to rest the inquiry into and the determination of this question upon the true construction of the treaty itself, without reference to any arbitration treaty obligating us to enter into a contest at The Hague?

Mr. SMITH of South Carolina. Will the Senator from Massachusetts allow me to ask the Senator from Texas a question just here? He read from article 2, I believe.

Mr. CULBERSON. I read from article 2 of the Hay-Pauncefote treaty.

Mr. SMITH of South Carolina. To what language in it does the Senator ask attention? I ask because I should like to follow him.

Mr. LODGE. The Senator from Texas drew my attention, as I understand, to the right there given the United States to build the canal entirely itself.

Mr. CULBERSON. "Under the auspices of the Government of the United States, either directly at its own cost"—which has transpired to be the case.

Mr. LODGE. Exactly.

Mr. CULBERSON. Does not that treaty contemplate and fix terms in contemplation of the United States themselves becoming the owner of the canal?

Mr. LODGE. Certainly it does. As I said, frankly, I had not thought of that side of the question—our taking over the Canal Zone and making it to all intents and purposes domestic territory. The titular sovereignty remains in Panama, but the actual sovereignty is in the United States. I think that opens a question of very grave doubt, which certainly I am not prepared to answer finally, so far as I am concerned, at this moment. I think it opens a question of very grave doubt as to whether that is not as much a matter that is wholly within our own jurisdiction as the tolls on a canal built in our territory, like the Sault Ste. Marie or any of those canals.

Mr. POMERENE. With the permission of the Senator from South Carolina, may I ask the Senator from Massachusetts another question?

Mr. LODGE. Certainly.

Mr. POMERENE. The Senator has just explained his reasons for voting against the Bard amendment, taking the position that without it we would have the right to regulate and manage the canal. The Bard amendment was a substitute for article 3 of the pending treaty. The treaty, as finally ratified, contained in paragraph 1 of article 3 this language:

The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

If, under the treaty, we had general authority to control it and regulate it, why were we so specific in stipulating that we should have the right to maintain the military police which might be necessary?

Mr. LODGE. Because at that time it was not known, of course, on what terms we should have the zone or have the canal. It might have been built through the territory of Panama by a private company to which we might advance our credit. We could not tell what the conditions would be there. It was necessary, therefore, to reserve that right.

That clause as it stood in the first treaty contained a prohibition against fortification; and we put in the treaty a Senate amendment giving us the right to defend the canal in any way we pleased. When the second treaty was made, that amendment of the Senate was left out as well as the fortification clause, so that no restriction at all in regard to fortification was placed upon the United States.

As the matter stands now the military police provision is perhaps needless. But as it stood then, when we did not know under what precise terms we should build the canal, it was necessary to put it in.

Mr. SMITH of South Carolina. In reply to the question propounded to the Senator from Massachusetts by the Senator from Texas, I will state that article 1 says:

The Government of the United States, either directly at its own cost or by gift or loan of money, may construct the canal.

There is a parallel, and perhaps a precedent that might have been governing those who were drafting this treaty, in the case of the Suez Canal. The English Government, while it did not build that canal at its own cost, it obtained control of the majority of the stock of the corporation that built it, and practically was in control as far as that ownership gave it the right of naming the tolls and managing the vessels that used the canal.

But it seems that the ratification of the United States-Panama convention, which was subsequent to the Hay-Pauncefote treaty, entirely changed the situation. No Senator here would contend that subsequent to the Hay-Pauncefote treaty, if we had engaged in a war with Colombia, and as a result of that war, by virtue of conquest, had had ceded to us the territory that we now possess, it would not have become as much a part of the United States as the Philippine Islands. Therefore the alternative of that is also true—that exercising our sovereign power, we had the right to purchase the zone from Colombia in return for a stipulated price. Having purchased it, and having the right of that purchase explicitly set forth in article 3 of that convention, in 1903, the zone that we are now occupying became in fact a part of the territory of the United States, as intimate in its relation so far as the zone is concerned as any part that we now own on the North American Continent, known as the United States.

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. SMITH of South Carolina. I do.

Mr. CULBERSON. Mr. President, I am only endeavoring to get information upon which to predicate my vote in this matter.

In further suggestion to the Senator from South Carolina, I want to read an amendment which was proposed in the Senate on the Hay-Pauncefote treaty, which was submitted in 1900:

But nothing contained in this treaty shall be construed to prevent the United States from acquiring at any time sufficient territory and sovereignty over the same upon which to build, manage, operate, defend, protect, and control said canal or for any other purposes, as the United States may deem best in its own interests.

That declares, if I mistake not, about what the Senator from South Carolina now insists upon. Yet that amendment was voted down—yeas 25, nays 45—my vote being for it. Among the Senators who voted against the adoption of that amendment was the Senator from Massachusetts [Mr. LODGE], who is present and who is taking part in this debate.

I am asking only for information, for the purpose of trying to get at the truth of this situation.

Take that amendment which was voted down declaring that the United States should have the power to acquire this territory, the very sovereignty itself of this territory, and use it in its own interest. Take that in connection with the second article of the Hay-Pauncefote treaty of 1901, which contemplates that the United States may build this canal directly out of their own funds. Does it or does it not appear—I have no fixed opinion on the subject—that the treaty providing for equal treatment of the ships of all nations was made in contemplation if not of sovereignty at least of absolute ownership of the canal by the United States? If so, does it not take the question out of the category of a reserved domestic question arising out of ownership and place it under the true construction of section 1 of article 3 of the Hay-Pauncefote treaty?

Mr. LODGE. The amendment to which the Senator from Texas has referred and which he has just read was offered to the first Hay-Pauncefote treaty, but not to the second.

Mr. CULBERSON. In this respect they are identical.

Mr. LODGE. Yes; in this respect they are the same. I remember perfectly well that I voted against it, because I thought—and I think that was the reason of the majority who did vote against it—that it was entirely needless.

Before I sit down I should like, if I may, to call attention to one thing in this connection. We are now so familiarized with Panama that we think of nothing else. But in the preamble of the treaty that was adopted, the actual Hay-Pauncefote treaty, you will notice that it says:

Being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans by whatever route may be considered expedient, and to that end to remove any objection which may arise.

The route that was in everybody's mind at that time was the Nicaragua route. There was no possible prospect of our securing there what we have secured in Panama. All we could have hoped to secure from Nicaragua and Costa Rica would have been the right to build a canal. Therefore the situation contemplated by that treaty was one quite different from that which has arisen. That which has arisen was also contemplated as possible.

Mr. SMITH of South Carolina. I should like to ask the Senator from Massachusetts a question right in this connection. I could not find any record to carry out the thought suggested to me in reading the paragraph to which the Senator from Texas has referred. But was there or was there not in the Senate at that time a feeling that if that paragraph were adopted, it would in a measure give the right to still further acquisition of foreign territory? It is clearly implied in the proposed amendment. Was there or was there not such a feeling in the Senate?

Mr. LODGE. I do not think at that moment there was any expectation that we should acquire any territory or any zone, owing to the conditions of the Nicaragua canal. But I also want to call attention—I am sorry to break in on the Senator so much, but if he will allow me I will not do it again—to one very important matter which is now frequently forgotten in discussing this subject.

The article in the first Hay-Pauncefote treaty which most aroused the objection of the Senate, and which, I think, was an extremely perilous provision, was article 3:

The high contracting parties will, immediately upon the exchange of the ratifications of this convention, bring it to the notice of the other powers and invite them to adhere to it.

That was inviting the other powers to come into this hemisphere and take part in a purely American matter. I do not recall the vote on that matter in the Senate, but my impression is that when it went out it was determined decisively and without a division.

When we struck out that provision there was one thing that we made absolutely clear by our action. There was no attempt to put it back in the second treaty. That was that we did not propose to ask any foreign power to adhere to this treaty or to give any form of consent or concurrence to any rules we chose to adopt. We excluded them. Whatever was to be done was to be done by our own will and power. We agreed we would do certain things, of course; but we were to do them. There was to be nobody else to adhere or concur, or anything of that nature.

Mr. SMITH of South Carolina. Having a wholesome regard to our Monroe doctrine.

Mr. LODGE. Absolutely; and I think that goes very far as showing the attitude of the United States in ratifying the second treaty—that the striking out of article 3 showed the attitude of the Senate and of the country at that time in regard to the canal.

Mr. SMITH of South Carolina. That we meant to make it purely an American matter?

Mr. LODGE. Precisely.

Mr. BACON. Will the Senator permit me a moment?

Mr. SMITH of South Carolina. Certainly.

Mr. BACON. As there has been some discussion as to what was the understanding at the time, possibly it will be of profit. I want to say for myself that I voted in favor of the Bard amendment, and that I was not influenced by any such consideration as that suggested by the Senator from Massachusetts; in other words, the question, so far as I knew, was not raised that under the terms of the treaty as expressed we would have a right to make those discriminations, and that therefore the amendment was not needed. When the matter was up a few days ago the Senator from Massachusetts and I both concurred, I will not say in recollection, but in the failure to recollect that anything to that effect was said at that time in the Senate.

Mr. LODGE. I meant at the time of the second treaty. I think a good deal was said about it at the time of the first treaty.

Mr. BACON. I do not so recollect. I am not going to discuss the matter now because there are several things I wish to say which would take longer to say than it would be proper to interrupt the Senator from South Carolina. But I will take occasion later possibly to give a little more detailed narration of my recollection of the conditions and the general sentiment at that time and the reasons which actuated our votes.

I wish to say for myself now in this connection that my view at that time was this, and I still think it is so, that those who voted against those amendments were actuated by the belief that to amend the treaty was to defeat it and were not in favor of putting any amendments on. There were some of us who desired very much to so amend the treaty that the United States should be unshackled. I will at the proper time go through the various amendments that were offered.

Mr. LODGE. Mr. President——

Mr. BACON. I hope the Senator will let me finish this thought.

Mr. LODGE. I will not interrupt you.

Mr. BACON. I hope the Senator will interrupt me. I simply wanted to finish my thought. The Senator knows I want him to interrupt me.

I wish to say that that was the view which I had, that the treaty did shackle us, and I wanted to unshackle it. I offered two amendments myself and I voted for two others on the same line.

I wish to say further that the Senator is doubtless correct as to the views of the former chairman of the Committee on Foreign Relations, Mr. Davis, of Minnesota, as they may have been expressed prior to the time when these treaties were before the Senate.

The PRESIDENT pro tempore. The Senator from Georgia will suspend for a moment. The hour of 1 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I expect to ask unanimous consent in a moment that the unfinished business be temporarily laid aside. I ask the Senator from Georgia if I would be interfering with him if I insert a short extract in the RECORD.

Mr. BACON. I am occupying the floor by the courtesy of the Senator from South Carolina.

Mr. SMITH of South Carolina. I should like to finish my speech before the unfinished business is laid aside.

Mr. BRANDEGEE. Then, inasmuch as the Senator from South Carolina is speaking on the subject, I will not ask that it be laid aside at present.

Mr. WARREN. Do I understand in that case that the displacement of the appropriation is intended to continue for the balance of the day?

Mr. LODGE. Oh, no.

Mr. BRANDEGEE. I simply want to meet the convenience and wishes of the Senator from Wyoming in every respect as to the sundry civil appropriation bill, and I merely did not ask to have it laid aside now, because the Senator from South Carolina is speaking on the question. So, having been laid before the Senate, it might as well remain before the Senate until the conclusion of the speech of the Senator from South Carolina, when I shall ask that it be laid aside.

Mr. WARREN. I make no comment on that, except I rather regret that the Senator from South Carolina did not inform me that he intended to speak on this particular measure. In that case we might have connected his speech with the measure itself at 1 o'clock.

The PRESIDENT pro tempore. The Senator from Georgia will proceed.

Mr. BACON. I was proceeding to say that I had no doubt in the world that the Senator from Massachusetts is entirely correct in his recollection of the attitude of the former chairman of the Committee on Foreign Relations, the Senator from Minnesota, Mr. Davis, so far as that attitude may have been disclosed by conversations which he had with him prior to the submission of these treaties, but the impression the Senator from Massachusetts has could not have been gathered from anything that Mr. Davis said at that time, because the Senator from Minnesota, Mr. Davis, was not then a Member of the Senate.

Mr. LODGE. That is the second treaty. I am talking of the first.

Mr. BACON. He was not a Member of the Senate at the time of the first treaty.

Mr. LODGE. He was, and reported it.

Mr. BACON. I simply wish to state to the Senator the fact that at the time the first treaty was considered Mr. Towne was a Member of the Senate as his successor. I do not recollect the date of the death of Mr. Davis, but in December, 1900, Mr. Davis was not a Member of the Senate, and Mr. Towne, of Minnesota, was in his seat and voted on the question of the amendments and the ratification of the treaty. Of course, in the subsequent year—1901—when the treaty was again before the Senate, the present Senator from Minnesota [Mr. CLAPP] had succeeded Mr. Towne.

I simply mention this, not in any manner to take issue with the statement of the Senator that Mr. Davis was of that opinion. I have no doubt he had so expressed his opinion, but he was not present at the time of the Bard amendment nor at any time during that session. Mr. Davis had died before that session began.

Mr. LODGE. I thought it had been earlier reported. The Senator is correct. I knew that Mr. Davis and I went to the State Department and went over the whole treaty with the Secretary of State. I had forgotten that he died in the interval before the treaty was put in. That is quite true.

Mr. BACON. I do not think I am in error in the statement that the consideration which controlled the negative vote—I do not mean to say it was what influenced everyone who voted in the negative, but the general sentiment which did control that general negative vote against the Bard amendment and other kindred amendments, two of which I said I offered myself and two others were offered by others for which I voted, which were designed to unshackle the United States and leave it absolutely free—the general sentiment which controlled the negative vote in that case was that to amend the treaty was to defeat it in those particulars.

Mr. LODGE. That is, of course, a mistake. The committee reported three amendments, all of which were adopted. It can not be said that they thought amendments would defeat the treaty.

Mr. BACON. The Senator failed to catch my last words. I said amendments in those particulars as to fortification.

Mr. LODGE. At this length of time I can only speak for myself. I know what influenced me. I wished to amend the treaty and we did amend the treaty and amended it in three different places, but I thought the other amendments were needless.

Mr. BACON. We amended the first treaty.

Mr. LODGE. Three times.

Mr. BACON. We amended the first treaty and it was rejected. I say rejected; I mean that it failed.

Mr. LODGE. England declined to accept the amendments.

Mr. BACON. England declined to accept the amendments.

Mr. CULBERSON. With the permission of the Senator from Georgia——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. SMITH of South Carolina. I yield to the Senator.

Mr. CULBERSON. I will state that the Congressional Directory shows that Senator Davis died November 27, 1900, and that President McKinley submitted the treaty to the Senate February 5, 1900—the first treaty.

Mr. LODGE. Yes.

Mr. BACON. Undoubtedly, but Mr. Davis died before that session of Congress, and it was reported to the Senate in that session of Congress.

Mr. SMITH of South Carolina. Mr. President, the decision as to just what was the spirit actuating the Members of the Senate at the time when these points were raised and decided of course is pertinent to the proper attitude of the Senate at that time to determine the spirit of the present interpretation of our treaty.

Mr. PERCY. Will the Senator from South Carolina yield to me for a moment?

Mr. SMITH of South Carolina. Certainly.

Mr. PERCY. I expected to follow the Senator with a few remarks on the Panama Canal bill, but the Senator from Wyoming [Mr. WARREN] is anxious to complete the consideration of the appropriation bill, and in order to facilitate that purpose I give notice that after the morning business on Monday I will speak on the bill.

Mr. SMITH of South Carolina. Mr. President, it seems that the ratification of this convention, which was subsequent to the ratification of the Hay-Pauncefote treaty, of necessity changed the relation of the United States in reference to the Hay-Pauncefote treaty. When this treaty was ratified the territory through which the canal was to be constructed was owned and controlled by a foreign power. The United States and Great Britain in contracting a treaty naturally provided for mutual terms for the use of the canal. But the peculiar turn of affairs under the Roosevelt administration practically gave the United States sovereignty over the territory.

By an appropriation from our Public Treasury, by the purchase of the right from Panama as set forth in this convention giving us sovereignty over the Canal Zone, this territory is American property, in which no other nation has any more right or power than in the port of Charleston or the rivers that run into our interior.

Mr. CULBERSON. Will the Senator permit an interruption there?

Mr. SMITH of South Carolina. Certainly.

Mr. CULBERSON. I am seeking information. I call attention to article 4 of the treaty, which provides that:

> It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Mr. SMITH of South Carolina. The modifying word "general" in the clause read is in favor of the position I am taking. There is no general modification. It is a specific modification we are making incident to the territory having passed into the possession of the United States. The United States and Great Britain were making a treaty affecting mutual foreign territory. When this territory passed into the possession of the United States there was, of course, a modification of the relation of the two Nations to the territory under question, and that modification only affected the citizenship of the United States, which now owns the canal, and did not affect the general principle of neutrality.

The whole status of the case, as I said, was necessarily changed, and perhaps intentionally so. I have an idea, and I think the facts will bear it out that in some of the speeches of the ex-President he stated that in what some are pleased to call the scandal of the acquisition of this territory, he had this very identical object in view, and that was that it should become American territory to be controlled by America alone in American interests.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Missouri?

Mr. SMITH of South Carolina. I do.

Mr. REED. I should like to ask the Senator whether he thinks that idea was born in the brain of the ex-President, and to remark incidentally that if it was there before he wrote the treaty, then he did a very poor piece of preparatory work in writing the treaty in the terms used.

Mr. SMITH of South Carolina. I think the discussion that has arisen as to the interpretation of it in the light of subsequent events might give rise to the fact that he hoped to solve the riddle by the very act that he did.

Mr. REED. On the contrary, Mr. President, do not the facts so far as they have been recorded in a historical way tend rather to show that the steps taken to acquire the strip of land upon which the canal is now being constructed was for the purpose of avoiding the law which provided that the canal should be located at another place, unless we received certain rights from the proprietors of the Panama country, and that those rights not being ceded, the President then conspired to overthrow the sovereignty of the Government, and to set up an independent Government, with which he could deal? I ask the Senator if the evidence is not all to the effect that that was the purpose of the President, instead of the purpose to get away from the terms of the treaty?

Mr. SMITH of South Carolina. I do not pretend to be familiar with the inside workings as to what brought about the raid on Colombia, but I rather suspect that there were other reasons. They have at least been intimated. There was the sale of certain property which belonged to the old canal company that also figured. But into those matters I do not care to go just now.

However, I want to call the attention of the Senate to the fact that there have been repeated efforts to have our title to the canal itself submitted to arbitration, but it has been refused. Therefore if our title to this property is not a matter of arbitration and we are satisfied that our sovereignty is complete as affecting our own people, it seems that by submitting to arbitration the question as to whether we can under the circumstances exempt our coast trade from taxation is necessarily and ultimately to bring into question our title to the canal itself, because one hinges upon the other.

I should like to call the attention of the Senate to a further fact and ask to what tribunal composed of representatives of the nations of the earth could we submit this question which would not be prejudiced against us.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Connecticut?

Mr. SMITH of South Carolina. I do.

Mr. BRANDEGEE. Mr. President, the other day in touching incidentally upon this question of the sovereignty of the United States in the Canal Zone, the Senator from Missouri [Mr. REED] and I had a colloquy. I told the Senator that I would put into the RECORD, as soon as I could find it, the utterance of President Taft in connection with that matter. I take occasion now to read very briefly from the hearings before the Committee on Interoceanic Canals of the Senate under date of April 18, 1906, from the statement of the Hon. William H. Taft, then Secretary of War. At page 2526 of said hearings, he states:

Article 3 of the treaty provides as follows:

"The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority."

Then he continues:

It is peculiar in not conferring sovereignty directly upon the United States, but in giving to the United States the powers which it would have if it were sovereign.

He italicizes the words "if it were sovereign."

This gives rise to the obvious implication that a mere titular sovereignty is reserved in the Panaman Government. Now, I agree that to the Anglo-Saxon mind a titular sovereignty is like what Gov. Allen, of Ohio, once characterized as a "barren ideality," but to the Spanish or Latin mind, poetic and sentimental, enjoying the intellectual refinements and dwelling much on names and forms, it is by no means unimportant. Therefore, when the question of the form of stamp was to be determined I had not the slightest hesitation in yielding to the view that we should adopt the system which for a time Gen. Davis had himself adopted before he got United States stamps of merely purchasing the Panaman stamps and crossing them with the words "Canal Zone." I do not know that it is necessary for me to go through the various provisions of the order of December 3. I have discussed them at length in my letter transmitting the annual report of the commission for 1904, and it is printed on pages 2392 to 2410 of this record.

The order, in effect, required that all importations into the Isthmus of merchandise, except those admitted free of duty for the Government of the United States or its employees under the treaty, should be entered at the Panaman ports instead of at the United States ports in order that the Panamans might collect duty on them and thus maintain their revenues. This, however, was on condition that they should reduce their duties from 15 per cent ad valorem to 10 per cent ad valorem. I deemed it of great importance that the Panama Republic should be self-supporting. Free trade between the zone and the Republic was declared. The existence of the terminal ports of the canal as ports of the United States for clearing and entering by foreign vessels was recognized. Without waiting to determine whether the Government of Panama would fail in its duty to enforce the sanitary ordinances in Panama and Colon prescribed by the United States, as was probable, the Republic turned over to the United States authorities immediate right to enforce the same. The postal rate from Panama to the United States and from the United States to Panama was made 2 cents, the stamp in the zone being the Panaman stamp crossed with the words "Canal Zone."

That is put in to fulfill my promise to the Senator from Missouri.

Mr. LODGE. Will the Senator allow me? I did not think my recollection was quite so much at fault as the Senator from Georgia seemed to intimate.

Mr. Davis reported the treaty; he made an elaborate report with it, which I have just been looking over. He called it up for discussion during the spring. He died before the vote was taken. He died in the autumn before the Senate met again. I was perfectly certain that he debated the question in the Senate. I find by the RECORD that he reported it and made an elaborate written report.

Mr. SMITH of South Carolina. Mr. President——

Mr. BACON. Will the Senator pardon me just a moment?

Mr. SMITH of South Carolina. Certainly.

Mr. LODGE. I have the references here.

Mr. BACON. I do not question at all the fact that Mr. Davis, the then Senator from Minnesota, had expressed himself on this subject, as had been stated by the Senator from Massachusetts.

Mr. LODGE. But he reported it.

Mr. BACON. The only point I called attention to was that at the time of the offering of the Bard amendment and the vote thereon he was not a Member of the Senate.

Mr. LODGE. He certainly was not.

Mr. BACON. So that he did not give any expression either in the Senate or privately as to that.

Mr LODGE. In the report, as I see by looking it over, he argues in favor of the equality of tolls to all nations, but does not suggest that the treaty prohibits our fixing any tolls as we desire. He also discusses the question of fortifications.

Mr. BACON. The Senator will certainly bear me out in the recollection that I stated in the beginning I had no doubt Mr. Davis had given utterance to such an opinion.

Mr. LODGE. The Senator said it was in conversation with me—he gave utterance to it here.

Mr. BACON. I may be in error about that, but I recollect distinctly the fact—I was then a member of the Committee on Foreign Relations, as was the Senator from Massachusetts—that that treaty was reported in a prior session.

Mr. LODGE. It was reported on the 9th of March.

Mr. BACON. I may be mistaken about it. The secret Journal will show, but my recollection is that it was taken up in the second session in December.

Mr. LODGE. It was reported the 9th of March, with a written report by Mr. Davis; he called it up on the 5th of April; and it was discussed and the amendment was offered by the committee about the right of the United States. I do not desire to interrupt the Senator from South Carolina further. The Senator has been very kind in yielding. I am much obliged to him.

Mr. SMITH of South Carolina. This is very interesting, but I should like to keep something of a connection in the argument that I am trying to make.

Mr. BACON. With the permission of the Senator, right in connection with the argument he is making, I understood the Senator to say that the question of our obligations to Colombia on account of taking Panama territory, or rather what now constitutes the State of Panama, had been recognized as not to be a proper subject of arbitration. Where did the Senator get that information?

Mr. SMITH of South Carolina. I do not exactly understand the statement the Senator made.

Mr. BACON. I understood the Senator to say that the question which would arise out of our action in acquiring——

Mr. SMITH of South Carolina. The Senator means the ownership of the zone itself?

Mr. BACON. No; I understood the Senator to say in regard to the transfer of sovereignty from Colombia to the Government of Panama and our title to the zone through that transfer.

Mr. SMITH of South Carolina. In the speech the Senator from Massachusetts [Mr. LODGE] made in reference to the peace treaty he made the statement, and upon his proverbial accuracy I repeated it in general but not specifically. He said in that speech that the State Department had been solicited three separate times to submit the question of the validity of our claim to the Canal Zone, and that they had refused absolutely to let that be a question of arbitration. I sent to the State Department to find specific facts in order that I might state them in that connection, but could not obtain them. In the Senator's speech to which I refer that statement is made, and, basing my remarks on the faith that I had in him, I made the statement.

Mr. BACON. With the permission of the Senator, the only controversy that has ever arisen in regard to that matter was between the Government of Colombia and the United States——

Mr. SMITH of South Carolina. I understand.

Mr. BACON. As to the claim on the part of Colombia that the Government of the United States was responsible for its loss of Panama, and that it was entitled to redress and so forth, I simply want to say to the Senator I am very well aware of the fact that no arbitration has been accorded Colombia on that subject; but I am unwilling that the matter shall pass unchallenged or the statement pass unchallenged that that amounts to a recognition that it is not an arbitrable question. I think it is a burning arbitrable question, and I do not think it is anything to the credit of the Government of the United States that it has refused to a weak power that can not cope with it the right to arbitrate a question of that kind.

Mr. SMITH of South Carolina. I shall not attempt to debate the point as to whether or not as a strong power we should not submit to a court of arbitration the method by which we acquired this territory from a weaker nation. I was simply addressing myself to the fact as a precedent to what we are now attempting to do, that we claim that under the terms of the cession by Panama to the United States we do own it, and acting upon that assumption that we have no right to let outside parties come in and settle a question that is now a corollary to the settlement of that question.

I want to call the attention of the Senate to just one further point that I made a moment ago, in view of the Monroe doctrine that has now become an established rule of the nations in reference to America, and certainly would be upheld by America, this canal being within the territory affected by the Monroe doctrine, if we were to submit any question affecting us do-

mestically as to the ownership of any territory within the Monroe zone, so to speak, the moment you did that you would open up the question to all the nations of the earth upon that precedent, and it would lead to an embarrassment that I for one at present am not willing should be submitted.

I am not discussing the wisdom or unwisdom of granting to the vessels of the United States a monopoly of coastwise trade. This is now a law. I simply am discussing whether or not, under the terms of our occupancy of the Canal Zone, we have the same rights there, in reference to our shipping, as we have in the waters strictly of the United States. If we do submit this question to arbitration we are all agreed that it will be decided against us. Therefore, if we propose to give free passage to the vessels of the United States we will be of necessity bound to remit to them whatever toll is charged. That is, we would collect the tolls from them and then rebate to the extent of the collection, which would be tantamount to a direct subsidy, different in principle and different in effect from giving free tolls.

The tolls may or may not be excessive, but to just the extent they are specifically charged upon a specific vessel, according to its tonnage, do we admit and put into practice the doctrine of ship subsidy. To open the canal for the American people and then to give all American vessels the right to go and come free is not contrary to the doctrine of building great highways which the humblest vehicle and the most expensive automobile may use. It is not analogous to nor is it in any way similar to the construction of railroads where private corporations build them. We control railroad rates in the interest of the people and grant these railroads certain rights in return for that control. The question involved in this is the question at last whether or not the United States has sovereignty over this zone, whether or not this sovereignty, being subsequent to the ratification of the Hay-Pauncefote treaty, changed in that particular the relation of the two contracting parties and gives us the right, both by purchase and the fact of the establishment of the Monroe doctrine, to refuse to submit to arbitration a question which, in my judgment, is purely domestic.

The PRESIDENT pro tempore. The unfinished business is before the Senate.

Mr. BRANDEGEE. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

SUNDRY CIVIL BILL.

Mr. WARREN. I ask unanimous consent that the further consideration of the sundry civil appropriation bill may be proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) an act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The PRESIDENT pro tempore. The next amendment will be stated.

The next amendment was, on page 112, line 9, after the words "water resources," to strike out the sum "$150,000" and insert "$175,000," so as to make the clause read:

For gauging the streams and determining the water supply of the United States, and for the investigation of underground currents and artesian wells, and the preparation of reports upon the best methods of utilizing the water resources, $175,000.

The amendment was agreed to.

The next amendment was, on page 112, line 17, after the sum "$75,000," to strike out "to be immediately available," so as to make the clause read:

For continuation of the topographic surveys of the public lands that have been or may hereafter be designated as national forests, $75,000.

The amendment was agreed to.

The next amendment was, on page 112, line 18, after the words "Geological Survey," to strike out the sum "$1,295,520" and insert "$1,370,520," so as to make the clause read:

In all, for the United States Geological Survey, $1,370,520.

Mr. WARREN. That will be changed under the authority already given.

The PRESIDENT pro tempore. It will be corrected by the Secretary.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Mines," on page 113, line 10, after the words "mining industry," to insert "including personal service in the District of Columbia, and expenses of attendance at meetings in behalf of the purposes of this appropriation"; and in line 13, after the word "appropriation," to strike out the sum "$320,000" and insert "$347,900," so as to make the clause read:

For the investigation as to the causes of mine explosions, methods of mining, especially in relation to the safety of miners, the appliances best adapted to prevent accidents, the possible improvement of conditions under which mining operations are carried on, the use of explosives and electricity, the prevention of accidents, and other inquiries and technologic investigations pertinent to the mining industry, including personal services in the District of Columbia, and expenses of attendance at meetings in behalf of the purposes of this appropriation, $347,900.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. BACON. Mr. President, I think in reference to these various matters we ought to have some information. I do not like to rise and ask the chairman each time about them, but I do think in the case of these large increases some statement ought to be made, so that we shall know what we are doing. Otherwise we shall be in the dark.

Mr. WARREN. Does the Senator allude to the amendment beginning in line 10?

Mr. BACON. I think wherever there is a material amendment in the bill the Senator from Wyoming ought to explain it to us, because when the amendment is read by the Secretary and the announcement is made that without objection it is agreed to, what do we know about it?

Mr. WARREN. I think it is incumbent upon all Senators, after the bill is printed and is laid before the Senate for a week or two, to become advised of those things.

Mr. BACON. Oh, the Senator knows that is practically impossible.

Mr. WARREN. I will say that I shall be glad and ready to answer any questions, but if the Senator wants me to take the time of the Senate, before any questions are asked, and explain all these matters to him——

Mr. BACON. It is embarrassing to Senators to get up and challenge the committee each time.

Mr. WARREN. It should not be.

Mr. BACON. We do not like to do that, but we should like to know something about it as we go on.

Mr. WARREN. I hope the Senator from Georgia does not mean to say that the chairman has shown any indisposition to explain?

Mr. BACON. Not the slightest; not at all.

Mr. WARREN. As to the particular matter of which the Senator has spoken, with reference to the investigation of these mine explosions, the Senator knows what grievous accidents have happened in the last few years. We have organized a bureau and furnished the material, among other things immense machinery for testing the walls and the surface under and over where these men work in the mines, as well as the relation and condition of mines as to the poisonous gases, and so forth. We have also arranged for rescue cars and for much material in the way of helmets, and so forth, for the rescuing parties to go into the gas-infected regions. In figuring on this matter it became necessary, in the minds of the committee, to grant the director one or two additional cars which he needed in order to cover the territory.

Mr. CULBERSON. Is that the amendment, beginning in line 10 and going down to line 14?

Mr. WARREN. I will say to the Senator that is as to the amount. Now, the other amendment——

Mr. CULBERSON. Apparently $27,900 are added for the purpose of—

Personal services in the District of Columbia, and expenses of attendance at meetings in behalf of the purposes of this appropriation.

Mr. WARREN. They have no reference whatever one to the other. The amendment which the Senator has read is made necessary by a clause in the District of Columbia appropriation bill relating to expenditures for those who travel outside of the District of Columbia. These cars are taken to the mines; the miners could not go to Pittsburgh to the headquarters; so it has been necessary or thought necessary here to relieve them of that particular provision of the law, just as we relieved the medical officers of the Public Health and Marine-Hospital Service from it. I think the Senator from Texas is familiar with that clause in the District appropriation bill. If not, I will have it inserted in the RECORD so that he will understand it.

Mr. CULBERSON. This appropriation is increased from $320,000 to $347,900, and the language of the amendment is italicized, reading:

Including personal services in the District of Columbia, and expenses of attendance at meetings in behalf of the purposes of this appropriation.

Including that, the increase is merely for the purposes named and italicized.

Mr. WARREN. The appropriation applies back to the entire section, and it also is made necessary by the provision of law

which I will insert in the RECORD in this connection when I can obtain it, if the Senator would like to have me do so.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Without objection, the amendment is agreed to.

The amendment was agreed to.

The next amendment was, on page 113, line 16, after the words "services in the," to strike out "Bureau of Mines at Washington," so as to make the clause read:

For the analyzing and testing of the coals, lignites, ores, and other mineral fuel substances belonging to or for the use of the United States, including personal services in the District of Columbia, not in excess of the number and total compensation of those so employed during the fiscal year 1912, $135,000.

The amendment was agreed to.

The next amendment was, on page 113, after line 19, to insert:

For per diem, subject to such rules and regulations as the Secretary of the Interior may prescribe, in lieu of subsistence at a rate not exceeding $5 per day when absent on official business from his designated headquarters, and for actual necessary traveling expenses of said inspector, including necessary sleeping-car fares, $4,500.

Mr. KENYON. Mr. President, I should like to inquire of the chairman of the committee what the term "including personal services in the District of Columbia" applies to? What is meant by that?

Mr. WARREN. I will say to the Senator from Iowa that in employing clerks or other employees under an appropriation for work in the field, or points outside of Washington, the law prohibits their being brought in to work here in the departments on a subject unless we especially provide for it. For instance, in the Geological Survey we have men who are in the field in the summer taking observations and making their field notes, and it is desirable to bring them in in the winter and have them complete their work here. This work about mines is done partly in the field, but in the hard weather of winter these officials can work in the District. This language is used to make the law flexible enough to allow that.

Mr. KENYON. The term is used to cover the expese and service of the field men when here in the District of Columbia?

Mr. WARREN. It is designed to cover employment both here and outside, directly and indirectly, in the way I have spoken of.

Mr. BACON. I understand the Senator from Iowa to be making the same inquiry that was in my mind, but I did not catch exactly the drift of it. I do not understand why this matter which relates to mines and mining should have special reference, it seems, to personal service in the District of Columbia.

Mr. WARREN. If we do not thus provide, the men might have to be furloughed and left without employment sometimes; and so it is a matter of economy to have these employees subject to service in the District or in the field.

Mr. BACON. Mr. President, I should also like——

Mr. WARREN. It also provides in this clause exactly as the other does for the expense of attending meetings in behalf of the purpose of the appropriation; and, if the Senator will permit me, I will now ask to have this prohibitory law read.

Mr. BACON. Very well.

Mr. WARREN. I ask the Secretary to read the marked passage found in the District of Columbia appropriation act. It is general legislation, which covers all these departments only as we except them.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

SEC. 8. No money appropriated by this or any other act shall be expended for membership fees or dues of any officer or employee of the United States or of the District of Columbia in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation.

Mr. WARREN. I call the attention of the Senator to the last words there. The prohibition is of general application, but it allows just what we are providing for here.

Mr. BACON. What I want to know, asking purely for information and not for the purpose of antagonizing the appropriation, is this: Are the appropriations for the Bureau of Mines for the purpose of enabling them to make scientific investigations?

Mr. SMOOT. The Bureau of Mines has been regularly provided for in a special bill, and these appropriations are made to fulfill the law under the estimates which have been made.

Mr. BACON. Is that bureau provided for under another appropriation, or is this the whole appropriation for it?

Mr. WARREN. No; the work of the bureau is provided for under the several appropriations; they are divided in paragraphs, so that the application is different. That is quite general through the bill. For instance, the Geological Survey has an amount for gauging streams, another amount for minerals, and so on. It is the same with the Bureau of Mines. Money is appropriated for the bureau under two, three, or more paragraphs.

Mr. BACON. I will be very frank with the Senator. The thing that prompts my inquiry, and about which I am left without the information I desire, is this: This is a bureau which is regularly appropriated for and supported. Now, this seems to be an increase, is it not?

Mr. WARREN. No; this is the appropriation that supports it.

Mr. BACON. Then, the inquiry that suggests itself to my mind is this: Why is it that that provision was not in the bill as it came from the House, if it is an existing bureau?

Mr. WARREN. The House, for reasons of its own, considered that it would not take up that part of the estimate; but the committee of the Senate believed that it was important and so inserted it.

Mr. BACON. I beg the Senator's pardon, but I do not still catch the point. This is not the sole appropriation for that bureau, is it?

Mr. WARREN. No; it is not.

Mr. BACON. Therefore, leaving it out on the part of the House was not intended indirectly to abolish the bureau, was it?

Mr. WARREN. No.

Mr. BACON. It is my own fault, doubtless, that I do not "catch on," as the common phrase is, but I do not understand why it is that there is a regular appropriation and then why a $100,000 increase is to be added, unless there is some particular increase in the work.

Mr. WARREN. Take, for instance, the Army. We provide one amount for officers' pay, another amount for longevity pay, another amount for travel, another amount for the enlisted men, and so on. All those items go to the support of the Army. The same is true of the Navy. Now, it is within the pleasure of Congress to determine how much it will appropriate for investigations in regard to explosions in coal mines and other mines, and how much it will expend, if any, in investigations as to other kinds of mines—that is, mines of precious minerals, and so forth. The different paragraphs represent the pleasure of Congress when the bill is finished as to the amount we feel we can afford for the next year in each branch of the industry; and, of course, the Bureau of Mines is authorized to expend in the directions we indicate the amounts provided.

Mr. BACON. There is nothing indicated here, as I understand, except in the most general terms; there is no specific work indicated.

Mr. WARREN. Oh, yes; there is.

Mr. SMOOT. Mr. President, I desire to say that the appropriation of $100,000 is—

For inquiries and investigations into the mining and treatment of ores and other mineral substances, with special reference to safety and waste, including personal services in the District of Columbia—

And so forth.

In times past we have made appropriations for investigations as to the causes of explosions in coal mines, especially with relation to the safety of the miners. Then we took up the question of analyzing and testing coals, lignites, and ores. This appropriation is for the purpose of investigating as to mining and the treatment of ores; or in other words, it applies to the great mining industries of the mountain States, to determine, if possible, how low-grade ores can be handled properly and cheaply. There are to-day out in the West mountains of copper and silver ore that can not be handled successfully because of the fact that it costs so much to reduce them, but it is hoped and believed, not only by the heads of the Bureau of Mines but by those who are interested in the development of this great industry, that through these investigations ores and mineral substances of low-grade character will be brought into use and the cost of reducing them will be brought so low that millions and millions of dollars can be produced from ore which to-day is almost useless. That is the object of the appropriation.

Mr. BACON. Mr. President, it seems to me there is a mingling of matters here which is not conducive to intelligent legislation, and I want to call attention to that fact. Of course, we understand as to the necessity of examinations into the causes of explosions and matters which relate to the disastrous and the distressing loss of life. Some years ago that matter was brought to the attention of the Senate, and I think Congress did make provision by law under which investigations should be conducted with a view to reducing this danger. I am correct in that, am I not?

Mr. SMOOT. Yes, sir; the Senator is correct in that; but——

Mr. BACON. Let me finish, if you please. I think that is a most important subject. We all recognized it to be such at that time and provided for it; but the thing that I criticize—

it may be an improper criticism—is the mingling of that subject with the one which the Senator has just explained to us, namely, the treatment of ores. It seems to me they are moved by entirely different considerations, and ought not to be mingled in this way.

Mr. SMOOT. Mr. President——

Mr. BACON. Pardon me, if you please. If we are to have appropriations for the purpose of making investigations and providing safeguards against loss of life, that is one thing; we ought to have specific appropriations for that. If we are to have other appropriations, in a more general way, looking to an altogether different consideration, for the purpose of making scientific investigations as to the most skillful and effective way of treating low-grade ores, that is another matter; but here they are both put in the same paragraph, with nothing to divide or distinguish between the two and nothing to control those who are to disburse the money as to how much they are to devote to the one purpose and how much they are to devote to the other.

Mr. SMOOT. Mr. President, of course the Senator will notice that the appropriation in this instance is made with special reference to safety and waste.

Mr. BACON. Safety and waste—one relates to life and the other relates to property.

Mr. SMOOT. True, the same as in the case of the appropriations for the coal mines in the East. It applies also to the mineral mines in the West. The Senator knows that there are losses of life in mineral mining as well as in coal mining.

Mr. POMERENE. May I interrupt the Senator——

Mr. BACON. I am not making objection to either one or the other, but I think the items ought to be separated. If we are going to make appropriations with a view to examinations which shall protect human life by guarding against explosions and everything of that kind, that ought to be one thing——

Mr. WARREN. They are separated.

Mr. BACON. If the Senator will pardon me a moment, if we are to make another appropriation for the purpose of aiding the mining industries in scientific examinations as to better methods for the reduction and utilization of low-grade ores, that is altogether another thing.

Mr. WARREN. The Senator has overlooked the fact that that is exactly what we have done. They are specifically separated.

Mr. BACON. It is all put down in the $100,000 appropriation for safety and waste; they are both put in the same line, and there is no separation that I can see.

Mr. POMERENE. Mr. President, I rose to ask the Senator from Utah a question. As I understood him, the proposed amendment applies to mines in the mountain States especially.

Mr. SMOOT. Perhaps I made my statement too broad. It applies wherever there is mineral mining of any kind.

Mr. POMERENE. Very well——

Mr. SMOOT. I simply alluded to it in the way I did because the great bulk of it is in the mountain States.

Mr. POMERENE. Let me ask the Senator, Is this the first appropriation of this character for that class of work?

Mr. SMOOT. This is the first direct appropriation for that class of work. Of course, the Senator remembers that the Bureau of Mines has only been created a very short time.

Mr. POMERENE. I understand that, and I think they have been doing a very good work.

Mr. OVERMAN. Mr. President, I call attention to the fact that just what was prophesied would take place when we created the Children's Bureau has taken place and is taking place now. It was said that that bureau would only need $29,000, but they are now asking for additional appropriations; and here is the Bureau of Mines, which started off with about $100,000, which appropriation has grown to about a million dollars, and it is still asking for more. Dr. Holmes, Chief of the Bureau of Mines, is from my own State; I know him, and he is a good man; but the bureau chiefs are constantly asking for more money. It is like the horseleech's daughters' cry of "more, more, more," and it seems to me our committee gives everybody everything they want. I am tired of the various bureaus gradually reaching out and getting more money here and there. Here is this bureau established to look after the safety of life, and now they go into the mining business in the West.

I do not think the appropriation now under discussion is proper in this bill. I do not think, in view of the reasons given for the establishment of the Bureau of Mines, that now we should appropriate $100,000 additional to enable them to go out into the West and investigate mines. If they want a mining expert, let them have it; but do not put in this bill such a provision as is proposed. I think the Chief of the Bureau of Mines has got as much as he can do to look after the matters relating to the coal-mining industry. I am opposed to this appropriation, and I opposed it in the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 114, line 1, to insert:

For one mine inspector for duty in Alaska, $3,000.

The amendment was agreed to.

The next amendment was, on page 114, after line 1, to insert:

For per diem, subject to such rules and regulations as the Secretary of the Interior may prescribe, in lieu of subsistence at a rate not exceeding $5 per day when absent on official business from his designated headquarters, and for actual necessary traveling expenses of said inspector, including necessary sleeping-car fares $4,500

Mr. OVERMAN. Mr. President, I notice that the appropriation for traveling expenses in that amendment is larger than usual. It is ordinarily $3 a day, but this provides for $5 a day.

Mr. WARREN. The Senator is mistaken about that. There is only one case in which it is left at $3. As the Senator will remember, we had to raise amounts for similar purposes in other places, but in one case we left it at $3, and that was where we put in some extra men for the year only to bring up the arrears of work. This item pertains to an entirely different country.

Mr. OVERMAN. The item not only applies to Alaska, as I understand, but also applies to wherever the inspector may go.

Mr. WARREN. No; this item of $5 relates entirely to Alaska.

Mr. OVERMAN. Well, is it entirely for Alaska?

Mr. WARREN. Yes; it is intended to be so.

Mr. OVERMAN. And it only applies to this inspector?

Mr. WARREN. It only applies to that one place; that is all.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 114, line 16, after the word "purpose," to insert, "or the donation of any land or building, or the use of any land or building, in or near the city of Pittsburgh, Pa., that may be suitable for the experimental work of the Bureau of Mines, except that such donations shall be reported to Congress and shall involve no expenditure on the part of the Government, except as may be authorized by Congress," so as to make the clause read:

For the purchase or lease of the necessary land, where and under such conditions as the Secretary of the Interior may direct, for the headquarters of five mine-rescue cars and for the construction of the necessary railway sidings on the same, $4,000: *Provided*, That the Secretary of the Interior is hereby authorized to accept any suitable land or lands that may be donated for said purpose or the donation of any land or building, or the use of any land or building, in or near the city of Pittsburgh, Pa., that may be suitable for the experimental work of the Bureau of Mines, except that such donations shall be reported to Congress and shall involve no expenditure on the part of the Government, except as may be authorized by Congress.

The amendment was agreed to.

The next amendment was, on page 114, line 23, after the words "Bureau of Mines," to strike out the sum "$526,600" and insert "$562,000," so as to make the clause read:

In all, for the Bureau of Mines, $562,000.

The amendment was agreed to.

The next amendment was, under the subhead "Miscellaneous objects, Department of the Interior," on page 116, after line 23, to insert:

Lease of property at Hot Springs, Ark.: The Secretary of the Interior be, and he is hereby, authorized to lease certain premises fronting on Central Avenue and on Fountain Street, at Hot Springs, Ark., on such terms and conditions as he may determine. No lease made hereunder shall be for a longer period than 20 years. In case said premises shall be leased to another lessee than the Arlington Hotel Co. the provision of the lease ending March 3, 1912, for a valuation of and payment for the improvements made by the Arlington Hotel Co. shall be recognized by said Secretary; but he shall have the power to fix a time within which such valuation must be made, and if such valuation is not made within the time so fixed said Secretary may lease the premises free from all claim of said Arlington Hotel Co.

The amendment was agreed to.

The next amendment was, on page 117, line 15, after the words "Yellowstone National Park," to strike out the sum "$5,500" and insert "$10,140," so as to make the clause read:

Yellowstone National Park: For the administration and protection of the Yellowstone National Park, $10,140.

The amendment was agreed to.

The next amendment was, on page 117, line 18, after the word "exceeding," to strike out "five hundred" and insert "one thousand," and in line 20, after the word "Congress," to insert "*Provided*, That this shall not apply to buildings now in the process of construction," so as to make the clause read:

No expenditure for construction of administration or other buildings cost in case of any building exceeding $1,000 shall hereafter be made

in any national park except under express authority of Congress: *Provided*, That this shall not apply to buildings now in the process of construction.

The amendment was agreed to.

The next amendment was, on page 117, after line 22, to strike out:

On and after July 1, 1912, permanent appropriations heretofore made of revenues derived from national parks shall be expended only for construction, improvement, and repair of roads, trails, and bridges, in the respective parks and for no other purposes whatever.

The amendment was agreed to.

The next amendment was, on page 118, line 6, after the words "toll roads," to strike out the sum "$50,000" and insert "$100,000," so as to make the clause read:

Yosemite National Park, Cal.: For protection and improvement of the Yosemite National Park and the construction and repair of bridges, fences, and trails, and improvement of roads other than toll roads, $100,000.

The amendment was agreed to.

The next amendment was, on page 118, line 6, after the words "park," to strike out the sum "$7,500" and insert "$27,500," so as to make the clause read:

Mesa Verde National Park, Colo.: For protection and improvement of Mesa Verde National Park, Colo., including the lands within 5 miles of the boundaries of said reservation, which, under the act of June 29, 1906, are to be administered by the same service established for the custodianship of the park, $27,500.

The amendment was agreed to.

The next amendment was, on page 119, line 20, after the word "roads," to strike out "$5,400" and insert "for the improvement of the Government road between the National Park Inn in the Mount Rainier National Park and the point where the Government road leaves the National Forest Reserve, and to enable the Secretary of the Interior to survey and lay out a system of roads for the proper development of the park and submit an estimate of cost therefor, $48,500," so as to make the clause read:

Mount Rainier National Park, Wash.: For protection and improvement of Mount Rainier National Park, construction of bridges, fences, and trails, and improvement of roads, for the improvement of the Government road between the National Park Inn in the Mount Rainier National Park and the point where the Government road leaves the National Forest Reserve, and to enable the Secretary of the Interior to survey and lay out a system of roads for the proper development of the park and submit an estimate of cost therefor $48,500.

Mr. BACON. Mr. President, calling the attention of the Senator from Wyoming to the fact, I think in a case of that kind the committee ought to volunteer information. Here is an appropriation as it comes from the House of $5,400, and, without any explanation whatever being given in the Senate, the appropriation raised to $48,500, and it is simply announced from the desk "agreed to." It goes to the country in that way and the people in the country know just as much about it as we do, and none of us know anything about it at all.

Mr. WARREN. I will say to the Senator that in making up the bill—it was made up some time ago—they put in only the administration part. This is a great national reserve park that was laid out but a few years ago, and, of course, to get any use of it there must be roads and certain development. In the first year or two—perhaps two years—all that was necessary was to protect it and to do some minor things; but in order to arrange it at all so that tourists can avail themselves of it there must be some expenditure of money.

We have very careful estimates which have been sent us—and this is all within the estimates—and this represents what will go into the development of the park in the way of road building, so that people coming to the nearest point on the railroad can, by wagons or other vehicles, go into the park and obtain the benefits, as tourists do, of these resorts. These road improvements are in the nature of permanent additions.

Mr. OVERMAN. Can the Senator give me some information? I should like to know how much money is appropriated in this bill to make roads through national parks for tourists.

Mr. WARREN. Of course it is an easy matter to compute.

Mr. OVERMAN. It is nearly $250,000?

Mr. WARREN. Does the Senator mean would it be that sum altogether?

Mr. OVERMAN. Yes.

Mr. WARREN. Possibly so.

Mr. OVERMAN. Yes. Now, this Mesa Verde appropriation you have raised from $7,500 to $27,500.

Mr. WARREN. Yes. That case differs from some of the others. As I recall it, that is a depression or gully, and it is necessary to pipe out some of the waste water in order to protect——

Mr. OVERMAN. Is there a railroad running in the vicinity of this park?

Mr. WARREN. Not very near it, I think. The money is also to provide for roads.

Mr. OVERMAN. It may be all right to build roads in these national parks for tourists, but it does seem to me that we ought not to be spending all this money to build roads in a park situated 10, 20, or 35 miles from any railroad. How the people will get in there I do not know.

Mr. WARREN. I think if the Senator will look it over he will find that nearly every one of the national parks is somewhere from 3 to 50 miles from a railroad. In fact, it has been the practice to forbid railroads to go into the parks.

Mr. OVERMAN. A railroad runs near to the Yellowstone National Park.

Mr. WARREN. The railroad runs within 6 or 7 miles of some of the Mammoth Hot Springs and within a mile of the park limit. That is true of that park.

Now, take the Glacier National Park, and it is true of that. But the Yellowstone Park is about 65 miles square——

Mr. OVERMAN. How do you get to the Mesa Verde National Park?

Mr. WARREN. From a near railroad point. I have not the map before me.

Mr. OVERMAN. I know it is some——

Mr. WARREN. Oh, no. It is within entirely reasonable distance.

Mr. OVERMAN. We appropriated $100,000 for one park, I remember, and they said they expected some of these days for a railroad to come within 10 miles of it.

Mr. SMOOT. Crater Lake Park.

Mr. WARREN. Since then an investigation has been made which shows they are building now in that direction.

Mr. OVERMAN. And expect to get——

Mr. WARREN. And the information we get from those in authority is that inside of the next 12 months they will be very near the point.

Mr. OVERMAN. Ten miles is about as close as they can ever build a road to this park.

Mr. WARREN. Ten miles is a reasonable distance in that country.

Mr. STONE. Is the Grand Canyon of the Colorado embraced within a park?

Mr. SMOOT. It is a national park.

Mr. STONE. And a railroad runs into that?

Mr. SMOOT. It runs up in the south. It runs up into the park, too; up to the gulch.

Mr. STONE. It enters the park?

Mr. SMOOT. It enters part of the land in the national park.

Mr. BACON. I should like to have some information as to what are the natural features that call for a national park at this point?

Mr. WARREN. At which point?

Mr. BACON. At Mount Rainier. What is there in there that calls for a national park?

Mr. WARREN. I think I perhaps ought to ask the Senator from Washington [Mr. JONES] to state to the Senator from Georgia the peculiarities and attractions of that park which entitle it to be a national reserve. It has possibly the greatest and wildest mountain scenery that we have in this country.

Mr. JONES. As suggested by the Senator from Wyoming, it is one of the greatest, if not the greatest, park in the United States. About it and in connection with it there is some scenery the equal of which can not be found anywhere else in the world.

I have ridden through the Yellowstone Park; I have been in this national park; and aside from the Grand Canyon and the geysers in the Yellowstone Park, I do not think there can be any comparison between the Yellowstone National Park and Mount Rainier Park in mountain scenery and in beauty and in all that goes to make a national park.

Now, we have provided for a road into this park. The park was set aside a great many years ago as a national park. We have provided for a road into this park, so that you can now leave the city of Tacoma in an automobile in the morning, go to the snow line, and return the same day, if you desire to make a rapid trip. But there should be one road to the mountain, you might say.

There is a stretch of this road, about 3½ miles, in the national reserve that is not improved and which is in very bad condition. The county of Pierce has macadamized a road from the city of Tacoma to the edge of this forest reserve, and last year, I think, we took in some $8,000 or $10,000 in fees from automobiles and vehicles going into the park along that road. Each year, during the last two or three years, travel through the park has rapidly increased. I think last year it was nearly double what it was the year before. But there is a stretch of this road that is now almost impassable, and unless it is repaired the people will not be able to get in there. That is one purpose for which a part of this appropriation is desired.

Then, it is very desirable, if we are going to make any improvements in the park at all, that those improvements should be made along a well-defined and well-considered plan, just as we made improvements in the Yellowstone National Park. So it is provided here that part of this money may be used for a survey, in order to determine what would be the best way to improve the park so as to get the greatest use from it in the future, and so that whatever appropriation we make will not be made in a haphazard sort of way, but with a definite object and purpose in view.

I do not know whether there is any more specific information which the Senator from Georgia desires.

Mr. BACON. That is sufficient.

Mr. JONES. I can not describe the beauties of the park. It needs to be seen to be appreciated.

Mr. BACON. Mr. President, of course I am reluctant to express any dissatisfaction with anything which my good friend the Senator from Washington [Mr. JONES] desires to have done. At the same time I must say most emphatically that I do not believe in these appropriations. There are circumstances under which I think the Government is justified in setting apart these national parks, and in providing money for improvements in the way of roads and so forth.

One of them is the Yellowstone National Park. There is a wonderful, natural curiosity, and not simply curiosity, but more than that. I think, having been somewhat of a traveler myself, the greatest natural curiosity of all the earth can be found in the Yellowstone Park. I have never anywhere seen anything which approaches it.

Mr. SMOOT. Outside of the Grand Canyon of the Colorado.

Mr. BACON. I was going to say that I had never had an opportunity to see the Grand Canyon, but I was going to name that, too. There are great manifestations of natural phenomena and natural conditions, if you may call a canyon a condition. So that outside of anything else that is to be found elsewhere appropriations for those two parks I think are justified. But to say that wherever we find a grand piece of scenery the Government is not only to set it aside as a park—and I am perfectly willing to have it set aside as a park; that is, to give it out of the public domain; I do not object to that—but is thereafter to be forever charged with the beautification and the improvement and the furnishing of all conveniences in connection with the use of it as a park I think is absolutely indefensible.

Now, as disclosed by the Senator from Washington himself, this is but the beginning. This is but a feature of a general plan, and the justification of it is that simply because here is a beautiful piece of scenery, a natural park, it is not only to be given out of public domain—to which I have no objection in the world—but the Government thereafter is to be charged with the maintenance of it for all time.

Mr. JONES. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Georgia yield to the Senator from Washington?

Mr. BACON. Certainly.

Mr. JONES. Can the Senator tell us how the park would be used or improved unless the Government does it? This park is surrounded by a great forest reserve, and there is nobody there; there are no facilities by which it could be improved or developed; and it would be of little use unless there are some roads built, so that people can get to it. Otherwise, they must go by trail or on horseback.

Mr. BACON. Let them go that way. This, I understand, was public domain, and was set aside as a park for the benefit of the public. Am I correct?

Mr. JONES. Yes, sir; it was set aside as a national park.

Mr. BACON. Of course, 99 per cent of the benefit and enjoyment of the park is received by those who live in that immediate vicinity and neighborhood.

Mr. JONES and Mr. WARREN. No.

Mr. BACON. Necessarily so.

Mr. WARREN. Will the Senator allow me right here? The responsibility for these parks rests not with the Committee on Appropriations, but with the Senate and House which have provided them. I presume there is not one of these parks which the State wherein it is located would not be glad to take if the Government would only pass it over. It is not the begging of the States at all. They are not asking the benefit, but asking the Government to do one of two things, either to take care of its own property or pass it over to some one who will.

Mr. BACON. Have the States ever asked that they be charged with them?

Mr. WARREN. They have in some cases. They have on the floor——

Mr. BACON. I should undoubtedly vote to give them that opportunity whenever they wanted it.

Mr. WARREN. Within 30 days on this floor a Senator has asked for legislation to pass large reservations over to his State, saying that the State would accept them and pay the expenses.

Mr. BACON. You mean the parks?

Mr. WARREN. The reserves. They are all reserves of the Government.

Mr. BACON. But you are speaking now of national parks.

Mr. WARREN. I am speaking now of national parks.

Mr. BACON. When the Senator says "reservation," it is a very general term. But I do insist upon it, so far as I am concerned, that I am never going to consent and I am never going to contribute by my vote to enterprises of this kind.

Mr. WARREN. But the Senator has contributed heretofore in setting aside the parks.

Mr. BACON. I do not know whether I have or not.

Mr. WARREN. The Senator has not raised any point against them.

Mr. BACON. I recollect once or twice that very innocent propositions have been made by certain Senators that a certain part of the public domain be set aside for reservations of this kind. But the suggestion was then very carefully withheld that we were thereafter to be charged with the expenditure of vast sums of money to maintain good roads for these thousands of pleasure seekers in automobiles.

Mr. WARREN. The Senator knows that the expenditures for some of the parks have been going on for a long time, and the RECORD does not disclose that the Senator has disapproved of them.

Mr. BACON. I am glad to say the RECORD will disclose it now; and it will not only disclose it now, but whenever I have the opportunity. I except from that such reservations as the Yellowstone National Park and the Grand Canyon. But wherever a Senator may be able to get a part of the public domain set aside as a reserve park, then I am not in favor thereafter of making the Government the caretaker of it and responsible for all the expenditures that may be needed to make it a pleasure resort for those who live in that neighborhood.

Mr. SMOOT. Mr. President, I think there is a broader view to take of this question than merely saying that they are set aside as parks, and will cost the Government a little money to maintain. We spend, as a people, over $300,000,000 every year going to foreign lands for the purpose of travel and recreation. These parks are virtually the national lungs of our country. I think, if they are put in shape by our Government so that the people of this country can go and visit these great natural wonders—for they are natural wonders——

Mr. OVERMAN. I should like to ask the Senator something about one of these parks.

Mr. SMOOT. Wait just a minute and then I will yield. I think then the people will visit these places a great deal oftener than they do now, and perhaps will not go to Europe quite as much as they do. But as long as it is impossible to get into the parks, as long as there are no roads there for the people to travel through the parks and see these natural wonders, the American people will not go there.

Mr. BACON. Mr. President, the Senator may not be aware of the fact that we have some very beautiful mountain scenery in my own State. We have great cascades and mountains and precipices and all that; but we have to build our own roads. The Senator from North Carolina comes from a State in which there are still greater——

Mr. SMOOT. Does the Government own——

Mr. BACON. Pardon me a second. The Senator did not permit me to finish my sentence.

Mr. SMOOT. I thought the Senator was through.

Mr. BACON. No; I was in full headway, as the Senator will see from the RECORD.

The Senator from North Carolina comes from a State the western portion of which is not to be excelled for beauty of scenery. There are some grander mountains, it is true; but it is filled with a vast expanse of most magnificent scenery, beautiful in all particulars of stream and valley and mountain and forest and everything else. It is a great resort, and hundreds of thousands of people go there every summer. But is the Government of the United States building roads to enable them to do that?

Mr. SMOOT. No; the Government does not own it. It does not own the land. It has no control over it.

Mr. BACON. It could own it if it wished to do so.

Mr. SMOOT. Only by purchase.

Mr. BACON. If the matter of lungs were the criterion, the Government could build the roads and furnish breathing spaces for the people at less expense than if it owned the land. But, as the Senator will recognize, that is not a legitimate argument in this connection. What I am driving at is that in this vast country, with people in such remote localities, so far distant from each other, what is largely a matter of local concern ought not to be made a matter of general expense.

Mr. SMOOT. Mr. President, there is not a national park or a national monument that has been created in the United States that is not a wonder in itself.

Mr. OVERMAN. I should like to ask the Senator about the Glacier National Park.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. To whom does the Senator from Utah yield?

Mr. SMOOT. The Glacier National Park is in Montana. I think if the Senator has ever been in the park or has ever seen it——

Mr. OVERMAN. I never have.

Mr. SMOOT. Or has ever seen photographs of the park, he will say that there is some of the grandest scenery in the Glacier National Park in Montana that there is in the world.

Mr. OVERMAN. That is what I am asking. Has the Senator from Utah been in it?

Mr. SMOOT. I have been partly through it, but not through all of it. But I have seen photographs of the park from one end to the other.

Mr. OVERMAN. I see the bill contains an appropriation of $100,000 for that park.

Mr. SMOOT. Yes.

Mr. OVERMAN. How many acres does it cover?

Mr. SMOOT. Oh, it is of large extent. I forget just how many thousand acres there are.

Mr. WARREN. It is larger than the State of Rhode Island.

Mr. OVERMAN. Is there mountain scenery there?

Mr. SMOOT. There is mountain scenery and there are lakes.

The PRESIDING OFFICER. Senators must proceed in order.

Mr. POINDEXTER. Mr. President, I can answer the question of the Senator from North Carolina.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield, and to whom?

Mr. SMOOT. I yield to the Senator from Washington.

Mr. POINDEXTER. There are 981,681 acres in the Glacier National Park.

Mr. OVERMAN. There might be 10,000,000 acres, but I want to know the character of the scenery there.

Mr. POINDEXTER. I understood the Senator to ask the direct question as to how many acres there are in that park.

Mr. OVERMAN. I did ask that direct question.

Mr. POINDEXTER. I have answered the question.

Mr. OVERMAN. I am very much obliged to the Senator, but I thought perhaps the Senator could also tell me the character of the scenery.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from North Dakota?

Mr. SMOOT. Yes; I yield to the Senator from North Dakota.

Mr. McCUMBER. I only wish to answer the question of the Senator from North Carolina, who asked something about the scenery. I do not know how much of a traveler the Senator has been or what he knows of the northwestern territory. But anyone who has ever visited Banff, in the Canadian Rockies——

Mr. OVERMAN. I have been there, and have stayed all night at Banff.

Mr. McCUMBER. Or Laggan——

Mr. OVERMAN. I have been there.

Mr. McCUMBER. Or Glacier——

Mr. OVERMAN. I have been to Glacier.

Mr. McCUMBER. Or Lake Louise——

Mr. OVERMAN. I have been to Lake Louise, on horseback.

Mr. McCUMBER. Anyone who has been to those places and knows anything about that country can get some idea of the character of the Glacier National Park. It is a part of that great section of the country which, I think, is included in the Victoria Park in Canada, and undoubtedly is one of the most majestic, if not one of the most beautiful, tracts of country in the entire United States.

Mr. OVERMAN. If it is anything like Lake Louise and that section, I have not a word to say, because I think that is the most beautiful——

Mr. McCUMBER. It is exactly the same thing. It is covered with glaciers and beautiful lakes and the majestic mountains of the Canadian Rockies,

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Washington?

Mr. McCUMBER. I do.

Mr. POINDEXTER. I do not desire to interrupt the Senator from North Dakota. I simply wanted to answer the question of the Senator from North Carolina. I will do so when the Senator from North Dakota has finished.

Mr. McCUMBER. While I am on my feet I just want to say another word with reference to the reason for raising this amount to at least $100,000.

Senators know that some three or four years ago we created the Glacier National Park, which was to be practically the complement of the great Canadian park. As I say, I think hundreds of thousands of people from all over the world visit the Canadian Rockies. Now a railroad has been constructed to the park from the Great Northern Railway. That railway was constructed with the idea that the Government would open up the park. In addition to the railway being constructed there, over a quarter of a million dollars has been invested in hotels during the latter part of last year and this year, and it would be ready for the traffic this year if we had this small extent of wagon roads. The department asks for $238,150. In the amount which is allowed the matter is covered by $100,000, or, say, less than one-half of what was estimated to be required. That amount ought to be allowed, at least, so that these roads may be completed and so that next year this great and beautiful park may be thrown open to the public.

Mr. POINDEXTER. Mr. President, the scenery in both of these parks, as has been said, is of a similar character to that around Banff, in British Columbia. The Senator from North Carolina says if that is so, he has nothing further to say in the way of objection to the maintenance of the parks. I have some photographs here which I will send over to the Senator from North Carolina in a moment, in order that he may see what the scenery is.

I understand that the Senator from Georgia, who has just gone from the Chamber, and who objects so strenuously to this park—I am sorry he is not present—makes a practice of frequently visiting the Alps, and that he gets a great deal of enjoyment and a great deal of benefit from it. If, instead of doing that, he would come one summer to Montana and Washington, and see Mount Rainier and see the Glacier National Park, he would not have any objection to the Government spending a few thousand dollars for the purpose of making them accessible to the tourists of the United States.

The Senator is a very good example of what is the general practice of so many people in the eastern part of this country. Instead of seeing their own country, at least instead of seeing it first, they spend what time they have for travel in going to foreign countries.

I want to read into the RECORD just a few words from John Muir, descriptive of Mount Rainier and the Rainier National Park.

Mr. WARREN. Will not the Senator mark the passage, and ask to have it printed, so as not to consume time?

Mr. POINDEXTER. It will take only a moment to read it. It is only a very few lines.

Mr. WARREN. All right.

Mr. POINDEXTER. Speaking of the park, he says:

> In the center of it there is a lonely mountain capped with ice; from the ice-cap, glaciers radiate in every direction, and young rivers from the glaciers; while its flanks, sweeping down in beautiful curves, are clad with forests and gardens and filled with birds and animals. Specimens of the best of nature's treasures have been lovingly gathered here and arranged in simple symmetrical beauty within regular bounds.

Some questions have been asked about the size of the Rainier National Park. In answer to that, I will say that it comprises 207,360 acres. During the past year, as shown by the report of the Secretary of the Interior, referring generally to the national parks, the total number of visitors to these parks aggregated approximately 224,000 as against 198,506 in 1910.

The Senator says there is very beautiful scenery in North Carolina and Georgia. I am aware of that; but it is a very different kind of scenery. There are no glaciers there. There are no ice-capped mountains. Mount Rainier is the greatest mountain—the highest mountain—within the boundaries of the United States. That in itself makes it a distinctive feature and brings it within the class which the Senator from Georgia says he would have no objection to having improved as national parks. It is of an entirely different character of natural grandeur from the Yellowstone Park or the Grand Canyon of the Colorado; but it is equal to either of those in attractiveness and in all of the benefits that come from the wonders of nature. There is just as much reason for the Government preserving it as a park and making it accessible by roads as there is for

having established the Yellowstone National Park or that of the Grand Canyon of the Colorado.

Mr. REED. Mr. President, I have never yet seen an item in any one of these appropriation bills, however extravagant it might be, where somebody could not furnish an excuse for appropriating the money of the taxpayers and devoting it to the end set forth in the item.

Parks, we all know, are good things to have, but I utterly repudiate the statement which has been made here that we need these parks for breathing spots; that they are the lungs of the country. When you go into the crowded districts of a great city, where hundreds of thousands and millions of people are herded together upon a few acres of ground, where the narrow streets are within the shadows of enormously high buildings that are filled like beehives with human beings, a park becomes a necessity as a breathing spot. But when you go about 500 miles from railroads, through trackless deserts and pathless mountain ranges, you are in more need of a pair of lungs capable of taking in the air than you are of a place where you can reach air, for there are nothing but air and sunshine and rocks and scenery for hundreds of miles around you. As long as time lasts there will be great waste portions of the country in the very vicinity and immediately surrounding these places. What we need there is not an opportunity to breathe. What we need is people, if we need anything to be there, to breathe the air that is already there and always will be.

These appropriations can not be justified upon the ground that we need breathing space. The question whether they ought to be made for the purpose of preserving natural curiosities is a different question. I grant that there are places in this country so romantically and exquisitely beautiful or so overpoweringly and indescribably grand that they should be preserved, but the question arises who ought to preserve them and who ought to improve them.

I can not subscribe to the doctrine that because a railroad, for its own interest in order to make money, builds a railway to one of these parks, and because a hotel company constructed a hotel hoping to make money thereby, the duty devolves upon the United States Government to build roads so that the hotel man and the railroad man may have their scheme completed out of the coffers of the Federal Government.

We are constantly extending without limit apparently the methods and devices by which we can spend the people's money. The Government of the United States is called upon to preserve vast regions of territory now, to spend enormous sums of money upon these parks. I maintain that every one of these parks that is worth preservation ought to be turned over to the State in which the park is situated, subject to the limitation that it shall remain open as a public park forever, and that the duty of improving it or building highways to reach it shall be imposed upon that State, and for the reason, as has already been suggested, that the inhabitants of the State are the ones most directly interested and most immediately concerned. Any State that has not sufficient pride to preserve at its own expense these wonderful natural curiosities, this magnificent scenery, has no right to come here asking that the people of other States who live thousands of miles from the scene shall be taxed for their benefit.

I do not believe there is a State that would not gladly accept a gift of this kind from the Government and would not undertake to preserve for the benefit of the people of their own State and the public at large these parks and reservations which are set aside not for their utility but for their beauty or their scientific interest.

So I am opposed to extending this system of spending the people's money any further. It is not just to the people of other States. There are but few of these reservations after all. Take the people of my own State. They might just as well come here and say there are some beautiful spots in Missouri—and there are. There is some fine mountain scenery in Missouri. There are some splendid rivers. There are some vast chasms. There are natural caves and canyons and all those things that have been described here. They are in almost every State. But the people of those States not only build roads through that country, but they maintain, if maintenance is necessary, the beauty and the original grandeur of these spots.

It is utterly outrageous to my mind to insist that this Government shall expend at the present time hundreds of thousands of dollars, and as the years go on millions of dollars, for a purpose which is to a large extent local to the State where the park is located.

The trouble is that once you cover money into the Treasury of the United States there seems thereafter to be a race as to who can first get his hands upon it. So every man, or at least many men, come here with the idea that he best serves his State who most liberally plucks the General Government for the benefit of his State.

Mr. WARREN. May I interrupt the Senator?

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Wyoming?

Mr. REED. Certainly.

Mr. WARREN. I think the Senator has not looked up the early history of these things or he would hardly pursue the line he is pursuing. The States did not come here and ask for these. The States do not enjoy them as against the other States. For instance, take the Yellowstone Park. There is a less percentage, I presume, of the inhabitants of Wyoming who visit that park than of the inhabitants of Missouri.

Another thing, the State did not come and ask for that park. The Government reserved it even before there was any State or even a Territory of Wyoming. It reserved it against its wish. That little Territory, in its infancy, when it collected but few thousand dollars altogether in taxes, went into the park with the permission of Mr. Secretary Teller, the then Secretary of the Interior, and expended a large amount of money. It appropriated it out of its slender funds to protect the novelties and to build a guard house and to manage it so that the despoilers would not carry those novelties away, because the Government had not then become sufficiently interested to appropriate money for the park's preservation.

Later the Government came in, and it has policed it since with a portion of the Army, and the department has come here and asked repeatedly for these appropriations. There never has been a move that I know of from my State asking for appropriations for the Yellowstone Park that the department has not asked for and insisted upon.

I presume that what is true of that park is measurably true of the others. Instead of the State being benefited by it the State is at a great loss. The Yellowstone Park is about 65 miles square, so that much is cut out of the State—a little off from Montana and a little off from Idaho—and no roads built so that they can cross over it except as the United States Government expends the money. It occurs there as a great obstacle in the way of the settlement of the country. It is there as an insurmountable obstacle to the development of that State and the two others for many miles around, if the Government does not do what a private owner or a municipal corporation would do, at least—make roads across its property.

Mr. REED. Mr. President, there is not a single word the Senator has said that I did not know and that everybody else did not know.

Mr. WARREN. Then I will say to the Senator——

Mr. REED. There is not a single word there that is in conflict with a solitary word I have said on the floor. I have not been arguing——

Mr. WARREN. The Senator has undertaken to impale the people of these States upon—I will not say the insinuation, but upon the declaration that they come here and try to get their hands into the Treasury so that they can benefit their own States at the cost of the Treasury.

Mr. REED. Mr. President, nobody has meant to say, and no man's imagination, except that of the Senator who has just taken his seat, could ever have conceived the idea, that anybody had said that the people of Montana came here en masse and demanded access to our Treasury. But they are exceedingly well represented by the Senator from Montana who is making this demand.

Mr. WARREN. I have no objection to it; the RECORD will show what the Senator has said; but I insist that he ought at least not to put me into Montana and ask poor Montana to rest under that insinuation.

Mr. MYERS. May I interrupt the Senator?

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. In a moment. I will apologize to the people of Montana for miscalling the name of the State of the Senator from Wyoming.

Mr. WARREN. I hope the Senator will.

Mr. REED. I will apologize to the Senator, who thinks that it would be a reflection upon him if he did represent Montana.

Mr. WARREN. That is an unkind remark.

Mr. REED. I thought the Senator would be proud of it, and therefore would be content.

Mr. WARREN. That is an unkind insinuation.

Mr. MYERS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do yield, but not until I finish the sentence. Of course, I understand, as the Senator understands, that I simply misspoke the word when I said "Montana" instead of "Wyoming."

Mr. MYERS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do.

Mr. WARREN. I think when the Senator comes to read his remarks about the States coming here, and so forth, he will find that I am as nearly correct as he is, and I think he will feel that he has unduly charged the procurement of these parks against the inhabitants of the States of the West.

Mr. REED. Oh, no. I shall cover that in a moment. I yield to the Senator from Montana.

Mr. MYERS. Mr. President, the subject matter upon which I intended to make a remark has been pretty well covered and explained; that is, it has been made clear, I believe, that the Senator from Wyoming [Mr. WARREN] does not represent the State of Montana. I merely rose to call attention to that and to say that when it comes to efficiency in procuring appropriations I wish very much that he did represent the State of Montana. We would be very glad to have him and would be proud of him.

Mr. WARREN. The State of Montana has quite an interest in the Yellowstone Park, as the Senator will remember—several miles on the southern border.

Mr. MYERS. I am not decrying the interest of Montana in the Yellowstone National Park, but on the other hand, would join hands with the Senator in trying to get a sufficient appropriation for that park.

Mr. REED. All of which only serves to illustrate the fact, Mr. President, as I asserted a few moments ago, that when it comes to getting money out of the Federal Treasury all differences seem to disappear, and gentlemen engaged in the common enterprise can act in complete harmony upon that kind of a raid even while they may differ on everything else.

Mr. President, what I was trying to say when I was interrupted was that nobody, of course, has asserted that the States have come here in any other way than as they are represented upon this floor by Senators from their States, and nobody has claimed that the State governments in any other manner have asked for money from the Federal Treasury. Everybody knows that these parks were originally set aside by the Federal Government. They were set aside for the purpose of preserving them from private ownership. But now that the State governments have been established and that those governments are fully organized, I insist that the State governments ought at this time to take charge of these parks, that the Federal Government ought to grant them to them, and that the constant drain upon our national resources ought not to be made because the parks happen to have originally been withheld from settlement and ownership by the Federal Government.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from New Mexico?

Mr. REED. Certainly.

Mr. FALL. Is it the Senator's idea that the ownership of the Yellowstone Park should be turned over to the State to do what it pleases with now, or that it should be retained as a national breathing ground, a national park?

Mr. REED. The Senator was not here when I was speaking a moment ago. I said these parks ought to be turned over to the States, to be set aside for the benefit of the people as public parks, and maintained by the States.

Mr. FALL. If they shall be national parks, national breathing spots, why should they be withdrawn from the use of citizens and retained as national parks, not yielding one cent of revenue to a State? While they are national in character and for the benefit of the people of the entire Union, why should we still retain that character for them and burden a particular State with taking care of them for the benefit of the people of the Nation?

Mr. REED. I had already covered that, but I will repeat it.

Mr. FALL. I should like to hear it.

Mr. REED. Because nine-tenths of the benefit of these parks goes directly to the people who live in the State, and because other States are obliged to maintain their public parks at their own expense, if they have any.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Oregon?

Mr. REED. I do.

Mr. CHAMBERLAIN. I just wanted to correct an impression the Senator seems to have, and I know he wants to be perfectly fair. The same statement was made by the Senator from Georgia, that these parks are matters of purely local concern. I venture to say that there are individuals in the very near neighborhood of these parks who have never been on them, because they are so situated that they do not care to see them; the beauties that surround them are equal to the beauties that are within these parks. So an examination will disclose to the Senator that these parks are patronized not by local people, but by people from all over the country.

Take the Yellowstone National Park, for instance. Nearly all of the hundreds of thousands of people who go there go from other States of the Union and many of them from abroad. In addition to that, these parks are withdrawn from taxation, and the States are absolutely deprived of these immense areas in the way of benefits arising from taxation, so that sometimes they are really detrimental to the immediate locality.

I venture to say, if the Senator will yield to me for just a moment more, that with these parks under capable Federal management and control the time is not very far distant when they can be instruments of revenue rather than sources of expense to the Government of the United States.

Mr. MARTINE of New Jersey. I hope that will never be undertaken.

Mr. CHAMBERLAIN. One of the distinguished Senators has spoken about the lack of patronage. I want to say to the Senator from Georgia, who I believe said he had visited the Yellowstone Park, that if he would go to a number of the places that are mentioned here instead of going abroad in the summer to spend his vacation he would come back to this country and to Congress and advocate these expenditures rather than oppose them.

Mr. BACON. I want to say to the Senator——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. I do.

Mr. BACON. I have visited every State in the United States except two, and I have been in the habit of traveling all over this country ever since I was a boy.

Mr. CHAMBERLAIN. I was only taking the Senator's statement for it that he had been to the Yellowstone National Park.

Mr. BACON. Certainly; and I have made an express exception in favor of the Yellowstone Park. I think that ought to be kept a national park because of the tremendously distinct and rare natural phenomena. It is one worthy of preservation as a governmental reservation. I think the same is true of the Grand Canyon, although I have never been there. But if you say that every place which may have a pretty piece of scenery, or grand scenery, if you please, shall be set aside as a park and thereafter be beautified and developed at the expense of the Government, I can not subscribe to that proposition.

Mr. CHAMBERLAIN. I am trespassing on the time of the Senator from Missouri, but I desire just a moment more.

Mr. REED. Not at all.

Mr. CHAMBERLAIN. Organizations have been formed in the West and Middle West advising the people of this country to see America first. As a matter of fact, if our own citizens, who spend millions of dollars in going abroad and toadying to the customs of a foreign country, could be induced to go West and spend their money there we would find a perfect justification in the expenditure of this pittance by Congress for the upkeep of these different parks. And it is not long until they will be made sources of revenue. As it is they are not now, because people can not get access to them, and aside from that they are absolutely withdrawn from the support of the States by taxation.

Mr. MARTINE of New Jersey. How would the Senator make them a source of revenue? He would not charge people to go in them, pray? I think it would be the greatest calamity to charge to go to the Yellowstone or to charge to go into the canyon of the Yellowstone.

The PRESIDENT pro tempore. The Senator from Missouri will proceed.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from New Mexico?

Mr. REED. Yes, sir.

Mr. FALL. In addition to what the Senator from Oregon has said, I should like to call the attention of the Senator from Missouri to the fact that the States of the Union, although deprived of any revenue whatsoever from the parks, although they are of benefit to the people of this great Union, are to-day paying the expenses of the administration of the laws over these parks, taxing themselves for it, and they derive no benefit from them. The States are enforcing the criminal and other laws at their own expenses entirely, and they certainly pay that much more for the benefits which may inure to them to have a park located within the State.

Mr. REED. The interruptions have been so long and covered such a variety of subjects that I am not going to try to follow them. However, I will notice just one thought suggested by one of the Senators, that the States ought not to be required to maintain these parks, because the States are deprived of taxes upon the land. A State is always deprived of taxes upon

these parks. If the State had these lands ceded to them by the Government for park purposes, they would be without the power to tax them just the same as the city of Washington collects no taxes upon its public parks. No other city collects taxes upon its parks, and no State that maintains a park collects taxes upon its park. So there is nothing in that argument.

The Senator from Oregon says these parks will become a source of revenue to the Government. I deny that. I utterly deny it. This Government is never going to set up a tollgate and charge admission to these parks. If a State owned them, it would certainly be a most peculiar kind of State government if it would set up a tollgate and collect taxes or tolls.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Oregon?

Mr. REED. I yield to the Senator.

Mr. CHAMBERLAIN. Just a moment. I want to state to the Senator that the areas of these parks and reserves in some of the States are very large. Take the State of Oregon, for instance, nearly one-fourth of the area of the State is within these creations of the Federal Government.

Mr. REED. Very well. Still we would not collect tolls to enter upon that territory. They would become a source of revenue not by way of tolls, not by way of taxes, not by way of admission fees, but a source of revenue to people living in the vicinity of the parks. When you turn the tide of travel from Europe toward the great regions of the West and when you set the eyes of the people of the earth straining toward the marvelous expanses of territory where these parks are situated, then the people living in those States, the railroads running through those States, the hotels situate within those States, will be the collectors of revenue and the ones who will enjoy that revenue.

It is for that reason, I say, that the burden of improving these parks ought to be borne by the people of the States, and the States ought to be given, under proper restrictions providing for the perpetual use or preservation of the parks, the control over them, because the burden will then fall upon the localities most benefited.

I say again, if the Government is to establish these parks wherever there is a curious or interesting natural formation, then where will we put the limit? It has been stated that North Carolina and Georgia are rich in this kind of beautiful scenery. There is not a State in the Union but could somewhere or somehow rake up some places for the Federal Government to take charge of and to improve. I ask, Where are we to place the limit? I see sitting opposite me the Senator from Iowa [Mr. KENYON]. He could describe to us spots in that State along the Mississippi River so exquisitely beautiful and so wonderful that he might well make an argument, if he saw fit, in favor of a national park there.

I think we have got to stop, somewhere and somehow, the leaks from the veins of the National Treasury, if I may use so bad a metaphor. Every time we try to stop it there is somebody ready with a good reason not only for the leak but for an enlargement of the leak.

I protest against the passage of these amendments.

If we want to create breathing spots for the benefit of the people of this country, then, in the name of humanity, let us go where people are who need to breathe; let us not go 500 miles from a town out into a country and create breathing spots where are the most gigantic mountains of the earth and where there will never be anything but rocks beneath the feet and blue sky above. If that is the argument, I had much sooner vote the money of the people of the United States for the creation of breathing spots in the vicinity of great cities than I would in the interior of wild and trackless deserts. But we do not propose to enter upon that policy. The truth of the matter I think we can sum up in a word. This is a proposition by which a part of the pork in this barrel is to reach the western country.

Mr. MYERS. Mr. President, I regret that I am compelled to take issue to some extent on this proposition with my good friend, the Senator from Missouri [Mr. REED]. He seems to have a grievance against the Rocky Mountain States because nature has blessed them with the most magnificent scenery in the country and because the Government has embarked upon a policy of establishing national parks under the control and supervision of the National Government, which therefore requires some appropriation in order to keep them up and to keep them presentable.

The Senator speaks about Missouri and Iowa not asking for any national park. I think we hear a good deal at every session of Congress about money being appropriated for the improvement of the Missouri and the Mississippi Rivers. The Rocky Mountain States are not asking for any of that money. I think there are millions of dollars appropriated every year for the improvement of the Missouri and the Mississippi Rivers. I think several hundred thousand dollars were appropriated at this session of Congress for the protection of the flood sufferers on the lower Mississippi River.

Mr. WARREN. Will the Senator allow me to interrupt him right there?

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Wyoming?

Mr. MYERS. Certainly.

Mr. WARREN. Speaking of the scores of millions that we are using for the purpose the Senator names and of the recent conference report on the river and harbor bill that reached beyond one score of millions, and perhaps two, the appropriation in this bill for national parks amounts to less than $650,000—not enough to fill some one hole down in the river and harbor improvement country.

Mr. OVERMAN. The Senator refers to the appropriation for national parks, but that does not include the expenses for all the employees of the park.

The PRESIDENT pro tempore. Senators will please address the Chair when desiring to interrupt other Senators.

Mr. WARREN. Nearly all of this money is for permanent improvements, building roads and providing for means of transportation, which river and harbor appropriations are also supposed to facilitate.

Mr. OVERMAN. The Senator will not say that $600,000 for the permanent improvement of the roads is the whole appropriation for the national parks, for all through this bill there are appropriations for numbers of employees, superintendents, and watchmen and others for those parks.

Mr. WARREN. Not at all.

Mr. OVERMAN. Take the Yellowstone National Park and the thousands of men employed there.

Mr. WARREN. I invite my colleague's attention to the figures themselves. I think he will find that I am correct.

Mr. MYERS. Mr. President, I think at each session of Congress by the time the consideration of the river and harbor bill is completed, there is no section of this country and no State in the Union that has ground to complain about a few thousand dollars appropriated for the purpose of protecting and keeping up our great national parks in the West. If there is any I should like it to cast the first stone. I should like to know what State or what section or what community of the country it is.

It is true there may be scenery in Missouri, in Iowa, and in other States; there is; but they have no Rocky Mountains there. The West is the only section of the country that has the Rocky Mountains.

The Senator from Missouri says that in Missouri they have great chasms. Perhaps they have. I never saw any there. Perhaps some of the Missourians have fallen into them and become lost. I notice the last census report shows that the population of Missouri, outside of its three large cities, decreased in the preceding 10 years. It may be they have fallen into some of the chasms and become lost. Perhaps they had nobody to show them as they stumbled around over the State; perhaps they had nobody to show them the way or to shed any light for them. Possibly that may be the use to which these great chasms in Missouri, of which I never heard until the Senator from Missouri spoke of them to-day, have been put; but I am quite sure they have the Missouri and the Mississippi Rivers there, and they are not slow about asking for appropriations for those streams.

Seriously speaking, it seems to me that the Senator from Missouri puts this matter on entirely too narrow and restricted a plane. He would have these parks set over to the States in which they are geographically situated and have the States keep them up; he would forbid the National Government from having anything to do with them. In other words, because a park happens to be situated within the boundaries of the State of Montana, he would turn that park over to the State of Montana and make the State of Montana keep it up. Let Missourians, if they have anybody to show them the way out there, go and see the beauties of this park.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Kentucky?

Mr. MYERS. I yield with pleasure.

Mr. PAYNTER. Mr. President, I have had the pleasure of seeing the Glacier Park. I have been at the foot of the mountain——

Mr. CLAPP. Mr. President, would the Senator from Kentucky object to taking the Senate into his confidence and speaking so that the remainder of us can hear him?

Mr. PAYNTER. I say I have had the pleasure of seeing a part of Glacier Park. I have been at the foot of the mountain

upon which that beautiful lake is situated. I have looked at that glacier, which I think is perhaps regarded as the largest one in this country, and I therefore became very much interested in this subject. When the Senator from Missouri and the Senator from Georgia suggested that the States should take title to those parks and pay the expenses of maintaining them, this question occurred to me—I did not want to interrupt the Senators then, but I should like to submit the question to the Senator from Montana—What power exists in Congress to force the States to take title to the various parks of the country and to compel them to maintain them?

Mr. MYERS. None whatever, so far as I know.

Mr. PAYNTER. I should like to ask a further question.

Mr. MYERS. I should have to call on the Senator from Missouri to enlighten the Senate as to that, for I can not do it.

Mr. REED. As the Senator from Montana is so facetious——

The PRESIDENT pro tempore. The Chair must insist upon Senators addressing the Chair and getting permission to interrupt.

Mr. REED. I was directing my——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Missouri?

Mr. MYERS. I am compelled to yield at present to the Senator from Kentucky [Mr. PAYNTER], who desires to ask a further question. After he has done so, I shall yield to the Senator from Missouri.

Mr. REED. I shall answer in my own time.

Mr. PAYNTER. If the answer is that the several States ought to be forced to take the burden, does the Senator know of any State in this Union that, when the Federal Government is properly bearing the expense, or improperly, as the case may be, would be willing to accept and assume that burden?

Mr. MYERS. Not unless it be the State of Missouri. The State of Missouri might; it is the only one that I know of that would.

Mr. PAYNTER. Then, if you can not force the States to accept the title, and they would not be willing to do it, is it a practical question as to whether the States ought or ought not to do it?

Mr. MYERS. I can not see that it is. Now I yield, with pleasure, to the Senator from Missouri.

Mr. REED. I shall answer in my own time.

Mr. BACON. With the permission of the Senator from Montana, as I was one of the Senators——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Georgia?

Mr. MYERS. With pleasure.

Mr. BACON. As I was one of the Senators alluded to by the Senator from Kentucky [Mr. PAYNTER], I will say that I, of course, had never suggested that the parks could be forced upon the States. The Senator would not find anything in my remarks to that effect.

Mr. MYERS. I did not understand the Senator to say that, but he said we ought to do it; and I was wondering how it could be done.

Mr. BACON. I think, as we have reserved those parks—they are not perishable articles—if the Government were simply to fail to build roads they might still be enjoyed in a great many ways to a considerable extent by the people who live in those localities, and certainly no harm would come to the Government.

Mr. PAYNTER. With the permission of the Senator——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Georgia?

Mr. MYERS. With pleasure.

Mr. PAYNTER. Whether the States could be compelled to take over the national parks is hardly a practical question, even though we might desire them to do so.

Mr. BACON. If the Government should fail to build roads, the land would still be there, and it could be utilized whenever those who are particularly interested in it saw fit to do so.

Mr. PAYNTER. I am not interested in the question as to the condition of the country at all, but as to the legal question.

Mr. BACON. What legal question?

Mr. PAYNTER. The question as to whether Congress can force a State to accept title to these parks and force a State to assume the burden of maintaining them.

Mr. BACON. I have expressly disclaimed ever having intimated anything of the kind.

Mr. PAYNTER. I did not charge the Senator with having done so.

I think that came about by the Senator from Georgia unfortunately and inadvertently being aligned with the Senator from Missouri [Mr. REED] in his argument, and that is one of the penalties of being put in such a position.

Mr. BACON. Well, I must let the Senator from Missouri say whether he has ever made such a statement or not; I do not suppose he ever did himself, but I am very much obliged to the Senator from Montana for associating me with such a distinguished colleague in that connection or any other connection.

Mr. MYERS. It is an honor of which anyone might well be proud.

Mr. THORNTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Louisiana?

Mr. MYERS. With pleasure.

Mr. THORNTON. As interruptions of the Senator from Montana seem to be in order, I will ask leave to say a very few words. I had not intended to participate at all in this matter, except by my vote, which would have been cast, as it will be cast, in favor of the appropriation desired. I would say nothing now, except for the fact that it has been mentioned that the lower Mississippi Valley has been benefited in the past, and largely in the present, by appropriations from the National Treasury.

I recognize that fact and am very deeply appreciative of the generous spirit that actuated the Congress of the United States this year in making the very liberal appropriations they have made. I have not heard of any Senator from the lower Mississippi Valley objecting to the item under consideration; and I wish to say to the Senator from Wyoming, the Senator from Montana, the Senator from Washington, and Senators from other Western or Mountain States, and all other States, for that matter, that, so far as I am concerned, I will never be found resisting appropriations for the preservation and adornment of our national parks, in which I take a very great pride. As long as I am here they can depend on me for one vote in favor of that end.

Mr. MYERS. Mr. President, I am glad the Senator from Louisiana has spoken in that vein. I wish to say that I did not speak disparagingly at all of any appropriations for the improvement of the lower Mississippi River or for the protection of the good people who live along its banks or in that part of the country. Not one dollar, not one cent that has ever been voted for that section of the country do I begrudge. I love that section of the country and its people. I was born south of Mason and Dixon's line, and I am proud of that fact. I love the dear old South and always will, and not one word will ever come from me disparaging her or her people. I gladly voted for every dollar of money that was appropriated by this Congress for the lower Mississippi River and the people living in that vicinity, and would gladly vote for ten times as much; yes, a hundred times as much if necessary. I merely referred to the fact that other sections of the country, not simply the Rocky Mountain region of our country, are the beneficiaries of some expenditures from the funds of the National Treasury. I rather feel that our section of the country has been stigmatized as coming here as a beggar, as a mendicant, to get something unlawfully or improperly out of the Federal Treasury.

Mr. ASHURST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Arizona?

Mr. MYERS. With pleasure.

Mr. ASHURST. Mr. President, I trust it will not be deemed an act of temerity for me to engage in this discussion, but since it seems to be very largely a discussion with reference to scenery throughout the States of the West, and has been carried on with much camaraderie, I shall say that the greatest natural wonder in the world is the Grand Canyon in Arizona. We do not ask for any appropriation for the purpose of beautifying that canyon, because the God of the eternities has beautified it, but we do ask that no corporation be granted special privileges there to construct and maintain hotels to the exclusion of others.

Senators have risen and in chaste rhetoric described the natural scenery within their States. Mr. President, I direct the attention of the Senate and the Nation to the great State of Arizona, the land, some say, of the desert. In some places, if you please, it is the land of the scarlet glory of the blossoming desert cactus, but in truth Arizona is the paradise for the sightseer, the thinker, the dreamer, the scientist, and the geologist. It is a land of frequent astonishment and perpetual delight. Think of the ice caves 9 miles from Flagstaff, where, in midsummer, pyramids and stalactites of ice are found, like those that glitter around Niagara in midwinter, stately, clear, and cold. Fifteen miles from Flagstaff is to be found the Black Crater in the center of the largest lava beds in the world, where 400 years ago, in the language of Shakespeare, "diseased nature once broke forth in strange eruptions."

Some years ago I camped one summer's night high up on the southern slopes of the great San Francisco peaks. I awoke early, just as the blue lance heads of dawn were shooting up from the eastern horizon. "Here and there other mountain peaks soon began to break through the vapory seas that filled the gorges, like an island whose jutting and confounded base was swelled by the wild and wasteful ocean." I saw the unnumbered stars and their shining trains recede before lambent pillars of fire that pierced the zenith; and the moon, refulgent lamp of night, paled her silvery brightness as the curtain of day still farther lifted, and over heaven's clear azure the sun began to spread its golden gleam. I climbed to the top of Mount Agassiz, the monarch of Arizona's mountains; from the top of the mountain I looked toward the east across a silent forest of vivid green—a wilderness of verdure—to the far-famed "painted desert" which, with harmonious confusion, lay spread 100 miles away, a sea of jasper with a beach of sulphur, empurpled with celestial fire.

Cultivated persons declare that there is much pleasure and mental exhilaration derived by viewing the embellishments and accomplishments of liberty and civilization, but it seems to me that of all earthly things calculated to strike a reflective and imaginative mind, nothing can compare to the Grand Canyon which I saw 60 miles to the north with its sapphire walls that seem to prop the recumbent sky—the Grand Canyon, whose formation carries the mind back to primordial chaos, the sight of which causes the beholder to feel as if he were "treading the upper air and walking the milky way," and which brings a rapturous exhalation of spirit which only the enchanted soul may know.

The magnificence of the physical world and its resistless influence upon human character have ever been favorite themes of contemplation by those minds that discern mental and moral evolution flowing from environment; as well as themes of profound interest to those who delight in studying and attempting to solve the mysteries of nature and the enigmas of the universe.

Arizona, that wide empire of unsurpassed scenic grandeur, filled with an endless variety of natural wonders, has excited the lofty and honorable sentiments of her children and has showered an elevating and beneficent influence upon her people.

Mr. MYERS. Mr. President, if Arizona has no national park, I am ready to say right now that she ought to have one. [Laughter.] I will ever be willing to vote an appropriation for that purpose; in fact, I will be ready to say right now that I will be willing to introduce a bill to make a national park of the entire State of Arizona [laughter], if the people of that State so desire.

I thank my friend the Senator from Arizona [Mr. ASHURST] for coming to my rescue and my aid so ably, and I believe after his remarks that the Senator from Missouri [Mr. REED] will be willing to withdraw his objections to the appropriations for these parks and devote his attention to obtaining appropriations from the National Government for getting dirt and filling up some of the big chasms in Missouri. [Laughter.]

Mr. President, I will resume my argument where I left off some time ago and will complete it, if not further interrupted, in a very few words. It seems to me the Senator from Missouri puts this matter on entirely too narrow a plane. He would have the people of each State take over the ownership and control and jurisdiction of the forests and parks and to assume the expense of maintaining and protecting them; so that others, people from all over the United States, tourists from the North, the South, and the East, the rich and the poor, the great and the humble, could go there and view these grand bits of scenery. It seems to me that is an unfair proposition, and to seek to require a State to do that it seems indicates a narrow view of the subject.

I am a State-rights Democrat. I believe in State rights. But to say that the National Government has no power to maintain national parks or that it is not a proper exercise of power or a proper expenditure of money for the National Government to institute, maintain, and conduct such parks is, I think, getting back to the superlatively extreme and antiquated State-rights idea. That is too much State rights for me. That is making the State the supremely sovereign unit of government and doing away with the National Government altogether.

We must not shut our eyes to the fact that we have a National Government. Whatever the rights of the States may be—and I believe as strongly as anyone can in maintaining those rights at all hazards—to say that the Government is exercising jurisdiction improperly or expending money improperly in keeping up these parks which belong to the Government, and that the burden ought to be borne by the States is, I think, going to an unwarranted extreme.

These parks are patronized by people from the Atlantic to the Pacific. Everyone may receive the ennobling educational benefits to be derived by visiting them. Everyone may enjoy the pleasure and the recreation and the elevation of ideas afforded by coming in contact with nature in one of its beauty spots. So why not appropriate a few hundred thousand dollars to keep in proper and decent form what we already have?

These parks are on our hands; we can not let go of them; we are a good deal like the man who had hold of the bear—we can not let go. What would you do? Abandon them, to become a howling wilderness? Let them become neglected and unused? We can not abandon them and simply pay no further attention to them without the sacrifice of many hundreds of thousands of dollars we have heretofore expended in acquiring and beautifying them, and without the sacrifice of one of the greatest and grandest features of our national life.

The Senator from Missouri says that they are largely of local interest to the people in the States where they are situated. I venture to say that the Yellowstone National Park is visited and enjoyed by 10,000 visitors who do not reside in Montana or Wyoming where it is visited by one from those two States combined. Not only the people of the United States get the benefit of these parks, but all humanity gets the benefit of them, and I do not think we can afford to say that, for want of a few dollars to maintain in proper form what nature has so liberally bestowed upon us, we would deny the world the grand and sublime benefits that we have it in our power to confer.

Mr. President, these remarks were simply drawn out by the expressed sentiments of my friend the Senator from Missouri [Mr. REED], with whom I am usually in great and complete accord; and if this were a political proposition, I, doubtless, would be in accord with him now; but as there is no politics in it, I thought this was a good place in which to differ from him.

I will say, further, as to the policy of instituting any more parks, any new ones, that that is a different matter. Let us meet that question when it arises. That matter is not now before the Senate. The question now is, Shall we keep up in decent and appropriate form the parks we already have on our hands? I think we ought to do so.

Mr. REED. Mr. President, surely there is no politics between gentlemen who are engaged in a common enterprise to get somebody else's money. I do agree with the Senator from Montana when it comes to the question of politics, but he agrees with the Senator from Wyoming when it comes to the question of money. I do not know why the Senator from Montana should have taken offense at what I said. It was a pure inadvertence when I referred to the Senator from Wyoming as the Senator from Montana.

Mr. MYERS. I took no offense whatever at that.

Mr. REED. I apologize now to both the Senator from Wyoming and the Senator from Montana, and I humbly apologize to the people of both those great States; but the thing that breaks my heart, that sends the iron into my soul, and that makes me feel that life has lost its charm and the future all its hope, is that the Senator from Montana should declare that he did not know there were any chasms in the State of Missouri. [Laughter.]

There are, sir, some chasms in that State—some great chasms—but there is one so much deeper and so much wider than all the rest that since 1893 we have thought of no other chasm but that, and that is the chasm that was left in the State of Missouri when the Senator from Montana emigrated from our State to the State of Montana. Since that time there has been "an aching void" in all nature within the confines of the State of Missouri. I say to the Senator from Montana now that for him to grow humorous about the State of Missouri seems to me to be like the unkindness of a child to its parent. When I read in his biography the statement:

> He was educated in private schools in Missouri; taught school and studied law; was licensed to practice law in his native State.

It was in that State that his mind received the training that has made him celebrated all over the West.

I know that we have not any chasms, except the one I have mentioned, comparable with those of Montana. I know that nearly all of our good people have left. I am willing to concede that in the entire flight of the years the one whose absence we feel most is the Senator from Montana. If he will only come back, we shall be compensated for all other emigration that has taken place in the past or that may take place in the future.

Mr. President, it is perfectly patent that all that has stirred Senators to this eloquence is the fact that they want some money from the Federal Treasury to go into Montana. All the jesting that may be done will bring us back to the point that

this is a "pork-barrel" proposition, pure and simple. Every man who is here from a State that expects to get part of this money forgets his politics, and forgets everything else, when the money is in sight.

The Senator from Kentucky asked how we were going to make a State take this territory. If it is one-hundredth part as beautiful and magnificent as it has been described, is there any State that would refuse to accept it? And if a State thought so little of it that it refused to accept it, I would see but little use in spending the people's money for the purpose of building highways through that kind of territory. As somebody said a little while ago, this much is plain: The mountains that the Lord put there hundreds of centuries ago will probably continue to stand, even if the State does not see fit to improve the country.

It has been urged that, as we have these parks on our hands, we probably ought not to extend the system, but we should pay the expense of what we have. Why not extend the system? Why not take in the whole State of Arizona? From the word picture we have had here, all Arizona is a national park, and the Government ought to build roads clear through it. From the word picture we have had, the entire State of Arizona is more beautiful than any of the parks that have been mentioned here. Why not lay it off in parks?

Why not establish national parks down in the State of Kentucky? Kentucky has beautiful scenery. I would say she has chasms and she has cliffs, but I might offend the sensibilities of the Senator from Montana, who seems to be particularly irritated by the word "chasm."

Why not go into other States and extend this glorious system? The answer is, of course, that that will be attempted as time goes on, if the Government undertakes this task. I am opposed to it, and I am going to vote against it.

They tell us that these parks are not visited by the people of their States. If they are not, then it speaks badly either for the parks or for the people's taste.

I say, again, that if these parks are one-half what they have been described to be, they will be sources of revenue and of wealth, not to the Government, but to the people of the States. I have not any doubt that the people of the States are interested in having them improved by the Federal Government, so that every tourist who comes shall drop a portion of his money into the various enterprises of the States—into their hotels and their railroads and their other enterprises of that kind.

I have just a word to say in conclusion.

The Senator says money has been appropriated for the Mississippi River and the Missouri River, and that that does not interest his part of the country. Why, the very purpose of improving the Mississippi River and the Missouri River is to move the points where freight rates are low closer to the great country represented by the Senator from Montana. You can not cheapen freight rates through the great Central West without benefiting the land where the Senator lives.

These are public highways, maintained not for the benefit of a State nor the people of a State, but for the benefit of the country and for the benefit of the commerce of the country. It is utterly ridiculous and foolish to compare an improvement of that kind with a proposition to build highways through some wild and remote mountain district that may have been designated as a national park.

Mr. MARTINE of New Jersey obtained the floor.

Mr. MYERS. Mr. President, I should like to say just one word in reply to the Senator from Missouri.

The PRESIDENT pro tempore. The Senator from New Jersey first addressed the Chair.

Mr. MYERS. Will the Senator from New Jersey yield to me for a second?

Mr. MARTINE of New Jersey. Yes; certainly.

Mr. MYERS. I remarked that I knew of no chasm in Missouri, and that is true. The chasm to which the Senator from Missouri refers has been filled up and converted into a mountain, as he moved to the State about the time I left it.

Mr. REED. Oh, I was there some years before the Senator left.

Mr. MARTINE of New Jersey. Mr. President, I feel that the testimony of the gentlemen who have spoken is in a degree interesting. They are westerners, and live in that high mountain country. I come from a little patch of the Union whose comparative size is such that you could put 10 States like mine inside the borders of any one of theirs. Yet we have splendid scenery, magnificent rivers, and, as we call them, very beautiful mountains.

Mr. ASHURST. And will furnish the next President of the United States.

Mr. MARTINE of New Jersey. And we are going to furnish the next President of the United States. I accept the amendment, sir.

I will say further, Mr. President, that I am so wedded in my love to the little Commonwealth of New Jersey that I have often said that we, as a Commonwealth, are nearer heaven and farther from the other place than any other part of God's humanity this creation over.

The Senator who has just spoken, my friend Mr. REED, would have you believe he is the special custodian of the people——

Mr. REED. Oh, no!

Mr. MARTINE of New Jersey. And that no one stands closer to the people than he. I say to you that I shall vote for this measure, and that I am quite as close to the people as the Senator from Missouri or any other Senator in this body. I am as frugal, I am as jealous of the expenditures of the people's money as the Senator from Missouri.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Missouri?

Mr. MARTINE of New Jersey. Why, yes; go on.

Mr. REED. I not only admit that the Senator from New Jersey is as close to the people as I am, but I admit that he is the people.

Mr. MARTINE of New Jersey. The Senator is very nice and very complimentary.

I stand for frugality in public expenditure as much as any other Member of this body. I realize as well as the Senator does, or as any other man can, what money means, and how much of infinite labor and toil it means to gather it together. I shall vote for this measure because I believe it will advance the general well-being of the people of this country.

The reference to this provision as a "pork barrel" was unfortunate and most ungenerous. Heaven knows I have no thought of dipping into a "pork barrel," or that my Commonwealth shall receive in the least degree any benefit from it. I say that was a most unfortunate criticism with reference to this matter.

I was born in a congested part of the great city of New York, where we scarcely knew what a mountain was. In that day we knew little of parks. The only park I knew when I was a boy was one that could be covered by a single block. I rounded out my life on a farm in New Jersey. Physically, I had no need of looking to the mountains of Colorado or the beauties of the Yellowstone Park.

But a few years ago it was my privilege to see the canyon of the Yellowstone and the beautiful features of the Yellowstone Park—the petrified forest, and many other features that are not encompassed in this bill. I say to you that it was a source of inspiration and education to me. I felt, when I came away from there that I was a better man, a bigger and a broader man, a better Christian, and a better citizen. I believe there is no better process of education, that money can not be expended in a much better way than to open avenues and make as free as possible—not through a process of tolls, as was probably jestingly suggested—these great freaks and wonders of nature.

At that time, in the midst of those wonderful and almost appalling surroundings, I said to myself: "I feel that it is the duty of every American citizen to do all he can to make it easy for his brother and sister from the congested portions of our country to come hither and take in these glorious features that make the wonders of creation in America unparalleled in the world." And I said: "So far as I can, my life shall be spent in working toward cheapening transportation, so that the downtrodden and the huddled and herded-together masses in the great cities of our country may have the opportunity to see these great wonders that our Nation possesses in a degree unparalleled by and unlike any other portion of the globe."

Why, this is not JIM REED to-day—the great, broad, generous, big-hearted Senator from Missouri, who has no limit to his sympathy, whose love for humanity, whose breadth of character, whose genial thought we all know, whose charitable hand is outstretched to the world. He is snuffed out for a time to-day, and has taken on the cloud of the atmosphere. But, as God's sun shall shine in the near future, JIM REED's bright genius, clever, happy thought, and generous smile will come again, and he will vote for this bill. [Laughter.]

Mr. OVERMAN. The Senator from Wyoming challenged a statement I made here on the floor a short time ago. He stated that $650,000 was the amount appropriated for the parks. In response I asked him the question if there were not other sums appropriated for the parks besides the amount appropriated in this bill. I understood him to say there were not. I

turn to page 152 of the legislative, executive, and judicial appropriation bill, and one item I find there is an item of $1,500 for a commissioner.

Mr. WARREN. I think I reminded the Senator of that.

Mr. OVERMAN. Not at that time.

Mr. WARREN. That still comes within the $650,000.

Mr. OVERMAN. Is that included in it? That was the question I asked.

Mr. WARREN. Yes.

Mr. OVERMAN. Then is there not, in lump sums, other money appropriated for these parks?

Mr. WARREN. No. I wish to say, Mr. President, that I had no idea of challenging the Senator's statement, except that I assumed he had arrived at his conclusion by associating with these parks the great military parks of Gettysburg, and so forth, which, on examination, I find to be the fact. Every cent that is to be expended in these resort parks amounts to just a fraction less or more than $650,000. But, of course, Gettysburg and Chattanooga and similar parks are not included. I may say, though, that, of course, in that total I do not count the pay of the men of the Army who happen to be used part of the year in policing two of the parks. That, of course, is provided in the general Army bill; they would have to be in the service anyway, elsewhere if not there.

Mr. OVERMAN. Including all those expenses it would amount to nearly $1,000,000?

Mr. WARREN. It would amount to more than a million dollars, probably, with all the other parks, cemeteries, and so forth, of which I have spoken.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. REED. On that I ask for the yeas and nays.

The yeas and nays were refused.

Mr. REED. I raise the question of a quorum.

The PRESIDENT pro tempore. The question of a quorum having been raised, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Massey	Simmons
Bacon	Gamble	Myers	Smith, Ga.
Borah	Gardner	Nelson	Smoot
Bradley	Gore	Oliver	Stone
Burnham	Gronna	Overman	Sutherland
Burton	Heyburn	Page	Swanson
Catron	Johnson, Me.	Paynter	Thornton
Chamberlain	Jones	Percy	Townsend
Clapp	Kenyon	Perkins	Warren
Crawford	Lodge	Poindexter	Wetmore
Cullom	McCumber	Pomerene	
Fall	McLean	Reed	
Fletcher	Martine, N. J.	Shively	

The PRESIDENT pro tempore. Forty-nine Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment.

Mr. REED. On that question I ask for the yeas and nays.

Mr. LODGE. The yeas and nays were not ordered.

The PRESIDENT pro tempore. The yeas and nays having been refused, the Chair is of opinion that the Senator can not again ask for them on the same question.

Mr. REED. There is a quorum here now. There were but a dozen Senators here before.

Mr. LODGE. The request was made for the yeas and nays, and they were refused.

The PRESIDENT pro tempore. They were.

Mr. LODGE. No point of the absence of a quorum was made until the yeas and nays had been refused.

The PRESIDENT pro tempore. The Senator from Massachusetts is correct.

Mr. REED. If that is the rule I submit to it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was at the top of page 120, to insert:

Wind Cave National Park, S. Dak.: For the improvement and protection of the Wind Cave National Park, $3,100.

Mr. REED. On that I ask for a vote by yeas and nays.

The yeas and nays were refused.

The amendment was agreed to.

The next amendment was, on page 120, line 7, after the word "bridges," to strike out the sum "$50,000" and insert "$100,000," so as to make the clause read:

Glacier National Park, Mont.: For administration and improvement of Glacier National Park, the construction of roads, bridges, telephone lines, and the repair of roads, trails, bridges, $100,000.

Mr. REED. On that I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Missouri demands the yeas and nays. Is there a second? Not a sufficient number.

Mr. REED. I did not see the few that the Presiding Officer did. I should like to have that verified.

The PRESIDENT pro tempore. The Chair will again put the question. The Senator from Missouri demands the yeas and nays on the question of agreeing to the amendment. Senators seconding the demand for the yeas and nays will manifest it by raising their hands. [After a count.] Not a sufficient number. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 120, line 8, after "Park," to insert "Oklahoma," and after the word "Interior" to strike out the sum "$5,000" and insert "$10,000," so as to make the clause read:

Platt National Park, Okla.: For maintenance, bridging, roads, and trails, under direction of the Secretary of the Interior, $10,000.

Mr. REED. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

The next amendment was, under the subhead "Government Hospital for the Insane," at the top of page 122, to insert:

For cement wall about Howard Hall and shop and storehouse building, $55,209.

Mr. REED. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. SMITH of Georgia. What is this amendment, I should like to ask?

The PRESIDENT pro tempore. The amendment will again be stated.

The SECRETARY. At the top of page 122 it is proposed to insert:

For cement walls about Howard Hall and shop and storehouse building, $55,209.

Mr. SMITH of Georgia. I should like to know what it is. What is this sum for?

Mr. WARREN. I will say to the Senator that it is to put a cement wall on the outer border of the grounds. This is for the criminal insane, to properly guard them at the insane asylum. The building where they are now confined opens up right out to the public. There is nothing whatever between the patients and the public except the guards. This provides for a cement wall sufficient so that in case one should escape, so far as the building is concerned, he would still be inside this wall, and could do no harm to those who might be passing.

Mr. SMITH of Georgia. It says:

For cement wall about Howard Hall and shop and storehouse building.

Mr. WARREN. I am glad the Senator mentioned that. That is for the same branch, and for working, as far as possible, these same parties.

Mr. SMITH of Georgia. Is there an estimate?

Mr. WARREN. Oh, yes; there is an estimate, not only for this, but for a good deal more from that quarter. I may say to the Senator that in no case have we exceeded the estimate, and perhaps in not half the cases have we gone as high as the estimate.

Mr. SMOOT. Mr. President, Dr. White made this statement:

I think that is a matter of urgent necessity—

That is, speaking of the cement wall about Howard Hall.

I think that is a matter of urgent necessity. We have there upward of 100 insane criminals, and among those are some of the most desperate criminals in the country.

The CHAIRMAN. Insane criminals?

Dr. WHITE. Yes; and we have there some of the most desperate characters in the United States. Occasionally there have been escapes from that building. That building has been made as safe as it can be made as it stands there now. The department has investigated the situation by special committees, and special reports have been made, and the Secretary himself has recommended that certain additional safeguards be placed there. If the insane criminals are going to be cared for in Washington, it is believed that every effort should be made to make the criminal building more secure, because there is not any place in the world that would dislike more to have a criminal insane person loose than Washington.

Then he goes on and describes what it is really for and what it will cost.

Mr. SMITH of Georgia. I should like to mention another fact. I see this bill carries the provision that charges up the District with $769,536.09 as their legitimate——

Mr. WARREN. That is the sum that is computed to be due from the city on account of the parties we have mentioned, and others.

Mr. SMITH of Georgia. It is the city's proportion?

Mr. WARREN. The city's proportion as it has been determined.

Mr. SMITH of Georgia. And this bill begins the practice of requiring the District and the city to pay their full proportion for sustaining this hospital?

Mr. WARREN. Yes.

Mr. SMITH of Georgia. And that really is an innovation.

Mr. WARREN. This is for the arrears up to the present time.

Mr. SMITH of Georgia. And the plan is in the future, of course, to follow that practice?

Mr. WARREN. I assume that to be true.

Mr. SMITH of Georgia. I do not object to it myself.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 122, after line 2, to insert:

For the construction and equipment of five tubercular cottages, to accommodate 20 patients each, with concrete foundation, outside finish of stucco, on wooden studs, inside plastered, including furniture for the same, $20,000.

The amendment was agreed to.

The next amendment was, on page 122, after line 6, to insert:

For new barns, piggeries, silos, and for storing food for animals, $50,000.

Mr. SMITH of Georgia. Will not the Senator from Wyoming give us a little explanation of this item?

Mr. WARREN. I will say to the Senator that there is a regular list of improvements that were needed at the insane asylum, and while the committee could not traverse the argument that they were all necessary they felt that these were highly necessary. For instance, the amount of milk used is such that they would be unable to procure it anywhere within a radius that would give them good, fresh milk. Therefore they have to utilize a large number of cows, and at the present time they have no shelter except a tumble-down old wooden structure. By constructing something cheaply, but of cement, and making it sanitary, they will be able not only to produce their milk cheaply but to guarantee the quality of it. Coming to the pigs, they have had disease among them because they are not properly provided for.

Mr. SMITH of Georgia. What amount of land have they in the rear of the hospital?

Mr. WARREN. I am not able to tell the Senator offhand. I should have to examine the record about that.

Mr. SMITH of Georgia. They have land on which they can keep cows?

Mr. WARREN. Plenty of it. As the Senator knows, it is across in the country quite a little distance.

Mr. SMITH of Georgia. I have visited it a number of times. With that explanation I do not myself object to the amendment.

The amendment was agreed to.

The next amendment was, under the subhead "Columbia Institution for the Deaf," on page 122, line 15, after the word "grounds," to strike out "$5,000" and insert "$10,000," so as to make the clause read:

For repairs to the buildings of the institution, including plumbing and steam fitting, and for repairs to pavements within the grounds, $10,000.

The amendment was agreed to.

The next amendment was, under the subhead "Howard University," on page 122, line 19, after the word "university," to insert "and for ice and stationery," so as to make the clause read:

For maintenance of the Howard University, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, and for ice and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $1,500 shall be used for normal instruction, $57,400.

The amendment was agreed to.

Mr. WARREN. On page 122, line 22, at the end of the paragraph, I move to strike out "$57,400" and insert in lieu thereof "$60,000."

The amendment was agreed to.

The next amendment was, on page 123, line 10, after the word "shelving," to strike out "$2,000" and insert "$2,500," so as to make the clause read:

For material and apparatus for chemical, physical, and natural-history studies, and use in laboratories of the new Science Hall, including cases and shelving, $2,500.

The amendment was agreed to.

The next amendment was, on page 123, after line 13, to insert:

Authority is hereby granted to Howard University to construct, under the direction of the Secretary of the Interior, and without expense to the Government, a tunnel or conduit under W Street, in the city of Washington, D. C., from square 3,067 to square 3,073 in order to connect the buildings of Howard University, located on the latter block, with the power, heating, and lighting plant of Freedmen's Hospital.

Mr. REED. I should like to ask if an independent heating plant could not be put in for less than the cost of the tunnel?

Mr. WARREN. There is no cost at all for the tunnel. They are not asking for any appropriation.

Mr. REED. I thought it was carried in the $89,000.

Mr. WARREN. That is the footing of the items that come before that.

The amendment was agreed to.

The next amendment was, on page 123, line 23, to increase the total appropriation for the Howard University from $89,400 to $92,500.

The amendment was agreed to.

The next amendment was, under the subhead "Freedmen's Hospital," on page 124, line 2, after the words "in all," to strike out the sum "$32,040" and insert "$33,040," so as to make the clause read:

For salaries and compensation of the surgeon in chief, not to exceed $3,000, and for all other professional and other services that may be required and expressly approved by the Secretary of the Interior; in all, $33,040. A detailed statement of the expenditure of this sum shall be submitted to Congress.

The amendment was agreed to.

The next amendment was, on page 124, line 13, after the words "In all," to strike out "$64,040" and insert "$65,040," so as to make the clause read:

In all, $65,040.

The amendment was agreed to.

The next amendment was, under the head of "Under the Department of Justice," subhead "Public buildings," on page 124, line 25, after the word "penitentiary," to strike out ": *Provided*, That not exceeding $3,500 of the above appropriation of $100,000 shall be paid as compensation in any form for the services of any architect or architects," so as to make the clause read:

Penitentiary, Leavenworth, Kans.: For continuing construction of the new United States Penitentiary at Leavenworth, Kans., $100,000, to be available immediately and to remain available until expended, all of which sum shall be so expended as to give the maximum amount of employment to the inmates of said penitentiary.

The amendment was agreed to.

The next amendment was, on page 125, line 9, after the word "penitentiary," to strike out ": *Provided*, That of the appropriation of $75,000 herein made not exceeding $3,000 shall be paid as compensation for the services of an architect," so as to make the clause read:

Penitentiary, Atlanta, Ga.: For continuing the construction of the United States Penitentiary at Atlanta, Ga., $75,000, to be available immediately and to remain available until expended, all of which sum shall be so expended as to give the maximum amount of employment to the inmates of said penitentiary.

Mr. OVERMAN. Mr. President, it seems that we are paying the architects there too much. The appropriation for the building is $100,000. The House provided that his pay should not exceed $3,500. The bill provides "and for service of the architect"——

Mr. SMITH of Georgia. I do not think we ought to strike that out.

Mr. OVERMAN. I do not think so either. It seems that they have already had plans for the building, and it says for continuing the construction of it. The House thought that 3½ per cent would be sufficient for the architect, and it seems to me that that is enough.

Mr. WARREN. I may say that it proposes to limit the architect's fees in two cases. One case is at the Atlanta Penitentiary and the other is at Leavenworth. My attention and the attention of the committee was first drawn to the fact that in one case they allowed $3,000 for $75,000 and in another case they allowed $3,500 for $100,000. In looking further we discovered that there is a contract duly entered into, signed by the United States, through its proper officers, and by these architects, providing for a certain percentage.

In looking to see what was said of the matter when it was before the House the debate discloses that they were not entirely certain about the contract. The committee felt that we should strike it out and take it up in conference with the House conferees and weigh the contract and see whether it can be set aside or not, because the contract plainly indicates exactly what they shall have, which is a certain percentage.

Then, again, the committee on this side felt that it would like to have some explanation as to why the amount for architects should be about the same in both cases, where the building expenditure was to be $75,000 in one case and $100,000 in the other.

Mr. SMITH of Georgia. Let us put it at 3½ per cent.

Mr. WARREN. One is for an expenditure of $100,000 and the other is for an expenditure of $75,000.

Mr. SMITH of Georgia. Suppose, following the House in the case of the appropriation of $75,000, we make it 3½ per cent.

Mr. WARREN. I would prefer that we should not follow the House until the matter of the contract has been looked into more fully.

Mr. SMITH of Georgia. Does the Senator think that anyone has power to make a permanent contract with an architect binding this fund?

Mr. WARREN. Undoubtedly; it is a contract just the same. There is no question in my mind, and there is no question, I think, in the mind of anyone who has examined it, but that those architects could collect from the United States in the Court of Claims whatever the amount may be, less or more, under that contract.

Mr. SMITH of Georgia. By what authority could they contract in advance for architects' fees to be taken out of unappropriated money?

Mr. WARREN. The contract is just the same. The original appropriation provided that these buildings should be built under continuing appropriations. It is the same as in the case of appropriations for the improvement of rivers and harbors and for public buildings. These architects entered into a contract after due consideration, the same as the men who furnished the material for the buildings. I am not asserting that the House may not have had the information, which they can give us, but there was nothing developed in the debate and there is nothing in the RECORD to show that they had given due weight to the matter.

Mr. SMITH of Georgia. I wish to repeat my question to the Senator. By what authority can anyone make a contract with an architect to pay a percentage on work for which no appropriation has ever been made?

Mr. WARREN. Appropriations were made when this contract was made to start the buildings and to carry them along. Furthermore, we have what is called the Tarsney Act, which provides especially for contracts for employing architects.

Mr. CULLOM. On continuing contracts.

Mr. WARREN. Yes; on continuing contracts.

Mr. SMITH of Georgia. I think we should change the provision in the House bill, and when we come to the appropriation of $3,000 we ought to make it conform to the first and limit the architects' fees to 3½ per cent. Contracts could be made by private individuals very easily at this rate.

Mr. LODGE. Contracts made by private individuals with architects for architecture and superintendence are 5 per cent everywhere. Of course, I know the Government ought to pay less than anybody else, but, as a matter of fact, that is what everybody else pays and I can not see why we should not pay it. Of course, the result of a reduction will be that we will get bad work; that is all.

Mr. OVERMAN. I will say to the Senator from Georgia that we have just stricken out from the bill the repeal of the Tarsney Act, which I voted against. I think the House put this in because it had repealed the Tarsney Act. If it had not been for the Tarsney Act no contract could have been made, because the architects of the Treasury Department, who are salaried men, would prepare the plans. But under the Tarsney Act they have the right to make these contracts, I understand, whether an appropriation has been made or not. If they have made a contract under authority of law, then we ought to be bound by it. I suggest to the Senator from Georgia that we can ascertain that fact by leaving it in and letting it go to conference.

Mr. SMITH of Georgia. I wish to say one word in reply to the suggestion of the Senator from Massachusetts. It is, no doubt, true that a private individual making a contract for his entire architectural work would pay 5 per cent, but we have our organized architectural force in connection with the Treasury Department. That ought to have been the place in which the plans were originally drawn, and the additional architectural work ought to be associate work. The pay then by a private citizen would be only one-half of the regular charge of 5 per cent.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, under the subhead "Miscellaneous objects, Department of Justice," on page 125, after line 15, to strike out:

That no part of any appropriation made under this act for the following purposes, namely, conduct of customs cases; defending suits and claims against the United States; detection and prosecution of crime; defense in Indian depredation claims; enforcement of antitrust laws; suits to set aside conveyances of allotted land, Five Civilized Tribes; enforcement of acts to regulate commerce; for payment of assistants to the Attorney General and to United States district attorneys employed by the Attorney General to aid in special cases; and for payment of such miscellaneous expenditures as may be authorized by the Attorney General for the United States courts and their officers; shall be used for the payment of any salary, fee, compensation, or allowance in any form whatever to any person who holds any other office, place, position, or appointment under the United States Government, or any department thereof, or to anyone hereafter appointed, designated, or employed, who within two years next preceding the date of his appointment, designation, or employment has held any other office, place, position, or appointment under the United States Government or any department thereof.

Mr. OVERMAN. Mr. President, I should like to have some reason given for striking that out. It seems to me that it is a good provision of law not to allow pay in addition to salaries. Congress fixes the salaries. Why should they allow the Attorney General to take money from a lump sum and give it to a lawyer who is already paid by the Government upon a salary?

We have a general law that a man shall not hold two positions in the Government and receive two salaries. The House provision which we have stricken out here provides that the Attorney General shall not compensate a salaried officer of that department. He contracts to work for the Government at a certain salary, and I think he ought to be bound by that.

Mr. WARREN. The Senator is correct only as to part of that statement. If the Senator will read the last part, he will find that under this provision it would be impossible for the Government to employ anybody who had gone out of the service at any time within two years.

Mr. OVERMAN. I am willing to strike that part out.

Mr. WARREN. One moment. We have cases where a man may be employed as attorney in the department and he may leave; but his books and his memory, and so forth, and his examinations might be valuable in some case where the Government might afterwards be compelled to employ an attorney, and we ought not to provide that in a case like that they could not employ him until after two long years had elapsed since his separation from Government service.

I want to say to the Senator that I have taken some pains to ascertain the idea of the House in putting this in. I find that it is this: There have been cases reported where an officer of the Government on a salary of perhaps $5,000 has resigned, and very soon afterwards, or immediately, has been given a class of work in which he has made many thousands of dollars. I think they reported in the hearings that in one case over $60,000 was given for less than a year's work.

As far as the first part of it is concerned, I think we can find a way, undoubtedly—if we do not adopt it here—of arranging it in conference; but it was put in in this way on the House side. Afterwards the House sent over here and asked that the bill be returned, to have the enrolling clerk insert something that they had left out. In discussing it, especially with the Senator from Texas [Mr. CULBERSON], who is not present, he agreed with me that we ought to strike out and find in what way we could avoid this last part and yet retain the spirit of the first part.

Mr. OVERMAN. I am opposed to the first part. I care nothing for the second. I think what the House tried to do, they had in their mind, perhaps, a case where an Attorney General, who was receiving a salary of $7,500, was paid from $80,000 to $100,000 additional. If it is a common thing that the Attorney General of the United States, receiving $7,500 can have money taken out of a lump sum and be paid $10,000 and more and $20,000 more, and in one instance $80,000 more, I think this is a good provision of law.

Mr. SMITH of Georgia. While he still holds office?

Mr. OVERMAN. While he still holds office. It is being done every day. Men whose salaries are provided for in the legislative appropriation bill at $7,500 and $5,000 are being paid extra allowances. That is what the House is trying to stop.

Mr. WARREN. The Senator does not mean the Attorney General, because his salary is $8,000. The Senator perhaps means an Assistant Attorney General.

Mr. OVERMAN. I meant the Assistant Attorney General. I did not mean the Attorney General, of course.

Mr. SMITH of Georgia. There are two parts of this paragraph which the committee recommend be stricken out. The first has reference to the payment of fees out of special funds to men already employed and regularly salaried. It can not be, I think, that any Senator would approve such a course. It seems to me that that part of the paragraph certainly ought to be retained. I shall not object to striking out the latter part upon the theory that perhaps something better than the latter part may be expressed in a more satisfactory manner, but as to the first part I feel sure that we ought not to strike it out.

Therefore, I ask for a division of the question on the motion to strike out. The division should be as to whether we strike out the portion ending in the middle of line 7, on page 126, and also whether we strike out the portion below that.

Mr. WARREN. I think the Senator, if he will read it again, will not end in line 7.

Mr. OVERMAN. Line 6.

Mr. WARREN. Line 6.

Mr. SMITH of Georgia. Line 6, down to the word "or."

Mr. OVERMAN. After the word "thereof."

Mr. SMITH of Georgia. After "thereof," in line 6. I think we all agree that down to the second word "or," in line 6, the paragraph ought to be retained. So far as I am concerned I would not object to striking out the latter part.

Mr. BURTON. I should like to clearly understand this provision. As I read it the lines from 16 to 22 do not refer to those who are in the Government service:

That no part of any appropriation made under this act for the following purposes, namely, conduct of customs cases; defending suits and claims against the United States; detection and prosecution of crime; defense in Indian depredation claims; enforcement of antitrust laws; suits to set aside conveyances of allotted land, Five Civilized Tribes; enforcement of acts to regulate commerce;

Then it goes on to say:

For payment of assistants to the Attorney General and to United States district attorneys.

That is separated by a semicolon and is clearly distinct from that which is at the beginning.

Mr. WARREN. Will the Senator allow me? I understand the idea that prevails with the Senator from Georgia, but I want to say to him that while I appreciate the feeling of those who oppose striking this out, and sympathize with them, at the same time I have so many times in conference found the conferees very much embarrassed where we had stricken out a part of a paragraph and left intact the remainder that I think the Senator will be better pleased if he will permit us to strike the whole out. Then we can commence to build and would not be embarrassed with part of it, these recitations, and so forth, because they refer to a lot of appropriations. On the House side they have able lawyers to represent them in the conference and personally I expect to be guided largely by the views they will entertain. On that conference, by the grace of the Senator from South Carolina [Mr. TILLMAN], who has asked that his colleague on the committee, the Senator from Texas [Mr. CULBERSON], should be on the conference, he will be there; and he of course is an able lawyer. In order to get it before the conferees with liberty to accomplish exactly what we want and eliminate the other he thought we had better strike it all out. He left that word while we were considering it.

Mr. OVERMAN. I am sorry the Senator from Texas is not here to discuss the subject.

Mr. WARREN. Suppose we lay it aside until another time.

Mr. SMITH of Georgia. Very well.

The PRESIDENT pro tempore. The amendment will be passed for the present.

The next amendment was, on page 128, line 2, after the words "Attorney General," to insert "and for telegraph and telephone service, including also not to exceed $10,000 for necessary employees at the seat of government," so as to make the clause read:

Detection and prosecution of crimes: For the detection and prosecution of crimes against the United States; the investigation of the official acts, records, and accounts of marshals, attorneys, clerks, and referees of the United States courts and the Territorial courts, and United States commissioners, for which purpose all the official papers, records, and dockets of said officers, without exception, shall be examined by the agents of the Attorney General at any time; for the protection of the person of the President of the United States; for such other investigations regarding official matters under the control of the Department of Justice as may be directed by the Attorney General, to be expended under the direction of the Attorney General, and for telegraph and telephone service, including also not to exceed $10,000 for necessary employees at the seat of government, $400,000.

Mr. SMITH of Georgia. What increase is that? I can not tell.

Mr. LODGE. It is no increase whatever.

Mr. SMOOT. None whatever.

Mr. SMITH of Georgia. Very well.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WARREN. Now I send to the desk an amendment to come in on page 126, line 19.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 126, line 19, it is proposed to strike out "$30,000" and to insert in lieu thereof "$35,000."

Mr. SMITH of Georgia. What line is that?

The PRESIDENT pro tempore. Page 126, line 19.

Mr. SMITH of Georgia. We can not tell instantly what it means.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The Senator from Wyoming also submits an amendment, which will be stated.

The SECRETARY. On page 126, line 25, change the total so as to read "$87,500."

The amendment was agreed to.

The next amendment was, on page 129, line 5, after the word "government," to strike out the sum "$200,000" and insert "$300,000," so as to make the clause read:

Enforcement of antitrust laws: For the enforcement of antitrust laws, including not exceeding $10,000 for salaries of necessary employees at the seat of government, $300,000.

Mr. SMITH of Georgia. That appears to be a considerable increase.

Mr. WARREN. I will say to the Senator that is a matter of allowing $300,000 instead of $200,000 to enforce the antitrust laws.

Mr. SMITH of Georgia. I will not object.

The amendment was agreed to.

The next amendment was, on page 129, line 23, after the word "Washington," to strike out the sum "$10,000" and insert "$25,000," so as to make the clause read:

Enforcement of acts to regulate commerce: For expenses of representing the Government in all matters arising under the act entitled "An act to regulate commerce," approved February 4, 1887, as amended, including traveling expenses, to be expended under the direction of the Attorney General, including salaries of employees at Washington, $25,000.

The amendment was agreed to.

Mr. WARREN. Mr. President, before we take up the next amendments I desire to state for information that we have in the next six paragraphs simply put in what we understand the law requires. The law passed last year requires that certain Federal court reports shall be printed in specified number and furnished to certain officers. We have intended to follow exactly that law.

The next amendment was, on page 130, after line 11, to insert:

To pay the publishers of the Federal Reporter for advance sheets during the fiscal year commencing July 1, 1912, $715.

Mr. POMERENE. Mr. President, before disposing of that amendment, may I ask—I know the Senator has explained the matter—but does law provide as to the prices that shall be paid for these books?

Mr. WARREN. It does.

Mr. BACON. Mr. President, does that amendment refer to advance sheets of the Federal Reporter?

Mr. WARREN. Yes.

Mr. BACON. Those are the volumes that are furnished to the different courts?

Mr. WARREN. They are furnished to the different courts mentioned in the law. The law states distinctly where each shall go. Would the Senator like to have the law read? It is quite long.

Mr. BACON. I may be mistaken as to the particular matter in my mind, but I recall that the Judiciary Committee has had before it for several years a bill for the purpose of having certain reports furnished to the various Federal courts. The Senator from Minnesota is familiar with the matter.

Mr. WARREN. Mr. President, the provision under which this amendment is drawn is in the judicial code, which, if the Senator will remember, was in charge of the Senator from Idaho [Mr. HEYBURN] and his joint committee.

Mr. BACON. Then, this is not the matter which I had in mind. The Senator from Minnesota knows to what bill I refer.

Mr. CLAPP. I do not understand that it is.

Mr. BACON. This is a different matter.

Mr. CLAPP. Yes.

Mr. OVERMAN. Usually when one subscribes for the Federal Reporter they send the advance sheets for nothing.

Mr. WARREN. That may be, but they do not send them in this case, perhaps, as the prices named seem to be considerably lower than regular commercial rates.

Mr. OVERMAN. If they are subscribers to the Reporter, they do get the advance sheets. There is an appropriation here of $74,000 for additional books authorized to be furnished under the judicial code.

Mr. WARREN. If the Senator will excuse me, it seems to me the only safe way was to follow the law on this matter, which is absolutely specific.

Mr. OVERMAN. I do not think the Senator has followed the law exactly, although I may be mistaken.

Mr. WARREN. I certainly meant to do so, and I hope the Senator will verify that, and if wrong we will correct.

Mr. OVERMAN. I know the Senator intended to do so, but I think that the law does not require that these books be furnished to the district attorneys.

Mr. SMOOT. I want to call the Senator's attention——

Mr. OVERMAN. Here is an item, on page 131, appropriating $38,000 to furnish United States district attorneys copies of

the Federal Reporter. I do not think existing law provides for that, and I should like to know about it. We furnish all these reports to the courthouse where the district attorney has to attend the court. They are in the various court libraries. We furnish them to the judges, and generally the district attorneys have them anyway. I do not suppose there is a reputable attorney who is competent to occupy his position who does not have these reports, the Supreme Court Reports, and others, and I think that it is a useless expenditure of money to send advance sheets of the Federal Reporter and Digest to the district attorneys and to appropriate $38,000 for that purpose. I do not believe there is such a requirement in the law, although I am satisfied the Senator would not state there is unless it is so.

Mr. WARREN. We will have the law read as soon as we find it, and if I am wrong the Senator can correct me.

Mr. OVERMAN. I know the Senator thinks it is required by law, but I believe it is rather a recommendation of the department.

Mr. WARREN. We had a recommendation of the department, as the Senator says, for $38,000, which, unless through an inadvertence, has not been put in the bill.

Mr. OVERMAN. I think even if it is the law, we ought not to send the district attorneys these reports, because they are available to them in every courthouse in this country; they are available in every town and every reputable attorney has them. In my opinion, the appropriation of $38,000 to send the district attorneys these books as they come out ought not to be made. It is in the interest of the publishing company, as Senators on the Judiciary Committee know. Representatives of the publishing companies are around here every year trying to get their hands in the Treasury, and there is a bill pending now to send to all the courts of this country, as the Senator knows, all the reports of the District of Columbia, which will cost several thousand dollars a year. I think even if it is the law, we ought not to make the appropriation. That is the way to repeal the law. The representatives of the publishing companies come here and want Congress to appropriate for sending this reporter and that reporter to various courts, and the suggestion is now made to send out the reports from the District of Columbia. We have had this matter before the Judiciary Committee and refused to recommend the bill.

Mr. SMOOT. Mr. President, as I understand, the provision of the law regarding this item is found in section 229 of the judicial code where it is provided—

> The Attorney General is authorized to procure complete sets of the Federal Reporter or, in his discretion, other publication containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof, and also future volumes of the same as issued, and distribute a copy of each such reports and digests—

Then it gives a list of the officials to whom those reports are to be distributed and provides how the distribution shall be made.

Mr. OVERMAN. Does it include district attorneys?

Mr. SMOOT. And then at the end of the section is this language:

> And the Attorney General shall include in his annual estimates submitted to Congress an estimate for the back and current volumes of such reports and digests.

Mr. SMITH of Georgia. This appropriation is not for current reports, as I understand, because they do not cost any such sum.

Mr. SMOOT. I was going to say that I hardly understand the matter in the same way the chairman of the committee does. I understand that a contract is made for furnishing the Federal Reporter, and this amount of $715 is for the advance sheets during the fiscal year commencing July 1, 1912, or, in other words, it is an advance of $715 on the contract for the printing of the Reporter.

Mr. SMITH of Georgia. Not at all. Every lawyer who subscribes for the Federal Reporter has the advance sheets sent to him free. I have taken it since the publication started.

Mr. SMOOT. That may be true; but, Mr. President——

Mr. SMITH of Georgia. About half a dozen volumes come out each year.

Mr. LODGE. Mr. President, I hold in my hand the Code of Law, and there is absolutely no word in it about advance sheets. Everything else is there.

Mr. WARREN. Will the Senator have the law read and let us know what it is?

Mr. LODGE. If there is anything else there, it will appear when the Secretary reads it.

Mr. WARREN. I desire to know about it.

Mr. LODGE. The requirement for advance sheets is not in the law, but the other matters are provided for.

Mr. OVERMAN. Does it require the publication to be sent to the district attorneys?

Mr. CRAWFORD. Mr. President, I move to strike out the two items in which appropriations are made for advance sheets. Every lawyer knows very well that the Federal Reporter system furnishes to its subscribers advance sheets free.

Mr. CLAPP. I desire to say in regard to this matter that I think my colleague [Mr. NELSON] knows something about these reports and with reference to their being put in the bill; and, in view of his absence at this time, I suggest that the item be temporarily passed over.

Mr. OVERMAN. I think the law had better be put in the RECORD, even if it is not read, because my recollection is that it does not mention the district attorneys, although I am not sure about that.

Mr. SMITH of Georgia. Before this matter is passed, I call attention to the fact that the provision on page 130, in lines 8 to 11, contains an appropriation sent us by the other House providing for the purchase of these current volumes. We have the appropriation to keep up the sets in the various offices and that appropriation carries the advance sheets. I think all of these amendments in italics ought to go out or, rather, that none of them ought to stay in.

The PRESIDENT pro tempore. Does the Senator from North Carolina ask that the law be read?

Mr. OVERMAN. No; I shall ask that it be printed in the RECORD if this item is going over.

The PRESIDENT pro tempore. Without objection, the law will be inserted in the RECORD.

The provision of the law referred to is as follows:

> SEC. 229. The Attorney General is authorized to procure complete sets of the Federal Reporter, or, in his discretion, other publication containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof, and also future volumes of the same as issued, and distribute a copy of each such reports and digests to each place where a circuit court of appeals, or a district court, is now or may hereafter regularly be held, and to the Supreme Court of the United States, the Court of Claims, the Court of Customs Appeals, the Commerce Court, the Court of Appeals and the Supreme Court of the District of Columbia, the Attorney General, the Solicitor General, the Solicitor of the Treasury, the Assistant Attorney General for the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission; and to the Secretary of the Senate, for the use of the Senate, and to the Clerk of the House of Representatives, for the use of the House of Representatives, not more than three sets each. Whenever any such courtroom, office, or officer shall have a partial or complete set of any such reports, or digests, already purchased or owned by the United States, the Attorney General shall distribute to such court room, office, or officer, only sufficient volumes to make a complete set thereof. No distribution of reports or digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed. The clerks of the courts (except the Supreme Court) to which the reports and digests are distributed under this section, shall keep such reports and digests for the use of the courts and the officers thereof. All reports and digests distributed under the provisions of this section shall be and remain the property of the United States and, before distribution, shall be plainly marked on their covers with the words "The property of the United States," and shall be transmitted by the officers receiving them to their successors in office. Not to exceed $2 per volume shall be paid for the back and current volumes of the Federal Reporter or other publication purchased under the provisions of this section, and not to exceed $5 per volume for the digest, the said money to be disbursed under the direction of the Attorney General; and the Attorney General shall include in his annual estimates submitted to Congress, an estimate for the back and current volumes of such reports and digests, the distribution of which is provided for in this section.

Mr. NELSON entered the Chamber.

Mr. KENYON. The Senator from Minnesota is now in the Chamber.

Mr. WARREN. The Senator from Minnesota [Mr. NELSON] was before the committee, and I will say to him the question now is on the first amendment of the committee to the bill at page 130, appropriating $715 for advance sheets of the Federal Reporter. It is claimed that that is not proper under the law and that it is not necessary.

Mr. NELSON. Mr. President, in the law provision has been made for the issuance of the Federal Reporter and the digest of those reports with advance sheets to the several courts and officials, practically the same officials to which the United States Supreme Court reports are issued. Under the law the Attorney General is required to present an estimate each year of the cost of those reports. The Federal Reporter is furnished at the rate of $2 a volume, while the Digest, which is a larger book and consists of a digest of a large number of volumes, is $5 a volume. The rates are very reasonable.

In connection with the Federal Reporter I will say that the Federal Reporter is issued in monthly or periodical sheets, as fast as the decisions are published. The decisions first are published in pamphlet form and are sent out to these officials. Afterwards, when a sufficient number has accumulated to make a volume, they are bound and they get the bound volumes. This amendment is simply to provide for advance copies to be sent them from time to time as they are published.

Mr. CRAWFORD. Mr. President, I will say to the Senator from Minnesota that the bar of the country generally, I think, subscribes to this Federal Reporter system, in whole or in part; and it has been the practice of the publishers for years, and is now, to send to every subscriber for their bound volumes the advance sheets without any additional charge or cost whatsoever.

Mr. NELSON. I know that they pay more for the reports than $2 a volume. What the Government pays for them is only $2 a volume. I do not know what their price has been in recent years, but when I was a member of the bar I had to pay from $4 to $5 a volume for them.

Mr. CRAWFORD. They do cost the members of the bar, I think, more than $2 a volume.

Mr. NELSON. I have not been in active practice of the law since I became a Member of the Senate, but before that time my recollection is that we had to pay for the bound volumes of the Federal Reporter from $4 to $5 per volume. I am informed by the Senator from New Mexico [Mr. CATRON], who has been in active practice, that members of the bar now pay $3.50 per volume for them; but that includes the advance sheets. The Government gets these Federal Reporters for $2 a volume, with this slight addition for the advance sheets, which makes it much cheaper than the price for which the bar now gets them.

Mr. CRAWFORD. Well, the advanced sheets involve no additional cost to the publishers, and I supposed that universally they went to whomsoever subscribed for the bound volumes, whether they get the bound volumes at a special rate or whether they get them at the rate which the bar pays.

Mr. NELSON. So that for these volumes the members of the bar now have to pay $3.50 a volume, and they get the advance sheets. The Government pays $2 a volume for its books and then a slight additional price for the advance copies, which, taken together, is much cheaper than the price for which the profession gets these reports. That is my understanding of the matter. These items in the appropriation bill are exactly in conformity with the estimates of the Attorney General. Under the statute he is required to send in estimates for the exact cost of these reports.

Mr. LODGE. What would be the effect of having only the House provision?

Mr. NELSON. The effect would be that there would be no provision for the advance reports at all.

Mr. LODGE. These officials could not get them?

Mr. NELSON. It would be a direct violation of the law. Every Government official, every judge, and every other higher official needs these books. Next to the reports of the Supreme Court of the United States, they are the most valuable reports among the profession. I know when I was in active practice that, next to reading the reports of the Supreme Court of the United States, my attention, outside of my own State supreme court, was largely devoted to the Federal Reports.

The present system is a great improvement on the old system. In the old times we only got these reports as the volumes were published. It was oftentimes six months or a year before we got hold of a decision. If we wanted one, if we wanted the information, we would have to send to the clerk of the court and get a certified copy and pay quite a little bill for it. Under this Federal Reporter system the decisions of the courts are published in pamphlet form as fast as rendered. Then, when enough have accumulated to make a bound volume, they are bound, and in that way preserved. They are very valuable to the profession. This amendment is exactly within the estimates.

Mr. OVERMAN. Now, Mr. President, I thought I was right about it——

Mr. POINDEXTER. Mr. President——

Mr. OVERMAN. Will the Senator yield to me?

Mr. POINDEXTER. I should like to ask the Senator from Minnesota——

Mr. OVERMAN. The Senator from Utah [Mr. SMOOT] has read the law, and I want to correct him about one statement about which I thought I was right. The law does not provide for sending these reports to the district attorney.

Mr. NELSON. No; that is correct.

Mr. OVERMAN. That is all I am contending for.

Mr. WARREN. I desire to say that the Senator is correct about that, and the misapprehension came up in this way: In the estimates they provided for these attorneys, and also provided for a number of other things. I cut those out, but the clerk in making up the bill misunderstood me and neglected to omit that part of it. He left the other cut out.

Mr. POINDEXTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Washington?

Mr. NELSON. Yes; I surrender the floor.

Mr. POINDEXTER. I should like to inquire of the Senator from Minnesota, who is especially familiar with this reporter system, its headquarters being in his State: Is the $715 intended exclusively for the advance sheets of the Federal Reporter? How many advance sheets of the Federal Reporter are there in a year? They do not publish more than two volumes in a year, do they?

Mr. NELSON. Oh, yes.

Mr. POINDEXTER. Seven hundred and fifteen dollars a year for two volumes?

Mr. NELSON. They publish sometimes three and four volumes of the Federal Reporter in a year. The Federal Reporter includes all decisions rendered by the lower Federal courts, by the nisi courts, and the courts of appeals—all decisions except those of the Supreme Court of the United States.

Mr. POINDEXTER. I understand what the Federal Reporter is, but I do not understand why these advance sheets should cost $715.

Mr. NELSON. I do not know what is the cost of it. It was a part of the estimates which the Attorney General sent in.

Mr. POINDEXTER. Neither do I understand about the Federal Reports and Digests. The West Publishing Co. publish a large number of reports, but this applies only to the Federal Reporter, and there is an appropriation of $2,860 in the annual report for the Federal Reports and Digests. It seems to me that the provision requires some explanation. I suppose it covers a large number of copies probably for different offices. Perhaps that is the explanation.

Mr. NELSON. It covers practically the same offices and the same courts as the Supreme Court of the United States. I can not undertake to enumerate all of them. It covers all Federal judges of the higher and lower courts; it covers the heads of the departments; it covers, I think, some copies that are sent to each House of Congress.

Mr. WARREN. I will say to the Senator that he can ascertain from the statute to whom the copies are distributed.

Mr. NELSON. Yes.

Mr. HEYBURN. It should be borne in mind that these books remain the property of the United States. They do not pass to these individual judges or other officers at all.

Mr. WARREN. No; they are Federal property. They do not belong to these officers; they belong to the office, and whenever a judge retires or some other official retires, the books belong to the office and his successor. They are the property of the United States.

Mr. HEYBURN. If the Senator will permit me, the item here in regard to district attorneys is clearly in excess of the authority of law. The question was considered when we were framing this legislation in the joint committee, and the district attorneys were excluded after thorough investigation.

Mr. CRAWFORD. I desire to call the attention of the chairman to what appears to be a duplication. I am not satisfied, however, that it is a duplication. But lines 12, 13, and 14, on page 130, and lines 23, 24, and 25, on the same page, appear to cover advance sheets for the same period, one item being $715 and the other $850. Why are they put in that form. It is for the same period. This language is in the latter clause, "to remain available until expended."

Why were those words left out of the paragraph in lines 12, 13, and 14?

The facts are this national reporter organization is a conspiracy to get all the money that the country lawyers of the United States earn. They have to rent more office room for shelves for these books. Every sort of opinion, whether it is an unnecessary repetition of fundamentals that are known among men everywhere, is printed and sent out, and the bar is mulcted for it, and I think it is beginning to get its work in on the United States.

About two-thirds of their printed decisions ought in some way to be eliminated from the record, because they are mere repetitions of doctrines that have been held over and over from the beginning. And yet men with small incomes, country lawyers, who do not have access to large libraries, as lawyers do in the cities, and who must maintain their own libraries, are the victims of this conspiracy to compel them in one way and another to buy this countless number and constantly growing number of publications.

I think we ought at least not to duplicate these items. In lines 12, 13, and 14 is an item which reads as follows:

To pay the publishers of the Federal Reporter for advance sheets during the fiscal year commencing July 1, 1912, $715.

Then in lines 23, 24, and 25 there is this:

To pay the publishers of the Federal Reporter for advance sheets during the fiscal year commencing July 1, 1912—

Exactly the same period; and advance sheets of the same report, but with this language added—

To remain available until expended, $850.

Mr. WARREN. That is precisely the way it came here in the official estimates of the department, and I am of the opinion that there is an error in one of those dates, because as the items appear here on the face of the bill the Senator from South Dakota is right, that they would cover the same time, and the only difference is in the language at the end and in the amount appropriated. Of course, if it were a mere duplication, it would not necessarily read that way. There would not be any difference in the amount.

I think it is an error in the matter that came to us, and that through inadvertence we have copied it here. However, it may be simply a division, and if it is desired to have the sum of the two, I will have it looked up. I have the estimates before me.

Mr. SMITH of Georgia. As I remarked when I yielded the floor temporarily, some time ago, there is just criticism of all of these proposed amendments. The duplication suggested exists in other parts of the committee amendment. In line 11 it is proposed to appropriate $2,860 to purchase Federal court reports.

Mr. OVERMAN. And digests.

Mr. SMITH of Georgia. And in lines 19 to 22 an appropriation is made of $3,400 for Federal Reports. Provision had already been made in the House bill to purchase the Federal Reporter to keep up the sets which the United States Government owns.

Now, I join with the Senator from Minnesota [Mr. NELSON] in expressing my appreciation of this publication known as the Federal Reporter. I think it would be improved if they would leave out most of the district judges' opinions, for their circulation frequently contributes to judicial error throughout the country. I think it would be improved if it was limited to the decisions of the court of appeals. But be that as it may, as published it is a valuable and a necessary work in lawyers' offices.

I have found in the United States court buildings which I visited, wherever I inquired for them, two sets of these books, with the stamp of the United States on them, indicating that we have two sets, practically, everywhere—one in the district judge's office, and one in the district attorney's office. I do not think there is any necessity for buying additional new volumes. I think the Government certainly ought to keep up the volumes for the use of the district judges, and perhaps for the use of the district attorneys, but not go beyond that. In my purchases of these books, my experience has always been that a certain price was fixed for the books, and the advance sheets came as an incident to the purchase of the books. Yet in the proposed amendment we provide twice for buying the advance sheets, and provide twice for buying the reporters themselves.

We have no explanation of these apparent duplications.

Mr. HEYBURN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Idaho?

Mr. SMITH of Georgia. Just for a moment, if it is to ask a question; but not to take any considerable time, as I wish to finish this criticism.

Mr. HEYBURN. All right. I was about to remark that it has just occurred to me that this seeming duplication may be because they are providing for the purchase of the reports of the circuit courts of appeals, which are distinct and separate, and also for the Federal Reporter, which contains those decisions with others. I think probably that is where the mistake is.

Mr. SMITH of Georgia. We certainly do not want to buy both of them.

Mr. JONES. Mr. President, I want to suggest to the Senator that my recollection is that when we purchased the Reporter we got the bound volumes at a certain price, and if we wanted the advance sheets we had to pay a little bit more.

Mr. SMITH of Georgia. I always made the minimum contract for the Reporter, and they threw in the advance sheets.

Mr. JONES. I always made a contract for the bound volume and the advance sheets, too; but I understood that if I wanted to make a contract for only the bound volume I could get it a little bit cheaper. I think that is correct.

Mr. SMITH of Georgia. Now, I wish to go on with my criticism.

Lines 15, 16, 17, and 18 appropriate $74,000—

To pay for additional books authorized to be furnished under section 229 of the "Act to codify, revise, and amend the laws relating to the judiciary."

Then, on page 131, is an appropriation of $38,000 to buy Federal Reporters and digests to be furnished to United States district attorneys.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. SMITH of Georgia. I do.

Mr. LODGE. I understand that the chairman of the committee has stated that the item of $38,000 is there by an error.

Mr. SMITH of Georgia. I did not so understand.

Mr. LODGE. I understood him to make that statement.

Mr. WARREN. I made that statement. I do not wish to blame anybody about it; but in the subcommittee the chairman of the Appropriations Committee naturally deferred largely to his associates, who are learned in the law, and it was determined to put in nothing but what was in the law. In the hurry of business the clerk of the committee understood that he was to leave out the part that accompanied this $38,000 which provided for amending the law, and not to leave out the amount. So it came in there by inadvertence. As to these seeming duplicates, as I have already said, the estimate which comes up from the department——

Mr. SMITH of Georgia. If the Senator will permit me, I have not finished my criticisms. I have some more to make.

Mr. WARREN. Perhaps I can help the Senator to finish them. I am criticising myself a little.

Mr. SMITH of Georgia. Mr. President, I do not at present yield to the chairman of the committee. I wish to finish my criticisms.

The PRESIDENT pro tempore. The Senator from Georgia is entitled to the floor.

Mr. WARREN. I was only going to explain——

Mr. SMITH of Georgia. The Senator is not explaining what I want to hear about just now.

The PRESIDENT pro tempore. The Senator from Georgia is entitled to the floor and declines to yield.

Mr. SMITH of Georgia. I have called attention to the fact that lines 15, 16, 17, and 18, on page 130, apparently provide for all the money that is required by the judiciary act. Then, on page 131, comes $38,000 additional. Then, following that, is $96,309 additional:

To pay for complete sets and additional volumes, as issued, of the Supreme Court Reports and digests thereof, authorized to be furnished under sections 227 and 228 of the act, etc., to remain available until expended, $96,309.50.

There is $96,000 more to pay for complete sets and additional volumes. I think every district court judge has in his office a set of the reports of the Supreme Court of the United States, and I think every district attorney has; and I do not understand why that appropriation for additional volumes of the decisions of the Supreme Court of the United States is embodied here.

Mr. LODGE. That last clause, of course, as the Senator sees, comes under two different sections—227 and 228. It is not under the same section of the law. It does not come under section 229, which covers the Federal Reporter. It is a different matter.

Mr. SMITH of Georgia. One is the Supreme Court decisions and one is the Federal Reporter?

Mr. LODGE. Yes.

Mr. SMITH of Georgia. But the first, in lines 15, 16, 17, and 18, is "to pay for additional books."

Mr. LODGE. I had not read those two sections—227 and 228—and I wanted to see just what they required, and whether they give a list of the persons to whom the books shall go. I find they give a long list of persons to whom the Supreme Court Reports must be furnished. Section 228 fixes the price.

Mr. CRAWFORD. At how much a volume?

Mr. LODGE. It fixes a price of $2 each for volumes heretofore published, and $1.75 each for future volumes. Then it says:

The Attorney General shall include in his annual estimates submitted to Congress an estimate for the current volumes of such reports and also for the additional sets of reports and digests required for distribution under the section last preceding.

Those are for the newly established courts and offices of that kind. I should think it was absolutely necessary.

Mr. SMITH of Georgia. If the Senator will pardon me, there have not been enough newly established courts to require an expenditure of $96,000 or anything like it.

Mr. LODGE. No; but when the Attorney General is required to furnish them so extensively as he is required to here—I will not read this long section, 227—I should think it must require a good deal of money to supply them.

Mr. SMITH of Georgia. Then what is the $74,000 for?

Mr. LODGE. That refers, as I understand, to the additional volumes of the Federal Reporter. I do not understand that has anything to do with the Supreme Court Reports.

Mr. SMITH of Georgia. I should think so. It says "additional books authorized."

Mr. LODGE. That comes under section 229, a different section, and refers to the Federal Reporter.

Mr. OVERMAN. Oh, no, Mr. President; I think the Senator is mistaken about that.

Mr. SMITH of Georgia. In the proposed amendment no reference is made to the section, so it is impossible to tell which one it refers to.

Mr. LODGE. The language is:

To pay for additional books authorized to be furnished under section 229 * * * $74,000.

Mr. SMITH of Georgia. Yes; that is right.

Mr. LODGE. Section 229, which I have before me, refers to the Federal Reporter.

Mr. SMITH of Georgia. Yes.

Mr. LODGE. The other provision refers to sections 227 and 228. That is a totally different thing.

Mr. SMITH of Georgia. Then, Mr. President, I am opposed to spending so much money for these books. It is unnecessary.

Mr. LODGE. The section first authorizes the purchase of complete sets of the Federal Reporter for certain courts, and then requires the Attorney General to distribute to all other courts sufficient copies to make complete sets. That is what the $74,000 is for. It is for additional volumes to complete the existing sets, as I understand.

Mr. CRAWFORD. Mr. President——

Mr. NELSON. If the Senator from Georgia will yield to me for a moment, I want to read section 229; and I want to say that before the enactment of that section there was a prior law, and this is carrying out a prior law on the subject.

Section 229 reads as follows:

The Attorney General is authorized to procure complete sets of the Federal Reporter—

That meant not only the Reporter to be published after that, but back numbers—

or, in his discretion, other publication containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof, and also future volumes of the same as issued.

So this contemplated not only provision for purchasing current volumes but also back volumes of the Federal Reporter in bound volumes, which never had theretofore been furnished to the courts. What officials and judges had them at all had them because they had bought them at their own expense. I read again:

SEC. 229. The Attorney General is authorized to procure complete sets of the Federal Reporter or, in his discretion, other publication containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof, and also future volumes of the same as issued, and distribute a copy of each such reports and digests to each place where a circuit court of appeals, or a district court, is now or may hereafter regularly be held, and to the Supreme Court of the United States, the Court of Claims, the Court of Customs Appeals, the Commerce Court, the Court of Appeals and the Supreme Court of the District of Columbia, the Attorney General, the Solicitor General, the Solicitor of the Treasury, the Assistant Attorney General for the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission; and to the Secretary of the Senate, for the use of the Senate, and to the Clerk of the House of Representatives, for the use of the House of Representatives, not more than three sets each.

For each House—

Whenever any such court room, office, or officer shall have a partial or complete set of any such reports or digests, already purchased or owned by the United States, the Attorney General shall distribute to such court room, office, or officer only sufficient volumes to make a complete set thereof. No distribution of reports or digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed. The clerks of the courts (except the Supreme Court) to which the reports and digests are distributed under this section shall keep such reports and digests for the use of the courts and the officers thereof. All reports and digests distributed under the provisions of this section shall be and remain the property of the United States, and before distribution, shall be plainly marked on their covers with the words "The Property of the United States," and shall be transmitted by the officers receiving them to their successors in office. Not to exceed—

Here is the price—

Not to exceed $2 per volume shall be paid for the back and current volumes of the Federal Reporter or other publication purchased under the provisions of this section, and not to exceed $5 per volume for the digest, the said money to be disbursed under the direction of the Attorney General; and the Attorney General shall include in his annual estimates submitted to Congress an estimate for the back and current volumes of such reports and digests, the distribution of which is provided for in this section.

This law contemplated not only getting the current volumes from time to time to complete the back numbers of the Federal Reporter in bound volumes for these officials, and the Attorney General has sent in these estimates. A part of them—if Senators will read them they will see—are for the current volumes that will come in during the current fiscal year, and a part of them, the large amount, is to pay for back numbers of the Federal Reporter in order to complete the set.

There is one item here in regard to which I will be very frank with the Senate, and that is the first item in italics:

To pay to the publishers of the Federal Reporter for advance sheets during the fiscal year commencing July 1, 1912, $715.

There seems to be no reference to those advance sheets in this section of the judicial code. My recollection—but I may be astray—is that in the law we passed—there was a law preceding this—provision was made for issuing these advance sheets. Now, no provision is contained in section 229, that I have just read, about distributing these advance sheets. It may be that it is outside of the law in that respect. I am not clear about that. My recollection is that when we first passed the law providing for the distribution of the Federal Reporter we provided for the issuance of advance sheets, while this section does not.

I was on the Judiciary Committee when this matter was pending before the enactment of the code, and I remember very well how we beat them down in price. My recollection is that at that time the regular bound volumes cost about $4 a year. One Senator says to me $3.75 and another Senator says to me $3.50. At all events, we dickered with them and finally got them to agree to furnish the regular volumes of the Federal Reporter at $2 a copy and the digest—and all lawyers know the difference between a digest and the regular report—at $5 a volume.

As I said, all these items are clearly within the estimates and within the law, with the exception of that first item. As to that, my recollection is that it was under the original law, but I may be mistaken. Perhaps the senior Senator from Georgia will have some recollection on the subject.

Mr. BACON. I beg the Senator's pardon; my attention was diverted at the moment. I ask to what he alludes?

Mr. NELSON. I called the Senator's attention to the fact that when we first passed the law and it was before the Judiciary Committee providing for the purchase of the Federal Reporter, in that law we made provision for the securing of advance sheets, as it is called.

Mr. BACON. I do not recall now. I simply recollect the fact that we made provision for the Federal Reporter.

Mr. NELSON. I made a statement about it, and I said the only paragraph of the bill that I am in doubt about myself is that first item of $715 for the advance sheets of the Federal Reporter, as to whether that is within the purview of the law.

Mr. OVERMAN. The Senator is mistaken about that. Provision for furnishing it to the district attorney is not in the law at all.

Mr. NELSON. No; I do not claim that it is; and that is not included in these estimates.

Mr. WARREN. It is in the estimates.

Mr. OVERMAN. It is in the bill.

Mr. WARREN. It is in the bill.

Mr. NELSON. I do not so understand.

Mr. CRAWFORD. It is at the top of page 131.

Mr. WARREN. If the Senator will yield a moment, it might be better if he would take a little time and look this matter up. As it is nearly time to adjourn, if it meets the convenience of the Senator, I will ask that this matter may go over.

Mr. NELSON. Very well. I think the Senator from North Carolina will remember when this legislation was first passed.

The PRESIDENT pro tempore. The amendment will be passed over for the present.

Mr. CRAWFORD. Will the Senator from Minnesota give me his attention for a moment, that I may make a suggestion to him?

Mr. NELSON. I yield to the Senator.

Mr. CRAWFORD. While these items have been passed over so that they may be investigated a little further, I wish to call the Senator's attention to what appears to be two duplications on page 130.

Mr. NELSON. What are the duplications?

Mr. CRAWFORD. I call the Senator's attention to the paragraph in lines 8, 9, 10, and 11 on page 130 and lines 19, 20, 21,

and 22 on the same page, the first being a paragraph appropriating $2,860 and the second a paragraph appropriating $3,400, both of them apparently relating to the same thing.

The next duplication is in lines 12, 13, and 14 on page 130 and lines 23, 24, and 25 on page 130, the first being for $715 and the second for $850, and both apparently being for the same thing. I simply call the Senator's attention to it so that he may investigate it before we come to consider these items again.

Mr. NELSON. These two items, the $715 item and the $850 item, may be, as the Senator says, duplications; but the other two intervening items are not duplications at all, because one relates to the current volumes that were reached during the currrent year and the other relates to completing the full sets.

Mr. SMOOT. I hardly think it is a duplication, for the reason that the $715 is in connection with the item just above it, and the $850 is in connection with the item just above that, and they are in about the same proportion. So whatever has been estimated for one and whatever reason it is estimated for will be found to be so with the other item.

Mr. CRAWFORD. We want it cleared up.

Mr. SMOOT. Of course it is proper that it should be cleared up.

The PRESIDENT pro tempore. The next amendment will be stated.

The next amendment was, under the head of "Judicial," subhead "United States courts," on page 132, line 8, after the word "Alaska," to insert "and the eastern district of Oklahoma," so as to read:

For payment of salaries, fees, and expenses of United States marshals and their deputies, including the office expenses of United States marshals in the District of Alaska, $1,400,000, to include payment for services rendered in behalf of the United States or otherwise, and including services in Alaska and the eastern district of Oklahoma in collecting evidence for the United States when so specially directed by the Attorney General.

The amendment was agreed to.

Mr. OLIVER. I ask the Senator in charge of the bill whether he expects to proceed with its consideration on Monday?

Mr. WARREN. I was just about to give notice that I will ask the Senate to take up the bill on Monday next immediately after the routine business.

Mr. OLIVER. Mr. President, it will be impossible for me to be in the Senate on Monday, and I have an amendment in which I am somewhat interested which I should like to offer. I should like to ask the Senator from Wyoming and the Senate to indulge me that I may offer it at this time.

Mr. WARREN. I ask unanimous consent that the Senator from Pennsylvania be permitted to offer his amendment.

The PRESIDENT pro tempore. Without objection, the amendment will be offered. It will be reported by the Secretary.

The SECRETARY. On page 55, after line 14, insert:

For installing mechanical stokers and otherwise improving the boiler plant at Frankford Arsenal, Philadelphia, Pa., $13,000.

Mr. WARREN. That is within the estimates, and as far as the chairman is concerned he is willing to accept it.

The amendment was agreed to.

Mr. CLAPP. Mr. President, I call the attention of the Senator in charge of the bill to a statement that I desire to make. Some years ago we opened what was known as the ceded Red Lake Reservation under a law which provided that the lands should be sold and the proceeds turned over to the Indians. A portion of those lands were swamp lands. We obtained an appropriation of $35,000 to survey the swamp portion of the ceded reservation. There remains in the Treasury $4,500. In pursuance of the survey under the law passed by the State and Federal Governments about a thousand miles of drainage have been constructed and over a million dollars expended by the county authorities. Adjoining these lands remain a portion of the unceded reserve, which is also swamp. The Indians have signified a desire to have the swamp lands surveyed and drained that they may take their allotments there and leave the timberland as tribal or communal property. This action was taken after the Indian appropriation bill was reported; and as I expect to be called away Monday I am going to ask the Senator in charge of the pending bill to let me offer an amendment to come in after line 21, page 106, following the item for the opening of Indian reservation.

The PRESIDENT pro tempore. The amendment will be reported.

The SECRETARY. On page 106, after line 21, insert:

That the unexpended balance of the appropriation for the completion of the drainage survey of ceded Indian lands made by the act of April 30, 1908, be made available for an extension of the drainage survey to the Red Lake Diminished Reservation, with a view to determining what portions thereof may be profitably and economically reclaimed by drainage, so as to be made suitable for agricultural purposes.

The PRESIDENT pro tempore. Without objection, the amendment will be received and agreed to.

Mr. CLAPP. I should like to ask permission to print the following letter in the RECORD in connection with the amendment.

The PRESIDENT pro tempore. Without objection, that order will be made.

The letter referred to is as follows:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., July 13, 1912.

Hon. MOSES E. CLAPP,
United States Senate, Washington, D. C.

MY DEAR SENATOR: By various acts of Congress, to wit, act of June 21, 1906 (34 Stat. L., 352), act of March 1, 1907 (34 Stat. L., 1033), and act of April 30, 1908 (35 Stat. L., 82), a total of $35,000 was appropriated for the drainage survey of the ceded Chippewa Indian lands in Minnesota, which was to be repaid by an increase of 3 cents per acre in the price at which the unsold land was to be sold (act of May 20, 1908, 35 Stat. L., 169). Under date of March 6, 1912, the Assistant Commissioner of the General Land Office writes that $2,838.03 has been collected and turned over for this purpose.

On page 28 of the report of the drainage survey (H. Doc. No. 27, 61st Cong., 1st sess.) it appears that the unsold ceded Indian lands which were raised in price by said acts amounted to 2,735 square miles, or a total of 1,750,400 acres. If all this land should be sold, the 3 cents per acre increase would amount to $52,512. We have no reports as yet of the sales for the last year, but I have information from the local land office that the sales have been large and that since the drainage operations began the demand is very great. There appears to be no doubt but that more than the total expenditure for the drainage survey will be reimbursed from the 3 cents per acre increase.

The Red Lake Indians in council have recently passed resolutions asking for the sale of the timber on the unceded diminished reservation, and that a part of the proceeds of the timber sale should be used to reclaim by drainage the untimbered lands which are generally swampy in character but susceptible to drainage. Before authorizing such a work, however, it would be advisable to cause a drainage survey to be made, so as to have reliable information as to feasibility of the work.

There is, under the above appropriations, an unexpended balance of $4,557.09 which the Indians desire to be made available for the extension of the survey to the swamp lands of the Red Lake Diminished Reservation.

I respectfully ask that the desired authority be given immediately, in order that the survey may be made before it freezes up and that Congress may be informed in the premises at its next session. Many of the Indians are anxious to take agricultural land as allotments, but as most of the lands, in their present condition, are too wet and swampy for successful agriculture, this step seems absolutely necessary at this time.

Very respectfully, H. STEENERSON.

HOUR OF MEETING ON MONDAY.

Mr. SMOOT. I move that when the Senate adjourns to-day it be to meet on Monday at 11 o'clock.

The motion was agreed to.

HIGH COST OF LIVING.

Mr. BURTON. I desire to give notice that on Tuesday, July 30, at the close of the routine morning business, I will seek to address the Senate on the subject of high prices—the high cost of living.

LIMIT OF VISITORIAL POWERS.

Mr. SMITH of Georgia. I desire to have the following order read at the Secretary's desk, and I ask that it be passed over until Monday.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

Ordered, That the Committee on Finance be discharged from the further consideration of the bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States, and that the same be laid before the Senate for its consideration.

The PRESIDENT pro tempore. The order will lie on the table and be printed.

CLAIMS AGAINST MEXICO.

Mr. FALL. I desire to give notice that on Monday next, the 22d instant, immediately after the routine morning business, I will address the Senate on the joint resolution (S. J. Res. 103) directing the Secretary of State to investigate claims of American citizens growing out of the late insurrection in Mexico, to determine the amounts due, if any, and to press them for payment, and on the substitute therefor reported by the Committee on Foreign Relations.

Mr. WARREN. I presume the Senator will arrange his convenience so that his speech will not interfere with the pending appropriation bill.

Mr. FALL. Certainly. I do not want it to interfere. For that reason I have not taken up the time of the Senate before. It is a matter of very great importance.

Mr. WARREN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 17 minutes p. m.) the Senate adjourned until Monday, July 22, 1912, at 11 o'clock a. m.

SENATE.

MONDAY, *July 22, 1912.*

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

Mr. SMITH of Georgia. Mr. President, I suggest the lack of a quorum.

The PRESIDENT pro tempore. The Senator from Georgia makes the point that there is not a quorum present. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McLean	Smoot
Bourne	Gallinger	Martin, Va.	Stephenson
Brandegee	Gardner	Martine, N. J.	Swanson
Bristow	Gronna	Massey	Thornton
Bryan	Guggenheim	Myers	Tillman
Burnham	Heyburn	Page	Townsend
Burton	Johnson, Me.	Percy	Warren
Catron	Johnston, Ala.	Perkins	Wetmore
Clapp	Jones	Sanders	Works
Crawford	Kenyon	Smith, Ariz.	
Cullom	Lodge	Smith, Ga.	
Fall	McCumber	Smith, Mich.	

Mr. THORNTON. I announce the necessary absence of my colleague [Mr. FOSTER] on account of illness. I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Forty-five Senators have answered to their names; not a quorum.

Mr. SMOOT. I ask that the names of the absentees be called.

The PRESIDENT pro tempore. The names of the absentees will be called.

The Secretary called the names of the absent Senators, and Mr. SIMMONS responded to his name when called.

Mr. SUTHERLAND, Mr. DILLINGHAM, Mr. BACON, Mr. BORAH, Mr. CLARK of Wyoming, Mr. CUMMINS, Mr. NELSON, and Mr. PAYNTER entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Fifty-three Senators have answered to their names. A quorum of the Senate is present.

SENATOR FROM NEW MEXICO.

Mr. CATRON. I present certified extracts from the journals of the Senate and House of Representatives of the State of New Mexico, containing a complete record of all the proceedings in the senate and house relating to the election of my colleague, Hon. A. B. FALL, by the Legislature of the State of New Mexico a Senator from that State for the term beginning March 4, 1913. I ask that the extracts be placed on the files.

The PRESIDENT pro tempore. The paper sent to the desk seems to be a transcript of the action of the two bodies of the Legislature of the State of New Mexico, and credentials in the usual form are omitted. If there be no objection, the Chair will refer the paper to the Committee on Privileges and Elections.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 21477) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The message also announced that the House had passed the bill (S. 7027) to prohibit the interstate transportation of pictures of prize fights, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. 3815) to amend an act entitled "An act to require apparatus and operators for radio communication on certain ocean steamers," approved June 24, 1910, and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. ASHURST. I have received a great number of petitions and memorials relating to the Owen bill, Senate bill No. 1. I ask that a few of these petitions and memorials be printed in the RECORD.

There being no objection, the petitions and memorials were ordered to lie on the table and to be printed in the RECORD, as follows:

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.:

At a meeting of the Mohave County Medical Society, held on May 28, 1912, the following resolutions were adopted and are respectfully submitted:

Whereas Senate bill No. 1, known as the Owen bill, is soon to be voted upon; and

Whereas a very large proportion of the deaths throughout the country are due to preventable causes, a condition that is a disgrace to modern civilization, and needs corrective measures; a country's most valuable asset is the health of its citizens, and its most important product is its children; therefore does it behoove us to see that the health of our citizens is maintained and our children given their rightful energies by means of sanitary conditions;

Whereas it has been fully demonstrated that preventive medicine has made it possible to save lives by organized and coherent efforts, such as the world has witnessed in Cuba and the Panama Canal Zone, without which organization such efforts would have been futile. We believe that this stands as an example of what could be expected within our borders, by limiting preventable diseases if the efforts of our physicians were directed by proper organization such as the Owen bill contemplates;

Whereas our Government has appropriated vast sums of money for curtailing diseases among horses, cattle, hogs, and plants, and no adequate sum for the conservation of the health of its citizens; and

Whereas the opponents of the Owen bill have claimed that the intent of the measure is to make a "medical trust" which will preclude a citizen from employing a medical advisor of choice; we refute this argument of the patent medicine vendors and of those sects professing to heal, who have no knowledge of sanitary conditions, and will not report contagious diseases as set forth in our health laws. And inasmuch as the object of this bill is to prevent disease and is of a strictly sanitary nature, without any reference whatever to the treatment of disease, it is evident that their argument is selfish, and purely mercenary without any idea of public welfare: Therefore be it

Resolved, That the Mohave County Medical Society petition the honorable Senators for the State of Arizona to give the Owen bill their most hearty support.

W. H. BUCHER, M. D., *President.*
A. M. COWIE, M. D., *Secretary.*

PHOENIX, ARIZ., *July 17, 1912.*

Hon. HENRY F. ASHURST,
Senator from Arizona, Washington, D. C.

DEAR SIR: Your letter of July 11 might be interpreted in two ways. It is plain, however, that you are unwilling since your election to put yourself on record as being in favor of the conservation of the public health, as provided by the Owen bill. Are we not justified in assuming that those who are not for the Owen bill are against it?

Yours, sincerely,

ROY E. THOMAS.

PHOENIX, ARIZ., *July 17, 1912.*

Hon. HENRY F. ASHURST,
Washington, D. C.

DEAR SIR: As one of the physicians of Arizona who is interested in the protection of the public health, I am writing to urge you to do your utmost for the passage of the Owen bill. If you will analyze the opposition to this bill you will find it comes from patent-medicine manufacturers and venders, manufacturers of adulterated foodstuffs, and people who wrongly interpret the purpose of the bill. I do not know of a single well-informed voter, outside of the classes above mentioned, who does not favor the measure. Trusting that we can depend on your help in this matter, I remain,

Yours, very truly, JOHN HIX THOMAS, M. D.

TERRITORIAL ASYLUM FOR THE INSANE,
OFFICE OF THE SUPERINTENDENT,
Phoenix, Ariz., July 3, 1912.

Hon. HENRY F. ASHURST,
Senator from Arizona, Washington, D. C.

DEAR SIR: In the name of an ancient and honorable profession I respectfully ask you to give the Owen bill your careful consideration; and, having done so, I feel assured that you will register a vote against those who are using every means to discredit the profession by playing on the ignorance of the public and playing to religious and sectarian prejudices.

I believe that you, as an educated and intelligent man, will exert your influence on the side of progress and health.

Inclosed is a clipping from the January 13, 1912, Journal of the American Medical Association on "Why the Owen bill should pass."

Thanking you for your interest in this legislation, I am,

Very truly, yours,

G. W. STEPHENS, M. D.,
Assistant Superintendent.

PHOENIX, ARIZ., *July 9, 1912.*

Hon. HENRY F. ASHURST,
Senator from Arizona, Washington, D. C.

DEAR SIR:

* * * * * * *

I have a communication from one of the physicians of the State in which the statement is made that over your signature you wrote the following: "I note with pleasure that you approve Senator OWEN'S bill for a department of health. During my campaign I pledged myself to vote for Senator OWEN'S bill and, of course, I shall certainly do so." Having made a campaign pledge of this character, one naturally wonders what influence has been brought to bear that would lead you to say that "I am especially anxious that you do not even infer in any way that I am to be committed for or against this bill."

If the politicians were as much in earnest in their efforts to protect the health of the people as are the physicians we would very quickly have such a revision of the health laws as would equal, at least, those

covering the preservation of health of live stock. I am satisfied that a great majority of the people of Arizona approve of this measure.

Yours, truly,

ANCIL MARTIN.

—

ARIZONA FEDERATION OF WOMEN'S CLUBS,
Prescott, Ariz., July 15, 1912.

Hon. HENRY F. ASHURST,
Washington, D. C.

MY DEAR MR. ASHURST: It was with some surprise I read a transcript of your letter to Dr. Ancil Martin.

Lying before me is your letter under date of April 17, in which you say "During my campaign I was pledged to vote for Senator OWEN'S bill and, of course, I shall certainly do so."

I am wondering if my belief in you will be justified.

Most cordially, yours,

AGNES MCKEE WALLACE,
President Arizona Federation of Women's Clubs, 168 S. Marina St.

Mr. TILLMAN presented memorials of W. C. Brown, J. C. Taylor, and sundry other citizens of Walterboro, of the Carolina Furniture Co. and sundry citizens of Kingston, and of sundry citizens of Camden, all in the State of South Carolina, remonstrating against the passage of the so-called parcel-post bill, which were referred to the Committee on Post Offices and Post Roads.

Mr. McLEAN presented a petition of Local Union No. 491, Painters, Decorators, and Paperhangers of America, of Waterbury, Conn., praying for the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of New Haven, Conn., remonstrating against the passage of the so-called Bourne parcel-post bill, which was referred to the Committee on Post Offices and Post Roads.

Mr. HEYBURN presented a paper to accompany the bill (S. 7065) granting an increase of pension to Ephriam W. Baughman, which was referred to the Committee on Pensions.

Mr. BRANDEGEE presented a memorial of sundry employees of Tuttle, Morehouse & Taylor Co., of New Haven, Conn., remonstrating against the passage of the so-called Bourne parcel-post bill, which was referred to the Committee on Post Offices and Post Roads.

Mr. PAYNTER presented sundry affidavits in support of a bill granting an increase of pension to William H. Frederick, of Maysville, Ky., which were referred to the Committee on Pensions.

Mr. GALLINGER presented a petition adopted at the yearly meeting of Friends for New England in conference at Vassalboro, Me., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

ACCOUNTS OF LATE MORTON E. CRANE.

Mr. DILLINGHAM, from the Committee on Immigration, to which was referred the amendment submitted by Mr. LODGE on the 20th instant proposing to appropriate $654.29 to credit in the accounts of Morton E. Crane, secretary and disbursing officer of the Immigration Commission, being the amount disallowed from his accounts by the Auditor for the State and Other Departments, reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

RECORDS OF INTERIOR DEPARTMENT.

Mr. SMOOT. From the Committee on Public Lands I report back favorably without amendment the bill (S. 7157) to make uniform charges for furnishing copies of records of the Department of the Interior and of its several bureaus, and I submit a report (No. 952) thereon. A similar bill has been introduced in the House, and it is very desirous that it shall become a law at the present session of Congress. I ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. FLETCHER. Do I understand that this bill is reported favorably by the Committee on Public Lands?

Mr. SMOOT. It is reported favorably by the Committee on Public Lands.

Mr. FLETCHER. And that the provision in reference to fees and the other provisions of the bill have been approved by the committee?

Mr. SMOOT. The entire bill has been approved by the committee.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXCHANGE OF LANDS WITH MICHIGAN.

Mr. SMOOT. I am directed by the Committee on Public Lands, to which was referred the bill (H. R. 4012) to authorize the exchange of certain lands with the State of Michigan, to report it without amendment, and I submit a report (No. 953) thereon.

Mr. TOWNSEND. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. WARREN. Unless the bill shall lead to discussion I shall not object, but I reserve the privilege to do so. I wish, however, to say that at this late time in the session it will be necessary, I think, to adhere to the order of business, after this matter is disposed of.

Mr. POINDEXTER. Is there a report on the bill?

Mr. TOWNSEND. Yes, sir; there is.

Mr. SMOOT. I will state to the Senator from Washington that the bill has passed the other House, was favorably reported upon by the Secretary of Agriculture and also by the Secretary of the Interior, both agreeing to and approving all of its provisions.

Mr. POINDEXTER. The general object of the bill is to make an exchange of public lands within the State of Michigan. What is the purpose of making the exchange? The State of Michigan is to convey certain lands to the Government, and in lieu thereof the Government is to convey certain lands to the State of Michigan.

Mr. SMOOT. It is to get the Government lands now used for forest purposes and the State lands in a compact body.

Mr. TOWNSEND. They are now intermingled.

Mr. HEYBURN. It applies only to Michigan?

Mr. SMOOT. It applies only to Michigan.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIMIT OF VISITORIAL POWERS.

Mr. SMITH of Georgia. On Saturday I moved the adoption of an order with reference to House bill 24153. I wish to ask that the Secretary read that order.

The PRESIDENT pro tempore. Will the Senator postpone action until the morning business has been concluded, if agreeable to him?

Mr. SMITH of Georgia. Yes. I was under the impression that it came up as a part of the morning business.

The PRESIDENT pro tempore. At the conclusion of the morning business.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CLAPP:

A bill (S. 7344) granting an increase of pension to Sarah Boynton (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7345) granting an increase of pension to Ophelia A. Comstock (with accompanying paper); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 7346) granting a pension to Fannie M. Page; to the Committee on Pensions.

AMENDMENT TO DEFICIENCY APPROPRIATION BILL.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $39,000 for completing the reestablishment of the light and fog-signal station marking Thimble Shoal, Chesapeake Bay, Va., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

THE BANKRUPTCY LAW.

Mr. SANDERS submitted the following resolution (S. Res. 364), which was read:

Resolved, That 1,000 copies of Senate Document No. 10, Sixty-second Congress, being the United States bankruptcy law of July 1, 1898, and amendments thereto to June 25, 1910, be printed for the use of the Senate document room.

The PRESIDENT pro tempore. Does the Senator from Tennessee desire immediate action on the resolution?

Mr. SMOOT. If the Senator has no objection, I should like to have the resolution referred to the Committee on Printing. We have printed a great many of these documents, I think.

The PRESIDENT pro tempore. Without objection, the resolution will be referred to the Committee on Printing.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on July 20, 1912, approved and signed the following acts:

S. 1152. An act granting an increase of pension to Mary Bradford Crowninshield;

S. 6084. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation; and

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes.

THE PARCEL-POST SYSTEM.

Mr. SMITH of Georgia obtained the floor.

Mr. GARDNER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Maine?

Mr. SMITH of Georgia. I do.

Mr. GARDNER. I wish to give notice that to-morrow, immediately after the close of the morning business, I shall address the Senate on the subject of the parcel-post system.

Mr. WARREN. Mr. President, of course there can be no objection to notices for making speeches. I hope, however, that the Committee on Appropriations will be allowed to have the consideration of the sundry civil appropriation bill finished without serious interruptions. I want to say again that unless the Senate is willing——

Mr. SMITH of Georgia. Mr. President, I think I had the floor.

The PRESIDENT pro tempore. The Senator from Georgia has the floor.

Mr. SMITH of Georgia. I yield for a moment.

Mr. WARREN. I hope the Senator from Georgia will let me finish what I was saying.

Mr. SMITH of Georgia. Only I do not wish to lose the floor.

Mr. WARREN. I have no idea of taking the floor from the Senator.

I desire to say—and I wish Senators would take it home to themselves—that the passage of the pending appropriation bill is only one step in its progress. When a large bill like this of 200 pages with hundreds of amendments passes the Senate, it takes a long time afterwards to consummate the legislation. Unless we are permitted to finish it soon, we might as well provide for staying here all summer and have our winter clothing sent to us. We must allow these bills to go through or we must spend the summer here. That is all there is to it.

Mr. FALL. Mr. President, as I have given notice that I should address the Senate this morning, I suppose the Senator from Wyoming desires to call my attention also to the importance of passing the sundry civil appropriation bill. I for one recognize, I think, the importance of the passage of this bill at the earliest possible moment, and I am one of the Senators who take as much interest in it as does the chairman of the committee himself. At the same time, Senators possibly have their own ideas as to other matters of importance, and I certainly should not, under the circumstances, have given notice that after the routine morning business this morning I should address the Senate upon any subject had I not believed that that subject was one of supreme importance. I now want to say to the Senator from Wyoming that while I shall assist in every possible way in facilitating the early passage of this bill, at the same time, to my mind and that of the people whom I in part represent, the subject upon which I shall address the Senate is of supreme importance.

Mr. WARREN. I had no special reference to the Senator from New Mexico. What I said I desired to apply generally in the nature of a supplication that Senators might refrain, as far as they can, and give me the floor until we can finish the appropriation bill.

LIMIT OF VISITORIAL POWERS.

Mr. SMITH of Georgia. Mr. President, I fully realize the importance of pressing through the appropriation bills to which the Senator from Wyoming [Mr. WARREN] has referred. The motion I made on Saturday for the order, which is contained in the RECORD, comes up automatically this morning for action. If it can go over until to-morrow morning and preserve its place, I shall not press for a hearing this morning.

Mr. LODGE. Mr. President, may I ask the Senator if he would be willing to allow it to go until Wednesday morning so that the chairman of the committee may be here?

Mr. SMITH of Georgia. Yes.

Mr. LODGE. I find that he will return on Wednesday, and I should be much indebted if the Senator would allow that matter to go over until that time.

Mr. SMITH of Georgia. I am perfectly willing for it to go over until Wednesday morning without prejudice to its rights.

Mr. LODGE. I mean, of course, that it go over without losing its place.

Mr. SMITH of Georgia. Very well, without losing its place, until Wednesday morning.

The PRESIDENT pro tempore. Without objection, that order will be made.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. I ask unanimous consent that the Senate now proceed to the consideration of the sundry civil appropriation bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wyoming?

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. The Chair hears none.

Mr. BACON. Did the Chair submit the request for unanimous consent and state that it had been granted?

The PRESIDENT pro tempore. The Chair did.

Mr. BACON. We certainly had no opportunity for its consideration with the Senator from New Mexico [Mr. FALL] on the floor claiming the courtesy of the Senate.

The PRESIDENT pro tempore. The Chair was not aware of that fact. The Chair will repeat the request. The Senator from Wyoming asks unanimous consent for the present consideration of the sundry civil appropriation bill. Is there objection?

Mr. FALL. Mr. President, I shall not enter an objection to unanimous consent to take up the appropriation bill, but I shall insist at the very earliest possible moment in delivering myself of the message which I have, and which I think will be of some interest at least to the Senate of the United States.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 25069) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes.

The PRESIDENT pro tempore. The next amendment will be stated.

The SECRETARY. On page 132, line 22——

Mr. WARREN. Mr. President, on Saturday afternoon we passed over until this morning amendments on pages 130 and 131. I think the Senators who were interested in that matter are all present now, and I wish to say to those who were discussing it on Saturday afternoon that the chairman of the committee has taken it up with the Department of Justice and investigated the matter further. On page 130, commencing at line 8 and running to line 11, an appropriation is provided for bound copies of the Federal Reporter for the present year and the future to be distributed among 150 United States courts, for which the appropriation of last year provided the back numbers. The department finds that under the law there are 310 courts eligible to be provided with these volumes, but there is a stipulation that they must have proper vaults or buildings in which to store them, and it has been found on examination subsequent to the estimates submitted, that there are a few courts which can not now be furnished with the reports. The $715 item following is for advance sheets of the Federal Reporter.

As to the advance sheets, while it is true that the law does not compel the distribution of the advance sheets, the department in contracting for the books secured a rate of $2 a volume, and if it is desired to have the advance sheets they can be obtained at 50 cents a year additional, making $2.50, in place of $3.50, the commercial rate.

It is for the Congress to say whether or not they will furnish to the courts these advance sheets, but as the bound volumes are furnished under the $2 rate the advance sheets will not be furnished without the additional charge. That applies to the first two paragraphs.

As to the next paragraph, from line 15 to 18, that is to buy the books provided for.

Mr. BACON. Before the Senator passes from the subject of advance sheets——

The PRESIDENT pro tempore. Does the Senator from Wyoming yield to the Senator from Georgia?

Mr. WARREN. I do.

Mr. BACON. Does the Senator bear in mind the statement which was made here on Saturday by various Senators, my colleague [Mr. SMITH of Georgia], I recollect, among others, that the invariable rule was where the purchaser subscribed to the bound volumes that the advance sheets were furnished without cost?

Mr. WARREN. That is in cases where the regular price is paid. It was also stated by Senators, among others, I think, by the Senator from Washington and the Senator from South Dakota, that there is a difference in the subscription price, whether only the bound volumes themselves are supplied or whether the bound volumes and the advance sheets are furnished.

Now, in the Government's contract—or I think it is a provision in the law—it is provided that the Government shall pay $2 a volume for the books, and it is the pleasure of the company to say whether it will furnish these loose sheets or not, because the law does not compel the publishers to supply them.

Mr. HEYBURN. Mr. President, there should be no question as to the propriety of furnishing the advance sheets. They enable the courts to keep strictly apace with the decisions of the courts and not be compelled to wait until the publication of the volumes. Every practicing lawyer knows that the advance sheets are indispensable; and whether they are to be paid for or not, the question of not having them should be eliminated at once.

Mr. MYERS. I should like to ask the Senator from Wyoming or the Senator from Idaho, whichever may be able to reply or will kindly do so, does not the same rule apply to the United States that applies to private individual practitioners of the law—that he who subscribes for the regular edition of the West Reporter system——

Mr. HEYBURN. No.

Mr. MYERS (continuing). Is furnished with the advance sheets free of any additional charge?

Mr. HEYBURN. It seems not. It seems that the Government makes a contract by which it secures these volumes at a reduced price, and that price does not include the advance sheets.

Mr. OVERMAN. It seems to me the statement of the Senator from Minnesota [Mr. NELSON] before the Judiciary Committee was that in consideration of the fact of having so many copies taken by the Government the publishing company would reduce the price to the Government from $3.50 a volume to $2. That was one of the moving considerations which caused the adoption of the proposition. I supposed that would naturally include the advance sheets. I think the Senator from Minnesota will recollect that the price was to be $2 a volume instead of $3.50, for the reasons I have stated, and that would naturally include the advance sheets. Now, instead of sending the advance sheets, they come here and ask us to appropriate money for the advance sheets.

Mr. WARREN. I do not understand that when the Government, through the Department of Justice, makes a contract by which it secures these books for a little over half the regular subscription price the advance sheets are included. The commercial rate for these volumes is $3.50 a volume, and when the Government gets them at $2 per volume I do not see how the Government can insist upon the publishing company giving them something to boot, and something which is not contracted for.

If the Senator from Idaho will allow me, I should like to say just a word more as to the next paragraphs, because they refer to the same subject.

Mr. HEYBURN. Certainly.

Mr. WARREN. As to the next five paragraphs we find, first, that while about 150 courts have been provided for as to back numbers about 160 courts yet remain totally unprovided for, and, second, it has been learned that a few of the courts have not the proper buildings and custodians to properly care for the books. Therefore it is proposed to reduce this appropriation from $74,000 to $62,000, and I shall offer to thus amend the paragraph, and following that, as to the Federal Reporter, it has been found that it can, for the same reason, be reduced from $3,400 to $2,900, and that the loose sheets which were listed at $850 can be reduced to a quarter of the sum last before mentioned. Those five paragraphs, as I said before, all apply to the Federal Reporter.

Now, on the next page the purpose of the committee is to move to strike out $38,000 unless the Senate shall advise otherwise. This paragraph proposes to furnish the Federal Reporter to district attorneys, and I firmly believe they ought to be so furnished, but the committee has upon reflection decided otherwise and directed me to move to strike out the provision.

My own opinion is that no one needs these books more than the district attorneys need them, and I wish they might be furnished, but that is a matter for the Senate to decide.

Now, as to the Supreme Court Reports, that is a different matter. They are to be distributed in 197 different places.

I thank the Senator from Idaho.

Mr. HEYBURN. Mr. President, I think we can at least arrive at a definite knowledge and doubtless at a conclusion. If the inducement of subscribing for a very large number of sets of the Federal Reports is sufficient, then, of course, there should be no extra pay for advance sheets. The advance sheets are not expensive, and they have always been furnished without charge to attorneys who subscribe to the sets. That, however, is a matter of contract.

I call the attention of the chairman of the committee to the ambiguity of the language in describing the subscription. It says:

To pay the publishers of the Federal Reporter—

Now, there is no such thing as the Federal Reporter. There is a Federal Reporter system, and it includes the Federal Reporter, the C. C. A.—the Circuit Court of Appeals—Reports, and the Supreme Court Reports. Now, those are all published by the Federal Reporter system. So that that language is ambiguous, and the ambiguity of it is emphasized when you apply it to an expression in this bill. It says:

To pay the publishers of the Federal Reporter for additional volumes of continuations for the fiscal year commencing—

"Additional volumes" there would mean additional volumes of the Federal Reporter, of the Circuit Court of Appeals, and of the Supreme Court Reports. There are three publications, all published by the Reporter system.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from New Mexico?

Mr. HEYBURN. Yes.

Mr. FALL. I call the attention of the Senator from Idaho to the fact that on the eighth line, and following to line 11, there is a provision "to pay the publishers of the Federal Reporter for the estimated continuations for the fiscal year commencing July 1, 1912," while the paragraph which he read, commencing in line 19, reads:

To pay the publishers of the Federal Reporter for additional volumes of continuations for the fiscal year commencing July 1, 1912.

Are those additional to the estimates made?

Mr. HEYBURN. "Volumes of continuations" of what? Of the Federal Reporter, of the Circuit Court of Appeals or of the United States Supreme Court reports?

Mr. FALL. That is what I am asking the Senator.

Mr. HEYBURN. I was criticising the language as being so indefinite as not to express with any certainty the intention of the act.

Mr. FALL. I was calling the attention of the Senator to the fact that, apparently, there is an absolute conflict or a double appropriation.

Mr. NELSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. NELSON. I can explain that matter if the Senator will yield to me. I can explain how it comes about.

Mr. HEYBURN. Let me make this statement, and the Senator will then have the entire statement before his mind.

Take the other item of $74,000, which, by the way, the chairman says will be reduced to $62,000. I read the language of the paragraph:

To pay for additional books authorized to be furnished under section 229 of the act to codify, revise, and amend the laws relating to the judiciary.

That is, $74,000 to pay for additional books. That includes the Federal Reporter, the Circuit Court of Appeals and the United States Supreme Court reports.

Mr. NELSON. Oh, no.

Mr. HEYBURN. They furnish them under it.

Mr. NELSON. Oh, no. That is a different law. I call the Senator's attention to it——

Mr. HEYBURN. I should like to hear definitely the views of the Senator in regard to that, because I am speaking from the text.

Mr. NELSON. I will explain that in my own time.

Mr. HEYBURN. Then I will proceed, if that is the purpose of the Senator.

Mr. President, that language is too indefinite upon which to base an appropriation of $74,000. All attorneys know about the relative cost of the Federal Reporter, the Circuit Court of Ap-

peals, and the United States Supreme Court Reports. The Federal Reporter contains every decision that is in the Circuit Court of Appeals. I want that statement to rest in the minds of Senators. The Circuit Court of Appeals is a duplicate of a portion of the Federal Reporter. Now, why they ever separated them I never have been able to understand, except it was to enable them to sell more books. I have both sets, and I suppose every other attorney in this body knows about those reports. For some reason, in order to dignify the Circuit Court of Appeals Reports, they publish them in the Federal Reporter and again publish them separately, and you will find a double citation in the digest or wherever they are referred to. There never was any occasion to do so, except to make a larger sale for the books—duplicate them.

I am endeavoring to contribute something to the straightening out of this rather mixed situation. It is not material what are the estimates from the Department of Justice, because we are just as familiar with it as the Department of Justice can ever be. We know what books are published and what they cost.

Now, the words "pay for additional books authorized" is too indefinite. The term should be amended.

Mr. WARREN. I understand that is the law.

Mr. HEYBURN. Yes; I understand.

"Authorized to be furnished." The question is, What is "authorized to be furnished"? I had the judiciary act here, but it has escaped me. It may or may not be that the Attorney General could as readily have arranged for the advance sheets to accompany the Government's subscription as they do the individual's subscription. I have never known it to be difficult for a subscriber to obtain the advance sheets when he subscribed for the bound volumes. The advance sheets are not supposed to be bound. To make them permanently useful, they would have to be indexed and bound and a great deal of work done upon them. That covers the question of the bound volumes and the advance sheets.

A word now as to the Supreme Court Reports:

To pay for complete sets—

I read, commencing in line 4, on page 131:

To pay for complete sets and additional volumes, as issued, of the Supreme Court Reports and digests thereof--

Now, that has nothing to do with the Federal Reporter system. That is independent—

authorized to be furnished under sections 227 and 228.

So that we do not want to confuse that with the Supreme Court Reporter.

I think we had better take time to straighten this out. I had my copy of the judiciary act marked.

Mr. WARREN. I suppose the Senator from Idaho remembers that as to the Supreme Court Reports, they were formerly handled under the Interior Department, and they have now been transferred to the Department of Justice.

Mr. HEYBURN. Yes. I have what I want marked in my copy, but I have been handed a strange copy of the act. Let us get this into the RECORD, so that it will always be available in connection with the consideration of this subject.

The Attorney General shall distribute copies of the Supreme Court Reports as follows:

Then follows the designation of the parties to whom the reports are to be distributed.

Mr. WARREN. I suggest that the Senator from Idaho have the list published in the RECORD.

Mr. HEYBURN. All of it?

Mr. WARREN. Yes.

Mr. HEYBURN. Very well. I will ask that sections 227, 228, and 229 be published in the RECORD without being read.

The PRESIDENT pro tempore. Without objection, that order will be made.

The sections referred to are as follows:

SEC. 227. The Attorney General shall distribute copies of the Supreme Court Reports as follows: To the President, the justices of the Supreme Court, the judges of the Commerce Court, the judges of the Court of Customs Appeals, the judges of the circuit courts of appeals, the judges of the district courts, the judges of the Court of Claims, the judges of the Court of Appeals and of the Supreme Court of the District of Columbia, the judges of the several Territorial courts, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Postmaster General, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce and Labor, the Solicitor General, the Assistant to the Attorney General, each Assistant Attorney General, each United States district attorney, each Assistant Secretary of each executive department, the Assistant Postmasters General, the Secretary of the Senate for the use of the Senate, the Clerk of the House of Representatives for the use of the House of Representatives, the governors of the Territories, the Solicitor for the Department of State, the Treasurer of the United States, the Solicitor of the Treasury, the Register of the Treasury, the Comptroller of the Treasury, the Comptroller of the Currency, the Commissioner of Internal Revenue, the Director of the Mint, each of the six auditors in the Treasury Department, the Judge Advocate General, War Department; the Paymaster General, War Department; the Judge Advocate General, Navy Department; the Commissioner of Indian Affairs, the Commissioner of Pensions, the Commissioner of the General Land Office, the Commissioner of Patents, the Commissioner of Education, the Commissioner of Labor, the Commissioner of Navigation, the Commissioner of Corporations, the Commissioner General of Immigration, the Chief of the Bureau of Manufactures, the Director of the Geological Survey, the Director of the Census, the Forester, Department of Agriculture; the purchasing agent, Post Office Department; the Interstate Commerce Commission, the clerk of the Supreme Court of the United States, the marshal of the Supreme Court of the United States, the attorney for the District of Columbia, the Naval Academy at Annapolis, the Military Academy at West Point, and the heads of such other executive offices as may be provided by law, of equal grade with any of said offices, each 1 copy; to the law library of the Supreme Court, 25 copies; to the law library of the Department of the Interior, 2 copies; to the law library of the Department of Justice, 2 copies; to the Secretary of the Senate for the use of the committees of the Senate, 25 copies; to the Clerk of the House of Representatives for the use of the committees of the House, 30 copies; to the marshal of the Supreme Court of the United States, as custodian of the public property used by the court, for the use of the justices thereof in the conference room, robing room, and court room, 3 copies; to the Secretary of War for the use of the proper courts and officers of the Philippine Islands and for the headquarters of military departments in the United States, 12 copies; and to each of the places where district courts of the United States are now holden, including Hawaii and Porto Rico, 1 copy. He shall also distribute one complete set of said reports and one set of the digests thereof to such executive officers as are entitled to receive said reports under this section and have not already received them, to each United States judge and to each United States district attorney who has not received a set, to each of the places where district courts are now held to which said reports have not been distributed, and to each of the places at which a district court may hereafter be held, the edition of said reports and digests to be selected by the judge or officer receiving them. No distribution of reports and digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed. The clerks of said courts (except the Supreme Court) shall in all cases keep said reports and digest for the use of the courts and of the officers thereof. Such reports and digest shall remain the property of the United States, and shall be preserved by the officers above named and by them turned over to their successors in office.

SEC. 228. The publishers of the decisions of the Supreme Court shall deliver to the Attorney General, in addition to the 300 copies delivered by the Reporter, such number of copies of each report heretofore published as the Attorney General may require, for which he shall pay not more than $2 per volume, and such number of copies of each report hereafter published as he may require, for which he shall pay not more than $1.75 per volume. The Attorney General shall include in his annual estimates submitted to Congress an estimate for the current volumes of such reports and also for the additional sets of reports and digests required for distribution under the section last preceding.

SEC. 229. The Attorney General is authorized to procure complete sets of the Federal Reporter or, in his discretion, other publications containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof, and also future volumes of the same as issued, and distribute a copy of each such reports and digests to each place where a circuit court of appeals or a district court is now or may hereafter regularly be held, and to the Supreme Court of the United States, the Court of Claims, the Court of Customs Appeals, the Commerce Court, the Court of Appeals and the Supreme Court of the District of Columbia, the Attorney General, the Solicitor General, the Solicitor of the Treasury, the Assistant Attorney General for the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission; and to the Secretary of the Senate, for the use of the Senate, and to the Clerk of the House of Representatives, for the use of the House of Representatives, not more than three sets each. Whenever any such court room, office, or officer shall have a partial or complete set of any such reports or digests already purchased or owned by the United States, the Attorney General shall distribute to such court room, office, or officer only sufficient volumes to make a complete set thereof. No distribution of reports or digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed. The clerks of the courts (except the Supreme Court) to which the reports and digests are distributed under this section shall keep such reports and digests for the use of the courts and the officers thereof. All reports and digests distributed under the provisions of this section shall be and remain the property of the United States and before distribution shall be plainly marked on their covers with the words "The property of the United States," and shall be transmitted by the officers receiving them to their successors in office.

Mr. HEYBURN. Now, on page 131, the provision relates not to the Reporter system, but to the Supreme Court reports, which are printed under an entirely different provision of law.

The paragraph on page 130, which is not numbered, carrying an appropriation of $74,000, refers entirely to the Federal Reporter system, and has no application whatever to the general provision for the publishing of the decisions of the Supreme Court of the United States.

Mr. OVERMAN. May I ask the Senator from Idaho a question?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. OVERMAN. My recollection, as a practicing lawyer—and I have no doubt the Senator has the same recollection—is that all of these courts have been furnished with the Supreme Court reports. They all have them now. Is not that true?

Mr. HEYBURN. That is true, so far as concerns the courts that were established when the provision was made; but there

have been new districts established, and some additions in the way of necessities, in regard to——

Mr. OVERMAN. It seems to me for the additional courts that we have established $96,000 is a very large amount of money. We have not established more than a dozen new courts.

Mr. WARREN. Are there not additional volumes coming out?

Mr. OVERMAN. The additional volumes cost a dollar and a half apiece, and for 315 courts the cost would be about $500. Here is $96,000, when we all know that we have these sets now, except for the additional courts. The Senator says the publishers get out two volumes a year. With 315 courts, at a dollar and a half a volume, the cost would be $500. Here is $96,000 for that purpose.

Mr. HEYBURN. Let us get the point down to a satisfactory basis. In the first place, we have diminished the number of courts, and the United States district courts now are the sole successors of the district and circuit courts. Those courts are all provided with the decisions of the United States Supreme Court. They are not all provided with the decisions of the United States district and circuit courts.

There is necessity, inasmuch as we have made the district judges the successors to the circuit judges, to supply those courts, or many of them, with the Federal Reporter. That is obvious. They should have available all of the law of the courts to which they succeeded.

Mr. WARREN. Will the Senator from Idaho permit me?

Mr. HEYBURN. Yes. However, I am not yet through. But I will be glad of any interruption.

Mr. WARREN. If the Senator from Idaho will allow me, in reply to the Senator from North Carolina, I will call his attention to the estimate. It may throw some light on the question he asked. The estimate here, under the head "Supreme Court Reports," is as follows:

To pay for complete sets of additional volumes, as issued, of the Supreme Court Reports and digests thereof, authorized to be furnished under sections 227 and 228 of the "act to codify, revise, and amend the laws relating to the judiciary," to be immediately available and to remain available until expended (act Mar. 3, 1911, vol. 36, pp. 1154, 1155, secs. 227, 228), $96,309.50.

197 complete sets of 221 volumes each, at $2 per volume, additional to the distribution made by the Interior Department, will be required	$87,074.00
197 additional copies of each of volumes 222 to 227, inclusive, at $1.75 per volume, and 15 copies of volume 56 of the Lawyers' Cooperative Edition, at $5 per volume, in addition to the distribution made by the Interior Department	2,143.50
197 sets of the digest, at $36 per set	7,092.00
Total	96,309.50

Mr. OVERMAN. I should like to inquire of the Senator whether there is any provision that Congress shall furnish the lawyers' edition of the Supreme Court Reports. I know of no law which provides that, instead of sending out those volumes, they shall send out what is called the lawyers' edition, gotten up by the West Publishing Co.

Mr. HEYBURN. That is gotten up by the Cooperative.

Mr. OVERMAN. The Cooperative.

Mr. NELSON. Will the Senator allow me?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. OVERMAN. I am asking for information.

Mr. NELSON. Will the Senator allow me to answer just one question? The Supreme Court Reports referred to in the bill, and which the Senator referred to, are not published by the West Publishing Co.; they are published by Banks Bros., New York.

Mr. OVERMAN. I understand that what is known as the Lawyers' Cooperative Edition has Rose's notes.

Mr. NELSON. That is published in New York—not by the West Publishing Co.

Mr. OVERMAN. Wherever it is published, I do not think that Congress has any business to send out those books. Where is the general law which provides for sending out that Lawyers' Cooperative Edition?

Mr. WARREN. I will say to the Senator I suppose he refers to sections 227 and 228 of the act to codify, revise, and amend the laws relating to the judiciary.

Mr. OVERMAN. But that provides for only the Supreme Court Reports. I want to know if there is any law under which the Lawyers' Cooperative Edition is sent out in addition to the Supreme Court Reports. As we all know, the Lawyers' Cooperative Edition contains nothing but the Supreme Court decisions, with Rose's notes published with it.

Mr. NELSON. If the Senator from Idaho will yield to me, I will read the law.

Mr. HEYBURN. Yes; I yield.

Mr. NELSON. I read from volume 36, Statutes at Large, page 1419. It is a part of the sundry civil appropriation act passed March 4, 1911. The paragraph reads as follows:

Supreme Court Reports: To pay the publishers of the Decisions of the Supreme Court for 270 copies of volumes 224 to 227, inclusive, official edition, at $2 per volume—

Now, listen to this language—

and for 15 copies of volume 55 of the Decisions of the Supreme Court, Lawyers' Cooperative Publishing Co., at $5 per volume, $2,235.

Mr. OVERMAN. Will the Senator excuse me? That is a provision in the sundry civil appropriation act. That has been going on from time to time in the sundry civil appropriation bills. That act is no longer the law of the land. What I complain of is that there is no general law which provides for this distribution. Of course, a good many things are slipped into the sundry civil appropriation bill. What the Senator reads from is nothing but a clause in an appropriation bill which goes out on the 1st of July. Is there any general law for publishing these volumes? I do not think Congress has any business to duplicate these Supreme Court decisions because, forsooth, some lawyers want a few notes. Let them look at the decisions themselves.

Mr. HEYBURN. I suggest that the law under which the appropriation referred to by the Senator from Minnesota was enacted is not the present law. The present law went into effect January 1, 1912, and it was enacted March 3, 1911. The Senator was reading from the statutes a provision in the sundry civil appropriation bill under the law that existed prior to the adoption of the present law. So it has no application. We were very careful and spent a great deal of time enumerating these publications. I suppose it took a week to determine in committee what law publications should be included in this distribution. There was considerable difference of opinion among the members of the committee. The present law is the result of their conclusions as to the enactment of a law, and it ought to be strictly complied with.

There is no provision in existing law for furnishing Coöp., as it is familiarly termed among lawyers, or any other publication than the official publication of the decisions of the Supreme Court of the United States. The Reporter system, which includes it, is not included within the books to be furnished under the existing law. You will find the decisions of the Supreme Court referring frequently to the decisions in the Reporter system—that is to say, the decisions of the Supreme Court sent out by the Federal Reporter system—but that no longer exists. It was intended by the committee to eliminate those extra publications; and if we disregard that intention, notwithstanding it is expressed in the law, you will have simply brushed aside the very painstaking law which was enacted here for the purpose of covering this question.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. I do.

Mr. CUMMINS. I think the Senator from Idaho has before him sections 227 and 228 of the civil code. Will he please read them?

Mr. HEYBURN. They have just gone into the RECORD.

Mr. CUMMINS. I should like to know what they are.

Mr. HEYBURN. If Senators will follow the reading, I will be very glad to read them.

Mr. CUMMINS. What section is it the Senator is about to read?

Mr. HEYBURN. Section 227.

Mr. CUMMINS. And section 228.

Mr. HEYBURN. I will read them in the order:

SEC. 227. The Attorney General shall distribute copies of the Supreme Court Reports as follows—

That is the official term, the "Supreme Court Reports"—

To the President, the Justices of the Supreme Court, the judges of the Commerce Court, the judges of the Court of Customs Appeals, the judges of the circuit courts of appeals, the judges of the district courts, the judges of the Court of Claims, the judges of the Court of Appeals and of the Supreme Court of the District of Columbia, the judges of the several Territorial courts, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Postmaster General, the Attorney General, the Secretary of Agriculture, the Secretary of Commerce and Labor, the Solicitor General, the Assistant to the Attorney General, each Assistant Attorney General, each United States district attorney, each Assistant Secretary of each executive department, the Assistant Postmasters General, the Secretary of the Senate for the use of the Senate, the Clerk of the House of Representatives for the use of the House of Representatives, the governors of the Territories, the Solicitor for the Department of State, the Treasurer of the United States, the Solicitor of the Treasury, the Register of the Treasury, the Comptroller of the Treasury, the Comptroller of the Currency, the Com-

missioner of Internal Revenue, the Director of the Mint, each of the six auditors in the Treasury Department, the Judge Advocate General War Department, the Paymaster General War Department, the Judge Advocate General Navy Department, the Commissioner of Indian Affairs, the Commissioner of Pensions, the Commissioner of the General Land Office, the Commissioner of Patents, the Commissioner of Education, the Commissioner of Labor, the Commissioner of Navigation, the Commissioner of Corporations, the Commissioner General of Immigration, the Chief of the Bureau of Manufactures, the Director of the Geological Survey, the Director of the Census, the Forester Department of Agriculture, the Purchasing Agent Post Office Department, the Interstate Commerce Commission, the clerk of the Supreme Court of the United States, the marshal of the Supreme Court of the United States, the attorney for the District of Columbia, the Naval Academy at Annapolis, the Military Academy at West Point, and the heads of such other executive offices as may be provided by law of equal grade with any of said offices, each one copy.

Mr. CUMMINS. Does the Senator from Idaho remember how many sets are there provided for?

Mr. HEYBURN. I have the report that accompanied this enactment, in which this matter is considered in detail. I have it not at hand. I did not anticipate any necessity for it. But each of the parties I have named gets one copy.

Mr. CUMMINS. One copy of each volume?

Mr. HEYBURN. Yes.

Mr. CUMMINS. Does that contemplate that each shall have a complete set of the reports?

Mr. HEYBURN. That comes under a different provision. That is for the annual distribution.

Mr. OVERMAN. May I ask the Senator a question? Does it provide that the district attorneys shall get a copy?

Mr. HEYBURN. I was carrying that in my mind to recur to.

Mr. OVERMAN. The district attorneys are not provided for.

Mr. NELSON. Mr. President——

Mr. HEYBURN. I will come back to that. I was carrying that in mind while reading, and I will recur to it.

Mr. NELSON. Will the Senator from Idaho yield to me?

Mr. HEYBURN. Yes.

Mr. NELSON. I want to call the Senator's attention to the fact that in the very same section he is reading, further down——

Mr. HEYBURN. Will the Senator permit me to answer this question, now that I have it before me?

Each United States district attorney—

That is in section 227——

Mr. NELSON. What I wanted to call the attention of the Senator to is that this very section, down in the middle, on page 79, provides for the distribution of back numbers.

Mr. HEYBURN. I will come to that. I am reading down to it. The Senator from Iowa asked for the reading of it, and I was proceeding.

The Naval Academy at Annapolis, the Military Academy at West Point, and the heads of such other executive offices as may be provided by law, of equal grade with any of said offices, each one copy.

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. HEYBURN. I do.

Mr. CULBERSON. I call the attention of the Senator from Idaho to the fact that at page 116 of the bill as printed for the use of the committee, it is shown by an extract from the House hearings that the Attorney General did not believe that the district attorneys should be furnished with the Federal Reporter; that is to say, that there was no existing law providing that the Federal Reporter——

Mr. HEYBURN. I will say to the Senator that we are not yet dealing with the Federal Reporter. I am now, at the request of the Senator from Iowa, considering the distribution of the United States Supreme Court Reports. I will come to the Federal Reporter in a little while.

Mr. CULBERSON. The Attorney General recommends that section 229 of the code be amended so that the district attorneys shall be furnished with the Federal Reporter, and this bill, over my objection as a member of the subcommittee, carries an appropriation of $38,000 to buy back numbers of the Federal Reporter for the district attorneys of the country.

Mr. HEYBURN. I will have something to say about that when we come to that section, if the Senator will pardon me for not taking it up now. I want to proceed with the consideration of this matter in order. We have already made some headway and thrown some light on this section 227 by reading it carefully. It has been read only in a fragmentary way before.

Now, let us proceed:

To the law library of the Supreme Court, 25 copies; to the law library of the Department of the Interior, 2 copies; to the law library of the Department of Justice, 2 copies; to the Secretary of the Senate for the use of the committees of the Senate, 25 copies; to the Clerk of the House of Representatives for the use of the committees of the House, 30 copies; to the marshal of the Supreme Court of the United States, as custodian of the public property used by the court, for the use of the justices thereof in the conference room, robing room, and court room, 3 copies.

A copy for each room.

To the Secretary of War, for the use of the proper courts and officers of the Philippine Islands and for the headquarters of military departments in the United States, 12 copies.

That is one copy for each of those officers.

Mr. SMITH of Georgia. Mr. President, we are unable to hear the Senator in this part of the Chamber.

The PRESIDENT pro tempore. Complaint is made that the Senator is not heard on the other side of the Chamber.

Mr. HEYBURN (reading)—

And to each of the places where district courts of the United States are now holden, including Hawaii and Porto Rico, one copy.

That is, to the place where they are holden.

He shall also distribute one complete set of said reports—

That is confined to the United States Supreme Court Reports—

and one set of the digests thereof to such executive officers as are entitled to receive said reports—

That is, the digest goes with the reports—

under this section, and have not already received them, to each United States judge and to each United States district attorney who has not received a set, to each of the places where district courts are now held, to which said reports have not been distributed, and to each of the places at which a district court may hereafter be held, the edition of said reports and digests to be selected by the judge or officer receiving them.

Mr. FALL. Will the Senator yield to me for a moment?

Mr. HEYBURN. Certainly.

Mr. FALL. The Senator from North Carolina [Mr. OVERMAN] called attention to the distribution of volumes of the cooperative edition of the Supreme Court Reports to some places. I notice, commencing on line 11, page 131, provision is made for 15 copies of volume 56 of the lawyers' cooperative edition in addition to the distribution made by the Interior Department. I should like to ask the Senator if he finds in the law any provision by which the Interior Department distributes the Supreme Court Reports?

Mr. HEYBURN. They heretofore did distribute them, but under the new system they no longer distribute them.

Mr. FALL. Apparently they will distribute them if we adopt this wording.

Mr. HEYBURN. Then it behooves us to be careful that we do not provide for a general distribution of them.

Mr. OVERMAN. If the Senator will yield to me, I think it does provide for it. The Senator from Wyoming read from the estimates that so many copies are provided for, and provision is made for the lawyers' cooperative edition, to which I objected. In addition to that, the Senator from New Mexico calls my attention to the fact that the House itself has provided for another 15 copies, which is carried forward from the old sundry civil appropriation bill. So there was no reason for the distribution of the cooperative edition in this language from lines 4 to 10.

Mr. HEYBURN. If there is any proposed legislation recognizing the right or duty on the part of the Interior Department to distribute them, then it was through inadvertence, because it was the intention of the framers of the judiciary code to substitute the Department of Justice entirely and completely for the Interior Department. In distributing the public laws of the country it was thought more appropriate that they should be distributed by the Department of Justice than by the Department of the Interior. The provision with reference to the Department of the Interior distributing them is very old legislation, and probably it had not proper consideration at the time.

But at the time we were enacting the judiciary code everything was brought up for first consideration regardless of existing conditions. It was intended to substitute entirely and completely the Department of Justice for the Secretary of the Interior, and it certainly would recommend itself to Senators as a better method, inasmuch as the Department of Justice deals peculiarly with the subject and has knowledge that the Secretary of the Interior could not have at first hand.

I will finish reading a few lines that remain in this section:

No distribution of reports and digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed.

In many places the courts of the United States are being held in the State buildings, because they are not yet provided with Government buildings. We rent quarters for them. In every place in our State, except one, the United States court sits in rented quarters. I had a statement as to the number of places in each State. It is sufficient to say that in a very large number of places the United States courts are held in

rented buildings. Now, there is a responsible designated custodian and officer of the United States to have the possession of these books.

Mr. CUMMINS. Mr. President——

Mr. HEYBURN. I yield to the Senator from Iowa.

Mr. CUMMINS. The Senator from Idaho has made the law perfectly plain, so that we all understand it. I understood the Senator from Wyoming to state from the estimates from the Department of Justice that we were about to distribute 200 complete sets or something like that number——

Mr. SMITH of Georgia. One hundred and ninety-seven.

Mr. CUMMINS. That we were about to distribute 197 complete sets of the Supreme Court Reports. Now, if they are to be distributed at all, they must be distributed to clerks in the various departments, to the heads of bureaus, or something of that sort. I should like to know just who are to receive these 197 complete sets of the Supreme Court Reports under this appropriation, if the Senator from Idaho has looked into that sufficiently to answer the question.

Mr. HEYBURN. I have a list of all those who receive them. The Attorney General designates them in his report, and I suppose assigns the duty of ascertaining just who is entitled to them to some of the heads of departments.

Mr. CUMMINS. Of course the courts all have them, the district attorneys all have them, the Cabinet officers all have them, and the committees all have them—that is, the committees that are authorized there—but I should like if the Senator from Idaho would make it perfectly clear who are to get this eighty-seven thousands dollars' worth of Supreme Court Reports.

Mr. HEYBURN. I should like to finish some six or seven lines that I have here. Then I will have read the entire section:

> No distribution of reports or digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed. The clerks of the courts (except the Supreme Court) to which the reports and digests are distributed under this section shall keep such reports and digests for the use of the courts and the officers thereof. All reports and digests distributed under the provisions of this section shall be and remain the property of the United States and, before distribution, shall be plainly marked on their covers with the words "The property of the United States," and shall be transmitted by the officers receiving them to their successors in office.

I had it in mind, and urged it rather strongly at the time we were framing this section, that the reports that were sent to the United States district courts should be kept in a room where they would be accessible to the judge and to the United States attorney and to any other officer of the court having occasion to refer to them. It seemed to me at that time that that would be a sufficient accommodation of the court; in other words, that they should not be locked up within the judge's chamber so that the United States attorney would be obliged to knock on the door to ascertain whether or not he might be admitted for the purpose of having access to these reports, but that a room should be provided in which all the reports furnished to the court would be kept and be accessible to the judge or judges and the United States attorney, and where they could retire to examine them. At that time we had in many districts two judges or three and in one we had four. We had the United States circuit judges and we had the United States district judges. All of them could readily be accommodated by having access to rooms in which the reports were kept and they could examine them, without excluding at the time of their examination any other officer of the court; but it was thought by the committee wise to be generous in this matter and to provide for a larger distribution of them. The appropriation bill, however, should not go beyond that. There should be an estimate, and doubtless is, from the Attorney General enumerating the persons to whom under the law and under this section the Supreme Court Reports of the United States should be distributed.

Bear in mind again that this does not include at all the Federal reports, outside of the reports of the Supreme Court of the United States, but here is an ambiguity of language that must be taken into consideration and evidently had been taken into consideration by the Attorney General. In the latter part of section 227 it is provided:

> And to each of the places at which the district court may hereafter be held, the edition of said reports and digests to be selected by the judge or officer receiving them.

That was to give the judge the option of having either the cooperative or the regular edition. There are judges in certain districts who prefer to use the cooperative edition. In that case, upon a request from that judge, he has them, not in addition to the regular publication of the United States Supreme Court Reports, but in lieu of them. It does not contemplate a double distribution of one set of cooperative reports of the decisions of the United States Supreme Court, with the digest, and, in addition to that, a copy of what we know as the regular edition of the Supreme Court Reports. If this bill contemplates the purchase of both for any district, then it goes beyond the provisions of this law.

This is a large item, but with careful consideration there is no reason why there should be any embarrassment in complying with its provisions or in distributing these reports. It so happens that they are expensive and amount to a large sum of money in the aggregate. So much for the Supreme Court Reports.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Yes.

Mr. SMOOT. Mr. President, in the hearings before the House committee in explanation of these Supreme Court Reports. Mr. Field makes the following statement:

> Section 227 of the judicial code provides for furnishing Supreme Court Reports to 782 officers or places, which is 197 sets more than the old law provided for; and this estimate, given in the note there, of $87,074 is the cost of these 197 additional sets.

Then Mr. Field also says that—

> The additional places are made up of 10 officials in Washington, such as the assistant secretaries of the departments, etc., 8 United States judges, 86 United States attorneys, and 81 places of holding United States courts.

Mr. OVERMAN. How many United States attorneys?

Mr. SMOOT. Eighty-six United States attorneys and 81 places of holding United States courts.

Those numbers added together make 197 complete sets. The old law only provided for 782 offices or places.

Mr. SMITH of Georgia. I could not hear where the Senator says those volumes are sent. I heard the first part of his statement, but he turned his face in the other direction and I could not catch what he then said.

Mr. SMOOT. I will repeat it:

> The additional places are made up of 10 officials in Washington, such as the assistant secretaries of departments, etc., 8 United States judges, 86 United States attorneys, and 81 places of holding United States courts.

Making 197 sets more than section 227 of the old law provided for.

Mr. SMITH of Georgia. Before the Senator passes I wish to ask, Does Mr. Field show 81 additional places where United States courts are held beyond the number prior to the adoption of that act? I do not believe that is possible.

Mr. SMOOT. No; not additional places—81 places of holding United States courts; and section 227 of the Judicial Code only provided for 782 offices or places. Those 81 places were not provided for in the number of 782, and that leaves a deficiency of 197 sets more than the old law provides for.

Mr. HEYBURN. Mr. President, the distribution under the old law is not worthy of or does not call for any serious consideration in connection with this proposed legislation. This is the first time that Congress has been called upon to make this distribution under existing law, and the questions suggested by the Senator from Utah were all considered by the committee in providing for the rule of distribution for the first time invoked in Congress, so that while they are interesting historically they have nothing whatever to do with the interpretation of the existing law, which has not heretofore been interpreted.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Yes.

Mr. SMOOT. In answer to the Senator, I desire to say this, that unless the 197 additional sets are provided in this appropriation bill or in some other bill, then there will be 8 United States judges, 86 United States attorneys, 81 places of holding United States court, and 10 officers in Washington who will not have the Supreme Court Reports.

Mr. HEYBURN. That is just the question that the Committee on the Revision of the Laws considered, and they solved it. It is solved in section 226 and the sections following that. They realized just the condition the Senator pictures, and in order to meet that condition they provided for an adequate distribution of these reports.

Mr. SMOOT. They did not provide the means for purchasing the additional reports, however.

Mr. HEYBURN. They provided for them to be furnished, and the question of providing the money to pay for them is a question important in itself, but not a controlling question in determining who shall receive them.

Mr. SMOOT. Of course, Mr. President, this is an appropriation bill to provide money to pay for those 197 sets.

Mr. HEYBURN. I understand that; this appropriation is merely to carry out existing law.

Mr. SMOOT. Yes.

Mr. HEYBURN. And the existing law provides for the persons who shall receive these books. We are undertaking to appropriate the money, but we are drifting back into a consideration of a law that no longer has any existence or any controlling influence whatever. All we want to do is to take up section 227, and on the statement of the number of sets or volumes required to be furnished under it and the price to be paid for them, authorize their purchase. That is the whole story.

Mr. FALL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from New Mexico?

Mr. HEYBURN. Yes.

Mr. FALL. I should like to ask the Senator if he can find any law for the distribution by the Attorney General of the Federal Reporter to United States district attorneys for which it is sought here to make an appropriation of $38,000.

Mr. HEYBURN. I have not as yet taken up the question of the Federal Reporter, but I am about to do so. I wanted to dispose of as a separate proposition the question of the Supreme Court Reports, and then, when that was finished, I wanted to take up the Federal Reporter which is provided for in an entirely different section of the statute.

Mr. FALL. I understood the Senator to refer also in his remarks to section 229.

Mr. HEYBURN. No; I have not done so yet.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. Yes.

Mr. CUMMINS. The Senator from Utah has just read the statement of the representative of the Department of Justice before the committee. He accounts for these sets of reports by saying, among other things, that 10 of them are needed in Washington. I may pause there to say I can not understand why the Government furnishes assistant secretaries and heads of bureaus with Supreme Court Reports and does not furnish Senators with sets of Supreme Court Reports. I think if anybody needs them the Senate of the United States needs them, although I do not mean to disparage the law learning of our body.

Mr. SMOOT. I will say to the Senator, however——

Mr. CUMMINS. Eighty-one of these sets are for supplying places in which United States courts are held. Now, is it possible that we furnish a set of reports to the judge and then also furnish a set of reports to the place in which he is doing his work? If we give him a set of reports we certainly ought not also to put in his court or court room another set of reports. I do not understand that provision.

Mr. HEYBURN. As a matter of fact, we do not do that.

Mr. CUMMINS. Well, we are going to send out 81 sets. I assume that every judge in the country has a set.

Mr. HEYBURN. That is, where he sits in chambers.

Mr. CUMMINS. Yes; and now we are going to furnish another set to his court room.

Mr. HEYBURN. For the officers of the court.

Mr. CUMMINS. What other officers are there except the district attorney? And the district attorney is also provided with a set. It seems to me we are becoming most extravagant in supplying these reports.

Mr. WARREN. May I interrupt the Senator for a moment?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wyoming?

Mr. HEYBURN. I have yielded to the Senator from Iowa.

Mr. CUMMINS. I wanted to know whether we were to furnish a set of reports not only to the place at which the court is held, but also to the judge who holds the court.

Mr. HEYBURN. I would say that the judge who holds the court sits at chambers at places other than where the court is held. He may sit at chambers in any place—at his home, for instance. It is intended to provide him with convenient access to the Supreme Court Reports wherever he may be required or find it convenient to sit for the purpose of hearing matters. Whether it is wise or not, it is the law. We had a very great deal of discussion in regard to this subject, and there was a variety of opinion expressed as to who should receive the reports and where they should receive them, but this was the ultimate conclusion.

Mr. OVERMAN. May I interrupt the Senator——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. HEYBURN. Yes.

Mr. OVERMAN. While it is the law, we need not make the appropriation for it.

Mr. HEYBURN. We ought to make appropriations to carry out existing law; if we do not, we are then open to the charge of disregarding existing law.

Mr. OVERMAN. If we decline to make the appropriation, it is, in effect, a repeal of the law, and we have a right to repeal the law. I think the Senate ought to pass upon that question as to whether or not we are going to furnish——

Mr. HEYBURN. I have no objection to the Senate passing upon it.

Mr. OVERMAN. As to whether or not we are going to furnish the court rooms with decisions and going to furnish the judge himself with decisions and going to furnish officers of the courts, district attorneys, and others with the decisions. The whole amount of this appropriation is over $200,000, and I think we ought to strike it all out.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. I yield to the Senator from Utah.

Mr. SMOOT. So that the 81 places may be known by Senators—I will not take the time to read them, but I ask that they be put in the RECORD as a part of my statement. The hearings give the exact places where they go and to whom, and I believe that it would be a good thing to put the facts in the RECORD. I will ask that that be done.

The PRESIDENT pro tempore. In the absence of objection the matter referred to will be printed in the RECORD.

The matter referred to is as follows:

UNITED STATES REPORTS.

The Second Assistant Secretary of State.
The Third Assistant Secretary of State.
Hon. James F. Curtis, Assistant Secretary of the Treasury.
Hon. A. Piatt Andrew, Assistant Secretary of the Treasury.
The Solicitor General.
Hon. William L. Wemple, Assistant Attorney General, 641 Washington Street, New York, N. Y.
The Commissioner of Education.
The Assistant Secretary of Commerce and Labor.
The Secretary of the Senate (use of Senate).
The Clerk of the House of Representatives (use of House).

Judges: Hon. William Schofield, Boston, Mass.; Hon. John C. Rose, Baltimore, Md.; Hon. Thomas C. Munger, Lincoln, Nebr.; Hon. John M. Killits, Toledo, Ohio; Hon. James D. Elliott, Sioux Falls, S. Dak.; Hon. George Donworth, Seattle, Wash.; Hon. Benjamin F. Keller, Charleston, W. Va.; Hon. Foster V. Brown (attorney general), San Juan, P. R.

United States attorneys: Birmingham, Montgomery, and Mobile, Ala.; Juneau, Nome, Valdez, and Fairbanks, Alaska; Tucson, Ariz.; Little Rock and Fort Smith, Ark.; San Francisco and Los Angeles, Cal.; Denver, Colo.; Hartford, Conn.; Wilmington, Del.; Washington, D. C.; Pensacola and Jacksonville, Fla.; Atlanta and Macon, Ga.; Honolulu, Hawaii; Boise, Idaho; Chicago, Danville, and Springfield, Ill.; Indianapolis, Ind.; Storm Lake and Osceola, Iowa; Topeka, Kans.; Covington and Louisville, Ky.; New Orleans and Shreveport, La.; Portland, Me.; Baltimore, Md.; Boston, Mass.; Detroit and Grand Rapids, Mich.; St. Paul, Minn.; Oxford and Jackson, Miss.; St. Louis and Kansas City, Mo.; Helena, Mont.; Omaha, Nebr.; Carson City, Nev.; Nashua, N. H.; Trenton, N. J.; Las Vegas, N. Mex.; Binghamton, New York, Brooklyn, and Buffalo, N. Y.; Raleigh and Winston Salem, N. C.; Fargo, N. Dak.; Toledo and Cincinnati, Ohio; Muskogee and Guthrie, Okla.; Portland, Oreg.; Philadelphia, Scranton, and Pittsburgh, Pa.; San Juan, P. R.; Providence, R. I.; Charleston, S. C.; Sioux Falls, S. Dak.; Knoxville, Nashville, and Memphis, Tenn.; Dallas, Houston, Paris, and Waco, Tex.; Salt Lake City, Utah; St. Johnsbury, Vt.; Richmond and Tazewell, Va.; Spokane and Seattle, Wash.; Parkersburg and Huntington, W. Va.; Milwaukee and La Crosse, Wis.; Cheyenne, Wyo.

Clerks United States district courts: Tuscaloosa, Florence, and Gadsden, Ala.; Fairbanks, Nome, Council, Ketchikan, Eagle City, and Juneau, Alaska; Globe and Tucson, Ariz.; Jonesboro, Ark.; Eureka, San Francisco, Sacramento, and San Diego, Cal.; Gainesville, Fernandina, Miami, and Ocala, Fla.; Hilo, Hawaii; Coeur d'Alene, Idaho; Chicago and Freeport, Ill.; Davenport and Ottumwa, Iowa; Jackson and Bowling Green, Ky.; New Orleans, Lake Charles, and Opelousas, La.; Bath, Me.; Springfield, Mass.; Clarksdale, Miss.; Cape Girardeau, St. Louis, Rolla, and Chillicothe, Mo.; Great Falls, Mont.; Chadron, Grand Island, and North Platte, Nebr.; Alamogordo, Las Vegas, Roswell, and Socorro, N. Mex.; Auburn, Binghamton, and New York, N. Y.; Elizabeth City, Washington, and Salisbury, N. C.; Grand Forks and Minot, N. Dak.; Youngstown, Cincinnati, Columbus, and Dayton, Ohio; Ardmore, Vinita, Enid, Lawton, and Woodward, Okla.; Medford and Pendleton, Oreg.; Philadelphia, Pa.; Newport, R. I.; Florence, S. C.; Amarillo, Fort Worth, and Texarkana, Tex.; Ogden, Utah; Bigstone Gap and Richmond, Va.; Bellingham, Wash.; Addison, W. Va.; Green Bay, Wis.; Evanston, Lander, and Sheridan, Wyo.; Philippi, W. Va.

Mr. WARREN. Will the Senator from Idaho yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wyoming?

Mr. HEYBURN. I yield for a moment to the Senator from Wyoming.

Mr. WARREN. Let me say, replying to the Senator from Iowa in regard to Supreme Court Reports being furnished to Senators, that there is a provision that a certain number shall come to the Senate and a certain number to the House of Representatives. Let me say further that it is my intention to

offer certain amendments, and I shall state them now, so that they may be understood in the debate.

First, I propose to reduce the appropriatior in line 18, page 130, from $74,000 to $62,000; second, on the same page, line 22, I shall propose to reduce the appropriation from $3,400 to $2,900; third, on line 25, to reduce $850 to $725; fourth, I propose to strike out lines 1, 2, and 3, on page 131; and, fifth, to strike out the provision of the House bill in lines 11, 12, and 13, providing for 15 copies of volume 56 of the lawyers' cooperative edition in addition to the distribution made by the Interior Department.

Mr. NELSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. HEYBURN. Yes.

Mr. NELSON. If the Senator will yield to me for a moment, while we are on the subject of Supreme Court Reports I want to make a brief statement.

Mr. HEYBURN. I think to avoid confusion we should finish up the Supreme Court Reports before taking up the Federal Reports, and I yield to the Senator for that purpose.

Mr. NELSON. I want to call the attention of the Senate to the law in regard to the Supreme Court Reports before the judicial code was enacted. By section 681 of the Revised Statutes the reporter of the Supreme Court was required to furnish 300 copies of each set of the decisions—of the Supreme Court Reports—and they were to be distributed by the Secretary of the Interior in connection with section 386 of the Revised Statutes, which provided:

SEC. 386. The Department of Justice shall be charged with the distribution to the various judges and courts of the statutes, reports, and other judicial documents provided by law.

Section 683 prescribed where these 300 copies were to be distributed. That was the total amount of the distribution until the act of February 12, 1889 (25 Stats., 661). That statute amended the old statute by providing for the distribution of 76 copies in addition to the 300, and repealed that part of the law requiring the Supreme Court judges to distribute them to the courts, and so forth. So before the code was enacted the total number of Supreme Court Reports distributed annually was 376 volumes, and they were distributed through the Secretary of the Interior under this act.

Mr. HEYBURN. That is repealed by section 297 of the judiciary act.

Mr. NELSON. The judicial code more than doubled that amount of distribution. It raised it from 376 volumes, distributed through the Secretary of the Interior, to between seven and eight hundred volumes, distributed through the Department of Justice in the manner indicated by the section the Senator has just read.

I might say, further, that these Supreme Court reports are not published by the West Publishing Co. They are published by Banks Bros., of New York. These other paragraphs relating to the Federal Reporter are entirely distinct from that matter.

Mr. HEYBURN. They are not published by the United States. None of them is published by the United States.

Mr. NELSON. No.

Mr. HEYBURN. The United States secures them by contract with the publishers. That applies to what is called the regular edition as well as to these other editions.

Mr. NELSON. If the Senator has no objection, I should like now to say a few words about the Federal Reporter.

Mr. HEYBURN. I should like to have that go over until we reach that section, to avoid confusion.

Mr. NELSON. They are in the same paragraph.

Mr. HEYBURN. While this takes considerable time, it is time that must be devoted to the determination of this question. There seems to be such a diversity of opinion in regard to it that we must get it straight before we act upon it.

Now I have about finished with the Supreme Court Reports—that is, the reports of the decisions of the United States Supreme Court. They are to be furnished either in the Banks edition or in the cooperative edition, or in any edition that any judge may request. That provision was put in to settle a controversy that waged so long before the Committee on the Revision of the Laws that we grew so tired of it that we were compelled to make some concession in favor of what is called the irregular publication of the reports of the United States Supreme Court.

There are many lawyers and some judges that seem to prefer what is known as the "irregular edition" of the Cooperative Publishing Co. to the Banks edition; so we made the concession of allowing the judge of the court to elect which edition he should receive. But, having made that election, he can not change it. He can not start in and take the Cooperative edition for one year or three years or five years, and then switch off and discontinue that and take the Banks edition. That would not be practicable. But that provision was intended to apply to where courts are initiated, and are laying the foundation of their law library. The judges, being appointed for life, and presumably of long term, say: "We prefer, during our tenure of office, to have for reference in our chambers or in our courts the cooperative edition or the Banks edition." There is still another one; there are three of them altogether. But the cooperative edition and what we know as the regular edition are generally selected.

As I have said, it was not intended that they should be duplicated. This phrase in section 227, in the tenth line from the end of the section, was not intended to enlarge the distribution, but only to give the right of electing between them.

The committee doubtless have the enumeration of the places where the courts are held. If they have not, it is in this statute. The judiciary act prescribes where the courts are to be held, and they can not be held anywhere else than at the places provided by law. They would have no jurisdiction anywhere else. So there is no difficulty in determining the number of places at which the courts shall be held.

Mr. OVERMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. HEYBURN. Yes.

Mr. OVERMAN. The House hearings have all these places in them. I am just looking at what is said here about North Carolina—my own State.

Mr. HEYBURN. Let me suggest to the Senator that it is not necessary to go to the hearings for that. It is in the law itself.

Mr. OVERMAN. I understand that, but in the House hearings these places are set out, and some say they want the reports while others say they do not want them at all. In North Carolina, in the western district, a full set was furnished to Asheville while Charlotte did not want any. In Greensboro there was a full set furnished, and in Salisbury they did not want any; and so on. In Elizabeth City and Raleigh there were full sets furnished, but these other places did not need them.

Mr. HEYBURN. Of course, they will not be sent to them if they do not want them, and that part of the appropriation will not be expended.

Mr. OVERMAN. The law requires them to be sent to them, and here they say they do not need them in these places.

Mr. HEYBURN. If one of these judges said he did not want the reports, my sympathy would be with the Attorney General if he sent them to him, anyway, so that he might have no excuse for not knowing the law. The idea of a man sitting in judgment over a United States court saying he did not want to have the decisions of the United States Supreme Court. It reminds me of—well, I was going to refer to an incident, but I will not do so.

Mr. OVERMAN. The Senator recognizes, I think, that the judges in North Carolina will compare favorably with the judges in any other State.

Mr. HEYBURN. I was not casting aspersions on the judges of any State.

Mr. OVERMAN. The judge has a set in his own chambers, and he has a set in the main district where he sits, and he says that at these other places where he holds court he does not need them.

Mr. HEYBURN. Then he is not included in the provision we are talking about, because it only provides for furnishing them where they have not them already.

Mr. OVERMAN. But do they have them at these places? I do not know whether the judges made these memoranda or not, but they say they do not need them at these places.

Mr. HEYBURN. That is because they have them already, I suppose.

Mr. OVERMAN. No; I think not.

Mr. SMITH of Georgia. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. I yield.

Mr. SMITH of Georgia. If the Senator will allow me, the districts are being divided up, and the district judge in many instances is not in the division of the district for more than a week. He goes over and holds court there for a week and then goes back again to his principal office. There is no necessity whatever for buying a complete set of reports to put at a court room where the judge sits only one week. He can easily procure the volumes from members of the bar if he wishes to use them.

It seems to me that if we furnish a complete set to the judge at his principal office it is unnecessary, where he practically rides the circuit in his district, to place a set at every court, at some of which he does not remain a week twice a year.

Mr. HEYBURN. Mr. President, I am quite familiar with that conditions of affairs. It is quite usual for judges sitting away from the principal seat of justice to reserve their decisions on questions presented to them until they return to their principal place of holding court. That is quite usual all over the United States. I realize that so far as the judge is concerned, he might sit there like a phonograph and hear the arguments of counsel, and take the papers and records with him at the end of the sitting of the court, to be considered at his headquarters, wherever that might be. That never was a good practice, however. It is a very unfair practice.

Mr. SMITH of Georgia. If the Senator will allow me, he misunderstood me. I did not mean that in all cases the judge should reserve his decision until he went back to his principal office. But with half a dozen different places in his district where the district court judge sits, and where he frequently sits not more than a week, spending two-thirds of his time in his principal office, I suggested that it was unnecessary to buy books to put in the judge's rooms where he occupied them only one week during the year. I did not mean that it would be proper for him to wait until he went back to his principal office to decide the questions argued before him. But I suggested that at such a place he could easily secure from the members of the bar the temporary use of the Supreme Court decisions and the Federal Reporters. In their arguments they must have them at the courthouse, and they would cite the decisions, and they would gladly loan them to the judge when he retired to his chambers.

Where a district is cut up into half a dozen places for holding court by the district judge it is entirely unnecessary to put books at the office of the judge at each place where he holds court. If he is provided with them at his principal office, where he stays the larger portion of the time, that would seem to be an ample contribution of legal literature on the part of the Government to the judge.

Mr. HEYBURN. Mr. President, I am in sympathy with much that the Senator says. In the first place, I believe the courts sit in too many places; that the places for the sitting of the courts are too often the result of a desire on the part of some one to seemingly accomplish something for a local community. I have been somewhat at war with the existing system. But this morning I am compelled to lay aside whatever warlike feelings I may have on that basic principle and deal with conditions as they exist.

I believe the courts should be furnished with the precedents. It is well enough to say that the judges know the law or should know it; but one of the most important things in a Government such as ours is that the laws shall be uniform. The individual opinions of men are never uniform. Men yield to recognized authority, and very properly so, in the interest of stable government. So the courts should have, available and convenient, a history of the law relating to any subject that comes up for responsible action, whether the court is going to sit there a day or a month. Probably it would be wise to consider the question as to whether or not the court should sit at all of the places where it does sit; but we are dealing with the fact.

I think that is all I desire to say about the Supreme Court reports. But on the question of the Federal Reporter we have a much more complicated and expensive proposition. I now turn to section 228, which is incidental to both the Federal and the Supreme Court Reports. It reads:

> The publishers of the decisions of the Supreme Court shall deliver to the Attorney General, in addition to the 300 copies delivered by the reporter—

I pause there to say that existing law requires the official reporter of the Supreme Court of the United States to deliver 300 copies to the Attorney General at a given price, to be distributed as provided in this law and by Congress.

> Such number of copies of each report heretofore published as the Attorney General may require, for which he shall pay not more than $2 per volume.

Those are the old or what are called the back numbers.

> And such number of copies of each report hereafter published as he may require, for which he shall pay not more than $1.75 per volume.

It is more difficult and expensive to obtain back volumes than it is to obtain current volumes. That is obvious.

> The Attorney General shall include in his annual estimates submitted to Congress an estimate for the current volumes of such reports, and also for the additional sets of reports and digests required for distribution under the section last preceding.

That is a duty. It is made our duty by an act of Congress. We ought not to be at liberty to repeal it in making the appropriation.

Now, I come to the Federal Reporter. I have no hesitation in taking the time necessary to make this matter plain, because it is of the utmost importance not only to the courts but to every person in the United States. We grow to think that we have nothing to do with that which affects only some other person. But these authorities and decisions are the basis of uniformity of judicial decision. There is nothing—and I do not except the Constitution of the United States—that is of more importance to the people than the maintenance of that principle of government. Drift away from it, and you are drifting toward individualism and anarchy. Maintain it and stand by it, and you are maintaining and standing by that which must lie behind and underneath any good government—stability and uniformity.

I pause here to say that in my judgment every government should publish its own laws. This system of allowing somebody to speculate and make a profit out of the publishing of the laws of the people, enacted by their legislatures, is not in conformity with good government. I shall not pause to criticize the result of existing law, law that has existed for a long time, by which we farm out the functions of government. But the official opinions of the Supreme Court, one of the great coordinate branches of the Government, should be published by the Government at the expense of the Government, and distributed to the people upon an equitable and just basis established by law. No man should be permitted to stand between the people's acts and the people's rights to the extent of a single dollar.

Mr. OVERMAN. I fully agree with the Senator on that point. I have understood—I do not know whether it is true or not, but I should like to see an investigation of it—that the actual cost of these Supreme Court Reports is not over 50 cents per volume. I do not know whether that is so or not, but that is what I have understood.

Mr. HEYBURN. It would not be wise to confuse or embarrass the making of an appropriation at this time with the consideration of that question, further than to suggest it for future consideration. Therefore I shall not pursue it. But it is a subject worthy of study and thought. Not only the decisions of the Supreme Court, which is a coordinate branch of equal importance with each of the others, but the laws of Congress should be printed and officially distributed according to a fixed rule of law, so as to be available to every person. They should not be written upon high pillars so that the subjects may not know the law, in order that a trap may be set for them. The same is true of the executive acts of the Government. There should be a system of publication of that which is done for the people by their representatives without regard to rank or dignity, so that it may be available to all of the people without regard to rank or dignity.

Mr. OVERMAN. Mr. President, will the Senator further yield to me for a moment?

Mr. HEYBURN. I will.

Mr. OVERMAN. That is very interesting, and I think it is a subject that ought to be considered hereafter in the form of a bill. But I want to ask the Senator if he knows how the Supreme Court Reports are published?

Mr. HEYBURN. Yes; I know.

Mr. OVERMAN. We have an official reporter of the Supreme Court. Does he get a salary?

Mr. HEYBURN. I think I may say, without being charged with knowing too much, that I know all about how they are published. We investigated the subject from the beginning to the end. But it is not germane to the question now under consideration.

Mr. OVERMAN. If we can save $100,000 a year to the people by the publication of these reports—and I think we can—it is very important that the Senator should let us know about it.

Mr. HEYBURN. Merely because we investigated this question, and I officially participated in it, and think I have retained a very accurate recollection of all of the facts connected with it, I should not feel justified in breaking in upon the consideration of an appropriation bill for the purpose of recounting even very interesting history.

Mr. OVERMAN. If the Senator will tell me how it is done I should like to know.

Mr. HEYBURN. I shall be very glad to do that without taking it out of the time devoted to the consideration of this bill. It is an interesting subject. It is one that the Committee on the Revision of the Laws investigated very thoroughly.

Now let us proceed to the consideration of the law regulating the publishing and distribution of the Federal Reporter, because

that is the largest item. I read from section 229 of the judiciary act:

The Attorney General is authorized to procure complete sets of the Federal Reporter or, in his discretion, other publication containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof.

That provision is not sufficiently guarded. As I have already said, it covers more than two different classes of publications, one of which is a duplicate of the other.

There is no occasion at all for taking the circuit courts of appeals reports, because they are contained in the Federal Reporter. The Federal Reporter Digest is a digest of all the decisions of both the district courts and the circuit courts of appeals.

The PRESIDENT pro tempore. The Senator from Idaho will suspend. The hour of 1 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I ask unanimous consent that the unfinished business may be temporarily laid aside.

Mr. PERCY. Mr. President, on Saturday I gave notice that when the unfinished business was taken up to-day, I would submit some remarks to the Senate upon it. By an error the notice does not appear on the calendar, and I presume as it occurred during the speech of the Senator from South Carolina [Mr. SMITH], which was withheld, it is with the manuscript of that speech. I do not wish to interrupt the consideration of the pending appropriation bill, and as I assume that probably it will be completed by to-morrow, when the unfinished business is due to be taken up, I simply give notice that to-morrow when the unfinished business is taken up I will submit some remarks to the Senate in regard to it.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from Connecticut? The Chair hears none, and the unfinished business is temporarily laid aside. The Senator from Idaho will proceed.

Mr. HEYBURN. I would not occupy the time of the Senate except that such confusion arose Saturday in the consideration of this matter, I thought it proper to the extent of my ability to make it so plain that hereafter there will be no occasion to thrash over the consideration that was given to it on Saturday, and that there shall be a plain statement of the facts and the law in the RECORD.

I will proceed with section 229. I had read down to the provision for the Attorney General to furnish the Reporter and Digest.

Sets of the Federal Reporter or, in his discretion, other publication containing the decisions.

Whether the word "or" there is sufficient to establish an alternative as against a duality I am not certain in my own mind. I think there should be an amendment there that would confine him to furnishing one or the other and not both. They are both very expensive. They amount to a vast sum of money, and if the Attorney General furnishes the decisions of the circuit court of appeals, then he should not furnish the Federal Reporter. But undoubtedly if he is only to furnish one he should furnish the Federal Reporter, which contains both.

Mr. FLETCHER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Florida?

Mr. HEYBURN. Yes.

Mr. FLETCHER. At the time that report was under consideration it may have been that the decisions of the circuit court of appeals were separate from the Federal Reporter. I know in the early edition of the Federal Reporter the decisions of the circuit court of appeals were not included, and the circuit court of appeals was a separate publication. But now the Federal Reporter includes both the district courts and the Commerce Court and the circuit courts of appeals. At the time that provision was under consideration it may be that the Federal Reporter did not include the decisions of the circuit court of appeals.

Mr. HEYBURN. It did include them. It has included them since 1891. I speak from personal familiarity with the subject.

Mr. FLETCHER. Then, of course, the Senator is entirely correct, but where the Federal Reporter is furnished the decisions of the Circuit Court of Appeals ought not also to be furnished in addition. The publisher of the Federal Reporter issues about five volumes a year and of the Circuit Court of Appeals there are about two. The advance sheets of the Federal Reporter come weekly. Of course there is no need to duplicate those things. I should think that the Circuit Court of Appeals ought to be eliminated entirely from this bill, because the Federal Reporter includes them.

Mr. HEYBURN. That is what I have in mind.

Mr. FLETCHER. It includes everything except the Supreme Court reports.

Mr. HEYBURN. I would be very glad if the Senator would formulate an amendment that would eliminate it and then provide against duplicating these reports. It could be done in a few words in section 229. It is obvious that there should be no necessity for consideration being given to the furnishing of duplicate reports.

And also future volumes of the same as issued.

Of course if you limit this to a single publication in the beginning of section 229 that will run all through the section and obviate the possibility of furnishing two sets of reports of the same decision.

And distribute a copy of each such reports and digests to each place where a circuit court of appeals, or a district court, is now or may hereafter regularly be held, and to the Supreme Court of the United States, the Court of Claims, the Court of Customs Appeals, the Commerce Court, the Court of Appeals and the Supreme Court of the District of Columbia, the Attorney General, the Solicitor General, the Solicitor of the Treasury, the Assistant Attorney General for the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission, and to the Secretary of the Senate for the use of the Senate, and to the Clerk of the House of Representatives for the use of the House of Representatives, not more than three sets each. Whenever any such court room, office, or officer shall have a partial or complete set of any such reports or digests already purchased or owned by the United States, the Attorney General shall distribute to such court room, office, or officer only sufficient volumes to make a complete set thereof. No distribution of reports or digests under this section shall be made to any place where the court is held in a building not owned by the United States, unless there be at such place a United States officer to whose responsible custody they can be committed. The clerks of the courts (except the Supreme Court) to which the reports and digests are distributed under this section shall keep such reports and digests for the use of the courts and the officers thereof. All reports and digests distributed under the provisions of this section shall be and remain the property of the United States and, before distribution, shall be plainly marked on their covers with the words "The property of the United States," and shall be transmitted by the officers receiving them to their successors in office. Not to exceed $2 per volume shall be paid for the back and current volumes of the Federal Reporter or other publication purchased under the provisions of this section, and not to exceed $5 per volume for the digest, the said money to be disbursed under the direction of the Attorney General; and the Attorney General shall include in his annual estimates submitted to Congress an estimate for the back and current volumes of such reports and digests the distribution of which is provided for in this section.

I will say to Senators, while this seems a large sum now, it must be taken into consideration that this appropriation will not be necessary in future, because the appropriation covers the filling up of broken sets. It covers the supplying of courts that have none of these publications. The greater part of the appropriation will be expended for establishing these libraries, and it will not be necessary in future to do more than pay for the current volumes.

Mr. KENYON. Mr. President——

Mr. HEYBURN. I yield to the Senator from Iowa.

Mr. KENYON. The Senator will observe that in this section, as suggested by the Senator from New Mexico, there is no provision for furnishing the district attorney with the Federal Reporter. From his knowledge of the statute, does the Senator know of any provision for distribution to district attorneys of the Federal Reporter?

Mr. HEYBURN. There is no statute authorizing it.

Mr. KENYON. This bill proposes to appropriate $38,000 to enable the Attorney General to furnish the Federal Reporter to the United States district attorneys. I myself think the law was wise in omitting that provision. Any lawyer who has enough practice and experience to fit for that position should have a set of the Federal Reporter anyhow.

Mr. HEYBURN. That very consideration of this question was presented to the committee. It was suggested that probably no man would ever be appointed a United States district attorney who did not already have the Federal Reporter.

Mr. KENYON. Another thing, a district attorney, except in large cities like New York and Chicago, does not spend all his time or use all these books to do United States work. He uses the Federal Reporter and he uses the Supreme Court Reports for his other class of work. Then why should there be an item in this bill appropriating $38,000 to enable the Attorney General to furnish the Federal Reporter to the district attorneys?

Mr. HEYBURN. There should not be any such provision.

Mr. OVERMAN. The chairman has agreed to strike that out.

Mr. HEYBURN. That goes out under a general agreement.

Mr. WARREN. That is, the three lines will be stricken out.

Mr. KENYON. At the top of page 131.

Mr. HEYBURN. That goes out. Also I think the chairman has stated, in substance, that the appropriation of $96,309.50 will be reduced.

Mr. WARREN. No; I am waiting very patiently that the Senator may perhaps give me some light upon that item. All we intended to reduce was the appropriation from $74,000 to $62,000. I have not yet stated that I would agree to a reduction of the appropriation of $96,000, because I am yet without information other than that which comes from the Department of Justice as to what the amount should be. I will be obliged to the Senator if he can furnish me with additional information on the subject.

Mr. HEYBURN. Briefly, I will finish with that. I have been discussing that section. What I have said with regard to furnishing the United States Supreme Court Reports has been under that paragraph on page 131 which calls for an appropriation of $96,309.50. I want to make this suggestion in defense of that item—that it is to establish libraries largely where none exist now, because the law in effect before this time has not made sufficient or adequate provision for building up these libraries, so that $96,309 will not be a continuing expenditure. It is to establish these libraries, and all that will be needed hereafter will be to make the necessary provision for maintaining them.

Mr. WARREN. It will not all be expended next year.

Mr. HEYBURN. It will not be expended until certain public buildings are finished and certain places completed for the holding of courts. There are something like 30 places in the United States, if my memory is not incorrect, in which we are making new provision for the holding of United States courts. The buildings in many instances have not yet been contracted for or the estimates have not been approved, and it will be three, four, or five years before those buildings are completed. This is made a continuing appropriation, so that when those places are completed in which the court is to sit of course it will include library rooms and all necessary conveniences for the establishment and maintenance of the libraries belonging to the court, and then they will be furnished to them. After that it will be a question of buying four or five or six volumes a year of any one set of reports to keep the libraries current. That is the idea. While it seems like a large sum to be appropriating $96,000 for the purchase of law books, yet when once appropriated they are the property of the United States and will remain so forever, and it is only a question of maintaining them hereafter. I see no inconsistency in the appropriation, either as to the amount or as to the manner of its application.

Now, that covers the United States Supreme Court Reports and the Federal courts separately.

Mr. SMITH of Georgia. Mr. President, I understand the proposed amendments from the committee now pretty thoroughly, and I am opposed to practically all of them.

I desire, first, to call attention to the appropriation of $96,306.50 for additional Supreme Court Reports. We are informed, first, that it is to buy 197 additional full sets, and that 86 of those are to go to the district attorneys and 81 to additional places of holding district courts. I am opposed to both. I do not believe the Government has any business buying law books for the ordinary use of a United States district court attorney. His office is near that of the district court judge. He can examine the books in the district court judge's office with perfect facility.

Besides that, I doubt whether any United States district court attorney has not his own Supreme Court Reports. Every capable lawyer has his Supreme Court Reports. The district attorney when appointed is compelled to move his office to the office of the United States district attorney, and he carries his Supreme Court Reports with him. He stays there four years, usually, and then leaves. There is no necessity for furnishing Supreme Court Reports to the district attorneys. They can use their own books. It is not a permanent office like that of the district judge.

It is important to furnish Supreme Court Reports and Federal Reporters to the principal office of the district court judge, for he sits there nine months, probably, during the year and holds his chambers court there, and they are for the use not only of the district judge, but of the bar arguing cases before him.

I am opposed to the 81 sets for additional places of holding district courts. There is no necessity for it. We are adding places all over the districts for holding district courts. In many of them the district courts are held not more than a few days twice a year. It is entirely unnecessary to put a full set of Supreme Court decisions and Federal Reporters in the office of the district judge there, not because he does not require their use, but he has no time in his chambers for a thorough study of them. The lawyers who argue the cases before him bring the Supreme Court Reports with them; they bring the Federal Reporters with them; and leave them with the judge during the adjournment for investigation. He does not need a complete set of United States Supreme Court Reports and Federal Reporters in a court where he does not sit more than a week twice a year.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Georgia yield to the Senator from Iowa?

Mr. SMITH of Georgia. Yes.

Mr. KENYON. Suppose the judge does not find the decision that he might desire in the books furnished by the lawyers, what is he to do? Is he to borrow from the lawyers?

Mr. SMITH of Georgia. Certainly, he can send out and get the books. The lawyer who has prepared his case will bring the Supreme Court Reports into the court with him or send out for them without any trouble.

Mr. KENYON. I am in favor of any measure of economy; but I do believe that where courts are held, even though the judge be there for but a week, he should have a set of the reports at his disposal and for his use, because I do not believe a judge should borrow law books from a lawyer any more than he should borrow anything else from him. The judge should be absolutely independent as far as the sources of the law and the books are concerned the same as in regard to anything else.

Mr. SMITH of Georgia. Mr. President, the district court is not established in any place where there are not one or two or more lawyers who have full sets of Supreme Court Reports and Federal Reporters. The lawyer on either side of the case brings the decision that the judge examines, and the lawyer on either side is ready to leave them and asks the privilege of leaving them. We do not furnish a complete library to the district judge. They bring many volumes of decisions into the court room, besides the Supreme Court decisions and Federal Reporters, and leave them for the judge to examine.

Now, what I insist is that at the many places at which district courts are established it is unnecessary for the Government to furnish a library. When the most important questions are considered if a judge wants time for investigation he waits until he goes back to the chambers. Of course, wherever he can do so he should decide the questions at once, but there is not a great deal of leisure for the quiet examination of authorities where a nisi prius court is held not longer than a week.

I am opposed to furnishing the district court judges with the 81 additional sets or the district attorneys with the 86 additional sets. I am opposed to buying the 81 additional sets to scatter them over the country where the district courts are held but a very short time. The whole tendency is to divide up districts into innumerable places for short terms.

I am in perfect sympathy with the view of the Senator from Idaho that this is a mistake. It seems to be the policy, the people seem to want it, and they are going to get it if they want it.

For the reasons given I object to the appropriation of $96,309.50. If you will turn to section 227, you can see the different officers who are to be furnished Supreme Court Reports. Why should we send a set of Supreme Court Reports to the Geological Survey, or to the Bureau of Manufactures, or to the Census Office, or the purchasing agent of the Agricultural Department, and so on? The list included in section 227 is already padded beyond any necessity.

There is always a pressure on us whenever anybody has anything to sell for the Government to buy it, in just as many places as can be possibly suggested, and quite a large number of the places mentioned in section 227 of the judiciary code are useless. I am opposed to increasing them. I think we have already covered more than we ought to have covered, and that instead of appropriating money for more we can very well legislate to cut out a number of those contained in section 227.

Now, I wish to pass from the district court to the Federal Reporters, covered under lines 15, 16, 17, and 18, on page 130—$74,000 for additional copies of the Federal Reporter sets. That comes under section 229 of the judiciary code.

Mr. FALL. Will the Senator allow me?

Mr. SMITH of Georgia. Yes.

Mr. FALL. Right there I should like to call the attention of the Senator and the Senate to the fact that last year there was $64,000 appropriated for identically this same purpose—for these additional sets.

Mr. NELSON. Will the Senator from Georgia allow me?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. SMITH of Georgia. Yes.

Mr. NELSON. Under that appropriation there were 143 sets purchased, and, as I understand it, there are one hundred and seventy-odd back numbers still required to complete the entire sets. The appropriation of $64,000 only covered a part of the sets, and this item, as the Senator from Georgia will see, is for the balance of the sets.

Mr. SMITH of Georgia. Which item is the Senator referring to now?

Mr. NELSON. It is the item of $74,000.

Mr. SMITH of Georgia. It does not take $74,000 to complete those sets.

Mr. NELSON. I understand from the last statement of the chairman of the committee, and I think it is correct, that $62,000 will complete it.

Mr. SMITH of Georgia. That is, of Federal Reporters?

Mr. NELSON. Yes; the back numbers of the Federal Reporter.

Mr. SMITH of Georgia. Then the back numbers have been lost at the places for which we have been buying them. Is that what is meant?

Mr. WARREN. Oh, no. There are 310 places eligible. There were only furnished under appropriations heretofore 150. That leaves 160 places which would cost $74,000, but at some places they have not a proper building or vault in which to care for them, and so in the later consideration of the department they say that could be reduced to $62,000, and it will cover so many of the 160 places as they can take care of.

Mr. SMITH of Georgia. How many places will they have? Can the Senator tell me?

Mr. WARREN. The report states either 150 or within two or three of it.

Mr. SMITH of Georgia. That number were bought by the appropriation last year?

Mr. WARREN. That is what I said.

Mr. SMITH of Georgia. But there were a large number already receiving them.

Mr. WARREN. That is what I stated. Those were furnished last year and the other 160 or so are still unfurnished.

Mr. HEYBURN. I will say we have only recently inaugurated the system of furnishing these sets. So that accounts for the fact that there were only a few places that had full sets of the Federal Reporter.

Mr. SMITH of Georgia. The district judges at their chambers have been receiving them, and they are found there stamped "United States property." I never called at a district judge's main office and asked for the Federal Reporter that I did not find the Federal Reporter with "United States Government" stamped on.

Mr. HEYBURN. That is, in recent years.

Mr. SMITH of Georgia. I find the back volumes there. I am opposed to appropriating $74,000 for additional Federal Reporters. If you will turn to section 229 of the judiciary code, you will observe that the additional places named are about 16. I do not know where they are going; the Senate does not know.

Mr. WARREN. I have stated that we have the direct statement of the executive officer of the department, to whom I gave notice on Saturday that I should want the latest information, and direct and accurate information, and I am giving the Senator the benefit of that as to 150 having been furnished.

Mr. SMITH of Georgia. Where are they?

Mr. WARREN. I did not get a list of them. One hundred and sixty are unprovided for, and the law provides altogether for 310 depositaries.

Mr. SMITH of Georgia. Under section 129 of the judiciary code I do not see how 310 sets could possibly be used. If we are furnishing 157, I think that is plenty. I do not see how this section 129 of the judiciary code provides for such a large number.

Mr. WARREN. I see in the hearings here that it is given:

> Number of places holding United States district court, 310; number of places now supplied with the Federal Reporter, 146; number of places where district judges report they are not desired, 32; number of places where desired but where there are no public buildings at the present time, 16, etc.

Mr. SMITH of Georgia. I am utterly opposed to sending Federal Reporters to every place where a district court is held. The same reason applies to that which is applied to the Supreme Court decisions. To put a full set of Federal Reporters at a place where a court is held for a week is useless. If we furnish a district judge one complete set of Supreme Court Reports and one complete set of Federal Reporters, it is all we ought to do.

Therefore this enlarged number grows out of the purpose to put these volumes at every place where a Federal court is held, although the judge only holds the court for a few days twice a year.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Idaho?

Mr. SMITH of Georgia. I do.

Mr. HEYBURN. I make this suggestion for the consideration of the Senator: These books are furnished to the Government, and is it not a very small number of copies of the laws or decisions of our country even within the largest figures contemplated? They are all the property of the Government. Congress may order that they be sent here or there, but should we have on hand less than 500 sets of the official reports of the decisions of our Federal courts subject to the disposition of Congress at any time now or far in the future? It is a very meager supply of the law to have on hand at the best, and in order to reproduce them in the future, should the Government conclude in the future that a better or wider distribution was desirable, where would we get them unless we have them on hand? Would we start out again to print them? It seems to me that as a matter of fact the Government should have a thousand sets on hand.

Mr. SMITH of Georgia. I do not yield to the Senator longer. He has occupied the floor nearly the whole morning, and he is not elucidating the subject now.

Mr. HEYBURN. Of course if the Senator chooses to indulge in any discourteous criticism about that I will not interrupt him.

Mr. SMITH of Georgia. I did not intend a discourtesy.

Mr. HEYBURN. When I occupied the floor I found it was all right, and I did not object to any interruption.

Mr. SMITH of Georgia. But the Senator is not doing it all right now.

Mr. HEYBURN. I will not interrupt the Senator.

Mr. SMITH of Georgia. Mr. President, the suggestion of the Senator that perhaps the Government ought to have 500 copies of all these decisions I accept, and to that I in no sense objected. But I did not think, as I had the floor, that the Senator ought to go further beyond that suggestion to an elaboration of it.

Mr. HEYBURN. I did not intend to do so.

Mr. SMITH of Georgia. What I meant was that I preferred for him not to elaborate that thought just at this time. I wish again to say that I certainly meant no discourtesy to the Senator.

Mr. HEYBURN. I had no intention of elaborating it. I had concluded.

Mr. SMITH of Georgia. And I would rather yield the floor to the Senator than to have him feel that I meant any discourtesy, because nothing was further from my thought or feeling than anything but the greatest respect for the Senator, which I feel both in the Chamber and outside the Chamber. If my expression or conduct conveyed any other thought, I wish to withdraw it and to publicly disclaim it, for I never meant it and I do not feel it.

I do not think that these reports ought to be distributed all over the country in places where court is not held. I do not think there is any necessity for the National Government to buy great quantities of Federal Reporters and store them away. There are immense quantities of them published; they are found everywhere. It is not essential for the National Government to distribute them in order that access to them may be had.

I understand perfectly now, Mr. President, why these two items that we thought were duplications are found in the amendment, the item of $715 for advance sheets and the $850 item. It is because under lines 15, 16, 17, and 18, by the $74,000 appropriation, a large number of additional sets of reports are to be placed in different parts of the country. The $2,860 appropriated by the other House was intended to continue the sets already distributed; the $715 was intended to obtain the advance sheets for the additional purchases covered by the $2,860; the $74,000 is to distribute additional sets; the $3,400 is to buy the current volumes for the additional sets; and the $850 is to buy the advance sheets for the additional current sets.

I did not understand this on Saturday, and I do not think any of us understood it distinctly Saturday, but I think it is perfectly clear now. I do not know what the contract of the Government is, with reference to the volumes, and therefore I do not know whether we can legitimately insist that the purchase of the volumes for $2 a year carries the advance sheets. The district court judges certainly want the advance sheets, and, if the purchase does not cover them, we ought to add the $715 and buy them, because the district judges ought to have the advance sheets. If we buy these reports for $2 apiece, exclusive of the advance sheets, then we ought to pay the 50 cents extra

and get the advance sheets, because I regard the advance sheets as exceedingly valuable. The truth is the current reading of the judge outside of the permanent examination of the volumes is largely had by the use of the advance sheets. He takes them home and looks over them at night, and in that way keeps right up with the current decisions as rendered. My serious objection is to the items appropriating, respectively, $74,000 and $96,309.50. I do not think it is necessary to buy those additional sets. I do not think we ought to do it. I think it is a waste of money.

Mr. NELSON obtained the floor.

Mr. WARREN. Will the Senator from Minnesota yield to me?

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Wyoming?

Mr. NELSON. I do.

Mr. WARREN. The Senator from Minnesota has carefully looked up this subject; and I think I shall have to suggest the absence of a quorum, so that we may have a full attendance.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Kenyon	Poindexter
Bacon	Cullom	Lippitt	Sanders
Bankhead	Cummins	McCumber	Shively
Borah	Dillingham	McLean	Simmons
Bourne	Fall	Martin, Va.	Smith, Ariz.
Bradley	Fletcher	Martine, N. J.	Smith, Ga.
Brandegee	Gallinger	Massey	Smith, Mich.
Bristow	Gardner	Myers	Smoot
Bryan	Gronna	Nelson	Sutherland
Burnham	Guggenheim	Newlands	Swanson
Burton	Heyburn	Overman	Thornton
Catron	Johnson, Me.	Page	Tillman
Clapp	Johnston, Ala.	Percy	Townsend
Crawford	Jones	Perkins	Warren

The PRESIDING OFFICER. Fifty-six Senators have answered to their names. A quorum of the Senate is present.

Mr. NELSON. Mr. President, I ask the indulgence of the Senate for a brief moment for the purpose of explaining the matters pertaining to these items in the appropriation bill, so far as they relate to the Federal Reporter.

Prior to the publication of the Federal Reporter we had no regular series of reports of the inferior Federal courts—that is, of the courts below the Supreme Court of the United States. There were from time to time in a sporadic manner certain volumes of the reports issued. I can recall some of Story's reports, Woolworth's reports, Curtis's reports, and Dillon's reports, and a few others; but there was no regular series of Federal reports of the inferior courts that the legal profession or the courts could consult. After the Federal Reporter was inaugurated it became very popular with the bar. By and by there came to be a great demand for it among the courts. Finally, some years ago, the Attorney General of the United States recommended, and bills were introduced for that purpose, the distribution of the Federal Reporter to the several United States courts and to certain officials. Several bills, I think four or five, were favorably reported from the Judiciary Committee of the Senate. Two of the bills were passed, providing substantially for the distribution of the Federal Reporter in the manner set forth in section 229 of the judicial code.

The first of these bills which passed was Senate bill 179, favorably reported by the Senator from Idaho [Mr. BORAH] from the Judiciary Committee and passed by the Senate. That bill went to the other House, and there was a favorable report on it there by Mr. Tirrell. It was placed on the calendar, but never passed. Subsequently, in the Sixty-first Congress, third session, another bill was passed by the Senate. That was also favorably reported, but was not passed by the other House. Finally a favorable report was made upon a bill in reference to this matter in the House of Representatives, and the substance of that bill was incorporated in section 229 of the judicial code.

I call the attention of Senators to the limited manner of the distribution provided for in that section as compared with the distribution for the Supreme Court Reports:

SEC. 229. The Attorney General is authorized to procure complete sets of the Federal Reporter or, in his discretion, other publication containing the decisions of the circuit courts of appeals, circuit courts, and district courts, and digests thereof, and also future volumes of the same as issued, and distribute a copy of each such reports and digests to each place where a circuit court of appeals or a district court is now or may hereafter regularly be held, and to the Supreme Court of the United States, the Court of Claims, the Court of Customs Appeals, the Commerce Court, the Court of Appeals and the Supreme Court of the District of Columbia, the Attorney General, the Solicitor General, the Solicitor of the Treasury, the Assistant Attorney General for the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission; and to the Secretary of the Senate, for the use of the Senate, and to the Clerk of the House of Representatives, for the use of the House of Representatives, not more than three sets each.

The Federal Reporter is published in pamphlets such as this [exhibiting]. They are published monthly, and from four to six of these pamphlets make up and constitute a volume. I have in my hand here five sheets, which will constitute when they are bound—and they will soon be bound—volume 194 of the Federal Reporter. The pamphlet copies are called the advance sheets, and when enough of them are issued to form a volume they are bound like this [exhibiting] and distributed to the members of the bar who subscribe for the Federal Reporter. At an early date my recollection is members of the bar had to pay $4 a volume for the Reporter with the advance sheets. I understand that at the present time they secure those volumes and the advance sheets for three dollars and a half. The publishers of the Federal Reporter came before the Committee on the Judiciary and stated, "If you will take enough sets, we will furnish them for $2 a volume." Nothing was said about the advance sheets, and so this section of the code was adopted.

The paragraphs in the appropriation bill in relation to this matter cover two items strictly within the law, while three items are not provided for. In the last appropriation bill, that of 1911, we appropriated $64,000 partly to buy back sets of the Reporter to supply 310 places, I think, where court is held. The appropriation of $64,000 was enough to pay for the current Reporter and to supply about half, or a little more than that, of the number of back sets required.

The item in the bill—

To pay for additional books authorized to be furnished under section 229 of the "Act to codify, revise, and amend the laws relating to the judiciary," to remain available until expended, $74,000—

is to complete the sets. It is to provide what you might call the other half of the sets contemplated by section 229, the estimate for which was $74,000, but, as the chairman of the committee has stated, and he scrutinized the matter carefully, it can be reduced to $62,000.

Mr. WARREN. That is right.

Mr. NELSON. The sum of $62,000 is sufficient to cover that. When that $62,000 is appropriated that will be the end of that; that will complete the sets of Federal Reporters in arrears, and all we will hereafter have to appropriate will be for the current volumes.

I am informed that a sufficient number of the advance sheets are published every year to make from four to five volumes of these reports. The number varies, sometimes running up to six and sometimes as low as four. I inquired of the librarian of the Supreme Court to-day, and he said the average might be fairly put at five volumes a year.

When we have once appropriated to complete the sets, which we will do by this small item, as I have said, there will be nothing more to appropriate except from year to year for the current volumes.

The first item in italics, in lines 12, 13, and 14, on page 130, appropriating $715, is to pay for advance sheets. As the Senator from Georgia [Mr. SMITH] has well said, the courts need the advance sheets as much as they need anything at all, and even at 50 cents a volume for the advance sheets they only cost the Government, together with the bound volumes, two dollars and a half, as against three dollars and a half charged to the bar at large; so that the Government is ahead, as compared with the bar, to the extent of at least $1 a volume, even if we pay for the advance sheets.

Mr. OVERMAN. Mr. President, I desire to ask the Senator his view as to two paragraphs here. The Senator will notice the House provision, which is not amended, beginning in line 8, for Federal court reports and digests.

Mr. NELSON. I am coming to that. I am going to discuss that.

Mr. OVERMAN. Very well.

Mr. NELSON. That provision is to provide for the continuation of the fifty-odd volumes of the back numbers published last year.

Mr. OVERMAN. I understand that, but if you will notice the language in line 10.

Mr. NELSON. But the other paragraph to which the Senator refers, the appropriation of $3,400, which, as I understand, the Senator from Wyoming intends to reduce by an amendment, relates to the volumes to be furnished under the paragraph immediately preceding. I call the attention of the Senator to lines 15, 16, and 17. The chairman of the committee proposes to offer an amendment reducing the appropriation there to $62,000, and that amount will complete the sets with the back numbers. The paragraph following that is to supply the current numbers.

Mr. OVERMAN. I understand that, but I want to ask the Senator is it necessary that we should appropriate this large amount of money? The Senator's bill, as I remember, as it

came before the committee provided for the distribution of some 300 copies.

Mr. NELSON. About 300.

Mr. OVERMAN. Now, it is proposed to add to that, so as to make the number about 700, is it not?

Mr. NELSON. That is a different matter; that relates to Supreme Court reports. This refers to the volumes of the Federal Reporter, which are published at St. Paul by the West Publishing Co. I am not discussing that now.

Mr. OVERMAN. Well, $74,000, as I understand, is for the Supreme Court reports.

Mr. NELSON. It is for the Federal Reporter; but the chairman of the committee informs me that that amount can be reduced and ought to be reduced to $62,000, and that will complete the entire set, and there will be nothing more to supply in future except the current numbers.

The paragraph included in lines 12, 13, and 14, on page 130, is not within the law, and the same may be said of the paragraph included in lines 23, 24, and 25, which is of the same character. Those paragraphs relate to the advance sheets, and there is no law requiring them, but I think we are all agreed that the courts ought to have the advance sheets, particularly when they can get them at 50 cents a volume. The provision on the next page, to enable the Attorney General to furnish complete sets to district attorneys, and so forth, is entirely new legislation. There is no law for it; it stands on a distinct and separate footing; but every paragraph on page 130, except those relating to the advance sheets, is strictly within and in pursuance of the law. I submit to Senators after the publishers have agreed to furnish those volumes for $2 apiece, as against $3.50 to the profession, that they are entitled to furnish the number for which the law provides, and it would not be anything more than fair and equitable to make such provision. Only a little over 300 copies of the Federal Reporter are called for, as against nearly 800 of the reports of the Supreme Court of the United States.

Mr. OVERMAN. Can the Senator tell me how many district courts there are in the United States?

Mr. NELSON. I can not give the exact number, but the number of reports to be distributed under section 229 is a little over 300.

Mr. OVERMAN. Does that mean to every place where court is held?

Mr. NELSON. It means where court is held; where there is a courthouse.

Mr. OVERMAN. Does the Senator think that we ought to furnish judges with these reports?

Mr. NELSON. No reports are furnished to the judge. It is not like the other provision as to the Supreme Court Reports. I will read the provision.

Mr. OVERMAN. Yes; I understand that, if the Senator please. But I was asking his opinion whether we ought to send the Supreme Court Reports to every little town where court is held.

Mr. NELSON. That paragraph does not give the Federal Reporter to the judges and it does not give them to a lot of other officials who receive the reports of the Supreme Court of the United States; in other words, the Federal Reporter is not distributed to half as many as are the Supreme Court reports—less than half, I think, or about 310 as against 780, or something of that kind. I am not absolutely certain as to the figures.

To sum up, Mr. President, the appropriations on page 130, with the exception of two, are strictly in pursuance of existing law and ought to be provided for in the bill. As to the two small items, one of $715 and the other of $850, which the chairman has given notice that he will move to reduce, there is no existing law, but all who are acquainted with judicial proceeding feel that the judges and others who get the Federal Reporter ought to have the advance sheets.

As I said a moment ago, they cost only 50 cents a year, and, including the advance sheets, the cost of the Federal Reporter is only $2.50 to the Government, as against $3.50 to private parties and to the bar at large. As to the matter of distributing them among district attorneys, I have nothing to say.

Now, I will just add one word about the Supreme Court Reports. Originally 300 copies of the Supreme Court Reports, under the Revised Statutes, were distributed through the Secretary of the Interior, and a section of the Revised Statutes prescribed the persons to whom and the places to which those 300 copies should be distributed.

Afterwards, in 1891, I think, the statute was amended so that we added 76 copies of the Supreme Court Reports. So, before the judiciary code was enacted, the total number of the reports distributed under the law, as near as I can recall, was 376 volumes. Under the Revised Statutes a part of those were distributed through the Attorney General's office, and the remainder through the Secretary of the Interior. By the act of 1909 the entire distribution was committed to the Secretary of the Interior.

Now, the judiciary code, in sections 227 and 228, changed that entirely. It took it away from the Interior Department and left it with the Attorney General, and more than double the number of reports are distributed—that is, it left it 775 or seven hundred and eighty-odd as against 376. That is the distinction.

The Federal Reporter is published by the West Publishing Co., at St. Paul. The Supreme Court Reports are published by Banks & Co., of New York.

There is another item here, which was in the House bill, providing for 15 copies of what is called the lawyer's cooperative edition. There is no existing law for that publication as there is for the Supreme Court Reports and the Federal Reporter.

By the sundry civil bill of March 4, 1911, provision was made for the purchase of 15 copies, and, as the Senator from North Carolina well remarked a moment ago, when I called attention to the fact, that was not a continuing or existing law. It only covered that appropriation.

So it seems to me, to sum up in reference to the Federal Reporter, that all the items except those for the advance sheets and for the United States attorneys are strictly within the law and are called for by existing law.

As to the two small items for the advance sheets, while they are not provided for by existing law, I think we are all agreed that they ought to be purchased at the price at which they can be obtained.

As to supplying 300 copies to the district attorneys, that is a matter for the House. I have no recommendation to make in that respect. While I think it would be some help to the United States attorneys, in view of the fact that the reports are distributed among the courts, they can probably get along without them. I say that although these reports are published in my own State, and I want to say in all candor to the Senate that while I think the district attorneys would be glad to receive those reports, I do not regard them as a necessity for them.

Mr. OVERMAN. Mr. President, I appreciate what the Senator from Minnesota [Mr. NELSON] has said in regard to the reports, but I disagree with him as to the advance sheets. These reports are to go to every district court of the United States. Take my State. There is a court to be held at Raleigh, one at Washington, one at Beaufort, and so on. Those advance sheets will be sent to every place. Who will ever see them? The judge lives at Wilson. There is no court held there. He might direct the clerk to send them from Raleigh. What is the use of sending them to Beaufort, or Washington, or any other place? Nobody is going to read them. They will be in the courthouse. The judges are not there. There is nobody there but the clerk.

Therefore I am going to make the point of order against the amendment on page 130, comprised in lines 12, 13, and 14, and the further amendment contained in lines 23, 24, and 25 on the same page.

Mr. CULBERSON. On what page?

Mr. OVERMAN. On page 130.

I make the point of order against the amendment in lines 12, 13, and 14, on page 130, that it is not provided for by existing law.

Mr. WARREN. But it is an appropriation which is duly estimated for from the proper quarter and is recommended here by a standing committee, and therefore is in order.

Mr. OVERMAN. Let us see about that. It says here, under Rule XVI, section 3, if I recollect aright—

No amendment which proposes general legislation—

This is general legislation—

shall be received to any general appropriation bill.

Mr. WARREN. This is a direct appropriation and is not general legislation. It provides for a certain sum of money for a given time for a certain purpose.

Mr. OVERMAN. It provides for sending out these reports and, I think, is objectionable to the rule.

The PRESIDENT pro tempore. Does the Chair understand the Senator from Wyoming to say that the appropriation is estimated for?

Mr. WARREN. It is estimated for in proper form and is published in the original Book of Estimates of the Treasury Department for the current year on page 435.

Mr. OVERMAN. But the estimate is not based on any law now in existence.

The PRESIDENT pro tempore. The Chair is of the opinion that the point of order is not well taken, and overrules it.

The question is on agreeing to the first amendment, which will be stated.

Mr. CULBERSON. Mr. President, I have been in and out of the Chamber this morning, and I do not know what has been said or what has been done with reference to the proposed amendment in lines 1, 2, and 3, on page 131.

Mr. WARREN. While the Senator was out I proposed to amend these amendments in several places. That one I propose to strike out.

Mr. CULBERSON. Because it is not based upon existing law, I presume.

Mr. WARREN. And I also propose to strike out lines 12, 13, and 14, on page 131, and I propose to reduce the amounts in three other places, as we come to them.

Mr. CULBERSON. All right. I will listen to the amendments.

The PRESIDENT pro tempore. The first amendment will be stated.

The SECRETARY. On page 130, after line 11, it is proposed to insert:

To pay the publishers of the Federal Reporter for advance sheets during the fiscal year commencing July 1, 1912, $715.

The PRESIDENT pro tempore. The question is on agreeing to the amendment. [Putting the question.] The Chair is in doubt. It will again put the question. [Putting the question.] The ayes appear to have it. The ayes have it, and the amendment is agreed to.

The next amendment was on page 130, after line 14, to insert:

To pay for additional books authorized to be furnished under section 229 of the "Act to codify, revise, and amend the laws relating to the judiciary," to remain available until expended, $74,000.

Mr. WARREN. I move to amend the amendment by inserting "$62,000" in place of "$74,000."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 130, after line 18, to insert:

To pay the publishers of the Federal Reporter for additional volumes of continuations for the fiscal year commencing July 1, 1912, to remain available until expended, $3,400.

Mr. WARREN. In place of "$3,400" I move to insert "$2,900."

The amendment to the amendment was agreed to.

Mr. JONES. After the word "twelve," in line 21, I desire to offer an amendment, to insert the words "including advance sheets."

Mr. WARREN. I will say to the Senator that this is the lowest sum at which the publishers will furnish the books themselves. We have reduced that amount. Now, I wish to say, for perhaps the Senator did not hear it, that the advance sheets will not be furnished when we pay only $2 for the volume. That is the determination, and it has been agreed upon. It is a mere matter whether you want the advance sheets or not.

Mr. JONES. Agreed upon between whom?

Mr. WARREN. That is the law.

Mr. JONES. My contention is that ordinarily wherever the publishers agree to furnish bound volumes they furnish advance sheets. I had a copy of the advance sheets here a moment ago.

Mr. WARREN. But they do not furnish the bound volume at $2.

Mr. JONES. They give the Government a special price because of the large number ordered.

Mr. WARREN. It is a special price, it being $2.50 for the volume and the advance sheets, while the commercial rate is $3.50.

Mr. JONES. I am satisfied the publishers will be glad to furnish the advance sheets with these volumes at $2 per volume.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Washington [Mr. JONES] to the amendment.

Mr. WARREN. I hope the amendment will not prevail, because if we are going to make fish of one and fowl of the other it will create confusion.

Mr. CULBERSON. Mr. President, I certainly hope the amendment proposed by the Senator from Washington will be adopted. This is an extraordinary sum of money we are appropriating for these publications, and the publishers ought to be required, at the price named, to include the advance sheets. It will cost very little money to them, and I agree with the Senator from Washington that the amendment ought to be adopted.

Mr. WARREN. Does the Senator think that 150 courts ought to have the advance sheets and the other 150 should not? That is what the amendment will provide.

Mr. CULBERSON. I presume an appropriate amendment will be offered as to the other in due time.

Mr. WARREN. The other has already been passed upon.

Mr. CULBERSON. But the bill has yet to go into the Senate.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Washington [Mr. JONES] to the amendment. [Putting the question.] The Chair is in doubt.

Mr. ASHURST. I ask for a division.

There were on a division—ayes 15, noes 16.

So the amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee as amended.

Mr. SMITH of Georgia. I ask for a division.

The PRESIDENT pro tempore. A division is demanded.

Mr. CULBERSON. May I make an inquiry with respect to the parliamentary situation? The proposition is on the amendment in lines 19 to 22, inclusive, and the amendment reduces it to $2,900.

The PRESIDENT pro tempore. It is.

There were on a division—ayes 15, noes 10.

So the amendment as amended was agreed to.

The next amendment was, on page 130, after line 22, to insert:

To pay the publishers of the Federal Reporter for advance sheets during the fiscal year commencing July 1, 1912, to remain available until expended, $850.

Mr. WARREN. I move to strike out "$850" and insert "$725."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, at the top of page 131, to insert:

To enable the Attorney General to furnish complete sets, continuations, and advance sheets of the Federal Reporter and digests to United States district attorneys, $38,000.

Mr. WARREN. I ask the Senate to disagree to the amendment.

The amendment was rejected.

The next amendment was, on page 131, after line 3, to insert:

Supreme Court Reports: To pay for complete sets and additional volumes, as issued, of the Supreme Court Reports and digests thereof, authorized to be furnished under sections 227 and 228 of the "Act to codify, revise, and amend the laws relating to the judiciary," to remain available until expended, $96,309.50.

Mr. OVERMAN. I move to amend that paragraph by striking out the total, "$96,309.50," and inserting in lieu thereof "$70,000," and also the words "*Provided*, That the Supreme Court Reports and Digests shall not be distributed to United States district attorneys."

We have stricken out, on page 131, from lines 1, 2, 3, and provided that the reports should not be furnished to them, and for the same reason I do not want to see the United States Supreme Court Reports furnished to the district attorneys. I therefore move an amendment to strike out the total as it appears in the amendment and to make it $70,000 instead of $96,000.

Mr. WARREN. Mr. President, they have been furnished under the old laws. A part of this now goes to them.

Mr. OVERMAN. I think not.

Mr. WARREN. Oh, yes; they have always been furnished.

Mr. OVERMAN. They ought not to be furnished the United States Supreme Court Reports. I will venture the assertion that if they have been furnished none of them has a complete set. They hold office for only four years.

If we furnish a lawyer with a set of Supreme Court Reports, what becomes of them? He has no vault to put them in. Other lawyers borrow them, and every man has an incomplete set; and we are asked to appropriate money here every year in an appropriation bill to supply these complete sets.

Are you going to furnish a district attorney, a man that probably does not have his office at the courthouse, the United States Supreme Court Reports? If he has not got them in his own library, he ought not to be appointed to the position. Nine-tenths of the lawyers who are appointed United States district attorneys already have the Supreme Court Reports.

Mr. WARREN. Mr. President, so far as my observation goes almost all of the district attorneys have their offices in public buildings, and have vaults there. Besides, these books are all stamped and labeled as property of the United States and can not be dissipated or hawked around.

Mr. OVERMAN. If they do have their offices in public buildings, the reports are right there, where they can just step across the hall and get all they want.

Mr. WARREN. Let me say another thing: There is not any question about these being provided in the new law or codification of the law.

Mr. OVERMAN. I understand they have been provided. They have been added. I am answering what the Senator says. He says that in nine cases out of ten the district attorneys have their offices in the courthouses. If they do, the Supreme Court Reports are always in the room next to the judge's chamber, and in addition to that the judge has them. There are two complete sets. What do you want to furnish him another set for?

Mr. WARREN. There are several courthouses in one district, for that matter. If the Senator will make his amendment, say, $75,000, and not put in any language at all—not bar out district attorneys—I will accept the amendment. Otherwise I can not accept his amendment.

Mr. SMITH of Georgia. That is too much.

Mr. OVERMAN. I will first offer it with that amendment, $75,000; but I intend to offer the other, and I hope the Senator will accept it.

Mr. SMITH of Georgia. I wish to suggest to the Senator from North Carolina that $16,000 is all it ought to be. There is no occasion for sending them to the district attorneys, and there is no occasion for sending them to these small subdivisions of the districts. There is $80,000 appropriated here for those purposes, and the bulk of it is for these extra courthouses scattered over the districts. Sixteen thousand dollars is every dollar that ought to be appropriated. If the Senator will make his amendment $16,000 instead of $96,000, I think we ought to have a yea-and-nay vote on it.

Mr. OVERMAN. I read from the hearings this morning that we are proposing to do something that is not wanted. In my State alone there are three courts held where the judge and clerk have reported that they do not need these books and do not want them, because the judge is supplied with them in other places, and the attorneys are supplied with them. They do not want them there, and yet it is proposed to send them there anyhow. It is proposed to appropriate all this money to send them books that they do not want.

Mr. FALL. Mr. President, even admitting that each district attorney should have a set of these very necessary reports, I think that of the 300 sets which are given to the United States for free distribution there would be enough to go to the district attorneys, if it were not for the fact that each assistant to the Attorney General of the United States must have a separate set of these books; and not only that, but each assistant secretary of each executive department of the United States under this law must have a separate set.

Mr. OVERMAN. Is that included in this $96,000?

Mr. FALL. That is included, I suppose, in the 300 sets for free distribution.

Mr. OVERMAN. We ought to knock it all out. The idea of sending these books to the assistant secretaries of the various departments and spending thousands and thousands of dollars to give them sets of reports that they never read and never look at! I admit that some of the Assistant Attorney Generals ought to have them, but there are so many Assistant Attorney Generals now that I think they ought to be limited.

I am going to offer this amendment in order to get it before the Senate, and then the Senator can offer his amendment to strike out the total:

Provided, That the Supreme Court Reports and Digests shall not be distributed to the United States district attorneys.

I offer the amendment stated and also one to reduce the appropriation from $96,000 to $70,000.

Mr. WARREN. Mr. President, in view of the many views that have been expressed I hope that no amendment whatever will be adopted, and that the amount will be sustained as it is.

The PRESIDENT pro tempore. The amendment submitted by the Senator from North Carolina will be stated.

The SECRETARY. On page 131, line 10, it is proposed to strike out the total, $96,309.50, and insert $70,000, and the following:

Provided, That the Supreme Court Reports and Digests shall not be distributed to the United States district attorneys.

Mr. SMITH of Georgia. I think we ought to have a division on that amendment, Mr. President.

Mr. FALL. Mr. President, I rise to a parliamentary inquiry. In the event that this amendment should be adopted, would the amendment of the Senator from Georgia, to fix the amount at $16,000, be in order?

The PRESIDENT pro tempore. It would be in order.

Mr. FALL. Not until we get in the Senate?

Mr. OVERMAN. Yes, it would.

Mr. CULBERSON. Mr. President, I think the Senator did not understand the ruling of the Chair. That amendment would be in order after the vote on the amendment of the Senator from North Carolina.

The PRESIDENT pro tempore. It would not be in order now.

Mr. CULBERSON. That was not the inquiry. The inquiry was whether it would be in order after the amendment of the Senator from North Carolina is acted upon.

The PRESIDENT pro tempore. The Chair has stated that it would be in order. The question is upon the amendment offered by the Senator from North Carolina to the amendment. [Putting the question.] The noes appear to have it.

Mr. OVERMAN. I ask for a division.

Mr. SMITH of Georgia. Which one of the amendments is it that we are voting on?

Mr. OVERMAN. The one that proposes to strike out $96,309.50 and insert $70,000, and also to insert:

Provided, That the Supreme Court Reports and Digests shall not be distributed to the United States district attorneys.

There were, on a division—ayes 12, noes 17.

Mr. OVERMAN. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). Mr. President, I have a general pair with the junior Senator from West Virginia [Mr. CHILTON]. I therefore withhold my vote.

Mr. HEYBURN (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. I see he is not in the Senate Chamber, and I therefore withhold my vote, not knowing how he would vote on this question.

Mr. JOHNSON of Maine (when his name was called). I have a pair with the senior Senator from New York [Mr. ROOT]. I transfer that pair to the Senator from Nebraska [Mr. HITCHCOCK] and vote. I vote "yea."

Mr. SHIVELY (when Mr. KERN's name was called). My colleague [Mr. KERN] is unavoidably detained from the Senate. He is paired with the junior Senator from Tennessee [Mr. SANDERS]. I desire this announcement to stand for the day.

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA]. In his absence, I withhold my vote.

Mr. SANDERS (when his name was called). I am paired with the junior Senator from Indiana [Mr. KERN]. I therefore withhold my vote.

Mr. SMITH of Michigan (when his name was called). I am paired with the junior Senator from Missouri [Mr. REED]. If he were present, I would vote "nay."

Mr. WETMORE (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. CLARKE]. I therefore withhold my vote.

The roll call was concluded.

Mr. MCCUMBER (after having voted in the negative). I observe that the senior Senator from Mississippi [Mr. PERCY] has not voted, so, as I have a pair with him, I withdraw my vote.

Mr. BURNHAM. I have a general pair with the junior Senator from Maryland [Mr. SMITH]. In his absence, I withhold my vote.

Mr. GORE. I have a pair with the junior Senator from Massachusetts [Mr. CRANE]. I transfer the pair to the senior Senator from Nevada [Mr. NEWLANDS] and vote. I vote "yea."

Mr. CULBERSON. I have refrained from voting because of the absence of my pair, the Senator from Delaware [Mr. DU PONT]. If I were at liberty to vote I would vote "yea."

Mr. BRANDEGEE (after having voted in the negative). I observe that the junior Senator from New York [Mr. O'GORMAN], with whom I have a general pair, has not voted. I will therefore transfer my pair to the senior Senator from South Dakota [Mr. GAMBLE] and allow my vote to stand.

Mr. BRADLEY. I am paired with the senior Senator from Maryland [Mr. RAYNER], but for which I would vote "nay." Under the circumstances, I withhold my vote.

Mr. LODGE. The Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON].

The Senator from Nebraska [Mr. BROWN] is paired with the Senator from Oklahoma [Mr. OWEN].

The Senator from Wyoming [Mr. CLARK] is paired with the Senator from Missouri [Mr. STONE].

The Senator from Kansas [Mr. CURTIS] is paired with the Senator from Arkansas [Mr. DAVIS].

The Senator from Montana [Mr. DIXON] is paired with the Senator from Texas [Mr. BAILEY].

The Senator from Colorado [Mr. GUGGENHEIM] is paired with the Senator from Kentucky [Mr. PAYNTER].

The Senator from Pennsylvania [Mr. OLIVER] is paired with the Senator from Oregon [Mr. CHAMBERLAIN].

The Senator from Pennsylvania [Mr. PENROSE] is paired with the Senator from Mississippi [Mr. WILLIAMS].

The Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH].

Mr. CULLOM. I am informed that I can transfer my pair to the Senator from Delaware [Mr. DU PONT] and vote. I vote "nay."

Mr. CULBERSON. Under that arrangement I transfer my pair to the Senator from West Virginia [Mr. CHILTON], and vote "yea."

The result was announced—yeas 27, nays 21, as follows:

YEAS—27.

Ashurst	Fletcher	Martine, N. J.	Smith, Ariz.
Bacon	Gardner	Myers	Smith, Ga.
Bristow	Gore	Overman	Swanson
Bryan	Johnson, Me.	Poindexter	Thornton
Culberson	Johnston, Ala.	Pomerene	Tillman
Cummins	Kenyon	Shively	Works
Fall	Martin, Va.	Simmons	

NAYS—21.

Bourne	Dillingham	Massey	Sutherland
Brandegee	Gallinger	Nelson	Townsend
Burton	Gronna	Page	Warren
Catron	Jones	Perkins	
Clapp	Lodge	Smoot	
Cullom	McLean	Stephenson	

NOT VOTING—46.

Bailey	Crawford	Lea	Richardson
Bankhead	Curtis	Lippitt	Root
Borah	Davis	McCumber	Sanders
Bradley	Dixon	Newlands	Smith, Md.
Briggs	du Pont	O'Gorman	Smith, Mich.
Brown	Foster	Oliver	Smith, S. C.
Burnham	Gamble	Owen	Stone
Chamberlain	Guggenheim	Paynter	Watson
Chilton	Heyburn	Penrose	Wetmore
Clark, Wyo.	Hitchcock	Percy	Williams
Clarke, Ark.	Kern	Rayner	
Crane	La Follette	Reed	

So Mr. OVERMAN'S amendment to the amendment was agreed to.

Mr. FLETCHER. I would offer a further amendment to this effect at the conclusion of line 10: "Wherever the Federal Reporter and advance sheets of the Federal Reporter are provided for, the decisions of the Circuit Court of Appeals shall not be separately furnished." It will save the furnishing of duplicates.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. At the end of the amendment insert:

Wherever the Federal Reporter and advance sheets of the Federal Reporter are provided for, the decisions of the Circuit Court of Appeals shall not be separately furnished.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. WARREN. I ask that lines 11, 12, and 13 on page 131 be stricken out.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Strike out lines 11, 12, and 13, on page 131, as follows:

For 15 copies of volume 56 of the lawyers' cooperative edition, at $5 per volume, in addition to the distribution made by the Interior Department, $75.

The PRESIDENT pro tempore. The question is upon the amendment striking out the paragraph which has been read.

The amendment was agreed to.

The next amendment was, on page 132, line 22, after the word "Alaska," to strike out "$550,000" and insert "$568,000," so as to read:

For salaries of United States district attorneys and expenses of United States district attorneys and their regular assistants, including the office expenses of United States district attorneys in Alaska, $568,000.

The amendment was agreed to.

The SECRETARY. On page 133, line 7——

Mr. CULBERSON. There is another amendment on page 132, line 8.

Mr. WARREN. I will say that perhaps the Senator did not notice that we had passed to this point and turned back to the other.

The PRESIDENT pro tempore. The other amendment on page 132 was formerly agreed to.

Mr. WARREN. While the Senator from Texas is here I should like to turn back to the amendment on pages 125 and 126. It was under consideration for a few moments on Saturday and was laid over. I will ask that the letter which I send to the desk, which is a short one, from the Attorney General be read with reference to the paragraph.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL.
Washington, D. C., July 22, 1912.

Hon. FRANCIS E. WARREN,
United States Senate.

DEAR SENATOR WARREN: I notice in the RECORD of Saturday the discussion over the amendment under the subhead "Miscellaneous Objects, Department of Justice," on page 125, after line 15, of the sundry civil bill. May I point out just what that amendment does and the purpose of its introduction?

The amendment forbids the application of any of the appropriations mentioned in it to the payment of any compensation, by way of salary, fee, or allowance in any form (1) to any person who holds any other office, place, position, or appointment under the Government or any department of it, or (2) to any one hereafter appointed, designated, or employed who, within two years next preceding the day of his appointment, etc., has held any other office, place, position or appointment under the Government or a department of it.

The effect of the first prohibition would be to make it impossible to employ any person connected with any other department of the Government as an expert or as an attorney, or in any other capacity. For example, it would prohibit the department from having a bank examiner or a geological expert, or any other official or employee delegated from any other department of the Government to the Department of Justice if his compensation is paid out of one of these funds. It would also prevent a district attorney who, under the law, is not required to go out of his own district, being designated to conduct a particular inquiry or case in another district and being paid even his traveling expenses for so doing.

The second prohibition would make it impossible to retain a lawyer in any lawsuit for the Government who, within two years previously, had been retained in any other lawsuit. It would make it impossible to promote from one branch of the service to another a lawyer who had demonstrated his fitness for promotion if in his new position he would be paid from any one of these appropriations. In other words, for the purpose of preventing one or two alleged abuses in the employment of officials who had received other compensations under the Government in particular cases which resulted in their earning a compensation in excess of that which they had received in those positions, this amendment proposes to tie the hands of the Department of Justice by depriving it of the advantage of the knowledge and experience which may have been acquired by a former official of the Government until he shall have been two years out of the service.

On all of these grounds I sincerely hope you will succeed in persuading the Senate to adopt the committee's motion to strike out this provision.

Faithfully, yours, GEO. W. WICKERSHAM,
Attorney General.

Mr. CULBERSON. Mr. President, I do not believe this provision of the bill as it passed the House should be stricken out. It is true there may be instances in which it will operate to the disadvantage of the Department of Justice and to the embarrassment of private persons, but I would rather see the provision incorporated in the law, drastic as it is, than stricken out altogether, putting nothing in its place.

The three cases which provoked this legislation, without calling names, are these: One was that of a United States district attorney in the State of New York who had as district attorney engaged somewhat in the prosecution of the Sugar Trust. He resigned his office as district attorney, where his salary was $10,000 a year, and was paid in the neighborhood of $60,000 out of such a lump-sum appropriation as a special prosecutor in the Sugar Trust cases.

The other two cases were of Assistant Attorneys General employed in the Department of Justice at Washington, and in cases where they had been employed as Assistant Attorneys General they were permitted to resign those positions and receive appointments as special prosecutors in trust cases and paid sums far in excess of the salary they were receiving as Assistant Attorneys General.

It is a little difficult, at least to me, to find some middle ground by which the Government, in the Department of Justice, would not be crippled and yet we would prevent a repetition of this favoritism to officials under the direction and control of that department. In the hope that some Senator may suggest a way out of the difficulty and yet not strike this provision from the bill altogether, if my proposition is not satisfactory, I suggest that the provision be allowed to remain in the bill and that the following amendment to it be adopted.

The PRESIDENT pro tempore. The proposed amendment will be read.

The SECRETARY. Add at the end of line 11, page 126, the following proviso:

Provided, That this inhibition shall not apply except in cases where the persons appointed, designated, employed, or paid shall have previously rendered service in connection with the same subject matter.

Mr. SMITH of Georgia. I do not think that covers it, Mr. President. I think the amendment should be this:

Provided, however, That anyone engaged in one line of public service may be detailed to another at the same pay.

I do not think a man who has been working as a district attorney for the Government and who has gathered information on a fixed salary ought to be allowed to resign on account of the information that he has obtained as district attorney

and go out and obtain from the Government many times his salary in a single case.

Mr. CULBERSON. The proviso I have suggested is intended to cover that identical case and prohibit the employment. It may not do it, though I think it does, but that is my purpose in presenting it.

Mr. WARREN. I wish to call the attention of my colleague on the committee to this: It seemed to be thought, when we passed over it in subcommittee, that it would require considerable study and reflection in order to cover the very abuses which he has mentioned and yet not to make it too drastic, not to make a sort of monopoly amongst those who had never been in the Government service—that is, not to undertake to debar all those who have ever done service to the Government for two years. In striking it out it was not my intention, and I assume it was not the intention of the Senator from Texas——

Mr. CULBERSON. I have read in the RECORD the remarks the Senator from Wyoming made on Saturday and I agree with him entirely. He stated the entire facts about the reason operating on the committee which led them to strike out this paragraph in reporting the bill to the Senate.

Mr. WARREN. Does the Senator think that if he restores it and adds the amendment he sent to the desk he will feel entirely safe, or as safe as he would if he allowed it all to be cut out? Then, as he knows, he will be one of those who will finally shape it up, and therefore would it not be better to measure up with the House conferees and see if we could not even improve it?

Mr. CULBERSON. I am so much opposed to striking it out altogether that I think it ought to be suitably amended in the Senate, if it can be done, so as to prevent a repetition of such scandals in the Department of Justice.

Mr. WARREN. As I heard the amendment read, it does not remedy what I think we all agree is too drastic, and that is for two years to erect a bar against everyone who has been in the Government service. For instance, a man may have served in the Government service and gone out to private practice. He may have been out a month or 2 months or 20 months. He went out legitimately, with no intention of being employed again. A matter comes up of which he has knowledge and in which he would render great service, and he ought to be reemployed by the Government. Under this provision, put in by the House, he would be debarred from such employment for two full years.

I think that whatever we may do here we ought at least to strike out all of the paragraph, after the word "thereof," in line 6, page 126. It strikes me that the whole of it is dangerous, and not only dangerous but uncalled for.

Mr. JONES. Mr. President, I should like to ask the Senator from Texas whether his amendment—I do not remember its exact language—would debar the employment of a Member of the House or of the Senate whose term would expire on the 4th of March next.

Mr. CULBERSON. Not at all. I will read the amendment again.

Provided, That this inhibition shall not apply except in cases where persons appointed, designated, employed, or paid shall have previously rendered service in connection witht the same subject matter.

Of course it would not apply to a Member of the House or Senate.

Mr. WARREN. If I understand it aright——

Mr. CULBERSON. It means executive service in the Government of the United States.

Mr. JONES. The language of the provision of the House is very broad—

who holds any other office, place, position, or appointment under the United States Government, or any department thereof.

I rather doubt if the limitation the Senator puts on would accomplish exactly what he intended.

Mr. WARREN. I do not believe it covers exactly what the Senator had in mind, because, if I understand it aright, it would debar every man for two years afterwards.

Mr. CULBERSON. I am perfectly willing to cover that, but I do not want anybody to resign after being in the service of the United States on a particular matter and then be employed by special designation at an extraordinary salary, I do not care what his excuse may be for resigning. I know the explanation in these instances is plausible, but it is not acceptable to me.

Mr. SMITH of Georgia. Mr. President, I understand the view of the Senator from Texas is that where a Government employee as a district attorney or Assistant Attorney General has become familiar with a Government case, he should not be permitted to resign and then get an appointment in it on a special fee as a private citizen at a great deal more than his salary, and the object of this qualification is to say that for two years after their resignation men shall not be employed on special fees in cases where they have already familiarized themselves with the case as an incident to their office.

I think another amendment ought to be added to the first part of this paragraph, as suggested by the Attorney General, qualifying the first part of this section. The Attorney General suggests, and suggests very properly, that a case may arise where a man in one line of service is needed over in another line of service and that embarrassment would follow if a change now took place so that the district attorney could not be assigned to work outside of his district. I think there ought to be an amendment added to the first part of the paragraph:

Providing that these changes of work could be made and these assignments outside of their district made at the same pay that they were receiving in the former place.

Mr. WARREN. The Attorney general also mentions bank examiners and others.

Mr. SMITH of Georgia. I had that in view. I think if the Senator will let it go over until to-morrow morning we can then work out some additional amendment that would perfect it on the floor of the Senate. I will try to see if I can not draw an amendment.

Mr. WARREN. I should like to submit that matter to my colleague on the committee from Texas [Mr. CULBERSON]. I am perfectly willing to let it go over if the Senator from Texas will be here to-morrow morning.

Mr. CULBERSON. Very well.

The PRESIDENT pro tempore. Without objection, the amendment will be passed over for the present, and the amendment submitted by the Senator from Texas will be pending.

The next amendment was, on page 133, line 7, after the word "compensation," to strike out "$315,000" and insert "$325,000," so as to make the clause read:

For payment of regular assistants to United States district attorneys who are appointed by the Attorney General, at a fixed annual compensation, $325,000.

The amendment was agreed to.

The next amendment was, on page 133, after line 16, to insert:

On and after July 1, 1912, the clerk of the District Court for the Northern District of Illinois shall be compensated for his services as such clerk as other clerks of United States district courts are compensated.

The amendment was agreed to.

The next amendment was, on page 138, line 11, after the word "transportation," to strike out "$900" and insert "$1,200," and in line 14, after the words "in all," to strike out "$79,280" and insert "$79,580," so as to make the clause read:

For salaries, including pay of officials and employees, as follows: Warden, $4,000; deputy warden, $2,000; chaplain, $1,500; chaplain, $600; physician, $1,600; chief clerk, $1,800; bookkeeper and record clerk, $1,200; stenographer, $900; 4 clerks, at $900 each; head cook, $1,000; steward and storekeeper, $1,200; superintendent of farm and transportation, $1,200; 3 captains of watch, at $1,000 each; guards, at $70 per month each, $52,080; 2 teamsters, at $600 each; engineer and electrician, $1,500; assistant engineer and electrician, $1,200, in all, $79,580.

The amendment was agreed to.

The next amendment was, on page 138, line 17, after the word "Kansas," to strike out "$190,080" and insert "$190,380," so as to make the clause read:

In all, for penitentiary at Leavenworth, Kans., $190,380.

The amendment was agreed to.

The next amendment was, on page 139, line 7, after the word "Kansas," to strike out "$2,500" and insert "$3,000," so as to make the clause read:

For hospital supplies, including the same objects specified under this head for the United States penitentiary at Leavenworth, Kans., $3,000.

The amendment was agreed to.

The next amendment was, on page 139, line 21, after the word "Georgia," to strike out "$154,580" and insert "$155,080," so as to make the clause read:

In all, for penitentiary at Atlanta, Ga., $155,080.

The amendment was agreed to.

The next amendment was, on page 140, line 24, after "$9,120," to insert "chief clerk, $1,000"; on page 141, line 9, after the words "board of trustees," to strike out "$600" and insert "$900"; and in line 10, after the words "in all," to strike out "$32,496" and insert "$33,796," so as to make the clause read:

For support of the National Training School for Boys, District of Columbia: For superintendent, $2,500; assistant superintendent, $1,500; teachers and assistant teachers, $9,120; chief clerk, $1,000; storekeeper and steward, $600; matron of school, $600; parole officer, $900; office clerk, $720; assistant office clerk, $480; 6 matrons of families, at $240 each; foremen of and skilled helpers in industries, $3,800; farmer, $600; assistant farmer, $420; teamster, $360; florist, engineer, and shoemaker, at $540 each; baker and tailor, at $600 each; cook, $480; assistant engineer, $420; laundress, $360; dining-room attendant, boys, $300; dining-room attendant, officers, $240; house-

maid, $216; seamstress, $240; assistant cook, $300; nurse, $600; watchmen, not to exceed 8 in number, $2,880; secretary and treasurer to board of trustees, $900; in all, $33,796.

The amendment was agreed to.

The next amendment was, on page 142, line 1, after the words "School for Boys," to strike out "$47,996" and insert "$49,296," so as to make the clause read:

In all, for National Training School for Boys, $49,296.

The amendment was agreed to.

The next amendment was, under the head of "Under the Department of Commerce and Labor," subhead "Lighthouses, beacons, and fog signals," on page 142, after line 10, to insert:

Cape St. Elias Light Station, Alaska: No. 6. For establishing a light and fog signal at or near Cape St. Elias, Alaska, $115,000.

The amendment was agreed to.

The next amendment was, under the subhead "Lighthouse Service," on page 144, line 5, to increase the total appropriation for general expenses, Lighthouse Service, from $2,569,400 to $2,609,400.

The amendment was agreed to.

The next amendment was, on page 144, line 12, after the word "necessary," to strike out "$1,007,420" and insert "$957,420," so as to make the clause read:

Salaries, lighthouse vessels: For salaries and wages of officers and crews of light vessels and lighthouse tenders, including temporary employment when necessary, $957,420.

The amendment was agreed to.

The next amendment was, on page 144, line 19, after the words "District of Columbia," to strike out "$465,960" and insert "$475,960," so as to make the clause read:

Salaries, Lighthouse Service: For salaries of 17 lighthouse inspectors and of clerks and other authorized permanent employees in the district offices and depots of the Lighthouse Service, exclusive of those regularly employed in the office of the Bureau of Lighthouses, Washington, D. C., $475,960.

The amendment was agreed to.

The next amendment was, on page 144, after line 19, to insert:

Retired officers of the Navy shall be eligible for appointment as lighthouse inspectors; and whenever vacancies occur in the position of lighthouse inspector elsewhere than in the districts which include the Mississippi River and its tributaries retired naval officers, who, as such officers, have had recent experience in the duties of lighthouse inspector, shall be given preference for appointment to fill said vacancies; and retired officers of the Navy so appointed to the Lighthouse Service shall have all the rights and privileges enjoyed by civilians heretofore or hereafter appointed to be lighthouse inspectors, and shall be held as entitled to like benefits of precedence, tenure of office, and pay for services rendered in such capacity.

Mr. BURTON. I raise the point of order that that is contrary to existing law. It is clearly contrary to the act of June 17, 1910, which reorganized the Lighthouse Service.

Mr. NELSON rose.

Mr. BURTON. If the Senator from Minnesota [Mr. NELSON] will pardon me, I take it he intended to raise the same point of order.

Mr. WARREN. I will ask if the Senator will withhold the point of order for a moment? I have an amendment to offer which may or may not be satisfactory to the Senator. On line 24 I intended to add "all other things being equal"——

Mr. BURTON. I think it would be quite as objectionable; in fact, in some particulars somewhat more objectionable.

The PRESIDENT pro tempore. The Chair assumes that the Senator from Ohio makes the point of order that this is general legislation.

Mr. BURTON. In the act of 1910 to reorganize the Lighthouse Board there is an express provision that Army and Navy officers may be detailed for a period not exceeding three years from the taking effect of the section. That is in section 11. The act was approved June 17, 1910. That is a limitation on the appointment of Army and Navy officers in the service, and this would be directly contrary to that enactment.

The PRESIDENT pro tempore. On the ground that this is general legislation, the point of order is sustained.

The next amendment was, under the subhead "Coast and Geodetic Survey," on page 147, line 18, after "$3,000," to insert "*Provided*, That 10 per cent of the foregoing amounts shall be available interchangeably for expenditure on the objects named, but no more than 10 per cent shall be added to any one item of appropriation," so as to make the clause read:

For objects not hereinbefore named that may be deemed urgent, including the preparation or purchase of preliminary plans and specifications of vessels and the actual necessary expenses of officers of the field force temporarily ordered to the office at Washington for consultation with the superintendent, and for the expenses of the attendance of the American delegates at the meetings of the International Geodetic Association, not to exceed $550, $3,000: *Provided*, That 10 per cent of the foregoing amounts shall be available interchangeably for expenditure on the objects named, but no more than 10 per cent shall be added to any one item of appropriation.

The amendment was agreed to.

The next amendment was, on page 148, after line 2, to insert:

Repair of steamer Pathfinder: For extraordinary repairs to the steamer Pathfinder, to be available until expended, $20,000.

The amendment was agreed to.

The next amendment was, on page 148, line 25, after the word "clerks," to strike out "two" and insert "three," so as to make the clause read:

Pay of office force, namely: For disbursing agent, $2,500; chief of division of library and archives, $1,800; clerks—three, at $1,800 each; three, at $1,650 each; four, at $1,400 each; eight, at $1,200 each; five, at $1,000 each; ten, at $900 each; six, at $720 each.

The amendment was agreed to.

The next amendment was, on page 149, line 4, after the word "namely," to strike out "One, $2,400" and insert "Two, at $2,400 each," so as to make the clause read:

For topographic and hydrographic draftsmen, namely: Two, at $2,400 each; one, $2,200; three, at $2,000 each; three, at $1,800 each; three, at $1,600 each; three, at $1,400 each; three, at $1,200 each; five, at $1,000 each.

The amendment was agreed to.

The next amendment was, on page 149, line 21, after "$2,000," to strike out "two" and insert "three"; and in line 23, after the word "each," to insert "One, at $600," so as to make the clause read:

For electrotypers and photographers, plate printers and their helpers, instrument makers, carpenters, engineer, and other skilled laborers, namely: One, $2,400; one, $2,000; three, at $1,600 each; eleven, at $1,200 each; five, at $1,000 each; three, at $900 each; seven, at $700 each; one, at $600.

The amendment was agreed to.

The next amendment was, on page 150, line 4, after the words "office force," to strike out "$192,520" and insert "$198,920," so as to make the clause read:

For watchmen, firemen, messengers, and laborers, namely: Three, at $880 each; four, at $820 each; three, at $720 each; four, at $700 each; two, at $640 each; three, at $630 each; four, at $550 each; in all, pay of office force, $198,920.

The amendment was agreed to.

The next amendment was, on page 150, line 25, after the words "in all," to strike out "$50,000" and insert "$55,000," so as to make the clause read:

Office expenses: For the purchase of new instruments including their exchange, for materials and supplies required in the instrument shop, carpenter shop, and drawing division, and for books, scientific and technical books and journals and books of reference, maps, charts, and subscriptions; for copperplates, chart paper, printer's ink, copper, zinc, and chemicals, for electrotyping and photographing; engraving, printing, photographing, and electrotyping supplies; and for photolithographing charts and printing from stone and copper for immediate use, and for the employment of expert lithographers in the office at an expenditure not exceeding $3,500; for stationery for the office and field parties, transportation of instruments and supplies when not charged to party expenses, office wagon and horses, heating, lighting, and power, telephones, including the operation of switchboard, telegrams, ice, and washing, office furniture, repairs, traveling expenses of assistants and others employed in the office sent on special duty in the service of the office, miscellaneous expenses, contingencies of all kinds, and not exceeding for extra labor, $3,400; in all, $55,000.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Fisheries," on page 156, line 4, before the word "superintendent," to strike out "Fish cultural station, Jefferson County, Ky.," and insert "Louisville (Ky.) Station," so as to make the clause read:

Louisville (Ky.) Station: Superintendent, $1,500; fish culturist, $900; 2 laborers, at $600 each; in all, $3,600.

The amendment was agreed to.

The next amendment was, on page 156, line 11, before the word "Superintendent," to strike out "Fish cultural station, Wyoming" and insert "Saratoga (Wyo.) Station," so as to make the clause read:

Saratoga (Wyo.) Station: Superintendent, $1,500; fish-culturist, $900; 2 laborers, at $600 each; in all, $3,600

The amendment was agreed to.

The next amendment was, on page 156, line 19, after "$1,500," to insert "terrapin and fish culturist, $900," and in line 20, after the words "in all," to strike out "$2,700" and insert "$3,600," so as to make the clause read:

Biological station, Beaufort, N. C.: Superintendent and director, $1,500; terrapin and fish culturist, $900; 2 laborers, at $600 each; in all, $3,600.

The amendment was agreed to.

The next amendment was, on page 157, line 6, after "$2,500," to insert "fish pathologist, $2,500"; and in line 9, after the words "in all," to strike out "$14,000" and insert "$16,500," so as to make the clause read:

Division of inquiry respecting food fishes: Assistant in charge, $2,700; assistant, $2,500; fish pathologist, $2,500; assistant, $1,600, 2 assistants, at $1,200 each; 2 assistants, at $900 each; 1 clerk of class 1; 2 clerks, at $900 each; in all, $16,500.

The amendment was agreed to.

The next amendment was, on page 158, line 16, after the words "Alaska Service," to strike out "$1,200" and insert "$1,500"; in line 17, before the word "each," to strike out "$600" and insert "$900"; and in the same line, after the words "in all," to strike out "$41,530" and insert "$43,030," so as to make the clause read:

Division of Alaska Fisheries: Chief of division, $3,500; assistant, $1,800; clerk of class 2; clerk of class 1; clerk, $900; agent, fur-seal fisheries, $3,650; assistant agent, fur-seal fisheries, $2,920; 2 assistant agents, fur-seal fisheries, at $2,190 each; naturalist, fur-seal fisheries, $3,000; janitor service, fur-seal fisheries, $480; 2 physicians, Pribilof Islands, at $1,200 each; 2 school-teachers, Pribilof Islands, at $1,200 each; storekeeper, Pribilof Islands, $1,800; agent, Alaska salmon fisheries, $2,500; inspector, Alaska salmon fisheries, $1,800; assistant agent, Alaska salmon fisheries, $2,000; assistant agent, Alaska salmon fisheries, $1,800; warden, Alaska Service, $1,500; 4 deputy wardens, Alaska Service, at $900 each; in all, $43,030.

Mr. JONES. I desire to amend the amendment in line 17 to strike out "$900" and insert "$1,200."

The PRESIDENT pro tempore. The amendment of the Senator from Washington will be stated.

The SECRETARY. On page 158, line 17, strike out "$900" and insert "$1,200."

Mr. WARREN. We have raised them 50 per cent.

Mr. JONES. I know that, but there ought not to be that difference between the warden and deputy warden. Furthermore, a deputy warden of any account in Alaska ought to get at least $100 instead of $75 a month

Mr. WARREN. They are there only a small portion of the year.

Mr. JONES. These men are giving special attention to a very important matter. I think if we have one at all he ought to receive $100 a month.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was rejected.

The amendment was agreed to.

The next amendment was, on page 158, line 20, after the word "scientific," to insert "and reference," so as to make the clause read:

Expenses of administration: For expenses of the office of the commissioner, including stationery, scientific and reference books and periodicals, and newspapers, for library, furniture, telegraph and telephone service, repairs to and heating, lighting, and equipment of buildings, and compensation of temporary employees, and all other necessary expenses connected therewith, $10,000.

The amendment was agreed to.

The next amendment was, on page 159, line 6, after the word "labor," to strike out "$325,000" and insert "$340,000," so as to make the clause read:

Propagation of food fishes: For maintenance, equipment, and operations of the fish-cultural stations of the bureau, the general propagation of food fishes and their distribution, including the movement, maintenance, and repairs of cars, purchase of equipment and apparatus, contingent expenses, and temporary labor, $340,000.

The amendment was agreed to.

The next amendment was, on page 159, after line 11, to insert:

Repairs to the Bureau of Fisheries steamer Albatross: For overhauling and making necessary repairs to the Bureau of Fisheries steamer Albatross, including new work where necessary, $40,000.

The amendment was agreed to.

The next amendment was, on page 160, after line 3, to insert:

Ten per cent of the foregoing amounts for the miscellaneous expenses of the work of the bureau shall be available interchangeably for expenditure on the objects named, but no more than 10 per cent shall be added to any one item of appropriation.

The amendment was agreed to.

The next amendment was, on page 161, line 4, after the word "therewith" to strike out "$75,000" and insert "$100,000," so as to make the clause read:

Alaska Fisheries Service: For protecting the seal fisheries of Alaska, including the furnishing of food, fuel, and clothing and other necessities of life to the natives of the Pribilof Islands, Alaska, transportation of supplies to and from the islands, expenses of travel of agents and other employees and subsistence while on the Pribilof Islands, purchase, hire, and maintenance of vessels, including crews for same, and for all other expenses necessary to carry out the provisions of the act of April 21, 1910, entitled "An act to protect the seal fisheries of Alaska and for other purposes"; and for the protection of the salmon fisheries of Alaska, including travel, hire of boats, employment of temporary labor, and all other necessary expenses connected therewith, $100,000.

The amendment was agreed to.

The next amendment was, under the subhead "Miscellaneous objects, Department of Commerce and Labor, immigration stations." on page 161, after line 19, to insert:

For a building on westerly side of main island for use as a carpenter shop, general storeroom, and bakery, $60,000.

The amendment was agreed to.

The next amendment was, on page 161, after line 21, to insert:

For new story on southeast wing of main building, $70,000.

The amendment was agreed to.

The next amendment was, on page 161, after line 23, to insert:

For renovating interior of old hospital on No. 2 Island, including new plumbing and sanitary fittings and new floors, $40,000.

The amendment was agreed to.

The next amendment was, under the subhead "Immigration Service," on page 163, line 17, after the words "Secretary of Commerce and Labor," to strike out "$2,500,000" and insert "$2,575,000," so as to read:

Expenses of regulating immigration: For all expenses of the enforcement of the laws regulating the immigration of aliens into the United States, including the contract-labor laws; for the costs of the reports of decisions of the Federal courts and digests thereof for the use of the Commissioner General of Immigration; for salaries and expenses of all officers, clerks, and employees appointed to enforce said laws; for the enforcement of the provisions of the act of February 20, 1907, entitled "An act to regulate the immigration of aliens into the United States" and acts amendatory thereof; for expenses of necessary supplies, including exchange of typewriting machines, alterations, and repairs, and for all other expenses authorized by said Act; also for preventing the unlawful entry of Chinese into the United States, by the appointment of suitable officers to enforce the laws in relation thereto, and the expenses of returning to China all Chinese persons found to be unlawfully in the United States, including the cost of imprisonment and actual expense of conveyance of Chinese persons to the frontier or seaboard for deportation, and for the refunding of head tax upon presentation of evidence showing conclusively that collection was made through error of Government officers; all to be expended under the direction of the Secretary of Commerce and Labor, $2,575,000.

The amendment was agreed to.

The next amendment was, in the item of appropriation for miscellaneous expenses, Division of Naturalization, to increase the appropriation from $185,000 to $200,000.

The amendment was agreed to.

The next amendment was, under the head of "Department of State," on page 168, after line 11, to insert:

For the payment of necessary expenses incurred and compensation for services rendered under the direction of the Secretary of State in the examination and preparation of cases involving the use, distribution, or diversion of waters, and other questions or matters of difference covered by the treaty of January 11, 1909, between the United States and Great Britain and in representing this Government and the American interests involved in the presentation of such cases before the International Joint Commission constituted under that treaty, so much as may be necessary, to be paid from the appropriation heretofore made for said commission: *Provided*, That any counsel employed shall be at a fixed compensation, not to exceed $4,000 per annum.

The amendment was agreed to.

Mr. HEYBURN. Mr. President, I inquire what was done with the amendment on page 161, line 20? I did not hear it read.

The PRESIDENT pro tempore. That amendment was agreed to.

Mr. WARREN. That was agreed to.

Mr. HEYBURN. Will the RECORD show that it was read?

The PRESIDENT pro tempore. It will.

Mr. WARREN. It was read and agreed to.

Mr. HEYBURN. I was following the reading closely and I did not hear it referred to at all.

Mr. WARREN. As I understand, all three of the amendments at the bottom of that page were read and agreed to.

The PRESIDENT pro tempore. They were read and agreed to separately.

Mr. LODGE. They were all agreed to.

Mr. HEYBURN. Were they all read?

Mr. LODGE. They were all read and agreed to.

The PRESIDENT pro tempore. The next amendment will be stated.

The next amendment was, on page 169, after line 8, to insert:

International Conference on Maritime Law: For participation by the United States, by officially appointed delegates, in the International Conference on Maritime Law to meet at Brussels, Belgium, in September, 1912, $5,000.

The amendment was agreed to.

The next amendment was, on page 169, after line 13, to insert:

Arbitration of outstanding pecuniary claims between United States and Great Britain: For the expenses of the arbitration of outstanding pecuniary claims between the United States and Great Britain, in accordance with the special agreement concluded for that purpose August 18, 1910, and the schedule of claims thereunder, including office rent in the District of Columbia, and the compensation of arbitrator, umpire, agent, counsel, clerical and other assistants, to be expended under the direction of the Secretary of State, the balance unexpended July 1, 1912, of the appropriation made for all the foregoing purposes for the fiscal year 1912 is hereby reappropirated and made available for expenditure for said purposes during the fiscal year 1913, to be disbursed under direction of the Secretary of State.

Mr. HEYBURN. Mr. President, I inquire the amount of that fund.

Mr. WARREN. I do not know the amount unexpended, but I think it is about $50,000.

Mr. LODGE. The whole amount was $75,000.

Mr. WARREN. Then, it was in two different appropriations?

Mr. LODGE. It was in two different appropriations. There was one appropriation of $25,000 and then an appropriation of $50,000. That is the whole amount, and this is simply a reappropriation.

Mr. HEYBURN. Of the unexpended balance?

Mr. LODGE. That is all.

Mr. HEYBURN. A reappropriation of all that was not turned in at the end of the year?

Mr. LODGE. That is all.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, under the head of "Under legislative," on page 171, after line 7, to insert:

The appropriation in the sundry civil act approved March 4, 1911, for removing fence and wall around the Botanical Gardens and such grading, soiling, seeding, and sodding as may be incident thereto, is hereby made available for said purposes for the fiscal year 1913.

Mr. HEYBURN. Just a moment. I want to get an exact understanding about this new system of appropriation.

The amendment provides that "the appropriation in the sundry civil act approved March 4, 1911, * * * is hereby made available," and so forth. Has any of it ever been expended?

Mr. WARREN. Being in an annual bill, it has lapsed. The time for building the Grant Monument in the Botanic Garden, I think, has been extended. This is not appropriating any money, but is, as I understand, for the purpose of carrying out the original act. I will ask the chairman of the Committee on the Library [Mr. WETMORE] to explain the matter to the Senator.

Mr. WETMORE. I did not hear the Senator's question.

Mr. WARREN. The amendment now under discussion is the one in regard to removing the fence at the Botanic Garden, and so forth.

Mr. WETMORE. That is a reappropriation.

Mr. HEYBURN. Of money on hand?

Mr. WETMORE. Of money on hand.

Mr. HEYBURN. And not expended?

Mr. WETMORE. And not expended.

Mr. HEYBURN. That is not a very good way of appropriating money.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 171, after line 13, to insert:

Senate: For indexing reports and hearings when necessary of Senate committees and joint committees of the Senate and House of Representatives, under the direction of the Committee on Appropriations of the Senate, $1,500, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was, on page 171, after line 18, to insert:

Biographical Congressional Directory: To enable the Secretary of the Senate to pay, upon vouchers approved by the chairman of the Joint Committee on Printing, for preparing a new edition of the Biographical Congressional Directory, from the Continental Congress to the Sixty-first Congress, both inclusive (1789 to 1911), as directed by Senate resolution of March 3, 1911, $5,000, or so much thereof as may be necessary, and said sum or any part thereof, in the discretion of the chairman of the Joint Committee on Printing, may be paid as additional compensation to any employee of the United States, and shall continue to be available during the fiscal year ending June 30, 1913.

Mr. WARREN. I wish to offer an amendment to that amendment, by striking out, on page 171, line 24, "eighty-nine" and inserting "seventy-six."

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. On page 171, line 24, it is proposed to amend the amendment of the committee by striking out "eighty-nine" and inserting "seventy-six."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 172, after line 7, to insert:

Joint Committee on Printing, as provided for in an act providing for the public printing and binding and the distribution of public documents approved January 12, 1895, and acts amendatory thereof: Clerk and assistant clerk, who shall hereafter receive a compensation of $3,000 and $2,500 per annum, respectively, to be paid by the Secretary of the Senate, and who shall, in addition to their other duties, compile, edit, and index the Congressional Directory, eulogies, and other documents authorized by Congress to be prepared under the direction of the Joint Committee on Printing, without additional compensation therefor; in all, $5,500.

Mr. WARREN. I offer an amendment to that amendment, to be inserted immediately after that.

The PRESIDENT pro tempore. The Senator from Wyoming offers an amendment to the amendment, which will be stated.

The SECRETARY. On page 172, line 19, after the sum $5,500, it is proposed to amend the committee amendment by inserting:

Provided, That the provision of the legislative, executive, and judicial appropriation act for the fiscal year 1913 making an appropriation to defray the expenses of compiling, preparing, and indexing the Congressional Directory is hereby repealed.

The PRESIDENT pro tempore. The Chair will ask the Senator from Wyoming if that is a part of the previous amendment?

Mr. WARREN. It refers immediately to the preceding provision.

The PRESIDENT pro tempore. Without objection, the amendment to the amendment is agreed to, and the amendment as amended is agreed to.

Mr. WARREN. Now, I offer another amendment, which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Following the amendment just agreed to, it is proposed to insert the following:

Inspector for the Joint Committee on Printing, as provided for in section 20 of an act to provide for the public printing and binding, approved January 12, 1895, $2,000, one half to be paid by the Secretary of the Senate and the other half to be paid by the Clerk of the House of Representatives.

The amendment was agreed to.

The next amendment was, on page 172, after line 19, to insert:

Senate Office Building: For maintenance, miscellaneous items and supplies, and for all necessary personal and other services for the care and operation of the Senate Office Building, under the direction and supervision of the Senate Committee on Rules, $46,000, which sum shall be expended by the Superintendent of the Capitol Building and Grounds under the supervision and direction of the Senate Committee on Rules without reference to section 4 of the act approved June 17, 1910, concerning purchases for executive departments.

Mr. KENYON. Mr. President, I desire to offer an amendment to that amendment.

The PRESIDENT pro tempore. The Senator from Iowa offers an amendment to the amendment, which the Secretary will state.

The SECRETARY. At the end of the committee amendment it is proposed to insert the following:

Provided, That no part of any such sum shall be used in maintaining free bathrooms.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question now is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. WARREN. On behalf of the committee I offer an amendment to come in on page 174.

The PRESIDENT pro tempore. On the behalf of the committee, the Senator from Wyoming offers an amendment, which will be stated.

The SECRETARY. On page 174, line 16, it is proposed to strike out "four" and to insert in lieu thereof the word "five."

Mr. WARREN. That amendment and the others indicated on the sheet I have sent to the desk propose to amend the text of the bill. I will say, so that all Senators may be advised, that they propose to increase the pay of 10 or 11 employees who are now getting $720 to $840.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The next amendment submitted by the Senator from Wyoming on behalf of the committee will be stated.

The SECRETARY. On page 174, line 16, it is proposed to strike out the word "six" and insert in lieu thereof the word "seventeen"; in lines 16 and 17, to strike out the words "12 at $720 each"; and, in line 23, to change the total so as to read "$132,700."

Mr. OVERMAN. Why is it proposed to increase the number of clerks there from 6 to 10?

Mr. WARREN. It does not increase the number, but we have to effect that change in order to bring about the desired result.

Mr. OVERMAN. I understand.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEYBURN. I will ask to refer to line 5, on page 174. I understood the chairman of the committee would introduce an amendment there, which I have prepared. If not, I will introduce it myself.

Mr. WARREN. Mr President, it was my intention to draw the Senator's attention to that—I have a memorandum of it—so that when the committee's amendments were finished he

might offer it. It comes under a little different head, and it does not seem to be included in the estimates.

Mr. HEYBURN. I have it marked to come in on page 174,

Mr. WARREN. It does not seem to appear in the estimates, and after the committee amendments are concluded the bill will be open to amendment from the floor.

Mr. HEYBURN. I understand that; but I understood also the chairman had intended that this should be put in as a committee amendment. However, I will offer it at the proper time.

The PRESIDENT pro tempore. The next amendment will be stated.

The next amendment was, under the head of "Government Printing Office," subhead "Public Printing and Binding," on page 176, line 21, after the word "work," to strike out the sum "$4,182,880" and insert "$4,331,380," so as to read:

For the public printing, for the public binding, and for paper for the public printing and binding, including the cost of printing the debates and proceedings of Congress in the CONGRESSIONAL RECORD * * *; and for all the necessary materials and equipment needed in the prosecution and delivery of the work, $4,331,380.

The amendment was agreed to.

The next amendment was, on page 176, line 24, after the words "last-named sum," to strike out the sum "$4,878,400" and insert "$5,026,900," so as to read:

In all, for public printing and binding, including salaries of office force, payments for holidays and leaves of absence, and the last-named sum, $5,026,900.

The amendment was agreed to.

Mr. WARREN. I offer the amendment, which I send to the desk.

The PRESIDENT pro tempore. The amendment submitted by the Senator from Wyoming will be stated.

The SECRETARY. On page 177, line 20, it is proposed to strike out "$140,000" and insert in lieu thereof "$153,000."

The amendment was agreed to.

The next amendment was, on page 177, line 22, after the word "including," to strike out "not exceeding $40,000 for the Civil Service Commission, and," and in line 25, after the words "Commissioner of Education," to strike out the sum "$230,000" and insert "$273,500," so as to make the clause read:

For the Interior Department, including not exceeding $25,000 for the publication of the Annual Report of the Commissioner of Education, $273,500.

The amendment was agreed to.

The next amendment was, at the top of page 178, to insert:

For the Civil Service Commission, $40,000.

The amendment was agreed to.

The next amendment was, on page 179, line 17, after the words "Department of Justice," to strike out the sum "$35,000" and insert "$40,000," so as to make the clause read:

For the Department of Justice, $40,000.

The amendment was agreed to.

The next amendment was, on page 179, line 20, after the words "money-order office," to strike out the sum "$290,000" and insert "$325,000," so as to make the clause read:

For the Post Office Department, exclusive of the money-order office, $325,000.

The amendment was agreed to.

The next amendment was, on page 180, line 11, after the words "Children's Bureau," to strike out the sum "$400,000" and insert "$425,000," so as to read:

For the Department of Commerce and Labor, including the Coast and Geodetic Survey, the Census Office, and Children's Bureau, $425,000.

Mr. WARREN. Now I offer another amendment to come in on page 180, line 14.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 180, line 14, it is proposed to strike out "$10,000" and insert in lieu thereof "$15,000."

The amendment was agreed to.

Mr. WARREN. I also offer an amendment to come in at the bottom of page 181.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 181, line 26, it is proposed to strike out the words "one clerk" and insert in lieu thereof the words "two clerks."

The amendment was agreed to.

Mr. SIMMONS. Mr. President, I understand the Senate is only considering committee amendments. I desire to offer an amendment on that page. I am very anxious to get away from the Senate to look after some other matters.

Mr. WARREN. Does the Senator desire to offer an amendment on page 181?

Mr. SIMMONS. Yes.

Mr. WARREN. Mr. President, of course the general understanding with Senators is that they will wait until committee amendments have been disposed of, but if there is any special reason why the Senator from North Carolina desires now to leave the Chamber, I will ask unanimous consent that he shall be recognized.

Mr. SIMMONS. I shall have to be out of the Chamber for some hours.

The PRESIDENT pro tempore. Without objection, the amendment proposed by the Senator from North Carolina will be received.

Mr. SIMMONS. On page 181, after line 23, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 181, after line 23, it is proposed to insert:

Nothing contained in an act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1913, and for other purposes, approved June 26, 1912, shall be construed so as to prohibit the payment from the appropriations for the Department of Agriculture of expenses incidental to the delivery of lectures and the giving of instruction by its employees on subjects relating to agriculture to any meeting or convention of members of any society or association of farmers.

The amendment was agreed to.

The next amendment was, under the subhead "Office of the superintendent of documents," on page 182, line 1, before the word "clerks," where it occurs the second time, to strike out "four" and insert "five"; in line 2, before the word "clerks," where it occurs the first time, to strike out "eight" and insert "seven"; and in line 13, after the words "in all," to strike out the sum "$98,364" and insert "$98,564," so as to make the clause read:

For superintendent of documents, $3,500; assistant superintendent of documents, $2,500; 1 clerk of class 4; 4 clerks of class 3; 5 clerks of class 2; 7 clerks of class 1; 8 clerks, at $1,000 each; 6 clerks, at $900 each; 10 clerks, at $720 each; cataloguer in charge, $1,800; 2 cataloguers, at $1,500 each; 3 cataloguers, at $1,200 each; 1 cataloguer, $1,100; 7 cataloguers, at $1,000 each; 3 cataloguers, at $900 each; cashier, $1,600; 1 librarian, $1,500; shipper in charge, $1,200; stock keeper, $1,100; 3 stock keepers, at $1,000 each; 5 stock keepers, at $900 each; 2 stock keepers, at $720 each; 2 assistant messengers, at $720 each; 3 mailers, at $840 each; janitress, $626; 2 folders, at $626 each; 11 laborers, at $626 each; five messenger boys, at $420 each; in all, $98,564.

The amendment was agreed to.

Mr. WARREN. Mr. President, I propose a little amendment which I send to the desk, to come in at the top of page 183, line 2.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. On page 183, line 2, after the word "libraries," it is proposed to insert "and for inspection of libraries not exceeding $1,000."

The amendment was agreed to.

The next amendment was, on page 186, line 12, after the word "Isthmus," to strike out the sum "$300,000" and insert "$563,520," so as to make the clause read:

Seventh. For pay of the member of the commission in charge of the department of civil administration, of officers and employees, other than skilled and unskilled labor, including foremen, subforemen, watchmen, messengers, and storekeepers, of the departments of civil administration and law, including those necessarily and temporarily detailed for duty away from the Isthmus, $563,520.

The amendment was agreed to.

The next amendment was, on page 186, line 14, after the word "administration," to strike out the sum "$15,000" and insert "$20,000," so as to make the clause read:

Eighth. For skilled and unskilled labor for the department of civil administration, $20,000.

The amendment was agreed to.

The next amendment was, on page 186, line 18, after the words "law books," to strike out the sum "$75,000" and insert "$110,000," so as to make the clause read:

For material, supplies, equipment, construction, and repairs to buildings, and contingent expenses of the departments of civil administration and law, including not exceeding $500 for law books, $110,000.

The amendment was agreed to.

The next amendment was, on page 187, line 22, after the words "In all," to strike out the sum "$28,780,000" and insert "$29,083,520," so as to read:

In all, $29,083,520, the same to be immediately available and to continue available until expended.

The amendment was agreed to.

The next amendment was, on page 189, after line 8, to strike out:

No part of the foregoing appropriations for the Isthmian Canal shall be applied to the payment of allowances for longevity service or layover days other than such as may have accumulated under existing orders of the commission prior to July 1, 1909.

The amendment was agreed to.

The next amendment was, under the subhead "Fortifications, Isthmian Canal," on page 192, after line 23, to insert as a new section the following:

SEC. 5. The chairman of the Isthmian Canal Commission is authorized to establish a division of records and, as the requirements of the service permit, to consolidate in the custody thereof the files of papers and other records which have accumulated or which may accumulate during the period of the construction of the Isthmian Canal; and he is directed to carefully preserve, properly index, and arrange for use all papers needed or useful in the transaction of current business or having a permanent value or historical interest; and he is authorized to destroy or otherwise dispose of duplications in the files and other papers which are not needed or useful in the transaction of current business and have no permanent value or historical interest and which have been recommended to him for destruction or other disposition by a committee of three competent persons who have personally examined the papers and in connection with their recommendation have submitted a concise statement of the condition and character thereof.

The amendment was agreed to.

The next amendment was, in section 5, page 194, line 8, after the word "submitted," to insert "*Provided*, That the provisions of this section shall not apply to the estimates for United States courts, and river and harbor and fortification work," so as to make the clause read:

Second, the number of persons, if any, employed and the rates of compensation paid each, and the amounts expended for each other object or class of expenditures out of the appropriation corresponding to the estimate so submitted, during the completed fiscal year next preceding the period for which the estimate is submitted: *Provided*, That the provisions of this section shall not apply to the estimates for United States courts, and river and harbor and fortification work.

The amendment was agreed to.

The next amendment was, on page 194, line 11, before the word "specific," to strike out "Hereafter no" and insert "No"; in line 12, after the word "made," to insert "hereafter"; and in line 14, after the words "belongs to," to insert "surveys and resurveys of public or Indian lands or," so as to make the section read:

SEC. 7. No specific or indefinite appropriation made hereafter in any regular annual appropriation act shall be construed to be permanent or available continuously without reference to a fiscal year unless it belongs to surveys and resurveys of public or Indian lands or one of the following five classes: "Rivers and harbors," "lighthouses," "fortifications," "public buildings," and "pay of the Navy and Marine Corps," last specifically named in and excepted from the operation of the provisions of the so-called "covering-in act" approved June 20, 1874, or unless it is made in terms expressly providing that it shall continue available beyond the fiscal year for which the appropriation act in which it is contained makes provision.

Mr. WARREN. Mr. President, I want to offer an amendment to the amendment, which I now send to the desk.

The PRESIDENT pro tempore. The Senator from Wyoming, on behalf of the committee, offers an amendment to the amendment, which will be stated.

The SECRETARY. On page 194, line 15, after the word "lands," in the amendment of the committee, it is proposed to insert "increase of the Navy, public works Navy, fishery stations."

Mr. FLETCHER. In reference to the amendment to the amendment just offered by the Senator from Wyoming, I desire to ask, Should we not change in line 16 the number of classes from 5 to 6?

Mr. WARREN. No; that refers to the classes that are elsewhere provided for by permanent statute. The items that I have moved to add are not provided for in the permanent law.

Mr. FLETCHER. In other words, the Senator proposes that amendment for the purpose of taking care of the fishery stations?

Mr. WARREN. It simply makes the money appropriated for fishery stations continuously available rather than to have it lapse at the end of the year.

Mr. FLETCHER. Very well.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 195, line 3, after the words "internal revenue," to insert "chief clerks of the various executive departments and bureaus, or clerks designated by them for the purpose, the superintendent, the acting superintendent, custodian, and principal clerks of the various national parks and other Government reservations, superintendent, acting superintendents, and principal clerks of the different Indian superintendencies or Indian agencies," so as to make the section read:

SEC. 8. After June 30, 1912, postmasters, assistant postmasters, collectors of customs, collectors of internal revenue, chief clerks of the various executive departments and bureaus, or clerks designated by them for the purpose, the superintendent, the acting superintendent, custodian, and principal clerks of the various national parks and other Government reservations, superintendent, acting superintendents, and principal clerks of the different Indian superintendencies or Indian agencies, and chiefs of field parties, are required, empowered, and authorized, when requested, to administer oaths, required by law or otherwise, to accounts for travel or other expenses against the United States, with like force and effect as officers having a seal; for such services when so rendered, or when rendered on demand after said date by notaries public, who at the time are also salaried officers or employees of the United States, no charge shall be made; and on and after July 1, 1912, no fee or money paid for the services herein described shall be paid or reimbursed by the United States.

The amendment was agreed to.

The PRESIDENT pro tempore. With the exception of those passed over, the committee amendments have now been concluded.

Mr. CULLOM. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Illinois will be stated.

The SECRETARY. On page 55, after line 20, it is proposed to insert a new paragraph as follows:

For increasing the capacity of the plant at Rock Island Arsenal for the production of field-artillery material, $250,000.

Mr. WARREN. That amendment is estimated for, and the committee will accept it.

The amendment was agreed to.

Mr. WARREN. Now, I offer one more amendment on behalf of the committee. At page 10 there seems to have been on oversight, and I send an amendment to the desk to come in at that point.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. On page 10, after line 14, it is proposed to insert the following paragraph:

Huron (S. Dak.) post office: For continuation of building under the present limit, $10,000.

The amendment was agreed to.

Mr. HEYBURN. I offer the amendment which I send to the desk, to come in on page 174, after line 5.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Idaho will be stated.

The SECRETARY. On page 174, after line 5, it is proposed to insert the following:

Pneumatic-tube service: For a pneumatic-tube system to connect the Capitol, the Senate and House Office Buildings, the Congressional Library, the Union Railroad Station, the new post-office building, and the Government Printing Office, of a capacity sufficient to handle the documents, parcels, and mail sacks dispatched between these buildings, to be expended by the Superintendent of the Capitol Building and Grounds under the joint supervision and joint direction of the Postmaster General and the Superintendent of the Capitol Building and Grounds, $250,000, or so much thereof as may be necessary.

Mr. WARREN. Mr. President, the committee will make no objection to the amendment and will allow it to go to conference.

The amendment was agreed to.

Mr. WARREN. Mr. President, let me say that the Senator from New Mexico [Mr. FALL] and possibly the Senator from Mississippi [Mr. PERCY] have been waiting to obtain the floor. I should like unanimous consent now to have the pending bill laid aside until to-morrow and to then take it up immediately after the routine morning business. There are three amendments which we have passed over, and after those amendments are disposed of, of course the bill will then be open for amendments which may be offered by Senators.

Mr. FLETCHER. Would not the Senator from Wyoming be willing to allow amendments now to be offered by other Senators?

Mr. WARREN. I should prefer not. I should prefer that all may go over until to-morrow morning.

Mr. SMITH of Arizona. I have an amendment to offer, but I can do so to-morrow morning——

Mr. WARREN. Such amendments may be offered to-morrow morning.

Mr. SMITH of Arizona. Because the Senator from New Mexico desires to obtain the floor.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wyoming? The Chair hears none.

HOUR OF MEETING TO-MORROW.

Mr. SMOOT. I move that when the Senate adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock.

The motion was agreed to.

CLAIMS AGAINST MEXICO.

Mr. FALL. Mr. President, I gave notice on Saturday last that I would to-day submit some remarks on Senate joint resolution No. 103 and the committee substitute therefor. I should now like to have the joint resolution and the committee substitute read.

The PRESIDENT pro tempore. The title of the joint resolution will be stated.

The SECRETARY. A joint resolution (S. J. Res. 103) directing the Secretary of State to investigate claims of American citizens growing out of the late insurrection in Mexico, to determine the amounts due, if any, and to press them for payment.

The PRESIDENT pro tempore. The joint resolution and the substitute submitted by the committee will be read.

The SECRETARY. The joint resolution, as introduced, reads as follows:

Joint resolution (S. J. Res. 103) directing the Secretary of State to investigate claims of American citizens growing out of the late insurrection in Mexico, to determine the amounts due, if any, and to press them for payment.

Resolved, etc., That the Secretary of State be, and he is hereby, authorized and directed to make, or cause to be made under his direction, a full and thorough investigation of each and all claims of American citizens and of persons domiciled in the United States, which may be called to his attention by claimants or their attorneys for damages for injuries to their persons or property, received by them or by those of whom claimants may be the legal representatives, within the boundaries of the United States, by means of gunshot wounds or otherwise inflicted by Mexican Federal or insurgent troops during the late insurrection in Mexico in 1911. And the Secretary of State is authorized and directed to determine and adjudicate the validity of said claims and the amount thereof, and diplomatically present such of them as he may find just and valid to the Mexican Government and press them for payment. And for the purpose of investigating said claims the Secretary of State is authorized to appoint a commission from among the officers or employees of his department, to consist of not more than three members, which commission, when advisable or necessary, shall hold hearings at such times and places as may be convenient for said claimants and their witnesses, and said commission shall have the power to summon witnesses, compel their attendance, administer oaths, and perform such other acts as may be necessary to determine the validity and amount of said claims.

The Committee on Foreign Relations have reported a substitute for the joint resolution in the following language:

That the Secretary of War be, and he is hereby, authorized and directed to make, or cause to be made under his direction, a full and thorough investigation of each and all claims of American citizens and of persons domiciled in the United States which may be called to his attention by claimants or their attorneys for damages for injuries to their persons or property, received by them or by those of whom claimants may be the legal representatives, within the boundaries of the United States, by means of gunshot wounds or otherwise inflicted by Mexican Federal or insurgent troops during the late insurrection in Mexico in the year 1911.

For the purpose of such investigation the Secretary of War is authorized to appoint a commission of three officers of the Army, one of whom shall be an inspector general. Such commission shall have authority to subpœna witnesses, administer oaths, and to take evidence on oath relating to any such claim and to compel the attendance of witnesses and the production of books and papers in any such proceeding by application to the district court of the United States for the district within which any session of the commission is held, which court is hereby empowered and directed to make all orders and issue all processes necessary for that purpose, and said commission shall have all the powers conferred by law upon inspectors general of the United States Army in the performance of their duties. Such commission shall report to Congress, through the Secretary of War, as soon as practicable, its findings of fact upon each and all the claims presented to it and its conclusion as to the justice and equity thereof and as to the proper amount of compensation or indemnity thereupon.

Mr. FALL. Mr. President, the public press within the last few days, the last day or two particularly, has been full of two or three different matters in which the United States is interested, one of which I believe is the investigation which was authorized or directed by the United States some months since into conditions in South America.

I noticed a day or two ago that in the English Parliament, in answer to questions put to the Government, it was there stated that the United States of America was expected to deal with Peru with reference to the outrages perpetrated by English subjects and others in the district of Putumayo.

I noticed in the press this morning that the people of the United States and some of the Senators in this body were very much interested in the report touching outrages upon certain citizens of Korea in the attempt, as it was stated, to force certain people in Korea to give evidence against certain American citizens concerning what purported to be or what was reported to be a plot entered into by those American citizens for the assassination of one of the Japanese officials.

It has been a most astounding thing to me to find the people of the United States, apparently the administration of this Government, and the Congress of the United States so little interested and that they have given so little attention to matters affecting directly the citizens of this country of ours now residing, or who have recently resided, within the boundaries of another country much closer to our borders than Peru on the one hand or Korea on the other. I have found to my astonishment that the people here apparently do not understand what is going on in the so-called Republic of Mexico near our borders.

I do not believe that the people of the United States have realized that within the last 12 or 14 months Americans in Mexico have not only had property destroyed to the amount of possibly, I should estimate at a low figure, $500,000,000, but that American citizens have been killed, American women have been outraged, within 50 miles of our borders, and not one word of protest has been uttered to the Mexican Government diplomatically, so far as I am able to ascertain, against such conditions and against such outrages and against such murders.

It appears to me that it is time that the United States, certainly the Congress of the United States, should give a little concern to the interests of citizens of the United States domiciled or visiting in a foreign country.

Now, Mr. President, I propose to take up, first, the matter with which this joint resolution and its substitute deal directly. I propose to show that the joint resolution should be adopted for one reason if not for others—that is, that it places the investigation of damages to American citizens in some other hands than that of the State Department of this Government of ours.

Mr. President, in April, 1911, Gen. Porfirio Diaz was President of the Republic of Mexico. At that time outbreaks in opposition to the Government occurred in various States of the Republic of Mexico. One of these outbreaks occurred in the State of Chihuahua, which is directly south of New Mexico and of Texas. The leader of that revolution, not originally against the Republic of Mexico, but purely an armed protest against the State government of Chihuahua, was Pascual Orozco, of whom we have heard so much in the papers. The present President of Mexico, Mr. Madero, was at that time in hiding in the city of San Antonio, Tex. When Orozco had made certain headway against the State troops and when finally the national troops were sent in under a misunderstanding, I think, of the conditions existing in Chihuahua to put down Orozco's revolution, and they were unable to do so, Mr. Madero, from the city of San Antonio, Tex., availed himself of the assistance given him by Pascual Orozco, did no fighting whatever against the Government of Mexico himself, but through Pascual Orozco was enabled to overthrow the Government of Diaz, which had existed for 35 or 40 years in the Republic of Mexico.

The so-called revolutionists appeared at Agua Prieta, across the line from Douglas, Ariz. On about April 18, 1911, the place was occupied by Federal troops of the Mexican Government. There is an imaginary line running across the plains, which is known as the boundary line between the United States of America and the Republic of Mexico. The city of Douglas, containing about 8,000 American people, is situated on this side of the line. It is one of the most prosperous towns in the Southwest; and immediately on the other side of the line is the so-called city of Agua Prieta, in the Republic of Mexico.

The troops of the United States were ordered by the President of the United States to Douglas from Fort Huachuca and other points. They were given instructions. The governor of Arizona having protested to the President of the United States that the lives of American citizens in Douglas were endangered by the threatened fight at Agua Prieta, the President issued orders to the American troops at Douglas, and those orders were that they should notify both the insurgent commanders and the Federal commanders on the Mexican side that if they proposed to fight they must get away from the line; that they must go where they would not endanger the lives of American citizens.

No heed at all was paid to such warnings by the United States; a fight ensued between Federals and insurgents at different times, it was stated in the press, and at least one party to the fight, as has been stated in the official reports, crossed the American line. During the course of this little difficulty or fight there eight American citizens were killed or wounded on the American side of the line by the Mexicans on the Mexican side of the line, who had been warned by the President of the United States that they should conduct themselves so as not to do exactly what they did do.

As I shall show hereafter, nothing in the nature even of a protest was made by this Government to the Mexican Government, although her citizens were killed on this side.

Now, when Mr. Madero joined Mr. Orozco on about May 5, 1911, nearly a month after the difficulty had occurred and the killing of American citizens had occurred at Agua Prieta, the United States Government sent its troops to the border and again warned the Federals who were occupying the city of Juarez, across from El Paso, and also warned Mr. Orozco and Mr. Madero that they must so conduct themselves, and if they desired to fight they must get out of the danger zone, that they would not endanger the lives of American citizens.

For three days, in the face of our troops lined up upon this side of the border, with the dry bed of a river marking the boundary line of the United States and Mexico, a fight continued between the Madero insurgents and the Diaz Federals at Juarez.

There is an international street car line connecting the city of El Paso with the city of Juarez. Within five minutes' ride from the heart of the city of El Paso you can reach the city of Juarez. The troops of the United States Government were ranged along the river front to keep the citizens of the United States from getting too close to the fighting, and at the same

time, as everybody believed who knew anything of the orders which had been issued at Agua Prieta, and which were again issued in much stronger language in Juarez—every American citizen believed that the troops were there for the purpose of enforcing American rights and not simply for the purpose of "running a bluff." But for three days fighting continued in spite of orders, despite the presence of American troops, and the United States Government failed to stop it. At no time during those three days would the United States troops who were there have had the slightest difficulty in stopping the fight going on at Juarez. For 51 hours of actual time bullets were coming across to El Paso and shrapnel was dropping into El Paso.

I want to call the attention of the Senate to this:

Of the three who could not be classed as having voluntarily entered the zone of danger after being warned, one man was shot dead in the door of his own home, only five blocks from the very heart of the business center of this city of 40,000 people—

This was an American citizen—

he was shot through the heart as he finished breakfast and stepped to his door to take a breath of fresh air; he fell dead in the arms of his terrified sister.

And the paper comments upon the action of this Government.

Of the 18 wounded of whom there is authentic record, not more than 3 could possibly be classed as sightseers entering a zone of known danger after having been warned; 13 of the 18 were shot in or near their homes or places of business. A man was shot while lying in bed in his own home; a little child was shot in the head while lying in her crib at home.

These were American citizens, now, that I am referring to.

Mr. SMITH of Arizona. On American soil?

Mr. FALL. On American soil. A woman 84 years old was shot in the head as she left her home on the way to church; another woman was shot through the body as she was engaged in housework at home; another woman was shot in the eye as she was engaged in lawful occupations far from the scene of the fighting; another woman was shot through the neck in her own home; a laborer was shot in the eye as he was about to enter his door; a man was shot as he sat in the principal plaza in the heart of El Paso, nearly two miles from the scene of the fighting.

Several of those shot were at the time a mile, a mile and a half, or even more, from the scene of the fighting. Bullets were flying all over El Paso within a range of 3 miles from the scene of the battle. Shrapnel shell came half a mile within American territory. Scores of residences and business buildings were struck by bullets, and windows were broken in the city as far from the scene of the fighting as the White House in Washington from the Congressional Library, or as far as Thomas Circle in Washington from the Soldiers' Home, or as far as Scott Circle in Washington from the National Zoological Park.

The first day the American military commandant, acting under orders from Washington, in person gave direct and positive orders that there must be no firing toward the American side. He communicated these "direct warnings," such as the President talks about in reference to the Agua Prieta fight, to the recognized commanders of both the contending factions.

Mr. President, I am going hastily to review a few of the other outrages upon American citizens against which there has been no protest, and concerning which the administration, through the State Department here, has absolutely refused even to make diplomatic representations to the Mexican Government. I am going very rapidly to sketch a few of these outrages.

Converse and Blatt were both arrested on American soil, taken across from the United States to Mexico, and placed in a Mexican jail incommunicado, as it is called, under the claim that they had been engaged as private soldiers in Madero's command. President Diaz released Converse and Blatt because they were arrested on American soil. When Converse filed a claim with the State Department of the United States Government for damages for his arrest on American soil, although the Mexican Government had turned him loose because of his arrest on this side, the answer was made to his father and to his mother that he was arrested on the Mexican side, and that in any event the State Department here could take no interest in such matters against a friendly country.

Mr. OVERMAN. What was the fact about it? Was he really arrested on this side?

Mr. FALL. The fact of the matter was that he was arrested on American soil, and taken across to Mexico and put in jail. That was established to the satisfaction of the Mexican Government, who itself turned him loose. Then, when he asked damages for it, he was told by his own Government that they could not present his case because he was arrested on Mexican soil, which was the original claim of the Mexican Government.

Father Pinto, a Catholic priest, was arrested in Juarez, taken from the international street car line, and compelled to agree to pay $100 to the Mexicans upon the other side before they would allow him to get back on the car and come across to this side of the line. He was and is an American citizen, residing on this side. He had to pay $100 before they would allow him to come back on the street car line. In spite of his protest, no action has been taken, no apology has been extended by the Mexican Government, and nothing whatsoever has been done with reference to it.

A short time ago $5,000 worth of flour belonging to an American citizen was ordered by the President of the United States to be placed under the seal of the American consulate in the city of Juarez; and it was so placed under the charge of the American consul by the direct order of the President of the United States. The house was broken open; the American seal was not a sacred seal or sign to these gentlemen. Not one word of protest has been made. Although every sack of the flour of this American citizen was taken out of the house with the seal of the American consulate upon it, no protest or apology has been made, and no apology demanded.

Here is the case of an American regular soldier: The regular soldiers are still guarding the border for the purpose of seeing that no aid or assistance is extended to the Orozco revolutionists across the border. American soldiers are parading the border; American sentinels are stationed along the international border. One of them was shot at three or four times within the last month while pacing his beat, and was finally wounded by a shot fired from the other side. As far as we have been able to discover, not even an investigation has been made of the outrage; no protest has been made, and no apology has been either demanded or extended. This was an American soldier in uniform.

Mexican soldiers crossed the border—insurgents, so called—within the last two months in the face of American troops, and, standing on the international line, the American troops were told by the Mexican soldiers to get back. Guns were drawn upon the soldiers in our uniform, and they retreated 200 yards, because of their orders that under no circumstances should trouble be precipitated between the United States and Mexico; no, not even between the United States and the insurgent troops coming across from the State of Chihuahua in the so-called Republic of Mexico. Two Texas rangers, as it happened, were near at hand, and when the United States troops withdrew those two rangers, armed only with .45-caliber six-shooters, walked down to the international border and drove the 200 Mexicans back across the line, telling them that if they came over the line again these two men would arrest every one of them and put them in jail; and they stayed away. No protest has been made, no apology has been demanded or extended, although these armed troops came across the Mexican border.

Now, I am going as rapidly as possible to call the attention of the Senate to some of the things that have gone on down in the Republic of Mexico itself. I noticed that a day or two ago two or three Senators, if I may be allowed to refer to the reports in the public press, called at the State Department, being interested in questions indirectly affecting American citizens in Korea. I have not yet heard of United States Senators calling upon the State Department to learn the truth, if any, of the reports of murders and outrages committed upon American citizens in the Republic of Mexico. Why this silence and why this want of interest?

Mr. SMITH of Georgia. Mr. President, I wish to say to the Senator that, so far as we are concerned, no complaints have been brought to our attention about Georgians in Mexico. That is the reason we have not been to the State Department for that purpose.

Mr. FALL. The Senator is only interested, then, in so far as complaint is made that in Korea some citizens of Georgia have had their lives or their liberty threatened?

Mr. SMITH of Georgia. No; but we were requested to interest ourselves in the Korean matter because some of the parties were missionaries from Georgia, and another one of them was a graduate of one of our colleges, and our Georgia bishops were very much interested, and we therefore took up the matter. I do not mean to intimate that Senators should fail to interest themselves in Americans in Mexico. I only desired to explain why we were active in the case of Korea, and to say that had similar situations presented themselves to us with reference to those who particularly concerned us, we would not have neglected them because they were in Mexico.

Mr. FALL. To avail myself in this matter of the very valuable assistance of the Senator from Georgia, I could almost wish some Georgian had been suffering at the hands of the Mexicans.

Mr. President, the people of the United States have no conception of what is going on, of the true condition of affairs, south of our border, in the States which constitute the so-called Mexican Republic.

Mr. SMITH of Georgia. Mr. President, I should like to interrupt the Senator once more, in order to have him entirely correct in his statements. There have been two or three cases in which Georgians were concerned, and several about which I have called on the State Department. So far as we can learn, they gave us all the aid they could. I think this statement on my part is due to the State Department.

Mr. FALL. Were any of the Georgians in jail?

Mr. SMITH of Georgia. No.

Mr. FALL. Have any of them been killed?

Mr. SMITH of Georgia. No.

Mr. FALL. Have they lost property?

Mr. SMITH of Georgia. They were in situations where they thought their property was in danger, and possibly their lives were in danger. In one instance a number of Georgians and other Americans had gotten together for self-defense.

Mr. FALL. And the State Department helped them out?

Mr. SMITH of Georgia. The State Department communicated with the American representatives in Mexico, and I think they did all they could. They were able to reach the coast, and so far as we know they were protected. Some of them lost some of their property, and they feel that something should be done for them. This was farther down in Mexico.

Mr. FALL. Has the Senator had any assurance that anything will be done for them about the loss of their property?

Mr. SMITH of Georgia. I do not know how much of their property has been lost. We have not had an exact statement on that subject, nor have we been called upon to say anything with reference to it. I want to say to the Senator, however, that this was not near the line. I understand the troubles have been more serious in the northern part of Mexico. The places to which I refer were nearer the central portion of Mexico and were more easily handled.

I do not mean by what I say to disagree in any sense to the views expressed by the Senator, for they interest me very much, indeed. I should not have interrupted him had he not called attention to the Korean incident.

Mr. FALL. Mr. President, I am not in the habit of making set speeches or prepared speeches. I have no speech prepared. The papers lying before me are simply proofs of the facts I am now stating—exhibits, as it were, to my remarks. As I am not making a set speech, nor attempting to do so, I welcome suggestions or interruptions from any of the Members of the Senate.

I shall refer a little later to some of the questions which have agitated the minds of some people who do know something of what is going on in Mexico as to the reason we do not hear more protests from Mexico—why the voices of more American citizens, even from Georgia, are not heard in these halls. I think I can give the Senator sufficient reason for the silence of Americans under insults, and even when their property and lives are threatened in Mexico. I think I can satisfy the Senator that they have very good reasons for keeping as quiet as possible.

I am going to confine my statements now, with reference to outrages or with reference to injuries to property and persons, largely to the northern States of Mexico. I shall refer generally to the conditions throughout the entire Republic. I think I shall be able to convince the Senator from Georgia and the other Senators that every report coming from Mexico is being censored to such an extent that the people of the United States can not gather the truth from any source at all coming through the Federal telegraph lines and the Federal telephone lines which are under the control of the Federal Government of Mexico.

Mr. President, just south of El Paso and south of the Arizona border there are colonies of American citizens, invited into that country as colonists by the Mexican Government itself. Certain concessions were given them as an inducement to persuade these American citizens to go over into Mexico. They have gone there and they have acquired property. They have built up beautiful little towns, where the Mexicans themselves did not go, because they were afraid of the Apache Indians. These people helped to push the Apaches back. They helped to redeem the country. They bought and paid for their property, and they have established various colonies, and in every one of them the schoolhouse is about the first building erected, and the church next, or the two are erected together.

Three or four years ago I visited one of the chief colonies of these settlers with the Senator from Arizona [Mr. SMITH]. He and myself each had the pleasure of addressing an audience in a brick schoolhouse two or three stories high in which were taught the higher classics, and were fitted for teaching and for business the sons and daughters of several hundred American citizens.

Mr. President, these people have been unfortunate in their experience with both sides during the trouble which has been going on now in Mexico for over a year. Protests have been made, but so far as I know nothing has been done to relieve the most intolerable situation which American citizens were ever compelled to undergo.

These people went there with a concession from the Mexican Government, under the terms of which they retained their American citizenship. That was one of the inducements offered them if they would go there and redeem that country.

I want to give to the Senate the names of just a few of the people who have lost property, who have been jailed, who have been treated with ignominy by the Mexicans, and I do not mean by the insurgents, because I shall call the attention of the Senate in a moment to the murder of at least nine men, and seven of them were murdered under the Madero administration and only two under that of Orozco. I am going to read a list of just a few of the names of these poor American citizens. They have not the money to buy their protection from the local authorities. J. P. Brown, Guy Taylor, Leslie Combs, John Tilford, B. L. Croft, Rulon Peterson, Daniel Skousen, James Skousen, Joseph Jackson, Loran Taylor, Harvey Taylor, George Romney, James Young, James Memmott, and many others of these colonists have been maltreated, abused, and threatened. More than a hundred thousand dollars in property, consisting of crops which they raised for their own subsistence, and the stock with which they raised those crops, have been taken away from them and no reparation has been made, and certainly none has been asked by the Government of which they are citizens.

Mr. SMITH of Arizona. Has this Government been apprised of it?

Mr. FALL. Certainly, this Government has been apprised of this fact repeatedly, and even recently of the more recent outrages upon those same people.

Earnest Goldner, Mr. Hollingsworth, and many others have been maltreated and falsely imprisoned. Northwestern Railroad officers and employees have been abused, cursed, maltreated, and forced at point of musket by both federals and rebels to run trains. Losses to the Northwestern Railroad Co., Ketelesen & Degtau, Simon Pickard & Bros., Corralitos Co., and many other American and foreign companies in the districts of Bravos and Gilleana have aggregated more than $2,000,000, and there is no prospect of a cessation of these conditions in the near future.

Mr. OVERMAN. Were these facts brought to the notice of the State Department?

Mr. FALL. Some of them through their Representatives and by the same man whose name is signed to this telegram. You speak of your missionaries. That man is a preacher and an American citizen.

Mr. OVERMAN. What reply was given or excuse made?

Mr. FALL. I will go into that a little later.

With reference to these claims which are directly under discussion, to show you what reply American citizens have received with reference to the Department of State.

The Mexico Northwestern Railroad—

That is the railroad extending south from El Paso, Tex., skirting along these little colonies and turning west through the timber lands to the city of Chihuahua—

The Mexico Northwestern Railroad was torn all to pieces and out of commission most of the time—

Built by American and English capital and, Senators, you can know that England has protested—

and the Mexican Central also put out of business for many months. * * * During the present rebellion both roads have operated most of the time.

That is, within the State of Chihuahua and under the charge of this "bandit" Orozco.

Nine of these colonists to whom I refer, exclusive of two women whose cases I shall speak of in a few moments, have been killed. The live stock and the other property of the colonists have been taken and they are afraid to complain very much. I will show you that other citizens are afraid to complain very much, but by arming themselves they have compelled a degree of respect; and now the Federal troops themselves within the last few days are down among those colonists, the Madero troops, the governmental troops of Mexico, seeking to take away from them the arms which they have finally acquired, for their own protection, and some of them by smuggling them across the border for their protection, because the Government of the United States would not even allow them to take them across the border. Now, Federal troops are actually engaged not only in undertaking to disarm them but they have also

within the last week taken the milk cows, and the horses from those people with which they are now cultivating their crops.

What an outrage! It is not an outrage perpetrated by the bandits, because the same source of information says that Orozco has arrested his men who took the horses of these colonists and has made them return them. He is still in Chihuahua, and the federals who have been driving out Mr. Orozco so rapidly themselves molest the colonists in Sonora, and those federals are the people who appear now to be committing the depredations.

As to the looting by the Federal troops I have here a report from Gen. Huerta of the Mexican Army:

Villas's command stripped the town just before the rebels entered. Official report of Gen. Huerta, Federal commander, to President Madero says:

"The product of Villas's robbery in Parral was more than $200,000"—

That was gold—

"and he stole for 24 hours everything that came under his hands, and his hands were represented by the 500 men under his command."

Many trains have been fired into on the Southern Pacific line in Mexico and on other roads owned by Americans. Trainmen and passengers have been killed or wounded.

Trains carrying American passengers have been ditched apparently for no other purpose than the killing of the Americans on the trains, and no attempt even at robbery made.

Bridges have been burned on all roads in disturbed sections and railroad traffic stopped or seriously interfered with.

Yet, you have it told you through the public press every day, although these are telegrams which I am reading from, that Orozco has been defeated and driven out of Mexico, and that in a few hours, or in a few days at the utmost, peace and quiet will reign again in the disturbed so-called republic on our south.

American Smelting & Refining Co. plants at Velardena and Sasco frequently raided and forced to put up money, but plants not destroyed.

The Senator from Colorado [Mr. GUGGENHEIM] might possibly tell you why earnest protests have not been made against some of the depredations at least committed upon certain property in Mexico.

At Velardena a score of Americans were stood against a wall and threatened with death if they did not put up heavy cash ransom, which they finally paid.

Yet they were in reach of the American consul, the representative of this Government of ours, and they were not so fortunate as the citizens of Georgia.

These men were so afraid to complain through official sources that facts never became known until two months later, when Federals recaptured the town.

This was done by the so-called rebels.

For a time the Mexican officials, with the consent of the American Government, actually searched American citizens on this side of the line. Rebels recently arrested a United States immigration inspector in Juarez as a spy. El Pasons have been arrested and shot in Juarez. Considered dangerous for Americans to visit Juarez, as arrests are likely to be made on any pretext. Homer Scott, an El Paso newspaper photographer, was arrested by Gen. Huerta, and when inquiry was made of Mexican consul in El Paso—

This is the gentleman I propose to refer to a little later—

and when inquiry was made of Mexican consul in El Paso a false report was sent to Huerta from consul's office which nearly cost Scott his life.

That man—the Mexican consul—is not only receiving the protection due him as a representative of his Government by the officers of our Government in El Paso, Tex., but he is also securing the active aid and assistance, as I shall explain to Senators here, of the officers of justice of the United States in his efforts at times to incarcerate American and Mexican citizens arrested not on the other side, but on this side of the border, and putting them in jail for as much as 40 days at a time. That is done without redress and without complaint.

It is only fair to rebels to say that in many instances on entering cities they have furnished trains to take American women and children safely to the border. Mexicans have shown contempt for American official communications. For instance, at the time of the shooting across the line into Douglas, Ariz., the Mexican Federal Government formally charged American troops with shooting into Mexico and with taking arms from federals to arm rebels.

When we called upon them to stay away from our border and quit killing our American citizens they retaliated by saying we had helped the insurgents and that our troops had marched across the border.

Much trouble would have been saved, many lives would have been saved, and much property would have been saved if the American troops had been allowed then to go across the border. Our Government has never resented the charge made openly by the Mexican Government that our troops invaded their territory at that time. That was the answer given to us when we protested against the outrage upon American citizens.

Recently there has been more trouble threatened at Juarez, and Col. Steever, in command of the American troops, again notified Orozco, sr., that there must be no further firing into the United States. Of course, we would have walked off, I presume, as we have been doing heretofore, but at any rate the notice was served again.

The rebel commandant replied that the rebels would not promise to comply with the demand if the Mexican consul continued to recruit soldiers in El Paso for service in the Mexican federal army.

Which they accuse him plainly and openly of doing, and which our papers say he is doing every day.

Cases of looting have really been so numerous that specification is impossible. The German firm of Ketelsen & Degetau, having large stores at Juarez, Chihuahua, and Casa Grande, have been looted repeatedly during both revolutions. In February the Juarez store was robbed and burned, causing a loss of $250,000. Last week the Casa Grande store was looted and the manager, C. E. Hollingsworth, placed in jail.

He is in jail yet, so far as I know, although he may have been recently released, because the German Government might possibly have to be dealt with.

During the little recent trouble in Juarez, American citizens had their property not only destroyed, their stores looted, but one man, whom I happen to know well, had everything in the world that he possessed, about $10,000, invested in his stock of goods in Juarez, and every dollar of it was lost. I will show you what the course of our Government has been with reference to things of that kind before I conclude my remarks. I can simply say here in passing that no representations, even, have been made by this Government to the Mexican Government touching these outrages, so far as I have heard.

Mr. President, I do not intend to dwell upon the horrible cases of outrage in Mexico upon American citizens, because it is not my purpose to attempt to arouse any bitterness or any feeling on the part of Americans or of the Senate.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from New Mexico yield to the Senator from Ohio?

Mr. FALL. I yield to the Senator.

Mr. POMERENE. The Senator has just stated that no representations have been made by this Government to the Mexican Government touching these losses and depredations which have been committed.

Mr. FALL. Yes.

Mr. POMERENE. Will the Senator explain why, if it is known?

Mr. FALL. I will come to that a little later, and I will undertake to explain over the signature, or at least by a copy of an official communication from the State Department made within a few days, in regard to damage cases.

As I said, I am not going to dwell upon the horrors of this revolution or of the former revolution in Mexico, but I do want to say that the indignation of the American people would be aroused to such a degree that all the American troops in this service could not keep the people of the United States from going across the Mexican border if they knew the condition of affairs and what some of our American citizens have had to suffer in the same colonies which I have referred to by Mr. Madero's own troops—by the action of people in accord with Mr. Madero himself. I want to cite one or two instances:

On January 22, 1911, in one of the colonies which I referred to a short time ago, near a little town, one of our American women, one of the pioneers helping to settle that country, was at home with her little daughter 11 years of age and a son of 7. Three of Madero's troopers entered the house and demanded something to eat. They demanded that this American woman, a citizen of the United States, should cook for them; and because she did not cook as rapidly as they desired, possibly, they shot her through the body. Then they insisted that she should continue cooking, and while she did so they took her little daughter and outraged her. When the woman fell to the floor from loss of blood they stuck a gun to her and blew out her brains. An American boy went to their assistance. He was met at the door and shot down. By the assistance of these colonists, law-abiding people, arrests were made of the perpetrators of this outrage and they confessed in open court exactly the facts which I have related to you. They were confined for six months in jail awaiting trial and then were turned loose and are now in that vicinity, unpunished, unwhipped of justice, and the American Government has not protested. I am not going to dwell on these cases.

Mabel Richardson, another little girl, was outraged within the shadow of that schoolhouse of which I spoke a few moments ago, where the Senator from Arizona [Mr. SMITH] and myself addressed 700 of these colonists, principally pupils. Not a word has been said in protest and no action, in so far as I have heard or been able to discover, has been taken by this Government.

Coming down to very recent days, James D. Harvey was murdered on May 4 of this year—1912—while working in his

field. He was shot down and then his murderer crossed the fence and cut his head off with a heavy spade. No attempt has been made to arrest him.

On July 2 of this year William Adams, another of these colonists, within about 60 miles of the border, with his wife's dead body in the house, was awaiting the coming of his daughter and son-in-law. They finally arrived at night, having come across the country in an automobile from Deming, N. Mex., driven by a man by the name of Evans, an American citizen. They went to the Mexican customhouse on the border and received permission to go across with the automobile. On the next morning Evans was arrested for not having a passport to cross the border line. No such thing had ever been demanded of anyone before, and this was simply given as an excuse for his arrest. He was confined in jail. The next morning the officer of the law of the Mexican Government, the customhouse officer with whom we, the United States Government, had been dealing across the line, went to Adams's house, met him, and accused him of being responsible for Evans having brought his (Adams's) daughter and her husband across the line the day before without, as they claimed, having secured a passport, although he had permission to do so from the Mexican customhouse officer. Adams claimed that he had nothing to do with it; that he knew nothing about it, as he had been there with his dead wife in the room with him. The Mexican officer, in spite of the fact that his daughter's arms were around him at the time, shot Adams through the head and killed him. That officer has not been arrested and no attempt has been made, in so far as I have ascertained, by this Government to secure his arrest or his punishment or that of any other man for perpetrating the crime.

Mr. President, when Villa was driven out of Parral, a mining camp in Mexico, after he, an officer of the Federal army, had proceeded to sack the town and rob the Americans as well as the Mexicans there who had any property, he left behind him or there was captured as he went out of the town an American citizen who had belonged to his command—Thomas A. J. Fountain. Salazar, the rebel commander, proceeded to try Fountain by court-martial.

Now, I am going to refer to another case in a short time before I leave this discussion in which other soldiers of an insurgent command, citizens of this country, were killed, and show the position which our State Department took. I shall read a portion at least of the communication of our Government to the Government of Nicaragua in exactly a similar case.

The trouble was that we did not reach Groce and Cannon in time to stop their murder, which was denounced very severely by our Government, but in this case we did get there. I have here the official correspondence showing exactly what the United States has done in the Fountain case, where she had even thrown the protection of our flag around one of her citizens. Fountain was arrested. We have a consular agent in the city of Parral and a consul at Chihuahua. Mr. Long, the consular agent at Parral, went in person to the commander of the forces of Orozco who were occupying Parral and made formal protest to him in the case of this man he was then trying by court-martial. I have here the evidence in the case upon which they tried him, and that evidence, given and furnished officially, simply shows that Fountain admitted that he had been a soldier connected with Francisco Villa's command and had been operating a field gun. The American consular agent demanded that the proceedings should cease, at least until he had time to communicate with the American consul at Chihuahua. The American consul took it up with the Government of his country, and he was told to stop the shooting of Fountain—the American citizen. Did they pay any attention to the orders? The consul communicated the orders to the consular agent, and the consular agent communicated the orders of the United States Government to this man Salazar, to the effect that he should not murder this American citizen who had been simply caught under arms or in the uniform of the Federal Government of Mexico. The next morning Mr. Fountain was placed with his face against an adobe wall and shot to death. Now, remember, if an American flag can be thrown over an American citizen by the consular representatives of this Government, at least Fountain was under the shadow of that flag. There has not been one word of protest further than that given at the time by the American authorities. I have here the communication which was finally brought forth. This case has not been followed up, and I want to say to Senators that you can not get away from the proposition that the men who committed this outrage, who committed this murder were recognized at least as insurgents by the American Government, because these communications were forwarded to them.

On April 9 the consul at Chihuahua reported that an American named Fountaine was to be shot at Parral, that he had protested against the act and had instructed the consular agent at Parral also to protest to the military authorities there. Notwithstanding this the man was shot at 5 o'clock the next morning, in spite of the protests made, and the attitude of the rebel authorities throughout was generally insolent, both to the consulate and to Americans.

On April 12 the ambassador at Mexico City telegraphed that he had no official report regarding the killing of Fountaine, but that he was prepared to act upon the department's instructions as soon as they were received.

On April 14 a telegraphic instruction was sent to the ambassador at Mexico City, and also to the consul at Chihuahua, directing them to inform the Mexican Federal Government and the insurrecto leaders, respectively, as follows:

This was communicated to both parties.

The Government and people of the United States have viewed with grave concern the practical murder under the positive order of one of your chief lieutenants of an American citizen who is reported to have been taken prisoner during or at the end of a regular engagement, the prisoner said to have been dressed in regular uniform and obviously one of the regular forces of the established Government of Mexico. The Government of the United States must insist, in so far as the treatment of American citizens taken prisoners by whatever force is concerned, that the rules and principles accepted by civilized nations as controlling their actions in time of war shall be followed and observed, and the Government of the United States must give notice—

Must give notice!

that any deviation from such a course and, indeed, any maltreatment of any American citizens will be deeply resented by the American Government and people, must be fully answered for by the Mexican people—

By the Mexican people!

thus tending to difficulties and obligations which it is to the interest of all true Mexican patriots, as it is to the desire of the United States, to avoid.

This was published in the public press.

Mr. President, when this matter was called to the attention of the State Department to ascertain what, if anything, they had done to punish those who were guilty of the killing of this American citizen whom they had demanded should not be killed, the reply was given that some one had raised the question as to whether or not he was really an American citizen. Information was immediately furnished to the State Department that the man was born in El Paso, Tex., of American parents, and was an American citizen, and the satisfaction upon that proposition of the State Department was expressed in terms. We had warned the Government, we had told them that the American people would hold the Mexican people responsible, and there they have let it drop. Nothing more has been done.

On another occasion something of a similar nature occurred. On December 1, 1909, a communication was sent to the ambassador of the Nicaraguan Government here in Washington. I intend to show, before I get through, that the conditions as specified in this note to the Nicaraguan Government as existing in that country at that time are the conditions as they exist to-day in the Republic of Mexico, except that the conditions in Mexico are accentuated:

It is equally a matter of common knowledge that, under the régime of President Zelaya, republican institutions have ceased in Nicaragua to exist, except in name; that public opinion and the press have been throttled; and that prison has been the reward for any tendency to real patriotism.

* * * * * * *

In view of the interests of the United States and of its relation to the Washington conventions, appeal against this situation has long since been made to this Government by a majority of the Central American Republics. There is now added the appeal, through the revolution, of a great body of the Nicaraguan people. Two Americans who, this Government is now convinced, were officers connected with the revolutionary forces and therefore entitled to be dealt with according to the enlightened practice of civilized nations have been killed by direct order of President Zelaya.

It was President Zelaya, in this instance, who was blamed for the conditions, but I shall show you that this statement is absolutely applicable to this case here:

Their execution is said to have been preceded by barbarous cruelties. The consulate at Managua is now officially reported to have been menaced.

The consular office of the United States in more than one place in Mexico has been menaced, and in the case of the consular office of the United States in Chihuahua, as well as in Juarez, seals placed upon the doors have been broken with perfect impunity by the Mexicans.

The Government of the United States is convinced that the revolution represents the ideals and the will of a majority of the Nicaraguan people more faithfully than does the Government of President Zelaya, and that its peaceable control is well-nigh as extensive as that hitherto so sternly attempted by the Government at Managua.

There is now added the fact, as officially reported from more than one quarter, that there are already indications of a rising in the western Provinces in favor of a presidential candidate intimately associated with the old régime. In this it is easy to see new elements tending toward a condition of anarchy, which leaves, at a given time, no definite responsible source to which the Government of the United States could look for reparation for the killing of Messrs. Cannon and Groce, or, indeed, for the protection which must be assured American citizens and American interests in Nicaragua.

In these circumstances the President no longer feels for the Government of President Zelaya that respect and confidence which would make it appropriate hereafter to maintain with it regular diplomatic

relations, implying the will and the ability to respect and assure what is due from one State to another.

The Government of Nicaragua, which you have hitherto represented, is hereby notified, as will be also the leaders of the revolution, that the Government of the United States will hold strictly accountable for the protection of American life and liberty the factions de facto in control of the eastern and western portions of the Republic of Nicaragua.

And then the papers are handed to the minister from Nicaragua, and he is told that he will no longer be recognized by this Government. Yet in the later instance to which I have referred we are able to get to the parties who are proposing to kill an American citizen with a protest before it it done, and after it is done we remain silent upon the subject.

Mr. President, it is somewhat remarkable that a Senator should be compelled to refer, as I shall be compelled to refer, to some of the documents in this case as showing the attitude of the American Government and what the American Government has done.

I stated to the Senate the particulars, first, as to the killing of American citizens at Agua Prieta, or at Douglas, on this side of the line. That occurred in April, 1911. At El Paso, Tex., on May 5—I think it was on that date; I know it was in May of the same year—instead of 5 persons being killed or 8 killed and wounded, 5 American citizens were killed and 18 were wounded on this side of the line; and yet the President of the United States, in a message to the Congress of the United States in December, in which he refers to his telegrams to Gov. Sloan, touching the aspect of affairs, states that since that time nothing has occurred tending toward the injury of American citizens, overlooking entirely in the message sent to Congress upon this subject the killing and wounding of 23 or 24 American citizens in El Paso, Tex.

It has been claimed by the State Department—and it apparently is still claimed—that they have received information of every outrage that has been perpetrated; and it is stated in writing by the State Department that they have received information, in writing or otherwise, from the different consular agents of the United States in Mexico as to what was going on with reference to the citizens of the United States, and that they have been able to protect the citizens of the United States.

This matter under present consideration—the claim for damages by American citizens killed and wounded on this side of the line, with their feet upon American territory, by Mexicans on the other side of the line—is not a new matter. The matter of claims for damages has been pending now since May, 1911. The State Department of these United States was called upon immediately to take up the matter of the claims of American citizens and collect them from the Mexican Government.

Now, how did these claims originate? In the fight between the forces of Diaz, then President of Mexico, and the followers of Madero, who is the present President of Mexico. Whether the shots which killed those people were fired by the Madero forces or by the Diaz forces makes no difference whatsoever, because if fired by the Diaz forces or by the forces of his successor, representing the Government of Mexico, that Government is responsible.

The claims were presented, as I said. Finally a resolution was introduced in the lower House of the Congress of the United States by one of the Representatives from western Texas. While that resolution was under consideration in the lower House the State Department undertook to offer reasons for not pushing the claims of American citizens against the Mexican Government; and I want to say, without fear of contradiction, that the most remarkable principle of international law ever enunciated in the world was given over the signature of the Secretary of State of the United States to a committee of the lower House of Congress as a reason for not taking up these claims.

Every precedent established by our Government and every other is that as to claims for damages to American citizens or to your own citizens on your own soil, your own courts deal with them, your own diplomats take them up, not that you submit such claims to the local courts of foreign countries. But yet over his signature the Secretary of State, as a reason for opposing the passage of this same joint resolution, introduced by the Senator from Arizona in this branch, states that diplomacy will not permit the United States Government to take up these claims; that he can not take them up diplomatically; and he gives as his reason for it that international law compels the submission of just these claims exactly to the Mexican courts.

I am not going to take time to read it, but I have in my hand here a report on House joint resolution No. 255, of which the original resolution in this case is practically a copy, and I ask that this report of the committee, as it contains the legal arguments on both sides of this proposition, including the argument of the Secretary of State and his reasons for not pushing American claims, be printed in the RECORD as a portion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

[House Report No. 556, Sixty-second Congress, second session.]

AMERICAN CLAIMS AGAINST MEXICO.

Mr. GARNER, from the Committee on Foreign Affairs, submitted the following report, to accompany House joint resolution 255:

The Committee on Foreign Affairs, to whom was referred House joint resolution 255, directing the Secretary of State to investigate claims of American citizens growing out of the late insurrection in Mexico, determine the amounts due, if any, and press them for payment, having had the same under consideration, report it back to the House, by unanimous vote, without amendment and recommend that the resolution do pass.

The necessity for the passage of this resolution will appear from a recital of the following facts:

In April, 1911, a battle was fought at Agua Prieta, a town situated in Mexico immediately across the international boundary line from Douglas, a city in the then Territory but now State of Arizona. Engaged in this battle, fighting against each other, were Mexican Government troops and insurrectionists who were seeking to overthrow the Mexican administration. As an incident to the battle many of the shots fired found their way across the international boundary line into Douglas, wounding a number of American citizens, some of them fatally.

Afterwards, in May, 1911, another battle was fought between the Mexican Federal and insurrection forces at Ciudad Juarez, immediately across the international boundary line from El Paso, Tex., and in this engagement shots from the Mexican guns were fired into El Paso, wounding and killing a large number of Americans.

At the scene of both these battles an American military force was present sufficient to have protected these Americans who were injured, but this military force was not utilized. The President contented himself with only a warning to the Mexican Government and to the officers commanding the forces engaged in the fight not to injure Americans within United States territory.

Following these occurrences the Americans who were thus injured, and the legal representatives of those who were killed, prepared their claims against the Mexican Government for damages and presented them to our Secretary of State, together with their proof, with the request that the Secretary present them to the Mexican Government and press through diplomatic channels for payment. This the Secretary refused to do, and instead advised the claimants that the American Embassy at the City of Mexico would, upon specific request of claimants, file their claims with the Mexican foreign office for presentation to the consultative claims commission of Mexico, but with the distinct understanding that in so presenting the claims to the Mexican foreign office neither the embassy nor the Government of the United States would pass upon the propriety, equity, justice, or legality of such claims, and that these questions would be left for further consideration and final determination in accordance with the rules and principles of international law applicable and controlling, when, if at all, it shall become necessary to consider the question of formally presenting complaints of claimants through diplomatic channels as a diplomatic claim. The Secretary further informed claimants that the American Embassy would do nothing more in relation to their claims than to present them for filing as before stated; that it would be necessary for each claimant, either personally or by attorney, to take all other needful measures in the premises, but that if the parties appearing before the commission should be dissatisfied with the findings of that tribunal, as approved or modified by the Mexican treasury, they might pursue their judicial remedies in the ordinary courts.

To this action of our State Department, relegating them to a Mexican tribunal for relief, claimants objected. They took the position that as they were injured in the United States and not in Mexico, and had never submitted themselves to Mexican jurisdiction nor Mexican laws, there was no authority in international law to require them to go to Mexico, the wrongdoer, for the trial of their cases. They contended that, as in all other cases of personal injury, their rights should be determined and the amount of their damages measured by the law of the place where the injuries were inflicted, which were the laws of the United States; that the laws of Mexico were wholly inapplicable, and that if it were the purpose of Mexico to apply American laws to the claims Mexican tribunals were not competent to apply them; that it was an act of injustice, if not indeed a complete denial of justice, to require the American claimants to incur the heavy expense, which they were unable to bear, of going to a foreign country to submit their claims to a tribunal whose proceedings are conducted in a foreign language and which administers laws of which they have no knowledge, and which has no power to enforce the production of evidence from the locality where the injuries occurred.

Claimants further contended that the duty rests upon this Government to afford its people protection and justice; that as to them it had not afforded protection, and in consequence they had been injured, and that it should afford them a proper and effectual means of redress, and that the only way this can be done in these cases is for the Government itself to investigate these cases, determine the amounts due, and present and press them for payment as diplomatic claims. Because claimants can not sue the Mexican Government in our courts, and for the reasons already pointed out, it is impracticable to produce the evidence or try them before a Mexican tribunal.

The resolution which is the subject of this report seeks to compel the State Department to act in accordance with the views of claimants.

To support the position of the State Department, which we have outlined, the Secretary of State relies upon the following statement setting forth shortly the history of the department's action in the matter of these claims and giving briefly the reasons for the procedure which it has followed:

"That from the time the anti-American riots broke out in Mexico City until the close of the recent revolutionary disturbance immediately following the American ambassador at Mexico City and the American consuls throughout the Republic, acting under standing instructions issued very early in the disturbances, were prompt and effective in their representations to the Mexican Government for the protection of American life and property. Whenever and as often as any particular case was called to the attention of the department, special instructions (by telegraph, if the case was urgent, otherwise by mail) were sent to the appropriate diplomatic or consular officers in Mexico. Moreover, pursuant to general and to specific instructions issued by the department, our diplomatic and consular officers in Mexico constantly reported to this Government the conditions in their various localities, so that, thus fully advised, the department was able to secure protection which otherwise might have been impossible.

"That as to the unfortunate occurrences at El Paso, Tex., and Douglas, Ariz., in which American citizens were killed or injured by shots fired from the Mexican side of the border as an incident of the hostile operations being there conducted, this Government made urgent representations not only to the commanders in the field, but to the Mexican Government itself, that steps must be taken to prevent the firing into American territory, and the reports of our officers go to show that both parties seemingly attempted to avoid such firing. The action taken was as urgent as it was deemed proper to make when it was considered that should the United States be contending with a foe, domestic or foreign, that had placed its back against the Mexican border military necessity would doubtless require that such foe be dislodged irrespective of the incident damage which might result to Mexican citizens on Mexican soil. If such a case arose on this side of the line, it is doubtful if this Government would do more than assert its willingness to answer in damages for the injuries which it might cause. In the present case the Mexican Government has indicated its willingness to live up to the same rule.

"To the end of meeting claims against it arising out of the recent revolution the Mexican Government has established a claims commission which has jurisdiction to examine into claims against the Mexican treasury because of injuries to the private estate of persons or for damages directly growing out of the revolution, for the purpose of reaching the amount of indemnity to which claimants may be entitled. This commission was established by a decree dated June 30, 1911, and was by the decree opened for business on July 1. The decree provided that no claims would be received by the commission after September 30. However, American citizens not having, for various reasons, presented their claims to the tribunal by the last date named, this department arranged with the Mexican Government that claims not already presented to the commission might be presented informally through the foreign office by our ambassador. Two such extensions were secured by the department, as a result of which American claimants, and apparently none others, had until December 31 last to present their claims. In taking advantage of this arrangement and presenting these claims thus informally through the foreign office the American ambassador, under instructions from the State Department, reserved all rights to make diplomatic representations later in each and every case in which the result reached by the commission was not, in the opinion of this Government, in accordance with the principles of law and equity involved.

"All American claimants were referred to this commission, because it seemed under the decree creating it that it had jurisdiction of all claims of every kind and nature, and because of the evident necessity, if justice were to be finally done to all Americans, of treating the entire situation as a unit. There was in international law no ground apparent to the department which would have justified it in discriminating between American claims or putting them in certain classes which should receive different treatment, and there was obviously no reason in abstract justice or in morals which required any such course, certainly not so long as ultimately no citizen would suffer by the procedure adopted, and so long as by making such discrimination some Americans would probably suffer. The necessity of treating the situation as a unit is evident when one considers losses suffered in the ordinary track of war, for which under the ordinary rules of international law the Government of Mexico would seem not to be responsible, and yet which were losses as real and severe as those for which compensation might be claimed. The commission being authorized to deal with all claims not only in accordance with the strict law, but with the equities which might be shown, it seemed most desirable that opportunity be given to present the track-of-war claims to the commission without the prejudice which would have resulted from withholding from the commission all claims legally sound. Moreover, no one has lost any rights by presenting their claims to this commission; indeed, all rights have been expressly reserved.

"Again, as it is fundamental in international law, in the matter of claims, that before a government becomes liable diplomatically the claimant must, save under certain exceptions not apparent in this situation, have exhausted his local remedies, it is quite clear that by presenting their claims to this commission American claimants have perfected their rights. Moreover, as the commission was specially constituted for the purpose of hearing and determining revolutionary claims, it seemed manifestly unwise to risk, in case the claims should finally go to international arbitration, a plea by the Mexican Government that the claimants had failed to exhaust their local remedies. It is, moreover, very probable that if this Government had so acted as to permit this plea to be used by the Mexican Government, the very claimants who now desire other procedure would have been among the loudest in their censure of the department for having acted contrary to this most elementary principle.

"As the proceedings before the commission did not seem to be moving as rapidly as could be desired, the American ambassador at Mexico City, pursuant to the department's instruction, took up the matter of the commission's early consideration of the El Paso and Douglas claims, and the President of the Mexican Republic has promised that these claims would be immediately referred for investigation and settlement, if possible, with the claimants, to the Mexican consuls at El Paso and Douglas, and that failing a settlement between the consul and the claimants, the cases would receive immediate consideration by the commission with a view to reaching an early adjustment.

"The right of the Government of Mexico to establish a tribunal to hear the evidence presented by any and all claimants against the Mexican Government, in order that the Government might adjust such claims, is certainly too clear to call for extended argument. The underlying principle was laid down by Mr. Jefferson, who in instructing, as Secretary of State, our representative at Paris, under date of March 12, 1793, stated:

"'We surely can not deny to any nation that right whereon our own Government is founded—that everyone may govern itself according to whatever form it pleases, and change these forms at its own will, and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president, or anything else it may choose. The will of the nation is the only thing essential to be regarded.' (1 Moore's Digest, p. 120.)

"Later Webster announced the same fundamental principle in an instruction to Mr. Reeves, under date of January 25, 1852. Mr. Webster used the following language:

"'From President Washington's time down to the present day it has been a principle, always acknowledged by the United States, that every nation possesses a right to govern itself according to its own will, to change institutions at discretion, and to transact its business through whatever agents it may think proper to employ.' (Op. cit., p. 126.)

"To these expressions, and as complementary to them, there should be added the doctrine announced by Secretary Bayard in a note to the Spanish minister at this Capital in which Secretary Bayard, urging the right of this Government to refer persons having claims against it to the tribunals to be constituted by us for that purpose, used the following language:

"'It may, however, be rightfully maintained, as has frequently been done by both this Government and that of Great Britain, that when a sovereign rests his administration, so far as concerns claims against himself, primarily on his judiciary, and when such tribunals are open to aliens for redress to them, aliens claiming to be aggrieved should at first resort.' (For. Rel., 1887, p. 1022.)

"It is, therefore, entirely clear that the Mexican Government was wholly free to adopt such means as it chose for the purpose of passing upon claims of aliens against the Government, providing, of course, the procedure adopted was not unreasonable.

"The propriety of the action of the department in referring all claimants in the first instance to this commission, whatever the nature of their injury and their rights thereunder, is sufficiently established by other rules set forth by various Secretaries of State and by the Supreme Court itself.

"In 1855 Mr. Marcy, directing our minister to Peru, said:

"'The natives of the foreign country seek redress for wrongs through the judicial tribunals or in the form of petitions to the executive or legislative authorities. Foreigners are bound to pursue the same course unless there should be a positive and unequivocal treaty stipulation imparting to them privileges superior to those enjoyed by the natives of the country. It is only when the judicial tribunals are not accessible, or act corruptly, or are used as instruments to oppress our citizens or deprive them of their rights of property, that cases are presented for the interference of this Government in their behalf.' (6 Moore's Digest, p. 659.)

"In 1874 Secretary Fish, writing to Mr. Lawrence, chairman of the Committee on War Claims, House of Representatives, regarding a bill to provide for the adjudication of the claims of aliens arising out of our Civil War, expressed the same principle as follows:

"'In the intercourse of nations it is an admitted principle of comity that where the local courts afford a remedy, and where there is no reason to distrust the firmness and sense of equity of those courts, a claim will not be urged diplomatically until the local remedy shall be exhausted unless good and satisfactory reasons can be shown for not pursuing the remedy to the highest court of appeal.'" (See H. Rept. No. 134, 43d Cong., 2d sess., p. 5.)

"Later, in 1893, Mr. Gresham announced the same principle in the following language:

"'There is no principle of international law which makes it the duty of one nation to assume the collection of claims of its citizens against another nation if the citizens themselves have ample means of redress without the intervention of their government. Indeed, Sir Robert Phillimore says, in his Commentaries on International Law, volume 2, second edition, page 12: "As a general rule, the proposition of Martens seems to be correct, that the foreigner can only claim to be put on the same footing as the native creditor of the State."'" (108 U. S., p. 90.)

"The custom of nations in settling war claims has always been in accordance with the principles set forth in the above quotations.

"In view of these facts and circumstances the Secretary thinks that congressional activity in this matter would embarrass rather than facilitate the present negotiations for settlement of American claims. A resolution, such as this proposed regarding the El Paso and Douglas claims, would doubtless bring forth other resolutions on behalf of classes of other American claims, with the result that the whole situation, which so far has been conducted entirely in accordance with international precedents, would be thrown into confusion."

The Secretary assures the committee that he will continue to do everything in his power to secure for all American citizens the utmost to which their rights entitle them.

To the foregoing contentions of the Secretary of State, Representative SMITH of Texas, author of the resolution, has made the following reply:

"In considering House joint resolution No. 205, relating to the claims against Mexico of Americans who were injured in our own country, it is irrelevant to discuss whether or not our Government failed to afford those Americans the protection due them or whether or not Americans injured within the confines of Mexico should be required to look to Mexican tribunals for redress.

"Both these questions are entirely beside the true issue. Whether our Government should have intervened for the protection of those Americans who were wounded on the American side by bullets fired across the boundary line from the Mexican side can not have the slightest bearing one way or the other on the question of the liability of the Mexican Government for damages to the Americans so injured. Neither has the fact that the Secretary of State claims to have used diligence during the progress of the insurrection to afford protection to Americans who happened to be resident or transient in Mexico anything whatever to do with this question.

"I quite agree that under principles of international law Americans who suffered damage to either person or property in Mexico would be required to exhaust their local remedies in the manner provided by Mexico herself before appealing to our Government for assistance.

"But my resolution is not in behalf of people injured in Mexico. It is in behalf of people who were injured wholly on American soil, in their own homes, living under American laws, and who had not submitted themselves to Mexican jurisdiction in any way.

"The two classes of claims are upon entirely different footing. When a person goes into a foreign country he becomes subject to the jurisdiction of that country and must prosecute and defend his rights in the courts of that country. Being subject to the laws of the foreign country, his rights are determined by the courts in accordance with the law thereof and not the laws of the country from whence he came.

"All this a person is assumed to agree to when he goes into a foreign country, and he assumes all the risks incident thereto. And as long as he receives the same treatment at the hands of such foreign government as is accorded to its own citizens, he will have no grounds for complaint.

"But a person injured in his own country is entitled to have his rights measured and determined by the laws and tribunals of his own country, regardless of the question as to who violated his rights. Not having submitted himself voluntarily to the laws or jurisdiction of a foreign country, his own Government has no right to compel him to do so.

"In the case in hand the violation of the rights of these American citizens was a violation of American not Mexican law. And I want to ask by what principle of international law or justice Mexico can claim the right to apply Mexican law to them, or even to administer American law in a Mexican tribunal?

"Under the law of nations every organized government owes a duty to foreigners residing or sojourning within its domain. As a general rule it must afford them the same degree of protection and access to

its courts as are afforded by it to its own citizens. In return foreigners must submit themselves to its laws and resort to its tribunals for the administration and enforcement of its laws. Certainly it is only fair and just that foreigners claiming rights under its laws should be required to litigate them in its own tribunals.

"Quite different is the case we have before us. Mexico owed no duty as a Government to the American people for her soldiers injured on American soil, and they owed Mexico no duty, except the duty to respect the rights of each other. In injuring these Americans, Mexico acted as a naked trespasser, and it outrages every sense of justice to be told that they must take their cases to the tribunals of the trespasser for trial, whether Mexican or American law is to be applied to the case.

"When the Secretary of State sent his communication and the brief of his solicitor to the committee in opposition to my resolution, and making the contention that these American claimants should submit their claims to Mexican tribunals, he did not express his views as to what laws should be applied to the case. I now ask him that question. Should Mexican laws be applied? If so, under what principle of international law or abstract justice should the laws of any foreign country be invoked to redress wrongs inflicted under American laws? Should American laws be applied? If so, let him point out just one authority holding that an American citizen should be required to leave his own country and go to the tribunals of a foreign country to have American law applied to a case which arose on American soil.

"Until the Secretary of State answers these questions he can not expect an acceptance of his naked statement that 'there was in international law no ground apparent to the department which would have justified it in discriminating between American claims or putting them in certain classes which should receive different treatment,' and that 'there was obviously no reason in abstract justice or in morals which required any such course.'

"I have examined with very great care the Secretary of State's communication and the brief of his solicitor and all the authorities cited by them, and I fail to find any authority for saying that all claims against Mexico growing out of the late revolution should be treated as a unity—that the claims arising on American soil should receive identically the same treatment as those arising in Mexico. I have also made an examination of many works on international law and I have found no such authority.

"The first authority cited by the solicitor is Moore's Digest of International Law, volume 6, page 656 et seq., which lays down the general rule that a claimant must exhaust his local remedies before invoking diplomatic assistance. To state the rule more elaborately the solicitor quotes from a letter written in 1834 to a claimant by Mr. McLane, Secretary of State, as follows:

"'Although a government is bound to protect its citizens, and see that their injuries are redressed where justice is plainly refused them by a foreign nation, yet this obligation always presupposes a resort in the first instance to the ordinary means of defense or reparation which are afforded by the laws of the country in which their rights are infringed, to which laws they have voluntarily subjected themselves by entering within the sphere of their operation and by which they must consent to abide.'

"The case referred to by Mr. McLane was one of tort committed on the claimant by a mob in Cuba, and of course the local remedies afforded by the laws of Cuba should have been resorted to first. It is not a case in which the injuries complained of had occurred within our country.

"Let us notice the requirements of this rule. What is meant by 'local remedies'? It means such remedies as are afforded by the laws of the country in which the rights of the claimants are infringed. In the cases embraced in my resolution it means the remedies provided by American laws, not Mexican, because the injuries occurred in America and not in Mexico.

"I have made an exhaustive examination of all the cases cited in Moore's Digest of International Law in support of the rule that claimants must exhaust their local remedies before invoking diplomatic assistance, and I have found that without a single exception they are cases in which the claimants were injured in the foreign countries and not at home.

"The Secretary of State says that 'the right of the Government of Mexico to establish a tribunal to hear the evidence presented by any and all claimants against the Mexican Government, in order that the Government might adjust such claims, is certainly too clear to call for extended argument.'

"In support of this proposition, which to my mind is quite fallacious when stated so broadly, the Secretary quotes from a letter of Thomas Jefferson, as Secretary of State, to our representative at Paris, under date of March 12, 1793, as follows:

"'We surely can not deny to any nation that right whereon our own Government is founded, that every one may govern itself according to whatever form it pleases, and change these forms at its own will, and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president, or anything else it may choose. The will of the nation is the only thing essential to be regarded.'

"The Secretary of State also quotes from Mr. Webster to the same effect, and as a complement to these authorities the Secretary lays down the doctrine announced by Secretary Bayard on December 3, 1886, as follows:

"'It may, however, be rightfully maintained, as has frequently been done by both this Government and that of Great Britain, that when a sovereign rests his administration, so far as concerns claims against himself, primarily on his judiciary, and when such tribunals are open to aliens for redress, to them aliens claiming to be aggrieved should at first resort.'

"Of course, no one will dispute the proposition made by Jefferson and Webster, viz: That every Government has the right to choose its own form of government and to transact its business through whatever organ it may think proper. And no one will deny that, as a general rule, every Government has the right to require that all claims arising under its own laws shall be submitted to its own judiciary.

"But I do most emphatically deny that any Government has the right to require that the claims of foreigners, arising under the laws of another country and outside the jurisdiction of its own laws, shall be prosecuted in its own courts.

"If, under the authorities just referred to, Mexico can require Americans unlawfully injured by Mexican troops within American jurisdiction to seek redress in Mexican tribunals, then Mexico can require any controversy affecting her interest to be tried in her own tribunals, however much such controversy may affect the interests of foreign people or foreign Governments. The fallacy of such a proposition readily appears from a mere statement of it.

"The Secretary's letter cites a number of cases in support of his position other than those already referred to, but none of them are in point. The Marcy letter was with regard to an American claim arising in Peru. The Fish letter related to claims of aliens against the United States arising out of the Civil War within our own jurisdiction. The other two cases are equally as inapplicable. Not one of them involved the question under discussion, viz, whether or not an American unlawfully injured in his own country by a foreign power can be required to resort to the courts of the foreign power for redress.

"As I have already stated, I have been unable to find any case in international law holding the affirmative upon that proposition, and I do not believe any such case can be found.

"The question seems to have been raised but once with our State Department, and it was then decided positively and emphatically against the present contention of our Secretary of State. I refer to the case of the American schooner *Daylight*, of Bath, Me., which vessel, while at anchor outside of the bar near the harbor of Tampico, being then on her voyage from Key West, Fla., with a cargo of lumber for Tampico, was at night run into by the Mexican gunboat *Independencia*, the vessel and cargo becoming a total loss. The claim for damages was made to the minister of foreign affairs of Mexico, who contended that the claimant should bring suit in the Mexican courts. To this contention Secretary of State Frelinghuysen vigorously dissented, because the injury was done beyond the jurisdiction of Mexican dominion. In discussing the question Mr. Frelinghuysen, in his instructions to the American ambassador to Mexico, wrote as follows:

"'Upon a careful examination of these several propositions of the distinguished secretary for foreign relations of Mexico I find myself wholly unable to agree with him in the conclusion that the doctrine embraced in them can, with any legal propriety, be considered applicable to the case of the *Daylight*. In his note to you of the same date regarding the case of the *Sidbury*, a copy of which accompanies your 776, referring to this same jurisdictional contention, Mr. Fernandez says: "This opinion does not merely rest upon the principle that the courts are called upon to redress injuries which are suffered by the inhabitants of the country or those who are transiently therein, for the purpose for which they are established is to administer justice." Giving to this proposition the interpretation which it has received from all writers on public law, and hitherto accepted by all civilized Governments—that is, that the municipal civil laws can only be held applicable to and operative on the rights, property, and persons of the citizens of the country and foreigners who may be either permanently or temporarily residing in the country—I find no difficulty in acceding to it. This, however, is all that can be claimed for it—all, as it is believed, that is claimed for it by the governments of Christian nations—and all that is allowed to it by the uniform declaration of writers on public law. "Considered," says Halleck, "in an international point of view, either the thing or the person made the subject of the jurisdiction must be within the territory, for no sovereignty can extend its process beyond its own territorial limits so as to subject either persons or property to its judicial decisions and every exertion of authority of its sort beyond its limits is a mere nullity and incapable of binding such persons or property in any other tribunals."

"'The same doctrine is found stated in different forms of expression in Phillimore, in Wheaton, in Westlake, and in Woolsey. I am not aware that it has ever been questioned.

"'The owners of the *Daylight* were never residents of Mexico, either permanent or temporary. They are not known to have ever been in the country. The master of the vessel was not a resident of Mexico, either permanent or temporary, and was never in the country beyond the port at which his vessel might touch. At the time of the occurrence which gave rise to the claim the vessel could scarcely be said, with strict propriety, to have been in Mexican waters. She was anchored outside the bar, near the harbor of Tampico, in an exceptionally rough sea, at the close of a severe storm, which rendered it unsafe for her to attempt to cross the bar or enter the harbor. To insist that those claimants shall go from Maine to Tampico to seek redress in the Mexican tribunals for a grievous wrong suffered at the hands of a high officer of the navy of that Republic, and in such proceedings to be met by the evidence which the commander of the *Independencia* would readily be able to elicit from the ship's crew, would, in the estimation of this Government, be a practical denial of justice. The Mexican Government is conceived to be justly responsible to this for the act of that officer, and consequently the views put forth by Mr. Fernandez in behalf of his Government can not be accepted or acceded to by this.

"'Guided by the suggestions of my former instructions in regard to the matter, you will again, in the light of the observations made in this, bring the subject to the attention of the minister for foreign affairs, and you will say at the same time that the President hopes and expects that so just a claim as this is deemed to be will receive early consideration, followed by prompt and speedy adjustment at the hands of the Government of Mexico.'

"The doctrine announced by Mr. Frelinghuysen is so elemental that I venture the belief that it was never called in question by any Government before our present Secretary of State began to deal with these Mexican claims. Mexico did not call it in question in the *Daylight* case, but based her contention that the case should be tried in her courts upon the ground that the injury to the schooner occurred in Mexican waters and within the dominion of Mexican laws. America refused to require the claimants to go into the Mexican courts because of the belief that the injury occurred upon the high seas, outside the dominion of Mexico.

"But aside from the legal question involved, in regard to which I believe I have clearly shown the Secretary has taken an erroneous view, he makes an argument in justification of his action in treating alike all claims growing out of the Mexican insurrection, which is also unsound. The Secretary says:

"'The necessity of treating the situation as a unit is evident when one considers losses suffered in the ordinary track of war, for which, under the ordinary rules of international law the Government of Mexico would seem not to be responsible, and yet which were losses as real and severe as those for which compensation might be claimed. The commission being authorized to deal with all claims not only in accordance with the strict law, but with the equities which might be shown, it seemed most desirable that opportunity be given to present the track-of-war claims to the commission without the prejudice which would have resulted from withholding from the commission all claims legally sound.'

"In the first place, I take the position that no claim arising within American dominion can be classed as a track-of-war claim. As I said before, these people who were injured and the Mexican Government

did not owe each other any duty except the duty of respecting each other's rights. Though prosecuting a war, both the Mexican Federal and insurgent troops were bound to respect the rights and safety of Americans on American soil, and to the extent they did not do so were unlawful invaders and naked trespassers. No authority can be found holding that the necessities of war can justify either the invasion of the dominion of a neutral power or the wronging and killing of the citizens of a neutral power. If the rights of residents must give way to the necessities of a war being carried on by a government under which they live, that is another matter. And I say that the Secretary of State fails utterly to state any good reason why the well-founded claims of resident Americans should be tied up with claims of residents of Mexico which may not be well founded. Why should resident American hazard their claims in Mexican tribunals just because such course might aid in collecting other claims with which they absolutely have no connection?

"Finally, the Secretary says that 'where an armed insurrection has gone beyond control of the parent government, such government is not, as a general rule, responsible for damages done to foreigners by the insurgents, and that a government is not responsible for the acts of its own soldiers resulting in such injuries as are due to the misfortunes of war, either internal strife or conflict between nations; nor responsible for the acts of soldiers committed in their private capacity—acts of pillage—without the order or presence of a commanding officer; and that the department felt that these principles might be found to operate unfavorably toward some American claims if they should be presented diplomatically or be submitted to an international claims commission.'

"I want to say the Secretary need not have any apprehension that either of these principles could be invoked against any of the claims we are dealing with. It matters not whether the injuries were inflicted by the Federal or insurgent troops. If by the former, of course the Mexican Government would be liable, and if by the latter the Government would be liable because the insurrection was successful, and under well-established rules of international law the Government in the hands of the insurrectionists would be liable. (Moore's Digest of International Law, Vol. VI, p. 901.)

"As I have already shown, the 'misfortunes-of-war' doctrine can not properly apply to nonresident foreign neutrals. And certainly it can not be claimed that in injuring our people the Mexican troops were acting in their private capacity, without the order or presence of a commanding officer. They were in the immediate command of their officers, and engaged in a struggle for the control of the Mexican Government. At El Paso the insurgent forces were under the personal command of Madero, who is now the President of Mexico.

"With regard to the suggestion that the Mexican Government has changed its position so far as to now say it would authorize the Mexican consuls at El Paso and Douglas to make investigations of all the claims of American citizens at those places and endeavor to make direct settlement with claimants, I desire to say that such suggestion is entirely unsatisfactory to claimants. It will be noted that as a part of the proposal it is stated that in the event of failure to reach settlement the cases would be remanded to the Mexican consultative claims commission. The claimants believe this change in attitude on the part of the Mexican Government is only a ruse in line with its past conduct to bring about delay and the ultimate defeat of the claims.

"Moreover, in this change of attitude the Mexican Government still adheres to its claim of right to try these cases before its own tribunals—a proposition so contrary to international law and all sense of justice that claimants can not assent to it.

"I want to remind the committee that there is involved in this matter not alone the question of making compensation to a few American claimants. It presents for solution a great question of international law which concerns every American citizen, and unless settled right, may in the future subject many American citizens to outrages and injuries for which they would be unable to obtain any redress.

"I also cite the following authorities in support of the rights of aliens in the United States:

"'Aliens coming within our territory are entitled to the same protection in their personal rights as our own citizens, and no more.'" (Moore's Digest of International Law, Vol. IV, p. 2.)

"'There is no principle of the law of nations more firmly established than that which entitles the property of strangers within the jurisdiction of a country in friendship with their own to the protection of its sovereign by all the efforts in his power. This common rule of intercourse between all civilized nations has between the United States and Spain the further and solemn sanction of all express stipulation by treaty. In violation both of the common usage of nations and of the express promise of Spain in the treaty, nearly 200 vessels and their cargoes, belonging to citizens of the United States, were seized, many of them within the territorial limits of Spain and under the cannon of her fortresses, by French cruisers, and all of them were condemned within Spanish jurisdiction. Spain was required to pay indemnity.'" (Moore's Digest of International Law, Vol. IV, p. 5.)

"'The policy of the United States in all cases of complaints mode by foreigners is to extend to them the same means of redress as is enjoyed by our own citizens.'" (Moore's Digest of International Law, Vol. IV, p. 7.)

"'In the courts of the United States alien friends are entitled to claim the same protection of their rights as citizens.'" (Moore's Digest of International Law, Vol. IV, p. 7.)

"'Aliens domiciled in the United States owe to the Government a local and temporary allegiance, which continues during the period of their residence, and for the violation of which they may become liable to prosecution for treason, just as a citizen.'" (Moore's Digest of International Law, Vol. IV, p. 10.)

"'The authority which every sovereign has over the conduct of aliens within his territorial jurisdiction makes him responsible to others for their conduct as much and for the same reason as he is responsible for the conduct of permanent citizens or subjects.'" (Moore's Digest of International Law, Vol. IV, p. 11.)

"It would seem to me that according to the authority I have cited with reference to the seizure of American ships by France in Spanish waters, the United States would be liable for damages for injury to aliens within our dominion by Mexico, and therefore it would follow that the United States would be entitled, in turn, to recover the damages from Mexico.

"See Koszta case, Moore's Digest of International Law, volume 3, page 820, for elaborate discussion of the rights and duties of the United States with regard to aliens domiciled within its territory.

"Also, see letter of B. Bryan to Mr. Huntington Wilson, Acting Secretary of State, on same subject, which follows:"

SEPTEMBER 11, 1911.

Mr. HUNTINGTON WILSON,
Acting Secretary of State, Washington, D. C.

DEAR SIR: I am in receipt of your letter of date August 26, 1911, to Hon. W. R. SMITH, Member of Congress from Texas, in regard to claims against Mexico of Richard Brown, Virginia Moorhead, and Francisco Portillo, which letter has been transmitted to me by Mr. SMITH. In said letter you used the following language: "The Department of State would not be warranted in making any representations in regard to the claim of Francisco Portillo, as it appears from his memorial that he is not an American citizen." I respectfully differ from you in the conclusion that the memorial of Francisco Portillo does not show that he is an American citizen and entitled to protection as such. My authority, I refer you to Moore on International Arbitration, Digest, volume 3, and the case of Jarr and Hearst, pages 2707, 2708, 2710, 2711, 2712, 2713. In these cases continuous domicile in the United States along with the declaration of intention to become a citizen permitted the claimants to appear before the commissioner and claim damages. After full discussion, Mr. Palacio, the Mexican commissioner, who at first denied the right, ultimately conceded that such persons were citizens of the United States. Also, I cite you, same authority, Moore's Digest International Arbitration, volume 3, page 2722, to the argument of Mr. Hale, counsel for the United States, in which he goes exhaustively into the question of domicile and intention to become a citizen and the protection flowing therefrom. In same case I cite you also to the argument of Judge E. R. Hoar, in which argument Judge Hoar exhaustively discusses the rights of one permanently domiciled in the country, as is shown to be the case in the case of Francisco Portillo.

Also, I cite you to the distinction between national character of property and the nationality of persons, to wit, act of Congress, 1868; and Phillimore, International Law, part 5, cap. 1.

In the above cases the commission between Mexico and the United States allowed the parties to appear as complainants for damage and allowed damages.

I respectfully ask what is the difference between the case made out in Francisco Portillo's memorial and the parties above referred to? Portillo's memorial shows that he came to reside in the city of El Paso, State of Texas, United States of America, in the year 1893, and that he has continuously since that date resided in the city of El Paso, State of Texas, United States of America; second, that he made his declaration of becoming a citizen in the year 1896; third, that acting upon said declaration he has been exercising his right as a voter in the city of El Paso, State of Texas, United States of America, in all elections, local, district, State, and National; fourth, that he has acquired property in the city of El Paso, Tex., and is a taxpayer and as such is a merchant engaged in business; fifth, that his children have been educated in the public schools of El Paso, Tex.; sixth, he is a man of family and has continuously resided in El Paso, Tex., never returning to Mexico; seventh, that he has taken all necessary steps to take out his final paper of citizenship.

As said by Mr. Ashton in his argument, Moore's Digest, volume 3, page 2703 (and his argument was sustained by the commission and the claimant allowed damages), that the naturalization of an alien relates back in the first step and constitutes him a citizen from the date of declaration of intention; "that persons who have duly declared their intention to become citizens of and bona fide domicile of the United States are subject to the protection of the United States against injuries by the territory of Mexico within and without the territory of the United States."

I repeat that this theory of Mr. Ashton was adopted by the commission on Mexican claims. It has been adopted, as I understand, from the books on international law, Moore's Digest, in the matter of adjustment of claims between Great Britain and the United States.

Also, I respectfully call your attention to the laws of Mexico on the subject of expatriation of Mexican citizens, to wit: In substance, that where a Mexican shall remove from Mexico to the United States or other foreign country and shall not make his declaration of remaining a citizen of Mexico within three years after his "domicile in said foreign country that said Mexican citizen shall be considered a citizen of said country where he is domiciled." Francisco Portillo, memorialist, shows that he has been continuously a citizen of El Paso, Tex., United States of America.

I respectfully submit, in view of the facts stated in the memorial of Francisco Portillo and of the foregoing authorities quoted, that the memorial of said Portillo should be by the Department of State duly received and presented to the Mexican Government.

Yours, truly,

B. BRYAN.

The foregoing letter of B. Bryan and the authorities cited by Mr. SMITH upon the rights of aliens domiciled in a foreign country are for the purpose of establishing the right of the United States to demand compensation for aliens domiciled in the United States and who were injured within the United States by Mexican troops firing across the international boundary line.

Answering the foregoing argument of Representative SMITH, it is contended in behalf of the State Department—

"That there would appear to be few, if any, of the essential points of this matter which have not already been covered by the department. However, for the purpose of recalling distinctly the precise circumstances of this case, it may be well to recapitulate them, as follows:

"In two contests between the forces of the established Government of Mexico and the insurrectionists at and around points lying on the Mexican side of our southern border, shots were fired into American territory with a result that a number of persons were injured and some killed, most of whom were American citizens. It will be at once perceived that this action by the Mexican forces constituted a violation of our territory, as well as an injury to our citizens. While this department has not yet reached a definite conclusion regarding the first element named—that is, the violation of territory—it is probable that inasmuch as there is the strongest reason to believe that no affront to this Government or its people was intended by the action of the Mexican forces, no action will be taken with reference to this matter, since, if the situation were reversed, it is probable that this Government might consider itself under the necessity of doing just as the Mexican Government did, even though such action might result in injury on the Mexican side of the border.

"With reference to the injury inflicted upon persons within our own territory the department has called these claims to the attention of the Mexican Government and has insisted that they should be settled. The Mexican Government, having established an administrative body known

as the Consultative Claims Commission, for the examination of all claims against the Mexican Government arising out of the revolution, the claimants were referred to this commission. Since this reference the department has again taken the matter up with the Mexican Government and has secured from that Government the promise that it will attempt at an early date to reach a direct settlement with the claimants through the Mexican consuls located at El Paso, Tex., and Douglas, Ariz. While it would appear that as yet the consuls have not settled these claims, the conditions existing in Mexico are such as entirely to account for this delay, so that it need not be charged to a mere disposition to put off settlement. The department has received every assurance and has the strongest reason to believe that the Mexican Government will settle the claims as soon as practicable.

"In presenting the claims to the Mexican Government, this Government has in each case reserved the right to take them up diplomatically should the offer of settlement made by the Mexican Government appear to this Government inadequate. This course has appeared to it the due and proper one considering all the principles involved, and in following this procedure the department has extended only such courtesies and has recognized only such rights as in a reciprocal case it would expect and demand upon its own part. The course thus far pursued has followed the usual amenities and courtesies observed between sovereign powers. The course thus far followed has not only protected the ultimate rights of the injured persons, but it has perfected their rights by giving to the Government of Mexico every opportunity itself to adjust these claims. This is a matter of most vital importance if Mexico should fail to make or offer such a settlement of the cases as would accord with this Government's view of the equities involved and we should later be forced to go to arbitration.

"Mr. SMITH appears to complain of this course and to desire that this Government, at its own expense, investigate these cases, prepare them, and in the first instance present them diplomatically and formally with a demand for payment. The course to be followed after the making of this demand in case Mexico did not, as it probably would not, at once accede to the same, Mr. SMITH does not appear to outline. It is probable, however, that he would grant to Mexico the right to make an investigation and a counter offer should that Government not consider the American demand as just and equitable. It will be observed that this would merely bring the negotiations to the same point in which they will be when Mexico has made an offer of settlement, as a result of its initial investigations, and this Government has passed upon the adequacy of such offer. Waiving for the present all legal considerations in the matter of preference between the course followed by the department and the course which Mr. SMITH desires, it is quite clear that, as a matter of policy and consideration, the course adopted by this department is calculated to arouse less hostility toward these claims, and therefore probably secure for them a more generous treatment than would result from the unusual procedure advocated by Mr. SMITH.

"With reference to the contentions of Mr. SMITH as to the legal principles involved in this case, it should be observed that even assuming the rules for which he contends are well founded, it is quite clear that the department has as yet taken no action which sacrifices American citizens or their rights or which surrenders on the part of the Government itself any right or principle. This department being charged with the conduct of our foreign affairs, including the protection of American citizens with reference to injuries inflicted upon them by other Governments, is quite as zealous as any individual could be in exercising all and every care that our rights are fully and amply recognized and protected, and this department has to consider, in the exercise of these functions of protection, not only the injuries inflicted upon any particular individual or set of individuals, but upon American citizens generally, and the department would be open to the gravest censure did it sacrifice the interests of the many for the benefit of any given few. However, the discussion between this Government and Mexico regarding these claims has not yet reached the stage where it would appear the legal questions raised by Mr. SMITH have become involved. The discussion will have reached that stage when the Government of Mexico has investigated, not judicially, but administratively as it is now doing, and has made an offer; when this Government has considered and declined (if this shall be the course followed) the offer made by Mexico; and when Mexico has then attempted (if it shall so do) to refer these claimants to the Mexican courts. Then the question as to what law shall control and in what forum the extent of liability shall be determined will arise. But at the present time these questions are not involved, since the Mexican Government is now making, as it has a right to do, an administrative investigation into the facts and circumstances of the cases with a view to making a settlement directly with the claimants. It is difficult to see how Mexico could do more or upon what grounds we could ask more than this.

"In this connection Mr. SMITH, in the brief which he filed before your committee (a copy of which he was good enough to leave informally with the solicitor for this department), has placed great and indeed seemingly sole reliance for his position upon the case of the *Daylight* against Mexico, and particularly upon an instruction sent by Mr. Frelinghuysen, Secretary of State for President Arthur, to the American minister at Mexico City under date of May 17, 1884. (Foreign Relations, 1884, p. 358.) It may be of interest to you to observe that in that case, notwithstanding Mr. Frelinghuysen's statement arguendo in the instruction above cited, the Mexican Government persisted in its contention and referred the matter for investigation to the Mexican department of war and marine, which reported adversely upon the case, and Mexico declined to pay an indemnity. The position of the Mexican Government seems to have been accepted by Mr. Bayard, Secretary of State for President Cleveland, and apparently nothing ever came of the matter.

"Without wishing to be regarded as expressing or as indicating at this time a definite opinion upon the arguments advanced by Mr. Smith on this matter—concerning as they do questions which in the judgment of the department are not now before the department—it may be permitted, in connection with the reliance which he places upon the arguments of Mr. Frelinghuysen for the department, to call to your attention the statement by Mr. Moore in his preface to his International Law Digest that in considering questions of international import "two points of capital importance" must ever be borne in mind. He says:

"'One is that mere extracts from State papers or judicial decisions can not be safely relied on as guides to the law. They may indeed be positively misleading. Especially is this true of State papers, in which arguments are often contentiously put forth which by no means represent the eventual view of the Government in whose behalf they were employed. Instead, therefore, of merely quoting extracts from particular documents, it has been my aim to give the history of the cases in which they were issued, and, by showing what was finally done, to disclose the opinion that in the end prevailed.'"

"In this connection the department may refer to the notation made by Mr. Moore regarding this case in volume 6 (p. 679) of his digest, in which he states, after quoting the very language upon which Mr. Smith relies, that 'the Mexican Government adhered to its position.'

"The department wishes, however, to assure you that in thus putting this matter before you it has no other thought than to indicate to you that there appears to be no present necessity for any such action as is proposed. The department desires also that you should be firmly convinced that this department has done and will continue to do everything in its power to protect American citizens and to secure redress for those who suffer injuries, including the very unfortunate sufferers at El Paso and Douglas.

"As a matter of fact it appears that the only practical result which would follow the enactment of the joint resolution proposed would be that this Government would be charged with the responsibility and the expense of the initial preparation of the claims of the injured persons at El Paso, Tex., and Douglas, Ariz., instead of having these persons prepare their own claims and meet the expense thereof as is the uniform and invariable rule, so far as the department is advised, in such cases. No reason is perceived why these claims should not in this particular respect take the course usual in such cases.

"While the following considerations are not immediately before the department for its comment at this time, it calls them to your attention in the thought that perhaps in view of them and entirely aside from the discussion which has preceded you may think it unwise to attempt the passage of the present resolution.

"In the first place, the resolution purports to direct the Secretary of State in the performance of a purely executive function, and in the exercise of a purely executive discretion, a course which in the past has not been found to affect the obligations of the Executive in the premises, as was seen in the case of the Venezuela Steam Transportation Co.

"In the next place, the resolution purports to give a commission certain judicial powers in the matter of compelling the attendance of witnesses, etc. In view of decisions of the Supreme Court on this point you will doubtless consider it a matter of very grave doubt as to whether or not the powers which the resolution would seek to confer would actually be enjoyed by the commission contemplated.

"Finally, while the Secretary is thus 'authorized and directed' to make certain investigations, the resolution carries no appropriation to meet the expenses of such investigation. In view of the circumstances of this case it is my judgment that there is no fund at its disposition which the department would regard as appropriately expendable for this purpose.

"The department ventures to suggest that as the department is already doing in this matter all that it properly may as between this Government and Mexico, the continued exercise by those who are suggesting this legislation of the patience which they have hitherto shown will not only result in no prejudice to the interests which they represent, but will really facilitate the department's disposition of the cases."

The committee, after very careful consideration, is of the opinion that there is no principle of international law requiring, and that it would be an act of injustice to require, these claimants who were thus injured through no fault of their own, within their own country, within the dominion of their own laws, to go to a foreign country for the trial of their cases before a foreign tribunal. It is the opinion of the committee that the rule which would require foreigners injured in Mexico to exhaust their local remedies—that is, to first submit their claims to such tribunals as may be provided by the Mexican Government—is wholly inapplicable to these claimants. In the former cases the rights of the claimants and the measure of their damages would have to be determined by Mexican laws within the dominion of which the injuries occurred. In the latter cases American laws should be applied. It is essential that Mexican laws should be applied by Mexican tribunals, and it is equally as essential that American laws should be applied by American tribunals. Mexican tribunals are not supposed to be competent to construe and administer American laws any more than American tribunals are to construe and administer Mexican laws.

Moreover, it is always reasonable to assume that in cases of tort the evidence necessary to a full development of the case and to a complete administration of justice must be produced from the place of the tort. Therefore in case of tort committed in Mexico the tribunals in that country could enforce the attendance of witnesses and the production of evidence; but in cases where the torts are committed in the United States the Mexican tribunals can not enforce the production of evidence.

It seems to be the contention of the State Department that it is not insisting upon the trial of these cases in Mexico; that it is only suggesting a kind of negotiation as a matter of courtesy to Mexico, out of which it hopes a satisfactory settlement may be reached. In reply to this it may be said that there can be no intelligent negotiation in regard to these claims without some legal standard to apply to them. If the claims had arisen in Mexico, the Mexican Government could apply the Mexican legal standards, but having arisen in the United States the standard should be the laws of this country, and it can not be applied except by some agency of this Government.

Moreover, it is the opinion of the committee that one of the highest duties of a government to its citizens, in cases where they suffer wrongs, is to afford them a means of redress by which they may obtain justice. This our Government fails to do when it sends its citizens abroad to negotiate for justice with the agents of a foreign Government. Therefore we believe it to be the duty of our Government to provide some agency to make a full investigation of these claims, determine the amounts due, and present and press them for payment as diplomatic claims. This should be done as the initial step, and this is the purpose of this resolution.

Since the introduction of this resolution in the House the Mexican Government has advised our State Department that it has referred the matter of the adjustment of these claims to the Mexican consuls at El Paso and at Nogales, and within the last few days that it has appointed commissioners at El Paso to attend to these claims. Further than this nothing has been done, although nearly a year has elapsed since these claims arose. In the opinion of the committee none of these proposed methods of dealing with these claimants meets the just demands of the claimants that our Government shall determine the claims and assume the burden of presenting them to Mexico through diplomatic channels for payment, and that they be not required to submit them to Mexico for adjudication.

Our State Departments suggests that—

"The resolution purports to direct the Secretary of State in the performance of a purely executive function and in the exercise of a purely executive discretion—a course which in the past has not been found to affect the obligations of the executive in the premises, as was seen in the case of the Venezuela Steam Transportation Co."

The case referred to was a case where the claimant, the Venezuela Steam Transportation Co., was denied damages by Venezuela for injuries occurring in that country because it had chosen to present its claim through diplomatic channels instead of to "the high federal court," as required by the law of Venezuela. Our State Department very properly took the position it would not be bound by any such law. But we take it that while an act of the Venezuela Congress "would not affect the obligations" of the Secretary of State, an act of the Congress of the United States may do so, as the State Department was created and its duties defined by the Congress of the United States.

Mr. FALL. But the Secretary says, and I want to call the particular attention of the Senate to this portion of the report:

Following these occurrences the Americans who were thus injured, and the legal representatives of those who were killed, prepared their claims against the Mexican Government for damages and presented them to our Secretary of State, together with their proof, with the request that the Secretary present them to the Mexican Government.

These are the claims now under consideration.

This the Secretary refused to do, and instead advised the claimants that the American embassy at the City of Mexico would, upon specific request of claimants, file their claims with the Mexican foreign office for presentation to the consulative claims commission of Mexico, but with the distinct understanding that in so presenting the claims to the Mexican foreign office neither the embassy nor the Government of the United States would pass upon the propriety, equity, justice, or legality of such claims, and that these questions would be left for further consideration and final determination in accordance with the rules and principles of international law.

That he would not present the claims as a diplomatic matter he himself says; that he would not take them up diplomatically even with a foreign government, but simply allow them to be forwarded through the American ambassador, and through courtesy he would turn them over to the Mexican authorities.

This is too long to read; but, Mr. President, I want to call the attention of Senators of the United States to a matter which the State Department has taken up diplomatically.

Now, remember American citizens were killed on this side of the river by rebels and federals shooting across from the other side, and our State Department refuses absolutely to take up those claims and to demand or to assist in securing their payment.

But a short time since——

Mr. SMITH of Arizona. Will the Senator permit me to ask him a question right here?

Mr. FALL. Certainly.

Mr. SMITH of Arizona. Does not the report of the Secretary of State with respect to the killing of these citizens who were killed on American soil relegate them to the tribunals of Mexico and suggest that Congress has no jurisdiction?

Mr. FALL. Oh, yes.

Mr. SMITH of Arizona. Declaring that they are citizens over there, and to let them see what mercy they will be given over there, and that we will not interfere on this side until they do it.

Mr. FALL. Entirely. He says, among other things, that the claims of some of them have been sent to the Mexican consul at El Paso, Tex., and that the claimants can proceed to the Mexican consul and give in their evidence there, and then let him send it down to Mexico and have it passed on, but that the United States Government will not interfere with it. It has interfered in only one claim, and that is the only claim which has been paid. And that was not the interference of the United States, but the assistant district attorney for the western district of Texas, who represented one of these claimants, and he secured a payment of $4,000. No publicity was given to it. What the consideration was, I can not say, except that he was doing business for the Mexican consul, in arresting American or Mexican citizens and assisting in holding them in jail in El Paso, Tex., for 40 days on our soil.

Mr. President, the document which I hold in my hand is the most remarkable one, in view of the one I have just had printed, ever produced from any State Department or any department of foreign affairs.

A short time since, Mr. President, with these claims pending and in the face of the refusal of the State Department to take up or to consider or even to present through diplomatic channels American claims for damages, a gentleman came here from one of the Southwestern States and secured certain assistance in making representations to the State Department that the States of New Mexico and Arizona and Texas had, respectively, passed laws providing rewards for the killing of wild animals on this side of the line—bears and coyotes—which animals were sometimes injurious to stock. These representations were made to the State Department of the United States upon the theory that unless Mexico passed some similar laws such animals would come across the border from the Republic of Mexico into the United States; that jack rabbits would destroy the apple trees planted by American citizens on this side, and that coyotes would catch American sheep; and while the department refused to take up through diplomatic channels the claims for the death of American citizens on this side, I hold here copies of the correspondence between the State Department and the Mexican Government which shows that the State Department does represent diplomatically to the Government of Mexico that something should be done by that Government for the enactment of such laws as we have enacted, and which would prevent jack rabbits and coyotes from the Mexican side interfering with the horticultural and stock interest on the American side.

So much importance was given to this matter, Senators, that the Mexican ambassador himself was called into our State Department, and representations were made by our State Department directly to the Mexican ambassador here, and official communications through diplomatic channels went to the foreign department of the Mexican Government. We could take up claims for injuries by jack rabbits and coyotes to fruit trees and sheep, but an American citizen was not worthy of diplomatic consideration. His life amounted to nothing. The owner of the tree might be killed by a Mexican bullet while working around the tree on this side, but a Mexican jack rabbit must not come across and bite the tree.

Mr. President, lives have been lost and millions of dollars of American property have been destroyed within the Republic of Mexico. These claims refer only to matters which have arisen on the outside, within our own territory. This resolution goes only that far, and it does not go far enough.

I frankly admit that with reference to injuries resulting to our citizens within the Republic of Mexico, if they have a government, under international law our citizens might properly be referred to the local courts first, before the United States Government takes up their claims. But even then it would be the duty of the United States Government first to see that there was a proper court, and that the claims were properly presented or forwarded to that court and reached them, through diplomatic channels if necessary.

I happen to have personal knowledge of exactly what has resulted from the attempt of our State Department to relegate American citizens living in Mexico to the local tribunals for relief. In one case, sir, for four months a Madero general camped upon a cattle range belonging to an American citizen living in Mexico. For four months before the battle of Agua Prieta his soldiers subsisted upon the beef upon that range. Finally, when Madero's government was recognized, this American citizen wrote on to the State Department, filing a claim, and asking that it might be taken up against the Mexican Government in some way. He was answered by the State Department—very properly if there had been a Mexican Government—that he must first exhaust his remedy in the local tribunal.

The day he received that answer he was called up before the court of the insurgent commander in charge of the Government at this particular locality. With a laugh, the insurgent commander handed him a copy of the note from the State Department, and handed him his original claim, which had come from Mexico with this notation, and showed him his instructions from the Mexican Foreign Office to settle this claim himself.

Who was this insurgent commander? He was the man who had killed the stock and eaten them. He was the man who had committed the depredation. He was the man who had stolen the cattle. He was the man who had driven the cattle off the range. This was the man who was called upon by our Government and the Mexican Government to pass upon the claim.

The American citizen knew what that meant. The general was there with two or three hundred armed men around him. When the Mexican commander laughed and said:

Now, what have you to say about this claim?

His answer:

Why, just whatever you say. If you think you ate any of my cattle, and they are worth paying for, I should be glad to have you pay for them. If you do not, all right; you can have them.

I think the Mexican commander finally admitted that about 500 men, in the course of four months, living entirely upon beef—for that is all they had to eat—might possibly have eaten as many as 20 of the beeves, and that he would give him a receipt for that number; and, although the American citizen claimed that 3,000 head of his cattle had been destroyed, he gratefully took the receipt, and his estate has not yet been able to collect the money.

We are relegated back to the very people in Mexico who have committed these depredations. Madero is supposed to be the Mexican Government. When you send claims for damages down to Mexico now, you send them to Madero. He and his militia officers or volunteer officers or regular officers pass upon these claims. They do not go into the courts. They pass upon them themselves, as administrative officers, and reject them or pay them as they please; and they have never paid one.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Ohio?

Mr. FALL. With pleasure.

Mr. POMERENE. I am not sure I correctly understood the Senator. Do I understand that when it was represented to the State Department that American citizens had been injured in Mexico during a state of war, and by reason thereof, the State Department replied that the injured parties would have to first submit their cases to local tribunals before the National Government would interfere?

Mr. FALL. Before our Government would interfere—oh, yes; yes, sir. Not only that, but we are told that the claims of the descendants of American citizens killed on this side of the line by Mexicans on the other side can not be submitted to our own courts. We are told that this Government will not take them up; it will not pay them itself, and it will not demand that the Mexican Government pay them, but that we must take before the Mexican local tribunal even a claim for damages sustained on this side of the line.

Mr. OVERMAN. Is there any precedent for such action?

Mr. FALL. There is none in international law.

Mr. POMERENE. Is it claimed that there is anything in the treaties between the two countries which would require that?

Mr. FALL. No. I do not expect the Senator to read all my remarks in the RECORD, but if he will read the documents which I have asked to have printed, or even this report from the House committee, he will see there set forth the reasons given by the State Department for not even taking up or submitting diplomatically these questions. And those reasons are absolutely contradicted by every decision not only of our own State Department but of every other civilized country on earth.

Mr. SWANSON. Is this something written by the Secretary of State or the Assistant Secretary of State?

Mr. FALL. It purports to be the Secretary of State himself.

Mr. SMITH of Arizona. But that does not make any difference so far as our citizens are concerned.

Mr. FALL. No; so far as the injuries to our citizens are concerned, it does not make any difference. If the Senator will alow me to guess, in view of the great reputation the Secretary of State of the United States has borne as a lawyer, I would suppose that possibly these communications, and even this official protest from the State Department to the Congress of the United States, had been written by some attaché of the office who had never studied law. Therefore I hesitated somewhat, Mr. President, to vote against the appropriation to furnish law books to all the executive officers of the different departments.

Mr. BACON. Mr. President, I was called out of the Chamber during a portion of the remarks of the Senator. I understand the Senator has called attention to the attitude taken by the Committee on Foreign Relations as to injuries received by American citizens on American soil. Am I correct in that?

Mr. FALL. I have not directly done so. I have inferentially; but I am going to do so directly before I close my remarks.

Mr. BACON. Very well.

Mr. FALL. At present I want to call the attention of the Senate of the United States to the different course pursued by at least two other Governments in the matter of collecting or having established their claims for damages for injuries resulting to their citizens entirely within the Republic of Mexico.

We have read with some interest recently of the establishment of a Republic in China. In Mexico, Senators, under present conditions I would prefer to be a citizen of the Republic of China rather than of this great Nation of which some of us are so proud.

Our Government has refused not only to protect our citizens, has refused to take up their claims for damages diplomatically, but has refused to take them up at all. Millions of dollars of our property has been destroyed and hundreds of lives of American citizens have been lost in Mexico. China has adjusted claims for exactly the same damages to her citizens in the Republic of Mexico to the amount of ₱3,000,000, $1,500,000 in gold. I will read a translation of a telegram from Berlin of May 20:

> The Government of Mexico has paid over to that of Germany the sum of $100,000 as damages for the surviving relatives of the four Germans who were murdered in July of last year in Pueblo, Mexico, during a riot in the Corvadonga factory.

Mr. SMITH of Arizona. If the Senator will permit an interruption, at what time did that occur as compared with the outrage of which he speaks against United States citizens?

Mr. FALL. This was July of last year. The outrage in the killing of our citizens in El Paso took place in May, those in Douglas in April, and then different matters, murders, and so forth, which have gone unpunished to which I have referred specifically, ran along in the different States up to the 2d day of July of this year. In the meantime for damages of exactly the same character even the bankrupt Government of the Republic of China has been able diplomatically to take up the claims of their citizens and have them adjusted. Germany has taken up the claims of her citizens and has had them paid. The United States Government to this good day has absolutely refused even to forward through diplomatic channels a claim of an American citizen.

I wish to refer briefly, Mr. President, to the conditions which exist as to our acts affecting the minds of the Mexican people to-day. I say it to you, sir, without fear of contradiction, in the face of publications such as we see in one of the papers this morning from two American citizens claiming to be from the City of Mexico and undertaking to state conditions there. I want to say to the Senators of the United States in all seriousness that in my judgment the action of our Government in Mexican matters has put the American people in so far as their interests are concerned and in so far as the personal feeling of the Mexican people toward Americans is concerned where it will require 50 years at least of the most diplomatic management upon our part to restore us to one-half the confidence in their minds which we had up to the time the President of the United States issued the proclamation to which I propose to refer.

Mr. President, the State of Chihuahua has been for several months past and until within the last few days, and the greater portion of it now is, in the hands of those who are in arms against the Madero government, in the hands of Pascuel Orozco, who is the same man who put Madero in power as against Diaz. During this time the railroads have been kept running, communication has been unbroken, the customhouses on the border have been open, free intercourse between the people of the two countries has been carried on, mines owned by Americans in the State of Chihuahua have been protected, and work has been continued in them under Orozco's government.

He has been collecting taxes, and has been at least a de facto governor or supreme power in one of the great States of the Mexican so-called Republic. We, as a Nation and individually, have had constant dealings with him during this entire time, but we have dealt with him as a man and even a de facto official in an entirely different manner from that in which we have dealt with the Mexicans of the other States, which have not been in open revolution against the so-called Madero government.

I want to call the attention of Senators now to the fact that time will prove, and very soon, in my opinion, you will discover it, that in the States such as Nuevo Leon and Tamaulipas and Coahuila, which are not in open revolt against the Mexican Government, the Mexican Government can obtain no assistance whatsoever from its citizens, and that there is an armed neutrality between certain high officials of those States and the Mexican Government. They are not fully in accord with the so-called Government to-day.

But I want to call the attention of the Senate to the fact that some time since a resolution was adopted, on March 14, 1912. The Congress of the United States, having had reported to it, I suppose, something of the conditions going on in Mexico and possibly in other countries, adopted a resolution to this effect:

> That whenever the President shall find that in any American country conditions—

In any American, not some foreign country or country across the water, but in the American countries—those on this hemisphere—

> That whenever the President shall find that in any American country conditions of domestic violence exist which are promoted by the use of arms or munitions of war procured from the United States, and shall make proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President shall prescribe, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.

Mr. President, that resolution was certainly an absolutely proper step for the Congress of the United States to take. It was certainly proper that we should say that the President should have the power to suspend the exportation of arms and munitions of war to one of our neighboring States which was in a state of revolution or domestic violence, as the language of the resolution reads.

But the people of northern Mexico—the people of Sonora and Chihuahua particularly—are those with whom the Americans come directly in contact. Those are the people with whom we first deal in going down to Mexico generally, because now the greater portion of the business goes through El Paso or New Mexico and Arizona into old Mexico. Not so great a portion of it goes through Laredo or Del Rio. The Mexican people of

Chihuahua and Sonora particularly are those with whom we come most closely in contact, and with whom we must deal.

Now, what has been done by the Government of the United States in carrying out that resolution? Not one cartridge or not one gun has been allowed to be exported through the customhouse at Juarez, or at any of the other customhouses which were in the hands of the de facto authorities of northern Mexico—not one rifle; not one cartridge. Against that alone those Mexicans would have had no just cause of complaint, but they know that under absolute direct license arms and munitions of war have been carried to the Mexican soldiers in the field from the ports of the United States by the permission of the administration. They do know that munitions of war have been carried down there by permits directly issued, and that their enemies have been furnished with them.

Where is Villa, this man whom Huerta speaks of as having looted the city of Parral and stolen over $200,000? He is in Madero's service. Where did he get his machine guns? Where did he obtain the machine gun for the working or firing of which Fountain was stood up against the wall and shot to death? It came through American ports.

Mr. THORNTON. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Louisiana?

Mr. FALL. With pleasure.

Mr. THORNTON. Will the Senator from New Mexico tell me that he recognizes no difference between the fact of this Government permitting a friendly power like the regularly organized Government of Mexico with which we have diplomatic relations to import arms and a rebel government with which we have no diplomatic relations, but who are engaged in trying to overturn the regular government which we do recognize, and with which we have diplomatic relations?

Mr. FALL. I do recognize the difference. The Senator is absolutely right that we should recognize the difference in dealing with a fully constituted government on the one hand and with insurrectos or revoltosos as the Mexicans call themselves, who are in revolution against that government, on the other.

I also recognize the fact that at times it is necessary to recognize a defacto government such as Orozco has had for five months in the State of Chihuahua. We recognized Orozco's government to the extent of carrying on with him all other kinds or character of business through the customhouse, the regular customhouse of the Mexican Government in his charge. We pay him duties upon everything taken into Old Mexico except that we would not allow him to get arms or ammunition through that customhouse.

The Senator did not catch exactly the point that I was making. I am now speaking of the impression made upon the minds of the people of Mexico, three-fourths of whom I think are opposed to the so-called Madero government. I speak of the impression made upon their minds by this discrimination.

The Senator will certainly admit it is a matter of judgment at any rate upon the part of the United States as to whether under this resolution discrimination shall be made and which does not permit directly the exception to be made. As I understand it, certainly it is a matter of judgment as to whether the President of the United States would permit the exportation of arms for the Madero government and exclude it to that of the Orozco government.

The proclamation of the President issued upon this resolution is not simply commanding the people of the United States to observe this neutrality law and not to export arms to either party engaged in the domestic trouble; it is a general proclamation that there is trouble in Mexico, and that all citizens of the United States must preserve neutrality and must not export arms under this resolution, not confining the prohibition simply to arms, and so forth, for the insurgents or to the insurrectos, but prohibiting generally the exportation of arms, ammunition, and munitions through our customhouse across the river for the benefit of one side as well as the other.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Massachusetts?

Mr. FALL. Yes.

Mr. LODGE. Does not that resolution limit the prohibition to cases in which the export takes place for the promotion of domestic violence?

Mr. FALL. I think that was possibly the intention, but I do not think——

Mr. LODGE. I think that is the wording of it. As I remember it, it is where the munitions of war are sent for the purpose of promoting domestic violence. Of course the forces of the recognized government can hardly be legally described as promoting domestic violence. They might do that, but they can not be described so in the contemplation of law.

Mr. FALL. I understand that diplomatically they can not. We are great sticklers for diplomacy in our country. The proclamation by the President of the United States is as follows:

EXPORT OF ARMS, ETC., TO MEXICO.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A PROCLAMATION.

Whereas a joint resolution of Congress, approved March 14, 1912, reads and provides as follows: "That whenever the President shall find that in any American country conditions of domestic violence exist which are promoted by the use of arms or munitions of war procured from the United States, and shall make proclamation thereof, it shall be unlawful to export except under such limitations and exceptions as the President shall prescribe any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress"; and

Whereas it is provided by section 2 of the said joint resolution "that any shipment of material hereby declared unlawful after such a proclamation shall be punishable by fine not exceeding $10,000 or imprisonment not exceeding two years, or both":

Now, therefore, I, William Howard Taft, President of the United States of America, acting under and by virtue of the authority conferred in me by the said joint resolution of Congress, do hereby declare and proclaim that I have found that there exist in Mexico such conditions of domestic violence promoted by the use of arms or munitions of war procured from the United States as contemplated by the said joint resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the joint resolution above set forth, hereby made applicable to Mexico, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted. And I do hereby enjoin upon all officers of the United States charged with the execution of the laws thereof the utmost diligence in preventing violations of the said joint resolution and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 14th day of March in the year of our Lord one thousand nine hundred and twelve and of the Independence of the United States of America the one hundred and thirty-sixth.

[SEAL.] WM. H. TAFT.

By the President:

HUNTINGTON WILSON,
Acting Secretary of State.

[No. 1185.]

The point that I was making, I will explain to the Senator from Massachusetts, was that under this proclamation at least the majority of Mexican citizens construed it to mean that the exportation of arms and munitions was prohibited to Mexico, not that such exportation was allowed as to those who were pretending even temporarily to support the constituted Government, but prohibited to those like Orozco, who have not supported the present constituted Government, although they were de facto officials in full and complete control of one of the States of the union.

Now, why should it make this impression upon them? Because Mr. Orozco was the man who put Francisco Madero in power in Mexico. Orozco seized Juarez, and immediately upon the fall of Juarez President Diaz left Mexiço and turned the Government over to De la Barra, the provisional governor. At that time Pascuel Orozco's troops walked up to the American border and had handed them across the border all the arms and munitions of war which were needed to put Madero in power; but when, as they claim, he violated every principle upon which they had put him in power; when, as they claim, he or his family began to loot the treasury and proved himself to be more of a czar within a month than Diaz had in 30 years; when they were still in arms—not taking up arms again, but still in arms—and refused to recognize him as the president, he not carrying out the platform upon which they had put him in power, even when they protested; when they were confronted by his soldiers and sought to get ammunition for themselves again they were told that they could get arms and ammunition with which to unseat and drive from his country the greatest man that Mexico had ever produced—Porfirio Diaz—the man who did protect foreigners, who did protect American citizens, who did protect themselves against themselves; that they could with immunity get from this country the arms and ammunition with which to drive him from power; but when they sought to drive Madero from authority—according to their claim, the man who had betrayed them, betrayed every republican—the ports of the United States were closed and they could no longer get arms or ammunition. They believe, and for 50 years you will never be able to drive that belief from their minds, that the United States Government was behind the Madero revolution and that the United States Government is to-day protecting Madero from their righteous wrath.

Is it not the conditions brought about by the action of the United States Government which has given foundation for such things in the minds of the Mexican people? They are a kindly

people. For many years I have known them intimately. I may be allowed to say, possibly, in passing, Senators, that I have known practically every man of any prominence in Mexico, I think, for the last 30 years, from Mr. Diaz himself to Pascuel Orozco. The Mexicans are a kindly people, but they are a simple people. They are like children in some respects. No government can say to those people, "You shall not do this" or "You shall not do that," and fail to enforce its orders, and ever thereafter recover the respect of those people, which we have lost. When you tell those people to do a certain thing or not to do a certain thing you should hesitate long before issuing such a mandate, but when it is issued back it up, if it takes every able-bodied man in the United States over 18 years of age to carry out your orders. Do not let us be placed in the position of undertaking to overawe a little nation like Nicaragua and be afraid to demand protection of American citizens from a nation such as Mexico.

Mr. President, the northern Mexicans who put Madero in power could secure, when fighting for him against Diaz, across our border or through the border customhouses, all ammunition and arms which they could pay for. Now, the same men, fighting against Madero, can not secure arms or ammunition through customhouses held by themselves and through which we are doing other business with them.

What impression, naturally, is made upon their minds?

Some very interesting thoughts might be suggested, if I had the time and the inclination, but I have neither, to comment upon a resolution which is now, I believe, before the Committee on Contingent Expenses of this body. That is a resolution for the appointment of a commission, I believe, to inquire into the connection of any American company or any American individuals with the revolution first inaugurated in Mexico against Diaz, and the continuance, if you please, of present conditions existing in that Republic, so called.

Mr. President, I am going to refer very briefly to the army, so called, of Mexico. We believe, or we are told, that the men who are following Orozco, although they are the same men who overthrew Diaz and put Madero in power, are organized or disorganized bandits and murderers, and that the followers of those men who are fighting under the banner of Huerta are true patriots, representing the best manhood and the best blood of Mexico.

Senators, I am not going to undertake to read you documents which I have from Tepic, from Sinaloa, from Colima, from Durango, from Oaxaca, from Sonora, and from almost every State in Mexico to show what the conditions are that exist in that Republic to-day. I will only refer in passing to the Indians of Oaxaca, the descendants of those people who were never conquered by the Spaniards of old. In the veins of Juarez, the deliverer of Mexico, ran the blood of those people. The Zapotecas Indians of Oaxaca alone, to the number of 2,000, are in arms controlling their State against the so-called Mexican Republic. The entire State of Morelos is in arms against the present constituted government. You saw this morning where a train within 30 miles of the City of Mexico was blown up and sixty-odd people were murdered on the Cuernavaca Road. The entire State of Sinaloa and all that lower country, including Tepic, with the exception of two or three different towns, such as Culiacan and Mazatlan, are in the hands of the rebels. Americans have been fleeing out of that country; some of them have been able to avail themselves of the opportunity to come back to the United States upon the ship which we sent down there recently, but others are not so fortunate. Those having their little all invested in real estate and in stock with which to work that real estate are yet, with their lives in their hands, seeking to protect themselves against what? Against bandits? No. In many instances against the so-called organized force of the Mexican Government and of Mr. Madero.

Senators, I said there was such censorship exercised that you can not get the true conditions from Mexico. I reiterate that. In addition to that, I want to say to you that 14 times within the last five months there have been published in the official daily papers in Tepic, Colima, and Sinaloa reports of Pascual Orozco's death; the last one that his own troops had killed him; and there has never been a denial made. The effort has been to show to those people through the official press that the revolution existing in other portions of the Republic is being smothered. Naturally they will undertake to make such impressions.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Ohio?

Mr. FALL. With pleasure.

Mr. POMERENE. Can the Senator inform us as to the number of Americans who have been killed and the number who have been wounded since this insurrection began?

Mr. FALL. It is very nearly impossible to do so. I have the names of a great number, but I have discovered that it has been practically impossible to get information from Mexico where one of our citizens was reported wounded or reported to be killed. I have tried it in one instance through the State Department, which I will cite to the Senator. I received a letter from Sonora, Mexico, brought out by special messenger, whom I had sent for the information, before the State Department of the United States could get a telegram from the American consul at Mazatlan.

Mr. POMERENE. Of how many such cases has the Senator actual knowledge—I mean by reason of his investigation?

Mr. FALL. My recollection is that there were 11 killed of whom we have definite knowledge; in these little colonies immediately below El Paso, of which I spoke, there have been two or three deaths of Americans, as I understand—one I know near the Dolores mine; also in Chihuahua. There have been other deaths in the different mining camps, but it is almost impossible to get the names of the parties or to get the facts.

Mr. POMERENE. Has the State Department of the Government been given any information as to these matters?

Mr. FALL. The State Department has had the names of these parties who are known.

Mr. President, they say that Orozco is being driven out. Orozco has never in his life, to my certain knowledge, been within the State of Sinaloa. They have had 14 governors in the State of Sinaloa under the Madero administration. Since he was inaugurated they have had 14 so-called governors in that State, and since April they have had none at all. The entire State is in the hands of rebels, with the exception of Culiacan and Mazatlan.

The people are leaving the city of Culiacan, a correspondent states, and he was a special man sent down there for the very purpose of getting information. He says:

> The government is at Mazatlan, in temporary exile, having run away from Culiacan with the evacuating Federal army, and Culiacan and Mazatlan are the only points in the State that keep up a pretense of government.

This is a State that you have heard nothing from even through the public press—

> The few members of the upper class who have not fled the State in search of safety are going as fast as they can get away.

These are the Mexicans.

> They froth at the mouth when told of Madero's optimistic promises about restoring order in the country.

The other letter was from Mazatlan; this is from Culiacan.

> The riff-raff of State troops now—

You read the press descriptions of the patriotic soldiers who are following Madero—

> The riff-raff of State troops now in Culiacan are the usual Madero kind—drunk and disorderly in their normal condition. Random shooting goes on in the city at all hours of day and night and nobody's life or property is safe. The exodus of well-to-do Mexicans continues.
>
> The rebels are gathering round Sinaloa, and that little city is probably to be located the third time soon, no garrison worthy of the name being there to defend it.
>
> * * * * * * *
>
> The biggest stores of Culiacan are going out of business, two lootings by rebels in less than a year being too much for them.

Even in Culiacan they have driven the Federals out twice during a year—

> The only hardware store in the city is closing. Some of the business men are leaving for good, others have so much at stake they will hang around to see if there ever is a government that will make it safe to live and do business under established laws here.
>
> * * * * * * *
>
> The prefect of the city was publicly assaulted and insulted by disorderly State soldiers, and he could get no satisfaction from their more disorderly jefes. These hoodlum soldiers go roystering down the street crying "Viva Zapata" and there is none to challenge them.

These are Madero's government troops.

Here is a letter from Mazatlan:

> MAZATLAN, *May 16, 1912.*
>
> The Mexican transport *General Guerrero* came in yesterday loaded to the limit with convicts from the Mexico City and other Federal and State penitentiaries. Two hundred and fifty were unloaded here, with great precautions to prevent their escape between the vessel and the local troops headquarters, a strong guard of soldiers escorting them from ship to wharf, followed all the way by the searchlights of the *Guerrero*, and on the wharf they fell in between double lines of Federal soldiers for the march to the port. They are a sorry-looking bunch.

These are the recruits for the Government forces which are to drive out the bandits and restore order in Mexico.

> They are a sorry-looking bunch, many bareheaded and barefooted, and some without shirts, being the cast-off remnants of humanity which naturally flow into the penal institutions, and nobody is feeling very hopeful over this reenforcement of our Sinaloa army.

What does he mean by saying "the cast-off remnants of humanity which naturally flow into the penal institutions"?

Do you know, Senators, from what source the standing Army of Mexico is recruited? You are told of the great victory that Gen. Huerta won at Rellano a short time ago, but you were not told that at that time 400 of his troops, refusing to fight, were sent back to Mexico City, and are now confined in the salt works from which they came as convicts.

Sir, I have known the Mexican standing Army now for nearly 30 years. It has during that time and is to-day being recruited almost entirely from men serving terms in the penitentiary or in the salt mines of Mexico for some crime of more or less serious character. They are given their choice whether they shall serve in the Mexican Army or whether they shall go to the salt mines. I do not know which I would take, but these are the troops now who must protect American lives and liberty and property and Mexican lives and liberty and property against the "bandits."

I hold no brief to speak for Mr. Orozco, but I do speak for the American citizens in Mexico, and, over and above and greater than all, Senators, I speak for citizens of Mexico in the name of humanity. There has not been a time since Mr. Madero undertook to overthrow the Diaz government that by taking a strong position and maintaining it this Government of ours could not have put a stop to the outrages in Mexico and to the murder of Mexican citizens as well as American citizens. I say that it has been our fault very largely that these conditions exist in Mexico. That we are going to be compelled in some way to put a stop to these conditions in the name of humanity. Senators might just as well realize that now as a little later on. In my judgment, an ultimatum should be sent to the so-called Mexican Government that within a given length of time killing and destruction of property must cease in Mexico, and whenever the Mexican people really believe or realize that the American people have made up their minds to stop it, it will stop, and not before.

Mr. President, I am not advocating that the United States should intervene in Mexico by force of arms; I am not advocating such doctrines in the interest of American corporations or in the interest of American individuals who may have property in Mexico. I want to say to you now that there is not an American corporation in Mexico that does not resent the idea that any portion of that country—or that portion of it at least in which its property is situated—should ever, by any force or any circumstances, become a part of the United States. Why? Because they have never had to pay heavy taxes and do not have to pay them now, except to the representatives of the Government to whom they may choose to pay a stipend for overlooking the laws. There is not a mining company, I will say to the Senator from Minnesota who asked a question here the other day referring to his own resolution—there is not a mining company in Mexico that wants annexation or wants armed intervention. An American company to-day will pay taxes under what they call the iguala system; that is, they guess with the Government representative as to what the output of their mines will be for the next 12 months and agree on quarterly settlements. Who is now that Mexican official? Do you think that Mr. Madero gets any part of this? Very little; it goes down into the pockets of those local conservators of the peace and protectors of lives and liberty. It has been the case in years before, and it is just simply a little worse now; that is all.

Under the iguala system a small amount is paid—about one-tenth of the amount of the taxes. If the mines of Cananea, where $66,000,000 of American money is invested, were across the line in the State of Arizona, the Cananea Copper Co. would be paying taxes to the Government and to the State of Arizona of anywhere from five to one hundred times what they are paying now to the Mexican Government or paying to the State of Sonora. So do not think, Senators, that any corporations operating in Mexico are desiring intervention, but I say to you that if you refuse to extend to American citizens in Mexico—simply because they are in Mexico—the protection to which they are entitled, conditions in Mexico will grow worse and worse from day to day, and you mark what I say to you: The time will come, sooner or later, when you will be compelled by the voice of your own people to adopt more drastic measures than you would be called upon to adopt now.

Now, I desire to say that the joint resolution offered by the Committee on Foreign Relations as a substitute for the joint resolution of the Senator from Arizona should, in my mind, be adopted without a dissenting voice. But it does not go anything like far enough. Why should we not take up diplomatically the question of injury to our citizens? Why should we not take it up with Mexico diplomatically and follow it by such demands as to compel them to harken, that they shall no longer kill American citizens and outrage American girls? Why should we not say it diplomatically; and then if we must say it in some other way, why should we not say it as we have said it before to other and stronger nations than Mexico?

This substitute is along the right lines, because it takes it out of the power of the State Department longer to prevent an investigation of these claims of American citizens. The original joint resolution was directed to the State Department. I am glad to know that a committee of this great body, the Committee on Foreign Relations, believe that no longer should obstacles be thrown in the way of American citizens who are asking for relief such as these people in El Paso are asking; and I think they placed the matter in the appropriate department when they said the Department of War should take it up. I tell you now that the very effect of the passage of this joint resolution, when it is conveyed to the Government of Mexico and to the insurrectos in Mexico, will have a better effect than anything which this Government has done since Mr. Diaz was driven from Chapultepec.

The very fact that you say we take it out of the hands of the State Department and put it in the hands of the War Department to see that American claims are paid will have that effect. But you should go further. You should go at least as far as China has gone, certainly as far as Germany has gone, and say to the Mexican Government, "You must investigate and adjudicate the claims of American citizens for injury to their property and injury to their lives, within your own confines, and if you will not do it, we will make that a question which we will also put into the hands of the War Department of the American Government"; and then when you say it do it. If you do not intend to back up what you say, then better it is that you leave it to the people of Texas to deal with this question, and if they are the people I have known them to be since I first went among them, 35 years ago, take your troops out of their way, and they will deal with it.

Mr. BACON. Before the Senator from New Mexico takes his seat I should like to ask him one question. Is the Senator aware of the fact that the action taken by the Federal Government in the effort to prevent any assistance from American soil to those who might be in revolt against the Mexican Government, and the action taken looking to a discouragement and prevention of any associations or organizations of any kind, or even of individuals, making arrangements on this side of the border in reference to carrying on hostilities on the other side of the border were very largely, if not almost mainly, taken at the instance of the authorities of the State of Texas. The Senator from New Mexico——

Mr. FALL. Will the Senator kindly repeat that question?

Mr. BACON. It is a pretty long question.

Mr. FALL. Do you mean at the instance of the State of Texas?

Mr. BACON. Yes, sir; at the instance of the officials of Texas; and the Senator from Texas [Mr. CULBERSON] himself introduced a resolution on that subject.

Mr. FALL. The Senator from Texas is not here, and the Senator from Georgia is apparently speaking for him, and I want to ask that Senator a question or two. Does the Senator from Georgia mean to say that at the instance of the State of Texas Gen. Sanjinas and Gen. Garibaldi and other officers connected with the Madero forces have been allowed to go into Texas, and into the office of the Mexican consul and there proceed to recruit soldiers for the Mexican army, so called, the Madero army? Does he mean that that has been done at the instance of the State of Texas? Does he mean that it has been at the instance of the State of Texas that the Mexican consul located at El Paso, Tex., has had arrested for the last four months from time to time American and Mexican citizens, who were placed in jail and held there for as much as 40 days at a time on the ground, on his claim alone, under the treaty of amity and peace and extradition with Mexico, under the claim upon his part, unsubstantiated by any evidence, that he would in a short time produce papers from the City of Mexico asking for their extradition? Does the Senator think that the State of Texas has had anything to do with that?

Mr. BACON. The Senator is asking me a longer question than the one I asked him. Of course I am not——

Mr. FALL. I understood the Senator to say——

Mr. BACON. I will wait until the Senator from New Mexico completes his question.

Mr. FALL. All right. The Senator can take his own time and make his own speech.

Mr. BACON. No; I want to wait until the Senator finishes his question, because when I start to reply I should like to do so.

Mr. FALL. As the Senator has started a line of thought, I want to refer to it further.

Mr. BACON. I hope the Senator will let me answer the question. He asked me a question. It is only fair that I should reply to it.

Mr. FALL. I did not intend to ask the Senator from Georgia a question in answer to a question. He asked me if I was aware of certains things which he proceeded to state. I said no. Then I asked him if he meant to say that the State of Texas was responsible for these acts to which I have referred. Now, if the Senator desires to answer that, I will yield, of course.

Mr. BACON. I know nothing about the matters about which the Senator has inquired; but I want to state as concisely as I can what I did mean by the question and also the information upon which I based the question.

My information is that representations have been made to the United States Government that a great evil existed in the State of Texas in the fact that parties who were conspiring together to foment discord in Mexico or to assist in revolt of one kind or another used the State of Texas as a place in which their arrangements were made, in which the plans were formed, and that the State of Texas in communicating that fact to the Government of the United States expressed the strong desire that such steps should be taken as would prevent such plans being formed and such expeditions being practically arranged for and fitted out as would enable these military operations to be conducted in Mexico through such opportunities as would be afforded by the parties interested in their having the seat of their operations in the State of Texas. As I stated, the Senator from Texas himself, Mr. CULBERSON, has introduced a resolution looking to that end.

I am not taking issue with what the Senator has said in his very earnest and enlightening speech. I am simply adverting to what the Senator said in the latter part of it about what the State of Texas would do. So far as I have been able to gather—and I am sorry the Senator is not here to answer for himself—I think the State of Texas is opposed to its territory being used as a base from which military operations of any kind, either for or against the Madero government, shall be arranged for and practically prosecuted. I do not believe the State of Texas itself is ready to invade the Republic of Mexico, or any part of it, or desires to do so.

Mr FALL. Mr. President, I find myself somewhat at a loss to know exactly what I have said that has brought this down upon me. But I have at least made the same distinction that has been made by our State Department. I am learning diplomacy myself since I have been here, sir. I have at least made the same distinction that has been made by our State Department in its communications to the Mexican Government. I distinguished between a State and its people. I did not say anything about the State of Texas. I said the people of the State of Texas might do such and such things if the American Government would get out of the way.

It appears, however, that for some reason the State of Texas has wanted these troops there. Unless it was to keep them from going across the border, I do not know what the reason for it was. The only thing that has been done by any of the people of the State of Texas or any of their officials, so far as I know, is that which I called the attention of the Senate to a while ago, when two Texas rangers did what 200 United States troops refused to do—drove the Mexicans back across the international line.

Mr. SWANSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Virginia?

Mr. FALL. Certainly.

Mr. SWANSON. I should like to ask the Senator from New Mexico if he has made to the State Department the representations and citations of facts and conditions that he has presented to the Senate this afternoon?

Mr. FALL. I have not. This is the first time I have tried to make this speech, Mr. President.

Mr. SWANSON. If the Senator will yield for a moment, I think the statement of facts and conditions made to the Senate by the Senator from New Mexico presents an outrageous condition of affairs, of disrespect and indifference by the State Department to the rights of American citizens. If it is true, and the State Department has been derelict to the extent represented by the Senator from New Mexico, I think it is the duty of Congress to investigate the matter, and if necessary to pass some legislation to compel the executive departments of this Government to protect and respect the rights of American citizens.

The Senator has depicted a very wretched state of affairs in the way of atrocities, injustices, and wrongs perpetrated on American citizens. I hope he will lay the matter before the State Department, and if it does not take prompt action, that he will ask the Committee on Foreign Relations of the Senate to investigate this state of affairs and recommend legislation that will protect the rights of American citizens.

I want to say for myself, as a Senator of the United States, that if that state of facts exists on the border line I feel ashamed that the Government of this great Nation should have been so indifferent and derelict as has been stated by the Senator from New Mexico. If a government so strong and potential as this can be so indifferent to American rights as has been represented, we ought to hang our heads in shame and in disgrace.

After the Senator has presented these facts and conditions to the State Department, if that department does not take prompt action to correct the matter, I hope the Senator will introduce such a resolution as I have described, so that Congress, through its proper committees, especially of the Senate, may take steps to see that this injustice to American citizens is not further continued.

Mr. FALL. Mr. President, this matter evidently has been presented to and has had the serious attention of the State Department. They have had presented to them all the facts with reference to the killing that occurred on this side of the river. The President of the United States has had his attention called to it, and sent a message to Congress with reference to the deaths that occurred at Agua Prieta. The lower House of Congress has had presented to it a resolution which has been pending there for months. The same facts have been presented to the committee that were presented to the State Department.

I will say further to the Senator from Virginia that for several weeks the Senator from Arizona [Mr. SMITH] has had before the Committee on Foreign Affairs his resolution, which has not yet been acted upon, which is only now being considered, and with reference to which there has not been one word said upon the floor of this Chamber until this afternoon. That resolution has been before the Foreign Affairs Committee of this body now for more than a month, I think.

I have wondered at this, sir. It has been a matter of surprise to me—and "surprise" is not a strong enough word to use. I can not understand what baleful influence has cast its shadow over this Government of ours, that no man can be found who will lift up his voice for the protection of the lives of American citizens and the virtue of American women. I can not understand it. When the Senate appoints a committee to investigate this matter, if it will appoint some one who will investigate the causes of the present conditions in Mexico, the causes of the revolution which drove Porfirio Diaz from power, and the connection, possibly in the United States, then and now, with those causes and those conditions, we may finally get some information as to why this absolute apathy has existed in the face of the conditions known to this Government.

I will say this, further, to the Senator from Virginia: In view of the fact that when these undisputed matters were presented to the State Department and it refused to even take up and consider the killing of American citizens on this side of the line, what use was there of doing anything—what would the Senator have done—with reference to the killing of American citizens on the other side of the line?

But, it is said, they have protected American citizens on the other side of the line. I have referred to the Fountain case, where an American citizen was seized, whom we ordered them not to shoot and whom they did shoot while we turned our backs, since which we have said nothing. In that case the documents which I had in my hand came to me from the State Department, because young Fountain was the son of a citizen of New Mexico. His mother was the granddaughter of one of the last Spanish governors of Mexico and an American citizen. I did take up with the State Department, until I got to a certain point, the matter of the death of Fountain, or of something to be done with reference to the death of Fountain in particular. Then the suggestion was made to me that he was not an American citizen. Since proof was made to their satisfaction that he was an American citizen, not another word has been said about it.

I must say to the Senator from Virginia that if anything is to be taken up with the State Department, I hope it will be through some more powerful hands than mine.

Mr. SWANSON and Mr. SMITH of Arizona addressed the Chair.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). To whom does the Senator from New Mexico yield?

Mr. FALL. I yield to the Senator from Virginia, who has been asking me some questions. I did not see the Senator from Arizona.

Mr. SWANSON. I should like to have the Committee on Foreign Relations of the Senate take the speech of the Senator from New Mexico—which, to my mind, is an aggregation of wrongs, injustices, and atrocities that ought to stir the heart of every American—with its citations of facts and conditions, ascertain as far as it can the accuracy of them, and then report to the Senate whether the Executive department of this Government has been derelict in its assertion of American rights.

Speaking for myself as a Senator from Virginia, I will say that I believe any American citizen should be protected wherever he goes in his lawful rights, and that the Government owes it to itself, its honor, and its prestige to defend and protect its citizens. If our Government has been derelict in that respect, it should be known, and the Government should ascertain those who have been derelict and take proper steps to assert American rights, American privileges, and to protect the prestige and honor of this Nation.

Mr. SMITH of Arizona. Mr. President, inasmuch as this debate has arisen upon a joint resolution which I introduced, I think it but due to the Senate and the Committee on Foreign Relations to give, in a minute, something of the history of it. All know of the outrages in El Paso and, in my own State, in Douglas. I saw the people there just after it occurred. I do not know whether it was done, but I filed an application, or at least a notification, to be sent to the Department of State here asking that some steps be taken toward an adjudication or a settlement of the damages which occurred in that outrage. When I arrived here my attention was particularly called to the matter by a Representative from the State of Texas, Judge SMITH, who had introduced a resolution in the House similar to the one I afterwards introduced here. In response to that resolution the Secretary of State made a report, which was printed, and the substance of it was that if the people were killed on American soil they, with their witnesses must go to Mexico and establish in a foreign tribunal their rights.

I was so impressed and startled by such a doctrine that I went with it myself to the Secretary of State, but I did not find him present. However, I did submit the question to the department, with my strong disagreement to any such doctrine, and insisted that when a man was killed under those circumstances on American soil our own Government was responsible to him.

My resolution, I think, went before the committee a month or more ago. Then the two great national parties met in national convention. That delayed it; but I went to some member of the subcommittee daily until finally this joint resolution was brought in as a substitute for the one of Congressman SMITH, of Texas, a copy of which I had introduced in this body. I say this in justice to him.

The committee reported the resolution, and I want to ask a question of one of the members of the subcommittee, the Senator from Georgia. I did not think it went quite far enough, in that it simply said they should investigate, and whatever damages they might find they should report to Congress. I do not know that I am well enough acquainted with the diplomatic relations, but I would have liked it better to have declared that whatever they found Congress should pay to its own citizens, and that the United States itself should make a demand on the Government of Mexico.

Mr. BACON. Mr. President, I want to state in response to the inquiry of the Senator that the sense, I am sure, of the committee was that the Government of the United States should pay whatever damages were ascertained, by the machinery sought to be set in motion, to have been sustained by citizens of the United States on American soil. There was evidently a good reason why that conclusion should not have been incorporated in the resolution. The design was that the resolution should be promptly passed and that proceedings should be had under it immediately. There would be no division whatever upon the question as to whether this investigation should be made, and therefore there would be no impediment placed in the way of prompt consideration and action under it. If, however, we had incorporated in the resolution what the Senator now speaks of, a command or a conclusion or determination that the Government should pay it, that would at once have led to discussion and delay. Therefore it was deemed better that the resolution should not be encumbered with a provision of that kind, which would have delayed it, but that it should be presented in a way which would most readily command unanimous support so that the matter should be proceeded with.

Mr. SMITH of Arizona. Permit me to interrupt the Senator right there. I want in line with what the Senator from New Mexico [Mr. FALL] has been saying to say that probably it might have a salutary effect when the Republic of Mexico saw that our Republic would pay the damages themselves and make a national claim against the other Government. It might show such an express determination that the Senate itself would agree that it ought to pass.

Mr. BACON. But the Senator will readily recognize that a provision of that kind is one which would have led to discussion and delay; that a final conclusion would be more readily reached by an investigation as to what the damages are and the circumstance under which they were sustained or suffered; and that when that information was given to the Senate and to the country it would be much easier to get through a resolution which would provide for the payment by the United States of those damages with the purpose on the part of the United States then itself to expect that the Government of Mexico would make the Government of the United States whole as to the expenditure thus made.

I want to say for myself that that is what I think should be done as to damages which have been suffered by our own citizens upon American soil, for the simple reason that Americans are entitled to protection from the United States Government against such injuries, and if the circumstances were such that the Government of the United States could not then protect them the Government should make them whole and itself look to the foreign government for reimbursement.

Now, Mr. President, as to the damages which have been suffered by citizens of the United States upon Mexican soil, of course the conditions are entirely different. The most that can be claimed in that case is that the Government of the United States will by every proper means seek to see that those damages are made good, whether they be damages to person or damages to property, and I have no doubt that the Government will endeavor to enforce recompense for such damages. They are not damages of a kind which can be dealt with in the same way that damages are dealt with which have been suffered by American citizens on our own soil.

I do not wish, Mr. President, to be understood in the suggestion which I made to the Senator from New Mexico as to the attitude of the State of Texas for a moment to question the fact that they should be paid for by the Mexican Government, or the fact that prompt measures should be taken for the purpose of enforcing such payment. At the same time, I recognize the fact that it is not a matter which can be dealt with in a day, or a week, or a month.

I quite agree with the Senator on the proposition that our citizens who suffered damages on our own soil, or who suffered damages on Mexican soil, should not be remitted to Mexican courts. I do not for a moment recognize the propriety of that course. These damages are very great. They will aggregate immense sums, because of our proximity to Mexico and the large number of our citizens who have been engaged in business there. The damages there, I suppose, have been tenfold greater, I expect a hundredfold greater, to American citizens than to the citizens or subjects of any other country. Therefore, it is a very much larger question and one proportionately more difficult to deal with.

I have not read the article the Senator from New Mexico commented upon, or, rather, the opinion—I do not know whether it is a report or what it is; anyhow, it was some emanation from the State Department on this subject. There are some damages which have been suffered by citizens of my own State, and which I myself have heretofore taken up with the State Department, or called their attention to. Therefore, even if I had no other higher influence, I could not be indifferent to this question. I am not. But at the same time, Mr. President, I recognize that it is one of extreme difficulty to deal with, and it has to be dealt with in a way which shall be the least injurious to our own country, and which shall——

Mr. FALL. Will the Senator permit me just a moment?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from New Mexico?

Mr. BACON. I do.

Mr. FALL. The Senator says he has taken up cases with the State Department. Can the Senator mention any case in which the State Department has endeavored to do anything to arrange it or regulate it, or even to put it in effect? The Senator says he realizes it takes time. There has been a year's time. Is the State Department going to do anything?

Mr. BACON. It has not had a year's time to act on the damages I referred to.

Mr. FALL. Well——

Mr. BACON. The Senator will pardon me until I finish the sentence——

Mr. FALL. I will not interrupt the Senator.

Mr. BACON. The damages to which I referred as suffered in my own State are of more recent infliction. Therefore I am not prepared to answer the Senator as to matters which have been before the State Department for a year. I do not

know whether the Senator knows of matters which have been within the cognizance of the State Department as long a time ago as a year. Of course I have no more right to speak for the State Department than any other Senator who is here.

Mr. FALL. Will the Senator pardon me?

Mr. BACON. Certainly.

Mr. FALL. Does the Senator mean to say the State Department has taken up diplomatically for the purpose of settling damages in the cases that he himself presented?

Mr. BACON. I do not. I am simply stating the fact that in what I have said I can not possibly be construed as occupying a position of indifference to the payment of these claims. I am calling attention to the fact that I have a personal interest in it; that is, I mean officially personal to myself only in so far as it relates to my immediate constituency.

I am in entire sympathy with the desire that these matters shall be brought to a head, and shall be brought to a head as speedily as possible. I entirely agree that the remitting of our citizens to the courts of Mexico is not the proper way in which to proceed, but we should deal directly with the Mexican Government upon such matters.

Mr. President, it is a very grave and a very difficult question. I will say to the Senator very frankly I do not wish matters presented in such a way as to precipitate this country into war. If the Senator wants to know whether I am in favor of invading Mexico with a couple hundred thousand men and precipitating this country into a war with Mexico for the purpose of enforcing the immediate payment of those claims, I will tell him no; I am not.

Mr. FALL. Will the Senator yield to me a moment?

Mr. BACON. Yes.

Mr. FALL. Does the Senator think for one moment that I have been occupying the time of the Senate simply talking about dollars and cents and insisting that we should go down to the City of Mexico with an army to collect dollars and cents? If the Senator has listened to what I have been saying, it seems to me that he can not entertain that idea; but if he does, if he thinks the purpose of my talk here this afternoon has been simply to express that somebody wants the American Army to secure dollars and cents there, then I want to disabuse the Senator's mind. That was not my intention.

Mr. BACON. I suppose, Mr. President, that the idea in the mind of the Senator was that there should be a moneyed compensation for damages which had been inflicted. If I did not understand him correctly there, then, of course, I misunderstood him.

Mr. FALL. Will the Senator permit me?

Mr. BACON. Yes.

Mr. FALL. If I intimated that an army should be sent into Mexico for any purpose I do not recall it. The Senator has stated that if I want to know whether he is willing to send an army down to Mexico to secure these damages he wanted me to understand he was not. I say with perfect and equal frankness to the Senator that if it becomes necessary to protect one American citizen in Mexico or anywhere else to send 200,000 men there to do it, I am in favor of sending American troops there to do it, not to collect a dollar, but to protect an American citizen, wherever he may be.

Mr. BACON. Of course those are all patriotic sentiments which appeal to all of us. We naturally want to protect American citizens, and we naturally want to bring to our consciousness the recognition of the great power of this Government and our ability to do it. Nevertheless, we, in our position of very grave responsibility, which involves the happiness and the peace and welfare of the entire country, have to proceed to accomplish results in a way which, while they may certainly accomplish them, will not accomplish them in a way to bring disaster and suffering and war, if you please, the greatest of all evils, upon this country. I do not think it is necessary that we should go to war in order to accomplish these ends. I do not believe the Senator from New Mexico thinks it necessary.

Mr. FALL. I have distinctly disavowed any such purpose.

Mr. BACON. All I am trying to present is that in the absence of compulsion, which is another word for war when applied to nations, we must proceed diplomatically; that we must proceed through diplomatic negotiations; that we must proceed in a way which will avoid those conflicts. While that course may necessarily entail very undesirable delays, nevertheless we must submit to delays in negotiations between countries unless we are prepared to lay down an ultimatum and back that ultimatum with force. That is all there is to it.

Now, I am in thorough accord with the desire of the Senator that the United States Government, through its State Department—and the Executive—which deals with these international matters, shall proceed with all due dispatch and that we shall do the best we can to secure for our citizens who have suffered, either in their persons or their property, in Mexico just compensation for those injuries. At the same time we must do so in a way not to bring a greater evil upon this country than has already been suffered by some of its citizens.

Mr. SMITH of Arizona. I ask unanimous consent for the passage of the joint resolution.

Mr. SMOOT. Mr. President, we have been in session now nearly seven hours and a half——

Mr. SMITH of Arizona. It will not take long, if the Senator grants the request.

Mr. SMOOT. There are very few Senators present now.

Mr. SMITH of Arizona. I know, but nobody objects to it.

Mr. SMOOT. I do not think there will be any objection to-morrow morning to unanimous consent.

Mr. SMITH of Arizona. It has to pass through the House, Senator.

Mr. SMOOT. It will not hasten it a particle to dispose of it to-day. There are only a few Senators here. I have no objection to the joint resolution. I am ready to vote for it myself right now.

Mr. SMITH of Arizona. So am I.

Mr. SMOOT. But I do think it would be unwise to vote upon a proposition so late in the evening, when there are only a few Senators here. I kindly ask the Senator to leave it until to-morrow morning. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, July 23, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *July 22, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, fill our minds and hearts with the strength and purity of the Holy Spirit, that we may walk worthy of the vocation whereunto Thou hast called us, and leave behind us a trail which others may follow with impunity and upon which we may look back with pardonable pride and feel the thrill of Thine approval. In the spirit of the Lord Jesus Christ we pray. Amen.

The Journal of the proceedings of yesterday was read and approved.

IRRIGATION DITCH, ISLAND OF HAWAII.

Mr. HOUSTON. Mr. Speaker, I call from the Speaker's table the bill (H. R. 11628) authorizing John T. McCrosson and associates to construct an irrigation ditch on the island of Hawaii, Territory of Hawaii, with Senate amendment.

The SPEAKER. The Clerk will report the amendment.

The Senate amendment was read.

Mr. HOUSTON. Mr. Speaker, I move to agree to the Senate amendment.

The Senate amendment was agreed to.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BELL of Georgia, indefinitely, on account of important business.

To Mr. BARNHART, indefinitely, on account of important business.

To Mr. NYE, indefinitely, on account of illness in family.

To Mr. HUGHES of Georgia, for one week, on account of illness.

To Mr. AINEY, for one week, on account of illness in family.

To Mr. THISTLEWOOD, for two weeks, on account of business engagements.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 21477. An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 19403. An act authorizing the Director of the Census to collect and publish statistics on cotton.

LAWS RELATIVE TO SEAMEN.

Mr. ALEXANDER. Mr. Speaker, I desire to call up the bill H. R. 23673, under the rule adopted last Thursday, for further consideration.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 23673) to abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen.

The SPEAKER. The gentleman from Missouri [Mr. ALEXANDER] has 62 minutes left, and the gentleman from Massachusetts [Mr. GREENE] has 16.

Mr. ALEXANDER. Mr. Speaker, does the gentleman from Minnesota [Mr. STEENERSON] desire some time? I offered the other day to yield 10 minutes to him. I can yield him 12 minutes now.

The SPEAKER. The gentleman from Minnesota [Mr. STEENERSON] is recognized for 12 minutes.

Mr. STEENERSON. Mr. Speaker, the title of this bill is:

A bill to abolish the involuntary servitude imposed upon the seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen.

Now, ordinarily there can be no dispute about the desirability of the object expressed in the title. I have examined the majority report and the minority report on this bill, and it seems to me that the minority are manifestly wrong, and I can not follow such leadership. The facts are that the imprisonment of sailors for deserting their vessels has long since been abolished in the merchant marine of the United States, so far as the coastwise trade is concerned and so far as the ports on this continent north of the Caribbean Sea. So that an American seaman—that is to say, a seaman on an American vessel—can not and has not been since 1898 lawfully arrested or imprisoned and put in irons for deserting his vessel at any port on this continent north of the Caribbean Sea. And I find that the Commissioner of Navigation in the Department of Commerce and Labor has repeatedly recommended the abolition of imprisonment for desertion upon all merchant vessels of the United States, whether engaged in the domestic or the foreign trade. I will insert extracts of these reports in the RECORD.

He prints tables showing that the number of desertions is so infinitesimal as the small fraction of 1 per cent of all the thousands who are engaged both in the domestic and foreign trade. So it is not a matter of very great commercial importance. It would not affect the trade at all appreciably. But even if it did, it should not deter us from extending the principles of liberty even to the laborers upon the sea.

The question of abolishing imprisonment for desertion in the foreign vessels entering our ports takes on a little different form. Under the laws of the United States and treaties with foreign nations our courts and our officers, upon complaint of any foreign consul or representative of a foreign country that a sailor has deserted a foreign ship in our ports, are compelled to apprehend that sailor and imprison him and surrender him to the master of a foreign vessel in our ports, even though the ground of the complaint is simply that the sailor deserted the vessel and ceased working out his term of enlistment or employment.

It is stated here in this minority report that this bill is chiefly for the benefit of foreigners. I think that is a very narrow view. Broadly speaking, if this bill makes it more expensive for the ships of a foreign flag to operate, if by reason of abolishing arrests for desertion the sailors that come here will desert, and the foreign ships will have to employ sailors at a higher wage, or if this law shall succeed in requiring the foreign vessels to feed their crews better and provide more accommodations and more space, and require them to give their sailors shorter hours, necessarily it will increase the expense of operation of foreign vessels. But we are not legislating to help foreign vessel owners.

If we could by these means increase the expense of our competitors, necessarily we would better the conditions of our own sailors as well as of theirs, so that it is not logical to say that this is exclusively for the benefit of foreigners. It is, no doubt, legislation that will result in increased expense to the foreign shipowners, and that is what is desired by our vessel owners, in order that they may compete with them on more even terms. There are two ways in which you can successfully compete with any competitor—either reduce your expenses to his level or compel him to raise his expenses to your level. This bill has the tendency to do this, and by means of this provision, together with another provision mentioned in the report, giving Americans the right to purchase vessels abroad to be used in the foreign trade, of which we have practically none now, it would seem as though our people would be placed on a plane approaching an equality with foreign competitors.

But there are humanitarian reasons why this legislation should be enacted. It is not true that we are simply concerned in the matter of making money. There is a great principle at stake here. These sailors in foreign countries sign shipping articles sometimes for three years upon tramp vessels that come to our ports, and notably to the ports on the Pacific coast, and engaged in the trade between South America and the United States—for instance, between San Francisco and Portland and the ports of South America on the west coast in the coffee trade—and receive only one-half the wages paid in the same trade in our American ships. And if these sailors desert they are arrested and imprisoned and surrendered to the masters of those vessels.

In that way we are in effect performing the function of slave catchers. We are enforcing a fugitive-slave law against these foreign sailors who escape from their vessels, and we return them to that servitude; and we do this to reduce the expense of our competitor at sea. It is involuntary servitude, more in violation of the principles of which we are so proud, than the peonage cases that are being prosecuted in some of the States with so much vigor. There is a greater injustice in some of these arrests of sailors for the mere fact of quitting their employment contrary to the shipping articles than in any peonage case that has come to my notice.

The argument that to repeal this law and abrogate these treaties would be interfering with the rights of foreign shipowners seems to me unsound and not founded in reason. It is not only our people that are free, but our soil is free—and whoever touches our shores becomes free. Let us remember that this was recognized even in the Dred Scott case. Dred Scott brought his action in Missouri and claimed the right of liberty because his master had taken him to the Territory of Minnesota—to Fort Snelling—and there kept him for several years, and he invoked the doctrine laid down by Lord Mansfield in the Somerset case, to wit, that "whenever a human being in slavery touches his foot on British soil he becomes a free man forever." [Applause.] But the Supreme Court, in deciding the Dred Scott case, distinguished it from the Somerset case, because they said the action was brought in the State of Missouri, where slavery was lawful, and that therefore the plaintiff must fail, notwithstanding the fact that he had once been in free territory. The court, however, was careful not to overrule the doctrine of the Somerset case, and had Scott's action been brought in a free State, according to the logic of the opinion, the decision would have been the other way. It will thus be seen that even this much-denounced decision recognizes the doctrine of free soil.

Sommersett was a negro slave brought from Virginia to England in 1770 by a Mr. Steuart, the owner, and after two years' service he escaped and was forcibly seized by Steuart's orders and placed on board a ship lying in the Thames bound for Jamaica, where it was proposed to sell him into slavery. The friends of the negro sued out a writ of habeas corpus against the master of the vessel, and the Court of King's Bench, Lord Mansfield presiding, liberated him in 1772.

But this doctrine against involuntary servitude is much older even than the Somerset case. In the brief in the Dred Scott case there are decisions cited as old as the eleventh century, and they also refer to the ordinance of William the Conqueror, that a residence of any of the servile population of England for a year and a day without being claimed, in any city, burg, walled town, or castle of the King, should entitle them to perpetual liberty, as an early instance of this doctrine.

Laws in diminution of the power of a man to reclaim an escaped bondman in Europe commenced with the laws in favor of privileged communes or towns. The earliest publicist who has discussed this subject is Bodin, a jurist of the sixteenth century, whose work was quoted in the early discussions of the courts in France and England on this subject. He says:

In France, although there be some remembrance of old servitude, yet it is not lawful here to make a slave or to buy anyone of others, insomuch as the slaves of strangers, as soon as they set their foot within France, become frank and free, as was determined by an old decree of the court of Paris against an ambassador of Spain who had brought a slave with him into France.

He states another case which arose in the city of Toulouse, of a Genoese merchant who had carried a slave into that city on

his voyage from Spain; and when the matter was brought before the magistrates the—

procurer of the city, out of the records, showed certain ancient privileges given unto them of Toulouse, wherein it was granted that slaves, as soon as they should come into Toulouse, should be free.

If the minority of the Committee on Merchant Marine and Fisheries, and especially the gentleman from Massachusetts [Mr. GREENE] and the gentleman from Washington [Mr. HUMPHREY], who have not only signed this minority report, but have spoken against this bill, really believe in the principles upon which the Republican Party is founded, the principles of human liberty everywhere, why should they draw this narrow distinction and oppose this bill because besides liberating our own sailors it would liberate foreign sailors also?

The platforms recently adopted both by the Republican and Democratic national conventions favor the principles of this bill. It is not and should not be considered as a partisan measure.

Why not all join the army of liberation, demand the abrogation of all treaties for the recapture of fugitive seamen, the repeal of these peonage laws, and proclaim liberty not only throughout the land but throughout the seas also? Let the American Nation demand this and working conditions on the sea will improve, and the merchant marine will attract the bravest and the best to the adventurous and romantic "life upon the ocean wave" and will restore itself to its ancient greatness.

Do this, and the world will say, when it sees our glorious flag proudly floating in the breeze, "There is the flag that means freedom on land and sea. Hail to the emblem of universal liberty!"

I was too young to take part in the Civil War, but it has been a source of pride and satisfaction to me to recall the fact that my father shouldered his gun and fought in that war for the cause of freedom; and if the dead take an interest in the affairs of the living, I believe he is now urging me on in the fight for liberty in order that our flag upon the sea may float over free men instead of over the enslaved and degraded. Let it become the real emblem of universal liberty everywhere! [Applause.]

MEMORIAL.

The seamen of the United States of America, through their committee, duly appointed at their national meeting, held at New York City in the month of November, 1909, respectfully petition for the passage of Senate bill 6155, House bill 11193, being substantially identical bills.

And in support of said petition your petitioners respectfully represent and state as follows:

To the Senate and House of Representatives of the United States, to humanitarians, democrats, Christians, and friends of human freedom everywhere:

Do we, the seamen, the yet remaining bondmen, humbly yet earnestly submit this our petition, that we be made free men and that the blighting disgrace of bondage be removed from our labor, which once was considered honorable, which is yet needed in the world of commerce, and which has been held to be of great importance to nations with seacoasts to defend.

Existing maritime law makes of us, excepting in the domestic trade of the United States, the property of the vessel on which we sail. We can not work as seamen without signing a contract which brings us under this law. This contract is fixed by law or authorized by governments. We have nothing to do with its terms. We either sign it and sail, or we sign it not and remain landsmen.

When signing this contract, we surrender our working power to the will of another man at all times while the contract runs. We may not, on pain of penal punishment, fail to join the vessel. We may not leave the vessel, though she is in perfect safety. We may not, without our master's permission, go to a mother's sick bed or funeral, or attend to any other duties of a son, brother, a Christian, or a citizen, excepting in the domestic trade of these United States.

If the owner thinks he has reason to fear that we desire to escape, he may, without judicial investigation, cause us to be imprisoned for safe-keeping until he shall think proper to take us out. If we have escaped, he may publish our personal appearance along with a reward for our apprehension and return. He may, through contracts between nations, cause the peace officers and police to aid him in recovering his property. The captain may change, the owner may change—we are sold with the vessel—but so long as the flag does not change there is nothing except serious illness or our master's pleasure that will release us from the vessel.

The master, acting for the vessel, may release himself and the vessel by paying a few dollars, with no alternative.

He that owns another man's labor power owns his body, since the two can not be separated.

We stand in the same relation to the vessel as the serf did to the estate, as the slave to his master. When serfdom was abolished in western Europe we were forgotten by the liberators and our status remained. When the slaves of the United States and Brazil were emancipated our status continued. When serfdom was abolished in Russia no change came to us.

We now raise our manacled hands in humble supplication and pray that the nations issue a decree of emancipation and restore to us our right as brother men; to our labor that honor which belonged to it until your power, expressing itself through your law, set upon it the brand of bondage in the interest of cheap transportation by water.

We respectfully submit that the serfdom of the men in our calling is of comparatively modern origin. Earlier maritime law bound, while in strange countries and climes, the seaman to his shipmates and the ship, and the ship to him, on the principle of common hazard. In his own country he was free—the freest of men. We further humbly submit that, as the consciousness of the seaman's status penetrates through the population, it will be impossible to get freemen to send their sons into bondage or to induce freemen's sons to accept it, and we, in all candor, remind you that you, when you travel by water, expect us—the serfs—to exhibit in danger the highest qualities of freemen by giving our lives for your safety.

At sea the law of common hazard remains. There must be discipline and self-sacrifice, but in any harbor the vessel and you are safe, and we beseech you give to us that freedom which you claim for yourself and which you have bestowed on others, to the end that we may be relieved of that bitterness of soul that is the heavy burden of him who knows and feels that his body is not his own.

DESERTION OF SEAMEN.

The percentage of seamen who desert from American vessels is relatively small, and desertion has ceased to be so considerable a factor in American shipping affairs as it was in the days of sailing vessels. The percentage of seamen who fail to report on board after having signed articles before shipping commissioners in ports of the United States for the past nine years is shown by the following table:

Year.	Shipped and reshipped.	Failed to join.	Per cent.
1902	108,554	4,278	3.94
1903	120,785	5,187	4.29
1904	112,957	3,857	3.41
1905	120,782	3,273	2.71
1906	126,745	3,894	3.07
1907	143,399	4,007	2.79
1908	163,192	3,101	1.90
1909	181,032	2,114	1.17
1910	185,721	2,690	1.45

The facts concerning desertion of seamen from American vessels in foreign ports are even more significant. Reports for the past fiscal year have been received from 259 American consulates, which cover practically our entire consular representation at foreign maritime ports. These reports show the clearances (counting repeated voyages) of 1,847 American steamers and 657 American sail vessels. The details are printed in Appendix C. The following table shows the number of the crews of these vessels, the number of seamen shipped and discharged in foreign ports, and the number of deserters:

Vessels.	Men.	Shipped.	Discharged.	Deserters.
Steam	137,612	15,670	15,335	335
Sail	7,001	1,395	1,070	157
Total	144,613	17,065	16,405	492

Out of a total of 144,613 men (counting repeated voyages), only 492 deserted, or scarcely 1 out of 300—a percentage so small as to be inappreciable. There are two possible explanations for these facts. Conditions of life on American vessels may be in the main so satisfactory that seamen prefer to remain with their ships rather than seek by desertion the conditions of labor in foreign ports or on foreign ships. Another theory was set forth in Senate Document No. 379, Sixty-first Congress, second session, in which certain seamen of the United States allege that the seamen "stand in the same relation to the vessel as the serf did to the estate, as the slave to his master." At the International Seamen's Congress held at Copenhagen, August 27, 1910, the first resolution read:

"That the following changes and improvements be made in the maritime legislation of every country:

"1. The abolition of imprisonment of seamen deserting ships while in a safe harbor."

The Copenhagen resolutions and the Senate document enumerated concerning the imprisonment of seamen for desertion, so far from being progressive, are 12 years behind the legislation of the United States. The act of December 21, 1898, abolished the penalty of imprisonment for desertion from American vessels in ports of the United States, the Dominion of Canada, Newfoundland, the West Indies, and Mexico. More than nine-tenths of the seamen on American vessels by the act of December 21, 1898, were thus relieved and have been for 12 years from the penalty of imprisonment for desertion. Outside the countries named the law of the United States still provides for arrest for desertion, but it is a dead letter. The reason is expressed concisely by the American consul at Southampton, England, where 121 out of 335 desertions from American steamers occurred:

"No requests for arrests were made by any master losing the men. The policy of the masters has been to let all such men go, they being able at all times to fill all vacancies so created in the crew."

In fact, in foreign ports where imprisonment is still permitted by our law, last year American consuls reported only 8 arrests. One seaman was arrested and returned to his ship at Tahiti, Society Islands, 2 at Hakodate, Japan, and 3 at Manila. At Port Elizabeth, Cape of Good Hope, the consul caused the arrest of 1 American seaman from the bark *Charmer*. The consul reports:

"He was arrested by the local authorities and imprisoned for a few hours only, and at his own request was placed aboard his ship, from whence he again deserted and has not since been apprehended."

The consul at Montevideo caused the arrest of a deserter from the whaler *Andrew Hicks*.

These facts do not justify any American seaman in the statement against the laws of his country:

"We now raise our manacled hands in humble supplication and pray that the nations issue a decree of emancipation and restore to us our right as brother men."

The fragment of American law which still authorizes the arrest of seamen for desertion from American ships in remote ports may well be repealed because it is a dead letter. Whether foreign nations should repeal their laws providing for the arrest and imprisonment of deserting seamen from their ships is a matter concerning which for obvious reasons this bureau is not called upon to express an opinion.

ABOLITION OF IMPRISONMENT FOR DESERTION.

The law permitting the imprisonment of seamen for desertion from American vessels in ports of the United States and in near-by foreign ports was repealed by the act of December 21, 1898. As our ships seldom cross the oceans, that act covers practically all phases of American navigation. It was not followed by increased desertions nor did it impair discipline on shipboard. At present a seaman deserting from an American ship in the harbors of Europe, Asia, Africa, Australia, Oceania, and South America south of the Caribbean Sea may be imprisoned. Few American ships visit those ports, and out of their total crews not one man in a hundred deserts. There are virtually no cases of imprisonment. When a man deserts an American ship abroad, he is rarely interfered with and not infrequently he regrets his course and appeals to the American consul for assistance. There are more cases of complaint that men have been driven to desert than of complaint of arrest after desertion. The remnant of law actually serves only one purpose, to furnish ground for rhetorical protest that American seamen are treated as chattels and that the law keeps them in fetters and is a survival of the spirit of the fugitive-slave law. The repeal of the statute on which the complaint is based was recommended last year, and the recommendation is renewed. It can be brought about by a simple act of few words, declaring that imprisonment as a penalty for desertion of seamen from vessels of the United States is hereby abolished and sections 4596 and 4600 of the Revised Statutes as amended by the act of December 21, 1898, are hereby amended accordingly.

Mr. ALEXANDER. Mr. Speaker, I yield three minutes to the gentleman from California [Mr. KENT].

Mr. KENT. Mr. Speaker, as I understand the marine law, an American sailor in the coastwise trade may leave his ship at any time before the anchor is drawn or on arriving in safe harbor, the penalty for violating his contract being a forfeiture of all his wages, advance pay being prohibited under the present coastwise laws and under this bill.

An American sailor having taken a contract for a foreign voyage, if he deserts in any foreign port, is acknowledged by the American marine law to be subject to arrest and imprisonment and to be returned to the ship. If returned to the vessel, his wages are subject to the costs of his capture and detention. If not returned to the vessel, his wages are forfeited.

On the other hand, in the event of not being returned to the vessel, he is subject to the penalty of one month's imprisonment and the loss of all wages.

A foreigner in an American port is, under the marine law, subject to the same penalties as an American in a foreign port.

Practically speaking, an American sailor who, on shore leave, complains to a consul or to other authority of ill treatment, has his testimony discredited by the assumption that in such testimony he is endeavoring to break his contract. If, after desertion, he should make similar complaint he would be liable to arrest and punishment, and his statements concerning abuses which caused said desertion would be discredited.

This bill, first, by abolishing the unusual penalty of enforced labor, places the sailor on terms of industrial equality with men working in other trades, and at the same time by permitting civil damages to be assessed against desertion in the collectible terms of forfeited pay strengthens his inducement to carry out his contract which, in its nature, should be more binding upon him, than contracts in other lines, where replacement is easier.

Second, by providing for relinquishment of contract by sailors of foreign vessels it tends to equalize the wages of those engaged in international commerce, thereby rendering the service more dignified, more responsible, and more apt to enlist the services of those fitted to assume the tremendous responsibilities that go with the preservation of lives and property at sea.

It is inconceivable that any Member of this House would permit a son to serve as a common sailor in international trade under existing laws. Just as long as certain occupations are of such a nature as to preclude self-respecting men from engaging in them, there will always be a severe strain upon our theories of democracy.

We are anxious to have a merchant marine, but we can have no object in encouraging a merchant marine except that the people engaged in maritime service are American citizens and are properly paid, decently treated, and in time of war are suitable for naval service.

This law of enforcing virtual peonage certainly would not permit self-respecting Americans to take up this occupation except as a last resort. We used to have a bondage system among white men in this country, in colonial times, and in other parts of the civilized world, but this bondage system is done away with in every employment except employment on the sea. We who are anxious to have an American marine built up and are anxious to have cheapened commerce do not want this cheapened commerce to be effected at the expense of human liberty. Such cheapening will always be dearly paid for. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. ALEXANDER. Mr. Speaker, I yield five minutes to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Speaker, I ask unanimous consent to print in connection with my remarks some telegrams that I have received from the Fishermen's Union of California; the California State Federation of Labor, representing some 65,000 men and women; the California Harbor Board of Fifteen; the Sailors' Union of the Pacific Coast; and the Marine Cooks and Stewards' Association of the Pacific Coast; and also a statement by Mr. Andrew Furuseth in regard to House bill 11372, which is in substance the present bill.

The SPEAKER. The gentleman from California [Mr. RAKER] asks leave to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. RAKER. I yield my remaining time back to the gentleman from Missouri.

The SPEAKER. The gentleman yields back four minutes.

Mr. ALEXANDER. Mr. Speaker, I will detain the House but a very few minutes. The Republican national platform adopted at Chicago and the Democratic national platform adopted at Baltimore both declare in favor of the repeal of our laws providing for the arrest of deserters from ships, whether domestic or foreign. While these laws may not be in violation of the letter of the Constitution, which prohibits involuntary servitude, they are in violation of the spirit of the Constitution, and hence no liberty-loving man, no one who has respect for human rights, in the sunlight of this century can stand up and insist that a man shall be imprisoned for violation of the terms of a civil contract.

A bill has already passed the Senate (S. 5757) abolishing the penalty of imprisonment for desertion of seamen from vessels of the United States, whether in the coastwise trade or in foreign trade, and that bill is now pending before the Committee on the Merchant Marine and Fisheries.

The bill pending, known as the seamen's bill, contains a like provision and also provides for the abrogation of the treaties into which we have entered with foreign countries by the terms of which we are under obligation to return foreign seamen who desert from foreign ships in our ports.

If it is contrary to the spirit of our institutions, if it is contrary to the sentiment of the times, there is no reason why we should perform this service for foreign nations if it is obnoxious to our views of our duty to our own shipping interests.

The other day when the gentleman from Washington [Mr. HUMPHREY] was addressing the House he called attention to a provision of this bill on page 13, subdivision (e).

(e) That this section shall apply as well to foreign vessels as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation.

Section 10 of the pending bill is an amendment of the act of December 21, 1898, relating to the advances and allotment of wages. If the gentleman had only taken the pains to examine the statute, he would have found that instead of the paragraph quoted being a new provision it copies from the law the exact provision of the act of December 21, 1898, which provides in subdivision (f) as follows:

That this section shall apply as well to foreign vessels as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation: *Provided*, That treaties in force between the United States and foreign nations do not conflict.

I have said that section 10 of the act of December 21, 1898, relates to advancement and allotment of wages. If we have any treaty with a foreign nation we should take the necessary steps to repeal the treaty. The provision of which the gentleman from Washington [Mr. HUMPHREY] complains is in the act of December 21, 1898, and is not a new provision in the pending bill, hence his criticism is without merit.

Mr. MANN. Will the gentleman yield for a question?

Mr. ALEXANDER. Certainly.

Mr. MANN. Did I understand the gentleman to say that he thought this bill violated any treaty?

Mr. ALEXANDER. No. I say if the contention of the gentleman from Washington [Mr. HUMPHREY] is correct, and it did violate the provisions of the treaty, then we should take steps to repeal the treaty.

Mr. MANN. That may be a matter of dispute, but I thought the gentleman himself said he thought it did.

Mr. ALEXANDER. No; I did not say that.

Mr. MANN. I misunderstood the gentleman.

Mr. ALEXANDER. I will ask the gentleman from Massachusetts [Mr. GREENE] to consume the balance of his time.

Mr. GREENE of Massachusetts. Does the gentleman from Missouri intend to have more than one speech?

Mr. ALEXANDER. We will have but one other speech on this side. The balance of the time will be consumed by the gentleman from Pennsylvania [Mr. WILSON].

Mr. POST. Mr. Speaker, the bill under consideration is one of vital importance. There are many subjects before the country demanding legislation. No one is of greater importance than the rebuilding of our merchant marine and regaining our commercial independence, put to hazard and lost by the War of the Civil Rebellion. Since that time our merchant marine, so far as it relates to transoceanic commerce, has been in a state of decadence. Agriculture, manufacture, and commerce are interests of great national importance; but commerce includes navigation, and it can not be conducted without it. All of these great factors are essential to the public weal, and none should be suffering for legislative aid.

Since the close of the Civil War a course has been pursued by indifferent captains commanding the ship of state which has resulted in great national loss and disadvantage, so that now, while we excel in agriculture and manufactures in the ports and marts of the world, we are practically devoid of a merchant marine, except in our coastwise trade. By proper navigation laws we have amply provided for our coastwise trade, and its commerce is carried exclusively in American bottoms.

But why should we not have our share of the deep-sea commerce of the world? Every nation should have its own shipping to carry its own commerce, at the very least, not to say it would be most desirable to go further and assist in the carriage of other nations. To carry our own commerce in bottoms flying our own flag would give us a commercial independence that would be a very strong security for political freedom. It would bring to us an independence in trade relations we do not now enjoy. Our prosperity must always depend to a very large degree on freedom of industrial development. To be prosperous we must embrace equal opportunities with other nations in all industrial enterprises and place ourselves upon equal opportunities with them. For more than a half a century we have been dependent upon other nations almost exclusively in the deep-sea traffic. A nation that is dependent necessarily lacks in liberty and loses in opportunity and power. Its dependence compels it to submit to untold impositions, and subjects it to the voracious rapacity of rivals and extortions of commercial competitors. We are now so dependent since the decline of our merchant marine that more than 90 per cent of our foreign commerce is carried by foreign shipping. This is a deplorable situation respecting our foreign intercourse. If we were so unfortunate as to engage in war with any of the great powers, our ships engaged in foreign commerce would be inadequate for transport service. We are now in the sad plight of being unable to carry on foreign war or commerce for lack of shipping facilities. The goods we make are carried in foreign ships. The wares we buy abroad are brought to our ports under foreign flags. We can make and purchase goods and expend millions to provide docks, wharves, and safe harbors; we can place a light upon every point that juts into the ocean on our thousands of miles of coast as signals of danger; we can erect a chain of radiotelegraphic stations from Penobscot to Brownsville and from San Diego to the Arctic Circle; and do all this for the use and benefit of foreign craft engaged in carrying our merchandise to foreign markets and bringing foreign goods to our shores. These public utilities are valuable aids to our coastwise shipping, which is amply protected by our navigation laws, and we should place ourselves in a position to enjoy their benefits by an adequate American deep-sea merchant marine. Congress should stimulate the sentiment in favor of an American merchant marine and in favor of a policy which will make the American flag more often seen in all of the ports of the world. It is the universal regret of Americans traveling abroad that the flag is not more often seen in the foreign carrying trade.

The pending measure, known as the seamen's bill, is one of the several measures proposed to restore the flag in the great carrying trade upon the high seas; it is a measure intended in some degree to restore our lost prestige in this branch of the world's commerce and to uplift our merchant marine. There are other measures pending having in view the same purport—the bill to regulate radio communication and the free-ship bill.

The bill under consideration has three main features. It is proposed to elevate the condition of the seaman in all the branches of the service so as to induce the American boy to go to sea, a condition most devoutly desired to be consummated. The restrictions surrounding the seaman, some of them originating in feudal times, contained in our navigation laws are so intolerable that Americans, except in our coastwise trade, have quit the sea. To eliminate some of these restrictions, to make the life of the seaman conform more nearly to modern civilization, to make the conditions of life on land and sea more nearly equal, is sought to be effected by the pending bill. No one will deny that the American seaman does not receive at the hands of existing law the treatment that men ashore expect, demand, and receive. We must modernize our navigation laws and make them accord with existing conditions and bring them within the American conception of personal liberty.

The condition of the seaman must be lifted from that which he now occupies, a serf tied to the ship. Under existing law he can be arrested and put in irons for deserting the ship, when such desertion amounts only to a breach of his contract. On shore such infraction is remedied by civil action for damages only. On sea the breach is penalized and the poor sailor is often put in irons at the mere whim of the master.

The right of the master to "flog" a seaman for disobedience to orders is a relic of the dark ages, and is nowhere tolerated on shore. No vessel engaged in the ocean-going trade should, not only for the safety of the passengers but for the safety of the crew as well, be permitted to clear a port without a sufficient crew for her safe navigation. The crew should be wholly efficient. The great trans Atlantic and Pacific steamships, floating palaces of the sea, equipped in luxuriance and with a lavish hand, to accommodate the elegant tastes and refinements of elite passengers, should be provided with suitable quarters for the comfort of those who are responsible for their safe navigation. Let me give you a concrete example. I call your attention to the existing law which provides for the quarters of the sailors and firemen in the forecastle. It is the place provided for them in which to live, eat, and sleep when off duty. This space is 6 feet long, 6 feet high, and 2 feet wide. Custom has placed the small bunk in this small place. Space is valuable for storing cargo, for swimming pool, and the dance pavilion. The space allotted to the sailor or fireman is sacrificed for the luxuriant quarters of officers and passengers, and is so uncomfortable that one of the witnesses before the committee described it "as too large for a coffin and too small for a grave." The forecastle is so limited in space that it has been dubbed "the glory hole." The law is an inheritance of olden times and should be discarded as quickly as possible.

The bill under consideration provides 100 cubic feet of space, room enough to stand up, lie down, and turn around. The marine architects, in their eager desire to excel in luxuriance, have entirely overlooked the comfort and welfare of the crew and the salient fact that they have intrusted to their care precious freight of human lives.

Most maritime nations of Europe have made the forecastle space 6 feet by 6 feet by 3 feet, 108 cubic feet.

The bill under consideration provides for suitable washing outfits and for suitable space for the crew to pass from the forecastle to the decks; it provides that the sailors shall be divided into two and the firemen into three watches, and that each watch shall alternately perform the work ordinarily incident to the sailing and management of the vessel; that while in safe harbor no seaman shall be required to do any unnecessary work on Sunday or legal holiday; that the seaman engaged in coastwise trade shall be paid his wages within two days after his discharge or termination of his services under the ship's articles; and in the transoceanic service within 24 hours after the cargo has been discharged; he will be entitled to receive one-half the wages due him at every port where the vessel takes on or discharges cargo; when the voyage is ended he will be entitled to his full pay. If the vessel while in a foreign port is in an unsuitable condition to go to sea on account of leakage or a lack of suitable equipment or men to properly man her, a majority of the crew can procure redress through the resident consul. He can compel his lodging place in the vessel to be properly lighted, heated, drained, ventilated, and protected from weather and sea and shut off from effluvium or cargo or bilge water; he need not be flogged, and all forms of corporal punishment are abolished; he is prohibited from receiving his wages in advance; no one except grandparent, parents, wife, sister, or children can take from him an allotment of his wages. This latter is a strike at the so-called advances for board of seamen while waiting in port for the vessel to take on cargo and depart, and has been subject to great abuses. The system was abolished in our coastwise trade by an act of the Congress in 1898.

If we enact this bill into law, the seaman's wages will be exempt from attachment or arrestment in any court. Nearly every State in the Union has exempted the wages of labor from attachment or execution. Some States have limited the amount that shall be exempt, and some have limited the time in which wages may be attached. In this provision we are simply fol-

lowing the humane policy recognized almost universally in favor of the wage earner in the land. Is a seaman entitled to any less consideration than the landsman? His life is filled with the monotony of the sea; his environments are encompassed by the waters; and his labors are full of drudgery.

The bill provides further for the proper manning of the vessel in that 75 per cent of the deck crew shall be able seamen. An able seaman is one who has had three years' service at sea. This provision will add to the efficiency of the service and inure to the safety of the crew and passengers.

Every vessel of 300 registered tons and less than 1,500 tons will be compelled to carry in her crew an American boy, and if more than 1,500 tons register two American boys. Ninety-five per cent of the crews of vessels engaged in deep-sea traffic that fly the American flag are foreigners. Before the decadence of our merchant marine the decks of our vessels teemed with native seamen. To restore this condition is one of the objects of the bill.

A new feature to American maritime law is proposed, to the effect that in the end not less than 75 per cent of the crew of a vessel shall be able to understand any order given by the officers of the vessel. All of these provisions are for the purpose of adding to the efficiency of the crew; to provide additional safeguards for the safety of passengers; to make life at sea more comfortable and endurable; to induce the American boy to enter the seafaring life, and to cause the American seaman when once in the service to remain there, that in the end we may rescue our decadent merchant marine from the said plight into which it has fallen.

If we can compel better quarters for our seamen; establish "watch for watch," so as to furnish requisite rest; prohibit "crimping"; prevent our seafaring men from being "placed in irons" for the mere breach of a contract, and thereby place him upon an equality with laborers on the soil; compel the foreigners to acquire our language so as to correctly understand orders given in English; require 75 per cent of the crews to be able seamen; enforce the apprenticeship of American boys upon our vessels, we certainly have taken a step forward in the advancement of our merchant marine and made life more easy for those citizens engaged in its perils.

As I said before, the bill has three main features:

The second feature has for its object the improvement in safety of life and property at sea. These features of the bill I have already pointed out in detail.

On the 15th of June, 1904, the excursion boat *General Slocum*, plying the waters of New York Harbor and Long Island Sound, was burned to the water's edge. More than a thousand men, women, and children lost their lives in the frightful holocaust. It was one of the most terrible marine tragedies of all time. In the confusion following the breaking out of the fire hundreds of men, women, and children, caught like rats in a trap, in the great tumult and pandemonium that reigned supreme, were burned to a crisp aboard ship. Hundreds of others, burned and scorched until frantic, rushed into the surrounding water, only to meet death by drowning. The scenes of that terrible marine tragedy are too horrible even at this late day to contemplate, and its horrors will never be forgotten. The memory can not efface the frightful scenes that ensued while the excursion steamer was being consumed by the flames. Its sickening details leaves a lasting impression upon the memory and they can not be forgotten. So terrible were the scenes there enacted that some of the victims who escaped lost their reason and have been compelled to spend their remaining days in asylums. And what was the cause? Above all others was the inefficiency of the crew. They were raw deck hands not drilled in the use of the fire apparatus. In that critical moment they knew nothing only to save themselves. The life preservers were wholly worthless, having been permitted to decay. The fire apparatus was rotten and useless. Who can say that if the *Slocum* had been manned with an efficient crew, these life preservers and the fire extinguishers would have been properly looked after and cared for and replaced with those in perfect working order, that if the crew had been such as we seek to provide for in this bill that, instead of trying to save themselves, they might have extinguished the fire that tolled so many precious lives and have prevented one of the most heartrending events of all history.

We appointed a commission to inquire into the causes of the *Slocum* tragedy. There was an actual loss of 955 out of 1,358 passengers, while there was only a loss of 2 out of a crew of 30. The commission reported:

> The inefficiency and poor quality of the crew of this vessel, doubtless typical of the majority of crews on excursion boats, is one of the essential facts that caused the loss of so many lives.

Upon the language requirements of the bill I want to call attention to the loss of the *City of Rio de Janeiro*. She carried a crew of 84 Chinamen and was officered by white men. But two of these officers could speak the language of the Chinese. The steamship was homeward bound from Hongkong to San Francisco. Upon entering the bay at San Francisco, on February 22, 1901, she struck a shoal of rocks between the Golden Gate and the harbor and sank within 20 minutes, carrying down a large number of passengers and crew, with her cargo. She entered the harbor in a dense fog; it was very dark, but the water was smooth. She carried 214 persons and 11 lifeboats. Her equipment and apparatus were in good condition. Five minutes would have been ample time to have loaded and lowered her boats, yet but only 3 of the 11 boats were lowered into the water, and only three passengers were taken aboard any of the boats. The boatswain and two firemen were the only two officers who could give orders in the Chinese language to the crew. The result was that the orders of the officers had to be communicated by the boatswain or by the chief fireman by signs or signals. It was utterly impossible for two officers to communicate with the crew in the emergency. The crew was not drilled in the matter of lowering boats, and under these conditions all were practically helpless. The United States Supreme Court held—

> that the ship was insufficiently manned, for the reason that the sailors were unable to understand and execute the orders made imperative by the exigency that unhappily arose and resulted so disastrously to life, as well as to property.

Had 75 per cent of the crew been able to understand the English language there was ample time to have filled and lowered the boats and thus have prevented the frightful and criminal loss of life.

The *Titanic* disaster is too recent to dwell upon its terrible results. She carried on board on her initial trip 2,223 persons, of whom 1,515 were lost and only 706 saved. Her crew numbered 899 persons.

The evidence before the Committee on Commerce in the United States Senate discloses that she was equipped with 16 lifeboats and 4 collapsible, with a total capacity of 1,176 persons. The crew had never been drilled in the handling of davits or lowering of the boats. It is not clear that all of the lifeboats were loaded and lowered, one of the lifeboats being unaccounted for. More than four hours elapsed from the time the *Titanic* received her death blow before she sank, and no one would question the fact that she had ample time in which to lower all of her boats and properly load them, but the evidence discloses that there was great indecision among the crew; they did not seem to know how many were necessary to man each boat, and there was a failure to utilize all lifeboats to the capacity for safety. Only 706 were taken off. A very few of the lifeboats were overloaded, while many of them were only partially filled. Proper efficiency in the crew of the *Titanic* might have saved 474 souls. This, the greatest of all marine tragedies, exemplifies the necessity for strict laws and regulations in regard to promoting the safety of passengers and crew at sea.

We might multiply these illustrations, but it is useless. It may be said that these examples are noted exceptions, but I want to call attention to the fact that in the fiscal year of 1910 there were loss of life upon 262 American vessels, entailing a loss of 563 lives. These vessels either foundered, stranded, were in collisions, or there was loss of life from other causes, and the sum total might be charged up to inefficiency.

As the law now stands the shipowner can go into the mountains of Pennsylvania and hire men wholly without experience and intermingle them with men who have been to sea long enough to absorb some of the ethics and traditions of the calling. And this or the like is not infrequently done. And then we exploit about "the safety of the sea" and overlook entirely the efficiency of the crew.

This bill is not opposed to the interests of the shipowner. The decadence of our over-sea carrying trade is due to two causes.

We can not build ships in this country as cheap as they can be constructed in the foreign yards. The cost of ships is, then, an item in favor of the foreign shipowner, and in order to put the domestic owner upon an equal footing with his foreign competitor we must equalize this difference in cost. How are we to accomplish this? One of the bills now pending upon the House Calendar is the free-ship bill. Outside the difference of wages between the foreign and domestic yards, we can furnish cheaper materials to our shipbuilders than the foreign yards can obtain them for. It is proposed to give free material for the construction of ships to our builders and in that way equalize the cost to the American owner. Can anyone doubt that the means to be employed will not justify the ends sought to be accomplished? With free material to enter into the construction of domestic ships our shipbuilders will undoubtedly

be compensated for the difference in wages here and abroad. Solve the wage problem, and we should be able to purchase ships in our own yards cheaper than to take them off of foreign ways.

The second obstacle to be overcome is the difference in wages of an American crew and the wages of the foreign crew. The cost of victualing the ship is as cheap or cheaper here than abroad. Fuel is as accessible and no greater burden. How, then, are we to equalize the wage problem? It must not be forgotten that the American seaman is more capable and more efficient than his foreign competitor. He can and does accomplish more in a given time, and this is a factor in the problem of equalization. This bill seeks to abrogate the treaties and laws under which seamen on foreign vessels are imprisoned in the United States at the behest of the masters of those vessels. The master, as the law now stands, has a sort of peonage upon the members of his crew. He can throw them in prison and keep them in bondage until ready to depart, and then compel their return to his ship. By this barbarous process he is enabled to enforce obedience to the ship's articles and retains his crew for the round trip. Under such a law the seaman is not the owner of his body but is a slave to the ship. Abolish the law, and the foreign seaman when he lands in our ports can refuse to return unless he is paid the price of an American seaman. The master can not return without men to safely navigate his ship. He is in an American port, and before he can return he must engage his crew in the American market and at its wage. No one will question but that he will be obliged to pay the wages demanded by American freemen. The foreign seaman can require the American wage or refuse to make the return voyage. Can anyone doubt but that these conditions will equalize the scale of wages? The American shipbuilder, with his free materials selling upon an equality with his foreign competitor, the owner navigating his vessel on an equality with his foreign competitor, we should soon expect to find the American boy coming back to the sea instead of drifting from the sea; we should soon expect to see our merchant marine rejuvenated, plowing every sea in every clime and the flag of freedom waving in every commercial mart and port in the world.

Mr. ALEXANDER. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. WILSON].

The SPEAKER. The gentleman from Pennsylvania is recognized for 38 minutes.

Mr. WILSON of Pennsylvania. Mr. Speaker, I shall not undertake to discuss the statements contained in the views of the minority to any great extent that this is the first time in recent years that partisan advantage has been sought on any bill before the Committee on Merchant Marine and Fisheries by a subcommittee excluding the minority of the committee from the consideration of the bill while it was being perfected. It is immaterial to the merits of this bill whether or not the friends of the measure met for the purpose of considering it before presenting it to the opposition for the purpose of consideration. As a matter of fact, the friends of the bill did meet and perfect the bill. It was then submitted to a subcommittee for its consideration, and the gentleman from Washington [Mr. HUMPHREY] was not present at that meeting. His absence was no fault of the gentleman from Texas [Mr. HARDY], who was chairman of the subcommittee. The bill was referred to the full committee for consideration. The gentleman from Washington was present at that meeting and stated at that meeting that he had not had an opportunity to consider the measure and asked that it go over until the next meeting of the committee so that he could have an opportunity of presenting his views. His request was complied with and the bill went over until the next meeting of the committee, when the gentleman from Washington was again present, stated briefly his views upon the measure, and afterwards the bill was considered and reported to this House. The bill is not a partisan measure, as is demonstrated by the fact that both of the great political parties have in their platforms adopted resolutions indorsing the principles involved in the bill. The Republican platform, under the head of "Safety at sea," says:

> We favor the speedy enactment of laws to provide that seamen shall not be compelled to endure involuntary servitude and that life and property at sea shall be safeguarded by the ample equipment of vessels with life-saving appliances, and that full complements of skilled, able-bodied seamen be provided for.

So that there is more in the Republican platform than the simple declaration of freedom for the sailor. They seem to believe that among the things necessary for safety at sea is skilled seamen to handle a sufficient number of lifeboats to protect those who travel by sea.

Mr. HUMPHREY of Washington. Will the gentleman yield?

Mr. WILSON of Pennsylvania. Certainly.

Mr. HUMPHREY of Washington. I want to ask the gentleman now if he will join with me in any amendment I may offer that will compel the employment of men who are competent and able to handle lifeboats and other crafts used in the saving of life at sea?

Mr. WILSON of Pennsylvania. I would have to wait until I hear the amendments before answering the gentleman's question.

Mr. HUMPHREY of Washington. If, in the judgment of the gentleman, it increased efficiency——

Mr. WILSON of Pennsylvania. If, in my judgment, it increased the safety of travel at sea, I would be perfectly willing to agree to amendments of that character.

The Democratic platform, under the heading of "Merchant marine," says:

> We believe in fostering by constitutional regulation of commerce the growth of a merchant marine which shall develop and strengthen the commercial ties which bind us to our sister Republics at the south, but without imposing additional burdens upon the people and without bounties or subsidies from the Public Treasury. We urge upon Congress the speedy enactment of laws for the greater security of life and property at sea, and we favor the repeal of all laws and the abrogation of so much of our treaties with other nations as to provide for the arrest and imprisonment of seamen charged with desertion and with violation of their contracts of service. Such laws and treaties are un-American and violate the spirit, if not the letter, of the Constitution of the United States.

Both party platforms declare in favor of the principles embodied in this bill. The gentleman from Washington [Mr. HUMPHREY] says that it was not shown in the *Titanic* disaster that the seamen employed on the *Titanic* were lacking in skill. Let me quote from a statement issued by some of the survivors immediately after the *Titanic* disaster. They said:

> We feel it our duty to call the attention of the public to what we consider the inadequate supply of life-saving appliances provided for on modern passenger steamships, and recommend that immediate steps be taken to compel passenger steamers to carry sufficient boats to accommodate the maximum number of people carried on board. The following facts were observed and should be considered in this connection: The insufficiency of lifeboats, rafts, etc.; lack of trained seamen to man the same. Stokers, stewards, etc., are not efficient boat handlers. Not enough officers to carry out emergency orders on the bridge and superintend the launching and control of lifeboats; absence of searchlights,

And so forth.

In the reports made by the Senate committee and by the British committee that investigated the subject, similar statements are made. The statement on the part of the Senate committee embodied, in brief, this fact: That the *Titanic* crew was but meagerly acquainted with the positions and duties in case of accident. Lord Mersey's committee reported that a greater proportion of the passengers might have been saved if the crew had been better organized and trained in the handling and launching of lifeboats. Both of those reports specify the necessity for skilled men in handling lifeboats. Of what value is it in the saving of life at sea to have a sufficient number of boats to hold every person on board, passengers and crew, if, after you have those lifeboats, you have not a sufficient number of men skilled in the handling of boats to lower them and get off in a seaway.

This bill will accomplish three very important results. It will give freedom to the sailor. It will promote safety of travel at sea. It will assist very materially in the building up of a merchant marine without resorting to subsidies by equailzing the operating expenses of our vessels engaged in the foreign trade with those of foreign competitors.

There are two great reasons why our merchant marine has declined. The first of those is that the initial cost of vessels to the American shipowner is greater than the initial cost of vessels to his competitor. A bill is now pending on the calendar, introduced by the gentleman from Missouri [Mr. ALEXANDER], proposing to remedy that portion of the discrimination against our merchant marine. The other reason is that the operating expenses of American vessels engaged in the foreign trade is greater than the operating expenses of competing vessels. Those increased operating expenses are principally, if not wholly, composed of the difference in the wage rate paid to American seamen as compared with the wage rate paid to foreign seamen. When it comes to buying supplies for our vessels they are able to buy their supplies as cheaply as their competitors can buy them. They buy them in the same ports, in the same markets, under the same conditions, and consequently are able to buy their supplies as cheaply as their competitors are able to buy them. But it is not true with regard to wages. There has been a very common misapprehension that the wages are dependent to a great extent, if not wholly, upon the flag under which a sailor works. But the wages are dependent principally upon the wages in the ports at which the sailor is shipped, and the wages in those ports are in turn dependent in a great measure upon the standard of living in the country where the

port is located. And so foreign vessels have been able to procure their seamen in their home ports at a lower rate than our merchant marine is able to secure them. And after having secured those seamen at a lower rate and the seamen have signed the ship's articles if they desert when they come to our ports we use our police powers to catch those seamen and return them to the vessels from which they deserted, thereby using our police powers for the purpose of assisting foreign countries in continuing their advantage over our own merchant marine.

The wages of American seamen until recently out of the port of New York for British ports were $25 per month. They are now $30 per month. The wages of British able seamen to the port of New York were £4 10s. They are now £5 per month.

(For wages of American seamen, see p. 95, Annual Report of Commissioner of Navigation, 1911.)

(For wages of British seamen, see S. Doc. No. 379, 2d sess. 61st Cong., p. 34.)

There is the same or greater difference in the wages paid seamen out of the ports of other foreign countries compared with American ports as that existing between British ports and the port of New York.

The gentleman from Washington [Mr HUMPHREY] says that we have the power but we have not the right to interfere with that condition of affairs; that we have not the right to say to foreign nations what qualifications their seamen shall have, what contracts those seamen shall make, what language those seamen shall speak, or the other conditions and terms under which the contract shall be made. We not only have the right, we not only have the power, but it is our duty to our citizens who travel on those vessels which come to our ports, whose safety is involved, whose property is risked, to see to it, as far as our jurisdiction and power go, that they shall travel in safety and their property be transported safely. We do not say, or propose to say, to foreign nations what the terms and conditions of their contracts with seamen shall be as long as they remain in foreign waters; but just as soon as they come into American waters, then we insist that they shall comply with the same regulations, the same provisions for safety, as are required of American vessels.

Most foreign vessels entering our ports carry our citizens as passengers and our merchandise as freight, and it is not only our moral right but our moral duty to see that both are carried in safety. That can not be done if the seamen do not understand the language of the officers. No man can obey orders or follow instructions that does not understand the orders or instructions when given to him, and no man can be efficient as a seaman in ordinary times, and much less in times of emergency, who does not understand orders when given him. But even that is not sufficient. Of what value is it to understand orders when given if the seaman has not sufficient skill to carry the orders into effect? Of what value is it to have a sufficient number of lifeboats to carry all of the passengers and crew if you have not a sufficient number of skilled men to lower them and handle them in a seaway?

The gentleman from Washington [Mr. HUMPHREY] further says that this slave-catching device—catching runaway seamen—is obsolete so far as American seamen are concerned. If it is obsolete, then there can be no objection whatever to the repeal of the law. But, unfortunately, it is not obsolete. The report of the Commissioner of Navigation for the year ending June 30, 1910, says:

> In fact, in foreign ports where imprisonment is still permitted by our law, last year American consuls reported only eight arrests. One seaman was arrested and returned to his ship at Tahiti, Society Islands; two at Hakodate, Japan; three at Manila, Philippine Islands; one at Port Elizabeth, Cape of Good Hope; one at Montevideo, Uruguay.

Eight of them arrested and imprisoned—American seamen, American citizens—treated as runaway slaves in a foreign country, captured by the police powers of foreign countries, imprisoned or returned to their vessels, and compelled to fulfill a civil contract to labor.

Since when, Mr. Speaker, has it become wrong for the American people to stand out against a fugitive-slave law? Since when has it become wrong for the American people to stand out against slavery in any form? The United States Supreme Court, in the case of Bailey against The State of Alabama (219 U. S., p. 219), used this language:

> While its immediate concern was African slavery, the thirteenth amendment was a charter of universal freedom of all citizens, of whatever race, color, or estate, under the flag. The words "involuntary servitude" have a larger meaning than slavery, and the thirteenth amendment prohibited all control, by coercion, of the personal service of one man for the benefit of another.

And yet under our existing maritime laws a seaman can be compelled to work against his will for the personal benefit and profit of another. That is also true, and to a greater extent true, of foreign seamen in vessels trading with the United States. A short time ago my attention was called to an article in the Coast Seamen's Journal, asserting that certain men had been arrested and were held by the United States marshal, to be placed aboard of a vessel which they had left. I immediately sent the following telegram, under the date of May 22 of this year:

> Hon. CHARLES T. ELLIOT,
> *United States Marshal, San Francisco, Cal.:*
> Please advise me by wire what disposition has been made of Thorwald Bye, Harold P. Ellison, and John S. Johnson, from the Norwegian steamer *Admiralen*, and whether or not they are still being held in the custody of the United States, to be delivered to said steamer.

To which I received on the same date the following reply:

> Telegram received. Parties placed in charge of officer, steamer *Admiralen*, May 11, by request Norwegian consulate.

That is evidence that these laws have not become obsolete. They still exist, as applied to foreign seamen trading at our ports and our seamen at foreign ports.

Mr. HOWLAND. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. MARTIN of Colorado). Does the gentleman yield?

Mr. WILSON of Pennsylvania. I yield.

Mr. HOWLAND. I would like to ask the gentleman whether or not the law to which he is now calling attention has ever been applied to seamen on the Great Lakes, and whether the gentleman knows of a case where an arrest for desertion has ever been asked for on the Great Lakes?

Mr. WILSON of Pennsylvania. I have not any information of any arrests having been made on the Great Lakes under these circumstances; but if they have not, and the law is obsolete so far as it applies to the Great Lakes, then there certainly can be no reason why the law should not be repealed.

Mr. HOWLAND. I understand it has been abolished, and so the remarks of the gentleman in this respect would not apply to the Great Lakes.

Mr. WILSON of Pennsylvania. It would not apply generally to the Great Lakes, because the traffic on the Great Lakes is not to any great extent a foreign traffic. The greater part of the traffic on the Great Lakes is a coastwise traffic, and, so far as the coastwise trade is concerned, the law was repealed a number of years ago—in 1898, I believe.

Mr. HOWLAND. We are very proud of our ships and sailors on the Lakes and I would like to ask the gentleman this general question, as to whether or not the evils against which he is proposing to legislate in the pending measure are in existence at the present time on the Great Lakes?

Mr. WILSON of Pennsylvania. I do not know, so far as the freedom of the sailor is concerned, but I do know that on the Great Lakes at the present time unskilled men are employed in handling vessels, and that, as a result of unskilled men being employed, life and property are continuously in danger.

On the question of skill I desire to call the attention of the House to a colloquy which occurred during the hearing before the committee.

Mr. HUMPHREY of Washington. Mr. Speaker, will it disturb the gentleman if I ask him a question? I do not want to annoy the gentleman.

Mr. WILSON of Pennsylvania. Not at all. Go ahead.

Mr. HUMPHREY of Washington. I think I ought to ask this question of the gentleman in justice to the Great Lakes traffic to which he referred: Is it not a fact that the evidence as introduced before our committee shows, so far as the Great Lakes are concerned, that in the last two or three years the loss of life has been less than three in a million, or safer than it was anywhere on land?

Mr. WILSON of Pennsylvania. The loss of life has been comparatively small on the Great Lakes, but the loss of property has been heavy. There have been quite a number of very important vessels, heavily laden, that have gone to the bottom on the Great Lakes. The traffic on the Great Lakes is principally a freight traffic.

Mr. HOWLAND. Mr. Speaker, will the gentleman yield to a further question?

Mr. WILSON of Pennsylvania. Yes.

Mr. HOWLAND. Is it not a fact that the involuntary servitude, of which the gentlemen speaks is no longer in force on the Great Lakes?

Mr. WILSON of Pennsylvania. So far as the coastwise trade is concerned, it is no longer enforced anywhere in the United States. It is only so far as our foreign trade is concerned, so far as our ocean-going commerce is concerned, and that on foreign vessels in our ports, that involuntary servitude still continues.

Mr. HOWLAND. Then really the only effect that the gentleman is striving to accomplish by this legislation, with reference

to the Great Lakes, is the employment of what he terms skilled seamen in the Great Lakes service?

Mr. WILSON of Pennsylvania. That is one of the purposes that is sought, and it is also sought to change the law so that it can not be used to impose slavery on the seamen on the Great Lakes. It might be used now, although it is not used. It is sought to change it so that it can not be used to compel workmen to engage in service that is distasteful to them, or continue in it after they desire to leave that service.

Mr. HOWLAND. Would not the gentleman be willing, under these circumstances, to accept an amendment exempting the Great Lakes from the operation of this bill, which he admits does not in many respects apply to the Great Lakes?

Mr. WILSON of Pennsylvania. No; I would not agree to an amendment of that kind. In fact, I would oppose it. It is well known that in times of storm the Great Lakes are as dangerous as the ocean, and there is just as much necessity for skill in handling vessels on the Great Lakes as there is on the ocean; and for that reason, if for no other, I would be opposed to any amendment like that suggested by the gentleman from Ohio.

Mr. HOWLAND. We all agree to the proposition, of course, which has just been stated by the gentleman from Pennsylvania. I do not want to trespass upon his time, but I deny that any substantial number of our seamen in the Lake service are unskilled seamen, and the record of loss of life and property on the Great Lakes substantiates my statement.

Mr. WILSON of Pennsylvania. I am glad to yield to the gentleman if he will proceed with his question without taking up the time for explanations.

Mr. HOWLAND. I am very much interested in the gentleman's definition of involuntary servitude with reference to contracts for personal labor. Does the gentleman go to the extent of holding that a contract for personal labor is involuntary servitude?

Mr. WILSON of Pennsylvania. I go to the extent of saying that whenever any person makes a contract to perform labor, and after having made that contract desires to cease those labors, if you compel him to continue them that constitutes involuntary servitude; and this fact stands out, that if you can by law compel a man to work for one second after he desires to cease working, then you can compel him to make a contract to work for his entire lifetime by virtue of his necessities. And that would give you not only a brief period of involuntary servitude, but a lifetime of involuntary servitude.

Mr. HOWLAND. Just one other question. Under the gentleman's definition of involuntary servitude, would he hold that where there is existing a contract for the period of six months for personal services, and at the end of three months the man who is hired desires to quit his employment and does so, and there is a balance due him on his contract for personal services, the employer should not have the right, for breach of that contract, to a counterclaim on the amount due for breach of the contract?

Mr. WILSON of Pennsylvania. The employer would not have the right to withhold the wages that are due, but would have the right to sue the man in the civil courts and to recover such damages as the court should award, and collect them as other judgments are collected.

Mr. HOWLAND. I am assuming, of course, that the laborer has sued on his contract to recover the balance of wages due him for three months' service where the contract is for six months' service. Suppose there is a small amount due him. The employer comes into court and sets up a counterclaim that he has been damaged by the breach of the contract. Would the gentleman hold that the counterclaim under those circumstances should be void in law?

Mr. WILSON of Pennsylvania. I would hold that the subject matter of the damages done would be purely within the jurisdiction of the court to determine, but there would be no right on the part of the employer to compel the individual workman to continue his service.

Mr. HOWLAND. My question did not relate to that. Specific performance of a contract for personal service has never been allowed in the civil courts, not having maritime jurisdiction.

Mr. WILSON of Pennsylvania. Labor is a part of the man himself, and you can not control that power to labor without controlling the man; and when you control the man against his will it is involuntary servitude.

Mr. HUMPHREY of Washington. Will the gentleman yield for a question?

Mr. WILSON of Pennsylvania. Certainly.

Mr. HUMPHREY of Washington. I will ask the gentleman if it is not true that in several places in this bill you specifically take away from a sailor the right to contract.

Mr. WILSON of Pennsylvania. We do.

Mr. HUMPHREY of Washington. Do you not to that extent, then, take away from him the power to sell his labor?

Mr. WILSON of Pennsylvania. We take away from him the power to contract, because that power to contract has been used by the shipowners as a means of oppression of the sailor. The sailor has been looked upon as being one of the wards of the Nation, and it is one of our duties to see that he is protected against any unfair and unjust discrimination in the making of contracts.

Mr. HUMPHREY of Washington. Mr. Speaker, without implying by the question any agreement or disagreement with the gentleman's views, I want to ask him this: If you are going to protect the sailor, as the gentleman says, from certain contracts made with the shipowner—and I am free to say that I think he ought to be in a great many particulars, and have no dispute with the gentleman about that, and that being true and recognizing him as he always has been recognized as a ward of the Nation—does the gentleman not think that we ought also to compel him, where it is just, to carry out his contracts? Does the gentleman not think that he ought to be a ward both ways?

Mr. WILSON of Pennsylvania. Mr. Speaker, if the gentleman puts in the qualification of its being just, of course I could agree with him, but it is a very general term, and the question would naturally arise, Where is it just? Is it just to allow crimps to bleed him? Is it just to allow him to be imposed upon on shipboard and to have no opportunity of leaving the service until he gets back to the port from which he sailed?

Mr. HUMPHREY of Washington. I admit that all things should protect him from the crimp. I will go as far as the gentleman will on that. I live on the seacoast and I know some of the evils. But why should you take away from the sailor the power to make a contract on the Great Lakes which he should sign for the round trip, and not demand his wages until he gets back?

Mr. WILSON of Pennsylvania. Mr. Speaker, practically the same conditions exist on the Great Lakes as on the seacoast. The colloquy which I was about to quote from the hearings on the seamen's bill occurred between Mr. H. D. Golder, attorney for the Lake Carriers' Association, and myself, and is found on pages 237 and 238 of the hearings, and is as follows:

Mr. WILSON. Doesn't the association also set up a standard of efficiency for able seamen and ordinary seamen, etc.?

Mr. GOLDER. No; they have not attempted to fix any standard. They have not attempted to do that other than in this way. They have left that with their officers, who are very anxious, of course, and always anxious to have good, efficient men to perform their duties. The engineer wants efficient assistants, and so the policy of the Lake Carriers' Association has been to let the chief engineer determine his own help. Of course not absolutely, but it would be a rare thing, I think, to go in any of the ships on the Lakes and see a first or a second assistant, or a third, or an oiler on board a ship who was not satisfactory to the chief engineer.

Mr. WILSON. Doesn't the association issue certificates of ascertained fitness?

Mr. GOLDER. No; they issue simply a book. They did issue a certificate certifying that upon the best information that a man was competent for a certain kind of work. They would not employ a man and never do, but they would give that certificate of ascertained competency to their members as the best information that they could get about it. It is up to the officer in charge to try and get as good men as he can.

Mr. WILSON. That was presented for the purpose of enabling the different shipmasters to determine the fitness of a particular man for the position that he was to be employed for?

Mr. GOLDER. Well, it was merely to enable them to give the best information to the members that they could. They did that, and that was all there was of it.

Mr. WILSON. If it was deemed necessary for the Lake Carriers' Association to find out the fitness of the men for the various positions in order to promote the welfare of the business, what objection can there be to the law requiring that that fitness shall be ascertained?

Mr. GOLDER. Ethically and theoretically there isn't a shadow of objection to it. Practically, it would be a very great burden on your inspectors. You would have to increase the inspection service very much, and my chief objection to that is, I wouldn't care much about it myself, but my personal opinion from observation and knowledge of the subject is that I should object to putting that expense upon the Government, because I do not think that the Government can get any proper and adequate return for its money.

Thus it will be seen that the shipowners themselves realize the necessity of some standard of efficiency for seamen on the Great Lakes. They admit that it is ethically and theoretically right that the law should require that the fitness of seamen for their respective positions shall be ascertained.

The only objection is that of the expense which it would be to the Government.

This bill has been drawn with a view to determining the fitness of seamen, based upon three years' service on deck at sea under regulations which will not materially increase the present cost of inspection.

It has been suggested in this debate that the deck crews are not the only ones employed on board of vessels who may be skilled in handling a lifeboat, and that is true. Here and there

may be found a man in some of the departments, or even a passenger, who may be skilled in handling a lifeboat and who would be of some service in the event of an accident necessitating the lowering of boats.

The men employed on a vessel are divided into three separate departments, each having duties peculiar to itself—the steward's department, the engineer's department, and the deck department.

Neither the steward's nor the engineer's department have to do with the navigation of the vessel. That belongs to the deck department, and there is where skill for navigation purposes should be required and found.

It is not the duty of a waiter or a cook, a passer, a fireman, or an engineer to see to the safe navigation of a vessel; it is the duty of the deck department.

It is an old saying and a true one, "That what is everybody's business is nobody's business." The department whose duty it is to navigate the vessel should be required to have a sufficient amount of skill to perform their duties and handle the vessel safely.

This bill provides a standard of efficiency for the deck crew based upon three years' experience on deck, and requires that for the first year after the passage of this act the number of skilled men shall not be less than 40 per cent of the deck crew and increases the number required at the rate of 5 per cent annually until it reaches a maximum of 65 per cent of skilled men in the deck crew. It further provides that in any event the number of skilled men in the deck department shall not be less than two for each lifeboat. Two skilled men is not all the crew that would be needed in a lifeboat. That is only a sufficient number to direct the lowering of the boat and to steer it when it gets away. It will require at least three times that number to properly man a lifeboat, and the additional number can readily be made up from the other two departments if need be. But those two departments should not be called upon or expected to furnish the skill necessary for the proper handling of the boat.

It has been contended in opposition to this bill that it is placing too much power in the hands of one man to permit him, by affidavits setting forth the fact that the law is not being complied with, to cause a muster of the crew of a vessel to be made. And it is contended by the gentleman from Washington that that might mean a delay of one or two days in dispatching a vessel. As a matter of fact, there is not a vessel afloat whose crew can not be mustered, their certificates of competency examined, and each member of it questioned to determine his language qualifications inside of three or four hours.

It should be remembered in discussing this part of the bill that no penalty is provided for any vessel failing to comply with this section other than that the crew may leave, or a collector of a port may detain it and refuse to give it clearance. To make it difficult under those circumstances to have a muster of the crew made would tend to destroy the purpose of the bill relative to the equalization of the operating expenses of foreign with domestic vessels. Every influence that any foreign country could exert would be utilized to prevent a muster of the crew being made, in order that they might continue to retain the commercial advantages they now have. This section is safeguarded by the fact that any man who makes a false affidavit for the purpose of detaining the vessel, through spite or other improper motive, would be liable to prosecution under the provisions of section 5392 of the Revised Statutes, which reads as follows:

> Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than $2,000, and by imprisonment at hard labor not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed.

Time and time again we have heard the statement made on this floor that the American flag is no longer found floating on the masthead of vessels in foreign ports. We have heard expressions of humiliation and shame because of this fact, and we have been urged to subsidize our foreign-going shipping in order to remedy the evil. Our export trade and our import trade is immense; to carry it or any considerable portion of it in American bottoms would require subsidies far beyond any amount the American people would stand for. The cause would still remain, requiring the continuation of the subsidy for an indefinite period.

If you want to build up your merchant marine, you must first make it as profitable for American capital to invest in shipping as it is for it to invest on land, and, second, make the conditions of life and employment at sea as favorable to the workmen as the conditions on land. When you have done these two things a merchant marine will be built up with American capital and an American personnel in the crew.

Give us this bill and the "free-ship bill" and you will have taken a great stride toward an American merchant marine. The seaman will be free, his condition will improve, and the American man and boy will seek a seafaring life in sufficient numbers to man all our vessels in peace or war. The commercial advantages which the foreign shipowner has had will be removed, American capital will find profitable investment at sea, and the American seaman, with his self-respect restored, will stand out as a model of seamanship to all the world.

Mr. LEVY. Mr. Speaker, I make the point of no quorum.

The SPEAKER pro tempore. The gentleman from New York makes the point of no quorum. Evidently there is not a quorum present.

Mr. HARDWICK. Mr. Speaker, I move a call of the House.

Mr. ALEXANDER. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Georgia that a call of the House be ordered.

The question was taken, and the motion was agreed to.

The SPEAKER pro tempore. The Sergeant at Arms will notify absentees, the Doorkeeper will close the doors, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Dodds	Lafferty	Redfield
Ames	Doremus	Lamb	Reyburn
Anderson, Minn.	Draper	Langley	Riordan
Andrus	Driscoll, M. E.	Lawrence	Roberts, Nev.
Ansberry	Dyer	Legare	Robinson
Anthony	Ellerbe	Lenroot	Rothermel
Austin	Fairchild	Lewis	Rucker, Mo.
Barnhart	Farr	Lindsay	Sabath
Bartholdt	Ferris	Linthicum	Saunders
Bartlett	Finley	Longworth	Scully
Bates	Flood, Va.	Loud	Shackleford
Bathrick	Fordney	McCall	Sharp
Bell, Ga.	Fornes	McCoy	Sheppard
Boehne	Gardner, N. J.	McCreary	Sherwood
Bradley	Garrett	McGuire, Okla.	Simmons
Brantley	Gillett	McHenry	Slayden
Brown	Glass	McKellar	Slemp
Browning	Goeke	McKenzie	Smith, J. M. C.
Burgess	Goldfogle	McKinley	Smith, Sami. W.
Burke, Pa.	Gould	Macon	Smith, Cal.
Butler	Graham	Madden	Smith, N. Y.
Byrns, S. C.	Gregg, Pa.	Maher	Sparkman
Calder	Griest	Martin, S. Dak.	Stack
Callaway	Guernsey	Matthews	Stephens, Miss.
Campbell	Hamill	Miller	Sulloway
Cantrill	Hamilton, Mich.	Moon, Pa.	Sweet
Carlin	Hammond	Moon, Tenn.	Taggart
Carter	Harris	Moore, Tex.	Talbott, Md.
Cary	Harrison, N. Y.	Morgan	Talcott, N. Y.
Catlin	Hartman	Morse	Thomas
Clark, Fla.	Heald	Mott	Tilson
Clayton	Helm	Murdock	Towner
Collier	Henry, Conn.	Murray	Townsend
Conry	Henry, Tex.	Nelson	Tuttle
Covington	Higgins	Nye	Vare
Cox, Ohio	Hinds	Olmsted	Vreeland
Cravens	Hobson	O'Shaunessy	Webb
Cullop	Holland	Page	Wedemeyer
Curley	Hughes, Ga.	Palmer	Whitacre
Currier	Hughes, N. J.	Parran	White
Daugherty	Hughes, W. Va.	Patten, N. Y.	Wilder
Davenport	Humphreys, Miss.	Patton, Pa.	Wilson, Ill.
Davidson	Jackson	Peters	Wilson, N. Y.
De Forest	Johnson, Ky.	Porter	Wood, N. J.
Denver	Kindred	Powers	Woods, Iowa
Dickson, Miss.	Kinkead, N. J.	Pray	Young, Tex.
Dies	Konig	Pujo	
Difenderfer	Kopp	Randell	

During the calling of the roll, at the end of the list of names, the following occurred:

The SPEAKER. One hundred and seventy-nine Members have answered to their names.

Mr. UNDERWOOD. Mr. Speaker, I move that the Sergeant at Arms be instructed to arrest absentees, and bring them before the bar of the House, and that the Speaker be authorized to sign the necessary forms.

The motion was agreed to.

After several additional Members had answered to their names,

The SPEAKER. One hundred and ninety-nine Members are present, a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The question is on the motion of the gentleman from Alabama to dispense with further proceedings under the call.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 76, noes 0.

So the motion was agreed to.

The doors were opened.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I call up the conference report on the bill (S. 6978) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and children of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1035).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6978) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 1.

WILLIAM RICHARDSON,
WM. A. DICKSON,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1: This is the case of Gust Carlson (S. 428). In this case there is some question as to the incurrence of permanent disability in the service; but that the soldier is now in deplorable physical condition is vouched for by the Senator who is acquainted with the circumstances, and in view of those statements and the fact that the soldier was injured in the service, the House recedes from its amendment striking the item from the bill.

WILLIAM RICHARDSON,
WM. A. DICKSON,
Managers on the part of the House.

Mr. RICHARDSON. Mr. Speaker, I move that the House agree to the conference report.

The motion was agreed to.

Mr. RICHARDSON. Mr. Speaker, I call up the conference report on the bill (S. 5623) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read as follows:

CONFERENCE REPORT (NO. 1034).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5623) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same.

WILLIAM RICHARDSON,
WM. A. DICKSON,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1: The amendment strikes from the bill the name of Anna Jones Banks (S. 4765). This is a case in which the Senate proposed to pension the widow of a soldier of the Indian wars who had not served 30 days. The House cut the item from the bill on the grounds that it has not been customary to pension widows of soldiers of the Indian wars who did not serve 30 days. The Senate agrees to the amendment.

WILLIAM RICHARDSON,
WM. A. DICKSON,
Managers on the part of the House.

The question was taken, and the conference report was agreed to.

Mr. RICHARDSON. Mr. Speaker, I also call up the conference report on the bill (S. 6340) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read as follows:

CONFERENCE REPORT (NO. 1033).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6340) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, and 3, and agree to the same.

WILLIAM RICHARDSON,
WM. A. DICKSON,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

Amendment No. 1 (the case of Michael Grace, S. 782): In this case the evidence is not conclusive that soldier's disability is due to service, and the item was stricken from the bill by the House. The Senate agrees to the amendment of the House.

Amendment No. 2 (the case of Perry L. Sargent, S. 3825): The Senate proposed to increase the pension of soldier from $17 to $24 per month, based largely upon a disability incurred since his service. The House strikes the item from the bill and the Senate agrees to the amendment.

Amendment No. 3 (the case of Arthur W. S. Maw, S. 5345): This is the case of a soldier who had four terms of service in the Regular Army and who was discharged from the service on account of disability not due to service. There is some question as to incurrence of disability in line of duty and the Senate recedes from its disagreement to the amendment of the House.

WILLIAM RICHARDSON,
WM. A. DICKSON,
Managers on the part of the House.

The question was taken, and the conference report was agreed to.

FIVE CIVILIZED TRIBES.

Mr. STEPHENS of Texas. Mr. Speaker, I call up the conference report on the bill (S. 4948) to amend an act approved May 27, 1909, entitled "An act for the removal of restrictions from part of the land of allottees of the Five Civilized Tribes, and for other purposes."

The conference report was read as follows:

CONFERENCE REPORT (NO. 1036).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the House amendment and agree to the same with the following amendment:

"*Provided*, That no conveyance of any interest by a full-blood heir of inherited allotted land heretofore or hereafter

made shall be valid unless approved by the county court, sitting in probate, of the county where the deceased allottee was a resident at the time of his death."

JNO. H. STEPHENS,
J. M. GUDGER, Jr.,
CHAS. H. BURKE,
Managers on the part of the House.

ROBERT J. GAMBLE,
MOSES E. CLAPP,
WM. J. STONE,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The amendment of the House does not require conveyances by full bloods of inherited allotted land to be approved by the county court or anyone else.

The act of May 27, 1908, required the conveyance to be approved by the county court, and Senate bill 4948 as it passed the Senate also contains a similar provision to the one suggested herein requiring the conveyance before it should be valid to be approved by the court having jurisdiction of the estate of the deceased.

The necessity for the passage of this act, as will be shown by the report of the House committee as well as the Senate committee, is because the Attorney General of the United States has rendered an opinion holding that where the allottee died prior to May 27, 1908, although the conveyance was not made until after May 27, 1908, the deed would have to be approved by the Secretary of the Interior, and the United States court for the eastern district of Oklahoma and the State's courts have held that the date of the death of the allottee was immaterial when the conveyance was not made until after the act of May 27, 1908, went into effect.

In other words, they held that the provision of the act of May 27, 1908, related to the date of the conveyance and not to the date of the death of the allottee, and this act is to clear up the question or controversy as to the date of the conveyance being approved by the county court.

The report (No. 549) of the House on the said Senate bill No. 4948 is further explanatory of the object and necessity for this legislation and is as follows:

[House Report No. 549, Sixty-second Congress, second session.]

REMOVAL OF RESTRICTION FROM LANDS OF ALLOTTEES OF THE FIVE CIVILIZED TRIBES.

Mr. Carter, from the Committee on Indian Affairs, submitted the following report, to accompany Senate bill 4948:

The Committee on Indian Affairs, to whom was referred the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of the allottees of the Five Civilized Tribes, and for other purposes," having duly considered the same, reports the bill without amendment and recommends that it do pass.

Your committee adopts the report of the Senate Committee on Indian Affairs on this bill, which is as follows:

[Senate Report No. 548, Sixty-second Congress, second session.]

Your committee, having had under consideration Senate bill 4948, recommends that it pass.

By the act of April 26, 1906 (34 Stat. L., 137), it was provided in section 22 that deeds of full-blood Indian heirs should be subject to the approval of the Secretary of the Interior.

By section 9 of the act of May 27, 1908, a new method was provided, as follows, to wit:

"SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee."

The Supreme Court of Oklahoma has held that the fact of death, under the act of May 27, 1908, authorized the conveyance of any interest of any full-blood heir to be approved by the probate court of Oklahoma, and many deeds have been taken in accordance with this decision, regardless of whether the allottee died prior to May 27, 1908, or not.

The United States district court rendered a decision to the same effect in the case of Harris *v.* Gale (188 Fed., 712), and no appeal was taken from this decision, which was rendered June 29, 1911—nearly a year ago. Judge Campbell, the United States district judge, in his opinion, says:

"There being no conceivable reason why Congress should have intended to distinguish between conveyances by full-blood heirs of inherited lands made subsequent to the act of May 27, 1908, where the ancestor died prior to that date and where the ancestor died subsequent to that date, and the language of the act itself not so clearly evincing such an intention as to preclude the contrary construction, it is decided that by the said act any full-blood Indian heir of any deceased allottee of the Five Civilized Tribes is authorized to convey any interest in the lands inherited by him from such deceased allottee, upon approval thereof by the court having jurisdiction of the settlement of the estate of such deceased allottee, whether such death occurred before or after May 27, 1908, and the approval of such conveyance by the Secretary of the Interior is not required. Of course, in cases where such heir is a minor, the procedure to secure the necessary order and approval of the court must be as in cases of other minors.

The reason for the necessity of this act is that the Interior Department, through the Attorney General, has held that in cases where the death of allottee occurred prior to May 27, 1908, title passing by deed to the heirs could only be valid with the approval of the Secretary of the Interior, under the act of 1906.

Both the Federal court and the State court having held to the contrary, it is necessary that this act should be passed for the purpose of removing the cloud from these titles.

For the reasons given the committee advises the immediate passage of this bill.

JNO. H. STEPHENS,
J. M. GUDGER, Jr.,
CHAS. H. BURKE,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

Mr. MANN. Mr. Speaker, this bill, with a Senate amendment now proposed to be agreed to, entirely eliminates the control of the Indian Office from the sale of allottees' land covered by the provisions of the bill. When the bill was before the House the gentleman from Oklahoma, who is interested in the matter, made a suggestion, which was agreed to, and the Senate bill was passed with the suggestion by unanimous consent. Now comes a proposition from the Senate requiring that every sale shall be approved by the probate court, and it is not the intention to have those sales approved both by the probate court and the Indian Office. The original act provided that certain sales should be approved by the probate court. I want to know the reason for entirely eliminating the control of the Indian Office and the Secretary of the Interior over any of these sales.

Mr. STEPHENS of Texas. I will state to the gentleman that was done in the act of May 27, 1909.

Mr. MANN. If it is already done by an act, why is it now being done in another act by an amendment?

Mr. STEPHENS of Texas. The Attorney General held that this act only applied to deeds heretofore made for lands in this character of cases, and it is the intention of Congress, as evidenced by the decisions of the court, both of Oklahoma and the Federal courts in Oklahoma, that this should apply to both those heretofore and those hereafter made, and this language is placed in this bill so that it should apply to both classes of cases, and it is for the purpose of removing a cloud from the title of these lands that we prepared and put through this bill.

The words "heretofore and hereafter made" is the material change in law, so that it is made to apply to both classes of cases.

Mr. MANN. Mr. Speaker, all that the gentleman from Texas has said upon the subject now does not relate at all to the Senate amendment which it is now proposed to agree to, but relates to the original bill as it passed both the House and the Senate. Here was the bill we passed, and the Senate put on a certain proposition for the purpose of having certain sales confirmed by the county or probate court instead of the Secretary of the Interior. That was agreed to by the House—that bill and that proposition. Now, when that goes back to the Senate the Senate injects another proposition to require all sales of allottees to be approved by the probate court, and the gentleman has yet not referred to that Senate amendment or the reason for it.

Mr. STEPHENS of Texas. Does not the gentleman think that that should be done, and that all sales of Indian lands of deceased Indians, when the Indian inheriting has made title, should be approved by the probate court of the county for the reason that the Indian dying in any of those counties is controlled by the probate court of that county. It is just the same probate law that applies to a white man's estate who dies, and whose estate becomes subject to the same rules and regulations as we provide by this bill for Indians.

Mr. MANN. I think the sales ought to be approved by some disinterested party, and in a great many cases it is a good deal safer to leave it with the Indian Office than it is with the judge of the probate court in Oklahoma. There have been cases in Oklahoma where it was known that the probate judge deliberately entered into a conspiracy for the purpose of swindling the Indians out of their property. The people have retired those judges, I believe, and now comes the proposition to provide that all Indian sales shall be confirmed by the probate court, going further than the original bill, and if it were intended to have that supplemental approval by the Indian Office I would not have any complaint to make, but it is intended to take the place of the approval by the Indian Office, as I understand it.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. STEPHENS of Texas. I yield to the gentleman.

Mr. BURKE of South Dakota. The gentleman is in error in stating that the Senate amended the bill. This is a Senate bill, and it came to the House——

Mr. MANN. Am I in error in saying this is a Senate amendment, this new proposition?

Mr. BURKE of South Dakota. The gentleman certainly is.

Mr. MANN. The gentleman does not know to what he is referring.

Mr. BURKE of South Dakota. Just a moment and I will show whether I am or not. This is a Senate bill and the House amended it. The Senate disagreed to the amendment and asked for a conference.

Mr. MANN. That is right.

Mr. BURKE of South Dakota. The Senate receded from their disagreement to the amendment of the House with an amendment, and that was done in conference.

Mr. MANN. That is the amendment I am talking about.

Mr. BURKE of South Dakota. Now, the reason for the amendment by the conferees was because, by the House amendment, it was thought that no approval was required either by the county court or the Interior Department, and it was thought that there ought to be some tribunal that would have to approve sales.

Mr. MANN. Do I understand the gentleman to say that the Senate having passed a bill for the express purpose of providing for an approval by the probate court and the House having passed a bill for the same purpose, that the conferees concluded that neither bill would cover that subject?

Mr. BURKE of South Dakota. No. The House amended the bill. I do not remember in just what particular, but I was present in the Senate when the matter went to conference, and it was stated on the floor of the Senate that as the House had amended it, it did not require approval of either the county court or Secretary of the Interior.

Mr. MANN. I will not undertake to quote what was done in the Senate, although I read all the debate on the subject. They propose to have inserted through the conferees an amendment which was offered in the Senate——

Mr. BURKE of South Dakota. Let me call the gentleman's attention——

Mr. MANN. An amendment which was offered in the Senate to require all the sales to be approved.

Mr. BURKE of South Dakota (continuing). To the original purpose of the bill. For instance, there was an act passed, I think in 1906, and it provided that deeds of full-blood Indian heirs should be subject to the approval of the Secretary of the Interior. That was the act of 1906, and by the act of May 27, 1908, the law was changed to the effect that the approval should be by the probate courts in Oklahoma. Now, it seems that in some opinion of some Federal official, I think the Attorney General, it was held that sales made where the allottee died prior to the 1908 act would have to be approved by the Secretary of the Interior.

Mr. MANN. But they were not covered by the act.

Mr. BURKE of South Dakota. It caused a cloud upon titles where land had been conveyed. The courts held, as I understand it, contrary to the opinion of the Attorney General, and this act is simply to clear the titles of a cloud that otherwise remains there by reason of this difference between the Attorney General and the courts.

Mr. MANN. Let us see whether it does or not. We passed an act to provide that certain sales should thereafter be approved by the probate court or the county court in Oklahoma. The Attorney General held that that did not apply to sales made previously.

Mr. BURKE of South Dakota. Yes, sir.

Mr. MANN. Of course, those sales made previously had not been approved by the probate court, because there was no authority for them to do so. They had been approved by the Secretary of the Interior because that was what the law required. Now you say the proposition is to require all those sales to be approved by the county court in order to remove the cloud on the title?

Mr. BURKE of South Dakota. The Supreme Court of Oklahoma held—

That the fact of death, under the act of May 27, 1908, authorized the conveyance of any interest of any full-blood heir to be approved by the probate court of Oklahoma, and many deeds have been taken in accordance with this decision, regardless of whether the allottee died prior to May 27, 1908, or not.

The United States district court rendered a decision to the same effect in the case of Harris v. Gale (188 Fed., 712), and no appeal was taken from this decision, which was rendered June 29, 1911—nearly a year ago. Judge Campbell, the United States district judge, in his opinion, says:

"There being no conceivable reason why Congress should have intended to distinguish between conveyances by full-blood heirs of inherited lands made subsequent to the act of May 27, 1908, where the ancestor died prior to that date and where the ancestor died subsequent to that date, and the language of the act itself not so clearly evincing such an intention as to preclude the contrary construction, it is decided that by the said act any full-blood Indian heir of any deceased allottee of the Five Civilized Tribes is authorized to convey any interest in the lands inherited by him from such deceased allottee, upon approval thereof by the court having jurisdiction of the settlement of the estate of such deceased allottee, whether such death occurred before or after May 27, 1908, and the approval of such conveyance by the Secretary of the Interior is not required."

That was a decision of a United States district judge, and no appeal was taken from that decision.

Mr. MANN. That was covered by the act that was passed by the House and passed by the Senate. Does the gentleman pretend to say——

Mr. BURKE of South Dakota. If the gentleman will get the act——

Mr. MANN. We had it in the House here for several weeks—the act passed by the Senate—and the act passed by the House did not correct that difficulty.

Mr. BURKE of South Dakota. My understanding is it did not.

Mr. MANN. We need new Committees on Indian Affairs in both the House and Senate, then.

Mr. BURKE of South Dakota. It did, perhaps, so far as removing clouds on the title was concerned, but it was thought that, unless we put in that proviso, in the future these sales would not require the approval of either the Secretary of the Interior or the probate court.

Mr. MANN. Here was a bill which passed the Senate with the express purpose of providing that the approval of the probate court should apply to cases where the person died prior to the act referred to, and we passed the bill in the House. It was on the Unanimous Consent Calendar here for several weeks, carefully considered by the Committee on Indian Affairs, and carefully considered by the gentleman from Oklahoma [Mr. CARTER]. He discussed it with me a number of times. And now gentlemen pretend to say that that bill as passed by the Senate and passed by the House utterly failed to accomplish the purpose for which it was intended. If so, it is a very severe reflection upon the department that approved it and the two Committees on Indian Affairs which reported it and the gentlemen who represented districts who were affected by it.

There comes along a proposition now, inserted by the conferees, that nobody understands and nobody is able to explain. It was inserted in conference. I will not say that nobody understands it, but nobody has endeavored to explain it. All the talk of the gentlemen now has been about the bill as it passed the Senate and the House and not about the proposition inserted by the conferees in the bill.

Mr. STEPHENS of Texas. I will give you the reason. The reason for the necessity of this act is that the Interior Department, through the Attorney General, has held that in cases where the death of an allottee occurred prior to May 27, 1908——

Mr. MANN. The gentleman is referring to the report made by the Committee on Indian Affairs of the House on the bill as it passed the Senate and has no relation to this amendment interjected into it by the conferees.

Mr. STEPHENS of Texas. But section 9 of the act of May 27, 1908, would be apt, would it not, because it is now the law? Section 9 reads this way:

That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of said deceased allottee.

This bill is the substitute for that law, and that is all there is in this bill.

The law before was as I have just read. We have changed the language in this bill so as to read as follows:

Provided, That no conveyance of any interest by a full-blood heir of inherited allotted land heretofore or hereafter made shall be valid unless approved by the county court, sitting in probate, of the county where the deceased allottee was a resident at the time of his death.

This language, viz, "that no conveyance of any interest of any full-blood Indian heir in inherited allotted land shall be valid," and so forth, makes it more definite, and we insert the words "heretofore or hereafter" also to make it more definite. That is the language which, as I explained, would make it cover deeds made both before and after that act became a law. The new provision reads as follows, viz:

Shall be valid unless approved by the county court, sitting in probate, of the county where the deceased allottee was a resident at the time of his death.

We have put in the words "county court, sitting in probate, of the county where the deceased allottee was a resident at the time of his death," because the county courts have jurisdiction of certain other matters beside matters of probate. The words "resident at the time of his death" are new.

Mr. MANN. The gentleman will admit that this proviso, which is now in the conference report, was not in the bill as it passed the Senate and was not in the bill as it passed the House. The proviso now interjected for the first time in the conference report to which the gentleman has just referred is not in the bill as it passed the Senate and is not in the bill as it passed the House.

Mr. STEPHENS of Texas. It is substantially so. We have by this bill only made it more clear and definite. I have read both the original—or, rather, the present law—and our bill also, and compared them.

Mr. MANN. Does the gentleman say it is a repetition of the same thing that is already in the bill, or that it is new?

Mr. STEPHENS of Texas. I have read to the gentleman section 9 of the act of 1908, and also the amendment to that, as amended by this bill.

Mr. MANN. Here is the proviso interjected by the conferees:

Provided, That no conveyance of any interest by a full-blood heir of inherited allotted land heretofore or hereafter made shall be valid unless approved by the county court sitting in probate of the county where the deceased allottee was a resident at the time of his death.

I ask, was that provision in the bill as it passed the House or as it passed the Senate?

Mr. STEPHENS of Texas. If the gentleman will look at the same page, in the next column beside it, he will find almost the same language in the old provision of the act of 1908, which is now the law.

Mr. MANN. But was this provision in the bill as it passed the Senate and as it passed the House?

Mr. STEPHENS of Texas. It was in the bill as it passed the Senate.

Mr. MANN. Was this provision that I just read in the bill as it passed the Senate?

Mr. STEPHENS of Texas. Not exactly.

Mr. MANN. Was it in the bill in any shape as it passed the Senate?

Mr. STEPHENS of Texas. It was in the bill in both shapes.

Mr. MANN. Then why did you put it in twice?

Mr. STEPHENS of Texas. Because it was necessary, in order to get the bill to cover deeds both before that act of 1908 and deeds after that act of 1908; so as to cover both phases of the question, as I have already explained.

Mr. MANN. But if in the Senate bill we corrected the evil complained of—if it was an evil—under the original act the House does the same thing; and yet the gentleman brings in an entirely new provision and says it is already in the bill as it passed the Senate. Now, if it is already in the bill as it passed the Senate, what is the use of putting it in now? In fact, it is not in the bill as it passed the Senate, and no one seems to know the reason for it, and no gentleman has undertaken to give any reason for it. I defy anybody here or elsewhere to publicly tell why this provision is now inserted by the conferees.

Mr. BURKE of South Dakota. Mr. Speaker, I will inform the gentleman why it was put in. I thought I had already done so.

Mr. MANN. The gentleman did not do anything but discuss the original bill. I know why it was put in, but the reason for that I do not know. It was put in because, under the method of transacting conference business with the Senate, some distinguished Senators told the Senate conferees that they wanted this provision agreed to, and the Senate conferees would not agree to anything unless it was inserted. But that does not appear to me to be a sufficient reason for it.

Mr. BURKE of South Dakota. Mr. Speaker, the reason that it was done—and I thought I had already stated to the gentleman—was that the terms of the bill, in the form in which it left the House after it was amended, would at least leave a doubt as to whether these sales would have to be approved by anybody, and in order to settle it we have stated that sales must be approved by the county court, sitting in probate, in the county where the deceased allottee was a resident at the time of his death.

Mr. MANN. That may be a sufficient excuse for the gentleman, but I remember the bill as it passed the House. There was no possible excuse for saying there was any doubt about it. The bill expressly provided that these sales should be approved by the county court, whereupon they insert a new provision, which can not be explained on the theory that the House bill left it in doubt. It did not leave it in doubt at all. I dare say that the real reason for this amendment will not be known until it is put into execution.

Mr. BURKE of South Dakota. Will the gentleman point out where that provision is?

Mr. MANN. I have not the bill here, but I will read the report of the committee that the gentleman made, if he wants the report read, covering the whole case on the Senate bill. The gentlemen have printed it as a part of the conference report. The bill shows that it covers what the gentleman refers to. It was discussed on the floor of the House.

Mr. BURKE of South Dakota. The report that was printed as a part of the conference report was the Senate report. The bill went back to the Senate in a different form from which it passed the Senate.

Mr. MANN. I beg the gentleman's pardon. It is the House report that is printed. The legend reads, "Mr. CARTER, from the Committee on Indian Affairs, submitted the following report." Mr. CARTER is the gentleman from Oklahoma in the House.

Mr. STEPHENS of Texas. Mr. Speaker, will the gentleman please state to us what objection he has to the county courts of Oklahoma, the courts that pass upon all probate matters affecting the titles of all the citizens of Oklahoma, passing upon Indian titles? And will the gentleman say why it is not a court of competent jurisdiction to pass upon these titles? In 1908, as I have stated frequently, the jurisdiction to approve these sales was given to this court by Congress and withdrawn from the Secretary of the Interior, and we are only amending the act of 1908, giving jurisdiction, by giving more explicit jurisdiction to that court and making it more definite.

Mr. MANN. But we let the county court practically pass upon the question of the ability of the Indians to make proper sales. We practically let the county court remove the restrictions upon Indian sales. Everyone here knows what that will accomplish. For years we have endeavored to protect the full-blood Indians or three-quarter blood Indians from being robbed of their land. We passed a bill two or three years ago, the so-called Clapp amendment, in reference to the White Earth Indian Reservation. We have had an investigation of that, both in the House and in the Department of Justice. Those investigations disclosed that a very large share of the Indians were being robbed—if that is the proper term to use—of their lands through sales which they were making, deeds which they were making. Now the gentleman proposes that the local authorities, purely and solely in sympathy with the local people, shall be the ones who shall judge and determine whether the allottees of any Indian are capable of transferring the title to the real estate. God help the Indians under such conditions!

Mr. BURKE of South Dakota. That is the law now. It was passed in 1908.

Mr. STEPHENS of Texas. It has been the law for four years.

Mr. MANN. That is the law as to certain cases.

Mr. BURKE of South Dakota. Yes; as to certain cases, as to those who died subsequent to that date.

Mr. MANN. As to certain cases. That is bad enough. The amendment of the conferees proposes that no conveyance of any interest by a full-blood heir of inherited or allotted lands, heretofore or hereafter made, shall be valid unless approved by the county court, intending to confer jurisdiction upon the county courts of Oklahoma to determine whether a full-blood Indian ought to sell his land.

Mr. FOSTER. It takes it entirely out of the hands of the General Government.

Mr. MANN. That is the intention.

Mr. BURKE of South Dakota. That is what the act of 1908 did.

Mr. FOSTER. And it gives the legal control to the county court of Oklahoma.

Mr. BURKE of South Dakota. That is what is done by the act to which this is an amendment.

Mr. MANN. The act to which this is an amendment did it in part, and the purpose of this act is to extend the authority of the original act.

Mr. FOSTER. And make it complete.

Mr. MANN. This is proposed to cover every case.

Mr. STEPHENS of Texas. It only amends the act of 1908.

Mr. MANN. No one knows whether it applies solely to the Five Civilized Tribes or not, although that is the act that is amended. Here is a proviso that is a good deal broader than that act. I think that is the purpose of sticking it in here, to claim that it applies outside of the Five Civilized Tribes. Will any member of the conference committee deny that it does apply outside of the Five Civilized Tribes?

Mr. BURKE of South Dakota. I do not think anyone can assert that it does, with any expectation of sustaining that contention.

Mr. MANN. That it does or does not?

Mr. BURKE of South Dakota. The act applies specifically to and proposes an amendment to an act dated May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes"——

Mr. MANN. We often stick something into a law which the title does not cover. I venture to say it will be claimed that it applies to all sales, regardless of the Five Civilized Tribes.

Mr. BURKE of South Dakota. Speaking as one of the conferees on the part of the House, I want to say that I can not refrain from resenting the intimation that the conferees put something into this bill for the purpose of doing something that perhaps ought not to be done. The intention of the conferees was to make it definite and certain, so that there could be no possible question about what this act does, and we, at least I, supposed that we were strengthening the act rather than doing something that would be contrary to what the act intended.

Mr. STEPHENS of Texas. In addition to what the gentleman from South Dakota has stated, I desire to call the attention of the House to the reading of the two acts. The caption of this act is "An act to amend an act approved May 27, 1908, entitled 'An act for the removal of restrictions from the part of the lands of allottees of the Five Civilized Tribes, and for other purposes.'"

Mr. MANN. And for other purposes.

Mr. STEPHENS of Texas. This is the provision, and if the gentleman will listen he will see that it is correct. It is at the bottom of the first column on page 9439 of the RECORD of July 22, 1912, and he will find it is the provision of the old law.

Mr. MANN. Oh, I have read that a dozen times.

Mr. STEPHENS of Texas. I want to call the attention of the House to the fact that there is no material difference whatever in the language, and I defy the gentleman to show it.

Provided, That no conveyance of any interest of any full-blooded Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee.

That is the language, and here is our language:

Provided, That no conveyance of any interest by a full-blood heir of inherited allotted land heretofore or hereafter made shall be valid unless approved by the county court, sitting in probate, of the county where the deceased was a resident at the time of his death.

That is not a material change, the fact being that there is no change here except the words "inherited allotted" and inserting the words "heretofore or hereafter," so as to apply to deeds made before this act and deeds made after this act. The other change is that this probate proceeding must be in the county of the residence of the Indian. There are only three changes, and with the exception of the words "heretofore and hereafter," these changes are not material changes.

Mr. MANN. Mr. Speaker, the original law provided that the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions on the alienation of said allottee's land—

Provided, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee.

The proviso which the conferees have injected into the bill is:

Provided, That no conveyance of any interest by a full-blood heir of inherited allotted land heretofore or hereafter made shall be valid unless aproved by the county court, sitting in probate court, of the county where the deceased allottee was a resident at the time of his death.

It is not confined, as is the original law, to such land already described in the law, but to any inherited allotted land.

Mr. STEPHENS of Texas. That is the exact language. The law itself used the words "interest in any land."

Mr. MANN. It did not. The gentleman is mistaken—

Interest of any full-blood Indian heir in such land.

That is what the law reads. I do not care to have the gentleman misquote the law in my own time. Of course, I know that he does not intend to do it. There may be this point that the gentleman has: That this matter shall be passed upon by the probate court in the county where the deceased was a resident at the time of his death. Suppose he was not a resident of Oklahoma?

Mr. STEPHENS of Texas. Then, if he was, the probate laws of that State would govern, would it not?

Mr. MANN. Of what State?

Mr. STEPHENS of Texas. Of the State of Oklahoma. A man might die outside of the State and have lands there, and the probate court would undoubtedly have jurisdiction of the estate.

Mr. MANN. Here is a provision that it must be approved by the probate court, sitting in probate court, of the county where the deceased allottee was resident at the time of his death.

Mr. STEPHENS of Texas. Would not the gentleman, as a lawyer or a judge, give his opinion that that provision is merely directory and not mandatory, where the deceased died out of the State?

Mr. MANN. What is the purpose of it, then? Here is a provision on which it is proposed to base title, providing it must be approved by the probate court of the county where the man resided when he died. If he does not reside in the county in Oklahoma, shall some foreign court pass on it? Unless he resides in one county in Oklahoma and owns land in another county, is it the county where the land is or where the man died that is to determine whether his land is to be sold or not? I should say that it was extremely improper for us to provide in our State that in Chicago a probate judge should determine whether the heirs should sell land in Cairo, Ill. What would the judge know about the land or the value of the land or the desirability of selling the land? Yet you propose to confer upon the probate court of one county an authority to determine whether the Indians ought to sell the land, as to capacity, and whether the price is fair in some other county, perhaps a different county.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

LAWS RELATIVE TO SEAMEN.

Mr. ALEXANDER. Mr. Speaker, I ask that the Clerk proceed with the reading of the seamen's servitude bill.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That section 4516 of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4516. In case of desertion or casualty resulting in the loss of one or more of the seamen, the master must ship, if obtainable, a number equal to the number of those whose services he has been deprived of by desertion or casualty, who must be of the same or higher grade or rating with those whose places they fill, and report the same to the United States consul at the first port at which he shall arrive, without incurring the penalty prescribed by the two preceding sections. And in all merchant vessels of the United States the sailors shall, while at sea, be divided into at least two and the firemen into three watches, which shall be kept on duty alternately for the performance of ordinary work incident to the sailing and management of the vessel; but this provision shall not limit either the authority of the master or other officer or the obedience of the seamen when, in the judgment of the master or other officer, the whole crew is needed for the maneuvering of the vessel or the performance of work necessary for the safety of the vessel or her cargo. While the vessel is in a safe harbor no seaman shall be required to do any unnecessary work on Sundays or legal holidays, but this shall not prevent the dispatch of a vessel on regular schedule or when ready to proceed on her voyage; and at all other times while the vessel is in a safe harbor nine hours, inclusive of anchor watch, shall constitute a day's work. Whenever the master of any vessel shall fail to comply with this section the seamen shall be entitled to discharge from such vessel and shall, upon demand, receive wages then earned. But this section shall not apply to fishing or whaling vessels or yachts."

Mr. HUMPHREY of Washington. Mr. Speaker, I move to strike out the last word. I call the attention of the gentleman from Pennsylvania to line 9, page 2, and ask whether or not, in the gentleman's judgment, the rest of the section applies to all vessels of the United States, whether upon the Great Lakes or other inland waters?

Mr. WILSON of Pennsylvania. It does. It applies to those on the Great Lakes as well as those at sea.

Mr. HUMPHREY of Washington. I want to ask a further question. Take this for illustration: Suppose there is a vessel on the Great Lakes or other inland waters that runs only during the daytime. That happens very frequently. They run during the day and are tied up during the night. Would the gentleman still require three watches of firemen on those vessels; and if so, what duties would they perform?

Mr. WILSON of Pennsylvania. They would still require the three watches for the 24 hours' time, if they were 24 hours at sea.

Mr. MANN. But suppose they are not? We have lots of vessels that run across the lake in the daytime.

Mr. HUMPHREY of Washington. Mr. Speaker, I offer the following amendment, which I send to the desk.

Mr. WILSON of Pennsylvania. In my judgment the three watches would apply to a vessel under all circumstances.

Mr. MOORE of Pennsylvania. Mr. Speaker, I desire to offer a substitute for the entire section.

Mr. HUMPHREY of Washington. Mr. Speaker, I will withhold my amendment at this time if the gentleman desires to offer a substitute.

Mr. MOORE of Pennsylvania. Then, Mr. Speaker, I offer a substitute for the section.

The SPEAKER. The gentleman from Washington has yielded the floor?

Mr. HUMPHREY of Washington. I do for the purpose of his offering the substitute.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask the chairman of the committee to compare the original section with the substitute as it is read.

The Clerk read as follows:

Substitute for section 1, page 1, line 1, the following:

"*Be it enacted, etc.*, That section 4516 of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"'SEC. 4516. In case of desertion or casualty resulting in the loss of one or more of the seamen, the master shall ship, if obtainable, a number of seamen equal to the number of those whose services he has been deprived of by desertion or casualty, and such seamen so shipped shall be of the same or higher grade or rating as those whose places they fill, and the master shall report the same to the United States consul at the first port at which he shall arrive, otherwise he shall incur the penalty prescribed by the two preceding sections. And in all merchant vessels of the United States the seamen shall, while at sea, be divided into at least two and the firemen into three watches, which shall be kept alternately for the performance of ordinary work incident to the sailing and management of the vessel; but this provision shall not limit either the authority of the master or other officer or the obedience of the seamen when, in the judgment of the master or other officer, the whole crew is needed for the maneuvering of the vessel or the performance of work necessary for the safety of the vessel or her cargo. While the vessel is in a safe harbor no seaman shall be required to do any unnecessary work on Sundays or legal holidays, but this shall not prevent the dispatch of a vessel on regular schedule or when ready to proceed on her voyage; and at all other times while the vessel is in a safe harbor nine hours, inclusive of anchor watch, shall constitute a day's work. Whenever the master of any vessel shall fail to comply with this section the seamen shall be entitled to discharge from such vessel and shall, upon demand, receive wages then earned. But this section shall not apply to fishing or whaling vessels or yachts.'"

Mr. MOORE of Pennsylvania. Mr. Speaker, the effect of the adoption of this substitute would be to perfect the verbiage of the bill. I do not like to criticize the grammar used in this measure, but I think any one who reads it carefully will find there are a great many lapses in the various sections. For instance, in this proposed section 1 seamen are constantly referred to as "seamen," except in line 10, where they are referred to as "sailors." Since in another part of the bill it is proposed to define "able-bodied seamen" it seems to me it would be better to make the terms applicable to the men supposed to be benefited by this bill uniform. In line 3 you say in this bill "the master must ship," which is not altogether good legislative form, "if obtainable, a number equal to the number of those whose services," and so forth. The substitute proposes to add "a number of seamen," which is evidently the meaning intended by those who framed the bill.

Mr. WILSON of Pennsylvania. That is in the present statute, and I presume that is why it is followed.

Mr. ALEXANDER. From line 1 down to line 9 is practically existing law.

Mr. WILSON of Pennsylvania. The only difference, as I recall, is where it reads "the same grade" there has been inserted "the same or higher grade."

Mr. MOORE of Pennsylvania. As we go along I intend to point out several other instances which may result in confusion. If a bill of this kind becomes a law it should be made as water-tight as possible, and I think I have raised one or two questions in this substitute which indicate that you have not fully covered the ground.

Mr. WILSON of Pennsylvania. The grammar in that part of the section to which the gentleman refers may be bad. Your present committee is not responsible for that, however. It is the existing law, whether it be bad or good. The purpose is clear, and it does not seem to me to be helped any by the amendments that are proposed by the gentleman from Pennsylvania [Mr. MOORE].

The SPEAKER. The question is on agreeing to the substitute offered by the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. The substitute is offered in good faith.

The SPEAKER. Does the gentleman from Washington desire to offer an amendment to the substitute?

Mr. HUMPHREY of Washington. No.

The SPEAKER. What is it the gentleman desires?

Mr. HUMPHREY of Washington. If it is voted down I am going to offer an amendment to the paragraph.

The SPEAKER. The question is on agreeing to the substitute.

The question was taken, and the substitute was rejected.

Mr. HUMPHREY of Washington. Mr. Speaker, I offer the following amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 10, after the word "States," insert "except those running on lakes, bays, sounds, and rivers."

Mr. HUMPHREY of Washington. Mr. Speaker, the effect of that amendment is this, that it is to limit the provisions in that section, from line 9 to the end, to vessels that are running at sea. All that portion of the section is new legislation. As it is to-day these vessels upon the Great Lakes and the inland waters are left to the local inspector to see when they are properly manned, and it is left to agreement, so far as I recall, what the watches shall be. Now, I do not believe there is any necessity for this provision so far as the Great Lakes or inland waters are concerned. Upon the Pacific coast, in the coastwise trade and overseas trade, I think the provision is not unreasonable, but, for instance, take on the Great Lakes. They have there the men on deck, men in the stewards' department, and they are divided in two watches. Now they propose to make the firemen in three watches, which the shipowners say would make a great deal of confusion in the running and regulation of their crews.

But that is not the reason why I oppose it so far as the Great Lakes are concerned, and there is no showing that it is necessary. So far as the Great Lakes are concerned, there has been no complaint at all, and if I understand the provision rightly it increases very greatly the number of firemen, and inasmuch as, so far as the committee knows, both the firemen and owners of the vessels are satisfied with the conditions upon the Great Lakes, it does not seem to me that this provision ought to be necessary. Now, I pointed out a while ago, take for illustration a vessel that runs for six hours and then is tied up for the rest of the day, or for 12 hours and is tied up for the night. What is the use of having three watches of firemen upon that vessel? Take one illustration along the line, and I give it because it illustrates a good many. A vessel may run from Seattle to Bellingham. For instance, they leave in the morning at 6 o'clock and arrive at Bellingham at about 6 o'clock, and they stay there during the night and then start back the next day and make the trip back. There are a great many vessels that run from one town to another only during the day, and it seems to me there is no necessity for three watches for firemen upon those vessels, whereas at sea, where men have to work 24 hours, I have no objection to it, and I think it is not an unreasonable provision, although after looking up the vessels upon the Great Lakes I was glad to find the work was not nearly as strenuous as it used to be or as I thought it would be, although it seems to me we might require this on the deep-sea vessels.

Mr. WILSON of Pennsylvania. It is true on the Great Lakes some of the modern vessels are so equipped that the labor in the fireroom is not so great and inconvenient as it was formerly, but that does not apply generally to vessels. As far as I am concerned, I really do not see any objection to an amendment to this section making it apply only to voyages of more than eight hours.

Mr. HUMPHREY of Washington. Well, it ought to be extended to more than 12 hours; it ought to be 18, at least.

Mr. MANN. Or 16.

The SPEAKER. The time of the gentleman has expired.

Mr. WILSON of Pennsylvania. Mr. Speaker——

The SPEAKER. Is the gentleman from Pennsylvania [Mr. WILSON] in favor of the amendment or against it?

Mr. WILSON of Pennsylvania. I am against it.

The SPEAKER. Then the gentleman may proceed.

Mr. McMORRAN. Mr. Speaker, this bill is a very important one; and I make a point of order that there is no quorum present.

The SPEAKER. Evidently there is not.

Mr. FOSTER. Mr. Speaker, I move a call of the House.

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Illinois [Mr. MANN] moves that the House do now adjourn.

The question was taken, and the motion was rejected.

The SPEAKER. The question is on the motion of the gentleman from Illinois [Mr. FOSTER] on ordering a call of the House.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided and there were—ayes 27, noes 9.

So a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors and the Clerk will call the roll.

The roll was called, and the following-named Members failed to answer to their names:

Adair	Boehne	Cantrill	Currier
Ames	Booher	Carlin	Dalzell
Andrus	Bradley	Carter	Danforth
Ansberry	Brantley	Cary	Daugherty
Anthony	Broussard	Catlin	Davenport
Austin	Brown	Clark, Fla.	Davidson
Barchfeld	Browning	Collier	De Forest
Barnhart	Burgess	Conry	Denver
Bartholdt	Burke, Pa.	Copley	Dickson, Miss.
Bartlett	Butler	Covington	Dies
Bates	Byrnes, S. C.	Cox, Ohio	Difenderfer
Bathrick	Calder	Cravens	Dodds
Beall, Tex.	Callaway	Cullop	Doremus
Bell, Ga.	Campbell	Curley	Draper

Driscoll, M. E.	Hughes, Ga.	Moore, Tex.	Sheppard
Dwight	Hughes, N. J.	Morgan	Sherley
Dyer	Hughes, W. Va.	Morse, Wis.	Sherwood
Ellerbe	Humphreys, Miss.	Mott	Simmons
Fairchild	Jackson	Murdock	Slayden
Farr	Kindred	Murray	Slemp
Ferris	Kinkead, N. J.	Nelson	Smith, J. M. C.
Flood, Va.	Kitchin	Nye	Smith, Saml. W.
Fordney	Konig	Oldfield	Smith, Cal.
Fornes	Kopp	Olmsted	Smith, N. Y.
Foss	Lafean	O'Shaunessy	Sparkman
Gardner, N. J.	Lamb	Page	Stack
Garner	Langham	Palmer	Stanley
Garrett	Langley	Parran	Stephens, Miss.
Gillett	Lawrence	Patten, N. Y.	Sulloway
Glass	Lee, Ga.	Patton, Pa.	Sulzer
Goeke	Legare	Payne	Taggart
Goldfogle	Lenroot	Pepper	Talbott, Md.
Graham	Lever	Peters	Talcott, N. Y.
Griest	Lindbergh	Plumley	Taylor, Ala.
Guernsey	Lindsay	Porter	Taylor, Ohio
Hamill	Linthicum	Pou	Thistlewood
Hamilton, Mich.	Lobeck	Powers	Thomas
Hamilton, W. Va.	Longworth	Pray	Tilson
Hamlin	Loud	Prouty	Towner
Hammond	McCall	Pujo	Townsend
Harris	McCoy	Rainey	Tuttle
Harrison, Miss.	McCreary	Randell, Tex.	Vare
Harrison, N. Y.	McGuire, Okla.	Rauch	Vreeland
Hartman	McHenry	Redfield	Warburton
Hay	McKellar	Reyburn	Webb
Hayes	McKenzie	Riordan	Wedemeyer
Heald	McLaughlin	Roberts, Nev.	Whitacre
Helm	Macon	Robinson	White
Henry, Conn.	Maher	Rothermel	Wilder
Henry, Tex.	Martin, S. Dak.	Rucker, Mo.	Wilson, Ill.
Higgins	Matthews	Sabath	Wilson, N. Y.
Hinds	Mays	Saunders	Wood, N. J.
Holland	Miller	Scully	Woods, Iowa
Houston	Mondell	Sells	Young, Mich.
Howard	Moon, Pa.	Shackleford	Young, Tex.
Howell	Moon, Tenn.	Sharp	

The SPEAKER. One hundred and sixty-six Members have answered to their names on this roll call—33 short of a quorum.

ADJOURNMENT.

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 4 minutes p. m.) the House adjourned until Tuesday, July 23, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of Commerce and Labor submitting estimate of appropriation to carry into effect the provisions of H. R. 19403, "An act authorizing the Director of the Census to collect and publish statistics of cotton" (H. Doc. No. 876); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of communication from the Attorney General submitting estimate of deficiency in the appropriation for the enforcement of the antitrust laws for the fiscal year 1912 (H. Doc. No. 877); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of communication from the Attorney General submitting estimate of deficiency in appropriation for "Salaries, fees, and expenses of marshals, United States courts," for the fiscal year 1912 (H. Doc. No. 878); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. UNDERHILL, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 7012) to permit the construction of a subway and the maintenance of a railroad under the post-office building at or near Park Place, in the city of New York, reported the same without amendment, accompanied by a report (No. 1038), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ASHBROOK, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 17683) to increase the limit of cost for the post-office building heretofore authorized at Dublin, Ga., reported the same without amendment, accompanied by a report (No. 1039), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BURNETT, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., reported the same without amendment, accompanied by a report (No. 1040), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FIELDS, from the Committee on Military Affairs, to which was referred the bill (H. R. 24561) for the transfer of the military reservation of Fort Thomas, Ky., to the Navy Department, reported the same without amendment, accompanied by a report (No. 1037), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 4852) granting a pension to Charles A. Lyon; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 5471) granting an increase of pension to Peter W. Fredericks; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12440) granting an increase of pension to Sarah H. David; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16697) granting an increase of pension to Mary A. Pfister; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16746) granting a pension to Thomas Nelson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16766) granting a pension to Taylor Asher; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17159) granting an increase of pension to Luke Hancock; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17447) granting a pension to Sarah F. Clark; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18255) granting an increase of pension to Alice W. T. Groesbeck; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18415) granting a pension to William Hinker; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25847) granting an increase of pension to Thomas S. Gunn; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KONOP: A bill (H. R. 25876) for the purchase of a site and the erection thereon of a public building at Oconto, Wis.; to the Committee on Public Buildings and Grounds.

By Mr. BORLAND: A bill (H. R. 25877) to provide for furnishing modern, approved, and efficient artificial limbs and apparatus for resection to persons injured in the United States service; to the Committee on Military Affairs.

By Mr. RAKER: A bill (H. R. 25878) granting certain lands for a cemetery to the Fort Bidwell People's Church Association of the town of Fort Bidwell, State of California, and for other purposes; to the Committee on the Public Lands.

By Mr. THISTLEWOOD (by request): A bill (H. R. 25879) to amend the laws relating to patents for designs; to the Committee on Patents.

By Mr. ADAMSON: A bill (H. R. 25880) authorizing the preparation and printing of a national directory of commercial organizations of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Alabama: A bill (H. R. 25881) to authorize the building of a dam across the Coosa River, Ala., at a place suitable to the interests of navigation about 7½ miles above the city of Wetumpka; to the Committee on Interstate and Foreign Commerce.

By Mr. ADAMSON: A bill (H. R. 25882) to authorize the construction of certain dams across various navigable waters of the United States therein specified; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVY: A bill (H. R. 25883) to amend paragraph 709 of section 1 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909; to the Committee on Ways and Means.

By Mr. HOWLAND: A bill (H. R. 25884) to establish a uniform preferential primary for all candidates for the Presidency, and for other purposes; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BELL of Georgia: A bill (H. R. 25885) for the relief of Benjamin C. Martin, Ezekiel Martin, Henry C. Fuller, Ezekiel Fuller, Eliza L. Crow, and Elizabeth Martin; to the Committee on the Judiciary.

By Mr. BRADLEY: A bill (H. R. 25886) for the relief of Watson B. Dickerman, administrator of the estate of Charles Backman, deceased; to the Committee on Claims.

By Mr. CALDER: A bill (H. R. 25887) to amend the military record of Hugh Boylan; to the Committee on Military Affairs.

By Mr. CLARK of Florida: A bill (H. R. 25888) granting an increase of pension to John Douglas; to the Committee on Pensions.

Also (by request), a bill (H. R. 25889) granting an increase of pension to Nephi Owen; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 25890) granting an increase of pension to Margaret J. Holland; to the Committee on Invalid Pensions.

By Mr. COPLEY: A bill (H. R. 25891) for the relief of James E. C. Covel; to the Committee on Military Affairs.

By Mr. EDWARDS: A bill (H. R. 25892) for the relief of the heirs of M. F. Hagan, deceased; to the Committee on War Claims.

By Mr. GOOD: A bill (H. R. 25893) granting an increase of pension to Thomas R. Irons; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25894) granting an increase of pension to William Syers; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 25895) granting an increase of pension to William J. Dale; to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 25896) for the relief of Samuel D. Kingsbury; to the Committee on Claims.

By Mr. McCOY: A bill (H. R. 25897) to reinstate Edwin Taylor as a passed assistant surgeon in the United States Navy; to the Committee on Naval Affairs.

By Mr. MARTIN of Colorado: A bill (H. R. 25898) granting an increase of pension to Calvin R. Clark; to the Committee on Invalid Pensions.

By Mr. MORSE of Wisconsin: A bill (H. R. 25899) granting a pension to Kate M. Hale; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 25900) granting a pension to William Griffin; to the Committee on Invalid Pensions.

By Mr. PROUTY: A bill (H. R. 25901) for the relief of Etta Glenn; to the Committee on Claims.

By Mr. J. M. C. SMITH: A bill (H. R. 25902) granting an increase of pension to Martha Dickinson; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 25903) granting a pension to Daniel B. Jones; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 25904) granting a pension to Margaret McCafferty; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25905) granting a pension to Mary J. Nelms; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of St. Agatha's Society, No. 373, Hawthorne, Ill., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. AYRES: Resolution of the Southern Baptist Convention, against wearing of sectarian garb, etc., in Indian schools; to the Committee on Indian Affairs.

By Mr. CALDER: Petition of W. O. Conrad, favoring passage of bill relative to pay for National Guard; to the Committee on Military Affairs.

Also, petition of the Pulis Printing Co. and of E. H. Cane, of New York City, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Toledo Produce Exchange, of Toledo, Ohio, relative to law denying shippers an appeal to court; to the Committee on the Judiciary.

Also, petition of the Shorthand Club of New York City, against passage of the Slemp bill (H. R. 4026); to the Committee on the Judiciary.

Also, petition of the St. Augustine Board of Trade, St. Augustine, Fla., favoring bill for using powder-house lot for public park for St. Augustine; to the Committee on the Public Lands.

Also, petition of the Minnesota State Board of Health, Minneapolis, Minn., favoring Senate bill 4972, to establish in Washington a hospital bureau; to the Committee on Interstate and Foreign Commerce.

By Mr. CARY: Petition of Division No. 405, Brotherhood of Locomotive Engineers, Milwaukee, Wis., favoring passage of the Dodds amendment to law with reference to second-class postage; to the Committee on the Post Office and Post Roads.

By Mr. CATLIN: Memorial of citizens of St. Louis, Mo., against passage of the Burton-Littleton bill, for celebration of 100 years of peace with England; to the Committee on Foreign Affairs.

By Mr. CLARK of Florida: Papers to accompany bill granting an increase of pension to Nephu Owen; to the Committee on Invalid Pensions.

By Mr. CRAGO: Memorial of the Hebrew Veterans of the War with Spain, of New York City, against passage of the Root amendment to the immigration bill; to the Committee on Immigration and Naturalization.

Also, memorial of St. Joseph's Society, No. 387, of Orient, and St. Kazmir Society, No. 380, of Windber, Pa., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of Greensboro Council, No. 355, of Greensboro, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Division No. 175, Order of Railway Conductors, of Memphis, Tenn., against passage of employers' liability act, etc.; to the Committee on the Judiciary.

Also, petition of the Daughters of Liberty, of Philadelphia, Pa., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Br. Mr. DICKSON of Mississippi: Petition of citizens of Claiborne County, Miss., favoring passage of the Kenyon-Sheppard interstate-liquor bill; to the Committee on the Judiciary.

By Mr. FORNES: Petition of the Simpson-Crawford Co., the Allied Printing Trades Council, and the Fourteenth Street Store, all of New York, protesting against the passage of Senate bill 6850, providing for a parcel-post; to the Committee on the Post Office and Post Roads.

Also, petition of the Washington Chamber of Commerce, Washington, D. C., urging immediate action on all legislation affecting the District of Columbia; to the Committee on the District of Columbia.

By Mr. FOSTER: Petition of citizens of Hutsonville, Salem, and Olney, Ill., favoring passage of Senate bill 5461; to the Committee on the District of Columbia.

By Mr. FULLER: Memorial of the St. Augustine Board of Trade, of St. Augustine, Fla., favoring passage of bill providing that what is known as powder-house lot be turned over to the city of St. Augustine as a public park; to the Committee on the Public Lands.

By Mr. KINDRED: Petitions of the Simpson-Crawford Co. and the Fourteenth Street Store, of New York City, against passage of the Bourne bill (S. 6885), providing a parcel-post system; to the Committee on the Post Office and Post Roads.

Also, petition of the Bamberger-Stern Co., of New York City, favoring passage of Senate joint resolution 3, providing for the preservation of Niagara Falls; to the Committee on Foreign Affairs.

By Mr. KORBLY: Petition of the United Brotherhood of Leather Workers, Branch No. 35, of Indianapolis, Ind., against use of the stop watch for Government employees; to the Committee on the Judiciary.

Also, petition of the Order of Railway Conductors of America, Monument Division, No. 598, Indianapolis, Ind., relative to extension of time to consider employees' compensation act; to the Committee on the Judiciary.

Also, petitions of the Order of Railway Conductors of America, Monument Division, No. 598, of Indianapolis, Ind., and the

Brotherhood of Locomotive Engineers, of Cleveland, Ohio, favoring passage of workmen's compensation act; to the Committee on the Judiciary.

Also, petitions of the Order of Railway Conductors, of Memphis, Tenn.; the Brotherhood of Locomotive Firemen and Engineers, of Peru, Ind.; and the advisory board of the relief department of the Pennsylvania Line, West, against passage of the workmen's compensation act; to the Committee on the Judiciary.

Also, petition of the National Jewelers' Board of Trade, of New York City, relative to maintenance of prices of patent goods; to the Committee on Patents.

Also, petition of the Waverley Co., of Indianapolis, Ind., favoring passage of bills for improvement of foreign service; to the Committee on Foreign Affairs.

Also, petition of citizens of Indianapolis, Ind., against passage of the Burton-Littleton bill, for celebration of 100 years of peace with England; to the Committee on Foreign Affairs.

Also, memorial of the Polish societies of the State of Indiana, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the Patriotic Order of Sons of America, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of citizens of the State of Indiana, favoring passage of bill providing for building of one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, memorial of the Indiana State Health Officers' Conference, favoring passage of the Owen bill relative to national board of health; to the Committee on Interstate and Foreign Commerce.

By Mr. SCULLY: Memorial of the German-American Alliance, Middlesex County, at New Brunswick, N. J., against passage of the Burton-Littleton bill providing celebration of 100 years of peace with England; to the Committee on Foreign Affairs.

Also, petition of the Daughters of Liberty of Tuckerton, N. J., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. SULZER: Petition of New York Typographical Union, No. 6, against passage of parts of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Farmers and Taxpayers Association of New York City, favoring passage of a parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Otis Elevator Co., of New York City, relative to a commission for consideration of changes in patent laws; to the Committee on Patents.

By Mr. UNDERHILL: Petitions of citizens of the State of New York, favoring passage of bills regulating express rates, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIS: Papers to accompany House bill 18320, granting a pension to Richard M. Johnson; to the Committee on Invalid Pensions.